

# 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 Victoria														
Duration	1 July 2021 to 30 June 2022														
Purpose	<p>This Schedule supports the delivery of services by Victoria for the High Risk Terrorist Offender (HRTTO) regime under Division 105A of the Commonwealth Criminal Code, including the Continuing Detention Order (CDO) scheme and the Extended Supervision Order (ESO) scheme. The services to be delivered include but are not limited to:</p> <ul style="list-style-type: none"><li>a) preparatory work required to support to evidence collection and arrangements for CDO and ESO applications;</li><li>b) provision of information in relation to HRTTO-eligible offenders;</li><li>c) support and implementation of risk management assessments and frameworks for CDO offenders;</li><li>d) housing for offenders on CDOs and interim detention orders (IDO); and</li><li>e) support for ESO scheme establishment and governance.</li></ul>														
Estimated financial contributions	<p>The Commonwealth will provide an estimated total financial contribution to Victoria of \$6.09 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>6.09</td><td>6.09</td></tr><tr><td>Less estimated National Partnership Payments</td><td>6.09</td><td>6.09</td></tr><tr><td>Balance of non-Commonwealth contributions</td><td>0.0</td><td>0.0</td></tr></table> <p>Victoria’s funding allocation reflects that one individual is housed under a CDO in Victoria (at the time of Schedule preparation) and that at least two additional terrorist offenders in Victoria will be under consideration for a CDO application by the Department of Home Affairs in 2021-22.</p> <p>For the purposes of this Schedule it is assumed that no more than two individuals will be subject to a CDO in 2021-22.</p> <p>The services delivered by Victoria to support the HRTTO regime under Division 105A of the Commonwealth Criminal Code are expected to</p>			(\$ million)	2021-22	Total	Estimated total budget	6.09	6.09	Less estimated National Partnership Payments	6.09	6.09	Balance of non-Commonwealth contributions	0.0	0.0
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	<p>extend beyond 30 June 2022. The Parties acknowledge that future funding arrangements beyond 30 June 2022 will be agreed by the Parties.</p>
Additional terms	<p><i>Reporting</i></p> <ol style="list-style-type: none"> <li>1. Victoria will provide a quarterly milestone report (on 31 December 2021, 31 March 2022 and 10 May 2022) identifying achievements against performance milestones for the Outputs listed in table 2. The first milestone report (31 December) will capture work undertaken by Victoria between 1 July and 31 December 2021, enabling payment of milestones for the first two quarters of 2021-22.</li> <li>2. In addition, milestone reports in relation to CDO and IDO accommodation and management costs for the 2020-21 financial year will be provided by Victoria to the Commonwealth as soon as practicable (within four weeks) following execution of this Schedule for services already rendered.</li> </ol> <p><i>Contingent Payments and resulting unallocated funding</i></p> <ol style="list-style-type: none"> <li>3. Payments for Output 2C and 2D (CDO accommodation and CDO readiness costs) are contingent services. Victoria cannot claim payments for both services in the same quarter, nor can the responsible Minister seek to re-allocate these payments to other Outputs.</li> <li>4. Outputs 3 and 4 (complex management and ESO establishment and governance costs) are also contingent services. However, where required milestones are not met for Outputs 3 and 4 in a reporting period, the responsible Commonwealth and Victorian Ministers can redirect the allocated funding to another Output identified in Table 2 of this Schedule or additional Outputs, as agreed between the responsible Commonwealth and Victorian Ministers.</li> </ol> <p><i>Output 2C - Housing a terrorist offender subject to an IDO or CDO (1 July 2021 to 30 June 2022)</i></p> <ol style="list-style-type: none"> <li>5. It is noted that the total quantum of payments listed in the 'payments' column of table 2 exceeds the funding envelope set out in the 'Estimated Financial Contributions' section on page one. This reflects that Outputs 2C and 2D are contingent costs in 2021-22 that will not be incurred at the same time, and that actual costs for the Piper Unit salary component of Output 2C does not reflect true costs to the Commonwealth. For avoidance of doubt, Victoria will not claim, nor be permitted to receive, in excess of</li> </ol>

	<p>\$6.09 million in 2021-22.</p> <p>6. For the purposes of Output 2C, the milestone payment will include two components:</p> <p>6.1. the salaries of Piper Unit (or equivalent) staff costs; and</p> <p>6.2. CDO management costs.</p> <p>7. <b>Piper Unit (or equivalent) staff costs:</b> In calculating a milestone payment for the salaries of Piper Unit (or equivalent) staff costs, the cost to the Commonwealth will be determined as agreed staff costs multiplied by the ratio of Commonwealth CDO/IDO offenders to total offenders housed in the facility. Costs to the Commonwealth for Piper Unit staff costs at Output 2C will be settled in arrears and the maximum recoupable cost in 2021-22 is \$2,175,558.25. Agreed staff costs per commonwealth offender housed are estimated to be as follows:</p> <p>7.1. If <b>one offender</b> is housed in the Piper Unit (or equivalent) during the quarter: <b>\$335,887.70</b> per quarter (a maximum of \$1,343,550.80 per annum).</p> <p>7.2. If <b>two offenders</b> are housed in the Piper Unit (or equivalent) during the quarter: <b>\$543,889.56</b> per quarter (a maximum of \$2,175,558.25 per annum).</p> <p>7.3. If <b>three or four offenders</b> are housed in the Piper Unit (or equivalent) during the quarter: <b>\$618,331.60</b> per quarter (a maximum of \$2,473,326.38 per annum).</p> <p>7.4. If <b>five offenders to ten offenders</b> are housed in the Piper Unit (or equivalent) during the quarter: <b>\$809,542.56</b> per quarter (a maximum of \$3,238,170.25 per annum).</p> <p>8. <b>CDO management costs:</b> includes the costs of sentence management, Major Offender and CV Intelligence Unit staff, training, programs, services and bed costs. These will be paid by the Commonwealth in full on a per CDO offender basis as set out in Output 2C.</p> <p><i>Output 2D – CDO housing readiness</i></p> <p>9. Should the CDO in force at the time of drafting this Schedule cease to be in force in quarter 3 or 4 of 2021-22, and should no other CDO/IDO come into force during that period, the Commonwealth will fund Victoria for the capabilities/staff required to maintain CDO housing readiness. Victoria is not able to claim payment for both Output 2C and 2D in a reporting period.</p> <p>10. Payments for the Piper Unit (or equivalent) staff component of Output 2D will be determined in arrears. Calculation of payment</p>
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	<p>assumes one nominal CDO offender as a ratio to the total number of offenders housed in the facility (state and nominal CDO).</p> <p>11. The maximum recoupable cost in 2021-22 is \$1,127,827.86, reflecting two quarters of activity and where there are no state-based offenders housed in the Piper Unit (or equivalent).</p> <p><i>Payments for part-period achievements</i></p> <p>12. Subject to the above conditions, where Victoria's achievements against performance milestones for Outputs apply to only part of a quarterly reporting period, Victoria is eligible to claim payment for the entire quarter.</p>
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**Table 2: Performance requirements, reporting and payment summary**

Outputs	Performance milestones	Report due	Payment
1A. Support to evidence collection and arrangements for 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 support for the pre-assessment and assessment of individuals for consideration of a CDO or ESO. These activities occur whether an application is ultimately made or not.  Victoria is to provide a quarterly report identifying the activities it has undertaken in the reporting period that deliver on Output 1A, as set out below.		\$185,401.13 per quarter (a maximum of \$741,604.52 in 2021-22), allocated across the below four Output 1A milestones.
	<b>1. Document collection and analysis:</b> <ul style="list-style-type: none"> <li>review and coordinate all requests for information from the Commonwealth relating to a HRT0-eligible offender; or</li> <li>liaise with all relevant Victorian agencies to procure documents, reports, records, and other materials to support a CDO or ESO application or review.</li> </ul>	Quarterly (from the date of the execution of the Schedule).	\$46,350.29 per quarter (a maximum of \$185,401.13 in 2021-22)
	<b>2. Document redaction and provision to the Commonwealth:</b> <ul style="list-style-type: none"> <li>coordinate and undertake required redactions of all relevant documents; or</li> <li>perform all other related functions associated with the redaction, production, and sharing of documents with the Commonwealth with respect to CDO or ESO matters.</li> </ul>	Quarterly (from the date of the execution of the Schedule).	\$46,350.29 per quarter (a maximum of \$185,401.13 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>support the development and establishment and review of HRT0-related documents, arrangements and agreements as required; or</li> <li>proactively engage with HRT0 Regime governance processes as required.</li> </ul>	Quarterly (from the date of the execution of the Schedule).	\$46,350.29 per quarter (a maximum of \$185,401.13 in 2021-22)
	<b>4. Intelligence and risk assessments</b> <ul style="list-style-type: none"> <li>conduct risk assessments of eligible offenders and prepare risk assessment reports; or</li> <li>procure and analyse intelligence information in respect of eligible offenders and prepare intelligence products to assist the risk assessment process.</li> </ul>	Quarterly (from the date of the execution of the Schedule).	\$46,350.29 per quarter (a maximum of \$185,401.13 in 2021-22)



1B. <b>Specialist 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 specialist legal work associated with supporting a CDO or ESO application, review and/or management of CDO offenders, including through court processes.</p> <p>Victoria is to provide a quarterly report identifying the activities it has undertaken in the reporting period that deliver on Output 1B. The activities undertaken by Victoria 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 attendance at court hearings as required; or</li> <li>• acquiring ad hoc legal services as necessary to support other legal processes and CDO management.</li> </ul>	Quarterly (from the date of the execution of the Schedule).	\$80,000 per quarter (a maximum of <b>\$320,000</b> in 2021-22)
2A. Accommodated one terrorist offender subject to an IDO (from 5 November 2020 to 24 December 2020)	<p>Accommodated one <b>terrorist offender on an IDO</b> (from 5 November 2020 to 24 December 2020) in accordance with Division 105A of the <i>Criminal Code Act 1995</i> (Cth) and relevant agreements/arrangements in place.</p> <p>Victoria to provide a one off milestone report demonstrating how this Output was met.</p>	Within 4 weeks of execution of Schedule.	<b>\$200,000</b> (one off payment). Includes only Piper Unit salary costs.
2B. Accommodated one terrorist offender subject to a CDO (from 25 December 2020 to 30 June 2021)	<p>Accommodated one terrorist offender on a CDO (from 25 December 2020 to 30 June 2021) in accordance with Division 105A of the <i>Criminal Code Act 1995</i> (Cth) and relevant agreements/arrangements in place.</p> <p>Victoria to provide a one off milestone report demonstrating how this Output was met.</p>	Within 4 weeks of execution of Schedule.	<b>Maximum cap of \$926,136.07</b> (one off payment). Includes Piper Unit salary costs; Major Offender and CV Intel Unit staff; programs, services and bed costs, and staff training.
2C. Housing a terrorist offender subject to an IDO or CDO (1 July 2021 to 30 June 2022)	<p>Victoria to provide a quarterly milestone report demonstrating how Output 2C has been met. Victoria cannot claim payment for both 2C and 2D in a reporting period. The milestone activities for Output 2C are:</p> <ul style="list-style-type: none"> <li>• Accommodate a terrorist offender/s on an IDO or CDO from 1 July 2021 to 30 June 2022 in accordance with Division 105A of the <i>Criminal Code Act 1995</i> (Cth), relevant Victorian legislation, and the terms of any relevant agreements in force;</li> <li>• Manage an offender/s in accordance with relevant detention management frameworks and implementation plans; and</li> <li>• Provide all information required in accordance with agreements/arrangements in place and/or as reasonably requested in relation to an offender/s, including a Quarterly Report (or similar).</li> </ul>	<p>Quarterly (from the date of the execution of the Schedule).</p> <p>Quarterly (from the date of the execution of the Schedule).</p>	<p><b>Piper Unit salary costs (cost shared between the Commonwealth and Victoria)</b></p> <p>Consistent with clause 7 of the additional terms, the maximum recoupable cost in 2021-22 is <b>\$2,175,558.25</b>.</p> <p><b>CDO management costs per offender:</b></p>

			<p><b>One Offender:</b> \$256,957.50 per quarter (a maximum of \$1,027,830 in 2021-22).</p> <p><b>Two Offenders:</b> \$285,888.78 per quarter (a maximum of \$1,143,555.12 in 2021-22).</p>
2D. CDO housing readiness	<p>Victoria to provide a quarterly milestone report demonstrating how Output 2D has been met. Victoria cannot claim payment for both 2C and 2D in a reporting period. The milestone activities for Output 2D are:</p> <ul style="list-style-type: none"> <li>• Maintain the operational staff (including specialists) required to accommodate and manage an offender subject to a CDO/IDO; and</li> <li>• Provide operational support to activities at Output 1A as required, including intelligence and other operational corrections reporting required to support CDO/ESO applications or reviews.</li> </ul>	Quarterly (from the date of execution of the Schedule).	\$563,913.93 in each of quarter 3 and 4 (a maximum of \$1,127,827.86 in 2021-22).
3. Complex CDO/IDO management costs	<p>Victoria to provide a quarterly milestone report demonstrating how Output 3 has been met and including advice on the contingency noted in "Additional Terms". The activities undertaken by Victoria to deliver Output 3 will include one or more of the following:</p> <ul style="list-style-type: none"> <li>• Review and assess risk and needs of individuals subject to a current CDO/IDO and staff overseeing management of an offender/s subject to a CDO/IDO that may sit outside the available suite of programs, supports and services available within existing funding. This may include: re-fitting accommodation units to meet mobility needs, securing additional staff or training of existing staff to support daily personal care and specialised health or mental health services.</li> <li>• Where supports or services for individuals subject to a CDO/IDO or staff overseeing a CDO/IDO offender/s may be required, and where they sit outside of the available suite of supports, programs and services, Victoria would explore relevant services/supports and where appropriate engage an external service provider.</li> </ul>	Quarterly (from the date of the execution of the Schedule).	\$50,000 per quarter (a maximum of \$200,000 in 2021-22).
4. Support for ESO establishment and governance	<p>Victoria to provide a quarterly milestone report demonstrating how Output 4 has been met and including advice on the contingency noted in "Additional Terms". The activities undertaken by Victoria to deliver Output 4 will include one or more of the following:</p> <ul style="list-style-type: none"> <li>• Support the ESO operating model through identification of jurisdictional specific services, information and intelligence sharing, membership on governance</li> </ul>	Quarterly (from the date of the execution of the Schedule).	\$143,441.11 per quarter (a maximum of \$573,764.42 in 2021-22).

	bodies, recruitment, training and any other relevant support for case management roles.		
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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

27 / 1 / 2022

*Signed for and on behalf of the  
State of Victoria by*



The Honourable Natalie Hutchins MP  
Minister for Corrections

13 / 04 / 2022