



LAW OFFICERS OF THE CROWN

GUIDANCE ON APPLYING TO THE BAILIWK OF GUERNSEY FOR MUTUAL LEGAL ASSISTANCE

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LAW OFFICERS OF THE CROWN

INTRODUCTION

1. For the purposes of providing mutual legal assistance (**MLA**), the islands of Guernsey, Alderney and Sark form a single jurisdiction called the Bailiwick of Guernsey (**Guernsey**). Guernsey has been actively involved in MLA for many years, and has always taken a co-operative approach with other jurisdictions. Through its constitutional relationship with the United Kingdom, Guernsey is party to a number of international instruments relevant to mutual legal assistance. These include the 1959 *Council of Europe Convention on Mutual Assistance in Criminal Matters*, the 2000 *United Nations Convention against Transnational Organized Crime* and the 2000 *United Nations Convention against Corruption*.
2. The purpose of this guidance is to give an overview of the MLA that Guernsey can provide, and advice on how to make MLA requests. It is issued by His Majesty's Procureur (**HM Procureur**), or Attorney General, who is Guernsey's central authority for providing MLA. HM Procureur's MLA team is always willing to provide further information or clarification to other jurisdictions when required.
3. In order to provide MLA to another jurisdiction, it is not necessary under Guernsey law for Guernsey to have an MLA treaty or other formal agreement in place with that jurisdiction. However, Guernsey will always consider entering into such an agreement if this is required under the law of the requesting jurisdiction.
4. Guernsey has never been a member of the European Community or the European Union. As a result, EU initiatives such as the European Investigative Order are not available in Guernsey. Nevertheless, provided that a request for assistance clearly sets out sufficient information, and provided that Guernsey can lawfully provide assistance, there is no reason why requests cannot be dealt with very swiftly. The need for urgency should however be made clear from the outset.
5. Guernsey has a well-established practice of sharing confiscated assets with other jurisdictions. While Guernsey law does not require an asset sharing agreement to be in place in order to do this, HM Procureur will always consider entering into an asset sharing agreement (where necessary, acting under entrustment from the United Kingdom) if that is required under the law of another jurisdiction. In the absence of an asset sharing agreement, HM Procureur will deal with the sharing of assets by agreement with the other jurisdiction on a case by case basis. However, in every case precedence will be given to any obligations in respect of sharing or repatriating assets under international agreements to which Guernsey is a party (eg the 2000 *United Nations Convention against Corruption*), and to ensuring that the proceeds of crime are returned to the victims of the crime in question wherever possible.
6. HM Procureur can assist overseas authorities in:
 - (a) criminal proceedings; and
 - (b) civil (or *in rem*) recovery of the proceeds of crime.
7. This guidance is divided into two parts according to the two categories above: criminal proceedings and civil asset recovery. Each part is designed to be read independently, and you should decide what kind

of assistance is needed and then proceed to that part of the guidance. The legal requirements applicable to each type of assistance are set out in brief in each part below. For further detail in relation to these legal requirements the legislation can be accessed at www.guernseylegalresources.gg.

8. If you require assistance from Guernsey, you will need to send a request for assistance to HM Procureur in the form of a Letter of Request (an **LOR**). The LOR and supporting documentation must be in English or accompanied by an official translation.
9. You should send your LOR directly to Guernsey. There is no need to send your LOR through the UK Central Authority and, unless the domestic law of your jurisdiction makes this essential, both the UK and Guernsey would prefer you not to do so. Guernsey gives mutual legal assistance in accordance with international standards, provided that requesting jurisdictions are prepared to offer reciprocity in principle.
10. If you require additional information, please do not hesitate to contact HM Procureur's MLA team via the contact details below.

Contact details and general process

Contact details

11. LORs should be addressed to HM Procureur. We encourage them to be sent by email to: GuernseyLOR@gov.gg
12. You do not need to send a hard copy. If for any reason you wish to do so, please send to:

His Majesty's Procureur
St James Chambers
St Peter Port
Guernsey
GY1 2PA

Telephone: +44 (0)1481 221600

Website: www.guernseylawofficers.gg
13. Requesting authorities are advised that it is possible for HM Procureur to accept digital signatures on official documents.

Process

14. All incoming LORs are referred to the MLA Team for initial consideration. The team will acknowledge receipt of the LOR and work with the Law Officers to deal with your request. If any queries arise a member of the MLA Team will contact you to seek clarification.
15. Any material relevant to your enquiry obtained in the discharge of your LOR will be copied, and the copies will be sent to you as soon as possible. If it is necessary for documents to be authenticated in a particular way in your jurisdiction, please let us know what is required in terms of certification, sealing or other formalities. Please do not make such a request unless it is a legal requirement.

Confidentiality

16. Both the existence and contents of an LOR are generally considered confidential as between HM Procureur and the requesting authority. Where, however, a Court order is required to provide the

assistance sought, it may be necessary to provide a copy of the LOR to the Court and the potentially affected parties.

17. Where it is not possible to maintain the confidentiality of your request we will advise you of the fact of, and reason for, any disclosure.
18. If you want to disclose any material that you have obtained in Guernsey to a third party, you must first obtain the written permission of HM Procureur. When requesting permission to disclose please state clearly what material it is you wish to pass on, to whom, and for what purpose.
19. If disclosure of the material is authorised, the third party will need to provide their own undertaking as to the use to which they intend to put the material, and that it will not be disclosed further without the consent of HM Procureur.

PART 1: CRIMINAL PROCEEDINGS

I. Before you start

Types of assistance

1. In broad terms, under Guernsey's legal framework HM Procureur can assist other jurisdictions with the following –
 - (a) obtaining documentary and oral evidence for use in investigations, prosecutions and confiscations in the requesting state (NB this includes obtaining an order to preserve electronic material in advance of a request for evidence being made);
 - (b) freezing, seizing or confiscating the proceeds of crime or the instrumentalities of crime in support of criminal proceedings in the requesting state;
 - (c) conducting investigative interviews in support of proceedings in the requesting state that concern serious or complex fraud;
 - (d) service of judicial documents (eg witness summonses) issued in the context of criminal proceedings in the requesting state; and
 - (e) transfer of persons imprisoned in Guernsey to the requesting state to give evidence or otherwise assist with criminal proceedings there.

Jurisdictions that can be assisted

2. HM Procureur can receive applications for criminal MLA from any jurisdiction¹, and accepts LORs directly from the following authorities in your jurisdiction:
 - (a) a court or tribunal exercising criminal jurisdiction;
 - (b) a prosecuting authority; or
 - (c) another authority that the Law Officers deem to exercise such functions.
3. The LOR must relate to:
 - (a) criminal proceedings that have been instituted in your jurisdiction; or
 - (b) a criminal investigation that is being carried on in your jurisdiction.

II. The Letter of Request (LOR)

The LOR generally

4. Each LOR should include the following information:
 - (a) the identity of the person making the request, and confirmation that that person is authorised to make it;

¹ References in the relevant legislation to providing assistance to countries that have been designated by Guernsey may be disregarded in light of a change to the legal framework made in 2010 whereby Guernsey is deemed to have exercised this power in respect of all countries.

- (b) the name(s) and details of the person(s) and entity or entities under investigation, charged, or convicted;
- (c) details of the charges faced by, or that are likely to be laid against, the person or entity who is the subject of the enquiry in your jurisdiction;
- (d) a copy of any applicable statutory provisions;
- (e) a description of the relevant facts, including:
 - (i) how the suspect(s) or accused person(s) allegedly committed the offences; and
 - (ii) details of any elements of serious or complex fraud, if any;
- (f) the current status of the case. For example, whether the matter is at the investigation, prosecution or confiscation stage;
- (g) details of the assistance required (eg, documentary evidence or the freezing of assets);
- (h) if the request concerns evidence, names and details of the parties within Guernsey from whom the evidence is sought;
- (i) details of any relevant account, company, trust or other entity;
- (j) the date by which you wish the assistance to be provided, and if you consider your request should be treated as urgent, precise reasons as to why;
- (k) if your request is for any form of evidence, a signed undertaking in the appropriate form (see below); and
- (l) confirmation that your jurisdiction would provide the reciprocal assistance that is sought in your LOR.

5. It is very important that the LOR contains sufficient information. We will need to use this to determine whether we are able to assist, and if so, how we can best obtain what you need. A fundamental requirement is that Guernsey law requires HM Procureur to be satisfied that

- (a) you have started a criminal investigation or criminal proceedings;
- (b) where the assistance requested involves the production of documents or asset recovery, the activity which is the subject of the criminal investigation or proceedings would be an offence under the law of our jurisdiction if it had happened here (except in the case of drugs-related offences, which are subject to a dedicated regime²); and
- (c) the evidence provided will be of substantive value to your investigation or proceedings.

The LOR must therefore demonstrate these aspects.

6. Depending on the type of assistance requested, there may be further requirements. These are outlined in section III of this Part below.

7. In order to assist jurisdictions with the practical aspects of preparing LORs, a general checklist is set out at [Annex A](#), and an additional checklist for requests to restrain or freeze assets at [Annex B](#). However,

² For cases involving drugs, it is sufficient that the activity is contrary to the laws of a country that is a signatory to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

please note that these checklists are not intended to be a complete list of everything that is required, and they should be used in conjunction with this part of the guide.

Undertakings to be given

8. All requests for evidence must be accompanied by an undertaking which sets out the purpose for which any evidence provided may be used, as follows:
 - (a) all requests for evidence for use in criminal proceedings require the General Undertaking at [Annex C](#), unless the request is from an Investigating Judge; and
 - (b) an Investigating Judge Undertaking is set out at [Annex D](#).
9. The undertaking should be signed by a senior officer of the investigating agency or, where appropriate, an examining magistrate or the Prosecutor responsible for the conduct of the investigation or proceedings.
10. Where an undertaking is required, an MLA Request will not be processed until the MLA Team receives the undertaking.

III. Types of requests and additional requirements for each

11. After HM Procureur receives an MLA request, Guernsey law provides several ways for the MLA Team to procure the material you have requested. The additional information this section asks you to provide helps us fulfil your request as efficiently as possible. It also outlines what is required for HM Procureur to be satisfied that the request can be fulfilled, as noted at paragraph 5 above.

A: Documentary evidence

12. As a starting point, please note that under Guernsey law, it is possible for HM Procureur to apply for a Court Order to preserve material in electronic form before you have made a request for assistance in obtaining that material to use as evidence. If you wish a preservation order to be made, you should send an initial LOR that:
 - (a) includes the details set out at paragraph 4 of this part;
 - (b) identifies the person in possession of the data or the computer system on which it is stored;
 - (c) sets out the reasons why preservation of the material is considered necessary; and
 - (d) states that you intend to submit a further LOR requesting assistance in obtaining the material as evidence.
13. The LOR making a request for documentary evidence should confirm the types of documents required, and the date range for which material is needed (which should not extend beyond the date range that is relevant to the period of offending). You should also explain how having these documents will assist your investigation or proceedings, and if not having them could prejudice your investigation.
14. Further to the standard documents available from banks and other financial institutions, we can also help with customer information orders and account monitoring orders (for up to 90 days). Please provide the full name and address of the financial institution, any details you have about relevant accounts (such as account numbers), and the types of documents you require.

15. If you require the material to be obtained by way of a search warrant (for example, because there is a real danger the financial institution or witness may destroy documents), please state the location to be searched, the material to be seized, and the exact reasons for believing that a search warrant is necessary. In particular, there would need to be strong grounds for suggesting that evidence or documents might be destroyed by reputable law firms, banks or other institutions that are subject to Guernsey's rigorous regulatory, licensing and supervisory regimes.
16. Please state whether you need documentary evidence to be accompanied by a witness statement. If you need a witness statement, please also read section B below (*Oral evidence*).

B. Oral evidence (including sworn evidence)

17. If you require oral evidence, there are some specific requirements that apply in addition to those set out in relation to documentary evidence in Section A (*Documentary evidence*) above.
18. Please provide a draft for consideration by the relevant witness, as in most cases the evidence is likely to be given in the form of a mutually acceptable pre-written statement. We will then ask the witness whether they are willing to provide the statement on a voluntary basis.
19. In all cases, under Guernsey law witnesses cannot be compelled to give any evidence or answer any question that they would not be compelled to answer in criminal proceedings under Guernsey law. Similarly, a witness may seek to rely upon any privilege that would apply in your jurisdiction if the evidence were given there.
20. If a witness declines to provide a statement voluntarily and declines an invitation to travel to give evidence before your court, it may be possible for evidence to be taken under oath if their evidence is subsequently required for the purposes of proceedings in your jurisdiction.
21. The presiding Guernsey judge will be responsible for the procedure during the taking of any evidence in a Guernsey Court. The judge will be prepared to listen to arguments from both the prosecution and defence, so that every effort is made for the evidence to be admissible before your domestic court. More detailed information about the rules and procedures that will apply can be obtained from the MLA Team.
22. Alternatively, Guernsey law provides for evidence to be given by telephone or live television-link. The appropriate Guernsey Court will be responsible for summoning the witness and establishing the identity of the witness. The evidence will then be given under the supervision of the court in your jurisdiction, and in accordance with the laws of your country. If evidence is given by telephone link, the appropriate Guernsey Court will be responsible for notifying the witness of the time of the call, establishing the identity of the witness, and ensuring that he or she is willingly giving evidence by telephone.
23. You may have lawyers from your jurisdiction attend when a witness is giving evidence, who can question and cross-examine witnesses. In this case, please provide the names and details of the persons you wish to conduct this process, as well as the witness(es) to be examined and whether the other side will also be attending for cross-examination.

C. Restraining/freezing assets

24. Upon request assets can be restrained under an interim restraint order to prevent flight of assets while a criminal investigation or criminal proceedings in your jurisdiction proceeds. This requires an application to a Guernsey Court by HM Procureur. The Guernsey Court can only make an order if various conditions are met.

25. The LOR should include details of the following (and see also the checklist at [Annex B](#)):
- (a) the identification of assets in Guernsey that you wish to be restrained;
 - (b) if a suspect has not already been charged, an indication as to when the suspect will be charged;
 - (c) your grounds for believing that the alleged offender has benefited from their criminal conduct;
 - (d) how it is believed that the proceeds or instrumentalities of any crime came to be in Guernsey;
 - (e) whether a confiscation order has been made in your jurisdiction, or your grounds for believing that a confiscation order will be made during proceedings;
 - (f) confirmation that a request will later be made to Guernsey for enforcement of that order; and
 - (g) if a restraint order has been issued by a court in your jurisdiction, a copy of the restraint order.
26. It is essential that you keep us informed of progress in your case. If we obtain a restraint order on your behalf, we have an obligation under Guernsey law to periodically review the restraint to ascertain whether it is necessary for it to continue. Therefore, if we do not receive timely responses to requests for updates on the progress of investigations and/or proceedings in your jurisdiction, we will need to consider applying to discharge the restraint order.

D. Enforcement of external confiscation/forfeiture orders

27. If you wish to enforce a confiscation order made in your jurisdiction with respect to assets situated in Guernsey, please confirm the following in your LOR:
- (a) the external confiscation/forfeiture order is in force and is not subject to appeal;
 - (b) where the person against whom the order is made did not appear in the proceedings, that he or she received notice of the proceedings in sufficient time to enable him or her to defend them; and
 - (c) enforcing the order in Guernsey would not be contrary to the interests of justice.
28. The LOR should also include the following further information:
- (a) details of the offence(s) for which the defendant was convicted and the sentence and confiscation order imposed, together with a copy of any applicable statutory provisions;
 - (b) a copy of the confiscation order issued in your jurisdiction; and
 - (c) details of the property subject to the confiscation order that is believed to be in Guernsey, including details of who holds the property and how it is believed the property came to be in Guernsey.

E. Service of your jurisdiction's process in Guernsey

29. HM Procureur can cause a witness summons or order from your criminal courts to be served on a person in Guernsey.
30. The LOR should:
- (a) request that document(s) be served on a specified person in Guernsey;
 - (b) enclose those document(s); and

(c) indicate whether personal service is required.

Please note that service does not require the person to comply with the content of that process under Guernsey law.

F. Facilitating transfer of imprisoned persons to your jurisdiction

31. In certain circumstances it is possible to transfer persons who are imprisoned in Guernsey to give evidence or otherwise assist with criminal proceedings in another jurisdiction. If you would like more information about this, contact the MLA team.

Relevant legislation

- s 1, *The Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law, 1991*
- *The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999*, in particular ss 25–26, 35, 35A, 36, 45, 46, 48A–C and 48H–I
- *The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Enforcement of Overseas Confiscation Orders) Ordinance, 1999*, in particular ss 1-6 and Schedule 2
- *The Drug Trafficking (Bailiwick of Guernsey) Law, 2000*, in particular ss 25–26, 35, 36, 44, 47, 48, 49, 63, 64, 67A–C and 67H–I
- *The Drug Trafficking (Bailiwick of Guernsey) (Designated Countries and Territories) Ordinance, 2000*, in particular ss 1-6 and Schedule 2
- *The Drug Trafficking (Bailiwick of Guernsey) Law (Enforcement of External Forfeiture Orders) Ordinance, 2000*, in particular ss 1-3 and 7-10
- *The Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001*, in particular ss 1, 4, 4A, 4B, 4C, 5, 7, 8, Schedule 1 and Schedule 2
- *The Criminal Justice (International Co-operation) (Enforcement of Overseas Forfeiture Orders) (Bailiwick of Guernsey) Ordinance, 2007*, in particular ss 1–3 and 12–15
- *The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002*, in particular ss 36, 37, 39, Schedule 5, Schedule 6 and Schedule 7
- *The Terrorism and Crime (Enforcement of External Orders) (Bailiwick of Guernsey) Ordinance, 2007*, in particular ss 2-6 and 9-11

PART 2: CIVIL ASSET RECOVERY

I. Before you start

Types of assistance

1. In broad terms, under Guernsey's legal framework HM Procureur can assist other jurisdictions with the following:
 - (a) obtaining documentary and oral evidence and information for use in non-conviction based (civil forfeiture) investigations in the requesting state;
 - (b) freezing assets that are the subject of a civil forfeiture investigation or proceedings in the requesting state; and
 - (c) enforcing forfeiture orders made in the requesting state.

Definitions

2. In Guernsey law:
 - (a) a civil forfeiture investigation is an investigation in the requesting state into whether specific assets are the proceeds of unlawful conduct or are intended for use in unlawful conduct, with a view to taking non-conviction based proceedings for the forfeiture of the assets in the requesting state;
 - (b) an overseas forfeiture order is a court order made in non-conviction based proceedings in the requesting state for the forfeiture of assets that are found by the court to be the proceeds of unlawful conduct or are intended for use in unlawful conduct; and
 - (c) unlawful conduct is subject to dual criminality, as it means conduct that;
 - (i) is a criminal offence under the law of the jurisdiction where it occurs; **and**
 - (ii) would be a criminal offence under Guernsey law if it had occurred in Guernsey.

Jurisdictions that can be assisted

3. Guernsey's civil forfeiture legislation provides for assistance to be provided to designated jurisdictions. The following jurisdictions are currently designated:
 - (a) England and Wales;
 - (b) Scotland;
 - (c) Northern Ireland;
 - (d) United States of America;
 - (e) Brazil; and
 - (f) Colombia.
4. If your jurisdiction has not been designated, please contact the MLA Team to discuss the information you may be able to provide that would allow a designation to be made.

5. HM Procurer accepts LORs directly from the following authorities in designated jurisdictions:
 - (a) a court or tribunal exercising jurisdiction in civil forfeiture proceedings;
 - (b) an authority responsible for making applications in civil forfeiture proceedings;
 - (c) another authority that HM Procurer deems to exercise such functions.
6. The LOR must relate to:
 - (a) civil forfeiture proceedings that have been instituted in your jurisdiction; or
 - (b) a civil forfeiture investigation that is being carried on in your jurisdiction.

II. The Letter of Request (LOR)

The letter generally

7. Each LOR should include the following information:
 - (a) the identity of the person making the request, and confirmation that that person is authorised to make it;
 - (b) confirmation that a civil forfeiture investigation or civil forfeiture proceedings have commenced, and that the request is being made in support of that investigation and/or proceedings;
 - (c) details of the assets under investigation and/or in respect of which civil forfeiture proceedings have been instigated;
 - (d) the name(s) and details of any person or entity by whom (or on behalf of whom) the assets are held;
 - (e) a description of the facts and current status of the case;
 - (f) exact details of the assistance required;
 - (g) copies of the relevant provisions of your criminal and civil forfeiture laws;
 - (h) the date by which you wish the assistance to be provided, and if you consider your request should be treated as urgent, precise reasons as to why; and
 - (i) confirmation that your jurisdiction would provide the reciprocal assistance that is sought in your LOR.
8. It is very important that the LOR contains sufficient information. We will need to use this to determine whether we are able to assist, and if so, to determine how we can best provide the assistance that you need.
9. Depending on the type of assistance requested, there may be further requirements. These are outlined in section III of this part below. In order to assist jurisdictions with the practical aspects of preparing LORs, a general checklist is set out at [Annex E](#), and an additional checklist for requests to freeze assets at [Annex F](#). However, please note that these checklists are not intended to be a complete list of everything that is required, and they should be used in conjunction with this part of the guide.

Undertakings to be given

10. All requests for evidence must be accompanied by an undertaking which sets out the purpose for which any evidence provided may be used. The signed undertaking is set out in [Annex G](#).
11. The undertaking should be signed by a senior officer of the investigating agency or, where appropriate, an examining magistrate or the person responsible for the conduct of the investigation or proceedings.
12. Where an undertaking is required, an MLA Request will not be processed until the MLA Team receives the undertaking.

III. Types of requests and additional requirements for each

13. After HM Procureur receives an MLA Request, Guernsey law provides a number of ways for the MLA Team to procure the material you have requested. The additional information this section asks you to provide in the LOR helps us fulfil your request as efficiently as possible.

A. Documentary evidence

14. Please set out in the LOR the grounds on which you believe that:
 - (a) the assets you specify are the proceeds of unlawful conduct or intended for use in unlawful conduct;
 - (b) the person you specify is in possession of the documents or information you seek;
 - (c) the documents or information you seek would be of substantial value to your investigation; and
 - (d) it is in the public interest for the information to be obtained.
15. Please confirm the types of documents required and the relevant date range for which material is needed (limited to relevance to the period of unlawful conduct and subsequent movement of the assets). You should also explain how having these documents will assist your investigation, and if not having them may prejudice your investigation.
16. Further to the standard documents available from banks and other financial institutions, we can also help with customer information orders and account monitoring orders (for up to 90 days). Please provide the full name and address of the financial institution, any details you have about relevant accounts (such as account numbers), and the types of documents you require.
17. If you require the material to be obtained by way of a search warrant (for example, because there is a real danger the financial institution or witness may destroy documents), please state the location to be searched, the material to be seized, and the exact reasons for believing that a search warrant is necessary. There would need to be strong grounds for suggesting that evidence or documents might be destroyed by reputable law firms, banks or other institutions that are subject to Guernsey's rigorous regulatory, licensing and supervisory regimes.
18. Please state whether you need documentary evidence to be accompanied by a witness statement. If you need a witness statement, please also read section B below (*Oral evidence*).
19. Under your law it may be necessary for documents to be authenticated in a particular way. If that is the case, please let us know what is required. We normally provide photocopies of documents, and please let us know if they require certification, sealing or other formalities. Please do not make such a request unless it is a legal requirement.

B. Oral evidence

20. In the context of a civil forfeiture investigation, HM Procureur can assist with applying for an order from the Royal Court to require persons to answer questions at a specified time and place.
21. If you require oral evidence, please set out in the LOR the grounds on which you believe that:
 - (a) the money you are investigating is the proceeds of unlawful conduct or intended for use in unlawful conduct;
 - (b) imposing compliance with the order is likely to yield substantial value to your civil forfeiture investigation; and
 - (c) it is in the public interest for the information to be obtained.
22. Because an application seeking this order lies outside of the criminal regime, information obtained as a result cannot generally be used in criminal proceedings.

C. Freezing assets

23. Assets can be frozen to prevent their removal from the jurisdiction. In Guernsey, this is an application that must be made by HM Procureur to the Royal Court, which can provide the order only if various conditions are met.
24. The LOR should include details of the following (and see also [Annex F](#)):
 - (a) the details of the bank account within Guernsey that you wish to be frozen;
 - (b) grounds for suspecting the funds are:
 - (i) proceeds of unlawful conduct; or
 - (ii) intended by any person for use in unlawful conduct;
 - (c) whether civil forfeiture proceedings have been commenced in your jurisdiction, or your grounds for believing that a civil forfeiture application may be made in the future;
 - (d) whether a request will later be made to Guernsey for enforcement of any civil forfeiture order that may be made; and
 - (e) confirmation that the value of the relevant assets exceeds £1,000.
25. Freezing orders under Guernsey's civil forfeiture legislation expire after four months, unless extended by a further application to the Court. Extensions are generally available up to a total limit of two years, unless the Court can be convinced that the interests of justice require an even longer restraint. We will therefore require periodic progress reports from you to ascertain whether or not it is appropriate to seek an extension of the freezing order. If we do not receive timely responses to requests for updates on the progress of investigations and/or proceedings in your jurisdiction we will not be able to maintain the freezing order.

D. Enforcement of external forfeiture orders

26. Your external forfeiture orders can be registered in Guernsey's Royal Court upon the application of HM Procureur. After such registration, your forfeiture order would be enforceable in all respects as if it were an order of the Royal Court of Guernsey.

27. The LOR should include the following further information:

- (a) a copy of the civil forfeiture order issued in your jurisdiction. If the order is not in English a translation should be provided;
- (b) confirmation that at the time of your LOR the external civil forfeiture order is in force and is not subject to appeal;
- (c) details of the assets subject to the forfeiture order that are believed to be in Guernsey, including details of who holds the assets and how it is believed the assets came to be in Guernsey;
- (d) if you believe that the money is held by a particular bank or financial institution, the full name and address of the bank or institution and any details that you have about relevant accounts (including account numbers).

Relevant legislation

The Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007, particularly ss 3, 10, 18, 20–22, 28–29, 35–36, 41–42, 47, 49, 53 and 60

ANNEX A

General checklist for letters of request in criminal cases

1.	Request on letter-headed paper of the requesting authority	
2.	Details of the requesting authority, and name, email address and telephone number of a contact person	
3.	Signed original letter, and translation of the request into English if that is not the language of the requesting country	
4.	An undertaking relating to the use of information provided	
5.	Statement of purpose for which assistance is sought, and whether a criminal investigation and/or prosecution is ongoing at the time of writing	
6.	Details of all suspects and/or defendants who are the subject of the request, including (where possible) addresses and dates of birth	
7.	Details of the criminal offences that are under investigation or subject to prosecution (including sentence)	
8.	Extracts of the relevant legislation relating to criminal offences and sentences	
9.	Details of whether any suspects and/or defendants have been arrested, interviewed, charged with an offence, imprisoned and/or convicted of offences	
10.	A summary of the facts giving rise to the request, including the connection to Guernsey	
11.	Details of the connection between the evidence or assets requested, and the offences under criminal investigation (or prosecution)	
12.	Details of the assistance, evidence, documents sought, and details of the financial institution or other party in possession or control of the evidence or assets sought	
13.	Urgency and/or relevant dates (such as court hearings)	
14.	Details of whether each person named in the request is a witness, suspect, defendant or victim	
15.	If applicable, details of any media attention, sensitivities or reasons for high profile interest in the matter	
16.	As per intelligence handling conditions, NO references to Guernsey FIU or specific intelligence received (consider following wording instead: " <i>The investigation has revealed that...</i> ")	

ANNEX B

Additional checklist for letters of request involving restraint (freezing) of assets in criminal cases

1.	Details of relevant assets in Guernsey	
2.	Addresses of suspects'/defendants'/holder of assets within Guernsey, where the restraint can be served upon them	
3.	Certified copy of any restraint order granted in the requesting jurisdiction, or an explanation why there is no restraint order in the requesting jurisdiction	
4.	A description of the criminal conduct, and copies of the relevant legislation relating to the offences and possible sentences	
5.	Confirmation that there is reasonable cause to believe that suspects/defendants have benefitted from their criminal conduct	
6.	Details of the extent to which the suspects/defendants are believed to have benefitted from their criminal conduct	
7.	Reasons why the Guernsey court should allow the matter to be decided without notice to the suspects/defendants (or others likely to be affected by the restraint) (if appropriate)	
8.	Details of any defence put forward by the suspects/defendants in respect of the criminal conduct	
9.	Whether or not it will be necessary for the Guernsey court to make provision for living expenses and legal expenses of the suspects/defendants/any other affected party from the restrained assets	
10.	Confirmation that restraint is being requested so that the Guernsey assets may be available in respect of a confiscation order which is likely to be made upon conviction	

ANNEX C

**General undertaking for requests for evidence or information
in assistance of criminal investigations or proceedings**

“General Undertaking for criminal investigations or proceedings

..... [name of case]

I, [name and description], UNDERTAKE that any information or material obtained from the Bailiwick of Guernsey in response to a letter of request for mutual legal assistance (“the Information”) will only be used for the purposes of an investigation on behalf of [name of authority] into the affairs of [names of persons/entities under investigation], or any prosecution or connected criminal restraint or confiscation proceedings arising in whole or in part from this investigation. This may include sentencing and appeal proceedings. Except as required for these purposes the Information shall not be disclosed, directly or indirectly, to any other person or agency without the written consent of His Majesty’s Procureur for the Bailiwick of Guernsey.

I further undertake that in the event of any application to a court or tribunal in respect of which [name of authority] has notice to disclose the information and documents obtained from the Bailiwick of Guernsey in relation to the above criminal investigation/prosecution, His Majesty’s Procureur for the Bailiwick of Guernsey will be notified and consulted on the approach the [name of authority] might take in relation to that application.

Signature

Position

Date

ANNEX D

Investigative Judge undertaking for requests for evidence or information in assistance of criminal investigations or proceedings

“Investigating Judge Undertaking for criminal investigations or proceedings

..... [name of case]

I, [name], UNDERTAKE that any information or material obtained from the Bailiwick of Guernsey in response to a letter of request for mutual legal assistance (“the Information”) will only be used for the purposes of an investigation on behalf of *me* / [name of authority] into the affairs of [names of persons/entities under investigation], or any prosecution or connected criminal restraint or confiscation proceedings arising in whole or in part from this investigation. This may include sentencing and appeal proceedings. Except as required for these purposes the Information shall not be disclosed by *me* / [name of authority], directly or indirectly, to any other person or agency without the written consent of His Majesty’s Procureur for the Bailiwick of Guernsey.

I further undertake that in the event of any application to a court or tribunal in respect of which I or [name of authority] has notice to disclose the information and documents obtained from the Bailiwick of Guernsey in relation to the above criminal investigation/prosecution, His Majesty’s Procureur for the Bailiwick of Guernsey will be notified and consulted on the approach that *I* / [name of authority] might take in relation to that application.

Signature

Designation

Date

ANNEX E

General checklist for letters of request under the *Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007*

1.	Request on letter-headed paper of the requesting authority	
2.	Details of the requesting authority, and name, email address and telephone number of a contact person	
3.	Signed original letter, and translation of the request into English if that is not the language of the requesting country	
4.	An undertaking relating to the use of information provided	
5.	Statement of purpose for which assistance is sought, and whether a civil forfeiture investigation is ongoing at the time of writing	
6.	Details of all persons of interest in the investigation, including (where possible) addresses and dates of birth	
7.	Details of the unlawful conduct that is believed to have generated proceeds	
8.	Extracts of the relevant legislation relating to the suspected unlawful conduct, including potential sentences	
9.	Details of whether any suspects and/or defendants have been arrested, interviewed, charged with an offence, imprisoned and/or convicted of offences that are believed to have generated proceeds	
10.	A summary of the facts giving rise to the request, including the connection to Guernsey	
11.	Details of the connection between the evidence or assets requested and the civil forfeiture investigation (or prosecution)	
12.	Details of the assistance, evidence, documents, etc sought, and details of the financial institution or other party in possession or control of the evidence or assets sought	
13.	Urgency and/or relevant dates (such as court hearings)	
14.	Details of whether each person named in the request is a witness, suspect, defendant or victim	
15.	If applicable, details of any media attention, sensitivities or reasons for high profile interest in the matter	
16.	As per intelligence handling conditions, NO references to Guernsey FIU or specific intelligence received (consider following wording instead: " <i>The investigation has revealed that...</i> ")	

ANNEX F

**Additional checklist for letters of request involving
freezing of assets under the
*Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007***

1.	Identification of the relevant assets in Guernsey	
2.	Address of holder of assets within Guernsey, where a freezing order can be served upon them	
3.	Certified copy of any freezing order granted in the requesting jurisdiction, or an explanation why there is no freezing order in the requesting jurisdiction	
4.	Confirmation that there is reasonable cause to believe that the assets in Guernsey are the proceeds of unlawful conduct or intended for use in unlawful conduct	
5.	Details of the extent to which the assets are believed to be (or to represent) the proceeds of crime or the instrumentalities of crime	
6.	Reasons why the Guernsey court should allow the matter to be decided without notice to the suspects/defendants (or others likely to be affected by the freezing) (if appropriate)	
7.	Details of any explanation put forward by any party as to the origin or use of the assets in Guernsey	
8.	Whether or not it will be necessary for the Guernsey court to make provision for living expenses and legal expenses of any affected party from the frozen assets	
9.	Confirmation that the freeze is requested so that the Guernsey assets may be available in respect of a forfeiture order which is likely to be made upon conclusion of non conviction-based proceedings	

ANNEX G

Undertaking for requests for information or evidence under
The Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007

“Civil forfeiture undertaking

..... [name of case]

I, [name and description], UNDERTAKE that any information or material obtained in pursuance of an order under the *Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007* in respect of [names of persons/entities under investigation] (“the Information”) will only be used for the purposes of the investigation into the affairs of the above persons, or any proceedings arising in whole or in part from this investigation. Except as required for these purposes the Information shall not be disclosed, directly or indirectly, to any other person or agency without the written consent of His Majesty’s Procureur for the Bailiwick of Guernsey.

I further undertake that in the event of any application to a court or tribunal in respect of which [name of authority] has notice to disclose the information and documents obtained from the Bailiwick of Guernsey in relation to the above investigation/proceedings, His Majesty’s Procureur for the Bailiwick of Guernsey will be notified and consulted on the approach the [name of authority] might take in relation to that application.

Signature

Position

Date