

Briefing Note

Registers of People with
Significant Control (PSCs)

An overview of new disclosure rules for UK companies and Limited Liability Partnerships

On 6th April 2016, changes to the Companies Act 2006 introduced new rules requiring unlisted UK companies to take reasonable steps to identify people who have significant control over them. Details of these people (PSCs) need to be recorded in a statutory register (known as a PSC register). This information has to be filed on the public record at Companies House. This regime applies to all UK unlisted companies, LLPs and Limited Partnerships. There is an obligation on directors, members and partners to obtain and maintain PSC information and on the individual PSC to make the information available to any company of which he or she may be a PSC, either proactively or in response to an information request. Failure to comply with is a criminal offence for the company, LLP or Partnership, its officers and PSCs themselves.

Who is a PSC?

A PSC for a company is an individual who:

- Holds, directly or indirectly, more than 25% of the shares or voting rights;
- Holds, directly or indirectly, the right to appoint or remove a majority of the board of directors;
- Otherwise has the right to exercise, or actually exercises, significant influence or control over the company;
- Holds the right to exercise, or actually exercises, significant influence or control over the activities of a trust or firm which is not a legal entity, but which would itself satisfy any of the above conditions if it were an individual.

A PSC for an LLP is an individual who:

- Holds, directly or indirectly, rights over more than 25% of the surplus assets on a winding up or more than 25% of the voting rights;
- Holds, directly or indirectly the right to appoint or remove the majority of those involved in the management of the LLP;
- Otherwise has the right to exercise, or actually exercises, significant influence or control over the company;
- Holds the right to exercise, or actually exercises, significant influence or control over the activities of a trust or firm which is not a legal entity, but which would itself satisfy any of the above conditions if it were an individual.

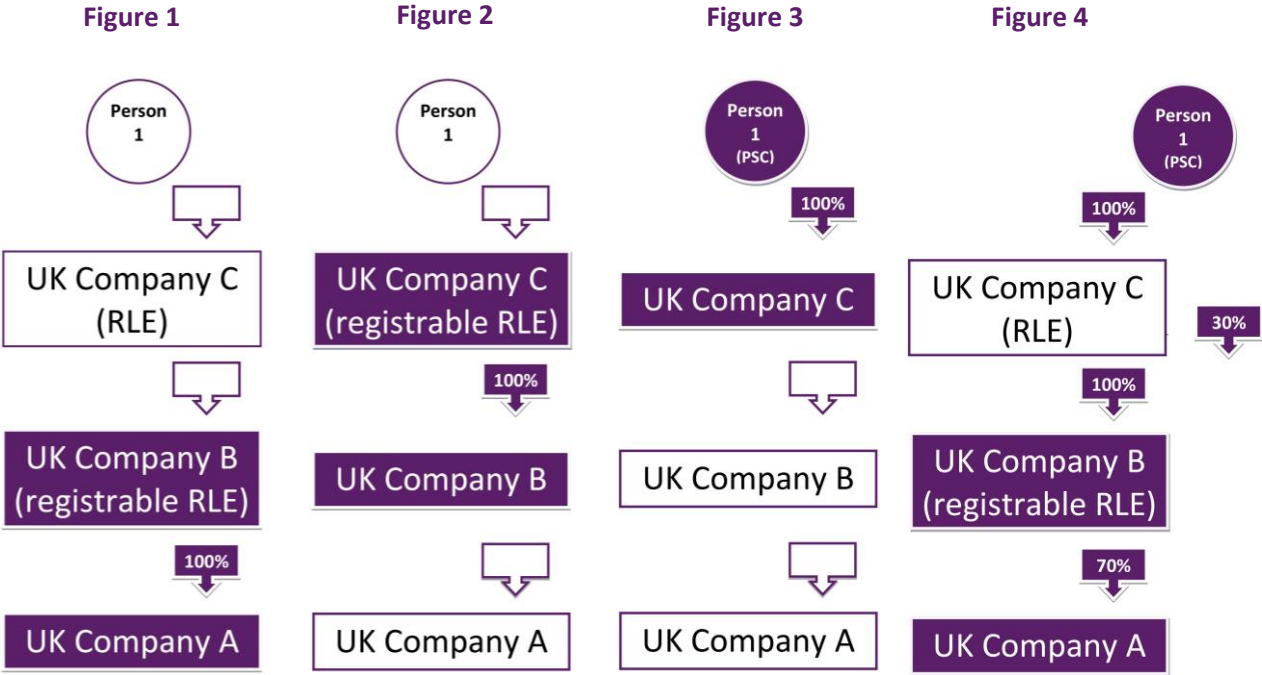
A PSC for an LP is usually the General Partner or the people behind the Partner if it is not an entity that itself requires to be registered.

Who should be included on the PSC register?

The details of all individuals who satisfy the PSC conditions directly should be entered on the register. However, an individual may also satisfy the conditions indirectly, for example through a chain of companies. A person is, broadly, treated as holding shares or rights indirectly if they are held through a legal entity, or chain of legal entities in which that person, or another chain entity, has a majority stake or over which he has the right to exercise dominant influence or control. In this case, the details of the legal entity may need to be entered, instead of those of the individual. A legal entity should be registered if:

- It is a “relevant legal entity” (RLE) – i.e. it is a legal entity which would be a PSC if it was an individual and is itself required to keep a PSC register (or satisfies disclosure requirements that have been deemed equivalent to the PSC register, e.g. is admitted on certain Stock Exchanges); and
- It is the first RLE in a chain above the company it controls.

An unlisted non-UK company will not normally qualify as an RLE and its details cannot be entered on the PSC register. Instead, the chain of ownership behind it must be examined until the first RLE or individual is found, and their details must be entered on the PSC register.



Figures taken from statutory PSC Guidance

In Figure 1, Company B is a registrable RLE in relation to Company A and must be entered on Company A’s PSC register. Company A is not required to look further at its chain of ownership. In Figure 2, Company C is a UK Company and will be entered on Company B’s PSC register. In Figure 3, Person 1 will be entered on Company C’s PSC register. If Person 1 also holds a direct interest in Company A, as in Figure 4, Person 1 must also be entered on the PSC register for Company A, and has a duty to inform Company A that this is the case.

In a group of companies therefore it will not usually be necessary to enter the details of the individuals who ultimately control the group on the PSC registers of all the entities in the corporate chain. However, the provisions are designed to ensure that it is possible to follow the chain of ownership until the ultimate PSC is able to be identified.

Each company must take “reasonable steps” to identify whether it has any PSCs or registrable RLEs to enter on its PSC register. Broadly, this means that a company should:

- Consider all documents and information available to it to identify if it might have a PSC
- Consider interests held by individuals, legal entities, trusts and firms; and
- Consider if there are any joint arrangements or rights held through a variety of means that might ultimately be controlled by the same person.

What details need to be held on a PSC register?

Once a company has identified that it has one or more PSCs, it must obtain the “relevant information” for each PSC and ensure that the information is confirmed before entering it on its PSC register. Information will be deemed to be confirmed if it has been supplied by the PSC him or herself, or with the PSC’s knowledge or if the PSC has confirmed it is correct on the request of the company. Information that has been previously confirmed does not need to be re-confirmed if the company has no reason to believe it has changed.

The PSC register must indicate which of the criteria each PSC meets. When the ownership or voting criteria are met, the register must also show the broad extent of the PSC’s interest in the company by reference to pre-set bands (between 25% and 50%, between 50% and 75% and 75% or more).

The relevant information is:

Individual PSC	RLE
Full Name	Name
Service Address	Registered office or principal address
Country/State/County of residence	Legal form and governing law
Nationality	Applicable companies register and registration number
Date of birth	Date became registrable
Usual residential address (will not appear on the public record or need to be revealed on an inspection of the register)	Nature (and when relevant, extent) of control
Details of any restrictions on disclosing the PSC’s information.	
Date became registrable	
Nature (and when relevant, extent) of control	

The PSC register may never be empty. If the company is still determining whether it has PSCs or holds unconfirmed PSC information, this must be noted on the PSC register using wording which will be prescribed in the regulations. Equally, if a company has or reasonably believes that it has no PSCs, this must also be noted on the PSC register using the statutory wording.

Updating information

The PSC register must be kept up to date at all times, and information must be filed at Companies House within 14 days of a change occurring. The information should also be supplied to any advisers with whom the company has a business relationship.

For further guidance and advice, please contact the Business Law Team on 0131 228 8111 or email us for more information at enquiries@turcanconnell.com.

This note is intended as an overview of new disclosure rules for UK companies and Limited Liability Partnerships as at January 2018. No responsibility can be accepted for any action taken in reliance of this note and specialist advice should be taken in every case. Turcan Connell would be happy to provide such advice.
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