

Regulatory bodies must do more to prevent money laundering

Regulatory bodies must do more to improve their supervision of compliance with the Money Laundering Regulations. According to a report published by the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) there were 'significant weaknesses' in how regulatory bodies approached their role as 'professional body supervisors' (PBSs) of anti-money laundering measures.

OPBAS, which oversees the work of nine PBSs in the legal sector and 13 in the accountancy sector, found that more than 80% had failed to implement an effective risk-based approach based on a robust assessment of the money laundering risks faced by the businesses they regulate. Many could not provide adequate evidence that they understood these risks well enough to determine the frequency of their supervisory visits and the level of scrutiny required.

PBSs in the legal sector include the law societies and bar councils of the three UK jurisdictions, the Solicitors Regulation Authority (SRA), the Bar Standards Board, the Chartered Institute of Legal Executives, the Council for Licensed Conveyancers, and the Faculty Office of the Archbishop of Canterbury, which supervises notaries.

According to the report, two-thirds of PBSs did not have effective enforcement frameworks. In particular, OPBAS drew attention to statutory limitations on the powers of the SRA, which is required to refer cases to the Solicitors Disciplinary Tribunal if it believes that fines of more than £2,000 are appropriate.

The effectiveness of many PBSs was also limited by unclear governance

arrangements. For example, a third did not adequately separate their advocacy and regulatory functions, increasing the possibilities of conflicts of interest.

Overall, OPBAS found that legal PBSs provided more effective supervision than those in the accountancy sector. More than 60% in the legal sector used their powers effectively to support the adoption of a risk-based approach by their members, compared with less than 40% in the accountancy sector.

However, PBSs in the accountancy sector were more effective than in the legal sector at handling conflicts of interest appropriately. In addition, 62% in the accountancy sector made effective use of their information gathering and investigative powers, compared with just half of the legal sector.

In addition to the weaknesses highlighted in the report, OPBAS pointed out some positive achievements by PBSs. Most were effective in providing guidance to help businesses understand their anti-money laundering obligations, and many responded well to Covid-19 challenges, for example by providing updated guidance on alternative methods of customer due diligence verification.

To read more, go to:
<https://bit.ly/33p8w64> and
<https://bit.ly/3tjzvec>



Increase in time taken for small claims to reach county court

The average time taken for civil claims to reach the county court increased between Q3 2019 to Q3 2021, according to figures from the Ministry of Justice (MoJ). This is despite the number of county court claims falling by 27% to 404,000 over the same period.

It took an average of 50.7 weeks between a small claim being issued and going to trial in Q3 2021, which is 12 weeks longer than in Q3 2019. For multi and fast track claims, litigants waited an average of 70 weeks for a trial, which is 11 weeks longer than in 2019.

According to the MoJ, small claims are less suited to remote hearings and have therefore been disproportionately impacted by Covid-19 restrictions. In addition, measures introduced to help with the backlog are not counted in timeliness calculations when successful. These include small claims mediation, where claims are re-referred to mediation, and early neutral evaluation, where a judge will try to 'engineer agreement' without any finding on the fact.

The Association of Consumer Support Organisations (ACSO) has

called for the MoJ to give urgent attention to reducing delays in the civil justice system. ACSO believes that ministers cannot just blame the pandemic, as court delays had already reached a 'tipping point' before Covid.

The Chair of the Justice Committee has also criticised the Government for failing to prioritise civil justice and identified various challenges facing the system, including low pay and unreliable technology.

Read more about the MoJ figures at: <https://bit.ly/3HZ4bFA>

Consultation on proposed changes to Stamp Duty calculation

HMRC is consulting on planned changes to the rules for calculating Stamp Duty Land Tax (SDLT) on purchases of mixed use properties and multiple dwellings in England and Northern Ireland.

The consultation is a response to the increasing number of cases in which buyers of residential property misrepresent SDLT in order to qualify for a lower rate. This is often with the support of 'SDLT reclaim agents' who approach property owners after they have already paid SDLT at the correct rate and offer to act on their behalf to secure a partial refund.

Reclaim agents exploit the slightest possibility of non-residential use of part of a property (such as the existence of a garage that could be leased out) to claim that the whole property is liable for the lower non-residential rates of SDLT. They also submit claims for Multiple Dwellings Relief by misrepresenting the number of 'dwellings' within a property, for example by claiming that a room with its own toilet and washbasin is a separate dwelling. According to HMRC, the scope for abuse within the existing rules has led to growing numbers of



conveyancers facing unjustified negligence claims from property purchasers, simply because they submitted correct SDLT returns instead of attempting to secure a lower rate.

The consultation proposes a system of 'apportionment', under which the residential part of a mixed property purchase would be taxed as residential property and only the

non-residential part would be taxed at the lower rate. Proposals in the consultation for preventing abuse of Multiple Dwellings Relief include awarding it only where all of the dwellings in a single property are purchased for a 'qualified business use'.

To read more, go to: <https://bit.ly/3tIIOv9> and <https://bit.ly/3HVhTcL>

In brief...

Plans to settle more family law cases out of court

The Ministry of Justice (MoJ) is exploring new ideas to prevent up to half of family law cases reaching court. While safeguarding and domestic abuse cases, which make up 50 to 60% of all family law cases, will continue to be heard by a judge, the remainder of cases should focus on out of court remedies. In particular, the MoJ is in talks with the judiciary about offering greater incentives to encourage couples to settle disputes through mediation and alternative dispute resolution. Government figures have revealed that the number of new cases started in the family courts increased 14% year on year in Q2 2021, with financial remedy, private law and adoption cases recording the largest increases.

Read more about the ideas at:
<https://bit.ly/3K1CMop>

Legal sector continues to recover from Covid-19

Total turnover in the legal sector increased by 12.3% year on year in September 2021 to reach £3.42 billion, according to figures from the Office for National Statistics. The figures indicated that month on month the legal sector grew faster than the overall UK services sector in September 2021. While law firms have claimed the growth highlights the sector's recovery from Covid-19, the impact of leaving the EU, regulatory pressures and Covid-19 are still significant challenges.

Read more about the figures at:
<https://bit.ly/34JafE2>

Complaints about barristers' conduct up 29%

Figures from the Bar Standards Board have revealed it received 1,887 complaints about barristers' conduct in 2020/21, up 29% compared with 2019/20. Complaints related to inappropriate content on social media, such as discriminatory or insulting comments, increased significantly with 49 cases in 2020/21, compared with two cases in 2016/17. Harassment complaints also increased substantially in 2020/21, while complaints related to family law and crime both fell due to the impact of Covid-19. The figures have indicated that around 20% of complaints result in an investigation.

Read more about the figures at:
<https://bit.ly/3nmoXan>

Pilot to test impact of early legal advice in social welfare

The Ministry of Justice (MoJ) has confirmed it will launch a pilot in 2022 to explore the impact of providing early legal advice in social welfare law. The pilot will test the impact of resolving housing, debt and welfare benefit issues earlier and the affect this may have on long-term housing problems. It will focus on people who are identified as being in need, such as those who have fallen into specific types of arrears. The pilot was first announced in February 2019 as part of the Legal Support Action Plan.

Read more about the pilot at:
<https://bit.ly/3GnCKov>

Review into compliance with anti-money laundering regulations

The Solicitors Regulation Authority has published the findings of its review into how solicitors are complying with new anti-money laundering regulations. The review reveals that while many firms have taken steps to ensure compliance, more action is still required. Failure to carry out a proper risk assessment for anti-money laundering matters was the most common reason for non-compliance. Poor client due diligence, inadequate staff training and supervision, and poor policies were also common reasons for non-compliance.

Read more about the review at:
<https://bit.ly/3fBMeAS>

New levy on law firms to tackle economic crime

HM Treasury has published draft legislation setting out plans to introduce an economic crime levy on anti-money laundering regulated businesses, including law firms. Under the legislation, there will be four payment bands and law firms will pay a fixed fee based on their UK revenue. The first payments are expected to be collected by HMRC in 2023/24, which is 12 months later than originally planned. Small firms with UK revenues of less than £10.2 million will be exempt, while medium firms with revenues between £10.2 million and £36 million are expected to pay between £5,000 and £15,000.

Read more about the levy at:
<https://bit.ly/3K1D5Q5>



Firms missing out on clients due to basic customer service errors

Basic and avoidable customer service errors are potentially costing law firms new clients according to a mystery shopping exercise carried out by insight6, which gave the legal sector a net promoter score (NPS) of 54. NPS is based on how likely customers are to recommend a business. The London School of Economics estimates that for every 7% increase in NPS, business revenue will grow by 1% as a direct result.

Mystery shoppers from insight6 reviewed 84 law firms' websites and also contacted them by phone, email or webchat, asking for advice about wills, conveyancing, personal injury claims, divorce and employment.

Websites were found to be helpful and informative, with each one providing contact details and the majority enabling the mystery shopper to judge whether they provided the relevant services. However, a significant number were let down by the most basic day to day interactions, with initial contact often lacking 'a human touch'.

Webchat performed well compared to phone and email as every mystery shopper who was promised follow up information received it. In addition, 82% said that the service was helpful and the firm's representative was appropriately empathetic. In contrast, 37% of email enquiries and 43% of phone messages went unanswered. Of the email responses received, under half (43%) were well written and grammatically correct and 35% of responses used legal jargon. This compares to just 9% of webchat responses.

Read more about the research at: <https://bit.ly/33qM7FE>



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SRA launches consultation on new run-off cover arrangements

The Solicitors Regulation Authority (SRA) is carrying out a consultation on new arrangements for post six year run-off cover (PSYROC) having confirmed the closure of the Solicitors Indemnity Fund to new claims from September 2022. The consultation covers England and Wales and the deadline for responses is 15 February 2022.

Run-off cover provides insurance for claims made against a solicitors' firm that has closed without a successor. Its primary purpose is to ensure that the financial interests of the firm's clients are protected, which is a key regulatory objective of the SRA. Run-off cover also provides retiring solicitors with peace of mind. The SRA's minimum terms and conditions require firms that close without a successor to hold six years' worth of run-off cover. PSYROC steps in once that cover expires.

The Solicitors Indemnity Fund is made up of historical funds from the

profession. The decision to stop accepting new claims was made following actuarial advice, which concluded that continuing to provide PSYROC would not be prudent without any additional funding.

The SRA consultation is asking respondents for their views on various alternatives. These include making PSYROC voluntary or amending the minimum terms and conditions to require firms to hold equivalent cover through the open market.

According to guidance published by the Law Society in December 2021, it is important that the profession understands the changes, in order to protect themselves and their clients. Solicitors who worked for firms that closed on or between 1 September 2000 and 30 September 2016 are most impacted.

The consultation documents are available at: <https://bit.ly/3Gks9uA>