

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND**

AND THE BAILIWICK OF JERSEY

**REGARDING THE SHARING OF FORFEITED OR CONFISCATED ASSETS OR
THEIR EQUIVALENT FUNDS**

15 March 2024

1. The Government of the United Kingdom of Great Britain and Northern Ireland and the Bailiwick of Jersey, hereinafter referred to as “the Participants”;
2. Considering the commitment of the Participants to the terms set out in the United Nations Convention against Transnational Organised Crime signed by the UK in New York on 15th November 2000 and the Protocols thereto, which were extended to Jersey by the UK in 2014;
3. Desiring to improve the effectiveness of law enforcement in both jurisdictions in the investigation, prosecution and suppression of crime and in the tracing, freezing, seizure or forfeiture of assets related to crime; and
4. Desiring also to create a framework for sharing the proceeds of disposition of such assets and equivalent funds;
5. Have reached the following understandings:

Interpretation

6. For the purposes of this Memorandum of Understanding (MoU);
 - (a) references to “forfeiture” or “confiscation” will be taken to be references to any procedure under national law resulting in:
 - (i) in the case of the United Kingdom of Great Britain and Northern Ireland a confiscation order or civil recovery order which is made by a court and which is not, or is no longer, capable of being the subject of any form of appeal proceedings
 - (ii) in the case of Jersey, a confiscation order or a civil forfeiture order which is made by the Royal Court and which is not, or is no longer, capable of being the subject of any form of appeal proceedings;
 - (b) references to “co-operation” will be taken to be references to any assistance including intelligence, operational, legal or judicial assistance, which has been given by one Participant and which has contributed to, or significantly facilitated, forfeiture or confiscation in the territory of the other Participant;
 - (c) references to “assets” which will be taken to be references to assets which are in the possession of a Participant and which comprise the net proceeds realised as a result of forfeiture or confiscation, after deduction of the costs of realisation;
7. The provisions of this MoU are to be interpreted accordingly.

Circumstances in which Assets may be Shared

8. In any case where one Participant (the Assisted Participant) is in possession of assets, and it appears to that participant that co-operation has been given by the other Participant (the Assisting Participant), the Assisted Participant may in accordance with its domestic law, share with the Assisting Participant the net proceeds realised.

Requests for Asset Sharing

9. A request for asset sharing may be made by the Assisting Participant and will be made in accordance with the provisions of this MoU.
10. A request will set out the circumstances of the co-operation to which it relates and will include sufficient details to enable the Assisted Participant to identify the case, the assets and the agency or agencies involved.
11. On receipt of a request for asset sharing made in accordance with the provisions of this MoU the Assisted Participant will:
 - (a) consider whether to share assets as set out in paragraph 8 of this Memorandum of Understanding, and;
 - (b) inform the Assisting Participant of the outcomes of that consideration

Allocation of Shares

12. Where the Assisted Participant proposes to share assets with the Assisting Participant it will:
 - (a) determine in accordance with its domestic law, the proportion of the assets to be shared which, in its view, represents the extent of the co-operation given by the Assisting Participant, and;
 - (b) pay a sum equivalent to that proportion to the Assisting Participant in accordance with paragraphs 17-19 of this MoU.
13. The Participants accept that it may not be appropriate to share assets where the value of the realised assets or the assistance rendered is *de minimus*, subject to previous consultations between them.
14. To the extent permitted by domestic law and policy, the Participants anticipate that in ordinary cases where the Assisted Participant has executed, enforced or otherwise recognised a confiscation or forfeiture judgment that was obtained primarily by the investigative and litigating efforts of the Assisting Participant, sharing will be in equal proportions. However, if a Participant has expended extraordinary resources to execute, enforce or otherwise recognise the other Participant's confiscation or forfeiture judgment, or provided substantial evidence or investigative resources to support or obtain that judgment, then the Assisted Participant may take such efforts into account in making a determination in accordance with paragraph 12.
15. The Assisted Participant may add interest or other increase in value accrued since the restraint and deduct the expenses required to obtain and maintain the order and the assets as well as to enforce the order.
16. Where there are identifiable victims of the criminal conduct underlying the confiscation or forfeiture judgment, unless otherwise decided by the Participants, consideration of the rights of those victims is expected to take precedence over asset sharing between the Participants except: (a) where the number of victims and the value of confiscated assets is such that each victim's portion would be *de minimus*; or (b) where the value of confiscated assets exceeds the victims losses,

in which event, the excess may be shared. Where a money laundering offence gives rise to a confiscation or forfeiture judgment and involves a predicate offence with identifiable victims, those victims will be deemed victims of the money laundering offence for the purposes of implementing this paragraph.

Payment of Shared Confiscated Proceeds of Crime

17. Any sum transferred pursuant to this MoU will be paid:

(a) by means of an electronic transfer of funds, unless the Participants decide otherwise.

18. Payment of any such sum will be made:

(a) in any case in which the Government of the United Kingdom is receiving payment, for matters pertaining to England, Wales or Northern Ireland to

(i) The Criminal Finances and Asset Recovery Unit within the Home Office at 2 Marsham Street, London, SW19 4DF, in relation to matters pertaining to England, Wales or Northern Ireland, or

(ii) Crown Office and Procurator Fiscal, 25 Chambers Street, Edinburgh, EH1 1LA, for matters pertaining to criminal confiscation in Scotland, or

(iii) Civil Recovery Unit, c/o 25 Chambers Street, Edinburgh, EH1 1LA for matters pertaining to civil recovery in Scotland

(b) in any case in which the Bailiwick of Jersey is receiving payment, to the States of Jersey Criminal Offences Confiscation Fund or the Civil Asset Recovery Fund as notified to the Government of the United Kingdom of Great Britain and Northern Ireland by the Bailiwick of Jersey.

19. Or to such other recipient or recipients as the Participants may from time to time specify by notification for the purposes of this Paragraph.

Channels of Communication

20. All communications between the Participants pursuant to the provisions of this MoU will be conducted as follows:

(a) for the Government of the United Kingdom of Great Britain and Northern Ireland:

(i) The Criminal Finances and Asset Recovery Unit within the Home Office at 2 Marsham Street, London, SW19 4DF, in relation to matters pertaining to England, Wales or Northern Ireland, or

(ii) Crown Office and Procurator Fiscal, 25 Chambers Street, Edinburgh, EH1 1LA, for matters pertaining to criminal confiscation in Scotland, or

(iii) Civil Recovery Unit, c/o 25 Chambers Street, Edinburgh, EH1 1LA for matters pertaining to civil recovery in Scotland

(b) for the Bailiwick of Jersey: the Mutual Legal Assistance Team within the Law Officers' Department at Morier House, Halkett Place, St Helier, Jersey JE1 1DD.

21. Or to such other recipient or recipients as the Participants may from time to time specify by notification for the purposes of this Paragraph.

Entry into Effect

22. This MoU will come into effect on signature.

23. The foregoing record represents the understandings reached between the Government of the United Kingdom of Great Britain and Northern Ireland and the Bailiwick of Jersey upon the matters referred to therein.



Tom Bell, Deputy Director, Criminal
Finances Unit, Home Office

For the Government of the United
Kingdom of Great Britain and Northern
Ireland

13/03/2024



His Majesty's Attorney General

For the Bailiwick of Jersey

15/03/24