

# Checklist 3: How do we practically comply with the Human Services Agreement?

Information for organisations delivering human services in New South Wales

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## This fact sheet covers:

- ▶ What are the practical steps your organisation can take to comply with the key obligations under the Agreement?

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This checklist is part of the **Guide to the Human Services Agreement (Guide)**. The Guide provides information on organisations' key legal obligations under the Human Services Agreement. The Guide includes a suite of resources to help organisations meet their obligations.



### Caution

The information contained in this document is intended as a guide only and is not legal advice. Interpreting contract terms is complex. If your organisation has a legal problem you should talk to a lawyer before making a decision about what to do. Refer to [our webpage on legal advice](#) to see if your organisation may be eligible for free legal advice.

This checklist has been prepared on the basis of the Agreement for Funding of Services – Standard Terms dated 16 October 2019 (**Standard Terms**) and Agreement for Funding of Services – Schedule dated 31 March 2017 (**Schedule**), published on the [BuyNSW website](#) (together referred to as the **Human Services Agreement** or **Agreement**).

If the terms on which your Human Services Agreement is based have been amended, please review the information in this document carefully to make sure they are consistent where necessary.



### Note: organisations funded by the Department of Communities and Justice

The Department of Communities and Justice (**DCJ**) has added supplementary conditions to the standard form Schedule. The most recent DCJ Schedule, dated 16 October 2019 is available on the DCJ website.

This factsheet has not been amended to take into account the DCJ Schedule. If your organisation uses the DCJ Schedule, refer to Not-for-profit Law's fact sheet on the DCJ's supplementary conditions to understand how the DCJ conditions apply to your organisation's obligations under the Agreement.



### Tip

Read this checklist with the Human Services Agreement and the Guide at hand for reference. Clauses that we refer to in this document will be the clauses in the Standard Terms (unless we state otherwise).

Organisations can take a number of practical steps to ensure compliance with the Human Services Agreement.

Use this checklist to review your policies and procedures to check that you will be able to comply with your obligations under the Agreement.

Obligation	Steps to take	Reviewed <input checked="" type="checkbox"/>
<b>Acknowledgement</b>	Acknowledge the funding received from the relevant NSW government agency in publications and publicity related to the services including in your annual report (clause 21)	<input type="checkbox"/>
<b>Complaints</b>	Have a complaints process and a complaints process and register (clause 5.4)	<input type="checkbox"/>
<b>Conflict of interest</b>	<p>Notify the NSW government agency if an actual or potential conflict of interest arises during the term of the Agreement and take steps to deal with the conflict (clause 7).</p> <p><b>Note:</b> Your organisation should have its own written conflict of interest policy</p>	<input type="checkbox"/>
<b>Constitution</b>	Comply with your constitution, governing rules memorandum of association or articles of association when carrying out the Services (clause 5.2(d))	<input type="checkbox"/>
<b>Expenditure</b>	Make sure the funds are only spent on the activities to be provided under the Agreement and not on other aspects of your organisation – funds that are improperly spent may need to be repaid (clause 9.5)	<input type="checkbox"/>
<b>Insurance</b>	Take out insurance as set out in the Schedule	<input type="checkbox"/>



Obligation	Steps to take	Reviewed <input checked="" type="checkbox"/>
<b>Intellectual property</b>	<p>Make sure your organisation legally owns all intellectual property in the Agreement Material (ie. intellectual property created in connection with the Agreement; see definition at clause 1.1) so that intellectual property can be shared with the NSW government agency and used in the ways required under the Agreement</p> <p>Make sure your organisation gets an assignment (or licence) of intellectual property from its contractors, sub-contractors, volunteers and agents when they create any Agreement Material (ie. intellectual property created in connection with the Agreement) (clause 16)</p>	<input type="checkbox"/>
<b>Personnel</b>	<p>Employ personnel who 'hold legally required authorisations, accreditations, permits and clearances' to provide the Services (clause 6.1). This will usually include conducting background checks such as working with children checks, criminal record checks and qualification checks</p> <p><b>Note:</b> The Agreement defines personnel to include volunteers, agents, contractors and sub-contractors as well as Officers and employees. All must be properly authorised, screened and trained</p>	<input type="checkbox"/>
<b>Privacy</b>	<p>Comply with Privacy Legislation which includes having a privacy policy and being aware of the Notifiable Data Breaches scheme. More information is available on <a href="#">the Office of the Australian Information Commissioner's website</a> (clause 18)</p>	<input type="checkbox"/>
<b>Records</b>	<p>Keep proper records and registers about how the funds have been spent and comply with Privacy Legislation (clause 19)</p>	<input type="checkbox"/>
<b>Security</b>	<p>Put in place security and privacy procedures and safeguards and keep the NSW government agency up-to-date. Comply (and ensure Personnel comply) with the secrecy and security requirements in the Notified Policies (clause 25)</p>	<input type="checkbox"/>
<b>Sub-contractor</b>	<p>Ensure any sub-contract agreement includes the same terms and conditions as the Agreement, including a condition allowing NSW government agency to access the premises of the sub-contractor to conduct a performance review or audit (clause 6.3 and 15.3)</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• Sub-contracting arrangements will vary according to circumstance and agency</li> <li>• These resources don't take the place of formal legal advice</li> </ul>	<input type="checkbox"/>
<b>Termination</b>	<p>Provide outstanding reports or data due under the Agreement within 20 days of expiry or termination of the Agreement (clause 13.3)</p>	<input type="checkbox"/>

# Resources

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## Not-for-profit Law resources

Not-for-profit Law has developed a Guide to the Human Services Agreement which includes a fact sheet, a template sub-contract agreement, and a range of checklists which should be read together. See Not-for-profit Law's page on [Government Funding Agreements](#):

- ▶ [Fact sheet - Human Services Agreement: Department of Communities and Justice Supplementary Conditions](#)
- ▶ [Fact sheet – Human Services Agreement: Important clauses](#)
- ▶ [Checklist 1 – How do we meet our notification obligations?](#)
- ▶ [Checklist 2 – How do we meet our reporting obligations?](#)
- ▶ [Checklist 3 – How do we practically comply with the Human Services Agreement?](#)
- ▶ [Checklist 4 – How do we meet our privacy obligations?](#)
- ▶ [Checklist 5 – How do we meet our intellectual property obligations?](#)
- ▶ [Checklist 6 – What are our obligations when engaging Personnel?](#)
- ▶ [Checklist 7 – What records and registers do we need to keep?](#)
- ▶ [Checklist 8 – Things to consider before entering into a sub-contract agreement](#)
- ▶ [Template Sub-contract Agreement](#)

In addition, we have resources on the following related topics:

- ▶ [Background checks](#)
- ▶ [Conflicts of interest and other duties](#)
- ▶ [Documents and records](#)
- ▶ [Employees](#)
- ▶ [Intellectual Property](#)
- ▶ [Privacy](#)
- ▶ [Risk and insurance](#)
- ▶ [Sub-contracts](#)
- ▶ [Volunteers](#)

## Other related resources

[BuyNSW website](#)



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