



## Counter-Terrorism Policy

<b>Policy &amp; Procedure Owner</b>	CEO Office	
<b>Approved by</b>	ERFA Board of Directors	
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### Abbreviations

ACFID	Australian Council for International Development
ANGO	Australian Non-Governmental Organisation
DFAT	Department of Foreign Affairs and Trade
ERFA	Edmund Rice Foundation (Australia)

### Definitions

Associate	Anyone in the community who interacts with ERFA Staff and Partners
ACFID Member	A not-for-profit organisation that has obtained accreditation with ACFID
Donor	Members of the public who contribute to ERFA in cash or in kind
Partner	Any organisation which has an MOU / contract with / or receives funding from ERFA
Program	Programs are overarching development approaches and initiatives that set priorities and guide project outcomes, results and activities. Programs can comprise ministries or entities
Project	Projects are the development activities of a Program supported by ERFA
Project Beneficiary	Children and adults who participate in and benefit from ERFA-funded programs
Staff	Employees, contractors, subcontractors, outworkers, apprentices and trainees, work experience students, volunteers, employers and any other person who performs work for ERFA or ERFK

### Contact information

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### Attached documents

- Complaints Handling Process Flowchart

### Related policies

- Anti-Corruption & Anti-Fraud Policy
- Complaints Handling Policy
- Program Design Funding & Management Policy
- Whistleblowing Policy

## Related forms

- ERFA Program Funding Application
- ERFA Quarterly Report

## Scope

This policy applies to all ERFA Staff and associates as well as all ERFA implementing Partners and associates, which act for, represent or visit ERFA and ERFA funded programs in Australia or overseas.

Failure by ERFA funded partners to fully comply with any aspect of this policy could result in immediate termination of funding.

## Organisational overview

Edmund Rice Foundation Australia (ERFA) believes education is the key to sustainable change. We are an international development organisation that focuses on sustainable and transformational education. We operate in some of the poorest communities in the world, including in Africa, East Timor, the Philippines, and Papua New Guinea. We also partner with domestic programs in Australia. ERFA's goal is to design and implement high impact education programs that will enable our beneficiaries to stand independently and break free from the cycle of poverty. ERFA-funded education programs range from kindergartens to advanced microfinance projects and are designed with the needs of the community at their core.

## Legal definitions

Edmund Rice Foundation (Australia) is a company limited by guarantee. The objects of the company are set out in clause 3 of ERFA's constitution. Clause 3 (f) reads as follows:

*To develop partnerships with overseas aid agencies or formal arrangements with other delivery agents related to the Company but resident in Developing Countries for the implementation of the objects in paragraph (a).*

One of ERFA's roles is to act as trustee of the Edmund Rice Overseas Aid Fund.

Throughout its policies and official documentation ERFA uses the term **Partners** for those organisations with which it has formed alliances in developing countries for the receipt of overseas aid funding for the in-country delivery of education programs. Whilst ERFA has an active, engaged and qualitative role with these programs, working to build capacity and maximise the impact of best practice development outcomes, these are not partnerships in the legal sense. Rather they are alliances that ERFA has formed with in-country organisations with whom ERFA has communicated its vision, mission, values, policies and expectations with respect to sustainable development and whose own vision, mission, values, policies and development goals are congruent with those of ERFA. The in-country organisations implement the programs and ERFA supports them.

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## 1.0 Policy overview

This policy articulates Edmund Rice Foundation Australia's (ERFA) commitment to avoiding involvement in terrorism and its associated criminal activities, including a terrorist act, a terrorist act offence, terrorist financing and money laundering. See Section 3.0 for the Australian Government definitions of terrorism and associated criminal activities that ERFA adopts.

ERFA renounces all forms of terrorism and criminal activity and will never knowingly support, tolerate or encourage terrorism or the activities of those who embrace terrorism. This Counter-Terrorism Policy is necessary to ensure that ERFA funds and resources are not being used directly or indirectly to support terrorist groups or activities and to provide clear guidance on the steps to be taken if support of terrorist groups or activities is suspected.

ERFA is compliant with the anti-terrorism legislation of the Australian Government. ERFA also abides by the best practice guidelines of the Australian Government and the United Nations on how to pursue sustainable development without inadvertently supporting terrorist activity.

ERFA makes every effort to ensure that its resources are not being used to facilitate terrorist activity. This includes:

- checking all relevant stakeholders, including Board Members, Staff and Implementing Partners against Australian Government proscribed lists;
- communicating policy requirements to implementing Partners and codifying compliance requirements in contractual agreements;
- requiring terrorist and associated criminal activities be included in applicants' Risk Management Framework;
- performing quarterly monitoring checks of newly hired Staff and implementing Partners against Australian Government proscribed lists;
- performing annual monitoring checks of Board Members, Staff and implementing Partners against Australian Government proscribed lists;
- immediately reporting known or suspected terrorist activity to the Australian Security Hotline
- withdrawing funds and terminating support to Projects that have been engaging in known or suspected terrorism crime or financial wrongdoing.

## 2.0 DFAT context

The DFAT accreditation guidelines require that ANGOs members have "...effective policies, systems and practices to manage financial risk." ERFA satisfies the following conditions of DFAT's E3 criteria:

- **E3.8 ANGO has a policy to prevent terrorism financing.**  
This Counter-Terrorism Policy exists as a standalone policy outlining the systems, processes and practises ERFA has in place to manage the risk of terrorism financing in its operations.
- **E3.9 ANGO has systems and processes in place to verify that it and its implementing partners undertake terrorism screening (frequency should be commensurate with the risk context).**  
ERFA has deemed the risk of organisational funds being diverted to terrorist organisations as low. ERFA routinely checks all Staff and implementing Partners against lists of prohibited terrorist organisations under Australian law and the Consolidated List of Australian-sanctioned individuals and entities.
- **E3.10 ANGO has systems to support implementing partners have necessary controls in place to prevent terrorism financing.**  
ERFA as appropriate clauses in Partner agreements that forbids Partners from engaging in or funding terrorist activities. ERFA conducts periodic training and capacity building sessions to ensure that all Partners are aware of and comply with this Counter-Terrorism Policy.
- **E3.11 ANGO has appropriate risk management systems in place to prevent funds going directly or indirectly to individuals or organisations associated with terrorism.**

For contexts where the risk of inadvertent terrorism financing is higher, ERFA undertakes additional due diligence processes to analyse and treat the risk.

### **3.0 Definitions**

ERFA adopts the definitions of the Australian Government, as set out in the *Criminal Code Act 1995*.

#### **Counter-terrorism**

The practice, techniques and strategy used to combat or prevent terrorism.

#### **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.

#### **Terrorist act**

A 'terrorist act' is an act, or a threat to commit an act, that is done with the intention to coerce or influence the public or any government by intimidation to advance a political, religious or ideological cause, and the act causes:

- death, serious harm or endangers a person
- serious damage to property
- a serious risk to the health or safety of the public, or
- seriously interferes with, disrupts or destroys critical infrastructure such as a telecommunications or electricity network.

A terrorist act does not cover engaging in advocacy, protest, dissent or industrial action where a person does not have the intention to urge force or violence or cause harm to others. If found guilty of committing a terrorist act, a person could face up to life imprisonment.

#### **Terrorist act offence**

A person may be convicted of a 'terrorist act offence' if the person intends to commit one of these offences or if the person was reckless as to whether his or her actions would amount to a terrorist act:

- commit a terrorist act;
- plan or prepare for a terrorist act;
- finance terrorism or a terrorist;
- provide or receive training connected with terrorist acts;
- possess things connected with terrorist acts;
- collect or make documents likely to facilitate terrorist acts.

For example, a person may be found guilty of a terrorist act offence where the person intentionally prepared or planned the commission of a terrorist act but did not actually commit the terrorist act themselves. A person may still commit a terrorist act offence even though a terrorist act did not occur.

Source: Pamphlet – Australia's Counter-Terrorism Laws

<https://www.ag.gov.au/NationalSecurity/CounterterrorismLaw/Documents/Australias%20counter%20terrorism%20laws.pdf>

#### **Terrorism financing**

Intentionally providing or collecting funds and/or being reckless or negligent as to whether those funds might be used to facilitate a terrorist act.

## 4.0 Relevant authorities, legislation, associated regulations and guidelines

The Australian Government has extensive legislation around counter-terrorism. Terrorism is against the law, against Australia's national interests and undermines sustainable development. ERFA is committed to the implementation of best practice principles to ensure that its activities are conducted within the context of these laws and obligations. Failure to comply with Government requirements could significantly impact the reputation of ERFA as well as expose the organisation to potential penalties.

### 4.1 Australian Government guidelines

- Part 5.3, Sections 102.6, 102.7 & 103.1 of the Criminal Code Act 1995 (Australian Government) Australia's Counter-Terrorism Laws  
<https://www.ag.gov.au/NationalSecurity/Counterterrorismlaw/Pages/Australiascounterterrorismlaws.aspx>
- Australian Human Rights Commission: A Human Rights Guide To Australia's Counter-Terrorism Laws (2008)  
<https://www.humanrights.gov.au/human-rights-guide-australias-counter-terrorism-laws>
- Safeguarding your organization against terrorism financing: A guidance for non-profit organisations (Australian Government 2009)
- Attorney General Department's List of Terrorist Organisations  
<http://www.ag.gov.au/nationalsecurity/counterterrorismlaw/pages/terroristorganisations.aspx>
- Department of Foreign Affairs & Trade's Consolidated List  
<http://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>
- Australian NGO Accreditation Guidance Manual, October 2014 Criterion B3
- Australian Council for International Development Code of Conduct (Revised 2016): Quality Principle 8: Resource Management – Compliance verifier 8.2.1

### 4.2 United Nations guidelines

- Part 4 of the Charter of United Nations Act 1945 (UN Security Council Decisions that Relate to Terrorism)
- The United Nations Security Council Resolution 1373 (2001) to combat terrorism
- Charter of the United Nations (Dealing with Assets) Regulations 2008

## 5.0 Policies

ERFA acknowledges that Australian Government legislation prohibits dealing with listed terrorist organizations and/or proscribed persons or entities. ERFA acknowledges its obligations under these laws and therefore will exercise all reasonable care and make every reasonable effort to ensure that its funds and program activities are not misused to further terrorism or support terrorist activities.

ERFA will confirm the identity, credentials and good standing of the people and organisations it supports and will check that these people or organisations are not on the prohibited lists maintained by the Australian Government.

ERFA will not knowingly remit any funds to known or suspected terrorist organisations or individuals.

ERFA will report any known or suspected terrorist links to the relevant national authority.

ERFA will ensure that its overseas partners are aware of its obligations related to counter-terrorism and ERFA will ensure that these obligations are reflected in its contractual agreements with them. The relevant policies and procedures of ERFA's in-country partners must enable ERFA to fulfil its obligations under relevant Australian anti-terrorist legislation.

## 6.0 Roles and responsibilities

This Counter-Terrorism Policy outlines the different responsibilities designated to the internal stakeholder categories of ERFA Staff and overseas implementing Partners. This includes the responsibilities of specific ERFA Staff positions, including the CEO, Programs Director and Policy and Risk Officer as well as those of specific implementing Partner positions, including Program Manager.

### 6.1 Responsibilities of ERFA Board

The responsibilities of the ERFA Board are as follows:

- comply with Australian anti-terrorist legislation to avoid dealing with individuals and organisations associated with terrorism and associated criminal activities;
- review this policy every 3 years.

### 6.2 Responsibilities of Staff

The responsibilities of Staff are as follows:

- sign ERFA's Code of Conduct; ERFA's Code of Conduct outlines expectations of Staff conduct. Compliance with this Counter-Terrorism Policy is one of several policy standards incorporated into the document;
- immediately notify ERFA's Programs Director and CEO of any confirmed or alleged cases of a terrorist act, a terrorist act offence, terrorism financing or money laundering linked with their organisation.

The responsibilities of the ERFA Programs Director include those of all ERFA staff as well as the following:

- investigate the credibility of potential matches from Australian Government proscribed lists;
- consult ERFA's Complaints Handling Policy to inform the triage, risk assessment and response process of confirmed or alleged cases of terrorism and associated criminal activity;
- call the Australian Security Hotline when a confirmed or alleged case of terrorism or associated terrorism activity is deemed credible.

The responsibilities of the Policy and Risk Officer include those of all ERFA staff as well as the following:

- Utilising the Australian government's proscribed lists conduct a search of:
  - all new partner governing authority members, management and financial staff and volunteers as part of due diligence
  - newly appointed governing authority members, management and financial staff and volunteers as part of due diligence for both ERFA and Partner personnel every 3 months, in accordance with Partners' submission of Quarterly Reports;
  - any partner program sub-contractor governing authority members and management and financial staff and volunteers as part of due diligence prior to funding major works;
  - all current ERFA and Partner governing authority members and management and financial staff every 12 months;
- immediately report to the Programs Director any matches found in proscribed list checks.

### 6.3 Responsibilities of Partners

The responsibilities of Partners are as follows:

- to agree through contractual arrangements to comply with this Counter-Terrorism Policy;
- immediately notify their Program Manager of any confirmed or alleged cases of a terrorist act, a terrorist act offence, terrorism financing or money laundering linked with their Program.

The responsibilities of a Partner Program's Program Manager are as follows:

- consult their program's Complaints Handling Policy to inform the triage, risk assessment and response process of confirmed or alleged cases of terrorism and associated criminal activity;

- per the Program’s Complaints Handling Policy, report to the ERFA CEO and Programs Director within 24 hours all lodged complaints concerning a credible case of terrorism and associated criminal activity;
- call the police or an in-country national security hotline when a confirmed or alleged case of terrorism or associated terrorism activity is deemed credible;
- inform ERFA of any newly recruited Governing Authority Members and Staff in quarterly reports;
- comply with ongoing monitoring and evaluation by ERFA regarding counter-terrorism.

## **7.0 Risk management**

All of ERFA’s program partners will be made aware of this policy and of ERFA’s obligations under Australian law and will be required to adopt similar measures in respect of funds from ERFA. Therefore, funding agreements will include wording that requires recipient organisations to adopt policies and procedures consistent with Australian Government requirements.

A section on counter-terrorism is to be included within the Risk Management Plan of every Project Design Document.

## **8.0 Proscribed list checks**

ERFA must know the identity, credentials and good standing of its partners and recipient organisations, including what they do, where they operate and the identity of their key governance, program leadership and financial management personnel. This procedure must also be followed in the selection process for new partners and projects.

The names of all governance, key program leadership and key program finance management personnel must be provided to ERFA with Program and Capital Funding Applications. This includes for any sub-contractors of capital works. Any changes to these listings must be provided to ERFA in Quarterly Reports. Prior to signing of MoUs or funding agreements, these details will be compared to Australian Government lists of proscribed entities and individuals.

ERFA’s Policy and Risk Officer is responsible for ensuring that all Staff and implementing Partners are checked against DFAT sanctions lists.

### **8.1 Consolidated List checks**

The section ‘Personnel Changes’ in ERFA’s Quarterly Report asks Programs to list the names of departed and newly hired Staff during the period. The Policy and Risk Officer conducts a search for all new employees and Partners against the DFAT Consolidated List every 3 months after Quarterly Reports have been received.

The Consolidated List can be downloaded from:

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

Since this is a continually updated list, the Policy and Risk Officer is to re-download the file every time they conduct a new list search.

### **8.2 LinkMatch checks**

ERFA uses the software ‘LinkMatch’ to conduct general background checks of its entire base of internal stakeholders, including Board Members Staff, as well as external stakeholders, including implementing Partners. These searches are conducted during January.

The LinkMatch software can be downloaded from:

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

The 'Frequently Asked Questions' file, packaged in the LinkMatch Software download link, specifies the following procedures for following up on potential matches found in the software:

#### **Where do I get support?**

Direct any requests for support (or suggestions) to [asset.freezing@dfat.gov.au](mailto:asset.freezing@dfat.gov.au). Include the program name "LinkMatchLite" in the subject line to facilitate redirection to program support.

#### **What do I report?**

The default settings in the software are only for eliminating the bulk of non-matches. The remaining subset is presented in decreasing order of similarity for you to scan through. I can't advise at what point you can consider a cutoff or what to report.

I strongly recommend making contact with the AFP before embarking on name checking and reporting. The name of the current contact officer can be obtained from the DFAT legal branch. The AFP and DFAT can advise on your responsibilities under the regulations and also outline the reporting process.

ERFA will pursue the following avenues if support is necessary in using the LinkMatch software.

Compared to the DFAT Consolidated List, there is considerable scope in the credibility of matches displayed in 'LinkMatch'. Whereas the Consolidated List displays matches between names that are exactly alike, 'LinkMatch' displays matches for names that share only a superficial similarity. As such, it is up to the discretion of the Programs Director whether matches displayed in 'LinkMatch' are necessary to report to the Australian Security Hotline.

The Programs Director will adhere to the following escalation procedures when using 'LinkMatch' software:

- If a credible match is displayed between a proscribed name and one of ERFA's stakeholders, the Australian Security Hotline will be immediately contacted. The Board will be immediately advised. Depending on the response of Australian security officials, support to the relevant Program, including funding, will be suspended until a full investigation is conducted by relevant authorities and outcomes determined.
- If a superficial match is displayed between a proscribed name and one of ERFA's stakeholders, the credibility of the match will be investigated. This includes comparing data of the proscribed person, including their name, location, birthplace and criminal history, against the circumstances of the stakeholder. This also includes obtaining identity documents of the relevant stakeholder. If there are no plausible connections between the identity documents of the ERFA stakeholder and the LinkMatch data of the proscribed name, this is considered grounds for the case to be dismissed and the investigation closed.

## **9.0 Response process**

ERFA Staff as well as the Staff of implementing Partners are required to immediately report to their Programs Director/Manager information of confirmed or alleged terrorist acts, terrorist act offences, terrorism financing or money laundering. See Section 6.0 for an explanation of the roles and responsibilities of ERFA domestic and overseas stakeholders in reporting confirmed or alleged cases of terrorism and associated criminal activities.

The ERFA Programs Director and the Program Managers of implementing Partners are required to consult their Complaints Handling Policy to inform the triage, risk assessment and response process for responding to cases of terrorism and associated criminal activity. Per the triage process contained within the Complaints Handling Policy of ERFA or the implementing Partner, if a case of terrorism or

associated criminal activity is deemed credible, the Programs Director/Manager is to allocate the case a risk level of Extreme. The Programs Director/Manager is then to immediately call the police or an in-country national security hotline. For ERFA, this number is the National Security Hotline on 1800 123 400. The Programs Director/Manager is then to consult the Complaints Handling Policy to complete the remaining Register, Respond and Finalise stages of the Complaints Handling Flowchart.

## **10.0 Financial risk**

### **10.1 Transfer of funds**

In the overseas transfer of funds, ERFA will use only reputable banks and financial institutions.

For cases where the risk of terrorism financing is higher, ERFA will consider operating in cash rather than electronic funds transfer.

However, operating in cash is considered an excessive measure. For contexts where the risk of inadvertent terrorism financing is higher, ERFA undertakes additional due diligence processes to analyse and treat the risk.

### **10.2 Financial auditing**

Implementing partners receiving funding from ERFA will be required to provide a detailed Financial Report on a quarterly basis. This includes:

- Budget vs actual for the 3-month period utilising reporting template
- extract of trial balance sheet
- extract of general journals/ledgers
- quarterly management accounts

At the end of annual funding cycle, full financial reports must be accompanied by an Independent Auditor's Report and Auditor's Management Letter, certifying that the Program Finance Report is a true and fair view of the income and expenditure of the program. The independent auditor must be accredited in-country and must not be an employee of, or be related to program staff.

## **11.0 Remedial procedures**

ERFA will immediately cease forwarding funds if it has reason to believe that a project partner has breached the requirements of this policy or is found to be on the Australian Government lists of proscribed entities and individuals.

# Complaints Handling Process Flowchart

## Complaints Handling Process

