

# Commonwealth High Risk Terrorist Offender Regime

FEDERATION FUNDING AGREEMENT – AFFORDABLE HOUSING,  
COMMUNITY SERVICES AND OTHER

**Table 1: Formalities and operation of Schedule**

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Parties	Commonwealth New South Wales (NSW)														
Duration	1 July 2021 to 30 June 2022														
Purpose	This Schedule will support the delivery of services by NSW for the High Risk Terrorist Offender (HRTTO) regime under Division 105A of the Commonwealth Criminal Code, including the current Continuing Detention Order (CDO) scheme, and the Extended Supervision Order (ESO) scheme. The services to be delivered include but are not limited to: provision of information in relation to HRTTO-eligible offenders; support and implementation of risk-management assessments and frameworks for offenders; housing for offenders on CDOs and interim detention orders (IDO); and assistance with case management and compliance of any orders made under Division 105A.														
Estimated financial contributions	<p>The Commonwealth will provide an estimated total financial contribution to NSW of \$5.6 million in 2021-22 in respect of this Schedule.</p> <table><tr><th>(\$ million)</th><th>2021-22</th><th>Total</th></tr><tr><td>Estimated total budget</td><td>5.6</td><td>5.6</td></tr><tr><td>Less estimated National Partnership Payments</td><td>5.6</td><td>5.6</td></tr><tr><td>Balance of non-Commonwealth contributions</td><td>0.0</td><td>0.0</td></tr></table> <p>NSW's funding allocation reflects that, at the time of Schedule preparation, one offender is subject to a CDO; the Department of Home Affairs intends to commence CDO and ESO consideration in 2021-22 for a further five offenders (individuals currently incarcerated in NSW, and not currently intended for post-sentence management by NSW under the <i>Terrorism (High Risk Offenders) Act 2017</i>); and other offenders may become eligible for ESO/CDO consideration in 2021-22.</p>			(\$ million)	2021-22	Total	Estimated total budget	5.6	5.6	Less estimated National Partnership Payments	5.6	5.6	Balance of non-Commonwealth contributions	0.0	0.0
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Additional terms	<p><i>Reporting</i></p> <p>NSW will provide quarterly reporting (by 31 March 2022 and by 10 May 2022) identifying achievements against performance milestones for the Outputs listed in Table 2. The first quarterly milestone report (31 March 2022) will additionally capture work undertaken by NSW between 1 July</p>														

2021 and 31 December 2021, enabling payment of milestones for the first half of the 2021-22 financial year.

*Contingent Payments and resulting unallocated funding*

Payment for Output 2 (the Housing of a terrorist offender subject to an IDO or CDO) is contingent on the existing CDO remaining in effect or the court making an IDO or CDO in relation to another offender. Should the current CDO cease to be in effect and no other offender be subject to an IDO or CDO, the responsible Commonwealth and NSW Minister can redirect the unused funding to another Output identified in Table 2 of this Schedule or additional Outputs as agreed between the responsible Commonwealth and NSW Minister.

*Payments for part-period achievements*

Where NSW's achievements against performance milestones for outputs apply to only part of a quarterly reporting period, NSW is eligible to claim payment for the entire quarter.

*ESO implementation activities*

Funding for the ESO implementation activities in Output 3 represent a part year of activity in 2021-22, noting that operationally, staff need to be in place for the successful implementation of the program.

**Table 2: Performance requirements, reporting and payment summary**

Outputs	Performance milestones	Report due	Payment
1A. <b>Administrative support</b> to the Commonwealth's consideration, preparation and development of continuing detention order (CDO) and extended supervision order (ESO) applications and reviews of these orders in relation to high risk terrorist offenders.	Activities undertaken under Output 1A relate to the administrative support for the pre-assessment and assessment of individuals for consideration of a CDO or ESO. Activities relating to these assessments occur regardless of application process.  NSW is to provide quarterly reports identifying the activities it has undertaken in the reporting period that deliver on Output 1A, as set out below.		Total amount available for Outputs 1A and 1B: <b>\$5,049,541</b> in 2021-22
	<b>1. Document collection, analysis and redaction:</b> <ul style="list-style-type: none"> <li>review and coordinate all requests for information from the Commonwealth relating to a HRT0-eligible offender; and/or</li> <li>liaise with all relevant NSW agencies to procure documents, reports, records, and other materials to support a CDO or ESO application or review; and/or</li> <li>coordinate and undertake required document redactions of all relevant documents; and/or</li> <li>perform all other related and required functions associated with the redaction, production, and sharing of documents with the Commonwealth with respect to CDO or ESO matters.</li> </ul>	Quarterly	<b>\$342,100</b> per quarter (a maximum of <b>\$1,368,400</b> in 2021-22)
	<b>2. Intelligence and risk assessments</b> <ul style="list-style-type: none"> <li>conducting risk assessments of eligible offenders and preparing risk assessment reports; and/or</li> <li>procuring and analysing intelligence information in respect of eligible offenders and preparing intelligence products to assist the risk assessment process.</li> </ul>	Quarterly	<b>\$163,750</b> per quarter (a maximum of <b>\$655,000</b> in 2021-22)
	<b>3. Enduring engagement with the Commonwealth in relation to a CDO or ESO application:</b> <ul style="list-style-type: none"> <li>proactively engage with CDO and/or ESO governance processes as required; and/or</li> <li>support the development and establishment of HRT0-related arrangements and agreements as required; and/or</li> </ul>	Quarterly	<b>\$219,285.25</b> per quarter (a maximum of <b>\$877,141</b> in 2021-22)



	<ul style="list-style-type: none"> <li>• action ad hoc requests from the Commonwealth regarding CDO or ESO matters.</li> </ul>		
1B. <b>Legal support</b> associated with the Commonwealth's consideration, preparation and development of CDO and ESO applications, and the reviews and management of these orders in relation to high risk terrorist offenders.	<p>Activities undertaken under Output 1B relate to <b>legal work associated with supporting a CDO or ESO application</b>, review, and/or management of CDO offenders, including through court processes.</p> <p>NSW is to provide quarterly reports identifying the activities it has undertaken in the reporting period that deliver on Output 1B. The activities undertaken by NSW to deliver Output 1B are:</p> <ul style="list-style-type: none"> <li>• preparation of affidavits and other evidence in support of court applications and attend court hearings as required; and/or</li> <li>• acquiring ad hoc legal services as necessary to support other legal processes and CDO management.</li> </ul>	Quarterly	<b>\$537,250</b> per quarter (a maximum of <b>\$2,149,000</b> in 2021-22)
2. <b>Housing</b> a terrorist offender subject to an IDO or CDO.	<p>NSW to provide quarterly activity reports demonstrating how Output 2 has been met and including advice on the contingency noted in "Additional Terms". The milestone activities for Output 2 are:</p> <ul style="list-style-type: none"> <li>• Accommodate an offender/s on an IDO or CDO in accordance with Division 105A of the <i>Criminal Code Act 1995</i> (Cth) and the terms of any relevant agreements/arrangements in force.</li> <li>• Manage an offender/s in accordance with Division 105A of the <i>Criminal Code Act 1995</i> (Cth) and relevant NSW legislation.</li> <li>• Provide all information required and/or reasonably requested in relation to the offender/s, including relevant detention management documents and plans as required.</li> </ul>	Quarterly	<p>Payment only on successful court ordered IDO/CDO.</p> <p><b>\$109,500</b> in each of quarter 2, 3 and 4 (the cost of housing one offender), a maximum of <b>\$328,500</b> in 2021-22.</p>
3. Supporting <b>ESO case management and compliance</b> .	<p>Quarterly activity reports demonstrating delivery against Output 3 are to be provided to the Commonwealth and will include one or more of the following:</p> <ul style="list-style-type: none"> <li>• Advice on implementation of ESO case management and compliance capabilities, including through: <ul style="list-style-type: none"> <li>▪ Community Corrections therapeutic case management, including supervision of intervention and monitoring strategies for offenders in relation to (but not limited to): <ul style="list-style-type: none"> <li>○ drug and alcohol testing,</li> <li>○ ensuring attendance at mandated support services, including health, employment, and intervention programs;</li> </ul> </li> </ul> </li> </ul>	Quarterly	A maximum of <b>\$195,000</b> in quarter 3 and 4 of 2021-22.

	<ul style="list-style-type: none"> <li>▪ NSW Police support to the Australian Federal Police, as required and negotiated between these two parties; and</li> <li>▪ Relevant agencies providing reports in relation to any non-compliance to the Commonwealth in a timely manner.</li> </ul>		
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The Parties have confirmed their commitment to this Schedule as follows:

*Signed for and on behalf of the Commonwealth  
of Australia by*



**The Honourable Karen Andrews MP**  
Minister for Home Affairs

31/1/2022

*Signed for and on behalf of the  
State of New South Wales by*



~~The Honourable Dominic Perrottet MP~~  
~~Premier of NSW~~

**The Honourable Paul Toole MP**  
Deputy Premier  
Minister for Regional New South Wales  
Minister for Police

29/3/2022