



# EMAIL RETENTION AND ARCHIVING POLICY AND PROCEDURE 2016

Responsible Officer	Executive Manager: Community Engagement.
Approved by	Chairman
Review by	Executive Manager: Community Engagement
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## INTRODUCTION

The rise to predominance of electronic communication mandates electronic message management systems comparable to existing hard copy filing systems.

Employees and volunteers of Community Veracity acquire no rights in any material, electronic or otherwise, created by in the course of their employment, or accessed on Community Veracity equipment.

## PURPOSE

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 policy identifies the broad categories of electronic messages processed by the Community Veracity 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.



## **RESPONSIBILITIES**

It is the responsibility of the Executive Manager: Community Engagement.to ensure that:

- staff and volunteers are aware of this policy;
- any breaches of this policy coming to the attention of management are dealt with appropriately.

It is the responsibility of the all employees and volunteers to ensure that their usage of email conforms to this policy.

## **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 Community Veracity's internal purposes as one of:

1. Material of permanent significance (perpetual)
2. Administrative correspondence (4 years)
3. Fiscal correspondence (4 years)
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 Community Veracity's internal classification.

## **Classification of Correspondence**

### **1. Material of permanent significance**

Material that requires permanent retention include:

- any material required to be retained in accordance with legal obligations (see further explanation below under the heading, '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 [admin@communityveracity.com.au](mailto:admin@communityveracity.com.au) is to be created. Users should copy (cc) to this address when receiving or sending such email. Retention of such material will be administered by the ICT officer.

### **2. Administrative Correspondence**

Community Veracity's Administrative Correspondence includes, though 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@communityveracity.com.au](mailto:admin@communityveracity.com.au) is to be created. Users should copy (cc) to this address when receiving or sending such email. Retention of such material will be administered by the ICT officer.

### **3. Fiscal Correspondence**

Community Veracity's Fiscal Correspondence includes all information related to revenue and expense for the organisation. To ensure Fiscal Correspondence is retained, a mailbox [admin@communityveracity.com.au](mailto:admin@communityveracity.com.au) is to be created. Users should copy (cc) to this address when receiving or sending such email. Retention of such material will be administered by the ICT officer.

### **4. General Correspondence**

Community Veracity's General Correspondence covers information that relates to customer interaction and the operational decisions of the organisation. The individual employee is responsible for email retention of General Correspondence where this is likely to be of continuing usefulness. General correspondence may include such things as Instant Messenger Correspondence, which may be saved with the logging function of Instant Messenger, or copied into a file and saved. Instant Messenger conversations that are Administrative or Fiscal in nature should be copied into an email message and sent to the appropriate email retention address.

### **5. Ephemeral Correspondence**

Community Veracity'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 after reading and acting on the material.

## **Legal requirements**

### **1. Australian Charities and Not for Profit Commission Act 2012 (Cth)**

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*:

- 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 (ie its ability to pay its debts as and when they fall due) would need to be retained.

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 (ie a human) 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 **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 Victoria under the *Crimes Act 1958* (Vic) s 254, it is an offence to destroy, conceal or render illegible such a document, or to expressly, tacitly or impliedly authorise another person to do so. This applies to legal proceedings that have been commenced or may be commenced in the future.

The law in Victoria represents a high water mark for such obligations. By contrast, the equivalent offences in the other states require an element of intention to affect judicial proceedings. As such, compliance with the Victorian law should determine the standard complied with by any entity that operates nationally (or otherwise in Victoria).

In New South Wales under the *Crimes Act 1900* (NSW) s 317, 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.

In Queensland under *The Criminal Code* s 129, it is an offence to damage evidence, knowing it is or may be needed in evidence in a judicial proceeding.

In South Australia under the *Criminal Law Consolidation Act 1935* (SA) s 243, it is an offence to conceal or destroy anything that may be required in evidence at judicial proceedings with the intention of influencing a decision by a person whether or not to institute judicial proceedings or to influence the outcome of judicial proceedings (whether proceedings that are in progress or proceedings that are to be instituted at a later time).

In Tasmania under the *Criminal Code Act 1924* (Tas) s 99, it is an offence to willfully destroy or conceal any evidence, or anything likely to be required as evidence in any judicial proceeding, with intent to mislead any tribunal in any judicial proceeding or to pervert or defeat the course of justice.

In Western Australia under *The Criminal Code* s 132, it is an offence to willfully destroy or render illegible any document that is or may be required in evidence in a judicial proceeding, with the intent to prevent it from being used in evidence.



### **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 EXECUTIVE MANAGER: COMMUNITY ENGAGEMENT.. To ensure Administrative Correspondence is retained in an accessible format, a mailbox [admin@communityveracity.com.au](mailto:admin@communityveracity.com.au) is to be created. Users should copy (cc) to this address when receiving or sending such email. Retention of such material will be administered by the ICT officer.

### **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 Community Veracity, relating to any alleged or likely misconduct by Community Veracity, its staff or volunteers. It is the responsibility of the EXECUTIVE MANAGER: COMMUNITY ENGAGEMENT. 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)**

Under the Australian Privacy Principles implemented in accordance with the *Privacy Act 1988 (Cth)*, an APP entity (ie 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 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.

### **Storage**

It shall be the responsibility of the EXECUTIVE MANAGER: COMMUNITY ENGAGEMENT. or their nominee to maintain backup discs or cloud back-up, and archiving from the Community Veracity email server. The email server should be backed up at least daily.

Where physical back-up media is used (rather than cloud storage) then at least once a quarter a set of discs shall be taken out of the rotation and be moved offsite. Email shall not be removed from the offsite backup discs.