



The Buddhist Society of Western Australia (Inc.)

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REMOVAL OF RESPONSIBLE PERSON POLICY & PROCEDURE

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Approved by: Stephen Connell, Full Committee

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TERMS USED

Association – The Buddhist Society of WA (BSWA)

Responsible Persons – Committee members

PURPOSE

This policy has been developed for the Association to ensure that the Responsible Persons are aware of their duties and comply with them. The purpose of this policy is to provide a framework for the Association to deal with the removal of Responsible Persons.

SCOPE

This policy applies to all Responsible Persons of the BSWA.

POLICY

The Association expects Responsible Persons to:

- attend committee meetings
- serve the term of office for which they are elected or appointed
- act with reasonable care and diligence;
- act honestly and fairly in the best interests of the charity and for its charitable purposes;
- not misuse their position or information they gain as a Responsible Person;
- disclose actual or potential conflicts of interest;
- ensure that the financial affairs of the charity are managed responsibly; and
- not allow the charity to operate while it is insolvent.

The Association must ensure that its Responsible Persons are not disqualified from:

- managing a corporation under the Corporations Act 2001 (Cth) (the Corporations Act), or
- being a Responsible Person by the ACNC Commissioner, within the previous 12 months.

If the Association is not satisfied, it must not appoint this person. If the person is already appointed, the Association must take reasonable steps to remove them as a Responsible Person.

PROCEDURE

The BSWA will ensure that Responsible Persons meet a set of legal duties by:

- bringing these duties to the attention of Responsible Persons (including providing them with a copy of this guidance and other resources) and outline their duties in a letter of appointment;
- regularly providing information or training to Responsible Persons on their duties to refresh their knowledge (such as by advising of ACNC webinars on relevant topics, such as Welcome to the board);
- encouraging Responsible Persons to attend, prepare for, and participate at meetings;
- having processes for the responsible management of money;
- having processes in place to manage conflicts of interests; and
- taking action if your Responsible Persons are failing to meet their duties.

Making Sure Responsible Persons Are Not Disqualified

The Association should ensure that the Responsible Persons are not disqualified by:

- understanding how a person becomes disqualified;
- searching the ASIC Disqualified Persons Register for that person;
- searching the ACNC Register of Disqualified Persons for that person (the ACNC has not disqualified anyone at this time); and
- requiring each of its Responsible Persons to sign a declaration confirming that they are not disqualified and that they understand what it means to be disqualified.

A disqualified person is a Responsible Person, that may not be eligible to serve on the board of the Association. Reasons for disqualification include being:

- disqualified by the ACNC in the past year; or
- disqualified from managing a corporation within the meaning of the Corporations Act 2001 (Cth). This may occur if a Responsible Person:
 - has been convicted of certain offences, such as serious offences, dishonesty offences or other offences that can affect a corporation;
 - is an undischarged bankrupt or is subject to a 'personal insolvency agreement' that person have not followed; or
 - has been disqualified by the Australian Securities and Investments Commission (ASIC), the Office of the Registrar of Aboriginal and Torres Strait Islander Corporations (ORIC), or an Australian or New Zealand court.

Removing Unsuitable Responsible Persons

Individuals are automatically no longer considered to be Committee Members or Responsible Persons of the BSWA automatically if they:

- are not 18 years of age;
- are not full members;
- have been voted to be removed at an Annual General Meeting;
- is permanently unable to act as a committee member because of a mental or physical disability;
- fails to attend 3 consecutive committee meetings, of which the person has been given notice, without having notified the committee that the person will be unable to attend;

The Association must also take reasonable steps to remove Responsible Persons who:

- are listed on one of the Disqualified Persons Registers; or
- refuse to sign a declaration of the Association to confirm that they are not disqualified.

The Association should begin by asking the Responsible Person to resign. If the person refuses, the Association may take action by calling of a General Meeting to consider and vote on a resolution that the current Responsible Person should be removed and a resolution choosing a new Responsible Person.

Grievances and disputes may also arise as a result of the conduct of one or more committee members. For example, a committee member may not be acting in the best interests of the association or a committee member may be causing discontent amongst the committee, making it difficult for the committee to operate. These are handled through the grievance process. If the grievance process does not adequately resolve the issue, a General Meeting may be held.

If the Association cannot remove a person, the Association should write to the ACNC and explain the situation. The Association may also consider whether it is necessary to involve another regulator, for example the one that the Association was incorporated by.

If there are good reasons to keep the person, the Association should contact the ACNC as the ACNC Commissioner may give permission to do so.

Responsibilities

The following personnel are responsible to identify and receive reports of a Responsible Person who may need to be removed in accordance with this policy and procedure:

- Spiritual Director
- President
- Operations Manager
- Assistant Secretary

Duty to Notify of Changes

The Association must notify the ACNC each time a Responsible Person takes on or finishes a role they have as a Responsible Person within 28 days. Administrative penalties may apply for failing to notify the ACNC. The notification should be performed with the following steps:

1. Log in to the Portal and select the Association for which you want to make the change;
2. Then click 'Manage people' and you will see a link to the form you need; and
3. Submit the appropriate online form.

The ACNC does not charge charities a fee to notify of changes. Notifying the ACNC of changes is free.