

PCNSW ACNC EXTERNAL CONDUCTS STANDARD POLICY

July 2024

1. Definitions

ACNC means the Australian Charities and Not-for-profits Commission.

ECS means the ACNC External Conduct Standards.

PCNSW means the Presbyterian Church of Australia in the State of New South Wales.

PCNSW Entities means all congregations, institutions and ministries of the Church, including committees, schools, colleges, pre-schools, early childhood centres, aged and community care services, hospitals or other social services.

Policy means this External Conduct Standards Policy.

Reasonable Steps means the steps that a PCNSW Entity must take, and the reasonable procedures it must maintain to comply with the ECS, depending on its particular circumstances and the associated risks.

The Trustees means the Trustees of the Presbyterian Church (NSW) Property Trust.

Vulnerable People means people under the age of 18, or those who may be either unable to take care of themselves – due to their age, illness, trauma, disability, or some other disadvantage – or unable to protect themselves against harm or exploitation.

2. Background and Purpose

ECS is a set of standards established by the ACNC that govern how a registered charity must manage its activities and resources outside Australia. ECS came into force on 1 July 2019 and applies in addition to existing ACNC Governance Standards.

Through ECS, the ACNC requires all charities to take Reasonable Steps to ensure appropriate standards of behaviour, governance and oversight when undertaking activities or providing funding overseas.

They are intended to promote transparency and provide confidence that resources sent, or services provided, overseas reach legitimate beneficiaries and are used for legitimate charitable purposes. They also seek to protect vulnerable people overseas.

PCNSW Entities that conduct overseas activities, work with third parties overseas, or send funds or other resources overseas will need to comply with the ECS in relation to those activities or work.

While PCNSW Entities are not required to submit anything to the ACNC to show they meet the ECS, they must be able to provide evidence of meeting the ECS, if requested.

Where a PCNSW Entity is found to have seriously or deliberately breached the ECS, appropriate action will be taken by ACNC, including revoking the charitable status of the entity. This would mean that the entity would no longer be entitled to certain tax exemptions and concessions.

Other implications of breaching the ECS include the risks being actualised, PCNSW acting contrary to its purpose, and reputation loss to Christ and His church.

The purpose of this Policy is to:

- (a) explain what ECS, and when the standards apply; and
- (b) outline what steps a PCNSW Entity is required to take in the event the ECS applies to their activities.

3. Scope

This Policy applies to all PCNSW Entities who are registered with ACNC, including Basic Religious Charities.

This Policy applies in addition to any other ECS Policy or processes adopted by the different entities within PCNSW.

In the event of an inconsistency between this Policy and any other ECS policy or process within PCNSW Entities, this Policy prevails.

4. Circumstances where the ECS apply

The ECS apply where a PCNSW Entity is operating outside, or working with a third party operating outside, Australia. This includes undertaking activities overseas or funding activities overseas, no matter how small.

A PCNSW Entity does not have to be directly involved in an activity overseas to be considered operating outside Australia. It would generally be considered to be operating outside Australia even if it works with another organisation or individual to undertake overseas activities on its behalf.

Activities that may be considered operating outside 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)
- working with individuals or organisations located overseas

It is important to note that the ECS also apply to activities conducted in Australia if those activities are closely related to matters that are outside of Australia. This may include, for example, managing an overseas project from Australia.

Other examples where the ECS apply include financially supporting a missionary directly (e.g. transferring money to their or an overseas bank account), sending congregational members on a short-term mission trip, or collaborating with a foreign non-ACNC registered organisation in relation to activities that are undertaken in another country.

5. Circumstances where the ECS may NOT apply

The ECS may not apply if a PCNSW Entity's activities overseas are directly related to its purposes in Australia, and those activities are just an incidental (or minor) part of its operations in Australia. This means that if a PCNSW Entity happens to do something overseas or send money overseas as an incidental part of a purpose to benefit people in Australia, this activity may not be subject to the ECS. This would include purchasing goods or services from overseas for the conduct of activities in Australia.

The ECS also do not apply if the third party is a charity registered with the ACNC. This charity will have its own obligations to comply with the ECS in relation to the overseas operations. For example, if a congregation donates funds or other resources to APWM, SIM, CMS or Pioneers (or another ACNC registered charity) and does not itself send funds or conduct activities overseas, the ECS will not apply in relation to that provision of funds or resources.

6. The ECS Explained

There are four ECS that cover certain aspects of a charity's overseas operations.

(a) Standard 1: Activities and Control of Resources

This Standard covers the way a charity manages its activities overseas, and how it is required to control the finances and resources it uses overseas. It requires the charity to maintain reasonable internal control procedures to ensure that resources are used outside Australia in a way that is consistent with the charity's not-for-profit purpose and character.

(b) Standard 2: Annual Review of Overseas Activities and Record Keeping

This Standard requires a charity to obtain and keep records to be able to compile a summary of its activities and expenditure outside Australia on a country-by-country basis for each financial year.

(c) Standard 3: Anti-fraud and Anti-corruption

This Standard covers the requirements for a charity to have processes and procedures that work to combat fraud and corruption in its overseas operations.

(d) Standard 4: Protection of Vulnerable Individuals

This Standard requires that a charity's operations outside Australia are undertaken in a way that minimises the risk of exploitation or abuse of vulnerable individuals.

For further information, refer to the ECS Guidelines on the ACNC website:

<https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/acnc-external-conduct-standards>

7. Steps to take in respect of the ECS

A PCNSW Entity should firstly identify if they undertake any overseas activities which are governed by the ECS.

Where the ECS apply, a PCNSW Entity should take Reasonable Steps to ensure they are complying with the four ECS. These include, but are not limited to:

(a) Standard 1: Activities and Control of Resources

- Written approval processes for the conduct of any overseas activities, including sending funds.
- Use secure funds transfers and receipting processes.
- Monitor and report on overseas projects, on an ongoing basis, but at least annually at the congregation's AGM.
- Apply sound review processes in selecting third parties to fund, and ensure agreements are in place, including MOUs between partner organisations, and background checks and due diligence prior to entering into partnerships.
- Keep a register of the Australian laws that apply to any overseas activities, and have systems in place to ensure these laws are met at all times. (Refer to the ACNC website for a list of the Commonwealth legislation that may be relevant to ECS).

(b) Standard 2: Annual Review of Overseas Activities and Record Keeping

- Establishing record keeping of the following (kept for a minimum of 7 years):
 - The activities conducted overseas and how these support your charitable purpose;
 - Expenditure relating to these activities;
 - Procedures used to monitor the overseas operations;
 - List of any third parties worked with outside Australia; and
 - Any claims of inappropriate behaviour of representatives of the entity or third parties.

(c) Standard 3: Anti-fraud and Anti-corruption

- When working with third parties, check their reputation and work practices, monitor their activities, and request ongoing progress reports for projects, including gathering receipts or photographs to verify the use of funds.
- Document agreements to ensure all parties are clear on their roles and responsibilities.
- Ensure conflicts of interest are identified and addressed with all parties.

(d) Standard 4: Protection of Vulnerable Individuals

- Assess risks for vulnerable people.
- Apply policies for the protection of vulnerable people, including appropriate standards of behaviour (e.g. Breaking The Silence Code of Conduct that is applied in Australia).
- Establish processes for reporting abuse and complaints procedures (e.g. Whistleblower Policy that is applied in Australia).
- Screen and monitor third parties that may have contact with vulnerable persons. For additional information and resources to assist with compliance with Standard 4 please refer to ACNC website: <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/governance-toolkit/governance-toolkit-safeguarding-vulnerable-people>

Where the PCNSW Entity cannot take Reasonable Steps or would prefer to avoid being governed by the ECS, the relevant overseas activities should be terminated, or pursued in a way that would mitigate the need to comply with the ECS (for example, pursuing the activity through another ACNC registered entity instead).

8. Breaches of this Policy

All PCNSW Entities are required to comply with this Policy, as well as with other ACNC regulations and Australian laws that apply.

Non-compliance with this Policy or ACNC Regulations may result in disciplinary action by the Trustees and/or the regulator.

9. Variations

This Policy may be varied, amended, replaced or terminated from time to time and at any time at the absolute discretion of the Trustees, with the Trustees reporting any variations to the next NSW General Assembly.

APPENDIX A: PCNSW External Conduct Standards Decision Flow Chart

Refer to the PCNSW External Conduct Standards Policy ("the Policy") for further information

