



Home Office

Request for Mutual Legal Assistance in Criminal Matters

Guidelines for Authorities outside of the United Kingdom

March 2022



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Part 1 – Introduction to Mutual Legal Assistance in the UK

What is Mutual Legal Assistance?

Mutual Legal Assistance (MLA) is a method of cooperation between States for obtaining assistance in the investigation or prosecution of criminal offences. MLA is generally used for obtaining material that cannot be obtained on a law enforcement to law enforcement basis (see **Part 3** for more details), particularly enquiries that require coercive measures. Requests are made by a formal International Letter of Request (ILOR or LOR), also known as *Commissions Rogatoires* in civil law jurisdictions. This assistance is usually requested by courts or prosecutors and is therefore also referred to as 'judicial cooperation'.

MLA can also be used to obtain assistance in relation to the freezing and confiscation of the proceeds of crime and associated investigations (see **Part 4** for more details). Proceeds of crime matters can be on a criminal (conviction) basis or a civil (non-conviction) basis.

Due to the increasingly global nature of crime, MLA is a critical tool to support criminal investigations and proceedings both in the UK and in other jurisdictions. The UK is committed to assisting investigative, prosecutorial, and judicial authorities in combating international crime and can provide a wide range of MLA. As mentioned above, MLA is also a vital tool in the pursuit of criminal finances. This includes recovery of the proceeds of crime that may have been moved and assets hidden overseas.

These guidelines are intended to ensure that requests for MLA received by the UK contain sufficient relevant information so that they can be acceded to and executed quickly and efficiently. The guidelines include sections on:

- Guidance to authorities who wish to make a **formal request for MLA** to the UK ('requesting authorities'), including in respect of Service of Process, Transfer of Proceedings, and Restraint and Confiscation of property.
- Guidance to authorities on what information or assistance can be obtained in the UK **without** having to make a formal MLA request.

Role of central authorities in the UK

Central authorities have the function of receiving, acceding to and ensuring the execution of MLA requests. All MLA requests to the UK **must** be sent to a central authority for consideration. The UK has three central authorities with distinct responsibilities as follows:

- Home Office **UK Central Authority** ('UKCA') for MLA requests in England, Wales and Northern Ireland, **excluding** investigations relating solely to tax and fiscal customs matters.
- **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, the payment of tax credits.
- The **Crown Office** for MLA requests relating to assistance in Scotland (including devolved Scottish tax matters).

Contact details for all relevant UK authorities can be found [here](#).

Crown Dependencies and UK Overseas Territories

The Crown Dependencies (Bailiwicks of Guernsey, Jersey, and the Isle of Man), and the British Overseas Territories (Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falklands, Gibraltar, Montserrat, St Helena, Turks and Caicos Islands, and Pitcairn) are not part of the UK.

The Crown Dependencies and the Overseas Territories are wholly responsible for executing requests within their own jurisdictions.

The Crown Dependencies and British Overseas Territories each have their own legal systems, independent of the UK. MLA requests for the Crown Dependencies or the British Overseas Territories must be sent to the relevant Attorney General, or equivalent. The contact details for many of these jurisdictions can be found [here](#).

Requests for intelligence, through Interpol, from the Crown Dependencies, Falklands and St Helena should be submitted via the UK's National Crime Agency (NCA) at the email address: manchester@nca.gov.uk.

The other Overseas Territories host their own Interpol sub-bureau and therefore intelligence requests for these territories should be submitted directly.

Types of Assistance

There is a wide range of MLA that can be provided by the UK conditional on the correct criteria being met. Please refer to **Part 3** of the guidelines for information about the most common types of MLA.

In some cases, evidence can be obtained via **law enforcement to law enforcement cooperation** or by requesting it voluntarily without the formal assistance of a UK central

authority. Where such cooperation is available for a specific measure this is highlighted in **Part 3**.

International Agreements and Arrangements

The UK is party to a number of bilateral and multilateral MLA treaties (see this [link](#) for a list of the international agreements that the UK is party to).

The UK can provide MLA to any country or territory in the world, irrespective of whether that country is able to assist the UK, and whether there is a bilateral or multilateral agreement.

Where an agreement imposes specific conditions or procedures, the UK expects these to be adhered to in order to ensure a response to the request for assistance.

Mutual legal assistance requests from European Union Member States (EUMS) should be made with reference to the Council of Europe's [European Convention on Mutual Assistance in Criminal Matters 1959](#), and its two additional protocols, supplemented by the [EU-UK Trade and Cooperation Agreement](#).

The European Investigation Order ('EIO') is a European Union (EU) measure for facilitating the MLA process between participating EU Member States. Since the United Kingdom's withdrawal from the EU on 31 January 2020, it can no longer accept EIOs.

Please note that the following **no longer apply** to the UK:

- European Investigation Order (EIO),
- The 2000 Convention and related Protocol on Mutual Assistance in Criminal Matters,
- Therefore, an EIO can no longer be issued to obtain evidence located in the UK or, in reverse, to obtain evidence located in EU member states for use in UK criminal investigations or proceedings.

Reciprocity

The UK does not generally require reciprocity but would expect assistance from countries which are parties to relevant bilateral or international agreements with the UK. The UK would also expect reciprocity from countries to which we give assistance without a treaty or an international agreement. Reciprocity is required in all requests for assistance in tax matters.

Confidentiality

It is standard policy for central or executing authorities to neither confirm nor deny the existence of an MLA request, and not to disclose any of its content outside government departments, government agencies, the courts or enforcement agencies in the UK without the consent of the requesting authority.

Where public statements are made by an overseas authority about the assistance it is requesting from the UK, the central authority should be notified so that they may respond appropriately to any media or public enquiries.

In general, requests are not shown or copied to any witness or other person, nor is any witness informed of the identity of any other witness. Some disclosure may be necessary for the execution of an MLA request (for example confirming the existence of a request to a witness to explain the purpose of taking a statement). If the confidentiality requirements of an MLA request make execution of a request difficult or impossible, the central authority will consult the requesting authority. In cases where disclosure of a request, or part of a request, is required by UK domestic law in order to execute the request, it will normally be the case that the requesting authority will be given the opportunity to withdraw the request, before any disclosure to a third party is made.

Collateral or Further Use – Requests made by the UK

Evidence obtained **by the UK** pursuant to an MLA request made to an overseas authority will not be used for any purpose other than that specified in the original request without the consent of the appropriate authority (see [section 9\(2\)](#) of Crime (International Co-operation) Act 2003 ('CICA') and also the Court of Appeal decision of [Crown Prosecution Service & Anor v Gohil \[2012\]](#)).

Collateral or Further Use – Requests made to the UK

Where a requesting authority wishes to use evidence obtained **from the UK** for a different purpose to that stated in the original MLA request, or to share the evidence or any personal data provided with a third country, a formal request to do so must be made in writing by the original requesting state to the relevant central authority in the UK and contain the following information:

Request to use Evidence for Other Purposes:

- The central authority's reference number relating to the original request.
- What evidence is to be used/shared.
- How this evidence will be used/shared.

- Why this evidence is needed in this new/other investigation/court proceedings.
- Whether the investigation/court proceedings are criminal in nature.
- Cite any provisions in multilateral or bilateral treaties, or other agreements, concerning collateral use, if applicable.

Please note that the above list is not exhaustive. The central authority may ask for further details as required in the circumstances.

Law Enforcement (Police) Cooperation

Such cooperation relates to police, or other law enforcement agencies, in a requesting state asking for the assistance of police or law enforcement agencies in the UK to gather information for an investigation. This can sometimes be an easier and quicker way to obtain intelligence and, where applicable, evidence, as it does not require a mutual legal assistance request.

Law enforcement cooperation can also better inform the drafting of an MLA request if one is later made.

In asset recovery cases, it is essential that asset tracing is conducted via law enforcement cooperation as this cannot be done via mutual legal assistance (further information on asset recovery requests can be found in [Part 4](#) of this guidance).

In many countries' legal systems, information collected by UK law enforcement agencies is directly admissible as evidence in criminal proceedings with the permission of UK law enforcement. For instance, countries which, under their domestic law, do not require evidence to be sworn by a witness, suspect or victim in a court can consider using law enforcement cooperation to request information to be used as evidence.

If direct contact between an overseas 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 different jurisdictions (in some cases this will be subject to a data sharing agreement or memorandum of understanding):

- UK Liaison Bureau at Europol, via the NCA.
- Interpol via NCA.

- Home Office (including the UK Border Force and Immigration Enforcement).
- HMRC.
- Police Services, via International Crime Coordination Centre (ICCC).
- Financial Intelligence Units.
- [International Anti-Corruption Coordination Centre](#) (for grand corruption cases).

European Judicial Network in Criminal Matters

The European Judicial Network (EJN) is a network of national contact points for the facilitation of judicial cooperation in criminal matters. Details about the network as well as useful information on judicial cooperation, including national systems and tools, is available at [European Judicial Network \(EJN\) \(europa.eu\)](#).

Civil Matters

Please note that MLA requests to the UK relating to civil matters are dealt with by different authorities than those dealing with MLA requests in criminal matters.

MLA requests to and from the UK relating to civil matters are dealt with in accordance with the [Civil Procedure Rules Part 34](#), and separately from criminal requests. Obtaining evidence from other jurisdictions in respect to civil litigation (which encompasses commercial litigation) is included within the [Evidence \(Proceedings in Other Jurisdictions\) Act 1975](#).

Internationally, the various Hague Conventions set procedures for the governance of civil matters. The link to the UK page is [here](#).

Service of Documents in Civil Cases

England, Wales, and Northern Ireland

The transmitting agency can send the documents to be served directly to the Royal Courts of Justice (RCJ), following the process outlined below. However, if the documents are sent via the Foreign, Commonwealth and Development Office (FCDO) then the FCDO would become the transmitting agency:

- Complete a Hague Request form, available from [here](#), please note that the RCJ require two fully completed request forms for each set of documents.
- Include two sets of documents, one set for service and the other set for return.

- Provide the documents in hard copy (CDs or USBs or any other non-paper format cannot be served).
- All documents, including the request form, must be translated in English.
- There is no fee for the service, other than the cost of postage.

The RCJ will send a certificate of service or non-service to the relevant transmitting agency.

Requests for the Service of Documents in International Civil Cases	Requests for Service of Documents and Taking Evidence in Civil Matters
Premium Service Legalisation Office Foreign, Commonwealth & Development Office King Charles Street (Sanctuary Buildings) London SW1A 2AH	Royal Courts of Justice Group Queen's Bench Division Foreign Process Section Room E16 Royal Courts of Justice Strand London WC2A 2LL
Telephone: +44 20 7008 4126	Telephone: +44 20 3936 8957
Email: SOPEnquiries@fcdo.gov.uk	Email: foreignprocess.rcj@justice.gov.uk

Scotland

Requests for the Service of Documents in International Civil Cases
The Central Authority & International Law Team Scottish Government Justice Directorate St Andrew's House Regent Road Edinburgh EH1 3DG

European Judicial Network in Civil and Commercial Matters

There is a European Judicial Network (EJN) for Civil and Commercial Matters [website](#) where a large quantity of information about the EU Member States, Community law, European law and various aspects of civil and commercial law can be found.

Part 2 - How to make a Mutual Legal Assistance Request

Is MLA Appropriate?

In some cases, an MLA request is not suitable because:

- The material can be obtained **voluntarily** without any assistance from UK authorities (although UK law enforcement should be notified).
- The material can be obtained via **law enforcement to law enforcement cooperation** (see **Part 1** of these guidelines) because it is only required for intelligence purposes, or material obtained in this way is admissible as evidence in the requesting authority's jurisdiction.

It is often desirable for overseas authorities to **obtain intelligence** prior to making an MLA request, through law enforcement to law enforcement cooperation. This can help improve the quality of the MLA request and makes it less likely that a request will be returned to the requesting authority for lack of information.

Requests for assistance in **civil matters** are dealt with by a different process, as explained in **Part 1** of these guidelines.

Who can send an MLA Request?

Any competent body under the law of the requesting country may issue a request to the UK. This includes a court exercising criminal jurisdiction or a prosecuting authority outside the UK.

Where to send an MLA Request?

Requests for MLA must be sent to the [relevant central authority](#).

Requests which do not comply with the requirements set out below may be returned to the requesting authority and may not be executed.

Information to be included in an MLA Request

Please note that where there is an agreement in place with a requesting country that stipulates that a standard form should be used, MLA requests should be contained on the relevant form with each section fully completed as appropriate.

If there is no requirement for the use of a standard form, the UKCA nevertheless recommends that requests are made using the example request templates on the [MLA website](#).

Where a standard template is not used, a Letter of Request should include the following information. This is in addition to the information required for the specific type of assistance requested, details of which are outlined in **Part 3**:

Covering letter	Relevant dates e.g. date of court hearing (reason for special urgency or attention should be included in the covering letter of request).
Headed Notepaper or Official Letterhead	Please ensure your letter of request comes on the official letterhead of the issuing authority and is signed.
English Translation	For requests not made in the English language: please provide one signed version of the non-English request <i>and</i> one translation of the request into English.
Details of the Issuing Authority	Include the name of the authority (including the domestic power for that authority to issue a request) and the person making the request, the contact address, telephone number and email address.
Previous Requests	Include reference numbers or case names of any previous requests sent to the UK that are linked to the request being sent.
Legal Basis of the request	Please clearly indicate whether the request is made on the basis of a bilateral or multilateral treaty, convention or on grounds of reciprocity (please see this link for conventions and treaties the UK is party to).
Copy of the Legislation	This should only be the relevant section(s) that details the offence and the criminal conduct under investigation, including the penalties associated with the offence(s) and the rights a person may be afforded.
Media interest / High Profile / Sensitive cases	If applicable, please give details of any media attention, sensitivities, or reasons for high profile interest in the case.

Relevant dates	When seeking evidence covering a specific time period, please ensure that the date range requested is justified. The dates need to reflect the criminal activity of the investigation, requests should not be generic.
Suspects/Person of Interest	Full details of the suspects under investigation and/or any persons of interest. Please include, if known, the full name, date of birth, address, nationality and numbers of any passport or identity cards. Include details of their connection to the UK and any contact or personal details, including, where available, address/location, date of birth and nationality (<i>if confidential this can be sent separately to the request</i>). Please indicate whether any person named in the request is a witness, suspect, defendant or victim.
Summary of facts	Provide a summary of the facts of the case under investigation. Include: when the investigation started, details of any intelligence received and from where, details of the suspects' involvement and their criminal activity. Include: dates when the criminal conduct occurred and details of the link between the investigation and the UK. Please clearly show the connection between the evidence requested and the offence under investigation or proceedings (i.e why the evidence is necessary). A clear <i>nexus</i> must be established. This goes further than just stating that the requested material is relevant to the case. Please note that we do not require complete case files or copies of all the evidence obtained in an investigation.
Type of assistance requested	List the measures you are seeking. Explain what evidence you wish to obtain, where this evidence is located and details of why this can only be obtained from the UK.
Details of any pre-MLA enquiries	Include details of any enquiries made with UK law enforcement or intelligence services, providing any UK

	contact details if available.
Urgent Cases	If applicable, please provide details about why the request is categorised as urgent for example: • somebody is being detained in custody. • somebody is due to be released from custody. • pre-trial court appearances or trial dates. • there is an immediate risk to individuals. • risk of dissipation of assets etc. and provide the dates of any deadlines which need to be met.

Failure to provide the fullest information possible may result in delays or in a request not being executed in whole or in part. Please note that requests for formalities such as certification or authentication will be considered and complied with to the extent permissible under domestic law.

Format of a Request

Requests must always be made in writing. A request should be sent electronically (e.g. in a 'pdf' format via official email or secure file transmission, such as [Egress](#)), however an original hardcopy may be requested.

Egress File Sharing Platform:

- Secure encrypted digital data sharing platform.
- Egress enables overseas authorities to both send and receive documents securely via an encrypted link, removing the need for, and inherent challenges of using, post and email.

Transmission

The UK does not require requests to come via diplomatic channels and central authorities are content to receive requests directly. However, the requesting authority will need to comply with its own domestic laws relating to the transmission of requests.

More information on transmitting requests can be found [here](#).

Procedural documents can be served on affected individuals directly by post. Please see further details on this in **Part 3**.

Please do not send any indecent images or original evidence to the UKCA or other UK central authorities. The requesting state will be advised as to how such material should be sent once the MLA request has been reviewed and referred to an executing authority.

Timescales

Where the treaty basis provides for a timescale, the standard timescales will apply unless any urgency is stated or an extension of time is agreed.

Urgent Requests

All UK central authorities will consider any reasons for urgency which are clearly stated in the request.

If you consider that your request is urgent, please clearly mark it as '**URGENT**' and clearly explain the reasons why it has been categorised as such.

Possible Reasons for Urgency:

- Someone is being detained in custody.
- Someone is due to be released from custody.
- There are impending pre-trial court appearances or trial dates.
- There is an immediate risk to individuals (e.g. safeguarding concerns present).
- The offending is ongoing.
- There is a risk of dissipation of assets etc.

(This list is not exhaustive)

Queries about Active Requests

Once a central authority has received a request for MLA, the request will be logged and given a reference number.

The requesting authority will be written to with the contact details of the team dealing with their case. Any subsequent correspondence relating to the MLA request should quote the central authority's reference number.

Notification where Assistance is No Longer Required

If the requested assistance is no longer required, the central authority should be informed immediately, quoting the central authority reference number.

Supplementary and Linked Requests

Requests which relate to a previous request can be sent to the central authority as a linked or supplementary request.

Information to include in a Supplementary and/or Linked Request:

- A Statement that this request is linked to a previous request.
- The central authority's reference number for the previous request.
- All the information relevant to a standard MLA request (see above), plus any further information relating to the specific type of additional request.

De Minimis Requests

UK executing authorities have limited public resources available, and *de minimis* (trivial or disproportionate) MLA requests may be refused by the UK Central Authority on this ground if they meet the criteria (or comparable criteria) set out below:

- There has been a financial loss or gain or damage of **less than £1000**,
- or*
- The alleged offence was committed **more than 10 years ago** (and there is no, or insufficient, explanation for the delay in investigation or prosecution).

When considering the above criteria relating to a *de minimis* request, the following factors are also considered:

- Whether there are any aggravating factors.
- Whether a UK prosecuting authority would send a request in similar circumstances.
- Whether the request is for a 'coercive' measure.
- Whether there are resource implications for executing authorities.

Please note that the *de minimis* policy does not apply to requests made by European Union Member States under the European Convention on Mutual Assistance in Criminal Matters 1959 and the two additional protocols, as supplemented by the EU-UK Trade and Cooperation Agreement.

The Crown Office in **Scotland** and **HMRC** do not apply a *de minimis* policy.

Dual Criminality

The UK generally only requires dual criminality for coercive measures including search and seizure, production orders (including banking evidence), and restraint and confiscation. A ‘conduct’ based approach is taken, that is to say that the conduct underlying the alleged offence is considered when assessing dual criminality, rather than seeking to match the same offence or offence category in both jurisdictions.

Cost of Executing Requests

Ordinarily the UK will meet the costs of executing a request, however there are exceptions which include:

- Fees and reasonable expenses of **expert witnesses**.
- Costs of **transferring persons in custody**.
- Costs of obtaining **transcripts of proceedings** and judges’ sentencing remarks (see Trial Transcripts / Sentencing Remarks below).
- Costs of an **extraordinary nature** agreed with the requesting authority (these will be agreed before costs are incurred).
- The **interpretation and/or transcription** of video-link proceedings (if this is required).

Refusal of MLA Requests

In practice the UK accedes to most requests received and there is a presumption that MLA will be provided where all the requirements of the investigative measure under UK law have been met. However, the UK central authorities retain a wide discretion when considering whether to accede to a request.

Possible Grounds for Refusal include:

- The request relates to an investigation or prosecution which is politically motivated.
- The execution of the request would prejudice the sovereignty, security, or other essential interests of the UK.
- The execution of the request would prejudice the *ordre public* of the UK (this includes the risk that the death penalty will be imposed for the crime under investigation).

- Double Jeopardy: The request relates to a person who, if proceeded against in the UK for the offence for which assistance is requested, would be entitled to be discharged on the grounds of a previous acquittal or conviction. *(Please note: the UK's definition of double jeopardy encompasses convictions or acquittals in any country. Double jeopardy does not apply where there was a previous investigation, but no charges were brought).*
- The request relates to an offence that the UK regards as an offence under military law, which is not also an offence under ordinary criminal law.
- There are substantial grounds for believing that the request has been made for the purpose of investigating, prosecuting or punishing a person on account of his/her race, gender, sexual orientation, religion, nationality, ethnic origin or political opinions or that person's position may be prejudiced for any of those reasons.
- The request is 'De Minimis': By reason of the trivial nature of the alleged offending, the low value or lapse in time since the offending behaviour (see above).
- The request is for a coercive or intrusive measure for which the UK requires dual criminality and in respect of which there is no equivalent UK offence (see above).
- The assistance sought will contain personal data and the provision of that data is not possible under UK data protection legislation.

The UK conducts a human rights assessment when considering the provision of assistance overseas. Further information on how the UK considers human rights issues in the context of the provision of assistance can be found in the [Overseas Security & Justice Assistance](#) (OSJA) guidance.

Part 3 – Types of Assistance

This section details the forms of assistance the UK can provide and the specific information which should be included in MLA requests. This is in addition to the information required for all MLA requests as outlined in [Part 2](#).

Service of Process – Direct Transmission

Procedural documents may be sent **directly** by the requesting authority to the persons in the UK to whom they relate. The UK strongly encourages direct transmission of procedural documents to persons by post, unless this is not legally possible under the domestic law of the requesting authority.

Article 16 of the [second additional protocol](#) of the European Convention on Mutual Assistance in Criminal Matters 1959 provides for procedural documents and judicial decisions to be posted directly.

Service via a Central Authority

In line with [sections 1 and 2](#) of the Crime (International Co-operation) Act 2003 ('CICA'), a request may be made to the UK Central Authority or the Crown Office for the service of procedural documents (e.g. a summons or judgment) issued by a court or authority in the requesting state in relation to criminal proceedings. HMRC is not a central authority for the purpose of the service of documents.

The central authority will serve the documents by post, or personally by hand if requested. Where personal service is specifically requested, the central authority can arrange for the document to be served by the police.

Most requests for service of process via a central authority will be accepted if the requirements set out below are met. There may be other requirements to meet in particular cases, and requesting authorities are therefore urged to provide detailed information on the MLA request including:

Requests for Service of Process:

- Details of any law/procedure in the requesting state which require the service of process to be via a central/judicial authority in the requested state.
- Specific instructions as to whether the documents must be served by hand. If no such instruction is provided the documents will be served by post.
- All dates of hearings or other deadlines should be stated clearly within the request.

- The documents should be received by the central authority at least six weeks prior to court hearings or other deadlines involved.
- Details of any allowances and expenses to which a person asked to appear in proceedings abroad is entitled.
- The address of the court where the proceedings are to take place.
- The name and telephone number of an official of the overseas court from whom the person asked to appear can seek further information if necessary.

In **England, Wales** and **Northern Ireland**, for non-fiscal cases, the person on whom a summons or judgment is served will be asked to sign a receipt and return it to the UKCA for transmission to the requesting authority, but the person is under no obligation to do so. Additionally, the person on whom a summons or judgment is served will be advised that the process has no legal effect in the United Kingdom but that they may wish to take advice as to the effect in the issuing country.

The UKCA will advise the requesting authority whether the document has been delivered or whether it was not possible to serve the document.

In **Scotland**, the citation shall be served upon the person by either a police officer or police employee. The police officer or employee shall complete an execution of service which shall be returned to the requesting authority. The person shall be asked to sign a receipt but is under no obligation to do so.

Statements and Interviews

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Statements or Interviews	✓	✓

If the requesting authority's legal system does not require evidence to be taken on oath, the MLA request should ask for the evidence to be obtained from a witness, suspect or victim as a statement or via an interview. This will require the **consent** of the individual.

Requests for statements from, or interviews with, witnesses, suspects or victims can be made on a law enforcement basis, should the requesting country's legal system allow it.

The police or other law enforcement officers are not authorised to administer oaths in the UK. In the UK evidence can only be made subject to an oath before a court (see

below). Unless a request specifically requires that evidence be given on oath, testimony will be taken without an oath being administered. This is considerably quicker and less resource intensive.

In cases where an individual refuses to cooperate with a statement or interview, it may be possible to compel the individual to attend court.

However, the witness can exercise **the right against self-incrimination** and **refuse to answer** any questions at court. Therefore, if a witness has been uncooperative by refusing to provide a statement or consent to an interview, summoning that individual to court may not be beneficial as they may refuse to answer the questions put to them (see '[Evidence on Oath/in Court](#)', below).

Requests for Statements or Interviews to be taken by the Police or other Law Enforcement agencies:

- Clearly explain whether the individual to be interviewed is a witness, suspect or victim.
- Provide the individual's address or last known address.
- A list of questions to be asked should be provided.
- The language(s) which the person understands should be provided if possible.
- Details of any procedure to be followed in taking the evidence, including any rules on privilege which a witness or suspect may be entitled to claim. This will be complied with as far as is possible under UK law.
- Any caution or formal notification of rights which should be given to the witness or suspect under the law of the requesting state. This will be complied with as far as is possible under UK law.

Contacting persons in the UK

Witnesses, victims, suspects and defendants, must **not** be contacted directly unless UK law enforcement agencies have first been informed, except where that contact is direct service of process. Once UK law enforcement has been notified and consented, the witness can be contacted directly.

Evidence on Oath/in Court

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Evidence on Oath	X	✓

Requests for evidence can be 'sworn' or taken on oath by a court. It is also possible to take evidence in court without an oath ([schedule 1](#), paragraph 3 of CICA provides that "*the court may take evidence on oath*") if this is allowed under the law of the requesting state.

Although a court nominated under [section 15](#) of CICA has the power to summons an individual to attend court, it should be noted that paragraph 5 to [schedule 1](#) of CICA makes it clear that a person cannot be compelled to give any evidence before a nominated court which they could not be compelled to give in criminal proceedings in the UK or in the requesting state. Of relevance in this context are:

- the privilege against self-incrimination; and
- the provisions in UK domestic law that a person *charged* with an offence cannot be compelled to give evidence in his own trial.

Requesting authorities are asked to give very careful consideration as to whether a request should be made for an individual to be compelled to attend court where they have already been uncooperative with the investigation/proceedings (for instance if they already refused to give a statement to the police).

An individual can be compelled to attend court but if applicable **may exercise the right against self-incrimination and remain silent** - so compelling a witness to court is unlikely to increase the chances of any evidence being obtained in some circumstances.

Ultimately it is for the central authority to decide whether to nominate a court and the central authority will take into account all the circumstances when making this decision including details of any legal or procedural requirements under domestic law and the effect on the investigation or prosecution if a person is not compelled to court.

In **Scotland** a Procurator Fiscal (Scottish Prosecutor) is required to crave a warrant from a Sheriff (lower judge) to cite the witness/suspect to the relevant Sheriff Court. The Sheriff is independent from the prosecution service and may refuse to grant the warrant if there is no dual criminality, insufficient facts provided in the letter of request or for any other reason(s) he may see fit.

Request for Evidence (Testimony) To Be Taken Before A Court:

- Expressly state whether the evidence must be taken before a court, and whether this must be on oath.
- Explain why it is necessary for the evidence to be taken in court, rather than by police or other law enforcement officer in interview.
- Provide a list of questions to be asked.
- Provide details of the requesting authority's procedure to be followed in taking the evidence, including any rules on privilege which a witness or suspect may be entitled to claim. This will be complied with as far as is possible under UK law.
- Any caution or formal notification of rights which should be given to the witness or suspect under the law of the requesting state. Central authorities will aim to comply with such procedures and requirements as far as is possible under UK law.

Privilege

If an individual claims privilege under the law of the requesting state, and if the requesting authority concedes the claim, evidence will not be taken. Where the claim is not conceded, the evidence may be taken but will not be sent to the requesting authority until a court in the requesting state rules on the matter.

Hearings via Video or Telephone Conference

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Hearing by Video Conference	X	✓
Hearing by Telephone Conference	X	✓

Video Conference (Television Link)

The basis for hearing witnesses in the UK through video conferencing is [section 30](#) of CICA. Under section 30, where the UK receives an MLA request, the video link must be made from UK court premises in the presence of a UK judge (see [Schedule 2 of CICA](#) for the powers of the nominated court and protections for the witness).

Please note that the UK has a reservation to the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters 1959, to the effect that it

will not allow video links to be used where the witness in question is the defendant or the suspect and the hearing is, or forms part of, the trial of that person.

If the requesting authority is unable to dial in to the UK, they will be charged for video conferencing (Scotland does not invoice requesting authorities for the costs of the television link).

Please note that HMRC is not able to arrange video conferences (television links).

Requests for Evidence via Telephone Conference:

- Please try to ensure that at least eight weeks' notice is given prior to the date of the video conferencing hearing.
- A proposed time of day that the link should be heard and the length of time that the witness is required.
- Email address of someone in the requesting authority that can be contacted at short notice who will provide technical assistance.
- Sufficient information to enable the central authority to identify and contact the witness(es).
- Include the language of the witness, if known.
- Details of the requirements of the procedure to be followed in taking the evidence, including any rules on privilege which a witness may be entitled to claim.
- Any caution or formal notification of rights which should be given to the witness under the law of the requesting state.
- Details (if known at the time) of the technical requirements for establishing the link to ensure compatibility.

Telephone Conference

The basis for hearing witnesses in the UK through telephone conferencing is [section 31](#) and [schedule 2](#) of CICA. This section only applies to relevant participating countries and does not apply to requests processed by HMRC.

Requests for Evidence Via Telephone Conference	
✓	Please try to ensure that at least eight weeks' notice is given prior to the date of the of the telephone link hearing.
✓	Confirmation that the witness has expressly agreed to give evidence via telephone link.
✓	The name and address of the witness to be questioned.
✓	Details of the procedure to be followed in taking the evidence, including any rules on privilege which a witness may be entitled to claim.
✓	Any caution or formal notification of rights which should be given to the witness or suspect under the law of the requesting state.

Search and Seizure

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Search & Seizure	X	✓

It is not sufficient for an MLA request to be accompanied by a search warrant issued by an authority in the requesting state. A search warrant issued by a UK court will be required.

Central and executing authorities in the UK do not have the authority to issue search warrants themselves; the executing authority must apply to a UK court to issue a search warrant.

In addition, requests for search and seizure require **dual criminality**. If the evidence requested can be obtained via less intrusive methods (without obtaining and executing a search warrant), then these should be attempted, and the requesting state will be contacted to discuss options.

The following types of material cannot be the subject of a search warrant:

- “**excluded material**” which includes confidential journalistic records, medical records and samples, counselling records.
- “**legally privileged material**” which includes material relating to advice provided by a

solicitor to his client unless this material is held with the intention of furthering a criminal purpose.

Special considerations apply for “special procedure material”, which includes other confidential business records and non-confidential journalistic material. In most cases this will be obtained by way of a production order rather than a warrant (see production orders below). However, there are circumstances where a warrant can be issued in relation to special procedure material. For example, where the service of notice of an application for a production order may seriously prejudice the investigation or where a production order relating to the special procedure material has not been complied with. In which case, if other conditions are met, a warrant for the search and seizure of the special procedure material may be issued.

Requests for Search and Seizure of Evidence	
✓	The conditions in section 8 of Police and Criminal Evidence Act 1984 (‘PACE’) will need to be met (or Schedule 1 of PACE in the case of a special procedure material warrant).
✓	There must be dual criminality.
✓	A full description of the criminal conduct concerned is required.
✓	The full address/addresses, or a precise description of any place to be searched.
✓	A full explanation as to where the specific material or type of material is expected to be recovered from, such as within the house, garage premises, garden premises.
✓	Details of how the place to be searched relates to the case/suspected person.
✓	Full details of the specific material or type of material to be seized (it will not usually be sufficient to simply state “evidence relevant to the investigation”) and any information available which indicates that the material requested may be held on computer.
✓	Why the material requested is considered both relevant and important evidence to the investigation or proceedings.
✓	Why the evidence is thought to be on the particular premises or in the possession of the particular person concerned.
✓	Why the material would not be produced to a UK court if the natural or legal person holding the material were ordered to do so by means of a witness summons (this is to help ensure that applications to the UK courts for search warrants are successful and less likely to fail or be subject to subsequent legal challenge).
✓	Appropriate undertakings for the safekeeping and return of any seized evidence.

- | |
|--|
| ✓ If it is anticipated that law enforcement officers may come across 'special procedure material' during the course of a search. |
| ✓ Details of any officials from the requesting state who wish to participate in the search and why their presence is necessary (please note – we prefer officers from the requesting state to be involved in the search where possible). |
| ✓ Any other information which would be of operational use to the executing authority in connection with the execution of the request. |

It is also recommended that consideration of a search warrant is discussed on a law enforcement basis prior to the MLA request being made.

Seizure of Computers and other Storage Media

Only in exceptional circumstances would computers, smartphones or other storage media (or images of them) be provided direct to a requesting authority. Usually, such devices would not be provided to a requesting authority as these devices would almost always contain material which was not covered by the original warrant under which the seizure would have been made.

Upon seizure, these devices are examined or downloaded by the UK police officers, who will ensure that the material was included in the original warrant and does not contain material which is legally privileged. Following a search of the material by UK police, it may be necessary for officers from the requesting state to visit the UK to be involved in examination.

Where further information is required about the offence or the material to be seized, depending on the particular circumstances, the UKCA will inform the requesting authorities without delay. Notification of interested parties is not required where an application is made for a search warrant.

Search and Seizure Requests in Scotland

The Crown Office in Scotland may direct a Procurator Fiscal (prosecutor) to obtain a search warrant from a Sheriff before the relevant Sheriff Court. With regard to the dual criminality test, the equivalent crime in Scotland must be an offence punishable by imprisonment ([section 18\(1\)\(b\)](#) of CICA). Neither the police nor HMRC can apply for a search warrant in Scotland. Interested parties are not notified of the application for a search warrant.

The concept of legal privilege applies equally in **Scotland**.

Production Orders

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Production Order	X	✓

Production Orders are generally used to obtain specified material often referred to as 'Special Procedure Material', typically from financial institutions or accountants. They are required because law enforcement officers are usually unable to get the evidence voluntarily from banks and other organisations who are under a professional duty not to disclose any client material without a court order.

There will also be large corporate organisations who, although they may not be under a professional duty to withhold material, will prefer a court order before handing information to law enforcement officers.

Examples of Special Procedure Material (non-exhaustive)
✓ Communications content (see below for more detail). ✓ Banking evidence. ✓ Records held by accountants etc. ✓ Corporate records held in confidence.

Production Orders: Process in England & Wales and Northern Ireland

Once a request for special procedure material is accepted by the central authority, where it does not require a warrant (see 'Search and Seizure' above), the central authority will issue a direction under [section 13](#) of CICA for the police to apply to the court for a production order under [section 16](#) of CICA (production orders can also be obtained under Article 6 of the [Proceeds of Crime Act 2002 \(External Investigations\) Order 2014](#) for the purposes of restraint and confiscation investigations).

The application for a production order will be made in the Crown Court to a circuit judge and will normally be applied for on notice (*inter partes* to the organisation that holds the information) to ensure that the respondent (for example a bank) has an opportunity to be represented in the court that is hearing the application. Where the organisation does attend, the central authority will consult the requesting authority to ensure that the execution of the request will not breach any confidentiality requirement.

A production order under the [Proceeds of Crime Act 2002 \(External Investigations\) Order 2014](#) can be obtained *ex parte*. To note, if such a hearing might prejudice any confidentiality requirement in the requesting state, this must be explicitly referred to in the request in order for an *ex parte* application to be considered. The central authority will advise on any further information required in order to apply for an *ex parte* hearing.

Production Orders: Process in Scotland

A direction is sought from the Lord Advocate under [section 13](#) of CICA to crave a search warrant under [section 18](#) of CICA. The respondent will then submit the relevant documentation and witness statements to the police in answer to the warrant which in turn will be forwarded to the requesting authority.

Banking Evidence

Asset tracing should be completed before making a request for banking evidence (see [Part 4](#) regarding asset tracing).

Information to be Obtained <i>Before</i> Making a Request for Banking Evidence
✓ Name of the financial institution.
✓ Name of the account holder.
✓ Number of the account.
✓ The address and/or number ("sort code") of the branch of the bank where the account is held.

Once this information has been obtained the request should contain all of the following:

Request for Banking Evidence
✓ Details of account(s) (as above).
✓ Grounds for believing that banks in the UK hold account(s) and to the extent available, which banks may be involved.
✓ The time period over which the information is sought (an explanation must be given for any period that falls outside the time framework for the investigation).
✓ Specific documents required (e.g. account opening information, bank statements, etc) and relevance to the investigation.
✓ Confirmation that there is dual criminality.

Please be aware that the retention policies of banks vary at around **5 years**.

Please note that the UK Central Authority receives a high volume of requests to obtain banking evidence in England and Wales and this may reduce the speed at which a request is executed.

Cryptocurrency

For requests for evidence from UK based cryptocurrency exchanges, information equivalent to what is needed for banking evidence enquiries should be provided. Therefore, requests should include information such as:

- The subject user ID.
- The wallet address(es) or IDs.

Additionally, cryptocurrency exchanges may require some of the following identifiers:

- Payment descriptions and/or transaction references.
- If using the exchange to buy cryptocurrency or covert cryptocurrency to fiat currency, the sending/receiving IBAN (International Bank Account Number), including the bank sort code and account number and the amount sent/received, in national (fiat) currency.
- The date and time the transaction(s) took place.
- Additional identifiers (could include name of account holder, date of birth, email address and telephone number).

Account Monitoring Orders

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Account Monitoring Order	X	✓

An Account Monitoring Order enables transactions on a particular account to be monitored for a specified period of time. Account Monitoring Orders under [section 35](#) of CICA **only** apply to an investigation into serious criminal conduct by a 'participating country'.

Requests for An Account Monitoring Order under CICA:
✓ The request must be from a 'participating country' as designated by an order made by the Secretary of State or, in relation to Scotland, the Scottish Ministers
✓ Specify a 'financial institution' and accounts held there by a specified person.
✓ There is an investigation in the requesting state into criminal conduct.
✓ The order is sought for the purposes of the investigation.

Account Monitoring Orders can also be requested under [Part 5](#) of the [Proceeds of Crime \(External Investigations\) Order 2014 \(POCA Order\)](#).

Requests for An Account Monitoring Order under Part 5 of the POCA Order:

- ✓ Account Monitoring Orders may be obtained for the purpose of an external investigation, relating to a criminal investigation or criminal proceedings in the requesting state provided that the investigation falls within the definition set out in [Part 8](#) of POCA 2002:
- ✓ [Part 8](#) of POCA deals with two types of investigation.
- ✓ A confiscation investigation, which is an investigation into:
 - a) whether a person has benefited from his criminal conduct, or;
 - b) the extent or whereabouts of his benefit from his criminal conduct.
- ✓ A civil recovery investigation, which is an investigation into:
 - a) whether property is recoverable property or associated property,
 - b) who holds the property, or;
 - c) its extent or whereabouts.
- ✓ The request must show that there are reasonable grounds for believing that the account information requested is of substantial value to the external investigation, and that it is in the public interest for the account information to be provided.

Communications and Content Data

*There is a difference between Communications **Data** and Communication **Content***

- ✓ **Data** can be obtained through a request to the network provider and includes details of call times (made and received), telephone numbers, call lists, call location, message times (sent and received), details of who is registered to the telephone number.
- ✓ **Content** is made up of the substance of the above information, for example, the actual content of the messages sent, recording history on the IP address of any calls made, social media content, messages and search history.

Communications Content

Communications content can also be obtained via a production order. Please note it is possible to request the preservation of content data through law enforcement channels pending the execution of an MLA request (see 'Requests for Preservation of Communications Data' below).

Communications Data

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Communications Data	✓	✓

Communications data refers to the “**who**”, “**when**”, “**where**” and “**how**” of a communication but **not the content** of the communication. This includes text messages and emails (excluding content) as well as phone calls. Communications data can be requested on a law enforcement cooperation basis.

If the request is accepted, the request will be referred to the relevant law enforcement agency, who will obtain the evidence under the **Investigatory Powers Act 2016**.

If the requesting authority requires the evidence to be sworn in court by an employee of the communications service provider, from which the communications data is sought, the central authority will then nominate a court to receive the evidence under [section 15](#) of CICA (see above for evidence on oath).

Service providers are only legally required to retain data for 12 months in the UK. Although some service providers such as contract phone providers may keep billing data for up to 6 years. It is possible to request the preservation of communications data via law enforcement channels (see below).

Requests for Communications Data should include:
✓ The type of data required e.g. subscription details, incoming calls, outgoing calls.
✓ An explanation as to why the time periods of the data requested are required.
✓ Why the information is necessary for the investigation. This must include the offence under investigation, how the specific person is linked to the investigation and how the data requested links to the offence and the person specified.
✓ Why the data is proportionate to the investigation e.g. what it is expected to show and how the data will be used.
✓ Information concerning the source of the telephone numbers.
✓ The exact date, time and place of the incident under investigation.
✓ Full details of the individuals involved in the incident and the roles they played.
✓ Why the objectives of the investigation cannot be achieved by other means.

- ✓ Explain whether the privacy of any individual not under investigation will be infringed, and why the circumstances of the case justify such an intrusion.

Requests for Preservation of Communications Data

In order to prevent communications data from being deleted, or its format or condition changed, it is possible to request its immediate preservation pending the issuing and executing of an MLA request. The request for preservation deals simply with freezing the data sought in its current state and will not allow the immediate disclosure of information, by the service provider, without the relevant information being sought through the formal MLA channels. Due to the time it often takes to draft and process MLA requests, without a preservation order by the time a central authority receives an MLA request for communication data, the data may have been deleted or lost.

Requesting authorities are therefore recommended to seek preservation of data directly from the service provider or through law enforcement cooperation channels, until making the formal MLA request. The G7 protocol and the European Convention on Cybercrime known as the [Budapest Convention](#) facilitate securing and preserving preservatons of volatile data for member states whilst more time-consuming legal requests are processed.

Preserving and protecting volatile data whilst legal process is served

A particular concern when an MLA request asks that electronic evidence is obtained is that it can often take many weeks for an MLA request to be completed. There is a process to expedite the protection of computer data which could quickly become altered or destroyed, particularly as different countries have different regulations relating to how long such data is stored before it is deleted (in the UK it is usually 12 months but see 'Making a request for preservation of data' below).

The NCA Infrastructure Investigations team (part of the NCA's National Cyber Crime Unit) serve as the UK's 24/7 Network point of contact for both the [Budapest Convention](#) and the G7 Roma–Lyon agreement (see contact details below). These 24/7 Networks are centred on transnational mutual cooperation with other relevant international single points of contact. Through these networks, counterparts of member agencies can request the securing and maintaining of data and accounts with the relevant UK service provider in a short space of time. The UK team are responsible for all computer data preservation requests to the UK and all requests made to the UK.

Using the NCA G7 (including Budapest Convention) team, and their international equivalent teams, allows for expedited and expert advice and processing with regard to ensuring volatile electronic data is not lost or otherwise altered before it can be used in legal proceedings. The types of data that are preserved under the two agreements include

IP addresses, email address, domain names, social media accounts and cryptocurrency identifiers, but can cover other areas.

Making a request for preservation of data

As a minimum, the following information will be required for a preservation request, and requests will be assessed on a case-by-case basis:

- A short summary of the investigation including which laws have been broken (the criminality and which legislation was breached).
- Identifiers with time/date and time zone of relevance (i.e. IP, domain, email, account name and date/time to the second in UTC time format where applicable).
- What needs to be preserved and how the identifiers are linked to the criminality.

Requests in to the NCA G7 team should be coordinated by the requesting country's equivalent 24/7 single point of contact team as a signatory to either or both, the [Budapest Convention on Cyber Crime](#) or the G7 Roma–Lyon agreement (together these cover over 100 countries).

Please note that if the company which holds the data is a Telecommunications Operator (TO) they will store data for 12 months, but non-TO companies will normally preserve the data for a set amount of time - often this is 90 days, but this varies from company to company. This means the requesting authority may have to request extensions to the preservation until the MLA request is complete, but the NCA G7 (including Budapest Convention) team will advise on this according to the specific situation.

Contact Details for the NCA G7 – Infrastructure Investigations team:

- ✓ Email: G7@nca.gov.uk
- ✓ Address:
Infrastructure Investigations
National Cyber Crime Unit
National Crime Agency
PO Box 8000, London
SE11 5EN

Live Interception of Communications

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Interception of Communications	X	X

Please note that the UK is no longer party to any international agreements which expressly allow for the interception of communications under MLA. The central authorities are therefore unable to accept MLA requests for the interception of communications from any country.

Passport Information and Immigration Status

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Passport Records/Immigration Status	✓	✓

Requests for this information can be sought through law enforcement cooperation. All MLA requests will be referred to HM Passport Office, UK Visas and Immigration or Immigration Enforcement, as appropriate.

Passport Information / Immigration Status
✓ Details of person (name, date of birth and place of birth if known).
✓ Passport number (current and previous).
✓ State whether the request relates to the prevention and detection of crime or apprehension or prosecution of an offender.
✓ How the data being sought links to the offence being investigated.

Company Records

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Company Records	✓	✓

It is recommended that prior to requesting assistance from UK authorities that consideration is given to conducting open-source internet searches on companies, their directors' addresses and telephone numbers.

Information about a company in **England, Wales, Northern Ireland** or **Scotland**, can be found on the Companies House [website](#).

Companies House searches can be made from this [page](#) which links to other Companies House services to help find information on companies, some of which are free.

Criminal Records

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Criminal Records	✓	✓

Although requests for criminal records may form part of a wider formal MLA request, requesting authorities **should not normally** obtain criminal record information from the UKCA (**England**, **Wales** and **Northern Ireland**) or the Crown Office (**Scotland**), but should use law enforcement cooperation.

Requests from EU Member States

EU Member States should exchange criminal record information directly with the United Kingdom via the UK's Criminal Record Information System (UK-CRIS).

Part 3 Title IX of the EU-UK Trade and Cooperation Agreement provides for the exchange of criminal records data between the UK and individual EU Member States through a shared infrastructure, supplementing Articles 13 and 22(2) of the European Convention on Mutual Assistance in Criminal Matters 1959, and its Additional Protocols. The arrangements include streamlined and time-limited processes for exchanging criminal records information and specify that information can be exchanged for crime prevention and safeguarding purposes.

The UK has declared that the central authority to which requests for conviction information should be made is the [ACRO Criminal Records Office](#) (ACRO) – the UK Central Authority for the Exchange of Criminal Records. As such, EU Member States should send requests for criminal records to ACRO.

Contact Details for ACRO
✓ www.acro.police.uk/s/contact-us

EU Member States must make requests for criminal records via their own central authority for the exchange of criminal records. The criminal record information provided through shared technical infrastructure is transmitted through a standardised format which facilitates automatic translation and recognition of criminal offences.

If a central authority (Home Office or Crown Office) receives a request for criminal records from an EU Member State the request will be redirected to the designated UK Central Authority for the Exchange of Criminal Records, this will slow down the request process.

Requests from Non-EU Member States

Requests for criminal records from countries outside of the EU should be made on a law enforcement to law enforcement cooperation basis via the NCA.

Judicial Records

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Judicial Records	✓	✓

In **England & Wales** and **Northern Ireland**, all criminal cases start in the Magistrates' Court. More serious cases are then transferred to the Crown Court. The name of the court of conviction and date of sentence can be found on the criminal record (see 'Criminal Records' above).

In **Scotland**, the prosecutor can raise proceedings in the Justice of the Peace Court or Sheriff Court. Cases related to serious crime begin in the Sheriff court and can then continue to proceed there or be transferred to the High Court of Justiciary.

Court Certificates

EU Member States should request court certificates **directly from the relevant court**. A copy of the criminal record (see above) must be attached to the request, which will also contain the name of the sentencing court. Contact details for courts in **England and Wales**, **Northern Ireland**, or **Scotland** can be found on their respective websites.

Requests from EU Member States sent to the UKCA or Crown Office in error will be referred to the relevant court (if the name of the court has been provided by the requesting state), but this may delay a substantive response.

Non-EU Member States must request court certificates from the relevant central authority.

A Court Certificate from a Magistrates Court (Memorandum of Conviction) may contain:
✓ Defendant's personal details.
✓ Whether or not the defendant was represented.
✓ Type of offence.

✓ Plea.
✓ Type of sanction (including length of sentence imposed).

A Court Certificate from a Crown Court (Certificate of Conviction) may contain:
✓ Defendant's personal details.
✓ Details of the legal representatives for the defence and prosecution.
✓ Whether the defendant was in detention during the trial.
✓ Date of hearing.
✓ Date of conviction.
✓ Date of sentence.
✓ Charges against the defendant, plea and verdict.

If <i>specifically</i> Requested the Court may also provide:
✓ Information on the use of an interpreter during the proceedings, and if not used, the reasons why.
✓ The identity of defence counsel in the proceedings.
✓ The status of any appeal against Conviction(s)/ Sentence(s).

Trial Transcripts / Sentencing Remarks

To obtain a full trial transcript or sentencing remarks a request can be made to the relevant central authority for a transcript of the tapes, but please be aware that transcripts are not retained indefinitely. **However, in most cases the costs of obtaining the transcripts or sentencing remarks must be met by the requesting authority**, as they are considered costs of an extraordinary nature.

Process in England, Wales and Northern Ireland

Serious criminal cases are dealt with by a Crown Court and a full court transcript of the trial may be available.

There is no written note made during the court hearing, instead Crown Court hearings are recorded and the recording is kept for a certain number of years. Transcripts obtained from these recordings can be very expensive. This is regardless of whether the request is from a UK authority or from an overseas authority. **The cost of any transcript will be high and will need to be met by the requesting judicial authority.**

Rather than obtain the whole trial transcript, it is possible to obtain a smaller part of the transcript known as the ‘**sentencing remarks**’. This is the final part of the trial where the judge at the Crown Court makes a summary of the case when sentencing the defendant. However, this is not the same as the formal written summary used in other jurisdictions and the level of detail the judge will provide (e.g. about the circumstances of the offence and the conduct of the defendant) will vary from case to case.

Further details on the provision of transcripts, including prices, can be found on the form [EX107](#).

Please note that a Magistrates Court (where all criminal cases start) is not a court of record and so court transcripts will not be available for matters dealt with at these courts.

Process in Scotland

A transcript of proceedings is only retained in cases of serious crime where the accused is indicted before a Judge/Sheriff and a jury. However, the transcript is the property of the court and an application must be made to the Court for that to be disclosed. **The cost of any transcript will be high and will be required to be met by the requesting judicial authority.**

Request for Transcripts or Sentencing Remarks
✓ A copy of the UK-CRIS report if the request is from an EU Member State, or if the request is from a non-EU member state, the following information must be included: • Name of relevant court. • Date of hearing. • Date of sentence.
✓ Written confirmation in English that such evidence is required.
✓ Written confirmation in English that the requesting authority will pay for the costs of acquiring such evidence.
• If these confirmations are not received at the time of the request a substantive response is likely to be delayed.

Temporary Transfer of a Prisoner for Purposes of Investigation

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Temporary Prisoner Transfer	X	✓

Under [section 5](#) of the Criminal Justice (International Cooperation) Act 1990, a UK prisoner can be **temporarily** transferred abroad to assist with overseas criminal investigations and proceedings. Prisoners cannot be transferred from the UK without their consent. Requests for temporary transfers of prisoners (Temporary Prisoner Transfer) must be sent to a central authority (see further details below).

Before agreeing to the transfer, the relevant central authority must be satisfied that the presence of the prisoner is not already required in that part of the UK for the purposes of investigations or proceedings and that the transfer would not prolong the prisoner's period of detention.

Where the transfer is agreed with the requesting authority, the central authority arranges for:

- The prisoner in custody to be taken to a departure point in the UK and to be delivered into the custody of a person representing the requesting authority.
- The prisoner to be escorted back to the UK by the requesting authority.
- The subsequent transfer of the prisoner in custody from the arrival point in the UK to his or her place of detention.

The costs of escorting and accommodating prisoners from their point of departure from the UK to their point of return to the UK are met by the requesting authority.

The central authority will liaise with the respective prison services in **England** and **Wales**, **Scotland** and **Northern Ireland** to ensure that the prisoner is taken to a point of departure in the UK and then taken back into prison custody when the requesting authority has completed their process.

The transfer of a prisoner to the requesting state is temporary. The obligation to return the person to the UK continues even if the prisoner is a national of the requesting state. Assurance must be provided that the transfer is temporary and that the UK will not be required to seek extradition for the prisoner to be returned to the UK.

Process in England and Wales

HM Prisons and Probation Service (HMPPS) would expect a **minimum of three weeks'** notice to arrange the transfer of a prisoner from an **English** or **Welsh** prison to a point of

departure. This is because transfers between prisons takes place by scheduled booked transport and advance notice is required. Further information can be found [here](#).

Contact Details for the HM Prisons and Probation Service (HMPPS)

- ✓ Email: crossbordertransfers@justice.gov.uk
- ✓ Address:
Cross Border Transfer Section
HM Prison and Probation Service
Post Point 1.22, 1st Floor
Southern House
Croydon
CR0 1XG

Process in Northern Ireland

Where a request has been made for a transfer of a prisoner from **Northern Irish** custody the prison service in this jurisdiction will manage the handover of prisoners in line with their operational instructions. For further information contact the [Northern Ireland Prison Service](#), which is part of the Department of Justice in Northern Ireland.

Process in Scotland

Where a request is to be made for the transfer of a prisoner in a Scottish prison, the request must be sent to the Crown Office which will liaise with the Scottish Prison Service. When it is agreed the request will be executed by the Scottish Prison Service who would also expect a minimum of three weeks' notice for the same reasons as set out above.

However, given the cost, staff resources and risk assessment in ensuring safety to the public in transferring a prisoner across borders, consideration should be given to the prisoner giving evidence by video conference or, as has happened in Scotland, the prisoner giving evidence before a Scottish Court constituted with the prosecution, defence and judge of the requesting jurisdiction.

For further information contact the International Cooperation Unit at the Crown Office or for practical arrangements on the return of the prisoner, the Scottish Prison Service.

Contact Details for the Scottish Prison Service

- ✓ Telephone: **+44 131 244 8745**
- ✓ Address:
Scottish Prison Service Headquarters
Communications Branch
Room G20
Calton House
Redheughs Rigg
Edinburgh

Temporary Transfer of Prisoners to the Requesting State to Assist an Investigation

- ✓ Dates on which the presence abroad of the prisoner is required, including the dates on which the court or other proceedings for which the prisoner is required will commence and are likely to be concluded.
- ✓ Information for the purpose of obtaining the prisoner's consent to the transfer and satisfying the UK authorities that arrangements will be made to keep the prisoner in secure custody such as:
 - whether the prisoner will have immunity from prosecution for previous offences.
 - details of proposed arrangements for collecting the prisoner from and returning the prisoner to the UK.
 - details of the type of secure accommodation in which the prisoner will be held in the requesting state.
 - details of the escort available abroad to and from the secure accommodation.

Transfer of a Prisoner for the Purpose of Serving the Remainder of a Prison Sentence (*non-MLA Prisoner Transfer*)

The MLA central authorities **do not** deal with requests for the transfer of prisoners for purposes of ensuring they serve the remainder of a prison sentence or any other non-MLA basis.

Further details for **England** and **Wales**, **Northern Ireland** and **Scotland** can be found [here](#).

Intimate/Non-Intimate Samples (including DNA)

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Intimate/Non-Intimate Samples	✓	✓

The UK can consider an MLA request for intimate samples to be taken from an individual; however, the UK has no power to compel an individual to do so.

DNA

Exchanges of information with EU Member States relating to DNA profiles held on the UK's DNA database take place according to Title II of Part 3 of the TCA. These exchanges are processed through the UKICB (UK International Crime Bureau) at the NCA on a law enforcement to law enforcement cooperation basis. Information provided under this mechanism will be on an '**intelligence only**' basis.

Outside of data exchanged under the TCA mechanism, a DNA profile which is held by the UK will generally **not be transferred** abroad as part of an MLA request for the purposes of matching it to a crime scene profile in the requesting state. If a request for DNA matching is made, the requesting authority should send the crime scene profile to the UK for matching. This enables it to be checked against the individual concerned and against other profiles held on the UK's National DNA database. This type of request can also be made on a law enforcement to law enforcement cooperation basis.

However, in certain cases the UK will give permission for a UK-owned DNA profile to be transmitted abroad and such MLA requests will be reviewed on a case-by-case basis, considering the necessity and proportionality of the request. The requesting state should state whether the DNA profile is required as evidence and any requirements which need to be met to ensure its admissibility.

Fingerprints

As with DNA, the UK will generally look to carry out comparisons with overseas crime scene marks in the UK. The requesting authority should therefore send the crime marks to the UK for matching against the UK database. This type of request can also be made on a law enforcement to law enforcement cooperation basis.

However, MLA requests seeking the transmission of UK-held fingerprint records will be reviewed on case-by-case basis, considering the necessity and proportionality of the request. The requesting state should state whether the fingerprint record is required as evidence and any requirements which need to be met to ensure its admissibility.

Requesting states should always consider whether the requested DNA or fingerprint records can be obtained on a law enforcement to law enforcement cooperation basis as opposed to MLA. Law enforcement requests should be directed via Interpol.

Foreign Officers in the UK

If officers from the requesting state wish to be present during the execution of an MLA request, for example to participate in a search or to be present during the interview of a witness, this must also be requested in the MLA request. The central authority, in conjunction with the authority executing the request in the UK, will determine whether this is appropriate.

The requesting authority must give reasons as to why officers from the requesting state should be present. It may be beneficial to have the investigating officer present, for example:

- if it is a very complex case, or
- is a request for search and seizure.

However, if it is not justified for an officer of the requesting state to be present this request will be refused.

Even if the presence of officers is accepted and the request is successfully executed, evidence will not automatically be given to the officers who were present during the execution. However, it may on occasion be practical to transfer the evidence through accompanying officers. In this case UK police must seek authorisation from the UK central authority.

Notifying the UK of Law Enforcement Officers Travelling to the UK

The relevant local police force in the UK **must** be made aware in advance if law enforcement officers for the requesting state are due to travel to the UK. However, if the requesting state is unable to contact/identify the local police force, the NCA can assist and pass on notification.

The relevant local police force in the UK **must** also be notified in advance if law enforcement officers are due to travel to the UK to conduct official business **even if this is not pursuant to MLA**.

Before travelling, officers should check relevant UK Government websites, such as:

- [Entering the UK - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Coronavirus \(COVID-19\): jobs that qualify for travel exemptions - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Coronavirus \(COVID-19\): international travel and managed isolation \(quarantine\) - gov.scot \(www.gov.scot\)](https://www.gov.scot)

Transfer of Proceedings

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Transfer of Proceedings	X	✓

Proceedings should take place in the jurisdiction where most of the criminality occurred, or, if this is not possible, where the harm was felt. In practice, the UK's common law system of adversarial proceedings and live witness examination tends to be incompatible with a process in which the proceedings have been transferred from another jurisdiction.

The UK is **not** a signatory to the [Council of Europe Convention on the Transfer of Proceedings in Criminal Matters](#) 1972 and has a reservation to the Council of Europe [European Convention on Mutual Assistance in Criminal Matters 1959](#) which states that “...the Government of the United Kingdom reserves the right not to apply Article 21”.

Incoming requests to transfer proceedings to the UK are decided on a case-by-case basis.

Note: A UK bank account is not a sufficient link to transfer proceedings to the UK.

Request for Transfer of Proceedings	
✓	The offence leading to the criminal proceedings must constitute a crime in both the UK and the requesting state.
✓	There must be evidence of a clear and established link to the UK.
✓	The request must be made as soon as is reasonably possible. Any unreasonable delay (more than 5 years) must be explained.
✓	The request is not <i>de minimis</i> (see Part 2 of these guidelines).
✓	Must be translated into English (including supporting documents).

If accepted, the request will be forwarded to the relevant police force or law enforcement agency, and the case will be given the same status and priority as would be given to a similar domestic case.

In **England, Wales** and **Northern Ireland** it is up to the police or law enforcement agency to decide whether an investigation is conducted.

In **Scotland** the Crown Office will instruct the police to commence an investigation and shall consider the results before any decision on prosecution is made.

Transfer of Crime Reports

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Transfer of Crime Reports	✓	X

Transfer of crime reports into the UK should be on a law enforcement to law enforcement basis through Interpol channels.

Transferring a crime report into the UK refers to a situation whereby an individual who has been the victim of a crime in the UK chooses to report it to authorities in his or her country of residence instead of in the UK. This may be for several reasons including language barriers, a lack of understanding of the UK legal system or because of the trauma or distress at the time. The expectation is that the details of the alleged crime are sent to the UK for the police to consider conducting an investigation.

Spontaneous Exchange of information

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Spontaneous Exchange	✓	✓

If a country has information relating to a criminal offence which may be relevant to the UK or concerns an offence in the UK, then a central authority may receive this information and, if accepted, will pass this on to the relevant law enforcement body. This process is possible under some bilateral and multilateral MLA treaties. Spontaneous exchange of information is also possible via law enforcement to law enforcement cooperation and will be channelled through the NCA.

Europol or Eurojust

In urgent cases spontaneous information from EU Member States may be transmitted via Europol or Eurojust, in line with the provisions in the EU-UK Trade and Cooperation Agreement.

Fraud

Action Fraud is the national reporting centre for fraud and cybercrime where fraud should be reported if someone has been scammed, defrauded or experienced cybercrime in **England, Wales** and **Northern Ireland**.

Reports can also be made in other languages by visiting <http://www.actionfraud.police.uk/languages>

For fraud in **Scotland** please report it directly to Police Scotland.

Joint Investigation Teams

A Joint Investigation Team (JIT) is a written agreement between two or more countries to carry out an investigation for a specific purpose and time period and with a view to prosecutions in one or more countries.

A JIT allows team members from different countries to share information without the need for a formal letter of request and is therefore an *alternative* to MLA; advantages of setting up a JIT can include:

- ✓ Parallel investigations are progressed in tandem: agreement on venue for prosecution, 'Joint Action Days' and streamlined sharing of information.
- ✓ Efficiency: avoids the need to use often slower MLA channels to exchange information (resource, cost and time effective) and ability to share information in 'real-time'.
- ✓ Funding: Eurojust JIT funding available to all countries in a JIT where there is at least one EU Member State involved (covers travel, translation, and equipment costs).
- ✓ The involvement of **any** country in the world (subject to the necessary legal foundation being in place).

A JIT involving the UK can be set up under a single, mutually applicable instrument:

- Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters 1959.
- Article 19 of the United Nations Convention against Transnational Organised Crime ("UNTOC").
- Article 9 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
- Article 49 of the United Nations Convention against Corruption (UNCAC).

Eurojust has developed their expertise in drafting and negotiating JITs and is also a potential source of funding for JITs for EU Member States. Prosecutors or courts contemplating a JIT with the UK are advised to consult their National Desk at Eurojust to discuss the proposed case further.

Part 4 – Asset Recovery and Financial Enquiries

This section details the forms of assistance the UK can provide in relation to asset recovery and financial enquiries.

Overseas authorities may find the [Asset Recovery Handbook: A Guide for Practitioners, Second Edition](#), published by the Stolen Asset Recovery Initiative of the World Bank and United Nations Office on Drugs and Crime a helpful resource on asset recovery matters.

Asset Tracing

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Asset Tracing	✓	X

All asset tracing/identification of assets should be conducted on a law enforcement to law enforcement cooperation basis through the [National Crime Agency](#) or other law enforcement to law enforcement cooperation channels such as [CARIN](#). It is important to distinguish asset tracing from a request for evidential information about the ownership and value of assets located in the UK (see below).

Please note that there is **no central record of bank accounts held in the UK**. Information about location and ownership of bank accounts should be requested, where possible, on a law enforcement cooperation basis before making an MLA request.

See **Part 3** of these guidelines for information on how to obtain banking evidence through a production order and see the sections below for requests for restraint and confiscation of assets.

The UK has a range of investigative powers to obtain evidence for the sole purposes of an asset recovery investigation (both conviction and non-conviction based). It is important to note that the UK executing agencies will decide which investigative power is most appropriate to use in executing a request for evidence in asset recovery investigations.

Evidence may be requested for the purposes of the primary criminal investigation, which may then be used for any related asset recovery investigation or proceedings if consent is obtained, or this future use is stipulated in the MLA request.

Freezing (Restraint) in Criminal Proceedings

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Freezing of Assets	X	✓

Requests for Freezing of Assets

(Not under procedures outlined in Title XI of the EU-UK Trade and Cooperation Agreement, see below)

The purpose of a request for freezing is to preserve the value of assets located in the UK for confiscation (in the UK this type of freezing is known as “restraint”). Before making a request to freeze assets located in the UK, the following should be completed so that the relevant information is included in the request for restraint:

Before making a Request for Freezing of Assets,

- Use law enforcement to law enforcement cooperation through the NCA, International Anti-Corruption Coordination Centre - IACCC (for grand corruption cases) or international asset recovery networks such as CARIN to identify and trace assets in the UK (see above).
- Use, as necessary MLA, to obtain **evidence** of assets in the UK (e.g. to obtain banking evidence as referred to above).

Once this information has been obtained a request for freezing can be made to the UK via the UK Central Authority. Note that requests for freezing of assets also require **dual criminality**. The following should be included in the request:

Request for Restraint of Assets provide or confirm the following:
✓ There is dual criminality.
✓ Details of the ongoing (not concluded) criminal investigation into an acquisitive crime or money laundering or proceedings in the requesting state (please note it is not necessary to have laid charges before a request can be made or to have a domestic freezing order made in your courts).
✓ The material facts of the case – including any defence or explanation put forward by the defendant/suspect as to the ownership or location of assets.

✓ Why there is reasonable cause to believe that the defendant/accused named in the request has benefited (by obtaining money or other property) from his criminal conduct (note that the test is reasonable suspicion at the investigation stage).
✓ Why there are reasonable grounds to believe that the property may be needed to satisfy an external order which has been, or which may be made.
✓ Why the order is necessary – include an explanation that will enable the court to consider whether there is a real risk that the identified property will be dissipated if no order is made.
✓ The name, address, nationality, date and place of birth and present location of the suspect(s) or defendants whose criminal conduct has given rise to anticipated confiscation or forfeiture proceedings.
✓ Details of the property to be restrained in the UK, the persons holding it and the link between the suspect and the property (this is important if the property to be restrained is held in the name of a third party such as a company or another person).
✓ Whether prior assistance in the case (including asset tracing assistance) has been provided and, if so, details of the UK authorities involved, and details of the assistance already received. If assistance has not previously been sought or provided this should be clearly stated.
✓ Where applicable, details of any court orders already made in the requesting state against the suspect in respect of his or her property and a duly authenticated copy of that order certified by a person in his or her capacity as a judge, magistrate or officer of the relevant court of the requesting state, or by an official of the requesting authority. If no court orders have been made, this should be clearly stated (please note it is not necessary to have a domestic order to request freezing in the UK).
✓ If possible, brief details of all known property held by the suspect <u>outside</u> the UK.
✓ State clearly that property in the UK must be restrained because there are insufficient property/assets elsewhere. If there are property/assets located elsewhere but these cannot be frozen, this must be clearly stated by the requesting authority.
✓ State clearly whether or not you object to the UK courts allowing the defendant access to restrained funds for use as living and legal expenses and that you are content for the UK courts to assess what is a reasonable amount.

Without this information a court may be unable to grant an order to effectively freeze assets. It is not essential that an order is made domestically before you can ask the UK to freeze assets.

If the request is accepted, the central authority will decide who will execute a request and will refer it to the relevant executing authority. The executing authority will consider the application before applying to the court to obtain a freezing order (in the UK known as a restraint order) in line with the [Proceeds of Crime Act 2002 \(External Requests and Orders\) Order 2005](#) and [section 447](#) of the Proceeds of Crime Act 2002.

The CPS or SFO prosecutor may contact you directly to obtain supplemental information to assist with making the relevant application to the UK courts.

The executing authority dealing with the request will make the appropriate applications to the court for the assets to be frozen and will inform the requesting authority as soon as this has been done.

A copy of the UK freezing order must be served upon the suspect and any other person known to be affected by it as soon as is practicable. The UK courts will require an acknowledgement that this has been completed otherwise the UK court may discharge the order.

Please note: a UK court may also discharge the order if proceedings are not started, or the confiscation order is not registered, within a reasonable time. UK prosecutors may ask for regular updates on the case to ensure that this requirement continues to be met and will inform the requesting state of any potential challenges to the freezing order (including potential discharge).

Requests for freezing of Instrumentalities of Crime

“Instrumentalities of crime” covers any property which has been, is or is intended to be used in connection with the commission of an offence. [Section 4](#) of the [Criminal Justice \(International Cooperation\) Act 1990 \(Enforcement of Overseas Forfeiture Orders\) Order 2005](#) (‘2005 Forfeiture Order’) enables a UK court to make a freezing order based on an overseas request.

The requirements for a freezing of instrumentalities are similar to the requirements for freezing of assets (see above).

European Union Member States – Asset Freezing Requests

Please note: the provisions of European Union law on mutual recognition no longer apply to the UK.

Requests for assistance in relation to asset freezing should be made under the provisions of Title XI of Part 3 of the [UK-EU Trade and Cooperation Agreement](#).

Requests for asset freezing must be made on the appropriate form as annexed to the Trade and Cooperation Agreement; a template of this form can be found [here](#). Please note that this form must only be used for requests to freeze assets, and not for evidence to support an asset recovery investigation, which must be requested separately.

The form should be sent to the following central authorities:

England, Wales and Northern Ireland:

UK Central Authority - UKCA-AFC@homeoffice.gov.uk

Scotland:

Crown Office – coicu@copfs.gov.uk

Confiscation and Forfeiture in Criminal Proceedings

Type of Assistance	Law Enforcement Cooperation	Judicial Cooperation
Confiscation of Assets	X	✓

Requests for Confiscation

(Not under procedures outlined in Title XI of the EU-UK Trade and Cooperation Agreement, see below)

Confiscation is the registering and enforcing of the requesting state's order against assets in the UK. Requests for confiscation of assets require **dual criminality**.

Request for Confiscation of Property provide or confirm the following:

- ✓ There is dual criminality.
- ✓ Person named in the order is convicted and no appeal is outstanding in respect of that conviction.
- ✓ The order is in force and is not subject to appeal.
- ✓ All or a certain amount of the sum payable under the order remains unpaid in the territory of the requesting state or that other property recoverable under the order remains unrecovered there.
- ✓ The order has the purpose of recovering property, or the value of property received in connection with the commission of crime (for example the court order needs to have made a finding in relation to the property being, or representing, the proceeds of crime).
- ✓ The order made can be enforced outside the jurisdiction of the requesting state.
- ✓ The original or duly authenticated copy of the order must be provided with the request.
- ✓ The material facts of the case – including any defence or explanation put forward by the defendant/suspect, any facts that have come to light after the initial freezing order was made (if one has been made).
- ✓ The name, address, nationality, date and place of birth and present location of the person whose criminal conduct has given rise to the confiscation or forfeiture proceedings.
- ✓ Details of the property to be confiscated in the UK, the persons holding it and the link between the suspect and the property (this is important if the property to be confiscated is held in the name of a third party such as a company or another person).
- ✓ Whether prior assistance in the case (including asset tracing assistance) has been provided and, if so, details of the UK authorities involved and details of the assistance already received. If assistance has not previously been sought or provided this should be clearly stated.
- ✓ Details of all court orders already made in the requesting state against the suspect in respect of his or her property and a duly authenticated copy of that order certified by a person in his or her capacity as a judge, magistrate, or officer of the relevant court of the requesting state, or by an official of the requesting authority. If no previous court orders for freezing property have been made, this should be clearly stated.
- ✓ If possible, brief details of all known property held by the suspect outside the UK.

If the request is accepted, the central authority will decide who will execute a request and will refer it to the relevant authority accordingly, in line with the [Proceeds of Crime Act 2002 \(External Requests and Orders\) Order 2005](#) and [section 447](#) of the Proceeds of Crime Act 2002. Once referred, and provided that all the conditions are satisfied, the executing authority can ask the court to register the external confiscation order. This enables the terms of the order to be enforced.

Asset Disposal

Once the assets have been realised, they will be disposed of under one of three processes:

1. Corruption related asset recovery cases that fall under the provisions of the [United Nations Convention Against Corruption](#) (UNCAC) will be disposed of in accordance with Article 57 of that Convention.
2. Cases that do not fall under the provisions of UNCAC can be shared with the recipient country if there is provision in any applicable international law or if the UK enters into an asset sharing agreement.
3. If there is no formal agreement with a country or territory, there are administrative arrangements that allow assets to be shared on a case-by-case basis.

In the absence of any asset sharing agreement the assets will be retained by the UK and disposed of according to domestic law.

Matters of asset sharing and repatriation are dealt with by the International Asset Recovery Team at the Home Office (international-assetrecovery@homeoffice.gov.uk).

Forfeiture of Instrumentalities of Crime

Forfeiture orders allow for the deprivation or disposal of property which has been used, or which is intended to be used, in the commission of a criminal offence. The law and procedure are similar to confiscation as outlined above.

European Union Member States – Confiscation Requests

Please note: the provisions of European Union law on mutual recognition no longer apply to the UK.

Requests for assistance in relation to confiscation should be made under the provisions of Title XI of Part 3 of the UK-EU Trade and Cooperation Agreement and should be sent to the [relevant central authorities](#) (UKCA and the Crown Office).

Requests for asset confiscation must be made on the appropriate form as annexed to the Trade and Cooperation Agreement. Please note that this form must only be used for requests to freeze assets, and not for evidence, which must be requested separately.

Requests for non-conviction-based recovery

The UK is also able to assist on freezing and recovering assets on a non-conviction basis (civil recovery). This can only be done via mutual legal assistance and cannot be done through law enforcement channels. Before a request is made, law enforcement channels should be used to clearly identify assets held in the UK.

For freezing of assets, it is not necessary to send a domestic order. For final recovery, this is essential. The UK has a flexible asset recovery system and can assist where the route (either criminal or non-conviction based) is not necessarily determined at an early stage of the asset recovery process.

Non-conviction-based orders can be used when a conviction is not possible. However, UK non-conviction-based confiscation law requires the identified property to have been obtained as a result of, or in connection with, criminal conduct (or can be directly traced back to such).

Request for non-conviction based freezing or confiscation of Property provide or confirm the following:

- ✓ There does not have to be a criminal investigation or conviction but the criminal conduct underlying the recovery of property must have constituted an offence in the UK or would constitute an offence in the UK if it occurred here.
- ✓ Request must identify “relevant property” in the UK.
- ✓ Order which has been made or may be made relates to property found or believed to have been obtained as a result of or in connection with criminal conduct.
- ✓ For final recoveries, the order is in force and is not subject to appeal.

✓ All or a certain amount of the sum payable under the final order remains unpaid in the territory of the requesting state or that other property recoverable under the order remains unrecovered there.

✓ Why is it “just and equitable” to make the order in the UK having regard to the interests of any person who may have obtained the property “in good faith”.

✓ The final order made can be enforced outside the jurisdiction of the requesting state.

✓ The original or duly authenticated copy of the final confiscation order must be provided with the request for confiscation (no order is necessary for freezing).

✓ The material facts of the case including how the property is linked to the conduct, the property that is the subject of the case and any explanation as to how the property has been obtained that may have been given by any individuals in the investigation.

✓ Why the order is necessary.

✓ The name, address, nationality, date and place of birth and present location of any individuals.

✓ Details of the property to be confiscated in the UK, the persons holding it and the link between the suspect and the property (this is important if the property to be frozen is held in the name of a third party such as a company or another person).

✓ Whether prior assistance in the case (including asset tracing assistance) has been provided and, if so, details of the UK authorities involved, and details of the assistance already received. If assistance has not previously been sought or provided this should be clearly stated.

✓ Where applicable, details of any court orders already made in the requesting state and a duly authenticated copy of that order certified by a person in his or her capacity as a judge, magistrate or officer of the relevant court of the requesting state, or by an official of the requesting authority. If no court orders have been made, this should be clearly stated.

✓ If possible, brief details of all known property held by the suspect outside the UK.

To note:

✓ Requests must be compatible with human rights obligations.

✓ There is a limitation period of 20 years but if the court finds there has been deliberate concealment of facts relevant to the proceedings, the period can be extended.

- | |
|--|
| ✓ Any asset can be covered. |
| ✓ Cases may be settled ahead of a final order. |

If the request is accepted, the central authority will decide who will execute a request and will refer it to the relevant executing authority accordingly. The executing authority will consider the application before applying to the court to either obtain a UK freezing order or register the overseas freezing or confiscation order, in line with the [Proceeds of Crime Act 2002 \(External Requests and Orders\) Order 2005](#).

Part 5 - Glossary

This section provides a list of terms or words found in or relating to mutual legal assistance, with brief explanations.

A

ACRO	Criminal Records Office	ACRO manages the United Kingdom's Criminal Record Information System (UK-CRIS), which exchanges conviction information with EU Member States. This responsibility is designated by the Home Secretary to the chief constable of our host force, who delegates it to ACRO. Outside the EU, ACRO exchanges information records with all non-EU Interpol countries via Interpol channels.
Affidavit		A term which relates to an oath made by an individual who states that the information contained within a written statement is the truth. These documents are often prepared to accompany witness statements to prove that the information provided is in fact true when the statement is submitted to a court.
Asset Recovery		Refers to the process of removing assets, such as property, vehicles or cash, from those who have gained such assets from illegal activity.
Asset Confiscation		Permanent deprivation of property by order of a court or other competent authority. Also known as forfeiture. Confiscation takes place through a judicial or administrative procedure which transfers the ownership of specified funds or assets to the state. The person or entity that holds an interest in the fund or other assets lose all rights in principle to the confiscated funds.

B

British Overseas	BOTs	There are 14 British overseas territories:
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Territories		Bermuda, Gibraltar, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Turks and Caicos Islands, Anguilla, British Indian Ocean Territory, South Georgia and the South Sandwich Islands, British Antarctic Territory, St Helena and its dependencies (Ascension and Tristan de Cunha), Montserrat, the Pitcairn Group of Islands, and the Sovereign Base Areas of Cyprus. They do not form part of the UK; they are self-governing and have separate jurisdictions but rely on the UK for matters such as foreign policy or defence.
BF (UKBF)	Border Force	Law enforcement command within the Home Office, secures the UK border by carrying out immigration and customs controls for people and goods entering the UK.
Budapest Convention		The European Cybercrime Convention (CETS 185), more commonly known as the Budapest Convention, is the main agreement relating to tackling cybercrime internationally. It requires Parties to the Convention to have appropriate laws and procedures to tackle cybercrimes, and to be able to provide assistance to other countries, such as the provision of evidence. The UK ratified the Budapest Convention in 2011. The core of the Convention is made up of three broad parts, covering criminal offences, procedural law, and international cooperation. It also contains definitions, and sections covering areas such as accession and territorial application.
C		
Central Authority		Entity designated to receive requests for MLA. In the UK the central authority will forward the request onto an appropriate authority to execute (see Crown Office, HMRC and UKCA).

Charge (criminal)		In a criminal case, if there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge, a decision to charge is made. Depending on the type and seriousness of the offence committed, this decision is made by the police service or the relevant prosecution service (England, Wales and Northern Ireland).
CICA	Crime (International) Cooperation Act 2003	An Act of the Parliament of the United Kingdom which includes the UK legislation on mutual assistance in criminal matters.
CoE	Council of Europe	An international organisation founded in the wake of World War II to uphold human rights, democracy and the rule of law in Europe. The UK was a founding member and continues to be a member.
Citation		In the Scottish legal system, a citation is an official document sent by the Procurator Fiscal which gives details as to a date and time when an individual is required to attend court in order to answer a charge or charges against them and provides details as to the alleged charges you face.
Civil Recovery		Proceeds of crime can be recovered in civil proceedings in the High Court against property which can be shown to be the proceeds of crime. Civil Recovery can be used when it is not possible to obtain a conviction, or a conviction is obtained but a confiscation order is not made, or the public interest will be better served by using civil recovery rather than by seeking a confiscation order. This will include where suspects have gone abroad to escape an investigation, or the offending has taken place overseas so it cannot be prosecuted in UK courts. A freezing order can be applied for to preserve the assets until a civil recovery order has been

		made.
Commission Rogatoire	Also known as letters rogatory and rogatory commission	A written request for legal or judicial assistance sent by the central authority of one country to the central authority of another when seeking evidence from the foreign jurisdiction. In the UK the term is usually associated with MLA requests from civil law jurisdictions.
Compensation		A pecuniary remedy that is awarded to a victim identified in proceedings and who is proved to have suffered damages.
Confiscation	See Asset Confiscation	
CPS	Crown Prosecution Service	Criminal prosecution service for England and Wales.
Crown Court		In England and Wales, a Crown Court deals with serious criminal cases, there is normally a jury, which decides whether the defendant is guilty or not guilty, and a judge who rules on matters of law and decides the sentence for those found guilty.
Crown Dependencies	CDs	There are three island territories within the British Isles that are known as Crown Dependencies; these are the Bailiwicks of Jersey and Guernsey which make up Channel Islands, and the Isle of Man. The Crown Dependencies are not part of the United Kingdom but are self-governing possessions of the British Crown. The United Kingdom government is responsible for certain areas of policy such as defence and foreign affairs.
COPFS	Crown Office and Procurator Fiscal Service.	Central authority for mutual legal assistance requests for Scotland. Also known as "Crown Office".
D		
Defendant		Someone who is accused of committing a crime

		and has been charged with a criminal offence. In UK asset recovery: a person subject to a conviction-based confiscation order.
Double Jeopardy		The principle that a person, natural or legal should not be subject to a second prosecution for the same offence after legitimate acquittal or conviction, nor should a person be subject to multiple “punishment” for the same offence. May also be known as “ne bis in idem” (Latin).
E		
EAW	European Arrest Warrant	A system to facilitate extraditions between EU member states. The UK ceased to be a part of this scheme from 31 December 2020.
ECHR	European Convention on Human Rights	An international convention to protect human rights and political freedoms in Europe. Drafted in 1950 by the then newly formed Council of Europe, the convention entered into force on 3 September 1953. All Council of Europe member states are party to the Convention and new members are expected to ratify the convention at the earliest opportunity. The UK remains a member of the Council of Europe and is a signatory to the ECHR.
ECRIS	European Criminal Records Information System	A system to facilitate criminal record exchanges between EU member states. The UK ceased to be a part of this scheme from 31 December 2020 (see UK-CRIS).
EIO	European Investigation Order	The UK ceased to participate in the scheme from the end of the transition period on 31 December 2020.
EU	European Union	The UK left the EU on 31 January 2020. There are 27 member states.
EUMS	European Union Member State	A member state of the European Union (also MS).

Eurojust	European Union Agency for Criminal Justice Cooperation	Based in the Hague, it facilitates the EU Member States national judicial authorities to work together to fight serious organised cross-border crime. The UK has representation at Eurojust.
European Convention on Mutual Assistance in Criminal Matters 1959		Under this Council of Europe Convention, the signatories agree to afford each other the widest measure of mutual assistance with a view to gathering evidence, hearing witnesses, experts and prosecuted persons etc.
Europol		The EU's law enforcement agency based in The Hague, supports the 27 EU Member States in their fight against terrorism, cybercrime and other serious and organised forms of crime. They also work with many non-EU partner states and international organisations; the UK has representation at Europol.
F		
FCA	Financial Conduct Authority	The regulator for financial services firms and financial markets in the UK.
FIU	Financial Investigation Unit	A central national agency for receiving, requesting, analysing and disseminating disclosures of financial information on the proceeds of crime.
FNO	Foreign National Offender	A person known or suspected to be involved in criminality who cannot be confirmed as a British citizen.
Forfeiture	See Asset Confiscation	
Freezing Order		Temporary prohibition on the transfer, conversion, disposition or movement of property or temporary assumption of custody or control of property on the basis of an order issued by a court or other competent authority. Term used interchangeably with seizure and restraint. The term "attachment", "preservation" or "blocking"

		may also be used.
H		
HMRC	Her Majesty's Revenue and Customs	The UK's authority for the collection of direct and indirect taxes, a designated central authority for mutual legal assistance requests relating to the investigation of tax and fiscal customs matters.
Home Office		Fundamental to the security and economic prosperity of the UK, it is the lead UK government department for immigration and passports, drugs policy, crime, fire, counter-terrorism and police.
HRA	Human Rights Act 1988	An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights (see ECHR).
I		
ICCC	International Crime Coordination Centre	Provides UK police services with a range of advice, support and guidance on policing measures and tools available to tackle all forms of international criminality.
ILOR	International Letter of Request	The formal document requesting mutual legal assistance (see also LoR).
IE (HOIE)	Immigration Enforcement	Command within the Home Office responsible for preventing abuse, tracking immigration offenders and increasing compliance with immigration law.
Instrumentalities		Assets used to facilitate crime, such as a car or boat used to transport drugs.
Informal Assistance		Any activity or assistance provided without the need of a formal Mutual Legal Assistance Request. There may be legislation permitting this type of assistance.
Interpol		An inter-governmental organisation with over 190 member countries assisting police and other law enforcement agencies from different countries work together.

		In each country, an INTERPOL National Central Bureau (NCB) provides the central point of contact for the General Secretariat and other NCBs.
Interpol Diffusions		Circulated crime related information to a group of countries based in a specific global region.
Interpol Notices		Globally circulated crime related information to law enforcement.
J		
JIT	Joint Investigation Team	A criminal investigation team made up of units from two or more countries.
L		
LoR	Letter of Request	The formal document requesting mutual legal assistance (see also ILOR).
M		
Magistrates Court		In England, Wales and Northern Ireland all criminal cases start in a magistrates' court. There is not a jury in a magistrates' court and they have limited sentencing powers; more serious cases are sent to Crown Courts. CICA S15 and 30 hearings take place at a nominated magistrate court.
ML	Money Laundering	Any act or attempted act to disguise the source of money or assets derived from criminal activity. Money laundering includes concealing the origins and the use of the illegal assets.
MLA	Mutual Legal Assistance	A formal method of cooperation between countries for obtaining cross-border assistance in the investigation or prosecution of criminal offences. This cooperation can include obtaining and collecting evidence, carrying out searches, freezing assets and making witnesses available for hearings.
MLAT	Mutual Legal	Mutual Legal Assistance Treaties (MLATs) in

	Assistance Treaty	criminal matters are bilateral or multilateral treaties, entered between two or more countries, for providing international cooperation and assistance.
MO	Modus Operandi	Latin for “mode of operating”. A particular way or method of doing something. In criminal matters this can be the method that a suspect has used to commit offences, often in the same pattern as previous offences.
MPS	Metropolitan Police	Police service for the Greater London area.
MS	Member State	A member state of the European Union (also EUMS).
N		
NCA	National Crime Agency	The National Crime Agency leads the UK’s fight to cut serious and organised crime. Formerly known as SOCA (Serious and Organised Crime Agency).
NCB	National Crime Bureau	In the UK this is hosted by the NCA and known as the International Crime Bureau (UK-ICB).
NPCC	National Police Chiefs’ Council	The NPCC brings police forces in the UK together to help policing coordinate operations.
O		
OCG	Organised Crime Group	Defined as a group which purposely carries out criminal activities and consists of three or more people who agree to act together to further that purpose.
P		
PACE	Police and Criminal Evidence Act 1984	Act of Parliament of the UK which instituted a legislative framework for the powers of police officers in England and Wales to combat crime. The Act also provides codes of practice for the exercise of those powers.
PEPs	Politically Exposed Persons	Individuals who have been or are entrusted with prominent public functions, for example heads of

		state or government, senior politicians, senior government, judicial, military officials, senior executives of state-owned corporations, important party officials. Business relationships with family members or close associates of PEPS involve reputational risks similar to those with PEPs themselves.
PF	Procurator Fiscal	Scottish criminal prosecutor.
PO	Production Order	A Production Order requires the production of specified material (e.g. information held by financial institutions). Police and other law enforcement agencies apply to a court for a production order, often in relation to a confiscation, money laundering or civil recovery investigation.
POCA	Proceeds of Crime Act 2002	Act of the Parliament of the United Kingdom which provides for the confiscation or civil recovery of the proceeds from crime and contains the principal money laundering legislation in the UK.
PPS	Public Prosecution Service	The principal prosecuting authority in Northern Ireland, with responsibility for taking decisions as to prosecution in all cases investigated by the police and other law enforcement agencies.
Proceeds of Crime		Any asset derived from or obtained, directly or indirectly through the commission of an offence.
PSNI	Police Service of Northern Island	Northern Ireland's police service.
Police Scotland		Scotland's police service.
R		
Restraint Order		An order <u>enabling</u> the court to <u>freeze</u> the <u>assets</u> of a <u>defendant</u> , especially to prevent him or her <u>taking</u> them <u>abroad</u> . Restraint Orders are applied to assets, if those assets might be the subject of a Confiscation Order once a conviction is obtained. A restraint order

		prevents the assets being disposed of.
S		
SFO	Serious Fraud Office	Investigates and prosecutes serious or complex fraud, bribery, and corruption.
SIS II	Schengen Information System II	System that facilitates cooperation between national border control, customs and police authorities in the Schengen Area. The UK is no longer a member following the end of the transition period on 31 December 2020.
Summons		A witness summons is a document issued by the court compelling a witness to attend. In Scotland this is known as a “citation.”
Suspect		Someone who may have committed a crime or someone who is under investigation for committing crime.
T		
TCA	UK-EU Trade and Cooperation Agreement	Formalised the relationship between the UK and EU following the UK’s departure from the EU and the end of the transition period after 31 December 2020.
U		
UKCA	United Kingdom Central Authority	Central authority for mutual legal assistance requests in England, Northern Ireland and Wales, part of the Home Office.
UK-CRIS	United Kingdom Criminal Records Information System	UK system to exchange criminal records with EU member states (see ECRIS).
UKICB	United Kingdom – International Crime Bureau	Hosted by the NCA, it provides the UK National Central Bureau for INTERPOL and the UK Europol National Unit.
V		
Victim		A person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal

		offence. A victim is also a witness.
W		
Witness		A person who has seen or can give evidence about a crime or incident. A witness may also be an expert/professional (e.g. a forensic expert) or a character witness.