

COUNTER TERRORISM AND MONEY LAUNDERING POLICY

1. INTRODUCTION

This policy outlines how Hope for Children (HFC) will comply with Australian law relating to counter-terrorism and money laundering. This policy is applicable to all of HFC's programs and activities with respect to all funds and in-kind support provided in Australia and internationally.

The policy specifically imposes obligations on:

- All staff in Australia
- All HFC staff working internationally
- In-Country Partners involved in implementing HFC's supported projects or programs
- Consultants, contractors or volunteers who assist HFC with the development, implementation, monitoring or evaluation of programs.

2. OBLIGATIONS

The Australian Government has passed legislation that is consistent with a number of international counter-terrorism treaties aimed at ensuring no person or body provides direct or indirect support or resources to individuals and entities associated with terrorism or money laundering. In broad terms, it is an offence attracting serious penalties for a person to be involved in money laundering and/or to provide or collect funds or provide any form of support, whether directly or indirectly, to proscribed individuals or entities associated with terrorism or money laundering and/or are subject to targeted financial sanctions under Australian sanctions law .

The two relevant laws (together with their associated regulations) are:

Part 5.3 of the Commonwealth Criminal Code Act 1995

The Criminal Code provides stringent penalties for such actions as 'getting funds to or from a terrorist organisation' when the person 'knows or is reckless' as to whether the organisation is a terrorist organisation; 'providing support to a terrorist organisation'; and 'financing terrorism'.

Part 4 of the Charter of the United Nations Act 1945

The UN Charter Act prohibits 'directly or indirectly making any asset available to a proscribed person or entity' with assets broadly defined to cover property and assets 'of any kind, whether tangible or intangible, movable or immovable'.

<https://www.ag.gov.au/NationalSecurity/CounterterrorismLaw/Pages/TerroristOrganisations.aspx>

<https://www.dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>

<https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list>

- Anti-terrorism Act 2005

- *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*
- A full list of all persons and entities who are subject to targeted financial sanctions under Australian sanctions law <https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list>

Hope for Children is also required to comply with anti-terrorism and money laundering clauses as part of the **Overseas Aid Gift Deduction Scheme (OAGDS)** and as part of becoming a signatory of the **ACFID Code of Conduct**.

OAGDS

The OAGDS requires organisations to be aware of any risk associated with money laundering and terrorism related issues and use their best endeavours to ensure that its funds do not provide direct or indirect support or resources to organisations and individuals associated with terrorism.

ACFID Code of Conduct

The ACFID Code of Conduct, which HFC is aspiring to become a signatory, requires that funds and resources are dispersed in accordance with relevant laws including counter terrorism financing and money laundering.

3. DEFINITIONS

Terrorist Act

A terrorist act is defined by Part 5.3 of the Commonwealth Criminal Code Act 1995 as an action or threat of action where:

- a) the action falls within subsection (2) and does not fall within subsection (3); and
- b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
- c) the action is done or the threat is made with the intention of:
 - I. coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
 - II. intimidating the public or a section of the public.

Terrorist Organisation

Under Australian law, terrorist organisations are defined as an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not a terrorist act occurs). A listing of proscribed organisations under this Act is available from National Security Australia, at: www.nationalsecurity.gov.au.

Proscribed Persons and Entities

Proscribed persons and entities are defined in the Charter of the United Nations Act 1945 as a person or entity listed by the Minister or proscribed by regulation under section 15 or 18 of the act. A listing of all persons and entities proscribed under this Act is available from the Department of Foreign Affairs and Trade, at: www.dfat.gov.au/icat/freezing_terrorist_assets.html.

Money Laundering

Money Laundering the process of concealing the origin, ownership or destination of illegally or dishonestly obtained money and hiding it within legitimate economic activities to make them appear legal.

Criminals launder money to legitimise proceeds from committing crimes. Money laundering enables criminals to accumulate and hide wealth, avoid prosecution, evade taxes, increase profits through reinvestment, and fund further criminal activity.

As per AUSTRAC risk assessment the money laundering process has three stages:

- **Placement** occurs when illicit funds or assets are introduced into the formal financial system.
- **Layering** involves moving, dispersing or disguising illegal funds or assets to conceal their true origin.
- Integration is the movement of illicit funds back into the legitimate economy.

NGOs can be used mainly during the first two stages. NGO resources can be used to 'place' illicit funds into the financial system, then 'layer' the funds through multiple financial transactions and commingling with legitimate finance.

Targeted financial sanctions

It is a serious criminal offence to contravene a sanctions measure. The penalties include up to ten years in prison for individuals and substantial fines for individuals and bodies corporate.

Targeted financial sanctions prohibit:

- directly or indirectly making an asset available to (or for the benefit of) a designated person or entity; and
- an asset-holder using or dealing with an asset that is owned or controlled by a designated person or entity. As these assets cannot be used or dealt with, they are referred to as 'frozen'.

4. PROCEDURES

HFC acknowledges our obligations under these laws and therefore exercises all reasonable care and makes every reasonable effort to ensure that our funds and in-kind donations come from known and legal sources, that our funds and program activities are not misused to further terrorism or support terrorist activities. The following measures are in place to achieve this end.

- HFC will make all reasonable efforts to ensure that funds are not being directed to terrorist and/or money laundering activities.

- HFC must comply with Commonwealth, State and Territory laws and the laws of any foreign countries where HFC services are provided.
- HFC should understand the level of risk that the organisation may be exposed to in relation to terrorism financing and/or money laundering activities, and where risk is evident, take necessary precautions.
- HFC will ensure that management, staff and volunteers are aware of the level of risk that their organisation may be exposed to in relation to terrorism financing and/or money laundering activities and, where risk is evident ensure that precautions are in place. (Please refer to HFC Risk Management Policy)
- HFC will take reasonable steps to know the beneficiaries, partners and any third parties they work with.
- HFC will regularly check against Australia's list of terrorist organisations and the DFAT consolidated list that beneficiaries, partners and third parties are not listed individuals or organisations.
- HFC will take reasonable steps to know the donors and supporters as well as sources of funding and in-kind donations received.
- HFC will conduct financial transactions where possible through regulated financial institutions.
- HFC will conduct background checks of management, staff and volunteers.
- HFC will report any suspicious activity to the Australian Federal Police or/and to the Ethiopian Authorities.
- Where funds are provided to a third party HFC will make all reasonable efforts to ensure the third party is aware of and seek assurance that the third party will comply with, all applicable laws. HFC will make all reasonable efforts to ensure the third party is aware of and seek assurance that the third party will comply with these Best Practice Principles and HFC Policies.

Compliance Strategy

- In the development of partnership agreements HFC staff must ensure that a full assessment of all partner organisations takes place and that any contracts or partnership agreements are established in line with HFC organisational policies. (Please refer to Partner Agreement Template and HFC Organisational Capacity Assessment)
- All HFC contracts and partnership agreements must specifically refer to counter-terrorism and money laundering regulations.
- All HFC staff must use their best efforts to ensure that funds provided for agreed projects do not provide direct or indirect support, or resources to organisations and individuals associated with terrorism and/or financial sanctions. If, during the course of the program/project, HFC staff discover any links whatsoever with any organisation or individual associated with terrorism they must immediately inform their manager or HFC Managing Director.
- All sources of funding received should be known to HFC. New funding and/or in-kind donation should be investigated, and any significant funding and/or in-kind donation should be approved by the Board. Any funds received via Credit Card payment should have all necessary donor's information. If any doubt is present further investigation should be undertaken until full clearance of funding is achieved. In case of questionable funding, HFC Finance Manager will communicate with NAB for further investigation.

- HFC staff regularly receive DFAT's updates and notifications on updates to the Consolidated List of all persons and entities who are subject to targeted financial sanctions under Australian sanctions law
- HFC staff and active volunteers must be provided with regular updates on terrorist issues and risks and be made aware of how they relate to their own areas of work responsibilities and in particular to their own safety and security with particular reference to the organisational travel policy and procedures.
- Prior to travelling in country, staff and volunteers must ensure that they perform an up-to-date assessment of the risk of terrorism in the areas where they are travelling as part of their pre departure security and safety screening process.

Selection of Program Partners

HFC will undertake due diligence in the selection of potential partners. Before any MoU or agreement is signed and funding/material support is provided to a new partner, HFC will ensure that potential partners and known beneficiaries have been checked against the current proscribed entities and individuals listed by DFAT and National Security Australia.

All MoUs or Agreements with international partners will include a clause requiring them to "use its best endeavours to ensure that no funding or material support is provided to those identified as proscribed terrorists by the Australian Government". The partner agreement also includes a link to the current lists of proscribed entities and individuals (See Appendix 1).

The Program Manager will discuss the terrorism clauses and anti-money laundering policy with partners at the time the agreement is being developed and will also inform them of the on-going monitoring requirements as set out below.

Compliance monitoring

Monitoring systems will be used to ensure ongoing compliance with the anti-money laundering and counter-terrorism legislation. On an annual basis all partners will be reviewed against the current list of proscribed entities and individuals held by DFAT and National Security Australia. Additionally, partners will demonstrate that they are not purchasing from known terrorists on a six-monthly basis through their regular reporting to HFC. The responsible person is a Program Director or/and HFC Managing Director.

Reporting of possible links or breaches

All employees and Board Directors have a duty to proactively identify any risks associated with funds and program activities being misused to further terrorism or support terrorist activities. All HFC employees and Board Directors are required to report any concern that they have or report any information that has been provided to them, that is in relation to the risk. The duty to report extends to any HFC Representatives. All Representatives must report the suspected act, either via the Online Complaints Form or directly to HFC Managing Director or In-Country Representative. Details of the process are outline in HFC Complaints Policy and HFC Whistleblowing Policy.

If HFC is notified or becomes aware of a plausible link between a partner organisation and/or project beneficiaries and any proscribed entity or individual, the following procedure will be followed:

- The Managing Director will be immediately informed.

- Funding and other forms of support will be suspended until the position is clarified and will cease if the linkage is confirmed.
- AusAID will be immediately informed if any of the funding or other support for the program or project is covered by a contract with AusAID
- Legal advice will be sought and followed. If advised desirable or necessary, the relevant Australian government agencies (such as National Security Australia or the Australian Federal Police) will be notified.

5. RESPONSIBLE STAFF MEMBERS

5.1 Managing Director

- Take the lead role in the event of a possible or actual breach of the law.
- Ensure that all relevant staff are aware of and understand the policy and their responsibilities under it.
- Monitor to ensure that the procedures outlined in the policy are followed.

5.2 In-Country Managers

- Follow and implement the procedures outlined in 3.2 to 3.4.
- Promptly inform the CEO of any non-compliance with the policy and/or possible breaches of the law.

6. POLICY MONITORING AND REVIEW CYCLE

The Managing Director is the position responsible for assessing implementation of this policy annually (or more frequently if deemed necessary) and of proposing any necessary changes to the Board.

7. REFERENCES

This policy has been created based on the Family Planning NSW Counter Terrorism Policy, AUSTRAC-Australia's NGOs risk assessment- Money laundering / terrorism financing and ACFID's Good Practice Guidance

Policy Established: 2015

Policy Last Updated: 2021

Policy Approved: _____ (sign)

Date: _____

Appendix 1: Exert from HFC Partner Agreement (Section 12.2-12.3)

12.2 HFC must use its best endeavours to ensure that all activities funded by HFC comply with relevant Australian and partner government laws and regulations. To this end, the Partner will use its best endeavours to assist HFC in meeting its legal obligations. This includes but is not limited to:

- implementing the Initiative in full accordance with this Agreement and the approved proposal;
- complying with HFC requests for information regarding implementation of the Initiative; and
- using its best endeavours to ensure that no funding or material support is provided to those identified as proscribed terrorists by the Australian Government.

12.3 The Partner will comply with counter-terrorism and anti-money laundering laws and all financial wrongdoing policies through ongoing monitoring of all in-country partners and beneficiaries to ensure there is no link whatsoever with any entity or individual associated with terrorism.

Information about listed persons and entities is available from the Australian Department of Foreign Affairs and Trade (DFAT) at:

www.dfat.gov.au/icat/persons_entities/explanatory_note.html.

A list of proscribed terrorist organisations for the purposes of the Commonwealth Criminal Code is available from National Security Australia at: www.nationalsecurity.gov.au.

A full list of proscribed persons and entities under the Charter of the United Nations Act 1945 is available from DFAT at: http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html.

A full list of all persons and entities who are subject to targeted financial sanctions under Australian sanctions law

<http://www.dfat.gov.au/internationalrelations/security/sanctions/consolidated-list.html>.

Guidelines for implementing 12.3:

- The Partner will not use HFC funds to support any organisations in the Initiative area that appear on the proscribed list (see above).
- The Partner will review the list of proscribed individuals and repeat that review once in every six months.
- The Partner will apply particular caution where a) proscribed organisations and individuals are known to be in the area and b) the scale of financial or material support transaction is such that it could potentially provide significant support to a proscribed individual or organisation.
- The Partner will advise HFC immediately if it becomes aware of any breach of these obligations.
- The Partner will demonstrate on a six-monthly basis through their regular reporting to HFC that it is not purchasing from known terrorists.

