



Department for  
Business, Energy  
& Industrial Strategy

# BENEFICIAL OWNERSHIP REGISTER: ENHANCING TRANSPARENCY OF BENEFICIAL OWNERSHIP

## Summary of responses



April 2017

# BENEFICIAL OWNERSHIP REGISTER: ENHANCING TRANSPARENCY OF BENEFICIAL OWNERSHIP

Summary of responses to the discussion paper called Enhancing Transparency of beneficial ownership information of foreign companies undertaking certain economic activities in the UK.

This can be found on GOV.UK:

[www.gov.uk/government/consultations/property-ownership-and-public-contracting-by-foreign-companies-improving-transparency](http://www.gov.uk/government/consultations/property-ownership-and-public-contracting-by-foreign-companies-improving-transparency)

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**Summary of responses to the discussion paper called Enhancing Transparency of beneficial ownership information of foreign companies undertaking certain economic activities in the UK.**

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The paper was published in March 2016.

## Respondents

In total 38 responses were received, 29 from organisations and nine from individuals. The organisations that responded were:

1. Anthony Collins Solicitors LLP
2. Association of Company Registration Agents (ACRA)
3. Bidwell's Property Consultancy
4. British Property Federation (BPF)
5. Campaign for Legislation Against Money-laundering in Property by Kleptocrats (ClampK)
6. Clifford Chance LLP; Allen & Overy LLP; Nobarro LLP
7. Department for Transport
8. DVLA
9. Global Witness
10. Guernsey Association of Trusts
11. Information Commissioner's Office
12. Institute of Chartered Accountants in England & Wales (ICAEW)
13. Jersey Finance Limited (JFL)
14. Jersey Funds Association (JFA)
15. M&G (Real Estate)
16. Maritime and Coastguard Agency
17. Ministry of Defence
18. National Association of Estate Agents (NAEA)
19. Open Corporates
20. Open Government
21. Quoted Companies Alliance (QCA)
22. Savills Estate Agents
23. Scottish Government
24. Spend Network
25. The Governance Institute
26. The Law Society
27. Transparency International UK
28. Trowers and Hamlin Solicitors LLP
29. The Welsh Government

## Summary of comments

There was a very high degree of support for the general principle of requiring the information about the beneficial owners of overseas companies that own property. The main reasons given for this were that UK companies already have to provide this information and given the extent of property ownership by overseas companies in the UK it made sense that they should also be required to provide it.

About half the respondents did not support making the information publicly accessible given that some beneficial owners may have legitimate reasons for wanting to keep their details private. However, for the register to provide the level of transparency that the people with significant control (PSC) register has achieved, the Government believes that it must be publicly accessible. To mitigate any risks to individuals, there will be a comprehensive protections regime. The Government intends the register to be held and maintained by Companies House because of its expertise of holding company information and their expertise in making this information publicly available and accessible.

There was a lot of support for the register to cover properties already owned by overseas companies, rather than restricting it to property bought after the requirements come into force. Respondents did point out how difficult it might be to inform some of these companies about the new requirements, which might be mitigated by a transition period. Provision would also need to be made to ensure that compliant shareholders or joint venture partners were not prejudiced by others non-compliance.

Fewer respondents commented on the proposals covering companies involved in procurement, but of those that did, there was almost unanimous agreement that knowing beneficial ownership information would help contracting authorities operate a fair and straightforward approach towards procurement. Further details below.

|          |                   |  |    |    |   |          |   |
|----------|-------------------|--|----|----|---|----------|---|
|          |                   | <b>Q1. Do you agree that foreign companies who want to buy land or property in England and Wales should be required to provide information about people with significant control?</b>  |    |    |   |          |   |
|          |                   | Yes  | 24 | No | 3 | Not Sure | 3 |
| Comments | Agree             | <ul style="list-style-type: none"> <li>• Following the introduction of the UK PSC Register, it is now time for overseas companies to be exposed to the same level of scrutiny as UK companies.</li> <li>• Overseas companies own £122bn of property in the England and Wales (FT) - such levels of investment require thorough examination.</li> </ul>   |    |    |   |          |   |
|          | Disagree/Not Sure | <ul style="list-style-type: none"> <li>• The proposals would add to the burdensome number of regulations on business; this may lead to a chilling effect on FDI.</li> <li>• There are already due-diligence checks in the UK and Crown Dependencies to counter money laundering.</li> <li>• If measures are not reciprocated elsewhere this would likely cause a flow of capital out of the UK.</li> <li>• Some individuals have legitimate reasons to maintain privacy over their ownership of property (e.g. celebrities, sensitive political figures).</li> </ul> |    |    |   |          |   |

|          |             | <b>Q2/3. Do you have any views on the options on how and where the information should be stored?</b>   |    |                     |   |                           |   |
|----------|-------------|--|----|---------------------|---|---------------------------|---|
|          |             | Privately accessible   | 15 | Publicly accessible | 9 | Not Sure/No Opinion given | 6 |
| Comments | General     | <ul style="list-style-type: none"> <li>• Most respondents in favour of a publicly <i>managed</i> register.</li> <li>• Companies House would be best suited to handle this information given their experience/knowledge involving the UK PSC Register.</li> <li>• The UK Land Registry would be an unpopular choice given their possible privatisation.</li> <li>• A 'registration number' scheme would be popular. Companies would be required to submit information to Companies House to gain a registration number. They would then need to pass this to the UK Land Registry when looking to purchase, sell, make charges on or submit planning applications on land and/or property.</li> <li>• It should be quick and easy for companies to register and update Beneficial Ownership information; this could be achieved by giving companies direct access to the register.</li> <li>• There must be a regime in place to ensure that information is kept up-to-date (annually was the most popular suggestion).</li> <li>• Consensus that a validation regime will be needed- no clear suggestions (possibility that we hold lawyers/accountants responsible for validating information and include their details on the register).</li> <li>• The UK should only exclude companies who have registered information in other jurisdictions when those registers require the same level of information, scrutiny and validation as the UK register.</li> </ul> |    |                     |   |                           |   |
|          | For Private | <ul style="list-style-type: none"> <li>• A public register may risk the safety of some individuals with legitimate interest in keeping details private; there would need to be a protection regime.</li> <li>• Some information (e.g. the address of a beneficial owner) is extremely sensitive and should not be available to the public.</li> </ul>  |    |                     |   |                           |   |
|          | For Public  | <ul style="list-style-type: none"> <li>• The UK PSC Register is publicly accessible; the register of beneficial owners of overseas companies should be too.</li> <li>• A public register would reflect the Government's agenda for transparency and allow greater scrutiny to ensure validation.</li> </ul>  |    |                     |   |                           |   |

|          |   |
|----------|---|
|          | <b>Q4. What information should foreign companies be asked to provide?</b>   |
| Comments | <ul style="list-style-type: none"> <li>• The same information as UK companies.</li> <li>• In keeping with FATF standards/requirements.</li> <li>• Physical evidence of beneficial ownership (e.g. deeds of incorporation/shareholder certificates).</li> <li>• Relevant overseas companies subject to broadly equivalent regimes in countries of incorporation should not have to provide information.</li> </ul> |

|          |  |  |    |   |          |   |
|----------|--|--|----|---|----------|---|
|          | <b>Q5. Should the proposals be applied to companies that already own property?</b> |  |    |   |          |   |
|          | Yes  | 21   | No | 9 | Not Sure | 0 |
| Comments | Agree  | <ul style="list-style-type: none"> <li>• If retrospectivity is not applied, this would create a two-tier system, rewarding corrupt owners who previously invested and possibly creating a property bubble as overseas investors rushed to invest ahead of implementation.</li> <li>• The UK PSC register applies to all UK companies (not just newly registered companies after April 2016).</li> <li>• If this was to be retrospective, it would require a significant transition period, giving third parties, lenders and other partners to adjust stakes accordingly.</li> </ul> |    |   |          |   |
|          | Disagree/Not Sure  | <ul style="list-style-type: none"> <li>• Imposing legislation retrospectively would prejudice compliant majority/minority shareholders or Joint Venture partners.</li> <li>• Retrospectivity would have adverse implications on tenants, lenders etc. These parties would not have been aware of the requirement when entering into contract with the non-compliant party.</li> <li>• It may be difficult to communicate the policy to current owners (particularly those who have held property for a long time/small businesses with reduced property interest).</li> </ul>        |    |   |          |   |

|          |   |
|----------|---|
|          | <b>Q6. Should the Government work with the Devolved Administrations to apply this across the UK?</b>  |
| Comments | <ul style="list-style-type: none"> <li>• Yes: not applying this everywhere would create a confusing system. There must be a level playing field across the UK.</li> </ul> |

|          | <b>Q7. What would be the costs/benefits to business, the economy and society of implementing this policy?</b>  |
|----------|--|
| Costs    | <ul style="list-style-type: none"> <li>• Unintended adverse consequences for compliant shareholders in overseas companies owning land and property (particularly of publicly traded companies who may not be able to control who buys shares).</li> <li>• Cost to companies to gather information/update register (particularly for countries where beneficial owners are based in multiple jurisdictions). This may act as a barrier to FDI.</li> <li>• The proposals would present additional regulatory burdens on businesses, again discouraging investment.</li> <li>• Wealthy investors who value privacy may be disinclined to invest in UK property, instead choosing jurisdictions with reduced requirements.</li> <li>• Possible political risks (e.g. forcing political leaders who would qualify to be on the BO register to declare their details/creating an environment where it would appear owners from certain jurisdictions are being targeted).</li> </ul>   |
| Benefits | <ul style="list-style-type: none"> <li>• As the headline suggests, the policy would target flows of corrupt wealth into the UK.</li> <li>• Creating a beneficial ownership register of overseas companies purchasing UK property would carry significant benefits for registered agents who are required to carry out due-diligence checks (e.g. SARs/KYCs). If public, it would provide an easy tool to verify details, saving time and money.</li> <li>• Proposals would also stem the flow of illicit money into UK property; this would halt any artificial inflation in house prices and reduce the number of unoccupied properties in the UK.</li> <li>• The UK's reputation as a location for clean investment and politically- as a world leader in anti-corruption- would benefit greatly.</li> <li>• The creation of a register would assist international partners in identifying the beneficial owners of companies operating in their jurisdictions. This may be particularly beneficial to developing nations who do not have the same infrastructure to counter corruption that we have in the UK.</li> <li>• A register would assist law enforcement in the UK, ensuring that checks could be carried out quicker and at less cost.</li> </ul> |



|          |                    | <b>Q.8/9 How should the proposals be enforced and what sanctions would be appropriate?</b>  |
|----------|--------------------|---|
| Comments | General            | <ul style="list-style-type: none"> <li>• Criminal sanctions would be difficult to enforce.</li> <li>• Sanctions should recognise the difference between overseas companies new to the UK property market and those already owning property.</li> <li>• Sanctions should cover both initial provision of information and requirements to keep beneficial ownership information updated.</li> <li>• Sanctions should recognise the complexity of beneficial owners being based in multiple jurisdictions and the difficulty that a company may have in pursuing information from each BO.</li> <li>• Sanctions should not negatively affect compliant shareholders in a company.</li> <li>• Proposed sanctions would need to take account of:                             <ul style="list-style-type: none"> <li>○ Companies that may be at risk of fines from their incorporated jurisdictions for sharing information with the UK authorities.</li> </ul> </li> </ul> |
|          | For new purchases  | <ul style="list-style-type: none"> <li>• Overseas companies wishing to purchase property in the UK should only be allowed to register this property once they have provided beneficial ownership information.</li> <li>• Any introduction of legislation will need to account for those companies currently in the process of purchasing property.</li> </ul>   |
|          | For current owners | <ul style="list-style-type: none"> <li>• Overseas companies currently owning property in the UK should not be allowed to raise charges on, request planning permission for or sell/transfer their property until they have declared their beneficial ownership information.</li> <li>• Some suggestion that we should introduce incremental fines (based upon the value of property in question) for non-compliance in providing/updating information.</li> <li>• Whatever sanctions are considered here, they need to protect third parties (such as tenants, JV partners and lenders) who would be unfairly prejudiced by instigating complete restrictions on property.</li> </ul>   |

|          |  | <b>Any other comments</b>  |
|----------|--|--|
| Comments |  | <ul style="list-style-type: none"> <li>• The definition of ‘purchases of land and property’ was unclear in the discussion paper. A number of respondents requested further clarification on this and expressed an inability to answer on several points given this point.</li> </ul> |

|  |  |    |    |   |          |   |
|--|--|----|----|---|----------|---|
|  | <b>Q10. Do you agree that knowing beneficial ownership information of those companies participating in public contracting will help the contracting authorities operate a fair and straightforward approach towards procurement?</b> |    |    |   |          |   |
|  | Yes  | 16 | No | 1 | Not Sure | 1 |

|          |   |   |    |   |          |   |
|----------|---|---|----|---|----------|---|
|          | <b>Q11. Do you agree this £10 million threshold would be appropriate?</b>               |   |    |   |          |   |
|          | Yes   | 3 | No | 8 | Not Sure | 5 |
| Comments | <ul style="list-style-type: none"> <li>[6 respondents provided no response].</li> </ul> |   |    |   |          |   |

|          |  |  |  |  |  |  |
|----------|--|--|--|--|--|--|
|          | <b>Q12. What are the potential benefits and burdens for contracting authorities and for bidders of the approach in Option A? Would It provide a proportionate way to deliver the proposal taking into account the 3-year exclusion that would apply for not providing a beneficial ownership unique identifier number?</b> |  |  |  |  |  |
| Comments | Benefits   | <ul style="list-style-type: none"> <li>Any bid that did not provide beneficial ownership information would not be progressed.</li> </ul>   |  |  |  |  |
|          | Burdens  | <ul style="list-style-type: none"> <li>Provision of beneficial ownership information not seen as necessary at the start of the procurement process.</li> <li>MoD's procurement regulations do not allow for this option.</li> <li>Approach of excluding for failure to supply beneficial ownership information may be seen as disproportionate.</li> </ul> |  |  |  |  |

|          |          |   |
|----------|----------|---|
|          |          | <b>Q13. What are the potential benefits and burdens for contracting authorities and bidders in Option B? Would the 3 year exclusion be appropriate?</b>   |
| Comments | Benefits | <ul style="list-style-type: none"> <li>• A more direct approach than Option A.</li> </ul>   |
|          | Burdens  | <ul style="list-style-type: none"> <li>• May weaken concept of a central register</li> <li>• 3-year exclusion period for failure to provide beneficial ownership information may appear harsh.</li> <li>• Directly provided beneficial ownership information may diverge from that held on a central register in the event of subsequent change since the register details were submitted.</li> </ul> |

|          |          |   |
|----------|----------|---|
|          |          | <b>Q14. What are the potential benefits and burdens for contracting authorities and bidders in Option C?</b>  |
| Comments | Benefits | <ul style="list-style-type: none"> <li>• [No direct benefits feedback was received].</li> </ul>   |
|          | Burdens  | <ul style="list-style-type: none"> <li>• May be seen as reducing the severity of the punishment for failing to disclose beneficial ownership information as the exclusion applies only to that particular procurement process.</li> <li>• MoD has no such enabling provision in its procurement legislation.</li> <li>• Direct provision of beneficial ownership information to the contracting authority may detract from the value of data held on a central register.</li> </ul> |

|          |          |   |
|----------|----------|---|
|          |          | <b>Q15. What are the potential benefits and burdens for contracting authorities and bidders of this variation of Option C?</b>                  |
| Comments | Benefits | <ul style="list-style-type: none"> <li>• Provides beneficial ownership declaration at the earliest stage in the procurement process.</li> </ul> |
|          | Burdens  | <ul style="list-style-type: none"> <li>• Query how this would comply with the EU's ESPD process.</li> </ul>                                     |

|          |          |   |
|----------|----------|---|
|          |          | <b>Q16. How does the approach in Option D compare with Options A-C in practical terms? What are the benefits and burdens for contracting authorities and bidders?</b> |
| Comments | Benefits | <ul style="list-style-type: none"> <li>• Potentially the least onerous option.</li> </ul>   |
|          | Burdens  | <ul style="list-style-type: none"> <li>• Information would not be disclosed at the outset of the procurement process.</li> </ul>                                      |

|                 |  |
|-----------------|--|
|                 | <p><b>Q17. What other issues should be taken into account when considering the options outlined about procurement in the discussion paper?</b></p>   |
| <p>Comments</p> | <ul style="list-style-type: none"> <li>• Operational impact arising from delay in contract award is an issue.</li> <li>• Mechanisms would need to be in place to ensure that the beneficial ownership information provided at the outset is accurate and is kept up to date.</li> <li>• Government contracts should include civil penalties to cover the cost to the taxpayer of cancelling a contract and subsequent costs of re-tendering because of failure to disclose true beneficial ownership.</li> <li>• Making the collated data on business ownership open to the public allows for greater scrutiny.</li> <li>• Impact on SMEs and VCSEs should be considered</li> <li>• Any effect on relationships with other countries that do not operate a national register should be considered, as should the extra burden on contracting authorities.</li> </ul> |
|                 | <p><b>Q18. Are there other options potentially available to Government regarding procurement which would achieve the same aims overall, that have not been set out here? If so what are the associated likely practical constraints and benefits?</b></p>  |
| <p>Comments</p> | <ul style="list-style-type: none"> <li>• Government should carry out due diligence on bidders in the same way that private regulated sectors are required to carry out due diligence on their customers under Anti-Money Laundering regulations.</li> <li>• An open register of beneficial ownership of all companies doing business with the public sector should be available.</li> </ul>  |

