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A guide to completion of the UK Trust Register for trustees

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Introduction

Since 1 September 2022, all trustees have had a legal obligation to register applicable trusts on the UK Trust Register to comply with the fifth EU Money Laundering Directive (5MLD).

They must also maintain accurate and up-to-date written records of the beneficial owners of the trust and of its potential beneficiaries.

Trustees of registered trusts must notify HMRC if details they have supplied (apart from asset values) change during years when the trust is taxable.

It's important to note that the responsibility for registration on the UK Trust Register (TRS) falls solely to the trustees.

It's also important to know that HMRC can impose a penalty of up to £5,000 for failure to register the trust, failure to keep the register up to date or failure to provide a proof of registration document (available from the UK Trust Registrar once the trust is registered).

Which trusts need to register?

Where previously trusts were only required to register on the TRS if they were taxable, the 5MLD expanded this to require express trusts to register even if there's no tax liability.

Express trusts are usually created by a written deed and include the majority of trust plans used for estate and Inheritance Tax (IHT) planning, such as Gift Plans, Loan Plans and Discounted Gift Plans. These trusts may be non-taxable trusts if the underlying asset is an investment bond that does not produce any natural income. This allows tax to be deferred until money is actually withdrawn.

A Will trust must be registered if the trust is to remain in force for more than two years after the date of death and the trust money is to be invested. The two-year exemption does not apply to trusts created by Deed of Variation.

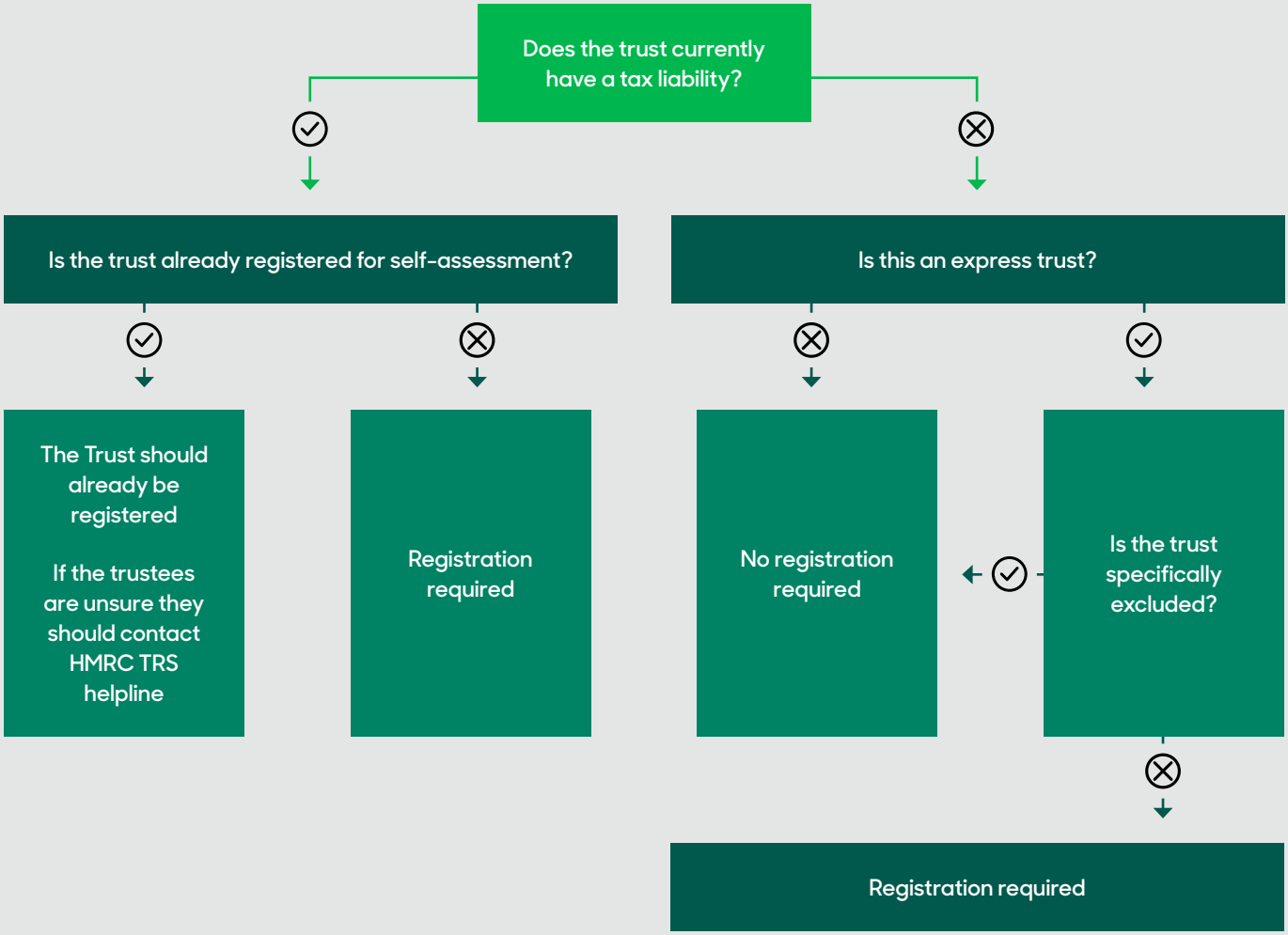
Trustees of all new and existing express trusts (whether UK-based or offshore) need to assess whether they fall within the UK registration requirements and take the necessary action:

- All UK trusts set up after 1 September 2022 must be registered on the UK Trust Register, within 90 days, regardless of whether they have a UK tax liability, unless the trust is specifically excluded.
- However, regardless of a trust having excluded status, they must still be registered if they become taxable. Deadlines depend on the type of trust.
- Non-taxable trusts must register within 90 days of being created.
- Taxable trusts must be registered within 90 days of the trust becoming liable for tax.

If at least one of the trustees is a UK resident and the trustees enter into a business relationship with a UK service provider (for example lawyers, accountants and investment managers) the trust will need to be registered. Note that the business relationship condition only applies to a non-UK trust that has a UK resident trustee.

Which trusts need to register?

See our diagram below for more detail:



Investments, e.g. in an offshore bond in discretionary, flexible or absolute trusts with UK trustees need to register. If a bare trust is an express trust, it also needs to register even though no tax liability falls on the trustees.
If the trustees are non-UK resident then they need to register the trust when they become liable to UK tax.

Which trusts need to register?

Taxable trusts

Trusts which have any of the following tax liabilities will need to complete self-assessment and full TRS registration:

- income tax
- capital gains tax
- inheritance tax
- stamp duty land tax
- land and buildings transaction tax (Scotland)
- land transaction tax (Wales)
- stamp duty reserve tax.

Pension schemes set up under trust may have a tax liability, such as stamp duty, but do not need to register with the TRS provided the trustees keep the scheme details up to date on the 'Manage and Register Pension Schemes service'. In this situation, HMRC considers that the pension scheme and trustees have met their TRS obligations.

Non-taxable express trusts

Express trusts are still required to register on TRS even if they do not have a tax liability. Express trusts are usually created by a written deed and include the majority of trust plans used for estate and IHT planning, such as Gift Plans, Loan Plans and Discounted Gift Plans, which do not normally have any tax charges (income tax, capital gains tax or IHT) year on year as the underlying investment is often an investment bond.

Excluded express trusts

There are some exemptions from the need to register as an express trust, but remember they may still have to register as a taxable trust if any UK taxes are due. Among those relevant to advisers include:

- Protection policies, where the only benefit is a sum assured paid out on the death of a life assured (or terminal illness). However, these trusts will be required to register if the policy pays out and the proceeds are not paid out within two years from the date of death. Protection policies in trust that have a surrender value can also remain excluded from registration until such time as the policy is surrendered. If the policy proceeds are retained in the trust the trust will need to register.
- Will trusts are excluded from registration as an express trust for the first two years from the date of death. If the assets have not been paid out by this time, the trustees must register the trust. Trustees may still, however, have to register as a taxable trust if there is any tax to pay.
- Bereaved minors' trusts and 18-25 trusts.
- Registered pension schemes which are tightly regulated by the FCA or The Pensions Regulator.
- Bank accounts opened by parents or guardians for minor children under age 16, and for children over age 16 who lack mental capacity.
- Statutory trusts which have trust provisions prescribed by law e.g. a trust arising on intestacy.
- Personal injury trusts where a personal injury payment has been paid to a trust, subject to certain conditions.
- Disabled trusts where beneficiary is a disabled person within the meaning given by the Finance Act 2005. Additionally, disabled persons must be the only beneficiaries of the trust.
- Historic pilot trusts. Trusts with a value of £100 or less which were already in existence before 6 October 2020 are excluded. This will include pilot trusts created for the purpose of accepting death benefits from a pension scheme. There is no exclusion for trusts holding a nominal amount where that trust was created on or after 6 October 2020.
- HMRC plan to introduce a de-minimus limit for low value trust non-taxable trusts. Trusts where the value is below £10,000 will be exempt from registering. An effective date for this change has not yet been confirmed.

It should be noted there is no specific exemption for bare trusts as they will generally be express trusts. However, Child Trust Funds and Junior ISAs are not considered as trust arrangements by HMRC and therefore do not need to be reported on the TRS.

Information required to complete registration

To complete the registration, the trustees will need to provide information to the register on the trust itself and any beneficial owners.

Who are the trust's beneficial owners?

The beneficial owners of a trust include a wide group of people such as:

- the settlor
- trustees
- named/ascertained beneficiaries
- if there are no names/ascertained beneficiaries, then the class of people in whose main interest the trust is set up or operates
- protectors, enforcers, guardians, appointers and anyone else who has a power to:
  - dispose of, advance, lend, invest, pay or apply trust property
  - vary or terminate the trust
  - add or remove a person as a beneficiary or to or from a class of beneficiaries
  - appoint or remove trustees or give another individual control over the trust
  - direct, withhold consent to or veto the exercise of the four powers mentioned immediately above.

Trust details required

- the name of the trust
- the date on which the trust was set up
- if the trust has acquired land or property in the UK since 6 October 2020
- if the trust us registered in any other countries within the EEA (European Economic Area)
- if all the trustees are based in the UK
- if the trust has a business relationship in the UK.

If the trust is registering because it's taxable, further information will be required. This is outside the scope of this guide and trustees should contact HMRC TRS helpline (0300 123 107) if they have any queries regarding registering a taxable trust.

Settlors, trustees, protectors and other individuals – details required

- name
- date of birth
- date of death (where applicable)
- country of nationality
- country of residence
- address (trustees only)
- mental capacity of the settlor
- email address (lead trustee only)
- phone number (lead trustee only)
- national Insurance number (lead trustee only).

Individual beneficiaries – details required

- full name
- date of birth
- country of nationality
- country of residence
- mental capacity.

Class of beneficiaries

Where the beneficiaries are not named and instead is 'classes of beneficiaries'. These classes need to be included on the register.

The registration process

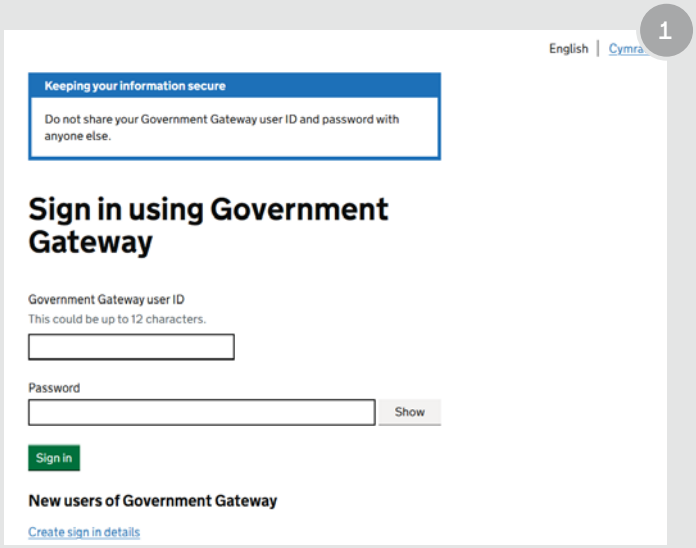
The registration process itself should take about 30 minutes. Only one trustee can register the trust. HMRC refers to this individual as the 'lead trustee'.

PART A – Create a Government Gateway account

STEP 1

Visit the UK Government website for a direct link to register the trust.

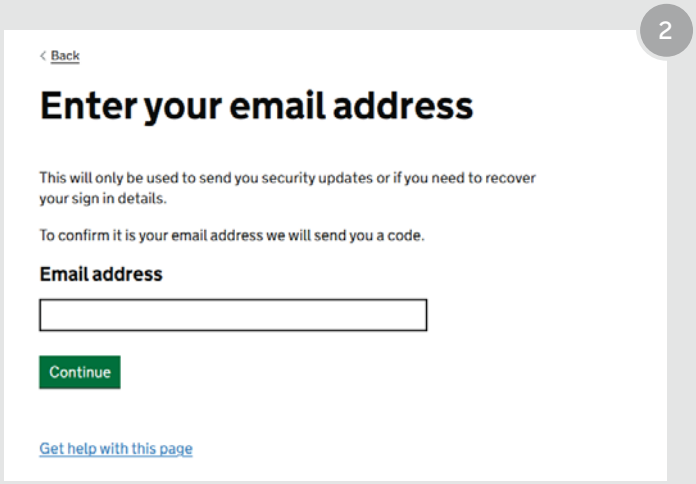
As a first step, the lead trustee needs to set up a Government Gateway account to generate a user ID. You will need a Government Gateway user ID for each trust you register as the lead trustee.



The registration process

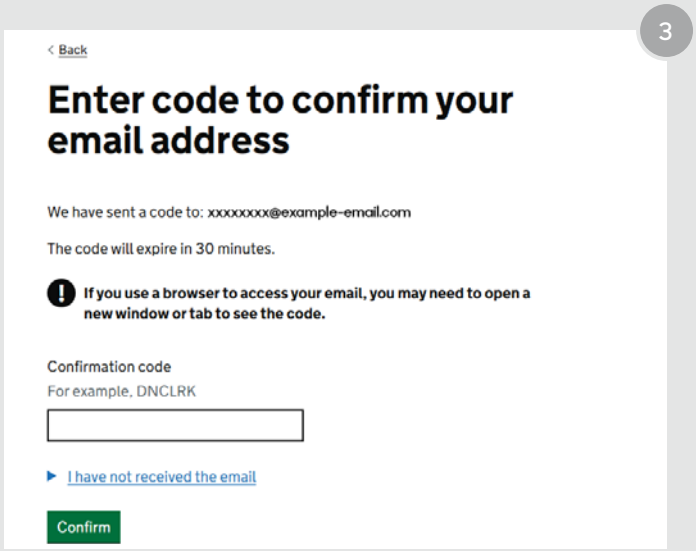
STEP 2

Enter an email address then press continue.



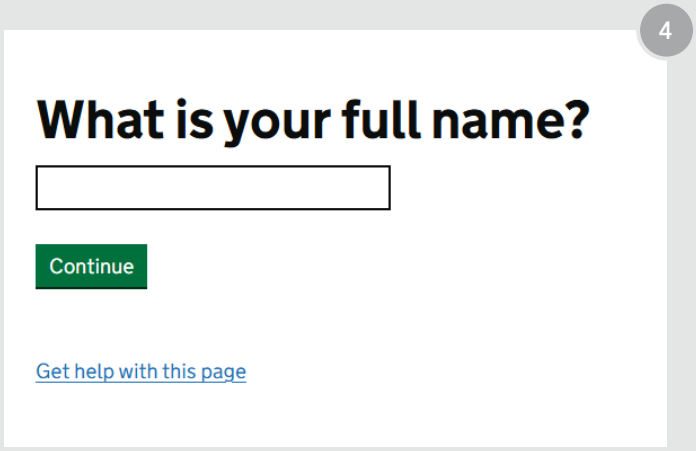
STEP 3

HMRC will send a code to the email address you provided. Check the email address inbox for the code from HMRC and enter where prompted. Press confirm.



STEP 4

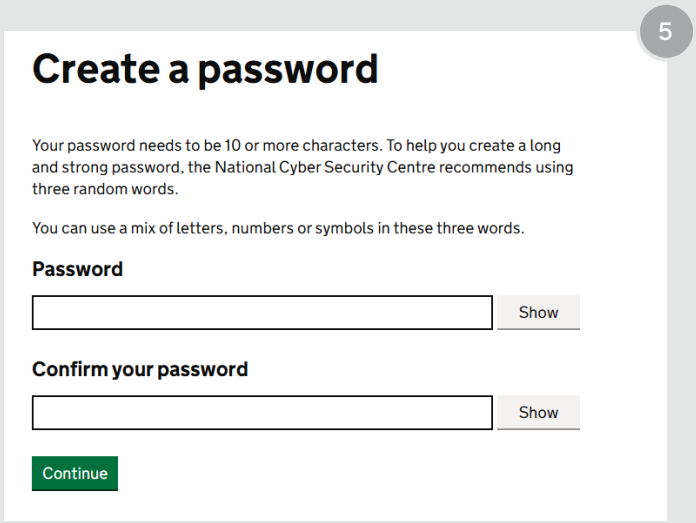
This step requires you to enter your full name as the lead trustee. Press continue.



The registration process

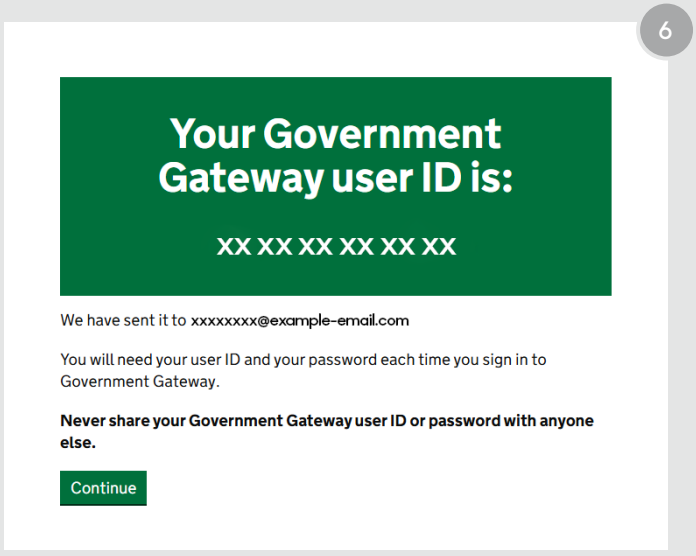
STEP 5

Create a password as prompted then press continue.



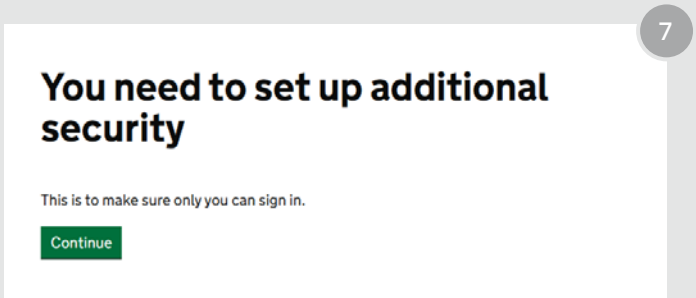
STEP 6

At this stage, you will be provided with your Government Gateway ID. Please keep this number in a safe place as you will have to use this number when updating any details about the trust. Press continue.



STEP 7

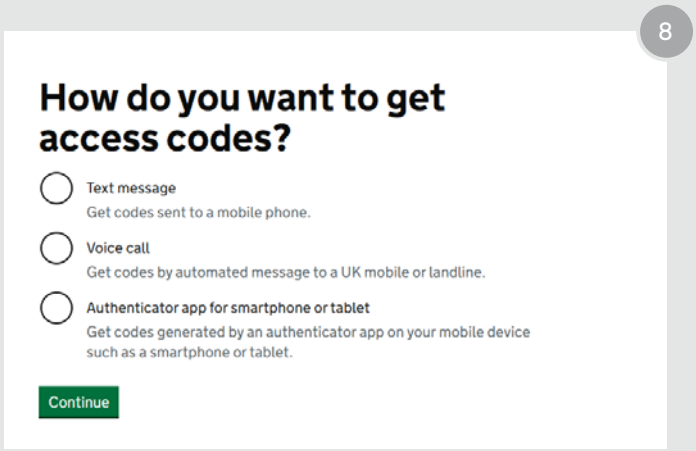
This step asks you to provide information for additional security to keep your account safe. You may have to use this information provided at a future date if you mislay your login details. Press continue.



The registration process

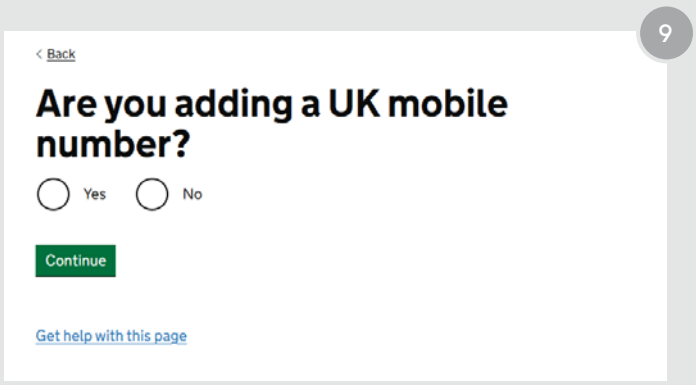
STEP 8

Choose the option you prefer to receive your access codes, then press continue.



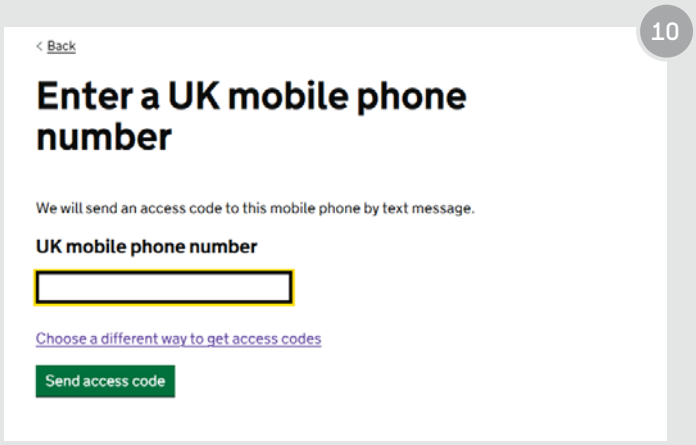
STEP 9

If you chose to receive your access codes by text message, you will now be prompted to confirm you have a UK mobile number. Press continue.



STEP 10

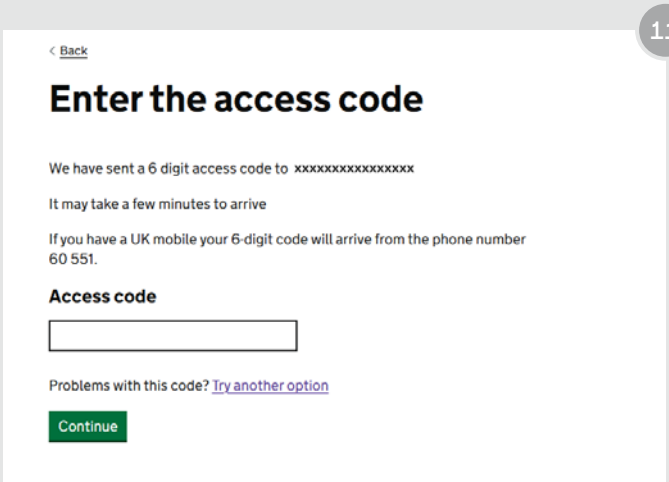
Add the mobile number then select 'send access code'.



The registration process

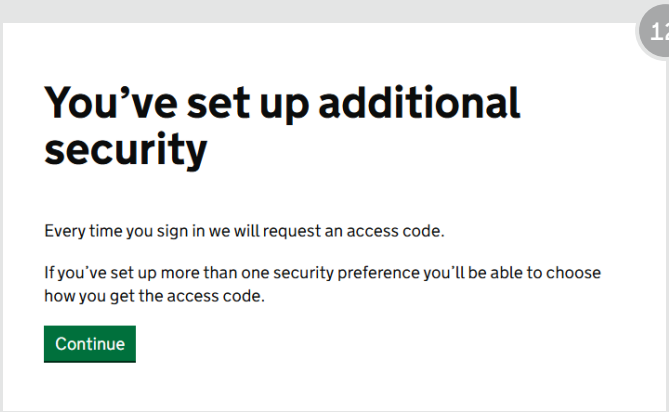
STEP 11

Once the access code has been sent to your mobile device, enter the code then press continue.



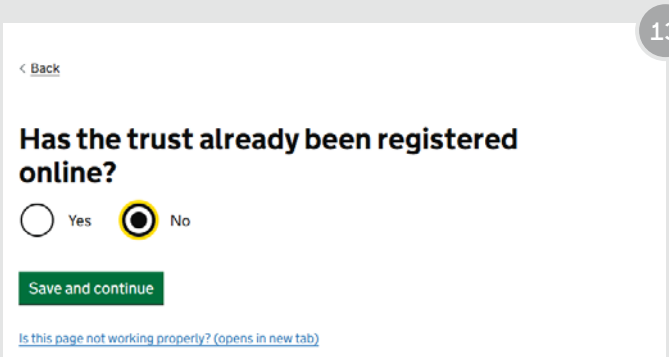
STEP 12

Take a note of the additional security information presented at this stage. Press continue.



STEP 13

This step asks you if the trust has already been registered. Choose 'no' if correct, then save and continue.



The remainder of the steps will ask you about the nature of the trust and its tax liability since the trust was created. Choose the correct options, entering all details when prompted, to continue to register the trust.

Note: If the only asset held in the trust is an investment bond and has been since inception, the trust is unlikely to be taxable.

The registration process

PART B – Enter Trust details

You're now presented with the Registration progress screen.

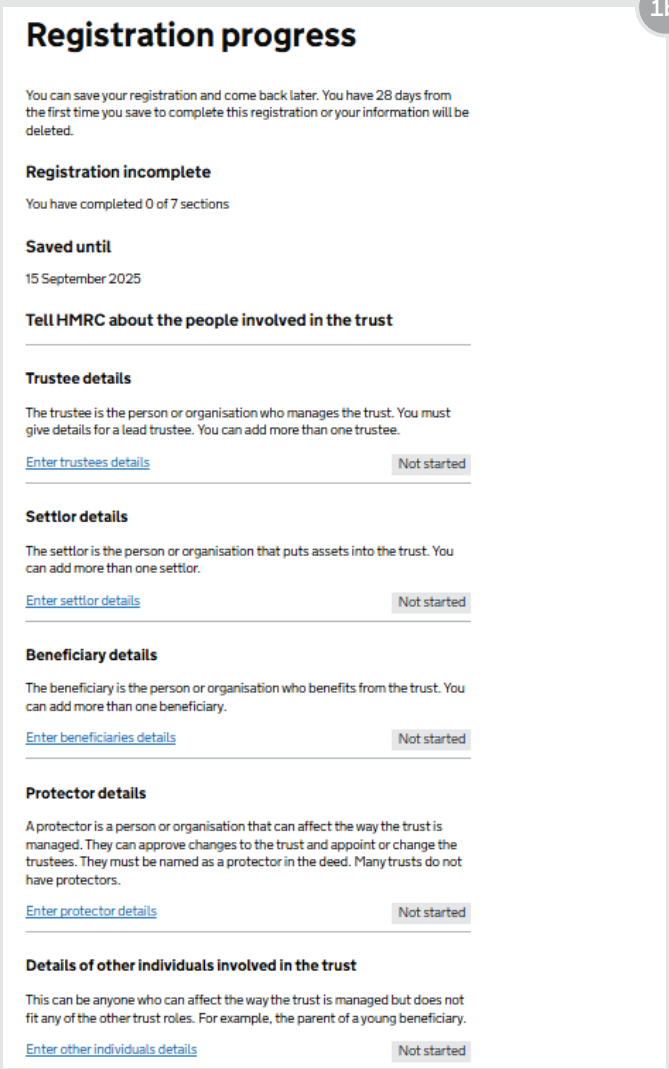
This screen shows the sections to be completed.

You have 28 days to complete the sections.

Select the required sections and enter the details as prompted.

Once this part of the registration process is completed, you will be given the option to move on to the next Declaration stage.

1b



PART C – Declaration

Read the declaration that appears on screen and enter your full name as the lead trustee when prompted. Then confirm.

Your trust is now registered.

Take a note of the registration reference number that appears on screen as you will need to have this number when contacting HMRC about the registration process.

Note that as well as the reference number, the trust needs to be assigned a 15-digit Unique Reference Number which is the number that should be used to reference the trust itself.

The Unique Reference Number will appear on HMRC's official proof of registration document which you can now request.

The registration process

PART D – Proof of registration

The proof of registration document is evidence that the trust has been registered in the UK. This is an important document so make sure you have this proof of registration as the final stage of the registration process.

The document can be obtained at any time by logging back into the UK Trust Registration Service using the Government Gateway ID created when the trust was registered.

Trustees must provide evidence of TRS when entering into a new business relationship with a provider, who then must check the information on the TRS matches the trust detail they hold.

Before Aberdeen, can accept new business into our Gift Plan, Loan Plan or Discounted Gift Plan, we need sight of the pdf document confirming registration. An existing trust wishing to invest the trust fund into one of our investment bonds or Wrap personal portfolio must also provide evidence of TRS before the new business can be set up.

Providers also have an obligation to ask for evidence that a trust has been registered before certain transactions can take place on investments held in trust.

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