

A PRIVILEGED PROFESSION?

HOW THE UK'S
LEGAL SECTOR ESCAPES
EFFECTIVE SUPERVISION
FOR MONEY
LAUNDERING

by Helen Taylor and
Daniel Beizsley

spotlight
on
corruption

ACE
GLOBAL INTEGRITY
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Research Programme

Abbreviations and Acronyms

ABS	Alternative Business Structure
AML	Anti-money laundering
APPG	All-Party Parliamentary Group
CLC	Council for Licensed Conveyancers
CPS	Crown Prosecution Service
CTF	Counter-terrorist Financing
DAML SAR	Defence Against Money Laundering Suspicious Activity Report
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
MLR	Money Laundering Regulations
NCA	National Crime Agency
OCCRP	Organized Crime and Corruption Reporting Project
OPBAS	Office for Professional Body Anti-Money Laundering Supervision
PEP	Politically Exposed Person
POCA	Proceeds of Crime Act 2002
PBS	Professional Body Supervisor
SAR	Suspicious Activity Report
SDT	Solicitors Disciplinary Tribunal
SRA	Solicitors Regulation Authority
UWO	Unexplained Wealth Order

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EXECUTIVE SUMMARY

From setting up complex company structures for clients to helping purchase luxury real estate and negotiate mortgages, lawyers play a critical role in facilitating and legitimising money flows. Their role as witting or unwitting “enablers” of money laundering has long been recognised.

Ensuring that lawyers stay on the right side of the fight against money laundering and alerting law enforcement to suspicious funds is essential to the integrity of the UK financial system and to the UK’s national security.

Up to now, the legal profession has largely been allowed to regulate itself when it comes to money laundering – with anti-money laundering (AML) supervision falling to nine different professional bodies in the sector. This system is broken.

In 2015, the government’s first ever National Risk Assessment of money laundering threats identified the large number of supervisors for the legal and accountancy sectors as a key driver of serious “inconsistencies” in the UK’s anti-money laundering supervisory regime.¹ In 2018, the global AML watchdog, the Financial Action Task Force (FATF), also found “significant deficiencies in supervision by the 22 legal and accountancy sector supervisors.”²

In response, the government set a target in its 2019–22 Economic Crime Plan to “strengthen the consistency of professional body AML/CTF supervision” by March 2021.³

Our report, which is based on a comprehensive review and analysis of existing supervisory data over the past three years, finds that there is a long way to go in achieving this goal. The legal sector supervisors tasked with holding legal firms to account for breaches of the UK’s AML rules remain fragmented, with enforcement action uneven and inadequate. Our five main findings are listed below.

1. There are still significant levels of non-compliance with AML rules in the legal sector

- Almost a quarter of legal firms visited by the nine legal sector supervisors in 2019/20 were assessed as non-compliant with AML rules.⁴
- 71% of firms visited by the biggest legal sector supervisor – the Solicitors Regulation Authority (SRA) – in 2020/21 had not put in place an independent audit function to gauge the effectiveness of their AML policies, controls and procedures.⁵
- 60% of firms subject to a full on-site visit by the SRA in 2020/2021 were not fully compliant with requirements to have adequate AML policies, controls and procedures in place.⁶
- 21% (50 out of 241) of files reviewed by the SRA across these firms visited under this process displayed a continued failure to do proper checks on their customers.⁷

2. The legal sector benefits from unique protections when it comes to AML rules

- Defences under the UK's Proceeds of Crime Act 2002 (POCA) give lawyers a free pass to look the other way when accepting suspect funds for the payment of legal services.⁸
- The legal sector is exempt from reporting suspicions of money laundering which come to them "*in privileged circumstances*", including in the course of litigation.⁹ While legal professional privilege has a crucial role to play in securing access to justice, its potential for abuse or misapplication may be exacerbating the low rates of Suspicious Activity Reports (SARs) filed by the legal sector. Just 0.52% of SARs filed in 2019/20 came from the legal sector – a fall of over a half since 2012/13, when legal sector SARs represented 1.24% of all SARs filed.¹⁰
- Significant areas of work conducted by the legal sector fall explicitly outside of the UK's AML rules and therefore any AML oversight or supervision, including: the provision of legal advice; participation in litigation and alternative dispute mechanisms such as arbitration; will writing; and the payment of costs to lawyers.¹¹
- Lawyers who are not members of one of the legal sector supervisory bodies are effectively left unsupervised when they engage in work that falls squarely within AML rules, owing to the absence of a default supervisor for the legal profession.¹²

3. Legal sector supervisors have low levels of enforcement and are imposing low levels of fines for breaches of the AML rules

- Legal sector supervisors took formal action in just a third (34.6%) of cases where they found non-compliance after an on-site visit in 2019/20. HMRC and the FCA, by comparison, took formal action in 100% of cases where they found non-compliance after both visits and paper reviews.¹³
- Legal sector supervisors take nearly three times more informal than formal actions when they find non-compliance with AML rules, suggesting they might be taking a softer approach to non-compliance than other supervisors. HMRC and the Gambling Commission, by comparison, take roughly equal informal and formal actions, and the FCA takes more formal than informal actions.¹⁴
- £621,252 – the total value of AML-related fines imposed on the legal sector in the three years from 2017 to 2020, compared with £103 million imposed by the FCA, £12.7 million by HMRC and £67 million imposed by the Gambling Commission.¹⁵
- £11,906 – the average fine issued by the SRA for AML failings in 2019/20; compared with average fines of £61,700 issued by HMRC and £3.35 million issued by the Gambling Commission.¹⁶
- £232,500 – the largest fine imposed by the SRA on a law firm – which if it had been calculated on similar criteria to that used by the FCA in imposing AML fines, could have reached £5.4 million (20 times what was imposed by the SRA on the firm).^{16a}
- 8 – the number of fines imposed by the Law Society of Scotland between 2017/18 and 2019/20, totalling £18,500, despite finding 63 cases of non-compliance after on-site visits.¹⁷

- 1 – the number of fines imposed by the Law Society of Northern Ireland over three years, totalling just £1,750, despite finding 228 cases of non-compliance.¹⁸
- 0 – the number of fines for breaches of AML rules between 2017/18 and 2019/20 issued by the Council for Licensed Conveyancers (CLC), the specialist legal supervisor for the high-risk property sector, despite the CLC finding non-compliance among 62% of its supervised firms in 2019/20.¹⁹
- 0 – the number of top 25 law firms – which includes the elite “*magic circle*” firms – fined by the SRA in relation to money laundering in the last three years (while just one “*silver circle*” firm has been fined for AML breaches during this period).²⁰
- 0 – the number of law firms prosecuted for criminal breaches of AML rules.²¹

4. The body set up in 2018 to drive consistency in supervision in the legal and accountancy sectors, the Office for Professional Body AML Supervision (OPBAS), has not been able to raise standards sufficiently across the board

- In 2020/21, it found that just 15% of legal and accountancy supervisors overall were effective “*in using predictable and proportionate supervisory action.*”²²
- 19% of legal and accountancy supervisors “*had implemented an effective risk-based approach*” to supervision.²³
- 26% of legal and accountancy supervisors were using the full range of enforcement tools at their disposal effectively.²⁴

Despite these poor results, OPBAS has used its power to get supervisors in these sectors to take remedial action in just four cases in the past three years.

5. Lack of transparency by legal sector supervisors in their enforcement actions and inconsistency in the collection of supervisory data are undermining the effectiveness of the UK’s AML regime

- Three out of nine legal sector supervisors do not appear to publish any information about disciplinary or enforcement actions on their websites.
- Six legal sector supervisors fail to proactively disclose full details of enforcement actions on their websites.
- The largest supervisor, the SRA, removes enforcement decisions after three years (compared to five years at HMRC²⁵ and no removal policy at the FCA²⁶).
- There is a plethora of supervisory data collected by OPBAS, HM Treasury and individual supervisors, all using different reporting cycles, metrics and templates, making comparison difficult and creating incongruent information.
- OPBAS fails to provide detailed disaggregated data on individual supervisors that it reviews, meaning that failing supervisors receive inadequate public scrutiny.

The case for reform

Calls for reform are growing. The 2022 Economic Crime Manifesto published by two all-party parliamentary groups calls for “a radical overhaul” of AML supervision.²⁷ Parliament’s Treasury Select Committee similarly called during 2022 for radical reforms, including the creation of a “supervisor of supervisors.”²⁸

In June 2022, the government’s consultation on the UK’s AML regime concluded that there is indeed a need for reform to improve the effectiveness of AML supervision.²⁹ However, it has decided further work and consultation is needed to identify what reform should look like.

We are calling for the government to work with the legal sector to consolidate and significantly improve AML supervision by taking the following actions:

- Establishing a single sectoral AML supervisor in the first instance to help deliver more robust and consistent enforcement across the legal sector;
- Following through reforms to give the SRA unlimited powers to impose AML fines on law firms and to limit the Solicitors Disciplinary Tribunal (SDT) role to appeals in these cases, as a step towards the SRA acting as the sector’s key AML enforcer more effectively;
- Strengthening OPBAS to function as a full-bodied AML “supervisor of supervisors” across the regulated sector, to coordinate and hold to account all AML supervisors;
- Enhancing the transparency and quality of data on AML supervision, including enforcement notices from legal sector supervisors, and supervisory data on individual supervisors from OPBAS;
- Establishing clear lines of responsibility and proactive engagement between legal sector supervisors and a specialist “enablers cell” in the NCA to ensure that the legal sector faces a realistic prospect of criminal investigation when criminal breaches of the MLRs occur;
- Ensuring that potential cracks in the AML framework for the legal sector are addressed by enhanced supervisory guidance on when AML rules apply to legal work and on how to avoid abuse of privilege in suspicious activity reporting, as well as an independent review of rules that allow lawyers to be paid with tainted funds.

KEY STATISTICS

24% of legal firms visited by legal sector supervisors in 2019/20 were assessed as non-compliant with AML rules.³⁰

60% of firms reviewed on-site by the biggest legal sector supervisor – the Solicitors Regulation Authority (SRA) – in 2020/21 were not fully compliant with requirements to have adequate AML policies, controls and procedures in place.³¹

50% of legal sector supervisors reviewed by the Office of Professional Body AML Supervision (OPBAS) in 2020/21 used their information gathering and investigative powers effectively.³²

33% of legal sector supervisors reviewed by OPBAS in 2020/21 were not effective in using a broad range of tools to supervise members.³³

£232,500 the highest AML fine ever imposed by a legal sector supervisor, compared to £17 million by the Gambling Commission, £23 million by HMRC and £163 million by the FCA.³⁴

£621,252 the total value of AML-related fines issued by the nine legal sector supervisors between 2017/18 and 2019/20.³⁵

£67,500 total value of AML related fines issued in 2020/21 by the Solicitors Disciplinary Tribunal (SDT) – the body with the power to impose unlimited fines for solicitors in England and Wales and whose highest AML fine since 2017 is £30,000.³⁶

0 the number of top 25 law firms – which includes the elite “*magic circle*” firms – fined by the SRA in relation to money laundering in the last three years.³⁷

0 the number of fines issued by the Council for Licensed Conveyancers (CLC) – the supervisor for property sector lawyers – between 2017/18 and 2019/20.³⁸

0 the number of law firms prosecuted for criminal breaches of the MLRs.³⁹

2.9 times more informal than formal actions used by legal sector supervisors where they identify non-compliance with the MLRs after an on-site visit, compared to 1.7 for the accountancy sector supervisors, 1.46 for the Gambling Commission and 1.18 for HMRC.⁴⁰

0.52% of SARs filed in 2019/20 emanated from the legal sector – a fall of over a half since 2012/13, when legal sector SARs represented 1.24% of all SARs filed.⁴¹

INTRODUCTION

Russia's renewed invasion of Ukraine has provoked a profound reconsideration of the legal profession's role in facilitating corruption and money laundering and of its responsibilities as a "gate-keeper" to legitimate financial and business markets.

Within days of the invasion, the UK's legal services industry - previously touted as one of the major economic hopes of post-Brexit Global Britain⁴² - was identified by the then Prime Minister, Boris Johnson, as a crucial cog in Putin's war machine.⁴³ The former Home Secretary Priti Patel more recently wrote that she wanted to see "*lawyers, property agents and accountants*" who facilitate money laundering sent to jail.⁴⁴

Some have even described the reputational crisis facing the legal sector as akin to that faced by the banks in the aftermath of the 2008 financial crisis.⁴⁵

This scrutiny has drawn attention to the "*paltry*" penalties for the professional enablers of "*dirty money*", with inadequate supervision and enforcement meaning that "*lawyers who turn a blind eye can expect no more than a rap on the knuckles.*"⁴⁶

The legal sector has long been recognised to be at high risk of exploitation as far as money laundering is concerned. The UK's latest National Risk Assessment of money laundering and terrorist financing states that the risk of abuse of legal services for money laundering "*remains high,*" while highlighting the significant risk faced by conveyancing, trust and company services and client accounts.⁴⁷ Meanwhile the National Crime Agency (NCA) in its 2020 Serious and Organised Crime assessment states, that legal professionals, alongside financial professionals, are routinely targeted by organised crime gangs to "*facilitate the laundering of the proceeds of crime and to help criminals avoid prosecution.*"⁴⁸

Under anti-money laundering (AML) rules introduced when the UK was part of the European Union, law firms are required to have effective AML systems in place. Legal professionals must also be properly trained to spot money laundering risks in individual transactions. Enforcement of these rules falls to nine different professional bodies who act as supervisors for the legal sector in the UK.

This report looks at where legal sector supervision is falling short and provides evidence-based recommendations that can be taken forward. A radical overhaul of the broader AML supervisory regime is now required to ensure that lawyers and other professional enablers do not allow the UK's financial and legal systems to be exploited by corrupt actors.

KEY FINDINGS

1. The legal sector continues to display significant levels of non-compliance with the UK's AML regime 15 years after its introduction

Recent reviews by legal sector supervisors have identified ongoing significant levels of non-compliance with the UK's Money Laundering Regulations (MLRs) – first introduced in 2007, updated in 2017 and further amended in 2019.

HM Treasury's most recent review of AML supervision (in 2019/20) found that:

- 24.3% (101 out of 414) – nearly a quarter – of firms visited by legal sector supervisors were assessed as non-compliant with these regulations.⁴⁹

Meanwhile the sector's largest supervisor, the Solicitors Regulation Authority (SRA) – which regulates 75% of legal firms registered for AML supervision (6,593 out of 8,791) – found in its 2020/21 AML review that:

- 60% of firms subject to a full on-site visit under a new process introduced by the regulator were either not compliant or only partially compliant with the requirement under the MLRs to have adequate controls, policies and procedures in place.⁵⁰
- 25% of 42 firms visited did not have any information on source of wealth and source of fund checks in their policies.⁵¹
- 21% (50 out of 241) of files reviewed across these firms displayed a continued failure to do proper checks on their customers, including failing to collect any documentation at all, only identifying one individual involved in a transaction and failing to collect information on the ultimate owners of a company.⁵²
- 71% (49 out of 69) of a wider selection of firms visited by the SRA had not put in place an independent audit function to gauge the effectiveness of their AML policies, controls and procedures despite being required to do so by Regulation 21 of the 2017 MLRs.⁵³

During 2020/21, the SRA found sufficient concern about money laundering that it reported 39 potential instances of money laundering relating to £180 million in suspect transactions via a Suspicious Activity Report (SAR) to the NCA.⁵⁴

2. The legal sector has considerable discretion in applying AML rules, owing to unique protections afforded to lawyers

Significant areas of legal activity fall outside the scope of AML regulation and supervision, owing to unique protections afforded to the legal sector. These protections include the following:

- The legal sector is largely left to decide for itself whether activity undertaken falls within scope of the AML regulations or not. Solicitors and barristers are advised to “*decide for themselves*” on a “*case by case basis*” as to whether activity they undertake falls within scope, although they may be required to declare annually whether or not they are undertaking such work.⁵⁵
- Significant areas of work conducted by the legal sector fall explicitly outside the UK’s AML rules and therefore any oversight. These include: work done by in-house professionals and public authority lawyers; provision of legal advice; participation in litigation and alternative dispute mechanisms such as arbitration; will writing; and the payment of costs to lawyers.⁵⁶
- Lawyers who are not members of a legal sector supervisor are left without any oversight on money laundering. The absence of a “*default*” supervisor for these lawyers is a supervisory gap that needs urgent attention.⁵⁷
- Defences under the UK’s Proceeds of Crime Act 2002 (POCA) – in particular the “*adequate consideration*” defence in section 329(2)(c) – give the legal sector a free pass to accept payment from the proceeds of crime. Funds received by the legal sector as payment for services under this defence, which may include arm’s length transactions and enforcement of third-party debt, are in effect no longer the proceeds of crime. This leaves open the possibility of legal services being used to launder dirty money, and skews incentives for legal professionals.
- Lawyers are exempt from reporting suspicions of money laundering which arise “*in privileged circumstances*”, including in the course of litigation. While legal professional privilege has a crucial role to play in securing access to justice, its potential for abuse or misapplication may be a key factor behind the low rates of SARs submitted by the legal sector to the UK’s Financial Intelligence Unit. Just 0.52% of SARs in 2019/20 originated from the legal sector (3,006 out of 573,085),⁵⁸ an exceptionally low figure compared to its high risk profile as identified in the UK’s National Risk Assessments. Furthermore, the number of SARs filed by the legal sector has actually declined overall rather than increased since 2012/13, when SARs from the legal sector represented 1.24% of overall SARs (3,935 out of 316,527).^{58a}

3. Legal sector supervisors are undertaking low levels of supervisory enforcement when they encounter breaches of AML rules

The diverse nature of the legal sector means it is inevitable there will be variations in money laundering risks and therefore also enforcement rates across different parts of the

sector. We have sought to focus comparisons between supervisors who are overseeing firms with similarly high AML risks, and we found that:

- In 2019/20, legal sector supervisors took formal action for breaches of AML rules in just a third – 34.6% – of cases following on-site visits to firms (35 actions in relation to 101 instances of non-compliance).⁵⁹ In the case of desk-based reviews, these supervisors took action in only just over half of cases where they found breaches (30 actions in relation to 54 instances of non-compliance – or 55.5%).⁶⁰ By comparison, in the same year HMRC took formal action in 100% of instances where it identified non-compliance after both desk-based reviews and on-site visits.⁶¹
- All legal sector supervisors are imposing low-value fines. The SRA – which supervises 75% of the legal sector in the UK – issued 30 fines in the three years from 2017/18 to 2019/20 for AML failings, worth £430,000 (an average total of £143,333 a year).⁶² While the number of AML fines increased from 7 in 2018/19 to 16 in 2019/20, their total value decreased from £340,002 to £190,500.⁶³
- The SRA’s average fine imposed for AML in 2019/2020 was £11,906, which, while well above the average of £1,159 in the accountancy sector, compares poorly with the average for HMRC in that year of £61,700, and for the Gambling Commission of £3.35 million.⁶⁴
- Despite the fact that conveyancing (or property sector) is very high risk for money laundering, the Council for Licensed Conveyancers (CLC) did not issue a single fine against any of its 229 members between 2017/18 and 2019/20. It took formal action in just 3 cases following 207 on-site visits conducted between 2017/2018 and 2019/20, despite finding non-compliance with AML rules among 62% of firms that it supervises in 2019/20.⁶⁵
- The Law Society of Scotland has imposed just 8 fines, worth a total of £18,500, in the three years to 2020 (despite identifying 63 instances of non-compliance with the regulations after on-site visits over that period)⁶⁶ while the Law Society of Northern Ireland has imposed just one fine, worth £1,750 (despite identifying 228 instances of non-compliance with the regulations after on-site visits over that period).⁶⁷

4. The SRA has serious inconsistencies and weaknesses in its enforcement, both in policy and in practice

Unlike other AML regulators,⁶⁸ the SRA cannot currently impose unlimited fines for money laundering and has a confusing patchwork of different rules for how it imposes fines, depending on the size and nature of the firm.^{68a} Inconsistencies and weaknesses include the following:

- Different policies on how it calculates fines. Under its new enforcement policy introduced in June 2022, the SRA increased the amount it can fine traditional law firms with a turnover of under £2 million (and their solicitors) to £25,000.⁶⁹ Firms with a turnover of over £2 million can currently be fined up to 2.5% of that turnover (although new legislation currently before Parliament may see this change subject to further consultation by the SRA).⁷⁰ Meanwhile, the SRA can impose fines of up to £250 million on Alternative Business Structures (ABSs)⁷¹ – legal firms that operate with non-legal partners, which make up about one-tenth of UK law firms.⁷²

- An apparent unwillingness to use maximum fine levels with ABSs, and a generous mitigation discount policy. In December 2021 the SRA imposed a fine of £232,500 on Mishcon de Reya – an ABS – for conduct that “gave rise to a risk of facilitating money laundering.”⁷³ While this was a record fine for the sector, it represented just 0.25% of Mishcon’s £155 million turnover. It also included a 40% discount “to reflect the mitigating circumstances” – more generous than the maximum 30% discount granted by the Financial Conduct Authority (FCA) when companies settle early.⁷⁴ If Mishcon had been fined on the basis of the principles generally followed by the FCA when imposing regulatory AML fines (based on a much higher proportion of firm turnover), it could have faced a fine of up to £5.4 million (20 times the amount the SRA imposed).⁷⁵
- A reluctance to take action against elite law firms. In the last three years, none of the top 25 law firms by revenue – which includes the elite magic circle firms – have been fined by the SRA in relation to money laundering. Only one silver circle firm, Mishcon de Reya, which was ranked in 2021 as the 32nd largest law firm by revenue, has been fined.⁷⁶

5. The division of labour between the SRA and the Solicitors Disciplinary Tribunal – the independent enforcement body of the SRA with the power to impose unlimited fines – on AML supervision is not working

The SRA refers the most serious cases of money laundering breaches to the Solicitors Disciplinary Tribunal (SDT) where they involve traditional law firms. The SRA cannot, however, refer money laundering cases involving ABSs to the SDT – in enforcement action against these kinds of firms (rather than individual solicitors within them), the SDT operates solely as an appeal forum for ABSs.

The SDT’s own track record on how it enforces money laundering breaches throws up inconsistencies and questions about how effectively it is tackling the issue:

- The highest fine that the SDT has ever imposed for money laundering is £30,000.⁷⁷
- The SDT has never imposed a money laundering fine at “level 5” – its highest fine category based on seriousness of offending.
- Our review of SDT decisions suggests that the Tribunal favours approaching money laundering by firms and individuals as a violation of the SRA Principles 2011 and the SRA Code of Conduct, and not as a breach of the MLRs.⁷⁸ It also suggests the SDT has an overly generous interpretation of “mitigating circumstances,” which may be suppressing fine levels.
- 95.1% of AML-related cases taken by the SDT relate to sole practitioners and small firms, which represent 51.2% and 43.9% of cases respectively. While this may reflect the higher money laundering risks faced by these operators, these statistics raise questions about whether the SRA and SDT are focusing on “low-hanging fruit” in enforcement.⁷⁹

6. There are inconsistencies in governance and practice between the different legal sector supervisors

Effective AML supervision requires supervisors to: have in place effective governance arrangements free from conflicts of interest; engage robustly with their AML population (members whose work might put them at risk of becoming involved in money laundering) through both desk-based reviews and on-site visits; and be willing to act where non-compliance is identified. We found, however, that across the nine legal sector supervisors there are striking differences in governance and practice, resulting in major inconsistencies in how different sectors and geographical areas are supervised.

- The Office of Professional Body AML Supervision (OPBAS) has found that a number of legal sector supervisors are failing to effectively separate their regulatory and advocacy functions or appropriately manage conflicts of interest, as required by the MLRs.⁸⁰ Three supervisors in England and Wales operate as independent regulatory bodies, while other supervisors rely on an internal allocation of functions. Low levels of formal enforcement by supervisors in Northern Ireland and Scotland may bear out OPBAS' finding that supervisors without a clear separation of roles show "*some reluctance in taking robust supervisory and enforcement actions*" against their members.⁸¹
- There are significant disparities in the proportion of members subject to desk-based reviews and on-site visits across the different legal sector supervisors. The SRA for example, subjected 6.5% of its members to a desk-based review in 2019/20, the Law Society of Northern Ireland 2.4%, the Council for Licensed Conveyancers 1.3% and the Law Society of Scotland 0.6%.⁸² In contrast, the SRA subjects a much smaller proportion of its much larger supervised population to on-site visits than the other supervisors, visiting just 1.13% in 2019/20. The Law Society of Northern Ireland visited 29.4% of its members, the Council for Licensed Conveyancers 23.5%, and the Law Society of Scotland 17.7%.⁸³

7. The body tasked with improving supervision in the legal and accountancy sectors, OPBAS, has not been able to improve standards sufficiently across the board

Despite some welcome improvements in legal sector supervision since OPBAS was established in 2018, key indicators on how effective supervision is in the legal and accountancy sectors after three reporting cycles remain highly concerning.

OPBAS does not disaggregate its findings on AML supervision adequately to enable sector-specific findings. However, following a new methodology introduced in 2020/21 based on effectiveness OPBAS found that across the legal and accountancy sectors:

- Only 15% of supervisors were effective “in using predictable and proportionate supervisory action.”⁸⁴
- Only 19% of supervisors “had implemented an effective risk-based approach” to supervision.⁸⁵
- Only 26% of supervisors were using the full range of enforcement tools at their disposal effectively, and there was a continued “overuse of follow-up visits to address AML non-compliance and a reluctance to use other enforcement tools such as a reprimand or regulatory fines.”⁸⁶
- Only half (50%) of supervisors were “fully effective at resourcing their supervisory functions.”⁸⁸
- Only 33% of legal sector supervisors (a third) were not effective in using a broad range of tools to supervise members.⁸⁷

While OPBAS found that overall the legal sector had more effective supervision than the accountancy sector, it also found that:

- Only 50% of legal sector supervisors used their information-gathering and investigative powers effectively (compared to 62% of accountancy supervisors).⁸⁹
- The legal sector lagged the accountancy sector in handling conflicts of interest.

Despite these poor results, OPBAS has used its powers to require supervisors to comply with a supervisory requirement or remedy a compliance failure in just four cases. That is despite OPBAS committing to “take robust enforcement action” where legal and accountancy sector supervisors fail to deliver on their obligations. OPBAS has yet to use its powers to publicly censure a supervisor or to recommend to the Treasury that they remove a supervisor’s duties to oversee UK AML rules.

8. Transparency about legal sector supervision is hindered by the failure of legal sector supervisors to publish adequate information and by weaknesses in overall supervisory data collection

Transparency regarding supervisory and enforcement data is critical to the AML regime’s effectiveness. Transparency of overall data makes supervisors accountable for the way they fulfil their functions, while transparency regarding individual enforcement notices has a crucial deterrent value.

We found considerable gaps in transparency among the legal sector supervisors where individual enforcement actions were concerned:

- Three legal sector supervisors – the Law Society of Northern Ireland, the Solicitors Disciplinary Tribunal for Northern Ireland and the Faculty Office of the Archbishop of Canterbury – do not appear to publish any information about disciplinary or enforcement actions on their websites.⁹⁰

- The majority of the legal sector supervisors do not offer detailed reasons for their enforcement decisions on a consistent basis. Three of the nine supervisors provided no information, five published some information, ranging from summaries to detailed accounts, and only one gave a very detailed account with the full judgment also available.
- All of the six legal sector supervisors which provide information on their websites on enforcement and disciplinary action fail to disclose full findings from enforcement actions.
- The SRA currently removes information about most decisions from its website three years after publication,⁹¹ while HMRC's policy is to keep notices up for five years⁹² and the FCA has no policy in place to remove information after a specific time period.⁹³

With regard to overall supervisory data collected, there is now a plethora of different data, including: annual reports by individual supervisors; an annual report by OPBAS; and an annual report by HM Treasury. These reports all use different reporting cycles, metrics and templates, creating a sometimes confusing and contradictory picture of supervision and preventing meaningful comparison. In particular:

- While OPBAS and HM Treasury both use the same reporting cycle (April–April) for their reports on supervision, they use different metrics.
- While OPBAS publishes its reports promptly – usually within five months of the end of the reporting period – the two HM Treasury reports on AML supervision have taken 16 and 19 months to publish.⁹⁴
- OPBAS, meanwhile, does not provide sufficient disaggregation of its data, either between the legal and accountancy sectors or within the sectors, to provide a full picture of how different supervisors within the sectors are operating.
- Supervisory data collected by the legal sector supervisors meanwhile is not synchronised with that collected by HM Treasury and OPBAS, thereby preventing meaningful comparison. Supervisory data relating to money laundering collected by the SRA, for instance, operates on an October–October reporting cycle, and uses a different set of metrics from either OPBAS or HM Treasury.
- Finally, metrics in the different reports on supervisory performance have not been used consistently year on year or are omitted in some reports, meaning that it is difficult to identify trends from multi-year comparisons.

9. Owing to enforcement gaps, the legal sector faces almost zero threat of criminal prosecution for breaching the MLRs

The threat of criminal prosecution is essential for deterrence, as was shown by the FCA's prosecution of NatWest Bank under the UK's Money Laundering Regulations (MLRs) in December 2021. In April 2022, the IMF urged the UK to make "full resort" to the use of a broad range of enforcement tools to tackle money laundering and "particularly criminal penalties against corporations and senior managing officials."⁹⁵

While the FCA and HMRC have powers to bring criminal prosecutions of AML breaches under the MLRs against their supervised populations, legal (and accountancy) sector supervisors do not have these powers. This raises the crucial question of who is responsible for criminally prosecuting the most egregious breaches of the MLRs, particularly in the legal sector.

- While in principle the Crown Prosecution Service (CPS), HMRC or the FCA could prosecute breaches of the MLRs in the legal and accountancy sectors, there is little evidence that this is happening. In practice the FCA and HMRC appear unlikely to take on cases from other regulated sectors, given their own workload, while the CPS is dependent upon an investigation by law enforcement agencies.
- According to the last HM Treasury evaluation of AML supervision, referrals by legal and accountancy sectors to law enforcement nearly doubled between 2018/19 and 2019/20 (from 22 to 41).⁹⁶ Between 2018/19 and 2020/21 the SRA alone increased the number of SARs it submitted to the NCA by 105% (with the figure jumping from 19 to 39). However, there is not yet any public evidence that this has translated into a corresponding increase in criminal outcomes. While the NCA has referred 10 breaches of the MLRs to the CPS over the past three years,⁹⁷ there is no record of whether this has translated into prosecutions. There do not appear to have been any corporate prosecutions by the CPS under the MLRs.
- There is a lack of clarity as to whether criminal breaches of the MLRs, as opposed to cases under the POCA, fall within the remit of the NCA's focus on "*serious and organised crime*", and whether the NCA would have the expertise, resources and staffing levels to take on cases against large legal (or accountancy) firms for such breaches.

10. Legal sector supervision compares unfavourably to statutory AML supervision

Our research confirms OPBAS' findings that the legal sector marginally outperforms the accountancy sector in terms of the number of supervisory visits, and the value of fines imposed. However, the legal sector clearly falls behind some of the statutory AML supervisors across a number of metrics:

- Legal sector supervisors show a clear preference for engaging in informal enforcement actions after identifying instances of non-compliance following on-site visits. Between 2017/18 and 2019/20 legal sector supervisors undertook 429 informal actions compared to 146 formal actions, nearly three times more (2.9) – meaning that when they do take action, they are more likely to have a quiet word than issue warnings, rebukes or fines than the other supervisors. By comparison, the accountancy sector supervisors undertook 837 informal actions compared to 468 formal actions, or 1.7 times more. The Gambling Commission and HMRC have much more equal splits between the number of informal and formal actions (1.46 and 1.18 times more respectively).⁹⁸
- Legal sector supervisors subject an average of 6% of their AML population to a desk-based review per year, marginally better than accountancy sector supervisors (5–6%) but falling behind the Gambling Commission, which reviewed over a quarter of its AML population in 2019/20.⁹⁹

- Legal sector supervisors took action in 55.5% of cases,¹⁰⁰ after identifying cases of non-compliance following desk-based reviews in 2019/20 – higher than the Gambling Commission, which did so in 11.4% of cases¹⁰¹ but lower than the FCA, which did so in 100% of cases.¹⁰²
- Legal sector supervisors took action in 34.6% of cases,¹⁰³ after identifying cases of non-compliance following on-site visits in 2019/20 – higher than the Gambling Commission, which did so in 29.6% of cases¹⁰⁴ but lower than the FCA, which did so in 100% of non-compliant assessments.¹⁰⁵ HMRC does not disaggregate its data on desk-based reviews and on-site visits, but took formal action in 100% of cases in which it identified non-compliance.¹⁰⁶
- Legal sector supervisors appear to find lower rates of non-compliance when they conduct on-site reviews than some of the statutory supervisors. In 2019/20, legal sector supervisors found non-compliance in 24% of cases, while the Gambling Commission found it in 56% of cases, and the FCA in 50% of cases.^{106a} Although this could indicate lower rates of non-compliance in the legal sector it could also indicate that legal sector supervisors operate a higher bar for finding non-compliance.

RECOMMENDATIONS

There is broad consensus that the current regime for AML supervision isn't working. Our review of legal sector supervision suggests that urgent and radical reform of the AML supervisory regime is needed to ensure that legal professionals, alongside other regulated professionals, do not enable money laundering.

Given the evidence of continuing high levels of AML compliance failures in the legal profession, and low levels of formal AML enforcement by legal sector supervisors, it is crucial that reforms not only ensure greater consistency in approach to supervision but also raise the standard of supervision across the board.

The recent review by HM Treasury on the MLRs¹⁰⁷ and the UK's AML regulatory and supervisory regime has created a welcome opportunity to look at major structural reforms to how all firms – legal, accountancy and financial – should be supervised in order to strengthen the UK's defences against dirty money.¹⁰⁸

The government has laid out four different options for reform. These include:

- 1.** "OPBAS+": strengthening and empowering OPBAS to intervene where supervision fails and potentially also impose financial penalties.
- 2.** Consolidation of the legal and accountancy supervisors: transitioning supervised firms to either one or three supervisors (reflecting the different jurisdictions of the UK) for each of the accountancy and legal sectors.
- 3.** Single Professional Services Supervisor: creating a single statutory AML supervisor for the legal and accountancy sectors with similar powers to HMRC and the FCA.
- 4.** Single AML Supervisor: creating a new, centralised AML supervisor for the entire regulated sector.

In our view, the minimum level of reform required to improve AML supervision in the regulated sector would entail both a consolidation of supervisors and a significant strengthening of OPBAS's role. We do not rule out that greater consolidation, particularly in the form of a Single Professional Services Supervisor or a Single AML Supervisor for the UK, may offer real potential for achieving effective AML supervision to target high-end enabling services in the longer term.¹⁰⁹

In particular, we recommend that the government take the actions listed below.

1. Consolidate AML supervision in the legal sector as a first step, establishing a single sectoral AML supervisor to deliver robust and effective enforcement

It is clear that some level of consolidation is required to ensure greater consistency in AML supervision. As a minimum, we recommend the establishment of a single UK-wide AML supervisor for the legal profession that is:

- Robustly independent.
- Properly empowered.
- Adequately resourced.
- Transparent in its operation.
- Proactive in sharing information with law enforcement.

Consolidation should focus on removing supervisory status at the earliest opportunity from those legal sector supervisors who have failed to address conflicts of interest as required under the AML rules, and those that are failing to take satisfactory levels of supervisory or enforcement action when they find non-compliance.

While the issue of how to deal with devolved legal systems and AML supervision is thorny, the independence of legal sector supervisors in Scotland and Northern Ireland is called into question by their reliance on internal governance arrangements to mitigate conflicts of interest, rather than delegating AML responsibility to an independent regulatory arm as supervisory bodies have done in England and Wales. This failure to effectively separate regulatory and advocacy functions by legal supervisors in Northern Ireland and Scotland, as well as their low rates of enforcement when non-compliance is found, reduces the desirability of retaining a model of devolved or regional supervision.¹¹⁰

Furthermore, a UK-wide AML supervisor would help ensure consistency of supervision across the UK as a whole, given that money laundering does not respect regional boundaries, and prevent money launderers from exploiting regional variations in the enforcement of money laundering rules.

Supervisory reforms should remain subject to ongoing review by HM Treasury to ensure that consolidation is monitored for its effectiveness and that unintended consequences are identified and addressed as soon as they arise. It is critical that any consolidation is done in a manner that preserves expertise in the legal sector and brings the profession with it as far as possible.

2. Strengthen the mandate and powers of the Solicitors Regulations Authority (SRA), in order to ensure it can act more effectively as the sector's key AML enforcer

Of the nine existing legal sector supervisors, the SRA is the most credible contender to serve as the AML sectoral supervisor because:

- It is the largest AML supervisor in the legal sector, responsible for 74.9% of the AML supervised population in the sector, and could most readily absorb additional members.¹¹¹
- It operates as a separate and independent regulatory arm of the representative body for solicitors and so does not suffer from a conflict of interest, unlike other supervisors who have failed to separate their regulatory and advocacy functions effectively.¹¹²
- It is the only legal sector supervisor to have built up a meaningful track record of AML enforcement action, accounting for 97% of all fines imposed between 2017 and 2020.¹¹³
- It already has a designated AML team that includes policy specialists, investigations staff and a proactive supervision unit.¹¹⁴

In stepping up as the single sectoral supervisor, however, the SRA would need to address weaknesses in its own enforcement and supervision. In particular it would need to:

- Develop a more ambitious enforcement policy. While the SRA is currently consulting on changes to its enforcement policy,¹¹⁵ it is essential that OPBAS recommendations to the SRA for greater ambition are acted upon.
- Resolve the balance of enforcement between itself and the SDT. OPBAS has questioned whether the current division of labour between the SRA and SDT represents *“the most effective approach to delivering a robust and credible anti-money laundering (AML) enforcement framework.”*¹¹⁶

In our view, in order to achieve both of these, the SRA should be given a clear mandate to function as the key supervisory body for regulatory breaches of the MLRs, with power to take all kinds of disciplinary actions, including unlimited fines as proposed in the Economic Crime and Corporate Transparency Bill.^{116a} This would bring the SRA into line with other supervisors in giving it unlimited powers to sanction AML breaches, rather than leaving it dependent upon another body to do so. The SDT could then act as the independent appeals tribunal for law firms to challenge AML enforcement action taken by the SRA in the same way that it does for ABSs.

Additionally, the SRA would need to:

- Build its capacity, increase resourcing for AML work and expand its designated AML team.
- Incorporate the specialist AML expertise of the devolved supervisors (in England and Wales, Northern Ireland and Scotland) as well as the split profession (barristers and solicitors, as well as conveyancers and notaries).

- Be granted status as a prescribed person under the Public Interest Disclosure Act 1998 and develop a proactive whistleblower programme in order to encourage whistleblowers to come forward.¹⁷

3. Strengthen OPBAS to function as a full-bodied “supervisor of supervisors” acting as a UK-wide and cross-sectoral AML authority to coordinate and hold to account supervisors across the regulated sector

A beefed-up and transformed OPBAS could fulfil a critical role in setting supervisory standards and overseeing consistent and effective AML supervision across the entire regulatory landscape.

If OPBAS is to operate effectively as a genuine “*supervisor of supervisors*”, however, it needs to be given a stronger mandate, greater independence, wider powers, substantially more resources, and a central role in the coordination of other supervisors.¹⁸ Consideration should be given to renaming OPBAS to reflect a transformed role and wider remit.

Currently, OPBAS does not disaggregate all its data by sector and supervisor, let alone name and shame those who are failing in their AML responsibilities. To have a truly transformative effect on the AML supervisory regime, OPBAS will need powers to impose financial penalties and to sanction as well as publicly censure supervisors that are under-performing.

OPBAS could also play a key role in standardising the quality of risk assessment and guidance across the regulated sector, monitoring the effectiveness of supervisory interventions, and issuing sector-wide alerts.

OPBAS should be listed as a prescribed person under the Public Interest Disclosure Act 1998 to promote whistleblowing in relation to money laundering breaches across the regulated sector, particularly where whistleblowers do not feel their supervisory body has addressed their concerns properly. It should also develop a compensation scheme for whistleblowers who provide actionable intelligence on money laundering across the regulated sector.

4. Enhance the transparency and quality of data on AML supervision

The lack of transparency regarding data about AML supervision, and the variable quality of such data must be addressed immediately to provide the evidence base for reforms to AML supervision in the UK.

The priority areas for enhancing data transparency and quality are:

- 1. Enforcement notices by legal sector supervisors.** All legal supervisors should publish full information on their websites about all enforcement actions taken,

including the name of the law firm or individual against whom action is taken, details of the alleged breaches, and the outcome of the action, including any sanction imposed. The publication of this information is essential to establish the deterrent effect of enforcement actions taken. Ultimately, the proposed single sectoral AML supervisor should establish and maintain a central, publicly searchable database with comprehensive data on its enforcement actions.

- 2. Overall supervisory data.** OPBAS and HM Treasury should work together and with supervisors across the regulated sector to ensure that reporting periods and reporting metrics are aligned, and that the same metrics are used consistently across years to ensure the availability of high-quality data on AML supervision.
- 3. Performance metrics for individual supervisors.** OPBAS should expand the scope of its reporting to include annual results on how individual supervisors are performing across detailed performance metrics.
- 4. Firm-level supervisory data.** Law firms and lawyers, where they are acting as individuals, should be required to make public who their AML supervisor is, and to publish their firm-level compliance data, including the number of AML whistleblower complaints received and the resources spent on AML compliance. Additionally, legal and accountancy sector supervisors should publish data on firms joining or exiting from under their supervision, to give greater clarity on whether legal firms are forum shopping for AML supervision.

These measures will help build a strong evidence base for supervisory interventions and enforcement strategies, as well as enabling government agencies, researchers, civil society organisations and the private sector to benchmark the UK supervisory regime against emerging best practice and identify where further reform is needed.

5. Establish clear lines of responsibility and proactive engagement between legal sector supervisors and a specialist “enablers cell” in the NCA

Serious consideration needs to be given to how to address the criminal enforcement gap, which leaves the legal profession facing little real threat of criminal prosecution for breaches of AML rules.

One option would be to establish a specialist unit within the NCA that is specifically tasked with investigating criminal breaches of the MLRs by legal professionals, and failure to disclose offences under Section 330 of the Proceeds of Crime Act 2002 (POCA), as well as more serious money laundering offences under POCA. This “enablers cell” would need to be properly staffed and resourced, operating in close co-operation with legal sector supervisors as well as other AML supervisors in the regulated sector. The urgent need for clarity about criminal enforcement could be addressed through a Memorandum of Understanding governing co-operation between the legal sector supervisors and the NCA, and setting out the lines of responsibility, the process for sharing information and intelligence, and the circumstances in which a referral should take place.

There should also be proactive engagement between legal sector supervisors and the NCA to improve the effectiveness of SARs, and to ensure more robust enforcement under Section 330 of POCA. It is essential that the SRA makes full use of new powers, established through the 2022 Money Laundering Regulations Statutory Instrument, to review SARs submitted by its supervised populations, and refer members who have failed to file SARs accurately to law enforcement.

6. Ensure that potential cracks in the AML framework for the legal sector are addressed by: enhanced supervisory guidance on when AML rules apply to legal work; enhanced guidance on how to avoid abuse of privilege in suspicious activity reporting; and an independent review of the rules that allow lawyers to be paid with tainted funds

To address the risks that arise from the special protections afforded to the legal sector, which make lawyers an attractive target for criminals looking to launder the proceeds of crime, the government should ensure that:

- Periodic reviews assess whether all high-risk legal work is appropriately captured by the money laundering rules, in line with the latest National Risk Assessments and emerging threats.
- Review how a single AML supervisor for the sector can act as the “*default*” legal supervisor, thereby extending oversight to lawyers who engage in high-risk activity but are not members of any existing legal supervisor.
- Ensure supervisors for the sector develop clear and authoritative guidance on what is within the scope of the MLRs rather than leaving lawyers to reach their own view as to whether their services fall within the regulated sector.
- Commission an independent review into whether the defence of “*adequate consideration*” in section 329(2)(c) of POCA is drawn too widely and risks skewing incentives for lawyers to accept lucrative legal fees.
- Ensure supervisors for the sector develop clearer guidance on the “*privileged circumstances*” exemption for reporting suspicions of money laundering, and provide a mechanism by which supervisors can challenge claims of privilege by recourse to independent counsel.

PART

1

THE LEGAL PROFESSION AND ANTI-MONEY LAUNDERING REGULATION

1a. The legal profession's exposure to money laundering

Legal professionals play a crucial role in establishing and legitimising money flows and are often themselves involved in processing the onward transfer of large sums of money. These services, offered by professionals accorded high levels of public trust, are attractive to criminals looking to launder illicit funds.¹¹⁹ It is for this reason that the legal sector is considered at high risk of becoming involved in money laundering and should be subject to tight regulation and robust supervision.¹²⁰

Some legal professionals actively conspire with criminals to launder illegally obtained funds, by setting up complex corporate structures and bank accounts in order to receive profit from these funds. Although this type of “active” facilitation does occur, it is believed to be rarer than more passive forms of enabling, which might include a “wilfully blind” professional deciding to look the other way, or the “unwitting involvement” of a professional who is duped by a sophisticated criminal.¹²¹

The legal sector is exceptionally broad and varied in its range of professional roles, subject areas and organisational structures. There are roughly 10,000 law firms in the UK,¹²² covering everything from a sole practitioner working in a small, rural town to a multi-national “magic circle” firm in London turning over billions of pounds each year through complex commercial transactions. While most lawyers are solicitors, either working in a law firm or employed “in-house” by a company, a charity or the government, the legal profession also includes barristers, conveyancers, notaries, arbitrators and chartered legal executives.

This diversity of the legal profession means that lawyers are exposed to different kinds of money laundering risks, depending on the work they do. The UK's 2020 National Risk Assessment noted several areas of specific concern related to the legal profession. These include the following:

The conveyancing of real estate. Conveyancing solicitors are at the “*greatest risk*” among legal professionals due to the high value and large volume of transactions they undertake.¹²³ Money launderers like to invest in real estate because it allows millions of pounds to be moved in a single transaction and represents a secure investment that will tend to appreciate over time and can be used to generate rental income.

Legal professionals providing trust and company services. Often criminals will attempt to thwart potential investigators by employing legal professionals to set up complex networks of companies and trust arrangements. The aim here is to obscure the origin of the illicit cash and hide the identity of the beneficial owner through a laddered structure of companies that are registered in various jurisdictions and rely on nominee directors or proxy shareholders. According to UK government statistics, 23% of the 25,000 UK-registered businesses providing company services are legal service providers.¹²⁴

The misuse and exploitation of client accounts. Client accounts can be abused to make criminal funds appear to have a legitimate source. Money launderers will arrange for payments to be made by third parties, or will request that money is paid to third parties via a client account, thus legitimising the payment because it comes from a respectable law firm, and avoiding scrutiny from compliance departments and law enforcement bodies.

Sham litigation. The UK risk assessment suggests that “*criminals are employing methodologies such as sham litigations and fraudulent investment schemes through client accounts.*”¹²⁵ In this scenario, a criminal moves money into a client account for upcoming litigation, which is later abandoned, with the money refunded from the law firm’s account. Alternatively, two parties may actually sue each other in a UK court, with laundered funds being used to pay the damages, resulting in a UK court ruling that legitimises the money transfer. As UK courts have become a favoured location for oligarchs and overseas businessmen to settle legal issues,¹²⁶ there is growing recognition of the risk that the judicial system is being abused to facilitate money laundering.¹²⁷

Legal fees. There is also a risk that legal professionals are paid with criminally obtained funds. The National Risk Assessment raises the possibility that laundered money may be offered in payment through cryptocurrencies.¹²⁸

Notary services. The risk assessment also says that lawyers may be wittingly or unwittingly verifying forged documents to help customers obtain overseas bank accounts.¹²⁹

Tracing the proceeds of the 1MDB kleptocracy scheme in the UK

In 2017, the US Department of Justice (DOJ) froze several luxury assets, including a superyacht, a Picasso painting, and several high-value properties, alleging they were the fruits of an elaborate, kleptocratic scheme that stole more than \$4.5 billion from 1Malaysia Development Berhad (1MDB), the Malaysian sovereign wealth fund.

US prosecutors say the scheme was orchestrated by Malaysian financier Low Taek Jho – aka Jho Low – for the benefit of Malaysian Prime Minister Najib Razak and his wife and associates. In 2020, Razak was sentenced to 12 years in prison for abuse of power, money laundering and breach of trust in the first of several cases brought against him and his associates in relation to the 1MDB fraud.¹

Elite law firms with offices in London – White & Case and Macfarlanes – have been named by US prosecutors and in UK court records as having previously provided legal services to individuals and companies alleged to be involved in the scheme, with a portion of the stolen funds allegedly being used to purchase high-value London properties.²

Allegations of the egregious theft of public funds from Malaysia and of their subsequent laundering through the UK's property market raise key questions about the role played by UK-based law firms in these types of transactions, and the extent to which these firms undertake due diligence regarding the source of funds as well as the efficacy of the MLRs and their supervision.

White & Case

In September 2009 the oil services firm PetroSaudi formed a joint venture with 1MDB, into which 1MDB invested \$1 billion in exchange for a 40% stake.³ As part of the deal, White & Case drew up an agreement for PetroSaudi to lend the joint venture \$700 million, which would be immediately repaid to a PetroSaudi subsidiary upon signature of the joint venture.⁴ However, according to US prosecutors, "*PetroSaudi made no such loan.*"⁵

Instead, US prosecutors allege that the funds were diverted to an account held by Good Star Limited, a company registered in the Seychelles and controlled by Jho Low,⁶ and then laundered through a complex series of transactions facilitated by a global web of banks and law firms.⁷ US prosecutors say the funds were then used by Jho Low and his associates to fund luxury purchases for their own benefit.⁸

In addition to drawing up the loan agreement, White & Case hosted the PetroSaudi-1MDB joint venture negotiations in their London offices,⁹ with insiders describing the atmosphere as "*pressure-cooked.*"¹⁰ From inception to signature, the billion-dollar joint venture took just one month – a pace unheard of for deals this size, which typically take months or even a year to complete.¹¹ Jho Low was present at these negotiations – despite subsequent denials that he had any formal role at 1MDB – and insisted on having two separate rooms at White & Case's London office so he could move between the PetroSaudi and 1MDB delegations.¹²

Spotlight on Corruption does not allege that White & Case had any prior knowledge of the subsequent workings of the alleged money laundering scheme when acting for PetroSaudi in or around the 2009 negotiations. It was not until years later that US prosecutors filed a complaint against its client and the firm was not found to have failed its UK compliance obligations at any stage. Further, we do not allege that services provided at the time would have infringed the MLRs.

This notwithstanding, the case illustrates that there are serious questions to be asked about the scrutiny UK law firms are required to apply when accepting client instructions involving the transfer of such large sums or that may otherwise give rise to money laundering red flags.

Spotlight on Corruption contacted White & Case's London office, but they declined repeated invitations to comment.

Macfarlanes

Macfarlanes, one of London's "silver circle" law firms,¹³ acted as the conveyancer transferring funds and representing companies behind the purchase of three high-end London properties. According to a 2017 US DOJ complaint, between 2010 and 2014 Jho Low arranged the purchase of the properties for a combined £100 million on behalf of himself and a relative of Najib Razak using funds allegedly stolen from 1MDB:¹⁴

- In 2010, Jho Low agreed to purchase 2 Lygon Place SW1W 0JR,¹⁵ a gated townhouse in Belgravia, for £17 million. The DOJ's complaint refers to this as "*the Qentas Townhouse*", in reference to the name of the holding company that ultimately acquired it. Macfarlanes represented Jho Low's holding company, Lygon Place (London) Limited, during the purchase¹⁶ and maintained an escrow account that received £18 million from a bank account at Coutts controlled by Low.¹⁷
- In March 2010, Jho Low asked his London bankers (RBS Coutts) to transfer £35 million to Macfarlanes' client account for the purchase of 7 Stratton Street W1J 8LE, a townhouse in Mayfair, indicating the reason for the transfer as "*Completion UK Property*."¹⁸ According to the DOJ complaint, the funds were "*proceeds traceable to the \$700 million wire transfer from 1MDB to the Good Star Account*"¹⁹ – the account in Switzerland used by officials of 1MDB to receive fraudulent transfers of more than \$1 billion.²⁰
- In March 2014, a British Virgin Islands entity called Eight Nine Stratton Street (London) Limited acquired 8, 8a, and 9 Stratton Street W1J 8LF, the neighbouring office to the Stratton property, for £42 million. As with previous property purchases, Macfarlanes acted on behalf of the holding company and registered the purchase with the Land Registry.²¹ However, unlike in previous purchases, the DOJ did not present evidence Macfarlanes transferred the funds for the purchase.

Spotlight on Corruption does not allege that Macfarlanes had any knowledge of the alleged workings of the 1MDB money laundering scheme at the time of acting on the

conveyances in question. Further, we do not allege that Macfarlanes failed to conduct the due diligence required of it. However, the case further illustrates the need for a robust and effective AML regime which requires law firms to adequately detect and address the red flags which may arise.

Spotlight on Corruption contacted Macfarlanes, who gave the following statement:
“The fact that we acted on certain conveyancing retainers (alongside other professional service providers including estate agents and banks) for Jho Low and his associates, is in the public domain. However, these matters [were] completed more than seven years ago, long before the commencement of any formal proceedings against Mr Low... we conduct client due diligence (CDD) in accordance with our statutory and regulatory obligations at the relevant time.”

Notes

¹ Najib Razak: Malaysian ex-PM gets 12-year jail term in 1MDB corruption trial. BBC News. <https://www.bbc.co.uk/news/world-asia-53563065>.

² USA v Certain rights to and interests in the Viceroy Hotel Group [2017], United States District Court – California, Case number CV 17-04438. <https://www.justice.gov/opa/press-release/file/973671/download>.

³ Loan agreement between 1MDB PetroSaudi Limited (as Borrower) and PetroSaudi Holdings (Cayman) Limited (as Lender), 25 September 2009.

⁴ *Ibid.*

⁵ Paras 62–90. USA v Certain rights to and interests in the Viceroy Hotel Group [2017], United States District Court – California, Case number CV 17-04438. <https://www.justice.gov/opa/press-release/file/973671/download>.

⁶ *Ibid*, para 48.

⁷ *Ibid*, para 65.

⁸ U.S. Seeks to Recover Approximately \$540 Million Obtained From Corruption Involving Malaysian Sovereign Wealth Fund. US Department of Justice. <https://www.justice.gov/opa/pr/us-seeks-recover-approximately-540-million-obtained-corruption-involving-malaysian-sovereign>

⁹ *The Sarawak Report*, Clare Rewcastle Brown, 2018 (Lost World Press, UK), Chapter 14.

¹⁰ *Ibid.*

¹¹ *Billion Dollar Whale*, Tom Wright & Bradley Hope, 2018 (Hachette, New York), Chapter 8.

¹² *The Sarawak Report*, Clare Rewcastle Brown, 2018 (Lost World Press, UK), Chapter 14.

¹³ “Who Are the Silver Circle Law Firms?”, 12 April 2018, The Lawyer Portal (<https://www.thelawyerportal.com/blog/silver-circle-law-firms/>).

¹⁴ USA v Certain rights to and interests in the Viceroy Hotel Group [2017], United States District Court – California, Case number CV 17-04438 . <https://www.justice.gov/opa/press-release/file/973671/download>.

¹⁵ *Ibid*, para 673.

¹⁶ *Ibid*, para 673.

¹⁷ *Ibid*, para 674.

¹⁸ *Ibid*, para 684.

¹⁹ *Ibid*, para 683.

²⁰ *Ibid*, para 7.

²¹ *Ibid*, para 700.

1 b. What are a legal professional's responsibilities when it comes to AML?

Due diligence

The 2017 Money Laundering Regulations require legal professionals providing services within the scope of the regulated sector to undertake a risk-based approach to due diligence.

The three main money laundering risks that require due diligence from legal professionals are:

- **Client risk.** Firms must establish the identity of the client, and in particular ascertain whether the client is a politically exposed person (PEP).¹³⁰
- **Geographic risk.** The MLRs require firms to put in place enhanced due diligence measures when dealing with countries that pose a higher risk of money laundering.¹³¹
- **Transaction risk.** Legal professionals must pay special regard to unusually large transactions, or a number of linked transactions, and to clients seeking products or transactions that would facilitate anonymity (such as the use of complex company structures).¹³²

The unexplained wealth of Zamira Hajiyeva

In 2016, Azerbaijani banker Jahangir Hajiyev was jailed in Baku for 15 years for abuse of office, forgery and embezzlement.¹ Reports suggest he defrauded as much as £2.2 billion from the International Bank of Azerbaijan,² a state-controlled bank he chaired. The NCA allege that his wife, Zamira Hajiyeva, used some of the stolen money to fund a UK spending spree,³ including the purchase of a £12 million London townhouse, a £10.5 million golf club in Ascot, and goods totalling £16 million from Harrods, the luxury department store.⁴

When the NCA investigated Hajiyeva, they were unable to find any legitimate income that could have financed the purchases.⁵ In February 2018, they obtained two Unexplained Wealth Orders (UWOs) against her,⁶ freezing the properties and other assets in the first application of the financial intelligence-gathering tool.

Hajiyeva disputed the UWO, claiming that the prosecution of her husband was politically motivated.⁷ She lost her appeal in 2020,⁸ with the judges unanimously upholding the UWO. She must now disclose where the funds came from or risk having the assets seized as the proceeds of crime.

NCA investigators named two leading law firms headquartered in London – Mishcon de Reya and Herbert Smith Freehills – as having acted in relation to the purchase of high-value properties on Hajiyeva's behalf.

There is no finding of wrongdoing against Hajiyeva and being the subject of a UWO is not a finding of guilt.

continued

Mishcon de Reya

In December 2009, British Virgin Islands company Vicksburg Global Inc purchased 12–14 Walton Street SW3 1RE for £11.5 million.⁹ The NCA’s court submissions do not state who the beneficial owner was at that time of the purchase. However, Hajiyeva subsequently told the Home Office that she was Vicksburg’s beneficial owner¹⁰ and that the property had been her home address since 2012.¹¹

Vicksburg purchased the property with a mortgage from Barclays Bank (Suisse) SA,¹² the bank’s Geneva-based private banking division.¹³ The mortgage document shows that Vicksburg appointed law firm Mishcon de Reya as its “agent for service” and that they also notarised the document.¹⁴

When investigating Zamira Hajiyeva, NCA investigators found Mishcon de Reya had acted for Vicksburg in this capacity on several occasions:

- In January 2010, the law firm applied to the Land Registry on Vicksburg’s behalf to update the property’s ownership records, and to place a legal charge and restriction against it in favour of Barclays Bank (Suisse) SA.¹⁵
- The law firm responded to the Land Registry’s enquiries, supplying Vicksburg’s founding company documents.¹⁶
- In December 2014 – five years after the purchase – Mishcon de Reya applied to the Land Registry to remove the charge,¹⁷ indicating the mortgage funds had been repaid.

Spotlight on Corruption does not allege that Mishcon de Reya was aware of the potential money laundering risks connected to its client’s property purchase or that the firm failed to comply with its regulatory requirements. Further, no finding has been made against the firm in this regard. However, the case and the subsequent UWOs do raise serious questions about whether the requirements on law firms to scrutinise their clients’ political status and sources of wealth are fit for purpose.

Mishcon de Reya stated that its professional obligations prevent it from commenting substantively on such matters and that it has, at all times, acted in accordance with its regulatory requirements. Further, the firm pointed out that Vicksburg Global purchased the property some seven years before Mr Hajiyev’s conviction.

Herbert Smith Freehills

In September 2013, Guernsey company Natura Limited purchased Mill Ride Golf Club SL5 8LT for £10.5 million.¹⁸ According to the NCA, the conveyance was conducted by Herbert Smith Freehills LLP,¹⁹ a member of the elite “silver circle” of London law firms.²⁰

The NCA asserts that Zamira Hajiyeva is the golf club’s true owner, citing evidence that Natura Ltd was established to hold assets on behalf of a complex offshore trust arrangement, of which Zamira Hajiyeva is believed to be the trustee.²¹

Other evidence also links her to the property. Investigators found that the golf club, excluding the land, appeared to be owned and managed by a UK company, MRGC 2013 Ltd,²² itself a subsidiary of Natura Limited.²³ For one day in 2016, Zamira Hajiyeva was declared as the “*person of significant control*” of MRGC 2013 Ltd on the company register, on the grounds that she exercised control over a trust which held the controlling shares of MRGC 2013 Ltd.²⁴

Spotlight on Corruption does not allege that Herbert Smith LLP (as it then was) failed in its regulatory and AML requirements and notes that the UWO relating to the ownership of the golf club had yet to be raised at the time of the conveyance.

However, at the time Herbert Smith acted for Natura Limited, all business transactions concerning Jahangir Hajiyev and Zamira Hajiyeva would have required enhanced due diligence, in accordance with the Money Laundering Regulations 2007. Accordingly, and given these additional requirements, the case raises further serious questions around the effectiveness and application of the UK’s AML regime.

Herbert Smith stated that it was unable to comment on the accuracy of these statements.

Notes

¹ Former Head of International Bank Jahangir Hajiyev sentenced to 15 Years in Jail. IRFS. <https://www.irfs.org/news-feed/former-head-of-international-bank-jahangir-hajiyev-sentenced-to-15-years-in-jail/>. The UWO was upheld, but as of March 2022, the NCA has as of yet to commence civil recovery proceedings.

² “McMafia” law: woman who spent £16m at Harrods is jailed banker’s wife. The Guardian. 10 October 2018. <https://www.theguardian.com/uk-news/2018/oct/10/wife-of-mcmafia-banker-with-16m-harrods-spending-habit-named>

³ *Hajiyeva v National Crime Agency*, First Witness Statement of Nicola Bartlett, para 59.

⁴ *Ibid*, paras 20-22.

⁵ *Ibid*, para 57.

⁶ Woman who spent £16m in Harrods revealed. BBC News. 10 October 2018. <https://www.bbc.co.uk/news/uk-45812210>

⁷ Woman who spent £16m in Harrods revealed. BBC News. 10 October 2018. <https://www.bbc.co.uk/news/uk-45812210>

⁸ *Hajiyeva v National Crime Agency* [2020] EWCA Civ 108.

⁹ Land Registry title deed for 12-14 Walton Street (SW3 1RE), title number BGL35462.

¹⁰ *Hajiyeva v National Crime Agency*, First Witness Statement of Nicola Bartlett, para 25.6.

¹¹ *Ibid*, para 34.3.

¹² Mortgage document for Vicksburg Global Inc (as client) in Favour of Barclay Bank (Suisse) SA. 22 December 2009.

¹³ Website of Barclays Private Bank – Switzerland. <https://privatebank.barclays.com/where-we-are-located/switzerland/>.

¹⁴ Mortgage document for Vicksburg Global Inc (as client) in Favour of Barclay Bank (Suisse) SA. 22 December 2009.

¹⁵ *Hajiyeva v National Crime Agency*, First Witness Statement of Nicola Bartlett, paras 28 & 30.1.

¹⁶ *Ibid*, para 30.2.

¹⁷ *Ibid*, para 31.

¹⁸ Land Registry title deed for Mill Ride Gold Club, Mill Ride, Ascot (SL5 8LT), title number BK181542.

¹⁹ *Hajiyeva v National Crime Agency*, Second Witness Statement of Nicola Bartlett, para 22.

²⁰ Who are the Silver Circle Law Firms? The Lawyer Portal. 12 April 2018. <https://www.thelawyerportal.com/blog/silver-circle-law-firms/>

²¹ *Hajiyeva v National Crime Agency*, Second Witness Statement of Nicola Bartlett, para 32.

²² *Ibid*, para 26.

²³ *Ibid*, para 26.4.1.

²⁴ *Ibid*, para 32.1.4.

Reporting suspicious transactions

Where they suspect money laundering, legal professionals are required to submit a SAR to the NCA identifying the client, the nature of the legal professional’s concern and the monies involved.¹³³ Failure to file a SAR when there are reasonable grounds to know about or suspect money laundering is a criminal offence under POCA.¹³⁴

A total of 573,085 SARs were filed by the regulated sector in 2019/20,¹³⁵ with the vast majority – over 75% in 2019/20 – submitted by banks.¹³⁶ Just 3,006 (or 0.52%) of these were filed by the legal sector. The UK’s latest National Risk Assessment points to the “low proportion of SARs submitted by LSPs [Legal Service Providers] relevant to their risk profile” and accepts that “further work is required to improve effectiveness of the SARs reporting by the sector.”¹³⁷ As shown in Table 1, the number of SARs filed by the legal sector has actually decreased as a percentage of overall SARs submitted from 2012/23, when it represented 1.24% of the total number.

One possible reason for these consistently low rates of SARs is that professional legal advisors do not commit an offence if they fail to submit a SAR where their knowledge or suspicion of the money laundering came to them in privileged circumstances.¹³⁸

TABLE 1: SARs filed by the legal sector, 2012/13–2019/20

YEAR	NO. OF SARs FILED BY LEGAL SECTOR	MONTHLY AVERAGE
2012/13 ^a	3,935	327.9
2013/14 (Oct–Mar) ^b	3,610	300.8
2015/16 (Oct–Sept) ^c	3,447	287.3
2016/17 (Oct–Sept) ^d	1,431	238.5
2017/18 (Apr–Mar) ^e	2,660	221.7
2018/19 (Apr–Mar) ^f	2,774	231.2
2019/20 (Apr–Mar) ^g	3,006	250.5

Source

^(a) UK National Risk Assessment of money laundering and terrorist financing 2015, p.45, para 6.91: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf.

^(b) Ibid.

^(c) Suspicious Activity Reports (SARs) Annual Report 2017. National Crime Agency. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/112-suspicious-activity-reports-annual-report-2017/file>

^(d) In this report, the NCA changed the dates between which SARs would be measured (April to March the following year, rather than October to September). This figure has been extrapolated from the results.

^(e) NCA SARs Annual Report 2018, p.6: <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/256-2018-sars-annual-report/file>.

^(f) NCA SARs Annual Report 2019, <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/390-sars-annual-report-2019/file>.

^(g) NCA SARs Annual Report 2020, p.9: <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file>.

The legal sector has consistently submitted a very high percentage of Defence Against Money Laundering (DAML) SARs (known previously as “consent SARs”).¹³⁹ This high percentage suggests a very defensive approach to reporting that is aimed at formal compliance in order to proceed with risky transactions. In 2015, law enforcement had to follow up 42% of DAML SARs, owing to the incomplete details in the reports.¹⁴⁰ The poor quality of the SARs was seen as indicating “a lack of understanding or compliance with the regulations and POCA by the submitter.”¹⁴¹

TABLE 2: SARs and DAML SARs submitted by the legal sector, 2019/20–2017/18

	2019/20 ^a	2018/19 ^b	2017/18 ^c
Total SARs	573,085	478,437	463,938
Total defence requests, i.e. DAML and DATF^d combined. (% increase on previous year)	62,408 (80.67%)	34,543 (52.72%)	22,619 (20%)
Total DAML SARs (% of total SARs)	61,978 (10.81%)	34,151 (7.14%)	22,196 (4.78%)
DAML SARs initially refused (% of DAML SARs)	2,055 (3.32%)	1,332 (3.9%)	1,291 (5.82%)
DAML SARs granted in moratorium period (% of overall refusals)	690 (33.58%)	17 (0.01%)	440 (34.08%)
DAML SARs ultimately refused (% of total DAML SARs)	1,365 (2.2%)	1,315 (3.8%)	851 (3.83%)
SARs from legal sector^e (% of total SARs)	3,006 (0.52%)	2,774 (0.58%)	2,660 (0.57%)
Solicitors	2,444	2,437	2,402
Licensed conveyancers	114	99	77
Legal other	448	238	181
DAML SARs from legal sector (% of total SARs from legal sector)	1,941 (64.57%)	1,932 (69.65%)	1,908 (71.72%)
(% of total DAML SARs)	(3.13%)	(5.66%)	(8.6%)
Solicitors (% of total SARs from legal sector)	1,727 (70.66%)	1,712 (70.25%)	1,753 (72.98%)
Licensed conveyancers	88	81	58
Legal other	126	139	97

Source

^(a) UK Financial Intelligence Unit Suspicious Activity Reports Annual Report 2020. National Crime Agency. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file>

^(b) UK Financial Intelligence Unit Suspicious Activity Reports Annual Report 2019. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/390-sars-annual-report-2019/file>.

^(c) UK Financial Intelligence Unit Suspicious Activity Reports Annual Report 2018.

^(d) Note that DATF refers to Defence Against Terrorist Financing reports.

^(e) Note that barristers are not included in the category of “legal sector” SARs in the UKFIU’s Annual Reports.

If the NCA either grants the DAML, or refuses it but then fails to take positive enforcement action during the moratorium, it is not an offence for the lawyer to then proceed with the transaction notwithstanding the knowledge or suspicion of money laundering that prompted their SAR.¹⁴² Of the 61,978 DAML SARs received by the NCA during 2019/20, only 1,365 (2.2%) were ultimately refused.¹⁴³ If this low rate of refusal holds across the legal sector, only 38 out of 1,727 DAML SARs filed by solicitors during this period would have been refused.¹⁴⁴

Are legal sector supervisors and firms investing enough in AML supervisory capacity?

Supervisors

Regulation 49 of the MLRs requires legal sector supervisors to provide adequate resources to carry out their supervisory functions. According to OPBAS guidance, supervisors' resourcing model should be guided by changes to its membership profile and evolution of money laundering threats more broadly.¹ In its third report, OPBAS observed an "overall increase in dedicated AML resources" across the legal sector supervisors but after three years only 50% of these supervisors were "fully effective at resourcing their supervisory functions."²

Firms

The SRA, which supervises the vast majority of the legal sector's AML population, states that budgetary resources, support from colleagues and adequate time to perform duties are integral components of the work undertaken by firms' Money Laundering Reporting Officers (MLROs – officers responsible for overseeing AML efforts within firms) and Money Laundering Compliance Officers (MLCOs – the person in senior management or on the Board responsible for compliance).³

However, SRA guidance states that nearly two-thirds of MLROs and MLCOs (68%) did not have reduced billing targets from their workload, meaning they are juggling their roles on top of their main job. The SRA has noted that "holding one or both AML officer roles without any adjustment to case holding and/or other duties is unrealistic."⁴

Notes

¹ See section 4 OPBAS Sourcebook. <https://www.fca.org.uk/publication/opbas/opbas-sourcebook.pdf>.

² See Sections 2.9 and 3.8. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

³ Money Laundering Governance: Three Pillars of Success. <https://www.sra.org.uk/sra/research-publications/money-laundering-governance-three-pillars-of-success/>.

⁴ *Ibid.*

1c. Unique protections

The limited scope of the Money Laundering Regulations (MLRs)

The MLRs only apply to certain categories of “*relevant persons*” acting in the course of business carried out by them in the UK.¹⁴⁵ The three categories most relevant to the legal sector are tax advisors,¹⁴⁶ trust or company service providers¹⁴⁷ and independent legal professionals.¹⁴⁸

Importantly, only certain kinds of work performed by independent legal professionals fall within the scope of the MLRs. These qualifying activities are set out in regulation 12(1):

- “(a) the buying and selling of real property or business entities;*
- (b) the managing of client money, securities or other assets;*
- (c) the opening or management of bank, savings or securities accounts;*
- (d) the organisation of contributions necessary for the creation, operation or management of companies; or*
- (e) the creation, operation or management of trusts, companies, foundations or similar structures.”*

To be covered by the Regulations, the lawyer must participate “*in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.*”

The rationale for bringing these particular legal services within the regulated sector is that there is a high risk that criminals might use lawyers to help them launder or hide the proceeds of crime. The result, as the SRA explains, is that a lawyer has “*a responsibility to act as an effective gatekeeper to these services by complying with the regulations.*”¹⁴⁹

This list covers legal services that are traditionally considered at high risk of facilitating money laundering, such as conveyancing, commercial and corporate work, and transactional work.¹⁵⁰ However, it leaves significant areas of legal work outside the scope of the MLRs. First, it excludes certain roles entirely, such as legal professionals working in-house or employed by a public authority.¹⁵¹ Second, regulation 12(1) is “*effectively a description of transactional legal work*”¹⁵² and by implication, the following activities would appear to fall outside its scope:¹⁵³

- Paying costs to legal professionals.
- Legal advice.
- Participation in litigation or Alternative Dispute Resolution such as arbitration or mediation.
- Will writing.¹⁵⁴
- Work funded by the Legal Services Commission.

The dividing line between legal services that fall within the scope of the MLRs and those that fall outside their scope is not clear-cut. The SRA notes that the “*areas of work in the regulations are standalone definitions and do not align with other definitions of*

legal services” found in legislation.¹⁵⁵ It qualifies its guidance by saying that “*there is no definitive list of activities that are not in scope*” and, conversely, that its list of legal work that is within scope is “*not exhaustive and only reflects the likelihood that work of these types will be in scope*.”¹⁵⁶ The SRA further warns that “*often firms risk drifting into scope of this area by doing another area of work that is out of scope*.”¹⁵⁷

The result is that lawyers themselves decide whether their work brings them within the scope of the MLRs. This position is reflected in the Anti-Money Laundering Guidance issued in 2021 by the Legal Sector Affinity Group, which represents the legal sector supervisors including the Law Society and the SRA:

*All legal practices must consider whether their business brings them into scope of [the MLRs] through any of the qualifying activities but particularly those stated in R12. If a legal practice deems itself to be in scope, it is a “relevant person” for the purposes of the Regulations.*¹⁵⁸

This is echoed in the specific guidance that has been issued for solicitors and barristers. The SRA tells solicitors that “*you will need to decide for yourself*” on a “*case-by-case approach*” whether a matter is in scope, and suggests that “*if you are unclear, you should seek independent legal advice*.”¹⁵⁹ The SRA does, however, require firms to declare annually whether or not they are undertaking work in scope of the MLRs. The Legal Sector Affinity Group guidance for barristers and advocates similarly notes that “*in each case the consideration of whether you are within the scope of the Regulations is fact specific. You will need to individually determine on a case by case basis whether what you are instructed to do brings you within scope or not*.”¹⁶⁰

The dividing line between legal services that fall within scope and outside the scope of the MLRs needs to be subject to clear and authoritative guidance from legal sector supervisors, rather than leaving lawyers to reach their own views as to whether their services fall within the regulated sector.

The lack of a “default” legal supervisor

Even where lawyers engage in work that falls squarely within the scope of the MLRs, this regulated activity may slip through the supervisory cracks, owing to the lack of a “default” supervisor for the legal sector. Where a lawyer engages in regulated activity but is not a member of any of the legal supervisors, this high-risk work is effectively unsupervised. This often occurs in relation to wills, estate planning and estate administration, but potentially extends to a range of independent legal professionals. For example, unregistered solicitors who do not have a practising certificate are prohibited by law from acting as a solicitor,¹⁶¹ but they may still continue to offer other regulated services without being subject to the SRA’s supervisory authority. As the government’s recent review of the UK’s AML regulatory and supervisory regime highlighted, the absence of a “default” supervisor for these lawyers leaves a significant supervisory gap.¹⁶²

The defence of “adequate consideration”

As the gate-keepers of financial crime, lawyers are at risk of being paid for their professional services with the proceeds of crime.

Section 329(2)(c) of POCA provides that anyone who acquires, uses or possesses criminal property for “adequate consideration” does not commit an offence. The guidance for prosecutors issued by the CPS states that this “adequate consideration” defence against money laundering applies where professional advisors, such as solicitors or accountants, receive money for, or on account of, costs.¹⁶³

This is a major weakness in the AML regime because it allows legal professionals to be paid for their services using the proceeds of crime. It covers payments made by the client or by a third party on the client’s behalf, and could also be made to cover disbursements as well as legal fees.¹⁶⁴ The Legal Sector Affinity Group, which represents the legal sector AML supervisors, suggests the defence would likely find application in the following situations:

- Where a third party seeks to enforce a debt and is given criminal property in payment for that debt.
- Where a person provides goods or services as part of a legitimate arm’s length transaction but is paid from a bank account which contains the proceeds of crime.¹⁶⁵

Importantly, the defence of “adequate consideration” applies even if the lawyer knows that the funds are the proceeds of crime. As the Bar Council guidance explains, if the fee represents “adequate consideration” for legal services, then “the funds in possession of the recipient are no longer the proceeds of crime – regardless of whether you know or suspect that they are the proceeds of crime or not.”¹⁶⁶ This effectively means that legal services can lawfully be used by criminals to launder dirty money.

There are some limitations. First, the fees charged must be reasonable to qualify as “adequate consideration”, and so cannot be significantly more than the value of the legal services.¹⁶⁷ Fees might still be very generous, of course, and could potentially include a success fee as well as expenses and disbursements.

Second, the “adequate consideration” defence would cover the transfer of funds from a client account to an office account, or vice versa, but would not extend to returning the balance of an account to the client. This latter scenario may constitute money laundering if the lawyer knows or suspects that the funds are criminal property. In that instance, the lawyer would be required to file a DAML SAR and obtain consent before transferring those funds back to the client.¹⁶⁸

Third, “adequate consideration” is only a defence against the “acquisition, use or possession” offence in section 329 of POCA. It therefore does not currently provide a defence to the other money laundering offences set out in sections 327 and 328 of POCA. This means that while a lawyer can passively receive tainted money as payment for their services, any active assistance given to the client to raise those funds would make a lawyer party to a money laundering arrangement in terms of section 328 of POCA.¹⁶⁹

For this reason, the Law Society has previously argued that “adequate consideration” should be extended as a defence against all principal money laundering offences:

To ensure that the legislative intention of the defence of adequate consideration is fully implemented, the Society would like to see the defence also applied to sections 327 and 328. This defence does not provide an open gate for criminals to

*siphon off criminal funds to their professional advisors. Instead it helps to guarantee the fundamental human right of access to justice and a fair and just legal system for people suspected, accused or even convicted of criminal activities.*¹⁷⁰

This position overlooks how the defence of “adequate consideration” skews the incentives for lawyers to act as professional enablers for clients looking to launder the proceeds of crime. Given this tension, the defence of “adequate consideration” should be reviewed to consider how access to justice can be secured while also ensuring that lawyers do not turn a blind eye to the source of funds.

It is noteworthy that in some of the UK’s Crown Dependencies, this defence is much more tightly drawn. In 2011, the barrister Jenny Holt was convicted of money laundering in the Isle of Man after she accepted money from a client that had been stolen to pay his defence fees in his criminal trial.¹⁷¹ While her conviction was later overturned, it demonstrated that lawyers in the Isle of Man could be on the hook for handling tainted funds as payment for their professional services.

Legal professional privilege and the reporting of money laundering

The legal profession stands out in one key respect from other kinds of businesses that fall within the regulated sector because of the implications of legal professional privilege for AML reporting. Section 330(6)(b) of POCA carves out an exemption for legal professionals: they do not commit an offence if they fail to file a SAR where their suspicion or knowledge of money laundering came to them “*in privileged circumstances.*”¹⁷²

Given the centrality of privilege to the legal profession, imposing a statutory duty on legal professionals to file SARs is a contentious topic.¹⁷³ In the UK, the Law Society has called AML reporting requirements “*highly controversial*” and said that they are “*seen by many to endanger the independence of the legal profession and to be incompatible with the lawyer-client relationship.*”

Legal professional privilege is a fundamental right that lies at the heart of the justice system. By protecting confidential information from disclosure, privilege helps secure access to justice. Yet this confidentiality is also open to abuse: it can be used to conceal wrongdoing involving the lawyer or to resist disclosure where there are no proper grounds for claiming privilege in the circumstances. In particular, there is a real risk that privilege can be asserted to avoid reporting suspicion or knowledge of money laundering based on information that is not, properly speaking, protected by privilege.

Privilege does not extend to communications which are made in furtherance of a crime but the bar for engaging this exception to privilege is set high: “*for the crime/fraud exception to apply, you need strong prima facie evidence that you are being involved in a criminal offence, not just a suspicion.*”¹⁷⁴ By virtue of the confidentiality which privilege entails, proof of its abuse is understandably hard to come by.

In one recent case involving Azerbaijani billionaire Farkhad Akhmedov, in the context of a contested divorce,¹⁷⁵ the application of privilege was challenged. The court found that it was

*unlikely in the extreme that obtaining advice from a solicitor as to how to evade and frustrate an anticipated judgment could be regarded as falling within the ordinary course of a solicitor's engagement. On the contrary, it is likely to involve the solicitor in serious misconduct.*¹⁷⁶

Even if the information had been privileged, the court considered the solicitor's conduct was egregious enough to trigger the crime/fraud exception and compel disclosure of the information. However, such rulings are rare.

There is a risk that privilege could be applied despite an absence of proper grounds for doing so, undermining the effectiveness of the AML regime. Scrutiny of this potential abuse of privilege is notoriously difficult, given that, as the Law Society advises, "law enforcement agencies and regulators are not entitled to decide themselves whether a claim to LPP is properly made" and that solicitors do not need to satisfy regulators that their "claims to LPP are well founded."¹⁷⁷ Such assessments must be made instead by independent counsel¹⁷⁸ and it is unlikely that law enforcement bodies would be willing to incur the expense of instructing counsel at the stage of a SAR.

Legal professional privilege undoubtedly has a valuable role to play in securing access to justice, but its potential for abuse or misapplication poses a challenge to AML regulation and supervision. There is a need for clearer guidance on its proper application in the context of a lawyer's AML reporting duties and for mechanisms by which legal sector supervisors as well as law enforcement agencies can challenge claims of privilege by recourse to independent counsel.

HOW DOES ANTI-MONEY LAUNDERING SUPERVISION WORK IN THE LEGAL SECTOR?

Legal firms and legal professionals who engage in work that is deemed at risk of involving them in money laundering under the UK's Money Laundering Regulations (MLRs) must be registered with a supervisory body. While the financial and gambling sectors are supervised by statutory bodies, and high-end dealers, including in art, property and money services, are supervised by the UK's tax body, HMRC, the legal and accountancy sectors are essentially self-regulated when it comes to money laundering.

Effective AML supervision is essential for making sure that the legal sector is proactive at turning away suspicious money, and for detecting money laundering in the UK. Effective supervision includes a commitment to robust engagement with firms of all sizes, regular visits, an expectation of high standards of compliance, and willingness to use sanctions where appropriate, as well as appropriate understanding of risks for the sector, and constructive guidance.

The legal and accountancy sectors are supervised for money laundering by their own professional bodies. These are known under the MLRs as "*Professional Body Supervisors*" (PBSs). There are 22 legal and accountancy PBSs responsible for enforcing the regulations, 13 of which belong to the accountancy sector, and 9 to the legal sector.¹⁷⁹

The large number of PBSs led the UK government to voice concern in 2015 regarding "*inconsistencies in the supervisory regime*" which had exacerbated "*intelligence gaps*" about money laundering,¹⁸⁰ "*particularly those associated with 'high end' money laundering through the financial and professional services sectors.*"¹⁸¹ The Financial Action Task Force in its 2018 review of the UK's AML /CTF (counter-terrorist financing) regime observed "*significant deficiencies in supervision by the 22 legal and accountancy sector supervisors*" which included a lack of consistency in the understanding of risk, and weakness in regard to "*taking a risk-based approach to supervision; and ensuring that effective and dissuasive sanctions apply.*"¹⁸²

In response to these concerns, in 2018 the government created the Office for Professional Body Anti-Money Laundering Supervision (OPBAS), a new regulator. Its role is to “supervise the supervisors” in the legal and accountancy sectors in order to ensure that they all provide a similarly high standard of supervision.¹⁸³

2a. Who are the Professional Body Supervisors in the legal sector?

Table 3 (on page 46) lists the nine legal sector PBSs directly responsible for AML supervision and the number of their members (the number of firms or individuals that they supervise). These supervisors have huge variations in the number of firms they supervise: from 17 (CILEx Regulation) to over 6,640 firms (SRA).

Some of the PBSs perform dual roles – advocating for their members and regulating them. This creates serious conflicts of interest (see below). Three of them were set up as the independent regulatory arm of existing representative bodies and therefore avoid such conflicts of interest by exercising delegated responsibility for AML supervision. Others have internal arrangements aimed at separating advocacy and regulatory functions, but there are concerns about the effectiveness of these governance arrangements.

The main legal supervisors in England and Wales, Scotland and Northern Ireland face statutory limitations on the exercises of their powers. The SRA, the Law Society of Scotland and the Law Society of Northern Ireland are limited in their fining power for solicitors and traditional law firms (those solely owned by lawyers) and do not have powers to strike a solicitor off. As a result of this, if these supervisors wish to take this action, they must refer the matter to their respective independent Solicitors Disciplinary Tribunal (the SDT for England and Wales, the Scottish Solicitors’ Discipline Tribunal and the Solicitors’ Disciplinary Tribunal for Northern Ireland).

All nine PBSs have formed the Legal Sector Affinity Group, an organisation which provides AML guidance for legal professionals and facilitates sector-wide monitoring of risk.¹⁸⁴

2b. What disciplinary actions can the Professional Body Supervisors take?

The legal sector PBSs are able to:

- Review the risk assessments carried out by firms.
- Review the adequacy and implementation of firms’ policies, controls and procedures.
- Impose a requirement to report actual or potential breaches of the regulations.¹⁸⁵

Supervisors undertake a mixture of desk-based reviews and on-site reviews to assess whether their members comply with the MLRs. They are also able to receive reports from consumers and within the profession as well as intelligence from the NCA and other law enforcement bodies.

TABLE 3: Legal sector Professional Body Supervisors directly responsible for AML supervision

PBS	DEMOGRAPHIC OF REGULATED POPULATION	SIZE OF REGULATED POPULATION (4/2020 – 4/2021) TOTAL FIRMS (FIRMS > 1 SOLICITOR, FIRMS SOLE PRACTITIONER)	TRIBUNAL FOR MORE SERIOUS ENFORCEMENT CASES	SELF-IDENTIFIED RISK LEVEL OF SUPERVISED POPULATION	PUBLISHED AML REPORT SINCE 2021
Solicitors Regulation Authority (delegated regulatory responsibility from the Law Society)	Solicitors in England and Wales	6,516 (5,222; 1,294) ¹	Yes (Solicitors Disciplinary Tribunal)	n/a	Yes ²
Law Society of Northern Ireland	Solicitors in Northern Ireland	457 (375; 82)	Yes (The Solicitors' Disciplinary Tribunal for Northern Ireland)	High Risk: 88 (19%) Med Risk: 302 (66%) Low Risk: 67 (15%)	Yes ³
Law Society of Scotland	Solicitors in Scotland	821 ⁴	Yes (Scottish Solicitors Disciplinary Tribunal)	High Risk: 54 (9%) Med Risk: 362 (52%) Low Risk: 280 (40%)	Yes ⁵
Council for Licensed Conveyancers	Property and probate lawyers in England and Wales	226 (194; 32)	No	High Risk: 7 (3%) Med Risk: 27 (12%) Low Risk: 183 (84%)	Yes ⁶
Bar Standards Board (delegated regulatory responsibility from the General Council of the Bar)	Barristers in England and Wales	490 (13 belong to the Bar Standards Board, the rest are barristers)	Yes (Bar Tribunals and Adjudication Service)	Low	Yes ⁷
General Council of the Bar of Northern Ireland	Barristers in Northern Ireland	0 ⁸	No	n/a	No
CILEx Regulation (delegated regulatory responsibility from the Chartered Institute of Legal Executives)	Chartered legal executives, CILEx practitioners, CILEx members (paralegals) and CILEx authorised firms in England and Wales	26 (4;22)	No	n/a	Yes ⁹
Faculty of Advocates	Advocates in Scotland	6 (All individuals)	No	Low	Yes ¹⁰
Faculty Office of the Archbishop of Canterbury	Notaries in England and Wales	158	No	Generally low. ¹¹ But high risk when notaries conduct conveyancing work (23) or hold client monies (34).	Yes ¹²

Source

¹ See: "Our Anti-Money Laundering work." Solicitors Regulation Authority. <https://www.sra.org.uk/pdfcentre/?type=ld&data=1365989711>.

² Ibid

³ Supervisor's Annual Report - Anti-Money Laundering. Law Society of Northern Ireland. https://www.lawsoc-ni.org/DatabaseDocs/new_8918129__supervisors_annual_report_-_aml.pdf.

⁴ Data on 2020/2021 population for the LSS is not available within the AML Report, therefore the population size has been taken from the 2019/2020 HMT AML report. This only applies to the LSS, it states they supervise circa 750 law firms, but it is uncertain if this includes sole practitioners. Also, by adding together the firms by risk assessment, it comes to 692.

⁵ <https://www.lawscot.org.uk/media/370491/aml-annual-report-2020-february-2021.pdf>.

⁶ Annual Anti-money Laundering Report October 2021. Council for Licensed Conveyancers. <https://www.clc-uk.org/wp-content/uploads/2021/10/CLC-Annual-Anti-money-Laundering-Report-2021-Final.pdf>.

⁷ Anti-Money Laundering and Counter Terrorist Financing Annual Report 2020/21. Bar Standards Board. <https://www.barstandardsboard.org.uk/uploads/assets/f985e6ae-d2f3-4ff-89f517005810f27f/BSB-Anti-Money-Laundering-Annual-Report-2020-21.pdf>.

⁸ This means that during the reporting period none of its 600 barristers who are members undertook activity that fell under the money laundering regulations. See HM Treasury, Anti-money laundering and counter-terrorist financing: Supervision report 2018-19, August 2020, p. 21, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/920209/200922__Supervision_report_18-19.pdf [accessed on 5 January 2021] (from now on the HM Treasury Report 2018-19).

⁹ Anti-Money Laundering Annual Report 2020/21. Chartered Institute of Legal Executives Regulation. <https://cilexregulation.org.uk/wp-content/uploads/2021/10/Anti-Money-Laundering-Supervision-Report-2020-1.pdf>.

¹⁰ Anti-Money Laundering Supervisory Report 2020/21. Faculty of Advocates. <https://www.advocates.org.uk/media/4044/aml-annual-report-202021.pdf>.

¹¹ The report states: "We are not aware of any case past and present of a notary being part of a money laundering offence or having been alleged to have been so. We are however aware of one case, who in her capacity as a solicitor, misused her access to a client account as part of her estate administration practice to carry out theft and fraud. No money laundering offence occurred but the case is relevant to the misuse of client accounts."

¹² The Faculty Office of the Archbishop of Canterbury Anti-Money Laundering Annual Supervisory Report 2021. <https://www.facultyoffice.org.uk/wp-content/uploads/2021/11/AML-annual-report-2021.pdf>.

Regulation 46 of the MLRs requires supervisors to take a risk-based approach to supervision, meaning that more scrutiny and resources should be concentrated on those members whose activities put them at a higher risk of becoming involved in money laundering.

If instances of non-compliance are discovered, the PBS can take several courses of action, depending on the nature of the breach and the severity of the offence:

- Formal action, which includes enforcement actions such as financial penalties, removal or suspension of authorisation to practice, and other formal actions such as a formal warning letter or the appointment of a skilled person to improve standards and practices;
- Informal actions, which include the issuance of guidance, a letter of engagement, and the drawing up of a compliance plan.¹⁸⁶

In four of the nine PBSs, the most serious breaches are referred to an independent tribunal.

2c. How should Professional Body Supervisors manage conflicts of interest?

OPBAS has identified a problem with a lack of independence and the handling of conflicts of interest by PBSs in the legal sector. In its most recent report, OPBAS found that a third of PBSs in the legal and accountancy sectors did not effectively separate out their AML supervisory functions from their advocacy functions, and noted that legal sector supervisors were less effective in handling conflicts of interest appropriately than their counterparts in the accountancy sector.¹⁸⁷

What governance arrangements are required to secure anti-money laundering supervision that is free from conflicts of interest?

Under the MLRs, legal sector PBSs are required to ensure that:¹⁸⁸

- AML supervisory functions are exercised independently of any of their other functions which do not relate to disciplinary matters.
- Potential conflicts of interest within the organisation are appropriately handled.
- There are adequate resources to carry out their AML supervisory functions.

The OPBAS Sourcebook provides further guidance on the performance of these obligations:¹⁸⁹

- A PBS should clearly allocate responsibility for managing its AML supervisory activity, with evidence that senior management is actively engaged in this work.
- A PBS must keep its advocacy functions (in which they promote the interests of their members) separate from its regulatory functions (involving inspection and investigatory work).
- Where a PBS has a governing council that includes some members of the body, there should be a procedure for handling any conflicts of interest that may arise.

In its 2020/21 report, OPBAS expressed concern that *"PBSs did not always reflect governance structures in formalised policies and procedures setting out how they separated different functions and made decisions."*¹⁹⁰ Some PBSs are therefore falling at the first hurdle, by not even putting in place the policies and procedures required by the MLRs. Yet it is also clear from OPBAS' findings that even where there is a formal separation of functions, these policies and practices are either not being followed in practice or they are not effective.

In light of its finding that there is *"clear scope for improvement"* in these governance arrangements,¹⁹¹ OPBAS has recently proposed making fairly extensive additions to its Sourcebook which include the following:¹⁹²

- An emphasis on the need for a PBS to keep its advocacy functions both separate and independent from its regulatory functions, and to actively consider and mitigate all other potential conflicts of interest in how they perform their roles.

- An expectation that a PBS has clear, accessible and formalised policies and procedures for separating functions and is able to evidence that its policies and procedures are complied with.
- A requirement to maintain a recorded procedure for handling any conflicts of interest that arise as a consequence of members of a PBS sitting on its governing council.

Which legal sector PBSs have effectively separated their regulatory and advocacy functions?

From OPBAS' reports, it is clear that a number of legal PBSs are failing to manage their AML supervisory responsibilities through clear governance structures which ensure independent decision-making on AML issues and the appropriate management of potential conflicts of interest. However, OPBAS has not identified which PBSs are liable to such conflicts or what actions have been taken to bring them into compliance.¹⁹³

It is not clear which legal sector PBSs are falling short on OPBAS' assessment as there are no definitive parameters for what separation should entail. OPBAS instead notes that PBSs take different approaches to ensuring a separation of their regulatory and advocacy functions, for example by delegating authority to independent committees or including independent members on committees to support autonomous decision-making.¹⁹⁴

In England and Wales, the representative bodies for solicitors (the Law Society) and barristers (the General Council of the Bar) have achieved a clear separation of roles by delegating their regulatory functions to entirely separate legal entities, namely the SRA and the Bar Standards Board. By contrast, Scotland and Northern Ireland have not implemented such a clear-cut separation, instead relying on an internal allocation of functions within the PBS.¹⁹⁵

What is clear is that a failure to effectively separate advocacy and regulatory functions undermines the effectiveness of AML supervision undertaken by these PBSs. As OPBAS found, PBSs without a clear separation of roles show "some reluctance in taking robust supervisory and enforcement actions."¹⁹⁶ The apparent low formal enforcement rates in Northern Ireland and Scotland suggest these PBSs' governance arrangements (and failure to have an effective separation of advocacy and regulatory functions) may impact on their willingness to undertake robust supervision.

In its report *Striking the Balance: Upholding the Seven Principles of Public Life in Regulation*, the Committee on Standards in Public Life highlighted the importance of regulators remaining independent from those they supervise:

While constructively engaging with the regulated sector, regulators should guard against the dangers of "regulatory capture." Regulators should seek to ensure that staff at all levels are clearly aware of conflicts of interest and are explicitly advised about the risks of bias in decision making.¹⁹⁷

Stronger action is needed from OPBAS to ensure PBSs are not compromised in the performance of their AML supervisory responsibilities by conflicts of interest. OPBAS should recommend to HM Treasury that PBSs which fail to effectively separate their regulatory and advocacy functions should have their status as AML supervisors removed.

2d. The Solicitors Regulation Authority and its approach to enforcement

The Solicitors Act 1974 gives the SRA the power to issue warnings and rebukes, and to impose lower-level fines on individuals and traditional law firms.¹⁹⁸ Until July 2022, these fine limits were set at £2,000 but have now increased to £25,000.¹⁹⁹ Any fines above these limits can currently only be imposed by the SDT – an independent statutory tribunal which can also strike solicitors off the roll. All fines are recoverable as a debt due to the SRA and are forfeited to the Crown.²⁰⁰ The Legal Services Act 2007, however, gives the SRA the power to impose fines of up to £250 million on law firms that are Alternative Business Structures (ABS)²⁰¹ – firms whose management and ownership includes non-lawyers – and fines of up to £50 million on managers and employees of an ABS law firm.²⁰²

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Successive fines imposed on Mishcon de Reya reveal anomalies in AML enforcement

In December 2021, Mishcon de Reya received two fines of vastly differing amounts for similar money laundering failings – one was a mere £25,000, imposed by the SDT, while the second was a record fine for the legal sector of £232,500, imposed by the SRA. This discrepancy raises real questions as to whether the SRA or the SDT is the best body to investigate and enforce serious cases of money laundering.

Mishcon fined £25,000 for “profoundly serious” AML failures as a traditional law firm

Mishcon de Reya was fined £25,000 in December 2021 after the SDT found that it had failed to take any adequate steps to prevent payments from being made into and from the firm’s client account in circumstances amounting to the provision of a banking facility, in breach of Rule 14.5 of the Solicitors Accounts Rules 2011 and Principle 8 of the SRA’s Principles.¹ The Tribunal concluded that the breaches were “*profoundly serious, involving as they did many millions of pounds and a large number of third parties in this jurisdiction and abroad*”,² yet it also considered a long list of mitigating circumstances, including the fact that the firm self-reported.³ In its sanction decision the Tribunal noted that after having regard to its Guidance Note on Sanctions its “*overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession*” before deciding on the penalty of just £25,000.⁴ In the previous financial year the firm had reported an operating profit of £73.6 million.⁵

Mishcon fined £232,500 for serious AML breaches as an Alternative Business Structure (ABS)

After the passing of the Legal Services Act in 2007, the legal sector was opened up in a bid to increase competition and to diversify the supply of legal services.⁶ This legislative change resulted in ABSs entering the legal sector.

In 2015 Mishcon de Reya obtained a licence from the SRA to become an ABS.⁷ Shortly afterwards, the SRA initiated an investigation into the firm, eventually finding that it failed to carry out the required level of due diligence in relation to three property transactions in 2015 and 2017 connected to entities in high-risk jurisdictions.

The SRA concluded that the firm’s conduct had the “*potential to cause significant harm by facilitating transactions that gave rise to a risk of facilitating money laundering.*”⁸ According to the statement of facts agreed with the SRA, the firm admitted to a string of breaches of both the 2007 and the 2017 Money Laundering Regulations (MLRs) and accepted the penalty issued in line with the calculations developed by the SRA in its Enforcement Strategy.⁹ As a result, in December 2021 the SRA announced the firm had been fined £232,500.¹⁰

Usually the SRA refers serious breaches of the MLRs to the SDT, but in this case the firm was not treated as a traditional law firm, owing to its status as an ABS. Firms classified as an ABS are not subject to the same fine limits as traditional law firms (previously £2,000 but increased to £25,000 in July 2022) but are instead liable to fines of up to £250 million.¹¹

In arriving at a calculation of the fine, the SRA disclosed that the firm had agreed the basic penalty scale of 0.25% of its £155 million turnover, which took into account that the breaches were serious but “*did not crystallise into causing harm to clients or the wider public interest.*”¹²

By way of comparison, the judge who delivered the verdict against NatWest as part of the UK’s first corporate prosecution for criminal breaches of the MLRs chose to pursue a different approach to calculating the size of the fine issued. Instead of basing the calculation on company revenue, the judge based it on the amount of laundered funds paid into NatWest accounts.¹³ If the SRA had, in the Mishcon case, based its fine calculation on the disputed sums of money in the agreed statement of facts, the fine would have been closer to £965,000.¹⁴ More pertinently, if the SRA had used similar criteria to the Financial Conduct Authority in imposing regulatory fines for money-laundering breaches, the fine could have reached £5.4 million.¹⁵

Notes

¹ Para 2.1.2. Solicitors Regulation Authority Ltd and Elizabeth Ellen (First Respondent) and Mdr (Second Respondent) https://www.solicitortribunal.org.uk/sites/default/files-sdt/12187.2021.Ellen_.MDR%20.pdf.

² *Ibid*, para 43.29.

³ *Ibid*, para 52.

⁴ *Ibid*, para 52.

⁵ See Mishcon de Reya LLP annual report made up to 9 April 2021. Available from Companies House. <https://find-and-update.company-information.service.gov.uk/company/OC399969/filing-history>.

⁶ Research on alternative business structures (ABSs) Findings from surveys with ABSs and applicants that withdrew from the licensing process. SRA. <https://www.sra.org.uk/globalassets/documents/sra/research/abs-quantitative-research-may-2014.pdf?version=4a1ac4>.

⁷ Mishcon de Reya set to move to full-equity LLP structure in 2015. Legal Futures. <https://www.legalbusiness.co.uk/blogs/mishcon-de-reya-set-to-move-to-full-equity-llp-structure-in-2015/>.

⁸ Mishcon De Reya LLP (Mishcon De Reya). SRA. <https://www.sra.org.uk/consumers/solicitor-check/624547/>.

⁹ SRA enforcement strategy. SRA. <https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/>.

¹⁰ Mishcon De Reya LLP (Mishcon De Reya). SRA. <https://www.sra.org.uk/consumers/solicitor-check/624547/>.

¹¹ The SRA’s approach to financial penalties. SRA. <https://www.sra.org.uk/solicitors/guidance/financial-penalties/>. In the last 5 years the SRA has fined several alternative business structures including FindMyClaims.com Crawford & Company Legal Services Limited and Denning Legal.

¹² Mishcon De Reya LLP (Mishcon De Reya). SRA. <https://www.sra.org.uk/consumers/solicitor-check/624547/>.

¹³ Regina (The Financial Conduct Authority) vs National Westminster Bank Plc. Southwark Crown Court Sentencing Remarks of Mrs Justice Cockerill 13 December 2021. <https://www.judiciary.uk/wp-content/uploads/2021/12/FCA-v-Natwest-Sentencing-remarks-131221.pdf>.

continued

¹⁴ According to the statement of facts: “The firm admits (e) permitting four payments in the sums £965,000 (into) and \$1,099,015, \$10,000 and £10,000 (out of) the firm’s client account, between 22 July and 28 July 2016, thereby permitting the client account to be used as a banking facility, pursuant to Rule 14.5 of the SRA Accounts Rules 2011.” <https://www.sra.org.uk/consumers/solicitor-check/624547/>.

¹⁵ Different regulators’ fining policies may take into account the specific business structures of the firms they supervise and therefore making direct comparisons may be fraught with methodological difficulties. However this calculation is based on the following assumptions. The SRA fined Mishcon using the basic penalty scale of 0.25% of its £155 million turnover because the breaches were categorised as falling within band B (whereas the most serious breaches fall in band D with a maximum 2.5% fine). This amount was then adjusted down by 40% for mitigation, with the final fine being £232,500. The FCA’s fining levels are much higher, ranging from 0% to 20% of relevant turnover (i.e. the revenue derived by the firm during the period of the breach from the products or business areas to which the breach relates). Based on the SRA’s assessment that Mishcon’s breaches were not the most serious, it would have been subject to at least a 5% fine (reflecting a level 2 fine). This would be £7.75m of Mishcon’s £155 million turnover, adjusted by 30% for mitigation (the maximum mitigation allowed by the FCA) = £5.425 million. This is 20 times £232,500.

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In 2019 the SRA published its enforcement strategy,²⁰³ in which it sets out its role “to regulate in the public interest; to protect clients and consumers of legal services, and to uphold the rule of law and the administration of justice.”²⁰⁴ The document commits the SRA to an enforcement strategy based on “relentless pragmatism”²⁰⁵ and “constructive engagement.”²⁰⁶

The SRA also considers a host of mitigating factors when assessing enforcement action,²⁰⁷ including the nature of the allegation, intent and/or motivation, harm and impact, vulnerability, role experience and seniority, regulatory history and patterns of behaviour, remediation, relationship with legal practice and core regulatory jurisdiction, private life and previous criminal convictions.

The SRA recently undertook a consultation on its fining regime – a critical part of its enforcement strategy – and the financial penalties it should impose.²⁰⁸ As a result, in May 2022, the SRA announced it would:²⁰⁹

- Increase the maximum fine it can issue traditional law firms and individual solicitors from £2,000 to £25,000 from July 2022.
- Consider the turnover of firms and the means of individuals when setting fines in all cases, and increase the maximum percentage of turnover on which a fine can be based from 2.5% to 5%.
- Introduce fixed penalties for certain less serious breaches.
- Update sanctions guidance to clarify that fines are unlikely to be suitable in relation to behaviours such as sexual misconduct, discrimination and harassment, for which suspension or strike-off would usually be more appropriate.

In August 2022, the SRA launched a follow-up consultation on the details of this proposed new fining regime.²¹⁰ While these changes represent a small step in the right direction, they leave significant weakness in its AML enforcement strategy, as outlined below.

First, the SRA’s ability to fine traditional law firms up to £25,000 remains wildly incongruent with its ability to fine ABSs up to £250 million. OPBAS has noted that there

is no apparent rationale for this variation and that it prevents enforcement action being applied in a fair and consistent manner.²¹¹

Second, the pegging of fines to percentage of turnover is inadequate as a deterrent and results in fines that are low compared to the unlimited fines that can be imposed by other regulators.²¹²

Third, while the introduction of a fixed penalty scheme for certain lower-level breaches could help foster greater consistency and transparency in disciplinary outcomes, there is a risk it could be used to address systemic breaches that should attract more serious sanction. It is critical that the SRA's focus on issuing higher volumes of lower-level fines does not have the unintended consequence of "domesticating" AML breaches that would otherwise have been referred to the SDT.

Fourth, the SRA's enforcement policy has not addressed the issue of how the SRA's supervisory enforcement interacts with the SDT – despite OPBAS questioning whether the SRA has "compelling evidence that the current structure of two different methods of processing cases is the most effective approach to delivering a robust and credible anti-money laundering (AML) enforcement framework."²¹³ It is clear that the relationship between the SRA and SDT deserves more rigorous attention as part of a radical rethink of the AML enforcement regime in the legal sector.

Overall, despite OPBAS urging the SRA "to be more ambitious when evaluating its current enforcement framework and proposing changes to its approach",²¹⁴ recent changes in the SRA's enforcement strategy and fining policy have resulted in minor tweaks when it is clear that a step change in enforcement strategy is needed to ensure a robust deterrent framework is in place to make law firms and solicitors comply with their AML obligations. Measures proposed in the recently introduced Economic Crime and Corporate Transparency Bill would be a welcome move in this direction, as they would remove the statutory cap on the SRA's fining limits in relation to economic crime disciplinary actions.^{214a}

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Solicitor fined but not struck off for serious money laundering failures in relation to property deals for Azerbaijani elites

A senior lawyer at Child & Child, an elite London law firm, was found by a legal tribunal to have breached money laundering rules while acting for the family members and business associates of Ilham Aliyev,¹ Azerbaijan's autocratic "President for Life" who has ruled the country since 2003.

This case raises questions of how seriously UK legal professionals take their AML responsibilities. The manner by which it came to light – via the "Panama Papers" leak of financial data – raises additional questions about the extent of the problem, and whether the inherent secrecy of the profession is fuelling professional laxity.

Sixty million pound property deal for President Aliyev's daughters

In 2019, the SDT ordered Child & Child senior partner Khalid Sharif to pay £85,000 in fines and costs for failing to flag that his clients in a multi-million property deal were President Aliyev's daughters.

continued

Child & Child is a specialist property law firm based in the City of London with a roster of clients that includes high net worth foreign nationals.²

Between 2015 and 2016, the firm acted for Leyla and Arzu Aliyeva – referred to in the tribunal’s judgment as *“the X clients”* – in a deal to purchase and redevelop a £60 million property in London.

Sharif set up a British Virgin Islands company, Exaltation Limited, for the President’s daughters to acquire the property with, and payments totalling £14.3 million were made.³ However, the purchase never went ahead, and the funds were returned (minus the developer’s expenses).⁴

Details of the deal were published as part of the *“Panama Papers”* leak of data from Mossack Fonseca, the Panamanian law firm Sharif had instructed to set up the British Virgin Islands company.⁵

According to the SRA, who brought the case, Sharif should have classified President Aliyev’s daughters as *“politically exposed persons”* (PEPs), which ought have triggered enhanced financial checks.⁶

However, the tribunal heard that he *“didn’t consider”* these steps, and when he was asked if the new clients were PEPs, he instructed a colleague to tick a box marked *“no.”*⁷

While acting on the property deal, Sharif was one of Child & Child’s Money Laundering Reporting Officers,⁸ which according to the tribunal *“should have heightened his sense of his obligations, and his awareness of the risks.”*⁹

At the time of the deal, there were multiple news reports about the substantial wealth of President Aliyev’s family, and the allegedly suspicious manner by which they acquired it.

Aliyev’s daughters and other family members have reportedly amassed lucrative stakes in key Azerbaijani businesses, including banking, investment, tourism, luxury hotels, gold mines, gas, telecoms, fashion, cosmetics, and several major construction companies which have allegedly benefited from Azerbaijani state contracts.¹⁰ Their banking stakes are reportedly worth \$3 billion,¹¹ and their hotels \$10 billion.¹²

London apartment given as a “gift” to a member of Azerbaijan’s First Family

Between 2013 and 2014, Sharif acted on a separate property transaction, which involved the gift of a £3.5 million flat in Knightsbridge.

The tribunal found there were several *“red flags”* in this transaction, including the gift of a valuable London property and the use of offshore companies for the transfer.¹³

It found that these posed a *“significant risk that money laundering was taking place”*, and said Sharif had failed *“to act with integrity”* by not keeping an eye on further money laundering risks as they cropped up in their business relationship.¹⁴

The details of this transaction were first revealed on 10 May 2016 by the Sarajevo-based Organized Crime and Corruption Reporting Project (OCCRP).¹⁵ Then next day, Child & Child filed a SAR explaining that the apartment had been gifted as a birthday present, and that it was conventional to reciprocate the gift.¹⁶

The tribunal found that Sharif's failings "had led to a risk of large amounts of money being laundered."¹⁷ His failings were "very serious" and his "culpability high."¹⁸ However, they were not serious enough to strike him from the bar.¹⁹ He was fined £45,000 and ordered to pay a further £40,000 in costs.

Sharif has since left Child & Child, which was placed into administration in July 2019 and subsequently bought by five partners and a private equity investor.²⁰

Notes

¹ Solicitors Regulation Authority v Khalid Mohammed Sharif (Case No. 11805-2018) decision of the Solicitors' Disciplinary Tribunal dated 4 January 2019: <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11805.2018.Sharif.pdf>. See also: <https://www.legalfutures.co.uk/latest-news/solicitor-receives-hefty-fine-in-case-with-link-to-panama-papers>, <https://www.theguardian.com/uk-news/2018/dec/21/azerbaijan-leaders-daughters-tried-to-buy-60m-london-home-with-offshore-funds>.

² Solicitors Regulation Authority v Khalid Mohammed Sharif (Case No. 11805-2018) decision of the Solicitors' Disciplinary Tribunal dated 4 January 2019 at para 6: <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11805.2018.Sharif.pdf>.

³ Solicitors Regulation Authority v Khalid Mohammed Sharif (Case No. 11805-2018) decision of the Solicitors' Disciplinary Tribunal dated 4 January 2019 at para 8: <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11805.2018.Sharif.pdf>. See also <https://www.theguardian.com/news/2016/apr/05/panama-papers-london-law-firm-helped-azerbaijan-first-family-set-up-secret-offshore-firm>

⁴ *Ibid.*

⁵ *Ibid*, para 7.

⁶ *Ibid*, para 13.4-5.

⁷ Azerbaijan leader's daughters tried to buy £60m London home with offshore funds. The Guardian. 21 December 2018 <https://www.theguardian.com/uk-news/2018/dec/21/azerbaijan-leaders-daughters-tried-to-buy-60m-london-home-with-offshore-funds>

⁸ Solicitors Regulation Authority v Khalid Mohammed Sharif (Case No. 11805-2018) decision of the Solicitors' Disciplinary Tribunal dated 4 January 2019 at para 5: <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11805.2018.Sharif.pdf>.

⁹ Solicitor receives hefty fine in case with link to Panama Papers. <https://www.legalfutures.co.uk/latest-news/solicitor-receives-hefty-fine-in-case-with-link-to-panama-papers>.

¹⁰ The Structure of Corruption: A Systemic Analysis Using Eurasian Cases. Carnegie Endowment for International Peace. June 2016. https://carnegieendowment.org/files/CP274_Chayes_EurasianCorruptionStructure_final1.pdf

¹¹ Azerbaijani First Family Big on Banking. OCCRP. 11 Jun 2015 <https://www.occrp.org/en/corruptistan/azerbaijan/2015/06/11/azerbaijani-first-family-big-on-banking.en.html>

¹² Aliyevs Own Some of the Best Hotels in Baku. The OCCRP. 28 June 2015 <https://www.occrp.org/en/corruptistan/azerbaijan/2015/06/28/aliyevs-own-some-of-the-best-hotels-in-baku.en.html>

¹³ Solicitors Regulation Authority v Khalid Mohammed Sharif (Case No. 11805-2018) decision of the Solicitors' Disciplinary Tribunal dated 4 January 2019 at para 18.1: <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11805.2018.Sharif.pdf>.

¹⁴ *Ibid*, para 18.1-2

¹⁵ Azerbaijan First Family's London Private Enclave. The OCCRP. 10 May 2016 <https://www.occrp.org/en/panamapers/azerbaijan-first-family-s-london-private-enclave/>

¹⁶ Solicitors Regulation Authority v Khalid Mohammed Sharif (Case No. 11805-2018) decision of the Solicitors' Disciplinary Tribunal dated 4 January 2019 at para 17.5: <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11805.2018.Sharif.pdf>.

¹⁷ *Ibid*, para 32

¹⁸ *Ibid*, para 35

¹⁹ *Ibid*, para 34

²⁰ Child & Child goes bust and Senior Partner is out after Panama Papers scandal. Roll on Friday. <https://www.rollonfriday.com/news-content/exclusive-child-child-goes-bust-and-senior-partner-out-after-panama-papers-scandal>.

2e. The role of OPBAS

OPBAS was intended to act as the “*supervisor of supervisors*” for the legal and accountancy sectors (currently self-regulated by their own professional bodies) and to strengthen the UK’s AML regime,²¹⁵ but after a three-year reporting period results have been mixed.

Arriving at a comprehensive view is challenging, given that OPBAS reporting often fails to disaggregate figures for the legal and accountancy sectors despite in places highlighting disparities in their relative performance. In addition, many specific AML metrics across its six main reporting categories are not harmonised across years, making year-on-year comparisons challenging.

The validity of drawing multi-year comparisons may be further challenged by upcoming changes to OPBAS’ Sourcebook – the guiding document outlining OPBAS’ approach to AML supervision. After a consultation launched in August 2022, the Sourcebook will be updated to improve PBS supervision and assist OPBAS in achieving its goal of further “*reducing and preventing financial crime.*”²¹⁶

In a welcome move, however, in 2020/21 OPBAS moved from reviewing technical compliance of supervisors with their duties to reviewing their effectiveness in conducting AML supervision.²¹⁷ While this makes comparison between performance in 2020/21 and earlier years difficult, the OPBAS reviews have revealed challenges in the legal and accountancy supervision sectors in four main areas: governance, risk-based approach, supervision and enforcement.

Governance

- In 2020/21 after changing to the new review methodology, OPBAS reported that “*just over 60% of PBSs allocated the responsibility for managing AML supervisory activity effectively.*”²¹⁸ This means that after three review cycles 40% of all PBSs do not have fully effective governance structures in place.
- In 2020/21 40% of legal and accountancy supervisors were still failing to have in place governance structures with appropriate independent decision-making.²¹⁹
- As of 2020/21 and after three years of OPBAS supervision only just over half (54%) of all PBSs “*were effective in demonstrating active engagement from senior management in AML supervision*”, and only 50% of PBSs were “*fully effective at resourcing their supervisory functions.*”²²⁰
- A third of all supervisors did not have an effective separation of their advocacy and regulatory functions.²²¹

Risk-based approach

OPBAS’ 2019/20 report has detailed and disaggregated information on risk assessment and profiling by the legal sector and on whether PBSs applied a risk-based approach.²²² Equivalent data is not disclosed in OPBAS’ 2020/21 report, making it impossible to assess these metrics under the new effectiveness review criteria. However, overall:

- In 2020/21 OPBAS found that “only 19% of PBSs assessed had implemented an effective risk-based approach”, highlighting that there “continued to be gaps in how PBSs approach risk, as well as in developing and managing their members’ risk profiles.”²²³
- In 2020/21 still only 33% of all PBSs had completed risk profiles of their members, while only 29% were effective in regularly reviewing and appraising money laundering risks.²²⁴

Supervision

- In 2020/21, only 15% of all PBSs were effective “in using predictable and proportionate supervisory actions”, which, according to OPBAS, is “due to a lack of clarity around compliance ratings of members.” OPBAS states that it observed “different ratings for members with similar gaps in their money laundering procedures.”²²⁵
- In 2020/21 67% of legal sector PBSs and 42% of accountancy sector PBSs were effective in using a broad range of both proactive and reactive tools to supervise their members, including the use of desk-based reviews, thematic reviews, dip-sampling information requests and repeat inspections.²²⁶

Enforcement

- In 2021 OPBAS found that only 26% of PBSs were using enforcement tools effectively and that there was a continued “overuse of follow-up visits to address AML non-compliance and a reluctance to use other enforcement tools such as a reprimand or regulatory fines.”²²⁷ It also found that only 32% of PBSs had an effective enforcement framework in place, pointing to weaknesses in how AML issues are progressed through supervisors’ disciplinary processes “in a fair and consistent way.”²²⁸
- Only 50% of legal sector supervisors reviewed in 2020/21 used their information-gathering and investigative powers effectively.²²⁹

Under the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 OPBAS has the powers to:

- Require supervisors to provide specific information or documents (Regulation 7).
- Give a direction in writing to a supervisor requiring them to remedy a failure to comply with a supervisory requirement or prohibit them from taking a specific action (Regulation 14).
- Publicly censure PBSs for failing to comply with a supervision requirement or a direction given under Regulation 14 to remedy a compliance failure.
- Recommend to HM Treasury that a PBS is removed from Schedule 1 to the MLRs and thereby relieved of its AML responsibilities.²³⁰

Despite the availability of these powers,

- OPBAS has used its Regulation 7 powers in just one instance to compel a supervisor to provide information in response to a written request.

- OPBAS has used its power of direction against just four PBSs (14% of all PBSs).
- OPBAS has yet to use its existing powers to publicly censure a PBS or recommend to HM Treasury that a non-performing PBS be removed from Schedule 1 of the MLRs – a fact OPBAS attributes to “*the general willingness*” on the part of the PBSs to cooperate.

If OPBAS wants to have a truly transformative effect on the bodies it supervises, it needs to start naming the ones who are not performing and show a willingness to follow through with robust enforcement action in the face of persistent supervisory failings.

THE IMPORTANCE OF TRANSPARENCY AND HIGH-QUALITY SUPERVISORY DATA

Transparency is a key component of an effective AML regime as it ensures that the public and supervised actors can hold supervisors accountable for the quality of their supervision.²³¹ Consistently collected and standardised data meanwhile ensures that supervisory standards can be properly tracked and assessed.

3a. Transparency about enforcement decisions

In its 2020/21 report, OPBAS stated that 70% of legal and accountancy supervisors were effective in making enforcement actions public.²³² Our research, however, found that all six of the legal supervisors with disciplinary information available on their websites restrict access to such cases in some form. In particular:

- The SRA currently removes most decisions three years after publication.²³³
- The Council for Licensed Conveyancers²³⁴ and the Bar Standards Board²³⁵ only commit to keeping all judgments on their website for two years.
- The Chartered Institute of Legal Executives Regulation removes decisions depending on the penalty imposed (once a penalty has expired, the decision could be removed).
- The Faculty Office of the Archbishop of Canterbury only lists recent decisions.
- The Law Society of Scotland only publishes a selection of cases.

Whereas the OPBAS Sourcebook does not specify the level of detail published enforcement actions should have, it is concerning that all six legal supervisors which publish disciplinary actions restrict access to information about such decisions. This could be because offenders, if they are individual solicitors, deserve a chance at rehabilitation; however, the removal of virtually all information pertaining to these decisions limits

transparency, as well as the ability of others to see what kinds of sanctions have been imposed, and what the circumstances of the enforcement action were.

We also found that the majority of the legal sector PBSs do not offer detailed reasons for their enforcement decisions on a consistent basis. Three of the nine supervisors provided no information, five published some information, ranging from summaries to detailed accounts, and only one gave a very detailed account including the full judgment.

The lack of information on the type of breaches and what enforcement action was brought is problematic for several reasons: it prevents people from knowing the nature of the disciplinary action and whether it was a major or minor breach; non-disclosure of the perpetrator prevents people from making an informed choice about the company in question; and it may promote a feeling of impunity among wrongdoers, as their breach goes unpublicised.

3b. Supervisor websites

Most of the websites of PBSs and disciplinary tribunals with enforcement actions available are hard to navigate and do not offer easy access to enforcement action information. Of the actors with websites, only the SDT satisfies the recommendation made in 2016 by the Committee on Standards in Public Life that regulators' websites should be well designed, easy to navigate and regularly updated.²³⁶

Only two of the three disciplinary tribunals provide high-quality data on enforcement actions.

The Solicitors Disciplinary Tribunal for Northern Ireland has no available disciplinary actions available on its website, but the SDT and the Scottish Solicitors' Discipline Tribunal publish detailed accounts of their decisions. These two tribunals stand out not only for providing a high level of access to information in comparison to the Solicitors Disciplinary Tribunal for Northern Ireland, but also because they are much more transparent than all the legal supervisors. The Scottish Solicitors' Discipline Tribunal seems to publish most, if not all, of its decisions, and although these may only stay up for a limited time, it is the body that provides the highest level of access to information about enforcement actions.

3c. Data published by overall supervisors

With regards to overall supervisory data collected, there is now a plethora of different data, including annual reports by individual supervisors, an annual report by OPBAS and an annual report by HM Treasury.

These reports all use different reporting cycles, metrics and templates, creating a sometimes confusing and contradictory picture of supervision and preventing meaningful comparison. In particular:

- While OPBAS and HMT both use the same reporting cycle (April–April) for their reports on supervision, they use different metrics. HM Treasury's reporting is based on providing data across two broad themes (supervision and enforcement)

complemented by additional data outlining changes in performance and by several case studies. In contrast, OPBAS takes a more comprehensive and systematic approach and provides data clearly allocated into eight key AML metrics (governance, risk-based approach, supervision, information sharing, enforcement, information and guidance for members, staff competence and training, record keeping and quality assurance).

- While OPBAS publishes its reports promptly – usually within five months of the end of the reporting period – the two HM Treasury AML supervisory reports have taken 16 and 19 months to publish after the reporting period finished.²³⁷
- OPBAS meanwhile does not provide sufficient disaggregation of its data either between the legal and accountancy sectors or within the sectors to provide a full picture of how different supervisors within the sectors are operating. In some reports, key enforcement metrics are aggregated to include all supervisors while in other reports legal and accountancy figures are separated, thereby preventing meaningful comparison. Crucially, OPBAS does not name failing or poorly performing PBSs, meaning that supervisors failing to comply with the MLRs continue to operate without fear of public censure.
- Supervisory data collected by the legal sector supervisors meanwhile is not synchronised with that collected by HM Treasury and OPBAS, thereby preventing meaningful comparison. The SRA's AML reporting data for instance operates on an October–October reporting cycle, and uses a different set of metrics than either OPBAS or HM Treasury. Although the SRA's AML reporting has become more extensive to include information on desk-based reviews, on-site visits, referrals to the SDT, SARs submitted to the NCA, and referrals to the SDT, these metrics have not appeared consistently or are omitted in some reports, meaning that it is difficult to identify trends from multi-year comparisons using incomplete data.

PART

4

HOW LEGAL SECTOR SUPERVISION COMPARES TO STATUTORY ANTI-MONEY LAUNDERING SUPERVISORS

In addition to the 22 PBSs in the legal and accountancy sectors, there are three statutory AML supervisors: the Financial Conduct Authority (FCA), HM Revenue and Customs (HMRC)²³⁸ and the Gambling Commission.

Mindful of the large variations in the size of the AML populations under supervision in these five sectors, this section compares their respective enforcement performance over three financial years for which HM Treasury data is available (2017/18, 2018/19 and 2019/20). It should also be noted that each regulated sector faces specific AML risks – the legal sector is recognised as being at “*high-risk*” of facilitating money laundering by HM Treasury, as are the accountancy sector and the banking industry within financial services.²³⁹ In contrast, the sectors of the gambling industry that are regulated under the MLRs (remote and non-remote casinos) are classified as posing a “*low risk*.”²⁴⁰

Additionally, the size of the firms operating in each sector varies significantly – the largest bank supervised by the FCA had a turnover of £6.3 billion in 2021 compared to £2.1 billion for the largest firm operating in the legal sector.²⁴¹ Meanwhile, legal sector supervisors may be supervising firms of a wide range of sizes, from very small one-to-two person outfits up to firms with 4,000 employees, while the largest retail bank employs 40,000 people.

Overall, we find that the performance of PBSs in the legal sector is marginally better than that of its counterparts in the accountancy sector in two main ways:

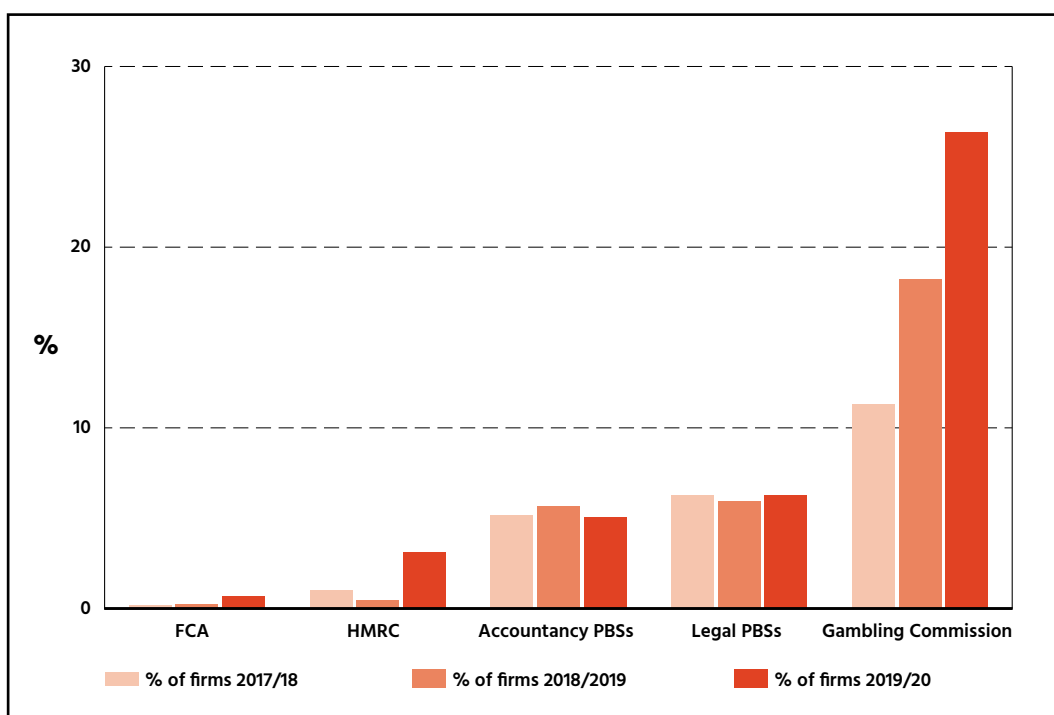
- The proportion of desk-based reviews and on-site visits they undertake.
- The total value of fines they issue (when adjusted for AML population size).

Where the legal sector supervisors compare unfavourably to the other AML supervisors is their clear preference for taking informal actions (such as through engagement with firms) as opposed to formal actions (including warnings, rebukes and fines) in cases where non-compliance with the MLRs has been identified. In this sense, both HMRC and the Gambling Commission take a tougher approach toward firms under their supervision.²⁴²

4a. Desk-based reviews

Over the three-year period in question the percentage of firms subject to a desk-based review by legal sector PBSs has remained more or less stable at around 6%.²⁴³ This performance is marginally better than that of the accountancy PBSs, which reviewed between 5% and 6% of firms under their supervision during the same period.²⁴⁴ The FCA is responsible for the largest supervised population, and conducts the fewest reviews: an average of just 0.3% of firms under its supervision were reviewed.²⁴⁵ The Gambling Commission, meanwhile, has a much smaller supervision population but also proportionally undertakes more desk-based reviews than all the other supervisors combined (26.4% in 2019/20).²⁴⁶ These findings are depicted in Figure 1.

FIGURE 1: Percentage of supervised firms subject to a desk-based review , 2017/18–2019/20



After undertaking desk-based reviews, AML supervisors can take formal enforcement actions where non-compliance with the MLRs is identified. According to the latest HM Treasury AML supervision report (2019/20), the most common breaches identified by the accountancy and legal sectors relate to problems with AML risk assessments, lack of customer due diligence monitoring, missing client risks assessment, inadequate AML policy procedures and issues with AML training for staff members.²⁴⁷

After identifying cases of non-compliance following a desk-based review in 2019/20, legal supervisors took action in 55.5% of cases,²⁴⁸ falling from 100% in 2018/19 when it took formal action in response to every finding of non-compliance.²⁴⁹ The previous year

(2017/18) legal sector supervisors undertook 35 formal actions despite only assessing 13 firms undergoing desk-based reviews as non-compliant.²⁵⁰

These figures suggest the legal supervisors performed better than the Gambling Commission, which took formal action in 11.4% of cases of non-compliance in 2019/20 (53.8% in 2018/19 and 84% in 2017/18)²⁵¹ but lower than the FCA which did so in 100% of cases in 2019/20.²⁵²

Data for HMRC is missing because its figures for formal actions after desk-based and on-site reviews were aggregated in HM Treasury documents.²⁵³ Similarly to the FCA, HMRC took formal action in 100% of instances where it identified cases of non-compliance between 2017/18 and 2019/20.²⁵⁴ As a result of the data being aggregated in this way it is not possible to establish whether HMRC identifies more AML breaches after desk-based reviews or through on-site visits.

4b. On-site visits

Over the review period the legal sector PBSs have slightly reduced the percentage of firms being subject to on-site visits, from 6.8% 2017/18 to 4.7% in 2019/20.²⁵⁵ It should be noted that this downward tendency began before the COVID-19 pandemic took hold. In addition, the accountancy PBSs also displayed a similar downward trend, but by a much smaller margin.²⁵⁶ Both the legal and accountancy PBSs undertook proportionally more visits to firms than HMRC (which has a similar population size to the accountancy sector) and the FCA but fewer than the Gambling Commission.²⁵⁷ Figure 2 compares the percentages of supervised firms subject to an on-site visit in the different sectors.

FIGURE 2: Percentage of supervised firms subject to an on-site visit, 2017/18–2019/20

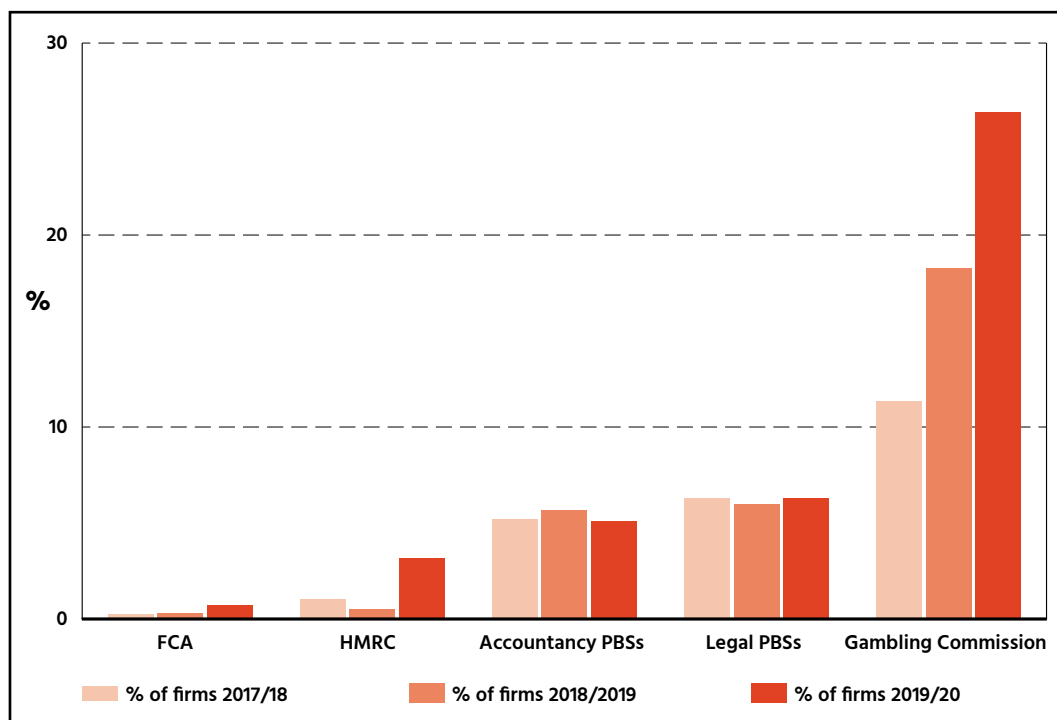
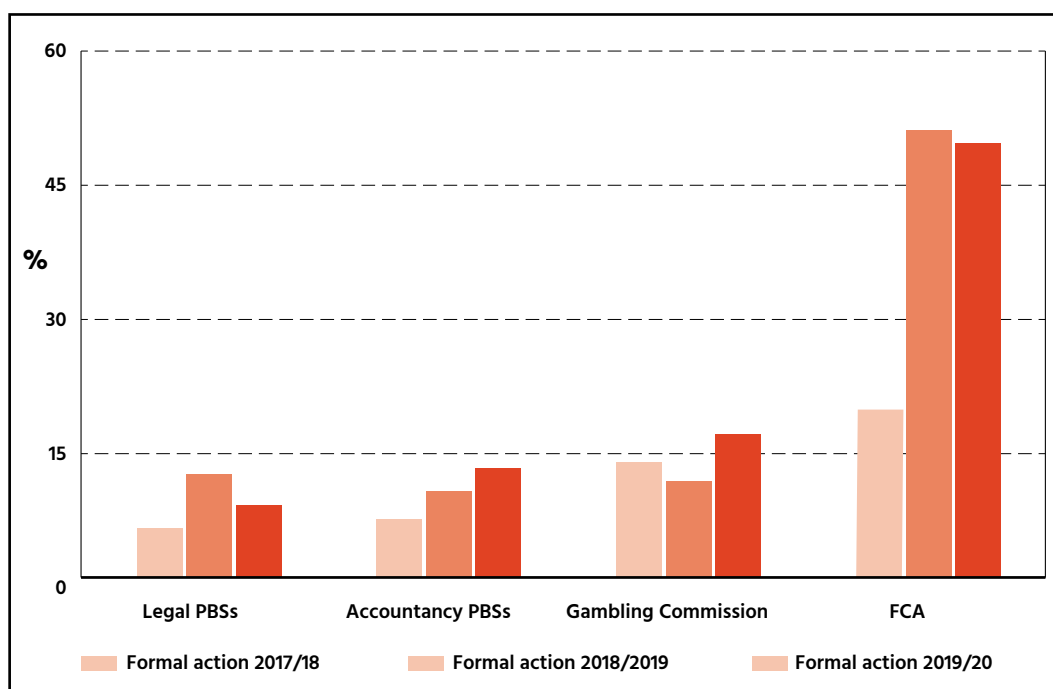


Figure 3 below shows the differences across the PBSs of the percentages of on-site visits that result in formal actions being taken (irrespective of their result). In the case of the FCA, in 2018/19 and 2019/20 it took formal actions after half of its visits.²⁵⁸ Legal PBSs, in contrast, undertook formal actions in far fewer cases,²⁵⁹ slightly behind the accountancy PBSs, which undertook formal actions after an average of 9.8% of visits in the three-year period.²⁶⁰

FIGURE 3: Percentage of on-site visits that resulted in formal actions (regardless of findings of non-compliance), 2017/18–2019/20



In cases where legal supervisors assessed firms as not compliant after an on-site visit, they took action in 34.6% of cases in 2019/20.²⁶¹ This is lower than the accountancy sector, which did so in 66.3% of cases,²⁶² while the Gambling Commission did so in 29.6% of cases.²⁶³ The FCA, in contrast, took formal action after 100% of non-compliant assessments following an on-site visit, showing a consistent approach to enforcement.²⁶⁴

4c. Informal versus formal enforcement actions

Compared to the other supervisors, legal sector PBSs are more likely to undertake informal actions against firms such as writing to them to offer advice and feedback than to take formal action such as issuing warnings, rebukes or fines. Between 2017/18 and 2019/20 legal sector PBSs undertook 429 informal actions compared to 146 formal actions, or nearly three times more (2.9), meaning that when legal sector PBSs do take action, they show a clear preference for resolving non-compliance with the MLRs through engaging with firms rather than through formal actions.²⁶⁵ There is evidence that this reluctance to take formal action against firms is baked into some legal sector PBSs' AML policies. The

Council for Licensed Conveyancers, for example, in its latest AML report describes its task with its supervised population as being “to bring them into compliance within a short time and where possible without further enforcement action.”²⁶⁶

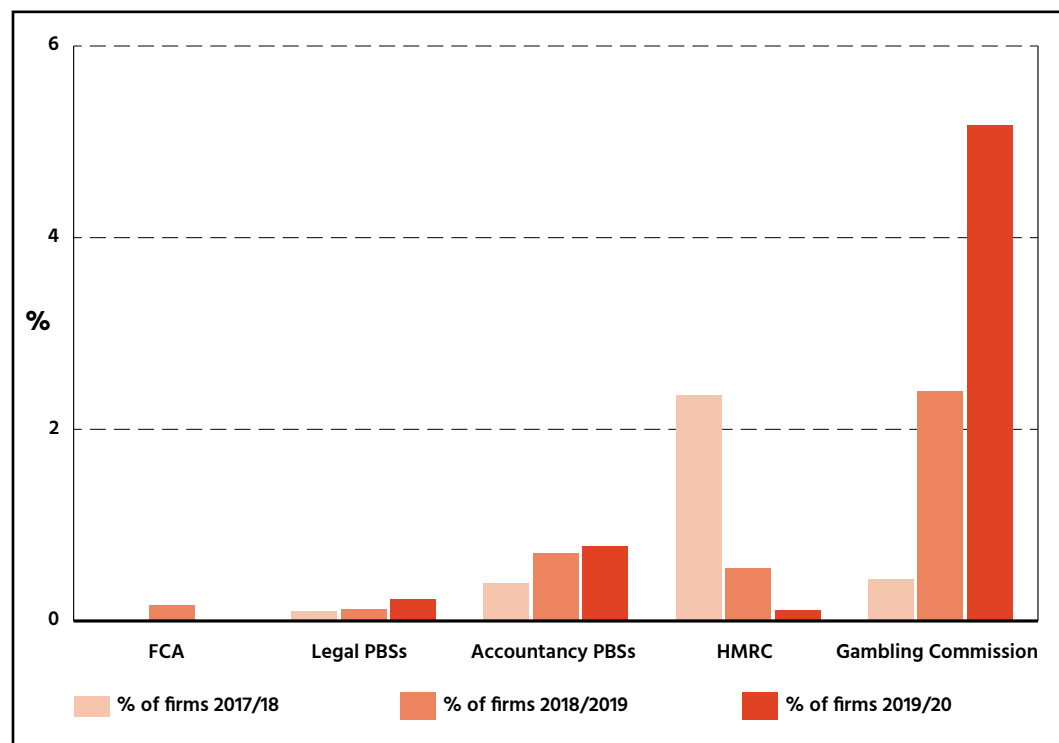
In contrast, the distribution between informal and formal actions is much more equal for the other supervisors. Accountancy sector supervisors undertook 837 informal actions compared to 468 formal actions, or 1.7 times more. With regard to the statutory AML supervisors, both the Gambling Commission and HMRC also had a more equal distribution between formal and informal actions (1.46 and 1.18 times more respectively) while the FCA was the only supervisor that undertook more formal actions than informal actions (58 versus 46).²⁶⁷

4d. Number of fines issued annually

Legal sector PBSs issued a total of 39 AML-related fines between 2017/18 and 2019/20 compared to 611 for the accountancy sector.²⁶⁸ When adjusted for population size, legal sector PBSs issued proportionally fewer, with an average of 0.1% of its supervised population receiving a fine in relation to MLR breaches between 2017/18 and 2019/20,²⁶⁹ lower than the accountancy sector, where 0.6% of its supervised population received a fine.²⁷⁰

In contrast, two of the statutory supervisors issued proportionally more fines – HMRC fined an average of 1% of its supervised population²⁷¹ and the Gambling Commission 2.7%.²⁷²

FIGURE 4: Percentage of supervised firms fined for MLR violations, 2017/18–2019/20



4e. Value of fines issued per year

It is difficult to make direct comparisons between the AML supervisors in relation to the value of fines issued, given the dramatically different sizes of firms supervised and the varying money laundering risks both within sectors and between them. However, differing levels of fines can also show radically different approaches to enforcement, which undermine the consistency in application of the UK's AML rules.

The FCA, for example, has the largest AML population under its supervision, which includes the country's largest financial institutions, and supervises "high-risk" money laundering areas, including retail and wholesale banking.²⁷³ While the FCA issues few fines of varying size, it has also issued the largest money-laundering fine of all time – when in 2018/19 it fined Standard Chartered Bank £102 million in relation to serious AML failings.²⁷⁴ In contrast, the Gambling Commission, which has a much smaller AML population, is rated as a "low risk" for money laundering but issued 13 fines worth £43 million across its population of 250 firms in 2019/20 alone.²⁷⁵ It should also be noted that fines issued by the Gambling Commission have been given to some of the parent companies of the largest operators in the industry.²⁷⁶

During the three-year period, legal sector PBSs despite supervising a "high-risk" sector, issued 39 fines worth a total of £621,252, slightly more than the accountancy PBSs (£585,141).²⁷⁷ In contrast to the Gambling Commission, the SRA (the largest single supervisor in the sector) has not issued a single fine to any of the top 20 legal firms in the last three years – firms that have a combined turnover of £20.1 billion in 2019/20, many of whom engage in complex international transactions or deal with PEPs, both of which may represent significant money laundering risks.²⁷⁸ While we would not expect fine levels in the legal sector to be identical to those in the finance sector, owing to the disparities in turnover, given that the biggest firms in the legal sector have turnovers of close to £2 billion, the low value of fines in the sector raises red flags that supervisors in the sector may not have the appetite or capacity to undertake resource-intensive investigations into complex transactions done by big law firms.

TABLE 4: Values of fines issued by each supervisor between 2017/18 and 2018/19

SUPERVISOR	VALUE OF FINES (£M)			TOTAL
	2017/18	2018/19	2019/20	
FCA	0	103	0	£103,135,700
Accountancy PBSs	0.136	0.147	0.3	£585,141
Legal PBSs	0.074	0.351	0.194	£621,252
HMRC	2.25	1.1	9	£12,497,761
The Gambling Commission	6.4	17	43	£67,075,089 ²⁸²

Where legal sector PBSs do compare favourably is with the accountancy sector PBSs. When data is adjusted to take into account the much larger population size of the accountancy sector, legal sector PBSs issue comparatively higher fines.²⁷⁹

In terms of fine sizes, both the accountancy and legal PBSs fall way behind HMRC and the Gambling Commission, which issue much larger AML fines overall, especially when the figures are adjusted for population size.²⁸⁰ It should be noted that despite downward revisions to HMRC's AML fines announced in June 2022 after it changed its fine calculation method,²⁸¹ it still issues proportionally larger fines than both the legal and accountancy sector PBSs.

TABLE 5: Largest money laundering fines issued by supervisors

FCA	HMRC	GAMBLING COMMISSION	SRA
£264 million ²⁸³	£23 million ²⁸⁴	17 million ²⁸⁵	£232,500 ²⁸⁶

PART 5

REFORMING AML SUPERVISION OF THE LEGAL SECTOR

5a. The need for radical reform

The government's Economic Crime Plan for 2019–22 set the target for OPBAS and PBSs to take action to “strengthen the consistency of professional body AML/CTF supervision” by March 2021.²⁸⁷ However, this has not been fully achieved.

Instead, as this report shows, in the context of the legal profession, the supervisory landscape remains fragmented, and enforcement action is uneven and inadequate. Although OPBAS has identified that major problems exist within the AML supervision regime, it has not managed to adequately improve the level of enforcement by supervisors.

This raises questions about whether radical change is needed in the UK's AML supervisory regime. At the very least, the findings in this report show that an urgent rethink is needed about how the UK tackles the supervision of legal professionals and firms who are high risk for money laundering. In this context it is clear that fudging piecemeal reforms or “rearranging the regulatory deckchairs”²⁸⁸ will not do – more fundamental change is needed.

Calls for reform are growing. The 2022 Economic Crime Manifesto published by all-party parliamentary groups (APPGs) on Fair Business Banking and Anti-Corruption and Responsible Tax calls for “a radical overhaul” of AML supervision to strengthen OPBAS with “new powers to sanction supervisors and ensure consistency of implementation” and a system that is “streamlined to deliver fewer supervisors with common standards and reduce risk of supervision by bodies that have conflicts of interest between their advocacy and regulatory roles.”²⁸⁹ In February 2022, the Treasury Select Committee similarly called for consideration of radical reforms to the AML supervisory landscape,

including a move away from the self-regulatory model for the legal and accountancy sectors, and a review of the enforcement powers by their supervisors, as well as renewing its call for a “*supervisor of supervisors*.”²⁹⁰

Most recently, in June 2022, HM Treasury’s review of the UK’s AML regulatory and supervisory regime concluded that there is a need for reform to improve the effectiveness of AML supervision, particularly in respect of the professional services such as the legal sector.²⁹¹ The consultation did not yield clear consensus as to what scale and type of reform would best achieve a more effective supervisory regime.²⁹² HM Treasury has identified four possible models and commits to further consultation to better understand the implications and practicalities of each model before deciding on any option.²⁹³

The findings in this report provide a strong evidence base for fleshing out what reforms are required to achieve consistent and effective AML supervision of the legal sector.

First, there needs to be a consolidation of legal sector supervisors in order to bring coherence to the current patchwork of scattered supervisory bodies of differing sizes, capacities and mandates.

Second, this consolidation should go hand-in-hand with a standardisation that entails not just greater consistency in approach but, critically, a raising of standards to achieve effective AML supervision and enforcement across the regulated sector, and far greater coordination among supervisors. In our view, this would best be achieved by transforming OPBAS to function as a robust “*supervisor of supervisors*”, of all AML supervisors including statutory ones, which build on the so-called “OPBAS+” model identified in the HM Treasury report.²⁹⁴

Third, the success and effectiveness of these reforms should be reviewed constantly, and if standards of supervision do not significantly increase over a five-year time span, the potential gains of greater consolidation should remain under consideration.²⁹⁵

5b. Consolidating and standardising legal sector supervision

Centralising supervision can facilitate greater uniformity in supervision and the efficient pooling of resources. However, it also carries real risks of losing specialised knowledge and the flexibility to respond to sector-specific challenges.

An incremental, pragmatic process of reform, which brings consistency of supervision within professional sectors while retaining and developing emerging sector-specific knowledge, skills and experience would entail transition to a single sectoral supervisor.

A first step towards achieving this would be for HM Treasury and OPBAS to immediately identify the currently failing PBSs who have ongoing conflicts of interest and have yet to show a willingness to take robust supervisory enforcement action where they identify

non-compliance with the UK's money laundering rules. These supervisors could be assigned a default supervisor within the legal sector in the first instance as a step towards the creation of a single supervisor.

If the single sectoral supervisor model is going to work, that supervisor will need to be (a) robustly independent, (b) properly empowered, (c) adequately resourced, (d) transparent in its operation, and (e) proactive in sharing information with law enforcement.

- **Independence:** The single supervisor should have a purely regulatory function and be robustly independent from those it supervises.
- **Enforcement powers:** The single supervisor should be empowered to take robust enforcement action through “*effective, proportionate and dissuasive measures.*” This should include the power to impose a full range of regulatory sanctions, including strike-offs and unlimited fines, without resort to another body.
- **Resourcing:** The single supervisor will need to be adequately resourced and staffed to undertake proactive supervision to monitor the money laundering risks facing the legal profession, detect non-compliance, and follow through with thorough enforcement action for MLR breaches. This will require careful consideration of fee structures, and of how members of different professional bodies may assign a portion of their professional body membership fee to the single sectoral AML supervisor.
- **Transparency:** All enforcement actions should be published on the website of the single supervisor and be available for at least five years. This should include the name of the legal professional or firm subject to supervisory scrutiny, the corrective action that was taken, and the nature of their non-compliance.
- **Information sharing:** The single supervisor should engage in proactive information-sharing with law enforcement agencies about potential MLR breaches and illicit activity involving or enabled by legal professionals.

The issue of whether to have three separate sectoral supervisors to reflect the devolved regional bodies is thorny. The potential failure of legal sector supervisors in Scotland and Northern Ireland to effectively separate their regulatory and advocacy functions reduces the desirability of retaining a model of devolved or regional supervision, and points strongly towards transitioning to a single AML supervisor for UK legal professionals. Furthermore, there are arguments for having UK-wide consistency on AML supervision to prevent money launderers essentially exploiting vulnerabilities where supervision is weakest.

5c. Making OPBAS a robust “supervisor of supervisors”

The single sectoral supervisor for the legal profession should in turn be supervised by a beefed-up OPBAS that operates as a genuine “*supervisor of supervisors*” for the whole of the regulated sector. This would entail giving OPBAS a wider remit and stronger powers to ensure consistency across the entire supervisory landscape.

As a “*supervisor of supervisors*”, OPBAS would effectively operate as the UK-wide authority for AML supervision that is responsible for the following:

- Ensuring consistency of AML supervision across all regulated sectors, including supervision by HMRC, the FCA, and the Gambling Commission.
- Ensuring common frameworks and standards of enforcement.
- Coordinating, developing and disseminating intelligence.
- Improving the exchange of information and cooperation between supervisors, and cooperation with law enforcement.
- Providing cross-sectoral risk analysis and templates for following a risk-based approach to AML supervision.
- Acting as a liaison between supervisors and law enforcement.
- Developing technical standards, guidelines and recommendations for supervisors.
- Ensuring all supervisors meet their requirements under the MLRs, as well as the standards for regulators outlined in the Committee on Standards in Public Life, with powers to discipline and publicly censure those that do not.
- Identifying businesses that are engaging in regulated activity without supervision, as well as areas outside the regulated sector that pose high risk for money laundering, and developing strategies for improving AML compliance for both.
- Ensuring consistent application of criminal sanctions under the MLRs.
- Acting as the central point of reporting for AML whistleblowers.
- Acting as a last resort supervisor in the event of severe supervisory failure.

In order to play this role as a “*supervisor of supervisors*” effectively, OPBAS should be renamed and made properly independent of any other body, being instead accountable only to Parliament. It will need to be given significantly more resources, and increased powers to fulfil the above functions.

5d. Ongoing monitoring and review

This proposed model for consolidating AML supervision in the legal sector, overseen by OPBAS as a robust “*supervisor of supervisors*”, would entail radical changes to the supervision regime. Data-driven monitoring and review processes should form a key part of the reform agenda to assess the effectiveness of this new supervisory model and address any unintended consequences. Ongoing monitoring would also enable an informed assessment of the potential gains of further consolidation of the AML supervisory regime.

We need to develop a strong evidence base for understanding what forms of supervisory action are effective at deterring corrupt actors and legal professional enablers from laundering money in the UK. These supervisory reforms also need to be assessed against emerging best practice in equivalent jurisdictions, transparently and on an ongoing basis, to ensure that the UK does not fall behind its peers in addressing money laundering.

ENDNOTES

- ¹ National risk assessment of money laundering and terrorist financing 2017. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf.
- ² The United Kingdom's measures to combat money laundering and terrorist financing. *FATF*. <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-kingdom-2018.html>.
- ³ UK Economic Crime Plan 2019–22. HM Government. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816215/2019-22_Economic_Crime_Plan.pdf.
- ⁴ Anti-money laundering and counterterrorist financing: Supervision Report 2019–20. HM Treasury. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.
- ⁵ "The number of firms failing to implement an independent audit function remains high (49 out of 69 firms visited in the period.)" Our Anti-Money Laundering work. *Solicitors Regulation Authority*. <https://www.sra.org.uk/pdfcentre/?type=id&data=1365989711>.
- ⁶ 60% of policies, controls and procedures reviewed under our new process were either not compliant or only partially compliant." During the year the SRA reviewed 42 firms' policies, controls and procedures finding that 17 were partially compliant and 8 as not compliant (59.5%). Our Anti-Money Laundering work. *Solicitors Regulation Authority*. <https://www.sra.org.uk/pdfcentre/?type=id&data=1365989711>.
- ⁷ *Ibid.*
- ⁸ Section 329(2)(c) of the Proceeds of Crime Act 2002. <https://www.legislation.gov.uk/ukpga/2002/29/section/329>.
- ⁹ *Ibid.* Section 330(6)(b).
- ¹⁰ Independent legal professionals filed 2,660 (0.57% of the total) SARs in 2017/18; 2,774 (0.58%) in 2018/19; and 3,006 (0.52%) SARs in 2019/20. By comparison, accountants filed 5,036 (1.08%) SARs in 2017/18, 4,976 (1.01%) in 2018/19; and 5,210 (0.89%) in 2019/20. Banks file the majority, contributing 371,522 (80.08%) SARs filings in 2017/18; 383,733 (80.21%) in 2018/19; and 432,316 (75.44%) in 2019/20. See: UK Financial Intelligence Unit Suspicious Activity Reports Annual Report 2020. *NCA*. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file> and UK national risk assessment of money laundering and terrorist financing. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf.
- ¹¹ Quick guide to the Money Laundering Regulations 2017. *The Law Society*. <https://www.lawsociety.org.uk/en/topics/anti-money-laundering/quick-guide-to-the-mlrs>.
- ¹² Review of the UK's AML/CFT regulatory and supervisory regime. para 4.14. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1085407/MLRs_Review_Report_-_2.5_for_publication.pdf.
- ¹³ Anti-money laundering and counter-terrorist financing: Supervision Report 2019–20. *HM Treasury*.
- ¹⁴ *Ibid.*
- ¹⁵ In 2017/18 legal sector PBSs issued 9 fines worth £74,500. In 2018/19 they issued 11 fines worth £351,502 and in 2019/20 fines worth £195,250. This amounts to £621,252 in three years. See *HM Treasury* AML supervision reports 2018/19 and 2019/20 for all figures including FCA and Gambling Commission.
- ¹⁶ In 2019/20 the SRA issued 16 fines worth £190,500 – an average of £11,906. In 2019/20 the accountancy sector PBSs issued 259 fines worth £300,400 – an average of £1,159. In 2019/20 the Gambling Commission issued 13 fines worth £43,670,071 - an average of £3.359,236 million. See *HM Treasury* AML supervision report for original figures. <https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-financing-supervision-report-2019-20>. According to these *HM Treasury* figures, in 2019/20 HMRC issued 31 fines worth £9,066,033 equalling an average of £292,452 per fine. In July 2022 HMRC announced that it had "revised" a significant number of AML fines and published new figures showing a significant decrease in fines for 2019/20 from £9,066,033 to £1,912,727.00 meaning the average fine also decreased to £61,700. See: *HMRC* economic crime supervision annual assessment report:

1 April 2021 to 31 March 2022. HMRC. <https://www.gov.uk/government/publications/hmrc-economic-crime-supervision-annual-assessment-report-2021-to-2022/hmrc-economic-crime-supervision-annual-assessment-report-1-april-2021-to-31-march-2022#enforcement>. Additionally see Spotlight on Corruption analysis of changes to HMRC's approach to AML enforcement. <https://www.spotlightcorruption.org/hmrc-faces-ongoing-performance-gaps-that-undermine-effective-aml-supervision-despite-recent-improvements/>.

^{16a} Different regulators' fining policies may take into account the specific business structures of the firms they supervise and therefore making direct comparisons may be fraught with methodological difficulties. However this calculation is based on the following assumptions. The SRA fined Mishcon using the basic penalty scale of 0.25% of its £155 million turnover because the breaches were categorised as falling within band B (whereas the most serious breaches fall in band D with a maximum 2.5% fine). This amount was then adjusted down by 40% for mitigation, with the final fine being £232,500. The FCA's fining levels are much higher, ranging from 0% to 20% of relevant turnover (i.e. the revenue derived by the firm during the period of the breach from the products or business areas to which the breach relates). Based on the SRA's assessment that Mishcon's breaches were not the most serious, it would have been subject to at least a 5% fine (reflecting a level 2 fine). This would be £7.75m of Mishcon's £155 million turnover, adjusted by 30% for mitigation (the maximum mitigation allowed by the FCA) = £5.425 million. This is 20 times £232,500.

¹⁷ See HM Treasury AML supervision reports 2018/19 and 2019/20 for figures.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ A search was carried out on the SRA's Solicitors Register on 7/9/22 and found that no money-laundering-related-fines had been issued to the top 25 law firms as listed in The Lawyer. <https://www.thelawyer.com/top-200-uk-law-firms/>. We found that one minor regulatory action had been taken against Womble Bond Dickinson (UK) LLP, but did not involve a fine being issued.

²¹ There has only ever been one corporate prosecution for money laundering under the 2007 Money Laundering Regulations after NatWest bank pled guilty to AML failures resulting in it paying a £264.8 million fine. <https://www.fca.org.uk/news/press-releases/natwest-fined-264.8million-anti-money-laundering-failures>.

²² Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 3.24. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

²³ *Ibid.* Section 3.12.

²⁴ *Ibid.* Section 3.51.

²⁵ Confirmed in written correspondence with HMRC 04/08/22.

²⁶ Confirmed in written correspondence with the FCA 04/08/22.

²⁷ Economic Crime Manifesto: Presented by the APPG on Anti-Corruption & Responsible Tax and the APPG on Fair Business Banking. <https://www.appgbanking.org.uk/wp-content/uploads/2022/05/Economic-Crime-Manifesto-1.pdf>.

²⁸ Economic Crime: responses to the Committee's Eleventh Report, Eighth Special Report of Session 2021/22. Treasury Committee. <https://publications.parliament.uk/pa/cm5802/cmselect/cmtreasy/1261/report.html>.

²⁹ Review of the UK's AML/CTF Regulatory and Supervisory Regime. HM Treasury. para 5.3. <https://www.gov.uk/government/publications/review-of-the-uks-amlcft-regulatory-and-supervisory-regime>.

³⁰ The legal sector PBs undertook 414 on-site visits in 2019/20, 101 of which were assessed as non-compliant (24.3%). See: Anti-money laundering and counterterrorist financing: Supervision Report 2019-20. HM Treasury. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.

³¹ "60% of policies, controls and procedures reviewed under our new process were either not compliant or only partially compliant." During the year the SRA reviewed 42 firms' policies, controls and procedures finding that 17 were partially compliant and 8 as not compliant (59.5%). Our Anti-Money Laundering work. Solicitors Regulation Authority. <https://www.sra.org.uk/pdfcentre/?type=id&data=136598971>.

³² Progress and themes from our 2020/21 supervisory assessments. Section 3.50. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

³³ *Ibid.* Section 3.20.

³⁴ Mishcon de Reya hit with big fine for anti-money laundering failures. *Legal Futures*. <https://www.legalfutures.co.uk/latest-news/mishcon-de-reya-hit-with-big-fine-for-anti-money-laundering-failures>. See also: Entain to pay £17 million for regulatory failures. Gambling Commission. <https://>

www.gamblingcommission.gov.uk/news/article/entain-to-pay-gbp17-million-for-regulatory-failures#:~:text=A%20gambling%20business%20is%20to,uk%20and%20foxybingo.com. HMRC issues record £23.8m fine for money laundering breaches. HMRC. <https://www.gov.uk/government/news/hmrc-issues-record-238m-fine-for-money-laundering-breaches>. FCA fines Deutsche Bank £163 million for serious anti-money laundering controls failings. FCA. <https://www.fca.org.uk/news/press-releases/fca-fines-deutsche-bank-163-million-anti-money-laundering-controls-failure>.

³⁵ In 2017/18 legal sector PBSs issued 9 fines worth £74,500. In 2018/19 they issued 11 fines worth £351,502 and in 2019/20 fines worth £195,250. This amounts to £621,252 in three years. See HM Treasury AML supervision reports 2018/19 and 2019/20 for figures.

³⁶ Our Anti-Money Laundering work. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/research-publications/antimoney-laundering/>. A sole practitioner at a small firm was fined £30,000 in October 2021 after admitting to serious AML failings. See SDT decision: Solicitors Regulation Authority and John Davis. https://www.solicitortribunal.org.uk/sites/default/files-sdt/12207.2021.Davis_.pdf.

³⁷ A search was carried out on the SRA's Solicitors Register on 7/9/22 and found that no money-laundering-related fines had been issued to the top 25 law firms as listed in *The Lawyer*. <https://www.thelawyer.com/top-200-uk-law-firms/>. We found that one minor regulatory action had been taken against Womble Bond Dickinson (UK) LLP, but did not involve a fine being issued.

³⁸ See HM Treasury AML supervision reports 2018/19 and 2019/20 for figures.

³⁹ There has only ever been one corporate prosecution for money laundering under the 2007 Money Laundering Regulations (MLRs) after NatWest bank pled guilty to AML failures resulting in it paying a £264.8 million fine. <https://www.fca.org.uk/news/press-releases/natwest-fined-264.8million-anti-money-laundering-failures>.

⁴⁰ Between 2017/18 and 2019/20 PBSs in the legal sector undertook a total 429 informal actions compared to 146 formal actions, or 2.9 times more. Between 2017/18 and 2019/20 PBSs in the accountancy sector undertook a total 837 informal actions compared to 468 formal actions, 1.7 times more. Between 2017/18 and 2019/20 the Gambling Commission undertook 19 formal actions and 13 informal actions, or 1.46 times more. Between 2017/18 and 2019/20 HMRC undertook a total of 1,288 informal actions compared to 1,084 formal enforcement actions, or 1.18 times more. The FCA was the only supervisor that undertook more formal actions than informal actions (58 versus 46).

⁴¹ Independent legal professionals filed 2,660 (0.57% of the total) SARs in 2017/18; 2,774 (0.58%) in 2018/19; and 3,006 (0.52%) SARs in 2019/20. By comparison, accountants filed 5,036 (1.08%) SARs in 2017/18, 4,976 (1.01%) in 2018/19; and 5,210 (0.89%) in 2019/20. Banks file the majority, contributing 371,522 (80.08%) SARs filings in 2017/18; 383,733 (80.21%) in 2018/19; and 432,316 (75.44%) in 2019/20. Figures taken from NCA UK Financial Intelligence Unit Suspicious Activity Reports Annual Reports.

⁴² See section on the UK's legal services industry in the February 2022 document: 'The Benefits of Brexit'. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054643/benefits-of-brexite.pdf.

⁴³ London Lawyers Say 'No Comment' on Links to Rich Russian Clients. *Bloomberg Law*. <https://news.bloomberglaw.com/environment-and-energy/london-lawyers-say-no-comment-on-links-to-rich-russian-clients?context=article-related>.

⁴⁴ Priti Patel: 'We've stifled finances behind Kremlin war machine with more to come in kleptocracy crackdown'. *Evening Standard*. <https://www.standard.co.uk/comment/comment/priti-patel-kremlin-london-city-kleptocracy-president-putin-ukraine-b1020603.html>.

⁴⁵ Bankers Had Their Crisis. Now It's Lawyers' Turn. *Bloomberg*. <https://www.bloomberg.com/opinion/articles/2022-03-11/bankers-had-their-crisis-now-it-s-londongrad-lawyers-turn>.

⁴⁶ Why is London so attractive to tainted foreign money? *The Economist*. <https://www.economist.com/britain/why-is-london-so-attractive-to-tainted-foreign-money/21809124>.

⁴⁷ National risk assessment of money laundering and terrorist financing 2020, p. 88 and p.93 respectively. *HM Treasury/Home Office*. <https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2020>.

⁴⁸ National Strategic Assessment of Serious and Organised Crime. *NCA*. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/437-national-strategic-assessment-of-serious-and-organised-crime-2020/file>.

⁴⁹ The legal sector PBSs undertook 414 on-site visits in 2019/20, 101 of which were assessed as non-compliant (24.3%). See: Anti-money laundering and counterterrorist financing: Supervision Report 2019-20. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.

⁵⁰ "60% of policies, controls and procedures reviewed under our new process were either not compliant or only partially compliant." During the year the SRA reviewed 42 firms' policies, controls and procedures finding that 17 were partially compliant and 8 as not compliant (59.5%). Our Anti-Money Laundering work. *Solicitors Regulation Authority*. <https://www.sra.org.uk/pdfcentre/?type=id&data=1365989711>.

⁵¹ *Ibid.* In addition, see FATF guidance on the distinction between source of funds and source of wealth checks. P20. <https://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-PEP-Rec12-22.pdf>.

⁵² “We found 50 files that did not have appropriate identification and verification, including some of the following reasons: There were no CDD documents at all. ID was only obtained for one individual out of several individuals involved in the transaction. The firm had not obtained information on the ultimate beneficial owner of a company.” Our Anti-Money Laundering work. Solicitors Regulation Authority. <https://www.sra.org.uk/pdfcentre/?type=Id&data=1365989711>.

⁵³ *Ibid.* “The number of firms failing to implement an independent audit function remains high (49 out of 69 firms visited in the period.)”

⁵⁴ *Ibid.*

⁵⁵ The scope of the money laundering regulations. *The Solicitors Regulation Authority*. <https://www.sra.org.uk/solicitors/resources/money-laundering/guidance-support/scope-money-laundering-regulations/>.

⁵⁶ *Ibid.*

⁵⁷ Review of the UK’s AML/CFT regulatory and supervisory regime. para 4.14. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1085407/MLRs_Review_Report_-_2.5_for_publication.pdf.

⁵⁸ Between 2019/20 Independent legal professionals submitted 3,006 SARs, out of a total of 573,085. See: UK Financial Intelligence Unit Suspicious Activity Reports Annual Report 2020. *NCA*. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file>.

^{58a} UK national risk assessment of money laundering and terrorist financing. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf

⁵⁹ Anti-money laundering and counterterrorist financing: Supervision Report 2019-20. p20. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.

⁶⁰ *Ibid.* p20.

⁶¹ *Ibid.* HMRC does not disaggregate its data on desk-based reviews and on-site visits, but took formal action in 100% of cases in which it identified non-compliance.

⁶² See HM Treasury figures in its AML supervision reports. For the year 2017/18 the SRA issued 7 fines with a value of £70,500. In 2018/19 it issued 7 fines worth £340,002, then 16 fines worth £190,500 in 2019/20.

⁶³ *Ibid.*

⁶⁴ In 2019/20 the SRA issued 16 fines worth £190,500 – an average of £11,906. In 2019/20 the accountancy sector PBSs issued 259 fines worth £300,400 – an average of £1,159. In 2019/20 the Gambling Commission issued 13 fines worth £43,670,071 - an average of £3,359,236 million. See HM Treasury AML supervision report for original figures. <https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-financing-supervision-report-2019-20>. According to these HM Treasury figures, in 2019/20 HMRC issued 31 fines worth £9,066,033 equalling an average of £292,452 per fine. In July 2022 HMRC announced that it had “revised” a significant number of AML fines and published new figures showing a significant decrease in fines for 2019/20 from £9,066,033 to £1,912,727.00 meaning the average fine also decreased to £61,700. See: HMRC economic crime supervision annual assessment report: 1 April 2021 to 31 March 2022. HMRC. <https://www.gov.uk/government/publications/hmrc-economic-crime-supervision-annual-assessment-report-2021-to-2022/hmrc-economic-crime-supervision-annual-assessment-report-1-april-2021-to-31-march-2022#enforcement>. Additionally see Spotlight on Corruption analysis of changes to HMRC’s approach to AML enforcement. <https://www.spotlightcorruption.org/hmrc-faces-ongoing-performance-gaps-that-undermine-effective-aml-supervision-despite-recent-improvements/>.

⁶⁵ See 2018/2019 and 2019/20 HM Treasury AML supervision reports. In 2017/18 the CLC undertook 91 on-site visits, of which 21 were assessed as non-compliant (23%). In 2018/19 the CLC undertook 63 on-site visits, of which 39 were assessed as non-compliant (61.9%). In 2019/20 the CLC undertook 53 on-site visits, of which 33 were assessed as non-compliant (62%). See HM Treasury AML supervision reports for original figures.

⁶⁶ See HM Treasury AML supervision reports for original figures. In 2017/18 Law Society of Scotland undertook 266 on-site visits, finding 17 as non-compliant. In 2018/19 it undertook 185 on-site visits, finding 33 as non-compliant. In 2019/20 it undertook 132 on-site visits, finding 13 as non-compliant. See HM Treasury AML supervision reports for original figures.

⁶⁷ See HM Treasury AML supervision reports for original figures. In 2017/18 the Law Society of Northern Ireland undertook 209 on-site visits, finding 93 as non-compliant (44%). In 2018/19 it undertook 185 on-site visits, finding 89 as non-compliant (48%). In 2019/20 it undertook 135 on-site visits, finding 46 as non-compliant (36%). The average of these three percentages is 42%. In 2020/21 the the Law Society of Northern Ireland’s annual report refers to 1 AML/CTF case being referred to the Solicitors’ Disciplinary Tribunal which resulted in a fine of £500 being imposed. In addition, the Tribunal issued four admonishments. See: Supervisor’s Annual Report – Anti-Money Laundering. The Law Society of Northern Ireland. <https://www.lawsoc-ni.org/supervisors-annual-report-anti-money-laundering>.

⁶⁸ Both the Gambling Commission and the FCA have published their enforcement strategy documents. See: <https://www.gamblingcommission.gov.uk/print/statement-of-principles-for-determining-financial-penalties> and <https://www.handbook.fca.org.uk/handbook/EG/19/15.html>. See: HM Treasury review of the UK's AML/CFT regulatory and supervisory regime for review of all AML supervisors. <https://www.gov.uk/government/publications/review-of-the-uks-amlcft-regulatory-and-supervisory-regime>.

^{68a} Clause 154 of the Economic Crime and Corporate Transparency Bill, introduced in Parliament on 22 September 2022, proposes removing the statutory cap on the SRA's fining powers in respect of disciplinary matters relating to economic crime. This would in effect allow the SRA to set its own limits on financial penalties for economic crime disciplinary actions. <https://publications.parliament.uk/pa/bills/cbill/58-03/0154/220154.pdf>.

⁶⁹ In June 2022 the Ministry of Justice announced that it will increase the SRA's fining powers for individuals and firms with "traditional" management structures to £25,000. Financial penalties, update on progress. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/news/sra-update-105-financial-penalties/>.

⁷⁰ Open Consultation Financial penalties: detail of new approach. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/consultations/consultation-listing/financial-penalties-new-approach/>.

⁷¹ Alternative business structures (ABSs) are legal firms that allow non-lawyers to have a financial stake. See: Regulating Alternative Business Structures Report on responses. *Solicitors Regulation Authority*. <https://www.sra.org.uk/globalassets/documents/sra/consultations/abs-consultation-responses.pdf?version=4a1ae5>.

⁷² Flexing the abs. *The Law Gazette*. <https://www.lawgazette.co.uk/features/flexing-the-abs/5112032.article>.

⁷³ Mishcon De Reya LLP (Mishcon De Reya). *Solicitors Regulation Authority*. <https://www.sra.org.uk/consumers/solicitor-check/624547/>.

⁷⁴ *Ibid*.

⁷⁵ Different regulators' fining policies may take into account the specific business structures of the firms they supervise and therefore making direct comparisons may be fraught with methodological difficulties. However this calculation is based on the following assumptions. The SRA fined Mishcon using the basic penalty scale of 0.25% of its £155 million turnover because the breaches were categorised as falling within band B (whereas the most serious breaches fall in band D with a maximum 2.5% fine). This amount was then adjusted down by 40% for mitigation, with the final fine being £232,500. The FCA's fining levels are much higher, ranging from 0% to 20% of relevant turnover (i.e. the revenue derived by the firm during the period of the breach from the products or business areas to which the breach relates). Based on the SRA's assessment that Mishcon's breaches were not the most serious, it would have been subject to at least a 5% fine (reflecting a level 2 fine). This would be £7.75m of Mishcon's £155 million turnover, adjusted by 30% for mitigation (the maximum mitigation allowed by the FCA) = £5.425 million. This is 20 times £232,500.

⁷⁶ A search was carried out on the SRA's Solicitors Register on 7 September 2022 and found that no fines had been issued to the top 20 law firms as listed in *The Lawyer*. <https://www.thelawyer.com/top-200-uk-law-firms/>. We found that one minor regulatory action had been taken against Womble Bond Dickinson (UK) LLP, but did not involve a fine being issued. <https://www.sra.org.uk/consumers/register/organisation/?sraNumber=449247#headingRegulatoryRecord>.

⁷⁷ A sole practitioner at a small firm was fined £30,000 in October 2021 after admitting to serious AML failings. See: *Solicitors Regulation Authority* and John Davis. https://www.solicitortribunal.org.uk/sites/default/files-sdt/12207.2021.Davis_.pdf.

⁷⁸ See: 1) *Solicitors Regulation Authority* and John Davis. https://www.solicitortribunal.org.uk/sites/default/files-sdt/12207.2021.Davis_.pdf 2) *Solicitors Regulation Authority* and Marc Daniel Traube. <https://www.solicitortribunal.org.uk/sites/default/files-sdt/12258.2021.Traube.pdf> and 3) *Solicitors Regulation Authority Ltd* and Elizabeth Ellen (First Respondent) and Mdr (Second Respondent) https://www.solicitortribunal.org.uk/sites/default/files-sdt/12187.2021.Ellen_.MDR%20.pdf.

⁷⁹ After undertaking a manual review of the Solicitors Disciplinary Tribunal's database we found 41 AML-related cases that refer to conduct potentially in breach of the 2017 MLRs or the 2002 Proceeds of Crime Act: 21 were sole practitioners (51.2%), 18 worked for a small law firm (43.9%), one worked for medium-sized firm (2.4%) and; one for a large firm (2.4%).

⁸⁰ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 2.8. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>. See also regulation 49 of the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017. <https://www.legislation.gov.uk/ukksi/2017/692/regulation/49/made>.

⁸¹ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 3.6. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

- ⁸² Anti-money laundering and counterterrorist financing: Supervision Report 2019-20. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.
- ⁸³ *Ibid.*
- ⁸⁴ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 3.24. *OPBAS*. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.
- ⁸⁵ *Ibid.* Section 3.12.
- ⁸⁶ *Ibid.* Section 3.51.
- ⁸⁷ *Ibid.* Section 3.20.
- ⁸⁸ *Ibid.* Sections 3.4 and 3.8.
- ⁸⁹ *Ibid.* Section 2.15.
- ⁹⁰ Spotlight on Corruption contacted the Solicitors Disciplinary Tribunal for Northern Ireland in April 2022 but at the time of publication the Tribunal had not responded.
- ⁹¹ The SRA has recently consulted on this point and is reviewing its policy in this area: Publication of Regulatory Decisions. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/consultations/consultation-listing/publication-regulatory-decisions/?s=o>.
- ⁹² Confirmed in written correspondence with HMRC 04/08/22.
- ⁹³ Confirmed in written correspondence with the FCA 04/08/22.
- ⁹⁴ The 2018/19 HM Treasury AML supervision report was published in August 2020, 16 months after the end of the reporting period. The 2019/20 HM Treasury AML supervision report was published in November 2021, 19 months after the end of the reporting period.
- ⁹⁵ United Kingdom: Financial Sector Assessment Program-Banking Supervision and Issues in Financial Stability. *IMF*. <https://www.imf.org/en/Publications/CR/Issues/2022/04/07/United-Kingdom-Financial-Sector-Assessment-Program-Banking-Supervision-and-Issues-in-516273>.
- ⁹⁶ Anti-money laundering and counterterrorist financing: Supervision Report 2019-20, para 4.40. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.
- ⁹⁷ Money Laundering: Prosecutions. Question for Attorney General. <https://questions-statements.parliament.uk/written-questions/detail/2021-10-25/62777/>.
- ⁹⁸ Between 2017/18 and 2019/20 PBSs in the legal sector undertook a total 429 informal actions compared to 146 formal actions. In contrast, HMRC undertook a total of 1,288 informal actions compared to 1,084 formal enforcement actions. The Gambling Commission undertook 19 informal actions 13 formal actions while the FCA undertook 46 informal actions and 48 formal actions. See HM Treasury AML supervision reports 2018/19 and 2019/20 for figures.
- ⁹⁹ In 2017/18 the legal sector PBSs reviewed 604 firms out of a population of 9,631 (6.27%), in 2018/19 576 out 9,733 firms (5.91%), and 549 firms out of 8,791 firms (6.24%) in 2019/20. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures. In 2017/18 the accountancy PBSs reviewed 1,696 firms out of a population of 33,104 (5.12%), in 2018/19 1,823 firms out of 32,217 firms (6%), and 1,686 out 33,588 firms (5%) in 2019/20. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures. In 2017/18 the Gambling Commission reviewed 27 of its 237 firms under supervision (11.3%), 38 of its 208 firms (18.26%) in 2018/19, and 66 of its 250 firms (26.4%) in 2019/20. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.
- ¹⁰⁰ In 2019/20 legal sector supervisors undertook 549 desk-based reviews, 54 of those were assessed as non-compliant resulting in 30 formal actions being taken (55%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.
- ¹⁰¹ In 2019/20 the Gambling Commission undertook formal actions in 4 instances after undertaking assessing 35 desk-based reviews as non-compliant. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.
- ¹⁰² In 2019/20 the FCA undertook 147 desk-based reviews, 9 of which were assessed as non-compliant. It took formal action in 9 cases. See HM Treasury AML supervision reports 2019/20 for original figures. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.
- ¹⁰³ In 2019/20 legal sector supervisors assessed 101 on-site visits as non-compliant and took formal action in 35 cases (34.5%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.
- ¹⁰⁴ In 2019/20 the Gambling Commission assessed 27 on-site visits as non-compliant and took formal action in 8 cases (29.6%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

- ¹⁰⁵ In 2019/20 the FCA undertook 30 on-site visits, 15 of which were assessed as non-compliant. It took formal action in 15 cases. See HM Treasury AML supervision reports 2019/20 for original figures. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.
- ¹⁰⁶ In 2019/20 HMRC identified 439 instances of non-compliance after undertaking desk-based reviews and on-site visits. It took formal action in 439 instances. See HM Treasury AML supervision reports 2019/20 for original figures. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.
- ^{106a} The legal sector PBSs undertook 414 on-site visits in 2019/20, 101 of which were assessed as non-compliant (24.3%). In the same year, The Gambling Commission undertook 48 on-site visits, 27 of which were assessed as non-compliant (56%). The FCA undertook 30 on-site visits, 15 of which were assessed as non-compliant (50%). See: Anti-money laundering and counterterrorist financing: Supervision Report 2019-20. HM Treasury. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf
- ¹⁰⁷ Amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 Statutory Instrument 2022. *HM Treasury*. <https://www.gov.uk/government/consultations/amendments-to-the-money-laundering-terrorist-financing-and-transfer-of-funds-information-on-the-payer-regulations-2017-statutory-instrument-2022>.
- ¹⁰⁸ Review of the UK's AML/CFT regulatory and supervisory regime. *HM Government*. <https://www.gov.uk/government/publications/review-of-the-uks-amlcft-regulatory-and-supervisory-regime>.
- ¹⁰⁹ See, for example, Transparency International UK's call for at most two AML supervisors, one for the financial sector and one for non-financial business. <https://www.transparency.org.uk/sites/default/files/pdf/publications/TI-UK%20submission%20-%20HMT%20review%20of%20the%20UKs%20AML-CTF%20supervisory%20regime%20FINAL.pdf>.
- ¹¹⁰ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 2.8. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.
- ¹¹¹ Figure based on data taken from HM Treasury AML supervision report 2019/20. The SRA's AML population is 6,593 out of a total of 8,791 across the 9 supervisors, or 74.9%. See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.
- ¹¹² Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 2.8. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.
- ¹¹³ The SRA issued 30 fines worth £601,002 between 2017/18 and 2019/20. See HM Treasury AML supervision reports.
- ¹¹⁴ Our Anti-Money Laundering work. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/research-publications/antimoney-laundering/>.
- ¹¹⁵ Financial Penalties Consultation response and final position. *Solicitors Regulation Authority*. <https://www.sra.org.uk/globalassets/documents/sra/consultations/financial-penalties-consultation-reponse-and-final-position.pdf?version=49b46e>.
- ¹¹⁶ Andrew Boon and Avis Whyte, "Trusted to the ends of the earth?" *An analysis of solicitors' disciplinary processes in England and Wales from 1994 to 2015*" (2021) 28 *International Journal of the Legal Profession* at 150; Avis Whyte and Andrew Boon 'Lawyer Disciplinary Processes: An Empirical Study of Solicitors' Misconduct Cases in England and Wales in 2015' (2019) 39 *Legal Studies* at 477–478.
- ^{116a} Clause 154 of the Economic Crime and Corporate Transparency Bill. <https://publications.parliament.uk/pa/bills/cbill/58-03/0154/220154.pdf>.
- ¹¹⁷ The SRA currently operates a red alert line which allows whistleblowers to report concerns confidentially: <https://www.sra.org.uk/consumers/problems/report-solicitor/whistleblowing-to-sra/>. See also: SRA reveals number of open SLAPPs investigations. *Law Gazette*. <https://www.lawgazette.co.uk/news/sra-reveals-number-of-open-slapps-investigations/5112901.article>.
- ¹¹⁸ The Council of Europe has emphasised the importance of coordination between supervisors in effective AML supervision. See: AML/CFT Supervision in times of crisis and challenging external factors. *Council of Europe*. <https://rm.coe.int/typologies-report/1680a54995>.
- ¹¹⁹ Our Anti-Money Laundering work. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/research-publications/antimoney-laundering/>.
- ¹²⁰ National risk assessment of money laundering and terrorist financing 2020. p.88. *HM Treasury/Home Office*. <https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2020>.

¹²¹ See Transparency International's "Nature of Involvement" chart which ranks service providers' involvement in five separate categories ranging from "Active Compliance" to "Complicit" in their report "At Your Service: Investigating how UK businesses and institutions help corrupt individuals and regimes launder their money and reputations". Transparency International UK, p.14. <https://www.transparency.org.uk/publications/at-your-service>.

¹²² UK Legal Services Market Report 2022. *Research and Markets*. <https://www.researchandmarkets.com/reports/5575698/uk-legal-services-market-report-2022>.

¹²³ UK National Risk Assessment of money laundering and terrorist financing 2017, p.50, para 7.4. *HM Treasury/Home Office*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf.

¹²⁴ National Risk assessment of money laundering and terrorist financing 2020. *HM Treasury/Home Office*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945411/NRA_2020_v1.2_FOR_PUBLICATION.pdf, p89.

¹²⁵ *Ibid.* p.90, para 10.10.

¹²⁶ For example, the number of Russian litigants in the London's Commercial Courts has doubled since 2017, and only UK litigants account for more disputes: Portland Communications Commercial Courts Report 2022, page 3. <https://portland-communications.com/publications/commercial-courts-report-2022/>.

¹²⁷ See the debate in the House of Commons on "*Lawfare and the court system*" (20 January 2022): <https://hansard.parliament.uk/commons/2022-01-20/debates/4F7649B7-2085-4B51-9E8C-32992CFF7726/LawfareAndUKCourtSystem>.

¹²⁸ UK National Risk Assessment of money laundering and terrorist financing 2020. Pp. 88-91. *HM Treasury/Home Office*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945411/NRA_2020_v1.2_FOR_PUBLICATION.pdf.

¹²⁹ *Ibid.* p.91, para 10.13.

¹³⁰ As defined in Regulation 35(12)(a) of the 2017 MLRs. - "*an individual entrusted with a prominent public function such as a government minister or member of parliament — or is a family member or known close associate of a PEP. If the client is a PEP, then the lawyer must perform enhanced due diligence on them and their sources of wealth.*" <https://www.legislation.gov.uk/uksi/2017/692/regulation/35/made>.

¹³¹ This could include: (a) countries with significant levels of corruption or other criminal activity, such as terrorism; (b) countries that have not implemented FATF recommendations; and (c) countries subject to sanctions, embargos or similar measures.

¹³² Regulation 33(1)(f) of the MLRs. <https://www.legislation.gov.uk/uksi/2017/692/regulation/33>.

¹³³ Section 330(5) of POCA. <https://www.legislation.gov.uk/ukpga/2002/29/section/330>.

¹³⁴ Section 330 of POCA makes it a criminal offence for anyone in the regulated sector to fail to disclose a suspicion or knowledge of money laundering. *Ibid.*

¹³⁵ UK Financial Intelligence Unit Suspicious Activity Reports Annual Report 2020. p9. *National Crime Agency*. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file>.

¹³⁶ *Ibid.* Of the total 573,085 SARs submitted in 2019/2020, 432,316 were from banks.

¹³⁷ National Risk assessment of money laundering and terrorist financing 2020. Section 10.28. *HM Treasury/Home Office*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945411/NRA_2020_v1.2_FOR_PUBLICATION.pdf.

¹³⁸ Section 330(6)(b) of POCA. <https://www.legislation.gov.uk/ukpga/2002/29/section/330>.

¹³⁹ UK National Risk Assessment of money laundering and terrorist financing 2015. p.45, para 6.93. *HM Treasury/Home Office*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf.

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.* The 2017 National Risk Assessment reiterated the need for the quality of SARs submitted by the legal sector to be improved. The increase in SARs numbers since 2018 could be seen as progress, but the most recent National Risk Assessment still states that more work is needed to improve "*the quality and effectiveness of information*" provided by the legal sector, and the "percentage of LSPs [legal service providers] who report SARs."

¹⁴² Section 335(2) of POCA. <https://www.legislation.gov.uk/ukpga/2002/29/section/335>.

¹⁴³ UK Financial Intelligence Unit Suspicious Activity Reports Annual Report 2020. p.6. *NCA*. <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file>.

- ¹⁴⁴ *Ibid.* p.23.
- ¹⁴⁵ Regulation 8. The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017. <https://www.legislation.gov.uk/uksi/2017/692/contents/made>.
- ¹⁴⁶ *Ibid.* Regulation 11(d).
- ¹⁴⁷ *Ibid.* Regulation 12(2).
- ¹⁴⁸ *Ibid.* Regulation 12(1).
- ¹⁴⁹ The scope of the money laundering regulations. *Solicitors Regulation Authority*. <https://www.sra.org.uk/solicitors/resources/money-laundering/guidance-support/scope-money-laundering-regulations/>.
- ¹⁵⁰ *Ibid.*
- ¹⁵¹ Quick guide to the Money Laundering Regulations 2017. *The Law Society*. <https://www.lawsociety.org.uk/en/topics/anti-money-laundering/quick-guide-to-the-mlrs>.
- ¹⁵² The scope of the money laundering regulations. *Solicitors Regulation Authority*. <https://www.sra.org.uk/solicitors/resources/money-laundering/guidance-support/scope-money-laundering-regulations/>.
- ¹⁵³ Quick guide to the Money Laundering Regulations 2017. *The Law Society*. <https://www.lawsociety.org.uk/en/topics/anti-money-laundering/quick-guide-to-the-mlrs>.
- ¹⁵⁴ Although any related tax advice would fall within the scope of regulation 11(d).
- ¹⁵⁵ The scope of the money laundering regulations. *Solicitors Regulation Authority*. <https://www.sra.org.uk/solicitors/resources/money-laundering/guidance-support/scope-money-laundering-regulations/>.
- ¹⁵⁶ *Ibid.*
- ¹⁵⁷ *Ibid.*
- ¹⁵⁸ Legal Sector Affinity Group Anti-Money Laundering Guidance for the Legal Sector 2021. p17. *Legal Sector Affinity Group*. <https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/20210420-LSAG-Anti-Money-Laundering-Guidance-for-the-Legal-Sector-2021.pdf>.
- ¹⁵⁹ The scope of the money laundering regulations. *Solicitors Regulation Authority*. <https://www.sra.org.uk/solicitors/resources/money-laundering/guidance-support/scope-money-laundering-regulations/>.
- ¹⁶⁰ Legal Sector Affinity Group Anti-Money Laundering Guidance for the Legal Sector 2021 Part 2a Specific Guidance for Barristers & Advocates. <https://www.barstandardsboard.org.uk/uploads/assets/fc36f649-e945-4cd6-bb72f63223b6dc1f/20210412-LSAG-Guidance-Part-2a-Barristers-Advocates-PUBLISHED.pdf>.
- ¹⁶¹ Bogus solicitors. *Solicitors Regulation Authority*. <https://www.sra.org.uk/consumers/problems/fraud-dishonesty/bogus-fake-solicitors/>.
- ¹⁶² Review of the UK's AML/CFT regulatory and supervisory regime. para 4.14. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1085407/MLRs_Review_Report_-_2.5_for_publication.pdf.
- ¹⁶³ Money Laundering Offences. *CPS*. <https://www.cps.gov.uk/legal-guidance/money-laundering-offences>.
- ¹⁶⁴ *Ibid.*
- ¹⁶⁵ Legal Sector Affinity Group Anti-Money Laundering Guidance for the Legal Sector 2021. p180. <https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/20210420-LSAG-Anti-Money-Laundering-Guidance-for-the-Legal-Sector-2021.pdf>.
- ¹⁶⁶ LSAG Guidance, p104, citing *R v Afolabi* [2009] EWCA Crim 2879 at para 35: <https://www.barstandardsboard.org.uk/uploads/assets/fc36f649-e945-4cd6-bb72f63223b6dc1f/20210412-LSAG-Guidance-Part-2a-Barristers-Advocates-PUBLISHED.pdf>.
- ¹⁶⁷ Money Laundering Offences. *CPS*. <https://www.cps.gov.uk/legal-guidance/money-laundering-offences>.
- ¹⁶⁸ Legal Sector Affinity Group Anti-Money Laundering Guidance for the Legal Sector 2021. p. 179. <https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/20210420-LSAG-Anti-Money-Laundering-Guidance-for-the-Legal-Sector-2021.pdf>.
- ¹⁶⁹ Money Laundering Bulletin. *Devereux*. https://www.devereuxchambers.co.uk/assets/docs/publications/holt_v_attorney_jfqc_apr15.pdf.
- ¹⁷⁰ Minutes of evidence, 'Money Laundering and the Financing of Terrorism', Session 2008-9, Supplementary Memorandum by the Law Society of England and Wales, paragraph 3.4: <https://publications.parliament.uk/pa/ld200809/ldselect/ldcom/132/132ii.pdf>.
- ¹⁷¹ Lawyers should be put in the dock for accepting oligarchs' stolen money. *Open Democracy*. <https://www.opendemocracy.net/en/dark-money-investigations/uk-lawyers-should-be-prosecuted-for-accepting-oligarchs-stolen-money/>.
- ¹⁷² Section 330(6)(b) of POCA. <https://www.legislation.gov.uk/ukpga/2002/29/section/330>.

- ¹⁷³ For example, in *Attorney General of Canada v Federation of Law Societies of Canada* 2015 [2015] 1 SCR 401, the Supreme Court of Canada ruled that certain disclosure provisions were inconsistent with a lawyer's duty of commitment to their clients' causes. This is in contrast to the ruling of the European Court of Human Rights in *Michaud v France* ECHR 445 (2012) that the obligation on French lawyers to report suspicions of money laundering by their clients does not interfere disproportionately with legal professional privilege, because it did not apply when defending litigants.
- ¹⁷⁴ Anti-Money Laundering Guidance for the Legal Sector 2021. Legal Sector Affinity Group. para 13.4.4. <https://www.barcouncilethics.co.uk/wp-content/uploads/2021/11/AML-Guidance-LSAG-Part-2a-November-2021.pdf>.
- ¹⁷⁵ *Akhmedova v Akhmedov & Ors* [2019] EWHC 3140 (Fam) at para 26.
- ¹⁷⁶ *Akhmedova v Akhmedov & Ors* [2019] EWHC 3140 (Fam) at para 27.
- ¹⁷⁷ Legal professional privilege. *The Law Society*. <https://www.lawsociety.org.uk/topics/client-care/legal-professional-privilege>.
- ¹⁷⁸ Barristers instructed as 'Independent Counsel' to advise upon legal professional privilege in relation to seized material. *The Bar Council*. <https://www.barcouncilethics.co.uk/documents/legal-professional-privilege-lpp-independent-counsel-relation-seized-material/>.
- ¹⁷⁹ The nine supervisors are Solicitor Regulation Authority, Law Society of Northern Ireland, Law Society of Scotland, The Bar Standards Board, General Council of the Bar of Northern Ireland, Chartered Institute of Legal Executives Regulation, Faculty of Advocates, The Master of the Faculties, Council for Licensed Conveyancers. In addition to the 22 professional body supervisors, there are three statutory anti-money laundering supervisors: the Finance Conduct Authority (FCA), HM Revenue and Customs (HMRC), and the Gambling Commission. HMRC currently supervises over 30,000 businesses across nine different sectors outside of legal services, including Trust and Company Service Providers, Estate Agency and Letting Agency Businesses. These are not overseen by OPBAS.
- ¹⁸⁰ National Risk Assessment of money laundering and terrorist financing 2017. p.5. *HM Treasury/Home Office*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf.
- ¹⁸¹ UK National Risk Assessment of money laundering and terrorist financing 2015. p.6. *HM Treasury/Home Office*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf.
- ¹⁸² The United Kingdom's measures to combat money laundering and terrorist financing. *FATF*. <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-kingdom-2018.html>.
- ¹⁸³ As OPBAS supervises both the accountancy and legal supervisors there is some overlap in the statistics presented below, as it is not always possible to differentiate between the two types of supervisor in the data.
- ¹⁸⁴ Anti-money laundering guidance for the legal sector. *The Law Society*. <https://www.lawsociety.org.uk/topics/anti-money-laundering/anti-money-laundering-guidance>.
- ¹⁸⁵ SRA Code of Conduct for Firms. para 3.9. Solicitors Regulation Authority. <https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms>.
- ¹⁸⁶ Anti-money laundering and counter-terrorist financing: Supervision report 2018-19. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/920209/200922_Supervision_report_18-19.pdf and Our Anti-Money Laundering work. Solicitors Regulation Authority. <https://www.sra.org.uk/sra/how-we-work/reports/antimoney-laundering/>.
- ¹⁸⁷ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 2.8. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.
- ¹⁸⁸ Regulation 49 of the 2017 MLRs. <https://www.legislation.gov.uk/ukxi/2017/692/regulation/49/made>.
- ¹⁸⁹ Section 3 of the OPBAS Sourcebook for professional body anti-money laundering supervisors. <https://www.fca.org.uk/publication/opbas/opbas-sourcebook.pdf>.
- ¹⁹⁰ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 2.9. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.
- ¹⁹¹ *Ibid*. Section 2.8.
- ¹⁹² Section 3. OPBAS Sourcebook update: Consultation Paper CP22/16 (August 2022). <https://www.fca.org.uk/publication/consultation/cp22-16.pdf>.
- ¹⁹³ These PBSs are not identified in annual reports, and OPBAS declined our request for further information in this regard.

¹⁹⁴ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 3.7. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

¹⁹⁵ We did not receive a response from General Council of the Bar of Northern Ireland to our enquiries about the separation of regulatory and advocacy functions by these PBSs. A response from the Law Society of Scotland stated that “*The legislation governing the organisation requires that we have a Regulatory Committee which operates separately from the Law Society’s Council. The Regulatory Committee must have equal numbers of both solicitor and lay members and also must have a non-solicitor convener. All of the regulatory sub-committees have equal numbers of solicitor and non-solicitor members to ensure we can meet our public interest requirements.*” Their response further informed us that “*The Law Society works to this structure as required by legislation and ensures the regulation of the solicitor profession is exercised separately from other work.*” With regard to the Law Society of Northern Ireland, its advocacy and representational functions carried out by its Members’ Services department and its Policy and Engagement department. Staff based in these departments are not involved in MLR work.

¹⁹⁶ Progress and themes from our 2020/21 supervisory assessments. Section 3.6. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

¹⁹⁷ Striking the Balance: Upholding the Seven Principles of Public Life in Regulation. Para 27. Committee on Standards in Public Life. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/554817/Striking_the_Balance_web_-_v3_220916.pdf.

¹⁹⁸ The maximum fine levels are to be increased from £2,000 to £25,000 after the SRA ran a consultation on its financial penalties. See SRA statement made in May 2022. <https://www.sra.org.uk/sra/news/press/financial-penalties-consultation-feedback/>.

¹⁹⁹ Extra powers for regulators to clamp down on rule-breaking solicitors. *HM Government*. <https://www.gov.uk/government/news/extra-powers-for-regulators-to-clamp-down-on-rule-breaking-solicitors>.

²⁰⁰ Sanctions. *Solicitors Regulation Authority*. <https://www.sra.org.uk/consumers/solicitor-check/sanctions/>.

²⁰¹ Alternative business structures (ABSs) are a type of law firm whose management and ownership involves non-lawyers or non-legal businesses.

²⁰² Sanctions. *Solicitors Regulation Authority*. <https://www.sra.org.uk/consumers/solicitor-check/sanctions/>.

²⁰³ Enforcement strategy. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/>. The strategy builds on approaches outlined in its 2014 policy statement on regulation; <https://www.sra.org.uk/sra/policy/regulation-reform/> and its Code of Conduct: <https://www.sra.org.uk/solicitors/handbook/code/>.

²⁰⁴ The SRA claims that its approach to enforcement is influenced by comments made by Sir Thomas Bingham in the landmark case *Bolton v Law Society* [1994] 1 WLR.

²⁰⁵ Approach to regulation and its reform. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/policy/regulation-reform/>.

²⁰⁶ Enforcement strategy. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/>.

²⁰⁷ The SRA states: “*Mitigating features of a case which might be indicative of reduced or low future risk include: expressions of apology, regret, remorse, no evidence of repetition of the misconduct, or a pattern of misconduct.*” <https://www.sra.org.uk/pdfcentre/?type=ld&data=486776676>.

²⁰⁸ Financial penalties consultation. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/consultations/consultation-listing/financial-penalties-2021/>.

²⁰⁹ Financial penalties consultation response and final position (May 2022), para 13. <https://www.sra.org.uk/globalassets/documents/sra/consultations/financial-penalties-consultation-reponse-and-final-position.pdf?version=49b46e>.

²¹⁰ Financial penalties: detail of new approach. *Solicitors Regulation Authority*. <https://www.sra.org.uk/sra/consultations/consultation-listing/financial-penalties-new-approach/?s=o>.

²¹¹ OPBAS letter to SRA. <https://www.sra.org.uk/globalassets/documents/sra/consultations/opbas-response-to-the-sra-consultation.pdf?version=49b865>.

²¹² The economic consultancy commissioned by the SRA confirmed that 5% was “*in line with, or lower than, the maximum fines of other regulators, including some legal regulators*”: SRA, Financial penalties consultation response and final position (May 2022), para 86. <https://www.sra.org.uk/globalassets/documents/sra/consultations/financial-penalties-consultation-reponse-and-final-position.pdf?version=49b46e>.

²¹³ OPBAS letter to SRA. <https://www.sra.org.uk/globalassets/documents/sra/consultations/opbas-response-to-the-sra-consultation.pdf?version=49b865>.

²¹⁴ *Ibid*.

^{214a} Clause 154 of the Economic Crime and Corporate Transparency Bill. <https://publications.parliament.uk/pa/bills/cbill/58-03/0154/220154.pdf>.

²¹⁵ The OPBAS Regulations 2017 give the Office powers to ensure that professional body supervisors comply with the standards established in the 2017 MLRs.

²¹⁶ Office for Professional Body Anti-Money Laundering Supervision: Sourcebook update. Consultation Paper. FCA. <https://www.fca.org.uk/publication/consultation/cp22-16.pdf>.

²¹⁷ See OPBAS annual report 2020/21. "During 2020/21, we conducted a further supervisory assessment of all PBSs. We built on our previous approach and moved from looking at each PBS's level of technical compliance with the MLRs to a greater focus on how effectively they were conducting their AML supervision. We measured this against the MLRs and our Sourcebook and aligned our approach with the approach to technical compliance and effectiveness taken by the Financial Action Task Force (FATF); the global standard-setter for AML." <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

²¹⁸ Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. Section 2.8. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

²¹⁹ *Ibid.* Section 2.8 states: "Just over 60% of PBSs allocated the responsibility for managing AML supervisory activity effectively through clear governance structures with appropriate independent decision making."

²²⁰ *Ibid.* Sections 3.4 and 3.8.

²²¹ *Ibid.* Section 2.8.

²²² Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from 2019. Section 3.14. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-report-progress-themes-2019.pdf>.

²²³ Section 3.12. Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments. OPBAS. <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>.

²²⁴ *Ibid.* Sections 3.13 and 3.14.

²²⁵ *Ibid.* Section 3.24.

²²⁶ *Ibid.* Section 3.20.

²²⁷ *Ibid.* Section 3.51.

²²⁸ *Ibid.* Section 3.48.

²²⁹ *Ibid.* Section 3.50.

²³⁰ The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017. Part 4: Enforcement and Appeals. <https://www.legislation.gov.uk/uksi/2017/1301/part/4/made>.

²³¹ In its 2018 Sourcebook, OPBAS issued guidance on the issue of making enforcement actions public: "[En]forcement outcomes are, unless there are good reasons for not doing so, publicised to inform and dissuade." <https://www.fca.org.uk/publication/opbas/opbas-sourcebook.pdf>.

²³² Progress and themes from our 2020/21 supervisory assessments. Para 3.54. OPBAS. Progress and themes from our 2020/21 supervisory assessments.

²³³ The SRA has recently consulted on this point and is reviewing its policy in this area: <https://www.sra.org.uk/sra/consultations/consultation-listing/publication-regulatory-decisions/?s=o>.

²³⁴ Regulation and Enforcement Policy. Council for Licensed Conveyancers. para 8.3. <https://www.clc-uk.org/wp-content/uploads/clcSiteMedia/Regulation-and-Enforcement-Policy-CiF-1214new.pdf>.

²³⁵ Policy on the publication of disciplinary findings of professional misconduct. para 13. *Bar Standards Board*. <https://www.barstandardsboard.org.uk/uploads/assets/60273512-50ab-48c0-93538428bfb6386/210416-LED24-Policy-on-Publication-of-Disciplinary-Findings-PDF-v12.pdf>.

²³⁶ Striking the Balance: Upholding the seven Principles of public Life in Regulation. *The Committee on Standards in Public Life*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/554817/Striking_the_Balance_web_-_v3_220916.pdf.

²³⁷ The 2018/19 HM Treasury AML supervision report was published in August 2020, 16 months after the end of the reporting period. The 2019/20 HM Treasury AML supervision report was published in November 2021, 19 months after the end of the reporting period.

²³⁸ HMRC currently supervises over 30,000 businesses across nine different sectors outside of legal services, including Trust or Company Service Providers, Estate Agency and Letting Agency Businesses. These are not overseen by OPBAS.

²³⁹ National risk assessment of money laundering and terrorist financing 2020. *HM Treasury/Home Office*. <https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2020>.

²⁴⁰ *Ibid.*

²⁴¹ In 2020/21 HSBC posted a turnover of £6.3 billion. See annual report available from: <https://www.hsbc.com/investors/results-and-announcements/annual-report>. In contrast, DLA Piper was reported to have the largest turnover in the legal sector at £2.1 billion. See *The Lawyer*: <https://www.thelawyer.com/top-200-uk-law-firms/>.

²⁴² Refer to section 4c for statistics.

²⁴³ In 2017/18 the legal sector PBSs reviewed 604 firms out of a population of 9,631 (6.27%), in 2018/19 576 out of 9,733 firms (5.91%), and 549 firms out of 8,791 firms (6.24%) in 2019/20. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁴⁴ In 2017/18 the accountancy PBSs reviewed 1,696 firms out of a population of 33,104 (5.12%), in 2018/19 1,823 firms out of 32,217 firms (6%), and 1,686 out of 33,588 firms (5%) in 2019/20. HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁴⁵ In 2017/18 the FCA reviewed 38 of its 19,500 firms under supervision (0.23%), in 2018/19 it reviewed 47 of its 19,660 firms (0.23%), and 147 of its 22,000 population (0.66%) in 2019/20. HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁴⁶ In 2017/18 the Gambling Commission reviewed 27 of its 237 firms under supervision (11.3%), 38 of its 208 firms (18.26%) in 2018/19, and 66 of its 250 firms (26.4%) in 2019/20. HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁴⁷ Anti-money laundering and counter-terrorist financing: Supervision report 2018-19. Para 3.52. *HM Treasury*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/920209/200922_Supervision_report_18-19.pdf.

²⁴⁸ In 2019/20 legal sector supervisors identified 54 instances of non-compliance and took formal action in 30 instances (55.5%). See HM Treasury AML supervision reports 2019/20 for original figures.

²⁴⁹ In 2018/19 legal sector supervisors identified 14 instances of non-compliance and took formal action in 14 instances (100%). HM Treasury AML supervision reports 2019/20 for original figures. Figures refer specifically to the Law Society for Northern Ireland (12 instances) and the Law Society of Scotland (2 instances).

²⁵⁰ The Solicitors Regulation Authority undertook 22 formal actions following desk-based review, despite not rating any of the reviews as compliant or otherwise. See HM Treasury AML supervision report 2018/19 for original figures. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/920209/200922_Supervision_report_18-19.pdf.

²⁵¹ In 2019/20 the Gambling Commission undertook formal actions in 4 instances after undertaking assessing 35 desk-based reviews as non-compliant. In 2018/19 it took formal action in 7 instances after identifying 13 instances of non-compliance (53.8%) while the previous year it took action in 11 instances after identifying 11 instances of non-compliance. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁵² In 2019/20 the FCA undertook 147 desk-based reviews, 9 of which were assessed as non-compliant. It took formal action in 9 cases. See HM Treasury AML supervision report 2019/20 for original figures. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.

²⁵³ Data for HMRC is missing from Figure 2 due to its figures for formal actions being aggregated for both desk-based reviews and on-site visits in HM Treasury documents.

²⁵⁴ In 2018/19 HMRC undertook 273 desk-based reviews and undertook 1,323 on-site visits resulting in it taking action in 295 instances (24%). In 2019/20 HMRC undertook 107 desk-based reviews and undertook 1,265 on-site visits resulting in it taking action in 350 instances (25%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁵⁵ In 2017/18 legal PBSs visited 656 of 9,631 firms under supervision (6.8%), 580 out of 9,733 firms in 2018/19 (5.95%) and 414 out of 8,791 firms in 2019/20 (4.7%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁵⁶ In 2017/18 accountancy PBSs visited 1,702 of 33,104 firms under supervision (5.14%), 1,554 out of 32,217 firms in 2018/19 (5.95%) and 1,566 out of 33,588 firms in 2019/20 (4.66%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁵⁷ In 2017/18 HMRC visited 1323 of its 27,666 population (4.8%), in 2018/19 it visited 1265 of its 23,619 population (5.4%), and in 2019/20 it visited 817 of its 32,827 population (2.5%). In 2017/18 the FCA visited 98 of its 19,500 population (0.5%), in 2018/19 it visited 64 of its 19,660 population (0.3%), and in 2019/20 it visited 30 of its 22,000 population (0.13%). In 2017/18 the Gambling Commission visited 15 of its 237 population (6.3%), in 2018/19 the Gambling Commission visited 27 of its 208 population (12.9%). In 2019/20 it visited 48 firms of its 250 population (19.2%).

²⁵⁸ In 2018/19 the FCA undertook formal actions in 33 instances after undertaking 64 on-site reviews (51.56%) and in 2019/20 it undertook formal actions in 15 instances after undertaking 30 on-site reviews (50%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁵⁹ In 2017/18 the legal PBSs undertook formal actions in 39 instances after undertaking 656 on-site reviews (5.9%), in 2018/19 the PBSs undertook formal actions in 72 instances after undertaking 600 on-site reviews (12%) and in 2019/20 they undertook formal actions in 35 instances after undertaking 413 on-site reviews (8.4%). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁶⁰ In 2017/18 the accountancy PBSs undertook formal actions in 116 instances after undertaking 1702 on-site reviews (6.8%), in 2018/19 the PBSs undertook formal actions in 153 instances after undertaking 1,544 on-site reviews (10%) and in 2019/20 they undertook formal actions in 199 instances after undertaking 1,566 on-site reviews (12.7%). Data for HMRC is missing from Figure 2 due to its figures for formal actions being aggregated for both desk-based reviews and on-site visits in HM Treasury documents. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁶¹ In 2019/20 legal sector supervisors took 35 formal actions after identifying 101 instances of non-compliance (34.6%). See HM Treasury AML supervision report 2019/20 for figures.

²⁶² In 2019/20 the accountancy sector supervisors identified 300 instances of non-compliance following an on-site visit and took action in 199 instances (66.3%). See HM Treasury AML supervision report 2019/20 for figures.

²⁶³ In 2019/20 the Gambling Commission identified 27 instances of non-compliance and took formal action in 8 cases (29.6%). See HM Treasury AML supervision report 2019/20 for figures.

²⁶⁴ In 2019/20 the FCA identified 15 instances of non-compliance after an on-site visit and took formal action in every instance. See HM Treasury AML supervision report 2019/20 for figures. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034539/HMT_Supervision_Report_19-20.pdf.

²⁶⁵ Between 2017/18 and 2019/20 PBSs in the legal sector undertook a total 429 informal actions compared to 146 formal actions. See HM Treasury AML supervision reports 2018/19 and 2019/20 for figures.

²⁶⁶ Annual Anti-money Laundering Report October 2021. Council for Licensed Conveyancers. <https://www.clc-uk.org/wp-content/uploads/2021/10/CLC-Annual-Anti-money-Laundering-Report-2021-Final.pdf>.

²⁶⁷ Between 2017/18 and 2019/20 PBSs in the legal sector undertook a total 429 informal actions compared to 146 formal actions. In contrast, HMRC undertook a total of 1,084 formal enforcement actions compared to 1,288 informal actions. The Gambling Commission undertook 19 formal actions and 13 informal actions. See HM Treasury AML supervision reports 2018/19 and 2019/20 for figures.

²⁶⁸ In 2017/18 the legal sector PBSs issued 9 fines, in 2018/19 11 fines and in 2019/20 19 fines. In 2017/18 the accountancy sector PBSs issued 126, in 2018/19 226 and in 2019/20 259.

²⁶⁹ Legal sector supervisors fined 0.093% of its AML population in 2017/18 (9 fines out of an AML population of 9,631), in 2018/19 they fined 0.113% (11 fines out of an AML population of 9,733), in 2019/20 they fined 0.21% (19 fines out of an AML population of 8,791). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁷⁰ Accountancy sector supervisors fined 0.38% of its AML population in 2017/18 (126 fines out of an AML population of 33,104), in 2018/19 they fined 0.7% (226 fines out of an AML population of 32,217), in 2019/20 they fined 0.77% (259 fines out of an AML population of 33,588). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁷¹ HMRC fined 2.4% of firms in its population in 2017/18, which has decreased in subsequent years to 0.6% in 2018/19 to 0.1% in 2019/20. See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁷² The Gambling Commission fined 0.42% of its AML population in 2017/18 (1 fine out of an AML population of 237), in 2018/19 it fined 2.4% (5 fines out of an AML population of 208), in 2019/20 they fined 5.2% (13 fines out of an AML population of 250). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures.

²⁷³ National risk assessment of money laundering and terrorist financing 2020. *HM Treasury/Home Office*. <https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2020>.

²⁷⁴ FCA fines Standard Chartered Bank £102.2 million for poor AML controls. *FCA*. <https://www.fca.org.uk/news/press-releases/fca-fines-standard-chartered-bank-102-2-million-poor-aml-controls>.

²⁷⁵ Anti-money laundering and counterterrorist financing: Supervision Report 2019/20. *HM Treasury*.

²⁷⁶ See, for example, the £17 million fine the Gambling Commission issued against Entain in August 2022. <https://www.gamblingcommission.gov.uk/news/article/entain-to-pay-gbp17-million-for-regulatory-failures>.

²⁷⁷ See HM Treasury AML supervision reports 2018/19 and 2019/20 for figures. In 2017/18 accountancy supervisors issued £136,949 in fines. In 2018/19 they issued £147,549 in fines and in 2019/20 £300,643.

²⁷⁸ This search was carried out on the SRA's Solicitors Register on 07/09/22. <https://www.sra.org.uk/consumers/register/>. The turnovers of firms in the legal sector was based an article from *The Lawyer*. <https://www.thelawyer.com/top-200-uk-law-firms/>.

²⁷⁹ In 2017/18 the legal sector PBSs issued fines worth £74,500 out a total AML population of 9,631 (equal to £7.7 per supervised entity), in 2018/19 they issued fines worth £351.5k out of an AML population of

9,733 (equal to £36.11 per supervised entity) and in 2019/20 they issued fines worth £195.2k out of an AML population of 8,791 (equal to £22.21 per supervised entity). In contrast, in 2017/18 the accountancy sector PBSs issued fines worth £136.9k out of a total AML population of 33,104 (equal to £4.13 per supervised entity), in 2018/19 they issued fines worth £147k out of an AML population of 32,217 (equal to £4.25 per supervised entity), and in 2019/20 they issued fines worth £300.6k out of an AML population of 33,588 (equal to £8.95 per supervised entity). See HM Treasury AML supervision reports 2018/19 and 2019/20 for original figures

²⁸⁰ In 2017/18 HMRC issued fines worth £2.25 million across a total AML population of 27,666 (equal to £81.64 per supervised entity), in 2018/19 it issued fines worth £1.1 million across a total AML population of 23,619 (equal to £49.66 per supervised entity), and in 2019/20 it issued fines worth £9 million out of an AML population of 32,827 (equal to £276.17 per supervised entity). In 2017/18 the Gambling Commission issued fines worth £6.4 million across a total AML population of 237 (equal to £27,004 per supervised entity), in 2018/19 it issued fines worth £17 million across a total AML population of 208 (equal to £81,754 per supervised entity), and in 2019/20 it issued fines worth £43 million across an AML population of 250 (equal to £174,680 per supervised entity).

²⁸¹ HMRC's second economic crime supervision annual assessment report: 1 April 2021 to 31 March 2022. HMRC. <https://www.gov.uk/government/publications/hmrc-economic-crime-supervision-annual-assessment-report-2021-to-2022/hmrc-economic-crime-supervision-annual-assessment-report-1-april-2021-to-31-march-2022#enforcement>. See Spotlight on Corruption analysis: <https://www.spotlightcorruption.org/hmrc-faces-ongoing-performance-gaps-that-undermine-effective-aml-supervision-despite-recent-improvements/>.

²⁸² According to HMRC's second economic crime supervision annual assessment report, which covers the period 1 April 2021 to 31 March 2022, it has significantly reduced the amounts of AML fines it issued during these years after changing its fine calculation from being based on company profits to sums laundered. See: <https://www.gov.uk/government/publications/hmrc-economic-crime-supervision-annual-assessment-report-2021-to-2022/hmrc-economic-crime-supervision-annual-assessment-report-1-april-2021-to-31-march-2022#enforcement>.

²⁸³ NatWest fined £264.8 million for anti-money laundering failures. FCA. <https://www.fca.org.uk/news/press-releases/natwest-fined-264.8million-anti-money-laundering-failures>.

²⁸⁴ HMRC issues record £23.8m fine for money laundering breaches. HMRC. <https://www.gov.uk/government/news/hmrc-issues-record-238m-fine-for-money-laundering-breaches#:~:text=money%20laundering%20supervision-,HMRC%20issues%20record%20%C2%A323.8m%20fine%20for%20money%20laundering,for%20flouting%20money%20laundering%20regulations>.

²⁸⁵ Entain to pay £17 million for regulatory failures. Gambling Commission. <https://www.gamblingcommission.gov.uk/news/article/entain-to-pay-gbp17-million-for-regulatory-failures>.

²⁸⁶ Mishcon de Reya fined £232,500 over numerous AML failings. Law Gazette. <https://www.lawgazette.co.uk/news/mishcon-de-reya-fined-232500-over-numerous-aml-failings/5111049.article>.

²⁸⁷ Economic Crime Plan 2019–22. HM Government and UK Finance. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816215/2019-22_Economic_Crime_Plan.pdf.

²⁸⁸ Regulatory Architecture to enhance democracy and business accountability. p98. https://www.researchgate.net/profile/Prem-Sikka/publication/331432153_REGULATORY_ARCHITECTURE_TO_ENHANCE_DEMOCRACY_AND_BUSINESS_ACCOUNTABILITY/links/5c790863299bf1268d2e39d4/REGULATORY-ARCHITECTURE-TO-ENHANCE-DEMOCRACY-AND-BUSINESS-ACCOUNTABILITY.pdf.

²⁸⁹ Economic Crime Manifesto: Presented by the APPG on Anti-Corruption & Responsible Tax and the APPG on Fair Business Banking. p15. <https://www.appgbanking.org.uk/wp-content/uploads/2022/05/Economic-Crime-Manifesto-1.pdf>.

²⁹⁰ Economic Crime: responses to the Committee's Eleventh Report Eighth Special Report of Session 2021–22. UK Parliament. <https://publications.parliament.uk/pa/cm5802/cmselect/cmtreasy/1261/report.html>.

²⁹¹ Review of the UK's AML/CTF Regulatory and Supervisory Regime. para 5.3. HM Treasury https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1085407/MLRs_Review_Report_-_2.5_for_publication.pdf.

²⁹² *Ibid*, paras 4.32–4.35.

²⁹³ *Ibid*, para 4.54.

²⁹⁴ *Ibid*, paras 4.36–4.39.

²⁹⁵ *Ibid*, paras 4.40–4.42.

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