

Registering progress...

An analysis of how much British Crown Dependencies and Overseas Territories have achieved in implementing beneficial ownership transparency commitments

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Introduction: Measuring progress towards the UK Government's Order in Council

Members of the UK Anti-Corruption Coalition and Tax Justice UK have reviewed publicly available sources of information to review public beneficial ownership transparency (BOT) implementation by the Crown Dependencies and Overseas Territories (CDOTs).

Our analysis, which is part of ongoing monitoring activities, aims to provide an evidence base for future discussions on implementation of BOT.

The impact

Financial secrecy in our Crown Dependencies and Overseas Territories (CDOTs) is leaving a stain all over the world. CDOTs provide a safe haven for criminals, kleptocrats and tax evaders to store their ill-gotten gains.

This, in turn, contributes to a decline in living standards everywhere, and it enables serious organised crime, geopolitical instability and war to run rife.

This is happening at scale. Research by Transparency International UK has identified hundreds of global corruption and money laundering schemes enabled by shell companies registered in these jurisdictions. Together, these cases amount to over £250 billion in economic damage – more than the whole of the UK's foreign aid budget over the last two decades¹.

- Financial secrecy in the Overseas Territories is a threat to Britain's national security because it provides a safe house for criminals, terrorists and hostile states to stash their assets.
- A lack of transparency in these regions poses a risk to our economic security.
- The use of CDOT shell companies in international money laundering and tax evasion schemes is leaving a black mark next to Britain's global reputation.
- Our network of Overseas Territories has been used to avoid and evade taxation, resulting in significant tax losses, with an inevitable impact on public services across the globe.

Slow progress

Since the Panama Papers leak in 2016, Britain has recognised the importance of public registers of beneficial ownership (PRBO) as an essential way to prevent and identify economic crime and maintain an open business environment. Despite the introduction of the UK's own register in 2017, and broad political consensus about the benefits of these registers for our own national and economic security, registers have still not been delivered in Overseas Territories.

As a result, shell companies registered in places like the British Virgin Islands (BVI) continue to feature in corruption and money laundering schemes, sanctions evasion, and tax abuses by criminals from around the world. No wonder, then, that recent polling by the UK Anti-Corruption Coalition and Survation found 72% of the British public think Britain should take more responsibility to work with its offshore financial centres to tackle money laundering and tax evasion².

^{1:} www.transparency.org.uk/sites/default/files/pdf/publications/TIUK-CostofSecrecy-WEB-v2.pdf

^{2:} www.ukanticorruptioncoalition.org/work/report-reflections-economic-crime

Order in Council

In **December 2020**, the UK government published a draft <u>Order in Council</u> "in accordance [with] Section 51 of the Sanctions and Anti-Money Laundering Act 2018... [that] sets out the Government's expectations of how the [Overseas] Territories will adopt publicly accessible registers"³.

Summary of the Order

In general terms, the draft Order proposes that a register shall be deemed compliant when:

- "...it comprises, or is part of, a **single collection** of information concerning the beneficial ownership of companies incorporated in the Territory... is established and maintained such that, so far as reasonably practicable, the information contained in it is **accurate and complete**, and... is **publicly accessible**....
- [Beneficial Ownership Information] of a company must include, as a minimum, such relevant information as that company can reasonably ascertain about any individual that exercises a significant degree of control over that company"
- "'control' may be either direct or indirect and includes, but is not limited to, control exercised through shareholdings, voting rights or the right to appoint or remove a majority of directors... whether an individual exercises a significant degree of control over a company may be determined by reference to the maximum percentage of a particular interest that may be held without such holding amounting to a significant degree of control, such maximum percentage must be set at no higher than 25%".

The above criteria are broadly in line with the underlying foundations of the UK's own register, which, in 2016, was the first in the world to be made public.



Key questions

We set out to answer the following questions about CDOTs' progress in improving public beneficial ownership transparency.

The answers to these questions form the basis of this report.

	Criteria in draft Order in Council	Research question
	"Single collection of BO information"	Is there a legal framework in place (or in development) for the creation of a central BO register?
		Is a central BO register live and operational?
	"Information is accurate and complete"	This is deemed beyond the scope of this initial rapid analysis. Where BO data is made publicly available, future analysis could examine this.
	"Information is publicly accessible"	What are the access requirements for BO information?
		Is BO information publicly accessible?
ARCH I	"control' may be either direct or indirect and includes, but is not limited to, control exercised through shareholdings, voting rights or the right to	How is BO defined in law?
CALCULATION CONC.	appoint or remove a majority of directors" "such maximum percentage [of shareholdings] must be set at no higher than 25%"	Does the definition include direct and indirect control exercised through shareholdings, voting rights or the right to appoint or remove a majority of directors?
THE LEWIS		What is the threshold used for disclosing BO of shareholdings?

Overview of progress

While there has been some progress with compiling public beneficial ownership data / creating registers across a number of the OTs, compliance with the specific commitment to produce a publicly accessible beneficial ownership register by the end of 2023 is **low.**

A number of jurisdictions have cited capacity issues as the reason for their implementation delays. Others have sought to push back implementation to allow for further analysis of the implications of the Court of Justice of the European Union (CJEU) ruling on the public access requirement.

Three broad categories of implementation of the draft Order in Council were identified based on the analysis in the next section of this paper:

Implementation is broadly complete: Gibraltar

Of all the OTs, it is only Gibraltar in this category. It removed a previous requirement for users to show 'legitimate interest' to access data in its register, opening this up to public access from 2020. The territory charges a £2.50 access fee per record, and can be accessed with or without local ID.

Implementation is delayed, but there are commitments to progress during 2024: Most OTs

This represents the bulk of the OTs, including Cayman Islands, Turks and Caicos, Anguilla, and some of the less populated territories, such as Pitcairn. These have all made specific commitments to implement some kind of quasi-publicly accessible register by the end of 2024. Note that territories with the largest numbers of registered firms, such as Cayman and Anguilla, plan to require users to demonstrate legitimate interest before providing access to BO records.

Uncertain timeframe for future implementation progress: BVI and Bermuda

In this category are the British Virgin Islands and Bermuda. These two territories had previously committed to some kind of public access, but have paused implementation of this pending the completion of an EU implementation review of its Fifth Anti-Money-Laundering Directive. As a result, the eventual level of public access, and the timeline for implementation, in these territories are more uncertain as they remain dependent on the publication of an external review. Whatever the outcome of that review, BVI has indicated it would need to apply the 'legitimate interest test' for data access and anticipates implementation by mid-2025.

3: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943307/SAMLA_s51_Draft_Order_in_Council.pdf

Current state of play: Crown Dependencies

Crown Dependency	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Guernsey	Legal framework for a register: in place. The Beneficial Ownership of Legal Persons (Guernsey) Law entered into force in 2017. A UK government review in 2019 noted that 100% of firms registered in Guernsey (approximately 16,600 entities) had recorded their information in the beneficial ownership register by end 2018.	Following the November 2022 EU Court ruling on public access, Guernsey has suspended plans for its a publicly accessible register. Instead, all three crown dependencies have committed to providing access on a 'legitimate interest' basis, and to present their plans on this to their respective parliaments by Q4 2024. Obliged entities will be granted data access during 2024.
	Register live: private register only. Guernsey, Jersey and Isle of Man issued a joint statement in June 2019 committing to implement publicly accessible registers. A subsequent joint statement in December 2023 rescinded the public access commitment. Obliged entities will be granted data access during 2024. Who can access the register: FIU, Financial Services Commission and other investigative bodies. The 2017 act states that the register must remain open to the Guernsey Financial Services Commission and the "Customs and Immigration Service responsible for the investigation of financial and economic crime (including for the	Answering a parliamentary question in December 2023, the UK government stated: "The UK and the Crown Dependencies have differing legal views on implementing publicly accessible registers in light of the CJEU ruling. The UK is satisfied with the lawfulness of our own publicly accessible registers and continues to believe that the CDs could legally implement public registers of their own."
	avoidance of doubt the Financial Intelligence Service)". Is information publicly accessible: No.	

Current state of play: Crown Dependencies

Crown Dependency	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Jersey	Legal framework for a register: in place. Jersey passed the Financial Services (Disclosure And Provision Of Information) (Jersey) Law 2020, which outlined obligations to disclose beneficial ownership information to authorities. A UK government review in 2019 noted that 100% of firms registered in Guernsey (approximately 56,100 entities) had recorded their information in the beneficial ownership register by end 2018.	Following the November 2022 EU Court ruling on public access, Jersey has suspended plans for its a publicly accessible register. Instead, all three crown dependencies have committed to providing access on a 'legitimate interest' basis, and to present their plans on this to their respective parliaments by Q4 2024.
	Register live: private register only. Guernsey, Jersey and Isle of Man issued a joint statement in June 2019 committing to implement publicly accessible registers. A subsequent joint statement in December 2023 rescinded the public access commitment. Obliged entities will be granted data access during 2024.	Answering a parliamentary question in December 2023, the UK government stated: "The UK and the Crown Dependencies have differing legal views on implementing publicly accessible registers in light of the CJEU ruling. The UK is satisfied with the lawfulness of our own publicly accessible registers and continues to believe that the CDs could legally implement public registers of their own."
	Who can access the register: Jersey Financial Services Commission. The register is managed by the Jersey Financial Services Commission who appear to be the main body with direct access to the register. The 2017 law provides for the Commission to disclose information from the register to a wide range of tax, financial and investigative bodies, both within Jersey and the UK.	
	Is information publicly accessible: No.	

Current state of play: Crown Dependencies

Crown Dependency	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Isle of Man	Legal framework for a register: in place. The 'Beneficial Ownership Act' was introduced in 2017 and creates obligations to disclose beneficial ownership information to authorities (links to the original legislation are broken, but the accompanying guidance is here). The Act was amended in 2021 to shorten allowable reporting periods and to award new powers to verify submitted data.	Following the November 2022 EU Court ruling on public access, Isle of Man has suspended plans for its a publicly accessible register. Instead, all three crown dependencies have committed to providing access on a 'legitimate interest' basis, and to present their plans on this to their respective parliaments by Q4 2024.
	A <u>UK government review in 2019</u> noted that 100% of firms registered in Isle of Man (approximately 25,700 entities) had recorded their information in the beneficial ownership register by end 2018. Register live: private register only. Guernsey, Jersey and Isle of Man issued a joint	Answering a parliamentary question in December 2023, the UK government stated: "The UK and the Crown Dependencies have differing legal views on implementing publicly accessible registers in light of the CJEU ruling. The UK is satisfied with the lawfulness of our own publicly accessible registers and continues to believe that the CDs could legally implement public registers of their own."
	statement in June 2019 committing to implement publicly accessible registers. A subsequent joint statement in December 2023 rescinded the public access commitment. Obliged entities will be granted data access during 2024.	
	Who can access the register: Competent authorities. The register is maintained by the Department for Enterprise, but access is also provided to the FIU, Attorney General, Income Tax Assessor, Chief Constable and Customs.	
	Is information publicly accessible: No.	

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Anguilla	Legal framework for central BO register: in place The Commercial Registry and Beneficial Ownership System Regulations (2022), Commercial Registry and Beneficial Ownership System Act (2022) and related amendments (here) provide the legal framework for Anguilla's BO register.	According to a <u>UK</u> government statement from December 2023, Anguilla's register will enable people, organisations or entities to "access
	Register is live: Yes, launched 2022. The <a [within="" a="" access="" by="" consistent="" demonstrating="" href="https://www.new.new.new.new.new.new.new.new.new.</td><td>entities to " information="" interest="" is="" legitimate="" register]="" specific="" td="" that="" the="" the<="" with="">	
	Who can access the information: Anguilla Financial Services Commission and FIU	constitutional framework." It "aspires" to implement this system by end 2024.
	The <u>Commercial Registry and Beneficial Ownership System Act (2022)</u> specifies that "The registration system must be secure and accessible only by persons authorised under this Act" Part 4; 4.(2)(c). The Act (Part 2, para 8) specifies that the BO register is accessible to the Financial Services Commission and FIU, for designated purposes and powers such as law enforcement and anti-money laundering obligations.	
	Is information publicly accessible: No	
	Based on a review of the legislation above and the CRES website, no.	

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Bermuda	Legal framework for a BO register: in place	According to a <u>UK</u>
	The Companies and Limited Liability Company (Beneficial Ownership) Amendment Act (2017) requires companies to file BO information with the Bermuda Monetary Authority.	government statement from December 2023, Bermuda has committed to make their register publicly
	Register live: Yes, launched 2018	accessible "within 12 months of the
	According to The Bermuda Monetary Authority, the agency maintains BO information that is submitted by companies through its online <u>Integra Portal</u> . According to <u>legal analysis</u> the register was established in 2018.	publication of the implementation review of the European Union's Fifth Anti-Money-Laundering
	Who can access the information? Government authorities	Directive".
	According to <u>legal analysis</u> , the register is only accessible to government authorities. Although the government announced in 2020 its intention to make BO information public, our review has not found information to suggest this has progressed, for example we have not found references to draft legislation.	The level of public access to data will be informed by the findings of this review. As the review date has
	Is information publicly accessible? No	not been confirmed,
	Based on a review of the legislation above and the BMA website, no. The 2017 Act includes the following provision that appears to expressly prohibit BO data from being made publicly available under the Public Access to Information Act (2010):	the implementation timeline for expanded data access in Bermuda is uncertain.
	98R (2) For the purposes of this Part, no person who-	
	a. Obtains information relating to beneficial ownership directly or indirectly for the purposes of, or pursuant to, this Part; and	
	b. Receives a request under the Public Access to Information Act (2010) for such information relating to beneficial ownership information,	
	shall disclose the request or such beneficial ownership information so requested. (page 12)	

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
British Antarctic Territory	Not included in analysis as no permanent population	Not included in analysis as no permanent population
British Indian Ocean Territory	Not included in analysis as no permanent population	Not included in analysis as no permanent population
British Virgin Islands	Legal framework for a BO register: in place The Beneficial Ownership Secure Search System Act (2017) and subsequent amendments provide the legal framework for a central BO register. Amendments to the BVI Business Companies Act, which entered into force in early 2023, provide for potential public access to a register of persons of significant control; importantly, however, the amendments do not create, implement or require the creation of such a mechanism. Legal analysis indicates further regulations would be required to introduce the register, and that progress is pending a review of the CJEU verdict. Register live: Yes (launched 2017)	According to a <u>UK</u> government statement in December 2023, the BVI government "anticipates the introduction of appropriate frameworks [aimed at widening data access] will occur in Q4 2024, but no later than Q2 2025."
	The Beneficial Ownership Secure Search System (BOSS) became operational in 2017. Company director information will also be accessible via the Financial Services Commission's Virtual Integrated Registry and Regulatory General Information Network (VIRRGIN) service, described as an "internet based information network that provides on-line electronic access to the services of the Registry of Corporate Affairs including full electronic filing of all documents."	

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
British Virgin Islands (contnd)	Who can access the information? Competent authorities The Beneficial Ownership Secure Search System Act (2017) specifies that access is restricted to 'designated persons' who are able to search the database upon request from senior officials of the Financial Investigation Agency, the Financial Services Commission, the International Tax Authority or the Attorney-General's Chambers. The Act specifies the system will "be accessible only from a designated secured location within the Virgin Islands" (5,2(b)). Also note the following provision 13(9): A designated person who fails to comply with a requirement of this section [on searching the database] commits an offence and is liable to a fine not exceeding seventy-five thousand dollars or to imprisonment for a term not exceeding two years or both. Is the information public? No.	See previous page.
	In December 2023, BVI's <u>Ministry of Financial Services stated</u> that it would need to apply the 'legitimate interest test' when considering granting any future public access to its beneficial ownership register.	

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Cayman Islands	Legal framework for a register: in place In 2023, the Beneficial Ownership Transparency Act was introduced. The Bill seeks to consolidate the existing beneficial ownership rules in the Companies Act, Limited Liability Companies Act, and Limited Liability Partnership Act into a single piece of legislation.	In December 2023, Cayman's Ministry of Financial Services issued a statement detailing plans to provide access on the basis of legitimate interest by Q4 2024.
	Register live: Yes, since 2017	
	The Cayman Islands General Registry website states that BO information is stored on the Cayman Islands Government's centralised beneficial ownership platform. According to legal analysis the register was launched in 2017. Overview here .	According to the statement: "this will include access to parties who are
	Cayman Islands General Registry has produced <u>guidance</u> explaining companies' obligations to both compile their own beneficial ownership register ("the company approach" in <u>FATF terminology</u>) and for this to be filed before the Registrar of Companies via the Cayman Business Portal. A <u>UK government review in 2019</u> noted that just under 80,000 entities in the Cayman Islands had their BO information recorded in a database.	genuinely seeking information so as to prevent or combat money laundering and terrorist financing (for instance media and civil society organisations under
	Who can access the register: competent authorities	specific circumstances per the EUCJ
	According to <u>legal analysis</u> , the register is accessible to the Financial Reporting Authority, the Cayman Islands Monetary Authority, the Anti-Corruption Commission, the Tax Information Authority or the Financial Crime Unit.	Judgment) [sic]."

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Cayman Islands (contnd)	Is information publicly accessible: No According to analysis by a professional services provider in 2023, "The [2023 Beneficial Ownership Transparency] Bill contains a clause authorising the Cayman Islands cabinet to make regulations to open up information held in the jurisdiction's beneficial ownership register to public view, although this will not be implemented until parliament has formally approved the associated regulations."	See previous page.
Falkland Islands	Legal framework for a register: does not appear to be in place A search of the Falklands legislation website for "beneficial ownership" does not yield any relevant results, and a google search finds no evidence of draft or in force legislation for a BO register. Note that there are reportedly only 200 companies operational in Falkland Islands.	According to a UK government statement from December 2023, Falkland Islands "is committed to having a full Publicly Accessible Register of Beneficial Ownership, in line with the parameters set out in the draft Order in Council." The expected timeline for implementation is mid calendar year 2024.

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Gibraltar	Legal framework for register: in place The Register of Ultimate Beneficial Owners, Nominators and Appointers Regulations (2017). According to legal analysis these amendments were to align with the development of AMLD5. Subsequent amendments to the 2017 legislation were passed in 2020.	Gibraltar is the only UK OT or Crown Dependency with a publicly accessible beneficial ownership register. No further reforms are
	Register live: Yes. The register is available at: https://uboregister.egov.gi/ An early version of the register was launched in 2017, but a full publicly accessible version has been online since 2020.	immediately required to meet the standards set out in the draft Order in Council.
	Who can access the information: FIU & competent authorities; obliged entities; and members of the public	
	The 2017 regulations stated that a member of the public "may make a request to the Registrar to inspect the information on the Register". The regulations also gave the Registrar the power to inform the BO about such requests.	
	Legislative amendments passed in 2020 expanded data access by removing the need to demonstrate a legitimate interest, and instead making data accessible to any member of the public.	
	Is information publicly accessible? Yes.	
	Companies, residents and non-residents of Gibraltar can access beneficial ownership records <u>online</u> . Prior registration is required and a £2.50 fee is payable to access each record. Users are able to search only by company name (not by company number or by beneficial owner).	

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Montserrat	Legal framework for the register: Partial. The Companies Act (2023) sets out obligations for Companies to maintain their own beneficial ownership registers and also "to file PSC information and PSC verification evidence" to the Registrar. Further regulations are pending to determine precisely what information needs to be filed, in what format and to which entity. Register live: No.	According to a <u>UK</u> government statement from December 2023, Montserrat is committed to a publicly accessible register. "Legislation is currently going through the Montserrat Legislative Assembly and has had its first reading. It is expected to be passed in the new year and implemented during the summer of 2024."
Pitcairn Islands	No legal framework for a register appears on the <u>list of recent legislation</u> compiled by Pitcairn's government.	According to a <u>UK</u> government statement from December 2023, Pitcairn is committed to a publicly accessible register, with implementation anticipated during mid year 2024.

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
St Helena, Ascension, and Tristan da Cunha	No legal framework for a register appears on the <u>list of recent legislation</u> compiled by St Helena's government.	According to a <u>UK</u> government statement from December 2023, St Helena is committed to a publicly accessible register and draft legislation is undergoing its final review. Implementation is anticipated during the first half of 2024.
South Georgia and the South Sandwich Islands	Not included in analysis as no permanent population.	Not included in analysis as no permanent population.
Akrotiri and Dhekelia	Not included in analysis as are Sovereign military base areas.	Not included in analysis as are Sovereign military base areas.

Overseas Territory	Current status of implementation (based on publicly available sources of information)	Public statements on future implementation plans
Turks and Caicos Islands	Legal framework for a register: in place The Companies Ordinance 2017 provides for the creation of a BO register maintained by the Commission.	According to a UK government statement from December 2023, Turks and Caicos Islands is "committed to implementing a publicly accessible register of beneficial ownership with a legitimate interest access filter by Q4 of 2024. This will include access for media and civil society organisations with a legitimate interest."
	"Register live: private register only. TCI has not implemented a public beneficial ownership register. However, the OECD and TCI government confirm that a private register is available for official access, which is administered by the Financial Services Commission. A UK government review in 2019 noted that several thousand entities in TCI had recorded their information in the BO database (and that 100% coverage of company BO data was achieved in May 2019)." Who can access the information: TCI Police	
	The Act allows access by TCI police, and "any person or authority prescribed by the Beneficial Ownership Registration Regulations as a person or authority to whom a disclosure of beneficial ownership information may be disclosed", however initial review of the Beneficial Ownership Regulations 2017 reveals no mention of any other authorities with regard to accessing BO information. Is information publicly accessible: No	



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