

HMRC reporting requirements re: Trust arrangements in Morris clubs

Introduction

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended in 2020) apply throughout the UK. Link below for the relevant part of the regulations for those that like reading legislation in their spare time:-

<https://www.legislation.gov.uk/uksi/2017/692/regulation/45>

These regulations are to combat money laundering, by creating a record of who is entitled to assets held in trusts.

Under these rules, express trusts are required to register with HMRC's Trust registration service (TRS), even if they do not have any tax liability.

The kind of Trusts that are caught by these registration rules is extensive. It includes what are known as 'Bare Trusts', essentially someone holding money on behalf of someone else, even if there is no formal written Trust document.

Most if not all Morris sides, will hold a Bank account, and possibly other assets such as land, although this will be rarer. Those assets will be held by nominated people (in the case of a Bank account the people named on the account) on behalf of the membership of the club.

These arrangements are Bare Trusts and are caught by the requirement to register on TRS. This affects any club with a Bank account or other assets. Ownership of land by a club presents more complex issues and professional advice may be required. Action is required now.

Why is HMRC/UK Government interested in Morris club Bank accounts when we aren't money laundering?!

They aren't bothered, or at least not directly.

What they are bothered about (among other kinds of Trust structures) are Bare Trusts, where money is held by one person, but actually belongs to someone else.

Most if not all Morris Clubs are 'unincorporated associations', meaning simply a group of people that come together to do something, maybe with a Constitution, club officers etc. If the group is not a limited company (or for these purposes a Charity), then it is not a separate legal entity in itself. It acts and holds assets through its officers/Bank account holders etc. This creates the Bare Trust mentioned.

Unfortunately, this is exactly the kind of arrangement the rules are designed to catch, not so much because of Morris sides, community groups, sports clubs etc, but because of others using the same kind of legal arrangements for perhaps less legitimate purposes.

We have simply been caught in the net alongside many other similar types of groups.

Problems arising from the requirement to register on TRS

The requirement to register became live in September 2022, although HMRC are not enforcing penalties unless Trustees refuse to register once made aware of their obligations. There will be many

non-compliant Trust structures in the UK at present where people do not know about TRS and this is recognised by the Government.

That said, penalties for non-compliance are fines on Trustees of up to £5,000 for failing to register, or up to £5,000 for failing to update the TRS system when there are changes (e.g. a change the account holders at the Bank).

Alongside the requirement to register on TRS, there are now further obligations on others who interact with registerable Trusts. These affect 'Relevant Persons' who are people or companies who work professionally for a Trust and who themselves are subject to Money Laundering reporting obligations.

Relevant persons who are instructed to act for a registerable Trust, must first check the Trust is registered and that the TRS register is correct and up to date. They also have an ongoing obligation to check this on existing professional engagements.

For Morris sides, the most likely category of Relevant Person they will engage with is their own Bank.

If there is an existing professional relationship, then if TRS compliance cannot be confirmed, the Relevant Person has to notify HMRC who would then contact the Trustees requiring compliance, with fines to follow if not. Until it is resolved, no work could be done by the Relevant Person.

This could mean for a Bank that they suspend a Morris side's account. If no TRS compliance is then completed, an account could be closed permanently.

It is just a matter of time before this happens to someone.

What should we do?

Firstly, take this seriously. It may seem a little bewildering that Morris clubs are getting wrapped up in Trust law and anti-Money laundering regulations, but this is real and has already happened.

Clubs will over time have a varying experience of this issue, depending who they are dealing with. Some Banks will not be chasing this issue up as yet, some will take longer than others to do so. However, as they need to check TRS registration as an ongoing obligation, this will start to crop up.

As the penalty regime is fairly relaxed at present, sides should not, hopefully, have any problems with that. The regime will get tougher however and HMRC will issue fines more widely as time goes on.

The rest of this document looks at the practicalities of registering on the TRS system, and the information it requires. Work through that, identify what you need to complete it, and then go through the process.

It is possible to appoint a professional agent such as an Accountant or Solicitor to complete this for the club. If you have one dancing with you, give them this document to read at your next practice and give them the bad news. However, TRS has been designed for Trustees to deal with registration directly, so if you follow the steps in this guide you should be fine.

The follow up to that, is to ensure the TRS system is kept up to date. As Bank account holders change in your club, make sure the TRS system is updated too. Trying to keep account holder changes to a minimum will help keep that burden manageable.

Final points

These notes are not intended as legal advice and should not be relied on as such. This is a practical summary of information held at HMRC regarding TRS, as it applies to majority of Morris clubs who operate a Bank account, to assist in dealing with reporting obligations under the TRS system.

If your club has more complex arrangements, such as formal Trust deeds, ownership of land or other valuable assets, or operate as a limited company or charity, you should take specific legal advice on your reporting requirements and not rely on these notes.

Good luck!

Ed Worrall

JMO Committee member

Past Squire and Treasurer of the Morris Ring

Dealing with registration on TRS

1. Initial steps

HMRC administer the TRS system.

This is the link for Trustees to use to access TRS and deal with registration of a Bare Trust:-

<https://www.gov.uk/guidance/register-a-trust-as-a-trustee>

At the bottom of the page on the link, click on the green "Register now" button. Part of the registration process will require the lead trustee (see section 2 below) to set up a Government Gateway (GG) user ID and password.

This GG account is not the same account as the trustee may have for their personal or business tax affairs. The trustee must select "Organisation" as the type of GG user id required.

2. Who does the TRS system want information about?

The TRS system is designed with formal Trusts in mind. It asks for information on certain key people who would be involved in a Trust, which don't fit easily with a Bare Trust arising over e.g. a Bank account in a Morris club.

However, it will be necessary to identify the relevant people as best you can. The following are suggestions on how to deal with this

- **Settlor** – this is a person who creates a Trust. For a Morris club, this could be the person who originally opened the Bank account or provided the funds. However it is unlikely this person will be known or could be identified with certainty. If that is the case, then the best information on who originated the account will need to be input or simply use a nominated 'place holder' person in the club to satisfy the TRS system.
- **Lead Trustee** – This is the person who will be nominated on the TRS system to be the main point of contact for HMRC. This will be one of the Bank account holders. You will need to decide who this will be.
- **Trustees** – This would be all of the other Bank account holders nominated on the account

- Beneficiaries – These are the people for whom Trust assets are held. This would be the members of the Morris club, but it is not necessary to include details of all the club’s members individually. Instead a ‘class of beneficiary’ option should be used e.g. ‘The members of [insert club’s name as per the Bank account]’
- Other key people – The TRS system will also ask if there are ‘Protectors’ or other significant people involved with the Bare Trust. Unless there is a formal Trust deed for a club appointing such people, the answer to this will be ‘No’.

3. What else do you need to complete the TRS information?

Once the Lead Trustee has obtained their organisation Government Gateway account and started to register the following questions will arise:-

- Is the Trust already been registered online? The answer will be no
- Does the trust have a Unique Taxpayer Reference (UTR)? This will be No (unless the Morris club is registered with HMRC to submit annual tax returns)
- Are you registering an express trust? The answer will be yes.
- Does the trust have any tax liability from 6 April xxxx to 5 April yyyy? The answer will usually be no (unless the Morris club actually is paying tax)
- Has the trust had any UK tax liability in the last four tax years? The answer will usually be No (unless the Morris Club actually is paying tax)
- The name of the Trust – Use the Morris club’s name
- Date the Trust was created – This will be the date the Bank account was originally opened, or the best information you have for this
- Details of any UK land purchased – This will almost certainly be no
- Is the Trust registered on another country’s Trust register – The answer will be no
- Are the Trustees based in the UK – Answer as appropriate
- Settlor – This will be a living settlor at the time of the Trusts creation. Deceased Settlers are only relevant for Trust created in someone’s Will. You will need their full name, date of birth, date of death (if relevant), last known country of residence, last known country of nationality, whether they have mental capacity at the point of registering on TRS (‘not known is an option’). You will be asked if there is any further Settlers to give details for, answer this as appropriate.
- Lead Trustee details – You will need their full name, date of birth, National Insurance number, telephone number, country of residence, country of nationality. Ignore questions regarding the Lead Trustee being an ‘Organisation’. For these purposes, they are not.
- Other Trustees details – You will need their full name, date of birth, country of residence, country of nationality, whether they have mental capacity at the time of registration on the TRS system (‘not known is an option’)
- Beneficiary details - a ‘class of beneficiary’ option should be used e.g. ‘The members of [insert club’s name as per the Bank account]’

- Does the Trust own or have a controlling interest in a company based outside the EU, Norway, Iceland or Liechtenstein – The answer will be no (or if the club does, can I join please)

Once all of this is done, you can save a draft to check. You will need to submit the draft within 28 days or you will have to re-enter the data.

Once submitted, you will get a confirmation screen. Print this and keep a copy. HMRC will then write a letter to the Lead Trustee confirming registration and issuing the URN (or Unique Reference Number) for the Trust. This is vital information for any further updates needed to the TRS system in the future. Keep this safe.

TRS registration is now complete. The Lead Trustee can log into the TRS via the Government Gateway account and download proof of registration if required by a 3rd party, such as your Bank.

Future updates to the TRS

Any changes to the registered details must be made within 90 days on the TRS system. Failure to do so can incur the same fines as mentioned above for failing to register i.e. up to £5,000.

The lead Trustee would normally take responsibility for updating the TRS system. They would need to use the same GG account they set up originally when registering the Trust. Below is a link to HMRC's advice page on the kind of updates you may need to make, and how to do so:-

<https://www.gov.uk/guidance/manage-your-trusts-registration-service#updating-your-trusts-details>