

## *Executive summary*

If you are a trustee of a UK trust, or a non-UK trust which is subject to UK tax, you will have to keep a register of beneficial owners and provide this information to the UK Revenue under rules which come into force on 26 June 2017. Here we summarise the rules and how they work in practice.

## UK REGISTER OF BENEFICIAL OWNERSHIP OF TRUSTS

Rules in force from 26 June 2017

From 26 June 2017, UK resident trusts, and non-UK resident trusts which are liable to UK tax, must maintain a register of 'beneficial owners' and provide the UK Revenue (HMRC) with specified information in relation to every UK tax year in which they are liable to pay UK tax.

### WHO MUST THE TRUSTEES KEEP DETAILS OF?

The following are treated as 'beneficial owners', and specified details on them must be kept by the trustees:

- > settlor
- > trustees
- > named beneficiaries
- > any individual who has 'control' over the trust.

The trustees must also keep details of any individual referred to as a potential beneficiary in a letter of wishes or similar document from the settlor.

An individual will be treated as having 'control' over the trust if, for example, he has power to add or remove beneficiaries, or appoint or remove trustees, or power to withhold consent to or veto trust distributions, or amendments to the trust.

### WHAT INFORMATION ON BENEFICIAL OWNERS MUST THE TRUSTEES KEEP A RECORD OF?

The following information on every beneficial owner (and any individual referred to as a potential beneficiary in a letter of wishes or similar document) must be recorded and kept up-to-date:

- > full name and date of birth

- > national insurance number or unique taxpayer reference, or if he doesn't have one his usual residential address. If the individual's usual residential address is not in the UK the individual's passport or identity card number, together with the country of issue and the expiry date must be recorded
- > nature of the individual's relationship to trust - e.g. settlor, named beneficiary.

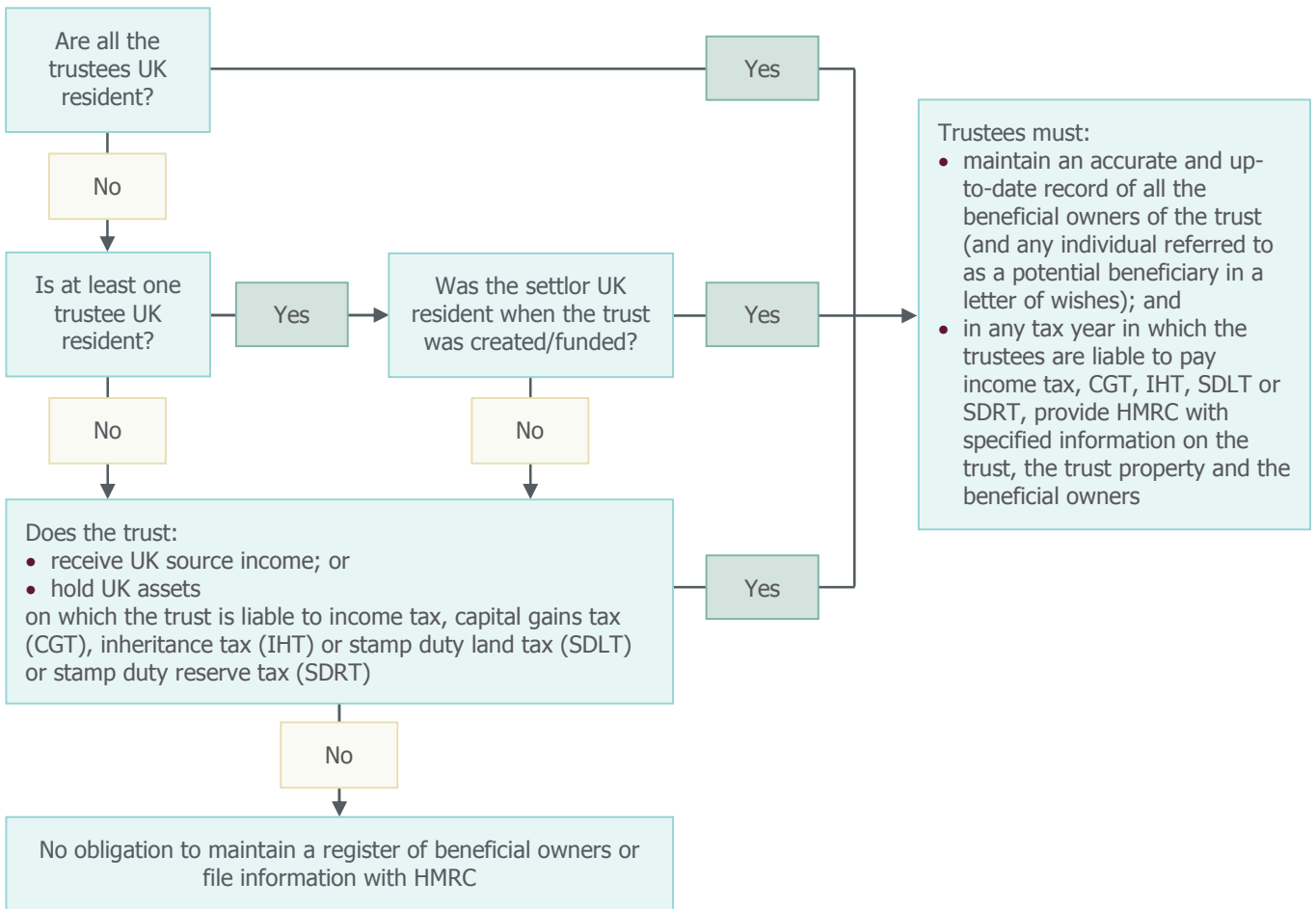
There is no prescribed format for the beneficial owner register, but it must be in writing.

### WHEN AND WHAT INFORMATION MUST TRUSTEES FILE WITH HMRC?

In any tax year in which the trustees are liable to pay UK tax they must provide HMRC with the following:

- > in relation to the trust:
  - the name of the trust and the date it was established
  - a description of the trust assets and the value of each category of assets (if the trust holds any property the address of that property must be given)
  - where the trust is treated as tax resident and where it is administered
  - the name of any advisers being paid to provide legal, financial, or tax advice to the trustees
- > in relation to each beneficial owner (and any individual referred to as a potential beneficiary in a letter of wishes or similar document), the information which the trustees are required to keep a record of (see above).

## WHICH TRUSTS HAVE TO MAINTAIN A REGISTER OF BENEFICIAL OWNERS?



## WHEN WILL NON-UK RESIDENT TRUSTS BE SUBJECT TO THESE OBLIGATIONS?

- > A non-UK resident trust which holds UK assets directly will be liable to UK IHT on those assets and will be subject to these obligations. This will be the case whether the settlor was non-UK domiciled (and not UK deemed domiciled) when the trust was established/funded, or UK domiciled/deemed domiciled.
- > A non-UK resident trust which holds UK assets (even UK residential property) through a non-UK registered company is not subject to the obligations. Again, this will be the case whether the settlor was non-UK domiciled (and not UK deemed domiciled) when the trust was established/funded or UK domiciled/deemed domiciled. It is not clear if this is the intention.

However, the UK government is (separately) proposing that foreign companies that hold, or wish to buy, land or property in England or Wales be required to provide information on their beneficial ownership.

## WHAT ARE THE PENALTIES FOR FAILING TO COMPLY?

If trustees fail to maintain an accurate and up-to-date record of beneficial owners, or provide HMRC with the

required information HMRC can impose a penalty and publish a statement about the failure. The trustees will also be guilty of a criminal offence, punishable by imprisonment for up to 2 years or a fine (or both).

## WHAT SHOULD SETTLORS AND TRUSTEES DO?

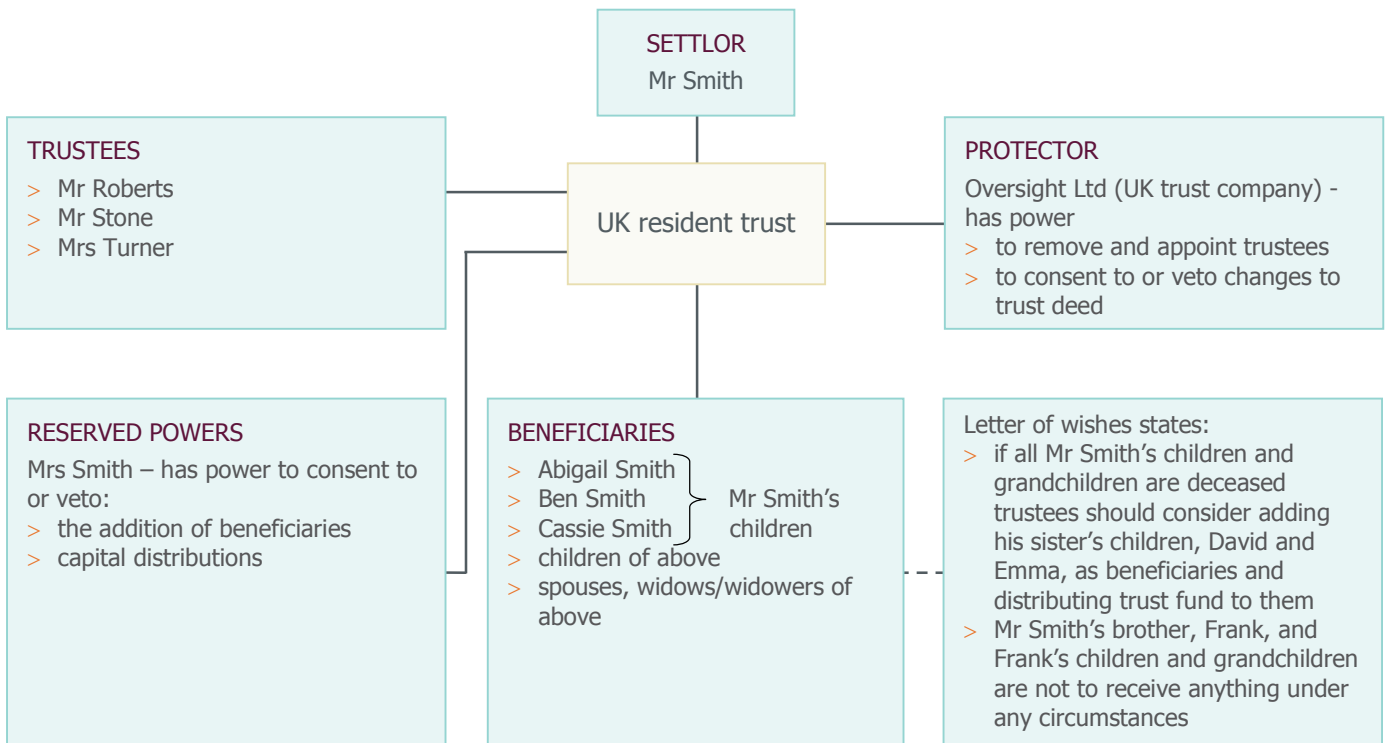
Trustees will need to obtain information on all beneficial owners. This could result in individuals becoming aware of a trust which they previously did not know existed.

A settlor might consider:

- > avoiding naming individual beneficiaries other than the principal beneficiaries
- > referring to default beneficiaries (who are unlikely to ever actually benefit) by class rather than by name
- > not providing the trustees with a written note of wishes during his lifetime (as his wishes are likely to change over time with changes in the circumstances of the family/potential beneficiaries)
- > placing any letter which sets out who he wishes to benefit after his death, or the death of the principal beneficiaries, with his will rather than providing it to the trustees during his lifetime.

Trustees should ensure any letter of wishes they have is up-to-date and does not refer to anyone who it is no longer intended should benefit from the trust.

## CASE STUDY



### Who must the trustees keep details of?

The trustees will need to keep accurate and up-to-date information on:

- > all the trustees
- > Mr Smith – as the settlor
- > Mrs Smith – as she is treated as having control over the trust
- > Oversight Ltd and any 'person with significant control' in relation to Oversight Ltd – as Oversight Ltd is treated as having control over the trust
- > Abigail, Ben and Cassie Smith – as named beneficiaries
- > David and Emma (Mr Smith's niece and nephew) – as they are named in the letter of wishes

The trustees will also need to record a description of the classes of beneficiaries specified in the trust

This note is a general guide only and is not a substitute for specific legal and tax advice



**DAMIAN BLOOM**  
Partner  
Private Client  
Tel: +44 (0)20 3400 2262  
damian.bloom@blplaw.com



**SAM CARVER**  
Associate Director  
Private Client  
Tel: +44 (0)20 3400 4212  
sam.carver@blplaw.com



**TRACEY HAWKSLEY**  
Senior Associate  
Private Client  
Tel: +44 (0)20 3400 4287  
tracey.hawksley@blplaw.com



**ALISON CARTIN**  
Associate Director - KDL  
Private Client  
Tel: +44 (0)20 3400 4018  
alison.cartin@blplaw.com

# BUSINESS WEALTH

Building a successful business is a lifetime's investment. We will help you protect your legacy, now and for your successors.

---

# *Personal* WEALTH

Substantial wealth, substantial risks. We will help you protect and pass on your personal wealth.

---

# PRIVATE WEALTH INSTITUTIONS

Advising the industry that advises the wealthy; you can rely on us as your trusted legal partner.

## EXPERTISE

- > Corporate > Dispute resolution > Family businesses & family office > Fiduciaries > Philanthropy
- > Privacy & reputation protection > Private equity > Real estate > Succession planning, wills & probate
- > Tax planning, disputes and compliance > Wealth management institutions > Wealth structuring