STEP Response to the Department for Business, Energy & Industrial Strategy’s Consultation on Corporate Transparency and Register Reform

About us

STEP is the worldwide professional association for those advising families across generations. We help people understand the issues families face in this area and promote best practice, professional integrity and education to our members.

Today we have over 20,000 members across 95 countries, with over 8,000 members in the UK. Our membership is drawn from a range of professions, including lawyers, accountants and other specialists. Our members help families plan for their futures: from drafting a will or advising family businesses, to helping international families and protecting vulnerable family members.

We take a leading role in explaining our members’ views and expertise to governments, tax authorities, regulators and the public. We work with governments and regulatory authorities to examine the likely impact of any proposed changes, providing technical advice and support and responding to consultations.

Given the expertise of STEP and its members our response will not address every question posed by the consultation.

Response

STEP welcomes this consultation as well as the opportunity it presents to increase the transparency and effectiveness of the Companies House register. Giving Companies House the power to verify its records would strengthen the organisation’s work and improve public confidence in the accuracy of the information it holds.

STEP is taking an interest in the potential changes to the register because through its work the organisation has encountered a number of instances where weaknesses in the Companies House system appear to have been exploited. One example involves an individual who holds active directorships of 13 different companies, with overlapping functions. There is a concern that the structure of the companies could cause complaints against one company not to affect others even though they have the same director and fulfil similar functions whilst operating from the same premises with the same staff. From a public perspective, it is the same business from which they have obtained services. A second, similar, example relates to three companies sharing a website, providing services of a similar nature to the public. When complaints have been made to the business, the company directors have been able
to disassociate themselves from responsibility in resolving the matter on the basis that they are three separate entities.

It is particularly welcome to see consideration being given to the protection of confidential information and the proposal to remove such information from earlier registrations.

The case for verifying identity

STEP supports the general premise that Companies House should have the ability to check the identity of individuals on its register.

If Companies House cannot verify the information provided by those registering there is no way of knowing whether it is up to date or accurate. Whilst Companies House should operate on the reasonable assumption of honesty and accuracy of information on the part of individuals who share information during the registration process, without the implementation of quality control measures in place it inevitably results in a lack of confidence in the accuracy of that information; particularly when examples of wrongdoing are identified.

STEP is not the only body to support this approach, as part of its inquiry into Economic Crime the UK Parliament’s Treasury Committee has criticised the lack of checks being carried out:

“There must be no weak areas in the UK’s systems for preventing economic crime. At present, Companies House presents such a weakness. The UK cannot extol the virtue of a public register of beneficial ownership and yet not carry out the necessary rigorous checks of the information on that register”.

In addition a number of witnesses called by the Committee as part of the inquiry gave similar views; demonstrating there are already serious concerns about the current abilities of Companies House and that work needs to be done to improve them.

The EU’s Fifth Anti-Money Laundering Directive (5AMLD) mandates that beneficial ownership data be “adequate, accurate and current, and [that Member States] shall put in place mechanisms to this effect”, the fact that the UK has committed itself to transposing the Directive into domestic law makes the introduction of an effective system of verification more important.

Requiring some form of proof of ID to assist with verification would not make the UK unique; countries such as Denmark require a scanned copy of either a beneficial owner’s passport or national ID to be submitted when registration takes place. A

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system mirroring the Danish approach would have the added benefit of being familiar to users, who already prove their identity in similar ways when carrying out tasks such as opening a bank account.

One area where ID verification may prove more difficult is where a trust is a shareholder. Identifying individuals in these circumstances is complex and can result in the identification of persons who have no practical involvement in a company. It can also become a matter of technical interpretation of the rules to determine who should be recorded as a person with significant control. Such a system could place an unreasonable burden on such persons to require them to provide identification where failure to do so results in a criminal offence. The suggestion that in these situations such persons are encouraged to provide verification of their identity, but with the register simply recording whether or not such information has been provided would be a fairer and more useful approach. Given the complicated nature of this issue further specific consultation with affected stakeholders and the publication of practical guidance on the topic would be beneficial.

Scrutiny should further be applied to the business addresses provided for Companies. The number of businesses being run from homes is increasing and whilst this should be welcomed, Companies House may benefit from focussing attention on cases where large numbers of multiple businesses operate from the same (small) residential premises, particularly where it is unrealistic for those business to be doing so.

It is important that members of the public and the representatives of businesses that are registering with Companies House can have confidence that the information held is accurate and secure. For this confidence to be developed a robust verification process needs to be put in place. Verification would both increase the accuracy of the information held on the register as well as build confidence amongst stakeholders due to its increased reliability.

**Information about directors**

In STEP’s view it would be beneficial to the work of Companies House if the organisation were to retain information about the profession of those registering as directors.

The problem of the same directors being associated with multiple companies is well documented. Global Witness has found that in five cases a single director controlled over 6000 companies\(^3\). A related issue, but one which hasn’t received the same

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amount of attention, is of one person holding directorships for multiple companies that operate in unconnected sectors.

Currently there are many examples of individuals who hold directorships of companies with distinct purposes. One instance which has been brought to STEP’s attention is a situation where an individual was named as the director of ten separate companies with diverse functions that included will writing, medical supplies, management consultancy and marketing. Given the very different nature of each of these companies it seems unlikely that one person would have the necessary skills and experience to take an active role in the running of each of them.

Retaining information on the director’s stated profession would make it easier to ascertain whether a person holding multiple businesses is likely to be actively involved in the running of those companies or merely acting as a nominee on behalf of someone else.

Funding

It is inevitable that any changes or improvements to the system used by Companies House will incur an additional cost. The fact that the charges involved are currently some of the lowest registration fees globally makes it more likely that some form of additional funding will be necessary.

Thought should be given to how increased charges could affect smaller businesses. Whereas larger companies will be able to absorb additional costs it may be more difficult for smaller businesses, particularly those that have recently been set up to do so. This may act as a barrier or disincentive to those considering establishing a business.

At present the UK operates a system whereby the activities of Companies House are funded through administrative charges, given that 54% of jurisdictions raise their funding for this through taxes it is clear that there is an alternative, which could be explored. However shifting the burden from businesses to taxpayers is not a simple solution. If the decision is made to pass the burden on to taxpayers Companies House will have to ensure public confidence in its work remains high; increasing the importance of potential improvements such as ID verification.

Submitted by STEP on 5 August 2019