

# The international dimension

## Global view of the terrorism lists

It is vitally important that charities operate within UK law. Charities that frequently operate abroad also have to take into consideration the law in the country where they are working. Trustees must ensure they are aware of the risk of and are properly informed about breaching local laws including criminal offences.

Different countries are likely to have their own legislation dealing with terrorism. They are also likely to hold their own lists of terrorists and banned terrorist organisations. Trustees need to be aware that different countries refer to these by different names, for example terrorist persons, banned organisations, proscribed groups, designated organisations, illegal entities and asset controlled entities. The consequences of being named on these lists will vary from country to country and list to list.

## Why are these lists relevant to charities in the UK?

### Short answer:

These countries' lists have no direct legal effect in the UK. However, trustees must take their existence into account and assess the risks which arise to their charity and its activities, particularly where the charity works internationally.

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### In more detail:

These country lists have no direct legal effect in the UK, although many of the people or organisations named on them may also appear on the UK's Terrorism Lists. HM Treasury's website lists the current UN and EU country sanctions regimes that have effect in the UK. These can be found by clicking [here](#).

Nevertheless, charity trustees must take their existence into account and assess the risks which arise to their charity and its activities. This is particularly important where the charity has a physical presence, or works in, or supports projects in the particular country.

Some countries display these lists publicly. As a minimum it is good practice for trustees to check individual country lists to inform their decisions, for example when working with a new partner organisation in a particular region. In some circumstances, it will be difficult to see how trustees can properly discharge their duties and responsibilities unless they do. How many international lists the charity consults and how regularly they are monitored needs to be appropriate to the level of risk the charity is exposed to.

The purpose of including information on the lists of other governments and inter-governmental organisations is to provide charities with an understanding of different laws under which they may operate. These lists have no direct legal effect in the UK; however, by increasing their awareness of them, charities may make more informed decisions and reduce risks. There may also be potential impacts on a charity's banking or other financial services which arise because of a proscription or designation in another country.

## Where can trustees find out about these lists?

### Short answer:

A number of individual country lists are available on the internet.

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### In more detail:

The US has lists of [Specially Designated Nationals \(SDNs\)](#), [Specially Designated Global Terrorists \(SDGTs\)](#) and [Foreign Terrorist Organisations](#) (these organisations are listed [FTO] on the SDN list).

In addition, the US Treasury's [Office of Foreign Assets Control \(OFAC\)](#) enforces economic sanctions targeted against international countries. OFAC imposes controls on transactions and freezes assets under US jurisdiction. A list of OFAC Country Sanction Programmes can be found by clicking [here](#).

Below are links to some of the lists that are publicly available on the internet in English:

- [Australia](#)
- [Canada](#)
- [India](#)
- [Israel](#)

### Case Study: Charitable services affected by an international list

A charity is not listed as a designated organisation on the consolidated list of financial sanctions targets available on the HM Treasury [website](#). However a supply and grant-making company has withdrawn its funding and services. It says this is because the charity is listed as a terrorist organisation on the US list.

Under US law, the company only needs to have a small presence in the US to be in breach of Executive Order 13224, entitled: "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism".

The Order prohibits transactions with individuals and organisations deemed to be associated with terrorism and blocks assets in their possession. It states that: "all US persons, including organizations and individuals, are subject to the Executive Order, including all US citizens and permanent resident aliens, regardless of where they (or their property) are located, and foreign organizations with a US presence".

**Practical advice:**

The US's Office of Foreign Assets Control (OFAC) list contains many countries, regimes and individuals who are considered to pose a threat to US National Security.

To differentiate between types of entity, square brackets after the names contain an acronym. This is what each one stands for:

[FTO] – Foreign Terrorist Organization

[SDT] – Specially Designated Terrorist

[SDGT] – Specially Designated Global Terrorist

[SDNTK] – Specially Designated Narcotics Trafficker

[NPWMD] – Non-Proliferation of Weapons of Mass Destruction

<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>

## Can a UK charity work with an individual or organisation that is on another country's list but not on the UK list?

**Short answer:**

It is not against the law in the UK to do so. However, charity trustees must carefully consider the risks that arise from this.

**In more detail:**

Sometimes organisations with similar names to a UK charity or international branches which are separate legal entities are designated, but the UK charity is not. In such cases, firstly the trustees should check carefully whether the person or organisation is the same as on the list.

If it is on the list, trustees need to carefully consider whether proceeding is in the interest of the charity and they must also ensure they can discharge their legal duties and responsibilities as trustees in doing so. They may want to work with a partner that is on a list. In order to ensure they discharge their legal duties, the trustees will need to assess the risks and carry out proper due diligence.

The risks that should be considered include the risk of legal action against the charity, or the risk to trustees or employees (and their safety). If they visit or are a citizen of the country concerned there may be significant legal implications. The charity might be associated with or perceived as supporting terrorism and there may be reputational damage to it. If the charity is to provide funding to that partner organisation, it may risk banks declining to proceed with the transaction, or even, in extreme cases, the funding being frozen by the bank or the charity's own banking services being put at risk.

## What if a charity is named on another country's list but not on a UK list?

### Short answer:

It is not illegal under UK law for a charity to operate here or overseas if it appears on another country's list.

However, it is likely that it will be illegal to operate in the country in which it has been designated under the local law. This is likely to give rise to significant practical consequences for the charity and will severely limit the activities it can carry out in that country and in some situations, other countries.

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### In more detail:

If another country has introduced laws enabling them to ban organisations or individuals they consider to be involved in terrorism, these laws will have their own parameters. Each particular government will have decided what legal consequences or sanctions result from being designated or banned in that country. These decisions do not automatically have legal effect in the UK or for all UK charities.

Whilst it will be of concern that a UK charity is regarded as being connected to terrorism by another country, it is possible for the charity to be designated or banned by another country but to continue operating legitimately in the UK. The charity continues to exist and is properly registered as a charity with the Commission. It is entitled to operate, which includes raising funds, in the UK. It is not illegal under UK law for the charity to operate here or overseas.

However, being designated or banned overseas can have a significant impact on a charity's ability to operate, particularly if it works in that country. It is likely that it will be illegal to operate in the country it has been designated in under the local law and it will severely limit the activities it can carry out in that country. It is possible that the charity's trustees or staff risk being arrested if they go there. If this happens, trustees should consider seeking professional advice, as the legal implications will differ from country to country.

## Consequences of operating in that country

In cases where there is a risk that activity in another country will be subject to local legal challenge, the trustees should assess the extent of the risk that they would be running and the extent to which that risk could be removed or reduced.

In these situations, the trustees should consider extremely carefully what course of action will be in the best interests of the charity, using both their knowledge of local conditions and the needs of their beneficiaries. They should take appropriate legal and other advice. They should balance the benefits of carrying out that activity against the risks and disadvantages, including the potential human, financial and reputational cost, of doing so.

If a charity discovers an individual trustee, employee or volunteer is designated on another country's list, legal advice should be sought and the risks of operating in that particular country assessed; the other trustees may be contravening local laws if they allow him/her to handle finances, for instance.

## Other risks

Being on another country's list can impact negatively on a charity's reputation, both in the country concerned and in the UK. It may make donors, partners, beneficiaries or financial institutions less willing to work with the charity. This makes it all the more important that trustees ensure they are open and transparent about their activities and make their annual accounts available. It also emphasises the importance of having robust procedures and systems in place, including financial controls, in order to reassure the public that their activities are legitimate.

In rare instances when UK charities may appear on other countries' lists, the difficulties experienced by charities may include:

- **Banking** - Banks may not want to provide financial services to the charity, particularly if the bank has branches or offices in the country of designation and so risk committing an offence in that country or being subject to legal action. This has led to some charities needing to transfer their accounts to different banks. It would be of concern to the Commission if a charity could not access any banking facilities.
- **Transferring funds abroad** - Charities may face difficulties when transferring funds abroad, particularly if they operate in US dollars and the designation is in the US. It may be that a particular bank, money service bureau or banking clearing house will prevent international transfers.
- Charities use a range of methods to transfer funds internationally. Various systems of money transfer are explored further in the toolkit's [Chapter 2: Safeguarding Charity Funds](#). The Commission's publication [CC8 Internal Financial Controls for Charities](#) (being revised) will provide guidance on transferring funds internationally.
- **Donations** - Donors might be put off donating to the charity even if there is only a suspicion of links to terrorism. Even if they want to continue funding, they may not be able to make payments to the charity, particularly if those donors are based in the country which has banned the charity, or are trying to use financial institutions with a presence in that country. In this situation, charities may need to adjust their fundraising strategy or plan for a reduced donor income.
- **Funding and grants** - Potential sources of income may be denied to the charity, either because of concerns about its activities or because the grant-maker is based in the country that has banned the charity. If this affects current activities, the charity may need to consider contingency plans or alter its reserves strategy. In the long term, trustees may need to look for alternative sources of funding.

## Role of the Commission

As explained above, it will be of concern that a UK charity is regarded as supporting terrorism by another country. The Commission will assess the basis for this, if possible, and where appropriate, whether this will require any regulatory action. The decision whether to and how to engage with the charity will depend on the reasons for the ban, and any supporting material available. The assessment will be conducted in accordance with our [Risk and Proportionality Framework for Compliance work](#).

If the Commission does engage with the charity, it will expect the trustees to explain their response to the ban, whether they intend to legally challenge the decision and their assessment of its practical implications for the charity and its operations and how they intend to address this. The Commission works with a number of relevant national and international agencies and regulators where concerns arise.

**RSI** if a charity is notified that it has become designated or banned by another country, we expect the trustees to notify the Commission immediately.