



Bar Council of Northern Ireland

Anti-Money Laundering Supervision Report for the period 6th April 2023 – 5th April 2024

Foreword

The Bar Council of Northern Ireland is the regulatory and supervisory body of the Bar of Northern Ireland- a profession of over 650 self-employed barristers. Members of the Bar of Northern Ireland specialise in the provision of expert independent legal advice and courtroom advocacy.

The Bar Council of Northern Ireland champions the rule of law, serving the administration of justice and the public interest. Our barristers play a vital role in safeguarding the legal rights afforded to all citizens right across Northern Ireland.

The maintenance of an independent referral Bar represents one of the cornerstones of the legal system in this jurisdiction. The existence of a strong and independent Bar is paramount in promoting public confidence in the expert representation provided by barristers. As independent professionals, barristers are free of any external pressures or intrinsic interests other than to serve their clients to the best of their ability, whilst also serving justice and fulfilling their duties to the court. The specialist advocacy skills which they deploy are essential in helping to contribute to the high regard in which our legal system is held around the world.

The Bar Council upholds the highest standards of regulation in all that it does.

Barristers that we regulate must comply with the Money Laundering Regulations (MLRs) if the work that they do falls within the scope of the Regulations.

This report will describe the Bar Council's approach to determining the risk of money laundering within the barrister profession in Northern Ireland in the year to 5th April 2024.

It explains the reasons why the risk profile associated with barristers in this jurisdiction is considered to be low and also the anti-money laundering (AML) processes that have been undertaken that have enabled us to state with confidence that we currently have no barristers currently falling within the scope of the Regulations.

The continued absence of any active supervised population affects the scope of the supervisory activities that we have been able to undertake. Nevertheless, the report makes clear that the Bar Council has not only implemented a full suite of mandatory AML checks on all barristers' practices, but it has also been active over the past year to work with fellow regulators to share intelligence, develop best practice and comply fully with our obligations under the Money Laundering Regulations.

The Bar Council will therefore continue to be active and vigilant in its approach to AML supervision.

Moira Smyth KC

Chair, Bar Council of Northern Ireland



Remit & Role in AML Supervision

The Bar Council of Northern Ireland is the regulatory body for all barristers practising in the jurisdiction of Northern Ireland – a function which it sees as a vital obligation, fundamental to maintaining the standards of and confidence in the profession.

The Bar Council is the recognised supervisory authority for barristers in this jurisdiction for the purposes of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2020. This places an obligation on the Bar Council to ensure adherence with the Money Laundering Regulations. The Bar Council is subject to oversight regulation by the Office for Professional Body AML Supervision (OPBAS). OPBAS publishes a Sourcebook on how the Bar Council and other professional body supervisors can meet their obligations under the MLRs. Following consultation, OPBAS published its most recent edition of this Sourcebook in January 2023.

<https://www.fca.org.uk/publication/opbas/opbas-sourcebook.pdf>

Regulation 46 of the MLRs sets out the duties of supervisory authorities. The Bar Council must:

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

There are approximately 700 practising barristers in this jurisdiction. This report details the approach we adopt with every single practising barrister to determine whether they have a practice that falls within the scope of the Money Laundering Regulations and to supervise them accordingly.

Risk Based Supervision Approach

In developing its current Risk Assessment methodology, the Bar Council of Northern Ireland has taken into account examples of best practice and the sources of advice and approaches adopted by the various sources itemised under paragraph 2 of Regulation 17 of the MLRs.

We pay close attention to the findings of the National Risk Assessment and the work done by the National Crime Agency and the NECC and UKFIU. We have also paid close attention to FATF Guidance on Risk Based Supervision

The last National Risk Assessment (NRA) was published in 2020 and we expect an updated publication to issue in 2025. The work on the next one has commenced and it is likely to be published in 2025. Although the NRA does consider certain legal services to be of high risk, it has found that these services are most likely to be within the areas of conveyancing, trust and company service providers and handling of client money. For the reasons provided below, barristers in our jurisdiction do not undertake these services and therefore do not engage these areas of higher risk.

The Bar Council has to date and will continually take steps to inform itself of:

- Risk factors within the UK as a whole – drawing upon information provided from sources such as FATF, HM Treasury; NCA and others.
- Risk factors within the professional body supervisors across the accountancy and legal sectors that have been discussed and disseminated in particular over the past 12 months in forums such as ISEWG.
- Specific risk factors within the legal sector that have been the subject of ISEWG and LSAG consideration.
- Risk factors within Northern Ireland as a specific jurisdiction, drawing upon any specific guidance or awareness raising provided by devolved government departments.
- Specific risk factors within the barrister profession taking in to account the referral nature of the profession and the relationships and reliance that exists with instructing solicitors and lay clients.
- Specific risk factors within the barrister profession in Northern Ireland to take account of the specific regulatory structures that exist within the profession in Northern Ireland.
- Information obtained directly from each of the barristers whom we supervise by means of AML specific information obtained from annual mandatory Practising Certificate returns.

Having applied our risk assessment methodology and having monitored risk factors over the period covered by this report we consider those that we supervise to be of lower risk for the following mitigating reasons:

- Barristers in Northern Ireland are self-employed individuals and are sole traders. They operate with the support of shared services made available to them from the Bar Library.
- Barristers in Northern Ireland are not permitted to engage in direct access work meaning that they can only receive work from instructing solicitors who are also bound by AML/CFT supervision as performed by the Law Society of Northern Ireland.
- The instructing solicitor maintains the relationship with the lay client. The Code of Conduct of the Bar of Northern Ireland imposes very clear and strict boundaries in relation to any contact the barrister may have with a lay client. This has a material bearing on lowering the risk presented by barristers. Nevertheless, they must meet their own obligations to carry out a risk assessment, undertake Customer Due Diligence [“CDD”] before acting, keep a record of their compliance with the Regulations and disclose suspicious activity to the authorities.
- The barrister places proportionate reliance on Customer Due Diligence also being performed by the instructing solicitor. This also has a bearing on lowering the risk of the role performed by the barrister and where the barrister is instructed by a solicitor it may be possible, with



their consent, to rely on the CDD that they have carried out. However, if they do, the barrister remains legally responsible for the regulatory compliance of checks and therefore for any failings in them. The barrister must be satisfied that they have obtained the necessary information to satisfy their own CDD obligations and thus will need to undertake a risk-based review of the CDD materials provided to you.

- Barristers in Northern Ireland are not permitted to hold or handle client money. They are paid by the instructing solicitor and are not permitted to have any financial relationship with the lay client.
- Barristers are prohibited from either:
 - entering into a partnership with another barrister, professional client or any other entity or individual and must not provide legal services within Northern Ireland in any capacity or as part of any entity or arrangement other than in his or her capacity as a member of the Bar of Northern Ireland.
 - A barrister must not enter into a fee sharing arrangement with another barrister, professional client or any other entity or individual.
 - The vast majority/entirety of the Bar would work on areas of law which would not involve any recognised risk of AML/CFT occurring.
- Barristers in Northern Ireland are subject to ongoing active supervision by means of the structure described above and represent a relatively small community of practitioners.
- The vast majority of the barristers practising in the Northern Ireland jurisdiction have a practice that is funded, often exclusively, by means of public expenditure via Legal Aid. Statistics from the Legal Services Agency (see extract below from their published Annual statistics) show that as of March 2024, 453 (of our total population of 699 barristers in independent practice) were being paid through this source. This underscores the low-risk nature of our population as work of this type is authorised, approved and scrutinised by the relevant statutory agencies:

The number of barristers receiving payment for legal services has remained relatively stable since 2020/21, with the latest figure for 2023/24 (**483**) showing a 7% increase since 2019/20 (453; Figure 6.2; Table A14).

Figure 6.2: Registered Barristers and Barristers receiving payment, 2019/20 to 2023/24

	2019/20	2020/21	2021/22	2022/23	2023/24
Registered Barristers	585	632	667	621	603
Barristers receiving payment	453	488	495	492	483

The Code of Conduct is kept under active monitoring and review and changes are frequently made to address any identified risks to compliance. An updated version of the Code of Conduct was published in September 2022 and all members were directed to review it closely and ensure that they were compliant with it.

AML Requirements Placed Upon Barristers During the Year to 5th April 2024

In order to practice as a barrister, one must first of all satisfy the criteria for admission to the profession (being called to the profession) which are detailed in the Rules of Admission of the Inn of Court of Northern Ireland.

Once called, a barrister must then obtain and on an annual basis re-apply for a Practising Certificate from the Bar Council of Northern Ireland.

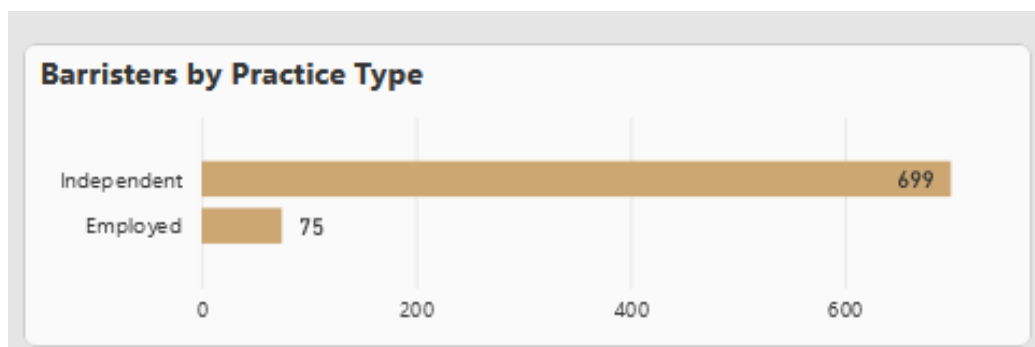
Practising Certificates are only issued after a barrister has demonstrated that they can meet all of the professional requirements stipulated in the Code of Conduct of the Bar of Northern Ireland.

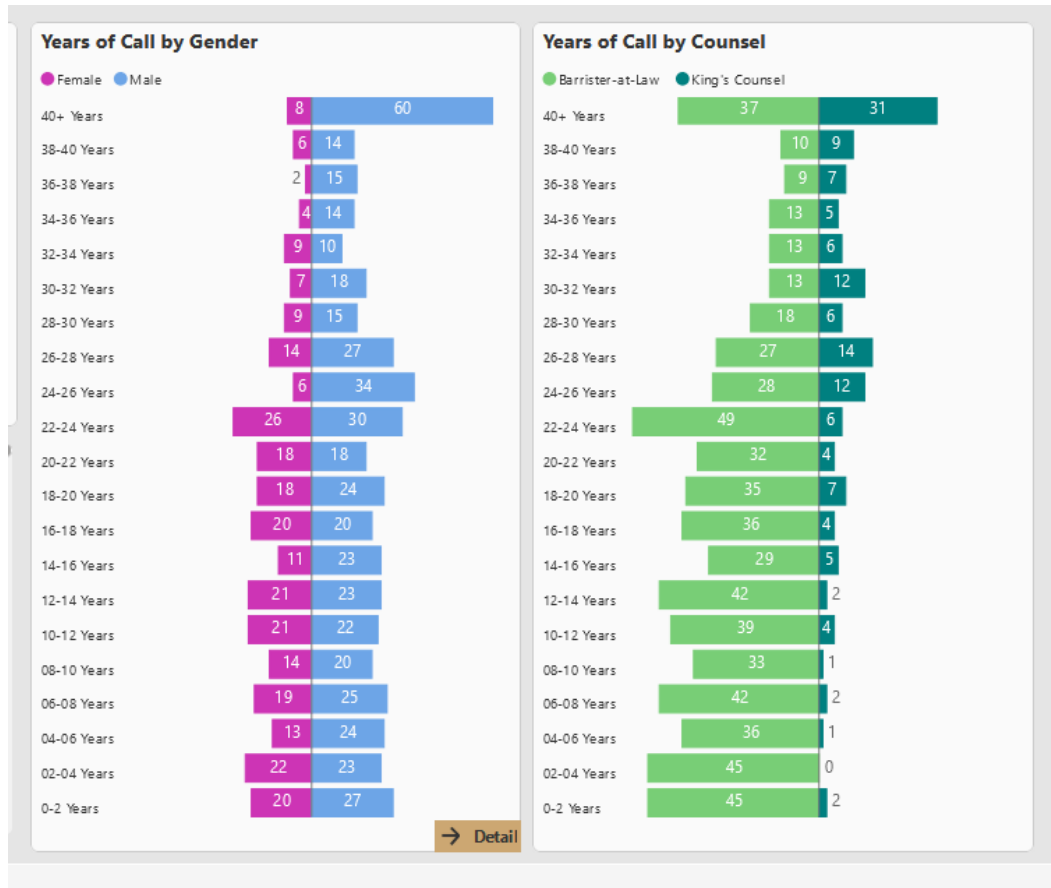
As part of this process every barrister must answer a series of mandatory questions that require them to consider and indicate whether their practice is within the scope of the Money Laundering Regulations. To assist barristers to answer these questions, we provided them with guidance an explanatory text that will help them to determine their status.

For the avoidance of any doubt:

- It constitutes professional misconduct for a barrister in independent practice to provide legal services without a current practising certificate and any failure to satisfy requirements laid down by the Bar Council would be grounds for withholding or removing a Practising Certificate and for referring a barrister to the Professional Conduct Committee.
- the process of applying for a Practising Certificate applies to all practising barristers within this jurisdiction on an annual basis.
- the section relating to the MLRs must be completed by members before they can submit the subsequent parts of their application.
- all barristers are required to confirm that they have read and understood their obligations before submitting their Practising Certificate returns.

The tables below provide the statistics on the supervisory checks that were performed over the course of the past year and how we determine the size of our supervised population.





In the year ended 5th April 2024. We conducted compliance checks against all 699 independent barristers practising within this jurisdiction.

Compliance with Requirement to Submit Annual Practising Certificate Return	100%
Compliance with Requirement to Complete Questions to Determine MLR scope.	100%
After sampling and further verification, number of barristers within scope of MLRs	Zero

Supervised Population

As a result of the AML requirements placed annually on all practising barristers that have been described above, the Bar Council is confident that it has obtained information from all practising barristers with regards to the extent to which their practices engage the MLRs.

Our annual processes have shown that, consistent with the pattern observed in previous years currently there are zero (Nil) barristers whose practices bring them currently within the scope of the Regulations.

Monitoring and enforcing compliance during the year to 5th April 2024

The fact that, following the detailed, careful and mandatory checks we have undertaken, we had a supervised population of Zero in the past year has inevitably meant that there are certain aspects of our regulatory approach that were unable to be demonstrated in the manner that we have prepared for.

Activity such as desk- based reviews, the application of enforcement actions or addressing any deficiencies by our supervised population have not arisen in the past year. We are therefore unable to provide any applicable case studies.

Developments In Our Supervisory Processes

Despite the fact that we have verified that we have zero barristers currently within the scope of the Money Laundering Regulations, we nevertheless continued to invest considerable effort in monitoring supervisory trends and best practice and producing guidance and awareness raising to our barristers.

The Bar Council is a member of The Legal Sector Anti-Money Laundering (AML) Group (comprising legal sector regulators and representative bodies).

The changes that were made to the LSAG Anti-Money Laundering (AML) Guidance in March 2023 are still awaiting approval by HM Treasury. In addition, LSAG published a number of addenda in November 2023, which are also pending approval. These augmented the main guidance and addressed topics such as

- Information about the Economic Crime levy, which is payable if your annual turnover exceeds £10.2 million and you conduct work within scope of the MLRs.
- Reporting of material discrepancies to the Registrar of Companies under Regulation 30A of the MLRs.
- Information about the Register of Overseas Entities.
- Changes introduced by the Economic Crime and Corporate Transparency Act 2023.
- Supply chain risk.
- Further guidance on conducting customer due diligence and understanding source of funds.

The Bar Council continued to encourage our members to complete the AML training module that we had developed and launched in the previous year. We have been encouraged by the uptake of this training amongst our population of barristers with 288 barristers having undergone the training since it was launched.

In addition, the Bar Council regularly attends both regional and national Intelligence Sharing Expert Working Groups (ISEWG) to help maintain its knowledge of current and emerging risks.



Looking Ahead & Future Supervisory Activity

The Bar Council will continue to enhance its AML supervisory activity by monitoring risks, remaining engaged in all information sharing sessions and embedding the more recent developments to our practices and procedures that have been described above.

The Bar Council responded to the HMT Consultation which concluded in September 2023 in relation to options for reforming the supervisory regime. In our view this consultation raised some extremely important principles that have significant potential repercussions for the legal profession and even the application of the rule of law. The selected model that emerges from this consultation will have profound ramifications for how supervision will function into the future. In addition to issuing our own response, in conjunction with both the Faculty of Advocates and Bar Council of England & Wales we issued a Statement of Principles on foot of this consultation. This can be read here: [conjoined-bars-statement-principles-response-hm-treasury-consultation-reform-aml-ctf-supervisory-regime.pdf \(barcouncil.org.uk\)](https://barcouncil.org.uk/conjoined-bars-statement-principles-response-hm-treasury-consultation-reform-aml-ctf-supervisory-regime.pdf). We await the findings of the consultation and will make preparations for any changes that it might entail for our future supervisory activity.

We consider that an area that represents an emerging risk in relation to unregistered, and therefore unregulated, legal service providers. Government continues to promote deregulation of various sectors, including the legal sector. However, a consequence of doing so is that new entrants to the marketplace arise who are not subject to any formal regulation. Given the stringent checks and balances that we apply to those we regulate we think it should be of concern to find any providers of legal services being able to operate outside the formal and recognised regulatory structures.

Further Information

- You can find further information on the work of barristers in the Northern Ireland jurisdiction by visiting our website: [What do Barristers do? | The Bar of Northern Ireland \(barofni.com\)](https://www.barofni.com/what-do-barristers-do/)
- Details on how barristers are regulated in Northern Ireland and how anyone can make a complaint about the conduct of a barrister can be found here: [Regulation | The Bar of Northern Ireland \(barofni.com\)](https://www.barofni.com/regulation/)
- Details on how to raise a specific concern related to Money Laundering can be found here : [Money Laundering Concern | The Bar of Northern Ireland \(barofni.com\)](https://www.barofni.com/money-laundering-concern/) .This includes details of a dedicated and specific phone number and email address which can be used for that purpose.
- Barristers who engage in work that is within scope of the Money Laundering Regulations should refer to the guidance that has been prepared by The Legal Sector Anti-Money Laundering (AML) Group. This guidance has been approved by HM Treasury and is in two parts:
 - Part 1 [Guidance for the legal sector](#)
 - Part 2 [Guidance for Barristers and BSB Entities](#)
- Part 2 has been written specifically to reflect the type of work that barristers typically engage in, and it contains a number of useful FAQs and case studies to assist interpretation.
- Information on the work of OPBAS is available here: [OPBAS](#).