



# Policy & Resources Committee

## GUIDANCE ON DESIGNATIONS UNDER THE TERRORIST ASSET FREEZING LAW

### Introduction

If another jurisdiction wishes assets located in the Bailiwick of Guernsey to be frozen because of a suspected terrorist or terrorist financing link to the owner of the assets, it should make a request to the Policy & Resources Committee of the States of Guernsey. The Policy & Resources Committee can give effect to the request by exercising its powers to designate the person under the [Terrorism and Crime \(Bailiwick of Guernsey\) Law, 2002](#) (the TAFL). Designations can be interim or final. The effect of a designation is that all assets owned, held or controlled by the designated person will be frozen. The purpose of this document is to provide an overview of the information that the Policy & Resources Committee will require in order to be satisfied that it is appropriate to do so. Further details about how to proceed in any individual case may be obtained from the Financial Crime Policy Office of the Policy & Resources Committee using the contact details at the end of this document.

### Legal Framework

#### *Interim Designations*

Under section 2 of the TAFL, the Policy & Resources Committee has the power to make an interim designation of a person if it **reasonably suspects** that a person falls within one or more of the following categories:

- the person is or has been involved in terrorist activity,
- the person is owned or controlled directly or indirectly by a person who is or has been involved in terrorist activity, or
- the person is acting on behalf of or at the direction of a person who is or has been involved in terrorist activity

and that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.

An interim designation will expire after 30 days or when replaced by a final designation, whichever is the sooner.

### *Final Designations*

Under section 4 of the TAFL, the Policy & Resources Committee has the power to make a final designation of a person if it **believes** that a person falls within one or more of the following categories:

- the person is or has been involved in terrorist activity,
- the person is owned or controlled directly or indirectly by a person who is or has been involved in terrorist activity, or
- the person is acting on behalf of or at the direction of a person who is or has been involved in terrorist activity

and that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.

A final designation expires after 12 months but can be renewed.

### **Information Required**

There are no specific tests under the TAFL that have to be met to establish reasonable suspicion for the purpose of an interim designation or belief for the purposes of a final designation.

The establishment of reasonable suspicion will usually require evidence of behaviour on the part of an individual or entity which in the eyes of a reasonable person would call for an explanation and which, in the absence of an explanation, would suggest to a reasonable person that the individual or entity falls within one of the specified categories. The establishment of belief will usually require evidence sufficient to make a prima facie case that an individual or entity falls within one of the specified categories.

The TAFL does not contain any specific requirements about the type of information that is required to establish reasonable suspicion or belief. At a minimum, the Policy & Resources Committee will usually require the following information before a request can be considered:

- the identity and position of the person making the request and confirmation that he or she is authorised to make it;
- the identity of the person in respect of whom a designation is requested;
- an indication of whether an interim or a final designation is requested, and the particular category within which the person which is said to fall;
- the grounds on which the person is alleged to come within that category;
- an outline of the evidence that is available to support that allegation;

- information about any relevant designations or other steps taken in other jurisdictions.

### **Additional Information**

The Policy & Resources Committee may request additional information as necessary before making a decision as to whether or not to make a designation. The Policy & Resources Committee will ordinarily obtain legal advice and consult other authorities within the jurisdiction, the authorities in the United Kingdom and, exceptionally, the authorities in other jurisdictions in order to assist it in making a decision. This will be done on a confidential basis.

Consideration will also be given to the proportionality requirements of the European Convention on Human Rights, which applies to the Bailiwick of Guernsey.

### **Contact Details**

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