



# Home Office

**NDNAD Delivery Unit (NDU):**

## International DNA Exchange Policy for the United Kingdom

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 Shaded areas denote changes from previous version.

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## TABLE OF CONTENTS

1	Objective .....	5
2	Scope .....	5
2.1	In Scope .....	5
2.2	Out of Scope .....	5
3	References .....	6
4	Definitions .....	6
5	Responsibilities .....	7
6	Requirements and principles of exchange .....	9
6.1	General Principles .....	9
6.2	Outbound Profiles .....	10
6.3	Inbound Profiles .....	10
7	DNA profiles Related to a Crime Investigation .....	11
7.1	Subject Profiles .....	11
7.1.1	Inbound Profiles .....	11
7.1.2	Outbound Profiles .....	11
7.2	Crime Stain Profiles .....	13
7.2.1	Inbound Profiles .....	13
7.2.2	Outbound Profiles .....	13
8	DNA Profiles Related to Missing Persons .....	14
8.1	Missing Person Profile .....	14
8.1.1	Inbound Profiles .....	14
8.1.2	Outbound Profiles .....	14
8.2	Unidentified Body Profiles .....	15
8.2.1	Inbound Profiles .....	15
8.2.2	Outbound Profiles .....	15
9	DNA SAMPLES .....	16
9.1	Inbound Samples .....	16
9.2	Outbound Samples .....	16
9.2.1	Identified Person DNA Samples .....	16
9.2.2	Unidentified Body or Crime Stain DNA Samples .....	17
10	Approved Exchange Mechanisms .....	17
10.1	INTERPOL Search Request Network (SRN) .....	17
10.2	G8 SRN .....	18
10.3	Mutual Legal Assistance .....	18
10.3.1	MLA – Search of the NDNAD or MPDD .....	18
10.3.2	MLA – release of a Subject profile .....	18
10.3.3	MLA – release of a crime stain profile .....	18

---

11	INTERPOL DNA Database .....	19
11.1	Retention of Person DNA Profiles .....	19
11.2	Retention of Unidentified Crime Stain Profiles .....	19
12	Record Keeping .....	19
12.1	Outbound .....	19
12.2	Inbound .....	20

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3	11/07/2012	Complete re-write
4	20/02/2014	Change from SOCA to NCA
5	21/10/2015	Complete re-write 2015

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## 1 OBJECTIVE

This document sets out the policy governing the international exchange of DNA samples and DNA profiles and the searching of non-UK DNA profiles against UK DNA databases.

DNA plays a key role in contributing to detection outcomes, in eliminating the innocent from investigations, in focusing the direction of inquiries and in building public confidence that elusive offenders may be detected and brought to justice.

This policy will further protect the civil liberties of those from whom DNA has been taken in the UK.

## 2 SCOPE

### 2.1 *In Scope*

Subject to section 2.2, this policy covers all UK DNA international exchange circumstances involving:

- 1 DNA Person and Crime Stain profiles;
- 2 DNA associated demographic data;
- 3 Inbound DNA profile search requests;
- 4 Outbound DNA profile search requests or releases;
- 5 Criminal investigations;
- 6 Missing person and unidentified body investigations;
- 7 The UK National DNA Database (NDNAD);
- 8 The UK Missing Persons DNA Database (MPDD);
- 9 Match investigations and reports;
- 10 Export & import of DNA samples.

### 2.2 *Out of Scope*

The following matters fall outside the scope of this policy:

- 1 Commercial forensic DNA profiling, DNA interpretation or casework interpretation work carried out by a UK provider at the request of a non-UK entity that does not involve a DNA sample collected in the UK;
- 2 Any case involving the exchange of DNA related information on the CTDNAD and/or for purposes associated with national security;
- 3 DNA Profiles and demographics not shared to the NDNAD by the Police Service of Northern Ireland but retained on the NI DNA Database through relevant local legislative frameworks including those as point 2 above;

- 4 Local formal agreements made by, Scotland or Northern Ireland for direct exchange of DNA data owned by each Authority;
- 5 The provision of evidential reports and/or the extradition of persons based on the results of a DNA exchange.

### 3 REFERENCES

The following references should be used for additional information to this Policy

Title	Link
INTERPOL DNA Data Exchange and Practice Handbook	<a href="https://publicintelligence.net/interpol-dna-data-exchange-and-practice-handbook/">https://publicintelligence.net/interpol-dna-data-exchange-and-practice-handbook/</a>
The NDNAD Strategy Board Policy for Access and Use of DNA Samples, Profiles and Associated Data	CUSTP-GP-029
Procedure For Administering The DNA Profile Comparison Service For The National Crime Agency – UK Missing Persons Bureau	CUSTP-GP-033
Data Protection Act	<a href="http://www.legislation.gov.uk/UKPGA/1998/29/contents">http://www.legislation.gov.uk/UKPGA/1998/29/contents</a>
NCA UKICB – Biometrics Guidance – DNA	Contact UKICB

### 4 DEFINITIONS

Term	Definition
Casework interpretation	The methods applied to assess forensic findings in the context of a case under investigation
Crime Stain sample	A sample collected from material left at a crime scene
De-confliction Process	A business process associated with LEA research of Intelligence /Information to prevent duplication, identify positive leads of enquiry and to assist with the responsibilities connected to criminal investigations.'
Demographic Data	The information that identifies an individual or case investigation – not the DNA profile
DNA	Deoxyribonucleic Acid
DNA Interpretation	The methods applied by experts or software programmes to determine the DNA profile designations following DNA profiling
DNA Profile	The resulting numbers allocated to the areas of DNA targeted by a DNA test
DNA Profiling	The scientific methods applied to a DNA sample to generate a DNA profile
DNA Sample	A sample of biological material that contains DNA
DNA Test	A set of chemicals that, when applied with scientific processes to a DNA sample, will produce a DNA profile (of the target areas of DNA for the test)
DNA-17	A DNA Test that targets 16 areas of DNA plus a gender marker. All DNA areas in SGMPlus are contained within DNA-17
Inbound	Coming into the UK
Missing Person	Anyone whose whereabouts cannot be established and where the circumstances are out of character or the context suggests the person may be subject of crime or at risk of harm to themselves or others (NB: a 'wanted missing' person is a person who cannot be located but is wanted in connection

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	with a criminal investigation)
Missing Persons Reference Profile	A DNA profile derived from a DNA sample associated to a Missing Person. This might be derived from a personal artefact (e.g. toothbrush) or a direct medical sample.
MPDD	The UK Missing Persons DNA Database
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 police cooperation basis, particularly enquiries that require coercive means. Requests are made by a formal international Letter of Request (LOR). In civil law jurisdictions these are also referred to as 'Commission Rogatoire'. This assistance is usually requested by courts or prosecutors and is also referred to as 'judicial cooperation'
NDNAD	The UK National DNA Database
Northern Ireland DNA Database	A DNA database managed by Police Service Northern Ireland (PSNI) within the devolved administration and falling under relevant local legislation.
Non-routine Speculative Search	The method of searching the NDNAD or the MPDD without permanently loading/retaining the DNA profile on the DNA database. (NB: routine speculative searching is where a DNA profile is loaded and retained on the DNA database for a period of time during which a search against the DNA profile can occur.)
NRSS	Non Routine Speculative Search
Outbound	Leaving the UK
PACE	Police and Criminal Evidence Act 1984 (as amended)
PACE (NI)	Police and Criminal Evidence (Northern Ireland) Order 1989
Person sample	A DNA sample collected directly from a person
Scottish DNA Database	A DNA database managed by Scottish Police Authority (SPA) within the devolved administration and falling under relevant local legislation.
SGM	A DNA Test that targets 6 areas of DNA plus a gender marker
SGMPlus	A DNA Test that targets 10 areas of DNA plus a gender marker. All DNA areas in SGM are contained within SGMPlus
Unidentified Body	A body (or parts of a body) that have been located where no identification of the individual can be made. (NB: depending on the body part, it may be that the individual is not deceased).

## 5 RESPONSIBILITIES

The following have responsibilities associated with this Policy

National DNA Database Strategy Board	The NDNAD Strategy Board provides governance and oversight of the operation of the National DNA Database (NDNAD) and the Missing Persons DNA Database (MPDD), including strategic policy to ensure appropriate implementation of and adherence to UK legislation.
Biometrics Commissioner	The Biometric Commissioner provides independent oversight of the retention and use of DNA samples and profiles by the police in England and Wales. He or she will dip sample cases in which DNA person material has been exported from the

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	UK to make sure that this has been done appropriately.
National DNA Database Delivery Unit (NDU)	<p>The NDNAD Delivery Unit (NDU) is the service provider for the NDNAD and the MPDD.</p> <p>The NDNAD and the MPDD are the UK databases for the storage, searching, matching and match reporting of DNA profiles generated for the UK.</p>
National DNA Database	<p>The National DNA Database (NDNAD) is a database containing DNA profile records of persons and crime stains that are compared against each other to identify matches to support criminal investigations. Matches are reported for persons to crime stains and crime stains to crime stains. The NDNAD can:</p> <ol style="list-style-type: none"> <li>1 retain DNA profile records (the record is permanently loaded to the NDNAD) for continuous speculative searching against current, new or amended DNA profile records; or</li> <li>2 have a DNA profile searched through a Non-Routine Speculative Search – where the searched record is not retained on the NDNAD.</li> </ol> <p>The retention of a DNA profile record on the NDNAD can only occur if the DNA profile has been generated by a NDNAD Strategy Board approved FSP from a UK DNA sample.</p>
Missing Persons DNA Database	<p>The Missing Persons DNA Database (MPDD) is a database containing DNA profile records of missing persons, relatives of missing persons (where a reference DNA profile is not available for the Missing Person), unidentified bodies and some crime stain DNA profile records that may be linked to missing persons or unidentified bodies (e.g. no-body murder case). The MPDD can:</p> <ol style="list-style-type: none"> <li>1 retain DNA profile records (the record is permanently loaded to the MPDD) for continuous speculative searching against current, new or amended DNA profile records; or</li> <li>2 have a DNA profile searched through a Non-Routine Speculative Search – where the searched record is not retained on the MPDD.</li> </ol> <p>The retention of a DNA profile record on the MPDD can only occur if the DNA profile has been generated by a NDNAD Strategy Board approved FSP from a UK DNA sample.</p>
Home Office International Criminality Unit, encompassing the UK Central Authority (UKCA)  International Unit at the Crown Office - Scotland	<p>The Home Office (HO) provides legislative and policy advice with respect to establishing the framework by which international co-operation is progressed through its International Criminality Unit (ICU).</p> <p>The HO is the central authority for assistance in England and Wales and Northern Ireland and operates through its UKCA function.</p> <p>The International Unit at the Crown Office is the central authority for assistance in Scotland.</p> <p>Central authorities have the function of receiving, acceding to and ensuring the execution of Mutual Legal Assistance (MLA) requests. The HO is also responsible for the negotiation and implementation of treaties and other international MLA agreements.</p>
National Crime Agency	<p>The NCA is a 24/7 operational crime-fighting agency with specialist capabilities to undertake and support operations, covering a broad range of complex areas, including:</p> <ol style="list-style-type: none"> <li>1 Preventing serious, organised and complex crime;</li> <li>2 Strengthening our borders; fighting fraud and cybercrime;</li> <li>3 Protecting children and young people from sexual abuse and exploitation;</li> <li>4 Responding to a broad range of complex and national threats and risks.</li> </ol> <p>NCA hosts the United Kingdom National Central Bureau (NCB) for INTERPOL through its UK International Central Bureau (UKICB) and co-ordinates UK activities for missing person's investigations through its Missing Persons Bureau (MPB).</p>



UK International Central Bureau	<p>The UKICB within the NCA is the national focal point for international DNA searches and should be contacted if advice on the conduct of an international search is needed.</p> <p>With the exception of requests for Mutual Legal Assistance, all international exchange requests covered by this Policy for the release and/or searching of DNA profile information must be notified and managed by UKICB.</p>
Missing Persons Bureau	<p>The UK Missing Persons Bureau is a part of the National Crime Agency and is the UK national and international point of contact for all UK missing person and unidentified body investigations. They provide support and advice to police forces in order to resolve cases and act as a hub for the exchange of information and expertise in this area. They also maintain the national database of missing and unidentified records.</p>
INTERPOL	<p>INTERPOL is the world's largest international police organization, with 190 member countries working together to ensure that police around the world have access to the tools and services necessary to do their jobs effectively, by providing targeted training, expert investigative support and relevant data and secure communications channels.</p> <p>This combined framework helps police on the ground understand crime trends, analyse information, conduct operations and, ultimately, arrest as many criminals as possible.</p> <p>The INTERPOL Secretariat General (IPSG) is a permanent body of the organisation headquartered in Lyon, France.</p>
Law Enforcement Agencies	<p>UK Law Enforcement Agencies (LEAs) undertake criminal and missing person's investigations. Their interaction with individuals (including the ability to take DNA and fingerprints from an arrested person) is governed by PACE as amended.</p>
Forensic Service Providers	<p>Accredited Forensic Service Providers (FSPs) are those who are approved by the National DNA Database Strategy Board. FSPs carry out DNA profiling on behalf of LEAs and submit profiles to the NDNAD and the MPDD for loading or NRSS. They are also responsible for the interpretation and production of statements of evidence relating to matches between DNA profiles involved in cases investigated in the UK.</p>

## 6 REQUIREMENTS AND PRINCIPLES OF EXCHANGE

This policy covers the handling of outbound DNA profiles and associated demographic data and inbound DNA profiles. Special rules apply as regards person criminal searches, unidentified crime stain searches and missing persons cases.

### 6.1 General Principles

1 All exchanges covered by the Policy must be notified to and managed by at least one of the following:

- a. UK International Crime Bureau (UKICB) via NCB INTERPOL;
- b. Home Office International Criminality Unit (ICU);
- c. Scotland's Crown Office; or
- d. Northern Ireland Department of Justice

in liaison with:

- a. National DNA Database Delivery Unit (NDU);
- b. Scottish Government and/or Police Scotland in matters relating to exchanges of or policy regarding Scottish profiles and samples;
- c. Department of Justice (Northern Ireland) and/or Police Service of Northern Ireland (PSNI) in matters relating to exchanges of or policy regarding Northern Ireland profiles and samples.

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- 2 Outbound DNA profile exchanges and/or searches must only be initiated and inbound DNA profile exchanges and/or searches must only be undertaken when they have been properly assessed, any risks adequately mitigated and where the relevant exchanges and/or searches are necessary, reasonable and proportionate.
  - 3 The outbound exchange of a DNA profile where the individual is unknown (e.g. a profile from a crime stain or an unidentified body) must always be preferred to the outbound exchange of a profile from a named individual. For example, where an unidentified deceased body is located abroad, then rather than exporting the profile of a person whose identity is known with a view to establishing if it matches a profile derived from that body, the DNA profile derived from the body should be obtained for searching against the appropriate UK DNA database(s).
  - 4 Save in exceptional circumstances, any foreign country/entity to which a UK DNA profile is sent for searching must be required to delete or destroy that profile as soon as it has been searched against the relevant database. Therefore, when a DNA profile is sent out of the UK a caveat must be included stating that the profile must only be used for the purpose of the investigation for which it is exported. Repeat searches can be requested if deemed necessary. Exceptional cases will be considered by the NDNAD Strategy Board to ensure control is maintained of the DNA profile record.
  - 5 The UK retains the right to refuse to undertake a search. Following a search, the UK retains the right to not report the results of a search.
  - 6 Save in exceptional circumstances the exchange of DNA profiles for the purpose of kinship searching (for missing persons) or familial searching (for unsolved crimes) will not be permitted. Exceptional cases will be considered by the NDNAD Strategy Board to ensure sufficient justification, control, approval and, where appropriate, consent.

## **6.2 Outbound Profiles**

All DNA profiles generated within the UK must be loaded and searched against the NDNAD and/or MPDD prior to export from the UK. Where this is not viable the case will be reviewed by the NDNAD Strategy Board to ensure the correct measures are in place and appropriate actions are completed prior to any export.

The outbound exchange of DNA person profiles must be approved by the Data Owner for the DNA profile and the NDNAD Strategy Board. The Chief Officer of the LEA that collects a DNA sample is the Data Owner for the DNA profile that is derived from it.

## **6.3 Inbound Profiles**

The UK will normally only comply with a request for the searching of an inbound person, crime stain or unidentified body DNA profile, where:

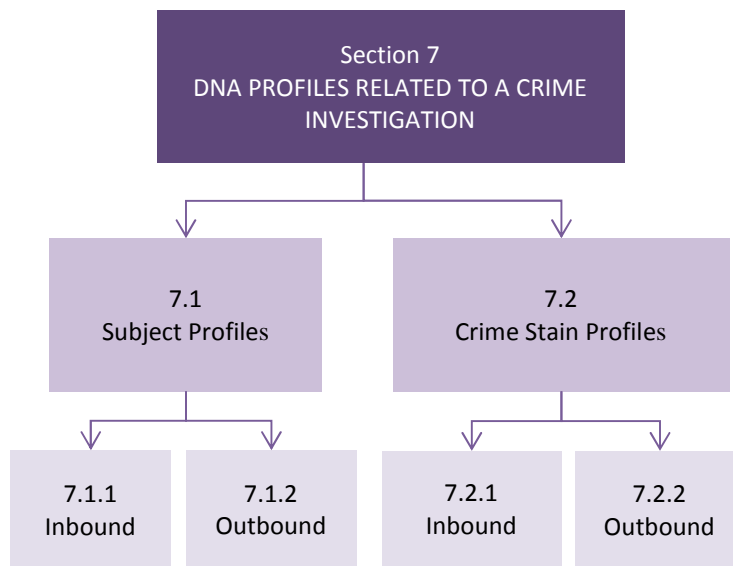
- 1 the offence allegedly committed would be a 'qualifying offence' (as defined at s65A(2) of PACE (England and Wales) or relevant legislation within Scotland or Northern Ireland if it were committed in the UK,
- 2 the profile is derived from a Missing Person or unidentified body;
- 3 the request and any subsequent search is necessary, reasonable and proportionate; and
- 4 the DNA profile(s) meet the UK minimum quality criteria for searching

Any requests that do not meet these criteria will be considered on a case by case basis and may be referred for specific authorisation to the NDNAD Strategy Board.

The number and type of requests made should be monitored (see section 12.2) and, where a country or countries appear to be targeting searches to the UK when there is no good reason to suspect that there is a UK connection, requests should and will be challenged.

An inbound DNA profile which is searched against a UK database will normally be subject to a single non-routine speculative search (NRSS) only and will not be retained on the NDNAD or the MPDD. In exceptional cases the NDNAD Strategy Board will consider requests for repeat NRSSs.

## 7 DNA PROFILES RELATED TO A CRIME INVESTIGATION



### 7.1 Subject Profiles

#### 7.1.1 Inbound Profiles

An inbound named person's DNA profile will only be searched against the NDNAD with a view to establishing whether or not there is a match with a UK unidentified crime stain profile. Any matches identified to a UK person profile will be reviewed by the NCA for the appropriateness of reporting the match. The NCA UKICB in conjunction with the relevant LEA(s) will initiate a match investigation and de-confliction process prior to the release of any associated demographic data outside of the UK.

A request to confirm the identity of a person will not be dealt with by way of a NDNAD search; any such request must be dealt with by way of a comparison of fingerprints.

#### 7.1.2 Outbound Profiles

When consideration is being given to exporting the DNA profile of an identified individual (including volunteer elimination DNA data), contact must be made with UKICB at the earliest opportunity. This is so whether the possible export of the

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profile arises as a result of a decision made by a UK authority or as a result of a request made by an authority from outside the UK.

A named person's DNA profile should only be exported when such a course is necessary, reasonable and proportionate, is in line with s63A of PACE (as amended) or Section 19C of Criminal Procedure (Scotland) Act 1995 (as amended) or Article 63A PACE NI Order 1989 (as amended) and meets one or more of the following criteria:

- 1 It is for purposes related to the prevention or detection of crime;
- 2 It is for purposes related to the identification of a deceased person;
- 3 It is in the interests of National Security; or
- 4 It is for the purposes of a Counter-Terrorism investigation.

The following factors must be borne in mind when consideration is being given to the export of a subject profile:

- 1 Would it be possible to use the DNA profile for the same purpose domestically?  
*It will usually be unacceptable to send a DNA profile overseas if it is to be used for a purpose for which it could not lawfully be used in the UK.*
- 2 Is it possible to obtain the same result by other means?  
*For example, where an unidentified body is located abroad, then rather than exporting the profile of a person whose identity is known with a view to establishing if it matches a profile derived from that body, the DNA profile derived from the body should be obtained for searching against the appropriate UK DNA database(s). This approach will minimise any impact on the individual's privacy.*
- 3 Is it reasonable to export the DNA profile?  
*For example is there reason to suspect that the subject has committed a crime abroad?*
- 4 Is it proportionate to export the DNA profile?  
*For example, does the offence for which the subjects DNA sample collected or the potential offending nature of the subject justify the export of the DNA profile?*
- 5 Is the DNA profile retained legally in the UK?  
*i.e. It is important to check that the profile is not one which should already have been deleted from the database(s).*
- 6 Which countries (or global zones) is the DNA profile to be sent to?  
*To send a DNA profile to a country which does not abide by the rule of law or which does not have a trustworthy police and judicial system may not be right, even though all the other criteria have been met.*

In any case where a subject's DNA profile is exported for searching against another country's DNA database, that DNA profile must be sent anonymously i.e. demographic data linked to the profile must not be transmitted at the same time as the profile and care should be taken to minimise the risk that the relevant person's identity may be inferred from other communications.

Should any potential international match to an anonymised outbound subject profile be identified, the NCA UKICB in conjunction with the relevant LEA(s) will initiate a match investigation and de-confliction process prior to the release of demographic data outside of the UK.

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In response to a direct request for a named person's DNA profile this can be completed with demographic data to confirm the record exported is the same as that requested.

## **7.2 Crime Stain Profiles**

### **7.2.1 Inbound Profiles**

Searches of inbound crime stain DNA profiles may be undertaken on the NDNAD with a view to establishing whether or not there is a match to a subject or crime stain DNA profile held on a UK database. The UK retains the right not to report the outcome of any such search and any report that is made must be approved by the NCA UKICB and communicated by it to the requestor.

When a search results in one or more possible matches each LEA involved must be consulted **prior to** the search results being released. The NCA UKICB in conjunction with the relevant LEA(s) will initiate a match investigation and de-confliction process prior to the release of any associated demographic data outside of the UK.

Where there is a match or matches that cannot be eliminated the NDNAD match report can be sent to the requestor via the NCA UKICB. The associated demographic data linked to the DNA profile should not initially be transmitted in connection with the DNA profile match report for the speculative search. An assessment should be made into the reliability or relevance of the match and should seek to minimise unnecessary delays in the reporting of investigative information to the requestor.

Any decision to release demographic data in connection with a match must be necessary, reasonable and proportionate, with respect for the person whose DNA profile is in effect being released and without unlawful discrimination. The decision must be documented with reasoning and justification. This will be auditable by the Biometrics Commissioner.

### **7.2.2 Outbound Profiles**

DNA Crime Stain profiles from crime scenes may be sent from the UK for searching on another country's DNA database(s) at the request of the police force investigating the crime. Before this is done the requesting force must normally satisfy itself that:

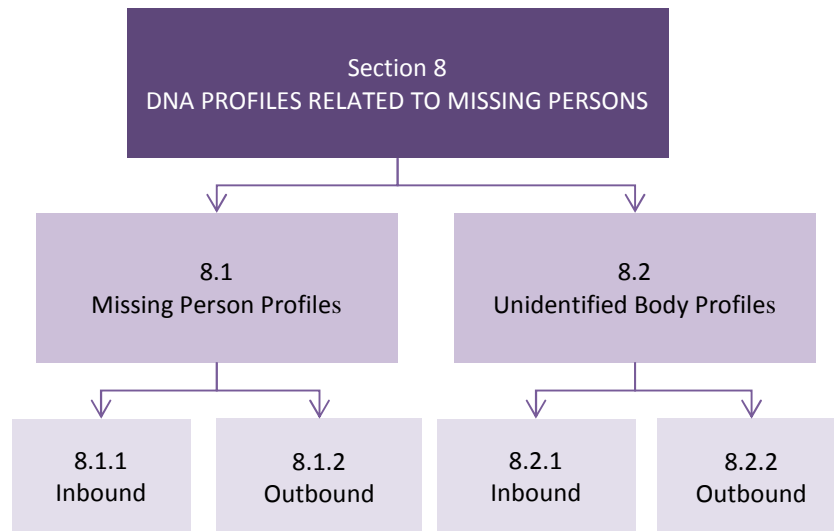
- 1 the crime under investigation is a qualifying offence (as defined at s65A(2) of PACE (England and Wales) or relevant legislation for Scotland and Northern Ireland, if it were committed in the UK;
- 2 the DNA profile is lawfully retained on the UK NDNAD;
- 3 there is good reason to believe that the material from which the DNA profile was generated was directly associated with the perpetrator of the crime; and
- 4 there is good reason to believe that the proposed international search may assist in the investigation of that crime.

In cases where those criteria are satisfied the NCA UKICB will usually approve the request. Even in cases where those criteria are not satisfied, however, a request for the export of a crime stain DNA profile may be submitted by the NCA UKICB for review and approval by the NDNAD Strategy Board.

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When consideration is being given to the export of a Crime Stain profile, the factors which should be borne in mind include those set out at sub-paragraphs 1, 3, 4, 5 and 6 of Section 7.1.2.

## 8 DNA PROFILES RELATED TO MISSING PERSONS



### 8.1 Missing Person Profile

This section is specific to Missing Persons as opposed to ‘wanted missing’ persons (or suspected criminals) who are at large. The rules covering the exchange of DNA profiles belonging to ‘wanted missing’ persons are set out at section 7.1.

Any search of a Missing Persons DNA profile – whether inbound or outbound – must be restricted to a search against DNA profiles derived from unidentified bodies. There are no additional restrictions on the searching of DNA profiles from unidentified bodies other than those specified in section 7.2.

#### 8.1.1 Inbound Profiles

All Inbound Missing Persons cases will be submitted via the UKICB who will register the request and forward on to the Missing Persons Bureau (MPB) for their recording and management via research and DNA profile searching. The MPB will report back via UKICB for International dissemination.

Any search of a DNA profile relating to a Missing Person shall be restricted to a search against the profiles of unidentified bodies retained on the MPDD.

#### 8.1.2 Outbound Profiles

A DNA profile relating to a Missing Person must only be exported when the Missing Persons case (or unidentified body) has been registered with the Missing Persons Bureau.

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When consideration is being given to exporting a DNA profile relating to a Missing Person contact must be made with UKICB at the earliest opportunity. This is so whether the possible export of the profile arises as a result of a decision made by a UK authority or as a result of a request made by an authority from outside the UK.

Where possible, arrangements should be made for such profiles to be searched against databases held by specified countries (in preference to searches “in zones”) and searches should where possible be limited to searches of Missing Persons DNA Databases rather than of Criminal DNA Databases.

The searching of Missing Persons DNA profiles is restricted within the UK. Before a DNA profile relating to a Missing Person is exported consideration should be given to the possibility that the right of the individual to go missing may in consequence be breached (proof-of-life searching). Before sending a Missing Persons reference DNA profile outside of the UK, a search of the DNA profile on the NDNAD must be carried out. Requests for NDNAD Strategy Board authorisation for sending the DNA profile must include consideration of the proportionality for proof-of-life searches both within the UK and internationally.

In circumstances where the DNA profile of a missing person is derived from the DNA profiles of relatives of the Missing Person, informed consent may be required from the donors of those DNA profiles, especially where the complete DNA profile of a donor is to be sent (rather than the derived potential profile of the Missing Person).

## **8.2 Unidentified Body Profiles**

### **8.2.1 Inbound Profiles**

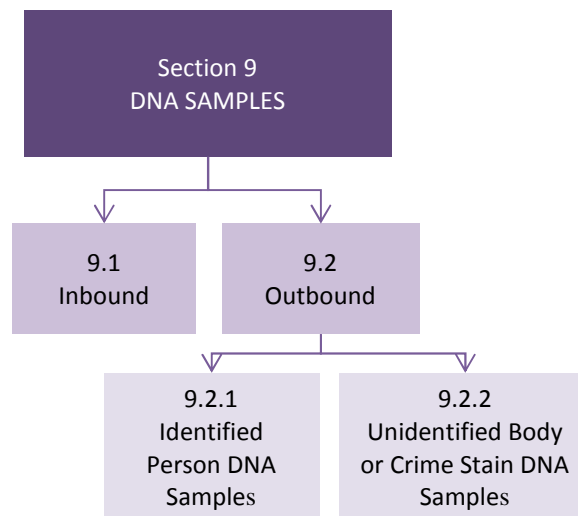
The exchange of DNA profiles of unidentified bodies has no restrictions other than those specified in section 7.2.1.

### **8.2.2 Outbound Profiles**

The exchange of DNA profiles of unidentified bodies has no restrictions other than those specified in section 7.2.2.

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## 9 DNA SAMPLES



### 9.1 Inbound Samples

Forensic DNA samples may be imported into the UK for use in connection with UK investigations. It should be noted, however, that in the context of criminal investigations or investigations relating to missing persons, care should always be taken to cater for issues such as evidential continuity, chain-of-custody and the stability of the relevant samples. These must be considered from the outset in liaison with appropriate experts.

### 9.2 Outbound Samples

DNA samples should only be exported from the UK as a 'last resort' action. Once a DNA sample has left the UK, the UK has no further physical control over the way in which that sample is used. Any request for a DNA sample to be exported must be challenged and the requestor must be required to demonstrate that the export of a DNA sample is necessary and that no other course which allows the DNA sample to remain in the UK (such as the export of a DNA profile) would suffice. It should be noted that it may, for example, be required for the sample to be subjected to a non-standard DNA test<sup>1</sup> in the UK. Advice should be sought from Forensic Service Providers in the UK as to what can be achieved for non-standard DNA tests in the UK.

The export of any DNA sample from the UK must be authorised by the NDNAD Strategy Board.

#### 9.2.1 Identified Person DNA Samples

DNA Samples collected from arrestees under PACE or PACE (NI) must not be exported outside of the UK. Specific legal advice should be sought regarding DNA samples collected from arrestees under relevant local legislation for Scotland.

A volunteer DNA sample can only be exported from the UK with the specific informed consent of the individual from whom the DNA sample is collected. The donor must be reminded that the UK will have no physical control over the way

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<sup>1</sup> A Standard DNA test is defined as a DNA-17 test that is used for the majority of forensic DNA applications in the UK



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in which that sample is used after it leaves the UK. All other possible courses (such as profiling the DNA sample in the UK) must first have been considered and, where appropriate, exhausted.

Where a sample is required to be exported from the UK, this can be done so for intelligence purposes to aid an investigation. Other than Mutual Legal Assistance, where evidence for a case may be requested, the exchange of DNA information through the mechanisms of this Policy does not constitute evidence for a case.

Any application to the NDNAD Strategy Board for authorisation to the export of a named person's DNA sample must detail all the factors and reasons that are said to make it appropriate for such authorisation to be granted and all the 'control measures' that are proposed.

### **9.2.2 Unidentified Body or Crime Stain DNA Samples**

Unidentified DNA samples (NB: this **does not** include samples taken from known individuals that are anonymised) can in some circumstances be exported for the purposes of progressing investigations. Instances such as the processing of the DNA sample with an alternative forensic DNA test (that cannot be carried out in the UK) in order for the resulting DNA profile to be more compatible with a DNA profile from another country.

Any application to the NDNAD Strategy Board for authorisation to the export of an 'unidentified' DNA sample must likewise detail all the factors and reasons that are said to make it appropriate for such authorisation to be granted and all the 'control measures' that are proposed.

## **10 APPROVED EXCHANGE MECHANISMS**

This section covers the approved search request mechanisms covered by this policy for DNA profiles inbound and outbound involving the UK. These are:

- 1 INTERPOL Search Request Network (via UKICB);
- 2 G8 Search Request Network (via NDU);
- 3 MLA requests (via ICU).

This policy will be updated should the UK re-join the Prüm arrangements set out in EU Council Decisions 2008/615/JHA and 2008/616/JHA.

### **10.1 INTERPOL Search Request Network (SRN)**

The INTERPOL SRN is maintained and managed by INTERPOL. It provides a world-wide network for the exchange of criminal intelligence between all member states. Each Member State has a nominated NCB through which data is exchanged on the secure INTERPOL I-24/7 global police communications system (I-24/7 network).

Agreements are in place between Members on the minimum criteria and formatting of DNA profile data and associated information to allow for easier data exchange through efficient and effective processes.

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## **10.2 G8 SRN**

G8 countries, under Memorandum of Understanding have a mechanism for exchanging DNA profile data to enable efficient direct DNA database to database requests to be processed and closer interactions between DNA experts.

An outbound search using this mechanism must follow the same route as any other outbound search, except the exchange of the profile occurs from the NDU. UKICB must be informed of all search outcomes.

An inbound search request will be received by the NDU and UKICB must be informed of the receipt and subsequent outcomes.

## **10.3 Mutual Legal Assistance**

International Mutual Legal Assistance (MLA) requests, normally through a Letter of Request (LOR) are received by the Home Office International Criminality Unit (ICU). The ICU will coordinate any DNA aspects of a request with the UKICB, including requests for:

- 1 the Search of the NDNAD or MPDD;
- 2 the release of a Subject profile;
- 3 the release of a crime stain profile;

A request for the collection of a DNA sample and any subsequent release or non-standard DNA profiling activity is covered is in section 9.

### **10.3.1 MLA – Search of the NDNAD or MPDD**

ICU will refer the request to search the NDNAD or the MPDD directly to NDU. NDU will perform a search of the NDNAD and /or the MPDD and produce a report of the outcome of the search in the form of a factual report. Dependent on the requirements of the LOR, the result of a search(es) may require additional review by a DNA Expert (for evidential reporting) and may require referral to appropriate police force(s) in the UK for review. The requirement should be determined on a case by case basis and will be led by ICU.

### **10.3.2 MLA – release of a Subject profile**

ICU will refer requests for the release of UK subject DNA profiles to the UKICB. UKICB will liaise with the appropriate police force(s) to ensure that a response to the MLA request is agreed by the owner of the DNA profile and demographic data. The police force will follow the steps for Subject Profile Outbound Requests (section 7.1.2) to ensure appropriate authorisations are in place.

### **10.3.3 MLA – release of a crime stain profile**

ICU will refer requests for the release of UK Unidentified Crime Stain DNA profiles to the UKICB. UKICB will liaise with the appropriate police force(s) to ensure that a response to the MLA request is agreed by the owner of the DNA profile. The police force will follow the steps for Crime Stain Profile Outbound Requests (section 7.2.2) to ensure appropriate authorisations are in place.

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## 11 INTERPOL DNA DATABASE

The INTERPOL Secrétariat Général (IPSG) runs an International DNA database known as the DNA Gateway on behalf of member countries. This holds DNA profiles from offenders, crime scenes, missing persons and unidentified bodies. Member countries may access the database via the I-24/7 network. Access to this database for all UK LEA is via UKICB. INTERPOL restrict the retention of DNA records by member countries to 5 years, by which time an alert will be sent to the NCB for a review of the record retention.

All outbound UK DNA profiles can be automatically search against **but not retained on** the INTERPOL DNA Database.

The following sections cover the retention of DNA profile on the INTERPOL DNA Database. The responsibility for the management (e.g. deletion or amendment) of DNA profiles retained on the INTERPOL DNA database resides with UKICB.

### 11.1 Retention of Person DNA Profiles

With justifiable reasoning, investigative value and following the completion of the requirements detailed at section 7.1.2, requests can be made to the NDNAD Strategy Board for authorisation for the **retention** of a person's DNA profile on the INTERPOL DNA database. Requests will be treated on a case-by-case basis. This applies to both Criminal and Missing Persons DNA profiles. The NDNAD Strategy Board may further restrict the retention period of a record on the INTERPOL DNA database.

Where applicable, person DNA profiles retained on the INTERPOL DNA Database must adhere to the requirements of the Protection of Freedoms act 2012 or Criminal Justice Act (Northern Ireland) 2013. The responsibility for this is with UKICB.

### 11.2 Retention of Unidentified Crime Stain Profiles

With justifiable reasoning and investigative value, as assessed through the requirements detailed at section 7.2.2 and 8.2.2, the **retention** of unidentified (crime stain or body) DNA profiles on the INTERPOL DNA database is permitted.

## 12 RECORD KEEPING

UKICB, ICU, NDU must maintain records of both inbound and outbound requests. As a minimum the following records must be available:

### 12.1 Outbound

The number of requests for the export of DNA profiles associated demographic data and DNA samples from authorities within the UK and received from outside of the UK broken down as:

- 1 The requestor;
- 2 Number received;
- 3 Number authorised;

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- 4 Timeliness of processing;
  - 5 Results of the data transfer.

## **12.2 Inbound**

The number of requests for the search of DNA profiles from authorities within the UK (i.e. ICU), and from authorities outside of the UK, broken down as:

- 1 Country or authority of origin;
- 2 Number received;
- 3 Number authorised;
- 4 The DNA database(s) searched;
- 5 Results of the search (hit/no hit);
- 6 Timeliness of response.

This information must be reported, on an annual basis, to the National DNA Strategy Board and may be included in the NDNAD Strategy Board Annual Report.