

**Memorandum of Understanding**

between the

**COMMONWEALTH OF AUSTRALIA  
AUSTRALIAN CAPITAL TERRITORY  
STATE OF NEW SOUTH WALES  
NORTHERN TERRITORY  
STATE OF QUEENSLAND  
STATE OF SOUTH AUSTRALIA  
STATE OF TASMANIA  
STATE OF VICTORIA  
STATE OF WESTERN AUSTRALIA**

**For the continuation and funding of the  
AUSTRALIAN ONLINE GAMBLING COUNSELLING AND SUPPORT  
PROGRAM  
2012-15**

**Memorandum of Understanding number: CD/12/241773**

## Table of Clauses

### Parties & Recitals

1. Interpretation
2. Conduct of the Activities
3. Management of the Australian Online Gambling Counselling and Support Program
4. Payment of Funds & Other Assistance
5. Funds Use and Accounts
6. Invoicing Arrangements
7. Unexpended and Unacquitted Funds
8. Entire Record and Variation
9. Parties' Material
10. Acknowledgment & Publications
- 11A. Intellectual Property Rights
- 11B. National 1800 858 858 gambling help telephone number
12. Disclosure of Information
13. Termination
14. Novation
15. Dispute Resolution
16. Execution of the MOU

### THE SCHEDULE

- A. Australian Online Gambling Counselling and Support Program
- B. Time-Frame & Activity Period
- C. Budget
- D. Funds
- E. Departments

### Signature Blocks

THIS MEMORANDUM OF UNDERSTANDING is made between the  
COMMONWEALTH OF AUSTRALIA ("the Commonwealth"), as represented by  
and acting through the Department of Families, Housing, Community Services  
and Indigenous Affairs

AND the

AUSTRALIAN CAPITAL TERRITORY as represented by and acting through the  
ACT Gambling and Racing Commission ("ACT")

AND the

STATE OF NEW SOUTH WALES as represented by and acting through the  
Office of Liquor, Gaming and Racing ("New South Wales")

AND the

NORTHERN TERRITORY as represented by and acting through the Department  
of Justice ("Northern Territory")

AND the

STATE OF QUEENSLAND as represented and acting through the Department of  
Justice and Attorney-General

STATE OF SOUTH AUSTRALIA as represented by and acting through the  
Department for Communities and Social Inclusion ("South Australia")

AND the

STATE OF TASMANIA as represented by and acting through the Department of  
Health and Human Services ("Tasmania")

AND THE

STATE OF VICTORIA as represented by and acting through the Department of  
Justice ("Victoria")

AND the

STATE OF WESTERN AUSTRALIA as represented by and acting through the  
Department of Racing, Gaming and Liquor ("Western Australia")

## **PREAMBLE:**

The objectives of this Memorandum of Understanding are:

- (a) to record the terms on which the Parties have agreed to the continuation of the Australian Online Gambling Counselling and Support Program to enhance problem gambling support and treatment services that are effective, accessible and culturally appropriate;
- (b) to set out the basis upon which the Parties agree that they will contribute the Funds required to meet the costs of the Australian Online Gambling Counselling and Support Program;
- (c) to set out the operating and reporting arrangements for the Australian Online Gambling Counselling and Support Program for the Activity Period.

**IT IS AGREED as follows:**

**1. Interpretation**

1.1 In this MOU, unless the contrary intention appears:

**'Activities'** means the activities (and "Activity" designates one of those Activities), which are to be undertaken by Victoria as part of the Australian Online Gambling Counselling and Support Program (which activities are set out in clause 2, and 3 and Item A of the Schedule);

**'Activity Period'** means the period specified in Item B of the Schedule during which the primary obligations for conducting the Activities shall be completed (although other obligations stipulated in this MOU continue beyond the Activity Period);

**'Budget'** means the budget for Funds to conduct the Project as outlined in Item A of the Schedule and detailed in the final Project Brief and budget for the financial years 2012-13, 2013-14 and 2014-2015;

**'Commencement Date'** when the last of the Parties have signed the MOU;

**'Confidential Information'** means information that:

- a) is by its nature confidential;
- b) is designated by a Party providing the information as confidential; or
- c) the Party receiving the information knows or ought to know is confidential;

but does not include information which:

- d) is or becomes public knowledge other than by breach of this MOU;
- e) was given into the possession of the Party receiving the information before the date of this MOU by another Party to this MOU without restriction in relation to disclosure; or
- f) has been independently developed or acquired by the Party against which another Party claims that the information is confidential;

**'Departmental Officers'** means officers employed by the Parties to this MOU;

**'Funds'** means the funds payable, subject to this MOU, by each of the Parties, in the amounts specified in Item D of the Schedule;

**'Intellectual Property'** includes all copyright, all rights in relation to inventions, plant varieties, trade marks (including service marks), designs

and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include Moral Rights, the rights of performers or rights in relation to Confidential Information;

**'Material'** includes documents, equipment, software, goods and any medium whatsoever in which information is embodied;

**'MOU'** means this Memorandum of Understanding including the Schedule;

**'MOU Material'** means, all Material:

- a) brought into existence for the purpose of performing or in the carrying out of an Activity;
- b) incorporated in, supplied or required to be supplied along with the Material referred to in paragraph (a); or
- c) copied or derived from Material referred to in paragraphs (a) or (b);

including, but not limited to, all Budgets, reports, statements, certificates or other material produced pursuant to or for the purposes of this MOU;

**'Party'** means each of the Commonwealth, States and Territories, which are signatories to this MOU;

**'Parties'** means collectively the Commonwealth, States and Territories, which are signatories to this MOU;

**'Party Material'** means any Material provided by a Party to another Party for the purposes of this MOU or which is copied or derived from Material so provided;

**'Project'** means the Australian Online Counselling and Support Program in accordance with the Project Brief and Project Contract;

**'Project Brief'** means the specifications and budget for the Project that will require the unanimous approval of the Parties prior to Victoria entering into a Project Contract;

**'Project Contract'** means the funding agreement entered into by Victoria for the purposes of this MOU and expenditure of the Funds;

**'Project Contractor'** means the entity that is signatory to the Project Contract entered into with Victoria for the purposes of delivering the Project; and

**'Working Party'** means the body that will oversee the work of the Secretariat, comprised of the Departmental Officers of member jurisdictions to this MOU.

- 1.2 The Schedule forms part of this MOU. In the event of any conflict between the terms and conditions contained in the clauses of the MOU and any part of the Schedule then the terms and conditions of the clauses of the MOU shall take precedence.
- 1.3 This MOU is not intended to create legal relations, or constitute a contractual agreement, between the Parties. It is a memorandum of understanding reached between the Parties on the basis of which the Funds are to be provided to Victoria for the purposes of carrying out the Activity and related matters.
- 1.4 In the event of ambiguity or uncertainty relating to the interpretation of this MOU, this ambiguity will in the first instance be resolved by the Working Party. If it cannot be resolved in this manner, the issue will be resolved in accordance with clause 15.

## **2. Conduct of the Activities**

- 2.1. Victoria will appoint a project manager to conduct the Activities. For the period of this MOU, Victoria will undertake the following activities:
- (a) carry out the day-to-day administration role, including payment administration, and act as the central point of contact for the Project;
  - (b) undertake the contract management role with respect to the Project Contract in accordance with a Project Brief, including a budget, unanimously approved by the Working Party
  - (c) convene meetings of the Working Party as agreed by the Working Party for the purposes of updating Parties on implementation of the Project;
  - (d) facilitate the provision of written progress reports and data reports provided by the Project Contractor under the Project Contract; and
  - (e) the Activities set out in clause 2.1, including Project Contract management responsibility, can by agreement between the Parties, be transferred from Victoria to another Party to this MOU.

## **3. Management of the Australian Online Gambling Counselling and Support Program**

- 3.1. Victoria shall prior to undertaking the Project or entering into the Project Contract under this MOU obtain the unanimous approval of the Working Party of the Project Brief. The Project Brief will form the basis of the Project Contract. The Parties agree that the Working Party members shall act cooperatively and in good faith to ensure that unanimous approval can be achieved and that such members will not unreasonably withhold their approval.
- 3.2. Approval of the Project Brief shall be sought through the following process:

- (a) Victoria will liaise with the Parties and negotiate with Turning Point Alcohol and Drug Centre in the development of a Project Brief;
  - (b) The Project Brief and proposed budget shall be submitted to the Working Party for their consideration and unanimous approval by the Parties prior to the commencement of the Project;
  - (c) Victoria will use the approved Project Brief as the basis to enter into a Project Contract for delivery of the Project; and
  - (d) The State of Victoria will enter into the Project Contract as principal for the purposes of this MOU and the expenditure of the Funds.
- 3.3. Victoria shall manage the Project Contract and monitor the work carried out under the Project Contract.
- 3.4. Victoria shall, through the Working Party, keep all Parties informed of the progress of the Project Contract and advise of any changes to the scope, cost, or timetable for the Project.
- 3.5. The Project Contract will require the Project Contractor to provide through Victoria to each Party that contributes to the Funding of the Project Contract the following reports:
- (a) Progress reports that demonstrate and describe progress of the Project in accordance with the Project Brief; and
  - (b) Data reports provided to each Party with agreed service level data at both the national and the jurisdictional level in an agreed format and details of the methods of data analysis in accordance with the Project Brief.
- 3.6. Victoria will seek to ensure (by making provision in the Project Contract) that each report will be made available to each Party which has contributed to the funding of the Project, so that the Working Party is given sufficient opportunity to comment on the Project Contractor's adherence to the scope and requirements of the Project Contract.

#### **4. Payment of Funds & Other Assistance**

- 4.1 The Parties (other than Victoria) shall for the Activity Period pay Victoria the Funds in such amounts as are set out in Item D of the Schedule at such times and in accordance with this MOU.
- 4.2 Victoria shall, for the Activity Period, contribute Funds for the purposes of the Program, in such amounts as are set out in Item D of the Schedule.

#### **5 Funds Use and Accounts**

- 5.1 Victoria may spend the Funds only for the purposes of meeting Project costs through the Project Contract, and in accordance with the terms and conditions of this MOU.
- 5.2 The Working Party may by mutual agreement seek to vary the Project Brief or Project Budget as it sees fit provided always that in doing so it

does not affect Victoria's ability to meet its obligations under any Project Contract.

- 5.3 Victoria shall keep proper accounts and record all of its transactions and affairs in relation to the use of the Funds in accordance with usual Victorian Government accounting practice. Victoria will provide Parties with proof of payments made to Turning Point.

## **6 Invoicing Arrangements**

- 6.1 Jurisdictions that provide Funding for the Australian Online Gambling Counselling and Support Program will make their contribution in advance as specified in Item D of the Schedule.
- 6.2 In accordance with clause 6.1 Victoria will issue tax invoices to the Parties for their contribution to the Funds calculated in accordance with Item D of the Schedule. Tax invoices issued under this clause will be provided to the contributing Parties at the start of the 2012-13, 2013-14 and 2014-15 financial years.

## **7 Unexpended and Unacquitted Funds**

- 7.1 At the completion of each financial year in the Activity Period any of the Funds which have not been expended or which have not been spent to the reasonable satisfaction of the Parties shall be repaid within three months of the end of each financial year in the Activity Period.
- 7.2 In the event that any revenue or other income arises (which includes unexpended funds) from the activities of the Australian Online Gambling Counselling and support Program, the funds are to be applied to the Australian Online Gambling Counselling and Support Program.

## **8. Entire Record and Variation**

- 8.1 Any variation of the MOU must be in writing and signed by all Parties.
- 8.2 Any variation will be negotiated between the Parties in good faith.

## **9. Parties' Material**

- 9.1 Ownership of all Party Material remains vested at all times in the Party that provided the Material. To the extent that any Party Material has been incorporated into the MOU Material or is required for the purposes of using or enjoying the MOU Material by any Party, the owner of the Party Material hereby grants those Parties a perpetual, royalty free, non-exclusive license to use or otherwise deal with that Material in the same way that it may use or otherwise deal with the MOU Material.
- 9.2 Upon the expiration or earlier termination of this MOU, each Party (other than the Party that provided the Material) shall return all Party Material remaining in its possession to the Party who supplied such Material in each case (except as otherwise agreed by the supplying and receiving Parties).
- 9.3 Each Party agrees that the Party Material will be used, copied, supplied or reproduced only for the purposes of this MOU.



- 9.4 Each Party agrees to use the Party Material provided by another Party strictly in accordance with any conditions or restrictions set out by or as notified from time to time in writing by the Party providing the Material upon provision of the Party Material.

## **10. Acknowledgment & Publications**

- 10.1 No Party will claim sole responsibility for the Project. When referring to the Project and activities relating to the Activities and this MOU, all Parties shall acknowledge the financial contributions and other support it has received from the other Parties.
- 10.2 The form of this acknowledgement will be agreed by all Parties, on a case-by-case basis.

## **11A. Intellectual Property Rights**

- 11A.1 Subject to this clause 11, Intellectual Property in an item of MOU Material and the logo for Gambler's Help (see attachment to this MOU) vests in Victoria if it has produced or commissioned that item (including all Material created under a Project Contract and vested in Victoria) and Victoria undertakes to take reasonable measures to protect such MOU Material and the logo for Gambler's Help
- 11A.2 Victoria will use its best endeavours to ensure that Intellectual Property rights resulting from the Project Contract will vest in Victoria.
- 11A.3 Victoria warrants that it is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property in the MOU Material and the logo for Gambler's Help in the manner provided for in this Clause 11.
- 11A.4 For the period of this MOU Victoria will grant to each and every contributing Party a royalty-free, non-exclusive licence (including a right of sublicense) to use, reproduce, and adapt the MOU Material anywhere in the world, where they have secured intellectual property rights. Notwithstanding Part VII of the *Copyright Act 1968*, publication of the MOU Material in accordance with this licence shall not affect such ownership of the Intellectual Property.
- 11A.5 If a Party is responsible for some third party bringing a legal action due to a breach of their Intellectual Property rights, and that Party is responsible for that breach, that Party shall be solely responsible for the payment of damages in respect of that breach. The Party responsible for the breach will indemnify the other Parties for any loss arising from that breach.

## **11B. National 1800 858 858 gambling help telephone number**

- 11B.1 The single Australia-wide problem gambling help telephone number, 1800 858 858, is a national initiative initiated by Victoria.
- 11 B.2 Victoria will allow each and every contributing Party to use the national 1800 858 858 gambling help telephone number for the purposes of its problem gambling help services.
- 11B.3 Victoria pays the telephone provider for the use of this telephone number and recoups the cost of calls from the other Parties (excluding The Commonwealth, which does not use this telephone number) according to

their usage.

- 11B.4 Victoria administers the billing and routing details on behalf of the Parties (other than The Commonwealth) at no cost to those Parties.
- 11B.5 If a Party engages in sponsorship or promotional activities that extend beyond its borders, that Party must give each other Party one month's notice in writing of the fact that such sponsorship or promotional activities are planned

## **12. Disclosure of Information**

- 12.1 A Party receiving Confidential Information shall not, without the prior written approval of the Party who provided it, disclose it to any person other than the Party that provided it, subject to each State or Territory's laws.
- 12.2 The Parties agree that where Confidential information is being provided to a Parliamentary Committee, a request will be made to the Committee that any Confidential information is provided in camera.

## **13. Termination**

- 13.1 If a Party wishes to terminate its participation in this MOU it must give six months written notice to the other Parties that it will withdraw from the MOU.
- 13.2 A Party that has given a notice of termination under clause 13.1 must continue to fulfill its obligations under the MOU until the six months notification timeframe is realised.
- 13.3 A Party that has given a notice of termination under clause 13.1 will continue to enjoy the benefits of this MOU until its notification period expires.
- 13.4 If a Party terminates its participation in the MOU it will not be required to pay compensation for such an early termination, except as clause 13.5 requires.
- 13.5 If Victoria terminates its participation in this MOU, clause 7.1 applies as if the Activity Period had been completed, and the remaining Parties will negotiate an alternative Secretariat arrangement.

## **14. Novation**

- 14.2 Any Party may novate this MOU to another entity, being a government department, an agency, a statutory authority or any other body established by a state or territory jurisdiction, at any time during the term.
- 14.2 If the MOU is novated, the Parties agree to sign a novation agreement between the Parties and the receiving entity.

## **15. Dispute Resolution**

- 15.1 The Departmental Officers will, in the first instance, attempt to resolve any disputes under this MOU including disputes about the application of Funds, performance and compliance with other obligations between themselves. If they are unable to reach agreement, then:

- (a) they will refer the case to their senior management. If agreement is not reached at the officer/organisational level, then:
- (b) the dispute will be referred to the appropriate Ministers for consideration. The Ministers will consult together with a view to resolving the matter amicably between them.

15.2 Where, following consultation at the Ministerial level under clause 15.1, there is no resolution of the matter, and where one or more Parties remain of the opinion that the other Party or Parties have not complied with any one or more of their obligations under this MOU, then the Party or Parties may, at their discretion:

- (a) give a notice to the other Party or Parties requiring the situation to be remedied (in this Clause 15 "a Notice") within the reasonable time stated therein (in this Clause 15 "the Cure Period"); and
- (b) where, after the Cure Period has expired, and the non-compliance has not been remedied, terminate their participation in this MOU.

15.3 Notwithstanding the existence of a dispute, each Party will continue to comply with this MOU except as otherwise expressly provided by this MOU.

## **16. Execution of the MOU**

16.1 If this MOU is executed in counterparts, each counterpart is deemed to be an original and all counterparts constitute one and the same document.

## THE SCHEDULE

### **A. Australian Online Gambling Counselling and Support Program**

1. Gambling Help Online is a national initiative, auspiced by the Ministerial Council on Gambling (now disbanded). In 2008, all jurisdictions signed a three year Memorandum of Understanding (MOU) endorsing the national service and reporting and cost-sharing arrangements. The MOU was based on the Gambling Research Australia (GRA) program and allocated costs to jurisdictions in accordance with their 2005-06 contribution to the national gambling expenditure. Under the MOU, the Commonwealth agreed to fund an evaluation of the service.
2. Key drivers for the national approach included:
  - strategic coherence – internet usage doesn't recognise state boundaries (although it is feasible to restrict international access);
  - opportunities for managing online space by obtaining better market position in Google searches;
  - avoiding confusion and duplication of effort that would result from each state and territory creating its own problem gambling counselling website;
  - economies of scale in managing the service; and
  - synergy and support for the national 1800 number for Gambler's Help 24/7 telephone counselling, advice and referral.

This MOU will facilitate the provision of the Australian Online Gambling Counselling and Support Program, including funding, accountability and reporting arrangements.

For a detailed description of the services to be provided, reporting, deliverables and budget, please refer to the Project Brief at Attachment 1. The Project Brief will also form the basis of the Project Contract.

### **B. Time-Frame & Activity Period**

The Activity Period is from when the last of the Parties have signed the MOU to 30 June 2015.

### **C. Budget**

The Budget for the Project is contained in the Project Brief at Attachment 1.

### **D. Funds**

The total Funds for the Project of \$2,179,307 (ex GST) have been allocated for the delivery of the Project as follows:

2012-13: \$643,354

2013-14: \$766,386

2014-15: \$769,567

The delivery costs are to be shared between Parties to this MOU.

Table 1 below details the funding contributions of the Parties (GST exclusive).

Jurisdiction	2012-13	2013-14	2014-15	Total 2012-15
Australian Capital Territory	7,690	10,340	10,388	28,418
New South Wales	225,804	303,598	305,047	834,449
Northern Territory	15,803	21,248	21,350	58,401
Queensland*	47,721	0	0	47,721
South Australia	35,803	48,137	48,368	132,308
Tasmania	12,503	16,810	16,889	46,202
Victoria	161,266	216,824	217,860	595,950
Western Australia	36,764	49,429	49,665	135,858
Sub total	543,354	666,386	669,567	1,879,307
Commonwealth contribution**	100,000	100,000	100,000	300,000
<b>TOTAL</b>	<b>643,354</b>	<b>766,386</b>	<b>769,567</b>	<b>2,179,307</b>

*\*Queensland's contribution and participation in the MOU is for 1 July to 31 December 2012 only.*

*\*\*The Commonwealth's contribution is to enable increased capacity and reach and is not ongoing beyond the term of this MOU*

Each Party will be sent a tax invoice for its Funds at the commencement of the 2012-13, 2013-14 and 2014-15 financial years as per the amounts specified in Table 1 for each financial year.

#### **E. Departments**

The Commonwealth	Department of Families, Housing, Community Services and Indigenous Affairs
Australian Capital Territory	ACT Gambling and Racing Commission
New South Wales	Office of Liquor, Gaming and Racing
Northern Territory	Department of Justice
Queensland	Department of Justice and Attorney-General
South Australia	Department for Communities Social and Inclusion

Tasmania	Department of Health and Human Services
Victoria	Department of Justice
Western Australia	Department of Racing, Gaming and Liquor

Signed as a Memorandum of Understanding

SIGNED for and on behalf of )

The COMMONWEALTH OF AUSTRALIA )

By )

*J. Mackel* )

Minister for Families, )

Community Services and Indigenous Affairs,

Minister for Disability Reform

In the presence of:

*CHICK T.* ..... [WITNESS] *CORREA MCKENZIE.*

*21.6.12* ..... [DATE]

The AUSTRALIAN CAPITAL TERRITORY)

By  )

Minister for Gaming and Racing )

In the presence of: *GREG JONES*

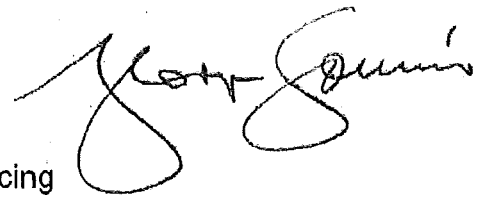
..... *Greg Jones* [WITNESS]

..... *29/6/2012* [DATE]



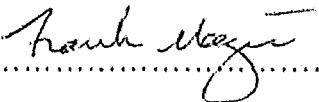
The STATE OF NEW SOUTH WALES )

By )




Minister for Tourism, Major Events, Hospitality and Racing )  
Minister for the Arts )

In the presence of:

 ..... [WITNESS]

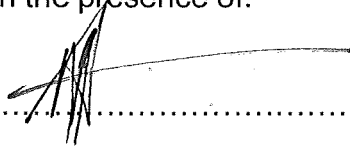
*9 July 2012* ..... [DATE]

The NORTHERN TERRITORY )

By  )

Minister for Racing, Gaming and Licensing)

In the presence of:

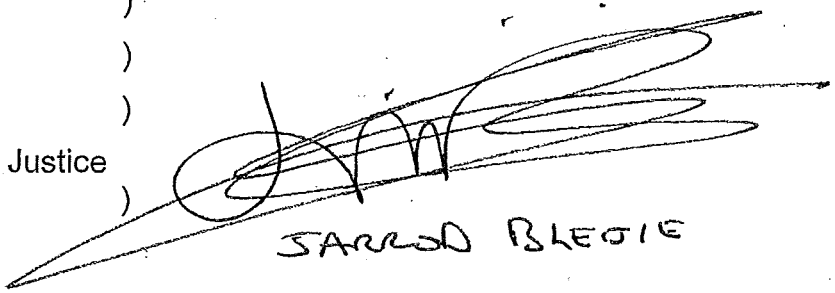
 ..... [WITNESS]

14/6/12 ..... [DATE]

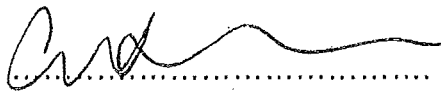
The STATE OF QUEENSLAND )

By )

Attorney General and Minister for Justice )

  
SARAH BLAGIE

In the presence of:

 ..... [WITNESS]


..... 5/7/2012 ..... [DATE]

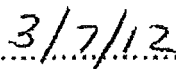
The STATE OF SOUTH AUSTRALIA )

By  )

Minister for Communities and Social Inclusion )

In the presence of:

 ..... [WITNESS]

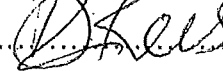
 ..... [DATE]

The STATE OF TASMANIA )

By  )

Minister for Health and Human Services

In the presence of:

 ..... [WITNESS]

*5-7-2012* ..... [DATE]

*2 Wandeeet Place Sandy Bay  
Head of office*

The STATE OF VICTORIA )

By )

**THE HON. MICHAEL O'BRIEN MP** )

Minister for Gaming )

*Michael O'Brien*

In the presence of:

LUKE TOBIN  ..... [WITNESS]

20/6/12 ..... [DATE]

The STATE OF WESTERN AUSTRALIA )

By  )

Minister for Racing and Gaming )

In the presence of:

 ..... [WITNESS]

*19 June 2012* ..... [DATE]

