



**ACT**  
Government



**AFP**  
AUSTRALIAN FEDERAL POLICE

# **An arrangement between**

**the Minister for Justice  
of the Commonwealth**

**and**

**the ACT Minister for Police  
and Emergency Services**

**for the**

**provision of policing  
services to the ACT  
2016-2017**

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# Preamble



The relationship between the AFP and the ACT Government for the provision of policing services to the ACT is long standing and contributes to Canberra being one of the safest places to live in Australia.

The shared vision for ACT Policing is to be a quality and effective policing service to the people of the ACT, contributing to a fair, safe and peaceful community where the rights and interests of people are respected and protected.

**To achieve this vision, the ACT Government and ACT Policing are committed to:**

Whole-of-government collaboration • Community engagement  
Working in partnership • Transparency and information sharing • Innovation

The AFP, in its national policing role, primarily undertakes a range of actions to promote national safety and security, which complement community policing. The two levels of policing are interlinked and work closely together through national arrangements and joint investigations and taskforces. Further to this, the ACT community policing role is interlinked with other functions in the AFP, providing broad community policing experience as well as exposure to emergency management, crime reduction and community engagement.

**ACT Policing shares the following values with the AFP as it fulfils its duty of keeping the peace and preserving public safety within the ACT:**

Integrity • Commitment • Excellence  
Accountability • Fairness • Trust • Respect

The expanding expectations from government and community reflect the changing nature of national and community policing. Together, ACT Government and ACT Policing are committed to continuing to adapt for the future to meet the rapidly changing demands and drivers within the policing operating environment.

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# **AN ARRANGEMENT BETWEEN THE MINISTER FOR JUSTICE OF THE COMMONWEALTH AND THE ACT MINISTER FOR POLICE AND EMERGENCY SERVICES FOR THE PROVISION OF POLICING SERVICES TO THE AUSTRALIAN CAPITAL TERRITORY**

## **Background**

In the ACT the rule of law is maintained by a justice system composed of independent but interoperable component parts. As part of compliance with the statutory framework of the ACT public sector participants in the justice system, including ACT Policing, are expected to promote and protect human rights when exercising a function under an ACT law.

Section 37(a) of the *Australian Capital Territory (Self Government) Act 1988* (Cth) provides that the ACT Executive has the responsibility of governing the ACT for matters of law and order. However, under section 23(1)(c) the ACT Legislative Assembly has no power to make laws for the provision of policing services in the ACT by the AFP. As such there is no Police Act or similar legislation in the ACT, with the AFP being responsible for providing policing services to the ACT under section 8 of the *Australian Federal Police Act 1979* (Cth).

Under section 8(1)(a) of the AFP Act, the Commonwealth Minister for Justice and the ACT Minister for Police and Emergency Services have agreed to enter into arrangements for the provision of policing services to the ACT that are ACT functions as defined by section 3 of the *A.C.T Self Government (Consequential Provisions) Act 1988* (Cth) (referred to as 'Policing Services').

Section 9(1)(b) of the AFP Act provides that, in addition to any other powers and duties, a member of the AFP has, when performing functions in the ACT, the powers and duties conferred or imposed on a constable or on an officer of police by or under any law (including the common law) of the ACT.

IT IS AGREED by the parties to this Arrangement as follows:

## **1. Definitions**

1.1. In this Arrangement unless the contrary intention appears:

"ACT" means the Australian Capital Territory;

"ACT Executive" means the ACT Executive established under section 36 of the *Australian Capital Territory (Self Government) Act 1988* (Cth);

"AFP" means the Australian Federal Police;

"AFP Act" means the *Australian Federal Police Act 1979* (Cth);

"Chief Police Officer" means the AFP employee appointed by the Commissioner under clause 7.2 of this Arrangement, to be the Chief Police Officer for the ACT;

"Commissioner" means the Commissioner of the Australian Federal Police referred to in section 6 of the AFP Act;

"Commonwealth" means the Australian Commonwealth Government;

"Commonwealth Minister" means the Commonwealth Minister of State appointed to administer the AFP Act;

"Commonwealth place of interest" means a facility or location that is directly involved in the conduct of Commonwealth business or is otherwise in the interests of the Commonwealth to protect;

"Police Minister" means the Minister of the ACT Executive who is responsible for police matters;

"Policing services" means community policing services provided under this Arrangement, the Purchase Agreement and the AFP Act which include, but are not limited to, the preservation of peace and good order, the prevention and detection of crime and the protection of persons from injury or death, and the protection of property from damage, whether arising from criminal acts or otherwise;

"Purchase Agreement" means the annual agreement under clause 18 of this Arrangement between the Police Minister, the Commissioner, and the Chief Police Officer setting out details of goods and services purchased by the ACT Government from the AFP, the agreed price for those services payable by the ACT Government to the AFP and the reporting by the AFP on performance;

"JACS" means the Justice and Community Safety Directorate of the ACT Government.

## **2. Purpose and overriding commitment**

2.1. The purpose of this Arrangement is to establish the enabling framework for the provision of policing services to the ACT by the AFP.

2.2. The Commonwealth is committed to the provision, within the context of this Arrangement and the Purchase Agreement, of a high quality community policing service to the ACT.

### 3. Objectives of the Arrangement

3.1. Both parties seek from this Arrangement:

- **Appropriate policing** - the Arrangement provides an agreed level of policing services for the ACT community;
- **Service quality** - the Arrangement promotes and sustains the high quality of service provision;
- **Workforce** - the Arrangement promotes the provision of stable and effective policing services for the ACT community as well as the building and retention of corporate knowledge within ACT Policing;
- **Value for money** - the Arrangement encourages efficient and effective service provision at an optimum cost with an emphasis on continuous improvement; and
- **Capacity to deliver** - the Arrangement provides for sufficient resources to deliver the services to agreed priorities and levels.

### 4. Provision of policing services to the ACT

- 4.1. The Commonwealth and the ACT Government agree that the AFP will provide policing services to the ACT in accordance with the Purchase Agreement under clause 18 and as agreed between the Police Minister and the Chief Police Officer.
- 4.2. The ACT Government shall pay the AFP the amounts specified in the Purchase Agreement for the provision of policing services under this Arrangement .
- 4.3. The parties acknowledge that the AFP is also required, within the ACT, to provide policing services to the Commonwealth which are not subject to this Arrangement and for which the ACT Government is not required to pay. This exclusion extends to cover the costs of enforcing Commonwealth law and protecting Commonwealth interests by AFP personnel employed within ACT Policing. Costs excluded from the Arrangement will include those associated with the protection of foreign dignitaries, foreign missions, and Commonwealth places of interest. The basis for allocating costs against the Commonwealth and ACT Governments will be set out in the Purchase Agreement.
- 4.4. The allocation of resources for the policing services required by the Commonwealth within the ACT will not be altered in any way which might materially affect the policing services purchased by the ACT Government, without prior consultation and agreement. Failure to obtain agreement will be sufficient grounds for the issue of a notice to discontinue this Arrangement under clause 17.3.
- 4.5. The ACT Government will be responsible for the provision of appropriate

facilities and associated infrastructure for the provision of policing services by the AFP. ACT Policing will manage maintenance, leasing and running costs associated with facilities as agreed in the Purchase Agreement. This arrangement will be governed by the joint JACS and ACT Policing Strategic Accommodation Committee.

- 4.6. The AFP will provide indirect or 'enabling' services integral to the delivery of policing services to the ACT. These services are delivered from a range of AFP business areas such as Specialist Operations, Technology and Innovation, Workforce Development, People, Safety and Security, Chief Financial Officer and Chief Counsel. These services may change from time to time as agreed between the parties.
- 4.7. The cost of enabling services will be determined through an 'enabling cost model' as agreed between the Commonwealth and the ACT Government and reviewed every five years as part of the Arrangement negotiations.

## **5. Distribution and Cost Recovery**

- 5.1. Revenues received by the AFP in the course of enforcement of ACT legislation under this Arrangement will be remitted to the ACT Government.
- 5.2. Money received by ACT Policing in the course of performing policing services, for which there is no identifiable owner, will be transferred to the ACT in accordance with the AFP's obligations under the *Public Governance, Performance and Accountability Act 2013* (Cth) and other relevant legislation.
- 5.3. A Memorandum of Understanding will be developed during the life of this Arrangement to address how equitable sharing arrangements apply when the ACT Government, ACT Policing or the Australian Federal Police Criminal Asset Taskforce acting on behalf of ACT Policing make a contribution to action leading to money or assets forfeited to a State, Territory or to the Commonwealth.
- 5.4. The ACT Government and ACT Policing will, by way of a joint committee, consider legislative amendments to allow ACT Policing to donate goods of low value to charitable and community based organisations under the *Uncollected Goods Act 1996* during the term of this Arrangement.
- 5.5. ACT Policing may seek cost recovery for the provision of policing services to other events that do not fall within the scope of normal policing services in accordance with the Whole-of-Government concessions framework for events, in consultation with the EventsACT Steering Committee.



## **6. ACT Policing Operating Environment**

- 6.1. The complexity of ACT Policing's changing operating environment will be taken into account when negotiating the Purchase Agreement under clause 18.
- 6.2. Drivers that will be taken into consideration include:
- Development and use of technology
  - Serious and organised crime
  - National security threats and threat levels
  - Geographical and population changes in the ACT
  - Community expectations
  - Fiscal environment
  - Changes in the ACT Government legal and policy frameworks.
- 6.3. Together with the drivers identified in clause 6.2, the identified risks to achieving the outcomes, together with risks to employees of, and property used by, ACT Policing, together with appropriate risk treatments will be taken into account when negotiating the Purchase Agreement.
- 6.4. ACT Policing and JACS will ensure appropriate risk management frameworks are in place and will utilise existing ACT Government processes to address new or emerging risks that may require additional resourcing and/or funding.

## **7. Chief Police Officer for the ACT**

- 7.1. The Commissioner must appoint a Chief Police Officer for the ACT with the approval of the Police Minister.
- 7.2. The Chief Police Officer, subject to the authority of the Commissioner, is responsible to the Police Minister for the achievement of the outcomes set out in the Purchase Agreement and for the general management and control of AFP personnel and resources deployed for the purposes of that Agreement.
- 7.3. If the Police Minister advises the Commissioner, in writing, that the Chief Police Officer no longer has the confidence of the ACT Executive, and the reasons for the lack of confidence, the Commissioner must as soon as practicable replace the Chief Police Officer.

## **8. Police Minister's power to give directions**

- 8.1. The Police Minister may give the Chief Police Officer, in writing, general directions in relation to policy, priorities and goals for the provision of policing services by the AFP under this Arrangement and the Purchase Agreement.

- 8.2. The Chief Police Officer must comply with any written directions received from the Police Minister under clause 8.1 unless a contrary written direction has been received from the Commonwealth Minister under the AFP Act.
- 8.3. Any written directions from the Police Minister will be appended to the Purchase Agreement in a form that enables them to be published in the ACT Policing Annual Report.
- 8.4. Except in the case of an emergency, the Commonwealth Minister must not issue to the Commissioner a direction under the AFP Act which affects the provision of policing services to the ACT by the AFP unless the Commonwealth Minister has first consulted the Police Minister about the nature and purpose of that direction. If a direction is given in an emergency without prior consultation with the Police Minister, the Commonwealth Minister will consult the Police Minister about the Direction as soon as possible thereafter.
- 8.5. If a direction by the Commonwealth Minister to the Commissioner has the effect of increasing the cost of policing services provided to the ACT, then the costs attributable to the direction will be borne by the Commonwealth by adjusting the price paid by the ACT Government in accordance with the price variation provisions of the Purchase Agreement.

## **9. Provision of information to a nominated agency**

- 9.1. The Police Minister may request ACT Policing to provide information to a nominated agency of the ACT Government to support the Police Minister in the performance of the Police Minister's ministerial functions for policing. This information includes but is not limited to:
- (a) Complaints against AFP employees providing policing services under this Arrangement, including the investigation of such complaints and any related action whether undertaken by the AFP, Australian Commission for Law Enforcement Integrity (ACLEI), the Commonwealth Ombudsman or otherwise;
  - (b) AFP Professional Standards (PRS) enquiries relating to AFP employees engaged in providing policing services under this Arrangement; and
  - (c) The deployment, operational status and movement of AFP employees engaged in providing policing services under this Arrangement.
- 9.2. At the time of nominating an agency to which information is to be provided, the Police Minister may indicate the manner in which the information is to be provided.
- 9.3. Subject to the authority of the Commissioner, the Chief Police Officer must provide the requested information to the extent that is permissible under Commonwealth and/or ACT law.

- 9.4. Nothing in clause 9.3 requires the Chief Police Officer to provide information that would compromise operational activity by the AFP, including ACT Policing.
- 9.5. The Chief Police Officer may impose conditions on the use of requested information if the Chief Police Officer considers it necessary for operational reasons.
- 9.6. Any information requested under clause 9.1 and provided by ACT Policing to the nominated agency must only be used for the purposes of the request.

## **10. Agreement making**

- 10.1. ACT Policing may enter into agreements separate from this Arrangement as long as they are not inconsistent with this Arrangement, the Purchase Agreement or Ministerial Direction.
- 10.2. ACT Policing will consult with JACS before entering into an agreement that may have policy or resource implications for the ACT Government, this Arrangement, the Purchase Agreement or Ministerial Direction.

## **11. Annual Report**

- 11.1. The Chief Police Officer shall report annually to the Police Minister on the provision of policing services pursuant to the annual Purchase Agreement. The Chief Police Officer will comply with the timelines and processes identified in the *Annual Reports (Government Agencies) Notice* for the relevant year. The annual report will describe the outcomes achieved during the period reported on and shall include details of the resources utilised, the levels of crime reported and such other matters as may be specified by the Police Minister.

## **12. Audit**

- 12.1. The Chief Police Officer will provide, after the end of each financial year and by the date nominated by the Police Minister, a financial statement for that financial year accompanied with a report by the Commonwealth Auditor-General or other auditor nominated by the Chief Police Officer and approved by the Police Minister stating:
- (a) the correctness of the report made of performance under the Purchase Agreement; and
  - (b) any other matters which the Auditor-General, or otherwise approved auditor, considers should be reported to the Police Minister.
- 12.2. The Police Minister is also entitled to have other financial and performance audits conducted by the Commonwealth Auditor-General, or other agreed auditor, the cost of which will be borne by the ACT Government.

## **13. Legal advice**

13.1. Unless otherwise agreed, in writing, by the parties:

- (a) Recognising that ACT Policing is a Commonwealth entity, ACT Policing will seek internal and Commonwealth sourced legal advice on matters falling within its scope as a Commonwealth entity, and matters regarding the internal governance of the AFP;
- (b) Legal advice in relation to the review of briefs of evidence and the prosecution of offences will be sourced from the ACT Director of Public Prosecutions; and
- (c) Legal advice in relation to the interpretation of laws of the ACT (including the common law) will be sourced from the ACT Government Solicitor in accordance with the agreed standard operating procedure between the ACT Government Solicitor and ACT Policing.

13.2. ACT Policing will request legal advice and representation in accordance with the agreed standard operating procedure between the AFP, ACT Policing, the ACT Director of Public Prosecutions and the ACT Government Solicitor and as amended from time to time.

## **14. Policy matters**

14.1. Although this Arrangement is predominantly for the provision of operational services to the ACT, ACT Policing will be involved in the development and implementation of ACT Government policy. When acting in this capacity ACT Policing must act in the interests of ACT Policing as a service provider for the ACT Government and within the whole of the ACT Government policy framework, and abide by ACT Government policy development procedures, including the requirements of the Cabinet Handbook.

14.2. If the Chief Police Officer holds membership of a national body or forum as the head of a law enforcement jurisdiction, the Chief Police Officer will represent the interests of ACT Policing in its capacity as a service provider for the ACT Government.

14.3. ACT Policing will seek advice from the relevant ACT Government agency to obtain policy advice in relation to matters affecting the delivery of services to the ACT (including obligations under ACT legislation or representation at national and jurisdictional forums).

14.4. Nothing in clauses 13 or 14 affects the independence of the Chief Police Officer in relation to the day-to-day operation of ACT Policing.

## **15. Terms and conditions of employment**

- 15.1. The Commonwealth is responsible for determining the terms and conditions of employment of AFP employees involved in the provision of policing services to the ACT under this Arrangement.
- 15.2. If the Commissioner proposes to vary the terms and conditions of employment of AFP personnel in a way which might affect the manner and cost of providing policing services to the ACT, the Commissioner must, before altering those terms and conditions, consult with and advise the Police Minister of the likely implications of the proposed alterations.
- 15.3. The AFP will notify the ACT Government of the commencement of any industrial negotiation process that may have implications for AFP personnel providing policing services to the ACT.
- 15.4. The AFP will take into consideration input received from the ACT Government on any industrial negotiation process related to AFP personnel providing policing services to the ACT.

## **16. Dispute resolution**

- 16.1. The mechanism for resolving disputes arising from this Arrangement will be as follows:
- (a) in the first instance the ACT Government and AFP Contact Officers listed in clause 16.2 will use their best endeavours to settle the dispute;
  - (b) if after 30 days the dispute is unresolved or the Contact Officers do not have the authority to do so, the matter will be referred to the Responsible Officers listed in clause 16.3.
- 16.2. For clause 16.1, the Contact Officers are:
- (a) for the AFP—the Director, Corporate Services ACT Policing on advice from the AFP, Chief Operating Officer; and
  - (b) for the ACT Government—the Executive Director, Legislation, Policy and Programs Branch, JACS.
- 16.3. For clause 16.1, the Responsible Officers are:
- (a) for the AFP—the Chief Police Officer in consultation with the AFP, Chief Operating Officer; and
  - (b) for the ACT Government—the Director-General, JACS.
- 16.4. Any dispute or matter of concern to either party arising from this Arrangement that cannot be resolved by the officers nominated in clauses 16.2 or 16.3 must be referred to the Commonwealth Minister and the Police Minister for resolution.

16.5. Contact Officers for a Purchase Agreement are to be nominated for each Purchase Agreement.

## **17. Duration of this Arrangement**

17.1. This Arrangement commences on a date agreed by the parties and remains in force for 12 months.

17.2. Prior to its expiry, the parties must commence negotiations about the terms and conditions of a renewal of the Arrangement.

17.3. If either party decides to cease entering Arrangements, the party must, in writing, give at least two years' notice to that effect.

17.4. If a replacement Arrangement is not signed on the expiry of the preceding Arrangement, the parties may agree to extend the terms and conditions of the current Arrangement or may agree to a short-term Arrangement.

## **18. Purchase Agreement**

18.1. A Purchase Agreement under this Arrangement must be renegotiated annually prior to the commencement of the next financial year, which begins on 1 July.

18.2. The annual Purchase Agreement will set outcomes to be achieved, key performance indicators (KPI) and costs for providing the services. If the parties have not signed a Purchase Agreement by 30 June in any year, the parties may agree to the terms and conditions of an interim Purchase Agreement.


18.3. If a KPI in a Purchase Agreement is not consistently met over the period of the Agreement, the Police Minister may direct that, as soon as possible, a review panel consider performance against the KPI and make recommendations for remedial action.

18.4. A review panel under clause 18.3 must consist of at least one member appointed by the Chief Police Officer, one member appointed by the Director-General, JACS and an independent person agreed by the Chief Police Officer and the Director-General, JACS.

IN WITNESS WHEREOF this Arrangement has been respectively signed for and on behalf of the parties:

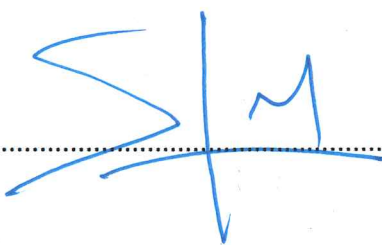
SIGNED by the Hon. Michael Keenan MP,  
Minister for Justice on behalf of the  
Commonwealth of Australia

(date of signing) 23 Jun 2016

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SIGNED by Simon Corbell MLA,  
Minister for Police and Emergency Services on  
behalf of the ACT Government

(date of signing) 23.6.16

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