

**COMPANIES ACT 2006:
OBJECTING TO A REGISTERED
OFFICE ADDRESS**

Summary of responses to
the consultation

MARCH 2010

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**Companies Act 2006:
Objecting to a Registered Office Address Consultation**

Summary of Responses

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Summary of Responses

CHAPTER 1

Executive Summary

1. There is some evidence that companies may incorrectly use, as their registered office, the address of another business or private individual with whom they have no connection. At present there is no mechanism to enable a companies address to be changed in response to an application by a third party - whether the party is an individual or another business. The consultation, "Objecting to a Registered Office Address", sought views on whether and how we should change legislation to deal with this issue.

2. The consultation was published on 25 November 2009. The official closing date was 19 January 2010. This document provides a brief summary of the responses received to the questions set out in the consultation document.

3. In total we received 37 responses to the consultation. Responses came from individuals, Lawyers and Accountants, Company Formation and Residential Management Agents, Fraud Prevention, Credit, Trade, Legal and Accounting Institutions.

Breakdown of Respondents



4. The majority (36) of those responding agreed that there was a problem and were supportive of the proposals. A number of those responding had some experience of their address being used incorrectly by a company as its registered office address. One or two respondents raised questions about the accuracy of the stated level of misuse of address in the consultation paper (18 incidents per month) - indicating that number could possibly be higher.
5. Some of those responding suggested that more checks by Companies House, on proposed addresses and directors details on incorporation, would reduce the risk of inaccurate information being provided in the first instance. There was also a suggestion that Companies House or some other arbitrator should handle disputes rather than the courts. A small number of respondents confirmed that whilst the proposals would deal with inaccurate addresses, they would not address wider fraud issues which should be given consideration.
6. A summary of the responses received for each question is set out below. A list of those responding to the consultation is set out at Annex A.

CHAPTER 2

Summary of Responses to Individual Questions.

Q1. Do you agree that there is a problem that needs a solution?

7. Only one of the 37 responding did not agree that there was a problem. The one dissenting voice believed that Companies House should make use of existing remedies such as referral to the police for prosecution for offences relating to trading disclosures, availability of documents for inspection and the Fraud Act.

Q2. If you do agree, does the proposal set out above address the problem or is there another process we should consider?

8. Most (31) of those responding directly to the question were supportive of the proposals and thought them proportionate. A handful (5) thought there were overly complicated. A number of respondents indicated that incorrect use of addresses would be less of a problem if more checks of directors/addresses were undertaken by Companies House on incorporation. One or two suggested that the process could be speeded up if objections were handled by Companies House or some other arbitrator rather than the courts. One respondent commented that whilst the proposals may help an occupier whose address has been misused – it would not help those seeking to trace rogue companies.

Q3. We have referred as shorthand to the 'legal occupier' of the premises. Who should be allowed seek a change of a company's registered office address?

9. There were 22 responses to this question. Most (12) of those responding indicated that the definition of a legal occupier – should include the landlord, the thought that agents acting on behalf of the legal occupier e.g. Accountants/Lawyers/formation agents should be able to object.

10. Seven respondents said that anyone with a legitimate interest including creditors should be able to object if a company is using an incorrect registered office address, whilst 2 respondents indicated that enforcement or local authorities should also be able to object (e.g. in the case of the use of an address of a vacant premises). 2 respondents flagged up the need to guard against the malicious abuse of the process and to ensure that occupiers such as squatters were not eligible to object.

11. One respondent flagged up that it was not the status of the objector that was at question – but the companies' right to use the address – so anyone should be able to object – a company could appeal to the courts in the case of a dispute.

Q4. Should the legal occupier of an address (or any other person) have the right to object at any time to the use of the address by a company as its registered office?

12. All of those responding directly to this question answered that the legal occupier should have the right to object at any time. A couple of respondents suggested that this facility should be extended to enforcement agencies. There was a suggestion that the objector should provide evidence that they had approached the company in the first instance.

Q5. When such a person writes to the registrar to seek a change in the registered office details, how should this be done? For example, would a simple statement, letter or Companies House form be sufficient or should something more formal be required such as an affidavit or confirmation by a trusted source (e.g. the police)? Why?

13. Of those responding (23), 22 felt that objections should take the form of a simple letter or a companies house form. It was felt that affidavit was too formal and would be impediment to raising an objection because of the cost and bureaucracy involved. Half of those responding indicated that the form should contain a statement or perjury like declaration. One respondent indicated that a unique reference number should be allocated to each objection. There was also some suggestion that objections should be accompanied by evidence for fraud prevention purposes and to deter frivolous claims.

Q6. Who should Companies House inform about an objection (e.g. the directors and/or secretary of the company) and what should they tell them? (For example just that there had been an objection, or the details of the person who had lodged the objection?)

14. All those responding (23) agreed that the Directors and Secretary should be notified of any objections. A handful indicated that the details of the objection should be revealed – including the details of the persons objecting. A small number (3) indicated that details of the persons objecting should be withheld.

Q7. How long should the registrar give the company to provide a new address or apply to court before annotating the register to confirm that the address is no longer the address of the company's registered office?

15. Of those responding directly – most 22 were in favour of giving the company a period of 6 weeks or less to provide an alternative address, whilst 3 suggested a longer period. 3 respondents suggested 14 days, 3 went for 21days, 13 suggested 28 days, 3 suggested 6 weeks, 2 suggested 8 weeks and 1 suggested 12 weeks.

Q8. Is advertising in the Gazette an appropriate means to serve documents on the company in the absence of any other address?

16. The response was mixed. The majority of those giving a direct response (17) said that the Gazette would be an appropriate means to serve documents. However there were a number of caveats, mainly concerning the need to exhaust other options including:

- Insolvency and Court Procedure rules permit alternatives which should also be explored.
- Directors addresses – and email addresses should also be used
- The Gazette is not widely read, so it should not be only option
- Consider using alternative publications

Seven of those responding directly to the question did not agree that the Gazette should be used to serve documents on a company.

17. We also contacted a number of government departments and enforcement agencies concerning this issue, be – because other legislation is dependent upon a company having a registered office. The raised concerns about a company having no registered office address and the confidentiality of advertising in the Gazette

Q9. Do you agree that, in the event of a successful objection, the address should cease to be the company's registered office but should remain on the register as part of the historical record? Will this cause any difficulties? Is anything else required?

18. Of those replying directly to the question the majority (18) agreed that information should remain on the register as part of the historical record – but a number of these indicated that the register should be annotated to show that the use of the address had been disputed. Only 4 respondents said outright that information concerning the incorrect address should be completely removed from the register. Two respondents said that removal of information should depend on the circumstances e.g. whether the address was correct in the first instance. A small number pointed out that there may be data protection or human right implications if incorrect information about third parties is kept on the register.

Q10. Is strike –off an appropriate sanction in these circumstances? If so how rapidly? And what protections, if any, should there be for third parties?

19. Seventeen respondents indicated that strike off action may be appropriate as a sanction of last resort and that any action should follow existing procedures and timescales for strike off - including the right to object.

20. A number of respondents (6) thought that strike off may be an over reaction and raised concerns about the adverse impact that strike off arrangements have for creditors. We were also alert to the fact that administrative strike off action may

actually be attractive to companies that tend to operate below the radar because it makes it difficult or impossible to take legal action against the company.

Q11. Are there any other comments you wish to make relating to this issue?

21. A number of respondents asked us to consider what happens when the Registered Office address is an empty office – there may be no complaints (because no one occupies the building) – they felt that it should be possible for Companies House to do something.

22. Some respondents asked what action could be taken in the case where the registered office address, director's service addresses and director's residential addresses are all the same – and wrong – leaving the company with no registered office address.

23. A small number felt that the proposals ought to go further to address fraud, and that more verification checks on incorporation and easier processes to remove inaccurate information should be considered.

CHAPTER 3

Next Steps

24. We are very grateful to all those who contributed to the consultation. We are now considering the appropriate policy response to address the issues identified in the consultation document, in the light of the responses received. Should we reach the conclusion that the appropriate response requires legislation, it will be necessary to identify a suitable legislative vehicle in the next Parliament. The Government will set out its intended course of action in due course.

Additional Copies/Enquiries

25. A copy of this summary is available at:

<http://www.bis.gov.uk/Consultations/category/closedwithresponse>

You may make copies of this document without seeking permission.

Other versions of this document can be made available on request in Braille, other languages, large fonts and other formats. The same contact details can be used to obtain copies of the original consultation paper (URN 09/1487)

26. In case of enquiries please contact:

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Companies Act 2006: Objecting to a Registered Office Address – list of respondents to consultation.

Andrew Turvey Solutions Ltd
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James Perman & Co
Blackstone Franks LLP
Hammonds
Company Formations Ltd
Chapman Robinson & Moore
Duncan and Toplis chartered accountants and business advisers
Neil Smy
Morgan Cameron
Epsom Accounting Ltd
UK plc
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