

Charity sector guidance

Financial Sanctions guidance for charities and other non-governmental organisations (NGOs)



HM Treasury
Office of Financial
Sanctions Implementation

December 2020



Charities and NGOs

This document covers questions relevant to charities and non-governmental organisations (NGOs), especially those operating in areas where financial sanctions are in force. It should be read alongside OFSI's Financial Sanctions Guidance. Helpful sources of information are listed at the end of this document.

Office of Financial Sanctions Implementation

This guidance is produced by the Office of Financial Sanctions Implementation (OFSI), part of HM Treasury, the authority for the implementation of financial sanctions in the United Kingdom.

It provides financial sanctions guidance for entities and individuals which operate in, or with, the charity or NGO sector, especially those

involved in work that may include activity with those subject to UK financial sanctions. This should be considered supplementary to, and not a replacement for, OFSI's general guidance document. Further sources of information which may prove helpful are listed at the end of this document.

This guidance does not represent legal advice. If you are unsure about your obligations in a given case, you should consider seeking independent legal advice.

What are sanctions?

Sanctions help the UK meet its foreign policy and national security aims, while maintaining confidence in its business sectors. Sanctions regimes are imposed for a variety of reasons such as proliferation of nuclear weapons, terrorist activity, and violation of human rights. Effective implementation and enforcement of sanctions is essential in helping to stop these actions.

Sanctions are used to:

- coerce designated persons into changing their behaviour
- deny them access to resources they need to continue their 'offending behaviour'
- signal disapproval, stigmatise and potentially isolate
- send broader political messages to domestic and international audiences, and
- protect assets that have been misappropriated.

Sanctions are imposed by the United Nations, European Union, UK and other countries, such as the United States, Canada and Japan. They include arms embargoes, trade sanctions, immigration sanctions and financial sanctions.

Financial sanctions: Charities and NGOs

Charities and NGOs must comply with financial sanctions. It is a criminal offence to breach financial sanctions. This applies to charities and NGOs, including individual members of staff, regardless of whether they are government-funded.

However, charities and NGOs can:

- rely on exceptions in the law which permit certain activities or
- apply for a licence to work with or through a sanctioned individual or organisation.

For more information, please review the licensing section of this guidance, and [OFSI's Financial Sanctions Guidance](#).

Dealing with a designated person

An individual or entity who is the subject of sanctions is referred to as a 'Designated Person' (DP). If you think you are dealing with a DP, review the information you have about the individual or organisation, checking OFSI's 'consolidated list' of those subject to financial sanctions on its pages of the GOV.UK website:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

If you are unsure and there is no risk to yourself, consider asking them for more information.

You should also consider if they are 'owned' or 'controlled' by individuals or organisations subject to financial sanctions, either directly or indirectly.

OFSI's Financial Sanctions General Guidance also includes more information on 'ownership and control'. However, if you are still unsure, contact OFSI immediately.

If you establish that you are dealing with a sanctioned individual or organisation, take three steps:

1. Contact OFSI immediately
2. Freeze their funds and economic resources in your possession
3. Do not make funds or economic resources available to them.

The OFSI General Guidance contains more detailed information. We have also included a glossary of terms (see Annex I) which defines 'economic resources'.

It is against the law to receive money, goods or economic resources from, or send these to – an individual or organisation subject to financial sanctions, unless you have a licence from OFSI. However, there are specific exceptions that may permit certain actions.

More information about licences is available later in this document.

Financial sanctions imposed by other countries

As a member of the UN Security Council, the UK imposes all financial sanctions created by this body as well as some of its own financial sanctions.

Financial sanctions imposed by other governments may also impact your ability to operate where:

- your operations are within their jurisdiction
- goods originate from that country (if exporting goods)
- you are dealing in their currency.

If you operate in (or through) another country, check:

- what financial sanctions are in place in that country
- if you need a licence with the relevant licensing body.

If you plan to transact in US dollars or work with US persons or companies, check that you comply with US sanctions.

You can liaise with the US sanctions administrator, the Office of Foreign Assets Control (OFAC), for more information.

You may need a licence from OFAC as well as from OFSI.

OFAC has its own website:

<https://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>

Due diligence

Each organisation should assess its own exposure and put due diligence measures in place to manage any risks. OFSI does not mandate specific measures to be taken. OFSI can provide guidance as to what measures may be helpful (set out below), but the onus remains on the charity or NGO to ensure that it has put in place sufficient measures to ensure it does not breach financial sanctions. The following is general guidance regarding due diligence measures which NGOs and charities may wish to consider:

- Make yourself aware of financial sanctions imposed by the UK, and UN and who they impact. OFSI publishes an up-to-date, online list of those subject to financial sanctions in the UK:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

- Assess all aspects of your proposed project, including payment and supply chains, to identify if any partners, contractors or financial institutions appear on the above sanctions list, or are owned or controlled by any listed persons
- Tailor your compliance approach to the likelihood of you dealing with these individuals and organisations, directly or indirectly
- Consider financial crime risks such as: terrorist financing, corruption or laundering the proceeds of crime – they all form part of a comprehensive compliance approach

If you do the above, it may help you later – your bank may require information on your compliance approach before processing payments as it needs to ensure compliance with financial crime laws applicable to both you and itself.

- Where there are risks, such as a project based in a high-risk location, conduct thorough checks of who you are dealing with, checking all points in the payment chain and those involved in your project on the ground.

If you think you may be conducting business with individuals or organisations subject to financial sanctions:

- contact OFSI
- consider if you should apply for a licence from OFSI.

Breaching Financial sanctions

Breaching financial sanctions is a criminal offence. If you suspect you may have breached financial sanctions, contact OFSI immediately, even if you are unsure and want to make further checks.

It is in your interest to declare a breach or potential breach as early as possible to reduce your regulatory risk, i.e. action being taken against you.

OFSI considers self-disclosure of information when deciding what action to take and whether a monetary penalty for a breach is appropriate and, if so, the level of the penalty.

Charity Commission guidance

The Charity Commission advises you to report any breach in line with its Serious Incident Report Framework. This should be emailed to:

rsi@charitycommission.gov.uk

The government publishes guidance on reporting 'Serious Incidents':

<https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>

Finally, you have a duty to report certain terrorist financing offences to a constable under Section 19 of the Terrorism Act 2000. Information about this is also published by The Charity Commission:

<https://www.gov.uk/government/news/terrorism-act-alert-30-september-2015>

Licensing

If a certain activity is prohibited under a financial sanctions regime, and there is no relevant exception in the law which permits it, you need to apply for a licence. Activity is not necessarily permitted just because it is for a charitable or humanitarian purpose.

An OFSI licence allows financial activity with individuals or organisations, subject to financial sanctions, which would normally be prohibited.

Licences can only be granted where there are specific and relevant licensing grounds. There is often – but not always – a licensing ground that specifically relates to humanitarian activities. This will be set out in the relevant piece of legislation.

It is important to be aware of the relevant licensing grounds which vary for each regime and can include constraints. There are also usually attached reporting requirements.

Applicable licensing grounds are covered in the regulations for each financial sanctions regime.

Information about what financial sanctions are in place for each regime is available on OFSI's pages on GOV.UK:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

Applying for a licence

The charity – as opposed to the grant-maker or donor – that is dealing with the individual or organisation subject to financial sanctions applies for the licence.

The humanitarian licence is the most common licence issued to charities and NGOs, but you should review the full list of licences before applying. This list can be found in OFSI's Financial Sanctions Guidance.

An application cannot be made retrospectively. Undertaking prohibited activity without a licence is an offence and will lead to enforcement action being taken, which could include but is not limited to a warning, a civil monetary penalty or criminal prosecution. OFSI's Financial Sanctions Guidance covers this in more detail.

You do not need a licence for most humanitarian work. However, you do need a licence if, for instance, you are:

- dealing directly or indirectly with a sanctioned individual or organisation in a way that is prohibited under the relevant financial sanctions regulations

- sending funds or providing goods or services to North Korea.

This list of indicative instances is not exhaustive, and as new financial sanctions regimes can be introduced at any time and existing ones are subject to change, please check that you are following current regulations and contact OFSI if you are unsure of anything.

Always check the relevant regulations to ensure you are compliant. Certain regimes have 'blanket conditions' that apply even if there is not a sanctioned individual or organisation involved in the activities.

Government-funded projects

Even if you are receiving Government funding, you need a licence if you plan to make funds or economic resources available to individuals or organisations subject to financial sanctions. There may also be additional provisions which are outlined in the regulations.

Discuss any potential licensing requirements as early in the process as possible as licences need to be approved by the UK government, as well as potentially by the UN.

Please read OFSI's Financial Sanctions General Guidance which includes information on when you should apply for a licence.

Cash carrying

Although entire countries are not usually subject to financial sanctions, some activities in certain countries are restricted.

Normally, individuals and organisations subject to financial sanctions are listed under a country or terrorist 'regime'.

These financial sanctions are not necessarily asset freezes. For instance, certain financial sanctions regimes place restrictions on making financial transfers (including taking cash into) to countries.

Check the relevant regulations available on OFSI's GOV.UK web pages, to find out what sanctions are in place:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

Even if you are dealing in cash, or anything that could be exchanged for it, the same rules apply; you are not permitted to make funds or any economic resources available – directly or indirectly – to individuals or organisations subject to financial sanctions without a relevant exception that covers your activity, or a licence from OFSI.

Cash carrying: Charity Commission guidance

The Charity Commission for England and Wales advises to only make cash payments in exceptional circumstances, given the greater risks of doing this.

As well as the risk to the personal security of staff, there is the risk of cash being:

- diverted to sanctioned individuals or organisations
- used to fund terrorist or corrupt activity.

The Charity Commission's Compliance Toolkit contains more information:

<https://www.gov.uk/government/collections/protecting-charities-from-harm-compliance-toolkit#chapter-4>

Timeframes for humanitarian licences

OFSI treats applications for licences for humanitarian purposes – where there are genuine life-threatening circumstances – as high priority.

Although we can't provide timeframes as each case will vary, we'll ensure that you're kept up-to-date on urgent requests. Again, more information about timeframes is covered in OFSI's Financial Sanctions Guidance.

There may be some activities that are prohibited and can not be licensed. These vary from regime to regime and depend on the relevant regulation.

For example, OFSI is not able to licence payments, such as taxes or fees paid to those

subject to an asset freeze, where there is no exemption and no licensing ground exists. However, this prohibition does not include legitimate tax payments to legitimate tax authorities not subject to an asset freeze.

Sometimes fees or taxes you are asked to pay could constitute a payment of a bribe to a government official or a terrorist group, for instance, in exchange for being able to operate in an area.

There are humanitarian exceptions under certain regimes. Asset freeze exemptions may also exist. More information on exemptions is available in the relevant regulations.

Please check the relevant regulations for the financial sanctions regime for up-to-date information, including the terrorist financing sanctions regimes as certain exemptions do not apply under these regimes:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

Export Control Joint Unit (ECJU) licences

You need to consider whether your activity requires an additional 'export licence' from the ECJU; part of the Department of Trade (DIT), if you plan to export goods to any country or person where:

- financial sanctions apply or
- there is a trade embargo.

More information can be found on the ECJU website:

<http://www.gov.uk/government/organisations/export-control-organisation/about>

You may need a licence from both OFSI and ECJU if you are exporting goods or services and making payments relating to this activity:

- ECJU issues licences for goods or services and
- OFSI issues licences for financial activities.

Also consider if further licences (for both financial activities and exports) are required

under other countries' laws, depending on the origin or shipment route of the goods.

Further considerations

Be aware of money laundering, bribery and corruption risks and how these apply to your operations.

You also need to comply with financial sanctions that target terrorist financing.

For more information, visit OFSI's web page on terrorist financing.

Financial Services Organisations

While requirements will vary, it is usually best to provide as much background information to your bank as possible.

Organisations, such as banks, may require similar information to OFSI:

- The planned payment amount(s) and currency
- The purpose for the payment(s)
- The payment route(s), e.g. correspondent banking channels
- The sender and receiver of funds, including intermediaries and beneficiaries, e.g. local partners and suppliers
- How the funds will be accounted for
- Details of goods, if any, including the nature of the goods, the country of origin and destination
- Copies of applicable licences, including export licences
- Information about your due diligence or compliance approach

Hawala payment chains

Taking Hawala payment chains as an example, due to their complex and less transparent nature, the risk of a sanctioned person or organisation being involved is greater.

This may mean that some banks or financial services organisations may be less willing to provide services where such payment chains are used.

If the only option is to facilitate a payment through a Hawala payment chain:

- obtain as much information as possible about the Hawala provider and the parties involved and
- discuss the payment route with your bank in advance.

Bank actions

An OFSI licence only permits an activity that would otherwise be prohibited under the regulations. It does not compel an organisation, such as a bank, to open an account, keep an account open or to conduct a transaction.

Banks will rely on their internal policies or appetite to risk when contemplating their business exposure. Additionally, they may be required to comply with other countries' laws which prohibit certain activity.

As an illustration, a bank may restrict an activity due to a lack of information from the customer, but it may have a formal procedure to request a review of the decision. Alternatively, it may require certain information as part of its due diligence checks about the nature of the activity, parties involved or whether any licences apply.

If you have a licence, your bank is likely to need to see a copy.

If you are unable to resolve an issue you may have with a bank directly, having exhausted the matter through its formal escalation procedures, you may approach the Financial Ombudsman Service:

<http://www.financial-ombudsman.org.uk/>

Country specific guidance

Syria

The UK's Syria sanctions regime provides for restrictive measures (including asset freezes) to be imposed on those identified as:

- leading business people operating in Syria
- members of Assad or Makhoul families
- Syria Government ministers after May 2011
- members of Syria armed forces of the rank colonel or higher after May 2011
- members of Syria security and intelligence services in post after May 2011
- members of regime-affiliated militias; and persons operating in the chemical weapon proliferation sector

There are several financial restrictions including in relation to:

- making funds or economic resources directly or indirectly available to designated persons
- sale or purchase of certain Syrian public or guaranteed bonds
- establishment of new banking relationships
- provision of certain insurance and reinsurance products
- engagement or investment in the Syrian oil industry sectors of exploration, production or refining; and construction of new power plants for the production of electricity in Syria

There are further restrictions, including on:

- the import and/or export of certain goods from/to Syria (those which might be used for internal repression, jet fuel, luxury goods, key equipment for the oil and gas industry, and telecommunications monitoring and interception equipment)
- the import, export, or transfer of certain

cultural property and precious metals

- the import of arms, and crude oil and petroleum products
- the delivery of Syrian denominated banknotes and coinage to the Central Bank of Syria

The above lists are not exhaustive and do not give full details of what the restrictions are in each case. The relevant regulations should be consulted for a complete picture of the relevant restrictions.

The relevant regulations should be consulted for a complete picture of the relevant exceptions.

Petroleum products / crude oil

Crude oil or petroleum products exported from or that originated in Syria are restricted goods. The import, purchase or transport of such restricted goods requires a licence from the Export Control Joint Unit (ECJU), part of the Department for International Trade (DIT) (see contact details at the end of this guidance). It is also prohibited to provide financing, financial assistance, insurance and re-insurance for such restricted goods.

If the trade or related financing of these restricted goods involves the release of frozen funds, or funds or economic resources being made available to a designated person, a license from both DIT and OFSI would be required. You should check if the humanitarian exceptions and/or licences could apply to your activities.

Exceptions

There are specific exceptions which apply to certain activities, which are set out in the relevant regulations.

For example, organisations providing humanitarian assistance to the civilian population in Syria are exempt from the prohibitions relating to purchase and transfer of petroleum products (where these are purchased or transported for the sole purposes of providing humanitarian relief in Syria or assistance to the civilian population) if they have received funds from the UK Government. Those who don't receive such public funds will need to apply for a licence

Annex I

Funds generally means financial assets and benefits of every kind, including but not limited to:

- cash, cheques, claims on money, drafts, money orders and other payment instruments
- deposits with financial institutions or other entities, balances on accounts, debts and debt obligations
- publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts
- interest, dividends or other income on or value accruing from or generated by assets
- credit, right of set-off, guarantees, performance bonds or other financial commitments
- letters of credit, bills of lading, bills of sale
- documents showing evidence of an interest in funds or financial resources
- any other instrument of export financing

Economic resources generally mean assets of every kind – tangible or intangible, movable or immovable – which are not funds but may be used to obtain funds, goods or services. This includes but is not limited to:

- precious metals or stones
- antiques
- vehicles
- property

Dealing with **funds** generally means moving, transferring, altering, using, accessing, or otherwise dealing with them in any way which would result in any change to their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.

Dealing with **economic resources** generally means using the economic resources to obtain funds, goods, or services in any way, including, but not limited to, by selling, hiring or mortgaging them. The everyday use by a designated person of their own economic resources for personal consumption is not prohibited.

If **funds** or **economic resources** are made available (directly or indirectly) to or for the benefit of a designated person and they obtain, or can obtain, a 'significant financial benefit', or for use in exchange for funds, goods or services, this may constitute a criminal offence.

In this case, 'financial benefit' includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

Goods generally means items, materials and equipment.

Annex II

Financial sanctions cross various jurisdictions and the responsibilities of other UK Government departments. You may find the following links useful:

OFSI

Helpline:

020 7270 5454

Monday – Friday, 9am – 5pm GMT

Email enquiries:

ofsi@hmtreasury.gov.uk

Visit OFSI's web pages:

<https://www.gov.uk/ofsi>

OFSI's Financial Sanctions Guidance:

<https://www.gov.uk/government/publications/financial-sanctions-faqs>

Subscribe to OFSI's e-alert:

<http://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new>

OFSI blog:

<https://ofsi.blog.gov.uk/>

Home Office and OFSI

The Home Office published a note for international non-governmental organisations about operating within counter-terrorism legislation:

<https://www.gov.uk/government/publications/operating-within-counter-terrorism-legislation/for-information-note-operating-within-counter-terrorism-legislation>

The Charity Commission for England and Wales

The Commission have published a compliance toolkit to help charity trustees manage risks and safeguard their charities from terrorism, fraud and other forms of abuse:

<https://www.gov.uk/government/collections/protecting-charities-from-harm-compliance-toolkit>

Export Control Joint Unit

For more information on export controls, contact the Export Control Joint Unit in the Department for International Trade, on

+44 (0) 20 7215 4594

or email

exportcontrol.help@trade.gov.uk

US Treasury's Office of Foreign Assets Control (OFAC)

OFAC published guidance on US sanctions and humanitarian assistance:

<https://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>

Financial Action Task Force (FATF):

It published a best practice paper on combating the abuse of non-profit organisations:

<http://www.fatf-gafi.org/documents/documents/bpp-combating-abuse-npo.html>