



Bar Council response to HM Treasury's Anti-Money Laundering/Counter Terrorist Financing (AML/CTF) Supervision Reform: Duties, Powers, and Accountability Consultation.

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the Anti-Money Laundering/Counter Terrorist Financing (AML/CTF) Supervision Reform: Duties, Powers, and Accountability Consultation issued by HM Treasury.¹
2. The Bar Council is the voice of the barrister profession in England and Wales. Our nearly 18,000 members – self-employed and employed barristers – make up a united Bar that aims to be strong, inclusive, independent and influential. As well as championing the rule of law and access to justice, we lead, represent and support the Bar in the public interest through:

- Providing advice, guidance, services, training and events for our members to support career development and help maintain the highest standards of ethics and conduct
- Inspiring and supporting the next generation of barristers from all backgrounds
- Working to enhance diversity and inclusion at the Bar
- Encouraging a positive culture where wellbeing is prioritised and people can thrive in their careers
- Drawing on our members' expertise to influence policy and legislation that relates to the justice system and the rule of law
- Sharing barristers' vital contributions to society with the public, media and policymakers
- Developing career and business opportunities for barristers at home and abroad through promoting the Bar of England and Wales
- Engaging with national Bars and international Bar associations to facilitate the exchange of knowledge and the development of legal links and legal business overseas

¹ [Anti-Money Laundering and Counter-Terrorist Financing Supervision Reform: Duties, Powers, and Accountability Consultation](#)

3. To ensure joined-up support, we work within the wider ecosystem of the Bar alongside the Inns, circuits and specialist Bar associations, as well as with the Institute of Barristers' Clerks and the Legal Practice Management Association.
4. As the General Council of the Bar, we are the approved regulator for all practising barristers in England and Wales. We delegate our statutory regulatory functions to the operationally independent Bar Standards Board (BSB) as required by the Legal Services Act 2007.

Overview and context

5. We responded² to HM Treasury's Consultation in 2023, in which respondents were invited to provide their views regarding the potential benefits and disbenefits of four potential reform models. We concluded that Model 1 (OPBAS+) would provide the most effective supervisory model which, with reform of OPBAS, could provide a sufficient level of system co-ordination without the cost, disruption and loss of sector-specific expertise that a move to AML/CTF regulation by the Financial Conduct Authority (FCA) would entail.
6. In that response, we explained that the risk profile of barristers is entirely different from that of solicitors and other legal professionals who engage in higher-risk activities such as executing transactions, conducting conveyancing, handling client money and offering client account services. Those are professional services from which barristers are barred. The Bar's low risk profile has been consistently recognised in the 2017, 2020 and 2025 editions of the HM Treasury & Home Office National Risk Assessment of Money Laundering and Terrorist Financing, with the July 2025 edition³ recording (without dissent) that: "*The OPBAS 5th report found that there was a consistent view among the PBSs that barristers and advocates are exposed to a lower level of risk*" (at para 5.195).
7. Our previous response also emphasised the importance of sector-specific knowledge, including but not limited to an understanding of the complex issues of legal professional privilege ("LPP") that arise in the AML/CTF context, and explained that the BSB had developed significant expertise in respect of this. We note

² [Response on Behalf of the General Council of the Bar of England and Wales to HM Treasury's Consultation on the Reform of the Anti-Money Laundering and Counter-Terrorism Financing Supervisory Regime](#)

³ [HM Treasury & Home Office National Risk Assessment of Money Laundering and Terrorist Financing 2025](#)

in this regard that HM Treasury's July 2025 Consultation Response⁴ acknowledges at para. 2.16 that the FCA does not have such expertise and will need to develop it.

8. Further, we also highlighted the disproportionate and undesirable overlap that the FCA model has for barristers, who will now be required to report to two different regulators. A further consequence of this is the loss of a regulator in the form of the BSB able to combine AML/CTF enforcement with enforcement in other areas, and with a far greater level of insight and visibility of barristers' conduct more generally.

9. It is vital that the supervisory model is effective, appropriate to the level of risk posed by the sector in question, possessed of sufficient sector-specific knowledge to understand the context in which AML/CTF considerations arise, and does not impose a disproportionate burden on any sector or subset thereof.

10. In our previous consultation response, we considered that the current system, whereby the Bar Council discharges its regulatory and AML/CTF supervisory functions through a specialist PBS, the BSB, works well. We note that while some advocated a change to a model other than OPBAS+, none of the accountancy and legal respondents to the previous consultation considered that the transfer of AML/CTF supervision to the FCA was a model that should be adopted.

11. The Bar Council recognises that OPBAS+ model was not adopted following the previous consultation, and that the Treasury has resolved to make the FCA the AML/CTF supervisor for all professional services.

12. The Bar Council is disappointed by that decision, but is nevertheless resolved to work with the BSB, HM Treasury and the FCA to help ensure that the new regime is as effective, proportionate and risk-based as possible, and does not impose disproportionate costs on any sector or subset therefore including the Bar.

13. We disagree with responsibility for issuing AML/CTF guidance for the legal sector being transferred to the FCA because this will likely result in the loss of sector-specific expertise and experience. Nonetheless, we agree with the proposal for the responsibility for approving AML/CTF guidance to be transferred to the FCA, as this could reduce delays in guidance being approved.

[4 Reform of the Anti-Money Laundering and Counter-Terrorism Financing Supervision Regime: Consultation Response](#)

14. The Bar Council also welcomes the statement of intent at para. 1.3 of the Consultation which states that the new model of AML/CTF regulatory oversight is *“intended to improve the implementation of existing regulation, not create new burdens on businesses”*. In the Bar Council’s view, to achieve these aims it is important for HM Treasury and the FCA to recognise the validity of the points that were made in the Bar Council’s response to the last consultation. These have accordingly been developed and applied below in response to the specific questions asked by the present consultation.

Question 1. Do you agree with our proposal to amend the MLRs to require the FCA to maintain registers of the professional services firms (legal, accountancy and TCSPs) it supervises? Are there any practical challenges or unintended consequences we should consider?

15. Only a small fraction of self-employed barristers undertake work that falls within the scope of regulated business for independent legal professionals as defined by Regulation 12 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (2017 MLRs). The work of barristers generally consists of advising on and conducting contentious litigation and thus falls outside the regulated sector.

16. In August 2025, there were 17,964 practising barristers, of which 14,415 (80.2%) were self-employed⁵. Out of those 17,964 practising barristers, only 441 (2.5%) were self-employed barristers that do work within the scope of the 2017 MLRs.⁶

17. It is also important to recognise that the supervised population of the Bar Council is individuals rather than firms. We consider that the Consultation does not acknowledge the impact of this key difference, and instead seeks to apply a model of supervision designed for firms of solicitors and other professionals to a profession of which a large proportion comprises individuals in self-employed practice.

⁵ General Council of the Bar, CRM, 1 August 2025.

⁶ This includes self-employed barristers and barristers practising in dual capacity. General Council of the Bar, CRM, 1 August 2025. We refer to the figure in August 2025 as this was the month which the BSB referred to in their AML report; see also: Bar Standards Board, Anti-Money Laundering and Counter Terrorist Financing: Annual Report for the fiscal year 2024/25.

18. Having regard to the context set out above, it is our view that the process of registration should not extend to individual barristers for the following three reasons.

19. Firstly, the few barristers operating in specialist fields that might fall within the 'regulated sector' (e.g. tax barristers and chancery barristers involved in advising on trust documentation) are generally instructed by other professionals, usually solicitors, who will deal with the lay client and who are obliged to have addressed any AML/CTF issues prior to counsel being instructed. Those other professionals will themselves be so registered.

20. Secondly, the additional burden to individual professionals caused by a process of registration in terms of costs, time and resources is unrealistic and disproportionate. Such a process may also present an additional barrier to access/retention within the supervised population. At a roundtable held by HM Treasury on 16 December 2025, it was confirmed in response to a question from the Bar Council that the intention is that only those barristers conducting work within the scope of the MLRs would need to register, and that existing registrations for MLR work with the BSB would be carried over. However, that would still mean that those barristers applying for registration after the transition to the FCA (including those previously registered with the BSB who have become deregistered) would need to incur the costs and time in registering. As returned to in relation to Q2 below that is of particular concern to barristers who may only fall within the scope of the regulations for discrete pieces of work and who will therefore become deregistered and need to re-register. Further, under the current system of regulation, barristers pay no additional fee if they confirm that they will be carrying out work within the scope of the MLRs in their authorisation to practice returns. A requirement to register with the FCA (as well as with the BSB) will therefore be an additional regulatory cost for members of the Bar.

21. Thirdly, a registration framework which requires barristers to register with the FCA where barristers are already registered and supervised by the BSB is duplicative, disproportionate and unnecessary. Whilst there may well be other individuals carrying out regulated business under the 2017 MLRs to whom a registration framework could justifiably apply, that is because those businesses are not regulated in the same manner as barristers and/or deal with clients directly whereas barristers generally deal with lay clients via another regulated professional.

Question 2. Do you agree with our proposal to grant supervisors the explicit ability to cancel a business' registration when it no longer carries out regulated activities? How might these changes affect firms of different sizes or structures?

22. We consider that such a proposal would disproportionately affect individual barristers because whether an individual barrister is conducting regulated business may vary considerably from year to year. Such a scheme of cancellation would require them to undertake the work and cost of reapplying much more than firms whose work is likely to be more consistent. Such a system of cancellation would also mean that regulated work could not be undertaken at short notice, particularly when any decision in respect of a barrister application will not be instantaneous.

Question 3. Do you support the application of regulation 58 "fit and proper" tests to legal, accountancy, and trust & company service providers? Please explain your reasoning.

23. This test currently applies to those operating within the financial services sector. It is an extremely detailed regime reaching far beyond what would be required for an individual barrister to safely conduct regulated work. That is especially so where barristers are already regulated by the BSB and required to comply with a rigorous Code of Conduct, and have passed the fit and proper person test which is a pre-requisite of being called to the Bar.

24. The broad-brush assessment in the Consultation (at para. 2.13), which sets out that all of the legal sector is high risk and should therefore be subject to the same fit and proper test, ignores the key difference in AML/CTF risk profile between barristers and other parts of the legal sector (explained above). The barrister profession simply does not carry out the size, scale, breadth and depth of regulated activity that necessitates the application of the fit and proper person test. For example, barristers do not exhibit the same characteristics of concern which led to the application of the fit and proper person test to Money Service Business (MSB) agents through regulation 58(1)(d) of the 2017 MLRs, compared with the 2007 MLRs, or cryptoasset business in regulation 58A of the 2017 MLRs.

25. Adding further tests such as these will also increase the cost of this supervision for the few individual barristers who conduct regulated work.

Question 4. What are your views on the proposed changes to regulation 58, including the requirement for BOOMs to pass the fit and proper test before acting, mandatory disclosure of relevant convictions, and the introduction of an enforcement power similar to those under regulation 26?

26. It is the Bar Council's view that the proposed changes to regulation 58 in the 2017 MLRs are unnecessary and disproportionate for barristers. As has been addressed in greater detail above, barristers are already subject to regulation and oversight by the BSB, which ensures that barristers are fit and proper to carry out their work; only a very small fraction of barristers undertake work falling within the scope of regulated business under the 2017 MLRs; and even then barristers are very low risk particularly in view of the fact that they are typically instructed by other regulated professionals, who comply with AML/CTF requirements.

27. Furthermore, requirements such as the fit and proper test for BOOMs would be duplicative. These measures would increase the cost and administrative burden for the few barristers involved in regulated work, without a corresponding benefit to AML/CTF supervision. The risk profile of barristers is fundamentally different from other sectors, and the scale and nature of their regulated activities do not justify these extra layers of regulation.

Question 5. Should the FCA be granted any extra powers or responsibilities with regards to “policing the perimeter” beyond those currently in the MLRs?

28. Whilst it is important for the FCA to have powers to police the perimeter, for example, in relation to high value dealers, we consider that the FCA does not need further powers in relation to barristers. There are longstanding and clearly defined limits to the scope of the MLRs and no evidential base or other reason to suggest either that barristers carrying out work beyond their scope need to be brought within their purview; or that there are barristers carrying out work within the scope of the MLRs without complying with their regulatory duties. In this regard it is noted that the only instances identified in the Consultation within the legal services sector where there is concern about “policing the perimeter” involve patent attorneys buying and selling assets on behalf of their clients, with the Consultation acknowledging that *“HM Treasury does not have direct knowledge of whether there are firms currently in this position or, if so, how many”*.⁷

Question 6. Do you foresee any issues or risks with the extension of regulations 17 and 46 to the FCA in carrying out its extended remit, particularly in relation to how these powers will interact with the FCA’s proposed enforcement toolkit (as outlined in Chapter 6)?

⁷ [Reform of the Anti-Money Laundering and Counter-Terrorism Financing Supervision Regime: Consultation Response](#), para. 2.20

29. To the extent that it is being proposed that the extension of regulations 17 and 46 to the FCA will grant the FCA the same powers that the BSB already has in respect of its AML/CTF function, the Bar Council has no issue with the same. However, the Bar Council would caution against the adoption of powers which go beyond this, having regard to the imperative need for AML/CTF regulation to be risk-based, proportionate and sensitive to the context of the particular sector which is being regulated. It is for this reason that the Bar Council does not agree with the “extended toolkit” powers, addressed in connection with its response to Q7 below.

Question 7. What are your views on introducing new supervisory powers to make directions and appoint a skilled person? If this power is introduced for the FCA, should it also be available to HMRC and the Gambling Commission?

30. The Bar Council is in favour of a risk-based and evidence-based approach to determining the scope of the FCA’s supervisory powers and, as set out in its response to the previous question, urges caution in respect of the conferral of powers on the FCA in respect of its supervision of barristers which go beyond those currently exercised by the BSB.

31. As regards the proposal to introduce a new power to make directions and appoint a skilled person, there is no evidence to suggest that these were powers that OPBAS or the BSB felt it was necessary for them to have during their period of supervision from 2018 to date. Nor has any particular risk been identified in respect of barristers which would warrant the introduction of these powers.

32. Whilst there may be a need for the FCA to give directions or appoint a skilled person to oversee the operation of certain financial services providers such as crypto asset firms, there is no obvious requirement for such powers to apply to barristers. Barristers are highly specialised legal advisors, who are required to maintain high ethical standards in all aspects of their work and to comply with the Code of Conduct (with the BSB already providing regulatory oversight in relation to their compliance with these standards).

33. In our view the Consultation also fails to identify with sufficient precision those types of activity which might cause the FCA to give directions or appoint a skilled person, and does not engage with how this would work in respect of barristers (or other legal services professionals). Without further detail as to what might trigger the giving of directions or the appointment of a skilled person, it is difficult to comment on the proposal. Having said that, and in respect of the appointment of a skilled person, it seems very likely that an appointed skilled person would require

access to the barrister's instructions, and possibly their advice, in order to carry out their task.

34. Barristers are subject to a duty of confidentiality to their clients,⁸ and the rule of LPP prevents the dissemination of information obtained from their clients, subject to limited exceptions. LPP is a cornerstone of our legal system. In *R v Derby Magistrates' Court* [1996] AC 487 at 507C Lord Taylor CJ said:

"The principle which runs through all these cases, and the many other cases which were cited, is that a man must be able to consult his lawyer in confidence, since otherwise he might hold back half the truth. The client must be sure that what he tells his lawyer in confidence will never be revealed without his consent. Legal professional privilege is thus much more than an ordinary rule of evidence, limited in its application to the facts of a particular case. It is a fundamental condition on which the administration of justice as a whole rests."

In *Three Rivers DC* (No 6) [2005] 1 AC 610 at [25] Lord Scott said:

"Certainly in this country legal professional privilege, if it is attracted by a particular communication between lawyer and client or attaches to a particular document, cannot be set aside on the ground that some other higher public interest requires that to be done."

LPP was described by Lord Hoffman in *R (Morgan Grenfell & Co Ltd) v Special Comr of Income Tax* [2003] 1 AC 563 at [7] and [9] as a fundamental human right.

35. It is difficult to envisage how the FCA directing that a skilled person should examine the affairs of the barrister would not involve the barrister breaching his or her duty of client confidentiality and/or LPP. Any such breach would have serious implications, potentially exposing the barrister to sanction for professional misconduct: a breach of client confidentiality would also ordinarily require the barrister to inform the client of the breach, and also to report themselves to the BSB if the breach amounted to serious misconduct. Further, even if there were to be some statutory abrogation of privilege to avoid such breaches occurring as a result of the appointment of a skilled person, this would represent a considerable encroachment on LPP that, in the Bar Council's view, could not be justified given the lack of any identified need for such a power.

⁸ See Core Duty 6 of the BSB's [Code of Conduct](#)

36. In addition, barristers are frequently instructed to act for those who are regulated by the FCA in some other capacity. Allowing a skilled person appointed by the FCA to have access to the confidential and privileged material of those clients raises serious concerns about the FCA being privy to advice given to them relating to, or relevant to, the FCA's regulatory and enforcement role in respect of such clients. That would represent a very serious incursion into those clients' rights to privilege.

37. More generally, and even if the powers in respect of directions and to appoint a skilled person were not applied to barristers, if the FCA's remit is extended to allow for the appointment of skilled persons to examine the compliance of other legal and accountancy professionals, there is a clear risk that barristers would end up paying towards the costs of the FCA exercising a power which is of no (or very limited) application insofar as they are concerned.

38. For these reasons the Bar Council is not in favour of the introduction of new supervisory powers to make directions and appoint a skilled person.

Question 8. Do you agree with our proposal to extend the information gathering and inspection powers in the MLRs to the new sectors within FCA supervision?

39. The Bar Council is not in favour of the proposal to extend the information gathering and inspection powers in the MLRs insofar as they apply to barristers to the extent that this would confer upon the FCA greater powers than those which the BSB was able to exercise (and which neither OPBAS nor the BSB have seen the need to increase). The Bar Council doubts that such powers are needed in respect of the limited amount of work within the scope of MLRs conducted by barristers, and such an extension is likely to increase complexity and represent an additional regulatory burden on a profession which represents a very low risk in the context of AML/CTF. Further, the creation of extended powers is likely to increase the cost of regulation, a proportion of which will be borne by barristers despite them not being persons in respect of whom the powers are needed.

Question 9. Do you believe any changes are needed to the information-gathering and inspection powers in the MLRs beyond extending them to the FCA in supervising accountancy, legal and trust and company service providers for AML/CTF matters?

40. The Bar Council does not consider that there needs to be an extension to the powers to gather information and to inspect barristers, beyond extending the current powers exercised by the BSB to the FCA and its operation to barristers. Again, there is no evidential basis for an extension of the powers described - OPBAS was able to conduct its supervisory functions without increasing its information gathering and inspection powers. It is also likely that any extension to these operational functions would increase the cost of supervision, and that barristers would bear a disproportionate amount of the costs incurred, given their low risk profile.

Question 10. Do you agree that responsibility for issuing AML/CTF guidance for the legal, accountancy and trust and company service provider sectors should be transferred to the FCA?

41. No. The existing framework, whereby the Legal Sector Affinity Group, comprised of the legal sector's regulatory and representative bodies (including the Bar Council and the BSB), issues joint guidance, is well placed to address sector-specific considerations insofar as they relate to the Bar. As the Consultation recognises, at para 4.3, input from bodies within the legal sector is valuable due to sector-specific expertise and practical experience. If the FCA were to have responsibility for issuing AML/CTF guidance, it would need to ensure the perspectives of industry bodies were taken into account. The Legal Sector Affinity Group already monitors risk, co-ordinates communication with key stakeholders and shares information about good practice. Transferring responsibility for issuing AML/CTF guidance for the legal sector to the FCA is likely to cause unnecessary disruption and create an additional regulatory burden without improving efficiency.

Question 11. Do you agree that the MLRs should be amended to transfer responsibility for approving AML/CTF guidance to the relevant public sector supervisor, with HM Treasury retaining a 'right of veto' but not having responsibility for approving entire guidance documents?

42. The Bar Council welcomes this proposed amendment, especially if it means that guidance will be approved more expeditiously and efficiently than is currently the case (as is stated to be the aspiration in para.4.4 of the Consultation). The Bar Council would, however, emphasise that if the decision to transfer responsibility for approving guidance is to be transferred to the FCA, it is nevertheless imperative that HM Treasury continues expeditiously to approve guidance during the transition period without undue delay, and that approval decisions should not be deferred

until the FCA regime has been established. Given the importance of guidance on AML/CTF in making clear to the regulated sector what needs to be done in terms of compliance, it is essential that approved guidance remains up to date.

Question 12. Do you agree to the extension of requirements under regulation 47 to the FCA in relation to accountancy, legal and trust and company service providers?

43. On the basis that the FCA is the supervisory authority for the sector, it seems sensible to extend to it the information providing requirements set out in regulation 47.

Question 13. Do you see any issues with the FCA's information sharing duties and powers in regulations 46, 50 and 52 applying to the professional services firms it supervises for AML/CTF purposes?

44. No. This would seem to be necessary as part of the FCA replacing the OPBAS/BSB model of supervision.

Question 14. Do you agree that the MLRs should be amended to require the NCA to share SARs with the FCA and other public sector supervisors, where these have been submitted by or relate to firms within their supervisory population?

45. No. The proposed amendment is too broad. There is no necessary link between a SAR having been submitted by or relating to a firm regulated by a public sector supervisor, and any regulatory concern of which that supervisor would need notice.

46. The stated guardrail that: "access must be proportionate and designed to avoid interference with law enforcement investigations" does not provide adequate safeguards. The existing system enables sufficient supervisory access to Suspicious Activity Reports while providing adequate guardrails.

Question 15. Do you agree that these existing whistleblowing protections are sufficient and appropriate?

47. Yes.

Question 16. Do you foresee any issues with our proposal for the FCA to exercise the same enforcement powers already exercised by it in relation to the financial services firms for professional services firms too?

48. Given the nature of the regulatory framework of the Bar, including the Code of Conduct for Barristers and related disciplinary and enforcement processes, the Bar represents a low risk in the context of AML/CTF non-compliance. Further, OPBAS and the BSB have not seen any need to obtain further enforcement powers.

Accordingly, if the proposed extension would involve the FCA exercising additional enforcement powers beyond those currently in existence under the OPBAS/BSB model, the Bar Council would advise caution to avoid imposing additional compliance burdens and disruption without necessarily improving outcomes.

49. More particularly:

- The Bar Council does not consider there would be any need or justification for the power to impose financial penalties under regulation 76 to permit the FCA to levy greater penalties than those already open to the BSB;
- Given the very high proportion of barristers that are self-employed, it is difficult to envisage circumstances in which regulation 78 (placing prohibitions on senior managers in response to AML/CTF violations) could apply to self-employed barristers;
- The Bar Council does not object to the FCA having powers to publish information relating to enforcement action pursuant to Regulations 84-85; and
- The existing powers of prosecution for criminal offences relating to AML/CTF violations (see regulations 86 to 92) are already vested in the FCA.

50. The Bar Council also notes that regulation 81 sets out the factors which the FCA must take into account when assessing the type and level of sanction for non-compliance with the regulations. The Bar Council has nothing to add to the list of relevant factors, but would emphasise the requirement that any sanction imposed on barristers for non-compliance should be fair and proportionate, and should not expose barristers to the prospect of disciplinary proceedings by both the FCA and the BSB for the same infraction.

Question 17. Are there any additional enforcement powers that you feel the FCA should be equipped with to ensure non-compliance is disincentivised effectively?

51. Given the response to Q16 above, it follows that we do not consider that the FCA should be equipped with additional enforcement powers.

Question 18. Do you think any amendments to regulations 81 and 82 would help the FCA issue minor fines for more routine instances of non-compliance such as failure to register?

52. No. We consider that the powers provided by regulations 81 and 82, which govern the operation of regulation 76 (“Power to impose civil penalties: fines and statements”), are sufficient to enable the FCA to issue minor fines.

Question 19. Do you have any issues with our intention that decisions made by the FCA in relation to their AML/CTF supervision of professional services firms be appealable to public tribunals, in line with the existing system?

53. No.

Question 20. Do you have any comments regarding the FCA charging fees, under regulation 102, noting the possible proposed amendments?

54. It is noted that the FCA intends to consult on how it proposes to recover its day-to-day costs of AML/CTF supervision in due course.

55. The Bar Council is concerned at the limited consideration that has been given to the question of fees and funding in the most recent consultation, and the lack of any reference to the need for such fees to be levied in a way which takes account of the risk profile of the sector in question, the extent to which professionals in that sector in fact engage in work within the scope of the MLRs, and the manner in which such professionals practice. That concern is heightened in circumstances where the impact assessment, promised in para. 2.26 of HM Treasury’s July 2025 Consultation Response, has not yet been produced.

56. Insofar as barristers are concerned:

- The Bar is low risk – as noted above, only 2.5% of practising self-employed barristers were working within the scope of the MLRs as of August 2025. In addition, even where barristers do undertake work within the scope of the MLRs, the Regulations will not permit them to receive, control or handle

client money as barristers do not, and are not permitted, to administer client accounts. Barristers are only entitled to be paid for their services. The BSB regulated entities that are often owned and managed by barristers and which can employ barristers are also not permitted to handle client money;

- The number of potential breaches of MLR 2017 is also very low as set out in Table 3 of the BSB Annual AML/CTF Report 2024/25 which records that there were 3 cases where supervisory action was undertaken by the BSB in 2024/25 and 2 cases under investigation at year end⁹; and
- The barrister profession business model is very different to that of other professional services providers, including the solicitor/law firm model, with members of Chambers acting as individual self-employed professionals.

57. In light of the above, it is imperative that the fee structure ultimately arrived takes into account these considerations, as well as the markedly different activities and risk profiles that arise across the spectrum of professional services firms.

58. The cost of supervision and enforcement against barristers is, on the areas raised above, likely to be much less than in the case of professionals that handle client money, and the Bar Council considers that it is important for the FCA to consider this when determining the fees. The costs levied against barristers should not become duplicative, disproportionate and unnecessary. This is a particular concern in circumstances where the proportion of AML/CTF-related activity by the BSB is so small compared to its overall supervisory activities (see above) that the FCA's taking over these functions is unlikely to lead to any or any significant reduction in the levy barristers currently pay to the BSB.

59. The Bar Council would welcome the opportunity to be more closely involved in any further work on arriving at a fair and proportionate fee structure whether within the context of a further consultation or otherwise.

60. As regards the final sentence of para. 8.3 of the Consultation, the Bar Council supports the proposal to enable the FCA to deduct its enforcement costs from penalty receipts transmitted to HM Treasury.

⁹ Bar Standards Board, Anti-Money Laundering and Counter Terrorist Financing: Annual Report for the fiscal year 2024/25.

Question 21. Are there any specific powers or transitional arrangements that you believe would help the FCA, current supervisors, or HM Treasury support a smooth and low-burden transition for firms already supervised under the MLRs?

61. The Bar Council does not consider that any additional powers are required in relation to supervision of barristers during the transition period, but for all the reasons set out above would emphasise the need for sector-specific learning from the BSB to be carried over and for any overlap between the regulatory regimes during the transition period to be kept to the minimum having regard to the regulatory burdens that will be placed on individual self-employed barristers as a result.

Question 22. Do you agree that a requirement should be placed on the FCA and existing professional bodies and regulators to create an information-sharing regime that minimises burdens on firms?

62. Yes.

Question 23. Are there other legislative measures that would prevent additional regulatory burdens arising?

63. No.

Question 24. Are there any additional powers that would support OPBAS to provide effective oversight of the PBSs during the transition? If so, please provide an overview.

64. No.

Question 25. Are there any wider legislative changes that may be necessary to support the effective implementation of this policy, including alignment with existing statutory frameworks governing professional services?

65. The Bar Council does not consider that any wider legislative changes are necessary.

Question 26. Should any changes be made to the economic crime objective introduced for legal regulators by the Economic Crime and Corporate Transparency Act?

66. The Bar Council does not see any need to change the economic crime objective (s 1(1)(i) of the *Legal Services Act 2007*).

Question 27. Do you have any issues with our intention to apply the FCA's existing accountability mechanisms in carrying out its additional supervisory duties?

67. No.

Question 28. What measures do you think should be taken to ensure a proportionate overall approach to supervision, including prioritising growth?

68. As has been set out above, the Bar Council is concerned that a move to a model whereby the FCA is the AML/CTF supervisor for all professional service firms risks losing sector-specific regulatory expertise and reducing the efficacy of supervision, at the same time as increasing costs and imposing a disproportionate burden on barristers. Any unnecessary or disproportionate increase in the regulatory burden is antithetical to a pro-growth strategy and should be avoided. The Bar Council's concerns as to disproportionate regulation and costs are heightened by the absence of the impact assessment which was promised "*in due course*" in para. 2.26 of HM Treasury's July 2025 Consultation Response, but which has not yet been produced.

69. The Bar Council would urge HM Treasury to adopt a risk-based and evidence-based approach to any proposed increase in the powers of the FCA, as well as of registration / fit and proper person requirements beyond those that exist under the OPBAS/BSB model so as to avoid undue complexity and cost. The Bar Council would further urge HM Treasury to ensure that any cost sharing regime pays due regard to the low-risk nature of the activities of the Bar and the fact that a very small proportion of barristers conduct work which falls within the scope of the MLRs. The Bar Council would welcome the opportunity to be involved in exploring the development of such a cost sharing regime.

Bar Council

December 2025

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