

External Conduct Standards transcript

Who needs to comply with the External Conduct Standards

All registered charities, including Basic Religious Charities that operate outside Australia, must comply with the External Conduct Standards.

The phrase 'operate outside Australia' is not limited to major projects or programs. A charity is generally considered to operate outside Australia, even if its overseas activities are just a minor part of its work, or if it only sends a small amount of money overseas. This is true even when such activities are conducted through a third party.

Activities which are likely to be considered operating outside of Australia include:

- sending money overseas
- sending resources overseas
- sending staff, volunteers, members or beneficiaries overseas
- conducting activities or working overseas
- buying goods and services from overseas suppliers (including online purchases), and
- working with individuals or organisations located overseas.

Note that the standards also apply to activities conducted in Australia if those activities are closely related to the matters that are outside of Australia. This may include, for example, managing overseas projects from Australia.

If a charity complies with the Australian Council for International Development (ACFID) Code of Conduct, it is likely that they comply with the External Conduct Standards. However, the ACFID Code of Conduct does not map completely with the ECS.

If a charity's activities overseas are directly related to a purpose intended to provide a benefit to people in Australia, and those activities are just an incidental part of its operations in Australia, the standards may not apply. You can read the ACNC's detailed guide that explains when the External Conduct Standards apply and when they do not apply.

Basic Religious Charities must comply with the External Conduct Standards if they operate outside Australia, even though they don't have to comply with the ACNC's Governance Standards.

Charities that do not operate outside Australia are not subject to the External Conduct Standards. However, these charities still must comply with the Governance Standards, unless they are a Basic Religious Charity.

How to meet External Conduct Standard 1: Activities and control of resources, including funds

The ACNC does not set out what a charity must do to meet External Conduct Standard 1. The actions your charity takes will depend on its individual circumstances. As a first step, a charity should identify how its overseas activities or funding could be at risk of misuse. It can then develop a plan to manage these risks.

The reasonable steps to manage the risks of activities outside Australia may include some of the following:

- Ensure all overseas activities and funding requests are properly approved. Have clear policies outlining the approval process and keep records of decisions.
- Make sure the charity's funds and projects are approved by more than a single person.
- Use secure, monitored services when transferring funds (for example, formal banking systems) and ask recipients to confirm receipt of the funds.
- Check the reputation and experience of third parties to decide whether they are suitable and whether they share the charity's values.
- Make sure third parties have appropriate management policies and procedures.
- Have written agreements with third parties that clearly set out the functions and responsibilities of everyone involved.
- Have thorough recruitment procedures for staff and volunteers that include appropriate background checks.
- Monitor overseas projects, including those undertaken by third parties, and ask for regular reports on progress and finances. Review the progress reports at each board meeting.
- Establish procedures to detect wrongdoing.
- Keep records of transactions and review them to ensure they're accurate and consistent with approved funding levels.
- Keep a register of the charity's equipment and monitor its use. Make sure the equipment is stored securely.
- Monitor the continued eligibility of the charity's beneficiaries.
- Develop a procedure used when approving all new projects, as well as when conducting regular reviews of existing projects, to ensure they are aligned with charitable purpose.
- Make sure the charity has a process that allows people to report suspected wrongdoing without fear, recrimination or disadvantage.

Now most of these actions are simple and, where appropriate, most charities will be able to do them. But if you think your charity doesn't have anyone available with enough knowledge and experience, it is a good idea to seek expert help or advice.

How to meet External Conduct Standard 2: Annual review of overseas activities and record-keeping

A charity's records need to include information necessary for it to prepare a summary of its operations outside Australia, if required. Generally, a summary would be a brief but comprehensive presentation of key facts explaining a charity's operations outside Australia. A charity is likely to meet External Conduct Standard 2 if it has records that contain the following information:

- the types of activities it conducted outside Australia on a country-by-country basis
- details of how its activities outside Australia enabled it to pursue and achieve its purpose on a country-by-country basis
- details of all expenditure relating to its activities outside Australia on a country-by-country basis
- details of any procedures and processes it used to monitor its overseas operations
- a list of the third parties it worked with outside Australia
- details of any documented claims of inappropriate behaviour by its employees or Responsible People outside Australia and actions it took in response. This might involve documenting information if it breaks Australian or overseas laws or breaches its own code of conduct.

A charity's records should be:

- complete, accurate and legible
- prepared on a timely basis
- kept in English or in a form that can be easily translated to English
- stored safely and kept for at least seven years.

A charity can keep records in any format (hard copy, electronic form) as long as the specific information contained in the records is easy to find, if a request is made.

Most of these actions are simple, and most charities will be able to do them, but if you think your charity doesn't have anyone available with enough knowledge and experience, it is a good idea to seek expert help or advice.

The ACNC does not require a charity to provide records for its operations outside Australia. However, this information may be requested as part of an ACNC enquiry or investigation. If the ACNC requests records of operations outside Australia, a registered charity should be able to provide them in a timely manner.

How to meet External Conduct Standard 3: Anti-fraud and anti-corruption

The action a charity takes to meet External Conduct Standard 3 will depend on its particular circumstances. As a first step, a charity should identify and assess the risk of fraud or other financial impropriety it faces when carrying out its work overseas and develop a plan to manage these risks.

Some things that a charity can do to manage risks include:

- Have clear policies and adequate controls for proper and ethical financial management. Ensure staff, volunteers and others that work with the charity are familiar with them.
- Establish thorough and appropriate recruitment procedures for staff and volunteers, particularly for anyone with financial or project oversight.
- Supervise staff involved in fundraising, managing money or financial reporting.
- Keep detailed financial records and regularly check financial statements for any signs of financial wrongdoing.
- Have a way for staff, volunteers and others that work with the charity to report suspected wrongdoing without fear of recrimination or disadvantage.
- Implement a clear conflicts of interest policy and keep an updated conflicts of interest register. Address any conflicts of interest when selecting third parties.
- Thoroughly check a third party's reputation and experience before choosing to work with them. Make ethical conduct and good financial oversight a key criterion for selecting parties.
- Ensure that there is a clear written agreement with each third party that sets out the functions and responsibilities of the people involved and properly monitor activities.

Many of these actions are simple, and most charities would be able to do them if they are appropriate to their circumstances, but if you think that your charity doesn't have anyone available with enough knowledge and experience, it is a good idea to seek expert help or advice.

How to meet External Conduct Standard 4: Protection of vulnerable individuals

The actions a charity takes to meet External Conduct Standard 4 will depend on its individual circumstances. As a first step, a charity should identify and assess the risks to vulnerable people associated with its activities overseas. It should pay special attention to high-risk activities linked to children and to vulnerable people, such as overseas volunteering and child sponsorship. From there, a charity should develop a plan to manage those risks.

Some things that a charity can do to manage risks include:

- Develop a policy that commits the charity staff, volunteers, third parties and visitors to protecting vulnerable individuals. Make the safety of vulnerable people an important criterion when selecting third parties.
- Develop a code of conduct outlining appropriate behaviour when working with vulnerable people.
- Ensure staff, volunteers and visitors are aware they must report suspected abuse within the charity.
- Ensure the privacy of vulnerable people is always protected.
- Establish thorough staff and volunteer recruitment processes, including adequate background checks.
- Ensure staff and volunteers are suitably qualified in safeguarding vulnerable people and properly supervised when working with them.
- Have a procedure for confidential complaints that is accessible for all vulnerable persons, staff, volunteers and third parties. Deal with complaints appropriately, sensitively and promptly.
- Ensure staff and volunteers working overseas have access to suitable housing, food, insurance, medical services and communications. Establish an emergency exit plan for staff and volunteers working in conflict zones or other dangerous locations.
- Thoroughly check the legal status, reputation and procedures of third parties. Ensure they have the appropriate registrations and licences to conduct activities with vulnerable people and that they meet required standards.
- Have written agreements that clearly set out roles and responsibilities of third parties and monitor third parties' activities through regular reporting and checks.

A charity must meet safeguarding requirements or relevant minimum standards, as set out in both Australian law and the laws of the host country. Many of these actions are simple and most charities will be able to do them if they are appropriate to their circumstances, but if you think your charity doesn't have anyone available with enough knowledge and experience, it is a good idea to seek expert help or advice.