



Department
for Business
Innovation & Skills

COMPANY FILING REQUIREMENTS
- RED TAPE CHALLENGE

Government response

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Company Filing Requirements

Executive Summary

1. The Companies Act 2006 (“the Act”) made significant improvements to the regulatory landscape: bringing company law requirements up to date and putting small and medium sized companies at the heart of the Act, introducing light touch requirements for the smallest entities and less onerous requirements more generally. Following the Company and Commercial Law Red Tape Challenge, however, many of those who responded thought there was still room for further improvements.
2. Respondents highlighted a number of issues, including:
 - potential duplication in relation to requirements to: hold information on the public register¹ and in the company’s own registers; file information on the public register more than once; and file similar (or the same) information on the public register and with HM Revenue & Customs (HMRC);
 - problems associated with the information on the public register. This substantiated complaints separately received by both BIS and Companies House (CH) about incorrect registered office addresses which CH has no legal authority to deal with effectively, and individuals being appointed as directors without their knowledge; and
 - a feeling that more could be done to update and amend the public register quickly, aligning this to the use of electronic communications.
3. In October 2013, the Government launched a consultation on a package of deregulatory proposals based on those suggested by business as part of the Red Tape Challenge. The proposals were grouped within four themes:
 - *Annual filings*: annual return and accounts;
 - *Transparency*: company registers, directors’ dates of birth, statements of capital and trust & transparency (disclosure of subsidiaries);
 - *Communications*: company e-mail addresses and additional information on the public register; and
 - *Resolving problems*: registered office addresses, directors’ disputes and accelerated strike off.

¹ In this document “the public register” means the UK company register held by the Registrar of Companies at Companies House.

4. Also in 2013 we sought views on the Transparency and Trust discussion paper, including implementation of the UK's G8 Action Plan commitments around corporate transparency and a range of related measures to improve confidence in the UK's regime for tackling company directors who have engaged in misconduct.
5. There were 150 responses to the company filing consultation, which closed on 22 November 2013. Following careful consideration of the responses, the Government has decided on the package of reforms set out here.
6. The company filing reforms are separate, but closely linked, to those on Transparency and Trust. The combined aim of the policy in both these areas is to improve the accuracy and integrity of the public register whilst also simplifying the current filing requirements. The proposed changes will affect companies throughout their life, whether they are incorporating, growing and fulfilling their regulatory obligations or ceasing to trade.
7. Taken together, the reforms will rationalise requirements for business, allowing companies to provide the most useful set of information in the most sensible way, with new requirements reducing duplication or complexity. They will also increase transparency and improve the UK's business environment.
8. The Government's decisions on company filing requirements are set out below.
9. *Annual filings*: the Government has decided to allow companies more flexibility to confirm whether their company information is correct and complete at any point in a year. This is instead of requiring companies to complete an annual return at a set point of the year. This will remove a burden from those companies who make changes to some of their information within the year and then have to duplicate this information when they additionally complete an annual return.
10. Companies that make changes inside a twelve month period (for example, if they appoint a new director) will be asked if they wish to check and confirm other information at the same time. If they do so, no further action will be required for a further twelve month period (unless there is a change which needs to be notified to the registrar).
11. The Government will be making significant changes to the joint filing tool to ensure there is an easy and attractive way in which small companies can provide data just once to fulfil HMRC and CH requirements. We will not be mandating a single date for filing accounts to HMRC and CH.

12. *Transparency*: the Government will give private companies the option of not keeping any, or all, of the following registers: register of directors; directors' residential addresses; secretaries; members; and the proposed register of beneficial ownership². Where a company exercises this option, it will be required to keep the information currently required to be on its company register up to date on the public register instead. All the information currently available for inspection on the company register would be publicly available on the public register. This includes the addresses of members and full date of birth of directors³. This will avoid duplication of information and reduce the administrative tasks required of a company.
13. In order to reduce the risk of identity theft, the full details of a director's date of birth will no longer be available on the public register (except in certain limited circumstances, see para 12 above). Instead, the public register will show the director's month and year of birth. Their full date of birth will still be available via the company's own register. We intend to replicate this model in respect of the proposed register of company beneficial ownership.
14. The Government will remove the requirement for a company's Statement of Capital to list the amount unpaid and paid up on each share. Instead, we will require companies only to show the aggregate amount unpaid. Where a private company re-registers as a public company we will require it to state the aggregate amount paid up on its shares.
15. The Government believes that, to improve transparency, information on a company's subsidiaries should be listed in one place at one time. Formal proposals will be brought forward as part of the implementation of the EU Accounting Directive.
16. *Communications*: The Government will make it possible for CH to widen its use of electronic communication. CH will have the facility to be able to send all correspondence and statutory notices electronically and companies will be able to opt in to receiving communications electronically. This will not be mandatory. We will allow companies who wish to make additional information (for example, a trading address) available on the public register to do so.
17. *Resolving problems*: The Government will enable the registrar of companies to change a company's registered office when, after seeking evidence following a complaint, the registrar considers that the company is not authorised to use the address.

² See the Government's response on the Transparency and Trust paper for more information on implementation of that register.

³ And the full date of birth of beneficial owners.

18. The Government will remove the requirement for companies to file a “consent to act” for newly appointed directors and company secretaries. This will be replaced with a requirement for the company to make a statement of truth that the person has consented to be a director/company secretary. The registrar of companies will write to directors following their appointment and directors will be able to object to their names being on the public register as a director if they assert that they are not in fact a director of the company. The letter from the registrar will also include details of directors’ general statutory duties.
19. The Government will amend the procedure to strike off and dissolve a company from the public register to reduce the timescale that the process takes.
20. Where necessary, the Government intends to bring forward legislation to implement these proposals as soon as Parliamentary time allows.

Introduction

21. On 7 October 2013 the Government launched a consultation on proposals to improve and simplify the current requirements for companies to file certain information with CH.
22. The consultation closed on 22 November 2013. In total, 150 responses were received from range of stakeholders, including:

Business Representative / Trade Body	17
Government Agency	2
Charity / Social Enterprise	4
Legal Representative	11
Accountant	10
Individual	24
Large Business	29
Medium Business	11
Small Business	12
Micro Business	28
Other	2

23. This document summarises the responses received to the questions in the consultation. It also sets out the Government's response to the evidence provided and explains the Government's decision in a number of policy areas.

Government response

Annual Return

Q1. Do you agree that the requirement to file an annual return is removed and that the system relies on event driven filing?

Q2. Do you agree that companies should be allowed to simply check and confirm that their information is up to date once a year?

Q3. Do you wish to retain the annual return?

Q4. Do you agree that the Statutory Industry Code (SIC) should be required at incorporation and maintained as part of an annual check?

What did the consultation propose?

24. The Government consulted on three options related to the annual return and one associated question in relation to the SIC code (the scheme used to classify companies' principal business activities). The first three questions dealt with how companies should update their statutory information on the public register. Responses to the Red Tape Challenge had suggested that the current requirement for all companies to complete an annual return on a specified date each year was, in some cases, duplication of information already supplied and updated on the public register.
25. The three questions offered the following options: keep the current arrangements; move to a more flexible approach which would still require information to be updated once per year but which could be undertaken by a check and confirm approach; or remove any requirement for companies to update or confirm statutory information once per year and rely on event driven filing.
26. In order to simplify updating information, the final question asked whether the SIC code information should be required on incorporation.

What was the response to the consultation?

27. A total of 139 respondents answered questions relating to the annual return. The responses were split with many supporting two options, see the breakdown:
- Remove annual return: 132 respondents answered to this question, 39 (30%) were in favour of moving to event driven filings with 93 (70%) against.
 - Move to a check and confirm approach: 122 respondents answered this question 86 (70%) in favour and 36 (30%) against.
 - Retain the annual return: 120 responded with 77 (64%) stating that the annual return should be kept and 43 (36%) were against.
28. Of the numbers above, 44 responses said yes to keeping the annual return and yes to check and confirm, and 28 responded yes to both event driven filing and check and confirm.
29. A number of respondents noted that the annual return often acted as a reminder to complete information that should have been filed throughout the year. Some responses questioned how the integrity of the public register would be affected if there was a move to event driven filing only. Others also noted that the check and confirm approach was very similar to the current on-line annual return requirements and thought that this approach was a good starting point.
30. Respondents also commented on the requirement to file accounts and suggested that any changes to the requirement to file statutory information currently included as part of the annual return should enable companies to file their accounts at the same time if they wanted to.
31. There were 128 responses to the question relating to SIC codes. Of the responses, 88 thought that the SIC code should in some way be recorded on incorporation. It was recognised that some companies may not know their SIC code at the time of incorporation and, in those circumstances, respondents thought that the facility to update the information should be on an annual basis.

What is the Government going to do?

32. The Government believes that it is important to ensure the public register is as accurate and up to date as possible. Those searching the public register need to know when company information was updated so that they can make any relevant judgements.
33. It is equally important that burdens on business are reduced as much as possible; companies should be able to concentrate on running and growing their business.
34. The Government has therefore concluded that companies should still be required to keep statutory information up to date at least on an annual basis. We believe that more flexibility should be built into the system to enable companies to update and confirm their information is correct at any point in a year.
35. This approach will ensure that additional burdens are not added to those companies who do not amend their statutory information 'in year'. Such companies will, if they want, be able to confirm this information on a set date each year. If the company would like to change the date to coincide with that for submitting their company accounts, they will also be able to make this change.
36. The requirement to complete an annual return will be amended to a requirement to 'check, notify changes if necessary and confirm' information at least once in a 12 month period. This will remove the burden on those companies that make a statutory update in year – for example, a change in a director's details - and then might resubmit this information as part of the annual return.
37. Under the proposed new system, when the company changes a director's details it will be given the option to check and confirm all other information. If this option is taken up there will be no requirement for the company to check and confirm for another 12 months. Companies will be required, as now, to pay an annual fee.
38. Those companies who wish to continue to use a fixed date will still be able to do so. If a company does make an 'in year' event driven filing they may choose not to confirm any other information. If a company has not confirmed all its information at around 11 months following the last confirmation or incorporation, CH will send a reminder to companies to check all their information no later than 12 months after the date of the last confirmation or incorporation.
39. The proposed new system will generally maintain the current position where all companies check, confirm and, if necessary, amend most of their information at least once a year. However, the new procedure will give companies that are updating one piece of information the ability to check and confirm the rest of the information held on the public register.

40. The new system will also simplify a private company's obligations with respect to details of legal shareholders. Currently, a company must submit a full list of all shareholders at least every three years even if there have not been any changes within the three year period. Under the new system, companies will no longer be required to resubmit the names of the shareholders where there has been no change as these details will already be held on the public register and reflected back to the company for confirmation.
41. The Government does not propose to amend other existing obligations to keep information up to date, for instance the obligation on a company to maintain a register of members or of directors or the requirement to make public the appointment of a new director within the specified period. Where a company exercises the option to keep some, or all, of its registers on the public register (see [Company registers](#) below), it will be required to keep the information up to date in the same way as if it were holding the register itself.
42. The Government continues to believe that SIC codes are an important tool and therefore should be recorded on the public register. In line with the move set out above to check and confirm it would seem appropriate to be able to record SIC code information at the point of incorporation, if known, so that this information can easily be confirmed or updated on an annual basis.

Accounts

Q5. We would welcome views on the impact on companies and on the transparency of the register of aligning filing dates for accounts at both HMRC and CH.

What did the consultation propose?

43. The consultation did not propose any legislative changes. It explained that the Government's aim was to improve the joint filing tool. The consultation document proposed that there should be no amendment to the dates for either the return to HMRC or CH.

What was the response to the consultation?

44. The responses to this question offered a wide range of views. Some said that it was already easy to file the two sets of accounts at the same time. Others said that there could be some benefits in moving to a single filing date but that any changes should not be mandated.
45. Many respondents felt that small companies would benefit the most from the aligning of the dates. However, they recognised that larger companies and those with subsidiaries probably preferred to have two different dates, as such companies had specific departments dealing with the different requirements.

What is the Government going to do?

46. The Government recognises that offering flexibility is crucial to business and therefore our aim is to ensure that systems are in place to enable those companies that wish to enter data once to satisfy the requirements of HMRC and CH on the same date through one channel to do so.
47. We recognise that the current joint filing tool requires improvement and simplification to make it a viable option for the majority of small companies who are most likely to use it. Therefore HMRC and CH are working closely together to improve this tool.
48. We do not plan to mandate the use of a single filing tool or date as we recognise that many companies have their own systems in place to meet current requirements and any changes would be costly.
49. Following the changes to the [annual return](#) as set out above, the added flexibility will enable all companies to complete their check and confirm and accounts on the same date each year if they want to.
50. Simplifying accounting and annual filing requirements should offer significant benefits. For some companies this will mean that they only have to interact with CH once in any given year.

Company registers

Q6. Do you agree that for those companies whose directors and shareholders are the same people, the requirement to make their registers available at their Registered Office or Single Alternative Inspection Location (SAIL) should be removed?

Q7. Should private companies have the option of holding their registers at Companies House, in the same way that they are able to nominate a SAIL?

What did the consultation propose?

51. The Government consulted on two options. This first was that companies whose directors and shareholders are the same people should not be required to make their company registers available to the public. This was because in these cases the information held on the company registers is identical to the information held on the public register. The second option was to allow private companies the option of holding some of their company registers at CH rather than at their registered office or at a Single Alternative Inspection Location.

What was the response to the consultation?

52. We received 121 responses to Q6. 53% (64 responses) agreed that companies whose directors and shareholders are the same should not be required to make their registers available, whilst 47% (57 responses) disagreed. Those who agreed thought the proposal would remove unnecessary duplication. Those who disagreed did so on the basis that: it would reduce companies' control over access to information; it could discourage companies from keeping a register; and it would increase the complexity of the system.

53. We received 117 responses to Q7. 62% (72 responses) agreed that companies should have the option of holding their registers at CH; 38% (45 responses) disagreed. Respondents agreeing with the proposal argued that it would result in fewer administrative burdens; would limit the possibility of conflicting data between the company and the public register; and increase transparency by making data more accessible. Respondents opposed to the proposals cited concerns about how to ensure the information would be kept up to date; how legal ownership would be determined; safeguards for members and additional complications to the company law framework.
54. Some agents noted that they may lose business as a result of these proposals. These views also were expressed in relation to the other proposals in the consultation where agents are used by companies to file information at CH.

What is the Government going to do?

55. The Government has concluded that private companies should be allowed to opt out of the requirement to keep and maintain all, or any, of the following registers:
- register of members;
 - register of directors;
 - register of directors' residential addresses;
 - register of secretaries; and
 - the proposed new requirement to hold a register of company beneficial owners⁴.
56. Where a company exercises this option, it must ensure that the information on the public register is up to date in the same way that it is required to update its own registers.
57. We believe that this would avoid duplication of information and would reduce the administrative tasks required of the company. For example, when a director is appointed a company would no longer have to separately update its register of directors and notify the registrar to put the information on the public register. There would also be benefits for third parties who would be able to obtain information by searching the public register online rather than having to contact companies directly.

⁴ See the Government's response on the Transparency and Trust paper for more information on implementation of that register.

58. Those wishing to inspect a particular register should continue to have access to the same information when this is solely available on the public register. For companies which exercise the option, this will mean that the following information will be available on the public register:
- information available on the company register but which would not otherwise appear on the public register (for example, addresses of members); and
 - information available on the company register which, although on the public register, is not available for public inspection (for example, the director's full [date of birth](#) following the changes proposed below).
59. Information that is not available for public inspection on either the public or the company register (for example, directors' residential addresses) will not be made publicly available. It will, however, continue to be available to specified public authorities and credit reference agencies.
60. Where a company opts out of the requirement to keep the register of members, a person will become a member of the company when their name is entered on the public register. As noted above, the addresses of members will be available on the public register. As a safeguard, we will require a unanimous decision by members before the option can be exercised.
61. We recognise that some companies may, as a result of these proposals, no longer wish to engage agents to perform certain specific tasks. However, agents offer a valuable service to many companies and we expect the market to adjust to changes proposed.

Dates of Birth

Q8. Should dates of birth of directors be suppressed in part, or in full?

What did the consultation propose?

62. Following a number of complaints to CH and BIS in relation to identity theft and personal data, the Government consulted on whether it was appropriate that all, or part, of the dates of birth of directors should be suppressed on the public register held and made available for inspection by CH. We did not propose to remove the requirement to provide a full date of birth to CH as this is important for enforcement purposes.

What was the response to the consultation?

63. The overall response to this proposal was positive. 105 of the 130 respondents to the consultation answered yes to the question whether the date of birth of directors should be suppressed in part or full (80%). Many of those who responded felt that suppression in part was sufficient to eliminate the use of this information by others. The main concern expressed by those who were not in favour of the proposal was how to distinguish between directors with similar names.

What is the Government going to do?

64. The Government has carefully considered the balance between ensuring that information on the public register at CH is of real, practical use whilst ensuring that it does not become a tool for abuse by exposing individuals to the risk of identity theft or fraud.
65. We have concluded that CH should still collect the full date of birth of directors as and when they are appointed. However, the day of the director's birth will be suppressed on the public register so that only the month and year will be visible to those searching. This reform aims to make it more difficult for criminals to obtain a director's full date of birth. We intend to adopt the same approach in respect of the proposed beneficial ownership requirements.
66. Where a company opts out of the requirement to keep a register of directors, however, the full date of birth of directors will be available on the public register (see [company registers](#) proposal above)⁵. We expect individuals to consider the impact of this carefully when choosing whether to take advantage of this option.

⁵ We intend to apply the same model in respect of the register of beneficial owners.

67. We consider that there will be sufficient information available from the company itself on request and on the public register to warrant removing one element of the date of birth without compromising the ability of third parties to build up a picture of the director.

Statements of Capital

Q9. Should the Statement of Capital requirements be changed, as set out above?

Q10. Should the statement of capital on formation requirements be the same as the other statement of capital requirements throughout the Act?

Q11. Do you think companies should only have to supply a statement of capital on a specified date if they have not updated their information within the year?

Q12. Should we amend S. 555 to rely on Articles of Association to provide information on allotment of shares?

What did the consultation propose?

68. The Companies Act 2006 introduced a new statement of capital – a snapshot of a company's share capital that must be produced at various stages in a company's life cycle, including each year in its annual return. A previous consultation on statements of capital in 2009⁶ identified concerns about certain information that is required to be included in a statement of capital.

⁶ <https://www.gov.uk/government/consultations/companies-act-2006-statements-of-capital-consultation-on-financial-information-required>

69. The consultation proposed that the requirements for financial information should be simplified and that the requirements for the statement of capital on formation should be aligned with all the other statement of capital requirements. The consultation also proposed removal of the requirement to provide a statement of capital on a specified date each year if the company had updated its statement of capital within that year. It also asked whether the Articles of Association could be relied upon instead of a statement of capital where there has been an allotment of shares.

What was the response to the consultation?

70. 96 responses were received to Q9 about the financial information required for a statement of capital. 82% (79 responses) agreed that the requirements should be simplified, whilst 18% (17 responses) disagreed. Grounds for agreement included the need for consistency and simplification; whereas a number of those who disagreed did so on the basis that the changes were not necessary.
71. 115 responses were received to Q10 about the requirements on formation. 94% (108 responses) agreed that these requirements should be aligned with all other statement of capital requirements; 6% (7 responses) disagreed. Few respondents gave detailed reasons for their position.
72. 101 responses were received to Q11 about supplying a statement of capital on a specified date. 59% (60 responses) agreed that companies should not have to provide a separate statement of capital if they have already done so during the year. 41% (41 responses) disagreed. Respondents' views generally mirrored their views on the proposals on the annual return - those disagreeing argued that the statement of capital should be retained as part of the annual return.
73. 103 responses were received to Q12. 29% (30 responses) agreed that the Articles of Association should be used instead of a statement of capital where there is a share allotment; 71% (73 responses) disagreed. Respondents disagreed on the grounds that it would be harder for people to find information; it would be more onerous as the articles would have to be updated each time an allotment was made; and the current provisions were not onerous.

What is the Government going to do?

74. The Government recognises that it may be difficult for companies to provide information about the amount of share capital paid up. This is particularly so where companies have allotted shares at different prices or bought back, cancelled or consolidated shares. It is potentially more useful for someone who wants to know more about a company to know the aggregate unpaid amount, since it shows the capital that the company can call up. We believe that retaining the requirement to break down this information by class of share would be unnecessary and burdensome for companies.

75. The Government has therefore concluded that the requirement to list the amount unpaid and paid up on each share should be replaced with a requirement to state the aggregate amount unpaid. We have also concluded that the requirements for a statement of capital should be the same in all cases, including at incorporation.
76. The Second Company Law Directive⁷ (Article 3(g)) requires a public company to publish the amount of subscribed capital paid up at the time the company is incorporated or is authorised to commence business. The Government has concluded that the simplest way of implementing this is to require a statement of the aggregate amount paid up on a company's shares on account of their nominal value in the following two situations. Firstly, where a public company applies for a trading certificate (section 762 CA 2006); and secondly where a private company applies for re-registration as a public company (section 94 CA 2006).
77. As noted above (see [annual return](#)) we are replacing the requirement for companies to complete an annual return with a requirement for companies to check, update where necessary and confirm that the company information held by the registrar is up to date at least once a year. We have concluded that it is unnecessary to require a further statement of capital to be submitted annually. Instead, a company will be required to verify that the information contained in the last statement of capital filed on the public register is correct.
78. The Government does not propose to remove the requirement for companies to provide an updated statement of capital following an allotment of shares. We do not consider that people who search the public register should have to look at the Articles of Association to see whether changes have been made relating to shares.

Disclosure of a company's subsidiaries

Q13. Do you agree that companies with subsidiaries must include a total number of subsidiaries? If not, why?

Q14. Do you agree that the information must always be included in the accounts?

⁷ 77/91/EEC

What did the consultation propose?

79. Currently, companies are able to list their subsidiaries in the accounts or in part in the annual return, which can lead to uncertainty for those searching the public register about where to locate the information. The questions posed dealt with whether all the information on subsidiaries should be held in one place and, if so, that the accounts were the most appropriate place. This would remove the option of listing details of subsidiaries as part of the annual return.

What was the response to the consultation?

80. There were 121 responses to the first question, with 92 respondents saying that the total number of subsidiaries should be recorded. In response to the second question, there were 122 responses with 108 agreeing that all the information on subsidiaries should be included within the accounts.
81. The main reason for not agreeing that all subsidiary information should be noted as part of the accounts was that it would add clutter and the list of subsidiaries could be quite lengthy.

What is the Government going to do?

82. The Government believes that, in order to improve transparency, details of subsidiaries should be listed in one place, the most appropriate being within or as a note to the accounts. These changes will be taken forward as part of the implementation of the EU Accounting Directive.

Company e-mail addresses

Q15. Are there any notices that should not be sent electronically?

Q16. Do you agree that the email address should be made available to other public authorities, specified in law?

What did the consultation propose?

83. The Government consulted on CH collecting an email address either on incorporation and/or at a later date for existing customers and using this for all correspondence including statutory notices. The consultation also suggested that the email address might be shared with other specified public authorities (set out in law).
84. The aim of this would be to help to improve a company's experience of interacting with Government and receive correspondence quickly.

What was the response to the consultation?

85. A large proportion of respondents were in favour of the proposal of providing an email address to communicate with CH. 46 of the 103 respondents to Q15 of the consultation answered 'No', when asked if there were any notices which should not be sent electronically. The main concern raised by those answering 'Yes' was that important statutory notices which had legal consequences (specifically in relation to striking off or where there was a penalty) should also be sent by post.
86. Sharing of e-mail address information received a mixed response, 74 of the 125 respondents to the consultation who answered Q16 agreed that email addresses should be made available to other Government departments. Those in favour of this approach said it would be more efficient if they did not have to provide it again. Some respondents suggested that a company should have the option to opt in to using this form of communication and it should not be mandatory.

What is the Government going to do?

87. The Government will make it possible for CH to be able to widen its use of electronic communication. CH will have the facility to be able to send all routine correspondence and statutory notices electronically; companies will be able to opt in to receiving correspondence electronically, but this will not be mandatory. Where companies opt in, they will be required to keep their e-mail address up to date.

Additional information on the register

Q18. Do you think companies should be able to supply the Registrar with additional information, such as a website, to display on the public record?

What did the consultation propose?

88. The Government consulted on whether additional information should be added to the public register including trading addresses and websites.

What was the response to the consultation?

89. Additional information on the public register received mainly positive feedback; 86 of the 129 respondents to the consultation on Q18 agreed that additional information should be added to the public register (67%). The general response was that this should be optional and not mandatory. The main concern was that the public register should not be used for advertising and that the information may be incorrect/out of date.

What is the Government going to do?

90. The Government believes that the public register is an extremely important source of company information. We will allow companies who wish to make additional information (for example, a trading address) available on the public register to do so.

Resolving Problems

Q19. Do you think that CH has the balance between upfront validation and verification and quick and effective remedy right?

What did the consultation propose?

91. The consultation noted that, if more is to be done to increase the integrity of data on the public register, there was a clear choice between having more checks and processes before registration or having faster and more effective methods of dealing with issues when they arise. The consultation asked whether CH has the balance right between these two elements.

What was the response to the consultation?

92. 120 responses were received to Q19. 55% (66 responses) believed that CH had the right balance; 21% (25 responses) thought that it did not. Those agreeing thought that additional checks could be time consuming and costly and could slow down registration, noting that it was important to be able to incorporate quickly. Those disagreeing (and some who did not indicate an overall view on the question) thought that CH should be able to correct errors that were e.g. typos or obviously wrong, without the company having to take the matter to court. A number of respondents argued that there should be more upfront checks or validation.

What is the Government going to do?

93. CH undertakes a variety of checks on information provided, across the range of company filings, for example ensuring relevant documents are signed appropriately and data field contain valid entries (such as a valid date of birth). In 2012-13, over 400,000 documents were rejected because they did not pass basic checks. It is, of course, important that CH has effective methods of dealing with issues when they arise.
94. The UK does not require additional processes and checks before registration. As noted in the consultation document, this helps ensure the UK has one of the world's quickest, simplest and cheapest regimes for company incorporation and subsequent filings.
95. This approach is similar to that taken by many other countries, although some countries within the EU require notarisation prior to registration. There is, however, little evidence available to suggest that one model is more successful in preventing fraud than the other.
96. In addition to the specific measures on registered office addresses, directors' disputes and accelerated strike off (which are discussed in the following sections) CH is doing a range of further work to improve the quality of the information on the public register, including targeted communications to highlight and resolve errors, implementing more proactive approaches to preventing errors occurring and closer working with other government enforcement agencies.
97. Alongside the responses to this consultation, a number of responses to the Transparency and Trust paper called for the introduction of additional checks at CH. The Government is currently carefully considering all the comments on this complex issue to determine whether any further reform is necessary, whilst ensuring the UK's company registration regime is quick, simple and inexpensive.

Registered office addresses

Q20. Do you agree that there should be a requirement for the Registered Office to have a link to the company?

Q21. What criteria do you think should be specified to evidence an 'effective' Registered Office?

Q22. Do you think replacing an ineffective Registered Office address with a Director's address is a viable approach?

What did the consultation propose?

98. All UK companies must have a registered office, within the UK jurisdiction in which they are registered, to which all communications and notices may be addressed.
99. A registered office can be a business address, the address of the company's accountant or any other address the company chooses (including a residential address – many small companies and start-ups begin life from a residential address).
100. There is evidence that some companies use an address of another business or private individual with whom they have no connection, or an address which has not been authorised for use as the company's registered office. This may result in individuals or companies receiving unsolicited correspondence intended for that company, becoming associated with a negative credit rating and, worse, subject to visits from bailiffs. In some cases, this can be the result of an innocent mistake by the company, but it may also be deliberately mischievous or fraudulent.

101. We proposed a small change to the legislation (section 86 of the Act) to require all companies to have a demonstrable link to their registered office address. Following a complaint being received at CH, the company would be required to provide specified proof of their link with the registered office address. If proof could not be delivered, and the registered office address remained unchanged, it would be removed from the public register. An alternative address in the appropriate jurisdiction would be inserted in its place. Alternatively, it was proposed that the address would be replaced with the residential address of a director.

What was the response to the consultation?

102. 133 responses were received to Q20 about whether there should be a requirement for the registered office to have a link to the company. 91% (121 responses) were in support of requiring the registered office to have a link to the company, whilst only 9% (12 responses) disagreed with this part of the proposal.
103. 102 responses were received to Q21 which asked what criteria should be specified, to evidence an 'effective' registered office. The criteria specified by respondents ranged from utility bills, lease agreements and invoices showing delivery of goods to the consent of the owner. The proposed criteria, set out in the consultation, to be specified to evidence an 'effective' registered office, were supported by 28% respondents (28 responses).
104. 132 responses were received to Q22 which asked whether replacing an ineffective registered office address with a director's address would be viable. Respondents were split in relation to this question. 52% (68 responses) agreed, whilst 42% (56 responses) disagreed. Respondents were concerned about what would happen in cases where there are multiple directors; where a director's address was situated in a different jurisdiction to the company; or where the ineffective registered office address is the same as the address given for the director(s). They also expressed concern at the potential damage caused by a director's personal address being displayed on the public register.

What is the Government going to do?

105. The Government recognises that, while the number of complaints in this area is small against the overall size of the public register (0.02%), the impact on the individuals affected can be significant.

106. Currently, under sections 1095 and 1096 of the Act, the registrar and the court have power to amend the public register to remove factually inaccurate, invalid or ineffective information. However, as the Act does not explicitly specify criteria applicable to registered offices - unless the address is outside the relevant UK jurisdiction or a truly impossible address is entered (e.g. the moon) - a registered office can not be rejected as being inaccurate, ineffective or invalid.
107. We are implementing a new system to enable an address which the company is not authorised to use to be changed to an alternative. The new process will allow anyone to object to the use of an address as a registered office, by application to the registrar, explaining why the company is not authorised to use the premises as its registered office address and providing any evidence supporting the objection.
108. A notice will be sent to the company directing it to either change its registered office address or provide evidence to the satisfaction of the registrar that the company is authorised to use the address as its registered office. If the registrar receives evidence from the company, he will decide whether the company is authorised to use the address as its registered office. The burden of proof is to be on the company to prove that the company is authorised to use the address.
109. The process will be quick and expedient. Once evidence has been received from the company, the registrar will consider the evidence and make the decision as soon as he is reasonably able. If the company either fails to reply within the specified period, fails to provide an alternative address, or does not provide satisfactory evidence that it is authorised to use the address, the registered office address will be changed to an alternative address in the appropriate jurisdiction. If either party disagrees with the registrar's decision, they may appeal to the courts.
110. This approach will enable the registrar to quickly change addresses, which relate to innocent third parties, and avoid further distress.

Director disputes

Q23. Do you agree that the consent to act should be replaced with a simple confirmation that the company holds the consent?

Q24. Should companies be required to provide evidence of a Director's appointment, in the event of a dispute?

What did the consultation propose?

111. Companies are required to inform the registrar, within 14 days, of a director's appointment. Currently, when a notice of appointment is sent to the registrar it must be accompanied by a notice of consent by that person to act in that capacity. This "consent to act" comes in the form of a signature on a form or, for digital filing, through an online personal authentication process.
112. The consultation proposed to change the law, so that the consent to act would no longer be required to be provided to the registrar at the time a change is notified. Instead, the company would be required to retain evidence of the individual's consent to become a director. In the Transparency and Trust discussion paper, we also consulted on whether directors should be better informed of their duties.
113. We consulted on whether companies should be required to provide evidence of a director's appointment in the event of a dispute.

What was the response to the consultation?

114. 125 responses were received to Q23 which asked whether the consent to act should be replaced with a simple confirmation that the company holds the consent. 43% (54 responses) agreed, whilst 53% (66 responses) disagreed with the proposed change.
115. 125 responses were received to Q24 which asked whether companies should be required to provide evidence of a director's appointment, in the event of a dispute. An overwhelming majority supported this proposal. 86% agreed (108 responses), whilst only 9% (11 responses) disagreed.

116. The vast majority of those who responded to the relevant questions in the Transparency and Trust discussion paper were clear that Government could do more to communicate directors' duties to them; only 2 responses suggested that communication was not required.

What is the Government going to do?

117. The Government's objective for registration of information is for it to be quick and simple. The removal of the consent to act requirement and its replacement with a new process (set out below), whilst fulfilling this objective, will also improve the integrity of the public register and enable those who enter fraudulent information to be prosecuted.
118. The new approach will continue to recognise that it is the company's duty to notify the registrar of a director's appointment and that companies should be in a position to demonstrate that the director has agreed to their appointment. It will introduce a specific procedure for dealing with disputes relating to directors' appointments which will make it easier to resolve many disputes.
119. The Government considers that the current requirement for companies to file a 'consent to act' for all newly appointed directors and company secretaries at the point of registration/appointment is an outdated system. We believe that it should be replaced by a system where:
- (a) when a company notifies CH of the appointment it will make a 'statement of truth' to confirm the director/company secretary has consented to their appointment.
 - (b) upon receipt of the notification, CH will write to the new director to notify them that their appointment has been recorded on the public register and to direct them to information regarding their legal duties as a director.
 - (c) the new director will be able to apply to CH for removal of that appointment from the public register on the grounds that they did not, in fact, consent to act as a director.
 - (d) if the company fails to provide CH with sufficient evidence that person did consent to act as a director, CH will remove details of that appointment from the public register.
120. Currently, in the majority of cases, the 'consent to act' is sent to CH electronically. Instead of requiring a signature from the director/company secretary, the company is required to provide some personal information about the new director/company secretary. However, this system is open to abuse. As it is a criminal offence to make a false statement, or to supply false or fraudulent information, the introduction of a 'statement of truth' will provide evidence on which to prosecute in cases where a company appoints an individual without their knowledge.

121. The communication sent to a new director by CH is expected to cover the following points:
- (a) how to object if the individual did not consent to being appointed;
 - (b) that directors have legal duties under the Act and other legislation with consequences for breaching them, and that not being aware of these duties, or not understanding them, are not acceptable defences in a court of law;
 - (c) details of where to find information, or who to consult, about their legal duties under the Act; and
 - (d) provide relevant information to the director, should they decide they no longer wish to hold the position.
122. It is important, as part of the Transparency and Trust reforms, that directors should be made more aware of their legal duties and the implications of failing to comply with them, including any attempts to abdicate them. A director should take personal responsibility for understanding their duties.
123. We recognise that there may be cases where one or more parties dispute the evidence put forward by the company and/or the individual. These will fall outside the above procedure as they may be complex and involve fraud or directors warring over control of a company. Therefore, it is right that, in such cases, the parties should continue to settle such disputes in the courts.

Accelerated strike off

Q25. Do you agree that there should be an accelerated strike off process particularly in the event of a company hijacking an address?

Q26. Are there any potential consequences of an accelerated strike off process that we should bear in mind?

Q27. Are there any other circumstances in which an accelerated strike off process would be appropriate?

What did the consultation propose?

124. The Government consulted on changing the law to give the registrar in some cases (e.g. when an address is hijacked and where no contact can be made with the company or its directors) the power to initiate a rapid strike off action, reducing the timescale for strike off to approximately 6 weeks.

What was the response to the consultation?

125. Responses were generally in favour of a change to the current procedure, 118 of the 132 respondents to the consultation answered 'Yes' to Q25 which asked whether there should be an accelerated strike off procedure for companies in certain circumstances, 89% were in favour of a reduction in the time to strike a company off the public register.
126. Those who supported it believed it would be beneficial in certain circumstances especially where an address had been hijacked.
127. Other respondents felt that, whilst there should be an accelerated strike off procedure, there were significant consequences to a 6 week strike off. For example, it may not provide enough time to register an interest as a creditor or a company may not have enough time to respond before strike off is commenced. This is an important point – strike off is not a punitive process and there should be redress for creditors.

What is the Government going to do?

128. The Government has reviewed its proposals on strike off and has considered the views expressed. We have concluded that 6 weeks does not provide sufficient time to take account of creditors' views.
129. However, there is still room for improving the process. As the consultation document noted, the process of striking off and dissolving a company can be lengthy and provides numerous opportunities for people to object. The Government's aim is to introduce a faster strike off procedure for all companies from the current six month period (which has been in place since at least 1908), whilst still allowing creditor's sufficient time to object.
130. We will change legislation to reduce the time in which it takes CH to strike companies off the public register:
- for voluntary strike off, from 3-4 months to approximately 2 months; and
 - for compulsory strike off, from 5-6 months to around 3.5 months.

Costs and benefits analysis

Q28. We would welcome views on the assumptions and estimates used in the costs benefits analyses, particularly where we have not been able to quantify some of the costs and benefits.

Q29. Are there any other costs or benefits that should be included in the analyses?

Q30. We would welcome views on likely take-up of proposals, particularly in relation to company registers and electronic communications.

What did the consultation propose?

131. The consultation sought views on the indicative cost benefit analysis for the measures which was enclosed with the consultation. In particular, we sought views on the assumptions and estimates used and whether there were any other costs and benefits that should be included.

What was the response to the consultation?

132. 25 respondents answered Q28 about the assumptions and estimates used in the cost benefit analysis. A number of respondents indicated that they thought the assumptions and estimates were reasonable. A number of those who disagreed thought that there should be some analysis of the reduced income for professional advisers and some considered that the burdens on companies of the filing requirements were low and that benefits would be very small. However, few respondents provided examples of quantified costs and benefits.
133. 16 respondents replied to Q29 on other costs or benefits. Issues raised by respondents included the benefits of better quality information on the public register; the effect of the proposed changes on those who search the public register; and the loss of income to professional advisers.
134. 38 respondents replied to Q30 about the likely take-up of proposals; responses varied. Some thought that take-up would be high, citing the use of electronic communications in particular as a valuable way of providing information. Other respondents thought that take up would be low on the basis that the current filing requirements did not represent a particular burden

What is the Government going to do?

135. An updated impact assessment will be published shortly which will set out our best estimates of the impact of the proposals.

Next Steps

136. The Government intends to amend the Companies Act 2006 to implement the proposals outlined above, when parliamentary time permits.
137. The following proposals will be taken forward through primary legislation:
- [Annual return](#);
 - [Company registers](#);
 - [Dates of birth](#);
 - [Statements of capital](#);
 - [Additional information](#)
 - [Registered office addresses](#);
 - [Director disputes](#); and
 - [Accelerated strike off](#).
138. The following proposals will be taken forward through secondary legislation:
- [Disclosure of subsidiaries](#) (as part of the implementation of the EU Accounting Directive); and
 - [Company e-mail addresses](#).
139. The proposal on [accounts](#) will be taken forward through changes to the joint filing tool.

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