

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REGISTERS OF BENEFICIAL OWNERSHIP -
ACCESS BY OBLIGED ENTITIES AND THOSE WITH A LEGITIMATE INTEREST

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled “Registers of Beneficial Ownership - Access by Obligated Entities and those with a Legitimate Interest” dated 25th February, 2024 they are of the opinion:-

1. To agree that obliged entities should be granted certain access to Guernsey’s register of beneficial ownership in line with the EU’s Fifth Anti-Money Laundering Directive.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.
3. To direct the Policy Resources Committee to develop proposals to be brought back before the States once the EU’s Sixth Anti-Money Laundering Directive has been implemented in respect of access to beneficial ownership for those with a legitimate interest, after consultation with industry and with due regard for international standards.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REGISTERS OF BENEFICIAL OWNERSHIP -
ACCESS BY OBLIGED ENTITIES AND THOSE WITH A LEGITIMATE INTEREST

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

25th February, 2025

Dear Sir

1. Executive Summary

- 1.1. This Policy Letter updates the States of Deliberation ('the States') on recent developments in relation to beneficial ownership transparency and the delivery of relevant political commitments made by the Policy & Resources Committee ('the Committee') under its mandate. Those commitments were made to ensure that Guernsey remains aligned with regional standards which are developing in the European Union (EU) and as part of a continuing dialogue with the United Kingdom (UK) Government about registers of beneficial ownership.
- 1.2. The granting of access to beneficial ownership information in Guernsey to obliged entities¹ provides an enhancement to their ability to carry out due diligence for anti-money laundering (AML), countering the financing of terrorism (CFT) and countering proliferation financing (CFP) purposes. The States are asked to agree to allow access to obliged entities in line with relevant EU Directives on this subject. This Policy Letter proposes a regime for granting access by obliged entities to be presented to the States by Ordinance and implemented during 2025.
- 1.3. The granting of access to beneficial ownership information at a later stage to persons with a legitimate interest should also be based on the principle of continued enhancement of the Bailiwick's AML/CFT/CPF regime. In addition, it should be acknowledged that there is a need to meet evolving regional standards and developing international norms. Legitimate interest access is predicated on

¹ Regulated financial services businesses and other businesses subject to due diligence obligations.

the desire to strengthen the fight against financial crime and is being adopted as a level playing field on a global and regional basis in the EU as well as some of the British Overseas Territories. Detailed proposals for access by those with a legitimate interest should be drawn up following the implementation of the Sixth Anti-Money Laundering Directive (AMLD6)² in the EU, so that the Bailiwick can benefit from the complex policy development being coordinated at the EU level.

- 1.4. In parallel to this work, the States will need to ensure that the Bailiwick remains aligned to the EU in respect of transparency and standards set by the EU Code of Conduct Group for Business Taxation, including on beneficial ownership transparency.
- 1.5. This Policy Letter is intended to place the 2023 political commitment (as in Appendix 1) made by the Committee on a parliamentary-wide footing and to provide a clear indication to the next assembly of important considerations for this matter.

2. Terms used in this Policy Letter

- 2.1. The outlines in this section are intended to be an aid in reading this Policy Letter. They are not intended to be strict legal definitions of the terms:
 - 2.1.1. Beneficial ownership - a beneficial owner of a company or other corporate entity means the natural person(s) who, directly or indirectly, ultimately owns or controls the corporate entity. The person(s) has/have a particular level of ownership of the entity and/or a material influence on the entity either through a direct shareholding, one or more intermediary entities (e.g. companies, partnerships, trusts), or by other means.
 - 2.1.2. Registers of beneficial ownership/ Beneficial ownership registers - a register of the entities incorporated within a jurisdiction which includes information about the beneficial owner(s) of each such corporate entity. In Guernsey, the information on the register is handled in accordance with data protection legislation. Information from Guernsey's register can be and is shared with tax authorities and law enforcement bodies in Guernsey and in other jurisdictions as needed.
 - 2.1.3. Obligated entity access - for Guernsey, this means access to information on a beneficial ownership register by regulated financial services businesses

² Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1640>

and certain other businesses (collectively described as ‘obliged entities’) who are required to conduct customer due diligence under the Bailiwick of Guernsey’s AML/CFT/CFP regime.

2.1.4. Legitimate interest access - access by certain groups which can demonstrate a legitimate interest in accessing relevant information in order to combat financial crime. Those groups could include those conducting business transactions, civil society, journalists, law enforcement and higher education. Guernsey’s definition of legitimate interest access to beneficial ownership information is being developed having due regard to international good practice, including AMLD6.

3. Guernsey’s central register of beneficial ownership as part of its best practice approach to tax cooperation and combatting all types of financial crime

3.1. As a mature, responsible and well-regulated international finance centre, Guernsey has and maintains an advanced role in the shared global objective of combatting financial crime in all its forms. The island has a longstanding and independently verified track record of meeting international standards. The Committee believes that Guernsey can and should be proud of its global leadership in tax cooperation and in combatting money laundering, terrorist financing and proliferation financing.

3.2. The Committee recognises the importance of access to accurate and up-to-date beneficial ownership information in countries across the globe. Guernsey maintains high standards of accurate, up-to-date and verified information in its own central beneficial ownership register.

3.3. Further information on the Guernsey beneficial ownership register is available from the company registry website³. Under Guernsey’s company law⁴, all Guernsey companies are required to have a resident agent. This is either an individual person (resident in Guernsey) or a Trust and Company Service Provider (TCSP). TCSPs have been regulated since 2000⁵ which includes a duty to know the beneficial owner of legal persons and keep that information accurate and up to date. The Beneficial Ownership of Legal Persons (Guernsey) Law, 2017⁶ defines certain responsibilities for the resident agents, including their knowledge of the beneficial owners of a legal person.

³ <https://guernseyregistry.com/beneficialownership>

⁴ Companies (Guernsey) Law, 2008

<https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=80702>

⁵ In accordance with The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020:

<https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=82886>

⁶ <https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=84416>

- 3.4. Guernsey continues to encourage other jurisdictions around the world to raise their own standards, particularly for obtaining, verifying and providing appropriate access to ownership information and effective regulation of the financial services sector.
- 3.5. International developments are closely monitored to ensure that Guernsey's own systems remain robust, effective and in line with international standards and obligations. The island has a proven and ongoing 'good neighbour' policy of cooperation with the UK and the EU in matters relating to taxation and combatting financial crime. The Committee remains committed to meeting, contributing to, shaping and implementing global standards for those important topics.
- 3.6. The Bailiwick was recently assessed against the FATF⁷ standards by MONEYVAL, a Council of Europe body that is responsible for assessing its members against AML and CFT standards, both for technical compliance and for effectiveness. The report, published on 10 February 2025, acknowledges that Guernsey is effective in meeting the global beneficial ownership standards for legal persons, including the transparency of this information.

4. Recent developments for beneficial ownership transparency

- 4.1. During the last decade or so, there have been high levels of political interest in the UK about the transparency of beneficial ownership information. This has been seen from the various UK Governments (both Conservative and Labour governments), the opposition parties and some individual backbench Members of Parliament (MPs). It seems that the pressure is politically motivated and not directly aligned to effectiveness of measures to combat financial crime or to meet and maintain international standards.
- 4.2. The Bailiwick of Guernsey has consistently maintained that it has an effective regime of regulation and effective sharing of beneficial ownership information with UK and other foreign law enforcement and tax authorities. Guernsey's approach differs from larger jurisdictions due to the extra layers of regulation and due diligence required for company formation and administration in Guernsey. The effectiveness of Guernsey's approach is evidenced in engagement with the authorities of other jurisdictions, by external reviewers (including the MONEYVAL review referred to in Paragraph 3.6), and through robust testing of the regulatory regime by the Guernsey Financial Services Commission.

⁷ The Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog. It sets international standards that aim to prevent these illegal activities and the harm they cause to society. (Taken from FATF website <https://www.fatf-gafi.org/en/home.html>)

- 4.3. Guernsey's approach to beneficial ownership transparency is based on the need to ensure that it keeps an effective system based on its strong regulatory environment, rather than adopting the approach of other jurisdictions (which have different regulatory environments) for purely political reasons.
- 4.4. The Committee recognises that other jurisdictions, including the UK and Member States of the EU, and the global financial services industry are interested in Guernsey's current and developing approach to obtaining, storing and appropriately sharing beneficial ownership information. Consequently, the Committee has worked closely with its counterparts in Jersey and the Isle of Man to set out and publish shared commitments about transparency of beneficial ownership information.

The Crown Dependencies' 2019 Joint Commitment

- 4.5. In 2019, the governments of Guernsey, Jersey and the Isle of Man published their shared approach to developing the accessibility and transparency of beneficial ownership information, taking into account international standards and regional norms. The three governments published a Joint Commitment on 19 June 2019 (the '2019 Joint Commitment' – as in Appendix 2). This set out a stepped approach which was aligned with the EU's Fifth Anti-Money Laundering Directive ('AMLD5')⁸ and built on commitments made to the EU as part of the Code of Conduct Group on Business Taxation's assessment of tax cooperation of third countries in 2018. In addition to the Crown Dependencies' 2019 Joint Commitment, Guernsey published its own more detailed action plan⁹.
- 4.6. The phased approach in the 2019 Joint Commitment was based on the EU's prioritisation in AMLD5. The steps for the Crown Dependencies were (in order) 1) creating an interconnected network of beneficial ownership registers within the EU; 2) providing access to those registers for obliged entities to use for due diligence purposes; 3) providing beneficial ownership information to the general public in line with the principles in AMLD5. The third step was intended to follow the EU's post implementation review on effectiveness of the EU's own first two steps.
- 4.7. The first step in the 2019 Joint Commitment (interconnection of registers) was based on political commitments made to the EU when Guernsey (and the other Crown Dependencies) agreed to implement an "economic substance" requirement in its corporate tax regime for certain highly mobile activities. However, the technical challenges to establish fully functioning interconnected registers has meant that this project is delayed for the EU's own Member States.

⁸ Directive 2018/843: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0843>

⁹ Beneficial ownership - action plan 2019 - Guernsey;
<https://www.gov.gg/CHttpHandler.ashx?id=119715&p=0>

Until that has been resolved, there will not be the opportunity for third countries (including the Crown Dependencies) to seek to coordinate integration with the EU's register(s).

- 4.8. The second step set out in the 2019 Joint Commitment was planned to be put into effect by the end of 2022 and work to implement access for obliged entities was well advanced by that time. However, a judgment of the Court of Justice of the European Union ('CJEU') based on the right to a private life caused this process to be paused for all of the Crown Dependencies in December 2022 (further details below in Paragraphs 4.10-14).
- 4.9. The third step from the 2019 Joint Commitment was delayed when the EU did not publish in January 2022, as had been anticipated, a post-implementation review on the various approaches of EU Member States on public access. The judgment of the CJEU in November 2022 fundamentally changed the EU policy on public access (see below).

The relevant CJEU Judgment – November 2022

- 4.10. On 22 November 2022, the CJEU handed down the *WM & Sovim SA v Luxembourg Business Register*¹⁰ judgment ('the CJEU Judgment'). In its judgment, the CJEU acknowledged that combatting money laundering and terrorist financing is a priority matter for public authorities and entities such as financial institutions and that providing some access to beneficial ownership information plays an important role in that. However, the CJEU found that providing the general public with access to information of beneficial ownership is, for a number of reasons, not proportionate to the legitimate aim of preventing money laundering and terrorist financing.
- 4.11. The effect of the CJEU's ruling is that EU Member States are now only able to provide access to their beneficial ownership registers to law enforcement, financial services institutions and to other persons with a legitimate interest, in order to meet the EU standards. The extent to which access is provided to those with a legitimate interest varies across the EU and was given further consideration by the European Commission and Member States, the outcome of which is included in the AMLD6 (further details in Paragraphs 4.21-4.23 and Section 6).

The Crown Dependencies' initial response to the CJEU Judgment

- 4.12. Following the publication of the CJEU Judgment in November 2022, the Committee (as it was then constituted) worked closely with the relevant

¹⁰ *WM & Sovim SA v Luxembourg Business Register* [2022] [EUR-Lex - 62020CJ0037 - EN - EUR-Lex \(europa.eu\)](#)

authorities from the Jersey and the Isle of Man governments to consider their collective position in respect of the 2019 Commitment (and, for Guernsey, the associated action plan too). In December 2022, the three governments decided to pause work on obliged entities and public access to the islands' registers of beneficial ownership. The work on obliged entity access was already well advanced in Guernsey; consultations had been undertaken, policy positions produced and regulations were being drafted.

- 4.13. On 22 December 2022, a public statement ('the 2022 Joint Statement', as in Appendix 3) was issued by the three governments to announce the reason for the work on obliged entities access being paused. The islands agreed to seek specialist legal advice on the CJEU Judgment, in particular how it related to the 2019 Joint Commitment and taking into account any potential read across from the EU's Charter of Fundamental Rights and the jurisprudence of the CJEU to the Council of Europe's European Convention on Human Rights (ECHR) and the jurisprudence of the European Court of Human Rights (ECtHR).
- 4.14. That December 2022 Joint Statement said that the Crown Dependencies still intended to adopt legislation to enable obliged entities access as soon as possible, subject to the legal advice that was being sought. The December 2022 Joint Statement also said that, in respect of extending access beyond obliged entities, the Crown Dependencies intended to obtain expert legal advice on all relevant issues and, in due course, to review the 2019 Joint Commitment in line with that advice and any recent development of international best practice.

Consideration of legal advice about the CJEU Judgment and its relation to ECHR rights (including the right to a private life)

- 4.15. Following consideration of the expert legal advice on the effects of the CJEU Judgment and its relationship to ECHR rights, it was clear to the Committee that access to registers of beneficial ownership by the general public would constitute a breach of the ECHR obligation to the right to respect for private and family life (or right to privacy). The ECHR rights are given effect in domestic law in the Bailiwick¹¹ (as well as in Jersey and the Isle of Man) which means that such a breach would very likely be upheld in the domestic courts.
- 4.16. The Committee concluded that any legislative or policy changes to allow access to the island's register of beneficial ownership by the general public without the necessary safeguards would be considered unlawful in Guernsey's domestic law as well as a breach of the island's international obligations. The Committee concluded that it would no longer be possible to proceed with the parts of the

¹¹ Human Rights (Bailiwick of Guernsey) Law 2000
<https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=80709>

2019 Joint Commitment and associated Guernsey action plan about general public access.

- 4.17. The legal advice concluded that it was possible for access by obliged entities to be granted in a way that is consistent with the right to privacy. The Committee decided that relevant legislation could be recommended to the States of Deliberation at the earliest possible opportunity.
- 4.18. The CJEU Judgment looked at mitigating measures to counter the breach of the Charter of Fundamental Freedoms. It noted that access by certain categories of persons with a legitimate interest for specified purposes, laid down by law, could be provided access without offending the principle of right to privacy. It was noted in that judgment that there was not a uniform definition of legitimate interest access. Possible examples of categories for groups with a legitimate interest cited in the judgment were: press and civil society organisations that are connected with the prevention and combating of money laundering and terrorist financing; persons who wish to know the identity of the beneficial owners of a company or other legal entity because they are likely to enter into transactions with them; or financial institutions and authorities involved in combating offences of money laundering or terrorist financing.

The Crown Dependencies' 2023 Updated Joint Commitment

- 4.19. In addition to the legal advice (as in paragraphs 4.15-18), the three islands engaged with counterparts in the EU and the European Commission to understand the likely direction that the EU will take to enhance the transparency of beneficial ownership information whilst respecting legal obligations to maintain human rights.
- 4.20. In December 2023, the islands issued a joint commitment ('the 2023 Joint Commitment' – see Appendix 1) which outlined their plan to develop beneficial ownership transparency in line with the direction that the EU intended to establish with AMLD6, which was likely to be agreed before EU elections in 2024. This is a two-stage approach:
 - 4.20.1. The first stage would be the approval and implementation of access to the beneficial ownership register by obliged entities. It was envisaged that the relevant legislation would be made during 2024. However, the Committee was mindful that the priority for the States would be to prepare for and contribute to the MONEYVAL assessment (as above). That prioritisation caused a slight delay to the obliged entities workstream, but has not fundamentally altered the intended outcome.
 - 4.20.2. The second stage would be the preparation of proposals for access to those with a legitimate interest, in line with the model being considered

by the EU. In December 2023, the detail of the EU proposals was not yet known. It was expected that proposals for legitimate interest access would be included in AMLD6, with the detail to be developed by the European Commission to assist the EU Member States in implementing the Directive. The Committee undertook to put the matter to Guernsey's parliament to address any concerns that the EU might not agree to include legitimate interest access under AMLD6. This Policy Letter will fulfil that part of the 2023 Commitment. The more detailed development of the policy will need to be put to the States in due course following work to clarify the definition and the practicalities of implementation.

The EU's initial response to the CJEU Judgment

- 4.21. Following the CJEU Judgment, EU Member States responded in different ways. Some closed public access to their registers of beneficial ownership; some kept some form of legitimate interest access open (although there was no uniform approach to this); and some kept public access open, even though it is held to be unlawful, pending the outcome of EU discussions to attempt to reach a common position.
- 4.22. The EU Commission was already working on the next anti-money laundering package, AMLD6, when the CJEU Judgment was handed down in November 2022. The Commission, therefore, had an opportunity to develop proposals within the draft of AMLD6 for beneficial ownership information transparency in line with the CJEU Judgment.

The EU's Sixth Anti-Money Laundering Directive (AMLD6)

- 4.23. The EU's AMLD6¹² was agreed on 31 May 2024 and published in the EU Official Journal on 19 June 2024. It includes a legitimate interest test that takes into account the CJEU Judgment. The legitimate interest provisions are outlined in Section 6 below. The EU's AMLD6 creates a new regional standard in Europe for beneficial ownership transparency.

The Crown Dependencies' response to AMLD6

- 4.24. Before AMLD6 was finalised, the three governments of the Crown Dependencies noted that it would provide a tested policy framework with which the islands could align.
- 4.25. The EU Code of Conduct Group on Business Taxation ('the EU Code Group') sets standards for tax cooperation in terms of transparency, tax fairness and anti-

¹² https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401640

BEPs¹³ measures. Guernsey has been rigorously assessed against these standards, it has been 'whitelisted' and confirmed as a cooperative jurisdiction. The EU Code Group is likely to develop its standards by including a benchmark on beneficial ownership transparency aligned to the EU's own policy. If Guernsey wishes to remain on the list of cooperative jurisdictions, it will need to follow such EU developments in a timely way. Once the new criterion is agreed, unless Guernsey is already EU-facing with its policy, there is an increased risk of the island being defined by the EU as a non-cooperative jurisdiction. Consequently, there would be adverse effects on the island's economy.

5. Access to beneficial ownership information by Obligated Entities

- 5.1. For the reasons outlined above, it is necessary now to provide access to beneficial ownership information about Guernsey legal persons for obliged entities. It is proposed that that should be done by a process under which obliged entities notify the Guernsey Registry that they wish to be provided with information on the beneficial ownership of Guernsey legal persons.
- 5.2. Assuming that a notification had been validly made, the Registrar would provide the obliged entity in question with details about the beneficial ownership of the legal person concerned. This would be subject to the payment of any fee that the Registrar may decide to impose, in order to cover the administration costs involved. A similar process has recently been introduced in Jersey.
- 5.3. In order to comply with AMLD5, there would also be a requirement (underpinned by guidance) for the obliged entity to notify the Registrar if it had reason to believe that any aspects of the information provided by the Registrar were incorrect or incomplete.
- 5.4. The process would be underpinned by a number of legislative and practical safeguards. At a legislative level, it would be specified that notifications could only be made by authorised officials of an obliged entity, and only for the purposes of carrying out due diligence on the obliged entity's customers or prospective customers. In addition, the Registrar would be given the power to refuse to provide information if he or she had reason to believe that a notification did not comply with the legislation. Furthermore, there would be specific restrictions on the use of the information by the person who received it, underpinned by criminal penalties for breach. At a practical level, notifications and information would be transmitted between the Registrar and an obliged entity via a secure online portal.
- 5.5. It is further proposed that the Registrar would issue guidance to assist obliged entities with the notification process, and the Guernsey Financial Services

¹³ Base Erosion and Profit Shifting - an initiative of the OECD.

Commission would amend its Financial Crime Handbook to clarify the way in which information obtained under this process may be used by obliged entities to enhance compliance with their due diligence obligations.

- 5.6. The proposals outlined above have been the subject of two consultations with the private sector, the second of which included a copy of draft legislation to implement the proposals. No objections to the notification process were received - the points raised primarily concerned the practicalities of implementation. These points will be reflected in revisions to the draft legislation or addressed in guidance, as appropriate.

6. Access to beneficial ownership information by those with a Legitimate Interest

- 6.1. The preamble to AMLD6 states that legitimate interest access is the only way to protect the right to a private life and protection of personal data whilst also providing access with the aim of enhancing EU Member States' own AML/CFT regimes. It suggests that certain categories of the public would be defined as having a legitimate interest.¹⁴
- 6.2. AMLD6 states that legitimate interest categories would include non-governmental organisations, academics and investigative journalists who contribute to the objectives of fighting against money laundering and terrorist financing. Access to beneficial ownership information is considered important for them to undertake their functions and to exert public scrutiny, where appropriate. However, legitimate interest access is not intended for the media where the purpose is not related to fighting financial crime. The media also have their own data protection issues in respect of rights to privacy subject to its own legitimate interest test.
- 6.3. The EU, through AMLD6, recognises that there needs to be a balance which protects the rights of the beneficial owners on the register as well as protecting the rights of journalists or members of civil society organisations who potentially put themselves at risk when they carry out investigations into possible criminal

¹⁴ Paragraph (40) of the Preamble to AMLD6: "In order to limit interferences with the right to respect for private life and to protection of personal data, access to beneficial ownership information held in central registers by the public should be conditional upon the demonstration of a legitimate interest. Divergent approaches by Member States regarding the verification that such a legitimate interest exists could hamper the harmonised implementation of the AML/CFT framework and the preventive purpose for which such access by members of the public is allowed. It is therefore necessary to devise a framework for the recognition and verification of legitimate interest at Union level, in full respect of the Charter of Fundamental Rights of the European Union (the 'Charter'). Where a legitimate interest exists, the public should be able to access information on beneficial ownership of legal entities and legal arrangements. Legitimate interest should be presumed for certain categories of the public. Access on the basis of a legitimate interest should not be conditional upon the legal status or form of the person requesting access."

activities. This will require safeguards to be developed and put in place, which will be complex when considering diverse pan-jurisdictional issues.¹⁵

6.4. In addition to the specific access for limited purposes by some media and civil society organisations outlined in Paragraphs 6.2 and 6.3, access will also be provided by EU Member States to beneficial ownership information for certain AML/CFT or due diligence purposes. These are listed in Article 13 of AMLD6 and summarised below:

- Natural or legal persons likely to enter into a transaction with a legal entity where those natural or legal persons wish to prevent any link between such a transaction and money laundering, its predicate offences or terrorist financing;
- Entities subject to AML/CFT requirements in third countries to the EU, provided that they can demonstrate the need to access the certain beneficial ownership information in relation to a legal entity or legal arrangement to perform customer due diligence in respect of a customer or prospective customer pursuant to AML/CFT requirements in those third countries;
- Third-country counterparts of EU AML/CFT competent authorities provided they can demonstrate the need to access the information about a legal entity or legal arrangement to perform their tasks under the AML/CFT frameworks of those third countries in the context of a specific case;
- EU Member State authorities, in particular the authorities in charge of the registration of companies in the register and Member State authorities responsible for scrutinising the legality of conversions, mergers and divisions of limited liability companies;
- EU programme authorities in respect of beneficiaries of EU funds;
- EU Member States' public authorities in the context of public procurement procedures, in respect of the tenderers and operators being awarded the contract under the public procurement procedure.

6.5. There are a number of complexities that arise from trying to harmonise an approach to legitimate interest access across all the EU Member States. The implementation of EU law is primarily a task of the Member States. However, when uniform conditions for the implementation of legally binding EU acts have to be ensured, implementing powers need to be conferred on the Commission or the Council (in some circumstances). These "Implementing acts" are non-legislative instruments laying down detailed rules allowing the uniform implementation of EU Directives. These circumstances apply for the legitimate interest parts of AMLD6 and it is subject to the development of an Implementing

¹⁵ Paragraph (41) of the Preamble to AMLD6. Some of the other paragraphs between (23) to (44) are relevant in respect of the issues and scope of legitimate interest access.

Act. The policy and legislative developments in EU Member States will be informed by these rules.

- 6.6. The Channel Islands Brussels Office (CIBO) will monitor the development of the Legitimate Interest Implementing Act as well as continuing to engage with the Commission (in particular DG FISMA) and the EU Member States' permanent representative offices. The information gathered by CIBO will help to inform thinking in Guernsey and Jersey, as the details of implementation of AMLD6 are worked out and put into place across the EU. Implementation of legitimate interest access in the EU is due by 10 July 2026. The rest of AMLD6 (which does not relate to beneficial ownership and is not relevant for these purposes) is due to be implemented by 10 July 2027.
- 6.7. The ability to develop a regime which can further enhance the Bailiwick AML/CFT/CFP regime in line with EU standards may be beneficial in future. This may include any requirements imposed by the EU's Code of Conduct Group on Business Taxation in its desire to develop a criterion on beneficial ownership transparency as part of the third country listing process. Appropriate changes to access to information on Guernsey's beneficial ownership register may provide a mechanism to ensure the Bailiwick remains off the EU tax cooperation blacklist or "greylist". Such standards may go beyond the OECD transparency and FATF standards, but may be in the Bailiwick's economic interest due to the potential adverse impact of blacklisting.

7. Legislative requirements

- 7.1. Obligated Entities Access: Criminal Justice (Proceeds of Crime (Access to Beneficial Ownership Information) (Amendment) Ordinance, 2025 ('the draft Ordinance'), which amends the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 ('the Proceeds of Crime Law'). The effect of the draft Ordinance is to insert a new Schedule to the Proceeds of Crime Law (Schedule 13), and to make some minor technical amendments to the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017) in order to reflect changes to other aspects of the legal framework applicable to obliged entities.
- 7.2. Legitimate Interest Access: After the EU has developed its own definitions of legitimate interest access and corresponding policies, the Committee intends that a further Policy Letter would be presented to the States about the implementation of legitimate interest access for Guernsey's register of beneficial ownership of companies. Any legislation required will be outlined in that Policy Letter.

8. Impact on resources

- 8.1. The implementation of obliged entities access will require some amendment to the IT systems at the Company Registry. The work to alter the Company Registry's IT systems for this purpose is not expected to be substantial and should only require minor capital investment.
- 8.2. When the States is asked to consider the next Policy Letter on legitimate interest access, any impact on resources will be set out at that stage.

9. Consultation

- 9.1. The finance sector was consulted on the intention to allow access for obliged entities in 2022, before the process was paused (as in the 2022 Joint Statement). A second consultation process was undertaken with industry in Autumn 2024, following the terms of the 2023 Joint Commitment, summarised in Paragraph 5.6. The proposed legislation and/or the related guidance (as appropriate) will take those consultation responses into account.
- 9.2. The financial services industry is regularly updated on the issue of beneficial ownership transparency. This is through direct engagement as well as the Finance Sector Forum - which is an interface between the States of Guernsey (politicians from the Policy & Resources Committee and the Committee for Economic Development, and supporting civil servants), the Guernsey Financial Services Commission, Guernsey Finance and financial services sector representatives from the Guernsey International Business Association – which meets monthly and where the topic of beneficial ownership registers is discussed from time to time as the need arises. In addition to the Forum, there has been consultation about beneficial ownership transparency with the Committee for Economic Development, the Guernsey Registry, the Guernsey Financial Services Commission and the Alderney Gambling Control Commission.
- 9.3. Further consultation on the proposal to allow access to those with a legitimate interest will be undertaken in due course before proposals are prepared for consideration by the States. This consultation will include developments in the EU regarding AMLD6 implementation there.

10. Conclusion and recommendations

- 10.1. The States are recommended to agree that the proposed access for obliged entities should be implemented and the necessary legislation be placed before the States as soon as possible to allow for the access to come in to effect during 2025.

10.2. The States are asked to note that the implementation of access in terms of legitimate interest is in development in the EU and detailed proposals will be laid before the States for consideration in due course, in a timescale that is aligned with the EU's own implementation under AMLD6.

11. Compliance with Rule 4

11.1. Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

11.2. In accordance with Rule 4(1)(a), the changes proposed within this Policy Letter contribute to the States objectives and policy plans including, as identified in the Government Work Plan reset 2023-2025¹⁶, the obligatory activities of demonstrably meeting international standards across areas such as tax co-operation, economic substance and AML/CFT. Meeting international standards is critical to maintain economic competitiveness and promote growth. This is important for the largest employer in the island, the financial services sector.

11.3. In accordance with Rule 4(1)(b), the Committee's consultation with other parties is outlined in Section 9. The Committee will continue to consult and engage with relevant stakeholders regarding the development and implementation of access to beneficial ownership information by obliged entities and those with a legitimate interest. The States will be required to make a decision on access by those with a legitimate interest once the EU has developed its policy, against which the States will benchmark its own regime.

11.4. In accordance with Rule 4(1)(c), the Propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.

11.5. In accordance with Rule 4(1)(d), the resources required to fulfil the Propositions of this Policy Letter are set out in Section 8.

11.6. In accordance with Rule 4(2)(a), the Propositions relate to the duties and powers of the Policy & Resources Committee because its mandate includes responsibilities for: developing and promoting the States' overall policy objectives (a1); the policy framework for the regulation of financial services (d1); relations with the UK and other jurisdictions (c2); and relations with the EU and other supranational organisations (c3).

¹⁶ Policy Letter, dated 18 August 2023, Policy & Resources Committee – 'Government Work Plan 2023-25 policy, strategies and plans' as at <https://gov.gg/CHttpHandler.ashx?id=170639&p=0>; the importance of maintaining compliance with international standards on financial crime and regulation is referred to (*inter alia*) on pages 12-13 and in Appendix 3 (which outlines one of the three priorities).

11.7. In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee.

Yours faithfully

L S Trott OBE
President

H J Soulsby MBE
Vice-President

J A B Gollop
J P Le Tocq
R C Murray

2023 Joint Commitment

**Joint commitment by Guernsey, the Isle of Man and Jersey
Registers of beneficial ownership of companies**

1. As responsible jurisdictions and International Finance Centres, Guernsey, the Isle of Man and Jersey ('the Crown Dependencies') ('we') reiterate our commitment to continue our advanced role in the shared global objective of combatting financial crime in all its forms.
2. We have a longstanding and independently verified track record of meeting international standards. We are proud of our global leadership in tax cooperation, and in combatting money laundering, terrorist financing and proliferation financing. We will continue to provide appropriate and effective transparency which can support those critical objectives.
3. We recognise the importance of access to accurate and up-to-date beneficial ownership information in countries across the globe. We each maintain high standards of accurate, up-to-date and verified information in our own central beneficial ownership registers. We closely monitor developments internationally to ensure that our own systems remain robust, effective and in line with international standards and obligations. We have a proven and ongoing 'good neighbour' policy of cooperation with the UK and the EU in matters relating to taxation and combatting financial crime. We also assist countries around the world in those efforts. We remain committed to contributing to, shaping and implementing global standards in those important areas.
4. Our priority remains to continue providing effective access to up-to-date and verified beneficial ownership information for law enforcement and tax authorities in the UK, Europe and across the world, as has been our long-standing approach.
5. In developing our policy to enhance access to information held on our registers of beneficial ownership, we have carefully considered recent decisions of the Court of Justice of the European Union ('CJEU') and the European Court of Human Rights ('ECtHR') about the right to privacy and data protection issues arising from access to such information; particularly the *WM & Sovim SA v Luxembourg Business Register*¹⁷ judgment.

¹⁷ *WM & Sovim SA v Luxembourg Business Register* [2022] EUR-Lex - 62020CJ0037 - EN - EUR-Lex (europa.eu)

6. In its judgment, the CJEU acknowledged that combatting money laundering and terrorist financing is a priority matter for public authorities and entities such as financial institutions and that providing some access to beneficial ownership information plays an important role in that. However, the CJEU found that providing the general public with access to information on beneficial ownership is, for a number of reasons, not proportionate to the legitimate aim of preventing money laundering and terrorist financing. The effect of the CJEU's ruling is that EU Member States are now only obliged to provide access to their beneficial ownership registers to law enforcement, financial services institutions and to other persons with a legitimate interest. The extent to which access is provided to those with a legitimate interest varies across the EU and is currently being given further consideration by the European Commission and Member States.
7. Having carefully considered the CJEU's decision in *WM* and relevant ECtHR caselaw, the governments of the Crown Dependencies are satisfied that it would not be compatible with the international obligations extended to them, including those enshrined in their domestic laws, to grant access to their beneficial ownership registers to the general public. However, the Crown Dependencies do intend to work towards extending access to their registers having regard to relevant developments in the EU and international best practice.
8. Paragraph 74 of the CJEU Judgment in *WM* recognises that, in view of the content of the relevant EU Directives, financial institutions and authorities involved in combatting offences of money laundering or terrorist financing, together with "press and civil society organisations that are connected with the prevention and combatting of money laundering and terrorist financing, have a legitimate interest in accessing information on beneficial ownership".
9. Each island's government confirms the following actions will be undertaken to further enhance the transparency of their central register of beneficial ownership information:

9.1. Deliver obliged entity access during 2024

We will enable access for financial services business and certain other businesses who are required to conduct customer due diligence under our AML/CFT/CPF regime¹⁸ (collectively known as 'obliged entities'). We have satisfied ourselves that it is possible to implement obliged entity access. This access will be implemented before the end of 2024 in a manner that puts in place appropriate safeguards to effectively manage

¹⁸ AML – anti money laundering; CFT – countering financing of terrorism; CPF – countering proliferation financing

any interference with privacy rights. We have already undertaken substantial preparatory work to enable obliged entity access.

9.2. **Develop and deliver legitimate interest access in a leading timeframe**

- a) Subject to necessary approvals in the Crown Dependencies' legislatures, we will provide access to the information on our registers of beneficial ownership to those who can demonstrate that they have a legitimate interest. Access will be provided in line with international obligations extended to the Crown Dependencies, recognising that there is a crucial balance to strike between protecting human rights and combatting financial crime.
 - b) It has been noted that media and civil society organisations that have a role in combatting financial crime, have been recognised in the EU as having a 'legitimate interest' in accessing beneficial ownership information (Paragraph 74 of the CJEU Judgment is particularly pertinent for this). However, it is reported that the revised EU position, which will be included in the EU's Sixth Anti-Money Laundering Directive, is still under debate in Europe and its finalisation is critical to international practice on "legitimate interest".
 - c) Our definition of legitimate interest access to beneficial ownership information will be developed having due regard to international good practice, including finalisation of the EU's Sixth Anti-Money Laundering Directive which is anticipated in early 2024. The EU negotiating text for that Directive recognises groups who may have a legitimate interest as being those conducting business transactions, civil society, journalists, law enforcement and higher education.
 - d) We will present proposals to our own parliaments for agreement on the definition and implementation of legitimate interest by Q4 2024 at the latest and will implement that access in a reasonable timeframe.
10. These actions are to be progressed together and work is already underway. We intend to adopt an ambitious timescale which can achieve legitimate interest access, having regard to implementation progress across the EU Member States. Our islands will move forward recognising that proper and effective implementation takes time and resources but that it is important that progress is maintained.

11. This joint commitment outlines the Crown Dependencies' shared approach on access to registers of beneficial ownership. It provides a clear and unambiguous signal of our intent to interested parties around the world. It replaces the commitment published by the islands in June 2019.

13th December 2023

<https://www.gov.gg/CHttpHandler.ashx?id=173904&p=0>

2019 Joint Commitment

**Joint commitment by Guernsey, Jersey and the Isle of Man
Registers of beneficial ownership of companies**

1. The Crown Dependencies (Guernsey, the Isle of Man and Jersey) ('we') have a longstanding, and independently verified, track record of meeting international standards. We are proud of our global leadership in tax cooperation, transparency and in combatting money laundering and countering the financing of terrorism.
2. Through our work with the EU, the OECD and with other international partners, we meet international standards in respect of transparency of beneficial ownership information. As responsible jurisdictions, we have a proven good neighbour policy with respect to cooperation with the EU in matters relating to taxation, fighting financial crime and countering the financing of terrorism.
3. It is in our strategic interests and our standing as responsible jurisdictions to commit to further develop the accessibility and transparency of our register of beneficial ownership for companies consistent with the approach being adopted by the EU. We will do so in a way that is in line with the principles of the EU fifth Anti-Money Laundering Directive (5th AMLD) within a timeframe that we consider deliverable.
4. We are committed to the following staged approach:
 - a. During 2021, to work collaboratively with the EU on the interconnection of the islands' central registers of the beneficial ownership of companies with the registers in the EU. This is part of existing political commitments made by each of us to the EU to ensure that, on a reciprocal basis, legal and beneficial ownership information can be shared with EU designated competent authorities and Financial Intelligence Units (FIUs).
 - b. To enable access to our central registers of beneficial ownership of companies to obliged entities for due diligence purposes as soon as reasonably practicable following this interconnection referenced in (a) above and, in any event, before the end of 2022.
 - c. The EU is due to publish an Implementation Review of the 5th AMLD in January 2022. Within 12 months of that publication, we will each bring forward to our own parliament legislative proposals to establish public access to beneficial ownership data of companies held on a central register, in line with the principles of the EU's 5th AMLD.

5. In order to develop and implement the legislation referenced in 4(c) above, we will be informed by global best practice including the progress being made in EU Member States to introduce processes to verify, vet and regulate trust and company service providers and the submission of beneficial ownership information.

June 2019

Ends

<https://www.gov.gg/CHttpHandler.ashx?id=119716&p=0>

Note added for 2025 Policy Letter - In addition, a more detailed action plan was published by Guernsey (only) which is available here:

<https://www.gov.gg/CHttpHandler.ashx?id=119715&p=0>

2022 Joint Statement

Statement of the three Crown Dependencies concerning access to Registers of beneficial ownership of companies

Thursday 22 December 2022

In 2019, the Crown Dependencies (Guernsey, the Isle of Man and Jersey) ('we') made a public commitment concerning Registers of beneficial ownership of companies (the "public commitment"). We have a longstanding, and independently assessed, track record of meeting international standards. We are proud of our global leadership in tax cooperation, combatting money laundering and countering the financing of terrorism and in providing appropriate and effective transparency.

The recent judgment of the Court of Justice of the European Union impacts considerations in the Crown Dependencies around implementing the public commitment in line with consideration of factors around data protection and human rights. We have all committed to provide access to obliged entities for the purpose of conducting customer due diligence by the end of 2022 and have therefore consulted on the position and produced policy positions. However, in light of this CJEU Judgment, implementation of this legislation will be delayed for a short period to enable consideration of its impact and obtain specialist legal advice, this is expected to be completed in early 2023. Subject to that advice, our intention to adopt legislation in our respective jurisdictions as soon as possible after this time.

In respect of extending access beyond obliged entities, we intend to obtain expert legal advice on all relevant issues and, in due course, intend to review the public commitment in line with that advice and any recent development of international best practice.

[Anti-money-laundering directive: the provision whereby the information on the beneficial ownership of companies incorporated within the territory of the Member States is accessible in all cases to any member of the general public is invalid \(europa.eu\)](#)

Ends

<https://www.gov.gg/article/194495/Statement-of-the-three-Crown-Dependencies-concerning-access-to-Registers-of-beneficial-ownership-of-companies>