

# Commonwealth High Risk Terrorist Offender Regime

## FEDERATION FUNDING AGREEMENT - AFFORDABLE HOUSING, COMMUNITY SERVICES AND OTHER

<b>Table 1: Formalities and operation of schedule</b>													
Parties	The Commonwealth The State of New South Wales (NSW)												
Duration	1 July 2022 to 30 June 2023												
Purpose	<p>This Schedule supports the delivery of services by NSW agencies for the High Risk Terrorist Offender (HRTO) 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 may include but are not limited to:</p> <ul style="list-style-type: none"> <li>a) preparatory work required to support evidence collection and arrangements for applications made under Division 105A and related proceedings;</li> <li>b) provision of information in relation to HRTO-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);</li> <li>e) support for ESO scheme implementation and governance; and</li> <li>f) assistance with case management and compliance of any orders made under Division 105A.</li> </ul>												
Estimated financial contributions	<p>The Commonwealth will provide an estimated total financial contribution to NSW of up to \$5.6 million in 2022-23 in respect of this Schedule.</p> <table border="1"> <thead> <tr> <th style="text-align: left;">(\$ million)</th> <th style="text-align: right;">2022-23</th> <th style="text-align: right;">Total</th> </tr> </thead> <tbody> <tr> <td><b>Estimated total budget</b></td> <td style="text-align: right;"><b>\$5.6</b></td> <td style="text-align: right;"><b>\$5.6</b></td> </tr> <tr> <td>Less estimated National Partnership Payments</td> <td style="text-align: right;">\$5.6</td> <td style="text-align: right;">\$5.6</td> </tr> <tr> <td>Balance of non-Commonwealth contributions</td> <td style="text-align: right;">\$0</td> <td style="text-align: right;">\$0</td> </tr> </tbody> </table> <p>The services delivered by NSW to support the HRTO Regime under Division 105A of the Commonwealth Criminal Code are expected to extend beyond 30 June 2023. The Parties acknowledge that future funding arrangements beyond 30 June 2023 will be as agreed by the Parties.</p>	(\$ million)	2022-23	Total	<b>Estimated total budget</b>	<b>\$5.6</b>	<b>\$5.6</b>	Less estimated National Partnership Payments	\$5.6	\$5.6	Balance of non-Commonwealth contributions	\$0	\$0
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Less estimated National Partnership Payments	\$5.6	\$5.6											
Balance of non-Commonwealth contributions	\$0	\$0											

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

Additional terms	<p><i>Contingent payments</i></p> <p>Output 2 in Table 2 of this Schedule is a contingent service. If the output is not met within a reporting period, the responsible NSW ministers may seek agreement from the Commonwealth, through an exchange of letters, to redirect the unused funding to another output identified in Table 2 of this Schedule.</p> <p><i>Additional outputs</i></p> <p>Additional outputs not currently listed in Table 2 may be agreed by the responsible Commonwealth and NSW ministers to re-allocate unused funding.</p> <p><i>Milestone reports</i></p> <p>NSW will submit a minimum of two bi-annual milestone reports. If preferred, NSW may submit quarterly milestone reports.</p> <p><i>Treasury payment dates</i></p> <p>Payments are facilitated by the Federal Payments Management System, which processes monthly payment runs.</p>
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**Table 2: Performance requirements, reporting and payment summary**

Outputs	Performance milestones	Minimum Reporting	Payment (2022-23 FY)
<b>EVIDENCE COLLECTION AND LEGAL SUPPORT</b>			
<p><b>1A. Support evidence collection and arrangements</b> for the Commonwealth's consideration, preparation and development of applications made under Division 105A and related proceedings in relation to high risk terrorist offenders.</p>	<p>Activities undertaken under <b>Output 1A</b> 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 made or not.</p>		
	<ul style="list-style-type: none"> <li>a) Document collection and analysis:                             <ul style="list-style-type: none"> <li>i. review and coordinate all requests for information from the Commonwealth relating to a HRTO-eligible offender; or</li> <li>ii. liaise with the Commonwealth to negotiate the scope and timeframe of requests for information relating to a HRTO-eligible offender; or</li> <li>iii. liaise with all relevant NSW agencies to procure documents, reports, records, and other materials to support an application under Division 105A and related proceedings.</li> </ul> </li> <li>b) Document redaction and provision to the Commonwealth:                             <ul style="list-style-type: none"> <li>i. coordinate and undertake required redactions of all relevant documents; or</li> <li>ii. 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> </li> <li>c) Enduring engagement with the Commonwealth in relation to an application made under Division 105A and related proceedings:                             <ul style="list-style-type: none"> <li>i. support the development and establishment and review of HRTO-related documents, arrangements and agreements as required; or</li> <li>ii. proactively engage with HRTO Regime governance processes as required.</li> </ul> </li> <li>d) Intelligence and risk assessments:                             <ul style="list-style-type: none"> <li>i. conduct risk assessments of eligible offenders and prepare risk assessment reports; or</li> <li>ii. procure and analyse intelligence information in respect of eligible offenders and prepare intelligence products to assist the risk assessment process.</li> </ul> </li> </ul>	<p>Bi-annual</p>	<p>\$725,135 Quarterly (a maximum of <b>\$2,900,540</b>)</p>

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

Outputs	Performance milestones	Minimum Reporting	Payment (2022-23 FY)
<p><b>1B. Provide specialist legal support</b> associated with the Commonwealth's consideration, preparation and development of applications under Division 105A and related proceedings and management of these orders in relation to high risk terrorist offenders.</p>	<p>Activities carried out under <b>Output 1B</b> relate to specialist legal work associated with supporting an application made under Division 105A and related proceedings and/or management of CDO offenders, including through court processes.</p>		
	<p>a) Prepare affidavits and other evidence in support of court applications and attendance at court hearings as required; or</p> <p>b) Acquire ad-hoc legal services as necessary to support applications under Division 105A and related proceedings and CDO management.</p>	<p>Bi-annual</p>	<p>\$537,250 Quarterly (a maximum of <b>\$2,149,000</b>)</p>
<p><b>ACCOMMODATION SUPPORT</b></p>			
<p><b>2. Housing a terrorist offender subject to an IDO or CDO</b></p>	<p>Activities carried out under <b>Output 2</b> relate to the provision of accommodation for an offender subject to a CDO or IDO.</p> <p><b>CDO management costs</b> include but are not limited to, 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.</p> <p>The cost to the Commonwealth is calculated on a per day rate, at \$1,200 per day. IDO/CDOs are housed in facilities determined by their classification and according to the agreed housing agreement and arrangement for Commonwealth IDO/CDO offenders.</p>		
	<p>a) Accommodate a terrorist offender/s on an IDO or CDO from 1 July 2022 to 30 June 2023 in accordance with Division 105A of the <i>Criminal Code Act 1995</i> (Cth), relevant NSW legislation, and the terms of any relevant agreements and arrangements in force;</p> <p>b) Manage an offender/s in accordance with relevant detention management frameworks and implementation plans; and</p> <p>c) Provide all information required in accordance with agreements/arrangements in place and/or as reasonably requested in relation to an offender/s.</p>	<p>Bi-annual</p>	<p>\$22,250 quarterly (a maximum of <b>\$89,000</b>)</p>

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

Outputs	Performance milestones	Minimum Reporting	Payment (2022-23 FY)
<b>CASE MANAGEMENT SUPPORT</b>			
<b>3. Supporting ESO case management and compliance</b>	Activities carried out under <b>Output 3</b> relate to the case management and compliance support required to supervise an offender subject to an ESO.		
	<p>a) Support the implementation of ESO case management and compliance capabilities, including through the provision of:</p> <ul style="list-style-type: none"> <li>i. 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>o drug and alcohol testing;</li> <li>o ensuring attendance at mandated support services, including health, employment, and intervention programs.</li> </ul> </li> </ul> <p>b) As required in accordance with agreed processes and/or as reasonably requested, provide information obtained or created for the purpose of fulfilling CSNSW's case management functions. Such information may include but is not limited to:</p> <ul style="list-style-type: none"> <li>i. incident notification;</li> <li>ii. compliance/non-compliance with ESO conditions; and</li> <li>iii. any reports relating to the circumstances and behaviour of an offender subject to an ESO.</li> </ul>	Bi-annual	Quarterly \$115,375 (a maximum of \$461,500)

The Parties have confirmed their commitment to this Schedule as follows:

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



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**The Hon. Clare O'Neil MP**  
Minister for Home Affairs  
Minister for Cyber Security

11 / 07 / 2023

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



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**The Hon. Chris Minns MP**  
Premier of New South Wales

28 / 7 / 2023