

## Anti-Money Laundering: Identifying beneficial owners

Customer Due Diligence (CDD) must be completed on all beneficial owners. It is the responsibility of the estate agent to establish all beneficial owners and undertake the relevant checks to complete CDD.

While in most cases you will be able to rely on your customers to help you identify all beneficial owners, it may be necessary for you to complete independent checks of your own...

### **Private treaty**

In private treaty sales the person(s) on the title are the beneficial owners. In most cases this will be self evident, however it may be necessary to independently verify this in cases where there is any confusion, or a higher risk is identified.

Importantly, any co-owners of the property, who may not be your customer (e.g. divorcing couple) will need to be checked.

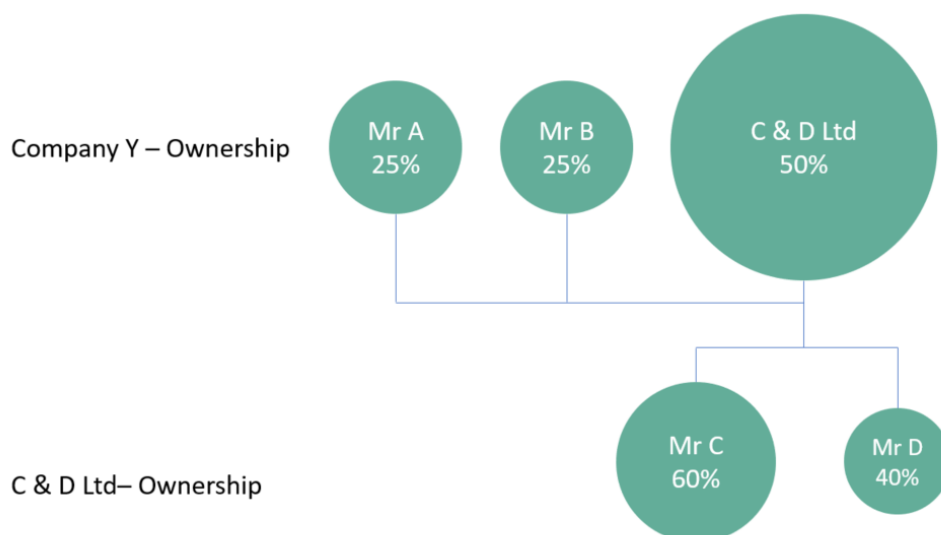
You can independently verify the owners by ordering the Land Registry Title, where Section B outlines the ownership status.

### **Private Limited Companies**

In cases where you are instructed by a private limited company you will need to establish and complete CDD on all individuals with 25% or more of the shares. If the business has subsidiaries you may need to do some digging to understand the shareholder statuses.

In the below example, an agent is instructed by Company Y to sell a portfolio of properties. CDD is required as follows:

- Mr A: Owns 25% of Company Y and CDD **must** be completed
- Mr B: Owns 25% of Company Y and CDD **must** be completed
- Mr C: Owns 30% of Company Y (he owns 60% of C & D Ltd which in turn owns 50% of Company Y) and CDD **must** be completed.
  - Calculation as follows:  $(50\% / 100\%) \times 60\% = 30\%$
- Mr D: Owns 20% of Company Y (he owns 40% of C & D Ltd which in turn owns 50% of Company Y) CDD **is not** required.
  - Calculation as follows:  $(50\% / 100\%) \times 40\% = 20\%$



To establish beneficial owners, you can check the Persons of Significant Control Register (PSC Register) on Companies House ([beta.companieshouse.gov.uk](https://beta.companieshouse.gov.uk)) by searching under “People” and “Persons with significant control” also known as the PSC register where beneficial owners are identified.

However, some of this data is still incomplete and where subsidiaries hold over 25% of the shares, more investigation is needed. Electronic checks take less than a couple of minutes to process and clearly outline the shareholder status of all owners, enabling staff to ascertain beneficial ownership information quickly and accurately.

### **Simplified Due Diligence**

Where your risk assessment identifies a low risk, you may complete simplified due diligence on beneficial owners. This is most applicable when dealing with public/listed companies, trusts, financial institutions, notaries/legal professionals.

When undertaking Simplified Due Diligence you may use just one piece of evidence to verify identity. Typically, this may include

- verifying the existence of the company on Companies House
- using correspondence address and email correspondence as evidence
- verification of the individual's existence on the company's website
- confirming the existence of the trust/charity by checking the registration number

### **Public companies**

Where your customer is a corporate/public body (large housebuilders, banks, LLP's, some charities) a beneficial owner is any individual who:

- owns or controls over 25% of the shares or voting rights
- ultimately owns or controls whether directly or indirectly including bearer shares holdings or other means, more than 25% share or voting rights in the business
- exercises ultimate control over the management
- controls the corporate body.

### **Trust**

For a trust, a beneficial owner includes:

- the settlor
- the trustees
- the beneficiaries or the individuals who benefit from the trust and in whose main interest the trust is set up
- individuals who exercise control over the trust.

### **Probate**

Where you receive properties going through Probate, the beneficial owner is identified as follows:

- the executor (original or by representation) or administrator for the time being of a deceased person in England, Wales or Northern Ireland
- the executor for the purposes of the Executors (Scotland Act) 1900 in Scotland.

Where the executor of the estate is a solicitor, your risk assessments may deem it necessary to confirm their legitimacy

You can verify a law firm is legitimate and/or make sure an individual is not disbarred

- <https://www.sra.org.uk/consumers/using-solicitor/find-solicitor.page>

You can also use the Council of Licensed Conveyancers website to confirm the same for Licensed Conveyancers

- [https://www.clc-uk.org.uk/cms/cms.jsp?menu\\_id=19871](https://www.clc-uk.org.uk/cms/cms.jsp?menu_id=19871)

**Compliance in a Box from Landmark is a simple pay-as-you-go toolkit to help agents fulfil their KYC obligations. For more information about undertaking and evidencing your compliance with the Money Laundering Regulation 2017, contact Compliance in a Box on 01524 220013 or email [sam.peacock@landmark.co.uk](mailto:sam.peacock@landmark.co.uk)**

*Further reading:*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/628696/Estate\\_Agency\\_Businesses\\_Guidance\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628696/Estate_Agency_Businesses_Guidance_.pdf)