

LOTUS OUTREACH
AUSTRALIA
COUNTER- TERRORISM
POLICY



lotus outreach australia
education-opportunity-action

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Content

1.	Introduction.....	3
2.	Policy Statement.....	3
3.	Scope.....	3
4.	Definitions.....	3
5.	LOA’S Commitment.....	4
6.	Procedures.....	7
7.	Review of Policy and Procedures.....	8
8.	Resource List.....	8

1. Introduction

Lotus Outreach Australia, as a non-profit organisation working with beneficiaries and third parties in developing countries, is at a risk of being misused by individuals or other organisations to finance or support terrorist activity. Given the risk that LOA and our in country partners may experience, it is essential that all those involved in our activities are aware of their legal obligations and adopt strategies to avoid any associations with terrorism.

LOA recognises the Australian government's two legislative mechanisms that prohibit activities in relation to individuals and organisations associated with terrorism: Part 5.3 of the Criminal Code Act 1995 and Part 4 of the Charter of United Nations Act 1945. LOA will use best practice principles to ensure that its activities are conducted in the context of these laws and obligations.

2. Policy Statement

This policy and additional procedures articulates LOA's commitment to counter terrorism. LOA is committed to making all reasonable efforts to ensure that funds and resources are not being used to support terrorist activities and will avoid working with any organisation that support terrorism. LOA recognises it is essential that all LOA staff, and anyone associated with LOA in any capacity are aware of their legal obligations and make all reasonable efforts to avoid any associations with terrorism.

3. Scope

This policy applies to:

- All LOA Board members, staff, volunteers and contractors.
- All partners (in Australia and overseas) and their Board members, staff, volunteers, and contractors who are implementing activities funded by, or through, LOA.

4. Definitions

Beneficiaries: refers to those natural persons, or groups of natural persons who receive charitable, humanitarian or other types of assistance through the services of LOA.

Best endeavours: denotes a positive obligation to act and do what can be reasonably done within the circumstance and context.

DFAT: Department of Foreign Affairs and Trade, Australia.

Listed individuals or organisations: any individual or organisation, which appears on either of the following lists:

‘Consolidated List’- list all persons and entities subject to targeted financial sanctions under United Nations Security Council decisions and maintained by the Department of Foreign Affairs and Trade pursuant to regulation 40 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.

‘List of Terrorist Organisations’- Organisations which have been prescribed by the Australian Government as terrorist organisations under the Criminal Code because they advocate the doing of a terrorist act (regardless of whether the terrorist act occurs), or because they are directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (regardless of whether or not a terrorist act occurs).

LOA: Lotus Outreach Australia Incorporation (ABN 133 588 760 11).

Partners: refer to those who are implementing activities funded by, or through, LOA.

Suspicious activity: any activity where a known or suspected terrorist individual(s) is involved, or where a known or suspected terrorist act is to occur. This includes, but is not limited to, any activity involving any listed individuals or organisations.¹

Terrorism: An act or threat, intended to advance a political, ideological or religious cause by coercing or intimidating an Australian or foreign entity or the public. This action must cause serious harm to people or property, create a serious risk to the health and safety or the public, or seriously disrupt trade, critical infrastructure or electronic systems.²

Terrorism financing: The means and methods that terrorist organisations use to finance activities that pose a threat to national and international security.

Money laundering: Disguising financial assets so they can be used without detection of the illegal activity that produced them.

Third Party: any individual or organisation other than a beneficiary to which LOA provides funding or support to, or receives funding or support from, to carry out its usual functions, including fundraising and delivering aid. ‘Third Party’ includes, but is not limited to, partners, intermediaries, contractors, sub-contractors and service providers.

5. LOA’s Commitment

To exercise diligence in relation to counter-terrorism, LOA will:

- 5.1 At all times use its best endeavours to ensure that funding provided under any agreement is expended in a manner consistent with the UN Security Council

¹ Australian Government, *Safeguarding your organisation against terrorism financing: A guidance for non-profit organisations* (2009).

² Criminal Code Act 1995 (Commonwealth)

Resolution and relevant Australian Laws, particularly part 5.3 of the Criminal Code Act 1995 and part 4 of the Charter of United Nations Act 1945.

- 5.2 Explicit legal obligations will be included in all LOA contracts and agreements with its partners. This policy and the following clauses are applicable to agreements and contracts with LOA and require compliance by all of LOA's partners that receive LOA funding, or assistance:

5.2.1 Commercial contracts for implementation activities:

The contractor must when providing any services and procuring supplies have regard to and comply with, and use their best endeavours to ensure that all sub-contractors comply with, relevant and applicable laws, regulations and policies, both in Australia and in the partner country, including:

- (a) Those in relation to organisations and individuals associated with terrorism, including 'terrorist organisations' as defined in Division 102 of the *Commonwealth Criminal Code Act 1995* and listed in regulations made under the Act and regulations made under the Chapter of the UN Act (Cth) 1945.

The contractor must use their best endeavours to ensure that funds provided under their contract, including sub-contractors, do not provide direct or indirect support or resources to organisations and individuals associated with terrorism. If during the course of their contract, the contractor discovers any link whatsoever with any organisation or individual associated with terrorism they must inform LOA immediately.

5.2.2 DFAT funded activities:

LOA will use its best endeavours to ensure that all activities (including those carried out by a delivery organisation) comply with relevant Australian and partner Government laws and regulations as well as LOA policies, including but not limited to:

- Those in relation to the prescription against providing direct or indirect support or resources to organisations and individuals associated with terrorism, including 'terrorist organisations' as defined in Division 102 of the *Commonwealth Criminal Code Act 1995* and listed in regulations under the Act and regulations made under the *Charter of the United Nations Act 1945*; and
- Those in relation to corrupt practices, in particular the bribery of public and foreign officials; and

If during the course of the agreement and/ or contract, the organisation or partner discovers any link whatsoever with any organisation or individual listed by the Australian Government as associated with terrorism, it must inform LOA immediately.

Organisations and partners must use their best endeavours to ensure that the delivery partner or organisation for the approved activity have the appropriate capacity to undertake the task and are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism.

5.2.3 LOA funded activities:

LOA will use its best endeavours to ensure that all activities (including, but not limited, to those carried out by in-country implementing partners) comply with relevant Australian and partner Government laws and regulations as well as LOA policies, including but not limited to:

- Those in relation to the prescription against providing direct or indirect support or resources to organisations and individuals associated with terrorism, including ‘terrorist organisations’ as defined in Division 102 of the *Commonwealth Criminal Code Act 1995* and listed in regulations under the Act and regulations made under the *Charter of the United Nations Act 1945*; and
- Those in relation to corrupt practices, in particular the bribery of public and foreign officials; and

Partners must use their best endeavours to ensure that the delivery organisations for the approved activity or activities have the appropriate capacity to undertake the task and are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism.

5.3 A series of risk assessments and background checks will be conducted on LOA partners to confirm their identity and credentials.

5.4 Checks will be conducted to ensure that partners LOA directly work with or assist is not on the following Australian Government lists:

5.4.1 The Department of Foreign Affairs ‘Consolidated List’

5.4.2 The Australian National Security ‘Terrorist Organisation List.’

5.5 Ensure its partners LOA directly works with or assists are aware of and obliged to comply with the relevant Australian laws, partner Government laws (if applicable) and LOA’s Counter-Terrorism Policy. LOA’s partners in turn are obliged to ensure that their distribution of the funds or support is made on the same basis.

5.6 Report any suspected or suspicious terrorism-related activity to the Australian federal police or the national security hotline on 1800 123 400 (or through their liaison officers in country located in the Australian embassies).

To ensure funds are not being directed to terrorist activities and to demonstrate our efforts to ensure so, LOA will:

- 5.7 Develop and maintain records of program budgets that account for all program expenses. If LOA's partner runs a project, LOA will ensure that the partner maintains records of program budgets that account for all program activities.
- 5.8 Produce annual financial statements that provide detailed breakdowns of Incomes and expenditures.
- 5.9 Conduct financial transactions where possible through regulated financial institutions, such as banks or building societies.
- 5.10 Undertake audits by an external auditor.
- 5.11 Conduct spot checks or regular monitoring visits to ensure partners to whom funding, support or resources are being provided are not on either terrorist lists.

6. Procedures

- 6.1 This policy will be available to all Board members, staff and volunteers.
- 6.2 This policy will be included in all contracts and Memorandums of Understanding with partners who are implementing activities funded by, or through, LOA.
- 6.3 Background checks will be conducted on staff, Board members, and volunteers.
- 6.4 The executive management team is responsible for ensuring that all partners Board members, staff members, volunteers and contractors implementing activities funded by, or through, LOA comply with relevant legislation and LOA policies (including this one).
- 6.5 The executive management team is responsible for reporting any breaches of this policy to the relevant government authorities.
- 6.6 Awareness training should be conducted for staff members with relevant information and help provided to partners.
- 6.7 All activities will undergo a risk assessment before they commence. Activities will be classified into high, medium or low risk activities and will be monitored according to the level of risk.
- 6.8 LOA will use its best endeavours to ensure that it collects all necessary information on third parties. LOA will make its best efforts to confirm the identity, credentials and good standing of third parties and beneficiaries by seeking the following information:
 - Name and available contact details (e.g. phone numbers, postal address, email and URL addresses)

- If the third party is an organisation- the jurisdiction in which the organisation is incorporated or formed. If the third party is an individual- the nationality and country of residence
- The name of the organisation in which they operate within or operate under
- A statement of the principal purpose
- Details of any projects/operations/initiatives/commitments, either being undertaken or already conducted by the third party
- Any other reasonably available information that assures the third party's identity and integrity.

- 6.9 A check will be conducted to ensure that no LOA staff member, Board member, partners or affiliated parties are listed on the Department of Foreign Affairs and Trade "Consolidated List" or the Australian Governments "List of Terrorist Organisations." The two lists can be found at <http://www.dfat.gov.au/sanctions/consolidated-list.html> <https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations>

Partners and affiliates will be crosschecked against this list. This check will be recorded and reviewed every six months. If any LOA staff member, Board member, partner or affiliated parties are found to be on either list, LOA will immediately contact relevant Australian Authorities.

- 6.10. Any suspicion or evidence of Terrorist or Money Laundering activity should be reported immediately to the LOA Governance Officer

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And where appropriate to Cambodian partners

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7. Review of policy and procedures

The LOA Counter- Terrorism Policy will be reviewed every five years or earlier if warranted. The procedures will be reviewed every two years or after an incident. All organisational reviews will take Counter-terrorism into consideration. An assessment of the implementation of this policy will take place annually.

8. Resource List

DFAT, *Guidelines for Strengthening Counter-terrorism Measures in the Australian Aid Program*.

https://www.dfat.gov.au/sites/default/files/ctm_guidelines.pdf

Australian Government, Criminal Code Act 1995 (Commonwealth)

Australian Government, *Safeguarding your Organisation Against Terrorism Financing: A Guidance for non-profit Organisations* (2009).