BAR STANDARDS BOARD

REGULATING BARRISTERS

Response to HM Treasury consultation: Anti-Money Laundering/Counter Terrorist Financing Supervision Reform: Duties, Powers, and Accountability, November 2025

By way of introduction to our response, we think it is helpful to set out some context about the Bar Standards Board and the Bar, since this cuts across a number of questions in the consultation.

The Bar Standards Board (BSB) is the regulator for barristers in England and Wales. We are responsible for:

- setting the education and training requirements for becoming a barrister;
- setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- setting standards of conduct for barristers;
- authorising organisations that focus on advocacy, litigation, and specialist legal advice;
- monitoring the service provided by barristers and the organisations we authorise to ensure they meet our requirements; and
- considering concerns reported about barristers and the organisations we authorise, and taking enforcement or other action where appropriate.

The work that we do is governed by The Legal Services Act 2007 as well as a number of other statutes. In discharging our regulatory functions, we seek to meet the Regulatory Objectives which are set out in the Legal Services Act 2007. We share them with the other legal services regulators. They are:

- protecting and promoting the public interest;
- supporting the constitutional principle of the rule of law;
- improving access to justice;
- protecting and promoting the interests of consumers;
- promoting competition in the provision of services;
- encouraging an independent, strong, diverse and effective legal profession;
- increasing public understanding of citizens' legal rights and duties; and
- promoting and maintaining adherence to the professional principles; and
- promoting the prevention and detection of economic crime.

The professional principles are:

- that authorised persons should act with independence and integrity;
- that authorised persons should maintain proper standards of work;
- that authorised persons should act in the best interests of their clients;

- that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice; and
- that the affairs of clients should be kept confidential.

It will be helpful for the FCA to understand the profile of the Bar that falls within scope of the Money Laundering Regulations (MLRs) and the practical implications that has for maintaining a register, devising proportionate processes for registration and de-registration, conducting any gatekeeping checks, conducting supervisory activity and setting fees. We look forward to working with the transition team and welcome the intention to share named contacts at an early stage.

In particular:

- Only a small proportion of barristers (2% of self-employed barristers) and BSB entities (currently eight) conduct work that falls within scope of the MLRs and, of those that do, typically only a proportion of work that they do falls within scope. We register people annually based on a question that we ask barristers when they renew their practising certificate, and BSB entities when they complete their authorisation renewal process. This enables barristers/entities to accept new client instructions without delay. This ensures that the public interest is protected, in line with the legal sector Regulatory Objectives, so access to justice is not impeded. This can mean that barristers are on our MLR register in a year that they do not receive relevant instructions. It also means that it is not unusual for barristers to move in and out of scope, and therefore on and off our MLR register from year to year, sometimes based on a very low number of instructions (or one).

- Most barristers, including those falling within scope of the MLRs are self-employed, sole practitioners, although many work from chambers. Barristers working in chambers share services such as clerking, facilities and IT services. Chambers are not authorised bodies and do not fall within scope of the MLRs. When supervising barristers for the purposes of the MLRs, we do, however, engage with their chambers to review shared policies and processes, but barristers are individually regulated by us. This means that even though they might belong to a set of chambers, their professional duties and obligations are theirs alone and the BSB Handbook and MLRs are drafted accordingly.

- Unlike a number of other Professional Body Supervisors (PBSs) in other sectors, we are not simply a membership body. Instead:

    - There are very high barriers to entry to the profession, which include rigorous education requirements - academic (an undergraduate law degree or another degree and a law diploma); vocational (a one-year postgraduate Bar course with examinations); and a period of supervised work-based learning (pupillage). Education and training follows a BSB-mandated Curriculum and Assessment Strategy and prospective barristers must meet the competences at a defined threshold level, set out in the Professional Statement, before applying for a practising

certificate. It therefore takes a barrister at least 5 years to qualify to practise, and often longer, given that there is significant competition for pupillage places.

- There are also fit and proper checks when vocational Bar course students join an Inn, which they must do (at which point they become subject to the Inn's conduct regime) and again at Call to the Bar (once they have successfully completed the vocational training), which includes a Standard DBS (criminal record) check, or overseas equivalent. Barristers who are Called to the Bar (including pupils) are subject to the BSB Handbook conduct regime, which includes a duty to self-report serious misconduct (including criminal convictions).

- Practising barristers also have Continuing Professional Development (CPD) obligations to continue to develop their knowledge, skills and professional standards in areas relevant to their present or proposed areas of practice, to keep up to date and maintain the highest standards of professional practice.

- Whilst the legal sector is generally assessed to be at high risk of exposure to money laundering, the sector is not homogenous, and the Bar is assessed to be lower risk (as the National Risk Assessment 2025 recognises). In particular, the BSB Handbook provides important limitations on barristers' practice, which mean that they cannot handle client money or manage their clients' affairs. Also, most instructions are received via solicitors and accountants who provide a first line of defence in conducting customer due diligence.

- In due course, there will be a need for us to make changes to the BSB Handbook to reflect new arrangements. Any changes that are deemed to be a change to our regulatory arrangements will need to be approved by the Legal Services Board (LSB). This will need to be captured appropriately in the transition plan because if this affects all legal regulators, the LSB's availability to approve changes will need to be built into the transition timeline.

- It is essential that effective arrangements are in place for sharing of intelligence and regulatory action outcomes between the FCA and the BSB. Concerns that the FCA may have about a barrister may point to other issues relevant to our wider Handbook obligations, and our assessment of regulatory risk. Memoranda of Understanding/Data Share Agreements will need to be in place before handover occurs and to facilitate transition.

- As we said in our response to the 2023 consultation, we think that the biggest threat created by moving AML supervision of the Bar to another body is the loss of synergy with this wider regulatory framework and consequent knowledge that we have about our regulated population through our wider role as an 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. The FCA will not have that wider context of individual barristers and BSB entities, and the environment in which they practise. This knowledge currently forms an integral part of

our AML risk assessments. Conversely, the information we have from our AML work feeds back into our wider assessment of risk. Effective and timely information and intelligence sharing is therefore essential, where it is legal and in the public interest to do so.

Our response to the specific consultation questions is set out below.

Chapter 2: registration and gatekeeping

Q1: 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) they supervise? Are there any practical challenges or unintended consequences we should consider?

We agree that it will be necessary for the FCA to maintain a register of barristers and BSB entities that fall within scope of the MLRs, so that it can be effective as a supervisor. We have set out in the introduction the nature of the register that we currently maintain and the reasons for it. Please note that there is work currently underway in the legal sector to amalgamate the existing registers of all authorised lawyers in England and Wales through the Regulatory Information Service. We would welcome the opportunity to discuss this further with the transition team.

It will be important in publication to be clear on the purpose of the FCA's register (ie that it is limited to AML supervision) so that consumers understand the limitations of the FCA's role, and that its responsibilities do not extend to concerns about wider conduct matters (which should be reported to the BSB) and the avenue for consumer complaints and redress that have not been satisfactorily resolved with the barrister (which falls to the Legal Ombudsman).

Q2: 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?

As we have set out in the introduction, whether barristers fall within scope of the MLRs can turn on one, or a small number of transactions, and vary from year to year. It will be important to devise any registration and de-registration processes (including how fees are set) in such a way as not to impede prompt access to justice, in the public interest, nor deter barristers from practising in relevant areas, thereby restricting consumer access to barristers' services.

Q3: Do you support the application of regulation 58 "fit and proper" tests to legal, accountancy, and trust & company service providers? Please explain your reasoning.

Q4: 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?

The rationale given for the application of regulation 58 fit and proper tests is that legal, accountancy, and trust and company services are all assessed as high-risk sectors in the National Risk Assessment 2025, and confining powers to regulation 26 may mean, in effect, that weaker controls exist to prevent bad actors entering these AML/CTF regulated sectors than currently.

This gives the FCA considerable power over whether or not barristers can practise promptly, or continue to practise in their chosen area of work, or at least aspects of it, and the proposal is more restrictive that the current regulation 26, which says that PBSs *must* register relevant persons unless they have been convicted of a relevant offence. Such powers, if given, will need to be exercised proportionately and promptly so as not to delay legitimate clients accessing justice.

As we have set out in the introduction, the legal sector is not homogenous and the Bar is assessed to be at lower risk of money laundering in the 2025 National Risk Assessment. Crucially, there are very high barriers to entry to the profession through a long period of education and training, and fit and proper tests are already in place. This significantly reduces the risk of bad actors entering the profession. Barristers are also subject to ongoing conduct and Continuing Professional Development obligations.

Barristers fit and proper checks are administered by the Inns of Court at Call to the Bar. The Inns conduct Standard DBS checks; these are only permitted for barristers on entry to the profession. Most BOOMS in BSB entities are barristers. BSB entities are very small and very few fall within scope of the MLRs.

The registration process needs to be designed and resourced so as not to delay ability to practise and service clients. Any processes designed should be proportionate to the risk and recognise existing controls in place for barristers, so that barristers are not deterred from practising in relevant areas because of disproportionate compliance requirements, particularly when moving in and out of scope. It would not be in the public interest if processes restricted the market for barristers' services and, consequently, access to justice. This would also be contrary to the government's growth agenda.

There must be effective and prompt information sharing between the FCA and the BSB to avoid a potential conflict between the BSB issuing a practising certificate without conditions, in circumstances where the FCA has refused to register a barrister, or deregistered a barrister for the purposes of relevant work where concerns have come to light. Those concerns could be relevant to their wider practice as a barrister.

Policing the perimeter

Q5: Should the FCA be granted any extra powers or responsibilities with regards to "policing the perimeter" beyond those currently in the MLRs?

This proposal will help to clarify reach over unregistered barristers[1] carrying out work within scope of the MLRs, who are currently expected to register with HMRC. Typically, this

[1] Unregistered barristers have been Called to the Bar, but do not have a practising certificate and are therefore not permitted to provide legal services as a barrister, nor to carry out reserved legal

cohort undertakes TCSP work for which a Practising Certificate is not needed (as it is not a reserved legal activity under the Legal Services Act 2007).

The BSB does not actively supervise unregistered barristers as we do not require them to provide us with up to date contact details. However, the BSB Handbook scope does capture unregistered barristers in relation to certain conduct matters. We would therefore want information sharing arrangements with the FCA in relation to any regulatory action taken against unregistered barristers, as it may be appropriate for us to consider any misconduct relevant to their continuing status as an unregistered barrister.

In our wider role as a regulator, we identify barristers who are conducting work in scope of the MLRs but who have not declared it to us. The FCA will wish to ensure that information sharing gateways are in place for any barristers that we identify in this way.

Chapter 3: risk-based supervision

Q6: 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)?

We agree that this aligns the FCA's role with the current role and remit of the PBSs. As we have set out in the introduction, the legal sector is not homogenous, and the National Risk Assessment recognises that the Bar is lower risk. We would expect such powers to be applied proportionately to avoid regulatory burden in the public interest.

Additional intervention powers

Q7: 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?

These have been announced as "minor" additions to supervisory powers but the power to appoint a skilled person could add considerable regulatory cost and so appropriate safeguards should be in place to ensure that this power is exercised proportionately in the public interest and should not become a means of routinely outsourcing supervisory activity. As set out in the introduction, most barristers are self-employed sole practitioners and BSB entities are very small micro enterprises.

Information-gathering and inspections

Q8: Do you agree with our proposal to extend the information gathering and inspection powers in the MLRs to the new sectors within FCA supervision?

Q9: 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?

activities. Further guidance can be found here: https://www.barstandardsboard.org.uk/static/5b88103e-e5e8-4df3-bd78768f706fb69d/986dfc9a-d4e8-4762-bfcb80e2c3fc0a22/Unregistered-Barristers.pdf

We agree that this broadly aligns the FCA's role with the current role and remit of the PBSs.

As set out in the introduction, many barristers work from chambers but these are not authorised bodies. Barristers are individually regulated by us. This means that even though they might belong to a set of chambers or be employed, their professional duties and obligations are theirs alone. This is also how they are captured by the MLRs. The FCA's powers should be framed consistently with this.

Chapter 4: Guidance

Q10: 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?

Q11: 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?

We agree that responsibility should be transferred the FCA, but this will require legal sector expertise. We welcome the intention expressed to engage with the regulated sector to ensure that their perspectives are reflected in any new guidance. This has been the case when developing the LSAG guidance and, in particular, the Part 2 guidance. The latter has been developed by the Bar Council, the BSB, the Bar of Northern Ireland and the Faculty of Advocates in very effective collaboration. This has resulted in tailored guidance with practical case studies that reflect the nuances of the way that barristers and advocates practise, with a focus on the areas of practice that fall within scope of the MLRs. The expertise and nuances of how the Bar works must not be lost, so that guidance continues to be practical and relevant to the Bar.

The consultation refers to "*engaging with regulated firms and industry bodies*"; we would hope this includes the regulators too, including the BSB, to ensure there is no conflict with our Handbook.

HM Treasury has not been able to resource prompt approval of the legal sector guidance, which is not in the public interest as it creates uncertainty for practitioners in how the MLRs should be applied in practice. If the FCA is able to expedite the development and updating of new guidance, reacting promptly to legislation changes and emerging risk, we also welcome the FCA becoming responsible for approving guidance for the legal, accountancy and TCSP sectors.

The consultation says that there is no specific regulation that obligates firms to consider guidance but LSAG issued guidance says: "Practice Units are not required to follow this guidance, however legal sector supervisors will consider whether a legal professional has complied with this guidance when undertaking its role as regulator of professional conduct, and as a supervisory authority for the purposes of the Regulations. You may be asked by your regulatory body to justify a decision to deviate from this guidance." The BSB Handbook rule I6.4.c sets out obligations in relation to guidance published by the BSB. "In carrying out

their obligations or meeting the requirements of this Handbook, BSB regulated persons and unregistered barristers must have regard to any relevant guidance issued by the Bar Standards Board which will be taken into account by the Bar Standards Board if there is an alleged breach of or otherwise non-compliance with of the obligations imposed on a BSB regulated person or unregistered barrister under this Handbook. Failure to comply with the guidance will not of itself be proof of such breach or non-compliance but the BSB regulated person or unregistered barrister will need to be able to show how the obligation has been met notwithstanding the departure from the relevant guidance."

We agree that HM Treasury should retain a right of veto as this could be a useful safeguard in the event that the FCA strays beyond the intentions of the MLRs in the expectations that it sets through the guidance. There has, at times, been debate in this context amongst the various members of LSAG, which has been settled by HM Treasury.

Chapter 5: Information and Intelligence

Provision of information to firms and Information sharing

Q12: 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?

We agree, but consideration will need to be given to ensure that this does not result in information being shared with a more limited audience than is currently the case. Information that we disseminate to barristers is disseminated to all barristers, not just those that fall within scope of the MLRs at a particular point in time. As noted in the introduction, barristers may move in and out of scope from year to year.

Information on threats and risks should also be shared with regulators such as the BSB, so we are aware of the risks relating to the Bar. As we said in our response to the 2023 consultation, information sharing gateways have the potential to deteriorate if we no longer have access to the AML forums where risk is discussed. All PBSs currently share information about emerging risk and good practice through the various AML forums (AML Supervisors Forum, Legal Sector Affinity Group, Legal Sector Supervisors, Legal Sector Information Sharing Expert Working Group and others). There is a wealth of experience and expertise in these forums that consolidation puts under threat.

Q13: 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?

We agree, but the consultation is not clear about whether information sharing gateways in regulations 50 and 52 will remain if we are no longer designated as a PBS. We are concerned that the consultation does not address information sharing between the FCA and regulators such as the BSB.

Q14: 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?

This proposal extends the current powers of the BSB under the MLRs and should only be used where there is a clear public interest. Appropriate safeguards should be in place to ensure that wide access does not inhibit reporting of very sensitive information, which would not be in the public interest, and that legal professional privilege is safeguarded.

Under this proposal, it appears that the FCA will be given access to very sensitive information about barristers and BSB entities, therefore access must be proportionate and in the public interest. The proposals have the potential to result in the FCA exceeding its remit under the Money Laundering Regulations if accessing all SARs information, as the SARs regime applies to all barristers, not just those subject to the MLRs.

We also note that the consultation is not clear about whether the current PBSs will still be obliged to make SARs reports.

Whistleblowing

Q15: Do you agree that these existing whistleblowing protections are sufficient and appropriate?

As set out in the introduction, barristers within scope of the MLRs are predominantly self-employed, therefore the statutory protections for whistleblowing do not apply to them.

The consultation says that "it should also be made clear that whistleblowing in relation to any AML/CTF-related breaches should be directed to the FCA". If there is serious misconduct we would expect disclosure to the BSB as well, under rC66-67 in the BSB Handbook, regardless of whether related to the MLRs.

Chapter 6: Enforcement

Q16: 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?

Q17: Are there any additional enforcement powers that you feel the FCA should be equipped with to ensure non-compliance is disincentivised effectively?

Q18: Do you think any amendments to regulations 81 and 82 would help the FCA issue minor fines for more routine instances of noncompliance such as failure to register?

There must be proportionality in the fines regime in relation to sole practitioners who only conduct a very small number of relevant instructions, to mitigate the risk of barristers withdrawing from this aspect of their practice, unless it would be clearly in the public interest for them to do so.

The consultation does not explain what is meant in practice by "the ability to issue fines without excessive administration obstacles". There must be an appropriate appeals process.

The consultation does not set out how it is envisaged that the FCA's regime will dovetail with those of regulators such as the BSB. We suggest that further discussion will be needed with the transition team to clarify. In particular:

- The BSB (by referral to the Bar tribunal and Inns) is able to interim suspend, suspend or disbar, or place restrictions on a Practising Certificate. It is unclear whether it is envisaged that the FCA will be able to unilaterally suspend or remove a barrister from this aspect of their practice or whether it will be necessary to take co-ordinated action.
- An AML breach by a barrister may give rise to, or be part of a wider conduct issue that needs to be investigated by the BSB. The consultation is not clear about how it is envisaged that the two regimes work alongside each other, which investigation takes precedence and how the risk of delays to enforcement action will be mitigated.

Chapter 7: Complaints and Appeals

Q19: 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?

The consultation proposes that the FCA's use of its powers should be appealable to the Upper Tribunal. The proposal may cause conflict with the BSB's own route of appeal where barristers and BSB entities can appeal regulatory decisions to the High Court. Where a case involves aspects of conduct that would be acted upon by the BSB, this could cause a complex appeal process for an individual that may delay reaching a final outcome. As above, we suggest that further discussion will be needed about this.

Chapter 8: Fees and Funding

Q20: Do you have any comments regarding the FCA charging fees, under regulation 102, noting the possible proposed amendments?

The BSB pays the current OPBAS fee, which is funded through the Practising Certificate Fee – effectively the cost is spread across all barristers through the fee they pay to renew their practising certificate annually. This recognises the fact that barristers move in and out of scope of the MLRs from year to year, and the administration involved in the collection from individuals would not be cost-effective for the BSB.

Barristers and BSB entities do not pay the Economic Crime Levy because, after extensive discussion about proportionality in how the fee should be levied and ensuring that the cost of collection does not outweigh the income, the threshold was set at a level that recognises that barristers are self employed sole practitioners and BSB entities are micro enterprises.

This means that an FCA fee that is charged directly to barristers will be a new direct cost of regulation for them.

An approved regulator under the Legal Services Act may only require the payment of a practising fee if the Legal Services Board has approved the level of that fee. The Act makes clear that approved regulators can only use practising fees for one or more of the "permitted purposes" it lists. These include regulation and accreditation. It is likely that the BSB will

have ongoing regulatory costs once the transfer to the FCA is effected, because of the need to share information, as set out elsewhere in this response, so it is highly likely that the overall costs of regulation will increase. Ultimately, the consumer will bear the cost, so it is essential that the FCA's costs are transparent and subject to controls, and that fees are proportionate to risk in the public interest. As we have set out, it is recognised that the Bar is relatively lower risk and any fees should reflect this.

We understand that a separate consultation will be published providing more detail on the proposed fee. When doing so, we would encourage lessons to be learned from setting and collecting the OPBAS fee and the Economic Crime Levy, in relation to proportionality and managing the cost of collection for sole practitioners across the regulated sectors.

For barristers only doing one or two in-scope instructions, the cost could easily outweigh the benefit to them and therefore they could withdraw from this area of practice. This may limit access to justice issues and inhibit growth.

Chapter 9: Transition and Supervisory Co-ordination

Q21: 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?

We understand that a transition team is being set up and that named contacts from the FCA will be provided so that we can commence working through the transition arrangements. Ensuring that the FCA staff have legal sector expertise and are able to build up a knowledge of the differences between the different regulated sectors that affect their risk profile differently will be essential. We look forward to working with the transition team at the earliest opportunity to support this.

There will be a need to be clear on the gateways for sharing information in the transition period. If those gateways do not exist, they will need to be established.

The transition period needs to be planned to ensure that there is no period of limbo when a barrister cannot practice because re-registration checks are pending, which could affect live instructions or potential instructions, which could impede access to justice. As set out in the introduction, there is a high bar to entry to the profession with robust processes to test competence and fitness to practice, as well as a framework to ensure ongoing competence and fitness. Also as set out in the introduction, a number of barristers and BSB entities move in and out scope from year to year, depending on individual transactions, so anyone not registered with the BSB at the point of transition should not be disadvantaged. There is a risk that barristers will seek to register "just in case", to be in the transition cohort. We have put a great deal of work into ensuring that declarations are accurate and we do not want this process to precipitate a reversion to the state of over-declaration that we have had previously, as that creates a distorted risk profile of the Bar and additional work (and therefore cost of regulation) for the BSB, distracting from a focus on risk.

The differences across the legal and accounting sector should be considered rather than taking a "one-size-fits all" approach.

The consultation paper says that the current PBSs are likely to have live supervisory case work that it may be appropriate for the FCA to take forward. Detail has not been provided about how this might work or what the benefits would be in the public interest. This may need to be considered on a case-by-case basis. For example, where supervisory activity:

- is substantially complete, it may not be cost effective to move the work across;
- captures areas of work outside the MLRs, it would not be appropriate to transfer such work to the FCA;
- has led to enforcement action that is in progress, differences in respective regulations will make it complex to transfer cases to the FCA.

Registration and information-sharing

Q22: 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?

Q23: Are there other legislative measures that would prevent additional regulatory burdens arising?

There will be a need for prompt and effective information sharing between the FCA and the BSB, in both directions. In this regard, joint access to a register of barristers and BSB entities that are conducting work within scope of the MLRs will be needed. This will:

- assist with “policing the perimeter”, for example the BSB will have more information than the FCA about areas of practice declared when practising certificates are renewed and BSB entities are reauthorised;
- ensure that any regulatory action is promptly notified, eg if the BSB’s enforcement action leads to a barrister being disbarred, the FCA’s register will need to be updated;
- enable the BSB to maintain up to date its own risk assessments.

There is a considerable amount of regulatory work involved in maintaining an accurate register of barristers conducting relevant work, so if one of the options is for the former PBSs to continue to gather the data, whilst this may appear to minimise burdens on barristers, there will be dual regulation resource and cost implications for us, which is ultimately borne by consumers.

It should be noted that currently the BSB shares information with Companies House in relation to the ACSP regime, which is not mentioned in the consultation.

In general, it would be helpful for the transition team to develop template data share agreements at an early stage.

One of the concerns that we raised in our original response to the 2023 consultation was about loss of expertise in the PBSs. The consultation does not set out if there is any emerging thinking on whether any of the existing forums for sharing information (such as the Legal Sector Information Sharing Expert Working Group) will continue in a new form to ensure that the regulators such as the BSB are able to stay up to date with relevant emerging risks. Similarly, the Professional Enablers Strategy is not mentioned in the consultation document. That strategy was developed as part of the wider Economic Crime strategy.

Chapter 10: The role of OPBAS and professional services legislation

During transition

Q24: 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.

During the transition period, it will be essential for all stakeholders to work together constructively in the public interest. The consultation does not provide an evidence base for any need to increase OPBAS's powers in the ways suggested. It is questionable value for money to make these changes at this stage. A better approach may be to transfer those assessed to be the poorest performers to the FCA first – staged transition was suggested in the reform consultation response.

Our experience of OPBAS reports is that they have tended to include factual inaccuracies. Their process does not provide for sharing their individual reports ahead of issue to allow for factual inaccuracy submissions to be made. These inaccuracies have flowed through into the narrative of their annual published reports. The published reports also lack context about the level of risk and have conflated commentary on different regulators. We are therefore not comfortable with publication of de-anonymised reports without changing this reporting process.

Any fining powers, if introduced, should have an appropriate appeal process.

The transition period will require us to allocate resource to working effectively with the transition team. This coincides with preparation for the FATF Mutual Evaluation Review, which will also require us to provide additional resource above our routine supervisory cycles. We would therefore encourage OPBAS to focus on areas of highest risk during this period, for example by conducting thematic reviews, as they did recently in the areas of TCSPs and SARs quality, rather than full scope reviews of PBSs due for review in the next cycle.

Post transition

Q25: 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?

Q26: Should any changes be made to the economic crime objective introduced for legal regulators by the Economic Crime and Corporate Transparency Act?

The Legal Services Board (LSB) has commenced discussions with the legal sector regulators about the implications of the reform for the economic crime regulatory objective. It is currently unclear how we will be able to meet the LSB's economic crime guidance, as published in July 2025, as it was envisaged that money laundering risk would be one of the biggest areas of supervisory activity. This could, for example, be scoped out, but it will still be important for effective information sharing on risk by the FCA with the BSB, so we have a rounded assessment of risk in the sector, and in relation to individual barristers or BSB entities.

Chapter 11: Accountability and Independence

Q27: Do you have any issues with our intention to apply the FCA's existing accountability mechanisms in carrying out its additional supervisory duties?

Q28: What measures do you think should be taken to ensure a proportionate overall approach to supervision, including prioritising growth?

We agree the that the FCA's independence as a regulator is an important principle in the public interest of access to justice. Barristers may be instructed in cases against the government and the scenario of a public body supervising that barrister could give rise to conflicts of interest. We are aware that the government is currently reviewing the implications for legal professional privilege of the FCA having access to privileged material in the course of supervisory activity.

We welcome the intention for the FCA to take a more strategic approach to regulation and supervision that will reinforce a proportionate and risk-based approach to supervision in the context of the growth duty. As we have set out above, the legal sector is not homogenous, and the Bar is recognised in the 2025 National Risk Assessment as at lower risk.

23 December 2025