

ACNC External Conduct Standards

The ACNC External Conduct Standards will impact on how your church manages its overseas missions program. ACCI Missions & Relief has had to comply with external standards of good practice in overseas missions for many years and we have in place existing policies and procedures that will ensure our compliance with these standards. Based on our experience and our understanding of ACC Churches and their missions programs, we have tried to provide you with a pathway through this challenging new area of compliance.

New Standards

What has changed?

The ACNC Governance Standards deal with how your charity is run (including processes, activities and relationships) and these have applied to all ACNC registered charities since July 2013. The Governance Standards are principle-based, and it is the responsibility of the charity to decide how it will meet these standards based on its size, complexity and the nature of its operations. ([Read more on the ACNC Governance Standards](#))

For a typical ACNC registered, Australian church, there has never been any additional regulations, standards or restrictions around how they approach operating their overseas activities. Those churches with a tax-deductible charitable arm may have faced some additional requirements.

The introduction of the external conduct standards in July 2019 has meant that for the first time, churches are now faced with reviewing their overseas missions program in the light of a set of external standards.

Do these new standards apply to your church?

These standards apply to every registered charity that is operating outside Australia, or working with a third party operating outside Australia, no matter how small. These operations could include:

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

So, if your church is ACNC registered and has an overseas missions program, then you will almost certainly be required to comply with the new External Conduct Standards.

For a quick summary, refer to our policy page, where you can download our [Risk Management for Churches Factsheet](#).

So what are these new standards?

Standard 1: Activities and control of resources (including funds). This covers the way a charity manages its activities overseas, and how it controls the finances, people and resources it uses in relation to these overseas activities.

Standard 2: Annual review of overseas activities and record-keeping. This covers the need to keep sufficiently detailed records for its overseas activities.

Standard 3: Anti-fraud and anti-corruption. This covers having appropriate processes and procedures in place to address the risks of fraud and corruption in its overseas operations.

Standard 4: Protection of vulnerable individuals. This covers the requirement for a charity to protect the vulnerable people that it works with when conducting its overseas operations.

[Read more on the ACNC External Conduct Standards here.](#)

Impact On Your Church

Why is this important for my church?

Let's begin with the attention-grabbing headline first...

Failure to comply could result in revocation of your church's charity status!

If a church missions program fails to comply with the External Conduct Standards, it could result in the revocation of your church's ACNC charitable status, meaning your church will lose access to all Commonwealth charity tax concessions, exemptions or benefits to which your church was previously entitled.

The ACNC is in the business of improving charity compliance, not closing them down, however that is not a case for complacency. They are willing to make an example out of charities that have seriously or deliberately breached their standards and will use this action as a deterrent for poor compliance. We really want to avoid being their example. According to the ACNC, "Charities do not need to submit anything to the ACNC to show they meet the External Conduct Standards but must be able to provide evidence of meeting the Standards if requested."

Once again, this is not a case for complacency, in fact, it is the opposite. If the ACNC is asking you for evidence of your compliance, and compliance means you have kept records of your compliant overseas activities, then they will expect those records to be promptly produced. A request for time to prepare those records, means you did not keep the required records (Standard 2), therefore you are already non-compliant.

These External Conduct Standards now sit alongside the ACNC Governance Standards and the ACNC annual reporting requirements as part of their church board's basic compliance and risk management responsibility. This makes it a very, very important consideration for every church.

Can I limit my church's exposure to these standards?

Yes, in fact there is one particular way that you can significantly reduce exposure. The External Conduct Standards do not apply to your church's overseas missions' activities when they are carried out through another ACNC registered charity. This is because it will be the other ACNC registered charity, that will have their own obligation to comply with the External Conduct Standards.

For example, if your church supports an overseas missionary through ACCI Missions, then your church does not need to comply with the External Conduct Standards in regard to this particular overseas activity. ACCI Missions, as an ACNC registered charity, is already responsible for complying with the External Conduct Standards in relation to our missionaries and our project partners. You can view our ACNC External Conduct Standards Compliance Declaration [here](#).

You will still need to comply with the ACNC Governance Standards in regard to any organisation that you donate funds to, and the External Conduct Standards for the management of funds sent for overseas activities. However, it is possible for you to significantly reduce your church's exposure.

What will the ACNC expect from my church?

The ACNC does not prescribe what a charity must do to meet these External Conduct Standards. Each church will need to decide what is appropriate based on the circumstances of their own overseas missions' program. The sorts of factors they would need to consider include:

- the nature, scale and complexity of the church's overseas activities and funding;
- the size and the number of staff and volunteers;
- the locations in which it operates;
- the church's level of knowledge and experience in managing similar projects or activities;
- the involvement of third-party organisations in these activities and their particular circumstances;
- the effectiveness of current policies and procedures that govern its activities or funding; and
- any issues or difficulties it has experienced with previous overseas activities or funding.

The ACNC also expects a church to have considered the risks associated with its overseas activities and funding. This means that the reasonable steps that a church must take, and the reasonable procedures it must have in place, will depend on both its particular circumstances and the associated risks involved.

A large charity with operations in several countries and formal partnerships with several overseas third parties will likely need to do more to comply with the External Conduct Standards than a small charity providing a small amount of funding to one low-risk overseas activity.

Meeting Compliance

How can we make a basic assessment of the potential compliance work required for a particular overseas activity?

The ACNC understand that charities operate for a specific charitable purpose. For a church missions' program, we are often driven to see positive, holistic, sustainable change take place in the lives of individuals and communities overseas. We have a desired change goal, which we want to see occur in people's lives. Often this is a combination of spiritual change, social change as well as changes to their physical circumstances.

The ACNC guidance materials advocate for charities to take a risk-based approach in regard to their overseas activities. This means you need to first identify and understand those risks, before you can evaluate and document an appropriate response.

ACCI have developed a draft template [Overseas Operations Policy Template](#) for an ACC Church Board to modify and adopt as part of their strategy for managing their ECS risk and compliance.

So how do you suggest that a church should approach its compliance with the External Conduct Standards?

If you are supporting overseas activities through ACCI Missions or ACCI Relief, then through our [Overseas Operations Policy Template](#) we have attempted to demonstrate how we can reduce your church's compliance burden.

If you are not working through ACCI or another ACNC Registered Charity, then also through this template policy, we have suggested some steps which you could consider working through:

1. Overseas Activity

- Detailed Activity Assessment (including change goal, methods, motives and good principles)
- Identify High Risk Activity Flags (including vulnerable people, specialist skills, legal/regulatory requirements and inherently high risk)
- Activity Risk Mitigation (including sound policies and procedures, good practices standards, codes of conduct, technical skills, training or experience, legal structures and appropriate registrations, oversight bodies and external accountability and reporting)

2. Implementing Organisation (or Individuals)

- Partner Alignment, Compatibility and Reputation
 - Legal Structure (including legal status, registrations, governance, accountability, oversight, in-country teams, partners)
 - Organisational and Technical Capacity
 - Financial Controls and Systems
 - Policies and Safeguarding (including children and other vulnerable persons)
-

3. Your Church Involvement

- Your Contribution (including funding, people, equipment and other resources)
- Your Financial Controls, Systems and Processes
- Your Policies and Procedures (including HR, child safeguarding, conflicts of interest, counter terrorism, complaints handling and whistleblowers)

4. Partnership Plan

- Written Agreement (clearly setting out roles and responsibilities)
- Document Overseas Activities
- Budget and Funding/Resource Commitments
- Risk Management Plan (addressing the overseas activity risks, implementing organisation risks and your involvement risks)

5. Implementation

- Progress Reporting (which you require from the implementer)
- Monitoring and Evaluation (including an annual review of overseas activities and partnership plan)
- Your Record Keeping (paying special attention to the Standard 2 requirements)

So the end result will hopefully be that your church missions program has participated in a meaningful overseas activity, which has made a positive impact in people's lives. But it should also mean that you have been able to comply with the External Conduct Standards in the following ways:

Standard 1: Activities and control of resources (including funds). The plan above documents your sound approach to complying with the control of your resources in regards to the overseas activity.

Standard 2: Annual review of overseas activities and record-keeping. The need to keep sufficiently detailed records of your overseas activities has been factored into your implementation.

Standard 3: Anti-fraud and anti-corruption. This has been addressed through your review of the implementing organisation, your own policies and procedures, the progress reporting and annual review.

Standard 4: Protection of vulnerable individuals. The activity risk review should identify up front the degree to which vulnerable individuals may be involved in this activity. Ongoing compliance by the implementor and your own church with the appropriate safeguarding policies will be required. Any other appropriate responses should be specifically documented as part of your risk management plan and reviewed as part of your annual review (at a minimum).

Working With Children

What impact will this have on those working with children in residential care?

Implications of the ACNC External Conduct Standards for Australian Charities

The External Conduct Standards (ECS) introduced by the ACNC in July 2019 specifically recognises children in residential care as being of heightened risk and vulnerability. Therefore, Australian charities, including churches, involved in running, supporting or sending teams to overseas residential care services are now expected to put in place comprehensive measures to prevent harm and safeguard against abuse and exploitation.

We often assume that residential care settings (e.g. orphanages, children's homes, shelters), are inherently safe places for children. However, global evidence shows orphanages, even well-run ones, can cause harm to children due to the effects of institutionalisation and can also expose a child to an increased risk of abuse and exploitation.

ACCI strongly believes that God designed family as the best place for the holistic development and care of a child. Therefore, we believe as Christians we should be on the forefront of promoting families and supporting standards which promote the best interests and wellbeing of orphaned and vulnerable children. Therefore, we recommend churches:

-
- Ensure **funding is allocated to support children in families**, including family-based alternative care or working with existing residential care services to reintegrate children with families. (If you are interested in how ACCI is working with alternative care options, you can read more [here](#))
-

How are the Standards Relevant to Churches involved in Residential Care?

Whilst charities must comply with all four ECS, Standards 1 and 4 have a direct bearing on churches who are involved in residential care activities as outlined below.

Standard One: Activities and Control of Resources

This standard aims to prevent Australian donors from funding organisations which are seeking profits and exploiting beneficiaries. Unfortunately, residential care facilities are prone to this as it is common for orphanages to recruit children into their care or keep children in care longer than necessary to access foreign funding, leaving children needlessly separated from their families. All churches who fundraise for or send teams to residential care settings, are exposed to this risk and therefore must ensure they complete the following:

- Conduct thorough **due diligence assessments** on all partners

Including ensuring supported overseas organisations are registered and duly licensed per law and have demonstrated sufficient will and capacity to conduct activities appropriately. For ACCI's due diligence tool [visit here](#).

- Put in place **formal partnership agreements** with all partners

Agreements should include the terms, expectations, standards, code of conduct, roles and responsibilities of both parties and designation of funds.

- Ensure proper **financial controls** are in place

Including ensuring bank accounts and assets are not in individuals' names, more than one signature is required to withdraw funds, regular financial reports are required including periodic audited reports. This could be built into the partnership agreement or be captured in a financial management policy.

- Ensure there is a robust **child protection/safeguarding policy** in place

Including strict child safe employment recruitment procedures and clear mechanisms for reporting allegations and incidents including means by which children can safely report concerns or allegations to someone other than staff.

Standard Four: Protection of Vulnerable Individuals

Children in residential care are a highly vulnerable group and therefore Standard Four requires charities to ensure the protection of the safety and rights of orphaned and vulnerable children. Due to harms caused by separation from family and community and the institutional nature of care in residential settings, the risks of residential care activities cannot be entirely mitigated by high standards of care alone. It is for these reasons that churches should prioritise supporting activities that strengthen and preserve families and communities.

Residential care should only ever be used in limited situations as a last resort and for the shortest duration possible. Extensive work is required by charities and churches to ensure that the residential care activities uphold this principle and comply with relevant local legal minimum standards and international conventions including the Convention on the Rights of the Child and Guidelines for the Alternative Care of Children. Churches engaged in residential care activities should ensure:

- residential care activities are fully compliant with the alternative care policy and minimum **standards of care** per local law.
- **admission procedures** are strictly in accordance with the national gatekeeping policy or the Guidelines on the Alternative Care for Children. Including:

- A requirement for child and family assessments, carried out by competent and authorised professionals and for decisions to be made in the best interests of the individual child and free from discrimination.
 - A means of directing children towards the type of care most appropriate to their needs and with priority given to family-based care (through case management and/or referral networks).
 - A requirement for admissions into alternative care to be approved or mandated by the competent authorities.
 - A prohibition on active recruitment of children for placement in residential care.
 - A requirement to conduct regular reviews of all children's placements to assess for ongoing necessity, suitability and to work towards reintegration.
- a **reintegration policy** is in place
- Including requirements for the organisation to have case management and time bound reintegration plans in place for all children.
- a **child safe visiting and volunteering policy** is in place
- This policy should include restrictions on receiving visitors, volunteers or missions teams, due to the well-known harms of orphanage volunteering and tourism. For more info [visit here](#).
- **children are involved in making decisions**, where those decisions affect their lives.
 - **aftercare services** are provided to ensure children and young people leaving care are supported to integrate safely and successfully.

You can download the ReThink Orphanages guidance note [here](#)

You can download the ReThink Orphanages Partnership Due Diligence Assessment Tool [here](#)

For more information and resources visit - kinconnected.org.au
