

Upholding Professional Ethical Duties: Consultation on the LSB's proposed statement of policy

Response on behalf of Spotlight on Corruption¹

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Summary

We welcome the Legal Services Board's (LSB) consultation on upholding professional ethical duties as well as its broader efforts to strengthen ethical standards across the legal profession.

As a member of the UK Anti-SLAPP Coalition,² we contributed to the drafting of the Coalition's collective response to this consultation which focuses on regulatory efforts to address unethical behaviour by lawyers who engage in Strategic Lawsuits Against Public Participation (SLAPPs).

We wish to supplement that focused contribution on SLAPPs with this response, drawing on our research and engagement in other areas of relevance to legal professional ethics. A core area of our work is focused on promoting accountability for the professional enablers of corruption and economic crime, with a specialist focus on the legal profession. Through our close monitoring of regulatory action and our detailed policy research, we advocate for reforms to raise ethical standards in the legal profession and ensure those who enable corrupt elites are held to account.

While broadly supportive of the LSB's proposed statement of policy, we wish to highlight three aspects which we urge the LSB to address as it sets outcomes and expectations for regulators:

1. The importance of giving explicit recognition in the definition of "*professional ethical duties*" to the public interest as the bedrock for professional legal ethics;
2. The urgency of regulatory action to address the ethical implications of the gaps in the UK's Anti-Money Laundering (AML) regime around the proceeds of corruption;
3. The need to set clear expectations about transparency to promote greater accountability for how regulators and authorised persons uphold ethical standards across the profession.

We address each of these recommendations below.

1. Give explicit recognition to the public interest as the bedrock of professional ethics

We broadly agree with the LSB's proposed definition of professional ethical duties as it accurately reflects the five "*professional principles*" that are set out in section 1(3) of the Legal Services Act 2007:

- (a) that authorised persons should act with independence and integrity,
- (b) that authorised persons should maintain proper standards of work,
- (c) that authorised persons should act in the best interests of their clients,
- (d) 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
- (e) that the affairs of clients should be kept confidential.

¹ Registration number 1185872. Website: <https://www.spotlightcorruption.org/>

² <https://antislapp.uk/>

However, we believe the formulation of the LSB's proposed definition should be refined to clarify how these duties operate to safeguard the public interest. As currently formulated, the definition explains that authorised persons "*must ensure that the duty to act in the best interests of their clients does not override their duty to the court, or their duty to act with independence and integrity where these come into conflict*". While this is accurate as a matter of how conflicts between professional ethical duties are to be resolved, it does not articulate the principled basis for this approach – namely that as members of a public profession, authorised persons have an overriding duty to safeguard the public interest. This is referenced in the consultation paper (see paras 2 and 54) and squarely addressed in Stephen Mayson's excellent paper on the meaning of the public interest,³ but it should also be expressly recognised in the LSB's proposed statement of policy.

We accordingly recommend that the definition explicitly state that where these professional ethical duties come into conflict, those which safeguard the wider public interest (the duty to the court, and the duty to act with independence and integrity) take precedence over an individual client's interests. As pointed out in the consultation paper (see para 50), this is in keeping with the approach already articulated by some regulators (including the Solicitors Regulation Authority).⁴

This explicit recognition of the public interest as the bedrock of professional ethics is crucial for identifying and addressing the harms caused by the kinds of unethical behaviours that prompted the LSB's proposed statement of policy, including SLAPPs and the culture of "*ethical apathy*" and "*creative compliance*" (para 29) which allows lawyers to provide services that facilitate and legitimise kleptocratic wealth.

2. Address the regulatory gap around the proceeds of corruption

We commend the LSB for the extensive consultation and evidence gathering that has been undertaken as part of its Professional Ethics and Rule of Law (PERL) programme. This has contributed to a growing evidence base about different types of unethical behaviour in the legal profession and the causes of these examples of poor ethical conduct.

We wish to highlight a further area of particular concern that has not received attention in the consultation paper, namely the role of authorised persons in relation to corruption, state capture and kleptocracy. Two reports published after the LSB launched its consultation have strengthened the evidence base about the ethical challenges that lawyers (and solicitors in particular) face when acting for clients with wealth derived from kleptocracy and grand corruption:

- A policy report we published in March 2025 presenting the findings of academic research undertaken as part of the Governance & Integrity Anti-Corruption Evidence (GI ACE) programme;⁵
- A report by the Taskforce on Business Ethics and the Legal Profession (IBE Taskforce) launched in April 2025 which explores the implications of the profession's duty to act in the public interest for decisions about client acceptance.⁶

³ Stephen Mayson, "Legal Services Regulation – the meaning of public interest" (2024):

https://www.ucl.ac.uk/ethicslaw/sites/ethics_law/files/irlsr_second_supplementary_report.pdf

⁴ SRA Principles, (November 2019): <https://www.sra.org.uk/solicitors/standards-regulations/principles/>

⁵ Spotlight on Corruption, "Gatekeepers, enablers or technicians? The contested role of lawyers as facilitators of kleptocracy and grand corruption" (March 2025): <https://www.spotlightcorruption.org/report/gatekeepers-enablers-or-technicians-the-contested-role-of-lawyers/>

⁶ IBE Taskforce on Business Ethics and the Legal Profession, (April 2025): <https://www.ibe.org.uk/legal-profession-taskforce.html>

A central finding of both reports is that there is a significant gap in how the UK's AML framework deals with the proceeds of corruption.⁷ Because the AML regime only targets funds that originate from criminal activity, it fails to address funds that derive from grand corruption and kleptocracy where laws have been shaped to serve the interests of political elites. In these contexts, there is often no predicate offence linked to the enrichment of those in power or, if there is an offence, it may be impossible to evidence given the control that political elites exercise over state authorities including law enforcement.

This gap leaves authorised persons in the UK free to deal with the proceeds of corruption and kleptocracy without breaching the requirements of the Money Laundering Regulations 2017 or committing a money laundering offence under the Proceeds of Crime Act 2002. Despite the ethical implications of facilitating and legitimising these corrupt funds, the research we published found that many lawyers tend to view legality as the benchmark for professional ethics with the result that if they conclude it is lawful to act for a client, they assume it is also consistent with their professional ethical duties.⁸

This points to an urgent need for regulators to address this gap to ensure authorised persons act as ethical gatekeepers who safeguard the public interest rather than enablers of corruption and kleptocracy. The IBE Taskforce has called for “*profession-led change*” in the first instance, and a “*profession-wide commitment to responsible leadership which demonstrably reflects the profession’s duty to act in the public interest*”.⁹ It has recommended a number of practical steps that law firms should adopt to achieve this in relation to client and matter acceptance, including a “*Legitimate Provenance of Wealth Test*” and a six-step gating process for client acceptance.

Importantly, regulators have a critical role to play in supporting this much-needed shift in professional ethical practice in relation to kleptocracy, state capture and grand corruption. The IBE Taskforce recommends that “*regulators should articulate the principles by which law firms can reconcile their professional duties with the public interest*”, and that “*professional bodies should publicly support [the Taskforce’s] recommendations and provide guidance for how their members can apply them*”.¹⁰

Our recent policy report found that despite its importance, the overriding ethical commitment to safeguard the public interest has surprisingly little visibility in the SRA’s guidance and law firms’ codes of conduct.¹¹ We identified an urgent need for regulatory guidance as well as education and training to help solicitors navigate potential conflicts between their client’s interests and the public interest in a consistent, principled way.¹²

⁷ See Robert Barrington, “Why the FATF-based Anti-Money Laundering System Fails to Catch the Proceeds of Corruption” (Global Anti-Corruption Blog, 20 May 2025): <https://globalanticorruptionblog.com/2025/05/20/why-the-fatf-based-anti-money-laundering-system-fails-to-catch-the-proceeds-of-corruption/>

⁸ Spotlight on Corruption, “Gatekeepers, enablers or technicians? The contested role of lawyers as facilitators of kleptocracy and grand corruption”, (March 2025), pp.10, 15 and 20: <https://www.spotlightcorruption.org/report/gatekeepers-enablers-or-technicians-the-contested-role-of-lawyers/>

⁹ IBE Taskforce on Business Ethics and the Legal Profession, (April 2025), p.26-27: <https://www.ibe.org.uk/legal-profession-taskforce.html>

¹⁰ IBE Taskforce on Business Ethics and the Legal Profession, (April 2025), p.40: <https://www.ibe.org.uk/legal-profession-taskforce.html>

¹¹ Spotlight on Corruption, “Gatekeepers, enablers or technicians? The contested role of lawyers as facilitators of kleptocracy and grand corruption” (March 2025), p.18: <https://www.spotlightcorruption.org/report/gatekeepers-enablers-or-technicians-the-contested-role-of-lawyers/>

¹² Spotlight on Corruption, “Gatekeepers, enablers or technicians? The contested role of lawyers as facilitators of kleptocracy and grand corruption” (March 2025), p.26: <https://www.spotlightcorruption.org/report/gatekeepers-enablers-or-technicians-the-contested-role-of-lawyers/>

We therefore strongly support the LSB's proposed expectations that regulators:

- *“set standards for education and training ... about how to prioritise different duties in practice when they come into conflict with each other”* (outcome 1);
- *“consider with regard to the needs and work of each regulated legal services profession, what rules, regulations, guidance or other resources are needed to clearly and unambiguously address the handling of professional ethical duties when they come into conflict”* (outcome 2); and
- *“provide guidance and/or other resources to equip authorised persons to navigate challenges and uphold their professional ethical duties amid competing pressures”* (outcome 3).

We urge the LSB to go further, however, by taking steps to ensure regulators give dedicated attention to the ethical complexities and conflicts that arise in the particular context of legal services that may facilitate or legitimise the proceeds of corruption. In light of new research which has exposed the gaps in the AML regime and the growing concern about lawyers who do this *“lawful but awful”* work, there is an urgent need for regulators to develop detailed guidance – and publicly support the IBE Taskforce's recommendations – to ensure authorised persons uphold their professional ethical duties.

3. Set clear expectations for transparency to promote accountability for professional ethics

The LSB's proposed outcomes and expectations provide a good starting point for regulators to tackle the unethical behaviours that the LSB has identified in its consultation paper. Without clear requirements for greater transparency, however, we are concerned that the proposed statement of policy does not do enough to promote accountability for professional ethics.

As the consultation paper notes, *“no accountability regimes expressly concerned with professional ethics currently exist across the sector”* (para 66). This poses a serious challenge for efforts to root out unethical behaviours that harm the public interest and undermine public confidence in the profession. Our recent policy report identified a disconnect between the accountability of individual lawyers and law firms, on the one hand, and the collective responsibility of the legal profession, on the other hand.¹³ This creates a collective action problem, as individual lawyers and law firms too easily place their own commercial interests and reputation above the public interest and the reputation of the profession as a whole. Without profession-wide accountability for upholding high ethical standards, there is little reason for individual lawyers or law firms to turn down unethical business that another firm could profit from.

Increased transparency is essential to begin to address this accountability deficit in the legal profession. There is currently a troubling lack of transparency about how law firms navigate conflicts between their different professional ethical duties, which undermines public confidence in the profession's commitment to addressing the kinds of unethical behaviours that have been the focus of the LSB's consultation. As the IBE Taskforce has noted, greater transparency is a prerequisite for the profession to demonstrate its commitment to upholding ethical principles in a way that fosters public confidence and trust.¹⁴ Their specific recommendations on transparency offer a valuable framework for what regulators and professional bodies should be urging law firms to adopt.¹⁵

¹³ Spotlight on Corruption, “Gatekeepers, enablers or technicians? The contested role of lawyers as facilitators of kleptocracy and grand corruption”, (March 2025), p.21: <https://www.spotlightcorruption.org/report/gatekeepers-enablers-or-technicians-the-contested-role-of-lawyers/>

¹⁴ IBE Taskforce on Business Ethics and the Legal Profession, (April 2025), p.6: <https://www.ibe.org.uk/legal-profession-taskforce.html>

¹⁵ IBE Taskforce on Business Ethics and the Legal Profession, (April 2025), p.39: <https://www.ibe.org.uk/legal-profession-taskforce.html>

In our view, the lack of any clear commitments to transparency and accountability is a major shortcoming in the LSB's proposed statement of policy as it currently stands. Without transparency, there is little reason for the public to have confidence that regulators are tackling unethical conduct effectively, let alone taking steps to improve transparency by firms about how they navigate ethical conflicts. We therefore urge the LSB to set clear expectations around transparency, not only requiring regulators themselves to operate transparently in how they pursue the five outcomes but also requiring them to promote greater transparency by authorised persons about how they uphold their professional ethical duties.