

OFFICIAL



**Australian Federal Police**

**and**

**Australian Charities and Not-for-profits Commission**

**Memorandum of understanding on cooperation and the  
exchange of information**

OFFICIAL

## 1. Parties

1.1 The parties to this Memorandum of Understanding (MOU) are the:

Australian Charities and Not-for-profits Commission (ACNC),

and

Australian Federal Police (AFP).

## 2. Purpose

2.1 This MOU establishes the framework for the relationship between the parties, including for:

(a) cooperation and exchange of information between the AFP and the ACNC in relation to charities where there are concerns about:

- financing or support of terrorist activities;
- money laundering or structuring financial transactions to avoid reporting requirements;
- proceeds of crime; and
- any other breaches of Commonwealth law (whether or not in relation to charities) that fall within each agency's jurisdiction;

(b) the AFP to provide the ACNC with:

- information in possession of the AFP consistent with the purposes set out in this MOU; and
- an avenue to request AFP police services for the purposes of carrying out the functions of the ACNC;

(c) the ACNC to provide the AFP with information in the possession of the ACNC consistent with the purposes set out in this MOU; and

(d) the process for entering into Annexes for achieving these purposes.

2.2 Nothing in this MOU is intended to have legal or binding effect, or create a legally binding relationship between the parties.

### 3. Interpretation

3.1 Unless a contrary intention is stated, the acronyms and terms used in this MOU have the following meanings;

**Annex** an annex (if any) made in accordance with clause 6 of this MOU.

**MOU** this Memorandum of Understanding

### 4. Roles of the parties

4.1 The AFP's functions are outlined in section 8 of the *Australian Federal Police Act 1979 (Cth)* and include the provision of police services in relation to laws of the Commonwealth; property of the Commonwealth and authorities of the Commonwealth; the safeguarding of Commonwealth interests; and functions under the *Proceeds of Crime Act 2002 (Cth)*. With respect to this MOU specifically, the AFP also provides police services for the purposes of assisting, or cooperating with, an Australian government regulatory agency.

4.2 The ACNC is the Australian Government agency responsible for registering charities and monitoring, regulating and enforcing compliance with the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (the ACNC Act) to:

- maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
- support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
- promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.

4.3 The ACNC Act achieves these objectives by:

- (a) establishing a national regulatory framework for charities that reflects the unique structures, funding arrangements and goals of such entities; and
- (b) establishing the Commissioner of the Australian Charities and Not-for-profits Commission who will:
  - be responsible for registering entities as not-for-profit entities;
  - administer the national regulatory framework; and
  - assist registered entities in complying with and understanding this Act, by providing guidance and education

4.4 The Commissioner of the ACNC is appointed by the Commonwealth Governor General, and has the power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions. The Commissioner is assisted by the staff of the Australian Charities and Not-for-profits Commission.

4.5 ACNC registration is a prerequisite for access to certain Commonwealth tax concessions. ACNC registration may also be a prerequisite for other exemptions, benefits and concessions provided under other Australian laws.

4.6 The ACNC's formal information gathering, monitoring and enforcement powers can be triggered by an offence under the Crimes Act 1914 and the Criminal Code Act 1995 to the extent that the offence relates to the ACNC Act. The ACNC can also use

information obtained from the exercise of these powers to refer to the matter to the AFP.

- 4.7 The scope of the ACNC's formal information gathering, monitoring and enforcement powers are confined to matters that may impact upon a charity's entitlement to become or remain registered under the ACNC Act.

## **5. Duration**

- 5.1 This MOU will commence on the date the last party signs, and will operate until terminated in accordance with clause 12 of this MOU.

## **6. Annexes**

- 6.1 Annexes relating to specific areas of operation may be developed by the parties and will form part of this MOU when agreed in accordance with this clause. Annexes may also be established under this MOU to outline details of procedures such as exchanging information or seconding individuals.
- 6.2 An Annex is taken to be agreed under this MOU if it is signed by both the Commissioners or their respective delegates.
- 6.3 An Annex becomes effective from the last date of signing unless expressly stated otherwise in the Annex, and will operate until terminated in accordance with the termination provision in that Annex.
- 6.4 All Annexes cease effect from the date this MOU is terminated in accordance with clause 12.

## **7. Information exchange**

- 7.1 The parties will exchange information, including intelligence, relevant to meeting the purposes of this MOU. Any exchange is subject to Commonwealth legislation, including the *Privacy Act 1988*. More detailed arrangements for information exchange may be outlined in letters of exchange or Annexes.
- 7.2 The parties will exchange information pursuant to this MOU in accordance with all relevant Australian law, and in a manner and for a purpose that is consistent with each party's statutory functions and information disclosure obligations.
- 7.3 The parties will protect any information provided by the other party from unauthorised access or disclosure.
- 7.4 The parties will comply with any conditions, restrictions or caveat imposed by the other party in respect of the handling or disclosure of information.
- 7.5 An employee of either party authorised to have access to information or intelligence under this MOU may not record, divulge or communicate such information except in the performance of the employee's official duties and for the purposes for which the information was provided.
- 7.6 A party will not disclose information obtained under this MOU to a third party without first informing the other party and subsequently seeking the written consent of the information provider.
- 7.7 If a party becomes aware that information received under this MOU is subject to any lawful request for disclosure to any court or other government authority, or is subject to subpoena, summons, freedom of information request or other request for disclosure, the recipient of the information will immediately notify the party that provided the information of the request for disclosure, production or access. The parties will liaise upon the handling of the request and any related legal proceedings.
- 7.8 This clause survives the expiry or sooner termination of this MOU.

## **8. Communication, policy and media strategy**

- 8.1 The parties agree that maintaining open lines of communication is essential to maintaining an effective relationship. Accordingly the parties agree to meet at the request of either party at a time and by means agreeable to both parties.
- 8.2 Where a party prepares a brief to their Minister on matters involving both parties, the other party may be given the opportunity to review and comment on the proposed brief.
- 8.3 Where both parties are involved in a matter of media interest involving both parties, the other party should be given the opportunity to review and comment on the proposed media release. The parties agree that contributions provided by each party shall be reflected in any media release.
- 8.4 Specific arrangements for communication and media issues may be included in Annexes to this MOU. Such arrangements must be consistent with principles outlined in this clause.

## **9. Legal and financial liabilities**

- 9.1 This MOU does not establish any legal liabilities between the parties.
- 9.2 The parties will liaise with each other over any legal liabilities or other legal issues arising from action under this MOU.
- 9.3 The parties may include in Annexes arrangements to deal with any specific financial arrangements.

## **10. Dispute resolution**

- 10.1 For any matter in relation to this arrangement that may be in dispute between the parties, the parties will attempt to resolve the matter at the workplace level, including, but not limited to:
- (a) the parties or their representatives meeting and conferring on the matter at the managerial level. For the purposes of the ACNC and the AFP, this shall include Executive Level staff;
  - (b) if the matter is not resolved at such a meeting, the parties will arrange further discussions involving more senior levels of management
- 10.2 Annexes to this MOU may contain dispute resolution clauses outlining the method to be used and the position(s) within each agency responsible for managing and resolving the dispute in the first instance. Appropriate provision(s) shall be made for escalating the dispute to a higher level of management if the matter is not resolved at a lower level.

## **11. Variation and review**

- 11.1 It is important that this MOU and its Annexes remain consistent, relevant and current. The parties will review this MOU and Annexes on a regular basis, and at least once every 24 months, and will consult with each other if and when any issue arises.
- 11.2 Should either party seek to vary this MOU, the parties will negotiate in good faith.
- 11.3 This MOU may be varied at any time by agreement in writing and signed by persons holding the offices of the original signatories or by their delegates.

## **12. Termination**

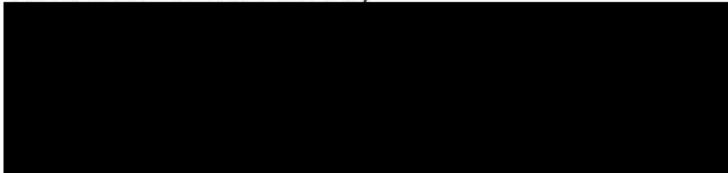
- 12.1 Either party may terminate this MOU without reason by giving the other party three months' notice in writing.



### 13. Contacts

13.1 Appendix A to this MOU provides the relevant contacts for the parties in regards to this MOU.

SIGNED for and on behalf of the  
Australian Federal Police by



2 January ~~2023~~ 2024

SIGNED for and on behalf of the  
Australian Charities and Not for Profits Commission  
[name/title] Sue Woodward AM, Commissioner



[date signed] 07 February 2024

ACNC reference: MOU2024/01

APPENDIX A: CONTACTS

ACNC Contacts

Contact	Name	Phone	Responsibilities
A/g Director Compliance	[REDACTED]	[REDACTED]	MOU Manager
Senior Manager Compliance	[REDACTED]	[REDACTED]	Compliance (Investigations)
Director Legal Services	[REDACTED]	[REDACTED]	MOU Legal Review
Commissioner ACNC	Sue Woodward		MOU Signatory
Director Communications	[REDACTED]	[REDACTED]	Media Releases

AFP Contacts

Contact	Name	Phone	Responsibilities
JTFG	[REDACTED]	[REDACTED]	MoU Manage
DC NATIONAL SECURITY	[REDACTED]		MoU Signatory
CT STRATEGY	[REDACTED]	[REDACTED]	MoU Storage
LEGAL	[REDACTED]	[REDACTED]	MoU Legal Review
MEDIA	AFP MEDIA	[REDACTED]	Media Releases