

Australian Charities External Conduct Standards Exposure draft law and explanatory materials

To assist in identifying relevant issues, this table sets out the key elements of the external conduct standards (ECS) and shows the relevant sections and references.

All section references below are to the exposure draft unless otherwise stated.

Issue	Brief explanation
What charities are covered by the ECS?	<p>All charities that operate outside Australia, or work with third parties that operate outside Australia, must comply with the ECS in order to be registered (and remain registered) as a charity. Unlike the governance standards, the ACNC Act does not exclude basic religious charities from the operation of the ECS. (section 50-10 of the ACNC Act, and section 50.4 of the exposure draft)</p> <p>If the registered charity does not operate overseas, or work with other parties that operate overseas, it does not have any obligations under the ECS.</p>
Are there any exceptions?	<p>The ECS do not apply if the registered charity's operations outside Australia are only incidental to the pursuit of its purposes inside Australia. (subsection 50.4(2))</p>
What do the ECS cover?	<ul style="list-style-type: none">- Standards about public accountability and financial matters<ul style="list-style-type: none">- Standard on internal controls for overseas activities and use of resources (section 50.20)- Standard on compliance with certain Australian laws overseas (section 50.20)- Standard on record keeping and reviews relating to overseas activities (section 50.25)- Standards about conduct outside Australia<ul style="list-style-type: none">- Standard on anti-fraud and anti-corruption (section 50.30)- Standard on protection of vulnerable individuals (section 50.35)

Issue	Brief explanation
<p>What do the ECS require?</p>	<p>The ECS are principles-based and require a registered charity to take 'reasonable' actions to ensure that while operating outside Australia:</p> <ul style="list-style-type: none"> - it operates and applies funds consistent with its purpose (subsection 50.20(3)) - it complies with Australian laws that operate extra-territorially (such as laws prohibiting money laundering, or sexual offences against children) (subsections 50.20(4) and (5)) - it has controls in place to manage potential risks of corruption or bribery, and identifies and documents any conflicts of interest (subsection 50.30(3)) - in delivering programs or providing benefits it ensures the safety of vulnerable individuals, such as children, outside Australia (subsections 50.35 (3) and (4))
<p>What information do I have to report to the ACNC?</p>	<p>All registered charities covered by the ECS will need to provide an annual overseas activities statement as part of its Annual Information Statement. (subsection 50.25(4))</p> <p>The ACNC is developing the format of the annual overseas activities statement, and will consult with the sector once these standards are finalised.</p>
<p>What are the powers of the ACNC to enforce the ECS?</p>	<p>The ACNC powers of monitoring and enforcement are contained in Chapter 4 of the ACNC Act. This includes its information gathering powers, such as requesting information, entering premises or securing evidence, and its enforcement powers, such as giving directions, making enforceable undertakings, or issuing injunctions.</p> <p>The ACNC may revoke an entity's registration for non-compliance (section 35-10 of the ACNC Act).</p> <p>The ACNC's regulatory approach statement is available on its website.</p>