



GUIDANCE ON BEST PRACTICES FOR COMBATTING THE ABUSE OF NON-PROFIT ORGANISATIONS

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Section 1: Introduction

The Financial Action Task Force (“FATF”), for the purpose of combatting the financing of terrorism, defines a **Non-Profit Organisation** (“NPO”) as:

“a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of good works”.

The objective of FATF Recommendation 8 is to ensure that NPOs¹ are not misused by terrorist organisations to:

	pose as legitimate entities
	exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures
	conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations

In June 2015, the FATF issued its Best Practices Paper on Combatting the Abuse of NPOs² which highlights the measures to protect NPOs from misuse while not disrupting or discouraging legitimate charitable activities.

The Anguilla Financial Services Commission (the “Commission”), in its capacity as the NPO Supervisor³, has the mandate of:

- i. protecting the NPO sector against abuse by terrorist actors, and
- ii. identifying and taking effective action against those NPOs that either are exploited by, or actively support, terrorists or terrorist organisations.

The Commission supports the achievement and maintenance of a high degree of transparency, integrity and public confidence in the management and functioning of all NPOs to ensure the sector cannot be misused for terrorist financing.

The Commission has issued this Guidance to highlight and outline best practices which should be used by NPOs to strengthen their systems to combat abuse by terrorist actors.

¹ The use of NPOs in this Guidance will be limited to those that fall within the FATF definition of an NPO.

² See: <https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Bpp-combating-abuse-npo.html>

³ The Commission is designated as the NPO Supervisor under section 2 of the Non-Profit Organisations Regulations.

Section 2: Terrorist Financing and Abuse of NPOs

The Anti-Money Laundering and Terrorist Financing Regulations (“AML/CFT Regulations”) defines **terrorist financing** as:

“wilfully providing or collecting funds by any means, directly or indirectly, with the knowledge or intention that they are to be used or should be used in full or in part to facilitate the commission of terrorist acts, or to persons or entities acting on behalf of, or at the direction of a person who finances terrorism”.

NPOs have been globally identified as being inherently vulnerable to being used as a conduit for terrorism and terrorist financing (“TF”). NPOs may be vulnerable to terrorist abuse due to:

enjoying a **high level of public trust and confidence** making them an **attractive vehicle for terrorists and other criminal actors** to attempt to mask their activities

often rely on **goodwill and voluntary support** in one form or another

come into **close contact with a large number of persons**, including those who may abuse them, through their services, the use of their property and through their trustees and volunteers.

Some NPOs may also have:

Direct or Indirect Global Presence

- presence in vulnerable international locations such as conflict zones and surrounding areas
- *NPOs often have an unparalleled ability to move funds, supplies and people into or through these areas.*

Complex Financial Operations

- multiple donors, investments and currencies, often receiving and using cash, and having to account for high volumes of small-scale transactions.
- may also have to move funds through intermediaries to deliver their services.

Irregular Income and Expenditure Streams

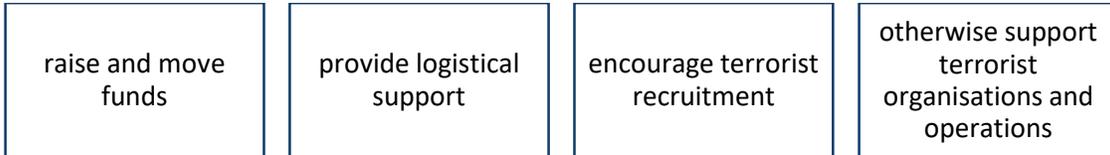
- suspicious transactions may be harder to identify.

Operations in Multiple Countries

- some countries may have weaker regulation to prevent against abuse.

*NPOs are **powerful vehicles** for bringing people together for a common purpose and collective action and may inadvertently provide a **ready-made social network** and **platform of legitimacy** for terrorists or terrorist sentiments.*

Terrorists and terrorist organisations may exploit some NPOs to:



This misuse not only facilitates terrorist activity, but also **undermines donor confidence** and jeopardises the very **integrity of NPOs**. Therefore, protecting the NPO sector from terrorist abuse is both a critical component of the global fight against terrorism and a necessary step to preserve the integrity of the NPO sector and donor community.

2.1 Categories of abuse or risk that NPOs may face

Diversion of Funds

- actors inside the NPO or external actors (such as foreign partners or third-party fundraisers) being responsible for the diversion to support terrorist entities at some point through the NPO's operational or financial processes.

Affiliation with Terrorist Entities

- NPOs or their directing officials knowingly or unknowingly maintaining an affiliation with a terrorist entity which may result in the NPO being abused for multiple purposes, including general logistical support to the terrorist entity.

False Representation

- terrorist entities start "sham" NPOs or falsely represent themselves as the agents of "good works" in order to deceive donors into providing support. Well-planned deceptions are difficult to penetrate with the resources available to non-governmental actors, making oversight by competent authorities and their capabilities a necessary element to detecting the most sophisticated threats to the sector's activities.

Abuse of Programming

- where the flow of resources is legitimate but NPO programmes are abused at the point of delivery

Support of Recruitment Efforts

Section 3: Guiding Principles

The following principles guide the establishment of these best practices:

Oversight of NPOs is a **co-operative undertaking**

- among the NPO Supervisor, the charitable community, persons who support charity, and those whom it serves.
- NPOs and competent authorities charged with their oversight both seek to promote transparency and accountability and, more broadly, common social welfare and security goals.

Regulation and Supervision should be **Flexible, Effective and Proportional**

- Mechanisms that reduce the compliance requirements without creating loopholes for terrorist financiers should be given due consideration.

Establishing **Transparency and Accountability** in the NPO sector

- The regulation of NPOs should adhere to the goals of establishing transparency and accountability in the ways in which NPOs raise and disburse funds.

NPO activities not to support terrorism

- The scope of purposes and activities that are within the definition of “NPO” does not include activities that directly or indirectly support either domestic or international terrorism, including actions that could serve to induce or compensate for participation in terrorist acts

Other Organisations play a role in protecting the NPO sector

- The NPO sector has representational or self-regulatory organisations and accrediting institutions that can and should play a role in the protection of the sector against abuse.

Section 4: Best Practices and Measures to Mitigate the Risk of Abuse of NPOs

Fundamental to ensuring that NPOs protecting themselves from terrorist abuse is having in place **good governance and strong financial management**, including robust internal and financial controls and risk management procedures. NPOs are required to understand its specific terrorist financing risk and implement tailored risk management measures.

4.1 Organisational Integrity

Governing Document

- NPOs should be established and operate in accordance with a **governing document**. A governing document may take the form of articles of incorporation, a constitution, or bylaws, for example.
- The NPO's governing document should outline the NPO's **purposes, objectives, activities, structure, reporting practices, and guidelines for complying with local laws**.

Governance

- Members of the NPO's governing board should understand and act in the interest of the organisation.
- The NPO's governing board is tasked with maintaining oversight over the organisation by **establishing strong financial and human resource polices, meeting on a regular basis** and **actively monitoring activities**.
- All meetings should be documented in the form of **minutes** or a **meeting summary**.

Administration: Responsibilities of Senior Officers, Directors and Board Members

- Lack of knowledge or involvement in the NPO's affairs does not absolve any senior officer, director or board member of responsibility.
- Hence, their **responsibilities** include, but are not limited to:
 - **identifying** each senior officer or director;
 - **ensuring** that appropriate financial controls over programme spending are in place; and
 - **formalising** the manner in which elections to, and removal of, directors or senior officers are conducted.

Administration: Identification and Verification of Identity

- The NPO should **maintain information on the identity** of the person or persons who own, control or direct the NPO's activities including board members, directors, senior officers and trustees.
- Before entering into relationships, agreements or carrying out a one-off transaction, NPOs should carry out appropriate **due diligence** on those individuals and organisations that the NPO **receives donations from, gives money to, or works with closely**.
- Due diligence is performed by:
 - identifying and verifying the **partner or donor**;
 - determining if the partner or donor is acting for a **third party**;
 - identifying and verifying the **beneficial owners** of the partner or donor, and
 - understanding the **circumstances and business** of the partner or donor.
- NPOs should verify **partner and donor reputations** through the use of **selection criteria** and searches of **publicly available information**, including domestic and UN sanctions lists.
- Written agreements** can also be used to **outline the expectations and responsibilities** of both parties, which include detailed information as to the application of funds and requirements for regular reporting, audits and on-site visits.

4.2 Financial Transparency and Accountability

NPOs should:

establish **strong internal and financial controls and monitoring systems** to ensure that funds and services are being used as intended;

should develop, approve and manage an **annual budget** in accordance with the NPO's purposes, objectives and activities;

keep **adequate and complete financial records** of income, expenses, and financial transactions throughout their operations, including the end use of the funds;

clearly state **programme goals** when collecting funds;

ensure that **funds are applied as intended**;

make **publicly available information about the activities** carried out by the NPO;

be informed as to **the sources of their income**; and

establish criteria to determine whether **donations should be accepted or refused**.

Financial Accounting

- The principal person in all NPOs must be committed to **responsibly managing the funds** that donors entrust to them, and to **report the financial affairs accurately and completely**.
- Before accepting and using anonymous donations, an NPO must **apply a greater degree of scrutiny** to satisfy itself that the donation is for a legitimate purpose in furtherance of the NPO’s purpose and objectives.
- Anonymous cash donations** present a **higher level of terrorist financing risk** because of the difficulty in ascertaining the identity and good standing of the donor and the source of funds of the donation.
- If an NPO is unsure about the legitimacy of a donation the NPO should refuse it and make a report to the **Financial Intelligence Unit**.

Use of Regulated Financial Services Channels

- NPOs that handle funds should maintain and keep their funds in **registered bank accounts**, and utilise **regulated financial institutions** to conduct financial transactions, especially when transferring funds overseas.
- NPOs should require **dual signatures to any account**, whether chequing, savings, or investments, and establish a **reasonable threshold** above which prior authorisation from the governing board is mandatory.
- Changes to account signatories should be **approved in writing** by the governing body.
- The use of “cash” or alternative remittance services to transfer funding should only be used as a **last resort**. NPOs should satisfy cash declaration and/or cash disclosure requirements to promote greater transparency and accountability of the funds.

4.3 Programme Planning and Monitoring

Before undertaking projects and programmes, NPOs should:



NPOs should establish procedures to **trace funds, services, and equipment**. NPOs should take appropriate measures, based on the risks, to account for funds and services delivered. **Project performance** should also be monitored on a regular basis by verifying the **existence of beneficiaries**, ensuring the **receipt of funds**, and ensuring that **funds are used for the stated purposes, objectives and activities**.