

# Response to the consultation on the transparency of land ownership involving trusts

February 2024

This is a response from the [Centre for Public Data](#) to DLUHC's [consultation](#) on the transparency of land ownership involving trusts.

## Response to questions

### The overall principle of transparency of trusts owning land

**Question 1: Do you agree that more direct information about the ownership and control of land, including where a trust structure is involved, would help address the issues in the housing sector identified? Please explain your answer.**

- For high-rise residential buildings

Yes. To understand whether they are liable for remediation costs, residents will need to know the beneficial owners of their property, other properties with the same beneficial owners, and the net worth of these beneficial owners. However, if the resident's property has a trust in its ownership structure, it is currently difficult for them to discover who its beneficial owners are, and hence establish whether or not the resident is liable.

Neither the Persons of Significant Control (PSC) register, Register of Overseas Entities (ROE), nor the land register publish beneficial ownership information for land-owning trusts. HM Land Registry does not consistently record the name of the trust holding land on the title register, and the Trust Registration Service (TRS) does not record the title numbers of the land held, or maintain up-to-date information after initial registration. For all these reasons, it is difficult to establish the beneficial owners of land owned by trusts.

The same problems will arise for parties trying to understand how many other properties have the same ownership. This is compounded by the fact that the public cannot search the land register by proprietor name in England & Wales. So even if the title register contained all necessary beneficial ownership information, it is difficult to see how a resident could find out which properties had the same ownership as their own without paying a £3 fee for every title in the UK.

- For community groups and businesses, the private rented sector, and other local authority enforcement

Yes. Solving these problems may require knowing the relevant property's beneficial owners and their contact details. For the same reasons detailed above, these tasks are difficult for community groups and businesses.

**Question 3: What further benefits do you see from increasing the transparency of land ownership, especially where trusts are involved, and what are the risks? Please provide any evidence you may have to support your position.**

An important benefit of increasing the transparency of trust ownership would be preventing 'displacement' into trust structures. Currently there is an incentive for criminals who wish to own UK land anonymously to displace into using trusts.

As our briefing explains,<sup>1</sup> at present, land-owning trusts are afforded more privacy than any other type of land ownership structure:

- When an individual owns land directly in England and Wales, their information is published on the title register and available for a £3 fee on a per-address basis.
- When a UK or overseas company is the legal owner of UK land, the company's ownership of the land is published by HM Land Registry as open data. The beneficial owners of these companies are then published on the PSC register or ROE, *except* if a trust is involved in the ownership chain.
- When a trust is the legal owner of the land, the beneficial owners of the trust are not published anywhere, and may not even be recorded centrally. If land was acquired via a non-UK trust after 2020, the beneficiaries of the trust should be recorded on the TRS, which is not publicly available; if it was acquired before 2020, the beneficiaries are not recorded on any central register.

This disparity is problematic because people who wish to own UK assets anonymously may simply shift into using trusts. Such displacement is a well-known effect. For example, after the PSC register was established in 2016, the number of English Limited Partnerships rose by over 50% as they were promoted as an 'alternative solution' to avoid transparency. Similarly, an increase in the transparency requirements for financial assets relative to real estate assets after 2013 led to a significant rise in UK real estate investment from companies based in tax havens.<sup>2</sup>

It may be argued that solving this disparity, and thus preventing displacement, would risk individuals' privacy and safety. Trusts are for private affairs, and well-suited to holding assets on behalf of vulnerable people - the argument goes. Transparency over company ownership is the 'price' of limited liability, but trusts receive no corresponding benefit.

This line of reasoning has a number of defects:

- Trusts have not been used solely to manage private affairs for a long time. As data from ROE and the PSC register shows, they often retain company shares and are

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<sup>1</sup> Centre for Public Data, '[Briefing: Data on the beneficial ownership of property and land](#)' (2024).

<sup>2</sup> Bomare and Le Guern Herry, '[Will We Ever Be Able to Track Offshore Wealth? Evidence from the Offshore Real Estate Market in the UK](#)' (2022).

used in complex land ownership chains. It is now generally agreed that the ownership of land is a matter of public interest; it is unclear why this differs when trusts are involved.

- Exemptions for vulnerable beneficial owners can be made available on a case-by-case basis, and these are already available for vulnerable owners on both the PSC and the public land register.<sup>3</sup>
- Like companies, trusts have their own state benefits. The separate tax regime and regulatory rules presumably offer something of value to trust users, otherwise they would not use them. Limited liability is not a particularly special class of state benefit, so it seems that trusts should also have to pay the 'price' of transparency.

Increasing the transparency requirements for land-owning trusts to match the requirements placed on all other landowners will be accompanied by no risks that the UK does not currently consider appropriate for companies and individual owners to assume. Doing so will also prevent displacement and make it easier to tackle criminal activity.

Other benefits from increasing the transparency of trusts' land ownership include:

- **Greater confidence in the UK's beneficial disclosure system.** The UK has few mechanisms for assessing the quality of beneficial ownership information. As RUSI argues, "If no arrangements exist for external validation of a country's beneficial ownership information, the widest possible access is desirable".<sup>4</sup>
- **Better-informed policy.** The current lack of understanding about who owns what land frustrates the government's commitment to land use changes that are required to address the climate crisis.<sup>5</sup>
- **A more efficient planning and development sector.** It is hard to plan housing development effectively where the ownership of land is obscure. As the UK's Geospatial Commission has written, "information about land ownership and control can be opaque, causing inefficiencies in the property development and planning system".<sup>6</sup>
- **Greater public participation.** The Scottish Land Commission points more generally to a lack of land ownership information being a potential barrier to public participation in decision-making, a pillar of the human rights framework.<sup>7</sup>

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<sup>3</sup> [The Register of People with Significant Control Regulations 2016/339](#), section 37; HMLR, '[Practice guide 57: exempting documents from the general right to inspect and copy](#)'.

<sup>4</sup> RUSI, '[For Whose Benefit? Reframing Beneficial Ownership Disclosure Around Users' Needs](#)' (2020).

<sup>5</sup> Scottish Land Commission Coimisean Fearainn na h-Alba, '[Transparency of Ownership and Land Use Decision-Making](#)' (2023).

<sup>6</sup> Geospatial Commission, '[Finding common ground: Integrating data, science and innovation for better use of land](#)' (2023).

<sup>7</sup> Scottish Land Commission Coimisean Fearainn na h-Alba, '[Transparency of Ownership and Land Use Decision-Making](#)' (2023).

## Future transparency of trusts involving minors

**Question 4: In any future proposed solution for enhancing transparency about trusts on the ROE following this consultation, do you believe that information about minors should be available to public inspection:**

- By default, with the onus on the overseas entity, the trust, or their representatives, to apply for protection under section 25 of the ECTEA 2022**
- Access permitted only by application with the applicant required to demonstrate a legitimate interest in the information**

**Please give reasons for your answer.**

Introducing a disparity in exemptions for trusts versus other legal structures has no advantages, and significant disadvantages. It is unclear why exemptions should exist specifically for minors who are also trust beneficiaries. Regulations already made under section 25 of the ECTEA 2022 will suffice for vulnerable people who are trust beneficiaries, if they suffice for vulnerable people in general.

And, in line with our answer to question 3, introducing a disparity in information requirements is likely to motivate criminals to move their ownership structures into trusts where there is a greater degree of privacy.

Any exemptions for vulnerable individuals should be consistent across ROE, the PSC register and the public land register.

## Options for enhancing transparency of trust information held on the ROE

**Question 6: In your view, which of these options would it be most appropriate to take forward? Please give reasons for your answer, including your views about any risks associated with each option, and how it might help to achieve the government's aims.**

Option 1 is most appropriate.

Here are the risks that may be argued are associated with option 1, and why we consider them minimal:

- **Legal challenge.** The European Court of Justice (ECJ) recently ruled that indiscriminately publishing the ultimate owners of companies violates individuals' right to privacy under European law.<sup>8</sup> It may be thought that option 1 risks a similar legal challenge. We believe this risk is minimal:
  - The ECJ's rulings are no longer directly applicable to the UK.
  - The ECJ ruling suggests that opening up beneficial ownership information is a disproportionate measure for tackling money laundering, but the UK also

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<sup>8</sup>The Court of Justice of the European Union, '[Press Release No 188/22](#)' (2022).

intends to use the data to benefit its housing market and provide information of significant public interest.<sup>9</sup>

- There is primary legislation in the UK allowing for the publication of such data. The Levelling-Up and Regeneration Act 2023 gives the Secretary of State powers to collect and share information to help with “identifying persons who are beneficial owners of land in England and Wales”, including land owned via a trust.<sup>10</sup>
- The UK has published beneficial ownership information on companies since 2016, under the Companies Act. Similarly, HMLR has provided public access to its title register, and its UK and overseas companies datasets, for many years.
- Even if a UK higher court were to declare public access to information on the beneficial ownership of land incompatible with the ECHR, Parliament alone decides whether the legislation remains valid in light of the incompatibility.<sup>11</sup>
- **The benefits of option 1 are outweighed by its impact on individuals’ privacy and safety.** We believe that option 1 is the only option that successfully balances privacy concerns against the benefits of transparency:
  - The UK already makes information on individual landowners publicly available by default, and presumably considers it a proportionate limit on their privacy. This is similarly true for UK and overseas companies who own land, if they do not contain trusts in their ownership chain. It is unclear why it would not be proportionate to do so for trusts when it is for individuals. See the answer to question 3 for more detail.
  - Options 2 and 3 will likely rely on legitimate interest regimes. Historically, these regimes have provided very limited transparency. In theory, anyone with a legitimate interest can access information on the Trust Registration Service (TRS), but in practice, access to the register has been non-existent. A Parliamentary Question showed that as of September 2023, not a single TRS data access request had ever been accepted by HMRC.<sup>12</sup> It is very difficult to successfully specify such regimes to deliver benefits.

Below we lay out the risks we believe to be associated with all options other than 1:

- **Displacement.** As explained above, the current system risks displacement, whereby criminals who wish to own UK land anonymously can simply shift into using trusts. Option 2 will likely produce a similar effect. If trusts’ beneficiaries are not published, then a criminal merely needs to become the beneficiary of their trust, and they can continue as before. Trusts’ flexible structure lend themselves to this kind of transparency-avoidant move.
- **Failing to detect conflicts of interest.** Omitting trust beneficiaries from public registers, as options 2 and 3 do, withholds information of legitimate public interest. It is important that the public know who *benefits* from land, not merely who controls it.

<sup>9</sup> HM Government, [‘Transparency of land ownership involving trusts consultation’](#) (2023).

<sup>10</sup> [Levelling-up and Regeneration Act 2023](#), Part 11 s.219, s.220.

<sup>11</sup> See e.g. Liberty, [‘How the Human Rights Act Works’](#)

<sup>12</sup> [HL Deb](#) 11 September 2023, UIN HL10013.

This knowledge is vital for identifying undeclared conflicts of interest affecting decisions over planning and land use.

- **Missed opportunities.** The benefits of transparency laid out in the consultation and in answer to question 3 are unlikely to be achieved under options 2 and 3. For example, limited access to information about trusts' beneficiaries will prevent residents from understanding their liability for remediation costs, limit confidence in the UK's beneficial disclosure system, and stop local authorities from chasing down business rates owed by shell companies.

**Question 8: What is the potential impact on individuals of your preferred option? If you believe that this would not be helped by the expanded protection regime, please provide reasons, and any alternative suggestions.**

We believe there will be no privacy impact on individuals associated with a land-owning trust that does not currently affect individuals who own land without a trust's involvement. We also believe that option 1 will help address the problems laid out in the consultation and in answer to question 3. This will impact individuals by increasing local accountability, efficiency in the housing sector, and confidence in the UK's beneficial disclosure system.

## Data collection

**Question 13: Which of the following data do you consider necessary and proportionate for the Government to collect (or continue to collect) in order to meet the objective of greater transparency of land ownership as a matter of public interest? Please tick all that apply and give reasons for your answer.**

- Name of trust (or other identifier)**
- Details of land owned by the trust**
- Name of trustees**
- Beneficiaries' rights over the land**
- Name of beneficiaries**
- Address(s) of parties to trust**
- Name of settlors**
- Dates of birth of parties to trust**
- Name of protectors (if applicable)**
- Any other details (please specify)**

There are many problems caused by opaque land ownership that are of legitimate public interest. For example, successfully identifying conflicts of interest in a local planning department requires the public to have access to beneficial ownership information.

These uses require knowing who beneficially owns land, or who beneficially owns a land-owning trust. FATF defines a trust's beneficial owners as all of the parties involved.<sup>13</sup> Therefore, if a trust owns UK land, public interest purposes necessitate the collection of the

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<sup>13</sup> FATF, ['Guidance on Transparency and Beneficial Ownership'](#) (2023), p.59.

names and dates of births of all parties to the trust (the latter is needed to distinguish between individuals with the same name).

These public interest uses also require knowing what land the trust owns (including the title number so that the parcel is clearly defined), how to contact the beneficial owners (which need not be a residential address), and the rights of the beneficiaries so the appropriate contact can be determined.

It is also important that the Government assign these land-owning trusts unique identifiers. This will allow easy identification of all the land owned by a particular trust, unlike a name that may change or may be used by multiple trusts.

All of the above information should be updated on an ongoing basis and include retrospective information. Currently the Trust Registration Service only applies to non-UK trusts that acquired land after 2020, but there is clearly legitimate public interest in land acquired before this date.

All these fields are included in the Beneficial Ownership Data Standard, the UK Government's official open standard for data on beneficial ownership.<sup>14</sup> Collecting data in line with the BODS standard significantly increases its value: as the Government guidance says, using BODS helps the Government investigate and prosecute money laundering, identify potential fraud, and identify legal entities whose ownership structures may create risks to national security.

**Question 14: Which of the following data do you consider necessary and proportionate for the Government to collect (or continue to collect) in order to meet the objective of helping to address issues in the housing sector? Please tick all that apply and give reasons for your answer.**

- Name of trust (or other identifier)**
- Details of land owned by the trust**
- Name of trustees**
- Beneficiaries' rights over the land**
- Name of beneficiaries**
- Address(s) of parties to trust**
- Name of settlors**
- Dates of birth of parties to trust**
- Name of protectors (if applicable)**
- Any other details (please specify)**

The answer to question 13 applies here. Understanding beneficial ownership, including all parties to the trust, is important for addressing the issues in the housing sector identified by the consultation.

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<sup>14</sup> Cabinet Office, '[Guidance: Collect, use and exchange beneficial ownership information](#)'.



**Question 15: Which of the following data do you consider necessary and proportionate for the Government to collect (or continue to collect) in order to meet the objective of helping to tackle illicit finance and corruption in respect of UK land ownership by overseas trusts? Please tick all that apply and give reasons for your answer.**

- Name of trust (or other identifier)
- Details of land owned by the trust
- Name of trustees
- Beneficiaries' rights over the land
- Name of beneficiaries
- Address(s) of parties to trust
- Name of settlors
- Dates of birth of parties to trust
- Name of protectors (if applicable)
- Any other details (please specify)

The reasoning is parallel here to questions 13 and 14 and the same additional details apply.

**Question 16: Which of the following data do you consider necessary and proportionate for the government to collect (or continue to collect) in order to meet the objective of helping to tackle illicit finance and corruption in respect of UK land ownership by UK trusts? Please tick all that apply and give reasons for your answer, noting that UK trusts are considered by the National Risk Assessment to pose a relatively lower risk for money laundering.**

- Name of trust (or other identifier)
- Details of land owned by the trust
- Name of trustees
- Beneficiaries' rights over the land
- Name of beneficiaries
- Address(s) of parties to trust
- Name of settlors
- Dates of birth of parties to trust
- Name of protectors (if applicable)
- Any other details (please specify)

The reasoning is parallel here to questions 13 and 14 and the same additional details apply.

## **Data access**

**Question 17: Which of the above options do you consider reasonable and proportionate to address the issues outlined in this consultation?**



Option 4, where the ‘minimum information necessary’ includes the publication of the beneficial owners of trusts (i) openly, where companies are also involved in the ownership chain and (ii) behind a paywall, where only individuals are involved.

For the reasons above, we are arguing for parity between the disclosure requirements for different types of land owners.

If land is owned by an individual, anyone can pay £3 to obtain the title and find out the land’s beneficial owner. The same should be true if land is owned directly by trusts, with no company involvement - beneficial ownership information should be behind the £3 paywall.

Similarly, if land is owned indirectly by trusts - via an overseas or UK company - then it should be treated like land owned by companies, with its beneficial owners published freely on ROE and the PSC register respectively.

We suggest that an additional ‘legitimate interest’ test would be reasonable and proportionate for people who wanted to search the title register by name. As laid out above, the public can currently only search by address, which stops individuals’ residential addresses being public knowledge. However, there are some cases where it is appropriate for members of the public to search the title register by name. For example, residents investigating their liability for remediation costs need to know which other properties their landlord group owns, as do tenants tackling a problematic landlord.

It is important that the criteria for this legitimate interest test are agreed in consultation with important users, and that this access service is independently governed and transparently managed.

The Government should also explore the possibility of publishing all information about non-residential property by default. If land is directly owned by an individual or a trust, but used for non-residential purposes, then there are few security reasons for protection. We suggest this land be removed from behind the title register’s paywall and auditability restrictions. Many other countries have entirely or largely public cadasters, including New Zealand, France and Denmark.

**Question 18: If you chose options 3 or 4, which of the following data would you consider necessary and proportionate for the government to publish by default in order to identify a trust holding a particular piece of land, if further data is available under certain circumstances? Please tick all that apply and give reasons for your answer.**

- Name of trust (or other identifier)**
- Details of land owned by the trust**
- Name of trustees**
- Beneficiaries’ rights over the land**
- Name of beneficiaries**
- Address(s) of parties to trust**
- Name of settlors**

- Dates of birth of parties to trust**
- Name of protectors (if applicable)**
- Any other details (please specify)**

For the same reasons that applied in answer to question 13, we believe all of this information should be published by default. We also request the same additional details: title numbers, unique company and trust identifiers, the date of trust creation, with all the information retrospective and updated on an ongoing basis.

As written in answer to question 17, if a trust owns land via a company, then this information should be freely available in either ROE or the PSC register, as it is for land-owning companies. If a trust owns land directly, then the information should be published behind a paywall by default, and auditable by address only for members of the public.

**Question 19: If you chose option 4, who do you think should qualify under a ‘legitimate interest test’ to allow access to further detail? Please tick all that apply and give reasons for your answer.**

- Resident on land owned by the trust**
- Owner/resident of land neighbouring the land owned by the trust**
- Residents associations or their representatives**
- Relevant local authorities**
- Investigative journalists (for reasons other than money laundering or terrorist financing)**
- Academic institutions (for research reasons)**
- Other (please specify)**

The above groups have legitimate reasons to search the title register by name. Residents on land owned by trusts and residents associations may need to do so to investigate remediation liability. Relevant local authorities may need to find out if an owner who owes business rates is responsible for similar shortfalls in other properties, so they can be taken to court for the correct amount. Investigative journalists and academic institutions should be able to perform comprehensive analysis of land usage and concentration of ownership by proprietor.

**Question 20: Please detail any situations where you think trust information should be protected from publication by default, and give reasons for your answers.**

As written in answer to question 4, any exemptions available to vulnerable trust beneficiaries should be available for all vulnerable property owners across the title register, the PSC register and ROE.

## About us

The Centre for Public Data is a non-partisan, non-profit research and advocacy organisation that works to improve data-related provisions in policy and legislation. We would be delighted to discuss this further. Our contact details are [contact@centreforpublicdata.org](mailto:contact@centreforpublicdata.org); +44 7812 357037; Fifth Floor Mariner House, 62 Prince Street, Bristol, England, BS1 4QD.