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Country Review Report of the United Kingdom of Great Britain and Northern Ireland

Review by *Turkey* and *Israel* of the implementation by the *United Kingdom of Great Britain and Northern Ireland* of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021

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I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.

2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.

3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.

4. The review process is based on the terms of reference of the Review Mechanism.

II. Process and scope of the review

5. The following review of the implementation by the United Kingdom of Great Britain and Northern Ireland (hereinafter, UK) of the Convention is based on the completed response to the comprehensive self-assessment checklist received from the UK, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Turkey, Israel and the UK, by means of telephone conferences, e-mail exchanges or any further means of direct dialogue in accordance with the terms of reference and involving, principally: Andrew Preston, Renny Mendoza and Conchita Castro (Joint Anti-Corruption Unit, UK); Yitzchak Blum and Ori Kivity (Ministry Of Justice, Israel) and Murat Erdem, Bayram Erdaş and Bahattin Emre (Ministry of Justice, Turkey). The staff members of the Secretariat were Tanja Santucci and Meder Begaliev.

6. A country visit, agreed to by the UK, was conducted in London from 2-6 July 2018 and, in respect of the British Virgin Islands, in Vienna from 5 to 6 September 2018. The present report is dated May 2019, following the publication of the Executive Summary of the UK review for the tenth session of the Implementation Review Group (27-29 May 2019).

7. Separate reviews were carried out to assess the implementation of the Convention by the Bailiwick of Guernsey, Bailiwick of Jersey, Isle of Man, and the British Virgin Islands. The review reports of these jurisdictions are contained in the annexes to the present country review report of the United Kingdom.

III. Executive summary

1. ***Introduction: overview of the legal and institutional framework of the United Kingdom of Great Britain and Northern Ireland in the context of implementation of the United Nations Convention against Corruption***

The United Kingdom of Great Britain and Northern Ireland signed the Convention on 9 December 2003 and ratified it on 9 February 2006. The Convention entered into force for the United Kingdom on 11 March 2006.

The implementation by the United Kingdom of chapters III and IV of the Convention was reviewed in the second year of the first review cycle, and the executive summary of that review was published on 22 March 2013 (CAC/COSP/IRG/I/2/1/Add.12).

The United Kingdom is a constitutional monarchy and parliamentary democracy. The Parliament at Westminster in England remains the seat of Government for the United Kingdom, but Scotland, Wales and Northern Ireland have varying degrees of devolved government. The Crown Dependencies are the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. They are self-governing dependencies of the Crown with their own elected legislative assemblies, administrative, fiscal and legal systems and courts of law. The Crown Dependencies are recognized internationally as territories for which the United Kingdom is responsible, and the Convention has been extended to them, together with 2 of the country's 14 Overseas Territories, the British Virgin Islands and Bermuda.

The United Kingdom is a dualist State with a legal system that comprises both laws applicable to the entire United Kingdom and laws that apply to only England and Wales, Scotland, and/or Northern Ireland. While many legal provisions are statutory in nature, some are contained in the common law, the historical legal tradition of the United Kingdom.

The national legal framework to prevent and combat corruption includes, principally: Constitutional Reform and Governance Act 2010 (CRGA), Public Contracts Regulations 2015 (PCR), Freedom of Information Act 2000 (FOIA), Financial Services and Markets Act 2000 (FSMA), Companies Act 2006 (CompA), Proceeds of Crime Act 2002, Bribery Act 2010, Fraud Act 2006, Theft Act 1968, Criminal Finances Act 2017 and common-law offence of misconduct in public office.

Institutions principally involved in preventing and countering corruption include: Joint Anti-Corruption Unit (JACU), Home Office, Cabinet Office and relevant central government departments (Her Majesty's Treasury, Department for Business, Energy and Industrial Strategy, Department for International Development, Foreign and Commonwealth Office), Civil Service Commission and operational bodies such as the Serious Fraud Office (SFO), National Crime Agency (NCA), Financial Conduct

Authority (FCA), Crown Prosecution Service (CPS), Financial Intelligence Unit (UKFIU), and Information Commissioner's Office (ICO). There are also dedicated governance bodies, such as the Inter-Ministerial Group (IMG) on Anti-Corruption, cross-Government Anti-Corruption Directors Board and focused forums such as the Economic Crime Strategic Board (ECSB), the Economic Crime Delivery Board (ECDB), the Private Sector Steering Group, Joint Money Laundering Intelligence Taskforce (JMLIT) and Joint Fraud Analysis Centre (JFAC).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

The United Kingdom has developed coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law and transparency.

The key anti-corruption commitments of the United Kingdom are found principally in the national Anti-Corruption Strategy 2017–2022, published following commitments made at the 2016 London Anti-Corruption Summit. The Strategy follows the 2014 United Kingdom Anti-Corruption Plan and is complemented by other policies, namely the 2018 Serious and Organised Crime (SOC) Strategy; the 2015 National Security Strategy; and the 2016 Action Plan for Anti-Money Laundering and Counter-Terrorist Finance. The Government has committed to reporting to Parliament on Strategy implementation progress on an annual basis. A first annual update on the Strategy was published in December 2018. Resources for the commitments in the Strategy were allocated prior to its development.

JACU was created in 2015 to oversee policy coordination between departments and agencies and implementation of international and domestic commitments. The Prime Minister's Anti-Corruption Champion is responsible for overseeing the Government's response to both domestic and international corruption. The dedicated IMG on
Anti-Corruption provides coordinated governance on anti-corruption at the ministerial level and coordination is also led by other Ministerial-level boards. JACU leads the Government's anti-corruption dialogue with wider society, and the Prime Minister's Anti-Corruption Champion has been mandated to engage with external stakeholders, including business and civil society organizations. The commitments in the Anti-Corruption Strategy are reviewed regularly by JACU and the Anti-Corruption Champion, as well as the cross-Government Anti-Corruption Directors Board and the IMG.

The United Kingdom conducts assessments of corruption risk factors, which also informed priority areas of the Anti-Corruption Strategy. Public bodies publish information on how they meet those standards, with a view to using transparency to drive accountability. The United Kingdom Counter Fraud Profession further offers a professional structure, standards and guidance for counter-fraud specialists working in central Government, including bribery and corruption standards. The Home Office has recently

begun work to strengthen the evidence base to measure domestic corruption risk as part of its efforts to assess and counter domestic corruption.

In addition to the United Kingdom, the Crown Dependencies and the British Virgin Islands assess both domestic and international aspects of corruption risks which result from their status as international financial centres. Such assessments include increased focus on the adequacy of the AML regimes and collecting relevant information from financial institutions.

Anti-corruption policy responsibility is led by JACU (Home Office), which coordinates domestic anti-corruption policy. JACU works closely with operational partners such as CPS, SFO and NCA to improve the response of the United Kingdom to corruption threats. There are legal safeguards for the independence of these bodies and a variety of corruption-related training is available to staff, commensurate with their functions.

JACU receives its financial allocation out of the Home Office budget. The Head of JACU is responsible for the administration of the budget, with oversight from the Home Office finance directorate.

In its Strategy the United Kingdom also commits to supporting the implementation of the Convention at the global and regional levels, including by supporting international organizations in anti-corruption programming and promoting standards and good practices; and to continue raising anti-corruption issues at relevant international meetings, such as the G7 and the G20.

The United Kingdom supports other countries to tackle corruption through its development programmes and by contributing to the work of international organizations.

The performance of the relevant primary and secondary criminal legislation is subject to continual monitoring and where necessary proactive review and statutory criminal law is subject to a post-legislative scrutiny process. The Law Commission works to keep the law of England and Wales under review and recommends reform where needed, as does the Scottish Law Commission for Scotland. Civil society is indirectly involved in the consultative process leading to the law reforms.

<u>Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)</u>

The United Kingdom has comprehensive measures and procedures for the recruitment, hiring, retention, promotion and retirement of civil servants and non-elected public officials. This includes measures for the promotion of education and training programmes and systems designed to promote transparency and prevent conflicts of interest.

The CRGA put the Civil Service Commission and Civil Service Code (CSC) on a statutory footing. The principles of the CSC are honesty, integrity, objectivity and impartiality. The Civil Service Management Code (CSMC) draws on these principles and outlines more detailed terms and conditions for civil servants, including remuneration, redeployment and leaving the civil service. The independent Civil Service Commission regulates recruitment to the

civil service, providing assurance that appointments are on merit after fair and open competition. The United Kingdom Civil Service has introduced an Internal Fraud Policy and Data-Collection Hub, which helps govern recruitment by sharing the data of civil servants who are investigated for fraud and subsequently dismissed. Anyone who is placed on the Hub is banned from re-employment in the civil service for a period of five years. United Kingdom Government departments and agencies are responsible for their own dismissal, disciplinary and grievance arrangements. Vulnerable positions are subject to enhanced selection procedures as determined by the various departments.

In the Crown Dependencies and the British Virgin Islands, oversight of civil service recruitments and appointments is conducted either by individual bodies (Guernsey and Isle of Man), relevant commissions (British Virgin Islands) or centrally with oversight from an independent appointments commission in relation to senior appointments (Jersey). However, hiring bodies retain discretion to determine which positions are vulnerable to corruption and what enhanced selection methods to apply.

Counter-fraud, bribery and corruption awareness training is available online via the Civil Service Learning and departments can make this mandatory. Electoral law in the United Kingdom is spread across 17 statutes and some 30 sets of regulations. The House of Commons Disqualification Act 1975 and the Representation of the People Act 1981 (as amended) prescribe criteria concerning candidature for and election to public office and rules for disqualification of individuals from holding elected office. A recent project of the Law Commission would more closely consider electoral law reform.

The Representation of the People Act 1983 governs donations to candidates (sections 71A ff.), while the Political Parties, Elections and Referendums Act 2000 (PPERA) sets rules about donations to political parties (Part IV) and established the Electoral Commission, which regulates political party finances (Part I). The Electoral Commission publishes details of donations to political parties and maintains a public database containing records of private donations and public funding (section 69 PPERA).

Codes of conduct have been adopted for government ministers, special advisers and civil servants. These include the Ministerial Code, the Code of Conduct for Special Advisers, as well as the CSC and CSMC. Internal codes, policies and procedures have also been developed by individual public bodies, Parliament and the judiciary concerning conflicts of interest, gifts and hospitality. Cabinet Office is responsible for maintaining and providing advice on the application of the Codes.

In addition, the Seven Principles of Public Life (Nolan Principles) set the ethical standards expected from all public office-holders, including ministers. The Seven Principles were espoused in 1995 by the Committee on Standards in Public Life (CSPL), an independent advisory non-departmental public body which advises the Prime Minister on ethical standards across the whole of public life in England. CSPL monitors and reports on issues relating to the Seven Principles and the standards of conduct of all public office holders. Its secretariat and budget are provided by Cabinet Office.

The CSMC sets out the principles guiding the management terms and conditions for civil servants, including guidance for all civil servants on conflict of interest, and declaring private interests. Gifts given to civil servants in their official capacity are regulated in the CSMC, and reporting rules are established by agencies and departments.

The relevant principles in relation to managing conflicts and declaring interests include prohibitions on the misuse of official positions or information, and on receiving gifts, hospitality and other benefits; and declarations of business interests and shareholdings.

Permanent Secretaries are responsible for ensuring adherence to these standards whereas government departments translate the Codes into their own policies and procedures.

The Business Appointment Rules for Civil Servants (Annex A, CSMC) are non-statutory rules which address potential conflict in post-public employment for civil servants. For members of the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for two years after the last day of paid Civil Service employment. For those below the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for one year after leaving the Civil Service, unless, a longer period of up to two years has been exceptionally applied. There are no sanctions for non-compliance with the Rules.

Permanent Secretaries, Second Permanent Secretaries, Director Generals and special advisers of equivalent standing are required to apply for permission for any new appointment or employment within two years after leaving office. Such applications are referred to the Independent Advisory Committee on Business Appointments (ACOBA), which is sponsored by Cabinet Office. In most cases, the Prime Minister takes the final decision based on ACOBA's advice. All Permanent Secretaries are subject to a minimum waiting period of three months after leaving paid Civil Service, although ACOBA may advise a waiver or extension. A two-year lobbying ban is in place as a general principle at this level.

On appointment Ministers notify their relevant interests to their Departmental Permanent Secretaries (section 7, Ministerial Code). This is reviewed by the Permanent Secretary and by the Independent Adviser on Ministers' Interests. A public statement covering Ministers' interests is published twice yearly. Cabinet Office oversees regular transparency publications, including for Government Ministers: gifts and hospitality received, overseas travel, meetings with external organizations, and senior media figures; and for special advisers: gifts and hospitality received and meetings with senior media figures. Restrictions on the activities of former ministers are in place under the Ministerial Code (section 7.25) and Business Appointment Rules.

In the Crown Dependencies and the British Virgin Islands, registrable interests, gifts and hospitality of Ministers and members of the legislature beyond specified values and thresholds must also be declared. However, the declarations are lodged at different time intervals (usually once a year) and failure of a public official to disclose their private interests may result in sanctions, such as a

fine, or suspension from sitting or voting in the House of Assembly, or both. As per Section 1.4 of the Ministerial Code, allegations of any breach of the Code are referred to the Prime Minister, who determines the appropriate consequences. If the Prime Minister, having consulted with the Cabinet Secretary, considers that the matter warrants further investigation, the Prime Minister will refer the matter to the Independent Adviser on Ministers' Interests. As per section 1.6 of the Ministerial Code, the Prime Minister is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards. The Independent Adviser does not have a statutory basis for his or her activity as his or her mandate is purely advisory. Cases investigated by the Independent Adviser are a matter of public record.

The Office of the Registrar of Consultant Lobbyists was set up following the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, in order to create and administer the statutory Register of Consultant Lobbyists.

All Civil Service departments across the United Kingdom have adopted whistle-blowing policies and procedures to afford employees protection, as detailed in the Public Interest Disclosure Act 1998. Departmental Nominated Officers have been appointed to provide support and advice to whistle-blowers. Integrity Units established in all government agencies are responsible for detection, verification and complaints management (Service Circular No. 6 of 2013). Outside the civil service reporting channels, the Prescribed Persons Order 2014 sets out a list of over 60 organizations and individuals that workers may approach outside their workplace to report suspected wrongdoing, and guidance for prescribed person has been published.

The Constitutional Reform Act 2005 (CRA) established the independent Judicial Appointments Commission (JAC) and regulates the appointment, discipline and removal of judges in the United Kingdom (CRA, s. 63(3)). Judges are appointed on merit, following the recommendation of the JAC. The JAC selects candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland.

In contrast, appointments to top judicial positions in certain Crown Dependencies are usually made by the Crown upon recommendation of chief executives of the respective governments. The British Virgin Islands are part of the Eastern Caribbean Supreme Court (ECSC), whose judges are appointed by the Caribbean Community and assigned to the British Virgin Islands by the Chief Justice, on recommendation from the Judicial and Legal Services Commission.

United Kingdom judges are required to take a judicial oath on appointment (Promissory Oaths Act 1868, s. 4 and Schedule). Judges are subject to the Guide to Judicial Conduct. Newly appointed judges receive training on the Guide and already appointed judges receive continuing training on ethics. The Guide provides guidance on, inter alia, issues that may affect the principles of impartiality, integrity or propriety, such as managing extrajudicial activities, receipt of gifts and hospitality, and

disclosure of interests. In particular, members of the salaried judiciary are precluded by statute from engaging in political activities. No judge may preside over cases in which the judge or their family members have any significant financial interest in the outcome of the case.

Judicial conduct can be subject to investigation overseen by the Judicial Conduct Investigations Office, an independent statutory body which supports the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline. The procedure to handle complaints is provided in Judicial Discipline Regulations 2014. Senior judges can only be removed from office by the Queen (on an address from both Houses of Parliament). Removal of other judges is subject to agreement by the Lord Chancellor and Lord Chief Justice, following an independent disciplinary investigation. There are some minor differences in respect of the devolved administrations, Crown Dependencies and the British Virgin Islands.

The Crown Prosecution Service (CPS) was formed under the Prosecution Offences Act 1985, and the Director of Public Prosecutions (DPP) was established under that statute. The SFO, a specialist prosecuting authority tackling serious fraud, bribery and corruption, was established under the Criminal Justice Act 1987. All recruitment by the CPS and SFO is conducted in accordance with internal policies and the Civil Service Commissioners Principles.

Prosecutors exercise their powers regarding the institution and conduct of proceedings under the law and the framework of principles set out in the CPS Code of Conduct. The CPS Code requires all employees to declare an interest or a conflict, whether real or potential, to line management. Additional measures are in place for the devolved administrations. For example, the Public Prosecution Service for Northern Ireland (PPSNI) was established by the Justice (Northern Ireland) Act 2002 and is headed by the Director of Public Prosecutions for Northern Ireland. The PPSNI Code for Prosecutors defines the standards of conduct and practice expected from prosecutors in Northern Ireland. In addition, public prosecutors in the PPSNI, as members of the Northern Ireland Civil Service (NICS), are obliged to act in accordance with the NICS Code of Ethics.

The SFO Code of Conduct aims to ensure that employees are demonstrably honest and impartial in the exercise of their duties as guided by the Code of Conduct Policy. Records are kept of information relating to complaints made, gifts and hospitality received and a register of interests. Members of the SFO and CPS are also bound by the Civil Service Code.

Public procurement and management of public finances (art. 9)

Public procurement in the United Kingdom is decentralized. The relevant European Union Procurement and Remedies Directives have been transposed into national legislation (e.g., PCR in England, Wales and Northern Ireland and Public Contracts (Scotland) Regulations 2015 in Scotland). Cabinet Office is responsible for the legal framework and leads on development and implementation of governmental policies in public procurement in

the non-defence sectors. Cabinet Office may also issue Procurement Policy Notes to give guidance on best practice for public sector procurement in England, Wales and Northern Ireland. The Scottish Government provides guidance in the form of Scottish Procurement Policy Notes for public sector procurements in Scotland.

Procurement frameworks in other jurisdictions are established independently and vary with regard to, inter alia, thresholds for mandatory publication of tender notices and contract awards, standstill periods and appeal procedures. Procurement decisions and processes may involve parliamentary scrutiny (Guernsey) or a peer review by officials from other jurisdictions (Jersey) for particular types of contracts.

Pursuant to PCR, public contracts above the relevant European Union thresholds can be awarded only if a call to competition has been published. Exceptionally, the prior publication requirement may be waived. In limited circumstances, procuring authorities may award public contracts by a negotiated procedure without prior publication (Regulation 32 of PCR). Under Regulation 50 PCR, the procuring authority is required to publish information about the contract awarded, including the type of award procedure, and in the case of negotiated procedure without prior publication, the justification for using it. The call for competition must be published in the Official Journal of the European Union and, for certain procuring authorities that do not implement European Union obligations and for contracts of a specific value below the European Union thresholds, on the national portals, Contracts Finder, Public Contracts Scotland, Sell2Wales, eSourcing NI and eTendersNI.

The United Kingdom has also implemented the Open Contracting Data Standard, proactive disclosure of information and scrutiny of suppliers' costs and margins (Open Book Contract Management).

Pursuant to Regulation 57 of PCR, bidders must be excluded from European Union-regulated procurements for five years under mandatory exclusion grounds (prior conviction for bribery, money-laundering, etc.) and may be excluded for three years under discretionary exclusion grounds (existence of a conflict of interest which cannot be remedied, grave professional misconduct, etc.).

Suppliers may raise complaints or submit appeals with procuring authorities directly or via the Cabinet Office Public Procurement Review Service. The Service is, however, limited to enquiries relating to specific procurements in England. The devolved administrations run similar services to the PPRS for procurements concerning a contracting authority based in those regions. For Scotland it is the Single Point of Enquiry, for Wales, the Supplier Feedback Service and for Northern Ireland, the CPD Supplier Charter. Complaints may also be made to the European Commission.

In addition to annual training on counter-fraud, bribery and corruption for civil servants, individual government departments have internal guidance covering conflicts of interest, including processes for declaration of interests, including in relation to procurement staff.

Her Majesty's Treasury (HMT) is responsible for coordinating and planning the United Kingdom budget or Financial Statement. This

may involve an extensive programme of consultation with the public and key stakeholders. The Financial Statement is presented before Parliament each autumn for debate and scrutiny. Public sector entities must publish an audited combined annual report and accounts document (ARA) covering the financial year. A Statement of Parliamentary Supply is also prepared which reports the outturn for a departmental group against annual spending limits.

Reporting entities must comply with the Financial Reporting Manual (FReM) issued by HMT in preparation of their financial statements, which are audited in general by the Comptroller and Auditor General.

Each central government entity must have an accounting officer who is responsible for regularity and probity and accounting accurately for the entity's financial position and transactions. Public bodies should use internal and external audits to improve their controls and performance.

Additionally, individual reporting entities have governance arrangements which include appropriate asset and risk management strategies. Where a central government entity fails to comply with budget controls, financial reporting requirements and risk management procedures, the audit opinion may be affected accordingly and reported to Parliament, and the entity may be required to take corrective action. Section 5 of the Government Resources and Accounts Act 2000 allows HMT to direct departments on how to prepare ARAs and to ensure they present a true and fair view, conform to accounting standards and HMT's guidance. This includes requirements for accounting officers managing public money to ensure proper accounting records are kept.

Public reporting; participation of society (arts. 10 and 13)

The FOIA allows anyone to request to gain access to recorded information held by public authorities. FOIA established the independent ICO which is responsible for upholding information rights in the public interest and data privacy for individuals. Although not required, most public bodies have dedicated teams responsible for public reporting and FOI.

When a FOI request is made, the public authority must confirm whether the information is held, unless confirming or denying the information held would reveal information that an exemption protects. If the information is held, it must be provided to the requestor, unless disclosure exemptions apply; some exemptions are absolute, but most are qualified and subject to a public interest balancing test. Appeals against decisions are possible, first internally with the relevant public authority, and then to the ICO. Requestors and public authorities have the right to appeal ICO decision notices through the First Tier Tribunal. Tribunal decisions can be appealed to the Upper Tribunal, the Court of Appeal and thereafter to the Supreme Court. The United Kingdom is a founding member of the Open Government Partnership and is currently implementing its third National Action Plan (NAP). NAP was co-created with civil society and includes commitments to produce a cross-government Anti-Corruption Strategy, improve access to information, civic participation, public accountability, and

technology and innovation. Implementation of NAP is monitored and regularly reported on and scrutinized through quarterly meetings of government commitment leads and civil society representatives. After each implementation meeting, a set of short updates on each commitment is developed and published along with the minutes of each meeting on the Open Government Network's website. In addition, progress is set out in the midterm self-assessment report.

The United Kingdom also regularly publishes open data that allow the public access to data which can help prevent corruption. The United Kingdom has released over 40,000 datasets as open data. This is available at https://data.gov.uk.

There are several avenues for members of the public to report corruption, including the police, Crimestoppers, SFO and NCA's International Corruption Unit.

Private sector (art. 12)

The United Kingdom has adopted a number of legislative and policy measures to prevent corruption in the private sector. It regularly develops relevant guidance, promotes corporate governance standards, incentivizes business to develop appropriate internal prevention measures, promotes cooperation between private sector and law enforcement agencies, etc.

FCA requires all firms regulated under the FSMA to conduct their business with integrity (Principle 1 of the FCAs Principles for Businesses), to maintain adequate risk management systems (Principle 3) and to manage conflicts of interest fairly (Principle 8). Firms are also required to establish and maintain effective systems and controls for countering the risk that they might be used to further financial crime. Similarly, listed companies must adhere to the Corporate Governance Code and establish systems of management, corporate reporting, financial control and audit.

The FCA maintains a public Financial Services Register which contains records of firms and individuals that it regulates and authorizes. Firms are required to disclose who has control or influence over their business. FCA approval is required before a person can become a controller of a regulated firm.

FSMA provides for criminal (e.g., sections 23–25 and 191F) and administrative (sections 206 and 206A) sanctions for non-compliance with the above rules. The FCA may also take action against a firm with deficient anti-bribery and corruption systems and controls regardless of whether or not bribery or corruption has taken place.

Since 2010, the FCA has convened and run a Money Laundering Reporting Officer (MLRO) risk and policy forum which addresses various topics, including the sharing of best practice on risk management. The FCA also holds or attends as a guest speaker various conferences on anti-corruption in addition to organizing dedicated webinars.

The strict liability of companies for failure to prevent bribery under Section 7 of the Bribery Act 2010 incentivizes businesses to assess the bribery risks and to put in place proportionate measures to mitigate those risks. The Government published guidance on

implementing bribery prevention regimes that are proportionate to the size and structure of the company and the degree of bribery risk.

Regarding post-employment restrictions for public officials, see information under article 7 above.

The CompA sets the overall accounting framework. Accounting standards are set by the Financial Reporting Council under that Act. Chapter 2 of Part 15 places a duty on every company to keep adequate accounting records and specifies where and for how long these records (three years for public and six years for private companies, section 388) are to be kept. All United Kingdom limited companies must prepare and publish audited accounts, except those that are subject to the small companies' audit exemption, on the Companies House register.

The quality of accounting is enforced through the statutory audit framework, which consists of the CompA, the Statutory Auditors and Third Country Auditors Regulations 2016, and the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008.

The Income Tax (Trading and Other Income) Act 2005 (section 55) and Corporation Tax Act 2009 (section 1304) disallow both income and corporate tax deductions for any payment which constitutes a criminal offence, including for payments made outside the United Kingdom that would constitute a criminal offence if made in the United Kingdom.

Measures to prevent money-laundering (art. 14)

The United Kingdom has a comprehensive AML regulatory and supervisory regime. In particular, the Money Laundering Regulations 2017 (MLRs) impose customer due diligence (CDD) requirements (Part 3, chapters 1–3), ensuring that financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) identify their customers and beneficial owners, and requirements for record-keeping (Regulation 40).

Under the FSMA, all individuals and firms that carry out regulated activity in the United Kingdom must be regulated by the FCA and are supervised for compliance with the FCA Handbook. Exempt persons are supervised by other statutory regulators or self-regulatory organizations (SROs), but are nonetheless classified as "relevant persons" and subject to the MLRs. SYSC 3.2.6R and SYSC 6.1.1R of the Handbook require firms to establish and maintain effective systems and controls to prevent AML risks.

The Proceeds of Crime Act 2002 (POCA) criminalizes (sections 327, 328, 329) all forms of money-laundering (ML) and failure of the regulated sector to report suspicion of ML, knowledge of another person's ML, or where there are reasonable grounds for knowing or suspecting ML to the NCA (sections 330 and 331). Outside the regulated sector, criminal liability is also placed on nominated officers for failure to report knowledge or suspicion of ML (section 332).

In 2017 the United Kingdom published its second comprehensive national risk assessment (NRA) of ML/CFT risk and was again assessed by the FATF. The United Kingdom recently completed its fourth-round mutual evaluation by the FATF and

the final report was published in December 2018.[1] The Fourth Money Laundering Directive (4MLD) is incorporated into various pieces of United Kingdom law, such as POCA and the AML/CFT Regulations.

Since June 2016 the United Kingdom has implemented a publicly accessible central registry of company beneficial ownership information, which contains information about who ultimately owns and controls United Kingdom corporate entities. Upcoming legislation will create a new public register in 2021 for overseas entities that own or wish to purchase land in the United Kingdom.

Her Majesty's Revenue and Customs (HMRC) is the primary supervisor of money- or value-transfer service providers ("Money Service Businesses"), which are required to register with HMRC.

The United Kingdom operates a written declaration scheme for travellers carrying more than 10,000 euros; these regulations do not apply to intra-European Union cash movements. European Regulation 1889/2005 (Cash Controls Regulation) was introduced in June 2007 under The Control of Cash (Penalties) Regulations 2007 (SI 2007/1509).

The United Kingdom requires payment service providers to provide specific information when transferring funds under Regulation (EU) 2015/847 (the Fund Transfer Regulation), which came into force in the United Kingdom on 26 June 2017. The Regulation is enforced in the United Kingdom since June 2017 by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017 No 692).

FCA has a general duty to cooperate with counterpart authorities in the United Kingdom and overseas or in relation to the prevention or detection of financial crime (section 354A FSMA) and has the power (under FSMA sections 169, 165, 171–172) to compel information and documents to assist overseas regulators. FSMA (as amended) allows FCA to disclose confidential information in response to a request for assistance or proactively, when certain requirements are met.

Requests for assistance are made under international agreements, European Union legislation, bilateral memorandums of understanding and Mutual Legal Assistance (MLA) Treaties, as well as through the Egmont Group of FIUs, the European Union Agency for Law Enforcement Cooperation (Europol), the International Criminal Police Organization (INTERPOL) and international asset recovery networks.

A variety of law enforcement networks and arrangements exist, e.g., the ECSB, ECDB, JMLIT and its Expert Group on Bribery and Corruption, Cross-Whitehall group on Anti-Corruption, Threat Sanctions Evasion and Bribery and Corruption Group, National Crime Agency's SARS Committee, JFAC and the Foreign Bribery Clearing House. FCA also plays a prominent role in supporting information-sharing between law enforcement agencies, both domestically and overseas (FIN-NET) and between firms and law enforcement (JMLIT).

[1] www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-kingdom-2018.html.

2.2. Successes and good practices

- *The ongoing efforts of the United Kingdom to extend the Convention to Overseas Territories, as appropriate.*
- *Structures and governance for the coordination of anti-corruption activity, including a national anti-corruption strategy, a Prime Minister's Anti-Corruption Champion, an Inter-Ministerial Group on Anti-Corruption and a cross-government Joint Anti-Corruption Unit.*
- *Broad participation of civil society organizations and the private sector in the planning, development and implementation of national anti-corruption policies and practices as shown by their engagement in this review.*
- *Implementation of public beneficial ownership registers, including their planned extension to overseas entities that own property in the United Kingdom.*
- *The work of the United Kingdom to link anti-corruption to overseas development; and its leading and active participation in international and regional anti-corruption initiatives and programmes.*

2.3. Challenges in implementation

It is recommended that the United Kingdom:

- *Continue to ensure adequate resources and prioritization of government response to domestic corruption threats, including strengthening the evidence base of domestic corruption risks (art. 5(1));*
- *Consider identifying positions in the public sector especially vulnerable to corruption and adopting further procedures for the selection and training of public officials holding such positions (art. 7(1)(b));*
- *Consider amending electoral laws by implementing recommendations of the independent review into electoral fraud and lowering or eliminating permissible donation thresholds to prevent anonymous donations (art. 7(3));*
- *Endeavour to strengthen the mechanism for analysing and mitigating risks around conflict of interests and corruption by those in top executive functions, as already outlined in the conclusions of the parliamentary select committee, including by:*
    - *Establishing a more centralized process of conflicts of interest management and reporting by ministers and senior civil servants;*
    - *Strengthening the application of the Business Appointment Rules and the remit and powers of ACOBA;*
    - *Reviewing and strengthening the remit of the Independent Advisor on Minister's Interests and giving the Advisor greater powers to investigate conflicts of interest and conduct;*

- *Clarifying and broadening the scope of what are considered "relevant interests" in ministers' declarations of interest; expanding the scope and coverage of the registry of consultant lobbyists (arts. 7(4), 8(5) and 12(2)(e))).*

- *Continue efforts to enhance efficiency and transparency in public procurement, including by:*
  - *Publishing more data on Contracts Finder and expanding the types and amount of data subject to mandatory publication;*
  - *Strengthen the scope, remit and powers of the CO Public Procurement Review Service by including a wider group of procuring entities and allowing for complaints of procurement procedures and processes beyond specific procurements;*
- *Continue monitoring the application of the Freedom of Information Act to ensure timely responses to information requests (art. 10(a));*
- *While United Kingdom authorities possess and utilize the ability to cooperate on money-laundering and with overseas authorities and regulators, due to the complexity of the United Kingdom mechanisms, undertake continued care and monitoring to assure that communication and cooperation at both the domestic and international levels operate efficiently and effectively (art. 14).*

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

The United Kingdom has a comprehensive legal and regulatory framework for asset recovery and has demonstrated effective inter-agency coordination leading to international cooperation on asset recovery.

The United Kingdom regulates MLA under the Crime (International Co-operation) Act 2003 (CICA) and POCA (External Requests and Orders) Order 2005 (POCA Order), introduced to help meet the obligations of the United Kingdom under the Convention. The Home Office published detailed MLA guidelines for requesting countries in 2015 (12th edition, Central Authority (UKCA) guidelines).

The UKCA acts as central authority for formal MLA requests for the United Kingdom. In Scotland, the Crown Office's International Co-operation Unit (ICU) performs a similar function where the requesting State recognizes the central authority of Scotland.

The United Kingdom has received several requests on the basis of this Convention in relation to non-treaty partners. All outgoing requests thus far have been made to treaty partners.

In relation to asset-sharing and asset return, there is no explicit provision in United Kingdom domestic law aside from cases involving European Union member States under the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014

("CJDP Regulations") which implemented two European Union framework decisions, requiring 50 per cent of assets of 10,000 euros or more recovered to be shared. The United Kingdom routinely draws up case-specific agreements in relation to the return of confiscated assets.

Spontaneous exchange of information with foreign countries is possible under United Kingdom legislation, bilateral MLA treaties, or via police cooperation through NCA, which acts as the United Kingdom INTERPOL gateway. Guidance is provided in the 2015 MLA Guidelines.

Several law enforcement agencies (LEAs) can receive enquiries directly from foreign counterparts, in some cases subject to a data-sharing agreements or memorandums of understanding: NCA; HMRC; Police Services; UKFIU; Asset Recovery Offices; United Kingdom Visas and Immigration.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The United Kingdom possesses comprehensive legislative, administrative and enforcement mechanisms enabling the restraint, freezing and confiscation of proceeds of corruption. Regulation 28 of the 2017 MLRs sets out CDD measures, which include: identifying and verifying the customer, identifying the Beneficial Owner (BO) and taking reasonable steps to verify the BO, with additional measures for legal persons or legal arrangements (MLRs 28). CDD must be undertaken when a relevant person (including FI) establishes a business relationship; carries out an occasional transaction amounting to a transfer of funds within the Fund Transfer Regulation, exceeding 1,000 Euros; suspects money-laundering or terrorist financing; or doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification (MLRs 27).

Regulation 33(1) requires firms to apply Enhanced Due Diligence (EDD) in addition to CDD in cases, including when there is an identified high risk of ML/TF, and if a FI or DNFBP has determined that a customer or potential customer is a Politically Exposed Person (PEP), or family member or known close associate of a PEP. Regulation 35 sets out specific requirements for firms dealing with PEPs.

FCA published a Guide to Financial Crime, which includes specifics on CDD, PEPs' source of wealth and funds, and other thematic issues. NCA and other agencies issue alerts and advisories to make the financial services sector aware of particular threats and risk typologies, and JMLIT, among others (including the UKFIU), is a route for more tactical and specific intelligence-sharing with the sector.

Record-keeping is addressed in the FCA's SYSC 3.2.20 and SYSC 9.1.5. Records of business relationships or occasional transactions must be kept for a period of five years from the date of the transaction or when the business relationship ends (MLRs 40(3)).

Financial and credit institutions operating in the United Kingdom must be authorized by the Prudential Regulation Authority (PRA), and regulated by the FCA and the PRA (Section 19, FSMA). In line

with 4MLD and FATF requirements, these institutions must not enter into, or continue, a correspondent relationship with a shell bank (MLRs 34(2)) or with a FI or credit institution which allows its accounts to be used by a shell bank (MLRs 34(3)).

Under the Ministerial Code, Ministers are asked on appointment to notify their relevant interests in a number of categories: all financial interests (including any interests overseas), directorships and shareholdings, investment property, public appointments, charities and non-public organizations, relevant interests of spouse, partner or close family member. On appointment to each new office, Ministers must provide their Permanent Secretary with a full list of all interests. Ministers report any changes in their interests to Cabinet Office and then through the Independent Adviser on an ongoing basis. Details on the Ministerial Code are included under article 7 above.

The Civil Service Management Code sets out the high-level terms and conditions for civil servants, including on declarations of interest, as described above. There is no specific requirement for civil servants to disclose foreign accounts.

The UKFIU is an autonomous unit, housed within the NCA, responsible for receiving and disseminating suspicious activity reports (SARs) and conducting analysis in line with NCA's statutory mandate. Suitably accredited staff within LEAs have direct access to the UKFIU's SAR database, which contains over 2.3 million SARs.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 allows the courts to make compensation orders following a criminal conviction as part of the sentencing procedure. Under POCA, courts also have the power to order that money collected under a confiscation order be paid in settlement of a compensation order, if the criminal is unable to pay both orders. Restitution orders allow for restoring property to the rightful owner (section 148, Sentencing Act 2000). Other countries can initiate legal actions in the United Kingdom civil courts, in effect as private litigants, as illustrated by case examples.

Under POCA confiscation orders issued by overseas courts may be recognized and enforced in the United Kingdom, including non-conviction-based orders. Among European Union member States, the 2014 CJDP Regulations allow for the mutual recognition of confiscation orders in relation to criminal proceedings. The Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 separately deals with the instrumentalities of crime, including corruption.

The confiscation provisions under Parts 2, 3 and 4 of POCA provide for the recovery of assets from any offence and have no de minimis threshold. POCA provides for value-based confiscation of assets, wherever located, to satisfy a confiscation order requiring the individual to pay that amount to the court.

The United Kingdom has two schemes of non-conviction-based recovery under Part 5 of POCA: (a) in rem civil recovery in the High Court or Court of Session (Scotland); and (b) recovery in summary proceedings of cash bank accounts and other moveable assets derived from or intended for use in crime.

The POCA (External Requests and Orders) 2005 Order, as amended by the POCA (External Requests and Orders) (Amendment) Order 2013, provides the ability to freeze property in non-conviction-based cases prior to a final recovery order being obtained in the requesting country. There is mutual recognition of freezing orders in criminal cases among European Union member States, as provided in United Kingdom law by the 2014 CJDP Regulations. The Criminal Finances Act 2017 expands the powers of LEAs to recover criminal assets. The Act also introduced unexplained wealth orders (UWOs).

The United Kingdom traces (UKFIU) and investigates (UKCA) proceeds and instrumentalities through dedicated asset-tracing teams whose primary function is to provide timely assistance to international partners seeking to recover stolen assets. There is specific legislation to provide financial investigation powers for both conviction and non-conviction-based cases. The UKFIU provides a single point for all international tracing requests.

The UKFIU assists investigators in tracing and identifying property which may become subject of a subsequent restraint, freezing, seizure or confiscation order. It also disseminates information spontaneously. The team processes inbound and outbound requests for criminal asset-tracing intelligence through the Asset Recovery Office (ARO) and CARIN.

Under the POCA Order and its amendments, United Kingdom authorities can take temporary measures to preserve assets until the domestic forfeiture proceedings are completed. United Kingdom law provides that a restraint order freezing assets can be obtained on the basis of a criminal investigation having started in the country from which the external request was made, which allows for the preservation of property before an arrest or criminal charge.

CPS and SFO consult with requesting States before lifting provisional measures. There is an explicit requirement to communicate with European Union member States (regulation 18, 2014 CJDP Regulations). United Kingdom enforcement authorities have proceeds of crime divisions, which are centres of excellence that liaise with requesting authorities to ensure sufficient evidence is provided within necessary time frames. The UKCA also employs asset recovery specialists to advise and liaise with requesting authorities for the same purposes.

If a restraint order is granted, anyone affected by the order can apply to the court for it to be varied or discharged. These applications can be made on as little as two days' notice to the United Kingdom prosecutor.

Return and disposal of assets (art. 57)

While the United Kingdom Government is a proponent of asset-sharing without the need for formal agreements, the United Kingdom does have formal specific asset-sharing agreements with

Canada, Kuwait and the United States of America and MLATs containing asset-sharing provisions with various States, including British Overseas Territories and Crown Dependencies. In the absence of a formal agreement, the United Kingdom may share the proceeds of confiscated assets with other countries on a case-by-case basis.

Following a proposal at the London Anti-Corruption Summit in 2016, the SFO, CPS and NCA have agreed a set of Compensation Principles, which establish a framework to identify cases where compensation to overseas victims of economic crime is appropriate, and to act swiftly to return funds to affected countries, companies or people. Under these principles the SFO, CPS and NCA commit to ensuring a transparent, accountable and fair process of assessing the case for compensation or asset recovery. All departments also agree to collaboratively identify suitable means to pay back victims in a manner that minimizes the risk of re-corruption. The Compensation Principles are publicly available online.

The United Kingdom Anti-Corruption Strategy 2017–2022 commits Government to "apply these principles to all relevant cases, and to support countries to deliver their own principles and continue to raise awareness internationally with the aim of achieving a consensus that overseas victims should benefit from the positive outcome of bribery and corruption cases" (6.10).

The MLA Guidelines of the United Kingdom make specific reference to the obligations under this Convention in the section on asset disposal. Realized assets will be disposed of under one of three processes: (a) stolen State assets that fall under the provisions of the Convention against Corruption will be returned to the recipient country, less reasonable expenses; (b) cases that do not fall under the provisions of the Convention can be shared with the recipient country if it enters into an asset-sharing agreement with the United Kingdom – the United Kingdom 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); or (c) if there is no formal agreement, administrative arrangements allow for asset-sharing on a case-by-case basis. In the absence of any asset-sharing agreement, the assets will be retained by the United Kingdom and disposed of according to domestic law.

Property is distributed in accordance with established United Kingdom policy for a variety of purposes, including victim compensation, crime reduction, community projects and law enforcement under the Asset Recovery Incentivisation Scheme. Data on asset disposal using POCA has been published by the Home Office since 2017.

Ordinarily the United Kingdom will meet the costs of executing requests, with exceptions as outlined in the MLA Guidelines (page 14). Expenses leading to the return or disposition of confiscated property are dealt with on a case-by-case basis by operational agencies, and subject to agreement between parties.

3.2. Successes and good practices

- *To facilitate successful asset recovery, the United Kingdom places specialist advisers, some as liaison magistrates and*

CPS prosecutors, in priority countries to assist with MLA, extradition and European Arrest Warrants, or as criminal justice or asset recovery advisers.

- *Transparency of asset recovery procedures and practices, including on disposal of property.*
- *Tools and mechanisms to enhance asset recovery, such as UWOs, account freezing orders and worldwide restraint orders to enable effective economic enforcement against proceeds of crimes committed outside of the United Kingdom.*

3.3. Challenges in implementation

It is recommended that the United Kingdom:

- *Continue efforts to enhance efficiency of the suspicious activity reporting process; steps under way by the Law Commission as tasked by Home Office to review the framework, including application of the defence against charges of money-laundering for persons reporting SARs under POCA, are important steps in this direction (art. 52).*
- *As part of the existing financial disclosure obligations concerning general business interests, consider establishing an explicit requirement to disclose interests in foreign accounts (art. 52(6)).*
- *Continue to carefully monitor the operation of the asset recovery mechanisms to assure that they are being applied to the fullest possible extent to seize, confiscate and return proceeds coming into the United Kingdom (art. 55).*

The following annexes relate to the Crown Dependencies of the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man, as well as the British Virgin Islands. The Convention was only extended to Bermuda in 2018 and so it was therefore not part of the review. For further information, including challenges and good practices, please refer to the review reports of these jurisdictions, which are contained in the annexes to the country review report of the United Kingdom.

Annex I

Bailiwick of Guernsey

Chapter II

The Foreign Bribery and Corruption Strategy and the Focussed Anti-Bribery and Corruption Policy Framework constitute the main policy framework of Guernsey to prevent and fight corruption. Overall oversight and coordination are carried out by a cross-government Anti-Bribery and Corruption Committee, which reports to the AML/CFT Advisory Committee. Other relevant authorities include Law Enforcement's Economic Crime Division (comprising the Financial Crime Team responsible for preventing and detecting corruption, Financial Intelligence Service (FIS) and police) and Financial Services Commission (FSC).

Legislative measures to prevent corruption include, principally, the Prevention of Corruption Law 2003 (PCL), the Reform Law 1948, the Disclosure Law 2007 and the Financial Services Commission Law 1987.

Guernsey and its relevant agencies actively participate in international initiatives, including MONEYVAL, CARIN, the Egmont Group, Group of International Finance Centre Supervisors, European Judicial Network, FATF, etc.

Guernsey promotes appropriate standards of conduct among public officials. In addition to the Anti-Bribery and Corruption Guidance for States Members and Employees, there are several codes of conduct for different categories of public officials, and a code of conduct for the judiciary is being drafted. Civil servants are required to declare conflicts of interest and members of the legislature must declare their private interests. A Whistle-blowing Policy is also established. There is no financial disclosure system.

Public procurement in Guernsey is decentralized and governed by the States Rules for Financial and Resource Management, Procurement Policy and related Standard Terms and Conditions, as well as the Code of Purchasing Ethics, which establish rules governing, inter alia, selection (e.g., contract and supplier selection) and contract award. Appropriate rules and procedures regulating the adoption of the budget, internal control and risk management in public bodies, audit, and preservation of the integrity of financial records are in place.

Access to information is regulated under the policy on Access to Public Information and its Code of Practice. The policy is based on the principles of presumption of disclosure, corporate approach, culture of openness, proactive publication and effective record management.

Preventive measures in the private sector include the Companies Law 2007, which sets record-keeping and auditing requirements and anti-money-laundering (AML) legislation for financial and non-financial institutions. The Code of Corporate Governance issued by FSC establishes compliance rules for financial services businesses and obliges them to submit annual audited accounts to the FSC. The FSC also issues codes of practices, rules and other documents identifying good business practices. A Beneficial

Ownership of Legal Persons (Guernsey) Law 2017 and corresponding legislation for Alderney are established, among other measures. The failure of businesses and organizations to prevent bribery is covered by general offences under the PCL.

Both financial and non-financial businesses and professions are subject to the AML regulatory regime under the Criminal Justice (Proceeds of Crime) Regulations of 2007 and 2008. Compliance is supervised and enforced by the FSC. The FIS is the financial intelligence unit of Guernsey. A National Risk Assessment is being finalized.

Chapter V

The legal and administrative framework of Guernsey, as detailed in its Asset Recovery Policy 2014, ensures that information about the source of funds of foreign origin is available, is communicated to the FIS, is shared with domestic and international authorities and is followed by action to freeze, confiscate and return funds. The FIS is responsible for collecting, analysing and disseminating information received via suspicious activity reports, and for spontaneous disseminations of financial intelligence. Intelligence other than financial intelligence may be spontaneously shared with other authorities. "Shell banks" and correspondent relationships with "shell banks" are prohibited (section 6, Banking Supervision (Bailiwick of Guernsey) Law, 1994; regulation 8(1), Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007).

There is a comprehensive legal mechanism to prevent and detect transfers of proceeds of crime and allow cooperation and information exchange, including spontaneous exchange, both domestically and internationally.

The European Convention on Mutual Legal Assistance of 1959 and a number of bilateral MLA treaties concluded by the United Kingdom of Great Britain and Northern Ireland have been extended to Guernsey.

Foreign confiscation orders are directly enforceable once registered at the Royal Court of Guernsey according to the Criminal Justice Ordinance 1999, which modifies the Proceeds of Crime Law 1999. The courts may also make compensation orders against offenders in favour of foreign States or other victims of crime under the Criminal Justice (Compensation) (Bailiwick of Guernsey) Law, 1990.
Non-conviction-based confiscation is also provided for designated countries. Freezing or seizing orders may be enforced if relevant proceedings or criminal investigations have been or are to be instituted in the requesting State. The Attorney General publishes MLA guidance to assist requesting States. A dedicated International Cooperation and Asset Recovery Team (ICART) has been established as a joint legal and law enforcement initiative with a primary focus on detection, freezing and confiscation of criminal proceeds of foreign origin and the return of those proceeds.

Foreign States can initiate civil proceedings in Guernsey courts to recover assets and be recognized as legitimate owners of properties in domestic confiscation proceedings.

Confiscated assets are paid into a Seized Assets Fund managed by the Attorney General. The return or sharing of confiscated assets is at the discretion of the Attorney General but it is his or her policy to give priority to legitimate owners of property and victims wherever possible.

Annex II

Bailiwick of Jersey

Chapter II

Jersey relies on a set of legislative and policy measures to prevent and fight corruption. Key legislation on prevention includes the Corruption Law 2006, the States of Jersey Law 2005, the Public Finances Law 2005 (PFL), and the Freedom of Information Law 2011 (FOIL).

The Jersey Financial Crime Strategy Group is responsible for the overall development, implementation and oversight of the anti-corruption policy of Jersey, while specific prevention mandates are spread across several public bodies.

The relevant institutions of Jersey collaborate with other States, international and regional organizations in a variety of ways on corruption prevention issues.

In addition to a general anti-fraud and corruption policy for public officials, Jersey has the necessary framework, including codes of conduct, which sets ethical standards, disciplinary procedures and complaints as well as a whistle-blowing policy for all public sector employees. Codes of conduct are also provided for elected officials, ministers and assistant ministers, as well as the judiciary. Elected States' members, ministers and assistant ministers are required to declare their private interests.

The Public Finances Law 2005 and relevant mandatory Financial Directions issued by the Treasury and Resources Department regulate matters on, inter alia, public procurement, administration of the public finances, internal audit and retention of financial records. The Comptroller and Auditor General Law 2014 regulates external audit.

The FOIL grants access to information rights to members of the public. The Data Protection Law 2005 provides the statutory basis for the Office of Information Commissioner, and an Ombudsman is established under the Financial Services Ombudsman Law 2014.

To prevent corruption in the private sector, Jersey has introduced accounting standards which provide for effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures. The Jersey Financial Services Commission (JFSC), using powers provided by legislation, has issued codes of practice setting out principles and detailed requirements that must be complied with in the conduct of financial services business, including required notifications to the JFSC.

The Proceeds of Crime Law 1999, the Money Laundering Order 2008, the Proceeds of Crime (Supervisory Bodies) Law 2008 and the accompanying regulations provide a comprehensive regulatory and supervisory regime on anti-money-laundering (AML) with emphasis on requirements for customer and beneficial owner identification, record-keeping and the reporting of suspicious transactions. The JFSC is the supervisory body for financial institutions. Work on a National Risk Assessment has begun.

Chapter V

The Jersey Financial Intelligence Unit (JFCU) is responsible for collecting, analysing and disseminating information received via suspicious activity reports, and for spontaneous disseminations of financial intelligence. Intelligence other than financial intelligence may be spontaneously shared by the Police Force Intelligence Bureau among others. "Shell banks" and correspondent relationships with "shell banks" are prohibited (article 10(1), Banking Business (Jersey) Law 1991; article 23A(1), Money-Laundering (Jersey) Order 2008).

The Proceeds of Crime (Enforcement of Confiscations Orders) Regulations 2008 provide the mechanism for granting restraint orders, registering and enforcing foreign confiscation orders, and for the subsequent sharing of assets when a request for assistance is received from an overseas country or territory. Non-conviction-based confiscation orders may be registered and executed pursuant to the Civil Asset Recovery (International Co-operation) Law 2007, which provides a similar mechanism for sharing of assets when a request is received.

Furthermore, the Attorney General publishes Mutual Legal Assistance Guidelines in English, French and Arabic that deal, inter alia, with the content of requests for assistance and the manner of transmission.

Civil proceedings may be instituted in the Royal Court by foreign States by way of Orders of Justice claiming title to or ownership of monies in Jersey acquired through the commission of an offence. The Royal Court may also order offenders to pay compensation or damages under the Criminal Justice (Compensation Orders) Law, 1994.

Confiscated assets are paid into the Criminal Offences Confiscations Fund or the Civil Asset Recovery Fund and managed by the Minister for Treasury and Resources. In the absence of any asset-sharing agreement, the Minister retains complete discretion in all cases involving asset-sharing and the binding provisions of the Convention on mandatory return of assets will be considered by the Minister when exercising the discretion in appropriate cases.

Annex III

Isle of Man

Chapter II

The Isle of Man has adopted several anti-corruption policies, such as the Anti-Bribery Policy and the Financial Crime Strategy 2017–2020. The latter is implemented and coordinated by a cross-governmental Financial Crime Strategic Board. Other notable legislation includes the Bribery Act 2013, Fraud Act 2017, Freedom of Information Act 2015 (FOI), Government Financial Regulations, Financial Intelligence Unit Act 2016, Guidance for Commercial Organizations on the Bribery Act, and Government Code.

The Isle of Man and its relevant bodies participate in several regional and international forums, including INTERPOL, the Egmont Group, Group of International Finance Centre Supervisors, FIN-NET, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, MONEYVAL and CARIN network.

The Government Code provides guidance on the expected standards of conduct of both elected and non-elected public officials, including parliamentarians and ministers, and covers issues of conflicts of interest, gifts or benefits, etc. The Civil Service Regulations 2015 further establish standards of ethical conduct for civil servants. A code of conduct is also in place for the judiciary. An Anti-Fraud, Bribery and Corruption Strategy for all persons or organizations working in or with the Government is in place and a Whistle-blowing Policy is also established. Selected public officials must disclose their private interests, including financial interests, if these may lead to a conflict of interest.

Public procurement is decentralized. The government procurement policy, issued by Treasury, is subject to the Government's Financial Regulations. Relevant rules and procedures are in place to comprehensively regulate the adoption of the national budget, internal and external audit, and preserve the integrity of public financial records.

The FOIA grants access to information rights to members of the public. The Data Protection Act 2018 and regulations provide the statutory basis for regulating the processing of information relating to individuals, including obtaining, use or disclosure of information.

To prevent corruption in the private sector, the Isle of Man has enacted the Bribery Act 2013 which establishes a strict liability offence for companies that fail to prevent corruption by associated persons. Furthermore, the Companies Act 1931 and the Companies Act 2006 contain corporate governance, financial accounting and reporting requirements for companies. A Beneficial Ownership Act was established in 2017.

The Financial Services Authority is the AML/CFT regulatory supervisory body for the entire financial sector. Regulated businesses are defined in the Regulated Activities Order 2009 (as amended), Insurance Act 2008, Retirement Benefit Schemes Act 2000 and Designated Businesses (Registration and Oversight) Act 2015. The AML/CFT Code 2015 provides a comprehensive regime

for customer risk assessment, customer and beneficial owner identification, record-keeping, reporting and disclosures, and compliance. A National Risk Assessment was finalized in 2015. Furthermore, the Council of Ministers has endorsed the Isle of Man Government Financial Crime Strategy 2017–2020.

Chapter V

The Isle of Man has a comprehensive legal and policy framework, consisting mainly of the Proceeds of Crime Act 2008 (POCA) and its secondary legislation, to enable identification, restraint, and confiscation of proceeds of all crimes, including corruption. A dedicated International Cooperation and Asset Recovery Team (ICART) has been established within the Attorney General's Office and is tasked with dealing with all mutual legal assistance (MLA) requests.

Foreign restraint and confiscation orders may be registered and enforced as domestic orders under the Proceeds of Crime (External Requests and Orders) Order 2008 (POCERO). Non-conviction-based confiscation is possible under civil provisions of POCA, POCERO and the Proceeds of Crime (External Investigations) Order 2011. Foreign orders may be refused due to de minimis value of assets.

The Financial Intelligence Unit is a statutory body tasked, inter alia, with assisting with the prevention and detection of crime. It actively engages with domestic and international partners in its work and may spontaneously or upon request share information on proceeds of corruption offences with other States. The IOM may and has previously taken proactive measures to preserve property in anticipation of a foreign freezing or confiscation order. "Shell banks" and correspondent relationships with "shell banks" are prohibited under the IOMFSA General Licensing Policy.

Foreign States may directly recover assets by instituting civil proceedings in the courts of the Isle of Man if they meet specified jurisdictional and procedural requirements.

The Treasury may, where it is deemed appropriate, return confiscated property, either in whole, in part or upon other terms and conditions, to a requesting country or territory which participated in the recovery or confiscation, if such transfer is authorized in an asset-sharing agreement (section 222, POCA). Full compensation would be applied before any asset-sharing arrangement is considered. No formal asset-sharing agreements are presently in place.

Annex IV

British Virgin Islands

Chapter II

British Virgin Islands policies to prevent and fight corruption are enshrined in various laws, principally the Virgin Islands Constitution Order 2007, the Public Finance Management Act 2004 (PFMA), the Service Commissions Act 2011 (SCA) and the Register of Interests Act 2006 (RIA).

There is currently no anti-corruption body in the British Virgin Islands. The preventive mandate is spread across different bodies, such as the Public Service Commission, Financial Services Commission (FSC), Financial Investigation Agency (FIA) and Complaints Commissioner (Ombudsman). The British Virgin Islands and its agencies participate in relevant regional and international networks, including the Caribbean Financial Action Task Force (CFATF), Egmont Group, INTERPOL, Caribbean Customs Law Enforcement Council (CCLEC) and Asset Recovery Inter-Agency Network Caribbean (ARIN-CARIB).

Measures to prevent corruption in the public sector include, notably, the SCA, its subsidiary legislation, and a number of administrative policies (e.g., Public Service General Orders 1982). Members of the legislature must declare their financial interests, including those of their family members, in accordance with the RIA. Other public officials are expected to declare conflicts of interests to the Deputy Governor. The Criminal Code sets out an offence of conflict of interest and requires public officials to disclose certain interests to their respective public bodies. Disciplinary measures may also be applied for violations of relevant regulations and policies including on conflicts of interest. A Ministerial Code of Conduct, Public Service Management Bill and whistle-blowing policy are being developed. The Department of Human Resources (Deputy Governor's Office) has also established a grievance policy. However, there is no legal framework for the protection of whistle-blowers.

The PFMA and PFM Regulations 2005 (PFMR) provide public procurement rules and procedures and establish a Central Tenders Board (CTB) to receive and evaluate tenders and recommend procurement decisions to Cabinet. The Procurement Unit in the Ministry of Finance promulgates all procurement processes as determined by the CTB. A procurement law is being developed. The Constitution, PFMA and PFMR prescribe the manner, processes, procedures and principles for the management of public finances, including the adoption of the budget and appropriate control and audit of public accounts, as detailed in the Audit Act 2003 and Internal Audit Act 2011.

There is no central legal or policy framework to regulate public access to information. The British Virgin Islands have not established a legal framework for the funding of candidates for elected public office and political parties.

The British Virgin Islands Business Companies Act 2004 sets out a broad corporate governance framework for British Virgin Islands

business companies. A register of beneficial owners is maintained by FIA.

To prevent money-laundering, the British Virgin Islands has adopted the Proceeds of Criminal Conduct (Amendment) Act, 2008, the Anti-Money Laundering and Terrorist Financing Code of Practice 2008, Anti-Money Laundering Regulations 2008, Financial Investigations Agency Act 2003, and Financing and Money Services Act 2009 among others. They provide specific mechanisms to prevent and detect transfers of proceeds of crime and allow cooperation and information exchange, both domestically and internationally, which is carried out principally through FIN-NET and the Egmont Group. FSC and FIA conduct AML supervision for the regulated financial sector and DNFBPs, respectively. A Joint Anti-Money Laundering and Terrorist Financing Advisory Committee (JALTFAC) was established in 2008.

"Shell banks" and correspondent relationships with "shell banks" are prohibited under the AML Code, 2008.

Chapter V

The Criminal Justice (International Cooperation) Act 1993 (as amended) is the principal legislation for international cooperation, together with the Mutual Legal Assistance (United States) Act 1990 for the United States of America.

The Criminal Justice (International Cooperation) (Enforcement of Overseas Forfeiture Orders) Order 2017 and Proceeds of Criminal Conduct (Enforcement of External Confiscation Orders) Order 2017 establish the legal framework for the registration and execution of foreign confiscation orders and for the issuance of restraint orders. Non-conviction-based confiscation is not available. Unless a request to preserve property for confiscation is received from another State, there is no provision to preserve property for confiscation. To date there have been no cases where a foreign confiscation order was registered or where authorities of the British Virgin Islands have frozen, seized or traced property based on a foreign mutual legal assistance request. The British Virgin Islands Handbook on International Cooperation and Information Exchange 2013 deals, inter alia, with the content of requests for assistance and the manner of transmission.

Civil proceedings to directly recover assets located in the British Virgin Islands may be instituted by foreign States in accordance with the jurisdictional and procedural requirements of the Eastern Caribbean Supreme Court.

Forfeited property shall be disposed of in accordance with the court's directions and may be returned to a foreign State if directed by the court. The British Virgin Islands has shared assets with Bermuda pursuant to a memorandum of understanding in a specific criminal case. If required, the British Virgin Islands would consider entering into appropriate legal instruments for the disposal of assets with other States. Decisions would be taken on a case-by-case basis, upon mutual agreement.

IV. Implementation of the Convention

A. Ratification of the Convention

UNCAC Ratification

The UK signed the Convention on 9 December 2003 and ratified it on 9 February 2006. The Convention entered into force for the UK on 11 March 2006.

Procedure to be followed for ratification of international conventions:

The UK is a 'dualist' state. The UK constitution accords no special status to treaties: rights and obligations created by treaties have no effect in UK law unless legislation is in force to give effect to them. When the UK Government ratifies a treaty - even with Parliamentary involvement - this does not amount to legislating. For a treaty provision to become part of domestic law, the relevant legislature must explicitly incorporate it into domestic law.

Under Part 2 of the Constitutional Reform and Governance Act 2010, all treaties that are subject to ratification, acceptance, approval, the notification of completion of procedures, or to which the UK accedes, cannot be ratified unless they have been laid by a Minister of the Crown before Parliament for 21 sitting days without either House having resolved that it should not be ratified.

The Basic Process:

• The Government signs the finalised treaty.

• Parliament makes any necessary domestic legislative changes.

• The Government lays the signed treaty before Parliament in the form of a Command Paper, along with an Explanatory Memorandum to assist Parliamentarians in their consideration of the treaty. Parliament does not ratify treaties. But Parliament does have an important role in scrutinising treaty provisions before the Government takes the formal legally binding step of consent to be bound by a treaty by ratification.

• If either House resolves against ratification during the 21 sitting day period, the Government must explain why it wants to ratify. The House of Commons can effectively block the Government from ratifying the treaty by passing repeated resolutions.

• If there are no outstanding resolutions, the Government can ratify the treaty by the execution and depositing of an instrument of ratification signed by the Secretary of

State for Foreign and Commonwealth Affairs.

• The treaty enters into force for the UK according to the provisions in the treaty.

B. Legal system of United Kingdom of Great Britain and Northern Ireland

The UK Model

The UK is a constitutional monarchy and parliamentary democracy. The UK model consists of a constitutional Head of State (Her Majesty the Queen); a sovereign Parliament, comprised of the House of Commons and the House of Lords; an executive power (the Government, led by the Prime Minister) drawn from and accountable to Parliament; and an independent judiciary. The executive power is exercised by the Government, which has a democratic mandate to govern. Members of the Government are normally members of the House of Commons or the House of Lords and government ministers are directly accountable to Parliament.

The United Kingdom does not have a written, codified constitution. There is no single document that describes, establishes or regulates the structures of the State and the way in which these relate to the people. Instead, the constitutional order has evolved over time and continues to do so. It consists of various institutions, statutes, judicial decisions, principles and practices that are commonly understood as "constitutional".

Devolved Administrations

Scotland, Wales and, Northern Ireland have a degree of devolved government with Westminster reserving powers over inter alia defence and national security, foreign policy, immigration and tax policy (income rates devolved in Scotland and Wales).

Devolution is not uniform across these regions - there are distinctions in inter alia legal systems or tax policy (noted above) that vary between the devolved administrations.

International Conventions and UK Law

As noted above, treaties do not, on ratification, automatically become incorporated into UK law. For this reason, the UK only ratifies international conventions once UK law is deemed by the Government to be compliant.

In the UK legal system, there are both overarching laws that cover the entire UK and laws that cover only England, Wales, Scotland, and/or Northern Ireland.

While many provisions of law are statutory in nature, some are contained in the "common law" of England, Wales, and Northern Ireland, which consists of the UK's historical legal traditions that have been interpreted and made binding through judicial precedent.

Scotland has its own independent and in parts clearly different judicial system with own jurisdiction. While closely related, the legal traditions of Scotland, which has a mixed common law/civil law history, differ in some regards to the rest of the UK - particularly in the areas of elections, property or commercial law.

The Crown Dependencies

The Crown Dependencies are the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. Within the Bailiwick of Guernsey there are three separate jurisdictions: Guernsey (which includes the islands of Herm and Jethou); Alderney; and Sark (which includes the island of Brecqhou). The Crown Dependencies are not part of the UK but are self-governing dependencies of the Crown. This means they have their own directly elected legislative assemblies, administrative, fiscal and legal systems and their own courts of law. The Crown Dependencies are not represented in the UK Parliament.

The Crown Dependencies have never been colonies of the UK. The constitutional relationship of the Islands with the UK is through the Crown and is not enshrined in a formal constitutional document. The UK Government is responsible for the defence and international relations of the Islands.

The Crown Dependencies are not recognised internationally as sovereign States in their own right but as "territories for which the United Kingdom is responsible". As such they cannot sign up to international agreements under their own aegis but can have the UK's ratification of such instruments extended to them, unless they have been entrusted to do so (as they have been in the case of Tax Information Exchange Agreements, Double Taxation Agreements and other agreements relating to taxation that provide for exchange of information on tax matters).

The Overseas Territories

The fourteen British Overseas Territories (OTs) are a set of largely self-governing territories spanning nine time zones, from the Atlantic to the Pacific, the Antarctic

to the Caribbean. These territories are not part of the UK, but their citizens are British. The UK's responsibilities towards the OTs are set out in the UK Government's 2012 White Paper, and includes responsibility for good governance and security.

Treaties

The long-standing practice of the UK when it ratifies, accedes to, or accepts a treaty, convention or agreement is to do so on behalf of the United Kingdom of Great Britain and Northern Ireland and any of the Crown Dependencies or Overseas Territories that wish the treaty to apply to them. The UK's ratification, accession or acceptance can also be extended at a later date. This means that, when the UK is planning to ratify a particular convention or treaty, it should consult the Crown Dependencies and the Overseas Territories about whether they wish to have it extended to them.

The general practice has been for the Crown Dependencies and Overseas Territories to decide to which treaties they wish to become Party. Likewise, responsibility for implementation, such as ensuring local law is compliant with the conventions and is delivered in practice, is for those individual Governments. When asking for a convention to be extended, the territories have to complete a transposition table that shows how they believe they have implemented/fulfilled the obligations of the convention.

Preparation of the responses to the self-assessment checklist

In the preparation of its response the UK took the following measures:

● Commissioned inputs from across government, the Devolved Administrations (Scotland, Northern Ireland, Wales), the Crown Dependencies (Guernsey, Jersey, Isle of Man) and relevant Overseas Territories (British Virgin Islands).

● In the UK response, where measures have been taken by the Devolved Administrations distinct from the rest of the UK, the heading "Devolved Administrations" has been used to clearly indicate this. Where there is no heading, it can generally be assumed that the response applies to the UK as a whole.

● Where examples from specific Devolved Administrations have been provided, these are illustrative and do not represent a comprehensive overview of the situation across all the Devolved Administrations.

● In recognition of the UK's constitutional relationship with the Crown

Dependencies (CD), each CD has completed a separate checklist -these have been submitted alongside the UK submission. Whilst should be considered as part of that submission, each CD is ultimately responsible for implementation of the Convention and their respective checklists.

Three practices considered by the United Kingdom to be good practices in the implementation of the chapters of the Convention under review

The three practices the UK would like to highlight are:

1) The Joint Money Laundering Intelligence Taskforce (JMLIT) http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/joint-money-laundering-intelligence-taskforce-jmlit

2) Deferred Prosecution Agreements (DPAs) https://www.sfo.gov.uk/publications/guidance-policy-and-protocols/deferred-prosecution-agreements/

3) People of Significant Control (PSC) Register https://www.gov.uk/government/news/people-with-significant-control-psc-who-controls-your-company

C. Implementation of selected articles

Chapter II. Preventive measures

Article 5. Preventive anti-corruption policies and practices

Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The UK recognises the fundamental importance of setting up clear and coordinated mechanisms for the prevention of corruption.

The UK approach is based on a strong corporate governance framework in both the public and private sectors; a strong architecture of oversight and coordination bodies; and a focus on transparency at all levels. This approach is based on the premise that corruption at the domestic and international level can be tackled only if government, civil society and business work together. This principle of shared responsibility and collaboration is enshrined in UK legislation and policy.

<u>UK anti-corruption policy coordination</u>

JACU was created in 2015 to oversee policy coordination between departments and agencies and implementation of international and domestic commitments. The Prime Minister's Anti-Corruption Champion is responsible for overseeing the Government's response to both domestic and international corruption. The dedicated Inter-Ministerial Group (IMG) on Anti-Corruption provides coordinated governance

on anti-corruption at the ministerial level and coordination is also led by other Ministerial-level boards. JACU leads the Government's anti-corruption dialogue with wider society, and the Prime Minister's Anti-Corruption Champion has been mandated to engage with external stakeholders, including business and civil society organizations. The commitments in the Anti-Corruption Strategy are reviewed regularly by JACU and the Anti-Corruption Champion, as well as the cross-Government Anti-Corruption Directors Board and the IMG.

JACU represents the UK government at the G20 Anti-Corruption Working Group, UN Convention against Corruption (UNCAC) meetings, and the OECD's Anti-Bribery Working Group. JACU delivered the London Anti-Corruption Summit in May 2016 and engages with business and civil society groups.

The Prime Minister's Anti-Corruption Champion is a personal appointment of the Prime Minister. The Champion is supported by JACU in overseeing the Government's response to both domestic and international corruption. The main elements of the role are to:

● Scrutinise and challenge the performance of departments and agencies.

● Lead the UK's push to strengthen the international response to corruption and to represent the UK at relevant international fora.

● Engage with external stakeholders, including business, civil society organisations, parliamentarians, and foreign delegations making sure that their concerns are taken into consideration in the development of government anti-corruption policy.

Since the role was created in 2004, there have been seven Champions. In December 2017 the Prime Minster appointed John Penrose MP to the role.

A dedicated Inter-Ministerial Group (IMG) on Corruption has provided coordinated governance on anti-corruption at the political level. The IMG has brought together Ministers and heads of operational agencies to oversee delivery of anti-corruption commitments and set the direction for the Government's domestic and international anti-corruption activity.

The UK's key anti-corruption commitments are found in a variety of sources. A common feature of these is their cross-governmental nature and their focus on bringing together government, civil society, private sector, and international partners.

In 2013 the UK published an Open Government Partnership National Action Plan

and following this, in 2014, a UK Anti-Corruption Plan https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf which specifies the wide ranges of government departments and bodies responsible for each of the 66 actions.

A public progress update was published in May 2016. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522802/6.1689_Progress_Update_on_the_UK_Anti-Corruption_Plan_v11_WEB.PDF

The Serious and Organised Crime (SOC) Strategy https://www.gov.uk/government/publications/serious-organised-crime-strategy was published by the Home Office in 2013. The strategy highlights the role of bribery and corruption as enablers of serious and organised crime and sets out the Government's commitment to improve UK anti-corruption systems. The latest Serious and Organised Crime Strategy was published in 2018 https://www.gov.uk/government/publications/serious-and-organised-crime-strategy-2018 and sets out the UK's response to the full range of serious and organised crime threats.

The 2015 National Security Strategy https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_916_1_NSS_SD_Review_web_only.pdf sets out the UK vision for achieving a number of priorities including strengthening the rules-based international system and institutions, encouraging reforms to enable the further participation of emerging powers; and working with the UK's international partners to reduce conflict and to promote stability, good governance and human rights.

In May 2016 the UK published the Action Plan for Anti-Money Laundering and Counter-Terrorist Finance. The plan sets four focus areas for action: stronger partnership with the private sector; enhancing the law enforcement response; improving the effectiveness of the supervisory regime; and increasing the UK's international reach.

In May 2016 the UK coordinated and hosted the London Anti-Corruption Summit https://www.gov.uk/government/topical-events/anti-corruption-summit-london-2016. Attendees signed the Global Declaration against Corruption and 40 countries committed to over 600 new actions to tackle corruption in all its forms. The UK made 39 commitments at the Summit. Some of the UK's key achievements are set out below. In addition, the US and the UK co-funded the successful inaugural Global Forum for Asset Recovery in Washington in December 2017, an initiative announced at the Summit. Highlights included the signing of an agreement between Nigeria and Switzerland for the return of $321m of assets to Nigeria.

Furthermore, at the summit, the UK committed to develop and publish a new national Anti-Corruption Strategy https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022, to provide a vision and framework for the UK's domestic and international policy priorities. The UK published the strategy in

December 2017. A first annual update on the Strategy was published in December 2018 https://www.gov.uk/government/publications/anti-corruption-strategy-year-1-update.

In 2019, the UK Government signalled its intent to publish an economic crime plan and asset recovery action plan that summer. The asset recovery action plan would set out how the UK would go further in improving its response to criminal finances. It would cover the legal, operational and public-private partnership actions to pursue to improve the UK's ability to tackle economic crime and undermine the ability of serious and organised criminals to operate. The economic crime plan, for 2019 to 2022, would provide information on action being taken by the public and private sectors to ensure that the UK cannot be abused for economic crime. Also following from a summit commitment, the UK would establish a public register of beneficial owners of overseas legal entities, requiring them to provide this information if they own or once they purchase property in the UK. This would identify, in a public and easily accessible way, the owners and controllers of overseas legal entities that own property in the UK, increasing transparency and trust in the UK property market and supporting law enforcement in their investigations. See article 14 of the Convention below.

Participation of society:

JACU leads the government's anti-corruption dialogue with wider society.

During the development of the Anti-Corruption Plan and the Anti-Corruption Strategy, workshops were held with civil society, including the Bond Anti-Corruption Group (a coalition of ten British-based NGOs who work on corruption-related issues), who were encouraged to submit recommendations on policy and process via face-to-face meetings with government officials and through written submissions. Academics and think tanks were also engaged.

A number of civil society organisations and businesses were invited to participate in the London Anti-Corruption Summit and a dedicated civil society event on the day before the Summit. Civil society and private sector groups were also involved in the OECD phase 4 review of the UK and took part in the onsite visit in October 2016.

The Prime Minister's Anti-Corruption Champion has been mandated to engage with external stakeholders, including business and civil society organisations. In the past year for example the Champion has attended events and meetings with Transparency International and the Anti Money Laundering Professionals Forum. This engagement provides a channel for business and civil society to share their views on the development and implementation of policy.

The UK has collaborated closely with civil society on developing and implementing the commitments set out in the Open Government Partnership National Action Plans.

The UK Open Government Network (the OGN) http://www.opengovernment.org.uk/ was established by civil society in 2011 in response to the UK joining the Open Government Partnership and since then the UK have sought to build a broad coalition of active citizens and civil society organisations to secure robust and ambitious open government reforms. For the third National Action Plan, the UK crowdsourced an Open Government Manifesto: via an online platform and a series of workshops views were heard from over 250 members of civil society on their priorities for reform, including opening up public contracting, government budgets, devolution deals, public service delivery, state surveillance and company ownership. Since then, a further fourth National Action Plan was published, covering the period from March 2019 to Autumn 2021, which includes anti-corruption commitments around extractives transparency and open contracting:

https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2019-2021/uk-national-action-plan-for-open-government-2019-2021.

The UK continues to deliver better cooperation between the public and private sectors on illicit finances, recognising that stronger partnership between governments, regulators, law enforcement, financial intelligence units (FIUs) and business helps to detect and prevent the flow of illicit funds across the globe and enables the private sector to act as a more effective first line of defence. In 2016 the Joint Money Laundering Intelligence Taskforce (JMLIT) http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/joint-money-laundering-intelligence-taskforce-jmlit was established in partnership with the financial sector to provide a mechanism for exchange and to analyse information relating to money laundering and wider economic threats. Under the National Economic Crime Centre (NECC), JMLIT is led by the National Crime Agency (NCA) and includes representatives from the financial sector, Serious Fraud Office (SFO), City of London Police, Metropolitan Police Service, Financial Conduct Authority (FCA) and HMRC. Providing a forum to share information on new typologies, existing vulnerabilities, and live tactical intelligence, JMLIT successfully brings together public and private sector expertise to better understand the scale of money laundering and the methods used by criminals to exploit the UK's financial system and terrorists using the financial system to finance attacks. Continued commitment and support from both sides deliver a true partnership "whole system" approach, which enables the private sector to act as a more effective first line of defence against economic crime.

Rule of law

The legal basis for anti-corruption measures in the UK is UNCAC, ratified in 2006, and the OECD Foreign Bribery Convention, ratified in 1998.

The Criminal Finances Act 2017 provides key powers to enable the UK to respond to new threats related to money laundering, tax evasion, corruption, and the

financing of terrorism. This legislation partially builds on the Proceeds of Crime Act 2002 by giving law enforcement agencies enhanced capabilities and greater powers to recover the proceeds of crime and tackle these threats. It also gave the private sector the ability to share information between themselves to tackle money laundering and terrorist finance.

In particular, the creation of Unexplained Wealth Orders provides certain law enforcement agencies with a vital new investigative tool. UWOs will require those suspected of serious crime, including corruption, to explain the sources of their wealth, helping to facilitate the recovery of illicit wealth and stopping criminals using the UK as a safe haven for the proceeds of international corruption. UWOs can also be made in relation to non-EEA foreign officials, even where the link to serious crime is harder to evidence, given the increased risk that they may be involved in grand corruption.

Non-conviction based confiscation powers, introduced initially under the Proceeds of Crime Act, are now extended via the Criminal Finances Act to the Financial Conduct Authority and to HM Revenue and Customs. There was also the creation of new non-conviction based forfeiture powers relating to bank accounts and certain personal assets such as precious metals and stones.

Transparency, accountability and integrity in the management of public affairs and public property:

The UK maintains a firm commitment to transparency, integrity and accountability across the public sector and aims to be the most transparent government in the world. The UK is a founding member of the Open Government Partnership, and is currently implementing its fourth National Action Plan covering the period from March 2019 to Autumn 2021: https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2019-2021/uk-national-action-plan-for-open-government-2019-2021.

Each central government entity, including departments, agencies, trading funds, non-departmental public bodies and arm's length bodies, has a strong and transparent corporate governance framework which includes a single accounting officer; internal and external audit processes; risk and audit an audit committee; and a management board including independent members.

The Accounting Officer is normally the most senior official and takes personal responsibility for accurately recording and publishing the organisation's financial position, transactions and is accountable to Parliament.

Central government entities must publish an audited combined Annual Report and

Accounts each financial year which presents a true and fair view of income, expenditure, assets, liabilities and asset management strategy. They must produce Financial Statements that are compliant with the public sector Financial Reporting Manual (FReM) which applies EU adopted International Financial Reporting Standards and interpretations. Financial reporting must be audited by the relevant auditor: the Comptroller and Auditor General, the Auditor General for Wales or the Comptroller and Auditor General for Northern Ireland. In Scotland, the Auditor General for Scotland determines who carries out the audit and generally appoints a member of staff of Audit Scotland or an accountancy firm.

The Chancellor of the Exchequer presents the annual national Budget to Parliament in each year, covering the nation's finances, Government proposals for changes to taxation and forecasts for the economy by the Office for Budget Responsibility (OBR). The Budget is published online and measures are contained in the annual Finance Bill which Parliament debates and scrutinises.

In 2016 the UK became the first G20 country to undertake an IMF Fiscal Transparency evaluation: the report stated that the UK scored highly compared to other countries. https://www.imf.org/en/News/Articles/2016/11/16/PR16509-UK-IMF-Publishes-Fiscal-Transparency-Evaluation-for-the-United-Kingdom

Central government bodies are required to report detected losses from economic crime. This is published here: https://www.gov.uk/government/publications/cross-government-fraud-landscape-annual-report-2018 and is an annual publication. Local authorities are required to publish the number of occasions that they use powers under the Prevention of Social Housing Fraud Regulations or similar powers, the total number of employees undergoing investigations and prosecutions of fraud, the total number of professionally accredited counter fraud specialists, the total amount spent by the authority on the investigation and prosecution of fraud, and the total number of fraud cases investigated. This requirement is within the Local Government Transparency Code enforced by the Local Government Regulations 2015. Here is an example: http://www.kent.gov.uk/about-the-council/finance-and-budget/spending/fraud-prevention.

The Nolan Principles of Public Life https://www.gov.uk/government/publications/the-7-principles-of-public-life define the ethical standards expected of public office holders. Published codes of conduct <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code> set out the standards expected of Ministers, special advisers and civil servants, and they are also subject to extensive transparency requirements. The Civil Service Commission, Committee on Standards in Public Life, Ombudsmen, the Advisory Committee on Business Appointments, and the central **Propriety and Ethics Team in the Cabinet Office** all play a role in ensuring the UK government maintains the highest standards of integrity in all areas.

Devolved Administrations

In Scotland - the Commissioner for Ethical Standards in Public Life http://www.ethicalstandards.org.uk/ is an independent office-holder who is dedicated to the provisions of high ethical standards in public life in Scotland.

The Commissioner can investigate written complaints about: Councillors, Members of devolved public bodies and Members of the Scottish Parliament (MSPs) who are alleged to have contravened their Code of Conduct (see Article 7.1(a)).

In Wales, the Welsh Government has published Managing Welsh Public Money http://gov.wales/docs/caecd/publications/160201-managing-money-en.pdf which sets out the framework and principles which must be applied by the Welsh Government, its arm's length bodies, the National Health Service (NHS) in Wales, its Commissioners, the Education Workforce Council, Estyn and the Welsh Government's subsidiary bodies. Senedd Cymru, the Welsh Parliament, has its own Public Accounts Committee http://www.senedd.wales/en/bus-home/committees/Pages/Committee-Profile.aspx?cid=441. The Committee was established on 22 June 2016 to carry out the functions set out in Standing Orders 18.2 & 18.3 http://www.senedd.wales/NAfW%20Documents/Senedd%20Business%20section%20documents/ Standing_Orders/Tracked_SOs.eng.pdf and consider any other matter that relates to the economy, efficiency and effectiveness with which resources are employed in the discharge of public functions in Wales. There is an independent and objective Public Sector Ombudsman for Wales http://www.ombudsman-wales.org.uk/ overseeing the operations of the Welsh Government, which is also subject to independent and objective audit and review by the Auditor General for Wales https://www.wao.gov.uk/about-us/auditor-general-wales (the head of the Wales Audit Office).

In Northern Ireland, the Commissioner for Public Appointments Northern Ireland https://www.publicappointmentsni.org was established in 1995 to provide guidance for Government departments on procedures for making public appointments; to audit those procedures and report on them annually, and to investigate complaints about appointment processes. Northern Ireland has its own strategy on open data (see, Article 10) as well as Codes for Public Officials and Civil Servants (see Article 8).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The UK's published plans and strategies provide a good indication of the joined up nature of its anti-corruption efforts. As mentioned above, the UK Anti-Corruption

plan https://www.gov.uk/government/publications/uk-anti-corruption-plan was published in 2014 and sets out actions and responsibilities across the whole of government:

An update https://www.gov.uk/government/publications/uk-anti-corruption-plan-progress-update was published in May 2016 showing good progress on implementing the sixty-six actions in the Plan by May 2016, with sixty-two actions (94%) delivered or on track to be delivered.

Action 52 in the Anti-Corruption Plan is an example of practices specifically aimed at preventing corruption. Action 52 relates to a communications campaign targeted at members of the legal sector to deter professionals from partaking in corrupt practices and encouraging the adoption of preventative behaviours in that sector.

Published in December 2017, the UK Anti-Corruption Strategy https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022 established an ambitious longer-term framework to guide UK government efforts to tackle corruption at home and abroad in the period to 2022.

It sets out a longer term vision of anti-corruption action leading to:

- reduced threats to national security
- stronger economic opportunities (especially for British business)
- greater public trust and confidence in institutions.

This strategy sets out 6 clear priorities for this Parliament. These are:

- reduce the insider threat in high-risk domestic sectors such as borders and ports
- strengthen the integrity of the UK as an international financial centre
- promote integrity across the public and private sectors
- reducing corruption in public procurement and grants
- improving the business environment globally
- working with other countries to combat corruption.

The strategy ensures that efforts are joined up across government and include close collaboration with civil society, private sector, law enforcement, and other partners who play a critical role in tackling corruption.

The strategy builds upon existing anti-corruption efforts, including the 2014 anti-corruption action plan, 2016 London anti-corruption summit, national security strategy, serious and organised crime strategy, action plan for anti-money laundering and counter-terrorist finance, and the fighting fraud and corruption locally strategy. The Year One Update https://www.gov.uk/government/publications/anti-corruption-strategy-year-1-update shows how in many areas the foundations have been laid for realising its goals. It has involved scoping, designing and piloting initiatives, securing funding as well as starting implementation. The impact of these actions will be measured against the overall objective to tackle corruption over the life of the five-year strategy.

At the London Anti-Corruption Summit, countries collectively agreed the communique https://www.gov.uk/government/publications/anti-corruption-

summit-communique and made national commitments: https://www.gov.uk/government/publications/anti-corruption-summit-country-statements. The UK was among those countries which made a new set of specific and ambitious commitments. Most of these have since been implemented, including:

● Established a public central register of beneficial ownership information https://www.gov.uk/government/news/people-with-significant-control-companies-house-register-goes-live;

● Passed the Criminal Finances Act which establishes new anti-corruption tools and powers such as Unexplained Wealth Orders https://www.gov.uk/government/collections/criminal-finances-act-2017 and http://www.legislation.gov.uk/ukpga/2017/22/contents/enacted;

● Launched the International Anti-Corruption Coordination Centre (IACCC) http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/international-anti-corruption-coordination-centre;

● Undergone the first IMF Fiscal Transparency Evaluation for a G7 country http://www.imf.org/external/pubs/ft/scr/2016/cr16351.pdf;

● Launched the 'Contracting 5' (C5) initiative at the Open Government Partnership Global Summit 2016 with Colombia, France, Mexico, and Ukraine;

● Co-hosted, with the Danish Government a high level side event at the UN General Assembly in September on anti-corruption, growth and the Sustainable Development Goals;

● Sport England and UK Sport published a UK Code for Sports Governance https://www.sportengland.org/media/11193/a_code_for_sports_governance.pdf on 31 October 2016. The Code set out the levels of transparency, accountability and financial rigour required from sports bodies in receipt of exchequer and National Lottery funding from 1 April 2017

Example of implementation at the departmental level:

For an example of implementation at a departmental level, Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) independently assesses and regularly publishes reports on the efficiency and effectiveness of police forces in England and Wales. This includes its annual programme of Police Effectiveness, Efficiency and Legitimacy (PEEL) inspections looking at the efficiency, effectiveness and legitimacy of all forces in England and Wales. The legitimacy strand assesses forces' performance in relation to ethics, integrity and corruption, including their capacity and capability to prevent, detect and respond to corruption. HMICFRS also carry out and publish a number of thematic inspections on national issues facing policing which may include neighbourhood policing, serious crime and senior leadership. HMICFRS also inspects and reports on the work of the National Crime Agency.

https://www.justiceinspectorates.gov.uk/hmicfrs/publications

Examples of implementation at the cross-government level:

Counter Fraud, bribery and corruption awareness training (e-learning) is available to all public sector staff who use Civil Service training. It provides general awareness and understanding of the risks and issues relating to bribery and corruption. Civil service learning is now available on the learning platform for government.

Examples of implementation at the public sector level:

A bribery and corruption assessment template was published in December 2016 to support government to set a high standard on the UK's response to bribery and corruption. The template directly supports all Departments, Agencies and Arm's Length Bodies to establish a comprehensive understanding of their bribery and corruption risks, which is essential in order to effectively manage and mitigate this threat. It encourages departments to carry out a self-assessment against four key areas: Counter-Corruption Culture; Counter-Corruption High Level Risk Assessment; Counter-Corruption procedures and tools; and Counter-Corruption Awareness, Training and Communications. The template is published on gov.uk for all sectors to adopt and adapt for use, see link here https://www.gov.uk/government/publications/bribery-and-corruption-assessment-template.

The Centre for the Protection of National Infrastructure https://www.cpni.gov.uk/, the National Technical Authority for physical and personnel protective security advice to the UK national infrastructure, provides advice and tools on reporting and reducing the risk of corrupt insiders in critical national infrastructure sectors. Advice and resources, for example the 'It's OK to Say' education programme, are available on their website for access and use by a broader range of sectors.

Recognising the risk in vulnerable sectors:

The National Strategic Assessment of Serious and Organised Crime 2019 (https://www.nationalcrimeagency.gov.uk/who-we-are/publications/296-national-strategic-assessment-of-serious-organised-crime-2019) includes a chapter on bribery and corruption. The report states that offenders continue to use corrupt public and private sector workers to facilitate their activities. Border, immigration law enforcement and prisons staff work in areas that are particularly vulnerable.

Open Government Partnership

As described above, UK OGP anti-corruption commitments and examples of implementation include:

1. Commitment 6 (Second NAP 2013-15)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255901/ogp_ukn_ationalactionplan.pdf - The UK government will, for the first time, bring together all of the UK's anti-corruption activities into one cross-government

Anti-Corruption plan.

Implementation: The UK Anti-Corruption Plan https://www.gov.uk/government/publications/uk-anti-corruption-plan was published in December 2014 with 66 actions to tackle corruption including introducing a new criminal offence of police corruption for those police officers who have acted corruptly; establishing a new International Corruption Unit in the National Crime Agency, to recover funds stolen from developing countries and prosecute those responsible; and abolishing bearer shares, to make it harder for criminals to launder the proceeds of corruption.

In its end-of-term IRM report on the UK's second NAP it was noted that "the commitment is undoubtedly a significant strategic step forward in tackling corruption nationally and internationally, with a comprehensive series of suggestions stretching from government to Parliament and private companies."

2. Commitment 7 (Second NAP 2013-15)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/255901/ogp_uknationalactionplan.pdf - The UK government will lead by example by creating a publicly accessible central registry of company beneficial ownership information. The registry will contain information about who ultimately owns and controls UK companies.

Implementation: Since June 2016, most UK companies, limited liability partnerships and 'Societates Europaeae' (a public company registered in accordance with the corporate law of the European Union, introduced in 2004 with the Council Regulation on the Statute for a European Company), and since June 2017, UK unregistered companies and eligible Scottish partnerships are required to provide information for the Central Register of People with Significant Control (PSC register) https://www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships at Companies House. The UK was the first G20 country to implement a public company beneficial ownership register. The IRM report noted "the policy has so far met its ambitious aims and is one of the central achievements of the UK NAP."

3. Commitment 3 (Third NAP 2016 - 18)

https://www.gov.uk/government/publications/uk-open-government-national-action-plan-2016-18/uk-open-government-national-action-plan-2016-18 - To develop, in consultation with civil society, and publish, a new Anti-Corruption Strategy ensuring accountability to Parliament on progress of implementation.

Implementation: The UK published the strategy in December 2017. https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-

2022

Commitment 5 (Third NAP 2016 - 18)

https://www.gov.uk/government/publications/uk-open-government-national-action-plan-2016-18/uk-open-government-national-action-plan-2016-18 - To implement the Open Contracting Data Standard (OCDS) in the Crown Commercial Service's operations by October 2016; the UK will also 1. begin applying this approach to major infrastructure projects, starting with High Speed Two, and rolling out OCDS across government thereafter.

Implementation: The approach was successfully trialled in the High Speed Two rail project, and since November 2016 the Crown Commercial Service is releasing its data https://www.gov.uk/government/publications/open-contracting in compliance with the Open Contracting Data Standard.

(b) Observations on the implementation of the article

The United Kingdom has developed coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law and transparency.

The key anti-corruption commitments of the United Kingdom are found principally in the national Anti-Corruption Strategy 2017–2022, published following commitments made at the 2016 London Anti-Corruption Summit. The Strategy follows the 2014 United Kingdom Anti-Corruption Plan and is complemented by other policies, namely the 2018 Serious and Organised Crime (SOC) Strategy; the 2015 National Security Strategy; and the 2016 Action Plan for Anti-Money Laundering and Counter-Terrorist Finance. The Government has committed to reporting to Parliament on Strategy implementation progress on an annual basis. A first annual update on the Strategy was published in December 2018. Resources for the commitments in the Strategy were allocated prior to its development.

The Joint Anti-Corruption Unit (JACU) was created in 2015 to oversee policy coordination between departments and agencies and implementation of international and domestic commitments. The Prime Minister's Anti-Corruption Champion is responsible for overseeing the Government's response to both domestic and international corruption. The dedicated Inter-Ministerial Group (IMG) on Anti-Corruption provides coordinated governance on anti-corruption at the ministerial level and coordination is also led by other Ministerial-level boards. JACU leads the Government's anti-corruption dialogue with wider society, and the Prime Minister's Anti-Corruption Champion has been mandated to engage with external stakeholders, including business and civil society organizations. The commitments in the Anti-Corruption Strategy are reviewed regularly by JACU and the Anti-Corruption Champion, as well as the cross-Government Anti-Corruption Directors Board and the IMG.

The United Kingdom conducts assessments of corruption risk factors, which also informed priority areas of the Anti-Corruption Strategy. Public bodies publish

information on how they meet those standards, with a view to using transparency to drive accountability. The United Kingdom Counter Fraud Profession further offers a professional structure, standards and guidance for counter-fraud specialists working in central Government, including bribery and corruption standards. The Home Office has recently begun work to strengthen the evidence base to measure domestic corruption risk as part of its efforts to assess and counter domestic corruption.

In its Strategy the United Kingdom also commits to supporting the implementation of the Convention at the global and regional levels, including by supporting international organizations in anti-corruption programming and promoting standards and good practices; and to continue raising anti-corruption issues at relevant international meetings, such as the G7 and the G20.

Based on the above it is recommended that the UK continue to ensure adequate resources and prioritization of government response to domestic corruption threats, including strengthening the evidence base of domestic corruption risks.

(c) Successes and good practices

- The ongoing efforts of the United Kingdom to extend the Convention to Overseas Territories, as appropriate.
- Structures and governance for the coordination of anti-corruption activity, including a national anti-corruption strategy, a Prime Minister's Anti-Corruption Champion, an Inter-Ministerial Group on Anti-Corruption and a cross-government Joint Anti-Corruption Unit.
- Broad participation of civil society organizations and the private sector in the planning, development and implementation of national anti-corruption policies and practices as shown by their engagement in this review.

Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The UK approach to preventing corruption includes building a strong legal framework to deter and punish corrupt practices, providing access to preventative tools, increasing transparency measures, and providing access to education and training.

Legal framework

The 2014 Anti-Corruption Plan https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf (see 5.1 above) formed an assessment of the existing legal and institutional framework to prevent and sanction acts of corruption.

The cross-government UK Anti-Corruption Strategy https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022 sets out a framework to guide UK government action to tackle corruption for the period to 2022.

The Criminal Finances Act 2017 http://www.legislation.gov.uk/ukpga/2017/22/contents/enacted amends the Proceeds of Crime Act 2002 https://www.legislation.gov.uk/ukpga/2002/29/contents to provide additional powers to enable the UK to respond to new threats related to money laundering, tax evasion, corruption, and the financing of terrorism. This legislation gives law enforcement agencies and private sector partners enhanced capabilities and greater powers to recover the proceeds of crime and tackle these threats.

In particular, the creation of Unexplained Wealth Orders will provide law enforcement agencies with a vital new investigative tool. UWOs will require those suspected of serious crime, including corruption, to explain the sources of their wealth, helping to facilitate the recovery of illicit wealth and stopping criminals using the UK as a safe haven for the proceeds of international corruption. UWOs can also be made in relation to non-EEA foreign officials, given the increased risk that they may be involved in grand corruption.

Non-conviction based confiscation powers, introduced initially under the Proceeds of Crime Act, are now extended via the Criminal Finances Act to the Financial Conduct Authority and to HM Revenue and Customs. There was also the creation of new non-conviction based forfeiture powers relating to bank accounts and certain personal assets such as precious metals and stones.

Preventative tools:

A bribery and corruption assessment template https://www.gov.uk/government/publications/bribery-and-corruption-assessment-template was published in December 2016 to support all Departments, Agencies and

Arm's Length Bodies to establish a comprehensive understanding of their bribery and corruption risks, which is essential in order to effectively manage and mitigate this threat. It encourages departments to carry out a self-assessment against four key areas: Counter-Corruption Culture; Counter-Corruption High Level Risk Assessment; Counter-Corruption procedures and tools; and Counter-Corruption Awareness, Training and Communications. The template is published on gov.uk for all sectors to adopt and adapt for use.

Sport England and UK Sport published the UK Code for Sports Governance on 31 October 2016. This sets out the levels of transparency, accountability and financial rigour required from sports bodies in receipt of exchequer and National Lottery funding from 1 April 2017. The Code applies to any organisation, regardless of size and sector, including national governing bodies of sport, clubs, charities and local authorities. The requirements are tiered and proportionate, expecting more of organisations that wish to seek larger public investment. Sport England and UK Sport are working together to provide support to funded organisations to help them achieve compliance, for example, through providing guidance on diversity action plans, legal support to check Article changes, and provision of template documents, and have already achieved some 'big wins' with some major National Governing Bodies. Compliance will be an ongoing process, with sports encouraged to strive towards excellent governance and to continue to make any necessary changes within their organisations.

Transparency measures

The UK Government is proud to be one of the most transparent in the world. The UK have taken steps to publish more data than ever before and are pleased to be recognised as a world leader in transparency. The UK implemented a public company beneficial ownership register in June 2016, the first G20 country to do so. UK companies, limited liability partnerships, eligible Scottish partnerships and Societates Europaeae are now required to provide information for the Central Register of People with Significant Control (PSC register) https://www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships held at Companies House.

In the National Anti-Corruption Plan, Action 4 commits the Cabinet Office to work with government departments, civil society organisations and academics to identify data held by the Government which could be published to improve transparency and reduce opportunities for corruption. The Cabinet Office has worked with civil society organisations and others to identify datasets that could be published, for example the government grants data which was published in October 2017: https://www.gov.uk/government/news/government-releases-100bn-of-grant-data-in-push-for-greater-efficiency-and-transparency.

Since October 2018, the UK has begun to publish data on proxy corruption offences on a quarterly basis. As there is no general criminal offence for corruption, the UK has chosen a list of proxy offences predominantly based on the Bribery Act 2010.

The latest data set at the time of writing can be found here: https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingjune2019

Education and training

In response to Action 52 in the National Anti-Corruption Plan, the Home Office, in partnership with the Solicitors Regulation Authority, Law Society and National Crime Agency, delivered targeted communications to approximately 130,000 members of the legal sector from October 2014 to February 2015, resulting in a 20% increase in suspicious activity reporting from the legal sector. The Home Office launched phase two of the campaign in November 2015, working with the Accountancy Affinity Group, to extend its reach to the accountancy as well as the legal sector. Evaluation of this expansion into the accountancy sector demonstrated that 50% of accountants surveyed reported that campaign materials would make them more likely to submit a Suspicious Activity Report (SAR) to the National Crime Agency. The campaign continued its activity and expanded into the property sector in 2018, with the number of SARs submitted during the first peak of activity increasing by 45% (although this peak cannot be attributed to the campaign alone).

The Centre for the Protection of National Infrastructure https://www.cpni.gov.uk/ provides advice and tools to reduce risk to corrupt insiders for critical national infrastructure sectors. These are also widely available on their website for access and use by a broader range of sectors.

Counter Fraud, bribery and corruption awareness training is mandatory for all civil servants and provides awareness and understanding of the risks and issues relating to bribery and corruption. It is available online via the 'Civil Service Learning' website.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The 2016 Anti-Corruption Plan progress update https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522802/6.1689_Progress_Update_on_the_UK_Anti-Corruption_Plan_v11_WEB.PDF confirms implementation of Actions 4 and 52. Of the 2014 Anti-Corruption Plan.

The cross-government UK Anti-Corruption Strategy https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022 sets out a framework to guide UK government action to tackle corruption for the period to 2022.

The Criminal Finances Act 2017 http://www.legislation.gov.uk/ukpga/2017/22/contents/enacted builds on the Proceeds of Crime Act 2002 https://www.legislation.gov.uk/ukpga/2002/29/contents to create a strong legal framework to deter corruption.

The UK has established the world's first public central register https://www.gov.uk/government/news/people-with-significant-control-companies-house-register-goes-live of beneficial ownership information.

The UK regularly publishes government transparency data <https://www.gov.uk/government/policies/government-transparency-and-accountability> and the 2002 Freedom of Information Act https://www.legislation.gov.uk/ukpga/2000/36/contents guarantees access to government data for citizens.

The UK has created and published tools to help the public sector recognise and mitigate corruption risks including the 2016 bribery and corruption assessment template https://www.gov.uk/government/publications/bribery-and-corruption-assessment-template

The UK is committed to providing adequate training on corruption risks for public sector workers and to making training information available for wider audiences where possible. The Centre for the Protection of the National Infrastructure https://www.cpni.gov.uk/ for example provides advice and tools to reduce risk to corrupt insiders for critical national infrastructure sectors. These are available on their website for access and use by a broader range of sectors.

(b) Observations on the implementation of the article

The UK approach to preventing corruption includes building a strong legal framework to deter and punish corrupt practices, providing access to preventive tools, increasing transparency measures, and providing access to education and training.

JACU leads the Government's anti-corruption dialogue with wider society, and the Prime Minister's Anti-Corruption Champion has been mandated to engage with external stakeholders, including business and civil society organizations.

Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The UK regularly updates both primary and secondary legislation, as shown by the amount of legislation on its legislation.gov.uk website.

The performance of the relevant substantive criminal law statutes, the Bribery Act 2010, the Fraud Act 2006, the Theft Act 1968, the Criminal Finances Act, and the common-law offence of misconduct in public office are, in keeping with generally applicable criminal law policy, subject to continual monitoring and where necessary proactive review. In addition, statutory criminal law is subject to a post-legislative scrutiny process.

The Law Commission is a statutory independent body created by the Law Commissions Act 1965, which aims to:

● ensure that the law is as fair, modern, simple and as cost-effective as possible

● conduct research and consultations in order to make systematic recommendations for consideration by Parliament, and

● codify the law, eliminate anomalies, repeal obsolete and unnecessary enactments and reduce the number of separate statutes.

https://www.lawcom.gov.uk/

The Law Commission's statutory powers are set out in the Law Commission Act 1965 https://www.legislation.gov.uk/ukpga/1965/22. Some information about the Law Commission's independence can be found on its website: https://www.lawcom.gov.uk/about.

Recent examples of the UK's endeavours to periodically evaluate legislation and measures relating to corruption are:

1. Criminal Finances Act 2017

The UK is committed to ensuring that crime does not pay and that law enforcement

and prosecutorial agencies have the powers to recover the proceeds of crime and corruption. The Criminal Finances Act, which received Royal Assent on 27 April 2017, gives law enforcement agencies, prosecutors and partners, enhanced capabilities and greater powers to recover the proceeds of crime, tackle money laundering, tax evasion and corruption, and combat the financing of terrorism. Specifically, this includes the creation of Unexplained Wealth Orders, which will mean those suspected of corruption or other serious crime will be required to explain the sources of their wealth, helping to facilitate the recovery of illicit wealth and stopping criminals using the UK as a safe haven for the proceeds of international corruption.

Following on from the successes of the Bribery Act (2010). The Criminal Finances Act introduces two corporate failure to prevent the facilitation of tax evasion offences; a domestic and an overseas offence. It is acknowledged that in order to stamp out corruption, work across borders is needed. The overseas element of these provisions is especially important to guard against corporations facilitating tax evasion in developing countries that may not have the capacity to detect, investigate and prosecute complex international fraud cases.

In addition, the Act creates a statutory requirement for a review into the effectiveness of the implementation of the Exchange of Notes in the Overseas Territories with a financial centre and the Crown Dependencies.

2. Code of Practice in relation to the Proceeds of Crime Act 2002 (POCA)

The Attorney General and the Home Secretary are responsible for issuing Codes of Practice in relation to the Proceeds of Crime Act 2002 (POCA) as used by the CPS and SFO prosecutors and investigators. The Home Secretary must consult the Attorney General on certain 'POCA Codes' that she issues. As part of measures to implement the Criminal Finances Act, Attorney General's Office (AGO) and Home Office have undertaken a consultation on the Codes of Practice that will help law enforcement officers confiscate valuable items and other assets acquired using the proceeds of crime. The Codes include updated guidance on the exercise of investigation powers under POCA to include new and extended powers relating to various issues including unexplained wealth orders and disclosure orders; and updated guidance for prosecutors on investigation powers, including who can apply for orders, time limits in conducting searches and the seizure of materials. The Codes also ensure that the powers are used in a proportionate and effective manner, safeguarding the rights of those under investigation.

3. Whistleblowing

The UK is committed to providing effective protections for whistleblowers and has made recent legislative changes so that Prescribed Persons have a duty to report

annually on the whistleblowing disclosures they receive. The UK have plans in place to review recent changes to the whistleblowing framework once the recent reforms have built the necessary evidence of their impact.

The UK Government has already undertaken significant reforms to the Whistleblowing Framework, working to improve the environment for whistleblowers.

This includes:

- Introducing the 'public interest' test, so that protections designed for genuine whistleblowers cannot be used instead by those whose grievance against their employer is personal in nature;

- Improved guidance for individuals, employers and prescribed persons on how whistleblowing works in practice. This includes a non-statutory code of practice which aims to ensure that more employers follow good practice when responding to disclosures;

- Bringing the prescribed persons list up-to-date, including designating MPs as prescribed persons;

- Taking steps to protect whistleblowers as job applicants in the health sector;

- Introducing a new requirement for 'prescribed persons' to report annually on the whistleblowing disclosures that they have received and what has happened as a result. This will help to address a concern among whistleblowers that little or no action seems to result when they report wrongdoing to whistleblowers, by increasing transparency about how disclosures are investigated and handled. It will also improve consistency across different bodies in the way they respond to disclosures. Relevant prescribed persons were required to publish the second of these annual reports (for 2018/19) by the end of September 2019.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. The Criminal Finances Act received Royal Assent on 27 April 2017. Since then, the UK has worked with key stakeholders, including other government departments, law enforcement agencies, devolved administrations and the regulated sector, to commence the implementation of the Act's provisions and to highlight the availability of the new powers.

The Home Office and Ministry of Justice are working to ensure that the necessary Secondary Legislation, including Codes of Practice and Court Rules are in place for commencement of the Act's provisions.

As part of the post legislative scrutiny process, the Act will be reviewed by Parliament within 3-5 years. This scrutiny process is intended to assess the implementation of the Act and whether the Act is operating as intended.

As part of the implementation of changes to POCA under the Criminal Finances Act, the AGO and Home Office have consulted on the Code of Practice for prosecutors and investigators and have updated the POCA codes:

https://www.gov.uk/government/publications/proceeds-of-crime-act-2002-codes-of-practice

2. A recent innovation is the Deferred Prosecution Agreement (DPA) which can be used by the Crown Prosecution Service (CPS) and Serious Fraud Office (SFO). DPAs were introduced on 24 February 2014, by the Ministry of Justice, under the provisions of Schedule 17 of the Crime and Courts Act 2013. They are available in England and Wales to the CPS and the SFO. A Code of Practice for Prosecutors was published jointly by the SFO and CPS on 14 February 2014 after a public consultation https://www.cps.gov.uk/publications/directors_guidance/dpa_cop.pdf. Whilst still essentially punitive in nature, DPAs act as a mechanism for changing corporate behaviour and prevention of corruption, short of bringing a prosecution. Since implementation, the SFO have agreed four DPAs, three for bribery and corruption (as of May 2019).

3. Whistleblower protection - If an employee decides to blow the whistle to a prescribed person rather than their employer, they must make sure that they have chosen the correct person or body for their issue. For example, if they are blowing the whistle on broadcasting malpractice they should contact the Office of Communications (Ofcom).There is a list of the prescribed persons and bodies https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies to whom employees can make a disclosure to. There is also a brief description about the matters they can report to each prescribed person. Guidance has been published for (1) prescribed persons https://www.gov.uk/government/publications/whistleblowing-guidance-for-prescribed-persons, (2) employers https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf, and (3) individuals https://www.gov.uk/whistleblowing.

4. Following a public Call for Evidence in 2017 the Government has continued to

consider potential options for introducing changes to the law governing the attribution of corporate liability for economic crime offences, including fraud, money laundering and false accounting.

5. The Law Commission launched its second public consultation into misconduct in public office http://www.lawcom.gov.uk/project/misconduct-in-public-office/ on 5 September 2016. This will decide whether the existing offence of misconduct in public office should be abolished, retained, restated or amended and to pursue whatever scheme of reform is decided upon. The Commission's findings and recommendations are expected to be published shortly

6. The Fraud Act 2006 was subject to post legislative scrutiny in 2012.

https://www.justice.gov.uk/downloads/publications/corporate-reports/MoJ/2012/post-legislative-assessment-fraud-act-2006.pdf

7. The Bribery Act 2010 was subject to post legislative scrutiny in 2018. The Bribery Act Committee's report and the Government's response were both published in 2019.

https://www.parliament.uk/business/committees/committees-a-z/lords-select/bribery-act-2010/publications/

(b) Observations on the implementation of the article

The performance of the relevant primary and secondary criminal legislation is subject to continual monitoring and where necessary proactive review and statutory criminal law is subject to a post-legislative scrutiny process. The Law Commission works to keep the law of England and Wales under review and recommends reform where needed, as does the Scottish Law Commission for Scotland. Civil society is indirectly involved in the consultative process leading to the law reforms.

Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

2016 Anti-Corruption Summit - see 5.1 above

The UK currently participates in the Council of Europe Groups of States against Corruption (GRECO) process of peer evaluations.

In 2017 the UK became the first member state to be evaluated under GRECO's fifth round evaluation, assessing the UK's efforts to prevent corruption and promote integrity in central government (top executive functions) and law enforcement agencies. The UK's compliance with GRECO's recommendations was assessed by GRECO in May 2019.

The UK currently participates in the European Commission's anti-corruption experience sharing programme. This takes the form of workshops on anti-corruption topics where national experts from each country are invited to participate and share learning. These are held approximately four times a year.

Tackling corruption lies at the heart of the UK's international development assistance work. The UK recognises that this is multi-faceted and frequently cross-border in nature. It requires action in three interconnected spheres: (i) within collaborating partner countries, (ii) within the UK and (iii) internationally, to strengthen the global 'architecture'. Assistance is predominantly provided on a grant basis.

The UK continues to cooperate with multilateral organisations and countries in the fight against corruption through the Global Anti-Corruption Programme of the UK Prosperity Fund which is worth £45m over five years. Since 2017, the UK has supported the UN to hold regional UNCAC workshops in South East Asia, East Africa, Southern Africa and Latin America and Mexico which were well received. These workshops have identified priority areas in which the UNODC have followed up with technical assistance, reports, toolkits and training courses.

Since 2017 the UK has worked closely with the OECD and through the Prosperity Fund Global Anti-Corruption Programme funded the annual Integrity Forum. In 2019 this brought together over 1,200 Anti-Corruption practitioners from 120 different countries representing government, private sector, civil society and academia. The UK is supporting the 2020 Integrity Forum which will focus on the links between the public and private sectors. As well as this, the UK is funding the development of a web portal and partnerships working to build capacity and share expertise in non-OECD countries. The UK works bi-laterally through a number of

embassies to support their host governments in a range of anti-corruption activity.

UK International Anti-Corruption efforts predominantly form part of its Overseas Development Assistance https://www.gov.uk/government/collections/official-development-assistance-oda--2 (ODA). UK assistance programmes in partner countries offer a wide array of institution-strengthening to help bear down on corruption. This ranges across the spectrum of needs encompassed by UNCAC. Prevention work seeks to strengthen the integrity and accountability of a collaborating partner's public service, particularly the management of the civil service, public finances, public procurement and the delivery of public services; ensure the efficient functioning of oversight mechanisms, such as Auditors-General and Public Accounts Committees of parliaments; ensure an impartial, effective and reliable judiciary, and sound regulation of the private/corporate sector and financial institutions. The role of civil society in fostering change and strengthening accountability of governments to their citizens is also especially important, and is a key component of the UK's empowerment and accountability initiatives. In most assistance programmes, a significant anti-corruption contribution is being made through support for public financial management reform. Many programmes have supported national audit offices (e.g., Ghana, Ethiopia, Sierra Leone, Tanzania, Uganda and Vietnam). The UK has assisted many anti-corruption commissions or similar entities (including Malawi, Nigeria, Sierra Leone, Zambia and Jamaica), and supported greater scrutiny of public expenditure through parliamentary oversight and civil society engagement provided in countries such as Bangladesh, Ghana and Kenya.

Assistance for stronger enforcement action is an increasing part of UK's assistance. This includes international legal co-operation, law enforcement-to-law enforcement collaboration and assistance on drafting relevant legislation or for developing investigatory capacity and effectively prosecution, e.g. in Nigeria and Tanzania. The International Anti-Corruption Coordination Centre was announced at the London Summit in 2016. This centre forms part of the Prosperity Fund Global Anti-Corruption Programme and brings together specialist law enforcement from UK, Canada, USA, Singapore, Australia, New Zealand and Interpol into a single location to coordinate a global law enforcement response to allegations of grand corruption, Switzerland and Germany maintain engagement as observers with a place on the governance board. The centre shares financial and other intelligence, coordinates multi-jurisdictional actions, builds international partnerships, funds case specific training and deploys to countries in order to support grand corruption cases.

Action in the UK

The UK development assistance programme provides funding for dedicated law enforcement capacity in the UK to investigate aspects of international corruption affecting developing countries: the tracing, seizing and recovery of illicit flows into the UK from such countries, and bribery by UK companies or individuals in such countries. The UK believes it is unique in providing development assistance domestically for such purposes.

International Action and the global 'architecture'

The UK was a strong advocate of injecting a strong preventive theme in UNCAC during the convention negotiations. It has provided critical support to UNODC in Vienna to assist in the effective implementation of the Convention. For example, UK funded the development of UNODC's UNCAC legal library, making available comparative information on legal provisions on corruption in states Parties to the Convention. The UK also contributed to civil society training programmes run by UNODC which enabled citizens to be involved in peer reviews. As noted above, the UK is funding a project to fast-track the implementation of UNCAC in four regions. Delivered by UNODC, the project establishes a platform at regional level, in East Africa, Latin America, South East Asia, and Southern Africa. Countries come together to agree a programme of priorities to take forward and UNODC support this through technical assistance.

The UK has contributed strongly to developing the global architecture for asset recovery. It provided expertise to establish the joint World Bank/UNODC Stolen Asset Recovery Initiative (StAR). It was a founding funder of the International Centre for Asset Recovery (ICAR) at the Basel Institute of Governance which provides practical case management advice to countries pursuing asset recovery. These two bodies have transformed the global framework for asset recovery in recent years. The UK continues to fund StAR through the Prosperity Fund Global Anti-Corruption Programme to carry out follow-up activities to the Global Forum on Asset Recovery. These include an open source investigation workshop in Nigeria (September 2018), the development of an asset recovery roadmap in Sri Lanka, and assistance to the Ukraine with mutual legal assistance requests sent to other countries. StAR has also worked with new countries. For example, in Ethiopia StAR delivered a workshop on financial investigations to prosecutors from the Attorney General's office and police in Addis Ababa.

Through contributions to both the World Bank and International Monetary Fund anti-money laundering technical assistance programmes, the UK has helped a range of developing countries to strengthen their anti-money laundering regimes. Through the Prosperity Fund Global Anti-Corruption Programme the UK is also funding the Financial Action Task Force to strengthen their regional bodies to improve their capacity to carry out robust informative reviews of their member countries' anti-money laundering systems and to organise capacity building support to address weaknesses in those systems.

The UK is now internationally acknowledged to be a leader in international efforts to increase transparency in extractive industries which can be drivers of large-scale corruption in developing countries. The UK has supported the Extractive Industries Transparency Initiative (EITI) since its launch in 2002.

The UK has been instrumental in catalysing action in other commercial-related areas where corruption is a major concern. It is a key donor of the Infrastructure Sector

Transparency Initiative (previously the Construction Sector Transparency Initiative CoST) which works in innovative partnerships with industry and civil society to improve transparency and accountability in the infrastructure sector.

To ensure development assistance practitioners can access the best evidence, knowledge and research on anti-corruption, the UK has been a leading force in creating (in 2001) and developing a unique multi-donor resource centre initially as a partnership under the 'Utstein Four' initiative (of UK, Netherlands, Norway and Germany) and now supported by nine donors overall (with Australia, Belgium, Canada, Denmark and Sweden). U4 has become a globally recognised source and is mostly freely available as a global public good.

The UK also pursues objectives around strengthening the international anti-corruption processes through the G7 and G20 and is an active member of the Open Government Partnership.

Examples of development assistance programmes provided by the UK which assist partner countries to implement provisions of UNCAC are available in the publicly accessible UK Aid Tracker database: https://devtracker.dfid.gov.uk/

(b) Observations on the implementation of the article

The United Kingdom supports the implementation of the Convention at the global and regional levels, including by supporting international organizations in anti-corruption programming and promoting standards and good practices; and to continue raising anti-corruption issues at relevant international meetings, such as the G7 and the G20.

The United Kingdom also supports other countries to tackle corruption through its development programmes and by contributing to the work of international organizations.

(c) Successes and good practices

The work of the United Kingdom to link anti-corruption to overseas development; and its leading and active participation in international and regional anti-corruption initiatives and programmes.

Article 6. Preventive anti-corruption body or bodies

Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

6.1 (a)

Institutions principally involved in preventing and countering corruption include: Joint Anti-Corruption Unit (JACU), Home Office, Cabinet Office and relevant central government departments (Her Majesty's Treasury (HM Treasury), Department for Business, Energy and Industrial Strategy, Department for International Development (DFID), Foreign and Commonwealth Office), Civil Service Commission and operational bodies such as the Serious Fraud Office (SFO), National Crime Agency (NCA), Financial Conduct Authority (FCA), Crown Prosecution Service (CPS), Financial Intelligence Unit (UKFIU), and Information Commissioner's Office (ICO). There are also dedicated governance bodies, such as the Inter-Ministerial Group (IMG) on Anti-Corruption, cross-Government Anti-Corruption Directors Board and focused forums such as the Economic Crime Strategic Board (ECSB), the Economic Crime Delivery Board (ECDB), the Private Sector Steering Group, Joint Money Laundering Intelligence Taskforce (JMLIT) and Joint Fraud Analysis Centre (JFAC).

Anti-corruption policy responsibility is led by JACU (Home Office), which coordinates domestic anti-corruption policy. JACU works closely with operational partners such as CPS, SFO and NCA to improve the response of the United Kingdom to corruption threats.

6.1 (b)

The UK continues to make a leading contribution both at home and abroad to promulgating evidence, knowledge and research on anti-corruption:

Internationally:

- As host of the 2016 Anti-Corruption Summit (see 5.1 above)
- By supporting the establishment of an OECD anti-corruption and integrity initiative to strengthen the impact and coherence of existing OECD anti-corruption work
- As a key driver of the U4 initiative (see 5.4)
- Funding the development of UNODC's UNCAC legal library (see 5.4)
- Contributing to civil society training programmes run by UNODC (see 5.4)
- Via the NCA International Corruption Unit's outreach programs
- Bilaterally via assistance programs which use knowledge building as an essential element of strengthening institutions in partner countries
- Via the international campaign to shift global norms on beneficial ownership transparency by 2023.

Domestically:

The Anti-Corruption Strategy contains preventative actions, which cover inter alia commitments to improve the evidence base for domestic corruption. Corruption is a hidden crime which is believed to be significantly underreported; existing sources of data do not reflect the true scale and harm of corruption in the UK. It is important that the UK improve its understanding of the scale and nature of corruption, as better evidence will enable it to design preventative policies and interventions that are specific, targeted and effective. The Anti-Corruption Strategy includes commitments to:

- Provide a clearer picture of domestic corruption in specific areas by working with experts to expand and improve the evidence base on corruption and its impacts which the UK are delivering through conducting an economic crime business survey. The UK have also worked with academia, particularly RUSI (Royal United Services Institute) to produce a paper that provides more clarity on the definition of corruption and difference of understanding between corruption and fraud across the private and public sectors.
- Improve how corruption is reported in national crime recording https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingjune2019.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

As previously noted:

- 2016 Anti-Corruption Summit (see 5.1 above)
- Anti-corruption plan progress update (see 5.1 above)

- UK Anti-Corruption Strategy 2017-2022
- U4 Resource Centre http://www.u4.no/

Examples of development assistance programmes provided by the UK which assist partner countries to implement provisions of UNCAC are available in the publicly accessible UK Aid Tracker database: https://devtracker.dfid.gov.uk/

(b) Observations on the implementation of the article

Institutions principally involved in preventing and countering corruption include: Joint Anti-Corruption Unit (JACU), Home Office, Cabinet Office and relevant central government departments (Her Majesty's Treasury, Department for Business, Energy and Industrial Strategy, Department for International Development, Foreign and Commonwealth Office), Civil Service Commission and operational bodies such as the Serious Fraud Office (SFO), National Crime Agency (NCA), Financial Conduct Authority (FCA), Crown Prosecution Service (CPS), Financial Intelligence Unit (UKFIU), and Information Commissioner's Office (ICO). There are also dedicated governance bodies, such as the Inter-Ministerial Group (IMG) on Anti-Corruption, cross-Government Anti-Corruption Directors Board and focused forums such as the Economic Crime Strategic Board (ECSB), the Economic Crime Delivery Board (ECDB), the Private Sector Steering Group, Joint Money Laundering Intelligence Taskforce (JMLIT) and Joint Fraud Analysis Centre (JFAC).

Anti-corruption policy responsibility is led by JACU (Home Office), which coordinates domestic anti-corruption policy. JACU works closely with operational partners such as CPS, SFO and NCA to improve the response of the United Kingdom to corruption threats.

Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

All public office holders in the UK are expected to adhere to The Seven Principles of Public Life (https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2). These include a duty to act with Integrity, Objectivity and Accountability.

Those principles are defined as follows:

Integrity:

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work.

Objectivity:

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability:

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

The Nolan Principles have been influential in standard setting across sectors both domestically and abroad.

The seven Principles are promoted by the Committee on Standards in Public Life (https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life) (CSPL) which advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders.

CSPL is an independent advisory non-departmental public body. Its secretariat and budget are provided by the Cabinet Office.

Ministerial Code

All Ministers of the Crown are subject to the Ministerial Code https://www.gov.uk/government/publications/ministerial-code and they must comply with the law. This Code, which is publicly available, sets out the principles and standards of behaviour expected of all Ministers. Ministers are also expected to observe the Nolan Principles, which are appended to Ministerial Code. https://www.gov.uk/government/publications/ministerial-code The Code covers a wide range of integrity related issues.

Paragraph 5 makes provisions for the impartiality of civil service departments and

their staff:

5.1 states:

Ministers must uphold the political impartiality of the Civil Service, and not ask civil servants to act in any way which would conflict with the Civil Service Code and the requirements of the Constitutional Reform and Governance Act 2010.

And 5.2:

Ministers have a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice in reaching policy decisions.

Civil Service Code

The Civil Service Code http://civilservicecommission.independent.gov.uk/code/, forms part of the terms and conditions of every civil servant. It was first introduced in 1996 and has been updated several times since. This highlights the core values of the civil service: Honesty, Integrity, Impartiality and Objectivity. It describes the standards of behaviour expected of individual civil servants against each of these four values.

If a civil servant is asked to do something which conflicts with the values in the Code, or is aware that another civil servant is acting in conflict with the values, he or she can raise a concern within their own department.

Their department will investigate their concern. If they are dissatisfied with the outcome of the investigation, they may bring a complaint to the Civil Service Commission. The Commission may also hear a complaint direct.

The Civil Service Commission has two roles in relation to the Civil Service Code. The Commission hears complaints under the Code from civil servants. The Commission also works with Departments to help them with their promotion of the Code.

As the Civil Service Code is about the core values of the Civil Service it does not cover areas outside this forum such as:

- personnel management grievances
- disagreements about the merits of policy
- disagreements about management decisions

Such matters can be pursued through channels within the department.

Allocation of resources

JACU currently receives its financial allocation out of the Home Office budget. The Head of JACU is responsible for the administration of the budget, reporting to the Home Office finance directorate.

Counter fraud profession

The UK Government launched the world's first profession for those working in Counter Fraud in October 2018. The Profession now has 4,305 members from 9 organisations plus police and economic crime units. The Profession is also set to expand to local government counter fraud professionals This Profession sets skill standards and provides extensive guidance for specialised staff working in counter fraud, and a professional infrastructure in which they will operate. The government has already defined the variety of skill sets needed to effectively manage economic crime under the 'Counter Fraud Framework' and created six sets of skills standards, including for bribery and corruption. Access to the standards, a bespoke self-assessment tool and career mapping tools are available via a professional skills platform, which also serves as a register of profession members. The framework includes traditional investigative and intelligence and newer skill sets such as risk assessment and the use of data and data analytics. This will formalise the training that is received for counter fraud specialists across central government and ensure it meets the standards. The Government Counter Fraud Profession is also underpinned by a code of ethics. Additionally, the profession produces a quarterly public sector counter fraud journal.

Financial Conduct Authority

The Financial Conduct Authority (FCA) is the conduct regulator for 59,000 financial services firms that serve retail and wholesale consumers as well as users of many of the world's largest and most significant global markets. As part of its responsibility to ensure the integrity of the UK financial markets, the FCA requires all authorised firms to have systems and controls in place to mitigate the risk that they might be used to commit financial crime, including bribery and corruption.

Relevant to article 14 of the UN Convention against Corruption (UNCAC), the FCA is one of the three UK statutory anti-money laundering supervisors in the UK under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the MLRs) and supervises approximately 20,000 firms subject to the regulations. This is a diverse population of firms ranging from banks, building societies, credit unions, investment managers, stockbrokers, e-money institutions, payment institutions, consumer credit firms offering lending services, financial advisors, investment firms, asset managers and those providing deposit services. Its role is to "effectively monitor" these firms, and "take necessary measures for the purpose of securing compliance by such persons with the requirements of these Regulations" which includes firms taking reasonable steps to prevent their services being used for money laundering (ML) or terrorist financing.

Since the creation of the Office for Professional Body AML Supervision (OPBAS), situated within the FCA, it is also responsible for the supervision of the legal and accountancy professional bodies recognised under the MLRs[2]. The FCA, through OPBAS, plays an important role in ensuring high and consistent standards of money

[2] The 22 professional body AML supervisors overseen by OPBAS are listed in Schedule 1 to the Money Laundering Regulations 2017 (MLR 2017).
http://www.legislation.gov.uk/uksi/2017/692/schedule/1/made

laundering supervision across these sectors.

The UK's legal framework to comply with the UNCAC is set out in the Bribery Act. As prescribed by the Bribery Act, the SFO is the lead agency in the UK to enforce the Act. The FCA remit is to focus on firms having adequate systems and controls to identify, assess and prevent financial crime, which includes bribery and corruption, money laundering and terrorist financing. The FCA works closely with lead agencies such as the SFO and the NCA to support UK-wide efforts in the anti-corruption space.

The FCA, however, still has a strong interest in monitoring the adequacy of anti-bribery and corruption systems and controls, pursuant of its responsibilities that fall under the Financial Services and Markets Act 2000 (FSMA). This is at the point of entry and after a firm enters the regulatory system.

When serious misconduct is suspected, the FCA's enforcement function will look to investigate and consider what appropriate action should be taken. This is done in unison with the FCA's supervisory department to ensure the right outcome is achieved for the firm's compliance as well as deterrence and the potential misconduct is remedied. The FCA can take action under the FSMA or the MLRs to ensure firms have adequate and effective AML and anti-bribery and corruption (ABC) systems and controls. As a statutory supervisor under the MLRs, the FCA has both civil and criminal powers and has opened up a select number of investigations under a "dual track" purpose; that being, firms are under investigation for potential civil and criminal failures to comply with the MLRs.

In supporting firms to understand their obligations, the FCA publishes a Financial Crime Guide to provide firms with practical assistance and information for firms of all sizes and across all FCA supervised sectors, on actions they can take to counter the risk that they might be used to further financial crime, including bribery and corruption. Chapter 6 of this Guide provides good and poor practise example to help firms build effective systems and controls for bribery and corruption. https://www.handbook.fca.org.uk/handbook/FCG.pdf.

Ensuring firms have adequate financial crime controls is a responsibility for all supervisory staff, and the FCA currently has over 700 line supervisors supported by a specialist Financial Crime Department (FCD) of 50 supervisors dealing with the highest priority and most complex issues. A financial crime specialist supervisor is required to have a high level of skills, qualifications and expertise. In addition, supervisors are required to successfully complete a bespoke training programme. This is a two-year programme and covers a wide variety of classroom, on the job and e-learning training. Whilst in 2018/19, the FCA operating budget was £543.9 million, it is not possible to say what amount was spent on AML supervision, as the FCA operates an integrated and system-wide approach to financial crime supervision strategies that is not driven by separate budget.

Serious Fraud Office

The SFO is an independent specialist authority which investigates and prosecutes top-level serious or complex fraud, bribery and corruption. It is headed by Lisa Osofsky, who took up the post in August 2018. The SFO is part of the UK criminal justice system with jurisdiction in England, Wales and Northern Ireland.

The SFO was established in 1988 and operates under the superintendence of the Attorney General who represents the SFO's interests in Parliament. It was set up and given its powers under the Criminal Justice Act 1987 following the Roskill report (of the Fraud Trials Committee), published in 1986.

The SFO can investigate any suspected offence within its jurisdiction which appears, on reasonable grounds, to involve serious or complex fraud, bribery or corruption. The UK take on a small number of large economic crime cases which call for the multi-disciplinary approach and legislative powers available to the SFO. In considering whether to take on an investigation, the Director applies her statement of principle which includes consideration of the actual or intended harm that may be caused to the public, or the reputation and integrity of the UK as an international financial centre, or the economy and prosperity of the UK; and whether the complexity and nature of the suspected offence warrants the application of the SFO's specialist skills, powers and capabilities to investigate and prosecute.

The Director therefore has the discretion under her statutory authority to "... investigate any suspected offence which appears to her on reasonable grounds to involve serious or complex fraud".

The exercise of her functions (and the independence of her investigation and prosecution decisions) are protected by the Protocol between the Law Officers and the Director - see here

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772685/SFO_Framework_Agreement.pdf

Other than in a few exceptional cases, decisions to prosecute or not to prosecute are taken entirely by the SFO.

Crown Prosecution Service

The Crown Prosecution Service (CPS) was set up in 1986 under the Prosecution of Offences Act 1985. This Act guaranteed a separation of decision making between investigators (mainly the police but also HMRC, Department for Work and Pensions (DWP), NCA, FCA and other investigators) and prosecutors for the vast majority of decisions to prosecute. The CPS either:

* makes the decision whether to charge a suspect in a case (in all the most serious cases and for around 40% of the total caseload); or

* independently reviews the decision of the investigator to charge before the case reaches the court.

In order to come to a decision on whether to charge or not, or to proceed with the case, all CPS prosecutors use a Code for Crown Prosecutors. This is produced by the Director of Public Prosecutions (DPP - the head of the CPS) and is updated by DPPs as required to reflect changes in society and prosecutorial practice. The Code was most recently updated in October 2018.

https://www.cps.gov.uk/publication/code-crown-prosecutors

The Code sets out a two-stage process: first there must be sufficient evidence for a realistic prospect of conviction; secondly it must be in the public interest to prosecute. Whilst subject to widespread public consultation, the Code is produced independently of Government and is presented to Parliament by the DPP.

In order to protect against the risk of political interference, the DPP has a different relationship with the responsible Government Minister - the Attorney General (AG) - than other comparable public officials have with their Ministers. Instead of being directly accountable to the AG for the casework decisions made by the CPS, the DPP and the CPS are instead "superintended" by the Attorney General. The DPP is solely responsible for all of the individual case decisions made by the CPS. In order to protect independence of decision making in individual cases, subject to a small number of exemptions, all CPS decisions are taken without the involvement of the AG. Whilst the Attorney reports to Parliament on the overall performance of the CPS, and can enquire about particular cases, the final decision rests with the DPP (with decision making powers delegated by him to individual prosecutors)

[1] http://services.parliament.uk/bills/2012-13/financialservices.html

[2] http://www.legislation.gov.uk/ukpga/2000/8/contents

[3] MLRs refers to either the Money Laundering Regulations 2007 or the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Civil Service Learning

The Cabinet Office requires every employee to take the Responsible for Information course at least once a year. This course contains sections looking at the impact of fraud, how to spot fraud and report it, as well as how bribery can occur and the consequences.

There are also two finance/commercial courses that cover corruption-related material:

10 questions about finance you're too senior to ask. Two of the main principles of this programme are to help non-financial SCS better interpret numbers, so they would be better equipped/more confident to spot possible issues, and to help them to ask the right questions of their experts and therefore be better able to spot corruption.

Commercial Skills for Leaders. Whilst corruption is not specifically covered, propriety and ethics are. These are an integral part of the decision making and governance around the management of large contracts. Issues like conflict of interest and transparency, when making contract awards, would be covered.

The Home Office implements a number of measures to ensure the integrity of government officials at the Border including:

- rigorous recruitment, vetting and after care checks are carried out on its staff and contractors;
- a three lines of defence assurance model with specific attention to security of information;
- clear operating mandates and standard operating procedures;
- a wide range of engagement and stakeholder networks to educate and to raise awareness about security and integrity;
- regular anti-corruption, anti-fraud awareness campaigns;
- risk assessments in relation to new projects and granular advice on high-risk projects;
- a mature risk assessment regime throughout the Home Office,
- robust physical controls;
- effective confidential reporting mechanisms to report wrongdoing or whistle-blowing;
- a mature lessons learned process;
- regular review of the anti-corruption strategy, policy and response plan to ensure that these reflect all necessary measures to maintain integrity.
- the Home Office has aa Senior Security Board which comprises of senior stakeholders and provides strategic direction and oversight on Home Office policy and control measures to assist in the mitigation of insider activity.

(b) Observations on the implementation of the article

JACU (Home Office) coordinates domestic anti-corruption policy in close cooperation with operational partners such as CPS, SFO and NCA to improve the response of the United Kingdom to corruption threats.

There are legal safeguards for the independence of these bodies and a variety of corruption-related training is available to staff, commensurate with their functions.

JACU receives its financial allocation out of the Home Office budget. The Head of JACU is responsible for the administration of the budget, with oversight from the Home Office finance directorate.

Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Notification submitted to UNODC secretariat via UK Mission on 19 July 2017.

(b) Observations on the implementation of the article

The United Kingdom has made the requisite notification.

Details of the UK's dedicated prevention authority are also included in the UNODC Directory of Competent National Authorities under this Convention (https://www.unodc.org/compauth_uncac/en/index.html).

Article 7. Public sector

Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

7.1(a)

The Constitutional Reform and Governance Act 2010 puts the UK civil service on a statutory footing. This legislation includes a section on selections for appointments to the civil service which explicitly states that "a person's selection must be on merit on the basis of fair and open competition." All three elements have to be met for the appointment to be lawful.

This legislation also creates an independent Civil Service Commission which regulates recruitment into the civil service. Section 11 requires the Commission to produce "Recruitment Principles", explaining and interpreting the legal requirements.

The Recruitment Principles can be found here http://civilservicecommission.independent.gov.uk/wp-content/uploads/2017/01/RECRUITMENT-PRINCIPLES-April-2015-as-of-January-2017.pdf

The Principles state that departments are responsible for designing and delivering selection processes which meet the requirements. There is no single "right" process for all appointments; processes can and should vary and be proportionate to the nature of the appointment. The process must enable a panel to decide the relative merit of candidates against the skills and experience required.

The document describes the essential steps which must be followed, the information that must be provided to applicants, the process of assessing candidates and how the final decision is made. There are additional processes for recruiting senior managers (Permanent Secretaries) which are also described.

The Commission can hear complaints from anyone who believes a Government department has breached the requirements of the Recruitment Principles. In the first instance, the matter should be raised with the department concerned. If the person who raises the concern is not satisfied with the department's response, they may bring their complaint to the Commission.

Civil Service Commissioners chair selection panels for all external recruitment competitions for Directors, Director Generals and Permanent Secretary levels. Commissioners also chair internal competitions at SCS pay band 3 and Permanent

Secretary level under the terms of the Senior Appointment Protocol, agreed with the Head of the Civil Service.

http://www.legislation.gov.uk/ukpga/2010/25/contents

http://civilservicecommission.independent.gov.uk/

The Constitutional Reform and Government Act also makes provision for the Civil Service Code. The Code sets out the standards of behaviour expected of all civil servants and the core values of the civil service: integrity, honesty, objectivity and impartiality.

https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code

The Civil Service Management Code outlines the terms and conditions for civil servants, including on pay; moving jobs and redeployment; and on leaving the civil service.

https://www.gov.uk/government/publications/civil-servants-terms-and-conditions

7.1(b)

For positions where access to 'Secret' or 'Top Secret' information is required, a higher level of security clearance is required. It is for the hiring department to select the appropriate level of security clearance. There are 3 security levels:

● Counter Terrorist Check (CTC): is carried out if an individual is working in proximity to public figures, or requires unescorted access to certain military, civil, industrial or commercial establishments assessed to be at particular risk from terrorist attack.

● Security Check (SC): determines that a person's character and personal circumstances are such that they can be trusted to work in a position which involves long-term, frequent and uncontrolled access to SECRET assets.

● Developed Vetting: (DV) in addition to SC, this detailed check is appropriate when an individual has long term, frequent and uncontrolled access to 'Top Secret' information. There is also Enhanced DV.

It is the responsibility of individual departments to ensure that their recruitment processes are suitable for the role. The department may include psychometric testing as part of their recruitment process, and plan interview questions around the output of this testing.

7.1(c)

HM Treasury https://www.gov.uk/government/organisations/hm-treasury has overall responsibility for the government's public sector pay policy, and approving public sector workforce yearly pay increases.

Cabinet Office https://www.gov.uk/government/organisations/cabinet-office has responsibility for defining the overall parameters for civil service pay increases each year in the pay guidance, to ensure that civil service pay awards are consistent with

the government's overall objectives. It works with departments and agencies on workforce and reward strategies to encourage greater consideration of workforce needs and properly tailored reward policies.

Departments have responsibility for implementing civil service pay policy for their workforce in a way that is consistent with the civil service pay guidance but also reflects the needs of their business and their labour market position. All pay remits must be approved by a Secretary of State or responsible minister, and each department, through its accounting officer, is responsible for the propriety of the pay award to staff.

All civil service organisations are expected to implement pay remits in line with the stipulations set out in the Civil Service Pay Remit Guidance. For 2019/20, funding arrangements remain as set in 2015 for the current spending review period, where funding is for 1% average pay awards. Organisations have the flexibility to spend up to a further 1% on pay awards, provided it is affordable within budgets and will not impact on the safe delivery of public services. This means that departments have flexibility to make awards of up to 2%. Any organisation wishing to pay more than 2% is able to submit a business case for pay flexibility to Cabinet Office and HM Treasury.

The 2015 spending review set out reforms which included ending automatic progression pay across large parts of the public sector, including the civil service.

7.1(d)

The UK Civil Service has introduced an Internal Fraud Policy which is managed centrally through a Hub at the Cabinet Office. This policy covers economic crime in its widest sense (fraud, bribery and corruption). Under the policy, all investigations into potential fraud must be completed, regardless of whether the subject resigns. Any investigations that are closed must be signed off by the most senior official in the department (the Permanent Secretary) and reported centrally to the team at the Cabinet Office.

All civil servants who are investigated for fraud and subsequently dismissed have their details placed on the internal fraud database. Anyone who is placed on the database is banned from working in the public sector for a period of 5 years. All organisations and departments covered by the policy check this database during the recruitment process before making an offer of employment. The policy is in place across 94% of the Civil Service.

See also Counter Fraud Profession in response to Article 6.2.

Devolved Administrations

Scotland

a) Public Appointments

The Commissioner for Ethical Standards in Public Life in Scotland regulates appointments to the boards of many of Scotland's public bodies. The appointment process is run by civil servants on behalf of the Scottish Government. The responsibility for making appointments fairly, openly and based on merit lies with the Scottish Government.

The Commissioner is wholly independent of the Scottish Parliament and the Scottish Government. He regulates appointments in three main ways:

- he produces a Code of Practice for Ministerial Appointments to Public Bodies in Scotland. The Scottish Government has to follow the Code when making regulated appointments.
- he oversees a selection of appointment processes by assigning a Public Appointments Adviser
- he conducts audits and thematic reviews.

The principle of appointing on merit, as set out in the Commissioner's Code of Practice, requires that where one candidate best meets the selection criteria as set out in the person specification then only that candidate is recommended to Scottish Ministers for appointment, ensuring the integrity and transparency of the process.

Scottish Government has developed a Core Skills Framework that helps selection panels to clearly define what is sought on a body's board at a given point in time. It facilitates the production of a person specification which contains clear and unambiguous criteria for selection and a set of transparent descriptors that articulate what evidence that meets the criteria will look like.

All vacancies are advertised openly on the dedicated Scottish Government public appointments website Appointed for Scotland.

The Scottish Government has well-established resourcing policies and procedures in place to help ensure that it meets organisational needs whilst complying with relevant employment legislation and the Civil Service Commission's Recruitment Principles. Managers are encouraged to participate actively in the process and operate the policy in a fair and open manner.

The resourcing policy applies to recruitment and resourcing in the Scottish Government and its agencies and associated departments for all grades below Senior Civil Service which is reserved to UK Government. An appeals process is in place where circumstances may have affected a candidate's ability to complete the

application or undertake assessment or interview. For external candidates there is a robust, effective complaints handling procedure and candidates also have recourse to the Civil Service Commission. The selection processes are fair, open and transparent, consistent, relevant and competency-based. All successful candidates have to meet the baseline personnel security standard.

Selection decisions are based on the merit of the candidate and their ability to do the job. These key principles apply equally to internal recruitment and promotion as well as recruitment from the external market. The policies and processes are regularly reviewed in order to improve efficiencies for the business and/or to comply with legislative change.

b) Training

The UK Government vetting policy applies to Scottish Government.

There is a bespoke online course on Fraud available for all staff. In addition, all staff must complete an online course on managing information on an annual basis. Topics covered by this course include how to protect information in the workplace, on the move, and online; how to spot fraud, how to report it and its impact; how bribery can occur and the consequences. Online guidance for staff is also available. This promotes the Counter Fraud Strategy, Policy and Response Plan -backed up by the questions in the annual Certificates of Assurance checklist questions on fraud. These questions are put to all Deputy Directors as part of the annual assurance process, summarised here under the requirements section. These expectations are set out in the scheme of delegation, issued to all budget holders every year and contains several references to fraud.

In broader terms, across the public sector in Scotland, the country has agreed an overarching counter fraud strategy, this has agreed objectives and approach.

c) remuneration

● Governance arrangements around pay are set out in Scottish Ministers' Public Sector Pay Policy. Pay ranges for each body are published on their vacancy websites.

● Guidance on Pay Policy is available on the Scottish Government website: www.gov.scot/publicsectorpay.

● This covers staff, Chief Executives and public appointments. The Pay Policy is set annual by Scottish Ministers and supported by Technical Guides.

● To ensure consistency and fairness, there are Frameworks for pay and daily fees within which staff, Chief Executives and public appointments should conform.

● There is also guidance on other pay and non-pay benefits

● Chief Executive and staff pay is underwritten by objective job evaluations. Pay proposals for staff, Chief Executives and public appointments are generally considered by a group under delegated authority from Scottish Ministers (the Remuneration Group), which is chaired by an external Non-Executive Director and has external observers: http://www.gov.scot/Topics/Government/public-sector-pay/RemunerationGroup. The Remuneration Group would also consider pay and grading reviews for staff of organisations and reviews of pay for Chief Executives and public appointments.

● The Senior Civil Service is reserved to the UK Government. To ensure transparency:

○ In addition to annual accounts (where relevant), names and salary details of senior personal (including civil servants) are accessible via the following page on the SG website: http://www.gov.scot/Topics/Government/public-sector-pay/disclosure-of-salaries

○ Pay data for other staff in public bodies is also made available on the SG website: http://www.gov.scot/Topics/Government/public-sector-pay/additionalinfo

○ Links to information regarding pay in other Scottish public bodies / sectors are also available from the Scottish Government website: http://www.gov.scot/Topics/Government/public-sector-pay/bodies-not-covered

○ Links to other information, such as Equality Impact Assessments and the Acceptance and remuneration of Non-Executive Directorships is also available from: http://www.gov.scot/Topics/Government/public-sector-pay/additionalinfo

Staff of the majority of public bodies subject to Ministerial control are subject to the Scottish Public Finance Manual (SPFM): http://www.gov.scot/Topics/Government/Finance/spfm/Intro

d) Programmes

A Scottish Government board member induction workshop has been developed and is offered three times a year, gathering together all new appointees for a day to hear from a Minister, senior civil servant, the Commissioner for Ethical Standards in Public Life in Scotland and Audit Scotland. This complements induction offered by individual boards. The dates of recent and forthcoming workshops are offered online: http://www.gov.scot/Topics/Government/public-bodies/NewBoardMemberSupport

HR - As Article 7(b).

Northern Ireland

a) Public Appointments

The Northern Ireland Civil Service (NICS) has an obligation and is committed to avoiding unlawful direct and indirect discrimination in its recruitment/promotion and selection procedures. Therefore, the selection procedures that are in place in the NICS comply with the legislative framework, the guidelines set out in the published codes of practice and the NICS Equality Diversity and Inclusion Policy statement. In addition, the NI Civil Service Commissioners are appointed to uphold and maintain the principle that recruitment to the NICS should be on the basis of merit through fair and open competition.

Other NI public sector bodies are required to comply with the NI Public Bodies Guide. This guidance advises that all staff are recruited/selected on merit under fair and open competition and that the HR policies/procedures/systems supporting these selection procedures are in line with relevant employment legislation and best practice.

The selection of staff either by direct recruitment or internal promotion is based on the "Civil Service Commissioners Recruitment Code". Additionally, the appointment of public appointee to public sector boards is carried out in line with the "Code of Practice for Ministerial Public Appointments in Northern Ireland".

b) Training

The identification of training needs and the appropriate rotation of staff is a matter for consideration by the relevant Department and public bodies. Anti-fraud policy guidance highlights the need for consideration to be given to these issues.

c) Remuneration

All public bodies in Northern Ireland are required to adhere to NI Executive Pay Policy, which is consistent with HM Treasury Pay Policy. Public Bodies are required to submit a business case to their parent departments showing clearly the pay proposals for each pay round.

Departments must also take account of the Executive's approach to public sector pay when considering the establishment of new public bodies, when negotiating salaries or contracts of employment for new staff in existing public bodies or when re-negotiating salaries or contracts of employment for existing staff in public bodies. In advance of approving posts, the Department of Finance will expect to be provided with benchmarking evidence that the level of remuneration being proposed is reasonable within the context of public and private sector comparators in Northern Ireland, and where necessary and appropriate, in comparison with similar posts in Great Britain and Republic of Ireland. The NI Executive is committed to ensuring that pay systems in the public sector are fair, non-discriminatory, reflecting the

contribution of the individual, and complying with all relevant legislation.

The overall remit for the pay of the NICS is determined by the Finance Minister in line with public sector pay policy. The Department of Finance then enters into negotiations on an annual pay settlement with the trade unions taking into account the terms and conditions set out within the NICS HR Handbook.

An annual equal pay review is also undertaken by the Department of Finance to help inform the process.

d) Programmes

Northern Ireland Civil Service Centre for Applied Learning (CAL) offer and provide Leadership and Management Programmes for all civil servants which include the Senior Civil Servants (SCS) cadre of staff. These programmes contain information and guidance on the Northern Ireland Civil Service Code of Ethics and Standards of Conduct.

Individual Departments also provide specific training, including induction training for all new staff which supports their individual business needs.

Additionally, other NI public sector bodies are required to have in place appropriate HR systems; terms and conditions of employment; Codes of Conduct for staff; disciplinary and performance management systems. Staff induction and ongoing training ensures that staff are aware of the standards of conduct they are expected to comply with, while anti-fraud policies and response plans highlight the roles and responsibilities of staff and management to prevent and detect fraud/corruption.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The Internal Fraud Policy and Hub have been implemented across 94% of the Civil Service.

Devolved Administrations

Scotland

a) Appointments are advertised openly:

In 2016 there were 40 regulated appointment rounds for public bodies in Scotland - 12 for chair (or equivalent) positions and 28 for board members (general and specialist).

A total of 99 new appointments to public bodies were made - 11 to chair positions and 88 board members.

There were 1,790 applications in total for the regulated public appointment rounds in 2016. Of the applications, 129 were for chair positions and 1,661 were for board members.

Scottish Government publishes the analysis of the diversity of the applicant pool annually: http://www.appointed-for-scotland.org/about-public-bodies/diversity/

The Commissioner publishes his findings in an annual report which is laid before parliament every September: http://www.ethicalstandards.org.uk/site/uploads/publications/4bbac3ff88405f5958a87bb1b6485990.pdf

d) The session at board member induction events delivered by the Commissioner requires attendees to consider case studies with reference to the Code of Conduct for their board. Each public body included in the ethical standards framework must submit a Code of Conduct for its members to the Scottish Ministers for approval. In order for the Scottish Ministers to approve the Code of Conduct for that body, the Code of Conduct for that public body must have regard to the Model Code of Conduct. Some variations to the Model can be reviewed and approved by Scottish Ministers, however, these must be kept as minimal as possible and have some particular relevance to the work or nature of the body itself to warrant inclusion.

The Codes of Conduct are based on 9 key principles (which are also contained within the Codes). The key principles, which are the same for both Councillors and Members of Devolved Public Bodies, are:

1. Duty
2. Selflessness
3. Integrity

4. Objectivity
5. Accountability & Stewardship
6. Openness
7. Honesty
8. Leadership
9. Respect

(b) Observations on the implementation of the article

The United Kingdom has comprehensive measures and procedures for the recruitment, hiring, retention, promotion and retirement of civil servants and non-elected public officials. This includes measures for the promotion of education and training programmes and systems designed to promote transparency and prevent conflicts of interest.

The Constitutional Reform and Governance Act 2010 put the Civil Service Commission and Civil Service Code (CSC) on a statutory footing. The principles of the CSC are honesty, integrity, objectivity and impartiality. The Civil Service Management Code (CSMC) draws on these principles and outlines more detailed terms and conditions for civil servants, including remuneration, redeployment and leaving the civil service. The independent Civil Service Commission regulates recruitment to the civil service, providing assurance that appointments are on merit after fair and open competition. The United Kingdom Civil Service has introduced an Internal Fraud Policy and Data-Collection Hub, which helps govern recruitment by sharing the data of civil servants who are investigated for fraud and subsequently dismissed. Anyone who is placed on the Hub is banned from re-employment in the civil service for a period of five years. United Kingdom Government departments and agencies are responsible for their own dismissal, disciplinary and grievance arrangements. Vulnerable positions are subject to enhanced selection procedures as determined by the various departments.

Counter-fraud, bribery and corruption awareness training is available online via the Civil Service Learning and departments can make this mandatory.

Based on the above, it is recommended that the United Kingdom consider identifying positions in the public sector especially vulnerable to corruption and adopting further procedures for the selection and training of public officials holding such positions (art. 7(1)(b)).

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Candidates at a UK Parliamentary Election must be at least 18 years old and either a British citizen, a citizen of the Republic of Ireland or an eligible Commonwealth citizen. Currently at local elections, candidates can also be a citizen of any member state of the European Union, and additional rules apply requiring a link to the local authority in which an individual is standing.

Certain post-holders are disqualified from becoming a Member of Parliament including, for example, civil servants, members of police forces and armed forces, and judges. This is set out in the House of Commons Disqualification Act 1975 http://www.legislation.gov.uk/ukpga/1975/24/section/1 (as amended).

The Representation of the People Act 1983 http://www.legislation.gov.uk/ukpga/1983/2 disqualifies individuals from holding elected office if they have been convicted of a corrupt or illegal electoral practice or an offence relating to donations. Disqualification can last for three or five years and practices covered include providing information known to be false in nomination papers and violation of rules on elections expenses. There are also rules disqualifying individuals subject to certain bankruptcy orders from standing as candidates.

The Representation of the People Act 1981 http://www.legislation.gov.uk/ukpga/1981/34/contents disqualifies individuals who are serving a custodial sentence of more than one year from becoming a Member of Parliament, whilst they are detained.

At local elections, including Mayor Combined Authority elections, mayoral elections and London Assembly elections, a person is disqualified from standing if they have, within the previous five years, been convicted of an offence and sentenced to imprisonment of three months or more. For Police and Crime Commissioners, candidates are disqualified if they have ever been convicted of an imprisonable offence.

Devolved Administrations

Wales

With respect to elected public office, the following legislation is applicable:

● The Government of Wales Act 2006 https://www.legislation.gov.uk/ukpga/2006/32/contents, as amended by the Senedd and Elections (Wales) Act 2020 https://www.legislation.gov.uk/anaw/2020/1/contents/enacted, combined with its Standing Orders, regulates the election of Members of the Senedd (MSs) to sit in Senedd Cymru, the Welsh Parliament.

● Local Government in Wales is covered by -

○ Local Government (Democracy) (Wales) Act 2013 http://www.legislation.gov.uk/anaw/2013/4/contents/enacted (relating to electoral arrangements reviews).

o The Local Government Act 1972 https://www.legislation.gov.uk/ukpga/1972/70/contents (sets out eligibility criteria to stand in principal council and community council elections)

o The Representation of the People Act 1983 http://www.legislation.gov.uk/ukpga/1983/2/contents (provides the legislative basis for the creation of the rules governing principal council and community council elections and includes provisions around candidates expenditure and illegal or corrupt practices by candidates and agents)

The system operates by requiring candidates to declare that they meet the criteria on their nomination papers and the fact that it is an offence to make a false declaration.

There have been examples at a local level of individuals having to stand down from posts they were elected to after details emerged that disqualified them. The Electoral Commission publishes analysis of alleged reports of electoral malpractice https://www.electoralcommission.org.uk/find-information-by-subject/electoral-fraud/data-and-analysis, which contains full details of individual cases and any police action taken.

In August 2016, the then Anti-Corruption Champion, Sir Eric Pickles, undertook an independent review on electoral fraud. His final report entitled 'Securing the ballot' https://www.gov.uk/government/publications/securing-the-ballot-review-into-electoral-fraud includes recommendations about how the government can prevent such crimes in the UK. The Government published its response

https://www.gov.uk/government/publications/a-democracy-that-works-for-everyone-a-clear-and-secure-democracy to this in December 2016.

(b) Observations on the implementation of the article

Electoral law in the United Kingdom is spread across 17 statutes and some 30 sets of regulations. The House of Commons Disqualification Act 1975 and the Representation of the People Act 1981 (as amended) and the Representation of the People Act 1983 prescribe criteria concerning candidature for and election to public office and rules for disqualification of individuals from holding elected office. A recent project of the Law Commission would more closely consider electoral law reform.

Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The Political Parties, Elections and Referendums Act 2000 (PPERA) sets rules about donations to political parties. PPERA also established the Electoral Commission, an independent body whose responsibilities include acting as the regulator of political party finances.

PPERA provides the legal definition of a donation (briefly, a gift or service over £500). Donations to political parties can only be accepted from a 'permissible donor' and parties are required to verify the source of any donations. It is an offence to accept a donation from an impermissible source and the Electoral Commission can apply to order its forfeiture.

Donations to a political party over £7,500 (or over £1,500 to a particular accounting unit) must be reported to the Electoral Commission. These are published on a quarterly basis. In the period immediately before a General Election political parties must submit weekly reports of donations.

Public funding is available for political parties through Policy Development Grants (funding to support the formulation of policies for manifestos), Short Money (funding to support opposition parties in their parliamentary work) and Cranborne Money (funding for opposition parties in the House of Lords). Details of these schemes are made public.

Donations to candidates are governed by the Representation of the People Act 1983. This defines a donation to a candidate as a gift or service, worth over £50, for the purpose of meeting election expenses incurred by or on behalf of the candidate. Donations may only be accepted from permissible sources and must be reported to the returning officer following the election.

The Electoral Commission publishes the details of donations to political parties on a quarterly basis or, in the run up to a General Election, on a weekly basis. The most recent figures ahead of the 2017 General Election can be found at:

http://search.electoralcommission.org.uk/

A full database, containing records of private donations and public funding, can be found on the Electoral Commission's website.

Papers detailing the forms of public funding for political parties can be found on the Houses of Parliament and Electoral Commission websites, including briefing papers on Short Money, Cranborne Money and Policy Development Grants.

The Electoral Commission publishes an online database of political party finances, which includes registers of Political Parties, Non-party campaigners & Referendum Participants, and a database of donations, loans, election/referendum spending & party accounts:

http://search.electoralcommission.org.uk

(b) Observations on the implementation of the article

The Representation of the People Act 1983 governs donations to candidates (sections

71A et seq.), while the Political Parties, Elections and Referendums Act 2000 (PPERA) sets rules about donations to political parties (Part IV) and established the Electoral Commission, which regulates political party finances (Part I). The Electoral Commission publishes details of donations to political parties and maintains a public database containing records of private donations and public funding (section 69 PPERA).

Based on the above it is recommended that the United Kingdom consider amending electoral laws by implementing recommendations of the independent review into electoral fraud and lowering or eliminating permissible donation thresholds to prevent anonymous donations.

Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

As stated above the UK is committed to being the most transparent government in the world.

1. In implementing the Open Government Partnership's third National Action Plan, departments are required to regularly release key open data sets to ensure transparency for the public. These include: details of gifts to Ministers and senior officials; names, grades, job titles and annual pay rates for senior officials; and government spending over £25,000; details of Ministerial and special advisers' meetings, overseas travel and hospitality given and received.

2. The Civil Service Management Code https://www.gov.uk/government/publications/civil-servants-terms-and-conditions sets out the high level terms and condition for civil servants, including declaring private interests. The Code states that civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Where a conflict of interest arises, civil servants must declare their interest to senior management so that senior management can determine how best to proceed. Civil servants must declare to their Department or agency any business interests or shareholdings which they or their immediate family

hold which they would be able to further as a result of their official position and comply with any subsequent instructions from their department or agency regarding the retention, disposal or management of such interests. https://www.gov.uk/government/publications/civil-servants-terms-and-conditions

3. Under the terms of the Ministerial Code, Government Ministers must ensure that no conflict arises or could reasonably be perceived to arise between their public duties, financial or otherwise. On appointment they provide a list of interests to their Departmental Permanent Secretaries. This is reviewed by the Permanent Secretary, the Propriety and Ethics team in the Cabinet Office and by the Independent Adviser on Ministers' Interests who will provide advice on handling as appropriate. A public statement covering Ministers' interests is published twice yearly. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/579752/ministerial_code_december_2016.pdf

4. The Freedom of information Act (FOIA) provides public access to information held by public authorities, see also response to Article 10 (a), below.

5. The Office of the Registrar of Consultant Lobbyists was set up following the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 http://www.legislation.gov.uk/ukpga/2014/4/pdfs/ukpga_20140004_en.pdf, in order to create and administer the statutory Register of Consultant Lobbyists. The Government's intention behind the introduction of the Register was to enhance the transparency of those seeking to lobby Ministers and Permanent Secretaries on behalf of a third party.

The UK has adopted a mixed approach of self and statutory regulation in order to avoid unnecessary regulatory burdens on all who lobby. The statutory Register of Consultant Lobbyists is a UK-wide legislative measure to regulate consultant lobbying.

Devolved Administrations

Scotland

All applicants for a public appointment are asked the following question as part of their application form, and conflicts of interest are further explored at interview as part of the fit and proper person test: Are you aware of anything that might call into question your ability to demonstrate integrity or probity or of any possible conflict of interest which might arise either personally, in relation to your employment or in relation to your connections with any individuals or organisations should you be appointed?

Guidance around effective governance is set out for staff. All Civil Servants are subject to the Civil Service Code. Additional guidance is provided to Scottish Government staff in relation to Standards of Propriety and guidance on when to

register interests.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

A public statement of Ministers' Interests is published twice yearly.

https://www.gov.uk/government/publications/list-of-ministers-interests

The Government publishes details of Ministers and Special Advisers' gifts, hospitality, overseas travel and meetings.

https://www.gov.uk/government/collections/ministers-transparency-publications

Devolved Administrations

Scotland

Judgement from the Standards Commission for Scotland on a board member's failure to declare an interest: http://www.standardscommissionscotland.org.uk/uploads/files/1460542409160412FINALSCS_Press_release.pdf

(b) Observations on the implementation of the article

The Civil Service Management Code (CSMC) sets out the principles guiding the management terms and conditions for civil servants, including guidance for all civil servants on conflict of interest, and declaring private interests. Gifts given to civil servants in their official capacity are regulated in the CSMC, and reporting rules are established by agencies and departments.

The relevant principles in relation to managing conflicts and declaring interests include prohibitions on the misuse of official positions or information, and on receiving gifts, hospitality and other benefits; and declarations of business interests and shareholdings.

Permanent Secretaries are responsible for ensuring adherence to these standards whereas government departments translate the Codes into their own policies and procedures.

The Business Appointment Rules for Civil Servants (Annex A, CSMC) are non-statutory rules which address potential conflict in post-public employment for civil servants. For members of the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for two years after the last day of paid Civil Service employment. For those below the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules

continue to apply for one year after leaving the Civil Service, unless, a longer period of up to two years has been exceptionally applied. There are no sanctions for non-compliance with the Rules.

Permanent Secretaries, Second Permanent Secretaries, Director Generals and special advisers of equivalent standing are required to apply for permission for any new appointment or employment within two years after leaving office. Such applications are referred to the Independent Advisory Committee on Business Appointments (ACOBA), which is sponsored by Cabinet Office. In most cases, the Prime Minister takes the final decision based on ACOBA's advice. All Permanent Secretaries are subject to a minimum waiting period of three months after leaving paid Civil Service, although ACOBA may advise a waiver or extension. A two-year lobbying ban is in place as a general principle at this level.

On appointment Ministers notify their relevant interests to their Departmental Permanent Secretaries (section 7, Ministerial Code). This is reviewed by the Permanent Secretary and by the Independent Adviser on Ministers' Interests. A public statement covering Ministers' interests is published twice yearly. Cabinet Office oversees regular transparency publications, including for Government Ministers: gifts and hospitality received, overseas travel, meetings with external organizations, and senior media figures; and for special advisers: gifts and hospitality received and meetings with senior media figures. Restrictions on the activities of former ministers are in place under the Ministerial Code (section 7.25) and Business Appointment Rules.

As per Section 1.4 of the Ministerial Code, allegations of any breach of the Code are referred to the Prime Minister, who determines the appropriate consequences. If the Prime Minister, having consulted with the Cabinet Secretary, considers that the matter warrants further investigation, the Prime Minister will refer the matter to the Independent Adviser on Ministers' Interests. As per section 1.6 of the Ministerial Code, the Prime Minister is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards. The Independent Adviser does not have a statutory basis for his or her activity as his or her mandate is purely advisory. Cases investigated by the Independent Adviser are a matter of public record.

The Office of the Registrar of Consultant Lobbyists was set up following the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, in order to create and administer the statutory Register of Consultant Lobbyists.

Based on the above it is recommended that the United Kingdom endeavour to strengthen the mechanism for analysing and mitigating risks around conflict of interests and corruption by those in top executive functions, as already outlined in the conclusions of the parliamentary select committee, including by:

- **Establishing a more centralized process of conflicts of interest management and reporting by ministers and senior civil servants;**
- **Strengthening the application of the Business Appointment Rules and the remit and powers of ACOBA;**
- **Reviewing and strengthening the remit of the Independent Advisor on Minister's Interests and giving the Advisor greater powers to investigate conflicts of interest and conduct;**

- **Clarifying and broadening the scope of what are considered "relevant interests" in ministers' declarations of interest; expanding the scope and coverage of the registry of consultant lobbyists.**

These recommendations also relate to article 8, paragraph 5 and to article 12, subparagraph (2)(e) of the Convention below.

Article 8. Codes of conduct for public officials

Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Constitutional Reform and Government Act 2010 makes provision for a Civil Service Code. The Code sets out the standards of behaviour expected of all civil servants and the core values of the civil service: integrity, honesty, objectivity and impartiality.

http://www.legislation.gov.uk/ukpga/2010/25/contents

https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code

The Civil Service Management Code, which outlines the terms and conditions for civil servants, includes a more detailed section on conduct and standards of behaviour.

https://www.gov.uk/government/publications/civil-servants-terms-and-conditions

The legislation also provides for a Code of Conduct for Special Advisers.

https://www.gov.uk/government/publications/special-advisers-code-of-conduct

The Cabinet Office has a central Propriety and Ethics team, staffed by civil servants, whose primary role and function is to update and maintain Codes of Conduct for

Government Ministers, Special Advisers and Civil Servants and to provide advice on how they are applied. The Permanent Secretary in each Government Department is responsible for ensuring adherence to these standards within their own Departments. The Propriety and Ethics team oversees regular transparency publications relating to Government Ministers and special advisers, including for Ministers: gifts and hospitality received, overseas travel, meetings with external organisations, and senior media figures. For special advisers: gifts and hospitality received and meetings with senior media figures.

In addition, the Seven Principles of Public Life https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life apply to anyone who works as a public office-holder (see 6.2, above). This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in:

- the civil service
- local government
- the police
- the courts and probation services
- non-departmental public bodies
- health, education, social and care services

The principles also apply to all those in other sectors that deliver public services.

Devolved Administrations

Scotland

Civil Servants are subject to the Civil Service Code. Codes of conduct also exist for local authority councillors; members of devolved public bodies. Each public body included in the ethical standards framework must submit a Code of Conduct for its members to the Scottish Ministers for approval. In order for the Scottish Ministers to approve the Code of Conduct for that body, the Code of Conduct for that public body must have regard to the Model Code of Conduct. Some variations to the Model can be reviewed and approved by Scottish Ministers, however, these must be kept as minimal as possible and have some particular relevance to the work or nature of the body itself to warrant inclusion. A supplementary Guidance Note to Devolved Public Bodies and their members has been published by the Standards Commission and is available to provide help in interpreting the Code.

The Northern Ireland Civil Service (NICS) Standard of Conduct Policy provides the principles and rules covering all NICS staff and includes the following:

- Code of Ethics - The values and standards of behaviour expected from NICS staff are set out in this code

- NICS Code of Conduct - http://www.nicscommissioners.org/wp-content/uploads/2011/06/CodeofEthics11.pdf

- Public Interest Disclosure (Whistleblowing) - Staff have the right to make a disclosure of information in the public interest.

- Membership of organisations (Non-political)-Staff may be involved in work or activities, subject to certain conditions contained in this section, that are not connected to their role in the NICS.

- Rules on acceptance of outside business appointments, employment or self-employment civil servants after leaving the service - Under these rules staff may have to get permission in order to take up another appointment up to 2 years after they leave the service.

- The acceptance of gifts, hospitality and rewards - There is NI-specific guidance on the acceptance and offering of gifts and hospitality which must be complied with by all public sector organisations. This guidance advises staff that they must not do anything that may give the impression that they have been or may have been influenced by a gift or consideration to show bias either for or against any person or organisation while carrying out their official duties.

In addition, individual Departments within the NICS have created more detailed guidance and procedures which deals specifically with their individual business needs.

NI Public Bodies Guide - Those staff employed in other NI public sector bodies are required to comply with the NI Public Bodies Guide.

- This guidance advises that all bodies must put in place appropriate HR systems; terms and conditions of employment; Codes of Conduct for staff; disciplinary and performance management systems. HR policies and procedures must be in line with relevant employment legislation and best practice.

- All organisations are required to have in place appropriate anti-fraud policies and response plans. These set out the responsibilities of staff and management for preventing and detecting fraudulent activity including bribery and corruption.

- The codes of conduct of public bodies set out the need for staff to declare/register private and personal interests.

Code of Conduct for Board Members of Public Bodies - In addition public appointees of public body boards are required to comply with the Code of Conduct for Board Members of Public Bodies

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/409604/code-of-conduct_tcm6-38901.pdf. This covers the declaration and management of private/personal interests. All newly appointed public body Board members are required to attend appropriate training within 6 months of their appointment.

Wales

The following Codes exist to cover matters of conflicts of interest and receipt and giving of gifts or benefits:

- Ministerial Code (updated November 2019) - for Welsh Ministers, issued by the First Minister of Wales https://gov.wales/ministerial-code.
- Internal codes of conduct and policies and procedures of individual public bodies concerning the reporting of conflicts of interest or gifts and hospitality, under the principles of the UK Civil Service Code, public service principles and UK Nolan Principles.

However, corrupt practices are offences under UK legislation as law and order are not devolved to Wales.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Through the annual release of Civil Service Statistics, Cabinet Office publishes a range of detailed pay information, including: numbers of staff by responsibility level and gender, median and mean salaries by gender, gender pay gap data, the number of staff earning over £100,000 and other pay information. The latest release is available at:

https://www.gov.uk/government/collections/civil-service-statistics

As noted above and at Article 7 a public statement of Ministers' Interests is published twice yearly.

https://www.gov.uk/government/publications/list-of-ministers-interests

In addition, since 2010 the Government has published an annual list of individuals in departments, agencies and Non-departmental Public Bodies earning £150,000 and above. Departments also publish organograms every six months that include individualised salary information for their most senior staff.

(b) Observations on the implementation of the article

Codes of conduct have been adopted for government ministers, special advisers and civil servants. These include the Ministerial Code, the Code of Conduct for Special Advisers, as well as the Civil Service Code (CSC) and Civil Service Management Code (CSMC). Internal codes, policies and procedures have also been developed by individual public bodies, Parliament and the judiciary concerning conflicts of interest, gifts and hospitality. Cabinet Office is responsible for maintaining and providing advice on the application of the Codes.

In addition, the Seven Principles of Public Life (Nolan Principles) set the ethical standards expected from all public office-holders, including ministers. The Seven Principles were espoused in 1995 by the Committee on Standards in Public Life (CSPL), an independent advisory non-departmental public body which advises the Prime Minister on ethical standards across the whole of public life in England. CSPL monitors and reports on issues relating to the Seven Principles and the standards of conduct of all public office holders. Its secretariat and budget are provided by Cabinet Office.

Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with these provisions?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

The Constitutional Reform and Government Act 2010 makes provision for a Civil Service Code. The Code sets out the standards of behaviour expected of all civil servants and the core values of the civil service: integrity, honesty, objectivity and impartiality.

http://www.legislation.gov.uk/ukpga/2010/25/contents

https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code

The Civil Service Management Code, which outlines the terms and conditions for civil servants, includes a more detailed section on conduct and standards of behaviour.

https://www.gov.uk/government/publications/civil-servants-terms-and-conditions

The legislation also provides for a Code of Conduct for Special Advisers.

https://www.gov.uk/government/publications/special-advisers-code-of-conduct

There is also a Ministerial Code which sets out the principles and standards of conduct that apply to all Government Ministers.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/579752/ministerial_code_december_2016.pdf

These Codes are in line with the principles outlined in the International Code of Conduct for Public Officials in the annex to General Assembly resolution 51/19 and the Standards of Conduct for the International Civil Service (General Assembly Resolution 56/244).

The Cabinet Office has a central Propriety and Ethics team whose primary role and function is to update and maintain Codes of Conduct for Government Ministers, Special Advisers and Civil Servants and to provide advice on how they are applied.

The Permanent Secretary in each Government Department is responsible for ensuring adherence to these standards within their own Departments, seeking advice from the Propriety and Ethics team as necessary. Government Departments translate the principles set out in these Codes into their own policies and procedures.

Devolved Administrations

Scotland

(See response for 7.1 and 8.1)

Northern Ireland

See 8.1 above

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

UK - See 2., above

Devolved Administrations

Scotland

Example Code of Conduct: Scottish Fire and Rescue Service:

http://www.firescotland.gov.uk/media/426941/sfrs_corporate_governance_members_code_of_conduct.pdf

Example Code of Conduct: Creative Scotland

http://www.creativescotland.com/__data/assets/pdf_file/0018/25236/Creative-Scotland-Code-of-Conduct-for-Board-Members-May-2015.pdf

(b) Observations on the implementation of the article

The United Kingdom has developed and implemented codes of conduct for public officials in line with the provision under review.

Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

All Civil Service departments across the UK have a 'whistleblowing' policy and procedure in place. Whistleblowing is defined as the process by which an individual raises a concern about a perceived past, current of future wrongdoing in an organisation or body of people. In the Civil Service this includes breaches of the Civil Service Code, i.e. honesty, integrity, objectivity and impartiality, and the standards of behaviour expected by all civil servants.

Although the whistleblowing guidance does not explicitly state that acts of corruption are included in the definition of 'perceived wrongdoing', the process can and would be used for those purposes, where required. Information specifically relating to Civil Service departmental processes in relation to anti-corruption is not held centrally. However, some organisations will have specific procedures in place dependant on nature of their business.

The whistleblowing procedures ensure that employees are afforded protection as detailed in the Public Interest Disclosure Act 1998 (PIDA) http://www.legislation.gov.uk/ukpga/1998/23/contents. PIDA was enacted in recognition that the public interest is served by having wrongdoing brought to light and that those who raise concerns in a responsible way should be protected from negative treatment.

Departments have a number of different channels to allow civil servants to 'blow the whistle' or report a concern. These include:

- Raising the concern directly with their line manager
- Dedicated confidential hotlines/email boxes
- Raising a concern with a 'Nominated Officer'
- Contacting the Civil Service Commission directly

Outside of the Civil Service, The Prescribed Persons Order 2014 http://www.legislation.gov.uk/uksi/2014/2418/made sets out a list of over 60 organisations and individuals that a worker may approach outside their workplace to report suspected or known wrongdoing. The organisations and individuals on the list have usually been designated as prescribed persons because they have an authoritative or oversight relationship with their sector, often as a regulatory body. By reporting to a prescribed person, a worker will qualify for protection from detriment or dismissal from work if the individual reasonably believes that the information disclosed is substantially true and that the matter falls within the remit of the prescribed person's responsibility.

The Counter Fraud Centre of Expertise within the Cabinet Office at the centre of the UK government has introduced a set of Functional Standards, which detail the

minimum that public bodies should have in place to fight fraud and economic crime. Included in these functional standards are a requirement for all organisations to have in place a process for both internal and external sources to report allegations of fraud. In addition, all organisations have whistleblowing arrangements. For 2018 the compliance rate for central government with the Functional Standards is 90% for departments, and 84% for arm's-length bodies.

Devolved Administrations

Scotland

Police Scotland have undertaken an assessment of vulnerabilities within public sector organisations which has been born out of previous case studies and intelligence. Thereafter vulnerable departments and risky business areas are mapped. Areas involved in money transfer and sensitive information are usually targeted. Vulnerabilities include poor policies, lack of training, non-segregation of duties, lone workers, access to multiple computer systems, power to authorise release of funds, specialist knowledge employees, out of hour's employees, poor building security measures and access to sensitive information. The highest risky business areas for public sector corruption include procurement, ICT, licensing, estates management, building maintenance, HR, development planning, residential care, roads maintenance and waste disposal.

Police Scotland runs a public sector investigators course for public sector delegates over 3 days. Delegates are generally involved in screening roles such as fraud investigation, internal audit, finance, procurement, service heads, HR and legal. The course covers money laundering, information sharing and security, bribery, investigative tactics, insider threat, assessing vulnerabilities, service integrity, research of open source, internet and email, vetting, procurement and provides case studies to highlight corruption risks. The course concludes with a hypothetical corruption scenario which prompts syndicate groups to respond effectively using the knowledge gained from the course through the formation of an integrity group.

Deterrence measures include having an overarching anti-corruption policy that includes risk management, employee screening, secondary employment, conflicts of interest, gifts, gratuities, hospitality and sponsorship, bribery, fraud, cybercrime, information security and whistleblowing. Elements of the course are proposed to be delivered at local authority conferences with their own internal inputs to accompany policing prevention messages. Police and public sector organisations have information sharing protocols that combat serious organised crime in procurement, landlord registration and licensing. A procurement fraud checklist has been developed to target harden public sector organisations by prompting internal checks for red flags that would require further scrutiny.

The approach adopted in Scotland in relation to corruption in Local Authorities, particularly with regard to procurement, is now advocated by the Home Office for the rest of the UK as outlined in Organised Crime Procurement Pilots, Final Report in December 2016. This incorporates use of a Serious Organised Crime (SOC) checklist for Local Authority senior management which provides a high level overview of the serious and organised crime risks. A balanced assessment of their exposure to the risks and development of an improvement plan for managing that risk, as well as capturing areas of good practice. In addition, a Local Authority SOC internal audit framework is a methodology that allows Local Authority Internal Audit teams to scrutinise business operations to establish where there may be vulnerabilities to serious and organised crime. This is to be used in conjunction with 'products' such as the Declaration of Non-Involvement in Organised Crime in procurement processes, as well as the Business Exploitation Document, which highlights to procurement managers the top risk sectors (normally cash rich businesses) for enhanced checks to be carried out.

In addition to the below checklist produced for the private sector by the Scottish Business Resilience Centre, checklists have also been developed by Safer Communities for the 3rd sector and broader public sector. This is complemented by the recently development of the Public Sector Corruption Prevention course ran by Safer Communities and proposed setting up of a forum for practitioners, raising awareness of trends and threats, providing relevant case studies and tactics to increase resilience.

Northern Ireland

All public sector bodies in NI are required to have in place whistleblowing arrangements through which staff can raise such concerns.

Staff of Northern Ireland Civil Service have the right to make a disclosure of information (Whistleblowing) in the public interest (the detailed provisions are contained in the Public Interest Disclosure (NI) Order 1998 http://www.legislation.gov.uk/nisi/1998/1763/contents/made). The Public Interest Disclosure (Whistleblowing) policy and procedures encourages staff to raise their concerns. Whilst individual departments have their own reporting arrangements, the policy does include five named nominated officers that staff can approach.

Those staff employed in other NI public sector bodies are required to comply with the NI Public Bodies Guide https://www.finance-ni.gov.uk/publications/public-bodies-guidance-including-board-guide-and-public-bodies-guides. All organisations are required to have in place appropriate anti-fraud policies and response plans. These set out the responsibilities of staff and management for

preventing and detecting fraudulent activity including bribery and corruption.

Additionally, departments and public bodies are required to have in place anti-fraud policies and response plans. These policies set out the responsibilities of staff to prevent, detect and report fraud including bribery and corruption.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The number of reports made by Civil Service employees specifically on acts of corruption is not available. However, perceived wrongdoing is reported by civil servants using the whistleblowing process. Over 420 cases were reported from 1 April 2018 to 31 March 2019.

Nominated Officers have been appointed in Civil Service departments to provide support and advice on issues raised through the whistleblowing procedures. Training is provided by departments to those civil servants who are carrying out the Nominated Officer role. There are over 100 Nominated Officers in departments and agencies across the Civil Service.

Nominated Officers act as a central, impartial point of contact for the individual raising a concern. Their role includes providing reassurance about the protection afforded by following the whistleblowing procedure, advising individuals how to take a concern forward and directing them to sources of support.

https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies

If an employee decides to blow the whistle to a prescribed person rather than their employer, they must make sure that they have chosen the correct person or body for their issue. For example, if they are blowing the whistle on broadcasting malpractice, they should contact the Office of Communications (Ofcom).

There is a list of the prescribed persons and bodies who employees can make a disclosure to. There is also a brief description about the matters they can report to each prescribed person.

Guidance for Prescribed persons is available on Gov.UK.

https://www.gov.uk/government/publications/whistleblowing-guidance-for-prescribed-persons

The functional standards are available to review, including a self-assessment from the main public bodies of whether they have the required reporting lines in place.

A bribery and corruption assessment template was published in December 2016 to support government to set a high standard on its response to bribery and corruption. The template is published on gov.uk for all sectors to adopt and adapt for use, see

link here https://www.gov.uk/government/publications/bribery-and-corruption-assessment-template (see 5.1, above).

(b) Observations on the implementation of the article

All Civil Service departments across the United Kingdom have adopted whistle-blowing policies and procedures to afford employees protection, as detailed in the Public Interest Disclosure Act 1998. Departmental Nominated Officers have been appointed to provide support and advice to whistle-blowers. Integrity Units established in all government agencies are responsible for detection, verification and complaints management (Service Circular No. 6 of 2013).

Outside the civil service reporting channels, the Prescribed Persons Order 2014 sets out a list of over 60 organizations and individuals that workers may approach outside their workplace to report suspected wrongdoing, and guidance for prescribed person has been published.

Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

frame) to ensure full compliance with this provision of the Convention.

The Civil Service Management Code sets out the high-level terms and conditions for civil servants, including on issues of conduct. The relevant principles in relation to managing conflicts of interest include:

- Civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Where a conflict of interest arises, civil servants must declare their interest to senior management to determine how best to proceed.

- Civil servants must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity.

- Civil servants must declare to their department or agency any business interests (including directorships) or holdings of shares or other securities which they or members of their immediate family hold, to the extent which they are aware of them, which they would be able to further as a result of their official position. They must comply with any subsequent instructions from their department or agency regarding the retention, disposal or management of such interests.

Departmental HR will need to provide detail on how this is applied in practice.

Under the terms of the Ministerial Code, Government Ministers must ensure that no conflict arises, or could reasonably be perceived to arise between their public duties and their private interests, financial or otherwise. A public statement covering Ministers' relevant interests is published twice yearly. On appointment Ministers must provide their Permanent Secretary with a full list of all interests, which might be thought to give rise to a conflict. This is reviewed by the Propriety and Ethics team in the Cabinet Office, the Permanent Secretary of the relevant Government Department and by the Prime Minister's Independent Adviser on Ministers' Interests who will provide advice on handling as appropriate.

If there is an allegation of a breach of the Ministerial Code - including on interests, it is for the Prime Minister, as the ultimate judge of the standards of behaviour expected of a Minister, to decide the appropriate consequences. If the Prime Minister, having first consulted with the Cabinet Secretary, feels that the matter warrants further investigation, he or she will refer the matter to the independent adviser on Ministers' interests.

Devolved Administrations

Scotland

A register of interests for the board members of public bodies with regulated public appointments will be published on their website.

A number of policies and associated guidance are in place for staff within the

Scottish Government which cover the requirements to register outside interests; how to deal with potential conflicts of interest; political activity; guidance on offering and acceptance of gifts and hospitality; business appointment rules after leaving the Civil Service.

Northern Ireland

The Northern Ireland Civil Service has a range of robust policies/ procedures/ systems in place which requires its staff to make declarations regarding their outside activities, employment, investments assets gifts or benefits from which a conflict of interest may result - see 8.1, above.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

For Ministers there is a published list of Ministers' Interests and the Ministerial Code.

https://www.gov.uk/government/publications/list-of-ministers-interests

https://www.gov.uk/government/publications/ministerial-code

Devolved Administrations

Scotland

Register of interests for Historic Environment Scotland board: https://www.historicenvironment.scot/media/3376/register-of-declared-interests-2016-17.pdf

Register of interests for Scottish Enterprise board (offered as part of each member profile not a collated document): https://www.scottish-enterprise.com/about-us/our-leadership/board-members/bob-keiller

(b) Observations on the implementation of the article

Please refer to article 7, paragraph 4 for the reporting requirements for civil servants

on conflicts of interest, private interests and gifts, as well as notification requirements for Government Ministers.

As noted above under article 7, paragraph 4, it is recommended that the United Kingdom endeavour to strengthen the mechanism for analysing and mitigating risks around conflict of interests and corruption by those in top executive functions, as already outlined in the conclusions of the parliamentary select committee, including by:

- **Establishing a more centralized process of conflicts of interest management and reporting by ministers and senior civil servants;**
- **Strengthening the application of the Business Appointment Rules and the remit and powers of ACOBA;**
- **Reviewing and strengthening the remit of the Independent Advisor on Minister's Interests and giving the Advisor greater powers to investigate conflicts of interest and conduct;**
- **Clarifying and broadening the scope of what are considered "relevant interests" in ministers' declarations of interest; expanding the scope and coverage of the registry of consultant lobbyists.**

Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Neither the Civil Service Code nor the Civil Service Management Code sets the central framework for conduct and discipline. Instead Government Departments and agencies are responsible for their own dismissal, disciplinary and grievance arrangements. They must reflect the principles and standards of behaviour in their policies and procedures and ensure staff are aware of them.

It is for departments and agencies to define the circumstances in which initiation of disciplinary procedures may be appropriate. It is not necessary to attempt to define every circumstance. However, departments' and agencies' rules for staff must make

clear the circumstances in which the application of the disciplinary procedures may be considered, and these must include:

a. breaches of the organisation's standards of conduct or other forms of misconduct

b. any other circumstances in which the behaviour, action or inaction of individuals significantly disrupts or damages the performance or reputation of the organisation;

Ministers only remain in office for so long as they retain the confidence of the Prime Minister. He or she is the ultimate judge of the standards of behaviour expected of Ministers and the appropriate consequences of a breach of those standards.

Since 2006 there has been an Independent Adviser on Ministers' Interests, appointed by the Prime Minister. The Adviser's primary function is to: provide advice to individual Ministers and their Departmental Permanent Secretaries, including how best to avoid potential conflict between a Minister's private interests and their Ministerial responsibilities; and investigate - when the Prime Minister, advised by the Cabinet Secretary, decided that this would be appropriate - allegations that an individual Minister may have breached the Ministerial Code of Conduct.

The internal fraud policy and hub (see 7.1 response) also counts for this area.

Devolved Administrations

Scotland

(See response to Article 7.4)

All applicants for a public appointment are asked the following question as part of their application form, and conflicts of interest are further explored at interview as part of the fit and proper person test: Are you aware of anything that might call into question your ability to demonstrate integrity or probity or of any possible conflict of interest which might arise either personally, in relation to your employment or in relation to your connections with any individuals or organisations should you be appointed?

Staff who fail to comply with the Civil Service Code or other internal policies may be subject to disciplinary action in line with the Discipline Policy.

Northern Ireland

Staff who work in the Northern Ireland Civil Service are required to comply with the policies and procedures detailed in the NICS Standard of Conduct Policy. Those staff who are found to have breached the terms and condition of their employment will be disciplined using the provisions set out in the NICS Disciplinary policy.

In relation to Ministers - statistics are not collated, but cases investigated by the independent Adviser are a matter of public record.

Devolved Administrations

Scotland

Judgement from the Standards Commission for Scotland on a board member's failure to declare an interest: http://www.standardscommissionscotland.org.uk/uploads/files/1460542409160412FINALSCS_Press_release.pdf

(b) Observations on the implementation of the article

United Kingdom Government departments and agencies are responsible for their own dismissal, disciplinary and grievance arrangements, as described in the response.

Article 9. Public procurement and management of public finances

Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The UK has transposed EU Procurement Directives 2014/24/EU, 2014/25/EU, 2014/23, 89/665/EEC and 92/13/EEC which relate to procurement by public authorities and utilities of public contracts for works, services and supplies and concession contracts into the Public Contracts Regulations 2015, the Utilities Contracts regulations 2016 and the Concession Contracts Regulations 2016 (which extend to England, Wales and Northern Ireland), the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts (Scotland) Regulations 2016 and the Concession Contracts (Scotland) Regulations 2016 (which extend to Scotland). These regulations require open advertising of contract opportunities above relevant thresholds, transparency of information about the procurement and the use of objective selection and award criteria.

For procurements that are subject to these regulations, procuring authorities must exclude suppliers where any of the listed mandatory exclusion grounds apply. The mandatory exclusion grounds include convictions within the last 5 years for specific offences of

-corruption,

-fraud,

-bribery,

-money laundering,

-breach of obligations to pay tax.

Where any of these exclusion grounds apply, procuring authorities must exclude suppliers from the procurement unless they can provide evidence that proves they have taken sufficient measures to rectify the situation.

Procuring authorities have a discretion to exclude suppliers where certain other instances of misconduct apply, including where a distortion of competition has arisen due to the prior involvement of the supplier in the procurement process or where a supplier has taken actions to unduly influence the decision making process.

Public procurements above the relevant EU threshold are required to be advertised on e-notification systems and details of contracts published post award.

The procurement regulations also contain an effective set of remedies. This includes routes for complaints to be raised, and a clear legal recourse.

Strategies to increase procurement capability have been published.

Devolved Administrations

Scotland

Scotland has transposed the EU Procurement Directives referred to above in the Regulations which extend to Scotland, including grounds for exclusion, as described above.

o Through the Procurement Reform (Scotland) Act 2014, the Scottish Government has established a national legislative framework for sustainable public procurement that builds on its work to improve the way procurement operates in Scotland. The Act introduced a number of measures to help improve the transparency of procurement activity:

- The Act requires all contract opportunities including those at and above the European threshold values and those of a lower value (£50,000 for goods and services and £2,000,000 for works contracts) to be advertised through Public

Contracts Scotland, Scotland's procurement advertising portal.

- The Act also requires public bodies to publish and maintain a public contracts register setting out such details as the name of the contractor, the subject matter of the contract and the estimated value of the contract.

- And requires a public body with procurement spend of £5 million or more per annum to prepare and publish a procurement strategy, setting out how it intends to carry out procurements, and publish an annual report against it.

o Through the Procurement (Scotland) Regulations 2016, the Scottish Government has taken a robust approach to the selection of tenderers. These Regulations extend the provisions on the exclusion of tenderers, including corruption offences, that apply to public contracts at or above the European threshold values to lower value contacts (£50,000 for goods and services and £2,000,000 for works contracts)

Northern Ireland

(a) Northern Ireland Public Procurement Policy https://www.finance-ni.gov.uk/topics/procurement/public-procurement-policy-northern-ireland (NIPPP) requires Departments, their Agencies, non-departmental public bodies (NDPBs) and public corporations to carry out their procurement activities by means of documented Service Level Agreements with Central Procurement Directorate or a relevant Centre of Procurement Expertise (CoPE). All procurement is processed through a single portal, eTendersNI https://etendersni.gov.uk/epps/home.do. This portal publishes tender opportunities for contracts for goods, services and works for Northern Ireland government departments, agencies and arms-length bodies which have a value of more than £30k. It also publishes details of contracts awarded by contracting authorities in Northern Ireland.

(b) When tendering opportunities are published on the eTendersNI portal, supporting documentation is accessible to all interested parties detailing instructions for participation, selection/award criteria and the tendering rules.

(c) Evaluation criteria and associated weightings are advertised on the eTendersNI portal with each invitation to tender. Decisions for setting the criteria and weightings are recorded in procurement documentation.

(d) In addition to the legal remedies regime for public procurement challenges, each CoPE is required to have a complaints procedure that allows for investigation and resolution of complaints both during a tender process and post award in relation to service standards.

(e) CoPEs maintain a register of interests for staff members for early identification of potential conflicts of interest. NIPPP requires that procurement processes are managed by an adequate resource of qualified procurement/construction professional.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Contracts over the EU thresholds are published in OJEU and on national e-notification portals e.g. Contracts Finder https://www.contractsfinder.service.gov.uk/Search, PCS https://www.publiccontractsscotland.gov.uk/search/search_mainpage.aspx, Value Wales https://www.sell2wales.gov.wales/ and eSourcing NI https://e-sourcingni.bravosolution.co.uk/web/login.shtml.

Contract notices for sub EU threshold competitions above de minimis values can be located on Contracts Finder https://www.contractsfinder.service.gov.uk/Search, PCS https://www.publiccontractsscotland.gov.uk/search/search_mainpage.aspx, Value Wales https://www.sell2wales.gov.wales/ and eSourcing NI.

The UK has implemented its own version of the European Single Procurement Document (ESPD) through the Standard Selection Questionnaire (SSQ). This applies to procuring authorities in England, and those in Wales and Northern Ireland that exercise wholly or mainly reserved functions for procurements. The SSQ provides a mechanism for organisations to provide a self-declaration on whether any of the grounds for excluding a bidder from a procurement process, as referred to above, apply and whether the selection criteria set by the buyer (i.e. financial, economic and technical capacity) are fulfilled by the bidder.

Contract registers are available online, e.g. London Contracts Register http://www.londoncouncils.gov.uk/who-we-are/committees-and-networks/london-councils-capital-ambition-programme/about-capital-ambiti-1. Central government contracting authorities in England, and those in Wales and Northern Ireland that exercise wholly or mainly reserved functions for procurements, have to publish contracts above £10,000, and sub central contracting authorities in England, and those in Wales and Northern Ireland that exercise wholly or mainly reserved functions for procurements and NHS Trusts above £25,000, on Contracts Finder (see Procurement Policy Note 07/16 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539104/Procurement_Policy_Note___Legal_requirement_to_publish_on_Contracts_Finder__1_.pdf).

In addition to the remedies regime laid out in the Regulations, these are services available for complaints to be raised on public procurement process for procuring

authorities in England, and those in Wales and Northern Ireland that exercise wholly or mainly reserved functions for procurement (see CO Public Procurement Review Service) and the Courts provide guidance for practitioners (see Technology and Construction Court Guide http://www.eversheds-sutherland.com/documents/services/commercial/TCC-Guidance-Note-on-Public-Procurement-Cases%20final.pdf).

Strategies are in place to increase the professionalism of those responsible for public procurement. See Government Commercial Function https://www.gov.uk/government/organisations/government-commercial-function and Procurement people http://www.gov.scot/Topics/Government/Procurement/Capability, as well as

https://www.gov.uk/government/publications/government-commercial-function-people-standards-for-the-profession.

The UK Government has brought greater transparency to public procurement by implementing various policy measures, including:

● Implementing the Open Contracting Data Standard (OCDS) for all notices published on Contracts Finder; and committing to apply this approach more widely. The UK is the first G7 country to implement the OCDS.

● Publishing a set of general transparency principles (Public Procurement Policy Note 01/17 https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles) that require public procurers to proactively

disclose contract and related information that may previously have been withheld on the grounds of commercial confidentiality.

● Introducing policy and guidance on Open Book Contract Management (OBCM), detailing its benefits and the actions departments need to take to implement it. OBCM is the scrutiny of a supplier's costs and margins through the reporting of, or accessing, accounting data, ensuring that Government has transparency of prices charged by suppliers.

● Publishing the second iteration of the UK Government Commercial Operating Standards. These define how all government departments should operate to ensure strong commercial behaviours and get value for money.

● Launching the "Contracting 5 https://www.open-contracting.org/wp-content/uploads/2016/12/C5declaration.pdf", an initiative announced at the London Anti-Corruption Summit that brings together countries with the greatest ambition to increase transparency in public procurement. Other members are France, Mexico, Colombia, Ukraine and Argentina.

● Cabinet Office and the UK Government Digital Service published the Supplier Standard for consultation. These are six principles, including transparent contracting, designed to help tech and IT companies do business with government.

● At the 2016 Global Anti-Corruption Summit in London, the UK committed to piloting a conviction check process to prevent corrupt bidders with relevant convictions from winning public contracts. The purpose of the conviction check is

to act as a deterrent and help prevent public money and contracts being used to support corruption. The pilot, whilst identifying no convictions, highlighted a number of challenges relating to accessibility of convictions data of non-UK companies. The UK Government is considering how it can resolve access to international convictions data for vetting purposes, as part of a wider programme of work.

● In the spring of 2019, the Ministry of Housing, Communities and Local Government (MHCLG) was completing its review of the risks of fraud and corruption in local government procurement. The review began in September 2018 and involved extensive engagement with the local government sector, other government departments and the private sector. Over 80 councils were represented at 7 workshops and 145 responses were received to the survey informing the review, as well as over 25 case studies and numerous examples of best practice provided by the local government sector. The findings were published on 08 June 2020, subsequent to the review.[3]

Devolved Administrations

Scotland

Statistics or data in respect of the application of exclusion grounds in respect of corruption are not held centrally. The Public Procurement Reform Programme 2006-2016 - Achievement and Impact report, reflects on the achievements, impacts and overall progress of the Public Procurement Reform Programme for its whole lifecycle from 2006 to 2016. http://www.gov.scot/Resource/0050/00509536.pdf

Scottish Ministers have no control over other public bodies' procurement activities; they are responsible for running their own tendering exercises and for the decisions they take as part of those exercises. Ministers do not have any formal powers to investigate suppliers' concerns or change decisions taken by another public body.

Northern Ireland

A register of active and settled legal cases, updated on a quarterly basis, is held centrally within CPD and reviewed by the Procurement Board. The Procurement Board has responsibility for the development, dissemination and co-ordination of public procurement policy and practice for the Northern Ireland public sector. The Board is responsible to the Executive and accountable to the Northern Ireland Assembly.

[3] The report is available online: "New advice to help councils fight procurement fraud" https://www.gov.uk/government/news/new-advice-to-help-councils-fight-procurement-fraud

(b) Observations on the implementation of the article

Public procurement in the United Kingdom is decentralized. The relevant European Union Directives have been transposed into national legislation. Cabinet Office is responsible for the legal framework and leads on development and implementation of governmental policies in public procurement in the non-defence sectors. Cabinet Office also issues Procurement Policy Notes to give guidance on best practice for public sector procurement in England, Wales and Northern Ireland. The Scottish Government provides guidance in the form of Scottish Procurement Policy Notes for public sector procurements in Scotland.

Procurement frameworks in other jurisdictions are established independently and vary with regard to, inter alia, thresholds for mandatory publication of tender notices and contract awards, standstill periods and appeal procedures. Procurement decisions and processes may involve parliamentary scrutiny (Guernsey) or a peer review by officials from other jurisdictions (Jersey) for particular types of contracts.

Pursuant to the UK's procurement laws, public contracts above the relevant European Union thresholds can be awarded only if a call to competition has been published. Exceptionally, the prior publication requirement may be waived. In limited circumstances, procuring authorities may award public contracts by a negotiated procedure without prior publication (Regulation 32 of PCR). The UK's procurement laws require the procuring authority to publish information about the contract awarded, including the type of award procedure, and in the case of negotiated procedure without prior publication, the justification for the direct award. The advertisement must be published in the Official Journal of the European Union (or, from the end of the transition period, the UK e-notification system) and, for certain contracts of a specific value below the relevant thresholds, on Contracts Finder or Public Contracts Scotland.

The United Kingdom has also implemented proactive disclosure of information and scrutiny of suppliers' costs and margins (Open Book Contract Management).

The UK's procurement laws require exclusion of bidders from regulated procurements under mandatory exclusion grounds for offences committed in the last 5 years (prior conviction for bribery, money-laundering, etc.) and further provide for permissive exclusion under discretionary exclusion grounds for misconduct in the last 3 years (existence of a conflict of interest which cannot be remedied, grave professional misconduct, etc.). Consideration must be given to whether the supplier has taken measures to rectify the issue.

Suppliers may challenge procurement decisions in the courts. They can also raise complaints with procuring authorities directly or, for certain procuring authorities, raise a complaint via the Cabinet Office Public Procurement Review Service. The Service is, however, limited to enquiries relating to certain procuring authorities in England and those in Scotland, Wales and Northern Ireland which exercise wholly or mainly reserved functions. The devolved administrations run similar services to the PPRS. For Scotland it is the Single Point of Enquiry, for Wales, the Supplier Feedback Service and for Northern Ireland, the CPD Supplier Charter. Complaints may also be made to the European Commission.

In addition to training on counter-fraud, bribery and corruption for civil servants, individual government departments have internal guidance covering conflicts of

interest, including processes for declaration of interests, including in relation to procurement staff. This requirement is reflected in the functional standard for counter fraud.

Based on the above, it is recommended that the United Kingdom continue efforts to enhance efficiency and transparency in public procurement, including by:

- **Publishing more data on Contracts Finder and expanding the types and amount of data subject to mandatory publication;**
- **Strengthen the scope, remit and powers of the CO Public Procurement Review Service by including a wider group of procuring entities and allowing for complaints of procurement procedures and processes beyond specific procurements.**

Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

(a) Procedures for the adoption of the national budget;

(b) Timely reporting on revenue and expenditure;

(c) A system of accounting and auditing standards and related oversight;

(d) Effective and efficient systems of risk management and internal control; and

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

(a) Procedures for the adoption of the national budget;

The Budget, or Financial Statement, is a statement made to the House of Commons by the Chancellor of the Exchequer in November each year, on the nation's finances and the Government's proposals for changes to taxation. The Budget also includes forecasts for the economy by the Office for Budget Responsibility (OBR) http://budgetresponsibility.org.uk/. The Budget is published after the Chancellor has

made the announcements and is available on line. The first part of the statement typically begins with a review of the nation's finances and the economic situation. The statement then moves on to proposals for taxation. These measures are then contained in the annual Finance Bill which Parliament debates and scrutinises.

(b) Timely reporting on revenue and expenditure;

Public sector entities must publish an audited report combining both narrative and financial statements covering the financial year. In central government these are called annual report and accounts (ARAs). Parent departments will produce their ARAs on a consolidated basis. The administrative deadline to publish and lay the ARAs in Parliament is 30th June which is 3 months after the end of the reporting period and before the statutory deadline of 31st January after the year end.

The document should present a clear picture of the entity's aims, activities, functions and performance and services delivered over the period linked with income and expenditure. Within the ARAs, entities must follow the mandatory reporting requirements which includes the performance report, the accountability report and the financial statements which report on the assets and liabilities and its asset management strategy. A Statement of Parliamentary Supply is also prepared which reports the outturn for the departmental group against the final annual spending limits authorised through a vote by Parliament.

(c) A system of accounting and auditing standards and related oversight;

The Financial Reporting Manual (FReM)

https://www.gov.uk/government/collections/government-financial-reporting-manual-frem is the technical accounting guide for the preparation of financial statements in the public sector. It applies EU adopted International Financial Reporting Standards adapted and interpreted for the public sector. The Whole of Government Accounts is also prepared in accordance with the FReM. Reporting entities must comply with the FReM and any other guidance issued by HM Treasury as the relevant authority. Those entities within the public sector that are not required to follow the FReM, for example, local government and NHS Trusts, follow relevant guidance that is compliant with the FReM other than agreed divergences.

All entities are required to have their financial statements audited by the auditor named in the relevant legislation or other legislation or governing statute. The general presumption is that the auditor will be the Comptroller and Auditor General, the Auditor General for Wales, the Auditor General for Scotland or the Comptroller and Auditor General for Northern Ireland.

Auditors shall apply International Standards on Auditing UK (ISAs (UK)) and other relevant guidance in carrying out their audits and in arriving at the form and content

of their opinion. Auditors of public sector entities also follow 'Practice Note 10: Audit of financial statements and regularity of public sector bodies in the UK' in conjunction with ISAs (UK), which contains guidance for applying ISAs (UK) to the audit of public sector bodies. The precise form of the audit opinion will depend on the results of the audit and is the responsibility of the auditor.

(d) Effective and efficient systems of risk management and internal control; and

Individual reporting entities have governance arrangements which include appropriate asset and risk management strategies. These arrangements include a review of processes and practices by a Board of Directors (both executive and non-executive members) and established methods to evaluate risk indicators. Such arrangements and performance of the arrangements are reported in the Governance Statement within the ARAs.

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

Where an entity fails to comply with budget controls, financial reporting requirements and risk management procedures, the audit opinion may be affected accordingly. For central government entities, this will be reported to Parliament and may also require the entity to take corrective action.

Devolved Administrations

Northern Ireland

a) When the UK Chancellor announces changes to the Northern Ireland (NI) allocation these are applied to NI Budgets, at aggregate level, in line with the HM Treasury timetable. A NI Budget process is required for this high level budget to be allocated by the NI devolved administration to NI departments.

b) All reporting to HM Treasury of income and expenditure, on the budget structure, is completed in line with HM Treasury requirements, both for monthly in-year returns and at year end. NI also contributes to the Whole of Government Accounts reporting process. Additionally, individual departments, agencies and other NI public sector bodies are required to produce and financial accounts on an annual basis.

c) NI operate in line with the HM Treasury Government Financial Reporting Manual

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577272/2016-17_Government_Financial_Reporting_Manual.pdf (FReM) which applies IFRS based Generally Accepted Accounting Practices https://www.gov.uk/government/publications/accounting-standards-the-uk-tax-implications-of-new-uk-gaap to the accounts of departments, agencies and other relevant NI public sector arm's length bodies. This ensures that financial statements give a true and fair view of the state of affairs of the reporting entity or reportable activity at the end of the financial year and of the results for the year.

FReM requires the accounts of public sector bodies to be audited by an auditor as named in relevant legislation or the governing statute. In NI the Northern Ireland Audit Office (NIAO) https://www.niauditoffice.gov.uk/ are the financial external auditors of most NI public sector bodies. The NIAO carry out their work in line with the International Standards on Auditing. The annual report and accounts of bodies are laid in the NI Assembly on completion.

d) Under normal accountability arrangements as set out in Managing Public Money NI https://www.finance-ni.gov.uk/articles/managing-public-money-ni-mpmni the designated Accounting Officer of each department is responsible for ensuring that an appropriate risk management process and system of internal control is put in place within their organisation. Risk management processes are operated in line with guidance contained within HM Treasury's Orange Book https://www.gov.uk/government/publications/orange-book. Internal Audit, operating in line with UK Public Sector Internal Audit Standards https://www.gov.uk/government/publications/public-sector-internal-audit-standards, provide assurance to the Accounting Officer, as does the relevant Audit and Risk Assurance Committee. The Accounting Officer reports annually on the system of internal control and risk management within the Governance Statement which is part of the annual report and accounts.

e) Not applicable.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See links, above.

(b) Observations on the implementation of the article

Her Majesty's Treasury (HM Treasury) is responsible for coordinating and planning the United Kingdom budget or Financial Statement. This may involve an extensive programme of consultation with the public and key stakeholders. The Financial Statement is presented before Parliament each autumn for debate and scrutiny.

Central Government entities must publish an audited combined annual report and accounts document (ARA) covering the financial year. Parent departments will produce their ARAs on a consolidated basis. A Statement of Parliamentary Supply is also prepared which reports the outturn for a departmental group against annual spending limits.

Reporting entities within the scope of the Financial Reporting Manual (FReM) issued by HM Treasury must comply with it in preparation of their financial statements, which are audited in general by the Comptroller and Auditor General.

Each central government entity must have an accounting officer who is responsible for regularity and probity and accounting accurately for the entity's financial position and transactions. Public bodies should use internal and external audits to improve their controls and performance.

Additionally, individual reporting entities have governance arrangements which include appropriate asset and risk management strategies. Where a central government entity fails to comply with budget controls, financial reporting requirements and risk management procedures, the audit opinion may be affected accordingly and reported to Parliament, and the entity may be required to take corrective action. Section 5 of the Government Resources and Accounts Act 2000 allows HM Treasury to direct departments on how to prepare ARAs and to ensure they present a true and fair view, conform to accounting standards and HM Treasury's guidance. This includes requirements for accounting officers managing public money to ensure proper accounting records are kept.

Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Each organisation in central government - department, agency, trading fund, NHS body, non-departmental public body or arm's length body - must have an accounting officer. This person is usually its senior official.

The accounting officer should ensure that the organisation and any of the arm's length bodies it sponsors, operates effectively and to a high standard of probity. The accounting officer takes personal responsibility for regularity and probity and accounting accurately for the organisation's financial position and transactions to ensure that its published financial information is transparent and up to date and that the organisation's efficiency in the use of resources is tracked and recorded.

Devolved Administrations

Northern Ireland

As noted above, Northern Ireland bodies apply the HM Treasury Government Financial Reporting Manual (FReM) which applies IFRS based Generally Accepted Accounting Practices so ensuring that financial statements give a true and fair view.

Accounting Officers are appointed to oversee the running of bodies and are required to assure the Northern Ireland Assembly and the public of high standards of probity in the management of public funds. They are also annually required to the sign the financial statements to confirm that they give a true and fair view. Under FReM these financial statements, and the financial transactions which underpin them, are audited in line with International Standards on Auditing by the NIAO.

Finance records are held for the current year plus six years accounting records from the end of the accounting period. This is the normal custom and practice within NI bodies and is in line with the Finance Act 1998 paragraph 21(2) http://www.legislation.gov.uk/ukpga/1998/36/schedule/18/paragraph/21 and with the Companies Act 2006 paragraph 388 (4)(b) https://www.legislation.gov.uk/ukpga/2006/46/section/388. Additionally, bodies maintain their own information/record Retention and Disposal Schedules which reflect this requirement and the requirement of other related legislation e.g. Public Records Act (NI) 1923 and the Disposal of Documents Order (S.R. & 0. 1925 No.167).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See links, above.

(b) Observations on the implementation of the article

Section 5 of the Government Resources and Accounts Act 2000 affords HM Treasury the power to issue directions to departments on how to prepare ARAs and

to ensure they present a true and fair view, conform to accounting standards and HM Treasury's guidance. This includes requirements for accounting officers managing public money to ensure proper accounting records are kept.

Article 10. Public reporting

Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

As noted above at 5.1 the UK is committed to being the most transparent government in the world. It has established and comprehensive Freedom of Information legislation https://www.legislation.gov.uk/ukpga/2000/36/contents, periodically publishes details of Minister interests and party election finance (see, 7.3, 7.4 and 8, above), and is a founding member of the Open Government Partnership (see 5.1, above).

Freedom of Information

The Freedom of Information Act (FOIA) provides public access to information held by public authorities. Anyone can make a FOI request. In responding the public authority must:

(i) confirm whether or not the information is held, and;

(ii) if it is, provide that information to the requestor, unless that information is exempt from disclosure (sometimes this will be because it would cost too much or take up too much staff time to deal with the request, or if the request is vexatious or repeats a previous request from the same person).

There are also a number of exemptions (some absolute, others subject to a public interest balancing test) which allows a public authority to withhold information from a requester. Some relate to a particular type of information, for instance, information relating to government policy. Other exemptions are based on the harm that would arise or would be likely arise from disclosure, for example, if disclosure would be likely to prejudice a criminal investigation or prejudice someone's commercial interests.

Information Commissioner

The Information Commissioner's Office (ICO) https://ico.org.uk/ upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

Among its actions the ICO:

● Keeps a register of data controllers https://ico.org.uk/about-the-ico/what-we-do/register-of-data-controllers/ which includes details of organisations that process personal data.

● Handling enquiries, written concerns and complaints.

● Taking action to improve behaviours of those that process personal information.

● Taking action to improve compliance with freedom of information, environmental information, INSPIRE and re-use laws.

● The ICO has an international role, including working with organisations in Europe and elsewhere.

● The grants programme supports independent research and the development of privacy enhancing solutions.

Devolved Administrations

Scotland

The Freedom of Information (Scotland) Act 2002 (FOISA) http://www.legislation.gov.uk/asp/2002/13/contents provides a statutory right of access to recorded information held by a Scottish public authority, except where an

exemption or other reason for refusal (e.g., the authority doesn't hold the information, or compliance would exceed the upper cost limit) applies. FOISA also requires authorities to have a publication scheme and to publish information in accordance with that scheme.

The Environmental Information (Scotland) Regulations 2004 (EIRs) https://www.legislation.gov.uk/ssi/2004/520/contents/made provide a similar right of access to 'environmental information'.

Anyone, anywhere can request information under either FOISA or the EIRs. Under both regimes, personal data is specifically exempt from disclosure.

In addition, The Scottish Information Commissioner http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.aspx promotes and enforces both the public's right to ask for information held by Scottish public authorities and good practice by authorities. Through her work she supports the openness, transparency and accountability of public bodies.

FOISA also allows for the development of model publication schemes which can be adopted by more than one authority. The Scottish Information Commissioner's Model Publication Scheme http://www.itspublicknowledge.info/ScottishPublicAuthorities/PublicationSchemes/TheModelPublicati onScheme.aspx provides guidance on this.

Northern Ireland

An Open Data Strategy for Northern Ireland https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/Open-Data-Strategy-2015-18.pdf was created in 2015 and endorsed by the Northern Ireland Executive. The strategy states that all public sector data is open by default unless it falls under one of the exceptions (such as identifiable personal data, commercially sensitive data, data impacting on national or public security & safety). It also states that if data is withheld, government will be transparent about the reasons why it does so.

An open data portal - OpenDataNI https://www.opendatani.gov.uk/ was established in November 2015 to facilitate the publication and dissemination of public sector data. The portal also has the capability for the public to suggest datasets for publication.

One of the main aims of the strategy and the portal is to improve the transparency and accountability of government as well as driving innovation from its reuse.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Monitored bodies received 45,415 requests for information in 2016. Of those 33,337 were valid requests under the legislation. Information was released in 20, 895 of those cases. In 4,926 cases the cost of locating information would exceed the appropriate limit set out in legislation (currently 3.5 days). In 7,172 cases the information engaged an exemption and was not released.

If individuals are not content with the response to their request, they are able to appeal first internally with the relevant public authority, and then to the UK regulator (the Information Commissioner, see 2., above). Requesters and public authorities have the right to appeal decisions of the Information Commissioner to a tribunal. This appeal route extends to the Supreme Court.

Devolved Administrations

Scotland

The Scottish Government's FOI Annual Reports provide statistics and other information about the handling of information requests made to the Scottish Government - see: http://www.gov.scot/About/Information/FOI/Reporting.

Detailed statistics for all Scottish public authorities are published on the Scottish Information Commissioner's website at: https://stats.itspublicknowledge.info/.

The SG now publishes all information released under FOISA and the EIRs at: https://beta.gov.scot/publications/?publicationTypes=foi.

(b) Observations on the implementation of the article

The FOIA allows anyone to request to gain access to recorded information held by public authorities. FOIA established the independent ICO which is responsible for upholding information rights in the public interest and data privacy for individuals. Although not required, most public bodies have dedicated teams responsible for public reporting and FOI.

When a FOI request is made, the public authority must confirm whether the information is held, unless confirming or denying the information held would reveal information that an exemption protects. If the information is held, it must be provided to the requestor, unless disclosure exemptions apply; some exemptions are

absolute, but most are qualified and subject to a public interest balancing test. Appeals against decisions are possible, first internally with the relevant public authority, and then to the ICO. Requestors and public authorities have the right to appeal ICO decision notices through the First Tier Tribunal. Tribunal decisions can be appealed to the Upper Tribunal, the Court of Appeal and thereafter to the Supreme Court.

Based on the above, it is recommended that the United Kingdom continue monitoring the application of the Freedom of Information Act to ensure timely responses to information requests (art. 10(a)).

Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In the UK the Freedom of Information Act (FOIA) and the Information Commissioner fulfil this role -see 10 a), above.

As noted above information on Ministerial interests and party election finance are made available, see Articles 7.3, 7.4 and 8.

Devolved Administrations

Scotland

In April 2016 Scotland was selected by the Open Government Partnership (OGP) as one of 15 Pioneer governments around the world to join a programme to bring new leadership and innovation into the OGP at all levels of government. The Scottish Action Plan, launched in December 2016, was developed in partnership with civil society and contains five commitments which aim to improve transparency, helping people living in Scotland to better understand how government works so that they can have real influence and more effectively hold government to account:

1. Financial Transparency: to clearly explain how public finances work, so people can understand how money flows into and out of the Scottish Government, to support public spending in Scotland
2. Measure Scotland's progress: by making understandable information available through the National Performance Framework, which will be reviewed to reflect the country's commitments to Human Rights and the Sustainable Development Goals
3. Deliver a Fairer Scotland: through implementation of the Actions developed with civil society in the Fairer Scotland action plan
4. Participatory budgeting: to empower communities through direct action ensuring they have influence over setting budget priorities
5. Increasing participation: improving citizen participation in local democracy and developing skills to make sure public services are designed with input from users and with user needs to the fore

Northern Ireland

See 10 a) - above.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Information about the Freedom of Information Act and details on how to make a request for information can be found on:

The Information Commissioner's website

https://ico.org.uk/for-the-public/official-information/

(b) Observations on the implementation of the article

The United Kingdom is a founding member of the Open Government Partnership and is currently implementing its fourth National Action Plan (NAP) covering the period from March 2019 to Autumn 2021. NAP was co-created with civil society and includes commitments to produce a cross-government Anti-Corruption Strategy, improve access to information, civic participation, public accountability, and technology and innovation. Implementation of NAP is monitored and regularly reported on and scrutinized through quarterly meetings of government commitment leads and civil society representatives. After each implementation meeting, a set of short updates on each commitment is developed and published along with the minutes of each meeting on the Open Government Network's website. In addition, progress is set out in the midterm self-assessment report.

The United Kingdom also regularly publishes open data that allow the public access to data which can help prevent corruption. The United Kingdom has released over 40,000 datasets as open data. This is available at https://data.gov.uk.

Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Freedom of information Act (FOIA) see 10 a) above.

Public Administration

There are numerous public documents that provide insight into how Government operates, including decision making:

- The Ministerial Code (see Article 8, above). The Code sets out the principle of collective responsibility which allows Ministers to express their views frankly in the expectation that they can argue freely in private which maintaining a united front when decisions have been reached.

- The Cabinet Manual, which acts as a guide to the laws, conventions and rules on the operations of Government. https://www.gov.uk/government/publications/cabinet-manual

- The list of Cabinet Committees, which sets out the various sub committees of Cabinet and their membership. Both Cabinet and Cabinet Committees are made up of groups of Ministers that can take decisions that are binding across Government. https://www.gov.uk/government/publications/the-cabinet-committees-system-and-list-of-cabinet-committees

- The List of Ministerial Responsibilities update regularly - it sets out the Ministers in each Government Department with a summary of their portfolios. https://www.gov.uk/government/publications/government-ministers-and-responsibilities

- List of Ministers' Interests: https://www.gov.uk/government/publications/list-of-ministers-interests

Summary details of Ministerial and Special Adviser meetings with external organisations, any gifts and hospitality received and details of overseas travel are published on a quarterly basis.

The audited Annual Reports and Accounts of each Government Department are presented to Parliament each year. These present a true and fair view of the Department's aims, activities, functions and performance. https://www.gov.uk/government/collections/cabinet-office-annual-reports-and-accounts (This is an example from the Cabinet Office, other departments also available via Gov.uk)

Fraud and Error Levels - Every year, the UK government publishes information on fraud and error levels in the tax (through the Tax Gap Assessment https://www.gov.uk/government/news/uk-tax-gap-falls-to-65-as-hmrc-targets-the-dishonest-minority) and welfare system (fraud and error statistics)

https://www.gov.uk/government/statistics/fraud-and-error-in-the-benefit-system-financial-year-2018-to-2019-estimates. In addition, from 2017 the UK government will publish annual information on the detected fraud and corruption within central government bodies. This will be published at aggregate level (i.e. overall fraud and economic crime, rather than separating out fraud and corruption). All UK government bodies report detected levels of economic crime to the centre of government against a common typology, which includes economic crime as a result of corruption.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Links to public documents included above.

Quarterly transparency releases for Ministers and Special Advisers can be found via Gov.uk: https://www.gov.uk/government/collections/ministers-transparency-publications (this is an example for Cabinet Office. Other departments also available via Gov.uk)

(b) Observations on the implementation of the article

The United Kingdom regularly publishes a variety of corruption risk assessments and reports, as outlined in the response.

In addition, as noted above, the United Kingdom conducts assessments of corruption risk factors, which also informed priority areas of the Anti-Corruption Strategy. Public bodies publish information on how they meet those standards, with a view to using transparency to drive accountability. The Home Office has recently begun work to strengthen the evidence base to measure domestic corruption risk as part of its efforts to assess and counter domestic corruption

Article 11. Measures relating to the judiciary and prosecution services

Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Judicial Independence and Constitutional position

The rule of law and judicial independence are longstanding constitutional principles

in the UK. They are both acknowledged as such in statute (The Constitutional reform Act 2005).

Judicial Independence is secured in both institutional and individual terms as the judiciary are required by statute to be provided with, and are provided with, sufficient resources by the Executive to administer justice effectively and through being able to exercise the judicial function without interference from litigants, the State, the media or powerful individuals or companies. Decisions must be made on the basis of the facts of the case and the law alone.

Judicial independence is, particularly, secured through the following:

○ Government, Parliament, any other institutions and individuals (including senior judges) are not permitted to and do not seek to improperly influence the decisions made by judges;

○ Senior Judges can only be removed from office by Parliament, they have fixed terms and conditions of office and cannot be sued for judicial decisions they make. Removal from office for other judges is subject to agreement by the Lord Chancellor and Lord Chief Justice, following an independent disciplinary investigation.

○ Members of the judiciary are precluded from taking part in political activities or making political comments;

○ Members of Parliament do not criticise individual judges for specific judicial decisions;

○ The State ensures that court judgments are properly enforced; and Judges are appointed on merit, following the recommendation of an independent appointment Commission.

Specific Measures

The following measures are in place:

- Only individuals of established good character, drawn from the legal professions which also operate a good character requirement, are capable of appointment to the judiciary, Constitutional Reform Act 2005, s.63(3) http://www.legislation.gov.uk/ukpga/2005/4/section/63;

- The Constitutional Reform Act 2005 mandates that there is a Judicial Appointments Commission. This body, which selects candidates for judicial office, provides guidance on how it assesses good character:

https://jac.judiciary.gov.uk/good-character

- Judges are required to take the judicial oath, Promissory Oaths Act 1868, s.4 http://www.legislation.gov.uk/ukpga/Vict/31-32/72/section/4>;

- All judges are subject to the Guide to Judicial Conduct: https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/judicial_conduct_2013.pdf;

- Judicial conduct can be subject to investigation and disciplinary measures by the Judicial Conduct and Investigations Office:

https://judicialconduct.judiciary.gov.uk/;

- The Constitutional Reform Act 2005 also mandates that there is a Judicial Appointments and Conduct Ombudsman. This independent body investigates the handling of complaints involving judicial discipline or conduct by 'first-tier' bodies such as the Judicial Conduct and Investigation Office: https://www.gov.uk/government/organisations/judicial-appointments-and-conduct-ombudsman

- Senior judges may be removed from office for failing to maintain 'good behaviour', either as a breach of their terms and conditions of appointment or via an Address to Parliament, Senior Courts Act 191, s.11(3) http://www.legislation.gov.uk/ukpga/1981/54/section/11 .

Devolved Administrations

Scotland

The relationship between the judiciary and the other branches should be one of mutual respect, each recognising the proper role of the others. The Judiciary and Courts (Scotland (Act) 2008 enshrines judicial independence in law.

The Act introduced a duty on Scottish Ministers, the Lord Advocate and members of the Scottish Parliament to uphold the continued independence of the judiciary, barring them from trying to influence the judiciary through any special access to judges. Judicial independence is important for a fair trial, for adjudication of disputes, for respect for decisions and because the judges may have to decide disputes between the executive, the legislature and an individual or the public at large.

A salaried judicial office holder may be removed from office only if unfit for office by reason of inability, neglect of duty or misbehaviour. Each judge shall also on appointment take two oaths - oath of allegiance and the judicial oath. The judicial oath provides:

"I will do right to all manner of people after the laws and usages of this Realm, without fear or favour, affection or ill-will."

The Scottish judiciary has an honourable tradition in attainment of high standards of judicial conduct. The adoption of a widely accepted framework of judicial ethics (Statement of Principles of Judicial Ethics for the Scottish Judiciary: http://www.scotland-judiciary.org.uk/21/0/Principles-of-Judicial-Ethics), helps to ensure that both judges and the public are aware of the principles by which judges are guided in their personal and professional life.

Northern Ireland

The Lord Chief Justice's Office maintains "A Statement of Ethics for the Judiciary in Northern Ireland https://www.nijac.gov.uk/sites/nijac/files/media-files/A%20Statement%20of%20Ethics%20for%20the%20Judiciary%20in%20Nort

hern%20Ireland.pdf" which is disseminated to members of the judiciary on appointment. This document sets out the standards required of the judiciary in relation to matters such as judicial independence, impartiality, integrity and propriety.

The Lord Chief Justice, as the Head of the Judiciary in Northern Ireland, has sole responsibility for determining complaints about the conduct of judicial office holders, the procedure for which is set out in a Code of Practice http://www.courtsni.gov.uk/sitecollectiondocuments/northern%20ireland%20courts%20gallery/about%_20us/code-of-practice.pdf issued by the Lord Chief Justice under Section 16 of the Justice (Northern Ireland) Act 2002 https://www.legislation.gov.uk/ukpga/2002/26/section/16.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The only instance of a judge being removed from office for corruption was Jonah Barrington, a judge of the Irish High Court of Admiralty. He was removed by Address to Parliament in 1830 (see S. de Smith & R. Brazier, Constitutional and Administrative Law, (Penguin, 8th edition, 1998) at 381).

Of the 1,500 or so complaints made to the Judicial Conduct Investigations Office (JCIO) about members of the judiciary every year, typically only around 50 result in a finding of misconduct and the Lord Chancellor and Lord Chief Justice issuing a disciplinary sanction. Statements about cases which result in a sanction can be found on the JCIO's website: https://judicialconduct.judiciary.gov.uk/disciplinary-statements/2020/.

The JCIO's annual reports also provide information about complaint types and outcomes https://judicialconduct.judiciary.gov.uk/reports-publications/.

Devolved Administrations

Scotland

The Courts and Judiciary (Scotland) Act 2008 provides a statutory basis for the Lord President to make provision for rules in connection with the investigation and determination of any matter concerning the conduct of judicial office holders. As such the Lord President put in place such rules, which can be found here: http://www.scotland-judiciary.org.uk/15/0/Complaints-About-Court-Judiciary.

Each year a report is produced on the number of complaints received and the outcome of the complaints. The reports can be found at: http://www.scotland-judiciary.org.uk/52/0/Publications.

There is also statutory legislation in place to investigate and report on a judicial office holder's fitness for office (Act of Sederunt (Fitness for Judicial Office Tribunal Rules) 2015).

The Act of Sederunt sets out the procedure to be followed should the Lord President request that the First Minister of Scotland constitute a tribunal to investigate and report on whether a person holding a judicial office is unfit to hold office by reason of inability, neglect of duty or misbehaviour.

It is open to the Lord President to suspend a member of the judiciary pending the outcome of an investigation by tribunal constituted to consider fitness for office, see section 36 of the Courts and Judiciary (Scotland) Act 2008 http://www.legislation.gov.uk/asp/2008/6/section/36

There have been no instances since the provisions in the Courts and Judiciary (Scotland) Act 2008 came into force where Lord President has had to request that the First Minister convene a fitness for office tribunal.

It is also open to the Lord President to suspend a member of the judiciary if he considers it necessary for the purpose of maintaining public confidence in the judiciary, see section 34 of the Courts and Judiciary (Scotland) Act 2008: http://www.legislation.gov.uk/asp/2008/6/section/34

Where there exists some reason, apart from pecuniary interest, why a judge should not handle a case on its objective merits, or may reasonably appear to be unable to do so, the statement of principles of judicial ethics notes that "he or she should recuse himself or herself". Thus, for example, a meaningful acquaintance with a litigant, or a person known to be a significant witness in the case might constitute such an objection. In all cases where a judge recuses themselves, the matter is reported and a note of who recused themselves and the reasons for doing so are published, maintaining full transparency and openness. Full details can be found at: http://www.scotland-judiciary.org.uk/68/0/Judicial-Recusals

(b) Observations on the implementation of the article

The Constitutional Reform Act 2005 (CRA) established the independent Judicial Appointments Commission (JAC) and regulates the appointment, discipline and removal of judges in the United Kingdom (CRA, s. 63(3)). Judges are appointed on merit, following the recommendation of the JAC. The JAC selects candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland.

United Kingdom judges are required to take a judicial oath on appointment (Promissory Oaths Act 1868, s. 4 and Schedule). Judges are subject to the Guide to Judicial Conduct. Newly appointed judges receive training on the Guide and already appointed judges receive continuing training on ethics. The Guide provides guidance on, inter alia, issues that may affect the principles of impartiality, integrity or propriety, such as managing extrajudicial activities, receipt of gifts and hospitality, and disclosure of interests. In particular, members of the salaried judiciary are precluded by statute from engaging in political activities. No judge may preside over cases in which the judge or their family members have any significant financial interest in the outcome of the case.

Judicial conduct can be subject to investigation overseen by the Judicial Conduct Investigations Office, an independent statutory body which supports the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline. The procedure to handle complaints is provided in Judicial Discipline Regulations 2014. Senior judges can only be removed from office by the Queen (on an address from both Houses of Parliament). Removal of other judges is subject to agreement by the Lord Chancellor and Lord Chief Justice, following an independent disciplinary investigation.

Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Constitutional and Legal Framework

The CPS and SFO are non-ministerial government departments. The CPS was formed under the Prosecution Offences Act 1985. The Director of Public Prosecutions (DPP) was established under that statute. Similarly, the SFO was established under the Criminal Justice Act 1987 and the role of the Director of the SFO (DSFO) is part of that statute. The DPP and DSFO therefore operate independently.

Attorney General

The CPS and SFO are superintended, though not directed by, the Attorney General (AG) who is answerable for their activities in parliament.

Written Protocols are in place for each department setting out the parameters of superintendence and can found here:

https://www.gov.uk/government/publications/framework-agreement-between-the-law-officers-and-the-director-of-public-prosecutions-cps

https://www.gov.uk/government/publications/framework-agreement-between-the-law-officers-and-the-director-of-the-serious-fraud-office

These Framework agreements set out how the Law Officers and the Director of Public Prosecutions (CPS), and the Director of the SFO, work with each other, respectively. The AG is responsible for safeguarding the independence of prosecutors in taking prosecution decisions. The AG may issue guidance on cross cutting legal issues, practice or policy to ensure consistency of approach across public prosecution or government legal functions. The AG consults the Director before issuing any guidance affecting the SFO.

Prosecutors exercise their powers regarding the institution and conduct of proceedings under the direction of their Director. They take casework decisions and conduct individual cases applying the law and the framework of principles set out in the Code for Crown Prosecutors, which is published at: https://www.cps.gov.uk/publication/code-crown-prosecutors, together with any supplementary guidance issued by the Directors, or the AG. This means that a decision to prosecute in every case is taken using the same criteria: is there sufficient evidence to provide a realistic prospect of conviction and, if so, is prosecution needed in the public interest. The AG is not informed of, nor has any involvement in, the conduct of the vast majority of individual cases around the country.

However, for certain offences, Parliament has decided that the AG's consent is needed to bring a prosecution. It is a constitutional principle that when taking a decision whether to consent to a prosecution, the AG acts independently of government, applying the principles of evidential sufficiency and public interest.

The AG's responsibilities for superintendence and accountability to Parliament mean that he or she, acting in the wider public interest, needs occasionally to engage with a Director about a case because it:

- is particularly sensitive, and/or;
- has implications for prosecution or criminal justice policy or practice, and/or;
- reveals some systemic issues for the framework of the law, or the operation of the criminal justice system.

The AG may additionally ask for information about an individual case in order to perform another of the AG's functions, such as considering potential contempt of court, making references on a point of law, or deciding whether to refer an unduly lenient sentence.

Civil Service Code

Members of the SFO and CPS are bound by the Civil Service Code

https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code which summarises the constitutional and ethical framework within which all civil servants work (see Article 8, above).

The SFO also has internal policies and guidance with respect to the conduct of its members, including an:

· SFO Code of Conduct

which aims to ensure that employees are demonstrably honest and impartial in the exercise of their duties. The Code of Conduct Policy sets out regulations to ensure

that all employees of the SFO are guided in their conduct. Records are kept of information relating to points in the policy, including complaints made and responses sent, gifts and gratuities received and a register of interests.

· SFO Anti-Fraud Policy

The SFO requires all staff at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. The SFO does not accept any level of fraud or corruption; consequently, any case will be thoroughly investigated and dealt with appropriately. The Anti-Fraud Policy sets out the responsibilities on the SFO and particular members, such as the Accounting Officer, Chief Financial Officer and Heads of Division.

· SFO Managing Misconduct Policy

The SFO has a zero tolerance to any behaviour relating to acts of dishonesty which would have a significant impact on an employee's integrity and/or credibility if called as a prosecution witness in an SFO case. Zero tolerance means that managers will:

o Treat all such allegations seriously o Always investigate such allegations

o Take the appropriate disciplinary action. ·

· SFO Whistleblowing Policy

This policy provides protection for staff who raise any genuine concerns that they have about any malpractice or behaviour that compromises the integrity of the SFO. This policy applies to all those who work for the SFO, whether full-time or part-time, employed through an agency, or as a volunteer. The SFO will investigate all complaints concerning the victimisation of a whistleblower.

Codes of conduct to ensure independent operational decisions

CPS and SFO Prosecutors exercise their powers regarding the institution and conduct of proceedings under the direction of their Director. They take casework decisions and conduct individual cases applying the law and the framework of principles set out in the Code for Crown Prosecutors https://www.cps.gov.uk/publication/code-crown-prosecutors, together with any supplementary guidance issued by the Directors, or the AG. This means that a decision to prosecute in every case is taken using the same criteria: is there sufficient evidence to provide a realistic prospect of conviction and, if so, is prosecution needed in the public interest. The AG is not informed of, nor has any involvement in, the conduct of the vast majority of individual cases around the country.

The Code gives guidance to prosecutors on the general principles to be applied when making decisions about prosecutions. The Code is issued primarily for prosecutions in the CPS, but other prosecutors follow the Code, either through the Prosecutors Convention or because they are required to do so by law. It is intended to ensure that decisions about prosecutions are fair, independent, objective and consistent and that the prosecutions themselves are fair and effective. Whilst each case is unique and

must be considered on its own facts and merits, there are general principles that apply to the way in which Crown Prosecutors must approach cases.

In more serious or complex cases, prosecutors decide whether a person should be charged with a criminal offence and, if so, what that offence should be. Prosecutors may also advise on or authorise out-of-court disposals as an alternative to prosecution. They make their decisions in accordance with the Code, the DPP's Guidance on Charging and any relevant legal guidance or policy. The police apply the same principles in deciding whether to start criminal proceedings against a person in those cases for which they are responsible.

Recruitment and staff conduct

Members of the SFO and CPS are bound by the Civil Service Code https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code (see Article 8, above).

All recruitment by the CPS and SFO is dealt with in line with internal policies and the Civil Service Commissioners Principles. All of which ensure transparency and accountability.

The CPS has a number of internal policies in place regarding staff conduct including:

● The CPS operates a disciplinary and poor performance policy and procedure that has been designed to meet UK employment law standards and fits with the ACAS code of practice. UK employment law has been informed by European Directives

● CPS operates under the wider Civil Service Code, which informs its Departmental code of conduct. This provides direction on items such as Fraud, conflicts of interest and behavioural principles. Wider ethical considerations for Prosecutors in particular would sit with the Head of the Legal Profession - Director of Legal Services.

● With regard to transparency for issues of performance management and dismissal, these are all conducted under the trade union agreed processes which are published and freely available on the Infonet. The processes are therefore transparent and action transparent to the subject of the process.

● The CPS Code of Conduct requires all employees to declare an interest or a conflict that may be seen to influence or have a potential bearing on their role, duties or professional objectivity. These will be reported to their line manager in the first instance who would then be in a position to mitigate such conflict or escalate for wider consideration.

● Cases involving CPS employees are dealt with by a special unit called Special Crime Division. This is to ensure independence.

Recent developments include:

● CPS undertook a full review of the recruitment process which resulted in improvements to all aspects of the process.

● CPS was subject to an audit by the Commissioners and subsequently received an amber green RAG rating by KPMG.

Devolved Administrations

Scotland

In relation to the Crown Office and Procurator Fiscal Service, there is a long history of independent prosecution in the public interest. The Lord Advocate, as head of the prosecution service is legally protected from political interference with decision making.

Prosecutors are not allowed to take on other paid employment/work without permission. All staff within prosecution service must report if they or close family member are accused of or are victim of crime. Prosecutors must report if they are declared bankrupt.

In the interests of transparency, the SFO https://www.sfo.gov.uk/publications/corporate-information/transparency/ publishes certain information on its website, including:

- Annual reports and accounts
- Responses to Freedom of Information requests
- Director and senior management team expenses
- Non-Executive Directors - Declaration of interests
- Government Procurement Card spend over £500
- Procurement spend over £25,000
- Non-consolidated performance related pay
- Workforce management information
- Exceptions to spending moratoria applied for by the Serious Fraud Office
- Prompt payment data
- Civil Service People Surveys

The SFO is required to report information on internal whistleblowing cases to Civil Service Employee Policy which is part of the Department for Business, Energy and Industrial Strategy. Data is collected and analysed on a six monthly basis.

The SFO also maintains a register of interests. Everyone (including contractors and temporary staff) at AO grade and above must complete the register of interests in order to avoid potential conflicts of interest, and staff working on cases are required to record any shareholdings or other interests that they might have in the company, or its subsidiaries, associates or connected persons, being investigated. There are currently 193 declarations from staff/Counsel of potential conflicts of interest on the Register.

Devolved Administrations

Scotland

Section 48(5) - independence of the Lord Advocate in making prosecutorial decisions

http://www.legislation.gov.uk/ukpga/1998/46/section/48

(b) Observations on the implementation of the article

The Crown Prosecution Service (CPS) was formed under the Prosecution Offences Act 1985, and the Director of Public Prosecutions (DPP) was established under that statute. The SFO, a specialist prosecuting authority tackling serious fraud, bribery and corruption, was established under the Criminal Justice Act 1987. All recruitment by the CPS and SFO is conducted in accordance with internal policies and the Civil Service Commissioners Principles.

Prosecutors exercise their powers regarding the institution and conduct of proceedings under the law and the framework of principles set out in the CPS Code of Conduct. The CPS Code requires all employees to declare an interest or a conflict, whether real or potential, to line management. Additional measures are in place for the devolved administrations. For example, the Public Prosecution Service for Northern Ireland (PPSNI) was established by the Justice (Northern Ireland) Act 2002 and is headed by the Director of Public Prosecutions for Northern Ireland. The PPSNI Code for Prosecutors defines the standards of conduct and practice expected from prosecutors in Northern Ireland. In addition, public prosecutors in the PPSNI, as members of the Northern Ireland Civil Service (NICS), are obliged to act in accordance with the NICS Code of Ethics.

The SFO Code of Conduct aims to ensure that employees are demonstrably honest and impartial in the exercise of their duties as guided by the Code of Conduct Policy. Records are kept of information relating to complaints made, gifts and hospitality received and a register of interests. Members of the SFO and CPS are also bound by the Civil Service Code.

Article 12. Private sector

Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with these provisions?

(Y) Yes

The UK is an established international leader in corporate governance. UK organisations have strong systems which facilitate effective management and control. For the private sector this includes the UK Corporate Governance Code https://www.frc.org.uk/getattachment/ca7e94c4-b9a9-49e2-a824-ad76a322873c/UK-Corporate-Governance-Code-April-2016.pdf for the largest listed companies as well as high standards for corporate reporting and audit, which encourage companies to have strong financial controls and make it harder to disguise illicit activity.

Integrity across the private sector is also supported by the supervisory bodies of key professions. The government is also promoting a culture of responsible business conduct, promoting and encouraging more businesses to adopt internationally recognised standards, such as the UN Global Compact and ISO 26000, and doing more to disseminate examples of good practice wherever they are seen.

Legislation

Criminal law legislation is used to incentivise the private sector to make prevention of corruption an integral part of corporate good governance. Guidance has been published (see below 3.) by the UK Government on bribery prevention for commercial organisations, designed to assist organisations in implementing bribery prevention regimes that are proportionate to the size and structure of the company and the degree of bribery risk that it faces. The Government also undertakes research to monitor awareness raising.

The Bribery Act

Section 7 of the Bribery Act 2010 provides corporate failure to prevent liability in respect of any bribery perpetrated by a person associated with a commercial organisation with the intent to obtain business or an advantage in the conduct of business. The strict liability offence is subject to a full due diligence defence, under which an organisation will not be guilty of the offence if it can show that despite the instant offence it has put in place adequate procedures to prevent bribery.

This model of corporate liability has been successful in incentivising businesses to assess the bribery risks they face and to put in place proportionate measures to mitigate those risks. The Government published guidance to assist businesses in the task of implementing the proportionate bribery prevention measures https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf

Business Integrity Initiative

In 2018, the UK launched the Business Integrity Initiative (BII) as a cross Government initiative designed to provide new practical guidance to help companies overcome barriers to doing business in frontier markets. The BII is running three country pilots in Kenya, Mexico and Pakistan to test how UK diplomatic missions, in partnership with chambers of commerce, trade associations and industry bodies, can provide business integrity support to UK and international companies trading with these countries.

In February 2019 the UK launched an awareness raising campaign on the BII and making the case for doing business with integrity, consisting of opinion articles, case studies and dissemination of information and available tools to business networks. Part of this campaign offered tailored, match-funded guidance for small and medium sized enterprises offering businesses up to five days' support from a consultant on anti-corruption and the protection of human rights when trading with developing and emerging markets.

The FCA

The Financial Conduct Authority (FCA) has the power, pursuant to section 137A of the Financial Services and Markets Act 2000 (FSMA) http://www.legislation.gov.uk/ukpga/2000/8/contents, to make rules with respect to the carrying on of regulated activities by banks and other financial services firms. These rules are contained in the FCA's Handbook

https://www.handbook.fca.org.uk/handbook.

In particular, authorised firms are required to conduct their business with integrity (Principle 1 of the FCA's Principles for Businesses https://www.handbook.fca.org.uk/handbook/PRIN.pdf), to conduct their business with due skill, care and diligence (Principle 2), to maintain adequate risk management systems (Principle 3), to manage conflicts of interest fairly (Principle 8) and to deal with regulators in an open and cooperative way (Principle 11).

Specific rules require firms to establish and maintain effective systems and controls for countering the risk that they might be used to further financial crime (SYSC 3.2.6R and SYSC 6.1.1R https://www.handbook.fca.org.uk/handbook/SYSC).

This includes the risk of corruption as well as bribery. Breaches of these rules may be punishable by the imposition of financial penalties, pursuant to section 206 of FSMA and/or suspending or restricting a firm's permission to conduct regulated activities, pursuant to section 206A of FSMA.

DPAs

Deferred Prosecution Agreements (DPAs) were introduced by the Crime and Courts Act 2013. The legislation provides for court approved agreements as an alternative to prosecution for corporate bodies alleged to have committed economic crime offences. They do not apply to individuals. The full list of offences covered by the DPA regime is set out at Schedule 17, Part 2 of the Crime and Courts Act 2013, but includes offences such as bribery or fraud.

http://www.legislation.gov.uk/ukpga/2013/22/schedule/17/enacted

The agreements allow a prosecution to be suspended for a defined period, provided the relevant organisation meets certain specified conditions, and enable a corporate body to make full reparation for criminal behaviour without the potential collateral and reputational damage of a conviction. However, if the company does not honour the agreed conditions to improve good corporate governance, the prosecution may resume. Arrangements for monitoring compliance with the conditions is set out in the terms of the DPA.

a) Cooperation with private sector and between law enforcement agencies

As part of the NCA International Corruption Unit's co-ordination role, it maintains a register of foreign bribery cases both under investigation and being assessed by the various UK agencies, including the SFO. To ensure a coordinated response, the NCA chairs a monthly Bribery and Corruption Intelligence Clearing House meeting where the relevant agencies carry out a high-level assessment of all new leads, referrals and intelligence with a view to agreeing which agency is best placed to take responsibility for subsequent action. These meetings help deconflict foreign bribery cases and ensure there is not a duplication of effort.

Since 2010 the FCA has convened and run a Money Laundering Reporting Officer (MLRO) risk and policy forum. This takes place quarterly and is attended by MLROs from the largest retail and investment banks. The forum addresses various topics, including the sharing of best practice on risk management.

In 2011 and 2013, the FCA (and its predecessor the Financial Services Authority)

held Financial Crime Conferences. Both conferences made ABC a key topic and used the platform to outline its role in the ABC landscape, its approach and its expectations of firms.

In December 2014, the FCA was a guest speaker at the British Banking Association's (BBA) Bribery and Corruption conference. The BBA is a trade association for the UK banking sector, with 200 member banks headquartered in over 50 countries and operations in 180 jurisdictions worldwide (the BBA is now integrated into UK Finance - a new trade body which represents nearly 300 of the leading firms providing finance, banking, markets and payments-related services in or from the UK). The conference highlighted emerging best practice in Anti-Bribery and Corruption (ABC) systems and controls and looked at genuine efforts to comply with global obligations. During the speech, the FCA set out its approach along with its expectations on governance and risk management within firms.

Additionally, in 2015, the FCA held two webinars on ABC. The webinar, which had over 900 unique viewers, discussed the findings of the 2014 thematic review.

It is worth noting that the FCA has been highlighting the risks to firms to have adequate ABC systems and controls in place since 2007, before the Bribery Act came into focus or discussion.

b) Promoting standards

Under FSMA, all individuals and firms that carry out regulated activity in the UK (this includes dual-regulated firms) must be regulated by the FCA, unless they are exempt.

Dual regulated firms, including banks, credit unions and insurance firms are regulated by the FCA for the way they conduct their business, and by the Prudential Regulation Authority (PRA) for prudential requirements.

The FCA publishes and maintains a Financial Services Register. This is a public record of firms, individuals and other bodies that are, or have been, regulated by the PRA and/or FCA.

Firms seeking authorisation are required to disclose who has control or influence over their business. FCA approval is required before a person can become a controller of a regulated firm. PRA approval is also required for a dual regulated firm.

FSMA requires that any changes in controller are notified to, and must be approved by the FCA. If an individual ceases to perform a controlled function in a firm, they are required to notify the FCA no later than seven business days of this event.

It is a criminal offence under FSMA section 191F to:

- Acquire or increase control without notifying the FCA first;
- Fail to obtain prior approval in such circumstances.

As part of the FCA authorisations process, individuals are required to meet its fitness and propriety test. Each application is considered on a case-by-case basis. There are several factors the FCA considers when assessing the fitness and propriety of an individual candidate, including the individual's integrity. The FCA also screens

candidates against internal and external financial intelligence databases.

The Financial Crime Guide has recently been updated. Part I is now known as the 'Financial Crime Guide' https://www.handbook.fca.org.uk/handbook/FCG.pdf and Part 2 is known as the 'Financial Crime Thematic Reviews' https://www.handbook.fca.org.uk/handbook/FCTR.pdf.

The FCA's rules include requirements for firms to conduct their business with integrity (Principle 1 of the FCA's Principles for Businesses), to manage conflicts of interest fairly (Principle 8) and to disclose to the FCA anything of which the FCA would reasonably expect notice (Principle 11). A code of conduct, with similar rules, applies to employees of banks and insurers and separate rules to all senior managers of regulated firms. The names of all senior managers of regulated firms are published on a publicly available register https://register.fca.org.uk/.

Banks are required to maintain procedures for the internal reporting of concerns by whistle-blowers (SYSC 18). The FCA has implemented confidential procedures https://www.fca.org.uk/firms/whistleblowing for being notified directly of misconduct by any regulated firm and maintains a dedicated team for handling whistleblowing intelligence.

When an individual takes up any new paid or unpaid appointment within 2 years of leaving ministerial office or Crown service, they must apply for advice on the suitability of the new post. The Advisory Committee on Business Appointments (ACOBA) https://www.gov.uk/government/organisations/advisory-committee-on-business-appointments considers applications under the business appointment rules https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/579754/Business_appoin_tment_rules_for_former_ministers.pdf about new jobs for former ministers and senior civil servants. The purpose of the rules is to avoid:

● any suspicion that an appointment might be a reward for past favours;

● the risk that an employer might gain an improper advantage by appointing a former official who holds information about its competitors, or about impending government policy;

● the risk of a former official or minister improperly exploiting privileged access to contacts in government.

Applications from all other levels of Crown servant are handled by their employing departments in line with the 'Cabinet Offices guidelines https://www.gov.uk/guidance/crown-servants-new-jobs-and-business-appointments for departments and their own internal processes.

For details of internal auditing requirements, see response to 12.3.

Devolved Administrations

Northern Ireland

Operational work by law enforcement in Northern Ireland is complemented by the strategic Organised Crime Task Force (OCTF) http://www.octf.gov.uk/ , established in 2000. The OCTF brings law enforcement agencies, Government Departments, the Public Prosecution Service (PPS), the Northern Ireland Policing Board and business and community interests together to set priorities, develop strategies and agree actions to tackle organised crime.

The OCTF has a Criminal Finance Sub Group, chaired by the Head of the PSNI Economic Crime Unit with representation from law enforcement, agencies with financial investigation functions and the PPS, to focus on financial crime and emerging trends and collaborate on relevant action. Other relevant sub groups include the Cyber Crime Sub Group and the Immigration and Human Trafficking Sub Group.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Cases concluded by DPAs: (deferred prosecution agreements)

https://www.sfo.gov.uk/cases/standard-bank-plc/

https://www.sfo.gov.uk/cases/sarclad-ltd/https://www.sfo.gov.uk/cases/rolls-royce-plc/

https://www.sfo.gov.uk/cases/rolls-royce-plc/

https://www.sfo.gov.uk/cases/tesco-plc/

In 2015 the Government published the results of research into the impact and levels of awareness of the Bribery Act and its accompanying guidance on bribery prevention amongst SMEs.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/440661/insight-into-awareness-and-impact-of-the-bribery-act-2010.pdf

The FCA

As noted in section 4.6 of the current Memorandum of Understanding on Tackling Foreign Bribery, a key role of the FCA is to require firms authorised under FSMA to put in place and maintain policies and processes to prevent bribery and corruption. This is additional to obligations imposed under the Bribery Act 2010, which the FCA does not enforce.

To support this, the FCA's Financial Crime: a guide for firms provides practical assistance and information for firms of all sizes and across all FCA supervised sectors, on actions they can take to counter the risk that they might be used to further financial crime, including bribery and corruption.

Responsibility for AML supervision for Payment Institutions which provide money transmission services sits with HMRC, however e-money institutions and payment institutions must satisfy the FCA that they have robust governance, effective risk procedures and adequate internal control mechanisms.

In 2013, the FCA published its E-Money approach document. This sets out the role of the FCA under the EMRs. Section 11 details the financial crime requirements, including applications, systems and controls and policies and procedures.

The Bribery Act covers both corruption and bribery; where the FCA differs is that there is no requirement to have evidence that either has occurred in order to take action. Principle 1 of the FCA Principles for Business also requires authorised firms to conduct their business with integrity; to conduct their business with due skill, care and diligence (Principle 2), to maintain adequate risk management systems (Principle 3), to manage conflicts of interest fairly (Principle 8) and to deal with regulators in an open and cooperative way (Principle 11). The FCA's guidance urges firms to take this into account when considering the adequacy of their anti-bribery and corruption systems and controls.

Concluded Anti-Bribery & Corruption (ABC) cases

To date, the FCA (formerly FSA) has published four cases that were specifically focused on authorised firms' systems and controls in relation to anti-bribery and corruption. Details of these cases and the financial penalties imposed are set out below.

Aon Limited (Final Notice dated 6 January 2009)

A financial penalty of £5.25m (£7.5m before settlement discount) was imposed on AON Limited ("Aon") for breaching Principle 3 between 14 January 2005 and 30 September 2007. Aon did not take reasonable care to establish and maintain effective systems and controls for countering the risks of bribery and corruption associated with making payments to non FSA-authorised overseas third parties who assisted Aon in winning business from overseas clients, particularly in high risk jurisdictions.

Willis Limited (Final Notice dated 21 July 2011)

A financial penalty of £6.895m (£9.85m before settlement discount) was imposed on Willis Limited ("Willis") for breaching Principle 3 and SYSC 3.26R between 14 January 2005 and 31 December 2009. Willis did not take reasonable care to establish and maintain effective systems and controls for countering the risks of bribery and corruption associated with making payments to overseas third parties who helped Willis win and retain business from overseas clients.

JLT Specialty Limited (Final Notice dated 19 December 2013)

A financial penalty of £1.876m (£2.684m before settlement discount) was imposed on JLT Specialty Limited ("JLT") for breaching Principle 3 between 19 February 2009 and 9 May 2012. JLT did not take reasonable care to establish and maintain

effective systems and controls for countering the risks of bribery and corruption associated with making payments to overseas third parties who helped JLT win and retain business from overseas clients.

Besso Limited (Final Notice dated 17 March 2014)

A financial penalty of £315,000 (£450,000 before settlement discount) was imposed on Besso Limited ("Besso") for breaching Principle 3 between 14 January 2005 and 31 August 2011. Besso did not take reasonable care to establish and maintain effective systems and controls for countering the risks of bribery and corruption associated with making payments to parties who entered into commission sharing agreements with Besso or assisted Besso in winning or retaining business.

Other cases

The role of the FCA is to ensure firms have adequate systems and controls to identify, assess and mitigate the risk of being used as conduits for financial crimes such as money laundering, bribery and corruption. Whilst the FCA currently has five Anti-Bribery and Corruption (ABC) investigations, many of its AML investigations concern potential failures of firms to have adequate controls around PEPs, particularly foreign PEPs. Recent enforcement action includes, for example, the FCA fining Canara Bank £896,100 in 2018 for a failure to remedy failings in its AML framework including a failure to identify PEPs in its customer population, the fact that the firm did not have policies and procedures in place to assess and investigate when an alert for a PEP was triggered, and that beneficial owners were not screened for PEP purposes.

The FCA also fined Standard Chartered Bank £102.2 million in April 2019. The FCA found serious and sustained shortcomings in Standard Chartered's AML controls relating to customer due diligence and ongoing monitoring.

Under FSMA and the MLRs, the FCA has a suite of tools and sanctions it can impose to promote increased standards across industry and a credible deterrence. Since 2010, the FSA and FCA have issued twenty-one AML and ABC public outcomes demonstrating the use of many to these tools. These involved, for example, the imposition of significant financial penalties accompanied by other penalties such as business restrictions on high risk customers (Coutts, Habib, Guaranty Trust Bank) and disgorgement (Barclays and Deutsche Bank).

Thematic Work

The FCA has carried out four thematic reviews on ABC. A thematic review is used to assess a current or emerging risk regarding an issue or product across a number of firms in a sector or market.

ABC in commercial insurance brokers (2010)

This reviewed the way commercial insurance broker firms in the UK addressed the risks of becoming involved in corrupt practices such as bribery. It visited 17 broker firms and, although this report focused on commercial insurance brokers, it stressed when it published its findings, that they were relevant to other sectors.

The report examined standards in managing the risk of illicit payments or inducements to, or on behalf of, third parties in order to obtain or retain business. It identified that many firms' approach towards high-risk business was not of an acceptable standard and that a number of firms were not able to demonstrate that adequate procedures were in place to prevent bribery from occurring.

The report also identified a number of common concerns including weak governance and a poor understanding of bribery and corruption risks among senior managers, as well as very little or no specific training and weak vetting of staff. It also identified that there was a general failure to implement a risk-based approach to bribery and corruption and very weak due diligence and monitoring of third-party relationships and payments, including where foreign public officials were involved.

As a result of this review and FCA concurrent casework, it commissioned a skilled persons report to assess past payments to third parties made by a firm and issued a formal private warning to another after it became aware of a number of third party payments which were made without an adequate business case being established and documented.

ABC in investment banks (2012)

This reviewed ABC systems and controls in investment banking. It visited 15 investment banks and firms carrying on investment banking or similar activities in the UK to assess how they were managing bribery and corruption risk. Although the report focused on investment banking, its findings were relevant to other sectors.

It identified that although some investment banks had completed a great deal of work to implement effective anti-bribery and corruption controls, the majority of them had more work to do and some firms' systems and controls fell short of their regulatory obligations. The main weaknesses it identified were: limited understanding of the applicable legal and regulatory regimes; incomplete or inadequate bribery and corruption risk assessments; lack of senior management oversight; and failure to monitor the effective implementation of, and compliance with, ABC policies and procedures.

Rolls Royce - Deferred Prosecution Agreement

In January 2017 the SFO entered into a Deferred Prosecution Agreement (DPA) with Rolls-Royce PLC. The DPA included a financial penalty of £497.25m plus interest and required Rolls Royce to pay the SFO's costs of £13m. The resolution is the highest ever enforcement action against a company in the UK for criminal conduct. The resolution reflected the gravity of the conduct, the full cooperation of Rolls-Royce PLC in the investigation, and the programme of corporate reform and compliance put in place by new leadership at the top of the company. The agreement with the company followed a four-year investigation into bribery and corruption. The indictment, which has been suspended for the term of the DPA, covers 12 counts of conspiracy to corrupt, false accounting and failure to prevent bribery. The conduct spanned three decades and a number of Rolls Royce businesses.

https://www.sfo.gov.uk/cases/rolls-royce-plc/

Sweett Group PLC - Guilty Plea

Construction and professional services company Sweett Group PLC pleaded guilty in December 2015 to a charge of failing to prevent an act of bribery intended to secure and retain a contract with Al Ain Ahlia Insurance Company (AAAI), contrary to Section 7(1)(b) of the Bribery Act 2010. The SFO's investigation into Sweett Group PLC, which commenced on 14 July 2014, uncovered that its subsidiary company, Cyril Sweett International Limited had made corrupt payments to Khaled Al Badie, the Vice Chairman of the Board and Chairman of the Real Estate and Investment Committee of AAAI to secure the award of a contract with AAAI for the building of the Rotana Hotel in Abu Dhabi.

The company was sentenced and ordered to pay £2.25 million as a result. The amount is broken down as £1.4m in fine, £851,152.23 in confiscation. Additionally, £95,031.97 in costs were awarded to the SFO.

https://www.sfo.gov.uk/cases/sweett-group/

(b) Observations on the implementation of the article

The United Kingdom has adopted a number of legislative and policy measures to prevent corruption in the private sector. It regularly develops relevant guidance, promotes corporate governance standards, incentivizes business to develop appropriate internal prevention measures, promotes cooperation between private sector and law enforcement agencies, etc.

The FCA requires all authorised firms to conduct their business with integrity (Principle 1 of the FCA's Principles for Businesses), to conduct their business with due skill, care and diligence (Principle 2), to maintain adequate risk management systems (Principle 3), to manage conflicts of interest fairly (Principle 8) and to deal with regulators in an open and cooperative way (Principle 11).

Similarly, listed companies must adhere to the Corporate Governance Code (as published by the Financial Reporting Council) and establish systems of management, corporate reporting, financial control and audit.

The FCA maintains a public Financial Services Register which contains records of firms and individuals that it regulates and authorizes. Firms are required to disclose who has control or influence over their business. FCA approval is required before a person can become a controller of a regulated firm.

FSMA provides for criminal (e.g., sections 23–25 and 191F) and administrative (sections 206 and 206A) sanctions for instances of non-compliance. The FCA may also take action against a firm with deficient anti-bribery and corruption systems and controls regardless of whether or not bribery or corruption has taken place.

Since 2010, the FCA has convened and run a Money Laundering Reporting Officer (MLRO) risk and policy forum which addresses various topics, including the sharing of best practice on risk management. The FCA has spoken on anti-corruption, as a guest speaker, at various conferences.

The strict liability of companies for failure to prevent bribery under Section 7 of the Bribery Act 2010 incentivizes businesses to assess the bribery risks and to put in

place proportionate measures to mitigate those risks. The Government published guidance on implementing bribery prevention regimes that are proportionate to the size and structure of the company and the degree of bribery risk.

Regarding post-employment restrictions for public officials, see information under article 7 above.

In respect of article 12, subparagraph (2)(e) the recommendation made above under article 7, paragraph 4 is applicable also to this subparagraph.

Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

(a) The establishment of off-the-books accounts;

(b) The making of off-the-books or inadequately identified transactions;

(c) The recording of non-existent expenditure;

(d) The entry of liabilities with incorrect identification of their objects;

(e) The use of false documents;

(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Accounting and reporting: (1) Part 15 of the Companies Act 2006; (2) The Large and Medium Sized Companies (Accounts and Reports) Regulations 2008; (3) The Small Companies (Accounts and Directors' Report) Regulations 2008.

The Accounting framework, under the Companies Act 2006 provides for the preparation and publication (on the Companies House register) of accounts for all UK limited companies. Preparation of accounts, for use by the general public, is viewed as an obligation applicable in recognition of the granting of limited liability upon incorporation. Accounts must be prepared, audited (for all small companies apart from those associated with financial services provision) and filed on a strict annual timetable subject to a system of civil and criminal penalties. Extended non-compliance can result in a company being "struck off" the Companies House register.

The quality of accounting is enforced primarily through the statutory audit framework. However, small companies (and a small number of specific other types) which take advantage of the audit exemption, may be subjected to a criminal investigation and, if sufficient evidence of fraudulent accounting is discovered, a criminal prosecution. For large companies and those with financial securities listed on the UK's markets, a system of enforcement also operates whereby the UK's accounting regulator, the Financial Reporting Council, can seek the rectification of accounts that have not complied with the applicable accounting standards.

UK accounting standards for private companies are set by the Financial Reporting Council. The standards must comply with the requirements of the Companies Act 2006 and the accounting regulations made under that Act. Meanwhile, listed companies and those companies in the UK required to produce consolidated accounts, for a group of companies, must do so in accordance with International Financial Reporting Standards, as adopted for use in the European Union. Other companies may also choose to follow these standards.

Chapter 2 of Part 15 of the Companies Act 2006 places a duty on every company to keep adequate accounting records and specifies where, and for how long, these records are to be kept. If a company fails to comply with these provisions, an offence is committed by every officer of the company in default. A person found guilty of an offence under these provisions may be liable to a term of imprisonment of up to two years, or a fine, or both.

More specifically, the accounting records must:

i. disclose with reasonable accuracy, at any time, the financial position of the company at that time;

ii. enable the directors to ensure that any accounts required to be prepared comply with the requirements of the Companies Act and, where applicable, of Article 4 of the IAS Regulation http://www.icaew.com/en/members/regulations-standards-and-guidance/members-in-business/financial-and-accounting-duties-of-directors-definitions?letter=i;

iii. contain entries from day-to-day of all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure take place; and

iv. contain a record of company assets and liabilities.

In the case of a company dealing in goods, the accounting records must also:

v. contain statements of stock held by the company at the end of each financial year;

vi. contain statements of stock-takings from which any statement prepared under (5) above is made; and

vii. except when the sale is an ordinary retail sale, contain statements of all goods sold and purchased showing the goods and the buyers and sellers in sufficient detail to enable the goods and the buyers and sellers to be identified.

In addition to the statutory requirement to keep adequate accounting records, the directors have an overriding responsibility to ensure that they have adequate information to enable them to discharge their responsibility to manage the company's business.

The duty to promote the success of the company will involve ensuring that adequate control is kept over its records and transactions, for example: cash; debtors and creditors; stock and work in progress; capital expenditure; and major contracts.

To restrict the possibility of actions for wrongful trading, directors will need constantly to be aware of the company's financial position and progress, and the accounting records should be sufficient to enable them to be provided with the information required for drawing conclusions on these matters. The directors should also be satisfied that proper systems to provide them with regular and prompt information are in place.

Audit:

(4) Part 16 of the Companies Act 2006;

(5) Part 42 of the Companies Act 2006;

(6) The Statutory Auditors and Third Country Auditors Regulations 2016;

(7) The Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008.

If an auditor is of the opinion that adequate accounting records have not been kept or if the auditor has not obtained all the information or explanations which he believes necessary for his audit, this must be reported by exception in his report.

A company auditor has the statutory right to access at all times the company's books, accounts and vouchers and may require any officer, employee or subsidiary of the company to provide him with such information and explanations as he thinks necessary. It is a criminal offence for a person to knowingly or recklessly provide an auditor with information what is misleading, false or deceptive.

The responses to Articles 12(1) and 12(2) are also relevant here.

Whistleblowing: The FRC is designated by Public Interest Disclosure (Prescribed Persons) Order 2014 and the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999 as the recipient of "whistle-blowing complaints" about auditors and company accountants. The framework provides that whistle-blowers who are workers are protected when making complaints or other disclosures about audit, accounting, and reporting misconduct in Great Britain and Northern Ireland.

(1) http://www.legislation.gov.uk/ukpga/2006/46/part/15

(2) http://www.legislation.gov.uk/uksi/2008/410/contents/made

(3) http://www.legislation.gov.uk/uksi/20 08/409/contents/made

(4) http://www.legislation.gov.uk/ukpga/2006/46/part/16

(5) http://www.legislation.gov.uk/ukpga/2006/46/part/42

(6) http://www.legislation.gov.uk/uksi/2016/649 /contents/made

(7) http://www.legislation.gov.uk/uksi/2008/489/contents/made

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Ravelle

A chartered accountant was convicted of three counts of fraudulent trading in a £3.25m fraud scandal. Jeremy Greene, a director of collapsed second hand computer parts supplier Ravelle, was found guilty of playing a key part in an invoicing fraud by a Judge at Manchester Crown Court. The fraud centred around the creation of false sales documents and a complex web of intercompany transactions which misled IBM Global Financing and Barclays Sales Finance into bankrolling Ravelle, using fictitious orders as collateral. The case was referred to the SFO (Serious Fraud Office) by Greater Manchester Police after Ravelle's receivers raised serious concerns in 2001. According to the SFO, the company used 'fresh air' invoicing which involved fabricating IOUs and pretending these represented real orders, and 'circular trading' which allowed 'a continuing systematic deception of the factoring company'. The circular trading involved Ravelle pretending it had an order from outside businesses, which were termed as 'friendly' companies. These were Trackteck Industries Limited, Mad Macs Limited and Cheap Internet Access Limited. The factoring company was informed of the order and lent money against the invoice. In due course the factoring company expected the 'friendly' company to pay for the goods it ordered so the loan could be repaid. If the transactions had been genuine, the funds to repay the loan would have to come from the relevant 'friendly' company, but Ravelle set up an intricate system which tricked the creditors into believing that the money had come from the outside businesses. IBM Global Financing lost £1,600,000 whilst Barclays Sales Finance lost £654,857. Other creditors lost approximately £1,000,000.

https://frc.org.uk/Our-Work/Enforcement/Enforcement.aspx

Xclusive

The SFO, together with the Metropolitan Police, investigated the affairs of "the Xclusive companies". These companies sold tickets or hospitality packages online for a wide variety of events including the Beijing Olympics and various 2008 summer music festivals in the UK. Over £5 million worth of tickets were not supplied or the full service was not provided. On 11th July 2011:

● Terrence ('Terry') Shepherd was sentenced to eight years' imprisonment and disqualified from acting as a company director for 15 years, having been convicted of money laundering, two counts of fraudulent trading and two counts of acting as a company director whilst disqualified. A Serious Crime Prevention Order was also

obtained in respect of Shepherd.

● Alan Scott was sentenced to seven years' imprisonment and disqualified from acting as a company director for 10 years. A Serious Crime Prevention Order was also obtained in respect of Scott.

● Allan Schaverien was sentenced to two years and eight months' imprisonment having been convicted of aiding and abetting fraudulent trading.

Terry Shepherd is a ticket tout with a history of insolvent company liquidations. He had twice been disqualified from being a director or being concerned in the formation or management of any company, and was disqualified at the time Xclusive was set up and for much of the time it was trading. No doubt for this reason, he was not appointed as a director of any of the Xclusive companies. It was the prosecution case that he was the driving force behind Xclusive and the principal architect of the fraud.

Alan Scott was the sole director of the Xclusive companies when they went into liquidation. Scott was at the centre of the collapse of the company. He acted as lieutenant to Shepherd, collecting and carrying out his instructions. Scott dealt with the liquidators and provided the false explanation that the company's insolvency was caused by the failure of Xclusive's supplier, Peters Ticketing, to provide the tickets that Xclusive had ordered (and paid for in cash).

Allan Schaverien, a 'Certified Chartered Accountant', had a long association with Terry Shepherd. Until his bankruptcy in November 2004 Allan Schaverien was working as a sole trader under the name Allan Schaverien and Co. After his bankruptcy he worked one day a week at Xclusive; he acted as the companies' accountant. In this role he knew the truth behind the façade of Peters Ticketing. Schaverien orchestrated the liquidation of the Xclusive group and was instrumental in creating the false document trail at the time of the 'collapse' of Xclusive.

This was Schaverien's second conviction; in October 2008, he was sentenced in Guildford Crown Court to 2 years' imprisonment suspended for 2 years for offences of obtaining money transfers by deception and false accounting following an investigation by Surrey Police.

(b) Observations on the implementation of the article

The Companies Act 2006 sets the overall accounting framework. Accounting standards for private companies are set by the Financial Reporting Council under that Act. Chapter 2 of Part 15 places a duty on every company to keep adequate accounting records and specifies where and for how long these records (three years for public and six years for private companies, section 388) are to be kept. All United Kingdom limited companies must prepare and publish audited accounts, except those that are subject to the small companies' audit exemption, on the Companies House register.

The quality of accounting is enforced through the statutory audit framework, which consists of the Companies Act 2006, the Statutory Auditors and Third Country Auditors Regulations 2016, and the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008.

Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

UK law disallows both income tax and corporation tax deductions for any payment which constitutes a criminal offence. A UK deduction is also disallowed for payments made outside the UK that would constitute a criminal offence if made in the UK

The UK provides publicly available guidance on GOV.UK in HMRC's Business Income Manual. This covers an overview of the crime related payments legislation with specific sections on the Terrorism Act, Bribery, Blackmail and Extortion. The introduction advises that no deduction from trade profits is allowed for expenses incurred in making a payment which constitutes a criminal offence, or for payments made outside the UK if a corresponding payment would constitute a criminal offence in the UK. The guidance advises that the restriction extends to any incidental costs of making the criminal payment.

The section on bribery includes an overview of the Bribery Act 2010 and states that payments which constitute an offence under the Bribery Act are disallowable as criminal payments. This section also states that if offences are outside the territorial scope of the Bribery Act the payments are still disallowable as criminal payments if they would constitute an offence if paid in the UK.

The guidance is available to HMRC staff and includes general case handling advice and information about the legal gateway for HMRC to share information with other enforcement authorities in the Anti-Terrorism, Crime and Security Act.

In addition, the Property Income Manual which is also available on GOV.UK advises that deduction cannot be claimed for payments which are criminal.

Links below:

Property income manual:

https://www.gov.uk/hmrc-internal-manuals/property-income-manual/pim2060 The legislation is S55 ITTOIA 2005 for income tax:

http://www.legislation.gov.uk/ukpga/2005/5/section/55

s1304 CTA 2009 for corporation tax: http://www.legislation.gov.uk/ukpga/2009/4/section/1304

There's publicly available guidance on the crime related payments legislation in the business income manual BIM 43100 to BIM 43185, including a section on bribery. Link below to the overview and index for this section:

https://www.gov.uk/hmrc-internal-manuals/business-income-manual/bim43100

Please provide examples of the implementation of those measures, including

See links above for legislation.

There are no tribunal cases on the tax treatment of bribes.

(b) Observations on the implementation of the article

The Income Tax (Trading and Other Income) Act 2005 (section 55) and Corporation Tax Act 2009 (section 1304) disallow both income and corporate tax deductions for any payment which constitutes a criminal offence, including for payments made outside the United Kingdom that would constitute a criminal offence if made in the United Kingdom.

Article 13. Participation of society

Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

(b) Ensuring that the public has effective access to information

(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or ordre public or of public health or morals.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Historically the UK long has been an advocate of the critical role NGOs and civil society plays in combating corruption - without close collaboration the UK efforts would be less effective.

Regular engagement with groups such as Transparency International, Corruption Watch, Spotlight on Corruption, Global Witness and the Bond Group is essential to the work of JACU.

13.1 a)

As noted at 5.1, 10 the UK is resolute in its commitment to transparency. It is a founding member of the Open Government Partnership, and is currently implementing its fourth National Action Plan covering the period from March 2019 to Autumn 2021: https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2019-2021/uk-national-action-plan-for-open-government-2019-20218.

At the 2016 London Anti-Corruption Summit, it also launched the National Action Plan. The National Action Plan was co-created with civil society to ensure that the UK can develop cutting edge and innovative commitments that will deliver real change in government. This includes commitments to produce a cross-government Anti-corruption Strategy https://www.gov.uk/government/publications/uk-open-government-national-action-plan-2016-18/uk-open-government-national-action-plan-2016-18. (The UK published the strategy in December 2017. https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022). The commitments on anti-corruption were co-created with leading civil society organisations, such as the Bond Anti-Corruption Group, Campaign for Freedom of Information, International Budget Partnership, mySociety, Natural Resource Governance Institute, and Publish What You Pay UK.

13.1 b)

The UK is the world leader in the publication of open data, allowing the public access

to data which can help prevent corruption. People are less likely to engage in corrupt practices if they know the data will be made open. The data released by the UK includes: central government contracts over £10,000 https://www.gov.uk/government/publications/open-contracting, details of gifts and hospitality to Ministers and senior officials, and the beneficial owners of UK companies in the 'People with Significant Control Register https://www.gov.uk/government/news/people-with-significant-control-companies-house-register-goes-live.

The Freedom of information Act (FOIA) provides public access to information held by public authorities. Anyone can make a FOI request. In responding the public authority must (i) confirm whether or not the information is held and (ii) if it is, provide that information to the requestor, unless that information is exempt from disclosure. Sometimes this will be because it would cost too much or take up too much staff time to deal with the request, or if the request is vexatious or repeats a previous request from the same person. There are also a number of exemptions (some absolute, others subject to a public interest balancing test) which allows a public authority to withhold information from a requester Some relate to a particular type of information, for instance, information relating to government policy. Other exemptions are based on the harm that would arise or would be likely arise from disclosure, for example, if disclosure would be likely to prejudice a criminal investigation or prejudice someone's commercial interests.

http://www.legislation.gov.uk/ukpga/2000/36/contents

13.1 d)

As above

Devolved Administrations

Northern Ireland

Engagement with civil society has been proactively built into the OCTF structures through the establishment of a stakeholder group.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

13.1 a)

The Anti-Corruption Strategy commitment https://www.gov.uk/government/publications/uk-open-government-national-action-plan-2016-18/uk-open-government-national-action-plan-2016-18 was co-created by key officials from the UK government working with representatives from civil society groups (Bond Anti-Corruption Group, Campaign for Freedom of Information, International Budget Partnership, mySociety, Natural Resource

Governance Institute, and Publish What You Pay UK). The group aimed to build on the success of the first UK Anti-Corruption Plan, published in December 2014. The Anti-Corruption Strategy commitment brings together the UK's current and up-to-date anti-corruption efforts in one place. The UK published the strategy in December 2017. https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022

13.1 b)

The UK has released over 40,000 datasets as open data. This is available on data.gov.uk https://data.gov.uk/ for the public to access and use.

Monitored bodies received 45,415 requests for information in 2016. Of those 33,337 were valid requests under the legislation. Information was released in 20, 895 of those cases. In 4,926 cases the cost of locating information would exceed the appropriate limit set out in legislation (currently 3.5 days). In 7,172 cases the information engaged an exemption and was not released.

If individuals are not content with the response to their request, they are able to appeal first internally with the relevant public authority, and then to the UK regulator (the Information Commissioner). Requesters and public authorities have the right to appeal decisions of the Information Commissioner to a tribunal. This appeal route extend to the Supreme Court. There are currently 168 cases on-going in relation to this appeal against a decision of the Information Commissioner.

13.1 d)

As above.

(b) Observations on the implementation of the article

The United Kingdom has implemented effective measures to raise public awareness and enhance the participation of society in the anti-corruption process. Regular engagement with groups such as Transparency International, Corruption Watch and the Bond Group[4] is essential to the work of JACU. These efforts and the measures described in the response facilitate access to information by civil society and support their effective contribution to accountability and transparency.

As mentioned under article 5 above, civil society was closely involved in the development of the Anti-Corruption Strategy. During this process, workshops were held with civil society, including the Bond Anti-Corruption Group, who were encouraged to submit recommendations on policy and process via face-to-face meetings with government officials and through written submissions. Academics and think tanks were engaged bilaterally and through the DFID British Academy

[4] Bond Group is coalition of British non-governmental organisations engaged in work to counter the devastating effects of corruption on society. The Group has the following core members: Article 19, CAFOD, Corruption Watch, Global Witness, Integrity Action, Natural Resource Governance Institute, ONE, Open Contracting Partnership, Public Concern at Work, Publish What You Pay, The Corner House, The Sentry, and Transparency International UK.

research programme. The Government also engaged the UK's main business associations including the British Bankers Association which has since been integrated into UK Finance, the International Chamber of Commerce (ICC) and the Institute of Directors (IoD).

A number of civil society organisations and businesses were invited to participate in the London Anti-Corruption Summit and a dedicated civil society event on the day before the Summit. Civil society and private sector groups were also involved in the OECD phase 4 review of the UK and took part in the onsite visit in October 2016.

The Prime Minister's Anti-Corruption Champion has been mandated to engage with external stakeholders, including business and civil society organisations. In the past year for example the Champion has attended events and meetings with Transparency International, the Anti Money Laundering Professionals Forum, International Finance Corporation (IFC) and International Development Committee (IDC). This engagement provides a channel for business and civil society to share their views on the development and implementation of policy.

The UK has collaborated closely with civil society on developing and implementing the commitments set out in the Open Government Partnership National Action Plans. The UK Open Government Network (the OGN) was established by civil society in 2011 in response to the UK joining the Open Government Partnership and since then the UK have sought to build a broad coalition of active citizens and civil society organisations to secure robust and ambitious open government reforms. For the third National Action Plan, the UK crowdsourced an Open Government Manifesto: via an online platform and a series of workshops voices were heard from over 250 members of civil society on their priorities for reform, including opening up public contracting, government budgets, devolution deals, public service delivery, state surveillance and company ownership.

In particular, during the course of the review a submission by civil society was provided to the reviewers, entitled "Bond Anti-Corruption Group report on UK compliance with the UN Convention against Corruption, Second Cycle Review, Chapters II (Prevention) and V (Asset Recovery)." Meetings were held with civil society representatives during the country visit and their contributions were considered and taken into account in the course of the review.

Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

There are several avenues for members of the public to report corruption in the UK:

1) Reporting Directly to the Police

The Police offer two telephone reporting services;

· 999 provides an emergency number to report a crime in progress or if someone is imminent danger;

· 101 provides a number to report crimes that are not an emergency to the police.

Both services offer a telephone and text relay service.

The Home Office in conjunction with Police Forces on a yearly basis have carried out numerous 101 awareness campaigns. These campaigns together with forces local initiatives, now mean that there are 35 million members of the public using this system. In every 101 campaign reference on when to use 101 and 999 is promoted.

The Police offer online reporting through their website Police.uk http://www.police.uk.

In line with the UK Anti-Corruption Strategy, the UK Government is currently developing a mechanism for reporting allegations of bribery and corruption to police forces in England and Wales.

2) Reporting to Crimestoppers

Crimestoppers are an independent charity offering a confidential and anonymous helpline for members of the public with information relating to a crime. Crimes can be reported either by phone (0800 555 111) or through their online form (Crimestoppers-uk.org http://www.crimestoppers-uk.org).

Crimestoppers carry out general promotions on the services they provide which are not crime specific, ranging from local community presentations to social media activity.

3) Reporting to the Serious Fraud Office (SFO)

The SFO is a specialist investigating and prosecuting authority tackling the top level of serious or complex fraud and bribery and corruption.

The SFO has a 'public facing' on-line reporting tool that can be accessed through its website https://www.sfo.gov.uk/ . This portal allows individuals and legal representatives for corporate clients to directly report allegations of fraud, bribery and corruption.

The reporting tool contains a "decision tree" reporting form, which guides users to provide information about possible fraud, bribery and corruption to the authority best placed to deal with it. It also provides useful information and links to other agencies if the matter does not fall within the SFO's statutory remit.

The tool enables anonymous reporting and the SFO to treat whistleblower reports as confidential sources of information and has provided increased confidence to whistleblowers especially those reporting alleged foreign bribery matters. The tool uses a software to encrypt the messages in order to protect the information contained within. The SFO will also receive reports via post.

The SFO assesses every report that it receives against the Director's Statement of Principle and on its own merits and particular facts.

The website is also used as a tool to update victims or witnesses about cases or to publish appeals for people with information on a particular case to come forward.

4) Reporting to the NCA's International Corruption Unit (NCA ICU)

The NCA ICU investigates international bribery and corruption and related money laundering offences.

Members of the public or whistleblowers can report instances of bribery and corruption through their monitored email address (ContactICU@nca.x.gsi.gov.uk).

All allegations are recorded, assessed and where applicable developed for potential law enforcement action.

The NCA ICU has an outreach function in order to raise awareness of bribery and corruption with public and private sector partners leading to an increase in referrals from foreign missions through the FCO and NCA International Liaison Officers' Network.

Planned Development

The UK Anti-Corruption Plan (published in December 2014) committed the Home Office and law enforcement agencies to develop a reporting mechanism for allegations of corruption to make the reporting of bribery and corruption simpler and more widely known, with an implementation date in 2017/18. The UK Government reiterated its commitment to develop a reporting mechanism for allegations of bribery and corruption in the UK Anti-Corruption Strategy 2017-2022. Work is continuing to design and develop the mechanism.

Protection

1) Whistleblowing

Whistleblowers in the UK are workers who report certain types of wrongdoing and must be in the public interest. This means it must affect others, e.g. the general public.

Whistleblowers are protected by law and should not be treated unfairly or lose their job as a result. For those not wishing to report their concerns to their employer, other options available are available, such as informing the relative prescribed person or body https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2.

2) Physical Protection

Protection measures utilised by law enforcement and other agencies in the UK are based on levels of assessed risk, which influence the response provided to an individual.

British and European legislation places an obligation on the police and other law enforcement agencies to take all reasonable steps to protect a person whose life is in 'real and immediate' danger from the criminal acts of another. In such scenarios protection measures can be utilised by responsible agencies to minimise risk of harm to the individual concerned.

The UK Protected Persons Service (UKPPS) delivers protection and care to individuals who are considered by law enforcement agencies to be at risk of serious harm. Subject to an individual meeting the acceptance criteria, a typical protection package can involve a permanent identity change for the individual (and often also their immediate family) and relocation to a region where they are not known.

SFO

The volume of reports received by the SFO for the last financial year (April 2018-March 2019) is 1,282. This represents all reports to the SFO, including allegations which would not come within the SFO's remit.

Public facing developments or milestones in a case such as a decision to bring charges is usually communicated by the SFO to the UK media via a news release. These releases are then uploaded to the SFO's external website as a matter of routine. Details of cases are only released into the public domain when there is an ability to do so without infringing or impeding an ongoing investigation/prosecution.

The SFO's website generated 252,170 unique users to its website for 2018-19. The largest spike in SFO website visits in this year occurred on 18 March 2019, corresponding with the timing of the SFO's investigation into London Capital and Finance Ltd being announced. The second largest spike occurred on 7 February 2019, which corresponded with the timing of the conviction of David Lufkin, previously Head of Sales for Petrofac International Limited, as part of the SFO's investigation into Petrofac.

NCA's International Corruption Unit

In the 12-month period to 31 May 2019, the International Corruption Unit received submissions by 48 separate members of the public (some of these submissions were anonymous and while it is possible they originated from the same individual, it has been assessed that they are distinct persons). Some members of the public made multiple submissions.

Of the submissions made 10 were of sufficient quality or relevance to allow further intelligence development. Reasons for not developing submissions included: No UK

nexus; No specific allegation of bribery and corruption; Information submitted did not relate to fact or reality; Information related to activity which is not within the remit of the ICU.

One submission made within the 12 month period has been tasked as an investigation, several others are being submitted for tasking currently.

Statistics on the number of people who have made reports of corruption leading to protection being provided are not held centrally. Decisions about the type of protection provided would be made on a case-by-case basis and would be individually tailored to reflect the assessed level of risk to the individual. It is the UK ICU policy not to discuss publicly individual protection packages.

(b) Observations on the implementation of the article

There are several avenues for members of the public to report corruption, including the police, Crimestoppers, SFO and NCA's International Corruption Unit, as described in the response.

Article 14. Measures to prevent money-laundering

Subparagraph 1 (a) of article 14

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Money Laundering Regulations

The UK's international footprint as a global financial centre is acknowledged. The UK has a comprehensive anti-money laundering regulatory and supervisory regime. This includes the Money Laundering Regulations, which bring the UK's AML regime into line with Financial Action Task Force global standards. The regulations cover financial institutions and designated non-financial businesses and professions (DNFBPs). The regulations impose customer due diligence requirements (chapters 1-3) ensuring that financial institutions and DNFBPs are able to identify their customers and beneficial owners, and requirements for record keeping (Regulation 40).

Under Financial Services and Markets Act 2000 (FSMA), all individuals and firms that carry out regulated activity in the UK (this includes dual-regulated firms) must be regulated by the FCA, unless they are exempt (i.e. appointed representatives (agents for the authorised principal firm), professional firms, for example solicitors, accountants or actuaries, that run regulated activities alongside their main business and local authorities or some housing groups that run insurance mediation or mortgage activities are exempt from authorisation).

All firms regulated by the FCA under FSMA are supervised for compliance with the FCA Handbook. SYSC 3.2.6R and SYSC 6.1.1R of the Handbook requires firms to establish and maintain effective systems and controls to prevent the risk that they might be used to further financial crime.

SYSC 3.2.20 sets out that a firm must take reasonable care to make and retain adequate records of matters and dealings which are subject to the requirements and standards under the regulatory system.

SYSC 9.1.5 sets out that a firm should retain records for as long as is relevant for the purposes for which they are made.

Section 402 of FSMA also gives the FCA specific power to bring about legal proceedings for certain other offences, including breaches of the Money Laundering Regulations 2007 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs), which replaced the 2007 regulations and came into force on 26 June 2017. In January 2020, subsequent to the review, the Fifth Money Laundering Directive was transposed into UK law through amendments to the MLRs, strengthening and updating the regulations based on emerging risks and international standards.

The MLRs also set out that the FCA is the supervisory authority for financial institutions (including banks, life insurers, asset managers, e-money institutions and consumer credit providers) compliance with Anti-Money Laundering (AML) Requirements. Where those firms also operate as, for example, trust and company service providers or money service businesses, the FCA also supervises those

activities (MLRs 7).

The FCA oversees the AML controls of businesses such as those offering finance leases, commercial lenders and providers of safe deposit boxes (collectively known as "Annex I financial institutions").

Registered small payment institutions and authorised payment institutions are supervised for their compliance with AML/CFT obligations by HMRC where they provide money transfer activity only; the remaining payment institutions are supervised by the FCA.

The FCA must register authorised persons and those notifying the FCA that they are acting, or intend to act, as a money service business or a trust or company service provider (MLRs 54). HMRC must register money service businesses (if not supervised by the FCA), bill payment service providers and telecoms/digital/IT payment service providers that they supervise.

Records of business relationships or occasional transactions must be kept for a period of 5 years from the date of the transaction or when the business relationship ends (MLRs 40(3)).

The records that must be kept are those that evidence the customer's identity as well as other original documents related to the customer due diligence measures or on-going monitoring (MLRs 28(11)).

Proceeds of Crime Act 2002 (POCA)

POCA criminalises (sections 327, 328, 329) all forms of money laundering. POCA also creates offences concerning failure to report suspicion of money laundering. Sections 330 and 331 create an obligation on those persons in the regulated sector to report their suspicion or knowledge of another person's money laundering to the National Crime Agency. Failure to report is a criminal offence.

Production orders under POCA will require information including customer and transaction records to be made available to competent authorities where appropriate. This is confirmed in POCA, section 345(5) which requires that the information in a production order be served within 7 days of the making of the order.

Please provide examples of the implementation of those measures, including

related court or other cases, available statistics etc.

There are several cases which demonstrate the effectiveness of the UK's anti-money laundering regulatory and supervisory regime. With respect to the financial sector, the FCA is the relevant supervisory authority, except in relation to money service businesses supervised by HMRC.

The Financial Action Task Force (FATF) conducted an assessment of the United Kingdom's anti-money laundering (and counter terrorist financing) system in 2018. The assessment found the measures in place to be highly effective, including the FCA's enforcement action in creating a credible deterrence and raising standards across industry.

FCA – general approach to enforcement and supervision – see

https://www.fca.org.uk/publication/corporate/our-approachenforcement-final-report-feedback-statement.pdf

https://www.fca.org.uk/publication/corporate/our-approachsupervision-final-report-feedback-statement.pdf.

(b) Observations on the implementation of the article

The United Kingdom has a comprehensive AML regulatory and supervisory regime. In particular, the Money Laundering Regulations 2017 (MLRs) impose customer due diligence (CDD) requirements (Part 3, chapters 1–3), ensuring that 'relevant persons' (Part 2, Chapter 1, Reg. 8), including financial institutions and professional bodies identify their customers and beneficial owners, and requirements for record-keeping (Regulation 40).

Under the FSMA, all individuals and firms that carry out regulated activity in the United Kingdom must be regulated by the FCA and are supervised for compliance with the FCA Handbook. Exempt persons are supervised by other statutory regulators or self-regulatory organizations (SROs), but are nonetheless classified as "relevant persons" and subject to the MLRs. SYSC 3.2.6R and SYSC 6.1.1R of the Handbook require firms to establish and maintain effective systems and controls to prevent AML risks.

The Proceeds of Crime Act 2002 (POCA) criminalizes (sections 327, 328, 329) all forms of money-laundering (ML) and failure of the regulated sector to report suspicion of ML, knowledge of another person's ML, or where there are reasonable grounds for knowing or suspecting ML to the NCA (sections 330 and 331). Outside the regulated sector, criminal liability is also placed on nominated officers for failure to report knowledge or suspicion of ML (section 332).

In 2017 the United Kingdom published its second comprehensive national risk assessment (NRA) of ML/CFT risk and will publish an updated NRA in 2020. The United Kingdom recently completed its fourth-round mutual evaluation by the FATF and the final report was published in December 2018.[5] The Fourth Money

[5] www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-kingdom-2018.html

Laundering Directive (4MLD) is incorporated into various pieces of United Kingdom law, such as POCA and the AML/CFT Regulations. The Fifth Money Laundering Directive was incorporated into UK legislation in January 2020, following consultation in 2019, subsequent to the review.

Since June 2016 the United Kingdom has implemented a publicly accessible central registry of company beneficial ownership information, (register of People with Significant Control), which contains information about who ultimately owns and controls United Kingdom corporate entities. Upcoming legislation will create a new public register in 2021 for overseas entities that own or wish to purchase land in the United Kingdom.

Regulation 30A of the Money Laundering and Terrorist Financing (Amendment) Regulations 2019 sets out a new requirement for firms to report to Companies House discrepancies between the information the firm holds on their customers compared to the information held in the Companies House Register.

Her Majesty's Revenue and Customs (HMRC) is the primary supervisor of money- or value-transfer service providers ("Money Service Businesses"), which are required to register with HMRC.

While United Kingdom authorities possess and utilize the ability to cooperate on money-laundering and with overseas authorities and regulators, due to the complexity of the mechanisms it is recommended that the United Kingdom undertake continued care and monitoring to assure that communication and cooperation at both the domestic and international levels operate efficiently and effectively.

(c) Successes and good practices

Implementation of public registers of company beneficial owners, including their planned extension to overseas entities that own property in the United Kingdom.

Subparagraph 1 (b) of article 14

1. Each State Party shall: ...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See also response for **Article 58,** for information about the UKFIU based in NCA.

The FCA has a general duty to cooperate with other authorities in the UK and overseas that have functions similar to those of the FCA or in relation to the prevention or detection of financial crime as set out under section 354A of the Financial Services and Markets Act 2000 ("FSMA").

In order to assist overseas regulators, the FCA has the power under section 169 of FSMA (in connection to section 165 and sections 171/172 of the same) to compel information and documents from authorised/unauthorised firms, as well as from approved/unapproved persons, and to compel individual to attend interviews.

The FCA is also committed to providing the fullest assistance possible as set out under Paragraph 7(a) of the IOSCO Multilateral Memorandum of Understanding ("IOSCO MMoU") https://www.iosco.org/library/pubdocs/pdf/IOSCOPD386.pdf and Article 3 of the ESMA Multilateral Memorandum of Understanding on Cooperation Arrangements and Exchange of Information ("ESMA MMoU") https://www.esma.europa.eu/document/mmou-cooperation-arrangements-and-exchange-information.

Information the FCA obtains from firms, as well as from individuals, to assist overseas regulators is confidential and therefore prohibited from disclosure under section 348 of FSMA However, FSMA (as amended) allows the FCA, when certain requirements are met, to disclose confidential information either in response to a request for assistance or proactively with the purpose of enabling the FCA or the requesting authority to discharge their functions.

If the requested information is being disclosed to assist the requesting authority for the purpose of initiating or terminating a criminal investigation or a criminal proceeding the FCA can rely on Regulation 4. These channels through which confidential information is disclosed to the requesting authority are known as "Gateways".

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

FCA

Examples of the FCA providing assistance to an overseas authority

Example 1 The request for assistance was sent in September 2016. The assistance sought included providing information on:

● files held by the FCA;

● bank records (e.g. CDD information, periodic account statements);

● various information and documents (e.g. quarterly financial statements, minutes of the board of directors on dividend) from several firms and individuals; as well as

● facilitating an interview with an individual residing in the UK. According to the request, the requestor was investigating three individuals for money laundering and forgery. The individuals involved acted in in their capacity as founder/Chief Investment Adviser and partners/employees of various firms. The FCA provided the assistance sought in accordance with its duty to cooperate. No action was taken by the FCA's enforcement division.

The FCA has sought mutual legal assistance in connection with predicate offences, such as insider dealing, where money laundering formed part of the investigation (e.g. insider dealing, fraud, unauthorised business, etc.).

Devolved Administrations

Northern Ireland

The Police Service of Northern Ireland (PSNI) has an Economic Crime Unit (ECU) which provides a central coordinating and investigating function for financial crime within PSNI. PSNI is allocated SARS by UK Financial Intelligence Unit (FIU) and reports on all SARS to FIU in line with UK requirements.

(b) Observations on the implementation of the article

The FCA has a general duty to cooperate with other authorities in the UK and overseas that have functions similar to those of the FCA or in relation to the prevention or detection of financial crime as set out under section 354A of FSMA.

In order to assist overseas regulators, the FCA has the power under section 169 of FSMA (in connection with sections 165, 171 and 172 of the same) to compel information and documents, and to compel individuals to attend interviews. FSMA allows FCA to disclose information in response to a request for assistance or proactively, when certain requirements are met.

Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The UK operates a written declaration scheme for travellers carrying more than €10,000. European Regulation 1889/2005 (known as the Cash Controls Regulation) was introduced to define controls on the movement of cash. This Regulation was aimed at the movement of cash entering and leaving the European Union (EU). This EU Regulation places the onus on travellers to declare cash over 10,000 EUR entering or leaving the EU. Therefore, cash carried by any natural person entering or leaving the EU is subject to the principle of obligatory declaration. The obligation to declare applies to the natural person carrying the cash, regardless of whether that person is the owner.

The UK adopted the Regulation in June 2007 under the Control of Cash (Penalties) Regulations 2007 (SI 2007/1509).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See above.

(b) Observations on the implementation of the article

The United Kingdom operates a written declaration scheme for travellers carrying more than 10,000 euros; these regulations do not apply to intra-European Union cash movements. European Regulation 1889/2005 (Cash Controls Regulation) was introduced in June 2007 under the Control of Cash (Penalties) Regulations 2007 (SI 2007/1509).

Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

(a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;

(b) To maintain such information throughout the payment chain; and

(c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Article 4 of EU Regulation 2015/847 on information accompanying transfers of funds specifies that the payment service provider of the payer, must obtain information on that payer (including the name of the payer, the payer's payment account number, and the payer's address, official personal document number, customer identification number or date and place of birth) and payee (name of the payee, the payee's payment account number) for transfers of €1000 or more.

For transfers of funds taking place within the European Union, under Article 5 of EU Directive 2015/847, fund transfers must be accompanied by payment account numbers (or the unique transaction reference number). Names of the payer and payee are not required unless the payment service provider of the payee requests it.

Article 6 of EU Regulation 2015/847 on information accompanying transfers of funds specifies that if transferring a batch file from a single payer to several payees outside the Union, the payment account or unique transaction identifier of the payer should be provided, as well as complete and fully traceable information on the payee.

The Regulation is enforced in the UK by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017 No 692)

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The UK requires payment service providers to provide specific information when transferring funds. This requirement is in Regulation (EU) 2015/847 on information accompanying transfers of funds (the Fund Transfer Regulation), which came into force in the UK on 26 June 2017.

(a) The information required on the originator includes the name, address, and either the personal document number, customer ID number, or date and place of birth. For transfers within the Union, only payment account numbers or a unique transaction identifier is required.

(b) Intermediary payment service providers are required to ensure that information on payers and payees accompanying a transfer of funds is retained throughout the payment chain. Intermediary payment service providers are also required to have procedures to detect missing information.

(c) The payment service provider of the payee is required to have procedures to detect missing information. If a transfer lacks the required complete payer and payee information, they are required to take a risk-based approach (for example, they may either reject the transfer or make the payment and request the missing information).

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 provide for sanctions for breaches of the Fund Transfer Regulation.

(b) Observations on the implementation of the article

The United Kingdom requires payment service providers to provide specific information when transferring funds under Regulation (EU) 2015/847 (the Fund Transfer Regulation), which came into force in the United Kingdom on 26 June 2017. The Regulation is enforced in the United Kingdom since June 2017 by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017 No 692).

Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The UK is a founding member of the Financial Action Task Force (FATF) which sets the international standards on combating money laundering and the financing of terrorism.

FATF standards form the basis of EU legislation (for example the Fourth and Fifth Money Laundering Directives and Fund Transfer Regulation) which are incorporated into various pieces of UK law, predominantly the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended (the Regulations) and the Proceeds of Crime Act 2002 (POCA).

(b) Observations on the implementation of the article

In 2017 the United Kingdom published its second comprehensive national risk assessment (NRA) of ML/CFT risk and will publish an updated NRA in 2020. The United Kingdom recently completed its fourth-round mutual evaluation by the FATF and the final report was published in December 2018.[6] The Fourth Money Laundering Directive (4MLD) is incorporated into various pieces of United Kingdom law, such as POCA and the AML/CFT Regulations. The Fifth Money Laundering Directive (5MLD) was incorporated into UK law in January 2020, subsequent to the review.

[6] www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-kingdom-2018.html

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The FCA liaises with law enforcement, prosecutors and other regulators, government departments and international bodies. Examples include the Money Laundering Advisory Committee (MLAC) (jointly chaired by the HM Treasury and Home Office), and targeted groups such as the Anti-Money Laundering Expert Group of the Basel Committee, the Cross-Whitehall group on Anti-Corruption, the Bribery, Corruption and Sanctions Evasion Threat Group, the JMLIT Experts Group on Bribery and Corruption, the National Crime Agency (NCA)' SARS Committee, the Joint Fraud Analysis Centre (JFAC) and Foreign Bribery Clearing House.

The FCA also plays a prominent role in supporting information-sharing between law enforcement agencies (FIN-NET) and between firms and law enforcement (JMLIT). FIN-NET facilitates the sharing of financial crime related intelligence. FIN-NET is based at, but not part of, the FCA.

FIN-NET was established in 1992 as a mechanism to facilitate the sharing of financial crime related information between members. Members must be either public bodies or organisations that provide a public function. Membership has grown over the last twenty-five years and there are now over 100 members within the network, comprising law enforcement, regulators and government departments.

While the majority of members are based within the UK, there are a number of overseas regulators and law enforcement organisations that are now part of the group. FIN-NET is accountable to a Home Office chaired Steering Group, which acts as the management board for FIN-NET and sets the strategic direction.

See also response to Article 58.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The FCA has developed strong relationships with key foreign authorities through inward and outward secondments, international visits to share best practice, membership of multinational AML/TF groups, hosting training, etc. As part of its strategy, the FCA regularly engages with key international counterparts in order to strengthen relationships and improve cooperation.

For example, the FCA regularly hosts secondments from overseas regulators. Since 2015, it has received secondees from three foreign regulators.

The secondees were with the financial crime department and worked collaboratively with their FCA counterparts on a wide variety of AML and CTF related work. This included on-site visits, desk-based reviews and thematic work.

This type of cooperation has helped facilitate early engagement between the FCA and foreign authorities, as well as solve potential problems preventing the FCA or the overseas regulators from receiving the assistance sought in a timely and effective manner.

In addition, the FCA regularly conducts joint-working with a variety of overseas regulators in support of mutual collaboration and co-operation efforts. Examples of this are set out below.

Example 1 of the FCA working with an overseas authority

A major UK firm was inspected in 2012, as part of the FCA's Systematic Anti-Money Laundering Programme (SAMLP). A SAMLP inspection involves a considerable amount of work by supervisors and can take around six months to complete.

FCA supervisors contacted an overseas authority (OA) as the firm had operations in their country. The OA and the FCA agreed to work collaboratively on the inspection. Cooperation between both regulators was particularly complex due to country banking secrecy laws. A set of principles were agreed, where both parties could meet their regulatory obligations in their respective countries.

Following the inspection, the FCA had a number of concerns around the firm's systems and controls which, if not remedied, could have led to breaches. The firm was required to produce a comprehensive plan to address the failings and weaknesses found.

Example 2 of the FCA working with an overseas authority

In 2015, an OA conducted investigations on a firm within their jurisdiction and found the firm was breaching its AML requirements. The inspection also uncovered

regulatory breaches with failings by senior management at the firm. This led the OA to decide to withdraw the firm's ability to operate within its jurisdiction. This withdrawal came to the attention of financial crime supervisors within the FCA. FCA Intelligence met with NCA colleagues to determine the precise nature of the issues within the UK branch of the firm. The FCA also contacted the OA, under a Memorandum of Understanding (MoU), to further understand the nature of events and subsequent investigation of the firm. Given the serious nature of allegations against the firm, in late 2016 FCA supervisors reacted quickly in order to assess the effectiveness of the AML framework of the UK branch and to try and identify the risks arising from the events in the OA's country. The FCA subsequently conducted an inspection of the UK branch. FCA financial crime supervisors conducted a desk-based review of the firm's AML policies and procedures and subsequently interviewed the MLRO in 2017 which established that:

- The firm had no connection to the fraud allegations in their operations in the foreign jurisdiction that fell within the OA's remit and investigation.

- The firm had no plans to change any aspects of their business model in 2017, focusing mainly on remediation.

- The events in the relevant overseas jurisdiction will lead to an enhancement of the AML/financial crime systems and controls of the parent company.

- A separate foreign regulator had imposed a review of all high-risk clients which was to be carried out as a priority by all entities in the firm.

Financial crime supervisors evaluated the evidence and concluded there were not any immediate risks to FCA objectives. However, it was recommended that the firm was considered in the scoping of its Proactive Anti-Money Laundering Programme (PAMLP) population, in order to monitor the adequacy of the firm's AML and CTF controls.

(b) Observations on the implementation of the article

Requests for assistance are made under international agreements, European Union legislation, bilateral memorandums of understanding and Mutual Legal Assistance (MLA) Treaties, as well as through the Egmont Group of FIUs, the European Union Agency for Law Enforcement Cooperation (Europol), the International Criminal Police Organization (INTERPOL) and international asset recovery networks.

A variety of law enforcement networks and public-private groups exist, e.g., the ECSB, ECDB, JMLIT, the Expert Group on Bribery and Corruption, Cross-Whitehall group on Anti-Corruption, the Bribery, Corruption and Sanctions Evasion Threat Group, National Crime Agency's SARS Committee, JFAC and the Foreign Bribery Clearing House. FCA also supports information-sharing between law enforcement agencies, both domestically and overseas (FIN-NET) and between firms and law enforcement (JMLIT).

V. Asset recovery

Article 51. General provision

1. The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The UK introduced the Proceeds of Crime Act (External Requests and Orders) Order 2005 - UK law on cooperation http://www.legislation.gov.uk/uksi/2005/3181/pdfs/uksi_20053181_en.pdf

Explanatory Memo http://www.legislation.gov.uk/uksi/2005/3181/pdfs/uksiem_20053181_en.pdf. This provides for international cooperation in the freezing and confiscation of assets on both a conviction and non-conviction basis. It has been subsequently amended to reflect developments in domestic law. One of these amendments, allowing for the freezing of property in advance of a non-conviction based order, was introduced as a specific reaction to an ongoing corruption case.

The UK also has specific financial investigation powers which are made available to other countries in relation to persons and property in the UK for their investigations.

The domestic provisions of UK law can also be used in relation to predicate criminality that occurred outside of the UK. The specific domestic powers used in international corruption cases are the money laundering offences; the predicate offence can occur abroad. Following any prosecution, a consequential confiscation order can be made.

Also, the UK's domestic non-conviction based confiscation powers can be, and have also been used in cases where the criminality was committed in another country.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The Home Office has produced detailed MLA guidelines https://www.gov.uk/government/publications/mla-guidelines-for-foreign-authorities-2012, which are translated into Polish and Turkish, for foreign authorities who wish to make a MLA request to the UK.

In relation to asset sharing and asset repatriation, there is no explicit provision in UK domestic law aside from cases involving EU Member States under the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 which requires 50% of assets of 10,000 Euros or more recovered to be shared 2014 EU Regs http://www.legislation.gov.uk/uksi/2014/3141/contents/made 2014 EU Regs EM http://www.legislation.gov.uk/uksi/2014/3141/memorandum/contents.

In relation to asset recovery legislation, any money recovered is paid across to central Government who then distribute receipts. In distributing these moneys, the UK is conscious and is guided by obligations under international law such as article 57 of the UN Convention against Corruption. The UK is guided by both the word and spirit of international law and would share and repatriate as required without the need for any specific legal provision. The UK views issues of sharing and repatriation as a matter of diplomatic relations between Governments and therefore outside the scope of its domestic law.

(b) Observations on the implementation of the article

The United Kingdom has a comprehensive legal and regulatory framework for asset recovery and has demonstrated effective inter-agency coordination leading to international cooperation on asset recovery.

The United Kingdom regulates MLA under the Crime (International Co-operation) Act 2003 (CICA) and POCA (External Requests and Orders) Order 2005 (POCA Order), introduced to help meet the obligations of the United Kingdom under the Convention. The Home Office published detailed MLA guidelines for requesting countries in 2015 (12th edition, Central Authority (UKCA) guidelines).

The UKCA acts as central authority for formal MLA requests for the United Kingdom. In Scotland, the Crown Office's International Co-operation Unit (ICU) performs a similar function where the requesting State recognizes the central authority of Scotland.

The United Kingdom has received several requests on the basis of this Convention in relation to non-treaty partners. All outgoing requests thus far have been made to treaty partners.

(c) Successes and good practices

The following good practices in the UK's framework on asset recovery are observed:

- Transparency of asset recovery procedures and practices, including on disposal of property.
- Tools and mechanisms to enhance asset recovery, such as UWOs, account freezing orders and worldwide restraint orders to enable effective economic enforcement against proceeds of crimes committed outside of the United Kingdom.

Article 52. Prevention and detection of transfers of proceeds of crime

Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Regulation 28 of the 2017 Money Laundering Regulations (MLRs) sets out Customer Due Diligence (CDD) measures and requires institutions to identify and verify the customer, specifying in 28(18)(a) that this must be done on the basis of document or information obtained from a reliable source which is independent of the customer.

CDD measures must be undertaken when a relevant person (which includes financial institutions) establishes a business relationship; carries out an occasional transaction (defined as a transfer of funds within the meaning of Article 3.9 of the funds transfer regulation exceeding 1,000 euro or a transaction carried out other than as part of a business relationship and amounting to 15,000 euro or more, whether the transaction is carried out in a single operation or several operations which appear to be linked); suspects money laundering or terrorist financing; or doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification (MLRs Regulation 27).

Regulation 33(1) requires firms to apply Enhanced Customer Due Diligence (EDD) in addition to CDD in cases including when there is an identified high risk of ML/TF,

and if a financial institution or Designated Non-financial Businesses and Professions (DNFBPs) has determined that a customer or potential customer is a Politically Exposed Person (PEP), or family member or known close associate of a PEP. The 2017 MLRs do not distinguish between domestic and foreign PEPs, meaning that the requirements referred to in this section apply equally to both unless otherwise stated. The FCA has also published guidance on how firms should identify and apply EDD to PEPs.

Regulation 35 sets out specific requirements for firms dealing with PEPs. The Regulation specifies that firms must determine whether a customer or the beneficial owner of a customer is a PEP or a family member or a known close associate of a PEP. Financial institutions are required to check the source of wealth/funds for a PEP and subject their account to enhanced, ongoing monitoring. The 2017 MLRs do not distinguish between domestic and foreign PEPs, meaning that the requirements referred to in the MLRs apply equally to both unless otherwise stated (MLRs 33(1)).

Financial institutions must not set up an anonymous account or an anonymous passbook for any new or existing customer (MLRs 29(6)).

All firms the FCA regulates under Financial Services and Markets Act 2000 (FSMA) are supervised for compliance with the FCA Handbook. SYSC 3.2.6R and SYSC 6.1.1R of the Handbook requires firms to establish and maintain effective systems and controls to prevent the risk that they might be used to further financial crime.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See also response to Article 14.1 (a) which sets out the FCA supervisory approach.

The Financial Crime Guide has been recently updated. Part I is now known as the 'Financial Crime Guide' https://www.handbook.fca.org.uk/handbook/FCG.pdfand Part 2 is known as the 'Financial Crime Thematic Reviews' https://www.handbook.fca.org.uk/handbook/FCTR.pdf.

This is in addition to ongoing monitoring of the practical application of the commitment by all participants, and a UK Statutory Review required by the Criminal Finances Act to take place before 1 July 2019 covering the period to the end of 2018. This was being finalized in the spring of 2019 for publication before the deadline.

In 2016, the UK concluded bilateral arrangements, in which relevant Overseas Territories and Crown Dependencies have committed to establish, where they have not already done so, central registers of beneficial ownership information or similarly effective systems and to give UK law enforcement and tax authorities near real-time access to beneficial ownership information on corporate and legal entities incorporated in their jurisdictions.

The UK government continues to work closely with the Overseas Territories and Crown Dependencies to ensure that the new arrangements run smoothly and effectively. In particular, all participants have reviewed together the operation of these arrangements in consultation with law enforcement agencies six months after they came into force, and thereafter annually.

This is in addition to ongoing monitoring of the practical application of the commitment by all participants, and a UK statutory review required by the Criminal Finances Act to take place before 1 July 2019 covering the period to the end of 2018. This was published in June 2019 and found that the arrangements have been extremely useful in supporting law enforcement investigations.

(b) Observations on the implementation of the article

The United Kingdom possesses comprehensive legislative, administrative and enforcement mechanisms enabling the restraint, freezing and confiscation of proceeds of corruption. Regulation 28 of the 2017 MLRs sets out CDD measures, which include: identifying and verifying the customer, identifying the Beneficial Owner (BO) and taking reasonable steps to verify the BO, with additional measures for legal persons or legal arrangements (MLRs 28).

CDD must be undertaken when a relevant person (including FI) establishes a business relationship; carries out an occasional transaction amounting to a transfer of funds within the Fund Transfer Regulation, exceeding 1,000 Euros; suspects money-laundering or terrorist financing; or doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification (MLRs 27).

Regulation 33(1) of the MLRs requires firms to apply Enhanced Due Diligence (EDD) in addition to CDD in cases, including when there is an identified high risk of ML/TF, and if a FI or DNFBP has determined that a customer or potential customer is a Politically Exposed Person (PEP), or family member or known close associate of a PEP. Regulation 35 sets out specific requirements for firms dealing with PEPs.

Based on the above it is recommended that the United Kingdom continue efforts to enhance efficiency of the suspicious activity reporting process; steps under way by the Law Commission as tasked by Home Office to review the framework, including application of the defence against charges of money-laundering for persons reporting SARs under POCA, are important steps in this direction.

Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced

scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In July 2017, the FCA published detailed guidance to help financial institutions to identify PEPs, differentiate between those who pose high risks and those who pose low risks, and calibrate their EDD measures to be proportionate to these risks. See FG 17/6 The treatment of politically exposed persons for anti-money laundering purposes https://www.fca.org.uk/publication/finalised-guidance/fg17-06.pdf

Firms are required by the MLRs to have regard to this guidance when meeting their obligations to apply risk sensitive Enhanced Due Diligence (EDD) when dealing with customers who are PEPs. Key points from the guidance are:

● Firms will need to demonstrate that they are taking a case by case approach to on-boarding PEPs, assessing the risks linked to each customer and applying measures that are appropriate to that risk.

● The guidance provides more detail on the definition of a PEP in the MLRs, including specific guidance on what that means when considering the UK. This means that while MPs, members of the devolved governments and permanent secretaries will be considered as a PEP, local government official or more junior civil servants are not considered a PEP.

● The guidance requires that a person who is a UK PEP as well as their family members or close associates should be treated as lower risk and therefore firms apply the lowest level of EDD to these people unless a firm has assessed other risk factors not linked to their status as a PEP. This also applies to PEPs in other jurisdictions that the firm assesses are at a lower risk of corruption.

● The guidance provides a series of indicators which will help firms decide if a PEP relationship is either potentially higher risk or lower risk, this is a mixture of product, customer or geographic risk.

● The guidance is clear that a firm can take extra measures in relation to lower risk PEPs where there are factors outside of the position that they hold - for example relationships, business holdings etc. - but they must clearly document and justify that reasoning.

● The Financial Ombudsman Service (FOS) will consider complaints from PEPs, their family members or close associates and will take this guidance into account when deciding what is fair and reasonable.

A politically exposed person (PEP) is defined by the Financial Action Task Force (FATF) as an individual who is or has been entrusted with a prominent public function.

Assessing how firms manage the risk of PEPs plays a significant part of all FCA supervisory programmes. It has also formed a major part of two thematic reviews: "Banks' management of high money laundering risk situations (2011)" https://www.fca.org.uk/publication/corporate/fsa-aml-final-report.pdf and "How small banks manage money laundering and sanctions risk update (2014)" https://www.fca.org.uk/publication/thematicreviews/tr14-16.pdf.

For example, in June 2011, the FSA (the FCA's predecessor organisation) published the findings of its thematic review of how banks operating in the UK were managing money-laundering risk in higher-risk situations. The FSA focused in particular on correspondent banking relationships, wire transfer payments and high-risk customers including politically exposed persons (PEPs). The FSA conducted 35 visits to 27 banking groups in the UK that had significant international activity exposing them to the AML risks on which the FSA were focusing.

The FSA's main conclusion was that around three-quarters of banks in its sample, including the majority of major banks, were not always managing high-risk customers and PEP relationships effectively and had to do more to ensure they were not used for money laundering purposes. The FSA identified serious weaknesses in banks' systems and controls, as well as indications that some banks were willing to enter into very high-risk business relationships without adequate controls when there were potentially large profits to be made.

The Financial Crime Guide sets out the results of the thematic reviews, including examples of good and poor practice. The Guide has been recently updated. Part I is now known as the 'Financial Crime Guide' https://www.handbook.fca.org.uk/handbook/FCG.pdf and Part 2 is known as the 'Financial Crime Thematic Reviews' https://www.handbook.fca.org.uk/handbook/FCTR.pdf.

Example of the FCA establishing a comprehensive PEP remediation plan in a firm

The supervised firm in question provides private banking and wealth management services, including lending, investment management and wealth planning. The firm was inspected in 2014, as part of the FCA's thematic review of anti-money laundering and sanctions controls in smaller banks.

Supervisors uncovered weaknesses in senior management and compliance oversight which allowed a number of AML failings to go undetected and unresolved in the firm until late 2013.

Weaknesses found were:

● uneven quality of both customer due diligence ('CDD') and enhanced customer due diligence ('EDD') on high risk and PEP files; adverse material identified during the course of the due diligence process had not been factored into the overall customer risk assessment;

● lack of appropriate levels of source of wealth and source of funds information; and

● most high risk and PEP files reviewed did not have adequate evidence of ongoing monitoring and review before 2013.

The FCA provided feedback to the firm following the inspection and asked it to outline how it planned to address the issues raised. The firm responded with a comprehensive remediation plan, which included recruiting additional resource.

In 2016, the FCA revisited the firm as part of its PAMLP. Supervisors found that the firm had implemented a more effective control framework to manage the AML and sanctions risks it faced. It was highlighted by the firm that the feedback provided to them by the FCA enabled them to better identify and manage the AML and sanction risks they face.

The FCA has imposed financial sanctions in relation to PEPs in a number of cases, in particular Coutts & Co, Standard Bank and Barclays Bank. Article 14.1 (a) sets out all concluded cases since 2012.

Example of FCA intervention: financial penalty

The failings investigated by the FCA relate to a £1.88b transaction that Barclays arranged and executed in 2011 and 2012 for a number of ultra-high net worth clients.

The clients involved were PEPs and should therefore have been subject to enhanced levels of due diligence and monitoring by Barclays.

The Enforcement investigation found that the transaction gave rise to a number of features which, together with the PEP status of the individuals, indicated a higher level of risk. This required Barclays to adhere to a higher level of due skill, care and diligence.

Barclays applied a lower level of due diligence than its policies required for other business relationships of a lower risk profile. Barclays did not follow its own standard procedures, preferring instead to take on the clients as quickly as possible.

The FCA imposed a financial penalty of £72,069,400, comprising disgorgement of £52,300,000 and a penalty of £19,769,400.

This was the largest penalty imposed by the FCA and its predecessor the FSA for financial crime failings at the time, and had a wide impact when it was published.

(b) Observations on the implementation of the article

The FCA published a Guide to Financial Crime, which includes specifics on CDD, PEPs' source of wealth and funds, and other thematic issues. NCA and other agencies issue alerts and advisories to make the financial services sector aware of particular threats and risk typologies, as described further below. JMLIT, among others (including the UKFIU), are a route for more tactical and specific intelligence-sharing with the financial services sector.

Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

There are a range of ways in which Her Majesty's Government and its agencies make the financial services sector aware of issues of particular concern. Most of these relate to strategic threats or typologies, such as the National Risk Assessment for Money Laundering or NCA Alerts.

However, through the mechanism of JMLIT, there is a route for more tactical and specific intelligence to be shared with the sector. JMLIT is a public / private

partnership between law-enforcement and the financial sector to exchange and analyse information relating to money laundering and wider economic threats. The taskforce consists of over 30 financial institutions; the FCA; Cifas; and five law-enforcement agencies, including the NCA and HMRC. Collaboration and partnership are at the heart of the JMLIT model.

The JMLIT shares information through an Operational Working Group and several Expert Working Groups. The Operations Group is dedicated to assisting ongoing money laundering investigations, and exchanges live tactical intelligence using the Section 7 gateway of the Crime and Courts Act 2013, strengthened by an information sharing agreement.

The Expert Working Groups provide a platform for members to discuss current or emerging threats, and to explore new and innovative ways of collectively combating these threats. These groups are attended by relevant experts from across both the private and public sectors. The Expert Working Groups are aligned to the following JMLIT priority areas:

- Trade Based Money Laundering
- Money Laundering Through Markets
- Terrorist Financing
- Organised Immigration Crime /
- Human Trafficking
- Bribery and Corruption
- Future Threats

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

This has been a successful model for the UK. From February 2015 to July 2017, the JMLIT has:

- Developed over 300 cases through the Operations Working Group
- Helped generate over 1200 SARs (many from non-JMLIT banks)
- Identified over 2500 accounts that were not previously known to law enforcement
- Started over 2000 bank-led investigations, resulting in 531 accounts being closed
- Assisted in the identification and restraint of £12m
- Assisted in 88 arrests

- Created 22 Alerts for dissemination to the UK financial sector

(b) Observations on the implementation of the article

As noted above, NCA and other agencies issue alerts and advisories to make the financial services sector aware of particular threats and risk typologies, and JMLIT, among others (including the UKFIU), is a route for more tactical and specific intelligence-sharing with the sector.

Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Financial institutions are required to retain all documents and information obtained in order to establish and verify the identity of customers, including PEPs and conduct on-going monitoring of the business relationship and sufficient supporting records of transactions to enable the transaction to be reconstructed. These records must be retained for a period of five years after the business relationship has ended or after the transaction is complete. Where a business relationship continues, CDD measures need only be kept for a maximum of 10 years (MLRs 40).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See the case example involving Barclay's Bank referred to above.

(b) Observations on the implementation of the article

Record-keeping is addressed in the FCA's SYSC 3.2.20 and SYSC 9.1.5. Records of business relationships or occasional transactions must be kept for a period of five years from the date of the transaction or when the business relationship ends (MLRs 40(3)).

Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Financial and credit institutions must not enter into, or continue, a correspondent relationship with a shell bank (MLRs 34(2)). Financial and credit institutions are required to take appropriate EDD measures to ensure that they do not enter into, or continue, a correspondent relationship with a financial institution which is known to allow its accounts to be used by a shell bank. (MLRs 34(3)).

The MLRs define the term "shell bank" in line with the definition of that term provided in the FATF Glossary (MLRs 34(4)(b)).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See above.

(b) Observations on the implementation of the article

Financial and credit institutions operating in the United Kingdom must be authorized by the Prudential Regulation Authority (PRA), and regulated by the FCA and the PRA (Section 19, FSMA). In line with 4MLD and FATF requirements, these institutions must not enter into, or continue, a correspondent relationship with a shell bank (MLRs 34(2)) and are required to take appropriate EDD measures to ensure that they do not enter into, or continue, a correspondent relationship with a financial institution which is known to allow its accounts to be used by a shell bank (MLRs 34(3)).

Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In relation to financial disclosure systems for public officials please see response to Articles 7.4, 8.5 and 9(1)(e).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The 12th edition of the UK Central Authority (UKCA) guidelines was published in March 2015 to ensure that requests for mutual legal assistance (MLA) received by the UK can be acceded to and executed promptly and efficiently. The 2015 Guidelines are found here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415038/MLA_Guidelines_2015.pdf.

(b) Observations on the implementation of the article

Under the Ministerial Code, Ministers are asked on appointment to notify their relevant interests in a number of categories: all financial interests (including any interests overseas), directorships and shareholdings, investment property, public appointments, charities and non-public organizations, relevant interests of spouse, partner or close family member. On appointment to each new office, Ministers must provide their Permanent Secretary with a full list of all interests. Ministers report any changes in their interests to Cabinet Office and then through the Independent Adviser on an ongoing basis. Details on the Ministerial Code are included under article 7 above.

Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The Ministerial Code is clear that Ministers must scrupulously avoid any danger of an actual or perceived conflict of interest between their Ministerial position and their private financial interests. A public statement covering Ministers' relevant interests is published twice yearly.

On appointment Ministers are asked to notify their relevant interests in a number of categories: all financial interests (including any interests overseas), directorships and shareholdings, investment property, public appointments, charities and non-public organisations, relevant interests of spouse, partner or close family member. On appointment to each new office, Ministers must provide their Permanent Secretary with a full list of all interests, which might be thought to give rise to a conflict (including the interests of the Minister's spouse or partner and close family which might be thought to give rise to a conflict). This is reviewed by the Propriety and Ethics team in the Cabinet Office, the Permanent Secretary of the relevant

Government Department and by the Independent Adviser on Ministers' Interests who will provide advice on handling as appropriate.

Where appropriate, the Minister will meet the Permanent Secretary and the independent adviser on Ministers' interests to agree action on the handling of interests. Ministers must record in writing what action has been taken and provide the permanent secretary and the independent adviser with a copy of that record. The personal information which Ministers disclose to those who advise them is treated in confidence, however a statement covering their relevant interests is published twice yearly. Ministers report any changes in their interests to the Propriety and Ethics team in the Cabinet Office and then through the independent adviser on an ongoing basis.

If there is an allegation of a breach of the Ministerial Code - including on interests, it is for the Prime Minister, as the ultimate judge of the standards of behaviour expected of a Minister, to decide the appropriate consequences. If the Prime Minister, having first consulted with the Cabinet Secretary, feels that the matter warrants further investigation, he or she will refer the matter to the independent adviser on Ministers' interests.

The Civil Service Management Code sets out the high-level terms and conditions for civil servants, including on issues of conduct. The relevant principles in relation to managing conflicts of interest include:

● civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Where a conflict of interest arises, civil servants must declare their interest to senior management to determine how best to proceed.

● civil servants must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity.

● civil servants must declare to their department or agency any business interests (including directorships) or holdings of shares or other securities which they or members of their immediate family hold, to the extent which they are aware of them, which they would be able to further as a result of their official position. They must comply with any subsequent instructions from their department or agency regarding the retention, disposal or management of such interests.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The published list of Ministers' Interests and the Ministerial Code -see Art 8, above.

(b) Observations on the implementation of the article

The Civil Service Management Code sets out the high-level terms and conditions for civil servants, including on declarations of interest, as described above. There is no specific requirement for civil servants to disclose foreign accounts.

As part of the existing financial disclosure obligations concerning general business interests, it is recommended that the United Kingdom consider establishing an explicit requirement to disclose interests in foreign accounts (art. 52(6)).

Article 53. Measures for direct recovery of property

Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

There is no bar to other countries initiating actions in the UK civil courts, in effect as a private litigant.

In order to freeze assets located in England and Wales, the United States made an ex parte application for a freezing injunction in the High Court of England and Wales under section 25 of the Civil Jurisdiction and Judgments Act 1982 in a case relating to Abacha, former president of Nigeria. The Freezing Injunction was granted at a hearing on 25 February 2014. This injunction has subsequently been discharged due to a prohibition order being obtained as a consequence of a mutual legal assistance request; but this does illustrate that States can initiate civil actions in the UK courts.

(b) Observations on the implementation of the article

Other countries can initiate legal actions in the United Kingdom civil courts, in effect as private litigants, as illustrated by case law and examples.

Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law: ...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

The general legislative provision relating to compensation is section 130 of the Powers of Criminal Courts (Sentencing) Act 2000. This allows the courts to make a compensation order following a criminal conviction as part of the sentencing procedure. Under the Proceeds of Crime Act, the courts also have the power to order that money collected under a confiscation order be paid in settlement of a compensation order first if the criminal does not have the financial ability to pay both orders.

There is also a restitution order, restoring property to the rightful owner, under section 148 of the 2000 Act. Sentencing Act 2000 https://www.legislation.gov.uk/ukpga/2000/6.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Smith & Ouzman Ltd made corrupt payments, usually through agents, to public officials in a number of African countries in order to influence those officials to award contracts to Smith & Ouzman for the supply of printing materials. Smith & Ouzman Ltd was ordered to pay a confiscation order of £881,158 in addition to a fine of £1,316,799 and £25,000 in costs. On making a confiscation order, the Judge observed that a percentage of the sum payable by the defendants could be returned to the Kenya and Mauritanian governments, if the UK government were agreeable and where it was transferable in a transparent way. Following the conclusion of the case, the Serious Fraud Office and UK Government agreed that the amount of bribes that the company had paid in Kenya and Mauritania should be repaid out of the confiscation order. This amounted to £345,000 in Kenya and £50,000 in Mauritania.

http://www.the-star.co.ke/news/2017/03/17/uk-foreign-secretary-boris-johnson-hands-over-smithouzman-ambulances_c1527206

(b) Observations on the implementation of the article

Section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 allows the courts to make compensation orders following a criminal conviction as part of the sentencing procedure. Under POCA, courts also have the power to order that money collected under a confiscation order be paid in settlement of a compensation order, if the criminal is unable to pay both orders. Restitution orders allow for restoring property to the rightful owner (section 148, Sentencing Act 2000).

Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law: ...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

This is dealt with in the UK in the same manner as compensation (see answer to article 53(b)).

In cases involving MLA (mutual legal assistance), the operational practice is for the investigators, prosecution agencies and courts to recover assets as part of asset recovery proceedings and for central Government to deal with issues as to the distribution of these moneys. In effect, the UK would repatriate (or share) recovered assets with the other relevant country and allow them to decide on issues such as legitimate ownership.

Case study of Diepreye Alamieseyeseigha, the Governor of Nigeria's Bayelsa State between 1999 and 2005 - in September 2005, following investigations by the Proceeds of Corruption Unit of the Metropolitan Police in the UK and Nigeria's Economic and Financial Crimes Commission, Chief Alamieseyeseigha was arrested in London, questioned and charged with three counts of money laundering. A world-wide criminal restraint order was obtained by the Crown Prosecution Service over his assets. Approximately $250,000 of cash was seized on his arrest and forfeited in the civil courts without the need for a criminal conviction. This cash was returned to Nigeria.

(b) Observations on the implementation of the article

Section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 allows the courts to make compensation orders following a criminal conviction as part of the sentencing procedure. Under POCA, courts also have the power to order that money collected under a confiscation order be paid in settlement of a compensation order, if the criminal is unable to pay both orders. Restitution orders allow for restoring property to the rightful owner (section 148, Sentencing Act 2000).

Article 54. Mechanisms for recovery of property through international cooperation in confiscation

Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

frame) to ensure full compliance with this provision of the Convention.

The UK has ensured that it has a comprehensive and effective asset recovery legislative architecture to provide cooperation to overseas cases. This was also developed conscious of the obligations and spirit of the UN Convention Against Corruption; the Proceeds of Crime Act (External Requests and Orders) Order 2005 and the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014. The first law allows for the recognition, registration and enforcement of a confiscation order issued by an overseas court; the latter allows for the mutual recognition of confiscation orders made by an EU State in relation to criminal proceedings. The POCA Order also allows for the recognition of non-conviction based confiscation orders from all countries. The Criminal Justice (International Co-

operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 separately deals with the instrumentalities of crime, including corruption.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Ao Man Long was the former Secretary for Transport and Public Works of the Macao Special Administrative Region. On 30 January 2008 he was convicted of 40 counts of corruption (bribery); 13 counts of money laundering; two counts of abusing his power; and one count of unjustified wealth. He was sentenced to 27 years imprisonment. The defendant's brother, sister in law and wife were convicted of money laundering.

Ao's assets were ordered to be confiscated by the Macao Court. These included assets then valued at over £27 million in the United Kingdom. The Macao authorities submitted a Mutual Legal Assistance request seeking the UK's help in order to restrain, confiscate and repatriate Ao's UK assets.

On 27 March 2013 the Macao confiscation order was registered in the UK court and enforcement action commenced. Over £28 million was finally recovered.

(b) Observations on the implementation of the article

Under POCA confiscation orders issued by overseas courts may be recognized and enforced in the United Kingdom, including non-conviction-based orders. Among European Union member States, the 2014 CJDP Regulations allow for the mutual recognition of confiscation orders in relation to criminal proceedings. The Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 separately deals with the instrumentalities of crime, including corruption.

Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The UK money laundering offences under Part 7 of the Proceeds of Crime Act (POCA) are wide in scope; to include cases where the predicate offence occurred in another country. The confiscation provisions under Parts 2, 3 and 4 of POCA provide for the recovery of assets from any offence and has no de minimis threshold. The confiscation provisions can therefore be used consequent on a conviction of money laundering where the actual predicate offence occurred in a country other than the UK.

The confiscation provisions in POCA provide for the courts to calculate the benefit that a defendant made from their criminality and set that as an amount to pay on the confiscation order, or a lower amount if the convicted defendant does not have sufficient assets. The location of the assets that have been used in the calculation of the amount on the confiscation order does not matter; these can be in another country. A confiscation order in UK law is in persona, a value based order against the individual requiring them to pay that amount to the court.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The UK's Joint Asset Recovery Database shows that between 2011 and 2017 there have been 42 domestic confiscation orders made by the courts in relation to the crime type recorded as "bribery and corruption". It is important to note that these figures may not include any corruption case that may have been dealt with and recorded as "money laundering" alone or some other crime type - the central records do not hold that level of detail. Also, once the case is entered on the database, the offence cannot subsequently be changed if it comes to light that the offence is corruption.

These 42 orders recorded as "bribery and corruption" have an aggregate value of nearly £8 million. These are in relation to domestic cases in England and Wales following a conviction in the courts. Note that the amounts shown are those ordered by the courts rather than collected.

(b) Observations on the implementation of the article

The confiscation provisions under Parts 2, 3 and 4 of POCA provide for the recovery of assets from any offence and have no de minimis threshold. POCA provides for value-based confiscation of assets, wherever located, to satisfy a confiscation order requiring the individual to pay that amount to the court.

Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Under Part 5 of the Proceeds of Crime Act 2002, the UK has two schemes of recovery which are not consequential on a criminal conviction. Firstly, civil recovery, which is essentially a procedure to sue for proceeds in the High Court. It is modelled on normal civil procedures with civil standard of proof and the focus is on the property, not on the person who holds it. In these proceedings, it must be shown on the balance of probabilities that the property is the proceeds of crime (either directly or represents such through the civil process of equitable tracing).

Secondly, there are also powers of forfeiture. There is the recovery of cash in summary proceedings (a power of forfeiture). This provides power to seize physical cash derived from or intended for use in crime. The Criminal Finances Act, 2017 also introduced two further forfeiture schemes – in relation to bank accounts and certain personal and moveable property such as precious stones and metals.

Part 6 of the POCA provides for taxation powers to be used in cases. These are available where it may not appropriate to pursue civil recovery - e.g. lack of

admissible evidence. The UK's National Crime Agency operate normal taxation powers where they have reasonable grounds to suspect that gain or profits arise from criminal conduct. They may raise assessments for tax where source of income is unclear (unlike normal tax law).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Case study of Kotova - Operation Supermassive was a criminal investigation into corrupt payment made in July 2009 by Alexander Capelson to Ms. Kotova, to ensure that Vostock Energy Limited obtained the financial support of Ms Kotova's bank, the European Bank for Reconstruction and Development. The police were unable to continue criminal proceedings as Ms Kotova was outside the jurisdiction.

Following referral of the case, a Property Freezing Order, was obtained over a property (valued in excess of £1.4m) and bank accounts. On 5 March 2015 the NCA lodged an application for a Civil Recovery Order. Kotova consented to a recovery order of £1.5 million and has been forced to sell her Mayfair flat and hand over £240,000 contained in UK bank accounts.

(b) Observations on the implementation of the article

The United Kingdom has two schemes of non-conviction-based recovery under Part 5 of POCA: (a) in rem civil recovery in the High Court or Court of Session (Scotland); and (b) recovery in summary proceedings of cash bank accounts and other moveable assets derived from or intended for use in crime.

Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In relation to non-conviction based cases where a final recovery has not been made, the additions made to UK law by The Proceeds of Crime Act (External Requests and Orders) (Amendment) Order 2013 are relevant. POCA international order 2013 http://www.legislation.gov.uk/uksi/2013/2604/contents/made POCA international order 2013 EM http://www.legislation.gov.uk/uksi/2013/2604/memorandum/contents. The provisions in the original 2005 Order provide for freezing in conviction based cases.

This provides the ability to freeze property in a non-conviction based confiscation case in advance of a final recovery order being obtained in the requesting country. The UK law already provided the ability to freeze property in other scenarios. There is a consciously comprehensive legislative scheme.

It is important to note that the freezing order issued in the other State does not have direct effect in the UK. An order issued in another State can act as the basis of a request to the UK for mutual legal assistance, and the court in the UK can make a freezing order to provide assistance in the case. Currently, there is, however, mutual recognition of freezing order in criminal cases among Member States of the European Union.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

In 2011, Griffiths Energy (Chad) Ltd, a subsidiary of a Canadian oil and gas company Griffiths Energy International Inc (GEI), concluded a Production Sharing Contract ("PSC") with the Ministry of Petroleum and Energy of Chad for the exploration and development of two oil blocks in Chad. The PSC provided GEI with the exclusive right to explore and develop oil and gas reserves and resources in those blocks.

Corruption was unearthed when an entirely new (and independent) management team was hired within GEI following the death its Chairman and one of its founding shareholders, in a boating accident in Ontario in July 2011.

Around of the time of the corrupt arrangements, a combined total of 4 million shares in GEI were assigned to the Chadian ambassador's wife (Mrs Niam), a former teacher of the Ambassador's children (Hassan) and the wife of the Deputy Chief of Mission for Chad (Mrs Saleh). The whole of the issued share capital of GEI was then

subsequently purchased by Glencore Plc and the funds were held in a London account held by GEI.

In 2013, in Canadian criminal proceedings, GEI pleaded guilty to corruption charges regarding bribery payments made to promote its interests in developing the two oil blocks. The Canadian prosecutors initially sought to forfeit the proceeds of the sale of the shares and Niam, Saleh and Hassan were duly notified. However, the forfeiture proceedings were subsequently withdrawn.

In 2014, the US authorities made an MLA request to the UK to take steps to freeze certain funds held by Niam. This request was executed by the SFO and accordingly the funds have been frozen pending the outcome of the criminal proceedings in the USA.

With regard to Saleh, the SFO acted of its own initiative in issuing proceedings for a civil Property Freezing Order in the High Court in respect of £4,400,000, being the proceeds of the sale of the shares. The Court ruled in the favour of the SFO in March 2018. The funds themselves will ultimately be transferred to the Department for International Development who will identify key investment projects that will benefit the poorest in Chad.

(b) Observations on the implementation of the article

The POCA (External Requests and Orders) 2005 Order, as amended by the POCA (External Requests and Orders) (Amendment) Order 2013, provides the ability to freeze property in non-conviction-based cases prior to a final recovery order being obtained in the requesting country. There is mutual recognition of freezing orders in criminal cases among European Union member States, as provided in United Kingdom law by the 2014 CJDP Regulations. The Criminal Finances Act 2017 expands the powers of LEAs to recover criminal assets. The Act also introduced unexplained wealth orders (UWOs).

The United Kingdom traces (UKFIU) and investigates (UKCA) proceeds and instrumentalities through dedicated asset-tracing teams whose primary function is to provide timely assistance to international partners seeking to recover stolen assets. There is specific legislation to provide financial investigation powers for both conviction and non-conviction-based cases. The UKFIU provides a single point for all international tracing requests.

Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such

actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 does not require there to have been a freezing order to have been issued in the requesting State in order for the UK to provide assistance. The 2005 Order and its relevant amendments apply where the UK is providing assistance to overseas cases whether or not a freezing order has been made in that other State.

In relation to mutual recognition of freezing orders between EU States, as provided in UK law by the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014, there is a need for the court in the requesting State to have issued a freezing order.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The UK Central Authority ("UKCA") received a request for assistance from the Central Authority of the United States. The request relates to an investigation conducted by the US Department of Justice ("US DOJ") and Federal Bureau of Investigations (FBI) to determine whether Mr BAGUDU and Mr Mohammed ABACHA (and others) engaged in a conspiracy to embezzle and defraud funds totaling $2.2billion from the Federal Republic of Nigeria (FRN). The USCA provided information to show that UK assets held by Mr BAGUDU and Mr Mohammed ABACHA were funded through the fraudulent misappropriation of funds in the Republic of Nigeria during the political tenure of General Sani ABACHA.

In June 2014 there was an application by the NCA under Part 4A of the Proceeds of Crime Act 2002 (External Requests and Orders) Order for the making of a prohibition order. The prohibition order froze monies in various accounts worth almost £100m.

(b) Observations on the implementation of the article

The UKFIU assists investigators in tracing and identifying property which may become subject of a subsequent restraint, freezing, seizure or confiscation order. It also disseminates information spontaneously. The team processes inbound and outbound requests for criminal asset-tracing intelligence through the Asset Recovery Office (ARO) and the Camden Asset Recovery Inter-Agency Network (CARIN).

Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

UK law provides that a restraint order effectively freezing assets can be obtained on the basis a criminal investigation has been started in the country from which the external request was made with regard to an offence. This allows for the preservation of property before an arrest or criminal charge; an investigation needs to have started.

The money laundering provisions are also relevant here. Banks and other businesses in the "regulated sector" are required to report suspicions of money laundering. The NCA receive reports and in the first instance the business has to freeze the transaction for an initial seven working days; if consent for the transaction is refused there is a further 31 days in which the transaction cannot proceed (and there is provision to further extend this period up to a maximum of 186 days, by application to a court). This period of time allows law enforcement agencies to take some other

action; possibly obtaining a restraint order in order to freeze the relevant bank account.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

An ongoing case concerns a pre-trial investigation being conducted by an overseas jurisdiction. The investigation concerns the actions of a number of family members and others in alleged "squandering" of the assets of a Bank in respect of which one of the family members was the main shareholder and principal manager, as well as corporate fraud.

Amongst the allegations is that the principal shareholder/director together with two family members, both of whom were officers of the bank, authorised loans from the bank for the purported purpose of property development when in fact the funds were diverted to enable off-shore corporate vehicles to purchase high value London property.

The requesting authorities secured their own domestic freezing orders in respect of these off-shore corporate vehicles' interests in these properties or, where these have been sold, in the proceeds of the sale. The requesting authority then sought the assistance of the SFO to give effect to the domestic freezing orders against the UK based assets. The request was made pursuant to EU Council Framework Decision 2003/577/JHA of 22 July 2003.

Within four days of receiving the request, the SFO sought registration of the overseas orders under the principle of mutual recognition.

(b) Observations on the implementation of the article

Under the POCA Order and its amendments, United Kingdom authorities can take temporary measures to preserve assets until the domestic forfeiture proceedings are completed. United Kingdom law provides that a restraint order freezing assets can be obtained on the basis of a criminal investigation having started in the country from which the external request was made, which allows for the preservation of property before an arrest or criminal charge.

Article 55. International cooperation for purposes of confiscation

Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

UK law fully provides for mutual legal assistance under the Crime (International Co-operation) Act 2003 and the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005.

- Crime (International Co-operation) Act (CICA) http://www.legislation.gov.uk/ukpga/2003/32/contents
- Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 http://www.legislation.gov.uk/uksi/2005/3181/part/5/chapter/2/crossheading/property-freezing-orders-england-and-wales-and-northern-ireland/made

The UKCA acts as a central point for the receipt of formal requests for mutual legal assistance in England and Wales, in Northern Ireland and, in some cases, in Scotland. It is responsible for:

- Reviewing incoming requests to ensure that assistance can be provided in

accordance with UK law, public policy and international obligations.

- Reviewing outgoing requests from UK prosecutors and transmitting to overseas authorities for evidence for UK investigations.
- Providing advice and guidance on how to request assistance from the UK.
- Deciding how, and by which agency (police, courts, and prosecuting authority) requests might most appropriately be executed.

If the UKCA accepts the request for execution it will refer the request to a relevant prosecution agency, such as the Crown Prosecution Service or Serious Fraud Office to represent the requesting State in court proceedings. Requests may also be referred to a police force or other investigative body to obtain evidence, both for criminal and asset recovery proceedings.

In Scotland, the Crown Office's International Co-operation Unit ("ICU") performs a similar function to the UKCA where the requesting State recognises Scotland as having a separate central authority. The UKCA will forward requests to the ICU that are suitable to be dealt with in Scotland.

The UK has a third central authority - Her Majesty's Revenue and Customs ('HMRC') for MLA requests in England, Wales and Northern Ireland relating to tax and fiscal customs matters only, for example, the collection and management of revenue, and the payment of tax credits

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Table showing number of MLA requests received by the UKCA for restraint and confiscation.

Year	UNCAC	Other
2017 – 2018	11	172

These figures do not include the numbers of requests sent directly to CPS or SFO under mutual recognition provisions.

This information has been provided from local management information and has not been quality assured, as such it should be treated as provisional and therefore subject to change.

The CPS, as of March 2017, was dealing with 75 live incoming requests for restraint under Mutual Legal Assistance, as a result of which £217.3M has been frozen in the UK and £13.2M is pending consideration. There are a further 17 live incoming requests for enforcement under Mutual Legal Assistance with an approx. value of

£140.7 million.

Additionally, as of March 2017, the CPS are dealing with 38 live requests for restraint under Mutual Recognition (under the EU Framework Decision 2003/577/JHA). As a result of this £57.5M has been restrained and just over £7.1 million is pending consideration. There are a further 7 live incoming requests for enforcement under Mutual Recognition with a value of approx. £93,000.

Since financial year 2013/14 the CPS has repatriated more than £51M to other jurisdictions as a result of its asset recovery activity, which includes corruption cases.

(b) Observations on the implementation of the article

UK legislation establishes a mechanism for the United Kingdom competent authorities to request the issuance of domestic confiscation orders when acting upon a foreign request, and for the registration and enforcement of foreign confiscation orders, in line with the paragraph under review.

Nonetheless, it is recommended that the United Kingdom continue to carefully monitor the operation of the asset recovery mechanisms to assure that they are being applied to the fullest possible extent to seize, confiscate and return proceeds coming into the United Kingdom, in accordance with article 55 of the Convention.

Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time

frame) to ensure full compliance with this provision of the Convention.

The UK offers a comprehensive service to trace and investigate the proceeds and instrumentalities of crime through dedicated asset tracing teams whose primary function is to provide timely assistance to international partners seeking to recover stolen assets - there is specific legislation to provide financial investigation powers for both conviction and non-conviction based cases.

The NCA provides a single point for all international requests for tracing stolen assets or the proceeds of criminal activity and, where appropriate, to liaise with the relevant competent domestic authorities such as the UKCA, prosecution agencies and other law enforcement partners to ensure that requesters receive an effective and efficient service.

The UKFIU (Financial Intelligence Unit) is the single point of contact for UK law enforcement with international Financial Intelligence Units (FIUs). The UKFIU participates on behalf of the UK within the Egmont Group of FIUs, (The Egmont Group is an international organisation compromising FIUs from over 150 global jurisdictions. It allows FIUs to securely share financial information with other members for intelligence purposes. Egmont members are able to take advantage of the cooperation and mutual assistance fostered by the group to exchange intelligence) utilising the European FIU system (FIU.NET) on behalf of the UK.

The UKFIU assists investigators in tracing and identifying the proceeds of crime and other crime related property which may become the subject to subsequent restraint, freezing, seizure or confiscation orders. These would be made by a competent judicial authority in the course of criminal, or as far as possible under the national law of the jurisdiction concerned, civil proceedings. UKFIU facilitates the sharing of information from overseas jurisdictions relating to the funding of serious crime and money laundering.

The UKFIU also processes inbound (IB) and outbound (OB) requests for criminal asset tracing intelligence through the:

- Asset Recovery Office (ARO), which aims to make it easier for law enforcement to trace the foreign-based assets of criminals and to share information with other AROs across the EU on where criminals keep their assets and;
- Camden Asset Recovery Inter-Agency Network (CARIN), an informal network of law enforcement and judicial contacts aimed at assisting criminal asset identification and recovery

<u>Intelligence Packages Disseminated to international partners by the UKFIU</u>

1. Between 2017-2018 UKFIU received 399 financial intelligence packages from ARO Members

ARO Intelligence packages received	
2017	184
2018	215
Total	399

2. Between 2017-2018 UKFIU disseminated 61 financial intelligence packages to CARIN members.

CARIN Intelligence Packages disseminated	
2017	41
2018	20
Total	61

3. Between 2017-2018 UKFIU received 2647 spontaneous disseminations from Egmont members

Spontaneous Disseminations received	
2017	1613
2018	1034
Total	2647

4. Between 2017-2018 UKFIU requested and received 4640 financial intelligence packages through FIU to FIU from Egmont members

FIU-FIU packages requested and received	
2017	1216 (IB), 1244 (OB)
2018	1156 (IB), 1024 (OB)

Total	4640

(Also see answer to article 55(1))

(b) Observations on the implementation of the article

UK legislation, as summarized under paragraph 2 of article 54 above, provides mechanisms for the authorities to identify, trace and freeze or seize proceeds of crime, property, equipment and instrumentalities for the purpose of confiscation when acting upon the request of a foreign State.

Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

There is little additional information outside of the Convention required to be included in the request for the UK to be able to execute it. Measures taken to inform requesting State Parties of the procedures to be followed include publishing simple and comprehensive MLA guidelines: https://www.gov.uk/guidance/mutual-legal-assistance-mla-requests#requesting-mla-from-the-uk
https://www.gov.uk/guidance/mutual-legal-assistance-mla-requests

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

To facilitate successful asset recovery MLA by ensuring that countries understand what is required under domestic legislation the UK places specialist advisors in countries to advise on criminal justice and asset recovery. CPS prosecutors are deployed in a number of priority countries - some as Liaison Magistrates / Prosecutors, where their core function is to assist with mutual legal assistance, extradition and EAW (European Arrest Warrant), others as Criminal Justice or Asset Recovery Advisors, deployed to work in more specific crime threats (organised crime/counter terrorism/asset recovery). All, however, are available to assist wherever possible. A list of contact details, which is updated regularly, is available to prosecutors based in the UK, who are encouraged to contact these prosecutors directly where they have any casework linked to any of the relevant countries.

(b) Observations on the implementation of the article

Measures giving effect to the provisions of this paragraph and to inform requesting State of the procedures to be followed are summarized in the UK's comprehensive MLA guidelines. UK authorities also cooperate with requesting States in practice to facilitate the making of mutual legal assistance and asset recovery requests. In particular, UK prosecutors and magistrates are embedded in a number of countries as resident advisors to facilitate the process of international cooperation.

(c) Successes and good practices

To facilitate successful asset recovery, the United Kingdom places specialist advisers, some as liaison magistrates and CPS prosecutors, in priority countries to assist with MLA, extradition and European Arrest Warrants, or as criminal justice or asset recovery advisers.

Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time

The UK's domestic asset recovery legislation provides that the provisions of this article (and the entirety of the Convention) is fully implemented. The UK undertook a forensic analysis of its legislation to identify any gaps before ratifying the convention.

It is also to be noted that the UK does not require any international law or agreement to support its ability to provide assistance to another country in relation to asset recovery. UK domestic law can apply to any request for assistance in an asset recovery case, regardless of their being any existing underpinning international law. The UK can enter into general and ad hoc arrangements in relation to individual cases if this is a requirement of the other State.

One of the reasons for the introduction of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 was to place the UK in a position to be able to fully implement the mutual legal assistance asset recovery provisions of the Convention. The same is true of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 in relation to the instrumentalities of crime.

The UK routinely draws up case-specific agreements in relation to the return of confiscated assets.

(b) Observations on the implementation of the article

The UK does not require any international law or agreement to provide assistance to other States in relation to asset recovery. UK domestic law can apply to any request for assistance in asset recovery, regardless of their being any existing underpinning international law. The UK can also enter into general and ad hoc arrangements individual cases whenever required.

Paragraph 5 of article 55

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Links to the relevant legislation and regulation have been provided. This legislation and regulation are in force.

(b) Observations on the implementation of the article

The relevant legislation and regulations were provided during the course of the review.

Paragraph 6 of article 55

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The UK does not require the existence of a treaty in order to provide international

assistance in relation to asset recovery.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Not applicable on the basis that the UK does not require a treaty. The UK is ready to negotiate treaties and other international agreements if this is required by other countries or would aid assistance - e.g. general mutual legal assistance treaties can be negotiated; a recent asset repatriation agreement with Nigeria relating to all returns.

(b) Observations on the implementation of the article

The UK does not require the existence of a treaty in order to provide international assistance in relation to asset recovery.

Paragraph 7 of article 55

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

There is no de minimis value which the UK requires to provide assistance. The UK can provide assistance in asset recovery whatever the offence and regardless of value.

In relation to timely progress of cases; this is in the discretion of the court in an individual case. It is to be noted that under UK law, that if a freezing order (known as a restraint order) is obtained in relation to a criminal case which is at the

investigation stage, there is a duty for a report to be made at intervals to the court, so that the court can be satisfied that the case is making reasonable progress.

UK law also requires a restraint order to be discharged if a final confiscation order is not sent to the UK for action within a reasonable time.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The UK shows flexibility and persistence in ensuring that the maximum amount of cooperation in cases is provided. And to ensure that cases do not fail.

UK prosecutors have centres of excellence who are encouraged, and do liaise with requesting authorities to ensure that sufficient evidence is provided within necessary timeframes. The UKCA also employs asset recovery specialists to advise and liaise with requesting authorities for the same purposes.

(b) Observations on the implementation of the article

The confiscation provisions under Parts 2, 3 and 4 of POCA provide for the recovery of assets from any offence and have no de minimis threshold. POCA provides for value-based confiscation of assets, wherever located, to satisfy a confiscation order requiring the individual to pay that amount to the court.

CPS and SFO consult with requesting States before lifting provisional measures. There is an explicit requirement to communicate with European Union member States (regulation 18, 2014 CJDP Regulations). United Kingdom enforcement authorities have proceeds of crime divisions, which are centres of excellence that liaise with requesting authorities to ensure sufficient evidence is provided within necessary time frames. The UKCA also employs asset recovery specialists to advise and liaise with requesting authorities for the same purposes.

Paragraph 8 of article 55

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

There is an explicit requirement to communicate with the other State in EU cases under regulation 18 of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014.

CPS and SFO are committed to consulting with and provide the requesting State Party an opportunity to present its reasons in favour of continuing the measure before a provisional measure is lifted. The lifting of a provisional measure is a judicial function by the UK Courts. If a restraint order is granted, the accused, or anyone else who is affected by the order can apply to the court to for it to be varied or discharged. These applications can be made on as little as two days' notice to the UK prosecutor. Published guidelines and information provided to States Parties makes it clear that it is important that requesting countries respond promptly to any requests from the UK prosecutor for information or assistance to oppose such an application.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The UK shows flexibility and persistence in ensuring that the maximum amount of cooperation in cases is provided, and in ensuring that cases do not fail.

If there is an application to discharge a restraint order, the UK prosecutor will seek the assistance of the requesting State to defend that application. This will give the requesting State an opportunity to make representations as to the maintenance of the order.

(b) Observations on the implementation of the article

CPS and SFO consult with requesting States before lifting provisional measures. There is an explicit requirement to communicate with European Union member States (regulation 18, 2014 CJDP Regulations). United Kingdom enforcement authorities have proceeds of crime divisions, which are centres of excellence that liaise with requesting authorities to ensure sufficient evidence is provided within necessary time frames. The UKCA also employs asset recovery specialists to advise and liaise with requesting authorities for the same purposes.

Paragraph 9 of article 55

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

There are various provisions under UK law enabling third parties to make representations in relation to cases where they are affected. The law provides that freezing orders and final asset recovery orders can be varied or discharged by the relevant court upon application by any person affected by the order; this includes third parties.

It is to be noted that the 2014 Regulations relating to the mutual recognition of EU orders provide that no challenge to the substantive reasons in relation to which an overseas restraint order or confiscation order has been made by an appropriate court or authority in a member State may be considered by the court.

There is the general right of judicial review; a procedure by which a court can review an administrative action by a public body and (in England) secure a declaration, order, or award. It is open to anyone affected by an action by a public body to seek judicial review. This could potentially be an avenue by which third parties could pursue their rights.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Following requests for assistance from the Federal Republic of Nigeria under the UN Convention against Corruption (UNCAC), a decision was taken to bring civil forfeiture proceedings in relation to assets derived from corruption and embezzlement carried out during the regime of General Abacha between 1993 and 1998. There are relevant assets in the UK and in order to restrain assets located in England and Wales, the United States made an ex parte application for a freezing injunction in the High Court of England and Wales under section 25 of the Civil Jurisdiction and Judgments Act 1982 ("the Freezing Injunction"). The Freezing Injunction was granted on 25 February 2014 with a return date of 25 March 2014.

The Freezing Injunction was subsequently challenged in the Court of Appeal by two of the respondents. A hearing took place on 15 May 2014.

(b) Observations on the implementation of the article

If a restraint order is granted, anyone affected by the order can apply to the court for it to be varied or discharged. These applications can be made on as little as two days' notice to the United Kingdom prosecutor.

Article 56. Special cooperation

> *Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

There is a regular exchange of incoming and outgoing information on a police-to-police and central authority basis.

If a central authority has information relating to a criminal offence which may lead or relate to an MLA request by a country, the UK may exchange this information with a country without the need for an MLA request. This is possible under UK domestic legislation and under bilateral MLA treaties. Spontaneous exchange of information is also possible via police cooperation routes and will be channelled through the NCA.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The Guidelines for Authorities Outside of the United Kingdom - 2015 (12th Ed.; March 2015) provides guidance for UK law enforcement in providing and receiving information and evidence. If direct contact between a foreign police force and a UK police force has not already been established, the NCA should be contacted with the

request. The NCA acts as the UK Interpol gateway for all incoming and outgoing police enquiries. The NCA will forward requests through the Interpol network to the relevant police force or other law enforcement agency who will then execute the request, subject to any data-sharing agreement.

The following UK law enforcement agencies can receive enquiries directly from law enforcement officers in foreign jurisdictions (in some cases this will be subject to a data-sharing agreement or memorandum of understanding):

- NCA;
- UK Visas & Immigration;
- HMRC;
- Police Services;
- Financial Intelligence Units;
- Asset Recovery Offices

(b) Observations on the implementation of the article

Spontaneous exchange of information with foreign countries is possible under United Kingdom legislation, bilateral MLA treaties, or via police cooperation through NCA, which acts as the United Kingdom INTERPOL gateway. Guidance is provided in the 2015 MLA Guidelines.

Several law enforcement agencies (LEAs) can receive enquiries directly from foreign counterparts, in some cases subject to a data-sharing agreements or memorandums of understanding: NCA; HMRC; Police Services; UKFIU; Asset Recovery Offices; United Kingdom Visas and Immigration.

Article 57. Return and disposal of assets

Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

All money recovered under asset recovery orders is paid to the UK's central

Government. The Government then makes decisions on the return and disposal of these assets. They are guided by both the letter and spirit of any obligations under international law, including UNCAC. This will include returning money to prior legitimate owners. It is anticipated that such information so as to identify such owners will be included in the contents of the relevant mutual legal assistance request. The UK may also become aware of such people during the course of any investigation and recovery related to the case - this may include identifying such owners overseas in cases which the UK agencies pursue under their domestic powers (i.e. not at the instigation of an MLA request/case). The UK can return money to the government of another country for them to process such consideration and payments.

The SFO investigated Standard Bank for its failure to prevent bribery in Tanzania by its Tanzanian sister company Stanbic Bank and two members of that bank's leadership. Tanzanian government officials only accepted a money markets proposal after agreeing with Stanbic, a Tanzanian company called EGMA should receive a fee of $6 million. The SFO could not identify any service that EGMA provided for this fee.

Standard Bank co-operated fully with the SFO's independent investigation into the transaction. A Deferred Prosecution Agreement (DPA) was agreed with the bank and lasted for three years before completing in November 2019. The DPA imposed the following requirements on the company:

- payment of compensation of $6 million, plus interest;
- disgorgement of profits of $8.4 million;
- a financial penalty of $16.8 million;
- co-operation with the relevant authorities in all matters relating to the conduct subject to the proceedings;
- at its own expense, commissioning and submitting to an independent review of its existing anti- bribery controls and policies; and payment of the SFO's costs.

(b) Observations on the implementation of the article

While the United Kingdom Government is a proponent of asset-sharing without the need for formal agreements, the United Kingdom does have formal specific asset-sharing agreements with Canada, Kuwait and the United States of America and MLATs containing asset-sharing provisions with various States. In the absence of a formal agreement, the United Kingdom may share the proceeds of confiscated assets with other countries on a case-by-case basis.

Following a proposal at the London Anti-Corruption Summit in 2016, the SFO, CPS and NCA have agreed a set of Compensation Principles, which establish a

framework to identify cases where compensation to overseas victims of economic crime is appropriate, and to act swiftly to return funds to affected countries, companies or people. Under these principles the SFO, CPS and NCA commit to ensuring a transparent, accountable and fair process of assessing the case for compensation or asset recovery. All departments also agree to collaboratively identify suitable means to pay back victims in a manner that minimizes the risk of re-corruption. The Compensation Principles are publicly available online.

The United Kingdom Anti-Corruption Strategy 2017–2022 commits Government to "apply these principles to all relevant cases, and to support countries to deliver their own principles and continue to raise awareness internationally with the aim of achieving a consensus that overseas victims should benefit from the positive outcome of bribery and corruption cases" (6.10).

Specific cases demonstrating the application of these principles in practice were provided.

Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

This issue is addressed following the UK's central Government receiving moneys from an enforced asset recovery order. The Government is guided by obligations of international law and can return money to the government of another country.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

In February 2012, the SFO charged Bruce Hall, who served as CEO of Alba from September 2001 to June 2005, with corruption and money laundering offences. He was the beneficiary of 20 corrupt payments between 2002 and 2005 totalling circa £2.9 million, including 10,000 Bahraini dinars in cash from Sheikh Isa bin Ali Al Khalifa, a member of the Bahraini royal family and at the time Bahrain's minister of

finance and Alba's chairman. The payments were made in exchange for his agreement to corrupt arrangements that Sheikh Isa had been involved in before Mr Hall's appointment as CEO. Many of the payments made to Hall were overseas and the companies used were nearly all off-shore. The money laundering related to the proceeds Mr Hall received, some of which was invested in property in the UK. Mr Hall was extradited from Australia and pleaded guilty in June 2012 to one count of conspiracy to corrupt.

In 2014, he was sentenced to 16 month's imprisonment, a confiscation order of £3m and compensation in the amount of £500,010 to Alba.

(b) Observations on the implementation of the article

As described under paragraph 1 of article 57 above, the United Kingdom has established Compensation Principles, which provide a framework to identify cases where compensation to overseas victims of economic crime is appropriate, and to act swiftly to return funds to affected countries, companies or people.

Case examples demonstrating the application of these principles in practice were provided.

Subparagraph 3 (a) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

This issue is addressed following the UK's central Government receiving moneys from an enforced asset recovery order. The Government is guided by obligations of international law.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Following the conclusion of the case of Smith and Ouzman, the amount of bribes that the company had paid in Kenya and Mauritania will be repaid out of the confiscation order. This amounts to £345,000 in Kenya and £50,000 in Mauritania.

The SFO had a significant amount of contact and co-operation with the Ethics and Anti-Corruption Commission of Kenya (EACC), who contacted the SFO after becoming aware of the investigation pursuant to the SFO's request for Mutual Legal Assistance in relation to banking material.

Arrangements were made for both payments to be made in a fair and transparent way. In doing so the SFO worked with the UK Government and the World Bank in full co-operation with both Governments on the mechanism of payment. In Mauritania, a country where the relevant corrupt official has been promoted, the money will be added to a World Bank Fund for distribution by the World Bank in essential infrastructure projects. In Kenya, the money was used to purchase ambulances.

(b) Observations on the implementation of the article

The MLA Guidelines of the United Kingdom make specific reference to the obligations under this Convention in the section on asset disposal. Realized assets will be disposed of under one of three processes: (a) stolen State assets that fall under the provisions of the Convention against Corruption will be returned to the recipient country, less reasonable expenses; (b) cases that do not fall under the provisions of the Convention can be shared with the recipient country if it enters into an

asset-sharing agreement with the United Kingdom – the United Kingdom 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); or (c) if there is no formal agreement, administrative arrangements allow for asset-sharing on a case-by-case basis. In the absence of any asset-sharing agreement, the assets will be retained by the United Kingdom and disposed of according to domestic law.

Property is distributed in accordance with established United Kingdom policy for a variety of purposes, including victim compensation, crime reduction, community projects and law enforcement under the Asset Recovery Incentivisation Scheme. Data on asset disposal using POCA has been published by the Home Office since 2017.

Subparagraph 3 (b) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be

waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

This issue is addressed following the UK's central Government receiving moneys from an enforced asset recovery order. The Government is guided by obligations of international law.

In January 2008 the Macao Court gave Final Judgment in relation to Ao Man Long which identified bribes derived from companies and individuals and set out in detail the chain of financial transactions passing into the accounts held by the defendant and his family with banks in Hong Kong. The Court held that the companies were used solely as vehicles for laundering the proceeds of crime and that the company accounts in the UK, Hong Kong and Macau had been used to attempt to conceal the proceeds of illegal activities. The Court made a number of ancillary orders, including confiscation of assets found to have belonged to Mr Ao. These included 3 Wycombe Square, London (value: £9,300,000) registered in the name of Roselle Court Limited and monies in UK bank accounts controlled by AO, his family or companies (value: £18,000,000).

The CPS preserved the assets and enforced the confiscation orders. The restraint order pierced the corporate veil of the five BVI companies. Bank accounts in the names of Mr Ao, his family and various companies were restrained together with 3 Wycombe Square. Following the making of the confiscation order, a total of £28,718,752.63 was realised and has now been repatriated.

(b) Observations on the implementation of the article

The observations under subparagraph (a) of this paragraph are referred to.

Subparagraph 3 (c) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

Recovered money is returned and disposed of by the UK Government in accordance with obligations under international law. Otherwise it is distributed in accordance with established UK policy under the Asset Recovery Incentivisation Scheme.

Please see the example given in the responses to articles 53(b) and other examples given in response to other sub-articles of article 57.

In particular in relation to Ao Man Long, the former Secretary for Transport and Public Works of the Macao Special Administrative Region. On 30 January 2008 he was convicted of 40 counts of corruption (bribery); 13 counts of money laundering; two counts of abusing his power; and one count of unjustified wealth. He was sentenced to 27 years imprisonment. The defendant's brother, sister in law and wife were convicted of money laundering.

Ao's assets were ordered to be confiscated by the Macao Court. These included assets then valued at over £27 million in the United Kingdom. The Macao authorities submitted a Mutual Legal Assistance request seeking the UK's help in order to restrain, confiscate and repatriate Ao's UK assets.

On 27 March 2013 the Macao confiscation order was registered in the UK court and enforcement action commenced. Over £28 million was recovered and was repatriated to Macao in 2015.

(b) Observations on the implementation of the article

The observations under subparagraph (a) of this paragraph are referred to.

Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

There is no express provision dealing with this matter in legislation; but this can be dealt with on a case-by-case basis. Operational agencies, when executing requests for assistance, will carefully consider the costs of that execution during the progress of the case. At the end of a case, the executing authority will make an assessment of costs, and if those costs are considered appropriate to be deducted, this may be decided between parties before monies are repatriated in full.

Page 14 of the UK's Mutual Legal Assistance Guidelines state –

Cost of Executing Requests

Ordinarily the UK will meet the costs of executing a request. Exceptions include:

● fees and reasonable expenses of expert witnesses;

● the costs of establishing and operating video-conferencing or television links in England, Wales and Northern Ireland (Scotland does not charge for television links), and the interpretation and transcription of such proceedings;

● costs of transferring persons in custody;

● costs of obtaining transcripts of proceedings and judges' sentencing remarks; and

● costs of an extraordinary nature agreed with the requesting authority (these will be agreed before costs are incurred);

● costs of legal representation during a suspect interview where the requesting authority states that a defence lawyer must be present.

Also, see answer to Article 57(5).

(b) Observations on the implementation of the article

Ordinarily the United Kingdom will meet the costs of executing requests, with exceptions as outlined in the MLA Guidelines (page 14). Expenses leading to the return or disposition of confiscated property are dealt with on a case-by-case basis by operational agencies, and subject to agreement between parties.

Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(a) Summary of information relevant to reviewing the implementation of the article

(Y) Yes

The UK does not require the existence of a formal agreement in order to provide for asset sharing or asset repatriation. These can be negotiated if required by the other State or because of the individual circumstances of a particular case.

In relation to an MLA case involving Macao, CPS relied on Article 57.4 and 57.5 which allow for the deduction of costs by agreement.

The CPS agreed with Macao that the CPS would be reimbursed for their legal costs from the frozen assets prior to repatriation under article 58 of the Convention. This was agreed because there was substantial ongoing litigation over part of the assets and Macao indemnified the CPS against litigation costs from those funds. The CPS won the case but did not recover their costs from the opponent. However, the CPS' own costs were deducted by agreement with Macao prior to repatriation.

Expenses of £116,603.10 relating to the disbursements incurred (including Counsel costs, receiver's fees etc) rather than the time costs of the Crown Prosecution Service.

(b) Observations on the implementation of the article

In relation to asset-sharing and asset return, there is no explicit provision in United Kingdom domestic law aside from cases involving European Union member States under the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 ("CJDP Regulations") which implemented two European Union framework

decisions, requiring 50 per cent of assets of 10,000 Euros or more recovered to be shared. The United Kingdom routinely draws up case-specific agreements in relation to the return of confiscated assets.

Article 58. Financial intelligence unit

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

The UKFIU has national responsibility for receiving, analysing and disseminating financial intelligence submitted through the Suspicious Activity Report (SARs) Regime. It sits at the heart of the regime, providing the gateway to reporters and a repository of data to inform law enforcement.

Reporters can be any organisation or individual who has a suspicion of money laundering and terrorist financing under the Proceeds of Crime Act (POCA) 2002 or Terrorism Act (TACT) 2000.

The UKFIU shares virtually all of the data (SARs) received through a secure network known as ELMER, enabling visibility of just over two million SARs across 71 different UK organisations that can be used to deliver impact against economic crime threats.

The UKFIU International Team, based in NCA, services the international obligations of the UKFIU under the Financial Action Task Force (FATF) and Egmont Group requirements. It is a single point of contact for UK law enforcement wanting to identify and trace assets abroad. The team deals with foreign law enforcement wanting to identify/trace assets held in the UK.

The team also processes inbound and outbound requests for criminal asset tracing intelligence through the

- Asset Recovery Office (ARO), which aims to make it easier for law enforcement to trace the foreign-based assets of criminals and to share information with other AROs across the EU.
- Camden Asset Recovery Inter-Agency Network (CARIN), an informal network of law enforcement and judicial contacts aimed at assisting criminal asset identification and recovery.

www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu
http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Each member of the EU must have a national FIU to comply with EU regulation and international standards. The Third EU Money Laundering Directive (3MLD), effective from December 2007, required member states to implement 3MLD in national legislation and described the extent of the regulated sector and their obligations. Primary legislation is supported by Money Laundering Regulations. In the UK the latest Money Laundering Regulations brought in via statutory instrument titled 'The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017' came into force on 26th June 2017. This is referred to as the 4MLD.

For the 2016-17 financial year the UKFIU received over 450,000 SARs from over 5,000 organisations.

(b) Observations on the implementation of the article

The UKFIU is an autonomous unit, housed within the NCA, responsible for receiving and disseminating suspicious activity reports (SARs) and conducting analysis in line with NCA's statutory mandate. Suitably accredited staff within LEAs have direct access to the UKFIU's SAR database, which contains over 2.3 million SARs.

Article 59. Bilateral and multilateral agreements and arrangements

> *States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

The UK does not require the existence of a treaty in order to provide international assistance in relation to asset recovery. The UK does, however, negotiate and

conclude agreements on an individual basis or more general basis to both facilitate individual cases and to encourage asset recovery traffic with other States.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

On returning money to Macao, the UK negotiated an agreement in relation to the specific case. The UK has also negotiated an asset repatriation agreement with Nigeria that applies to all return of money.

The more general Memorandum of Understanding between the UK and Nigeria form September 2016 is also relevant. In relation to Nigeria, there would still be case-specific agreements which build upon the general principles in relation to the particular circumstances of an individual asset return

(b) Observations on the implementation of the article

The provision is implemented. Reference is also made to the observations made and information provided under paragraph 5 of article 57.

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Country Review Report of the Bailiwick of Guernsey

Review by Turkey and Israel of the implementation by the Bailiwick of Guernsey of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021

1. Introduction: overview of the legal and institutional framework of the Bailiwick of Guernsey in the context of implementation of the United Nations Convention against Corruption

Ratification of the Convention was extended to the Bailiwick of Guernsey on 9 November 2009 through depositary notification C.N.822.2009.TREATIES-35 of the United Kingdom of Great Britain and Northern Ireland.

The implementation by Guernsey of chapters II and V of the Convention was reviewed in the second year of the second review cycle as part of the review of the United Kingdom, and the executive summary of that review was published on 20 March 2019 (CAC/COSP/IRG/II/2/1/Add.4).

The Bailiwick of Guernsey is a self-governing dependency of the Crown. The Bailiwick of Guernsey is not a sovereign state and is recognised internationally as a territory for which the United Kingdom (UK) is responsible in international law, the Bailiwick of Guernsey is not part of the UK. The Bailiwick of Guernsey is autonomous in all domestic matters and has its own parliament (Guernsey States of Deliberation, States of Alderney and Sark Chief Pleas), laws, courts, and administrative and tax systems. As a Crown Dependency, the Bailiwick of Guernsey cannot normally sign up to international treaties independently of the UK but can have the UK's ratification of such treaties extended to it. The Bailiwick of Guernsey may also negotiate and conclude bilateral agreements, giving rise to rights and obligations under international law, in specific areas under the authority of a letter of entrustment from the UK. The Bailiwick of Guernsey can also enter into bilateral arrangements, which are non-binding in international law, with other jurisdictions.

The national legal framework against corruption includes, principally, the Prevention of Corruption Law 2003 (PCL), Reform Law 1948, Disclosure Law 2007, Financial Services Commission Law 1987, Criminal Justice (Proceeds of Crime) Law 1999 (POCL) and Criminal Justice (Proceeds of Crime) Regulations of 2007 and 2008 (POCR).

Institutions involved in the prevention and countering of corruption include: a cross-government Anti-Bribery and Corruption Committee (ABC), AML/CFT Advisory Committee (AMLAC), Law Enforcement's Economic Crime Division (comprising the Financial Crime Team responsible for preventing and detecting corruption, Financial Intelligence Service (FIS) and police), Attorney-General and Financial Services Commission (FSC). The International Cooperation and Asset Recovery Team (ICART), a joint legal and law enforcement initiative, is focused on the detection, freezing, confiscation and return of criminal proceeds of foreign origin. Furthermore, law enforcement authorities have access to relevant UK databases such as the Joint Asset Recovery Database (JARD), National Centre for Applied Learning Techniques (NCALT) and the Police National Computer (PNC).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

The Foreign Bribery and Corruption Strategy (FBCS) and the Focussed Anti-Bribery and Corruption Policy Framework (Framework) constitute the main policy framework of Guernsey to prevent and fight corruption. Overall oversight and coordination are carried out by ABC, which reports to AMLAC. Guernsey

has also developed an Asset Recovery Policy (2014). However, the FBCS, the Framework, and the Asset Recovery Policy are not available online.

Guernsey's anti-corruption policies are based on quantitative and qualitative information, including statistics, cases and information from the private sector, and they focus on measures to address proceed-based and activity-based risks, where the first are risks of proceeds of corruption generated abroad passing through or being located or administered in Guernsey, and the second are risks of the businesses established, administered or financed in Guernsey having links to overseas activity where the corruption risk is high. According to formal, internal reports issued by ABC in 2011 and 2016, the principal corruption risks identified for Guernsey as an international finance center relate to overseas corruption and the proceeds of foreign corruption, foreign bribery and money-laundering, with the risk of domestic corruption assessed to be low. The aforementioned policies take into account this risk profile.

Initiatives to promote compliance with the anti-corruption policies include handbooks on bribery and corruption issued by the FSC and government outreach by regulatory authorities since 2013. Knowledge on anti-corruption is disseminated at regular outreach events, mainly by FIS, supervisory authorities, and on the government website.[1] Supervisory authorities assess the impact of anti-corruption policies and activities primarily in the course of engagement with industry, on the basis of observed levels of understanding of corruption risks and obligations.

ABC has a standing responsibility to review the adequacy of legal instruments and administrative measures to prevent and fight corruption, in particular through formal reports provided by ABC to the AML/CFT authorities approximately every five years and through consideration of specific issues in the interim as they arise, either by the Committee collectively or by individual authorities represented on the Committee. In addition, the government periodically conducts reviews to ensure compliance with international standards related to financial crime.

Guernsey and its relevant agencies actively participate in international initiatives, including MONEYVAL, CARIN, the Egmont Group, Group of International Finance Centre Supervisors, European Judicial Network, FATF, INTERPOL, Financial Disputes Resolution Network (FIN-NET), Global Forum on Transparency and Exchange of Information for Tax Purposes under the Organization for Economic Cooperation and Development (OECD), etc.

ABC was established in 2011 as a specialist sub-committee of Guernsey's AMLAC, the national strategic committee for dealing with financial crime. ABC provides information specifically related to corruption to AMLAC to inform its decision making in this area in accordance with the aforementioned corruption risk profile. As ABC was not created by statute, the statutory powers available to it are those exercised by its members in discharge of their individual functions in addressing financial crime (e.g. FIS, FSC and other law enforcement and regulatory authorities). These functions include addressing all forms of financial crime, including domestic bribery and corruption, as covered by the Constitution and terms of reference of the ABC. Similarly, the independence of the ABC is achieved through the independence of the different organisations represented on it and on the AMLAC in the discharge of their separate functions. Similarly, budgetary resources for anti-corruption activities are provided by the members of ABC, who are representatives nominated by the different organizations. It was explained that the law enforcement agencies and other regulatory authorities

[1] https://www.gov.gg/article/156152/Bribery-and-corruption

represented on the ABC have adequate staff, budget and resources to effectively carry out their work.

Guernsey was reminded of its obligation to inform the Secretary-General of the United Nations of the prevention authority pursuant to art. 6 (3) of the Convention.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Guernsey has adopted comprehensive measures governing the recruitment, hiring, training, retention, promotion, retirement and discipline of civil servants, which mainly comprise the Conditions of Employment Law 1985, Industrial Dispute and Conditions of Employment Law 1993, and Sex and Discrimination Ordinance 2005. All matters of recruitment, employment and promotion are handled according to procedures defined in the legislation, specific guidelines and directives. The overarching approach is to recruit from within the public sector, by advertisement within the sector, where possible and, where it is not possible, to advertise publicly. The competent authority is the Committee for Employment and Social Security.

The aforementioned legislation governs remuneration and promotion within the civil service. Salary scales for civil servants are defined by their level of seniority through a process of collective bargaining and are publicly available. These are regularly reviewed in line with international standards.

Positions deemed vulnerable to corruption are subject to enhanced selection procedures. The identification of which roles and levels of seniority may be more vulnerable to corruption is undertaken by chief secretaries, hiring managers and human resource officials in the individual institutions. Generally, these include public officials with access to sensitive data and senior positions. Rotation of officers within law enforcement is promoted by an active policy.

The Reform Law, as amended, provides the criteria for candidature for and election to public office. Candidates for the office of People's Deputy must declare that they are eligible to hold office (section 32). Expenditure by candidates and third parties in elections is covered by the Reform Law (sections 44, 45, 45A). The Elections Ordinance 2015 establishes that a maximum of £2,300 may be spent or given in value by candidates in the course of electoral campaigning.

While Guernsey has no political parties and candidates run and campaign individually, the States' Assembly and Constitution Committee is considering what rules should be introduced should political parties develop.

Guernsey promotes appropriate standards of conduct among public officials. In addition to the Anti-Bribery and Corruption Guidance for States Members and Employees, there are several codes of conduct for different categories of public officials, including civil servants, law enforcement officials, and members of the legislature. Whilst the Code of Conduct for members of the legislature was adopted by resolution of the States of Guernsey, the Civil Service Code and the policies and standards applicable to law enforcement officials are contractual documents that set the benchmark against which civil servants are measured when it comes to the application of disciplinary procedures. Alongside training on the core values of the civil service, a range of staff Directives, including a Conduct Directive, are applied and all public officials are bound by the PCL.

Civil servants are required to declare any potential conflicts of interest pursuant to the Civil Service Code of Conduct and the Conduct Directive. Section 7 of the

Directive prohibits civil servants from engaging in any secondary business, occupation or appointment without prior consent, and additional rules on gifts and hospitality (including a relevant register) apply. Law enforcement officials are bound by separate policies, which provide for declarations of interests and associations, as well as rules on gifts and hospitality. The Rules of the Guernsey legislature require Members to register private interests, including interests in respect of gifts and hospitality, in the Register of Members' Interests and to draw attention to any relevant interest in any parliamentary proceedings.

Guidance on what constitutes a conflict of interest and on conflicts management is provided in the codes of conduct and personnel directives. Civil servants can further seek written or informal advice from their HR partner or the Chief Secretary.

Systems to facilitate reporting of acts of corruption are provided by law and a Whistle-blowing Policy is also established. There is no financial disclosure system for public officials.

There is an open selection procedure for judges of the Royal Court and Magistrates Court, as well as judicial trainings, which contribute to enhancing integrity in the judiciary. Judges are bound by oaths of office and the PCL, as well as rigorous professional standards. Judges recuse themselves where necessary and are bound by case law precedent on the disclosure of conflicts (e.g., *Bordeaux Vineries Ltd v. States of Guernsey*). The sanction for misconduct is removal from office. The Attorney General and Solicitor-General are Crown appointments but, in practice, they are chosen following open recruitment processes. A code of conduct for the judiciary has been drafted and is subject to consultation within the judiciary.

A specialist Criminal Prosecutions Directorate is established in the Attorney-General's chambers. Its members are civil servants bound by the PCL and the same measures applicable to civil servants. In making prosecution decisions a Prosecutor's Code of Guidance, based on the UK's Code for Crown Prosecutors, is applied.

Public procurement and management of public finances (art. 9)

Public procurement in Guernsey is decentralized and governed by the States Rules for Financial and Resource Management (Rules), Procurement Policy and related Standard Terms and Conditions, as well as the Code of Purchasing Ethics, which establish rules governing, inter alia, selection (e.g., contract and supplier selection) and contract award. The overall requirements and process are subject to the force of law. The Rules require that all contracts be subject to a competitive process. Procurements must be via an open tender or competitive framework for all goods and services above £50,000, for works above £125,000 and for new constructions above £250,000. The Rules also set out required processes for lower value contracts, such as seeking a specified number of formal quotations. In exceptional circumstances other recognised procedures, the negotiated procedure or competitive dialogue, may be applied. Due to the complex nature of these procedures and the skills required, prior advice must be obtained from the Director of Procurement.

Tenders for contracts above the value thresholds are undertaken through an approved online tender portal advertised on the States of Guernsey website. Upon commencement of formal tender processes, all registered vendors receive standard invitations to tender via the portal. Access to the online tender portal and States of Guernsey website is unsolicited. Decisions to remove contractors

from the States vendor database may be taken by the Director of Procurement in cases of significant contravention of procurement rules. Standard tender documentation requires transparency by the applicant as to whether it is under investigation.

Recourse against procurement processes is available by internal complaint to the Director of Procurement, administrative review by the States Chief Executive Officer, or judicial review with ultimate right of appeal to the Privy Council. A customer charter that would establish an ombudsman-type institution to receive and address procurement-related complaints is under development.

Apart from the measures applicable to civil servants, no additional provisions apply to procurement personnel, such as enhanced screening or training requirements.

Appropriate rules and procedures regulating the adoption of the budget, internal control and risk management in public bodies, audit, and preservation of the integrity of financial records are in place. Regarding the national budget, an interim financial report and an annual budget are published, debated and adopted each year. These proceedings are open to the public.

Guernsey has adapted a three-tier model for internal control and risk management involving operational managers, risk management and compliance functions, and the Internal Audit Unit which undertakes risk-based audits. Internal audit reports are published and available online and a team is tasked with following up all recommendations.

In addition, external auditors provide annual assessments of the States of Guernsey's financial controls. A Scrutiny Management Committee examines all financial processes, procedures and systems adopted by government committees or related bodies, including their decisions on procurement of goods and services.

Falsification of documents relating to public expenditure is criminalized under the Forgery and Counterfeiting Law 2006. The preservation of books and records is dealt with under a mandatory records management policy and the accounting general ledger system in the government SAP system.

Public reporting; participation of society (arts. 10 and 13)

Access to information is regulated under the policy on Access to Public Information and its Code of Practice, implemented in 2014. The policy is based on the principles of presumption of disclosure, corporate approach, culture of openness, proactive publication and effective record management. The Code of Practice provides the framework for organisations to handle requests for public information, including grounds where access should be restricted or denied. The only grounds for refusing to respond to a request, or to provide a redacted response, is if it comes within specified exceptions for sensitive or confidential information. The denial of a Code of Practice request may be subject to judicial review under the "legitimate expectation" principle or an application under the Administrative Decisions (Review) Law 1986.

All information related to the public administration, Guernsey's legislature, its processes and rules of procedure, its agenda, as well as legislation and draft legislation are published online. The public is entitled to attend meetings of the legislature and its debates are broadcast live. Reports produced by the Scrutiny Management Committee and other government committees are available online together with statistics, information on the fiscal framework, strategic and operational plans.

In 2017, a single customer service desk for all information requests was established. This provides a one-stop-shop where the public can request or inquire about all Government services. In addition, a website for all parliamentary, government and public service information was launched to provide a unified portal for all information covering news, government policies, and elected members.

Information in relation to corruption risk in the public sector is also published on the government website.

Civil society participation is promoted primarily through regular government open consultations or surveys published on a dedicated "Talk to Us" page on the government website and by regulatory authorities. Members of the public must be represented on certain government committees, including the Scrutiny Management Committee, and several independent tribunals, panels and bodies that adjudicate disputes or complaints. Specific consultation is carried out on draft legislation, and all draft legislation is published before approval by the legislature.

A complaints section on the government website enables the public to submit complaints about government services, staff or politicians. The police is indicated as the first contact for reporting suspected criminality on the government website. Details, including information about confidentiality and a link to the anonymous Crimestoppers line, are on the police website.

Private sector (art. 12)

Preventive measures in the private sector include the Companies Law 2007, which sets record-keeping and auditing requirements, and anti-money-laundering (AML) legislation for financial and non-financial institutions. The Code of Corporate Governance issued by FSC establishes compliance rules for financial services businesses and obliges them to submit annual audited accounts to the FSC. Breaches of the record-keeping obligations are punished under the respective legislation, and when done deliberately constitute dishonesty offences under the Theft Law 1984. The FSC also issues codes of practices, rules and other documents identifying good business practices. Additionally, the FSC requires individuals who are to be appointed to key positions in a regulated entity to pass a fitness and propriety test. The test considers the integrity, competence and financial standing of the individual.

A Beneficial Ownership of Legal Persons Law 2017 and corresponding legislation for Alderney are established, among other measures. The failure of businesses and organizations to prevent bribery is covered by general offences under the PCL.

Guernsey promotes cooperation between the private and public sector, including through training on prevention and detection of corruption organized by the Economic Crime Division. FIS regularly provides briefings and notices on indicators and red flags to the private sector.

The Civil Service Code provides that civil servants must not misuse their position or information acquired in the course of their official duties to further any private interests (paragraph 5). Paragraph 5 also provides that after leaving employment a person must not take improper advantage of his or her previous office.

Sections 7(2)(h) and 7(2)(i) of the Income Tax Law 1975 provides that no deduction from tax shall be allowed in respect of domestic or foreign payments, or related expenditure, that would constitute or facilitate an offence.

Measures to prevent money-laundering (art. 14)

Both financial and non-financial businesses and professions are subject to the AML regulatory regime under the POCR. The regulatory and supervisory regime includes requirements for customer and beneficial owner identification and verification, record-keeping and the reporting of suspicious transactions, as detailed below. Compliance is supervised and enforced by the FSC. The FIS is the financial intelligence unit of Guernsey. Other AML authorities are the Guernsey Border Agency, Attorney-General's chambers, FSC, Guernsey Registry (as the registrar of companies and other legal persons), Registrar of Beneficial Ownership and Registrar of Non-Profit Organisations, Guernsey Income Tax Service and the Alderney Gambling Control Commission. A National Risk Assessment is being finalized.

National cooperation takes place, primarily through AMLAC and the functions of FIS and other AML authorities. FIS can exchange information domestically and with international bodies in accordance with section 8 of the Disclosure Law. FIS is an active member of Egmont and signs Memoranda of Understanding or other agreements with counterpart FIUs, including for the purpose of information exchange.

Guernsey has a declaration system in place with regard to all forms of incoming or outgoing cross-border movements of cash and negotiable instruments, pursuant to the Cash Controls Law 2007, Customs and Excise (General Provisions) Law 1972 and Post Office (Postal Packets) Ordinance 1973. Failure to declare and making a false declaration are criminal offences punishable with up to 2 years imprisonment, an unlimited fine, or both. In addition, the cash is liable to forfeiture.

The requirements on electronic transfers of funds (wire transfers) are implemented mainly through the Transfer of Funds Ordinance 2010, which gives effect to Regulation (EU) 2015/847. Rules and guidance in respect of funds transfers were issued as annex II to the FSC Handbooks.

Guernsey was assessed by MONEYVAL in 2016. In line with MONEYVAL recommendations, Guernsey is presently revising its AML/CFT legislation and FSC Handbook rules (which came into force in November 2018 after the country visit) to require firms to apply enhanced measures to non-resident customers, customers that are personal asset holding vehicles, customers of private banking services and customers that issue bearer shares. Further, Guernsey has issued revised rules and guidance in the FSC Handbook to disallow the use of discretion to refrain from mandatory CDD measures for collective investment schemes with a limited number of investors where the risk is other than low.

2.2. Challenges in implementation

It is recommended that Guernsey:

- Continue to monitor and assess domestic and foreign corruption risks and adopt more specific anti-corruption policies or strategies, if needed. It is further recommended that the FBCS, the Framework, the Asset Recovery Policy, and the formal corruption risk assessments conducted by ABC (or any successor strategies and risk assessments in, or arising from, the National Risk Assessment) be made available online (art. 5(1)).
- Continue to engage in anti-corruption awareness raising and effective practices aimed at the prevention of corruption (art. 5(2)).

- Consider establishing a legal basis for the ABC, as the dedicated preventive anti-corruption body (art. 6(2)).
- Consider making Civil Service Staff directives available to the public (art. 7(1)).
- Continue efforts to develop rules to regulate political party financing (art. 7(3)).
- Endeavour to ensure that the codes of conduct applicable to civil servants, law enforcement officials and members of the legislature are enforceable in cases of contravention (art. 7(4), 8(5), 8(6)).
- Endeavor to adopt measures to strengthen integrity and prevent corruption among procurement personnel, such as enhanced screening or training requirements (art. 9(1)).
- Continue efforts to develop a code of conduct for the judiciary (art. 11).
- Consider adopting more specific post-employment restrictions for former public officials (art. 12(2)(e)).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

There is a comprehensive legal mechanism to prevent and detect transfers of proceeds of crime and allow cooperation and information exchange, including spontaneous exchange, both domestically and internationally. The legal and administrative framework of Guernsey, as detailed in its Asset Recovery Policy 2014, ensures that information about the source of funds of foreign origin is available, is communicated to the FIS, is shared with domestic and international authorities and is followed by action to freeze, confiscate and return funds.

There is no requirement under Guernsey law or practice for a treaty in order to provide mutual legal assistance.

Guernsey has never formally refused a request for asset recovery. There is one request for restraint pending; the matter rests with the requesting jurisdiction. No requests for confiscation are pending.

FIS is responsible for collecting, analysing and disseminating information received via suspicious activity reports, and for spontaneous disseminations of financial intelligence. Intelligence other than financial intelligence may be spontaneously shared with other authorities. Police and other law enforcement officers, as well as the FIS, may disclose any information obtained in connection with their functions to other jurisdictions (section 8, Disclosure Law). In addition, the Guernsey Police Criminal Intelligence Unit is authorised to share spontaneous intelligence in respect of crime and drug offences.

Guernsey authorities do not require formal cooperation agreements to provide international cooperation, but the authorities sign such agreements if required by other jurisdictions. The European Convention on Mutual Legal Assistance of 1959 and a number of bilateral and multilateral agreements concluded by the United Kingdom of Great Britain and Northern Ireland have been extended to Guernsey.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Customer due diligence (CDD) must be carried out using a risk-based approach when establishing a business relationship or carrying out an occasional transaction (POCR Regulation 4). This involves the identification of the client, persons acting on behalf of the client, any beneficial owners or underlying principals or any other person on whose behalf the client is acting. The identity must be verified using identification data (defined as reliable, independent source documents, data or other information).

Enhanced CDD must be carried out on foreign politically exposed persons (PEPs), including family members and close associates. Domestic PEPs are subject to due diligence and enhanced due diligence if the client is from a jurisdiction which does not, or does not sufficiently, apply the FATF standards, or the business relationship or occasional transaction is considered to be, or has been assessed as, high risk (POCR Regulation 5(1)). Domestic PEPs were made subject to enhanced due diligence under revisions to the POCL issued in November 2018 (see below).

FSC has issued detailed advice on how to comply with the regulations on enhanced due diligence, risks presented by natural or legal persons, and account opening, maintenance and record-keeping measures in handbooks referred to above and advisories in the form of guidance notes, typologies and other documents published on its website. In addition, compliance with enhanced CDD obligations is informed by guidance, typologies, red flags and case studies related to financial crime published on the FIS website. FSC also issues warnings and public statements on its website about specific individuals or entities that present financial crime risks, and the FIS sends out intelligence warnings about specific high-risk activity or individuals directly to compliance officers via a secure online platform (THEMIS) and places fraud notices on its website.

POCR Regulation 14 and the corresponding regulations for lawyers, accountants and estate agents specify that records, including transaction documents, all account records, all CDD and beneficial ownership information, records of suspicious activity reports and policies, procedures and controls must be kept for at least 5 years in a readily retrievable form and made available to the authorities on request.

Following the country visit the POCR framework was replaced by revisions to the POCL issued in November 2018. Obligations for the private sector were added in a new Schedule (Schedule 3) to the law, and a revised single FSC Handbook was published. The aim of these changes was to meet the current standards of the FATF and included a decision to move requirements in secondary legislation at the time of the visit to primary legislation.

"Shell banks" and correspondent relationships with "shell banks" are prohibited (section 6, Banking Supervision Law, 1994; regulation 8(1), Criminal Justice (Proceeds of Crime) (Financial Services Businesses) Regulations, 2007). The provisions in relation to "shell banks" in the Regulations were replaced by identical provisions in revisions to the POCL (Schedule 3, para. 8(2)) in November 2018.

As noted above, there is no financial disclosure system for public officials in Guernsey, nor any reporting requirement concerning a signature or other authority over a foreign financial account.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

The legislation governing civil proceedings does not limit the parties who may bring actions in the Guernsey courts. As demonstrated by case law, foreign States can initiate civil proceedings in Guernsey´s courts and compensation for damages can be ordered. Under the Criminal Justice (Compensation) Law 1990 the court may order convicted persons to pay compensation for any loss or damage in determining sentences. Orders can be made in favour of legal persons for foreign governments. Furthermore, foreign States can be recognized as legitimate owners of property in confiscation proceedings (section 29(8), POCL).

Foreign confiscation orders are directly enforceable once registered at the Royal Court of Guernsey according to the Criminal Justice Ordinance 1999, which modifies the POCL. The courts may also make compensation orders against offenders in favour of foreign States or other victims of crime under the Criminal Justice (Compensation) Law, 1990. Furthermore, under the POCL, following a domestic conviction or foreign offence, the court must determine whether a defendant has benefited from criminal conduct and, if so, assess the value of the proceeds for the purposes of making a confiscation order.

Non-conviction-based confiscation is also provided for designated countries. Currently the UK and the United States of America have been so designated, and regulations can be quickly enacted if required to give effect to an imminent foreign request.

Freezing or seizing orders may be enforced if relevant proceedings or criminal investigations have been or are to be instituted in the requesting State. Under sections 26 to 29 of the POCL and the Criminal Justice (Proceeds of Crime) (Enforcement of Overseas Confiscation Orders) Ordinance 1999, restraint orders and charging orders, i.e. freezing or seizing orders, may be made to preserve assets at the request of another country. Guernsey has often applied provisional measures to preserve property for confiscation at the request of another jurisdiction.

The Attorney-General publishes MLA guidance to assist requesting States, which includes information on the content requirements for requests. Guernsey does not recognize de minimis grounds for refusal of assistance. While there are no statutory grounds for refusal, requests may be refused as a matter of policy and practice in appropriate cases, such as requests that the Attorney-General believes are politically motivated.

An internal procedures manual sets out the process for incoming or outgoing requests which is available online via a staff portal. The Attorney-General liaises with requesting jurisdictions as a matter of course before lifting provisional measures.

Third party interests are protected under sections 6, 7, 25, 29, 30 and 31 of the POCL.

ICART has been established as a joint legal and law enforcement initiative with a primary focus on detection, freezing and confiscation of criminal proceeds of foreign origin and the return of those proceeds.

Return and disposal of assets (art. 57)

Confiscated assets are paid into a Seized Assets Fund managed by the Attorney-General. The return or sharing of confiscated assets is at the discretion of the

Attorney-General but it is his or her policy to give priority to legitimate owners of property and victims wherever possible.

The return or sharing of assets is decided on a case by case basis by agreement, without the need for legislation or a formal asset sharing agreement to be in place. However, agreements are signed if requested by other jurisdictions. The Attorney-General has entered into an asset sharing agreement with the United States of America.

In appropriate cases, the return of assets or asset sharing may also be achieved without the need to invoke the formal court processes for confiscation. This normally arises where there is an agreement between all parties including the owner of the assets, usually following a plea arrangement in the requesting state.

The return of assets or asset sharing takes place in the majority of cases where there is a link to foreign crime. To date, although Guernsey continues to provide assistance in corruption cases, no cases have yet reached the asset sharing stage. There have been several instances of return of property and asset sharing in other types of cases which have been achieved using the non-statutory mechanisms outlined above.

Decisions on the costs of asset recovery are determined on a case-by-case basis. To date, Guernsey has not deducted expenses leading to the return of assets.

3.2. Successes and good practices

- The establishment of ICART as a joint legal and law enforcement initiative focused on the detection, freezing, confiscation and return of criminal proceeds of foreign origin (art. 51).

3.3. Challenges in implementation

It is recommended that Guernsey:

- Consider amending the legislation on non-conviction based confiscation to specify its application to all countries so effectively designation is no longer required (art. 54(1)(c)).
- Adopt legislative and other measures providing for the return of confiscated property to requesting States under the circumstances provided for in article 57, paragraph 3.

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Country Review Report of the Bailiwick of Jersey

Review by Turkey and Israel of the implementation by the Bailiwick of Jersey of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021

1. Introduction: overview of the legal and institutional framework of the Bailiwick of Jersey in the context of implementation of the United Nations Convention against Corruption

The ratification by the United Kingdom of Great Britain and Northern Ireland (UK) of the Convention was extended to the Bailiwick of Jersey (Jersey) on 9 November 2009 through depositary notification C.N.822.2009.TREATIES-35.

The Bailiwick of Jersey is a self-governing dependency of the Crown. The Bailiwick of Jersey is not a sovereign state and is recognised internationally as a territory for which the United Kingdom (UK) is responsible in international law, but the Bailiwick of Jersey is not part of the UK. The Bailiwick of Jersey is autonomous in all domestic matters and has its own parliament (States Assembly), laws, courts, and administrative and tax systems. As a Crown Dependency, the Bailiwick of Jersey cannot normally sign up to international treaties independently of the UK but can have the UK's ratification of such treaties extended to it. The Bailiwick of Jersey may also negotiate and conclude bilateral agreements, giving rise to rights and obligations under international law, in specific areas under the authority of a letter of entrustment from the UK. The Bailiwick of Jersey can also enter into bilateral arrangements, which are non-binding in international law, with other jurisdictions.

Jersey's legal framework against corruption includes, principally, the States of Jersey Law (SJL), Corruption (Jersey) Law 2003 (CL), Public Elections (Expenditure and Donations) (Jersey) Law 2014 (PEL), Public Finances Law 2005 (PFL), and Freedom of Information (Jersey) Law 2011 (FOIL), Proceeds of Crime (Jersey) Law 1999 (POCL), Money Laundering (Jersey) Order 2008[1] (MLO) and Proceeds of Crime (Enforcement of Confiscations Orders) (Jersey) Regulations 2008 (POCR 2008).

Institutions involved in the prevention and countering of corruption include a cross-government Jersey Financial Crime Strategy Group (JFCSG), Law Officer's Department (LOD), States of Jersey Police (SJP), Human Resources Department (HRD), Jersey Appointments Commission (JAC), Treasury and Resources Department (TRD), Jersey Financial Services Commission (JFSC) and Jersey Financial Crimes Unit (JFCU).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Jersey relies on a set of legislative and policy measures to prevent and fight corruption. These include laws criminalizing corruption offences and laws and policies establishing preventive measures in the civil service, public procurement, private sector and other areas.

Additionally, an anti-fraud and corruption policy for the States of Jersey employees sets out the responsibilities regarding the prevention of fraud or corruption and procedures where fraud or corruption is detected or suspected. Under the policy, public agencies shall, *inter alia*, develop and maintain effective controls to prevent and detect corruption and public officials must help to apply the policy by maintaining high personal and professional standards.

[1] The latest amendments to the Order were made in June 2019.

However, the policy has not been updated since its adoption in 2006.[2] Accountable Officers (AOs) with budget responsibility in each department of Government have a clear responsibility to proactively identify fraud and corruption risks within their area of responsibility and bring concerns to the attention of the Treasurer of the States, the Chief Internal Auditor and, where appropriate, the States of Jersey Police.

Several bodies exercise corruption prevention mandates. The JFCSG, chaired by the Group Director, Financial Services & Digital Economy, Government of Jersey, and composed of several relevant agencies such as LOD and SJP, coordinates actions to assess risks, develop policies and apply resources to mitigate corruption risks and raise awareness of corruption. The Group provides advice and makes recommendations to Ministers on matters under its responsibility. The JFCSG is planning to consider in more detail ways to better promote the active participation of civil society in anti-corruption matters.

The individual agencies comprising the Group have legal and operational independence and have sufficient staff and resources.

The JFCSG and the Jersey Law Commission may review legal and administrative measures for their adequacy to prevent corruption and recommend necessary action.

In addition, the JFCSG has responsibility for monitoring the overall implementation and effectiveness of anti-corruption policies and has included an assessment of corruption risks within the framework of the first National Risk Assessment (NRA) for Jersey for money laundering and terrorist financing, which is due to be published in 2020. The publication of the first NRA for Jersey will trigger the implementation of a new framework of ongoing financial crime risk assessment for Jersey, which will include an analysis of corruption risk.

Several international instruments on anti-corruption have been extended to Jersey, including the Anti-Bribery Convention of the Organization for Economic Co-operation and Development (OECD). In addition, Jersey and its relevant institutions collaborate with other States, international and regional organisations in a variety of ways on corruption prevention issues.

Jersey was reminded of its obligation to inform the Secretary-General of the United Nations of the prevention authority pursuant to art. 6 (3) of the Convention.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The States Employment Board is responsible for employment of civil servants and may issue practice directions on recruitment, training, appraisal and discipline (article 8, Employment of States of Jersey Employees (Jersey) Law 2005). The process of recruitment, hiring, retention, promotion and retirement of civil servants is undertaken by HRD. JAC oversees the recruitment of civil servants to ensure that the selection is fair, efficient and conducted in accordance with best practice and procedures. JAC has published procedures enabling candidates for positions who have a complaint to bring a matter to an independent member of the Commission. There are special procedures with regard to the recruitment and appointment of persons to senior civil service

[2] While the high-level policy has not been updated, the Public Finances (Jersey) Law 2019 adopted by the States in June 2019 further clarified roles and responsibilities while Financial Directions, which provide practical procedures and policies as to sound financial management and the prevention of fraud and corruption within the civil service, are updated regularly.

positions, appointees and independent bodies. Similarly, the anti-fraud and corruption policy requires that agencies regularly rotate staff, especially those on key posts. Training on financial procedures, which includes procedures for the prevention of fraud and corruption, is available for all government employees.

The criteria for candidates to stand for election as Senators and Deputies are prescribed in SJL and the criteria for Connétables in the Connétables (Jersey) Law 2008. Candidates shall be disqualified for, inter alia, having been convicted of an offence under CL or having in the seven years immediately preceding the election been convicted of any offence and sentenced to imprisonment for a period not less than three months (article 8 SJL and article 4C of the Connétables (Jersey) Law 2008).

PEL, the Public Elections (Expenditure and Donations) (Jersey) Law 2014 (PE(ED)L) and the Political Parties (Registration) (Jersey) Law 2008 govern electoral funding matters in Jersey. Candidates for election as Senator, Deputy or Connétable and third parties shall abide by expenditure limits (articles 4 and 10 PE(ED)L), send all anonymous donations to the Treasurer of the States (articles 5 and 11 PE(ED)L) and report all expenses made and donations received to the Greffier no later than 15 days following the election (articles 6 and 12 PE(ED)L).

In addition to the general anti-fraud and corruption policy described above, Jersey has the necessary framework, including codes of conduct, which sets ethical standards for public officials. There are codes of conduct for civil servants (Code of Conduct for the States of Jersey employees), elected officials (Code of Conduct for Elected Members), and ministers and assistant ministers (Code of Conduct and Practice for Ministers and Assistant Ministers). These codes regulate issues concerning conflicts of interest, gifts and hospitality and outside employment, among others.

Generally, under the applicable codes of conduct, public officials are required to avoid conflicts of interest and declare them when they arise. With certain exceptions and limitations, public officials may take up secondary employment or business. Civil servants, however, must seek prior agreement from their managers before doing so.

The Standing Orders for the States of Jersey require members of the States Assembly, including ministers and assistant ministers, to publicly register their private interests (employment, shareholdings, gifts, land and other interests as specified in Schedule 2) to the Greffier within 30 days of taking the oath of office. Any changes or additions to registered interests shall be registered within 30 days and shareholdings shall be reviewed every twelve months to determine if they are required to be registered.

The Whistleblowing Policy sets out the framework to facilitate reporting by public officials of breaches of the above codes, including acts of corruption. It identifies designated persons to receive reports, channels of reporting, including an independent “speak up line”, and investigative steps where necessary. However, the policy does not apply to those who work on an interim, locum, self-employed or agency basis, voluntary staff or persons holding honorary contracts.

The Standing Orders for the States of Jersey provide for measures in case of breaches of the Code of Conduct for Elected Members (articles 155-158). The Code of Conduct for the States of Jersey employees is a contractual document that sets the benchmark against which civil servants’ behaviour is measured when it comes to the application of disciplinary procedures.

Members of Jersey's judiciary are appointed according to customary practice. The Bailiff is appointed by Her Majesty the Queen under Letters Patent, swearing an oath in the Royal Court on appointment which includes a commitment to administering justice to all manner of persons without favour or partiality. The Deputy Bailiff and ordinary judges of the Court of Appeal are also appointed by her Majesty. Commissioners of the Royal Court are appointed by the Bailiff pursuant to the Royal Court (Jersey) Law 1948, and the Magistrate and Assistant Magistrate are appointed by the Bailiff pursuant to the *Loi (1864) concernant la charge de Juge d'Instruction.* The Jurats (lay judges of fact-*inter alia)* are elected by a ballot by members of the States of Jersey and the legal profession, with the procedure prescribed under Part 1 of the Royal Court (Jersey) Law 1948. The judiciary are bound by a code of conduct adopted by the Jersey Judicial Association in 2004. The Code provides a framework for recusal, prohibitions on the acceptance of gifts, favours and other benefits, and limitations on outside activities. There are currently proposals and public consultations on measures to further strengthen the independence and integrity of the judiciary.

The Attorney General and Solicitor General are appointed by Her Majesty the Queen under Letters Patent and hold office subject to good behaviour until 70 unless they retire earlier. LOD staff are bound by the Code of Conduct for the States of Jersey employees and lawyers of the Department are bound by a dedicated code of conduct and disciplinary procedure. Only Her Majesty can dismiss a Law Officer pursuant to a specific complaints procedure.

Public procurement and management of public finances (art. 9)

Public procurement in Jersey is decentralized and each purchasing body conducts its own procurement processes pursuant to the 2014 Financial Directions (FD) 5.1 on Purchasing of Goods and Services issued by the TRD under PFL. Additional rules for procuring specific goods and services, such as consultancy and travel services, are provided in other FDs.

FD 5.1 contains detailed purchasing procedures, including on preparing procurements, relevant thresholds, exemptions and responsibilities of procurement officials. Quotations or competitive tendering, depending on the contract value, are the main methods of procurement. Purchasing bodies may use non-competitive methods of procurement in exceptional circumstances, provided that the prior approval of the relevant AO and documentary evidence to justify the decision are obtained and kept on file (section 2.1.24 FD 5.1).

Tendering opportunities are published in the Jersey Gazette, Channel Islands Tendering portal and/or the Official Journal of the European Union (EU). Additionally, Jersey has introduced online purchasing and payment systems to simplify and streamline procurements, including of low value and high volume goods and services.

Unsuccessful bidders may ask the purchasing body for a debrief. Appeals are managed in accordance with the States of Jersey Complaints Board procedure. For highly sensitive projects, decisions or evaluation processes may be peer reviewed by equivalent public procurement officials in the UK. Reviews of procurement processes and decisions are undertaken by a chief internal auditor (CIA) and the Comptroller and Auditor General (C&AG).

All procurement staff are subject to pre-employment checks undertaken by HRD. Procurement staff are encouraged to be members of the Chartered Institute of Procurement & Supply (CIPS) and are then bound by its Code of Conduct. Furthermore, the Code of Conduct for the States of Jersey applies to procurement staff. All participants in the tender process must declare conflicts

of interest and are briefed on acceptable conduct during the process. In addition, a Gifts & Hospitality Register is maintained for all procurement staff.

PFL and relevant FDs issued by the Treasurer in accordance with the law provide the framework for the administration of public finances in Jersey. The SJL and the Standing Orders of the States of Jersey set out the procedures for the adoption of the Government budget, including the States of Jersey Assembly's procedure to approve the draft budget. The Minister for Treasury and Resources prepares audited public annual reports and explanatory accounts.

Under PFL, the Principal Accountable Officer (PAO) appoints AOs and determines the functions of individual AOs (article 38(1)(2)). These functions may include in particular ensuring the propriety and regularity of the finances of the States body or States fund for which the AO is responsible, and ensuring that the resources of that States body or fund are used economically, efficiently and effectively (article 38(7). Furthermore, CIAs carry out internal audits of States funded bodies according to a risk-based audit plan and sample testing (articles 35-36 PFL).

Regular external audits are conducted by the C&AG, whose office and powers are established under the Comptroller and Auditor General (Jersey) Law 2014. Financial Directions require that any issues of fraud relating to Government employees must be reported to the C&AG.

A States employee or an employee of a States funded body must produce any record in the employee's possession or under the employee's control when required to do so under PFL (article 39 PFL). Failure to provide such records or information, provision of false records or information and hindering or obstructing a person exercising a function under PFL are offences (articles 57, 59 and 62 of PFL respectively).

Public reporting; participation of society (arts. 10 and 13)

The FOIL grants members of the public a general right of access to information held by public bodies. The Office of Information Commissioner (OIC) is entrusted under FOIL to, *inter alia*, encourage public bodies to follow good practice in their implementation of the Law and the supply of information (article 43).

The FOIL establishes procedures, forms and timelines to make requests for information, as well as the procedure to appeal decisions by public bodies on information requests. Public bodies may refuse to grant access to information if it is absolutely exempt information or qualified exempt information (articles 23-42 FOIL). Public bodies may adopt and maintain a scheme to proactively publish information (article 20 FOIL). Information disclosed following a FOI request is subsequently made publicly available.

Anyone aggrieved by a decision of a public body regarding a FOI request may appeal the decision through the complaint procedure of the public body. Thereafter, appeals may be made to the OIC and the Royal Court (articles 46-48 FOIL).

Jersey has introduced a number of measures to facilitate public access to the competent decision-making authorities. A single portal at www.gov.je provides access to a wide range of information and online services related to the Government. Other public bodies also maintain online resources and publish relevant information periodically, including on corruption risks in the public sector.

The SJP and JFSC can receive reports of corruption by telephone or other means. Information can be passed to SJP on an anonymous basis (intelligence). JFCSG plans to consider in more detail ways to better raise public awareness of the available channels for reporting corruption.

Private sector (art. 12)

To prevent corruption in the private sector, Jersey has adopted laws, regulations and policies that promote corporate governance standards and transparency among companies, as well as appropriate accounting and auditing standards.

Under the Companies (Jersey) Law 1991, the Registrar of Companies, who is under the remit of JFSC, is responsible for the registration of companies (articles 196 et seq). The Law and related policy statements and guidance notes further regulate issues concerning transparency of beneficial ownership, directors of companies and their duties, including a duty to disclose interests, as well as matters related to company accounts and audits, annual returns to the registrar, etc.

JFSC has issued Codes of Practice for regulated and supervised entities, which set out the principles and detailed requirements that must be complied with in the conduct of financial services business. All regulated businesses must be audited, and the auditor must confirm in the audit that the business has complied with the relevant Code of Practice. These principles include corporate governance, internal control and risk management systems, integrity and competence of officers of the entities. The function of the Ombudsman is established under the Financial Services Ombudsman Law 2014, with a mandate to address complaints against financial service providers.

All companies must keep accounting records that are sufficient to show and explain their transactions (article 103 Companies Law). Publicly traded companies shall prepare accounts in accordance with generally accepted accounting principles prescribed in the Companies (GAAP) (Jersey) Order 2010 and submit them to the Registrar of Companies, together with a copy of the auditor's report (articles 105 and 108 Companies Law). Failure to comply with any of these requirements is an offence (article 109 Companies Law).

The above provisions and other relevant instruments setting accounting and auditing standards in the private sector prohibit the accounting practices listed in article 12(3) of the Convention.

Measures to regulate the employment of former public officials in the private sector are limited to the prohibitions in the Official Secrets (Jersey) Law 1952 on disclosure of information that the official came to know while employed in the public sector.

Article 49A of the Income Tax (Jersey) Law 1961 specifically prohibits tax deductions in respect of corrupt payments, which are defined to include any sum, the payment of which is, or would be, a criminal offence in Jersey.

Measures to prevent money-laundering (art. 14)

POCL, MLO, the Proceeds of Crime (Supervisory Bodies) Law 2008 (PCSBL) and the accompanying regulations, including the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism (AML/CFT Handbook), provide a comprehensive regulatory and supervisory regime on anti-money laundering (AML), with emphasis on requirements for customer and beneficial owner identification, record-keeping and the reporting of suspicious activities (SAR). Additionally, Jersey has adopted a strategy to combat money laundering and the financing of terrorism.

JFSC is the regulatory and supervisory body for financial institutions and money service businesses. JFSC is also the supervisory body for designated non-financial businesses and professions (DNFBPs). Work on a National Risk Assessment is underway since 2017.

National cooperation at the policy level takes place primarily through the JFCSG. Operationally, LOD, JFSC and JFCU (the financial intelligence unit of Jersey that is part of SJP) have established mechanisms to cooperate with all relevant agencies.

Internationally, JFSC and JFCU do not require a bilateral agreement or arrangement to cooperate or exchange information with foreign counterparts but may negotiate them if required by the foreign jurisdictions. JFCU has so far entered into eight memoranda of understanding with foreign financial intelligence units.

The JFCU may disclose information contained in a SAR outside Jersey with the Attorney General's consent generally (by reference to guidelines drawn up by the Attorney General and amended from time to time), or specifically on a case-by-case basis, for the purpose of the investigation of crime outside Jersey, of criminal proceedings outside Jersey, or to assist a competent authority outside Jersey (article 31 POCL). Regulatory cooperation and exchange of information is also undertaken by JFSC in accordance with articles 36 and 39 of PCSBL.

Jersey has a disclosure system to detect and monitor the importation and exportation of cash and appropriate negotiable instruments across its borders valued at or above 10,000 EUR or its equivalent (Part 5A, Customs and Excise (Jersey) Law 1999). The Jersey Customs and Immigration Service (JCIS) is part of the JFCU. All cash interactions at the ports are therefore recorded on Clue (JCIS's operational and intelligence system) and are monitored by JFCU. Failure to disclose or making a false disclosure are criminal offences punishable with up to 2 years imprisonment and a fine. The amount of the fine could be either a prescribed amount or an amount equal to three times the value of the cash not disclosed, whichever is the higher.

Jersey implemented the EU regulation on obligations of payment service providers, including financial institutions, to include information on the originator in transfers of funds (Regulation (EU) 2015/847) by way of Information Accompanying Transfers of Funds) (Jersey) Regulations 2017.

Jersey is committed to implementing the Financial Action Task Force's (FATF) Recommendations and is an active participant in the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). JFCU is a member of the Egmont Group.

Jersey's compliance with the FATF Recommendations was assessed most recently by MONEYVAL in 2015. In line with MONEYVAL recommendations, Jersey is presently revising its AML/CFT legislation, relevant codes of practice and AML/CFT Handbook to address, *inter alia*, certain exemptions in the application of simplified customer due diligence measures, the application of AML/CFT measures to a wider range of activities of DNFBPs and improving the SAR regime by increasing quality and quantity of SARs.

2.2. Challenges in implementation

It is recommended that Jersey:

- Continue to monitor and assess domestic and foreign corruption risks and adopt more specific anti-corruption policies or strategies where

appropriate. It is also recommended that such policies or strategies promote the active participation of civil society in preventing and combating corruption (article 5(1));

- Consider updating the anti-fraud and corruption policy for the States of Jersey employees (article 5(1));
- Continue to engage in anti-corruption awareness raising and effective practices aimed at the prevention of corruption (art. 5(2)).
- Endeavour to introduce further specific and systematic trainings for civil servants on anti-corruption topics (article 7(1));
- Consider identifying public positions considered especially vulnerable to corruption and providing procedures for the selection and training of individuals for such position and for their rotation, where appropriate (art. 7(1)).
- Consider codifying various policies aimed at facilitating reporting of acts of corruption by public officials and making them available to the public. Consideration should also be given to extending the scope of measures to all categories of public officials as defined in article 2 of the Convention (article 8(4));
- Consider specifying the application of disciplinary measures for contraventions of the Code of Conduct for the States employees (article 8(6));
- Continue efforts to strengthen the independence and integrity of the judiciary (article 11(1));
- Consider adopting more specific post-employment restrictions for former public officials (article 12(2)(e));
- Strengthen measures to raise public awareness of the available channels to report corruption (article 13(2)).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Jersey's legal and policy framework on asset recovery consists of the POCL, POCR 2008, Civil Asset Recovery (International Co-operation) (Jersey) Law, 2007 (CARL), the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 and Mutual Legal Assistance Guidelines issued by the Attorney General.

Jersey does not require a treaty to provide mutual legal assistance in asset recovery. However, as a general policy, the provision of assistance would be conditional on assurances of reciprocity and considerations of the seriousness of the case.

Jersey may enter and has entered into ad hoc asset sharing agreements or arrangements. Currently, Jersey has a permanent bilateral asset sharing agreement with the United States of America and is discussing the possibility of concluding similar agreements with other countries. The European Convention on Mutual Legal Assistance of 1959 and several other bilateral and multilateral agreements concluded by the UK have been extended to Jersey.

Jersey has received a number of requests for mutual legal assistance in asset recovery from foreign jurisdictions and most were positively responded to.

JFCU may spontaneously disseminate financial intelligence to foreign counterparts which is regularly completed via the Egmont Group. Intelligence other than financial intelligence may be spontaneously shared by the Police Force Intelligence Bureau, among others.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Part 3 of MLO outlines customer due diligence measures (CDD) which must be applied by obliged entities. They are required to identify and verify the identity of customers, determine the identity of beneficial owners of funds and to conduct, on a risk-sensitive basis, enhanced due diligence (EDD) measures (article 15, MLO) when establishing a business relationship or carrying out a one-off transaction with domestic and foreign politically exposed persons (PEP), their family members and close associates (article 15(6)), and to keep relevant records for at least five years following the end of the transaction or business relationship (articles 19-20).

MLO further allows the application of simplified identification measures if the customer is an obliged entity (article 17) under certain circumstances (article 18). Detailed requirements and procedures for CDD and EDD measures, including in relation to PEPs, identification of beneficial owners, and the types of identification data and record keeping are provided in the AML/CFT Handbook.

The AML/CFT Handbook contains specific instructions on the types of customers, accounts and transactions in relation to which financial service providers shall apply EDD measures. In addition, JFCU may require financial services providers to provide additional information in respect of certain accounts and transactions of particular persons on the basis of foreign intelligence it has received (Regulation 3(3), Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015 (POCR 2015)).

"Shell banks" and correspondent relationships with "shell banks" are prohibited (article 10(1), Banking Business (Jersey) Law 1991; article 23A(1) MLO).

JFCU is responsible for collecting, analysing and disseminating information received via SARs, and dissemination of financial intelligence both domestically and internationally. It can use relevant provisions of POCR 2015 to obtain information from local financial service providers and others to assist with the analysis and examination of intelligence. As a member of the Egmont Group, JFCU may exchange information with foreign counterparts using the Egmont's secure portal.

As described above, there is no asset and income declaration system for public officials. However, the Standing Orders for the States of Jersey require elected members, including ministers and assistant ministers, to disclose registrable financial and non-financial interests, whether received, arising, held or owned within or outside Jersey (article 152, Schedule 2). However, there is no reporting requirement concerning a signature or other authority over a foreign financial account.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Civil proceedings may be instituted in the Royal Court of Jersey by foreign states by way of Orders of Justice claiming title to or ownership of monies in Jersey acquired through the commission of an offence. There are examples when

foreign states instituted civil proceedings and successfully recovered misappropriated funds transferred to Jersey. The Royal Court may also order offenders to pay compensation or damages under the Criminal Justice (Compensation Orders) Law, 1994. Compensation can be awarded by the Royal Court in other ways, for example, following claims for restitution, unjust enrichment, equitable compensation based upon proprietary tracing claims and actions founded upon alleged transfers in fraud of creditors.

POCL, as applied by way of POCR 2008, provides the mechanism for granting *saisies judiciaires* (restraint orders) upon a request from a foreign jurisdiction and registering and enforcing foreign confiscation orders. Dual criminality is a requirement to provide assistance under POCL and POCR 2008. All foreign requests for the enforcement of foreign confiscation orders may be registered by the Royal Court on application of the Attorney General and enforced as if they were domestic confiscation orders (article 2 POCR 2008; article 39 POCL).

Foreign confiscation orders may be enforced in Jersey in cases where the defendant had died or absconded, provided that the Royal Court is satisfied that the defendant had been notified of the proceedings (article 4 POCR 2008; article 9 POCL). Foreign asset recovery orders issued in civil proceedings may be registered and executed pursuant to CARL.

Foreign requests for *saisies judiciaires* can be enforced once registered by the Royal Court on application of the Attorney General (article 2 POCR 2008 and articles 15 and 16 POCL). *Saisies judiciaries* can be issued, *inter alia*, if criminal proceedings against the defendant are to be instituted in a foreign State and there are reasonable grounds for believing that an external confiscation order (or external forfeiture order) may be made, or if criminal proceedings have been instituted in the foreign State and there are reasonable grounds for believing that such an order may be made. However, there is no possibility to preserve property for confiscation on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

The Attorney General publishes Mutual Legal Assistance Guidelines in English, French and Arabic that deal, *inter alia*, with the content of requests for assistance and the manner of transmission. If there is a challenge to any provisional measures ordered, or if the Attorney General applies for their discharge, the concerned State party would be informed. The Attorney General will have regard to costs and other matters, including the sufficiency of information, when deciding on foreign requests for assistance or applying to discharge provisional measures.

Interests of bona fide third parties are protected, including through the possibility to discharge or vary confiscation orders or *saisies judiciaires*.

Return and disposal of assets (art. 57)

Once a foreign confiscation order has been registered by the Royal Court and enforcement has been ordered, the proceeds of any realisation are paid into the Criminal Offences Confiscations Fund (COCF) established by article 24 of POCL. The proceeds of realisation of foreign civil asset recovery orders are paid to the Civil Asset Recovery Fund (article 11 CARL). Both funds are managed by the Minister for Treasury and Resources.

The Minister may apply monies paid into the funds to discharge Jersey's obligations under existing asset sharing agreements (article 24(4)(b) POCL and article 11(6)(a) CARL respectively). In the absence of any asset sharing agreement, the Minister retains complete discretion in all cases involving asset sharing, and the binding provisions of the Convention on mandatory return of

assets will be considered by the Minister when exercising this discretion in appropriate cases. Considerations will also be given to concluding ad-hoc agreements or arrangements and the reimbursement of costs, where appropriate.

To date, Jersey has returned over USD 200 million to Nigeria in connection with several interrelated corruption cases and concluded several ad-hoc agreements with other States to share assets linked to corruption.

3.2. Challenges in implementation

It is recommended that Jersey:

- Consider requiring appropriate public officials to report any interest or signature or other authority over foreign financial accounts (article 52(6));
- Consider taking additional measures to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property (article 54(2)(c)).
- Adopt legislative and other measures providing for the return of confiscated property to a requesting State party in circumstances falling under article 57(3).

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Country Review Report of the Isle of Man

Review by Turkey and Israel of the implementation by the Isle of Man of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021

Isle of Man

1. Introduction: overview of the legal and institutional framework of the Isle of Man in the context of implementation of the United Nations Convention against Corruption

The ratification by the United Kingdom of Great Britain and Northern Ireland (UK) of the Convention was extended to the Isle of Man (or the Island) on 9 November 2009.

The implementation by Isle of Man of chapters II and V of the Convention was reviewed in the second year of the second review cycle as part of the review of the United Kingdom, and the executive summary of that review was published on 20 March 2019 (CAC/COSP/IRG/II/2/1/Add.4).

The Isle of Man is a self-governing dependency of the Crown. The Isle of Man is not a sovereign state and is recognised internationally as a territory for which the United Kingdom (UK) is responsible in international law, but the Isle of Man is not part of the UK. The Isle of Man is autonomous in all domestic matters and has its own parliament (Tynwald), laws, courts, and administrative and tax systems. As a Crown Dependency, the Isle of Man cannot normally sign up to international treaties independently of the UK but can have the UK's ratification of such treaties extended to it. The Isle of Man may also negotiate and conclude bilateral agreements, giving rise to rights and obligations under international law, in specific areas under the authority of a letter of entrustment from the UK. The Isle of Man can also enter into bilateral arrangements, which are non-binding in international law, with other jurisdictions.

The Island's legal framework against corruption includes, principally, the Bribery Act 2013 (BA 2013), Fraud Act 2017, Freedom of Information Act 2015 (FOI Act), Financial Intelligence Unit Act 2016 (FIU Act), the Financial Services Act 2008 (FSA 2008), and Proceeds of Crime Act 2008 (POCA) which includes secondary legislation extending proceeds of crime measures for use in international cooperation.

Institutions involved in the prevention and countering of corruption in the Island include, notably, a cross-governmental Financial Crime Strategic Board (FCSB), Financial Services Authority (IOMFSA), Financial Intelligence Unit (FIU), Public Services Commission (PSC), and the Attorney General's Chambers (AGC).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

The Isle of Man relies on a set of legislative and policy measures, including the Financial Crime Strategy 2017-2020 (FCS) and the Anti-Bribery Policy and Procedure (ABPP) to prevent and fight corruption.

The FCS was adopted by the FCSB with the approval of the Council of Ministers to address the risks of financial crime, including corruption, as identified in the first National Risk Assessment (NRA) in 2016.[1] The FCS was amended in 2018 to address the findings of the 2016 mutual evaluation of the Island's anti-money laundering and countering the financing of terrorism (AML/CFT) framework

[1] The second NRA was published in January 2020 and a new Financial Crime Strategy to address identified risks is under development for the approval of FCSB.

conducted by the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

The ABPP was developed in 2016 by the Office of Human Resources (OHR) within the Cabinet Office to address the requirements of BA 2013. The ABPP defines and explains what procedures are required to be taken in public bodies to prevent bribery by or of persons associated with those bodies and outlines responsibilities and procedures of certain public officials to prevent, detect and report corruption. Public bodies that have adequate preventive procedures and public officials who complied with their duty to report corruption will have a defence to offences established under BA 2013.

Under the ultimate oversight of the Council of Ministers, the FCS is implemented and coordinated by the FCSB. The FCSB is a high-level committee chaired by the Chief Secretary and consisting of senior officers from the government (e.g. Cabinet Office, Treasury), the regulators (e.g. IOMFSA, Gambling Supervision Commission (GSC)) and law enforcement (e.g. FIU, the Isle of Man Constabulary). The AML/CFT Policy Office in the Cabinet Office monitors progress on behalf of the FCSB. The resources and independence of the FCSB are achieved through the different organisations represented on the Board in the discharge of their separate functions.

Other preventive bodies in the Island include the GSC, established under the Gambling Supervision Act 2010 and IOMFSA, originally established as the Financial Services Commission under the FSA 2008 and newly established in 2015 under the Transfer of Functions (Isle of Man Financial Services Authority) Order 2015 following the merger of the FSC and Insurance and Pensions Authority (IPA).

There is no specific duty to periodically evaluate relevant legal instruments and administrative measures against corruption. However, the FCSB and related bodies monitor developments in international standards and best practices and may make recommendations to the Council of Ministers on legislative and administrative changes.

The Island and its relevant bodies participate in several regional and international forums, including the International Police Organization (INTERPOL), the Egmont Group, Group of International Finance Centre Supervisors, UK Financial Crime Information Network (FIN-NET), Global Forum on Transparency and Exchange of Information for Tax Purposes under the Organization for Economic Cooperation and Development (OECD), MONEYVAL and Camden Asset Recovery Inter-Agency Network (CARIN).

Isle of Man was reminded of its obligation to inform the Secretary-General of the United Nations of the prevention authority pursuant to art. 6 (3) of the Convention.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The recruitment, promotion, performance appraisal, training and retirement of civil servants in the Island are regulated in accordance with relevant policies and regulations issued by the PSC under the Public Services Commission Act 2015.

All civil service vacancies are advertised publicly on OHR's website and the majority of recruitment is conducted through the centralized shared service of the OHR and in accordance with the Recruitment and Selection Policy and PSC's Recruitment Principles and Policy. Candidates for statutory board positions are required, among others, to identify any conflict of interest at the

application stage due to higher corruption risks. Enhanced background checks are also performed, which consider any previous spent convictions. However, there are no specialized training opportunities for public officials in positions considered especially vulnerable to corruption, and no additional criteria or procedures for their rotation.

Additionally, the OHR published the Anti-Fraud, Bribery and Corruption Strategy for all persons or organizations engaged in work within or with the Government. There is a comprehensive and voluntary training programme available to civil servants, which includes training components on Anti-Bribery policy, financial regulations and financial awareness, and managing the political interface.

The Representation of the People Act 1995 (RPA) provides for qualification and disqualification criteria for candidates to the House of Keys (directly elected members of Tynwald) and regulates electoral donations and expenses. A person is disqualified as a candidate if, inter alia, they have been convicted of a relevant offence (section 1 RPA). A "relevant offence" is an offence (wherever committed) involving corruption, bribery, dishonesty or an offence of any kind.

Part 2 Division 4 of RPA sets the maximum amount that a candidate may spend, prohibits candidates from keeping anonymous donations and requires submission by candidates of written declarations, including a statement specifying all relevant donations received with details of the donors. The declarations are made public. There are a range of criminal offences for failure to comply with these provisions.

The Government Code (GC) provides guidance on the expected standards of conduct of both elected and non-elected public officials, including parliamentarians and ministers, and covers issues of conflicts of interest, gifts or benefits, etc. The Civil Service Regulations 2015 (CSR) and the Code of Conduct for Public Servants further establish standards of ethical conduct for civil servants and require civil servants to disclose their interest in any contract with the Government, gifts, benefits and hospitality to the Accounting Officer (AO). In addition, the AO's approval must be obtained before a civil servant can undertake outside paid work.

Moreover, Financial Directions (FDs) and Financial Guidelines (FGs) issued by the Treasury contain additional rules on transparency. FD1 regulates the acceptance of gifts by public officials and FG19 establishes registers in public bodies recording every gift above 50 GBP received and declared by public officials.

Tynwald's Register of Members' Interests Rules (RMI Rules) and GC contain rules on mandatory disclosure by Members of Tynwald, Ministers and statutory board members of their private interests, including financial interests, as well as gifts and hospitality. GC also provides for ways to manage actual or apparent conflicts of interest. However, members of statutory boards are strongly encouraged to register the private interests of their close family members. Private interests of family members of Members of Tynwald and Ministers are not covered.

Sections 49-60 of the Employment Act 2006 and the Whistleblowing (Confidential Reporting) Policy enable public officials to make protected disclosures and protect them from being subjected to any detriment for making them. Such disclosures may be made to Designated Officers of the public body. Additional guidance is provided in the ABPP. The whistleblowing procedures are currently being reviewed by a committee of Tynwald to ensure that they are sufficiently effective and independent.

Procedures and applicable measures in case of breaches of GC and other codes of conduct above are provided. Civil Servants are subject to the disciplinary procedures laid out in the CSR.

The First Deemster (the Island's senior judge), Second Deemster and Judge of Appeal are Crown appointments. Other members of the judiciary are appointed by the Lieutenant Governor following open recruitment processes. A code of conduct is in place for the judiciary. Relevant standards of judicial conduct are in place. For example, full-time members of the judiciary must not have outside roles. Part time members shall confirm that they have conducted proper due diligence checks before agreeing to preside over a case.

The Attorney-General and Solicitor-General are Crown Appointments but, in practice, they are chosen following open recruitment processes. Prosecutors are bound by GC as well as by a dedicated Prosecution Code which includes the Code for Crown Prosecutors issued by the Crown Prosecution Service in England and Wales.

Public procurement and management of public finances (art. 9)

Public procurement in the Island is decentralized and conducted in accordance with the Government Procurement Policy (ProP) issued by the Treasury. ProP is based on the Treasury issued Government Financial Regulations (GFR).

ProP sets out the competitive procedures and permitted exemptions from these procedures, which all public procuring bodies must apply. All contract opportunities with a value of 10,000 GBP or above must be advertised on the Government website or the online Procurement Portal. Contract opportunities above 100,000 GBP follow a mandatory tender process which is carried out by a central procurement team.

Suppliers may be excluded from procurement processes on discretionary grounds (i.e. breaches of environmental, employment and competition law obligations) or on mandatory grounds (i.e. when a supplier has been convicted by final judgement of certain criminal offences). In practice, suppliers that are under criminal investigation may also be excluded on discretionary grounds.

Relevant procuring bodies shall provide feedback to all tenderers after the award of a contract and a 10 day standstill period will apply to allow tenderers to appeal. In addition, aggrieved tenderers may challenge procurement decisions through the courts.

ProP and relevant procedures require all procurement personnel to declare any interest in the tendering process. If procurements are carried by a centralised procurement team in AGC, the responsible officials shall complete a declaration of interest.

The Treasury Act 1985 (TA) and GFR, as complemented by the ABPP, establish the statutory framework, specific roles and mandatory requirements on the proper management of public finances in the Island.

The Treasury prepares and submits a draft national budget before Tynwald in accordance with the TA. Following that, public consultations may be held on the draft budget. Financial accounts of the Government are presented before Tynwald annually.

Under GFR, the Treasury shall appoint an accounting officer for each public body, who is the budget holder responsible, inter alia, for maintaining sufficient and appropriate systems and controls within the organization. The accounting officer may be called upon to account to Tynwald in respect of the stewardship of the resources within the control of the public body.

The TA provides for internal audit of designated bodies by the Audit Advisory Division of the Treasury. The Audit Act 2006 and related regulations contain provisions on the appointment of public auditors to conduct external audit and requirements of external audits, as well as requirements to preserve the integrity of public financial records. Both internal and external audits review the adequacy of internal control and risk management measures and any financial irregularities.

Section 5 of the Audit Act requires every public body to make available any record or information that the auditor may reasonably require for the purpose of the audit under the Act. Failure to provide such record or information is an offence punishable by imprisonment for a term not exceeding six months or a fine not exceeding 5,000 GBP or both.

Public reporting; participation of society (arts. 10 and 13)

The FOIA grants access to information rights to members of the public and established the Isle of Man Information Commissioner to uphold these rights and promote and enforce compliance with the FOIA and other relevant legislation (sections 52-58). The Data Protection Act 2018 and regulations provide the statutory basis for regulating the processing of information relating to individuals, including obtaining, use or disclosure of information.

Public bodies may refuse a FOIA request if the information requested falls under absolute (sections 20-27) or qualified (sections 28-41) exemptions. The latter will require a public interest test. If a FOIA request is denied, the requestor may request a review of the decision. If the requestor remains dissatisfied by the review decision, they may complain to the Information Commissioner (sections 42-51 FOIA) and thereafter have recourse to the courts.

There is a dedicated website which contains information on FOIA and allows the public to submit FOIA applications in a user-friendly manner. The website also publishes responses to FOIA requests if there is a wider public interest in the request and response.

The Island has established a single online gateway with links to all information related to the Government, its organization and processes, its programme, budget, legislation as well as online government services. The public is entitled to attend meetings of Tynwald and its debates are broadcast live.

The public can report knowledge or reasonable suspicions of bribery to the Island of Man Constabulary. Reports can be made anonymously through the Isle of Man Crimestoppers line.

Private sector (art. 12)

To prevent corruption in the private sector, the Island has enacted BA 2013 which establishes a strict liability offence for companies that fail to prevent corruption by associated persons. Pursuant to section 12, the Island's Department of Home Affairs (DHA) published guidance on procedures which relevant commercial organisations can put into place to prevent associated persons from engaging in bribery.

The Companies Act 1931 and the Companies Act 2006 contain corporate governance, financial accounting and reporting requirements for companies. Every 1931 Act company is required to produce annual accounts (including a balance sheet, profit and loss account and directors' report) in accordance with the requirements set out in the Acts. Unless a company is audit exempt, such accounts must also be audited by a qualifying auditor.

Additionally, the IOMFSA and GSC require individuals who are to be appointed to key positions in a regulated entity (controllers, directors, the chief executive, principal control officers and managers) to undergo a fitness and propriety assessment. The assessment considers the integrity, competence and financial standing of the individual. Police background checks are also conducted to identify any legal convictions (including spent convictions) or whether the individual is under investigation, for corruption and/or fraud.

The Island's register of beneficial ownership was established under the Beneficial Ownership Act 2017. The register, overseen by the IOMFSA, holds current beneficial ownership information for corporate and legal entities incorporated in the Island. It is not a register of trusts.

A civil servant or former civil servant holding a specified or higher grade at the time of leaving the Civil Service shall not for a period of one year accept an appointment in the private sector without the prior written approval of the PSC. No equivalent restrictions exist for public officials who are not civil servants.

The Companies Act 2006 requires a company to keep reliable accounting records which correctly explain transactions, enable the financial position of the company to be determined with reasonable accuracy at any time, and allow financial statements to be prepared. Furthermore, false accounting and the issuance of false statements by company directors are criminal offences under the Theft Act 1981 (sections 20 and 21 respectively).

Section 30(1) of the Income Tax Act 1970 prohibits the deduction of expenses incurred in making a payment if making of the payment constitutes a criminal offence, or in making a payment outside the Island if making of a corresponding payment in the Island would constitute a criminal offence in the Island.

Measures to prevent money-laundering (art. 14)

The DHA's Anti-Money Laundering and Countering the Financing of Terrorism Code 2019 (AML/CFT Code), issued pursuant to section 157 of POCA and the Gambling (AML/CFT) Code 2019, require financial institutions, money or value transfer service providers, designated non-financial businesses and professions (DNFBPs), online gambling operators, casinos, bookmakers and other relevant persons to have in place risk-based AML/CFT systems and policies for obtaining customer and beneficial ownership identification, know-your-customer checks, record keeping and retention, reporting of suspicious activity reports (SARs), etc. Contraventions of the requirements of the DHA's AML/CFT Code are criminal offences (paragraph 42, AML/CTF Code). Guidance on how the DHA AML/CFT Code will be interpreted and actioned, is contained in the AML/CFT Handbook issued by the IOMFSA. The GSC also issues guidance in respect of the Gambling AML/CFT Code 2019.

Pursuant to FSA 2008, the Designated Businesses (Registration and Oversight) Act 2015 and other relevant legislation, IOMFSA is the regulatory and supervisory body for the entire financial sector and DNFBPs. It may issue policy statements and guidance, including sector-specific guidance. Online gambling, casinos and bookmakers are supervised by the GSC.

The Financial Intelligence Unit Act established an independent FIU that is responsible for, inter alia, receiving, gathering, analysing, storing and sharing information on financial crime. All senior staff in the FIU have undergone Developed Vetting (DV) level security clearance undertaken by the UK Government. This process includes detailed checks into their personal finances,

connections and private lives, as well as anything thought likely to make them open to bribery or blackmail. All other FIU staff are subject to the lower level of (C) vetting scrutiny. FIU cooperates and exchanges information with relevant domestic bodies in accordance with agreed protocols and memoranda of understanding. The relevant domestic bodies include the Constabulary, Customs & Excise, IOMFSA, GSC, Tax Division, DHA, International Cooperation and Asset Recovery Team (ICART) and the Cabinet Office.

Internationally, the FIU is empowered to cooperate and exchange information with foreign counterparts without an agreement and may enter into such agreements if required by other jurisdictions or organizations.

The Island has a declaration system to detect and monitor the movement of cash and appropriate negotiable instruments across its borders valued at or above 10,000 EUR or its equivalent (section 76C(1) of the Customs & Excise Management Act 1986 (CEMA)). Failure to declare or the making of a false declaration are criminal offences punishable with up to 2 years imprisonment and a fine (section 76D CEMA). Cash which the customs officer reasonably suspects is property obtained through unlawful conduct, or is intended to be used for money laundering or other unlawful conduct or related to terrorism, may be seized (section 76G CEMA and section 46 of POCA) and forfeited (section 50 of POCA).

The Island implements, with some modifications, the European Union rules on the obligations of payment service providers, including financial institutions, to include information on the originator in any transfers of funds (Regulation (EU) 2015/847) by way of, *inter alia*, the European Union (Information Accompanying Transfers of Funds) Order 2016.

The Island is committed to implementing the Financial Action Task Force's (FATF) Recommendations and is an active participant in MONEYVAL. The FIU is a full member of the Egmont Group. Other relevant bodies in the Island actively participate in various international forums to prevent, detect and fight money laundering as described above.

The Island's most recent complete assessment against the FATF Recommendations was published by MONEYVAL in 2016. To address the MONEYVAL recommendations, the Island adopted a comprehensive action plan (FCS) and established a coordinating mechanism (FCSB). A number of FATF recommendations have subsequently been re-assessed and re-rated under the MONEYVAL follow-up procedures, a process which is still ongoing.

2.2. Challenges in implementation

It is recommended that the Isle of Man:

- Continue to monitor and assess domestic and foreign corruption risks and adopt more specific anti-corruption policies or strategies where appropriate. It is also recommended that such policies or strategies promote the active participation of civil society in preventing and combating corruption (art. 5(1));
- Consider developing oversight mechanisms to monitor the implementation of the Anti-Bribery Policy and Procedure (art. 5(1));
- Continue to engage in anti-corruption awareness raising and effective practices aimed at the prevention of corruption (art. 5(2));
- Consider imposing specific duty to periodically evaluate relevant legal instruments and administrative measures against corruption (art. 5(3));

- Endeavour to introduce mandatory trainings for civil servants on anti-corruption topics (art. 7(1));
- Consider providing specialized training for individuals in positions considered especially vulnerable to corruption and adopting additional criteria and procedures for their rotation, where appropriate (art. 7(1));
- Continue to evaluate and strengthen measures to facilitate the reporting of acts of corruption by public officials (art. 8(4));
- Endeavour to expand the disclosure requirements for civil servants to include a wide range of circumstances from which a conflict of interest may arise (art. 8(5));
- Endeavour to require Members of Tynwald, Ministers and members of statutory boards to report relevant private interests, including financial interests, of their family members (arts. 8(5) and 52(5));
- Consider applying post-employment restrictions to other categories of public officials besides specified civil servants (article 12(2)(e)).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

The Island has a comprehensive legal and policy framework, consisting mainly of POCA and its secondary legislation such as the Proceeds of Crime (External Requests and Orders) Order 2009 (POCERO), to enable the identification, tracing, restraint, and confiscation of proceeds of all crimes, including corruption. The POCA (External Investigations) Order 2011 also enables the Island to apply for investigatory orders from the Court on behalf of foreign jurisdictions.

The provision by the Island of mutual legal assistance (MLA) to other States is not conditional on the existence of a treaty. However, the UK has extended nine bilateral treaties on MLA in criminal matters, as well as the Council of Europe's 1959 European Convention on Mutual Legal Assistance to the Island.

The AGC is the central authority responsible for making and receiving MLA requests in respect of the investigation and prosecution of crime, asset tracing, restraint and confiscation, and civil recovery (non-conviction based) confiscation. ICART was established in December 2016 within AGC and is tasked with dealing with MLA requests pertaining to asset recovery.

No MLA requests have been formally refused by the Island. Where appropriate, requesting authorities have been invited to withdraw the formal request and make an intelligence request.

FIU and the Isle of Man Constabulary may share intelligence on proceeds of corruption offences with other States spontaneously or upon request.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Parts 3 and 4 of the AML/CFT Code outline customer due diligence and ongoing monitoring measures which must be applied by relevant persons to all customers and beneficial owners. The same measures must be applied by gambling entities under Part 4 of the Gambling (AML/CFT) Code 2019. These require relevant persons to identify and verify the identity of customers, determine the identity

of beneficial owners of funds and to conduct, on a risk-sensitive basis, enhanced due diligence (EDD) measures (para. 15 AML/CFT Code) when establishing a business relationship or carrying out a one-off transaction with domestic and foreign politically exposed persons (PEP), their family members and close associates (para. 14), and to keep relevant records for at least five years following the end of the transaction or business relationship (para. 34). Part 6 of the AML/CFT Code allows the application of simplified customer due diligence (CDD) measures under certain circumstances.

More detailed guidance on the application of CDD and EDD measures, including in relation to PEPs, identification of beneficial owners, the types of identification data and record keeping are provided in the AML/CFT Handbook and Gambling Code Guidance.

Foreign intelligence may not be shared with relevant persons. Instead, FIU will issue an Advisory Notice (AN) to relevant persons with details of a natural or legal person suspected of financial crime including corruption contained in foreign intelligence via the online FIU reporting system Themis. A consequence of sharing this information by an AN is that any institutions that have knowledge of the legal or natural person will conduct a review of their relationship and the conduct of business.

The establishment of "shell banks" is prohibited under the IOMFSA General Licensing Policy. Under the AML/CFT Code, a financial institution must not enter into or continue a business relationship or occasional transaction with a shell bank or with a respondent institution that permits its accounts to be used by a shell bank (paras. 38-39).

Pursuant to section 5 of the FIU Act, the FIU is responsible for, inter alia, receiving, gathering, analyzing and sharing information about financial crime both domestically and internationally. It is also empowered to request and obtain additional information from persons specified in section 18 of the Act to assist with the analysis and examination of intelligence. As a full member of the Egmont Group, the FIU may exchange information with foreign counterparts using the Egmont Secure Web portal. Measures have been taken to strengthen the independence and human and financial resources of the FIU.

As described under article 8(5) above, certain public officials are required to disclose their financial interests such as land and buildings, shares or stock, and a legal right, including a deposit or loan of money or money's worth of more than 50,000 GBP in value.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Foreign States may directly recover assets in the Island by instituting civil proceedings in local courts. However, they shall retain a local counsel and may also need to establish, based upon their domestic law, that they are legal persons.

Section 21 and Schedule 6 of the Criminal Law Act 1981 gives the power to the Court of General Gaol Delivery to make compensation orders in favour of any person for any injury, loss or damage in criminal proceedings. Sections 104(8) and 106(8) of POCA permit the Court of General Gaol Delivery to recognize a foreign State as a legitimate owner of property in confiscation proceedings following a conviction.

The mechanism for the enforcement of foreign restraint and confiscation orders is provided in Part 3 of POCERO. Upon receipt of a foreign request for the enforcement of a foreign confiscation order, the Attorney General may seek to

register the order in the Court of General Gaol Delivery (articles 69-71). If the foreign order satisfies the conditions specified in article 70 of the Order, it will be registered by the Court and enforced as if it was a domestic confiscation order.

Upon request, and if the defendant is in the Island the Island may institute criminal proceedings, including on money laundering charges, to confiscate property of foreign origin or proceeds that have been laundered in and remain in the Island and then transfer all or part of the confiscated sum to another State. Part 1 of POCA, Part 2 of POCERO and the Proceeds of Crime (External Investigations) Order 2011 allow for the enforcement of foreign confiscation orders made in the absence of a criminal conviction and regardless of whether any criminal proceedings have been brought in the requesting State.

The procedure and requirements for the enforcement of foreign restraint orders are provided in articles 56-66 of POCERO. A restraint order may also be made upon an application of the Attorney General on behalf of a requesting State. The Island may and has previously taken proactive measures to preserve property in anticipation of a foreign freezing or confiscation order.

There is an MLA Guidance that lists the requirements for and supporting documentation to be attached to a foreign MLA request. The Guidance is not publicly available but sent at the request of central authorities considering making a request and is issued as a matter of course by the FIU when making disclosures to foreign counterparts. Even if a request is defective, the Island will liaise with the requesting State and make every effort to ensure that a complete application can be made to the Court of General Gaol Delivery to register the foreign order. There are no *de minimis* thresholds, but foreign requests may be refused in case of a very low value of assets.

Under article 59(5) to (7) of POCERO, restraint orders may be discharged or varied upon application of the prosecutor or any person affected by the order, if a criminal investigation was started in the requesting State but proceedings were not initiated within a reasonable time following the investigation. Restraint orders may also be discharged if proceedings were initiated in the requesting State but no external order was made or an external order was not registered within a reasonable time. There have been no cases where provisional measures have been varied or discharged other than at the request of the requesting State.

The rights of bona fide third parties are protected, including through the possibility to discharge or vary restraint and confiscation orders under articles 59 and 71 of POCERO.

Return and disposal of assets (art. 57)

In accordance with section 222 of POCA, all monies recovered, confiscated or forfeited under Part 1 or Part 2 of POCA are paid into the General Revenue of the Island. The Treasury may, with advice from the Attorney General or Solicitor General and where it is deemed appropriate, return confiscated property, either in whole, in part or upon other terms and conditions, to a requesting country or territory which participated in the recovery or confiscation, if such transfer is authorised in an asset sharing agreement (section 222 POCA). The Treasury, acting upon the advice of the Attorney General or Solicitor General, exercise their discretion and would apply compensation first to any asset available in the Island before considering any asset sharing arrangement.

The Island is able to enter into overarching asset sharing agreements but takes the view that dealing with each case as appropriate to its own circumstances is preferable. Nevertheless, discussions with the USA are underway at present and

expected to result in a formal agreement in the near future. The Island has entered into several ad-hoc asset sharing arrangements with other jurisdictions in the past.

3.3. Challenges in implementation

It is recommended that the Isle of Man:

- Consider requiring appropriate public officials to report any interest in or signature or other authority over foreign financial accounts (article 52(6));
- Ensure that the Attorney-General's discretion to process external orders under section 67 of POCERO is exercised in a way that observes the binding obligations under article 55(1) of the Convention;
- Consider making the Mutual Legal Assistance Guidelines publicly available (art. 55);
- Adopt legislative and other measures providing for the return of confiscated property to a requesting State party in circumstances provided for under article 57(3).

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Country Review Report of the British Virgin Islands

Review by Turkey and Israel of the implementation by the British Virgin Islands of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021

1. Introduction: overview of the legal and institutional framework of the British Virgin Islands in the context of implementation of the United Nations Convention against Corruption

Ratification of the Convention was extended to the British Virgin Islands (BVI) on 12 October 2006 through depositary notification C.N.848.2006.TREATIES-35 of the United Kingdom of Great Britain and Northern Ireland.

The implementation by BVI of chapters II and V of the Convention was reviewed in the second year of the second review cycle as part of the review of the United Kingdom, and the executive summary of that review was published on 20 March 2019 (CAC/COSP/IRG/II/2/1/Add.4).

The national legal framework against corruption includes, principally the Virgin Islands Constitution Order 2007 (Constitution), Public Finance Management Act 2004 (PFMA), Service Commissions Act 2011 (SCA), Register of Interests Act 2006 (RIA) and Proceeds of Criminal Conduct Act 1997, as amended (POCA).

Institutions involved in the prevention and countering of corruption include the Public Service Commission (PSC), Complaints Commissioner (Ombudsman), Royal Virgin Islands Police Force (RVIPF), Attorney-General, Financial Services Commission (FSC) and Financial Investigation Agency (FIA). A National Anti-Money Laundering and Terrorist Financing Coordinating Council (NAMLCC) is also established.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

BVI's policies to prevent and fight corruption are enshrined in various laws, principally the Constitution, PFMA, SCA and RIA. BVI has not conducted a comprehensive corruption risk assessment to inform the development of more specific anti-corruption policies.

There is no structured framework for corruption prevention activities and awareness-raising, which are carried out by different government agencies in accordance with their mandates.

There is no established consistent process to review legislative and administrative measures relative to combating corruption. Such reviews are carried out whenever the need arises, for example to ensure compliance with international standards.

There is currently no anti-corruption body in the BVI. The preventive mandate is spread across different bodies, such as the PSC, FSC, FIA and Ombudsman. The establishment of a dedicated anti-corruption authority was under consideration at the time of review.

BVI was reminded of its obligation to inform the Secretary-General of the United Nations of the prevention authority pursuant to art. 6 (3) of the Convention.

BVI and its agencies participate in relevant regional and international networks, including the Caribbean Financial Action Task Force (CFATF), Egmont Group, INTERPOL, Caribbean Customs Law Enforcement Council (CCLEC) and Asset Recovery Inter-Agency Network Caribbean (ARIN-CARIB).

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Measures to prevent corruption in the public sector include, notably, the SCA, its subsidiary legislation, and a number of administrative policies (e.g., Public Service General Orders 1982).

Chapter 7 of the Constitution addresses the public service and regulates matters such as appointment of public officers, judicial officers, teachers and members of the Police Force. Recruitment, hiring, retention, promotion, transfers (based on merit and ability), and retirement of civil servants as well as training and disciplinary measures are addressed in the SCA and the regulations thereunder. This Act, along with the Service Commissions Regulations 2014 (SCR), outlines the processes and procedures for appointments, promotions and transfers for public offices. Section 17 of the Act and Regulation 10 further provide for appointment and promotion based on merit and ability, following an assessment of the relative suitability of the applicant or officer for that position.

Reporting of vacancies, method for making public notice of vacancies, advertisement of appointments, receipt and short-listing of applicants and procedures for appointment (such as interviews and assessments against specific criteria set out in section 17 of SCA) are captured in Part III of SCA and Parts III and V of SCR.

In accordance with General Orders 4.1, pay scales are provided in the Government's Annual Estimates and Expenditure approved by the House of Assembly.

Public administration training on the risks of corruption and corrupt practices is ongoing, and mandatory training of public servants includes requirements relating to public financial management.

Currently, the rules, principles and training apply to all public officers and positions. Additionally, sections 8 and 105 of Customs Duties and Management Act 2010 provide for customs officers to make certain declarations of interest, given their particular vulnerability to corruption.

A Code of Conduct for public officers within the General Orders 1982 prescribes certain ethical rules for public officers, including restrictions on outside activities, private interests and the acceptance of gifts. Further, in 2016, the Governor approved the Public Service Standards of Excellence as the set of standards and principles which public officers must adhere to as part of their employment contracts.

Members of the legislature must declare their financial interests, including those of their family members, in accordance with the RIA. Other public officials are expected to declare actual or potential conflicts of interest to the Deputy Governor, in accordance with a human resources policy entitled "Conflict of Interest" and pursuant to the provisions on private interests in the Code of Conduct for public officers (section 3.6). The Criminal Code further sets out an offence of conflict of interest and requires public officials to disclose certain interests to their respective public bodies (section 82). Disciplinary measures may be applied for violations of relevant regulations and policies including on conflicts of interest, in accordance with the disciplinary procedures under the SCA and Parts VI and VII of SCR.

A Ministerial Code of Conduct, Public Service Management Bill and whistle-blowing policy are being developed and consultation is being undertaken relative to the introduction of an Integrity Commission. The Department of Human Resources (Deputy Governor's Office) has also established a grievance

policy and administrative reporting of misconduct by public officials is possible, including to the Ombudsman. However, there is no legal framework for the protection of whistle-blowers. Provisions for the protection of whistle-blowers, to facilitate the disclosure, in the public interest, of maladministration and waste in the public service and of corrupt or illegal conduct, are included in the draft Public Service Management Bill (Part 18).

The Public Service Management Bill would further establish a revised code of conduct and ethics for public officers, including a code of discipline (section 17, and Schedules 2 and 3) and make compliance by public officers mandatory. It would strengthen provisions for merit-based recruitment, appointments, promotions and transfers within the public service (section 18) and introduce provisions for conflict of interest and disclosure (section 20).

Sections 65 and 66 of the Constitution address qualifications and disqualifications for elected membership to the legislature. However, BVI has not established a legal framework for the funding of candidates for elected public office and political parties. Based on section 3(1) of the RIA, elected officials (members of the House of Assembly) are required to make a declaration on the date they assume office, as prescribed by Schedule 1 of the Act, whether or not they have benefited from any sponsorship before their election exceeding in aggregate $2,500.

All judicial appointments in BVI are made by the Chief Justice of the Eastern Caribbean Supreme Court (ECSC) in St. Lucia, following approval by a panel and consultation with the Judicial and Legal Services Commission of the Court. All judges of the ECSC are bound by a Code of Judicial Conduct aimed at enhancing the integrity and preserving the independence of the judiciary. Furthermore, sections 94 and 95 of the Constitution provide for a Judicial and Legal Service Commission to advise the Governor on appointments, removal and disciplinary control of BVI magistrates.

The independence of the Director of Public Prosecutions is established under section 59 of the Constitution. The BVI Office of the Director of Public Prosecutions (ODPP) has adopted and adheres to the Code for Prosecutors of the U.K. Crown Prosecution Service, and also the International Association of Prosecutors' Standards of Professional Responsibility and Statement of Essential Duties and Rights of Prosecutors. ODPP is a part of the public service and the measures applicable to civil servants outlined above are equally applicable to it.

Public procurement and management of public finances (art. 9)

The PFMA and PFM Regulations 2005 (PFMR) provide public procurement rules and procedures and establish a Central Tenders Board (CTB) to receive and evaluate tenders and recommend procurement decisions to Cabinet, which makes the final decision in public procurement matters. The Procurement Unit in the Ministry of Finance promulgates all procurement processes including tender invitations, responses and contracts, as determined by the CTB.

There is no systematic process for the public distribution of information relating to procurement procedures, tender criteria and invitations, and contract awards in a timely manner.

Furthermore, waivers to deviate from the regular procurement rules may be issued by Cabinet in specific cases, and the relevant decisions are not always included in the minutes of Cabinet meetings.

BVI has not established a system of domestic review or appeal in the event that procurement rules or procedures are not followed.

Specific rules governing procurement personnel, such as declarations of interest in particular public procurements, screening procedures and training requirements, are not established, although such matters form part of the drafting instructions for a new procurement law that is being developed, which would address matters of corruption, fraud, code of conduct, unethical behaviour, conflicts of interest, confidentiality, complaints and appeals. Members of the Procurement Unit and members of CTB all serve as public officers and are subject to the usual government policies concerning declarations of interests and the code of conduct for public officials.

The Constitution, PFMA and PFMR prescribe the manner, processes, procedures and principles for the management of public finances, including the adoption of the budget and appropriate control and audit of public accounts, as detailed in the Audit Act 2003 and Internal Audit Act 2011.

The Ministry of Finance is responsible for promulgating and managing the procedures for the adoption of the national budget. The medium-term fiscal plan is approved by the Cabinet and the U.K. Government through the Foreign and Commonwealth Office. Chapter 8 of the Constitution addresses Government Finances in general and provision is made for the Consolidated Fund under section 102.

The Internal Audit Act, establishes the Internal Audit Department and provides for a system of internal auditing, monitoring and evaluating the effectiveness of risk management and control systems of public authorities (sections 4, 16). The Internal Audit Department's role is to provide independent assurance that the risk management, governance and internal control processes of governmental and some statutory bodies are operating effectively.

The provisions of the Audit Act and the role of the Auditor General provide for external audit and oversight in the management of public finances. The Public Accounts Committee of the legislature further performs critical oversight of the government budget and public accounts and resources.

The PFMA (section 20) and PFMR (Regulations 20, 133) contain provisions to preserve the integrity and prevent falsification of public financial statements, books and records.

Public reporting; participation of society (arts. 10 and 13)

There is no central legal or policy framework to regulate public access to information. In the absence of a legal framework, each Ministry/Department takes its own initiative in distributing information on its procedures, organization and decision-making. Additionally, the Government's Information Service (GIS) is engaged in disseminating information through the media, online and through the press on the business of government. A proposed Freedom of Information Act would provide members of the public with the right to access official documents of the government and public authorities.

The Government remains committed to good governance, transparency and accountability and in 2018 proposed a Public Service Transformation plan to improve public services delivery and redesign the public sector, including with a view to strengthening good governance and introducing electronic government

services. The plan was approved by Cabinet on 11 February 2020, subsequent to the country visit.[1]

There is no systematic process for publishing information or periodic reports on the risks of corruption in the public administration.

Civil society participation on anti-corruption is encouraged through different channels, such as the lodging of complaints with the police or the Ombudsman, who receives and processes complaints from members of the public about government agencies, officers, departments and statutory bodies. BVI authorities further consult with public and private stakeholders relative to new legal developments. For example, FSC publishes consultation documents requesting written submissions and uses focus groups and open forum meetings. The Government also publishes draft legislation in the official gazette after its first reading in the House of Assembly, thereby giving the public another opportunity to provide comments.

There is currently no anti-corruption body in the BVI to receive reports, including anonymously, of corruption.

Private sector (art. 12)

The BVI Business Companies Act 2004, (BCA) sets out a broad corporate governance framework for BVI business companies. Failure to comply with the requirements under the Act, when committed by a body corporate, an authorized director or officer, is punishable by criminal and ancillary penalties as specified in the Act.

All companies regulated by the FSC (such as banks, public funds, trust companies, corporate service providers, insurance companies and money service companies) are required to provide annual audited financial statements as a condition of being licensed. Accounting and auditing standards require regulated entities to ensure that their financial statements, and any group accounts required to be submitted to the FSC, are prepared in accordance with international accounting and auditing standards and the requirements regarding financial statement disclosures and the maintenance of books and records (Section 98, BCA). However, there is no requirement for BVI companies to establish internal auditing controls to prevent and detect acts of corruption.

BVI maintains a database of beneficial ownership information of corporate and legal entities registered in the BVI, as described under article 52 of the Convention below.

There are no procedures for law enforcement authorities to systematically engage the cooperation of private sector entities in investigations and prosecutions. Furthermore, no specific measures are established to prevent the misuse of procedures, such as subsidies and licences, for commercial activities.

BVI does not apply post-employment restrictions for former public officials who take on professional activities in the private sector.

There is no express legislative provision to disallow the tax deductibility of expenses that constitute bribes.

Measures to prevent money-laundering (art. 14)

The anti-money laundering (AML) legal framework comprises, principally, the POCA, Anti-Money Laundering and Terrorist Financing Code of Practice 2008

[1] Through the Public Service Transformation Programme, Cabinet approved the Integrity in Public Life Policy on 18 November 2019 and a draft Bill is being prepared by the Attorney General's Chambers.

(COP), Anti-Money Laundering Regulations 2008 (AMLR), Financial Investigations Agency Act 2003 (FIAA), and Financing and Money Services Act 2009 (FMSA) among others. They provide specific mechanisms to prevent and detect transfers of proceeds of crime and allow cooperation and information exchange, both domestically and internationally. Failure to comply with or contravention of the COP is punishable on summary conviction by a fine not exceeding $150,000 or to a term of imprisonment not exceeding two years or both (Section 27(4), POCA as amended in 2012).

National cooperation takes place, primarily through NAMLCC, the Intergovernmental Committee on AML/CFT Matters (IGC), the Council of Competent Authorities and the Committee of Law Enforcement Agencies. FIA and FSC can exchange information domestically and with international bodies in accordance with sections 32 and 33C of the FSC Act, respectively. Additionally, a memorandum of understanding (MOU) between FSC and FIA was signed in March 2007. Furthermore, in April 2014 national authorities comprising the IGC signed an MOU to foster domestic and international cooperation on AML, corruption and other serious crimes. International cooperation is carried out principally through FIN-NET and the Egmont Group. BVI also maintains relationships with CFATF and INTERPOL for information exchange and cooperation.

The BVI regulatory and supervisory regime includes requirements for customer and beneficial owner identification and verification, record-keeping and the reporting of suspicious transactions, as detailed under article 52 below. A National Risk Assessment was finalized in 2016 and a progress report on its implementation was published in August 2018. FSC conducts risk-based AML supervision for the regulated financial sector (including money services businesses) and FIA is responsible for the AML supervision of designated non-financial businesses and professions (DNFBPs) and non-profit organizations.

Under Section 87 of the Customs Duties and Management Act 2010, individuals and businesses are required to declare cash and negotiable instruments exceeding $10,000 upon entering and departing BVI. Failure to declare is punishable by a fine not exceeding $10,000 or three times the value of the undeclared property, whichever is the greater. Customs officers are empowered to seize and detain cash upon importation, or which is about to be exported, upon reasonable grounds of suspicion that such cash represents the proceeds of crime.

The requirements on electronic transfers of funds (wire transfers) are implemented mainly through FMSA and COP (Part V). A Money Services Business Guide came into force in 2016.

The FATF third round mutual evaluation was conducted by CFATF in 2008 and a third follow-up report was published in May 2012. The IMF conducted an Offshore Finance Centre assessment in 2010. To address CFATF recommendations, BVI adopted, inter alia, rules on money services businesses, customer due diligence requirements for persons acting on behalf of legal persons or legal arrangements (section 19(3), COP), requirements for enhanced due diligence of business relationships and transactions related to countries with weak anti-money-laundering measures (section 52, COP) and requirements for entities and professionals to adopt relevant risk management processes for permitting business relationships before effecting verification (section 23(2), COP).

2.2. Challenges in implementation

It is recommended that BVI:

- Develop and implement effective, coordinated anti-corruption policies, based on a comprehensive corruption risk assessment and broad stakeholder consultations (art. 5(1)).
- Endeavour to establish and promote effective practices aimed at the prevention of corruption, including anti-corruption awareness-raising (art. 5(2)).
- Endeavour to establish a more systematic process to periodically evaluate legal instruments and administrative measures to prevent and fight corruption (art. 5(3)).
- Ensure the existence of one or more bodies to: 1) prevent corruption (including raising awareness and implementing corruption prevention policies), equipped with the necessary independence, material resources and specialized staff to operate effectively and 2) to receive reports, including anonymously, of corruption incidents (arts. 6(1-2) and 13(2)).
- Consider identifying public positions considered especially vulnerable to corruption and providing procedures for the selection and training of individuals for such position and for their rotation, where appropriate (art. 7(1)).
- Take steps to expeditiously adopt the Public Service Management Bill, whistle-blowing policy, and Ministerial Code of Conduct, and to establish the Integrity Commission (arts. 7(1), 7(4), 8(1-5) and 13(2)).
- Consider taking legislative and administrative measures to enhance transparency in the funding of candidatures for elected public office and of political parties (art. 7(3)).
- Establish procedures to ensure greater transparency of public procurement decisions by the Cabinet, including exemptions or waivers issued; further, amend the procurement law to regulate in greater detail: 1) the public distribution of information relating to procurement procedures, tender criteria and invitations, and contract awards in a timely manner; 2) a system of domestic review or appeal in the event that procurement rules or procedures are not followed; and 3) specific rules governing procurement personnel, such as declarations of interest in particular public procurements, screening procedures and training requirements (art. 9(1)).
- Continue steps to adopt the Freedom of Information Act and implement procedures for members of the public to access official documents of the government and public authorities (art. 10(a)).
- Take steps to publish information or periodic reports on the risks of corruption in the public administration, with a view to enhancing transparency (art. 10(c)).
- Take measures to strengthen corruption prevention in the private sector, including by 1) promoting cooperation between law enforcement agencies and relevant private entities; 2) preventing the misuse of procedures regulating private entities, including subsidies and licences for commercial activities; 3) preventing conflicts of interest by considering the adoption of a cooling-off period on the professional activities of former public officials that relate directly to their previous functions; 4) ensuring that private enterprises have sufficient internal auditing controls to assist in preventing and detecting acts of corruption; and 5) adopting an express provision to disallow the tax deductibility of expenses that constitute bribes (art. 12(1), (2)).

- Continue efforts to promote the participation of civil society in the prevention of and fight against corruption and to raise public awareness (art. 13).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

The Criminal Justice (International Cooperation) Act 1993 (as amended) (CJICA) is the principal legislation for international cooperation, together with the Mutual Legal Assistance (United States) Act 1990 for the United States of America and the Mutual Legal Assistance (Tax Matters) Act for related matters. This is underpinned by the provisions of POCA and relevant subsidiary legislation, including, notably, the Criminal Justice (International Co-operation) (Enforcement of Overseas Forfeiture Orders) Order 2017 (SI44/2017) and the Proceeds of Criminal Conduct (Enforcement of External Confiscation Orders) Order 2017 (SI43/2017). The former deals with forfeiture orders where a defendant is deprived of title to property by operation of law, whereas the latter deals with confiscation of benefits derived by a defendant from criminal conduct following a conviction. The orders were not available online at the time of review.

Pursuant to SI43/2017 and SI44/2017, assistance may be provided in response to requests from the "appropriate authorities" of requesting countries, as specified in the schedules to both orders. Where no country or authority is specified, either a certificate is required from the Governor recognizing the foreign authority (SI43/2017, section 6), or the authority appearing to the court to be the appropriate authority is recognized (SI44/2017 section 2).

BVI has also published a Handbook on International Cooperation and Information Exchange 2013 to serve as a guide for regulators, judicial and law enforcement officials.

BVI authorities, including FSC, spontaneously share information where there is enough evidence to justify direct communication with foreign counterparts. In other cases, the main channels of cooperation are FIN-NET and the Egmont Group.

BVI has entered into treaties pertaining to international cooperation on asset recovery with the United States of America (1990) and the United Kingdom of Great Britain and Northern Ireland concerning the Cayman Islands (1986). BVI does not make the provision of assistance in accordance with POCA conditional on the existence of a relevant treaty.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The BVI regulatory and supervisory regime includes requirements for customer and beneficial owner identification and verification (Section 19, COP, explanatory note), record-keeping (Regulation 8-11, AMLR; Part VI, COP) and the reporting of suspicious transactions (sections 18 and 56, COP).

Enhanced due diligence must be carried out for high risk customers and transactions, including politically exposed persons (PEPs), domestic and foreign, their immediate family members and close associates (section 22, COP, explanatory note). FIA is established as the reporting authority for suspicious transaction (section 18, POCA; sections 18 and 56 COP).

FIA maintains a secure database of beneficial ownership information on corporate and legal entities registered in the BVI, the "Beneficial Ownership Secure Search System". At present, the only foreign law enforcement authority that may request such information from the BVI is the UK National Crime Agency (schedule 2, Beneficial Ownership Secure Search System Act 2017).

Information about enhanced due diligence requirements for higher risk customers and transactions such as legal persons and arrangements, third party arrangements and foreign jurisdictions is provided in the COP. In addition, FSC, on a regular basis, publishes the FATF and CFATF Public Statements identifying jurisdictions with strategic deficiencies in their AML frameworks, and FSC has issued advisory warnings to alert the regulated sector as to the identity of particular entities engaged in fraudulent or illegal practices. Additionally, upon an appropriate request from a foreign State, FIA can reasonably request financial institutions, through their money-laundering reporting officers, to conduct enhanced scrutiny of particular natural or legal persons.

"Shell banks" (including anonymous accounts and accounts established and operated under fictitious names) are prohibited under Section 16A of the Banks and Trust Companies Act 1990. In addition, correspondent relationships with "shell banks" or with respondent banks that provide correspondent banking services to "shell banks" are prohibited under Part IV of COP.

With the exception of RIA, which requires elected officials to declare their beneficial interests and those of their family members in any property, there are no rules or requirements for financial disclosure by other public officials. As noted above, public officials are required to disclose conflicts of interest, which may include certain financial interests, pursuant to provisions in the Criminal Code and human resources policy. Information disclosed pursuant to RIA can be shared with foreign competent authorities for the purposes of criminal investigations.

There is no requirement for public officials having an interest in or signature or other authority over a foreign financial account to report that relationship to the authorities or to maintain records related to such accounts.

As noted above, FIA is the designated financial intelligence unit of BVI (FIAA, section 4(1)(2)).

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Civil proceedings to directly recover assets located in the BVI may be instituted by foreign States in accordance with the jurisdictional and procedural requirements of the Eastern Caribbean Supreme Court. Any person with a sufficient interest in a matter has legal standing to initiate a civil action, pursuant to the ECSC Civil Procedure Rules 2000, as amended. There are no limitations on the recognition of property ownership, whether as a local or foreign, natural or legal person, as well as unincorporated bodies of persons (section 36(1), Interpretation Act).

Section 27 of the Criminal Code provides that a court may order any convicted person to make compensation to any person injured, in person or property, in addition to other punishment that may be imposed. Subsection 2 further permits injured persons to bring actions and for the court to make awards of compensation, taking into account any compensation previously paid pursuant to a court order.

When making confiscation orders pursuant to POCA, the court may take into consideration any claims for damages instituted or about to be instituted by victims and issue such orders as it considers appropriate, including for compensation (sections 6(4), 7(3), 26 POCA).

POCA (section 7), SI43/2017 and SI44/2017 establish the legal framework for the registration and execution of foreign confiscation orders and for the issuance of restraint orders. Confiscation orders concerning assets connected to the laundering of proceeds of criminal conduct, including money-laundering, may also be made under section 6 of POCA.

Orders for restraint of property may be made to enforce the freezing and seizure orders of requesting States, or where foreign proceedings have commenced and it appears that an external forfeiture order will be made (SI44/2017, section 5).

Non-conviction-based confiscation is not available. Legislation is being reviewed to consider whether relevant measures should be adopted.

Unless a request to preserve property for confiscation is received from another State, there is no provision to preserve property for confiscation. An Assets Seizure and Forfeiture Bill is underdevelopment and received its first reading in the House of Assembly on 22 February 2020, subsequent to the country visit.

To date there have been no cases where a foreign confiscation order was registered or where authorities in the BVI have frozen, seized or traced property based on a foreign mutual legal assistance request. However, in 2014 a request for restraint of certain companies involving offences of foreign bribery and money-laundering was successfully granted and an application for the discharge of the order was granted in 2015.

The BVI Handbook on International Cooperation and Information Exchange 2013 deals, inter alia, with the content of requests for assistance and the manner of transmission. Section 18A of POCA further addresses the content requirements of applications for restraint and charging orders (SI43/2017, section 11), while Section 6 of SI44/2017 addresses content requirements of applications for restraint orders. Additionally, for the purposes of enforcing external confiscation orders, section 5 of SI43/2017 stipulates the type of evidence the requesting country should provide.

CJICA (section 5) specifies requirements that should be met and grounds for refusal of assistance.

There is no requirement to consult with a requesting State before lifting provisional measures or refusing assistance.

A court will not exercise its powers of disposal of forfeited property without first providing an opportunity for persons holding an interest in the property to make representations to the court (SI44/2017, section 7; SI43/2017, section 19).

Return and disposal of assets (art. 57)

Forfeited property shall be disposed of in accordance with the court's directions and may be returned to a foreign State if directed by the court on a case by case basis (SI44/2017, section 7). There is no policy or government directive on asset return.

BVI has shared assets with Bermuda pursuant to a memorandum of understanding in a specific criminal case (2008). There have been no other agreements or arrangements on asset recovery to date. If required, the BVI would consider entering into appropriate legal instruments for the disposal of

assets with other States. Decisions would be taken on a case-by-case basis, upon mutual agreement.

BVI bears the costs of mutual legal assistance. Section 21 of POCA provides that any expenses incurred under the Act shall be defrayed out of money provided by the Legislative Council.

3.2. Challenges in implementation

It is recommended that BVI:

- Eliminate the restrictions in SI43/2017 and SI44/2017 that limit assistance to only those "appropriate authorities" included in the Schedules of those orders, and otherwise ensure that the widest measure of assistance may be provided to requesting countries pursuant to the aforementioned orders; furthermore, publish the aforementioned orders (art. 51).
- Permit foreign law enforcement authorities other than the UK National Crime Agency to make requests to the FIA for beneficial ownership information of corporate and legal entities registered in the BVI, with a view to enhancing the prevention and detection of corruption, money-laundering and other serious crime (art. 52(1)).
- Consider expanding financial disclosure requirements beyond elected officials to other categories of public officials (art. 52(5)).
- Consider requiring appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to the authorities and to maintain records related to such accounts (art. 52(6)).
- Consider adopting measures to allow for confiscation without a criminal conviction (art. 54(1)(c)).
- Adopt measures on the preservation and management of seized and forfeited assets related to foreign criminality, such as on the basis of a foreign arrest or criminal charge (art. 54(2)(c)).
- Provide for consultations with requesting States before lifting provisional measures or refusing assistance (art. 55(8)).
- Enhance the spontaneous sharing of information with foreign authorities through direct communication channels other than FIN-NET and the Egmont Group, where intelligence or information could be relevant to foreign investigations or prosecutions (art. 56).
- Update the BVI Handbook on International Cooperation and Information Exchange 2013 in light of recent legislative developments (arts. 51, 54, 55).