

SRA response

Reform of the Anti-Money Laundering and Counter-Terrorism Financing Supervisory Regime

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Introduction

1. The Solicitors Regulation Authority Limited (SRA) is the regulator of solicitors and law firms in England and Wales. We work to protect members of the public and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards. We are the largest regulator of legal services in England and Wales, covering around 90% of the regulated market. We oversee some 200,000 solicitors and more than 9,000 law firms.
2. The Law Society of England and Wales is the named supervisor for relevant persons who are regulated by it in Schedule 1 of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (as amended) (MLR 2017). These supervisory functions are delegated to the SRA, as established by the 2007 Legal Services Act (LSA 2007).
3. The SRA was established as an independent board of The Law Society of England and Wales to discharge its regulatory functions, before incorporation as a separate legal entity in 2022. We exercise the Law Society's supervisory role under the money laundering regulations. We are the largest legal sector anti-money laundering (AML) supervisor and we supervise 23,275 beneficial owners, officers and managers (BOOMs) spread across the 6,007 firms ¹ [\[#n1\]](https://www.sra.org.uk/solicitors/standards-regulations/authorisation-firms-rules/) that are offering services in scope of the regulations. The firms we supervise for AML are a subset of our regulated population, who we authorise for the provision of legal services under our Authorisation of Firms Rules [\[https://www.sra.org.uk/solicitors/standards-regulations/authorisation-firms-rules/\]](https://www.sra.org.uk/solicitors/standards-regulations/authorisation-firms-rules/).
4. We take our responsibility for AML supervision seriously. We have invested heavily in the area, with 34 dedicated members of staff and an AML-specific annual budget of just over £3m. We take a risk-based approach to our AML supervision, including in-depth examinations of firms' compliance, thematic reviews and desk-based reviews of risk assessments, policies, controls and procedures. In the past year, our Proactive Supervision Team has carried out 177 inspections and 73 desk-based reviews. We engage regularly with the Office for Professional Body Anti-money laundering Supervision (OPBAS) as our oversight regulator.
5. We also set a credible deterrent against breaches of the regulations through our enforcement work. Between April 2021 and April 2022, our enforcement action has resulted in fines amounting to £385,476 remitted to HM Treasury² [\[#n2\]](#).
6. The comments made in this response relate solely to the legal sector, based on our work and experience in this area, and our answers to the consultation questions reflect this. We are not in a position to comment on the supervision of or options for change in the accountancy sector, and recognise that it may be that different options are considered preferable for each of the accounting and legal sectors.

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Executive summary

7. We consider that:
 1. the current system of AML supervision of the UK's legal sector is fragmented and would benefit from rationalisation



2. Option Two, consolidation, is the best option for future AML supervision of legal services.
8. We support Option Two as it would:
 1. be the most effective at improving supervision of the legal sector and consequently combating money laundering
 2. improve system co-ordination between supervisors, law enforcement and oversight regulators
 3. have the least impact on the costs of regulation, and therefore on the consumers of legal services
 4. yield the biggest benefit for the prevention and detection of money laundering across the legal service sector.
9. We also consider that consolidation is both a feasible and practical solution.
10. The remaining options have considerable drawbacks compared to consolidation:
 1. OPBAS+ would preserve the difficulties in the current structure, namely fragmentation, lack of consistency, and inefficiency, whilst increasing regulatory cost to legal services. This in turn would increase costs charged to consumers, making them unaffordable for some and decreasing access to justice.
 2. SPSS and SAS would take many years to implement, during which time there would be a loss of knowledge and expertise amongst professional body supervisors (PBS). Transferring files and live matters over to the new body would also add complexity, especially where there where a live investigation needed to be transferred. It is also not clear that all information could be shared. The costs and disruptions caused would be significant, and more so than for consolidation or OPBAS+.
11. Whichever option is chosen, we will work in collaboration with HMT, OPBAS and other supervisors to implement the changes and support the prevention of money laundering.

Objectives

Q1. Do you agree that increased supervisory effectiveness, improved system coordination, and feasibility are the correct objectives for this project? Do you agree with their relative priority? Should we amend or add to them?

12. We agree with these objectives. We consider that impact on the public and users of legal services should be added. This could be measured by both:
 1. direct impact: overall reduction in money laundering, which is of benefit to all sections of the public
 2. indirect impact: impact on the cost of, and access to, legal services.
13. We appreciate that the reduction of money laundering is the overarching aim of this consultation and whichever recommendations it seeks to pursue. We therefore believe that the likely direct impact of each model on money laundering should be assessed.
14. Likewise, the ultimate users of legal services should be considered. Compliance with the MLR 2017 comes with a cost, in both time and money. We consider that the best recommendation will be one which works efficiently and effectively to mitigate costs to:
 1. the legal profession
 2. clients and users of legal services
 3. taxpayers and the public purse.

Option One: OPBAS+



Q2. What would the impact be of OPBAS having the FCA's rule-making power? What rules might OPBAS create with a new rule-making power that would support its aim to improve PBS supervision

15. We do not expect that there would be a significant increase in effectiveness from increasing OPBAS's powers.
16. It is also unclear why OPBAS would need a further rule-making power beyond the OPBAS Sourcebook, which already sets clear expectations relating to the effectiveness of PBS supervision.
17. OPBAS's latest report states³ that:

'With our increasing focus on effectiveness and speed of progress, we are looking to make greater use of our enforcement tools where appropriate and needed. However, in the current compliance-focused AML legislative regime, our levers to improve effectiveness often rely on cooperation rather than compulsion. Over the last 5 years, using a mix of the supervisory tools at our disposal, including a very directive approach at times, we have started to drive improved effectiveness. But measurable change through this approach takes more time and effort to achieve. In the absence of evidence of consistent effectiveness across all PBSs, there is rightly a challenge on the impact of the current framework. This is making a stronger case for more material supervisory system reform'.

18. We are unaware of any lack of co-operation on the part of a PBS, or any situation where a PBS has needed to be compelled. We agree with OPBAS that change is needed, but as we set out below this should go further than OPBAS+.

Q3. Which, if any, of these powers should OPBAS be granted under this model? Are there any other powers that OPBAS could be granted under this model to aid OPBAS in increasing the effectiveness and consistency of PBS supervision?

19. Addressing each in turn, we make the following observations:

1. **Publicisation of statutory interventions.** At present, OPBAS does not publish its findings or directions issued against PBSs and we understand it would not need additional powers to do this. Our preference is for greater transparency in OPBAS' findings of effectiveness about our approach, and other PBSs. Greater transparency would assist us and other PBSs in benchmarking our own performance.
2. **Graduation of sanctions.** While we do not consider that additional powers are necessary, we would welcome some graduation of sanctions within OPBAS's current ambit. These could include issuing a warning, the power to direct a course of action, and to publish findings. We do not consider that entirely new powers, such as to fine or to restrict or reduce supervisory population, are necessary.
3. **Restrict or reduce supervisory population.** We anticipate that this would be used where a need was identified to tailor or focus the work of a PBS. This, however, would raise the question of what would happen to the remaining supervisory population, and where those being moved would go. This would require legislative change to appoint a default legal supervisor. There are also a very limited number of legal PBSs who have the capability to take on some or all of the supervised population of another. If HMT considers that it is likely to be necessary for one PBS to take on the regulated population of another, we suggest that consolidation under Option Two would achieve the same end more efficiently.
4. **Fining power.** We do not consider that a fining power is necessary in order to increase supervisory effectiveness. Where action is required OPBAS already has the ability to use its existing powers. Further, PBSs are funded by the professions they regulate. Loss of funds through fines risks impacting delivery of regulatory and supervisory functions, and public interest outcomes. To mitigate any loss the PBS would need to increase fees which would have an impact on supervised firms and ultimately users of legal services. Powers to



direct a course of action or to publish a sanction would achieve the same end without cost to the profession or users of legal services.

Q4. What new accountability mechanisms would be appropriate in order to ensure proportionate and effective use by OPBAS of any new powers?

20. If this model were selected, we propose the following mechanisms would be beneficial to increase transparency and effectiveness:
1. OPBAS should be given full independence from the FCA. This would allow it to streamline its processes and governance, and also allow it to be independently scrutinised. Currently, as a department of the FCA, it is not subject to independent review.
 2. OPBAS should be made accountable to HM Treasury, possibly as an arms-length public body. This would allow for better integration with Economic Crime Plans and other government strategies.
 3. PBSs should have the right to appeal OPBAS decisions. This would ensure fairness and drive consistency of decisions.
21. While OPBAS does publish an annual report, this is generally:
1. anonymised
 2. aggregated, making it difficult to pick out anything other than broad trends
 3. published around a year in arrears, meaning that any improvements made as a result are not present for some time.
22. Outcomes of OPBAS audits are shared only with the PBS involved, and on a confidential basis. This does not assist PBSs in sharing best practice and experience and therefore in maintaining consistency, interpreting the Sourcebook or anticipating requirements.
23. Overall, increased transparency would benefit both OPBAS and those it regulates. We consider that there could be examples from the Legal Services Board (LSB), in terms of how to achieve this. The publication by OPBAS of its annual accounts, use of its powers, forward budget planning and programme of work and the results of reviews would assist PBSs in planning and decision making.

Q5. Do you have evidence of any specific types of regulated activity which are at high risk of being illegally carried out without supervision?

24. While we actively police the perimeter of our own regulated population to ensure unregulated individuals are not holding themselves out as solicitors, we have not seen significant numbers of reports about regulated services being provided illegally.
25. There are some legal services which currently do not fall under an existing legal services regulator, or under a PBS. This is partly due to the differences between activities within scope of the LSA 2007 and those within scope of the MLR 2017. This leaves potential gaps in supervision because there is no default supervisor for legal services in the MLR. The two regimes are compared at Annex A. One example is that of will writing, a legal service which does not fall with the LSA 2017 but could fall within regulations 11(d) and 12 MLR 2017 if it included activities such as tax advice or formation of a trust, which could be used to launder money. Whilst we would regulate all of the legal services carried on by a firm authorised by us, if a business is only carrying on will writing (or other unreserved services) and is not holding itself out as a solicitors' firm, it does not need to be authorised.

Q6. Do you think a "default" legal sector supervisor is necessary? If so, do you think a PBS could be designated as default legal sector supervisor under the OPBAS+ option?



26. We consider that the legal sector would benefit from having a default supervisor.
27. This would require extensive new legislation to grant powers to undertake effective registration, regulation and enforcement, which would not be in keeping with OPBAS+'s general approach of minimal change.
28. If Option Two were to be selected, however, a default legal supervisor would be in keeping with the ethos of consolidation, or indeed Options Three or Four, but would be an unnecessary disruption with OPBAS+. This is all the more so as we do not consider that there is evidence of widespread unregulated legal services operating in the regulated sector.

Q7. Overall, what impact do you think the OPBAS+ model would have on supervisory effectiveness? Please explain your reasoning.

29. As this is effectively a continuation of the current regime, we do not consider there would be a significant impact on effectiveness. As stated above, we do not consider that OPBAS would be materially more effective with the addition of the powers consulted on.
30. We agree that it is 'the least disruptive option', although the legislative change needed to create a default legal supervisor would add to the time taken to implement this option, and the complexity of the change required.
31. We also suggest that this option would not demonstrate to the Financial Action Task Force (FATF) that issues and recommendations raised in their 2018 assessment⁴ have been addressed. That assessment set out several issues with the established regime at that time, not all of which would be addressed by this model. In the following problems would persist:
1. Variation in quality of supervision.
 2. Variation in understanding of sectoral risks.
 3. Variation in supervisory approach.

Q8. Overall, what impact do you think the OPBAS+ model would have on system coordination? Please explain your reasoning.

32. Under this model, we consider that there is scope for system co-ordination to improve, but this would be hampered by the fragmented nature of the supervision regime. Any improvement would depend on OPBAS's willingness to use its new powers to make rules to govern information-sharing and to monitor their effectiveness.

Q9. Overall, how significant do you think feasibility constraints would be for the OPBAS+ model? Please explain your reasoning.

33. This would be the easiest and quickest model to implement, albeit still needing some legislative change. The costs would be comparatively low, although we consider that the funding model for OPBAS would also need to be reviewed as it would not be sustainable if OPBAS expanded in line with its increased powers and contingent headcount. This would be particularly significant if it took on the default supervisor role. At present, the OPBAS funding model operates as follows:
1. PBSs who supervise up to 6,000 BOOMs pay a flat fee of £5,310.
 2. PBSs who supervise more than 6,000 BOOMs pay the flat fee of £5,310 plus £39.69 for each BOOM above that threshold⁵.
34. There are nineteen PBSs in the former category and three in the latter. This means that the three largest PBSs effectively fund OPBAS, with smaller entities providing only a nominal contribution.
35. By way of illustration, in 2021-22, the ICAEW, ACCA and SRA contributed around 94% of OPBAS's running costs, which would not be scalable if OPBAS is to be expanded.

Option Two: Consolidation

Q10. Were we to proceed with the PBS consolidation model, what would the relative advantages be of (a) a UK-wide remit, (b) retaining separate PBSs in the Devolved Administrations? Which would best achieve the consultation objectives? Please answer with explicit reference to either the legal sector, the accountancy sector, or both.

36. We consider that this is a matter of public policy which would be best considered by the national and devolved Parliaments.
37. As the largest legal regulator in the UK, we would be able to operate within either model. We currently supervise⁶ (#n6) :
1. 83% of BOOMs across the UK, and 95% in England & Wales
 2. 76% of firms across the UK, and 88% in England & Wales.

Q11. How could HM Treasury and/or OPBAS ensure effective oversight of consolidated PBSs under this model? Would it be appropriate to provide OPBAS with enhanced powers, such as those described in the OPBAS+ model description?

38. For England & Wales, we consider that the Legal Services Board (LSB) would be well placed to oversee a consolidated PBS. The reduced number of PBSs removes the need for an oversight regulator to ensure consistency amongst PBS and would make it more efficient and economical to have a single oversight regulator, rather than both OPBAS and the LSB. This would also ensure a streamlined and consistent approach across money laundering and other areas of legal regulation.
39. The LSB will oversee the new regulatory objective set out within the Economic Crime and Corporate Transparency Act, to promote the prevention and detection of economic crime.
40. Further, in light of its role overseeing the existing PBS in their capacity as legal regulators, the LSB would also be well-placed to ensure that the consolidated PBS and other regulators had clear standards and agreements for investigating matters with a combination of conduct and AML issues going forwards.

Q12. Under the PBS consolidation model, do you think that HMRC should retain supervision of ASPs (accountancy service providers) and TCSPs which are not currently supervised by PBSs? Why/why not?

41. It would be more efficient for trust and company service provider (TCSP) supervision to sit with the consolidated PBS. This would remove the need to submit recommendations to HMRC for TCSPs to be registered, saving both parties time and cost. The relevant fit and proper tests could also be handled by the PBS using information already held by them. We currently supervise all TCSPs within our regulatory remit, so for us there would be no substantial change.

Q13. What would the impact be of consolidated PBSs having a more formal role in identifying firms carrying out unsupervised activity in scope of the MLRs? What powers would they need to do this?

42. A consolidated PBS would need enhanced intelligence-gathering and enforcement powers in order to be effective in this model.
43. The MLR 2017 do not provide enforcement powers to PBSs, meaning PBSs rely on their existing regulatory powers. Legislation would be needed to make sure that the consolidated PBS had access to a wide range of enforcement and intelligence powers in order to operate effectively and efficiently across the legal sector for those individuals not currently supervised by a legal services regulator.
44. As a PBS with a mature and well-connected intelligence department, we would be well-placed to extend this to proactively identify parties carrying out unsupervised activity. We are experienced in using tools such as web-sweeps to identify breaches of our regulations, as well as being able to respond to tip-



offs and information from other supervisors. We have a long history of policing our own perimeter to protect the public and our regulated population.

45. We also have a role in policing the perimeter in terms of the ability of non-solicitors to work within regulated firms. Section 43 of the Solicitors Act 1974 allows us to prevent people from being employed or remunerated by a solicitors practice without our permission if they have engaged in conduct which makes them unsuitable to do so. In the last five years alone, we have imposed 250 orders under s.43 and a further 14 have been imposed following a prosecution at the Solicitors Disciplinary Tribunal.

46. We can bring private prosecutions to enforce the provisions of the Solicitors Act 1974 and the LSA 2007. The table below sets out how many times we have done this in the last five years.

Statute	Section	Offence	Private prosecutions since 2018
Solicitors Act 1974	20	Unqualified person not to act as solicitor.	4
	21	Unqualified person not to pretend to be a solicitor.	3
	24	Application of penal provisions (ss.21 and 22) to body corporate.	1
	42	Failure to disclose fact of having been struck off or suspended.	1
	44	Persons made subject to s.43 obtaining employment or remuneration with a solicitor without SRA permission	6
Legal Services Act 2007	14	Carrying on a reserved legal activity if not entitled	4
	17	Pretending to be entitled to carry on a reserved legal activity	1

Q14. Under the PBS consolidation model, what would the advantages and disadvantages be of a consolidated accountancy or legal sector body supervising a range of different specialisms/professions for AML/CTF purposes?

47. We consider that this model would have many advantages, because it balances reducing inconsistencies through reducing the number of supervisors with maintaining specialism in legal supervision.

48. Retaining one of the existing legal supervisors would maintain specialist knowledge of the legal sector. Specialist knowledge is important for supervision of lawyers to ensure a risk-based approach and take into account issues specific to the sector, for example the application of legal professional privilege.

49. This option would increase system co-ordination and effectiveness because there would be fewer supervisors, either one or three for legal services depending on whether a UK-wide or separate national supervisors are chosen

50. We believe that the effectiveness of this option would be maximised if we were selected as the consolidated supervisor. We are a multi-disciplinary regulator. We have expertise in all areas of legal practice, including those specialist areas supervised by other legal regulators such as the Council for Licensed Conveyancers, Bar Standards Board and the Faculty Office.

51. The firms we regulate extend from sole practitioners to the world's largest international firms or multi-disciplinary practices (such as the big four accountancy firms).

52. The table below gives an overview of the breadth of size of the firms we regulate⁷ ^[#n7] :

Number of fee earners	Number of firms (total)	Number of firms (in scope)
1 (sole practice)	2691	1121
2 to 50	6347	4284
51 to 100	189	168
100 to 1,000	227	210
More than 1,000	16	13

53. While many of those we regulate work in firms, others work in other arrangements, such as within a dispersed, self-employed consultancy model. The structures we regulate include partnerships, limited companies, limited liability partnerships, listed companies and multi-national structures. There are also 611 freelance solicitors⁸ ^[#n8], who are registered with us as individuals and can provide legal services on their account. This breadth of experience means we are well-placed to take on supervision of other lawyers.

54. We also already regulate many non-solicitor lawyers who work in solicitors' firms. This includes some 77% of notaries public who are also solicitors⁹ ^[#n9] and some 75% of chartered legal executives¹⁰ ^[#n10] as well as many barristers and licensed conveyancers. For these individuals that we already regulate, consolidation would represent, at most, a minimal change.

55. Separately to this, we have the capacity and capability to take on other regulated populations with appropriate adjustment to our existing resources:

1. As the PBS with by far the largest supervised population, we would be able to take on the BOOMs which we do not currently supervise (17% across the UK; 5% in England & Wales).
2. We have more than 600 members of staff¹¹ ^[#n11], making us the largest legal services supervisor by a considerable margin¹² ^[#n12]. Within this, we have an experienced staff of 34 dedicated AML specialists.
3. We also have experience in the application of legal professional privilege and its interaction with the MLR. This is an issue specific to the legal sector deriving from a mixture of case and statute law with many principles untried in a regulatory context.

Q15. What steps, if any, could HM Treasury take under this model to address any inconsistencies in the enforcement powers available to supervisors?

56. Changes would be needed to make sure that the consolidated PBS had access to a wide range of enforcement and intelligence powers to operate effectively and efficiently across the legal sector.

57. We do not derive powers from the MLR 2017, save for the following:

1. The power to request information under regulation 66. This is not, however, backed by any enforcement power and we rely on our own code of conduct where firms do not comply.
2. The power to approve BOOMs under regulation 26. This is limited, however, by the fact that unless a prospective BOOM has committed a specific criminal offence under Schedule 3, we are unable to refuse them approval. This includes



office holders such as money laundering compliance officers or money laundering reporting officers.

58. PBSs need to rely on their own codes of conduct to enforce the MLR 2017, and their powers derive from different statutes and legislative instruments. Our powers come from the Solicitors Act 1974, Administration of Justice Act 1985 and the LSA 2007.

59. In terms of powers, we suggest that the consolidated PBS will need the following in order to be effective:

1. the power to maintain a public register of supervised firms and individuals, and to apply sanctions for failure to register
2. to approve and register BOOMs
3. to require information and cooperation from supervised individuals/firms, backed by a power of enforcement
4. to bring enforcement action for breaches of the MLRs including fines
5. to suspend and ban individuals from carrying out work in scope of the MLR 2017
6. to address information-sharing and co-operation between the consolidated PBS and other legal regulatory bodies to charge fees for supervision.

Q16. Which option, to the extent they are different, would be preferable for providing for supervision of non-members under the PBS consolidation model? Are there alternatives we should consider?

60. Of the two options presented, we favour the latter. Requiring firms to register with the consolidated PBS for AML/CTF supervision would streamline the process by ensuring:

1. a sound basis from the outset on which to build a consistent and thorough approach
2. that the members of each regulator are aware of the change and of their new obligations to the consolidated PBS
3. that the consolidated PBS will have the information it needs in early course and that this will be up to date.

Q17. What powers, if any, might be required to minimise disruption to ongoing enforcement action and to support cooperation between the PBSs retaining their AML/CTF supervisory role and the PBSs which are not?

61. We foresee a continuing role for OPBAS in overseeing the transition. OPBAS would be well-placed to ensure that standards of supervision are maintained during the transitional period, and to resolve any issues relating to information-sharing or jurisdiction. We suggest that OPBAS's current powers would be sufficient to achieve this.

Q18. Overall, what impact do you think the PBS consolidation model would have on supervisory effectiveness? Please explain your reasoning.

62. We consider that consolidation would have a positive impact on supervisory effectiveness. A consolidated PBS would retain sectoral knowledge and existing links and relationships with other PBSs and law enforcement. It could also track problematic individuals across entities in the sector, and issue practical guidance based on experience with the legal profession.

Q19. Overall, what impact do you think the PBS consolidation model would have on system coordination? Please explain your reasoning.

63. System co-ordination would be improved by the centralisation of AML information on legal services. The consolidated PBS would be able to assess risk across a wide swathe of criteria, track individuals across firms and sectors, and ensure a common standard of regulation and enforcement.



64. Co-ordination with the remaining PBSs would also be easier given the existing links between regulators, and the existence of FCA-led bodies such as the Legal Sector Intelligence-Sharing Expert Working Group and information-sharing networks such as Shared Intelligence Service to co-ordinate information. Referrals. Information could be shared using existing channels and intelligence personnel. As noted in the consultation document at paragraph 4.7, it would also streamline liaison with external agencies such as law enforcement and overseas regulators.
65. We have a well-staffed, mature and experienced intelligence function, and would have, if required, the capacity and capability to fulfil this role. We have a long history of constructive and productive liaison with law enforcement, a dedicated Money Laundering Reporting Officer experienced in making reports to the National Crime Agency, and strong links with regulators across the UK.

Q20. What additional powers or tools, if any, could enable OPBAS to ensure the transition to a new model is smooth and supervision standards do not fall in the interim?

66. Ensuring a smooth transition and avoiding a drop in standards would fall within the new regulatory objective to promote the prevention and detection of economic crime, overseen the LSB. Existing PBSs will therefore have clear obligations and incentives to maintain appropriate standards of supervision during any transition.
67. We consider that OPBAS's existing powers would be sufficient to police any transitional period.

Q21. How do you believe fees should be collected under the PBS consolidation model?

68. We currently collect fees from our regulated population each year as part of practising certificate renewal. A portion of these is then passed on to the Law Society, who in turn make payments to OPBAS and other bodies on our behalf.
69. We consider that the most efficient way for fees to be collected would be to replicate this. Existing regulators would collect their fees in the normal way, and then pay the consolidated PBS a portion of this.
70. We could also collect and enforce fees to be paid by firms which are out of scope of the LSA 2007, if given the power to do so. Some form of registration would be needed in order to police this.

Q22. Overall, how significant do you think feasibility constraints would be for the PBS consolidation model? Please explain your reasoning.

71. We consider that this option would involve few feasibility constraints. This option compares very favourably to Options Three and Four in terms of the time and resources needed to implement it because it would draw upon the existing infrastructure.
72. This option would allow existing infrastructure, staffing, facilities and expertise to be used. Unlike Options Three and Four, there would be no need to draw on the public purse to establish a new body. While legislative change would still be needed, existing legislative and regulatory frameworks could be used as an interim measure.
73. New legislation would be needed to set up the new consolidated PBS as the supervisor for the legal sector, and we suggest that new primary legislation would be a better way to achieve this than amending existing legislation. This would require some investment of time and cost at the outset, but this would help in future-proofing the consolidated PBS regime and making future amendment more straightforward. If, for example, a change was required to the regulatory regime in a decade's time to take account of a new development in the sector, it would be easier to amend one piece of legislation than that needed for 11 supervisory and regulatory bodies.

74. In terms of changes for the legal profession, there would be no transition necessary for those already under the supervision of the consolidated PBS. For those who are not, the change from the supervision of one PBS to another would involve minimal change. The work carried out by the LSB and OPBAS has ensured that the standards expected of regulated firms is well understood and would translate from one PBS to another with little friction.

75. We do not anticipate that there would be large numbers of live investigations to be transferred. In the period 2019-2022, the numbers of enforcement actions taken were as follows:

	Number of fines	Memberships suspended	Memberships cancelled
SRA	65	6	22
All other legal PBSs	8	1	3

76. As set out under our response to Q14 (above), we consider that the feasibility of this option would be maximised if we were selected as the consolidated supervisor. We have the resources, experience and knowledge to fulfil this role, removing major feasibility constraints. We are the largest legal sector supervisor by some way, meaning that we have the systems and processes to ensure a smooth and efficient transition of regulated firms and ongoing enforcement cases. We have experience of regulating across the spectrum of legal services and could apply this knowledge to any incoming regulated persons for which we would take over supervision. We would work extensively with OPBAS, other PBSs and the LSB to ensure that any transition took place in a timely way with minimal disruption to legal professionals and their clients.

Option Three: Single professional services supervisor (SPSS)

Q23. Do you agree these would be the key structural design features to consider if creating a new public body (whether it was an SPSS or an SAS)? Should anything be added or amended?

77. A decision to adopt SPSS would likely lead to an interim reduction in overall effectiveness of the UK's AML supervisory regime, as the current staff of each PBS are likely to seek permanent and secure work elsewhere during the transition period, primarily in the private sector.

78. While there is a possibility of eventually employing some within the new body, this model risks losing valuable experience due to:

1. the timescales involved
2. the high salaries immediately available in the private sector
3. uncertainty surrounding how many opportunities will be available
4. potential relocation.

79. This would create a short-term problem in maintaining PBS supervision during the transitional period, and a longer-term problem of staffing the new SPSS. Trying to attract staff would likely lead to an increase in staffing costs which would increase the cost of supervision under this model.

80. It is suggested that competent authorities such as law enforcement may be more comfortable sharing certain types of information with a public body. This has not been our experience, and we have always benefited from a constructive and mutually supportive relationship with law enforcement and other public bodies.

Q24. If an SPSS were to be created, which sectors do you think it should supervise?



81. We consider that this would not be the best option for the legal sector. We do not express a view as to its suitability for the accountancy sector.

Q28. Overall, what impact do you think the SPSS model would have on supervisory effectiveness? Please explain your reasoning.

82. There would be an initial detrimental impact on supervisory effectiveness. This would be due to loss of expert staff, loss of intelligence connections, loss of corporate memory, and the challenges involved in consolidating data from 22 PBSs and two public bodies. Following the transition period we do not consider that the SPSS model would improve effectiveness beyond current levels. Loss of sectoral knowledge is also likely to lead to a weakening of intelligence capability and the ability to detect emerging risks and trends.

Q31. Overall, what impact do you think the SPSS model would have on system coordination? Please explain your reasoning.

83. A new body would need to recreate the strong connections which PBSs have maintained both with each other, with law enforcement, and with other bodies.
84. Paragraph 5.25 of the consultation suggests that system co-ordination would be improved in terms of information-sharing with law enforcement. We have not found this to be a problem and maintain productive links with local and national agencies and forces.
85. We suggest that the SPSS (and indeed SAS) models would create a different and equally problematic form of fragmentation, in terms of separation of AML and non-AML regulation and the difficulties in maintaining the relationship between the two.

Q31. Overall, how significant do you think feasibility constraints would be for the SPSS model? Please explain your reasoning.

86. There would be feasibility challenges of this model including:
1. Several years of uncertainty due to the time needed to bring significant legislative changes.
 2. The aforementioned loss of expertise, both during the transition period and permanently.
 3. The cost involved, which would be considerable. Decisions would be needed on where the new body would be located, expertise and experience would need to be brought in, and a new supervision and enforcement structure would need to be developed. This would involve costs to those supervised by PBSs and would also inevitably need to draw on the public purse, at least initially.
 4. The logistical difficulties of a single supervisor overseeing the populations of 22 PBSs from different sectors and jurisdictions would be considerable. Given the differences between jurisdictions and sectors, developing and imposing a common standard would be challenging and time consuming.
87. Many of these challenges could be mitigated or negated by using our existing infrastructure, expertise and regulatory framework under Option Two.

Option Four: Single anti-money laundering supervisor (SAS)

Q32. Do you foresee any major challenges for effective gatekeeping, under either the SPSS or SAS model? If so, please explain what they are, and how you propose we could mitigate them?

88. We predict the following challenges under both of these models:
1. Two sets of suitability criteria, one from the AML supervisor and one from the legal services supervisor, based on differing sets of data, leading to potential inconsistencies in entry requirements and authorisation decisions.
 2. Reduced effectiveness due to a lack of connection to an informed regulated population which can share information and intelligence.



3. Lack of specialist knowledge about risks specific to the legal sector, and a reduced ability to use sector knowledge to identify emerging risks.

89. The cost and timescale to implement these changes would also be key considerations. By way of comparison, the European Parliament proposed the creation of a new Anti-Money Laundering Authority (AMLA) in 2018 [[http://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733645/EPRS_BRI\(2022\)733645_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733645/EPRS_BRI(2022)733645_EN.pdf)]. The new body would reportedly have a full complement of 250 employees and an annual budget of €45m [<http://www.icaew.com/insights/viewpoints-on-the-news/2021/aug-2021/eu-to-overhaul-aml-framework-with-new-supervisory-authority#:~:text=A%20new%20EU%20AML%20Authority&text=With%20an%20expected%20annual%20budget,supervisory%20activities%20starting%20from%202021>], although as this has recently risen to 400 employees [<http://www.complyadvantage.com/insights/european-commission-details-further-plans-for-the-eus-new-anti-money-laundering-authority/>] the budget is likely to be significantly higher. AMLA was due to be launched in 2023 [<http://www.icaew.com/insights/viewpoints-on-the-news/2022/jul-2022/will-the-eu-antimoney-laundering-authority-be-effective>], with full operational strength by 2026. At the time of writing, however, AMLA was still some way from launch [<http://www.europarl.europa.eu/news/en/press-room/20230414IPR80123/stopping-the-flow-of-dirty-money-parliament-ready-for-negotiations>]. No firm date for the implementation of the new authority has yet been set, although as of 28 August 2023 the launch has been pushed back to 2026/7, and nine nations are bidding to host the new body [<https://www.euractiv.com/section/economy-jobs/opinion/ireland-the-ideal-small-nation-solution-to-host-aml/>].
90. These challenges set out above would be difficult to mitigate and we consider that they are inherent risks of Options Three and Four.

Q33. Overall, what impact do you think the SAS model would have on supervisory effectiveness? Please explain your reasoning.

91. As far as the legal sector is concerned, we have the same concerns as outlined for SPSS.

Q34. Does the separation of AML/CTF supervision from general regulatory activity present a major issue for those firms currently supervised by the statutory supervisors? Please explain your reasoning.

92. The points made above in relation to SPSS apply here as well: matters involving elements of both conduct and money laundering would be difficult to manage under this model.

Q35. Overall, what impact do you think the SAS model would have on system coordination? Please explain your reasoning.

93. As far as the legal sector is concerned, we have the same concerns as outlined for SPSS.

Q36. Overall, how significant do you think feasibility constraints would be for the SAS model? Please explain your reasoning.

94. As the most ambitious of the models, this is consequently the least feasible. It suffers from the same constraints of the SPSS model, with the added upheaval to the sectors overseen by the FCA, HMRC and the Gambling Commission. Benefits of this option would come after years of transition and may not be apparent until some time following the event.
95. Overall, any improvements in system co-ordination, such as improved consistency compared to the current system due to fewer supervisors, under this and the preceding option would be minor. Ultimately, they would be a poor return on investment for the inevitable loss of sectoral expertise, intelligence, loss of supervisory capability and disruption.

Sanctions

Q37. Given the change in the sanctions context in the UK since Russia's invasion of Ukraine, have supervisors changed their approach to oversight

of sanctions systems and controls amongst regulated populations? If so, what activity has this entailed?

96. Since February 2022, we have bolstered the way we supervise the sanctions regime. This has focused on the Russia/Belarus regime due to the risk exposure of our regulated population. We have, however, also taken the opportunity to remind our solicitors of their obligations and that the sanctions regime extends beyond Russia and Belarus.
97. We have taken the following major actions:
1. We have ensured that the relevant staff have received training on sanctions and are aware of the nature of the regime and its requirements.
 2. In Spring 2022, we called in the client lists of 23 firms who we considered to be at risk of dealing with designated persons under the Russian regime. We used a bespoke tool to analyse these lists and provided feedback to firms. This led to one investigation being opened.
 3. At the same time, we commenced a thematic project with the objective of providing guidance to the profession on how they should approach sanctions and the risk of becoming involved with designated persons. To this end, we interviewed experts from 26 firms who had particular experience in the field and conducted our own research in the area. This resulted in detailed guidance being released on 28 November 2022.
[<https://www.sra.org.uk/solicitors/guidance/financial-sanctions-regime/>]
 4. Since April 2022, we have embedded a section dedicated to sanctions within our proactive AML inspections. This ensures that the subject is raised and analysed with all of the firms we inspect.
 5. We gathered information about firms' work in this area, which we will use to assess risk via our 2022 data gathering exercise of firms within scope of the AML regulations (c.6,500 firms) and our similar 2023 exercise involving out of scope firms (c.3,500 firms). In particular, the 2023 exercise has asked more detailed questions on sanctions and has involved advisory letters being sent to firms who appear to have misunderstood the questions.
 6. We have kept the profession abreast of developments in the field, with press releases on the subject (eg on trust services
[<https://www.sra.org.uk/sra/news/press/2022-press-releases/russian-sanctions-bans-trusts/>]) and showcasing questions we receive [<https://www.sra.org.uk/solicitors/resources/money-laundering/guidance-support/aml-questions-answers/>] and the answers to them.
 7. Our sectoral risk assessment [<https://www.sra.org.uk/sra/research-publications/aml-risk-assessment/>] has highlighted sanctions as a risk in the summer 2023 update.
 8. In autumn 2023, we will commence a round of inspections targeting firms who appear to be at higher risk of being involved with designated persons.
 9. We have produced the following presentations and webinars in relation to sanctions:
 1. **November 2022:** Complying with sanctions and financial crime regulations
[<https://www.youtube.com/watch?v=shl57aD28Ko>]
 2. **May 2023:** Government sanctions regime - how all firms can stay compliant
[<https://www.sra.org.uk/sra/news/events/on-demand-events/government-sanctions-regime-stay-compliant/>].
 10. We have also addressed the LegalEx live (November 2022) and virtual (May 2023) conferences on the subject of sanctions.
 11. Our Compliance Conference in November 2022 included a keynote speech on sanctions from experts in the field, including Giles Thomson, Director of OFSI. 650 people were in attendance on that occasion, and there were 612 additional views of our on-demand version of the event.
98. We continue to liaise with and advise the profession on sanctions and their risks.



Q38. Do supervisors need additional powers to monitor sanctions systems and controls effectively, or can this be done under existing powers? What would any new powers need to consist of?

99. Currently, proactive sanctions work falls within a gap:

1. Not falling within the MLR 2017, we cannot use our regulation 66 powers.
2. Not forming part of an investigation, we cannot use our powers under 44B of the Solicitors Act 1974 [<https://www.legislation.gov.uk/ukpga/1974/47/section/44B>].

100. When requesting information on sanctions, we have in the past made reference to solicitors' obligation under our Code of Conduct to co-operate with their regulator. This would, however, be considerably simplified and effective, and less open to challenge, if we were given powers:

1. to inspect firms' client lists and files for sanctions compliance
2. to inspect firms' policies, controls and procedures for sanctions compliance
3. which were explicitly exempt from legal professional privilege.

101. We anticipate receiving new powers through the Economic Crime and Corporate Transparency Act which will allow us to proactively view information on firms' sanctions compliance.

Q39. Aside from legislative powers, do you foresee any other barriers to supervisors effectively monitoring sanctions systems and controls?

102. We note the considerable differences in the AML and sanctions regime, where in the former we have extensive powers to require firms to have processes in place to prevent money laundering. We would welcome a similar power, as suggested in the consultation for the sanctions regimes.

103. We suggest that changes are made to the Sanctions and Money Laundering Act 2018 rather than the MLR 2017 as the latter would exclude activities such as litigation, alternative dispute resolution and family law, where we believe it important that firms have good preventative controls.

104. We also believe that sanctions enforcement would benefit from greater information sharing between PBS and relevant bodies, eg:

1. HM Treasury, including the Office for Financial Sanctions Implementations (OFSI)
2. the Ministry of Justice
3. the Foreign, Commonwealth and Development Office
4. the Department for International Trade.

Q40. Should any new potential supervisory powers relating to sanctions broadly cover all types of UK sanctions?

105. We think that they should cover all types of sanctions. Although the focus for most of the past 18 months has been on financial sanctions overseen by OFSI, the recent provisions relating to legal advisory services are not financial and will be overseen by the Department for Business and Trade. Excluding some categories could create loopholes and would fail to future-proof the regime.

Options comparison

Q41. How would you expect losing AML/CTF supervision to affect PBS' financial models, and the fees charged to supervised populations?

106. Our 2022-23 AML budget was £3,054,514.31, currently adequate for our needs but representative of only a very small percentage of our current overall budget of £88,969,000. If SPSS or SAS were opted for, this would result in a small decrease in the practising certificate fees we collect. From the profession's point of view, however, the new model's funding would replace this, including the increased costs referred to above.

107. We would also likely retain a small team to liaise with the new body and maintain a corporate awareness of AML and sanctions.

Q42. Based on your experience and the considerations set out in this document, what is your analysis of the relative extent to which each of the four reform options would lead to (a) improved supervisory effectiveness and (b) improved system coordination.

108. As set out in our responses to the individual options, we consider that the best choice for the legal sector would be Option Two: Consolidation. This represents the optimum combination of efficiency, system co-ordination, and feasibility out of the options presented. Coupled with this, it would have minimal impact on users of legal services and present the smoothest transition for the professions themselves. Lastly, and perhaps most importantly, it provides the best chance to reduce money laundering in the legal sector, to the benefit of the UK as a whole.

109. Option One would be the least disruptive option in the short term, but in the long term would be unlikely to deliver significant improvements in effectiveness of AML supervision.

110. Options Three and Four would have the same impact on the legal profession, so we will address them together. These options would be the least beneficial to the professions, the public and the UK economy. Any long-term improvements to efficiency and system co-ordination would come at the cost of considerable short- and medium-term detriments in these areas. The major difficulties as described above would be:

1. Loss of experienced staff due to uncertainty, leading to a loss of both work capacity and knowledge across the legal sector supervisors. Anecdotally, the publication of the four options in 2022 has already led to difficulties in recruiting and retaining staff.
2. A prolonged interim period while the new body is set up. Due to the loss of staff and expertise, this would likely involve a drop in overall supervision of the sector, and the new body might take some time to return to even current levels of efficiency and system co-ordination.
3. Increased costs to the profession, users of legal services, and the taxpayer. Setting up the new body would require a considerable injection of public money. For the PBSs, departing staff would need to be replaced on a costly interim basis during the transition period, resulting in higher costs to be borne by the professions and ultimately their clients.

111. On the evidence, we consider it unlikely that the new body would reduce the level of money laundering. Indeed, the reduction in supervision during the transitional period may well cause an increase in money laundering with the potential to become entrenched and thus more difficult to combat. Sophisticated money launderers are adept at exploiting system vulnerability and either option would create a period of weakness during the transition.

112. The costs involved in setting up an SPSS or SAS would be considerable. By way of comparison, the German government has announced that it is setting up a similar AML agency, the Federal Bureau of Financial Intelligence. This is to employ 1,700 staff and to have a €700m (c.£600m) budget. We suggest consolidation would achieve the same end could be achieved for a far more modest sum, enabling reform while retaining the best facets of existing structures.

113. In terms of our suggested metrics of direct and indirect consumer impact, we summarise these as follows:

114. Option One: OPBAS+

Direct: We do not consider that this option would have any significant impact on the overall level of money laundering. This option could be implemented very swiftly, so one advantage would be the lack of a significant transition period.

Indirect: An expanded OPBAS would require more resources, both in terms of headcount and financial support. This would lead to an increased levy on the profession, whether as part of PBSs fee collection or via another. This would likely lead to a rise in legal fees for the end users of legal services. Again, however, the costs associated with the implementation of the new arrangements would be minor.

115. Option Two: Consolidation

Direct: The improvements in system co-ordination and efficiency would enable the consolidated PBS to successfully combat money laundering and to oversee a common, rigorous standard across the legal sector. Greater information-sharing would give criminals and their professional enablers fewer gaps in which to hide, particularly if activities unregulated by the LSA 2007 were to be brought in scope.

Indirect: The transfer of oversight to a well-resourced consolidated PBS would result in a shorter and more orderly transition period. The relatively small number of firms to be transferred, coupled with existing expertise, would keep the exercise close to cost-neutral. This would mean the impact on the profession, and thus the users of legal services, would be minimal. Transferring ongoing matters, and matters of mixed AML and wider regulation, would also be smoother than with options 3 or 4.

116. Option Three: SPSS

Direct: We predict that this would lead to a significant loss of AML supervision in several high-risk areas. This would not assist in preventing money laundering.

Indirect: We consider it likely that this option would be of highest cost to the end users of legal services. This would be due to:

1. An increased cost of legal regulation during the transitional period.
2. A cost to the public purse in implementing and setting up the new body.

117. Option Four: SAS

Direct: We consider it highly likely that this would lead to a significant loss of AML supervision in several high-risk areas. This would not assist in preventing money laundering and indeed might facilitate it.

Indirect: We consider it likely that this option would be of highest cost to the end users of legal services. This would be due to:

1. An increased cost of legal regulation during the transitional period.
2. A cost to the public purse in implementing and setting up the new body.
3. Our assessment of the four options is summarised in the table below.

	Supervisory effectiveness	System co-ordination	Feasibility	Reduction of Money Laundering	Consumer impact
OPBAS +	Medium	Low	High	Medium	High
Consolidation	High	High	High	High	Low
SPSS	Medium	High	Low	Medium	High
SAS	Medium	High	Low	Medium	High

Annex A: MLR and LSB comparison

Regulated activities under MLR 2017, regulations 11(d) and 12

11(d) "tax adviser" means a firm or sole practitioner who by way of business provides material aid, or assistance or advice, in connection with the tax affairs of other persons, whether provided directly or through a third party, when providing such services.

12(1) [...] participating in financial or real property transactions concerning—

- 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,

and, for this purpose, a person participates 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.

12(2)

- a. forming a firm;
- b. acting, or arranging for another person to act—
 - i. as a director or secretary of a company;
 - ii. as a partner of a partnership; or
 - iii. 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—
 - i. a trustee of an express trust or similar legal arrangement; or
 - ii. a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

Reserved activities under s.12 LSA 2011

- the exercise of a right of audience;
- the conduct of litigation;
- reserved instrument activities;
- probate activities;
- notarial activities;
- the administration of oaths.

Footnotes

1. Figures correct as at April 2023
2. HMT Supervision Report 2020-2022
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125446/Supervision_report_final_draft_-_signed.pdf]
3. OPBAS Report 2022-23 [<https://www.fca.org.uk/publication/opbas/opbas-report-progress-themes-supervisory-work-2022-23.pdf>] , pp.3-4
4. Set out at page 125 of the Mutual Evaluation [<https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER-United-Kingdom-2018.pdf>]

5. FCA figures for 2022: <https://www.fca.org.uk/publication/consultation/cp23-7.pdf>
[<https://www.fca.org.uk/publication/consultation/cp23-7.pdf>]
6. Figures calculated using HM Treasury's 2022 report.
[<https://www.gov.uk/government/publications/anti-money-laundering-and-countering-the-financing-of-terrorism-supervision-report-2020-22>]
7. Figures correct at 19 September 2023.
8. Correct as at 19 September 2023.
9. <https://www.thenotariessociety.org.uk/pages/the-notarial-profession>
[<https://www.thenotariessociety.org.uk/pages/the-notarial-profession>]
10. CILEX: Enhancing Consumer Trust and Confidence [<https://www.cilex.org.uk/wp-content/uploads/CILEX-Consultation-Enhancing-Public-Trust-and-Confidence-Aug-2023.pdf>] ,
page 15
11. Averaging 646 full-time staff in 2021/22. [<https://www.sra.org.uk/sra/how-we-work/costs-statement/>]
12. By way of example: Bar Standards Board: 83 full time staff (2021
[<https://www.barstandardsboard.org.uk/resources/resource-library/bar-standards-board-publishes-report-on-diversity-of-its-members-and-staff.html#:~:text=For%20BSB%20staff%2C%20of%20which,female%20and%2045%25%20were%20male.>]
); CILEx Regulation: 21 full time staff (2021 [<https://cilexregulation.org.uk/wp-content/uploads/2022/06/2021-Cost-Transparency-Statement.pdf>]); CLC: 17 full time staff
(2022 [<https://www.clc-uk.org/wp-content/uploads/2022/11/CLC-Annual-Anti-money-Laundering-2022-1.pdf>]); Faculty Office: 10 full time staff (2023
[<https://www.facultyoffice.org.uk/about/people/>])
13. HMT Supervision Report December 2022, p.48.