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Transparency of land ownership – clear as mud?

In recent years there has been a significant push by the UK Government to tackle economic crime. Recognising that misuse of corporate entities is a significant contributory factor to economic crime in the UK, transparency measures were introduced as early as 2016 with the introduction of the register of people with significant control over companies, intended to provide greater transparency of ultimate beneficial ownership of UK companies.

Scandals such as the Panama Papers and the Paradise Papers also ignited a significant public desire for increased corporate transparency. The appetite for this only seems to be increasing, with even [Heston Blumenthal calling on Companies House to do more to combat fraudulent companies](#).

Far more radical changes to bolster the transparency of information available are also now afoot under the Economic Crime and Corporate Transparency Act 2023 ("**ECCTA**"), a wide-ranging piece of legislation which (among other things) aims to improve transparency over corporate entities. The new powers being given to Companies House have been described as "*the biggest shakeup to the service in its 180-year history*"¹.

However, the Government has not stopped at corporates. It has also turned its attention to the abuse of trust structures and, with the introduction of the Trust Registration Service ("**TRS**") in 2017, created the first register of the beneficial ownership of trusts with UK links. With some limited exceptions, all UK-based express trusts, and non-resident trusts that own land (acquired since 6 October 2020²) or become liable for UK taxes, are now required to be registered with HMRC. However, the information held on TRS remains private and is only disclosed to enforcement authorities and HMRC.

However, Michael Gove recently noted³ "*...land is the most valuable asset in our economy, accounting for over 60% of the UK's net worth. Churchill called it 'by far the greatest of monopolies' and for too long we've turned a blind eye to who really controls it.*" Now, as part of its fight against economic crime, the question of who owns UK land is firmly in the UK Government's sights.

In this article we examine some of the transparency measures already in effect relating to UK land and some which are on the horizon.

Register of Overseas Entities

On 1 August 2022 the Economic Crime (Transparency and Enforcement Act) 2022 ("**ECTEA**") introduced the Register of Overseas Entities ("**ROE**"). ECTEA requires an overseas entity (a legal entity that is governed by

¹ [Robust new laws to fight corruption, money laundering and fraud - GOV.UK \(www.gov.uk\)](#)

² See Trust Registration Service Manual [TRSM22020](#).

³ [Transparency of land ownership involving trusts - GOV.UK \(www.gov.uk\)](#)

the law of a country or territory outside the United Kingdom) which owns a freehold title or a lease of seven years or more (a "qualifying estate") to register at Companies House and disclose its beneficial owners.

Now, any overseas entity carrying out a relevant disposition of a qualifying estate (essentially a transfer, the grant of a lease of seven years or more and, crucially for lenders, the grant of security) is required to be a registered overseas entity (with the information required to be updated annually).

The key risk is that a failure to register imposes restrictions on the ability of the overseas entity to deal with any UK property. An overseas entity that is not correctly registered will not be able to grant legal mortgages, and therefore any legal mortgage created by an overseas entity that is not registered on the ROE will not be capable of registration and will only take effect as an equitable – rather than legal – mortgage.

Further updates to the ROE regime also came into force on 4 March 2024, aimed at closing some loopholes in the original legislation. For example, information will become publicly available where an overseas entity holds land as a nominee for another and where trusts are involved in ownership structures.

Transparency of land ownership involving trusts

The UK government recently conducted a consultation on expanding the ROE regime to include trusts where they are involved in UK land ownership structures⁴.

Currently, the Government collects information on those sitting behind trusts through the ROE regime and the TRS. However, information collected is not available to the public and is not always comprehensive enough to match ownership to land.

ECCTA, however, provides for the introduction of regulations allowing applications for access to trust information that is currently held on the ROE but is not publicly available. It has been confirmed that regulations permitting such applications will be introduced this year.

One of the key ideas consulted on as part of the recent consultations was whether the trust information registered as part of the ROE regime should be publicly available by default. Three options were proposed under the consultation:

1. **publicly available by default** – all trust information (except protected information) registered under the ROE would be publicly available;
2. **partially publicly available by default** – pieces of more sensitive trust information on the ROE would remain private; and
3. **no change** – the existing arrangements would continue.

In addition to the possible changes to the ROE trust regime, the consultation invited views in relation to improving transparency around trusts more generally. Five options were put forward, ranging from retaining the existing practices to a 'maximalist' approach of publishing all information collected about trusts by default.

The consultation closed on 21 February 2024 and the results are awaited.

⁴ [Transparency of land ownership involving trusts - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/transparency-of-land-ownership-involving-trusts)

Information about interests and dealings in land (Part 11 Levelling Up and Regeneration Act 2023)

[Part 11](#) of the Levelling Up and Regeneration Act 2023 ("**LURA**") gave powers to the Secretary of State to require the disclosure of details and documents regarding property ownership providing that it serves one of the three purposes prescribed under LURA, being:

1. **Beneficial Ownership** – information is within this scope if it appears to the Secretary of State that it would be useful for the purpose of identifying persons who are beneficial owners of land in England and Wales or understanding the relationship of those persons with the land that they beneficially own;
2. **Contractual Control** – information that the Secretary of State considers useful for understanding relevant contractual rights including identifying persons holding contractual rights over land. This could, for example, include transactional information; and
3. **National Security** – this purpose would include information relating to land appearing to the Secretary of State to be a national security risk, it is relevant information, and it appears to the Secretary of State that requiring the disclosure of such information would be justified in the interests of national security.

Part 11 of LURA is in force but currently only sets up a framework. The devil will be in the detail (and the detail will be contained in secondary legislation which is not yet available).

However, this is further evidence of the government's drive to increase transparency over ownership of UK land.

Summary

The introduction of new legislation in recent years has increased the pressure on property ownership structures to ensure that they reveal at least some of their secrets.

The increased requirements being introduced – as well as the proposed regime changes for trusts – attempt to make the picture in relation to property ownership clearer.

It is questionable whether these changes have made or will make any significant difference to the transparency of property ownership structures or whether property owners will simply have to work harder to find loopholes through which to conceal the true owners of UK land.

However, it seems that additional due diligence on the ownership of UK land will be both inevitable and possible in the future.

Key contacts

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