

The Information Commissioner's response to the consultation 'Transparency of land ownership involving trusts' from Department for Levelling Up, Housing and Communities, Department of Business and Trade, and HM Revenue and Customs.

About the ICO

1. The Information Commissioner has responsibility for promoting and enforcing the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA), the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and the Privacy and Electronic Communications Regulations 2003 (PECR). He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, offering practical advice, and taking appropriate action where the law is broken.
2. The Information Commissioner's Office (ICO) welcomes the opportunity to respond to the 'Transparency of land ownership involving trusts' consultation (the consultation). Our comments are limited to the extent that the proposals relate to personal data, although we recognise that the proposals are intended to apply more broadly.
3. The ICO acknowledges that there is a public interest and societal benefits in enhancing transparency in relation to land held in trusts, for example in tackling illicit finance and corruption, or to help resolve issues in the housing sector. However, any proposals for additional transparency need to take into account of the important rights that people have under the data protection framework and PECR, and the risks that might arise.

Necessity and proportionality

4. The ICO welcomes the emphasis in the consultation on the need for necessity and proportionality, in particular as these principles already form the bedrock that the UK's data protection framework stands on. These principles will require government to undertake a careful balancing exercise to weigh up the public interest in creating published registers against any adverse impact the creation of these registers might have on people.

5. The designs for any transparency proposals therefore need to keep in mind the personal information that is needed from the outset, and must adopt a data protection by design and default approach. This approach includes taking account of the potential for harm to people as a result of these proposals, throughout their development. A data protection impact assessment (DPIA) will be a useful tool when considering the risks of processing and will support compliance with general obligations under UK GDPR. A DPIA is a legal requirement for any processing that is likely to result in a high risk to people's rights and freedoms¹.

Harms

6. As the consultation notes,² it is important that government carefully weighs up the merits and risks of increasing transparency. One key risk to consider is whether the disclosure of personal information in these new registers of beneficiaries (and other named individuals) will increase the likelihood that they will be subject to unwanted attention or targeting. Potential harms might include targeting for identity fraud, and other fraudulent activity, physical harm, blackmail or abduction, as well as predatory marketing calls or other targeted marketing.
7. The ICO issued 19 penalties totalling £1.88 million for serious breaches of PECR in the year 2022-2023.³ In our investigations, people told us about the impact of predatory marketing calls on them, including feeling harassed, anxious about unwarranted contact, and worrying how people will use their personal information.⁴ We are also aware that some organisations use marketing tactics to encourage people to make unsuitable investments and fraudsters already target people on dating sites in romance fraud.
8. Government should also bear in mind that any information it might publish under these proposals can be used in combination with other information that is in the public domain, for example, (but not limited to) information available on social media. This might reduce the actual protective impact proposed by, for example, not disclosing the exact date of someone's birth.
9. Any risks are likely to increase where the beneficiary or other named person is a child⁵ or is someone in vulnerable circumstances (or who may become so). Furthermore, although the consultation suggests that the residential address of someone named on a register might be

¹ [Data Protection Impact Assessments \(DPIAs\) | ICO](#)

² Paragraph 88.

³ [ICO Annual report 2022-23](#)

⁴ [Coldcalling consultation- final_clean.pdf \(publishing.service.gov.uk\)](#)

⁵ [Children and the UK GDPR | ICO](#)

suppressed, there may be additional risk to take account of in cases where the trust land is also the person's home address. We therefore support proportionate measures that are consistent with data protection legislation, that will, for example, exempt information about children or people in vulnerable or potentially vulnerable circumstances from publication.

10. As discussed in the consultation, government will also need to apply similar considerations about the nature of risk to any framework it creates for the disclosure of such non-public information. Ensuring that any disclosure is necessary and proportionate in the circumstances of any request will require a case by case approach.
11. In 2022, the ICO published 'Overview of data protection harms and the ICO's taxonomy'⁶ in which we set out our framework for harms, our evidence bases and a taxonomy of data protection harms. We identified a number of categories of harms for the individual, including financial harm, bodily harm and unwarranted intrusion. Our taxonomy is a benchmark that government might usefully take into account when assessing the types of harm which could arise from any proposals which use people's personal information.

Consultation with the ICO

12. The Department for Business, Energy and Industrial Strategy (BEIS) first consulted with the Information Commissioner's Office (ICO) in 2022 under article 36(4) UK GDPR when BEIS was developing legislation to create the Register of Overseas Entities (ROE). We look forward to further formal consultation with the ICO under article 36(4) in relation to any legislation which government progresses in connection with these proposals.
13. The ICO will also welcome other engagement during the development of these proposals.

⁶ [Overview of Data Protection Harms and the ICO Taxonomy](#)