

United Kingdom – national procedures for mutual legal assistance on
laundrying, search, seizure and confiscation of proceeds of crime
(ETS No. 141)
Updated 01/11/2016

The information contained in this table should be updated on a yearly basis.

| | |
|---|--|
| Procedure for search (asset-tracing) and seizure | |
| <p>All asset tracing should be completed on a police cooperation basis through financial intelligence units (FIUs) before making an MLA request.</p> <p>MLA requests for search and seizure require dual criminality and must satisfy a UK court to issue a search warrant.</p> <p>The officer searching the premises may seize anything which is believed to have been obtained in consequence of the commission of an offence, is evidence in relation to an offence which is being investigated or any other offence and in order to prevent it being concealed, lost, damaged, altered or destroyed.</p> <p>Anything which has been seized or taken away following a search may be retained for the purposes of a criminal investigation.</p> | |
| <p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance (including freezing and seizure):</p> | <p>Orders to freeze or confiscate <u>property</u> in England & Wales under Council Framework Decision 2003/577/JHA¹ or Council Framework Decision 2006/783/JHA:</p> <p>Crown Prosecution Service Proceeds of Crime Rose Court 2 Southwark Bridge London SE1 9HS</p> <p>Tel: +44 (0) 203 3570000 Email ocd.pocu@cps.gsi.gov.uk</p> <p>For complex fraud, bribery and corruption cases:</p> <p>Serious Fraud Office (SFO) Proceeds of Crime Serious Fraud Office 2–4 Cockspur Street London SW1Y 5BS</p> <p>Contact: https://www.sfo.gov.uk/contact-us/reporting-serious-fraud-bribery-corruption/</p> |

¹ Requests for evidence under the 2003 Framework decision should be sent to the UKCA and not the CPS/SFO. If both evidence and property are requested for freezing or confiscating, send two certificates – one to the CPS/SFO and one to UKCA (or the same certificate sent to both CPS/SFO and UKCA)

Orders to freeze or confiscate property in Scotland under Council Framework Decision 2003/577/JHA or Council Framework Decision 2006/783/JHA

International Co-operation Unit
Crown Office
25 Chambers Street
Edinburgh
EH1 1LA

Tel: +44 131 243 8152
Fax: +44 131 243 8153
Email: coicu@copfs.gsi.gov.uk

Orders to freeze or confiscate property in Northern Ireland under Council Framework Decision 2003/577/JHA or Council Framework Decision 2006/783/JHA:

Public Prosecution Service for Northern Ireland (PPSNI)
High Court & International Section
Belfast Chambers
93 Chichester Street
Belfast
BT1 3JR

Under Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime 1990 / Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism 2005

England or Wales or Northern Ireland:

UK Central Authority
International Criminality Unit
Home Office
3rd Floor Seacole Building
2 Marsham Street
London
SW1P 4DF

Fax: +44 20 7035 6985
Tel: +44 20 7035 4040
Email: UKCAILOR@homeoffice.gsi.gov.uk

Scotland:

International Co-operation Unit
Crown Office
25 Chambers Street
Edinburgh
EH1 1LA

Tel: +44 131 243 8152

| | |
|--|---|
| | <p>Fax: +44 131 243 8153 Email: coicu@copfs.gsi.gov.uk</p> |
| <p>If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):</p> | <p>Asset Tracing</p> <p>UK Financial Intelligence Unit (UKFIU) National Crime Agency (NCA) Units 1 - 6 Citadel Place, Tinworth Street, London SE11 5EF</p> <p>Contact: http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu/how-to-report-sars</p> |
| <p>Channels of communication for the request for mutual legal assistance (directly, or other):</p> | <p>Requests from the requesting state's competent authority can be made directly to the central authority</p> <p>England or Wales or Northern Ireland:</p> <p>UK Central Authority International Criminality Unit Home Office 3rd Floor Seacole Building 2 Marsham Street London SW1P 4DF</p> <p>Fax: +44 20 7035 6985 Tel: +44 20 7035 4040 Email: UKCAILOR@homeoffice.gsi.gov.uk</p> <p>Scotland:</p> <p>International Co-operation Unit Crown Office 25 Chambers Street Edinburgh EH1 1LA</p> <p>Tel: +44 131 243 8152 Fax: +44 131 243 8153 Email: coicu@copfs.gsi.gov.uk</p> |
| <p>Means of communication (e.g. by post, fax, e-mail):</p> | <p>Post, fax or email are accepted (no encryption or electronic signature is required). However, the requesting authority will need to comply with its own domestic laws relating to the transmission of requests.</p> |
| <p>Language requirements:</p> | <p>All requests should be in English.</p> |

| | |
|---|---|
| Double criminality requirement, if applicable: | Requests for search and seizure require dual criminality. |
| Other requirements: for example a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods: | <ul style="list-style-type: none"> • A full description of the criminal conduct concerned; • The full address/addresses, or a precise description of any place to be searched; • A full explanation as to where the specific material or type of material is expected to be recovered from, such as within the house, garage premises, garden premises; • Details of how the place to be searched is connected with the case/suspected person; • Full details of the specific material or type of material to be seized and any information available which indicates that the material requested may be held on computer; • Why the material requested is considered both relevant and important evidence to the investigation or proceedings; • Why the evidence is thought to be on the particular premises or in the possession of the particular person concerned; • Why the material would not be produced to a UK court if the natural or legal person holding the material were ordered to do so by means of a witnesses summons; • Appropriate undertakings for the safekeeping and return of any seized evidence; • If it is anticipated that law enforcement officers may come across 'special procedure material' during the course of a search; • Details of any officials from the requesting state who wish to participate in the search and why their presence is necessary. |
| Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts, duration of preservation of bank data, etc.: | <ul style="list-style-type: none"> • All asset tracing should be completed on a police to police cooperation basis through financial intelligence units (FIUs); • There is no central record of bank accounts held in the UK. This information should be requested, where possible, on a police to police cooperation basis before making an MLA request; • The retention policies of banks in the UK vary at around 5 years. |
| Limitation of use of evidence obtained: | Evidence obtained in the UK pursuant to an MLA request from a foreign authority cannot be used for any purpose other than that specified in the original request without the |

| | |
|---|---|
| | <p>consent of appropriate UK authority.</p> <p>Where a requesting authority wishes to use evidence obtained from the UK for a different purpose to that stated in the original MLA request, or to share the evidence with a third country, a formal request to do so must be made in writing by the original requesting state to the relevant central authority in the UK (unless otherwise stated in a relevant treaty). The additional request must contain the following information:</p> <ul style="list-style-type: none"> • The central authority's reference number for the original request; • What evidence is to be used/shared; • How this evidence will be used/shared; • Why this evidence is needed in this new/other investigation / court proceedings. |
| <p>Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:</p> | <p>The restraint order will continue in force until it is varied or discharged by a further order of the court. The court must discharge the order if the requesting state's criminal proceedings are not started within a reasonable time, if the requesting state's criminal proceedings end without an external order being made or if an external order is not registered here for enforcement within a reasonable time.</p> |
| <p>Available asset management system including preservative measures, (for example prejudgment selling), concerning the seized goods:</p> | <p>If the court makes a restraint order in respect of assets which are particularly complex or which require active management, the court may, on the application of the prosecutor, appoint a management receiver (in Scotland, a management administrator) to take control of and manage assets specified in the restraint order.</p> <p>Management receivers/administrators may be given the following powers in relation to any property which is specified in the restraint order:</p> <ul style="list-style-type: none"> • power to take possession of the property; • power to manage or otherwise deal with the property; • power to start, carry on or defend any legal proceedings in respect of the property; • power to realise so much of the property as is necessary |

| | |
|--|--|
| | to meet the receiver's remuneration and expenses. |
| | |
| Procedure for confiscation/ Recognition of foreign decisions. Recovery of confiscated assets. | |
| Confiscation is the registering and enforcing of the requesting state's order against assets in the UK. The confiscation order has the purpose of recovering property, or the value of property received in connection with the commission of crime. This is available for orders following conviction and for non-conviction asset forfeiture orders. | |
| The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for Confiscation/ recognition of foreign judgments/decisions/measures: | <p>Orders to freeze or confiscate <u>property</u> in England & Wales under Council Framework Decision 2003/577/JHA² or Council Framework Decision 2006/783/JHA:</p> <p>Crown Prosecution Service Proceeds of Crime Rose Court 2 Southwark Bridge London SE1 9HS</p> <p>Tel: +44 (0) 203 3570000 Email ocd.pocu@cps.gsi.gov.uk</p> <p>For complex fraud, bribery and corruption cases:</p> <p>Serious Fraud Office (SFO) Proceeds of Crime Serious Fraud Office 2-4 Cockspur Street London SW1Y 5BS</p> <p>Contact: https://www.sfo.gov.uk/contact-us/reporting-serious-fraud-bribery-corruption/</p> <p>Orders to freeze or confiscate <u>property</u> in Scotland under Council Framework Decision 2003/577/JHA or Council Framework Decision 2006/783/JHA</p> <p>International Co-operation Unit Crown Office 25 Chambers Street Edinburgh EH1 1LA</p> <p>Tel: +44 131 243 8152 Fax: +44 131 243 8153 Email: coicu@copfs.gsi.gov.uk</p> |

² Requests for evidence under the 2003 Framework decision should be sent to the UKCA and not the CPS/SFO. If both evidence and property are requested for freezing or confiscating, send two certificates – one to the CPS/SFO and one to UKCA (or the same certificate sent to both CPS/SFO and UKCA)

| | |
|--|--|
| | <p>Orders to freeze or confiscate <u>property</u> in Northern Ireland under Council Framework Decision 2003/577/JHA or Council Framework Decision 2006/783/JHA:</p> <p>Public Prosecution Service for Northern Ireland (PPSNI) High Court & International Section Belfast Chambers 93 Chichester Street Belfast BT1 3JR</p> <p>Under Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime 1990 / Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism 2005</p> <p>England or Wales or Northern Ireland:</p> <p>UK Central Authority International Criminality Unit Home Office 3rd Floor Seacole Building 2 Marsham Street London SW1P 4DF</p> <p>Fax: +44 20 7035 6985 Tel: +44 20 7035 4040 Email: UKCAILOR@homeoffice.gsi.gov.uk</p> <p>Scotland:</p> <p>International Co-operation Unit Crown Office 25 Chambers Street Edinburgh EH1 1LA</p> <p>Tel: +44 131 243 8152 Fax: +44 131 243 8153 Email: coicu@copfs.gsi.gov.uk</p> |
| <p>If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):</p> | <p>N/A</p> |
| <p>Channels of communication for the</p> | <p>Requests from the requesting state's competent authority</p> |

| | |
|--|--|
| request for mutual legal assistance (directly, or other): | can be made directly to the central authority |
| Means of communication (e.g. by post, fax, e-mail): | Post, fax or email are accepted (no encryption or electronic signature is required). However, the requesting authority will need to comply with its own domestic laws relating to the transmission of requests. |
| Language requirements: | All requests should be in English |
| Document requirements and modalities/requirements for the procedure of confiscation: | The original or duly authenticated copy of the order must be provided with the request. |
| Other requirements, if applicable: For example: a link between the proceeds and the criminal offence. In case of money laundering, what are the requirements for the predicate offence(s): | <p>The following applies to MLA:</p> <ul style="list-style-type: none"> • There is dual criminality; • The person named in the order is convicted and no appeal is outstanding in respect of that conviction; • The order is in force and is not subject to appeal; • All or a certain amount of the sum payable under the order remains unpaid in the territory of the requesting state or that other property recoverable under the order remains un-recovered there; • The order has the purpose of recovering property, or the value of property received in connection with the commission of crime; • The order made can be enforced outside the jurisdiction of the requesting state. • The material facts of the case – including any defence or explanation put forward by the defendant/suspect, any facts that have come to light after the restraint order was made. This will enable the court to decide whether to maintain or discharge the restraint order; • Why the order is necessary – include an explanation that will enable the court to consider whether there is a real risk that the identified property will be dissipated if no order is made; • The name, address, nationality, date and place of birth and present location of the suspect(s) or defendants whose criminal conduct has given rise to anticipated confiscation or forfeiture proceedings; • Details of the property to be confiscated in the UK, the persons holding it and the link between the suspect and the property (this is important if the property to be restrained is held in the name of a third party such as a company or another person); • Whether prior assistance in the case (including asset |

| | |
|--|--|
| | <p>tracing assistance) has been provided and, if so, details of the UK authorities involved and details of the assistance already received. If assistance has not previously been sought or provided this should be clearly stated;</p> <ul style="list-style-type: none"> • Where applicable, details of any court orders already made in the requesting state against the suspect in respect of his or her property and a duly authenticated copy of that order certified by a person in his or her capacity as a judge, magistrate or officer of the relevant court of the requesting state, or by an official of the requesting authority. If no court orders have been made, this should be clearly stated; • If possible, brief details of all known property held by the suspect outside the UK. |
| | |
| <p>Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:</p> | <p>The UK is able to provide assistance to overseas authorities in an external investigation into whether property has been obtained as a result of or in connection with crime. Assistance can also be provided into investigating the extent or whereabouts of property obtained as a result of or in connection with crime. It is not necessary in providing this assistance for there to be an ongoing criminal investigation or to have been a criminal conviction.</p> |
| | |
| <p>Procedure for sharing of assets, if applicable:</p> | <p>Once the assets have been realised they will be disposed of under one of three processes:</p> <ul style="list-style-type: none"> • Stolen State asset cases that fall under the provisions of the United Nations Convention Against Corruption (UNCAC) will be returned to the recipient country less reasonable expenses; • Cases that do not fall under the provisions of UNCAC can be shared with the recipient country if it enters into an asset sharing agreement with the UK. The UK seeks to establish asset sharing agreements wherever possible (under Article 16 of Council Framework Decision 2006/783/JHA there is an asset share of 50:50 in cases involving 10,000 Euros and above); • If there is no formal agreement with a country or territory, there are administrative arrangements that allow assets to be shared on a case-by-case basis. <p>In the absence of any asset sharing agreement the assets will be retained by the UK and disposed of according to domestic law.</p> |

| | |
|---|--|
| <p>Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to the persons concerned:</p> | <p>Procedural documents may be sent directly by the requesting authority to the persons in the UK to whom they relate. The UK strongly encourages direct transmission of procedural documents to persons by post, unless this is not legally possible under the domestic law of the requesting authority.</p> <p>Under Article 5 of the EU Mutual Assistance Convention 2000 (MLAC), EU Member States must send procedural documents directly to the person concerned, unless one of the reasons in Article 5(2) applies:</p> <p>(a) the address of the person for whom the document is intended is unknown or uncertain; or</p> <p>(b) the relevant procedural law of the requesting Member State requires proof of service of the document on the addressee, other than proof that can be obtained by post; or</p> <p>(c) it has not been possible to serve the document by post; or</p> <p>(d) the requesting Member State has justified reasons for considering that dispatch by post will be ineffective or is inappropriate.</p> <p>Failure to do so may result in the request being returned to the requesting authority.</p> |
| | |
| <p>Other particularly relevant information on special types of assistance</p> | |
| | |
| <p>Non Conviction Based Confiscation:</p> | <p>Civil Recovery is non-conviction based forfeiture. Civil orders are in rem (directed against property rather than a particular person) as opposed to criminal orders which are in personam (directed toward a particular person).</p> <p>Section 447 of the Proceeds of Crime Act 2002 states the general criteria for an external request - (a) is made by an overseas court where property is found or believed to have been obtained as a result of or in connection with criminal conduct, and (b) is for the recovery of specified property or a specified sum of money.”)</p> <p>This means that there has to be at least a prima facie case that the property is derived from criminal conduct and may</p> |

| | |
|---|---|
| | <p>be made subject to an order of the overseas jurisdiction.</p> <p>Part 5 of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 states the conditions in which the High Court can give effect to an external request to freeze property in civil proceedings - (a) it is relevant property identified in an external request, and (b) proceedings have not yet been taken in relation to the property under Chapter 2 of Part 5 of this Order.”</p> <p>The request must identify the property and set out the reasons why the property is relevant property.</p> <p><i>Property is relevant property if there are reasonable grounds to believe that it may be needed to satisfy an external order which has been or which may be made.</i></p> |
| | |
| <p>MLA regarding liability of legal persons (criminal, civil or administrative):</p> | <p>A company is a separate legal entity with its own legal rights and obligations independent and distinct from the defendant. In normal circumstances, therefore, they do not constitute realisable property of the defendant. However, a long line of authorities have established that where a defendant is in control of a company and it has been used to facilitate the criminal conduct complained of, the court may pierce the corporate veil of the company and treat it as the realisable property of the defendant.</p> <p>The Court will not, however, permit the restraint order to operate at the pre-conviction stage in such a way as to preclude the company engaging in legitimate trading activity. The restraint order will need to make provision for company assets to be released to facilitate such activity. In cases of particular complexity, an application for the appointment of a management receiver may be necessary.</p> <p>In all cases where an application to pierce the corporate veil of a company is contemplated, advice from the Central Units of the CPS POC service should be sought.</p> |
| | |
| <p>Other information (for example, extended confiscation, confiscation for the purpose of victims):</p> | <p>The UK operates a system of extended confiscation in domestic cases and is able to recognise orders made on that basis made in overseas jurisdictions. Under UK law the Court can order confiscation of the benefit of a Defendant's criminal offending (confiscation) and reimbursement of victims of their losses (compensation). Where a confiscation and compensation order is made, the Court may direct payment of compensation out of the sums recovered for confiscation. Where an overseas order which is registered in the UK under mutual recognition or mutual legal assistance either wholly or partly includes an element</p> |

| | |
|--|--|
| | of compensation for victims, the UK will take this into account when considering the terms of the sharing of assets. |
| | |
| Links to national legislation, national guides on procedure: | Proceeds of Crime Act 2002 Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 Proceeds of Crime Act 2002 (External Investigations) Order 2013 The Proceeds of Crime Act 2002 (External Investigations) Order 2014 |