

Transparency International UK Press Briefing: Unexplained Wealth Orders

1. Introduction

The Criminal Finances Bill, introduced to Parliament on 13th October 2016, contains provisions for Unexplained Wealth Orders (UWOs) to help recover assets that are the result of illicit activity. The principle of UWOs are strongly supported by leading anti-corruption experts in the UK, including Transparency International (TI).

Prepared prior to the tabling of the bill, this briefing outlines our vision of what UWO's should be, how they should work and why they are important. Along with the 2010 Bribery Act, this is the most important anti-corruption legislation to be passed in the UK in the past 30 years, and is critical in bringing the UK's laws up to date so they can keep pace with modern criminals.

2. Background

The past 18 months have witnessed a growing awareness both nationally and internationally of the UK's role as a facilitator for global corruption. Research by TI and others has highlighted the [use of London's property market](#) as a safe haven for corrupt money, as well as drawing attention to the [Tier 1 investment visas scheme](#) and more generally the [weaknesses in the UK's anti-money laundering \(AML\) system](#). The most recent publication from TI "[Paradise Lost](#)" gives a good overview of this research.

Last April, the Panama Papers scandal confirmed what was long-alleged: corruption is now a global problem, crossing multiple jurisdictions, in which the implausibly large wealth accumulated by certain politicians, shady business people and officials is easily hidden within a secretive financial system, and used to buy assets in stable countries like the UK. In May the UK government hosted the London Anti-Corruption Summit, pledging better international coordination on corruption. The Summit drew further attention to the store of wealth in the UK arising from corruption overseas, and led to increased international calls for the UK government to act. UWOs aim to equip the UK law enforcement agencies to act more quickly and effectively against illicit wealth being laundered through the UK.

3. Why do we need Unexplained Wealth Orders?

There are important gaps in the UK legal framework which are being exploited by corrupt individuals and companies. This means, for example, that a corrupt official who has stolen his country's healthcare budget can buy a house in London with the proceeds - and at present nothing can be done unless there is a legal conviction in the country of origin, which simply never happens. Although some older legislation exists, it badly needs updating to close these loopholes, and lawyers who practice in this area are clear that this additional legislation is required.

TI's research has shown that huge amounts of illicitly gained wealth are laundered through the UK each year – at least £10 billion and according to [the National Crime Agency](#) possibly as much as £100 billion annually.

However, the current system allows barely any assets to be seized and restored, even in the rare cases when they have been identified. During the London Anti-Corruption Summit in May, when President Buhari of Nigeria was asked if he demanded an apology from David Cameron for his "fantastically corrupt" claim, he said he did not need an apology. He said, "What I am demanding is the return of the assets". Even when the political will is there, the legal framework is not good enough.

4. What are Unexplained Wealth Orders? should be highly targeted on assets linked to corrupt or criminal activity

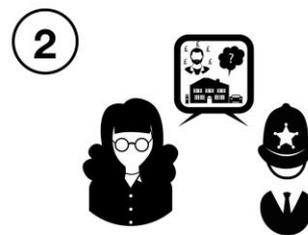
UWOs would be used to help freeze the assets of individuals who are reasonably suspected to have been enriched by criminal activity, including corruption. After approval by a judge, the individual would be served with a UWO and required to explain the source of the suspicious wealth. If they are either unable or refuse to do so, this can be used as evidence to help law enforcement seize assets through an existing civil recovery process. If they lie, or make a false declaration, they would have committed a criminal offence within the UK's jurisdiction.



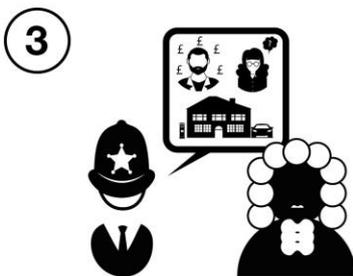
Unexplained Wealth Orders: How will they work?



1 The Minister for Health in Country X has misappropriated millions of pounds from the health budget into his own pocket. To hide this crime he decides to buy a multi-million pound property in London.



2 The house is far beyond the reach of Mr. X's salary of £60,000 per year, raising serious questions. These allegations are brought to the attention of law enforcement agencies.



3 The UK's law enforcement agency, either the NCA or the SFO would then take this information to a high court judge to show this Mr X is likely the owner of suspicious wealth beyond his means.



4 If the judge is satisfied by this connection they would then issue an unexplained wealth order (UWO) to the individual. Once the UWO is given, the assets belonging to Mr X may be frozen to prevent him moving them out of reach.



5 Mr X is then required to explain how they lawfully acquired their assets.



6 If Mr X fails to respond, or he provides an inadequate response, this extra information can be used in a subsequent civil recovery process if law enforcement agencies feel they have sufficient evidence.



7 Assets are forfeited in a civil case in the UK without the need for a criminal prosecution in Mr X's home country.

5. How many UWOs will there be?

At present, there are some hundreds of properties in the UK strongly suspected to have been acquired with the proceeds of corruption. This will provide low hanging fruit for immediate action by law enforcement agencies, if those agencies are properly resourced. TI's research suggests that there will be billions of pounds worth of other assets in the UK that have been acquired with the proceeds of corruption and a strong drive by law enforcement agencies will uncover the evidence required to serve a UWO. It will be important that law enforcement officials are open to and capable of receiving information from a wide range of channels, including civil society organisations working overseas, investigations by the media and reporting by diaspora communities. It is also important to recognise that once the backlog has been cleared, UWOs will have a continuous deterrent effect: they will send a signal to corrupt criminals around the world that the UK is no longer a safe haven for dirty money.

6. What about the human rights implications?

Transparency International operates in over a hundred countries, and in many of those the human rights of anti-corruption activists, and ordinary people, are routinely trampled on by corrupt governments and police forces. We take human rights extremely seriously. We have carefully weighed the human rights implications of UWOs, which would allow the state to freeze assets of an individual who has not had a criminal conviction. However, our assessment is that sufficient safeguards can be built into the legislation to ensure they are not abused. Three key protections are that they should be highly targeted on assets linked to corrupt or criminal activity (for example such as foreign government officials with assets over a stated threshold, or those who have links to serious crime), a reasonable level of evidence is required before applying for a UWO, and that the approval of a High Court Judge is required before a UWO can be served. This element of the process will provide an opportunity to rebut this measure if there are concerns. Finally, we are reassured by our legal advice that use of UWOs is compatible with the UK's international obligations on safeguarding human rights.

It is also important to note that UWOs do not target an individual's liberty; they target assets from countries that have been plundered by grand corruption, and assets should be rapidly unfrozen when the required proof of income is produced. A UWO is a tool designed to return wealth to countries that have suffered for decades from corruption in order, for example, that health and education budgets can be properly resourced.

7. Is this the UK gold-plating its legislation?

No. UWOs and equivalent laws are already in use elsewhere, and they respond to the real harm done by criminals who are currently able to act with impunity. It closes important loopholes in current legislation. Similar laws operate in several jurisdictions, including the US, Australia and Ireland.

8. Are UWOs enough to solve the problem?

No. Whilst UWO's would be a highly significant step forward, they would represent a closing of the net on corrupt money that has come into the UK, but without other processes there would still be gaps. Other positive moves would be:

1. **Proper resourcing of law enforcement agencies:** Without sufficient funding, law enforcement agencies would be unable to make full use of UWOs.
2. **Political will:** Legislation can only have a limited effect unless law enforcement agencies have the backing to support their allocation of resources to cases that are legally complex and may be contested by the rich and corrupt individuals whose assets are in question.
3. **Broader reform of the anti-money laundering system:** as money laundering becomes more sophisticated, the UK needs further AML reforms – such as a public register revealing the true owners of overseas companies which own UK property. In addition the supervisory system for money laundering regulation needs overhauling and the NCA needs to develop a better response to reports of suspicious activities.

9. Facts & Figures

- The NCA [estimates](#) tens to hundreds of billions of pounds of illicit wealth is laundered through the UK each year
- [39,917](#) properties across Greater London are held by companies registered in secrecy havens
- In the UK, [over 75 per cent](#) of corruption cases involving property investigated by the Metropolitan Police's Proceeds of Corruption Unit (POCU) involved anonymous companies registered in 'secrecy jurisdictions'.
- [From 2008 to 2015](#) – the so-called "blind faith period" where few checks were done over the source of income – 37% of Tier 1 investor visas were awarded to Chinese nationals and 23% to investors from Russia.

10. TI Corrupt Enrichment Taskforce

In 2014, TI convened a Corrupt Enrichment taskforce, chaired by anti-corruption legal expert Jeremy Carver (a former partner at Clifford Chance) and including representatives from academia and civil society. After a year of research, their conclusions were published in a Transparency International [report](#). This made the case for the UK to adopt Unexplained Wealth Orders as a key component in the fight against corruption.

11. Quotes

Robert Barrington, Transparency International UK Executive Director:

"The successful passage of Unexplained Wealth Orders into law would be as significant a move in the fight against corruption as the 2010 Bribery Act. This is an issue that strikes at the heart of what kind of society we want to be. We should chose to act in the interests of people around the world whose lives are blighted by corruption and do what we can to return their stolen wealth. We simply cannot continue to turn a blind eye and roll out the red carpet to the world's corrupt elite wanting to lodge their illicit wealth in the UK."

Michael Bowes QC, Outer Temple Chambers:

"A UWO is a sensible and proportionate response to the grave social mischief of corruption and will be a strong tool in the armory to tackle the movement of corrupt wealth."

Sue Hawley, Corruption Watch:

"The UK must end its role as a facilitator of the looting of state coffers by corrupt officials across the world, which undermines democracy, creates instability and fuels poverty. Unexplained Wealth Orders are an essential tool in ensuring the UK can seize corrupt wealth speedily and return it to countries that desperately need it."

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Notes to editors:

Transparency International UK spokespeople will be available for interview on unexplained wealth orders