

FUNDAMENTAL COMPANIES HOUSE REFORMS IN THE PIPELINE

Reforms to Companies House are in the pipeline, which will fundamentally change the role of Companies House, some of its processes and systems and the way individuals and companies interact with it. The most significant proposals are: (i) compulsory identity verification for all directors, persons with significant control (**PSCs**) and those filing information on behalf of a company, for example, company secretaries; (ii) the requirement for identity verification before a person can be legally appointed as a director; and (iii) Companies House having greater power to query information before it is placed on the public register.

Many of the reforms will require legislation to implement, however, the Government intends to publish a comprehensive set of proposals that will set out in detail how it thinks these reforms should be implemented. Subject to the views received, it will then proceed to legislate where necessary when Parliamentary time allows. Accordingly, some of the detail for the more complex proposals is yet to be seen.

Government response to 2019 consultation

Last month, the Government published its response to its 2019 consultation on options to enhance the role of Companies House and increase the transparency of UK corporate entities, which received a high number of responses. The case for reform was partly built on addressing the misuse of UK entities by international criminals and concerns around the accuracy of information held at Companies House.

The response states that the Government's vision is for "a register built on relevant and accurate information that supports the UK's global reputation as a trusted and welcoming place to do business and a leading exponent of greater corporate transparency". The reforms will also bring Companies House into the 21st century through streamlining and digitising processes and improving the user experience.

The response mainly refers to companies, but states that such references should be understood to mean UK registered companies, limited liability partnerships (**LLPs**) and limited partnerships (**LPs**) – directors should be

Key issues

- Significant Companies House reforms.
- Compulsory identity verification for directors and PSCs.
- Identity verification before a person can be legally appointed as a director.
- Greater powers for Companies House to query information before it is placed on the public register.
- Government to consult further on the detail and legislate when Parliamentary time allows – accordingly, some of the detail is yet to be seen.

interpreted to include LLP members and general partners of LPs. This briefing takes the same approach.

Identity verification

The proposal: The Government is proceeding with the proposal to introduce compulsory identity verification for all directors, PSCs and individuals filing information at Companies House not through a third party agent. These identity checks will apply to current directors and PSCs, but there will be a transitional period given the significance of this change in terms of approach and numbers of individuals (circa 10 million existing directors and PSCs) that will need to have their identities verified. However, once the transitional period expires, unverified individuals will face compliance action and possible prosecution. Note that the Government is not proceeding with the proposal to verify the identity of shareholders – it is considered sufficient that shareholders with a controlling interest in companies will be required to verify their identity as a PSC.

The practicalities: The Government intends to develop a fast, efficient, 24/7 digital verification process, with most verifications done in a matter of minutes - although non-digital methods will also be available. This addresses some concerns from respondents around accessibility and usability. The Government is also considering the cost and data protection implications of a new identity verification process. Once the relevant technology has been procured, Companies House will undertake a significant user testing programme to ensure a robust system is put in place.

Individuals will have a single user account once their identity has been verified and this will be used to link all their roles within a company and across multiple companies e.g. directors and PSCs. Accordingly, an individual's identity will only need to be verified once. In fact, all directors and PSCs will need to have a verified account at Companies House set up directly or through a third party agent with a verified account with Companies House e.g. an AML-regulated company service provider (see below).

Where an individual is filing information at Companies House on a company's behalf (not through a third party agent), they will require a verified Companies House account and have the Companies House log-in details for the relevant company. As such, it is expected that company secretaries (or other company employees that file information at Companies House) will need to have their identities verified in order to continue to file information at Companies House on behalf of their companies. The response, however, does state that user accounts will allow an account owner to act on behalf of multiple companies, which would be helpful for individuals filing information for multiple UK companies in a group structure.

Companies House will not duplicate identity checks carried out by verified third party agents as part of the customer due diligence process. However, where an agent applies to Companies House to open a verified account for a director or PSC, Companies House will require evidence (satisfying a minimum acceptable standard) of the identity checks carried out by the agent for that individual. Note that agents will be required to open an 'agent' account with Companies House in order to file information at Companies House - individuals filing under verified agent accounts will not need to verify their identity.

PSCs will be responsible for verifying their own identity and a suite of compliance activities and sanctions (in line with existing PSC offences) will be

put in place to ensure that as many PSCs as possible are verified within a certain time period of them confirming that they are the PSC with the company.

Identity verification before director appointment

The proposal: The Government intends to proceed with the proposal that identity verification must take place before a person can be legally appointed as a director. See the box to the right on how the Government envisages the process for a director's appointment. Note that the response states that the Government cannot make the 'position' of PSC conditional upon successful completion of identity verification because a person becomes a PSC by virtue of their 'control' over a company (and not by appointment).

The practicalities: Concerns were raised about this proposal creating potential legal uncertainties about when a director is validly appointed and delays to appointment. The Government appears to have mitigated some of these concerns with the following proposals:

- **Quick and easy:** The appointment and verification system will be quick and accessible (see above).
- **Verify only once:** Once a director is verified and appointed the first time, they will have a verified account at Companies House and will not have to be verified again for subsequent appointments at any company.
- **Pre-verification:** There will be an option to open an account and verify identity in advance before a person takes on a role that requires identity verification, such as a director. Any chosen individual with a pre-verified identity will not need to have their identity verified again as part of the director appointment process.

These are all helpful suggestions that will alleviate some of the concerns raised. However, the proposal is that the director's appointment will take place (i.e. have legal effect) when the individual is registered with Companies House. Therefore, the detail will need to address how this process will work in practice in respect of director appointments that are conditional (for example, on regulator approval) or said to take effect at a future date.

Power to query information

The proposal: The Government is proceeding with the proposal to give Companies House more discretion to query information before it is placed on the public register. This is a fundamental change to the role of Companies House as to date the role has not included verifying information – pre-registration checks have been focussed on ensuring that the data provided is present and correctly formatted.

The practicalities: Despite this proposal being supported by many respondents, the response sets out a number of concerns identified by respondents. These include concerns about the scope of the power and whether it should only apply to certain filings e.g. accounts, and not others e.g. significant increases in share capital. Some respondents suggested that there should be transparent guidelines about when the power would be exercised, what discretion Companies House would have and what the timeframes would be for responses to queries. The Government notes that it is conscious of the danger that this power could have a detrimental impact on the ease of incorporating companies and doing business. In particular, the Government recognises that in giving Companies House a legal basis to query, it needs to consider further how a power would apply in instances where the legal effect

- Company will select an individual to appoint as a director.
- The individual or a company representative will contact Companies House, which will then verify the identity of the individual.
- If verification is confirmed and all the necessary director details have been submitted, the individual can be registered as a director with Companies House.
- The director's appointment will take place (i.e. have legal effect) when the individual is registered with Companies House.
- Companies House will inform the newly appointed director and the company that this has taken place.

of information or a document has been established prior to its filing at Companies House. Therefore, although the Government is clear that this power is needed, it will consult again on the detail, which will need to be reviewed to understand this new power's scope and impact on company transactions.

Other proposals the Government is proceeding with

- Additional information will need to be filed at Companies House about companies that are exempt from keeping a PSC register and listed companies that are registered as relevant legal entities (RLEs) on PSC registers. This will allow people searching the public register to see where these companies are listed. The Government is considering what information would be most useful (e.g. name of the market and the stock or company identifiers that can help locate the listing).
- Directors (and other individuals, where relevant) will be able to suppress from the public register: (i) their occupation (which will no longer be requested); (ii) the 'day' of their date of birth (for information first filed before October 2015 to ensure consistency with information filed after that date); (iii) their residential address, if used as a historic registered office address; and (iv) their signature (with the register being annotated when a signature has been suppressed).
- Companies House will have more discretion to query and, if necessary, reject applications to use a company name (rather than relying on post-registration powers). The Government is also considering strengthening Companies House's discretion to direct a company to change its name after a name has been registered.

Other proposals the Government is not proceeding with

- Requirement for companies to file full details of their bank accounts with Companies House.
- Requirement to evidence entitlement to use an address as the company's registered office.
- Proposal that the number of directorships per individual should be capped.

Aim versus ease

The response notes that if all the proposals in the consultation were implemented it would amount to the most significant reform of the UK's company registration framework since the introduction of the register. The Government is proceeding with many of its proposals, some of which will go to the core of the Companies Act. Given the fundamental nature of, and complexities around, some of the changes, the Government will consult further, which will be welcomed by stakeholders. It is hoped that these changes will drive forward the Government's aim of improving corporate transparency and the accuracy of information on the public register, along with assisting in combatting economic crime and fraud - however, it is key that the proposals are implemented in such a way that the UK continues to be an easy place to set up a company and an attractive place to do business.

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