

Becoming a board member when you have a criminal record

This fact sheet is about serving on the board or management committee of an organisation in Victoria. There are different rules depending on the type of organisation you would like to join.

Can I be on the board of a corporation or other incorporated organisation if I have a criminal record?

Companies, Aboriginal and Torres Strait Islander corporations, co-operatives and incorporated associations all have rules about who can be on their boards.

You are **not normally allowed** to be on the board of one of these organisations for **five years** from the date you were let out of prison (or 5 years from the date you were found guilty if you didn't go to prison) if you have been found guilty of one of the following crimes:

- a crime that involves **dishonesty** (such as theft), that is punishable by 3 months or more in prison.
- a serious crime to do with **running a company**.
- a serious crime that could **affect the financial stability** of a company
- a crime in a **foreign country** that is punishable by **one year or more** in prison.

If it has been **more than five years** since you finished a jail sentence (or since you were found guilty if you didn't go to jail) for one of these crimes then you **are usually allowed** to be on a board again.

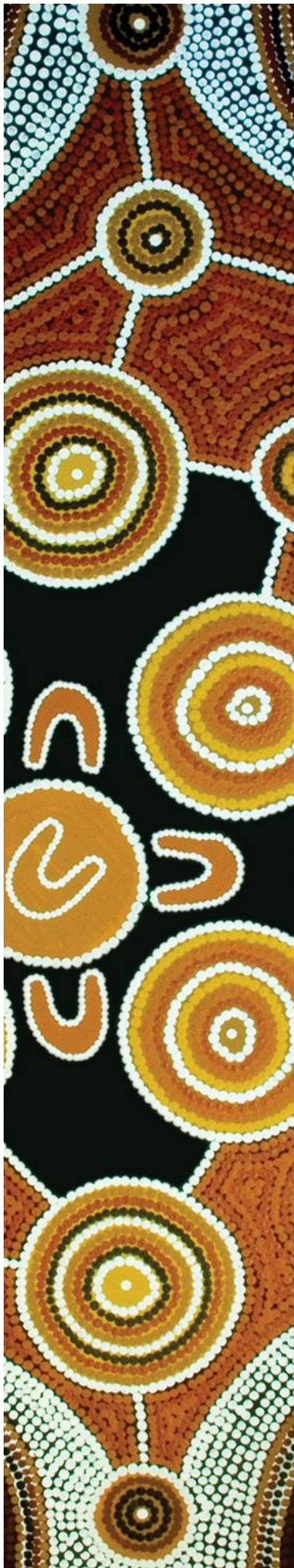
If you want to be on the board of a company, Aboriginal and Torres Strait Islander corporation or co-operative **before the five years has passed**, then you can **apply to a court for special permission**. The court may allow you to be appointed with some restrictions.

You cannot apply for special permission to be on the board of an incorporated association.

Can I be on the management committee of a charity if I have a criminal record?

If you would like to be a trustee of a charity registered with the **Australian Charities and Not-for-profits Commission (ACNC)** then the rules are the same as for being on the board of a company.





If a charity wants to appoint somebody to their board who would normally not be allowed because of their criminal record, it can **appeal to the ACNC**.

What about other community groups or charities?

In Victoria there are generally **no laws** to stop somebody with a criminal record from joining the management committee of an informal community group that is not incorporated or registered as a charity. There are also no laws to stop you from being a trustee of a charity not registered with the ACNC.

But there are some exceptions: for example if the committee is in charge of **fundraising** over \$10,000 or involves paid fundraising roles. In this case, if you have been found guilty of a serious crime involving fraud, dishonesty, drug trafficking or violence in the last 10 years then you may not be able to be on the committee.

For more information, contact:

Consumer Affairs Victoria

www.consumer.vic.gov.au
Koori helpline: 1300 661511

Office of the Registrar of Indigenous Corporations

www.oric.gov.au
1800 622 431 (toll free)

Australian Charities and Not-for-profits Commission (ACNC)

www.acnc.gov.au
Call 13 22 62 and ask to speak to an Aboriginal Liaison Officer

Peninsula Community Legal Centre

www.pclc.org.au
(03) 9783 3600

Victorian Aboriginal Community Controlled Health Organisation

(General information on boards and committees – not just health-related)
www.vaccho.org.au
(03) 9411 9411

Justice Connect Not-for-profit Law

(Advice and information for not-for-profit organisations)
www.justiceconnect.org.au/our-programs/not-for-profit-law/legal-advice
1800 637 529 (toll free)

This fact sheet is for people in Victoria, Australia. It is for information only and is not legal advice. Accuracy or completeness cannot be guaranteed. If you need advice, please contact a lawyer. September 2016.