

16 February 2022

Reference: CAS-906124-V3X1V7

Brayden Smith  
Treasurer  
Bali Children Foundation Ltd  
Po Box 134 Caulfield South Victoria 3162  
Via email: [admin@bcfl.org.au](mailto:admin@bcfl.org.au)

Dear Brayden,

This letter is to notify you that the ACNC review of Bali Children Foundation Ltd (the Charity) is complete.

Thank you for the Charity's participation in the review and for the time given by its representatives to provide us the necessary information and documents about your charity's involvement in or support for vulnerable beneficiaries overseas. At this time, we do not require anything further from the Charity.

The ACNC conducted reviews of a number of charities and intend to publish our findings, however your charity will not be identified as part of this report and information to be published by the ACNC will be examined to ensure that charities are not identifiable from the content of the findings. The ACNC will contact you at a future date to advise of the report being published.

The Charity demonstrated adequate governance in relation to the following:

- The Charity demonstrated a clear understanding of its beneficiaries and their best interests. The Charity provided insight into its move from children's home based services to community and education based services.
- The Charity (Australian branch) had appropriate child protection policies and procedures for its limited engagement with vulnerable children.



- The Charity has strong financial controls and board oversight of Australian finances. The Charity has processes to identify and manage conflicts of interest within the Australian branch.

In reviewing the Charity's responses, I have identified some resources that might help the Charity ~~could to~~ strengthen its governance. Specifically:

- Review and understand the ACNC [External Conduct Standards](#), a set of standards for charities operating outside of Australia. Consider the information the Australian branch receives from the Bali branch, and whether it is sufficient to satisfy the Charity that it is meeting the External Conduct Standards.
- The Australian Department of Foreign Affairs and Trade (DFAT) publishes guidance on its website to support organisations and individuals in their dealings with vulnerable children. It is recommended the charity consider the advice published by DFAT to ensure that the work of the charity is in the best interest of vulnerable children - [Smart volunteering | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](#)

To help the Charity understand its [obligations to the ACNC](#) and to address any deficiencies in these areas, I have attached ACNC guidance and resources to this letter.

### **Future Compliance**

As you are aware, entitlement to registration as a charity is based on continued compliance with the obligations under the ACNC Act and Regulation. Should at any stage the Charity identify a significant contravention or non-compliance with the Act or the Regulation, you should notify the ACNC within 28 days as required by subsection 65-5(1)(e) of the Act.

If you have any questions, please do not hesitate to contact me on (03) 8601 9595 or via email at [compliance@acnc.gov.au](mailto:compliance@acnc.gov.au).

Yours sincerely

Jacob Wood

Compliance Officer

Australian Charities and Not-for-profits Commission



## Governance tools and resources

### The Governance Toolkit

The ACNC's [Governance Toolkit](#) is a collection of resources that help charities manage four important risk areas:

- **Financial abuse:** a term that covers a number of issues, including possible instances of bribery and corruption, financial fraud, and improper use or misappropriation of charity funds.
- **Cybersecurity:** all charities are vulnerable to cybersecurity risks - including unauthorised access to information, hacking, data breaches, viruses and phishing
- **Working with partners:** charities must ensure their relationships with partners are well planned, supported by a solid written agreement and pursue the agreed charitable purposes.
- **Safeguarding vulnerable people:** safeguarding is protecting the welfare and human rights of people that are, in some way, connected with a charity or its work. It is part of a charity's primary duty of care.

Each risk area contains a comprehensive guide and other resources to help a charity manage its risks.

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### Governance Standards

[The Governance Standards](#) are a set of core, minimum standards for how charities are run, including processes, activities and relationships. Charities must meet the ACNC's Governance Standards to be registered and remain registered with the ACNC.

The Governance Standards require charities to remain charitable, operate lawfully, and be run in an accountable and responsible way. They help charities remain trusted by the public and continue to do their charitable work. Because the Governance Standards are a



set of high-level principles, not precise rules, your charity must decide how it will comply with them.

Our governance handbook, [Governance for Good](#), is for board members of a charity. It focuses on good governance and how it helps charities in the context of their obligations. It highlights when something is a legal obligation rather than being optional or suggested.

The ACNC's [Self-evaluation for charities](#) is a tool that aims to help a charity assess its own compliance with its obligations, and to identify issues that may prevent it from complying. The self-evaluation asks questions of your charity and prompts you to describe the practical steps it is taking to meet its obligations and list the relevant policies or procedures it has.

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## External Conduct Standards

[The External Conduct Standards](#) are a set of standards that govern a registered charity's activities outside Australia - including activities with third parties.

The External Conduct Standards require 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. The Standards also seek to protect vulnerable people overseas.

Charities that operate outside Australia are required to comply with the External Conduct Standards. Importantly, 'operate outside Australia' is not limited to major programs or projects. 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.

The ACNC's [Self-evaluation for charities operating overseas](#) helps a charity assess its own compliance with its obligations and identify any issues that might prevent it from complying. This self-evaluation asks questions of your charity and prompts you to



describe the practical steps it is taking to meet its obligations. It also prompts you to list relevant policies and procedures your charity has.

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## **Record-keeping**

Charities have different obligations for record-keeping. A charity's record-keeping obligations depend on its size, complexity, activities, the way it spends or receives money, and whether it has extra obligations from state regulators.

A charity:

- must keep certain written financial and operational records
- can keep the records in any format it wants as long as the records are easy to find (including in electronic form)
- can develop its own systems or processes
- must keep records for seven years
- must keep records in English or in a form that can be easily translated to English
- is not required to provide the records to the ACNC unless asked.

If your charity operates overseas it is required to obtain and keep records that relate to its overseas activities.

### **Financial records**

A charity's financial records must:

- correctly record and explain how it spends or receives money or other assets (transactions)
- correctly record and explain its financial position and performance, and
- allow for true and fair financial statements to be prepared and audited or reviewed, if required.

Even if your charity does not need to submit financial reports to the ACNC, it still needs to keep financial records that meet these requirements. The ACNC could require your charity to prepare financial statements.

### **Operational records**

These are any other documents about your charity's operations.



A charity must keep operational records that show how it:

- is entitled to be registered as a charity (and charity subtype)
- meets its obligations under the ACNC Act, and
- meets its obligations under tax law.

The ACNC's [Record-keeping Guide](#) explains what is required for charities registered with the ACNC.

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## **Managing conflicts of interest**

A conflict of interest occurs when a person's personal interest conflicts with their responsibility to act in the best interests of the charity. A conflict of interest may be actual, potential or perceived and may be financial or non-financial.

Conflicts of interest are common and do not have to be a serious problem. However, if a conflict of interest isn't managed properly, it may damage a charity's reputation and, in serious cases, even breach the law.

ACNC's [Conflict of Interest guide](#) provides information for charities that explains how to identify and manage conflicts of interest and ensure compliance with the law.

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## **Safeguarding people**

Safeguarding is protecting the welfare and human rights of people that are, in some way, connected with your charity or its work – particularly people that may be at risk of abuse, neglect or exploitation.

The definition of safeguarding used to be narrower – it used to refer to protecting children or vulnerable adults. However, Australian legislation broadened the definition to include everybody. As such, safeguarding is part of a charity's primary duty of care.

### **Vulnerable people**

While all people must be protected from harm, there are additional legislative and ethical considerations for protecting vulnerable people.



Vulnerable people can include:

- children and seniors
- people with impaired intellectual or physical functioning
- people from a low socio-economic background
- people who are Aboriginal or Torres Strait Islanders
- people who are not native speakers of the local language
- people with low levels of literacy or education
- people subject to modern slavery, which involves human exploitation and control, such as forced labour, debt bondage, human trafficking, and child labour.

Vulnerable people are not limited to a charity's beneficiaries or the users of its services. They can include a charity's staff, volunteers, and people in third parties, such as partners.

Being able to recognise vulnerability in its various forms is important and the first step to being able to protect vulnerable people.

### **Risks and consequences**

Safeguarding is a matter of concern for all charities. Your charity needs to be aware of the risks that come with its work and the potential incidents of harm.

Incidents of harm may include:

- Sexual harassment, bullying or abuse
- Serious sexual offences
- Threats of violence or actual violence
- Verbal, emotional or social abuse
- Cultural or identity abuse, such as racial, sexual or gender-based discrimination or hate crimes
- Coercion and exploitation
- Abuse of power.

The ACNC's Governance Toolkit includes a section on [safeguarding people](#) associated with a charity, particularly vulnerable people, and outlines practical steps to ensure the charity is doing this effectively.



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## Managing finances

An important responsibility of a charity's Responsible People is to make sure the charity has the resources it needs to carry out its work – this ensures it can achieve its charitable purposes.

A charity's Responsible People must work to gather the resources – both financial and other resources – necessary for it to undertake its work, but also to ensure that the resources are protected from abuse and used in efficient and lawful ways.

A charity's Responsible People have particular duties under the ACNC Governance Standards. A charity must ensure its Responsible People are aware of and comply with their duties. These duties include ensuring that the charity's financial affairs are managed in a responsible manner and that the charity does not operate while insolvent.

The ACNC's [Managing Charity Money guide](#) provides insights into good practice in financial management, focusing on practical steps that a charity can take to ensure its finances are used appropriately and protected from misuse. The guide also explains the obligations that a charity has to the ACNC such as providing financial reports and ensuring that it continues to operate as not-for-profit.

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## Preventing fraud

Fraud occurs when someone acts in a dishonest way so that they receive a benefit or someone else experiences a loss.

Over half the allegations of fraud received by the ACNC relate to the conduct and activities of senior and entrusted members of a charity, including the chief executive officer (CEO), directors (people on the governing body) and financial officers (such as the treasurer). But fraud can be committed by any staff member (paid or volunteer) or any other person who is given some responsibility.





While each charity must weigh up the need for protective measures against the administrative burden, there are simple steps that all charities can take to significantly reduce the risk of fraud.

The ACNC's guide [Protect your charity from fraud](#) sets out some of the steps and strategies for charities to consider in protecting against fraud. The suggestions come under three areas: prevention, detection and action to take if there is a problem.

The ACNC has [other related resources on fraud](#) which include the guides [Protecting your charity against the risk of terrorism financing](#) and [Managing people's information and data](#).

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## Managing risk

Risks exist at all levels within a charity and require early identification, monitoring and management to protect the charity and its people.

The ACNC has developed guidance, tools and other resources on [managing charity risk](#) to help a charity put in place good standards of governance and accountability.

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## Managing external relationships

External relationships involve working with partners or third parties on services or programs.

There are many types of partners or third parties that a charity may work with, each with its own considerations and benefits. Some examples include:

- **Corporate entities:** A charity might receive funds, goods or services, and the corporate partner receives benefits of being associated with charitable work and meeting obligations of social responsibility.
- **Other charities:** Working with other charities or not-for-profits might involve joint fundraising or collaborating on a project.



- **Government entities:** A charity may become a partner for the purpose of implementing a government project.
  
- **Suppliers of goods and services:** Although most relationships with suppliers might be relatively simple transactions or contracted services, some charities might have a broader, more collaborative arrangement. Activities might include, for example:
  - Working with fundraising agencies on fundraising campaigns
  - Mandatory compliance services that the charity may need, such as the work of an auditor or a lawyer
  - Other services that a charity does not have the resources to manage, such as an IT system.

An arrangement to work with a partner may be formal or informal, but it is more than a simple customer-supplier relationship. Often, charities will cooperate or partner through a memorandum of understanding or other forms of written agreements. But there are more formal ways to collaborate, such as through a formal partnership or a joint venture.

The ACNC's Governance Toolkit includes a section on [working with partners](#) which examines the nature of working partnerships. It explores what it means for charities to work with partners, issues that may arise, and steps charities should take to ensure a partnership is effective and successful.