

Non-Profit Organisation

RECORD KEEPING REQUIREMENTS

It only counts when it's in writing! – The Fundamentals of Record Keeping!



By: Lesia Grazette
Secretary
9-Apr-2021



Overview



- Applicable Legislation
- Reasons for Retention of Records
- Where Should the Records be Kept
- Records to be Retained
- Retention Period
- How Should the Records be Kept
- Penalties



OBJECTIVES

This presentation will guide each attendee to understand:

- Applicable legislation regarding maintaining records;
- Rationale for all NPOs to keep proper records;
- Type of records to be maintained;
- Length of time records should be maintained; and
- Penalties associated with breaches to record keeping requirements

APPLICABLE LEGISLATION REGARDING RECORD KEEPING REQUIREMENTS

- Non-Profit Organisations Act, 2012 (**“NPO Act”**)
- Anti-Money Laundering and Terrorist Financing Code of Practice, 2008 (**“AML Code”**)
- Anti-Money Laundering Regulations, 2008 (**“AML Regulations”**)
- BVI Business Companies Act, 2004 (**“BVIBC Act”**)
- General Data Protection Regulation, 2018 (**“GDPR”**)

Non-Profit Organisations Act, 2012

The NPO Act, 2012 mandates that a non-profit organisation registered pursuant to this Act shall comply with:

- i. Section 22: Notification of Changes of the NPO Act;
- ii. Schedule 3: Maintenance of records of the NPO Act;
- iii. Section 9: Anti-Money Laundering Regulations, 2008; and
- iv. Section 22: Anti-Money Laundering and Terrorist Financing Code of Practice, 2008

REASON FOR RETENTION OF RECORDS

A non-profit organization is required to maintain certain of its business records and documentation in accordance with the provision of the Non-Profit Organisations Act, 2012 and if incorporated, also with the provision of the BVI Business Companies Act, 2004. The records must:

a) show:

- i. its purposes, objectives and activities; and
- ii. the identity of persons who control or direct its activities including as appropriate, senior officers, board members, directors and trustees

Or anyone who acts or assume any of the roles stated above

REASON FOR RETENTION OF RECORDS cont'd

- b) show and explain the organisations' transactions, within and outside the Virgin Islands that are sufficiently detailed to establish that the NPO's funds have been used in a manner consistent with its purposes, objectives and activities;
- c) show the sources of its gross annual income; to enable its financial position to be determined with reasonable accuracy.

Special Note:

The more an NPO knows about its staff, members, partners and contributors, it will help to understand the level of potential risk. When the risk is understood it becomes easy to determine measures to mitigate the risk.

WHERE SHOULD THE RECORDS BE KEPT?

According to Section 23 (1) of the NPO Act, 2012:

A non-profit organisation shall keep its records at its principal place of operation in the Virgin Islands



RECORDS TO BE RETAINED

- Statutory documents of the organisation (e.g. establishment documents, such as; M&A and Certificate of Incorporation if incorporated)
- Register of Officers
- Minutes of meetings and or decisions taken
- Financial records (monies expended or monies received)
- Transaction records (locally or internationally)
- Records of any suspicious activity reports (“SAR”) submitted & filed with the FIA

RECORDS TO BE RETAINED cont'd

- Records of your staff or members (i.e. name, addresses, position held/title)
- Identifying documents verifying customers
- Source of funds declaration where applicable
- Results of any analysis or research undertaken of any donor (if applicable)
- Record of all training conducted (to reflect date, time, topic and information, attendees, venue, presenter, if assessment was administered)



RETENTION PERIOD

An organisation shall keep the records for a period of **at least five (5) years** after the completion of the transaction to which they relate.



HOW SHOULD THE RECORDS BE KEPT

Records should be maintained in an easily retrievable form such as:

- Original document or Certified copy
- Computerised or other electronic data form
- Microform
- Scanned copy of the original or certified copy document



Records should also be kept confidential as NPOs are also subject protection regulation.

General Data Protection Regulation, 2018

The GDPR legislation is a European Union regulation passed on 25 May 2018

Main Purpose:

- Protection of natural persons with regard to the processing of their personal information (“data”)
- Stipulates a variety of requirements around how and why **data** can be processed
- Outlines possible fines which can be levied for being non-compliant.



ADMINISTRATIVE PENALTIES (Schedule 3)

SECTION OF ACT	TYPE OF BREACH	PENALTY RANGE
▪ Section 20	Failure to provide explanation of records produced, where required to do so	\$3,000 up to \$20,000
▪ Section 21	Supplying inaccurate or misleading information or withholding of information	\$3,000 up to \$20,000
▪ Section 22	Failure to notify the Board of changes to registration information	\$1,000 up to \$10,000
▪ Section 23	Failure to maintain any records required to be maintained	\$1,000 up to \$10,000

FINAL THOUGHTS

At the end of this presentation each attendee should:

- Become aware of applicable legislation regarding maintaining records;
- Understand why NPOs should keep records;
- Know the type of records to be kept;
- How long records should be kept; and
- Penalties associated with breaches to record keeping requirements

The End!

