spotlight on corruption

LSB consultation: new regulatory objective on economic crime
Response on behalf of Spotlight on Corruption
7 February 2025

Proposed statutory guidance

Question 1: Do you agree that guidance with outcomes is the right approach to take to assist regulators to pursue the new regulatory objective alongside the others in section 1 of the Act?

Yes. As observed in the LSB's consultation paper, there was considerable confusion during the passage of the Economic Crime and Corporate Transparency Act 2023 (ECCTA) about the implications of the new economic crime regulatory objective. In particular, the objective was misconstrued as introducing new requirements directly on legal professionals to 'police' economic crime, when its purpose was in fact to clear up uncertainty about the role of regulators.

As we noted at the time, the new regulatory objective clarifies and crystallises, for the avoidance of doubt, what can already be inferred from the existing regulatory objectives of legal sector regulators.[1] This is that promoting the prevention and detection of economic crime is implicit in other objectives set out in section 1 of the Legal Services Act 2007:

- to protect and promote the public interest;
- to support the constitutional principle of the rule of law; and
- to promote and maintain adherence to professional standards.

The new objective therefore resolves any lingering doubt that identifying and preventing the involvement, unwitting or otherwise, of lawyers in economic crime falls within the appropriate remit of legal sector regulators.

Given the contestation at the time ECCTA was passed, the LSB has an important contribution to make in setting out guidance for how the new regulatory crime objective should be implemented by regulators. In particular, the guidance is essential for achieving greater consistency across the legal sector in how regulators approach their task of promoting the prevention and detection of economic crime.

Successive reports by HM Treasury and the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) show that there are significant inconsistencies among legal sector supervisors in their approach to anti-money laundering (AML) supervision.[2] The LSB's guidance is therefore crucial for ensuring legal sector supervisors work towards clear and consistent outcomes in pursuing this new wider regulatory objective on economic crime.

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[1] Spotlight on Corruption, (6 February 2023), Briefing: Response to legal sector concerns about new measures for legal sector regulators in the ECCTB

[2] Spotlight on Corruption, (17 January 2023), Patchy progress towards effective AML supervision highlights the urgency of reform

We note that, irrespective of the outcome of HM Treasury's consultation on AML supervisory reform, regulators in the legal sector will still have a statutory duty to promote the prevention and detection of economic crime. Should AML supervisory responsibilities be removed from legal sector supervisors, their coordination and cooperation with other regulators and law enforcement agencies responsible for AML supervision and economic crime enforcement will be all the more important.

Question 2: Are the four outcomes we have identified in the guidance the right ones? Are there any others we have missed?

The four outcomes identified in the guidance are sound and cover key areas of focus for regulators in achieving the regulatory objective on economic crime. There are however some important aspects which are left implicit when they would benefit from greater emphasis.

First, information-sharing and collaboration are lightly touched on at certain points in the LSB's explanations about the outcomes, but these dimensions of the regulatory role are not actually reflected in the outcomes themselves. As currently formulated, the outcomes focus on the relationship between the regulators and the regulated sector, with no reference to the relationships between regulators and other actors in the broader system-wide response to economic crime. In our view, information- and intelligence-sharing responsibilities should be explicitly identified in the outcomes because this is so central to what is required of regulators to effectively promote the prevention and detection of economic crime as part of a broader system-wide response to economic crime. As noted above, this will be especially important if AML supervisory responsibilities are removed from legal sector regulators following HM Treasury's consultation.

Second, the only mention of transparency is by reference to the duty of regulators under section 28(3) of the Legal Services Act 2007 to ensure regulatory activities are transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. It can therefore be implied that regulators should be transparent in how the four outcomes are pursued, but we believe the requirement of transparency should be expressly stated as part of what is expected of regulators in demonstrating that they are meeting the economic crime regulatory objective. By its very nature, economic crime operates in the shadows and transparency is therefore all the more important in this context to foster public confidence that legal sector regulators are stepping up to respond to Parliament's mandate through ECCTA of being "*active in promoting and upholding adherence to the economic crime regime*".[3]

As a basic step to promote transparency in the regulation of economic crime, we recommend that legal sector regulators be required to publish and maintain a public register of their regulated population. The FCA is required to do this, and its Financial Services Register provides an invaluable, publicly accessible database that helps the prevention and detection of economic crime. Given the many regulators in the legal sector, a similar register would be a very significant step forwards in promoting transparency and improving

[3] Hansard, volume 831, (27 June 2023), House of Lords, Economic Crime and Corporate Transparency Bill debate, Speech by Lord Bellamy

coordination among the various regulators, effectively providing a consolidated register of regulated legal professionals.

Question 3: How might the LSB, approved regulators and/or regulators better support the sharing of case studies? What other information should also be shared to support meeting the new regulatory objective?

In their annual AML reports, some legal sector regulators do generally include a few (anonymised) case studies drawn from their supervisory and enforcement activities. These only concern compliance with the Money Laundering Regulations, however, and there is a serious lack of case studies to demonstrate the risks of legal professionals being used – wittingly or unwittingly – to facilitate other types of economic crime.

We believe the LSB and regulators should prioritise the development – and publication – of a broader range of case studies that illustrate the risks across all the economic crime offences listed in schedule 11 of ECCTA. There are real risk areas around failure to prevent bribery, fraud and tax evasion offences, for example, which could be illustrated through case studies. Even in the context of money laundering, however, case studies could help illustrate the particular risks that legal professionals are exposed to in committing offences under the Proceeds of Crime Act 2002 (such as a failure to file a Suspicious Activity Report under section 330 or becoming party to a money laundering arrangement under section 328). Importantly, we think there is value in showcasing both poor practices (illustrating a range of unwitting and witting enabling conduct) and best practices (where strong compliance systems and ethical decision-making led to the prevention and detection of economic crime).

In terms of broader information-sharing and resources, we would emphasise the importance of ensuring there is close cooperation and collaboration with other bodies engaged in overlapping initiatives. In particular, there is a need to ensure consistency with guidance that OPBAS develops and the work of the National Economic Crime Centre (NECC) as it leads on the government's cross-system professional enablers strategy.

Question 4: Do you know of any case study examples that would be useful to share, that point to how legal professionals may knowingly or unknowingly facilitate economic crime?

We published several case studies in our "*Privileged Profession?"* report which point to the risks that legal professionals are exposed to in relation to money laundering.[4] Other publications on our website provide analysis and commentary on dirty money cases which highlight challenges or risks around the role of lawyers in transactions that may facilitate economic crime.[5] We are currently preparing a further dedicated series of case studies to be

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[4] Spotlight on Corruption, (October 2022), "A privileged profession? How the UK's legal sector escapes effective supervision for money laundering". See in particular the case studies on the 1MDB scandal (pages 30-32), the unexplained wealth of Zamira Hajiyeva (pages 33-35) and Azerbaijani elites (pages 53-55).

[5] See, for example, commentary on the NCA's civil recovery proceedings against Hajiyeva in Martin Bentham, (5 December 2024), "Lessons from the frontline: Was Britain's first McMafia order really a success?"; and commentary on the role of legal professionals in a fraudulent arbitration process that sought to enforce a corrupt oil deal in Nigeria: Spotlight on Corruption, (23 October 2023), "Nigeria wins challenge to $11 billion arbitral awards procured through fraud"; Spotlight on Corruption, (30 January 2023), "Nigeria's bid to overturn

published on our website to illustrate the vulnerabilities of the legal sector to enabling economic crime.

We also draw attention to the valuable work done by Transparency International in exposing the problem of professional enablers in a range of contexts. Their report *"Loophole Masters"* includes useful case study examples while also giving an insight into the central role that legal professionals play in enabling illicit financial flight from some of the poorest countries in Africa.[6] Transparency International UK's report *"At Your Service"* also provides an important analysis of the scale of the problem and the spectrum of enabling activity involved.[7]

Further research includes Freedom for Eurasia's report "*Who enabled the Uzbek Princess?"*, which provides a detailed insight into a range of professionals, including lawyers, involved in transactions linked to Gulnara Karimova and her associates.[8] The most recent publication (February 2025) we would commend is "*Indulging Kleptocracy"* by John Heathershaw, Tena Prelec and Tom Mayne which features case studies of UK-based enabling of international kleptocrats.[9]

Outcome 1

Question 5: Do you agree that undertaking a risk analysis will enable regulators to target their approaches for their regulated communities most effectively?

Yes. For regulators to effectively pursue the regulatory objective on economic crime, the first step is to ensure they have a sound understanding of the risks that the regulated sector faces. Importantly, this needs to extend beyond money laundering to look more comprehensively at the other kinds of economic crime risks faced by legal professionals. It should also not be limited to generalised trends across the legal sector but require regulators to develop a more granular understanding of the risks in different parts of their regulated communities.

This risk analysis should inform their approach to promoting the prevention and detection of economic crime, prioritising resources towards areas of highest risk, including new or emerging threats and areas that may have been neglected because they fall outside the scope of the MLRs. For example, litigation financing and advice are not within scope of the MLRs but should be addressed by regulators as emerging areas of risk for money laundering and economic crime.

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a 'sham' $11 billion arbitral award to P&ID"; Spotlight on Corruption, (10 November 2021), "Sham litigation or legitimate investor claims? The extraordinary case of P&ID v Nigeria".

[6] Transparency International, (5 December 2023), "Loophole masters: How enablers facilitate illicit financial flows from Africa"

[7] Transparency International, (October 2019), "At Your Service: Investigating how UK businesses and institutions help corrupt individuals and regimes launder their money and reputations"

[8] Freedom for Eurasia, (March 2023), "Who enabled the Uzbek princess? Gulnara Karimova's $240 million property empire"

[9] John Heathershaw, Tena Prelec and Tom Mayne, (Oxford University Press, February 2025), "Indulging kleptocracy: British service providers, postcommunist elites, and the enabling of corruption"

Question 6: Do you have any other comments on this proposed outcome?

In assessing the risks facing their regulated communities, regulators should engage closely with others in the economic crime system who hold useful information and intelligence that would help develop a more nuanced and accurate understanding of the risks. This should include law enforcement agencies and the NECC (who lead on the government's cross-system enablers strategy), as well as government bodies such as the Office of Financial Sanctions Implementation (which has committed to doing sectoral risk assessments). The current work being done to update the National Risk Assessment is also a valuable opportunity for collaboration in refining risk assessments of the legal sector.

Outcome 2

Question 7: Do you agree with the proposed outcome for regulators to help their regulated communities understand the risks they may face concerning economic crime, and support them to avoid facilitating economic crime?

Yes. Regulators need to take proactive steps to raise awareness and inform their regulated communities about the risks they may face in relation to economic crime. At a minimum, this requires regulators to ensure all regulated professionals understand what their legal obligations are, such as reporting obligations in relation to financial sanctions and compliance with anti-money laundering legislation.

Crucially, regulators should also set clear expectations for what professional principles and ethical rules mean in practical terms for areas where legal professionals may be at risk of facilitating economic crime. For example, there is an urgent need for more proactive engagement by regulators in helping law firms and solicitors to ensure they do not undermine public trust in the profession by acting for corrupt elites or kleptocrats where the provision of these services may be lawful, strictly speaking, but would directly or indirectly facilitate or lend credibility to those engaged in economic crime.[10]

Question 8: Do you have any other comments on the proposed outcome?

The use of case studies, as covered in questions 3 and 4, is a helpful way to bring to life the legal and professional obligations in guidance for regulated communities. An important dimension of supporting legal professionals to take their obligations seriously is to highlight the harms caused by facilitating economic crime. Case studies should therefore draw out the impact of enabling activities on victims and societies, both in the UK and abroad.

Outcome 3

Question 9: Do you agree that an outcome relating to monitoring and enforcement will help regulators detect and prevent economic crime?

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[10] See the ongoing work of the Institute for Business Ethics (IBE) Taskforce on Business Ethics and the Legal Profession.

Yes. Monitoring compliance and taking effective enforcement action to address non-compliance are absolutely crucial for ensuring regulators are fulfilling the regulatory objective on economic crime. Enforcement is currently an area of particular concern in the context of AML supervision, given the low levels of enforcement action taken by legal sector AML supervisors despite persisting high rates of non-compliance. In its September 2024 report, OPBAS concluded that legal sector supervisors are not using the full range of their powers in an appropriate and dissuasive way.[11]

Question 10: Do you have any other comments on the proposed outcome?

As currently framed, objective 3 has a primary focus on monitoring compliance, with enforcement added rather euphemistically at the end in requiring regulators to "*address instances where authorised persons fail to comply*". If this guidance is to prompt a gear change in how regulators monitor and enforce compliance, there needs to be a clearer expectation for regulators to make full use of their tools – from educating and informing regulated communities all the way through to robust formal enforcement actions. Where they lack the appropriate tools – such as information powers on economic crime which were given to the SRA through ECCTA but have not yet been extended to other regulators – it is important that these constraints are identified and addressed.

Enforcement is also an area of particular relevance for information- and intelligence-sharing. There is a need for greater collaboration on enforcement – not just with other legal sector regulators and indeed other regulators (such as the FCA and HMRC) but also with law enforcement agencies (such as the NCA and SFO) and other government bodies (such as OFSI). For example, the SRA currently has a Memorandum of Understanding with OFSI around financial sanctions, but other legal sector regulators are not included in these arrangements.[12]

Outcome 4

Question 11: Do you agree that an outcome around continued monitoring and evaluation will help ensure any measures regulators decide to put in place are effective to address economic crime into the future?

Yes. Ongoing monitoring and evaluation are essential for gauging progress in achieving the regulatory objective on economic crime. Regulators should be able to demonstrate and evidence their effectiveness in promoting the prevention and detection of economic crime, not simply assume that measures are working.

Question 12: Do you have any other comments on the proposed outcome?

In order to build a sound evidence base for evaluating and comparing the effectiveness of regulators, it is essential that there is some basic level of consistency in the evidence

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[11] OPBAS, (23 September 2024), "Anti-money laundering supervision by the legal and accountancy professional body supervisors: progress and themes from our 2023/2024 supervisory work"

[12] SRA, (26 February 2024), "Memorandum of Understanding Between the Solicitors Regulation Authority and the Office of Financial Sanctions Implementation"

gathered and the metrics used by regulators. Currently there are huge disparities in the way that different legal sector supervisors record and report data on AML, notwithstanding OPBAS' efforts to achieve greater consistency in this area. Meanwhile the more limited work that has been done by regulators around other areas of economic crime, such as financial sanctions, is even more variable in terms of the information that is reported publicly. The LSB has a crucial role to play in ensuring regulators develop a strong evidence base, using standardised metrics, so that effectiveness can be meaningfully evaluated, compared and tracked over time.

Implementation and monitoring

Question 13: Do you agree with our proposed plan for implementation?

We agree that the proposed guidance should form part of the LSB's Regulatory Performance Assessment Framework, but we believe greater detail is needed about how regulators should evidence – rather than merely assure – the LSB that they have met the outcomes. In particular, it is not clear to us what is entailed by the suggestion that "*it will likely be sufficient [for regulators] to demonstrate that they have successfully integrated the new regulatory objective within their regulatory functions*". In our view, regulators need to not only demonstrate how the objective has been effectively embedded in their regulatory functions, but also evidence this in a way that allows the LSB – and the public – to assess, compare and track the progress. As noted above, this requires clear metrics to build an evidence base of standardised data that can inform assessments of how the new regulatory objective on economic crime is being achieved.

Equality Impact Assessment

Question 14: Do you have any comments or concerns about the equality impacts of our proposed guidance?

We agree with the LSB's assessment that the proposed guidance is likely to have a positive impact on equality. The victims of economic crime are often individuals, communities and organisations who are disadvantaged, poor or vulnerable. Economic crime also distorts markets and disadvantages businesses that play by the rules, while exacerbating inequality and draining taxpayer money. By promoting the prevention and detection of economic crime, regulators can combat these negative consequences.

Question 15: Do you consider we have identified the right groups, or do you have any evidence relating to the potential impact of our proposals on other groups with certain protected characteristics, and any associated mitigating measures that you think we should consider?

We agree with the particular emphasis placed on victims of economic crime, and also the public interest in building the resilience of smaller firms who may be more susceptible to economic crime.

Question 16: Are there any wider equality issues and interventions that we should take into account?

We note that the regulatory objective on economic crime not only benefits consumers in the legal sector, but also protects and promotes the interests of potential victims of economic crime and indeed the public interest more broadly.

Impact assessment

Question 17: Do you have any comments on the potential impact of the draft guidance, including the likely costs and anticipated benefits?

The guidance has the potential to prompt more proactive and confident action by regulators on economic crime. A key strength of the new regulatory objective, and this guidance, is that it requires regulators to look beyond only AML compliance to integrate a more comprehensive and coherent regulatory approach to economic crime.

The financial sector, for understandable reasons, has been most under scrutiny for its role as a gatekeeper to the UK financial system – now spending £38.3 billion a year on compliance to fight economic crime. While the legal sector is much smaller and faces different kinds of risks, it is vital that regulators ensure legal professionals play their part in preventing and detecting economic crime.

Question 18: Do you have any other comments about the proposed guidance?

The success of the proposed guidance will largely depend on how well it is implemented by regulators, and how robustly they are held to account by the LSB. While the regulatory objective on economic crime does not introduce new obligations on regulators (or legal professionals), it crystallised Parliament's expectation that the legal sector needs to be doing more to prevent and detect economic crime. The guidance therefore needs to send a strong – and empowering – message to regulators that a step change in ambition and effectiveness is needed.