



AUSTRALIAN RESPIRATORY COUNCIL FINANCIAL WRONGDOING POLICY & PROCEDURES

1. Introduction

The Australian Respiratory Council (the ARC) is a charitable non-governmental organisation that continues to build expertise and sustainable capacity in respiratory health by fostering innovative research, improving lung health in communities, actively seeking sustainable solutions through partnerships with like organisations, and bringing focus to and investment in TB and respiratory health.

In order to meet our charitable objectives, we regularly provide funds to partner organisations, and receive funds in the form of charitable donations.

2. Objective and scope

This policy and procedure document provides guidance with the aim of preventing the risk of financial wrongdoing by ARC's Board, staff, contractors, consultants, volunteers, donors, and partner organisations, whether in Australia or overseas.

Financial wrongdoing in the context of this document covers fraud, corruption, money laundering, terrorism, and violation of Australian Government Sanctions.

3. Definitions

- **Consolidated List:** This is a list of all persons and entities who are subject to targeted financial sanctions or travel bans under Australian sanctions laws available at: <https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>
- **Counter-terrorism:** The practice, military tactics, techniques, and strategy that government, military, law enforcement, business, and intelligence agencies use to combat or prevent terrorism.
- **Contractors:** An independent contractor is a person, business, or corporation that provides goods or services under a written contract or a verbal agreement. Unlike employees, independent contractors do not work regularly for an employer but work as required.
- **Consultants:** A consultant is an experienced individual who provides expert advice for a fee. A consultant may also be an employee at a company that offers consulting services. Consultants typically charge clients an hourly rate for their services.
- **Corruption:** Corruption is a form of dishonesty or criminal offence undertaken by a person or organisation entrusted with a position of authority, to acquire illicit benefit or

abuse power for one's private gain. Corruption may include many activities including fraud, bribery and corruption.

- **Criminal Code:** Criminal Code Act 1995 (Cth) as amended.
- **DFAT:** Australian Department of Foreign Affairs and Trade.
- **Donor:** Any person or entity that has donated, or is considering donating to the ARC in the pursuit of its charitable objectives.
- **Donor Due-Diligence Checklist:** A list of questions found in Appendix B of this document relevant to assist in the decision to accept or reject a donation.
- **Financial wrongdoing:** Includes activities of actual, or planned fraud, corruption, money laundering, terrorism, and violation of Australian Government Sanctions.
- **Fraud:** Fraud is where someone acts in a dishonest way so that they receive a benefit, or someone else experiences a loss or deception. People can commit fraud in a variety of ways, including by making false representations, abusing their position, and failing to disclose information.
- **Funds:** Assets of any kind or property including, but not limited to, bank credits, travellers cheques, money orders, shares, securities, bonds, debt instruments, and letters of credit.
- **List of Terrorist Organisations:** Organisations that are listed as terrorist organisations under the Criminal Code, available on the National Security website at: <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>
- **Money-laundering:** Money laundering involves hiding, disguising or legitimising the true origin and ownership of money used in, or derived from, committing crimes, and plays an important role in organised crime. There is no single method of laundering money.
- **Partner organisation:** Any organisation or person that is involved or works with the ARC on projects in the pursuit of the ARC's charitable objectives.
- **Partner Due-Diligence Checklist:** A list of questions found in Appendix A of this document relevant to assist in the decision to approve or reject the partnering with an organisation.
- **Project:** Any activity or proposed activity of the ARC conducted to assist in meeting its charitable objectives.
- **Sanctions:** Sanctions are measures not involving the use of armed force that are imposed in situations of international concern. Australia and/or the United Nations Security Council (UNSC) may impose what is referred to as a sanctions 'regime'. Each regime is usually described by reference to a country or group. DFAT maintains a 'Consolidated List' of all persons and entities designated for the purposes of sanctions regimes implemented under Australian sanction laws.
- **Staff:** Personnel employed by the ARC whether full-time, or part-time.
- **Terrorism:** the unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims.
- **Terrorist organisation:** There are two ways for an organisation to be identified as a terrorist organisation. Prosecution in a Court of Law can prove beyond reasonable doubt that an organisation is a terrorist organisation as part of the prosecution for a terrorist

offence. Alternatively, the organisation may be specified in Regulations as a terrorist organisation. This process is known as 'listing'. See 'List of Terrorist organisations' above.

- **Volunteer:** Any person who performs services or projects on behalf of the ARC without receiving remuneration, other than reimbursement of out of pocket expenses.

4. Policy Statement

The ARC is committed to:

- the prevention of financial wrongdoing in all of its activities;
- the identification and management and reporting of risks associated with fraud, corruption, money laundering, terrorism and violation of Australian Government Sanctions;
- ensuring that the Board, staff, partner organisations, volunteers and consultants are familiar with the financial wrongdoing policy and procedures, and their obligations under them;
- complying with all laws and regulations relevant to the prevention of fraud, corruption, money laundering, terrorism, and violation of Australian Government Sanctions;
- being aware of new and emerging risks of financial wrongdoing;
- consulting and communicating on an on-going basis with staff, partner organisations, volunteers, consultants and relevant external stakeholders to assist in informing best practice on financial wrongdoing;
- regularly reviewing the effectiveness of the implementation of the ARC's financial wrongdoing policy and procedures.

5. Responsibilities

The ARC's Executive Director in consultation with the Board of Directors is responsible for the implementation, enforcement, reporting on compliance issues/incidents as necessary, and the on-going review of this policy.

The ARC's Board, staff, contractors, consultants, volunteers and associates of all partner organisations have a responsibility and obligation to follow the policy and procedures in this document.

6. Procedures

6.1 Risk Assessments

The ARC does not permit, support or condone any activity linked directly or indirectly to activities of actual, or planned fraud, corruption, money laundering, terrorism, and violation of Australian Government Sanctions (financial wrongdoing). The ARC will not knowingly associate or transact with any individual, entity or group involved in such activities and these activities are considered business risks. Consequently in accordance with the ARC Risk Management Policy, a Financial Wrongdoing Risk Assessment has been conducted and will be reviewed on an annual basis by the Executive Director and the ARC Board.

6.2 Awareness

The ARC will ensure that staff, volunteers, consultants and contractors are aware of their obligations relating to financial wrongdoing under Australian law, this policy and this set of procedures. Where obligations have been found to have been breached, it may lead to disciplinary action, dismissal and/or legal action.

6.3 Due Diligence

The ARC will conduct due diligence reviews prior to engaging any new staff, volunteers, consultants and contractors.

Due diligence checks includes checking the name of any new member of staff, volunteers, consultants, contractors, partner organisations and donors against:

- a) the 'List of Terrorist Organisations' on the Australian National Security website: <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>,
and/or
- b) the DFAT's 'Consolidated List of persons and entities subject to a targeted financial sanction': <https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>

In accordance with the ARC's Recruitment, Probation and Induction Policy and Procedures, where appropriate, but particularly in positions of financial responsibility or in dealing with vulnerable clients / children, police checks may be arranged. Police checks shall be arranged only with the consent of the applicant concerned; however, if consent is refused this shall be taken into consideration in the selection process.

References shall be sought, where appropriate. Previous employers and referees shall be contacted, and transcripts, qualifications, publications and other certification or documentation shall be validated. Any checks which may form part of the selection process will be conducted prior to issuing an offer of employment.

Prior to signing a Memorandum of Understanding (MOU) with a new partner organisation, a due diligence review will be conducted using the 'Partner Due-Diligence Checklist' in Appendix A.

A MOU will not be signed with any new partner organisation unless a satisfactory outcome of the due diligence review was achieved.

In accordance with the MOU put in place with each partner organisation, the ARC will ensure that the partner organisation agrees to:

- a) share all responsibilities to mitigate the risk of financial wrongdoing;
- b) ensure that no funds received from the ARC will go towards supporting organisations or individuals associated with terrorist and criminal related activities;
- c) disburse funds received only for the intended purpose of the project and for no other purpose;
- d) keep financial records for the project funds received, and for all transactions to substantiate expenditure and make them available to the ARC upon request; and
- e) co-operate fully in any audit of funds provided by ARC for the project.

In the case of donors who have, or intend to make a single or multiple donation in excess of \$5,000 in a single calendar year, a due diligence review will be conducted using the 'Donor Due-Diligence Checklist' in Appendix B. This is to ensure that donations are not accepted from donors who have connections with any terrorist and criminal activity or groups, or who facilitate any funding to terrorist and criminal activities or terrorist groups.

6.4 Reporting of incidents

All members of staff, contractors, consultants, volunteers, donors, and partner organisations, whether in Australia or overseas have a responsibility to report to the Executive Director or delegate, any suspicious activity relating to financial wrongdoing. Reporting should be made in writing via email to achristensen@thearc.org.au. The Executive Director or delegate will investigate and report to the ARC Board. Based on the outcome of the investigation, the Australian Federal Police and/or the National Security Hotline may be contacted. Consideration will also be given on which, if any, other party(s) need to be made aware of the activity for example other partner organisations, donors and staff.

Where evidence of a partner organisation, donor, or beneficiary of funds becomes available indicating the entity or individual has been added to, or is associated with the Consolidated List, or List of Terrorist Organisations, all support including funding will immediately cease.

6.5 Effectiveness and review

The Financial Wrongdoing policy, procedures and risk assessment will be reviewed on at least an annual basis by the Executive Director and the ARC Board to ensure it is being implemented and it is effective.

7. Related legislation and codes:

- Criminal Code Act 1995 (Cth) as amended, Criminal Code Part 5.3 (Terrorism), Part 10.2 (Money Laundering).
- UN Charter Act, Part 4 (Threat or use of force).
- Australian Council for International Development (ACFID) Code of Conduct Commitment 8.2, 6.2, and 1.4.
- Fundraising Institute of Australia Code of Ethics and Professional Conduct.

8. Related Documents:

- Bequests Policy
- Child Protection Policy
- Code of Conduct
- Financial Management Manual
- Financial Wrongdoing Risk Register
- Fundraising Direct Mail Policy
- Insurance Coverage Procedures
- Investments Assets Policy
- Non-Development Activity Policy
- Partner Memorandum of Understanding (MOU)
- Project Funding Guidelines
- Project Proposal Submission
- Privacy Policy
- Recruitment Policy
- Risk Management Policy
- Travel Policy & Procedures
- Whistleblower Policy
- Recruitment, Probation and Induction Policy and Procedures

Adopted by the Board of Directors on: 22nd January 2020

To be reviewed annually commencing: January 2021

Appendix A – Partner due-diligence checklist

Responses to the questions below should include both positive and negative factors and be as detailed as possible. Information should be relevant to assist in the decision to approve or reject the partnering with an organisation.

<p>1. Partner Organisational Details</p>	<p>a) Is the partner organisation’s business/company registration satisfactory?</p> <p>b) Are the operating addresses and countries known, and is any location considered high-risk by DFAT: (https://www.smartraveller.gov.au/destinations)</p> <p>c) Is the partner organisation’s size, management and operational structure appropriate to deliver the project objectives?</p>
<p>2. Partner Governance Details</p>	<p>a) The following governance policy documents from the partner are to be assessed:</p> <ul style="list-style-type: none"> • Risk Management Policy • Financial Management Policy • Child Protection Policy • Counter-Terrorism Policy • Fraud Control & Anti-corruption Policy • Financial Wrongdoing Policy • Prevention of Sexual Exploitation and Abuse Policy <u>and</u> does the partner have the capacity to implement key safeguarding and risk policies (child protection and prevention of sexual exploitation, abuse and harassment) • Complaints Handling Policy • Transparency Policy • Separation of Development and non-development Activities Policy <p>b) Is the governance structure known including the names of the Board of Directors, and the senior management team?</p> <p>c) Are direct contact numbers and email addresses for the partner organisation’s Board of Directors, and the senior management team known and operational?</p> <p>d) Has the partner organisation’s name and all of the partner organisation’s key company, and project representatives been checked against the DFAT’s ‘Consolidated List of persons and entities subject to a targeted financial sanction’? (https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx)</p> <p>e) Has the partner organisation’s name been checked against the ‘List of Terrorist Organisations’ on the Australian National Security website? (https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx)</p> <p>f) Have any links to terrorist organisations or political activity of either the partner organisation itself, or any of the key company or project</p>

	<p>representatives been identified through general internet searches (including social and local media sources)?</p> <p>g) If the project involves direct contact with children:</p> <ul style="list-style-type: none"> • Are criminal record checks before engagement available? (statutory declarations or local equivalent where criminal record checks are unavailable or unreliable should be obtained, stating that they have not been convicted of a serious sex offence, or child-related personal violence). • Does the partner organisation have a Child Protection Policy and procedures, and are they adequate? If not are they willing to comply with ARC's policy and guidelines? • Are the partner organisation's project representatives prepared to sign the 'ARC Child Safeguarding Policy Code of Conduct and Acknowledgement Form' (Appendix 2 ARC Child Protection Policy)?
<p>3. Accounting & Financial Controls</p>	<p>a) Have the financial policies and procedures been documented and are the financial controls appropriate for the project's requirements?</p> <p>b) Are the auditing and financial reporting functions adequate for the level of funding involved in the project?</p> <p>c) Have the banking and funds transfer arrangements been determined both locally and in any other country the project will be operating from? Are they adequate and reliable?</p> <p>d) Are the financial management and oversight arrangements adequate?</p>
<p>4. Program Donors</p>	<p>a) Has an assessment on whether to accept or reject donation(s) related to this project been made in accordance with ARC's Fundraising Direct Mail Policy; and/or ARC's Bequest Policy; and ARC's Financial Management Policy? What was the outcome of the assessment(s)?</p>
<p>5. External Risk Factors</p>	<p>a) Consider the specific risk factors related to the external environment including:</p> <ul style="list-style-type: none"> i) Cultural, language, and social factors; ii) Health, geographical, and safety factors; iii) Political, economic, and legal factors. <p>Would the ARC be able to effectively manage these factors in a way that would not impact the ability to effectively deliver and/or monitor the project and the partner organisation?</p> <p>b) Have you worked with the partner organisation previously in any capacity, if so detail any positive or negative factors that would impact the project.</p> <p>c) Are the aims and values of the partner and any other organisations they are working with compatible with the ARC's?</p>

Appendix B – Donor due-diligence checklist

Responses to the questions below should include both positive and negative factors and be as detailed as possible. Information should be relevant to assist in the decision to accept or reject a donation from a donor who has, or intends to make a single or multiple donation in excess of \$5,000 in a single calendar year.

<p>a) Donor Details</p>	<p>a) Has the identity of the donor been satisfactorily confirmed?</p> <p>b) If an entity, are the operating addresses and countries known, and is any location considered high-risk by DFAT: (https://www.smartraveller.gov.au/destinations)</p> <p>c) How did the donor come into contact with the ARC?</p> <p>d) Is there a pre-existing relationship with the ARC? If so are there any concerns from previous dealings?</p>
<p>b) Donor Governance Details</p>	<p>a) Has the donor's entity and/or representatives names been checked against the DFAT's 'Consolidated List of persons and entities subject to a targeted financial sanction'? (https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx)</p> <p>b) If an entity, has the donor's name been checked against the 'List of Terrorist Organisations' on the Australian National Security website? (https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx)</p> <p>c) If an entity, have any links to terrorist organisations or political activity of either the donor itself, or any of the key entity or project representatives been identified through general internet searches (including social and local media sources)?</p> <p>d) Is there any reason to believe the funds originated from an illegal or criminal activity?</p> <p>e) Is there any reason to believe the funds originated from an entity or activity associated with the tobacco industry?</p>
<p>f) Accounting & Financial Controls</p>	<p>a) Has an assessment of the donor/donation been made in accordance with ARC's Fundraising Direct Mail Policy; and/or ARC's Bequest Policy; and ARC's Financial Management Policy?</p> <p>b) Are there restrictions on the way the funds can be utilised (such as to a country that is subject to Australian Government Sanctions), and could the restrictions enable funds to be redirected to a terrorist group or terrorist related activities?</p>