[Insert organisation name/logo]

# EMAIL RETENTION GUIDE

🖌Note\*

The contents included in this Guide are recommendations only. They can be edited, deleted and added to as deemed necessary by the organisation.

\*Please delete all notes before finalising this document.

## Introduction

Electronic document retention management needs to meet multiple objectives:

1. that email retention does not materially degrade IT system performance
2. that important emails remain accessible for operational purposes
3. that legal document retention requirements are met; and
4. that Privacy Act obligations to delete certain personal information is complied with.

To help employees determine what information sent or received by email should be retained and for how long, this Guide identifies the broad categories of electronic messages processed by the **[insert organisation name]** system and sets out the factors to be considered in setting practice guidelines to be adopted in each case.

## Core Policy

Material that should be preserved should be clearly distinguished from material that should be purged from the system.

## Processes

The first step is to consider whether there is a particular legal obligation to retain the email for a minimum period of time. The email can then be classified for **[insert organisation name]**’sinternal purposes as one of:

1. Material of permanent significance (in perpetuity)
2. Administrative correspondence (min 3 years – see [Department of Health: Administrative Guidelines](http://www.health.gov.au/internet/main/publishing.nsf/content/admin-record-keeping-book))
3. Fiscal correspondence (min 5 years following preparation of tax return – see [Australian Tax Office: Keeping Your Tax Records](https://www.ato.gov.au/Individuals/Income-and-deductions/In-detail/Keeping-your-tax-records/))
4. General correspondence (1 year)
5. Ephemeral correspondence (retain until read and acted upon, then destroy)

The email should then be retained for the longer of the minimum legal period and the period set down in **[insert organisation name]**’sinternal classification.

**Classification of Correspondence**

1. Material of permanent significance

Material that requires permanent retention includes:

* any material required to be retained in accordance with legal obligations (see further explanation below under ‘Legal Requirements’)
* items of historical significance to the organisation
* emails creating or recording permanent legal relationships; and
* items recording significant policies or precedents.

To ensure material of permanent significance is retained in an accessible format, a mailbox, such as: admin@**[insert organisation name]**, may be created. Users should copy (cc) to this address when receiving or sending such emails. Retention of such material will be administered by the **[insert allocated position, e.g. Office Manager]**.

2. Administrative Correspondence

**[Insert organisation name]**’s Administrative Correspondence includes, but is not limited to:

* confidential management information
* employee-related information, and
* project-related correspondence.

To ensure Administrative Correspondence is retained in an accessible format, a mailbox admin@**[insert organisation name]**  may be created. Users should copy (cc) to this address when receiving or sending such emails. Retention of such material will be administered by the **[insert allocated position, e.g. Office Manager]**.

3. Fiscal Correspondence

**[Insert organisation name]**’s Fiscal Correspondence includes all information related to revenue and expense for the organisation. To ensure Fiscal Correspondence is retained, a mailbox fiscal@**[insert organisation name]** may be created. Users should copy (cc) to this address when receiving or sending such emails. Retention of such material will be administered by the **[insert allocated position, e.g. Finance Manager]**.

4. General Correspondence

**[Insert organisation name]**’s General Correspondence covers information that relates to client or stakeholder interaction and the operational decisions of the organisation. For correspondence related to funded projects, refer to the category ‘Administrative Correspondence’ above. The individual employee is responsible for email retention of General Correspondence where this is likely to be of continuing usefulness.

5. Ephemeral Correspondence

**[Insert organisation name]**’s Ephemeral Correspondence is by far the largest category and includes personal emails, emails dealing with the work of the day, and emails containing information outdated by events. Staff may destroy this in reasonable time after reading and acting on the material.

**Legal requirements**

1. [Australian Charities and Not for Profit Commission Act 2012 (Cth)](https://www.legislation.gov.au/Series/C2012A00168)

Section 55-5 requires a registered entity to keep for 7 years written records that correctly records its operations, so as to enable any recognised assessment activity to be carried out. Under section 55-10 a recognised assessment activity includes an activity carried out to assess compliance with the Australian Charities and Not for Profit Commission Act and Regulations under that Act.

Citing just two examples of obligations under the [Australian Charities and Not for Profit Commission Regulations 2013 (Cth)](https://www.legislation.gov.au/Series/F2013L00401):

* a registered entity must take reasonable steps to ensure its board members disclose any perceived or actual material conflicts of interest of any board members. If a board member was to send an email to the rest of the board disclosing a conflict of interest then this would need to be retained;
* a registered entity must take reasonable steps to ensure its board members do not allow the entity to operate while insolvent. Any email discussion between board members regarding the solvency of the entity (i.e. its ability to pay its debts as and when they fall due) would need to be retained.

2. Destruction of evidence

Various state and territory laws criminalise the destruction or concealment of a document that is likely to be required in evidence in a legal proceeding.

In New South Wales under the [Crimes Act 1900 (NSW) s 317](https://www.legislation.nsw.gov.au/#/view/act/1900/40/part7/div2/sec317), it is an offence to suppress, conceal or destroy anything knowing that it is or may be required as evidence in any judicial proceeding, with the intent to mislead any judicial tribunal in any judicial proceeding.

3. Correspondence involving intellectual property

Any correspondence that involves the creation of any significant intellectual property rights shall be retained at the discretion of the CEO/Manager. To ensure Administrative Correspondence is retained in an accessible format, a mailbox ip@**[insert organisation name]**  may be created. Users should copy (cc) to this address when receiving or sending such email. Retention of such material will be administered by the **[insert allocated position, e.g. Office Manager]**.

4. Correspondence relating to litigation (or anticipated legal proceedings)

When legal proceedings are in process (or reasonably to be anticipated), particular considerations apply to document retention. This would include correspondence relating to any threatened or likely legal action against **[insert organisation name]** relating to any alleged or likely misconduct by **[insert organisation name]** its staff or volunteers. It is the responsibility of the CEO/Manager to inform staff should these considerations be applicable and to circulate to staff any relevant changes in policy and procedures.

5. [Privacy Act 1988 (Cth)](https://www.legislation.gov.au/Series/C2004A03712)

Under the [Australian Privacy Principles](https://www.oaic.gov.au/privacy-law/privacy-act/australian-privacy-principles) implemented in accordance with the Privacy Act 1988 (Cth), an APP entity (i.e. an entity that is obliged to comply with the Australian Privacy Principles) must take such steps as are reasonable in the circumstances to destroy personal information, or to ensure that the information is de-identified, if the entity no longer needs the information for any purpose for which the information may be used or disclosed by the entity.

The Privacy Act only applies to information about an individual (i.e. a person); it does not apply to information about entities. Furthermore, in determining whether the entity has any continuing need for the information is based upon uses that are permitted under the Privacy Act, not all possible uses to which the entity may want to put the information. However, this obligation is expressly subject to any obligation at law to retain the information so that an obligation to retain overrides this obligation to destroy.