

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Anti-Money Laundering and Counter Terrorist Financing

Annual Report for the fiscal year 2022/23

Foreword

This year, the Government launched its second Economic Crime Plan, covering the period 2023 to 2026. It says that “it is highly likely that over £12bn of criminal cash is generated annually in the UK, and there is a realistic possibility that the scale of money laundering impacting on the UK is in the hundreds of billions of pounds annually”. The role of the legal sector regulators in relation to economic crime has been clarified in the Economic Crime and Corporate Transparency Act 2023, which introduces a new Regulatory Objective into the Legal Services Act 2007 to promote the prevention and detection of economic crime.

There is already significant collaboration between the Government, the regulators, the professions and law enforcement to tackle this threat. The Bar is playing its part. This report sets out to explain how the Bar is fulfilling its responsibility and the role that the Bar Standards Board is playing to prevent the Bar becoming involved in money laundering, and what barristers can do to support this effort. Our website contains information to promote compliance. It is regularly updated with new information about risk and the latest developments in Government. I would strongly encourage the Bar to monitor it for the latest information.

Mark Neale

Director General and Responsible Officer

30 October 2023

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The role of the Bar Standards Board

1. The General Council of the Bar is designated as a Professional Body Supervisor in Schedule 1 of the [Money Laundering Regulations](#) (MLRs). The Bar Standards Board (BSB) is the regulatory arm of the Bar Council and is responsible for the supervision of barristers and BSB entities under the MLRs. Our [governance documents](#) set out our arrangements for ensuring regulatory independence from the representative functions of the Bar Council.

[Regulation 46](#) of the MLRs sets out the duties of supervisory authorities. The BSB must:

- Adopt a risk-based approach to supervision (regulation 17).
- Approve self-employed barristers and owners and managers of BSB entities to carry out work under the Regulations (regulation 26).
- Publish an annual report containing information about supervision activity undertaken, to encourage the reporting of actual or potential breaches of the Regulations, and measures carried out to monitor, and enforce, compliance by barristers and BSB entities with their obligations (regulation 46A).
- Make a Suspicious Activity Report to the National Crime Agency if there is a suspicion of money laundering or terrorist financing (regulation 46(5)).
- Provide information and guidance (regulation 47).
- Appoint a responsible officer to monitor compliance with the Regulations (regulation 49(2)(b)).
- Co-operate with other supervisory authorities, HM Treasury and law enforcement authorities (regulation 50(1)).
- Provide a register of Trust and Company Service Providers to HMRC (regulation 54(2))

2. The BSB is subject to oversight regulation by the [Office for Professional Body AML Supervision](#) (OPBAS). OPBAS has published a [Sourcebook](#) on how the BSB and other professional body supervisors can meet their obligations under the MLRs.

How the Regulations apply to the Bar

3. All barristers have to declare at Authorisation to Practise (when they renew their practising certificate annually) whether they engage in work that falls within the scope of the MLRs. BSB entities must do the same upon authorisation and annual renewal.

[Rule S59.7](#) of the BSB Handbook requires barristers to declare at Authorisation to Practise whether they do work within the scope of the MLRs. This rule enables us to meet our obligations under the MLRs to carry out risk-based supervision ([regulation 17](#)) as it helps to identify which barristers are carrying out relevant work.

4. The number of “relevant persons” (the term used in the MLRs) declared at renewal each year is as follows:

Table 1	Number of “relevant persons” that we regulate			
	2020	2021	2022	2023
Self-employed barristers	571	477	431	478
BSB entities	11	13	9	8

5. The majority of barristers and BSB entities do not engage in relevant work. This is because contentious litigation is generally not within scope and because the BSB Handbook does not permit barristers or BSB entities to hold client money or manage their clients’ affairs, so they are less likely to conduct relevant work.
6. It is important that chambers know when their barristers are conducting work that falls within the MLRs so that:
- clerks have appropriate controls in place when engaging with clients, particularly in relation to conducting customer due diligence;
 - the management committee is aware of the risk to which chambers is exposed; and
 - appropriate training can be arranged for chambers staff, as well as barristers.
- The role of chambers in this area is one of the themes that we have highlighted in our [consultation on the regulation of barristers in chambers](#).
7. To enable us to comply with our obligations (set out in paragraph 1) we need to know which barristers and entities are undertaking work that is within scope.
8. We are required to report this data to HM Treasury, as part of an annual return that is used to produce an annual supervision report ¹. This information is also used by OPBAS to inform their programme of work. Inaccurate declarations distort the risk profile of the Bar and have the potential to lead to additional regulatory costs and poorly targeted interventions.
9. We therefore urge all barristers to read the guidance that is available on MyBar when they make their declaration. We also urge chambers to talk to their barristers and reach a shared understanding with them.

¹ <https://www.gov.uk/government/publications/anti-money-laundering-and-countering-the-financing-of-terrorism-supervision-report-2020-22>

Changes to the Regulations in 2022

10. The main changes in the [2022 Statutory Instrument](#) were:

- To strengthen the regime in relation to proliferation financing (in relation to chemical, biological, radiological or nuclear weapons), cryptocurrencies and the art market.
- To give supervisors the power to review Suspicious Activity Reports submitted by those they regulate.
- Obligations in relation to reporting of material discrepancies to the registrar at Companies House.

11. More details about these changes can be found on our [guidance page](#).

Trust or Company Service Providers

12. We are obliged to provide a register of Trust or Company Services Providers (TCSPs) to HMRC (regulation 54).

[Regulation 12](#) defines Trust or Company Service Provider as a firm or sole practitioner who by way of business provides any of the following services to other persons:

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act as a director or secretary of a company; as a partner of a partnership; or in a similar capacity in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or legal arrangement;
- (d) acting, or arranging for another person to act, as a trustee of an express trust or similar legal arrangement; or a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

	2020	2021	2022	2023
Self-employed barristers	1	1	2	2
BSB entities	3	2	1	1

13. The [National Risk Assessment](#) identifies TCSP activity as high risk. However, this forms a very small part of the work undertaken by barristers and BSB entities (as table 2 shows) and their TCSP activity is small scale, serving clients local to the area they are based in. They do not act for offshore structures.

Our assessment of risk

14. Under Regulation 17, we are required to identify and assess the money laundering and terrorist financing risks associated with the Bar. We have published [information on our website](#) for this purpose.
15. The last [National Risk Assessment](#) was published in 2020. We have been informed that work on the next one is likely to commence in 2023/24. Whilst the Government assesses the risk of Money Laundering in the legal sector as high, we assess the risk for barristers and BSB entities to be low for the following reasons:
- Practising barristers do not typically engage in conveyancing and only a very small minority act as Trust or Company Service Providers, which are the two services identified as at highest risk for money laundering in the National Risk Assessment.
 - Barristers and BSB entities are prevented by the rules in the BSB Handbook from holding client money or managing their clients' affairs.
 - The majority of instructions are referred by solicitors or other relevant persons under the MLRs, who are obliged to conduct their own Customer Due Diligence and therefore provide a first line of defence in assessing risk.
16. Independent legal, and other professionals are commonly referred to as “professional enablers” when they are complicit, knowingly or unknowingly, in facilitating the laundering of money by:
- helping to create complexity such as setting up networks of corporate structures to acquire illicit funds and provide anonymity for the criminal;
 - through their involvement, giving an appearance of respectability; and/or
 - through conducting sham litigation.

As part of the [Economic Crime Plan \(2023-2026\)](#), the National Economic Crime Centre has committed to establishing a cross-system strategy to tackle professional enablers with a focus on collaborative working and information sharing. The aim is to better understand the threat through an improved intelligence picture, address the structural weaknesses that lead to a fragmented approach, enhance information sharing between the private and public sectors, and increase collaboration to improve investigative capacity by supervisors and law enforcement. We are a member of the working group that has been set up to develop that strategy.

17. Separately, we assess the risk of the Bar being used as enablers of sanction breaches as medium risk. This is further explained below, and in our separate [thematic report on financial sanctions compliance](#).

Breaches of the Money Laundering Regulations

Measures in place to ensure that breaches of the Regulations are reported to the BSB

18. There are a number of ways that barristers and anyone else can report breaches, or potential breaches to us:

- All barristers and BSB entities have an obligation under the BSB Handbook to [report serious misconduct](#) by themselves or others.
- Anyone who has a concern about the conduct of a barrister or a BSB entity can make a [report](#) to us. Staff in the Contact and Assessment Team, which is responsible for making an initial assessment of reports, are provided with training to ensure they can identify red flags that might indicate a risk of money laundering.
- We work closely with other regulators and have signed a number of [Memoranda of Understanding](#) in order to support sharing of intelligence where appropriate. We also subscribe to the Financial Conduct Authority’s Shared Intelligence Service.
- Our [Money Laundering Hotline](#) provides an additional platform. It is a confidential service that anyone can use to report a concern to us about a person or an organisation we regulate, in connection with Money Laundering. During this period, we received no reports to the hotline.
- As part of our ongoing programme of supervision, chambers and entities are required to complete a self-assessment of compliance with the Regulations.
- Two staff in the Supervision Team have undergone security vetting to enable them to receive reports from the National Crime Agency relating to persons we authorise.

Potential breaches of the Regulations reported to the BSB and action taken

Table 3	Number of potential breaches reported to the BSB		
	2020/21	2021/22	2022/23
Cases reported to the BSB and assessed but no further action taken	1	2	3
Cases where supervisory action was taken	3	3	3
Cases investigated by the Investigations & Enforcement Team where no enforcement action was taken	0	0	1
Cases where enforcement action was taken (barrister disbarred)	1	0	0
Cases under investigation at year end	2	0	2

19. The BSB is required to take appropriate action against barristers and BSB entities where they have failed to meet their obligations. Regulation 49(1)(d) requires that effective, proportionate and dissuasive disciplinary measures are in place. The enforcement regulations in the BSB Handbook and the Bar Tribunals and Adjudication Service (BTAS) [Sanctions Guidance](#) provide the framework for sanctions. There is an explicit reference to the MLRs in the misconduct group “[Financial Matters](#)”. The starting point for this group is a medium level fine of £5,000-£15,000 and goes up to disbarment. The misconduct group “Financial matters” excludes dishonesty, which is a separate misconduct group. As set out in the Guidance, “*a finding of dishonesty will almost invariably lead to disbarment in all but the most exceptional circumstances*”.

Themes arising from our Supervision activity

Practice risk assessments

[Regulation 18:](#)

- (1) requires a relevant person to take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which their practice is subject.
- (2) In carrying out the risk assessment, a relevant person must take into account:
 - (a) information made available to them by the supervisory authority, and
 - (b) risk factors including factors relating to:
 - (i) its customers;
 - (ii) the countries or geographic areas in which it operates;
 - (iii) its products or services;
 - (iv) its transactions; and
 - (v) its delivery channels.
- (3) In deciding what steps are appropriate, the relevant person must take into account the size and nature of its business.
- (4) A relevant person must keep an up-to-date record in writing of all the steps it has taken under paragraph (1), unless its supervisory authority notifies it in writing that such a record is not required.
- (5) A supervisory authority may not give the notification referred to in paragraph (4) unless it considers that the risks of money laundering and terrorist financing applicable to the sector in which the relevant person operates are clear and understood.
- (6) A relevant person must provide the risk assessment it has prepared under paragraph (1), the information on which that risk assessment was based and any record required to be kept under paragraph (4), to its supervisory authority on request.

Detailed guidance on conducting practice risk assessments can be found in chapter 5 of the “Part 1” [Legal Sector guidance](#).

20. As well as enabling barristers and BSB entities to meet their obligations under the MLRs, practice risk assessments also help us to understand the extent of inherent risk across the profession, so that we can focus our supervision activity in the areas of highest risk (based on the nature and extent of relevant work conducted, and the nature of the clients).

21. In 2022 we selected ten sole practitioners who had declared, when renewing their practising certificate (Authorisation to Practise) that they did work within the Money Laundering Regulations. They were requested to submit their practice-wide risk assessment. Nine barristers confirmed that they had made an inaccurate declaration and did not undertake work within the scope of the MLRs. The tenth has since commenced work in an SRA-regulated firm.
22. We have explained above why it is important that accurate declarations are made at Authorisation to Practise and would encourage all barristers to ensure that they consider their declarations carefully.

Compliance with the financial sanctions regime

23. Screening for sanctions when conducting Customer Due Diligence checks is covered in section 7.11 of the “Part 1” [Legal Sector guidance](#), although all barristers and BSB entities (not just those conducting work that engages the MLRs) must comply with the UK’s sanctions regime and must have procedures in place to ensure that sanctions are not breached.
24. The sanctions regime came into sharp focus in February 2022, following the Russian invasion of Ukraine, when the UK Government imposed a significant number of financial and trade sanctions. The Government sought the support of all regulators to raise awareness of the sanctions regime and to test compliance. Whilst testing sanctions compliance already formed part of our Anti-Money Laundering (AML) compliance testing programme, we developed a separate page of [guidance on our website](#) and raised awareness of the new sanctions through our monthly Regulatory Update emails to the profession.
25. We also developed a separate risk assessment, in consultation with our [APEX advisor](#) for the MLRs and Financial Sanctions. This led us to conduct a thematic review of 31 chambers that are members of the Commercial Bar Association.
26. Our [report on the thematic review](#) was published in June 2023 and we would encourage all barristers to read it. We were satisfied that the majority of chambers had at least some procedures in place to promote a consistent approach in chambers and ensure compliance with the sanctions regime. However, we found that documenting and implementing appropriate controls within chambers was the area where most improvement was needed. Remedial actions were set where relevant and have been actioned. We assess the current risk of the Bar being used as enablers of sanction breaches as medium risk.
27. We noted tension in delineating responsibility between chambers and barristers. Chambers felt there were practical difficulties due to confidentiality obligations as self-employed individuals and individual responsibility for compliance. Our view is that chambers’ management committees need to have mechanisms and guidance in place to assure themselves that risk is appropriately and consistently assessed, and compliance controls are consistently applied.

28. Chambers were keen to have the support of Bar Council guidance to help ensure consistency across the profession. The Bar Council has set up a working group to develop this and we have shared our findings with them to help to inform the guidance.

Planning and property law

29. Members of the Property Bar Association and the Planning and Environmental Bar Association were concerned that they were not clear whether certain work that they do falls within the scope of the MLRs. Following the work that we have been doing with chambers to improve the accuracy of declarations made when barristers renew their practising certificates, these Specialist Bar Associations had identified that barristers were not being consistent in their declarations and sought clarity. We have been in discussion with a member of our Advisory Panel of Experts and the Bar Council, who are preparing a typology for inclusion in the [“Part 2” guidance](#) to assist barristers in this area. Following release of this guidance, we will conduct some supervision reviews of relevant persons.

Quality of Suspicious Activity Reports (SARs)

30. SARs alert law enforcement to potential instances of money laundering or terrorist financing and are a vital source of intelligence on economic crime. The new [Suspicious Activity Reports \(SARs\)](#) portal has now been launched. The aim of delivering this new platform is to make the portal more user friendly for those who need to make reports about suspicious activity under the Proceeds of Crime Act, which should lead to better quality information being collected and analysed. Whilst the National Crime Agency (NCA) has told us that it does not have particular concerns about the quality of SARs submitted by barristers, it continues to stress that the quality of a SAR, including as much detail possible, can affect their ability to prioritise and process the report. It can also affect the relevant agency’s decision or ability to investigate. You can read more about this, and how the NCA uses SARs, on their [website](#). When conducting Supervision reviews, we discuss how barristers approach making SARs.

How we engage with others

31. Economic crime, including money laundering and breaching sanctions, continues to receive considerable national focus and we continue to engage extensively with various government departments, OPBAS, law enforcement, other regulators and other stakeholders in order to identify and respond to risk.

32. The role of the legal sector regulators in relation to economic crime has been clarified in the Economic Crime and Corporate Transparency Act, which introduces a new [Regulatory Objective](#) into the Legal Services Act 2007 to promote the prevention and detection of economic crime. We will be working with the Legal Services Board and other regulators to set out what this means for the BSB’s risk framework and business plan. We already have regard to this objective in our work, particularly in relation to the MLRs and the sanctions regime, and this will align Regulatory Objectives with the work already being done by regulators in this area.

33. The second [Economic Crime Plan](#), covering the period 2023-26, was published this year. It focuses on achieving tangible outcomes in relation to:
- reducing money laundering and recovering more criminal assets;
 - combatting kleptocracy and driving down sanctions evasion; and
 - cutting fraud.
- The plan takes a multi-stakeholder approach and the BSB, alongside other regulators and representative bodies, was consulted as the plan was developed. There is a clear role for the regulators in the implementation of the plan, alongside the regulated sector.
34. We collaborate with a range of stakeholders, in a variety of fora, in relation to our role as a professional body supervisor under the MLRs. Increasingly, these fora are extending their remit to cover the wider economic crime agenda.
35. The Legal Sector Information Sharing Expert Working Group comprises the legal sector regulators and representative bodies, who meet together with the NCA, OPBAS and HM Treasury. Membership of this group (and the others listed below) helps us to stay up to date with emerging risk and build collaborative working relationships. It helps to inform our own risk assessment of the threat to the profession. In 2022/23, the Group discussed a range of topics including:
- Case studies that were shared by members of the group about specific investigations.
 - NCA typologies concerning the liquidation and displacement of assets following the imposition of financial sanctions on Russia, following the invasion of Ukraine. This helped to inform our [guidance](#) for the Bar.
 - Illicit finance in organised immigration crime.
 - Chinese illicit finance with source of funding that has entered the legitimate economy through so-called “informal value transfer systems” (IVTS) that do not use the normal banking system and/or have not complied with national currency controls. This led to the production of joint legal sector guidance, which is available on our [website](#).
 - A presentation by Trading Standards in the City of London Corporation about investment fraud schemes.
 - A presentation by the NCA about the work of the Combatting Kleptocracy Cell.
 - The views of [RUSI](#) about where national strategic planning should focus to combat money laundering.
 - A presentation by Dr Joanne Cracknell on her research [Understanding the role of the lawyer in the cause and effect of money laundering within the legal profession](#).
 - A presentation by Professor Nicholas Ryder, Professor of Law, Cardiff University about financial crime emerging threats and themes.
 - The Group also prepared a toolkit to assist law enforcement nationally in contacting legal sector regulators.

36. The Legal Sector Affinity Group comprises the legal sector regulators and representative bodies. In 2023, our focus was on the following:

- Implementation of the [Money Laundering and Terrorist Financing \(Amendment\) Regulations 2022](#) and consequent adjustments to the [Joint Legal Sector Guidance](#).
- The group discussed at length amendments to the guidance in relation to conducting due diligence on ultimate beneficial owners.
- Sharing good practice in the supervisors' approach to testing compliance with the financial sanctions regime.
- Response to the Government's consultation on reforming the supervisory regime (see "Looking Ahead" below).
- Response to the development of the Economic Crime plan 2023-26.
- Response to the OPBAS consultation on updating their [Sourcebook](#) for regulators.
- The implications of the new Regulatory Objective for economic crime.
- The response to [OPBAS thematic review on Trust or Company Service Providers](#).

37. The Legal Sector Supervisors forum comprises those organisations conducting supervisory activity, separate from the representative bodies where relevant. This group considered the above topics in greater detail from a supervisory perspective, sharing good practice in our approaches to supervision of AML and financial sanctions compliance. In addition, the group began engagement with Companies House staff, in anticipation of the Economic Crime and Corporate Transparency Act. The Act strengthens the role of Companies House², enabling it to take action to prevent those who seek to set up company structures that enable money laundering, with new powers to correct or query information where there is a suspicion that something submitted is erroneous or fraudulent. There will be much greater opportunity for collaboration by Companies House with the regulators, including the BSB.

38. The Anti-Money Laundering Supervisors Forum comprises the regulators and representative bodies of the legal and accounting sectors, the statutory supervisors (the Financial Conduct Authority, HMRC and the Gambling Commission), Companies House, HM Treasury, the NCA and OPBAS. This is primarily a forum for providing updates on Government policy, the work of law enforcement and the regulators from all sectors.

39. As explained above, we have recently joined the Professional Enablers Group, to support the improved sharing of information and understanding of risk. The group comprises various national law enforcement bodies, OPBAS, the Home Office, HM Treasury, the Department for Business and Trade, the Crown Prosecution Service, UK Companies House and other regulatory bodies.

² <https://www.gov.uk/government/publications/economic-crime-and-corporate-transparency-bill-2022-factsheets/fact-sheet-the-role-and-powers-of-the-registrar-of-companies>

Looking ahead

40. In June 2023, the Government published its [consultation on reforming the supervisory regime](#), This follows their 2022 Review of the UK's regulatory and supervisory regime, which concluded that while there had been continued improvement to the regime, some weaknesses in supervision may need to be addressed through structural reform.
41. The outcome of the consultation has important implications if supervision of the Bar is transferred to another body. Barristers that conduct work under the Money Laundering Regulations may be subject to another supervisor, which could be another legal sector regulator (such as the SRA) or a public body. We think that the biggest risk created by moving AML supervision of the Bar to another body would be the loss of synergy with the wider regulatory framework and consequent knowledge that we have about our regulated population through our wider role as regulator of the Bar. The legal services regulatory framework that we act within has far greater breadth and depth than the MLRs. It means that our risk-based approach to regulation and our understanding of the profession is leveraged when we are supervising barristers in relation to the MLRs. Another body simply would not have that wider knowledge of individual barristers and BSB entities, and the environment in which they practise. This knowledge forms an integral part of our AML risk assessments. We are able to achieve a depth of understanding of the Bar, and the persons and entities that we regulate, that is unlikely to be achieved by another single regulator acting solely for the purpose of supervision under the MLRs. The consultation is predicated on the basis that system coordination needs to be improved and that this has been one of the most challenging areas in which to make progress. We think that creating an additional layer of supervision will create, rather than remove barriers. You can read our full response on our [website](#).
42. We anticipate that work will commence on a new National Risk Assessment. We expect to contribute to that through the stakeholder engagement fora.
43. In the 2022 review of the MLRs and in the second Economic Crime Plan, HM Treasury committed to consulting on ways to improve the effectiveness of the MLRs. They are currently scoping the content of the consultation, which they intend to launch before the end of the year.
44. HM Treasury anticipates that a separate Statutory Instrument will be laid shortly to clarify that domestic Politically Exposed Persons are generally regarded as lower risk.

Where to find more information

45. Our [website](#) contains useful information about Money Laundering and Terrorist Financing risks and barristers' obligations under the MLRs, and is regularly updated. We have compiled a set of [FAQs](#) to help barristers and BSB entities to understand their obligations and if the work that they do falls within the scope of the MLRs.
46. The [joint legal sector guidance](#), approved by HM Treasury, contains a wealth of information to support legal professionals to comply with their obligations.

47. The Bar Council provides a confidential [Ethical Enquiries Service](#) for the benefit and assistance of barristers and their staff to assist them to identify, interpret and comply with their professional obligations.
48. You can contact us with any questions or feedback by emailing aml@barstandardsboard.org.uk