

Commonwealth High Risk Terrorist Offender Regime

FEDERATION FUNDING AGREEMENT – AFFORDABLE HOUSING, COMMUNITY SERVICES AND OTHER

Table 1: Formalities and operation of schedule																	
Parties	Commonwealth The State of New South Wales (NSW)																
Duration	1 July 2023 to 30 June 2025. This Schedule is expected to expire on 30 June 2025 or when all deliverables outlined in this Schedule have been completed and acquitted.																
Purpose	<p>This Schedule supports the delivery of services by state and territory agencies for the High Risk Terrorist Offender (HRTO) regime under Division 105A of the Commonwealth Criminal Code Act (1995) (the Criminal Code), including the Continuing Detention Order (CDO) scheme and the Extended Supervision Order (ESO) scheme. This regime will continue to protect the Australian community from the threats posed by eligible high risk terrorist offenders. The services may include but are not limited to:</p> <ul style="list-style-type: none"> a) preparatory work required to support the evidence collection and arrangements for post-sentence order applications under Division 105A and related proceedings; b) provision of information in relation to HRTO-eligible offenders; c) support and implementation of risk management assessments and frameworks for CDO and ESO terrorist offenders; d) housing for terrorist offenders on CDOs and Interim Detention Orders (IDO); e) support for ESO scheme implementation and governance, where carried out by the jurisdiction; and f) assistance with case management and compliance of any orders made under Division 105A. <p>HRTO regime services delivered under Division 105A may commence up to two years prior to an eligible high risk terrorist offender's custodial sentence period ending. Funding under the FFA is for the identification, assessment of and provision to the Commonwealth of relevant information that is collected by state and territory agencies in the ordinary course of business. That information is requested (by the Commonwealth pursuant to Division 105A) approximately 24 months before an eligible terrorist offender's custodial sentence ends. Those information requests will seek any relevant information whether it is generated prior or during that 24-month window.</p>																
Estimated financial contributions	<p>The Commonwealth will provide an estimated total financial contribution to the States of \$16.144 million in respect of this Schedule.</p> <table border="1"> <thead> <tr> <th>Table 1</th> <th>2023-24</th> <th>2024-25</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Estimated total budget</td> <td>\$6,973,195</td> <td>\$9,170,676</td> <td>\$16,143,871</td> </tr> <tr> <td><i>Less estimated National Partnership Payments</i></td> <td>\$0</td> <td>\$16,143,871</td> <td>\$16,143,871</td> </tr> <tr> <td>Balance of non-Commonwealth contributions</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Table 1	2023-24	2024-25	Total	Estimated total budget	\$6,973,195	\$9,170,676	\$16,143,871	<i>Less estimated National Partnership Payments</i>	\$0	\$16,143,871	\$16,143,871	Balance of non-Commonwealth contributions	\$0	\$0	\$0
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Estimated total budget	\$6,973,195	\$9,170,676	\$16,143,871														
<i>Less estimated National Partnership Payments</i>	\$0	\$16,143,871	\$16,143,871														
Balance of non-Commonwealth contributions	\$0	\$0	\$0														

	<p>Note: The services delivered by the States to support the HRTO Regime under Division 105A of the Criminal Code are expected to extend beyond 30 June 2025. The Parties acknowledge that future funding arrangements beyond 30 June 2025 will be as agreed by the Parties, subject to Government decision. Cost-sharing to commence from financial year 2025-26.</p>
<p>Additional terms</p>	<p><i>Funding arrangements 2025-26 onwards</i></p> <p>This FFA does not set precedence for future funding arrangements between the Commonwealth and relevant states for the HRTO regime.</p> <p><i>Reporting</i></p> <p>Milestone reports will provide a quarterly breakdown of services delivered.</p> <p>States will be required to submit a minimum of one milestone report per financial year. If preferred, states may submit milestone reports on a quarterly, biannual or yearly basis.</p> <p><i>Payments</i></p> <p>Parties to this agreement must not request funding from alternate Commonwealth programs or commercial contract in relation to outputs already funded under this FFA.</p> <p><i>Payment Dates</i></p> <p>On verification of milestone reports, payments are made through the Department of the Treasury through the Federal Payments Management System through monthly payment runs.</p> <p><i>Additional outputs</i></p> <p>Additional outputs not currently listed in Table 2 may be agreed by the responsible Ministers, through an exchange of letters, to re-allocate unused funding.</p>
<p>Definitions</p>	<p><i>HRTO-eligible offender</i></p> <p>A convicted 'terrorist offender' as defined in subsection 105A.2(1) of the <i>Criminal Code</i>, where the Commonwealth is actively considering them for a post-sentence order.</p> <p><i>Division 105A purposes</i></p> <p>Tasks completed for a HRTO-eligible offender at the request of the Commonwealth administered by the AFP Minister, including but not limited to provision of information in relation to HRTO-eligible offenders and implementation of post-sentence orders (including interim post-sentence orders).</p> <p><i>Post Sentence Order (PSO)</i></p> <p>A continuing detention order or an extended supervision order may be made under section 105A.7 or 105A.7A of the Criminal Code in relation to a person (terrorist offender) if they are detained in custody serving a sentence of imprisonment for a specified offence, and the Court is satisfied to a high degree of probability (CDO) or on the balance of probabilities (ESO), on the basis of admissible evidence, that the terrorist offender poses an unacceptable risk of committing a serious Part 5.3 offence.</p> <p><i>Interim Post Sentence Order (IPSO)</i></p> <p>An interim detention order or an interim supervision order as defined in section 105A.2 of the Criminal Code.</p> <p><i>Continuing Detention Order (CDO)</i></p> <p>An order made under subsection 105A.7(1) of the <i>Criminal Code</i> which commits a high risk terrorist offender to detention beyond the expiry of their sentence, for a maximum of 3 years. To be made in the last 6 months of a terrorist offender's sentence.</p> <p><i>Interim Detention Order (IDO)</i></p> <p>An order made under subsection 105A.9(2) of the Criminal Code. Made if the high risk terrorist offender's sentence, or existing CDO, will expire before proceedings for a CDO are determined and the matter alleged in the CDO application would, if proved, justify making a CDO. May last up to 28 days and may be renewed up to a maximum period totaling 3 months.</p> <p><i>Extended Supervision Order (ESO)</i></p>

An order made under subsection 105A.7A(1) of the Criminal Code to impose on the high risk terrorist offender, for the period the order is in force, conditions contravention of which is an offence, for a maximum of 3 years. ESOs direct that a range of supervision, monitoring and management conditions are imposed on a high risk offender at the end of their sentence.

Interim Supervision Order (ISO)

An order made under subsection 105A.9A(4) of the Criminal Code. Made if the high risk terrorist offender's current custody or supervision will expire before proceedings for an ESO are determined and the matter alleged in the application would, if proved, justify making an ESO. May last up to 28 days and may be renewed up to a maximum period totaling 3 months.

Housing Agreements

Housing agreements outline the provisions under which a state will manage and detain high risk terrorist offenders subject to an IDO/CDO.

Table 2: New South Wales – Performance requirements, reporting and payment summary

Output	Performance milestones	Report due	Payment
<p>1. EVIDENCE COLLECTION AND LEGAL SUPPORT</p> <p>Information requests and evidence collection associated with the Commonwealth's consideration, preparation and development of Post-Sentence Order (PSO) applications, including the periodic review of Post-sentence Orders, made under Division 105A of the Criminal Code and related proceedings and implementation of these orders.</p>	<p>Support evidence collection for the Commonwealth's consideration, preparation and development of Post Sentence Order (PSO) applications and periodic review of PSOs, as requested by the Attorney-General's Department, made under Division 105A of the <i>Criminal Code Act 1995</i> (Cth) (the Criminal Code). Evidence collection and legal support activities include:</p> <ul style="list-style-type: none"> a) document collection and analysis relating to a HRTO-eligible offender under Division 105A purposes, including but not limited to: <ul style="list-style-type: none"> i. review and coordinate all requests for information from the Commonwealth; ii. liaise with the Commonwealth to negotiate the scope and timeframe of requests for information; iii. liaise with all relevant State agencies to procure documents, reports, records, and other materials to support a PSO application or a periodic review of a PSO under Division 105A and related proceedings; and iv. perform all other related functions associated with the production and sharing of documents with the Commonwealth with respect to PSO matters. b) conduct risk assessments of HRTO-eligible offenders and prepare risk assessment reports where requested under Division 105A; c) provide intelligence information in relation to HRTO-eligible offenders under Division 105A; and d) provide legal support in relation to jurisdiction's information holdings to facilitate PSO applications made under Division 105A, including but not limited to: <ul style="list-style-type: none"> i. prepare affidavits and other evidence and provide attendance at court hearings as required; ii. coordinate and undertake required redactions of all relevant documents; and iii. acquire ad-hoc legal services as necessary to support applications and related proceedings. 	<p>Quarterly, biannual or annual (minimum of one report per financial year)</p>	<p>\$1,634,822 quarterly (a maximum of \$6,539,289 in 2023-24)</p> <p>\$2,110,662 quarterly (a maximum of \$8,442,650 in 2024-25)</p>

	e) Attendance and participation at Commonwealth governance fora.		
<p>2. ACCOMMODATION SUPPORT Housing a terrorist offender subject to a Continuing Detention Order (CDO) or Interim Detention Order (IDO) under Division 105A of the Criminal Code.</p>	<p>The management and provision of accommodation for a HRTO-eligible offender subject to a CDO or IDO under Division 105A of the Criminal Code.</p> <p>CDO management costs include, but are not limited to, specialist staff, training, programs, services and bed costs. These costs will be calculated on a per CDO/IDO terrorist offender basis at a per day rate of \$1,260 in 2023-24 and \$1,323 in 2024-25. Accommodation support includes:</p> <ul style="list-style-type: none"> a) accommodate a terrorist offender subject to a CDO or IDO in accordance with Division 105A of the Criminal Code, relevant State legislation, and the terms of any relevant agreements and arrangements in force; b) manage a HRTO-eligible offender in accordance with relevant state and Commonwealth legislation, relevant detention management frameworks and implementation plans; c) review and assess risk and requirements for a HRTO-eligible offender subject to a CDO/IDO that may sit outside the available programs, supports and services, in accordance with relevant state and Commonwealth legislation and policies and procedures; and d) provide all information in accordance with agreements and arrangements in place and/or in relation to a HRTO-eligible offender in support of Division 105A purposes. 	<p>Quarterly, biannual or annual (minimum of one report per financial year)</p>	<p>\$0 quarterly (a maximum of \$0 in 2023-24)</p> <p>\$0 quarterly (a maximum of \$0 in 2024-25)</p>

<p>3. EXTENDED SUPERVISION ORDER (ESO) CASE MANAGEMENT SUPPORT AND COMPLIANCE</p> <p>Provision of therapeutic case management for HRTO-eligible offender subject to an ESO/Interim Supervision Order (ISO) under Division 105A of the Criminal Code.</p>	<p>Provision of complex case management for a HRTO-eligible offender subject to an ESO/ISO under Division 105A of the Criminal Code. Case management support activities for HRTO-eligible offenders include one or more of the following:</p> <ul style="list-style-type: none"> a) Support the implementation of ESO/ISO case management through the provision of Community Corrections therapeutic case management, including supervision of intervention strategies from a therapeutic perspective for terrorist offenders, including but not limited to: <ul style="list-style-type: none"> i. drug and alcohol testing; ii. take reasonable steps to enable attendance at court ordered-support services, including health, employment, and intervention programs; and iii. liaising with third-party providers and NDIS as required. b) In accordance with arrangements and agreements in place and/or as reasonably requested, provide information obtained or created for the purpose of fulfilling CSNSW's case management functions, including but is not limited to: <ul style="list-style-type: none"> i. incident notification; ii. compliance/non-compliance with ESO conditions; and iii. any reports relating to the circumstances and behaviour of a terrorist offender subject to an ESO. 	<p>Quarterly, biannual or annual (minimum of one report per financial year)</p>	<p>\$108,476 quarterly (a maximum of \$433,905 in 2023-24)</p> <p>\$182,006 quarterly (a maximum of \$728,026 in 2024-25)</p>
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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

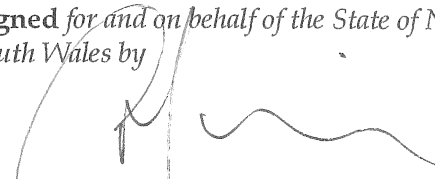


The Honourable Tony Burke MP
Minister for Home Affairs
Minister for the Arts
Minister for Cyber Security
Minister for Immigration and Multicultural Affairs
Leader of the House

[Day] [Month] [Year]

8. 11. 2024

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



The Honourable Chris Minns MP
Premier for New South Wales

[Day] [Month] [Year]

28/11/2024