

SDT RESPONSE TO HM TREASURY CONSULTATION ON AML/CTF SUPERVISION REFORM

The HM Treasury Consultation Document can be found [here](#)

1. Introduction

- 1.1 The Solicitors Disciplinary Tribunal (SDT) welcomes the opportunity to respond to this consultation on the proposed transfer of AML/CTF supervision for legal, accountancy and trust and company service providers to the Financial Conduct Authority (FCA).
- 1.2 We recognise the strong policy direction set out in the consultation and note that AML/CTF supervision is expected to move to a single public sector supervisor, with the FCA to take that role. The SDT does not seek to re-argue the merits of the policy choice; our focus is on the safeguards needed to ensure implementation is workable, and coherent within the established framework for solicitor discipline, and does not create duplication of work, delay or gaps in public protection.
- 1.3 We also note the Government's objectives of strengthening the AML/CTF regime, improving consistency, reducing fragmentation across supervisors, and enhancing the UK's international standing. In designing any new framework, it is essential that legal professional privilege (LPP) and client confidentiality are fully protected and that the integrity of the SAR regime is preserved.
- 1.4 Our response is guided by three principles (set out below) which remain central to the effective regulation of the solicitors' profession and the protection of the public:

Principle One: Preservation of the SDT's adjudicatory role

- 1.5 In our experience, conduct issues are often multi-factorial, meaning that one alleged breach (e.g. AML) may sit alongside other professional breaches under the SRA Principles, Codes of Conduct, fiduciary duties or client account rules. Examples include:
 - prohibited banking practices and misuse of client accounts;
 - failures in due diligence linked to breaches of fiduciary or integrity obligations;
 - conflicts of interest, recklessness or dishonesty arising tangentially from AML failings;
 - failures cascading into broader professional misconduct.
- 1.6 It is the role of the SDT to adjudicate on such cases to protect the public and the reputation of the profession. It is essential that the transfer of AML supervision to the FCA does not cause delayed referral of multi-issue cases through the SRA to the SDT where appropriate.

Principle Two: Avoiding dual-regulation pitfalls, duplication and delay

1.7 The introduction of a new supervisory body for the solicitors' profession creates potential for:

- double jeopardy, where the same conduct is considered by the FCA, SRA and SDT without coordination;
- duplicative fact-finding, leading to inconsistent outcomes;
- delay, particularly if the FCA investigates first but material is not then shared promptly with the SRA;
- uncertainty, especially for firms and individuals navigating overlapping obligations.

1.8 The SDT supports reform that streamlines regulatory pathways rather than increases procedural burden. A clear, enforceable and coordinated approach is important to prevent parallel processes based on the same factual matrix.

Principle Three: Protection of procedural fairness and sector-specific expertise

1.9 The SDT provides:

- clear procedural safeguards (established practise, public hearings, reasoned decisions);
- transparent and consistent sanctions;
- independence from investigators and supervisors;
- expertise in legal professional conduct.

1.10 Conduct issues are presently adjudicated fairly and consistently. This independence must not be diluted by structural change.

The SDT's overall stance

1.11 We support reform that strengthens the AML/CTF supervisory regime in so far as:

- accepting that AML-only breaches (where no wider professional standards issues arise) may appropriately be dealt with by the FCA;
- multi-factorial cases continue to be within the SRA's remit and, where appropriate, referred to the SDT;
- there are clear referral mechanisms and information-sharing protocols to prevent duplication, delay or inconsistent outcomes;
- the integrity of public protection is preserved, including protection of privilege and confidentiality.

1.12 The proposals must therefore be designed to avoid unintended consequences, particularly delay, regulatory friction/overlap, or overlooking the benefit of misconduct being adjudicated upon by a specialist tribunal.

2. Answers to Consultation Questions

Where a question relates directly to supervisory functions rather than adjudication, we identify this and comment only where appropriate.

	QUESTION	SDT RESPONSE
1	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) it supervises? Are there any practical challenges or unintended consequences we should consider?	<p>We agree in principle. A single, authoritative register may enhance transparency and public confidence.</p> <p>Practical challenges or unintended consequences might include:</p> <ul style="list-style-type: none"> • Where firms are deregistered or suspended, this may trigger conduct issues requiring SRA and SDT involvement, especially where cessation relates to systemic AML failings or integrity concerns. • gaps in oversight or delayed conduct referrals caused by an absence of specific notification duties and procedures. <p>Failure to ensure seamless information flow risks delaying professional misconduct proceedings and may create uncertainty for firms and consumers.</p>
2	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?	<p>The SDT expresses no view on the supervisory merits, but notes key operational safeguards:</p> <ul style="list-style-type: none"> • Where a cancellation arises from conduct-related concerns (integrity, dishonesty, systemic failures), timely notification to the SRA is essential so that the SDT's adjudicatory jurisdiction is not undermined by supervisory action occurring in isolation. • The impact on small firms and the need for proportionate processes should be a consideration.

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3	Do you support the application of regulation 58 “fit and proper” tests to legal, accountancy, and trust & company service providers? Please explain your reasoning.	<p>The SDT has no adjudicatory objection to proportionate supervisory gatekeeping. However, any fit and proper regime in the legal sector should avoid unnecessary duplication with existing legal-sector suitability and authorisation frameworks and should not create delay or uncertainty that impedes timely handling of misconduct matters.</p> <p>Where equivalent checks have already been undertaken by the legal regulator, the framework should enable appropriate reliance (“passporting”) to reduce burden. Where fit and proper concerns indicate potential professional misconduct, there must be a clear and timely referral route to the SRA and, where appropriate, the SDT.</p>
4	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?	<p>The SDT notes a potential interaction risk:</p> <ul style="list-style-type: none"> • Where a BOOM’s failure results in professional misconduct issues (e.g., dishonesty, inadequate supervision, breach of fiduciary obligations), the SRA must retain clear authority to refer those matters to the SDT, irrespective of any supervisory enforcement taken by the FCA. • This avoids double jeopardy and ensures conduct issues of wider professional significance are adjudicated by the specialist tribunal.
5	Should the FCA be granted any extra powers or responsibilities with regards to “policing the perimeter” beyond those currently in the MLRs?	Clarity is required to avoid perimeter activity unintentionally encroaching upon professional conduct matters reserved to legal regulators and, where referred, to the SDT. The regime should also avoid perimeter activity becoming a parallel investigative pathway where the SRA is already investigating the same firm/facts.
6	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)?	The primary risk is duplication of investigations and inconsistent factual determinations if FCA information-gathering is not synchronised with SRA processes.

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		A statutory or otherwise binding duty to share evidence promptly with the SRA, where conduct issues may arise, would minimise delay and protect the efficiency and fairness of SDT proceedings.
7	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?	In principle, and subject to clear justification, proportionate, legal-sector safeguards (including LPP), may be appropriate for the FCA to have access to powers comparable to those it uses in its financial services supervisory/enforcement context. However, it is important that such tools do not create parallel misconduct investigations, unnecessary duplication, or disproportionate cost/burden for firms, particularly for smaller firms.
8	Do you agree with our proposal to extend the information gathering and inspection powers in the MLRs to the new sectors within FCA supervision?	<p>It is important that there are clear evidence-sharing obligations upon the FCA with the SRA to avoid parallel investigations and ensure efficient referral of conduct matters. These powers must be exercised with safeguards for legal professional privilege and confidentiality.</p> <p>Again, in principle, and subject to appropriate tailoring for the legal sector, it may be appropriate for the FCA to hold comparable information-gathering and inspection powers to those it uses in the financial sector.</p>
9	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?	It is likely that the powers in the current MLRs' will require amendment to make them suitable for the broader remit.
10	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?	<p>It is likely that guidance for the sector to identify clear processes and procedures would be a useful tool for all stakeholders, where the FCA is responsible for governance.</p> <p>However, any guidance framework must take into account solicitors' professional</p>

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		<p>obligations (including confidentiality and LPP) and be sufficiently clear to reduce the risk of inconsistent outcomes.</p> <p>A practitioner-informed (and, where appropriate, practitioner-led) approach is likely to support practical clarity and reduce confusion and misalignment.</p>
11	<p>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?</p>	<p>We note that stable, coherent guidance reduces the risk of inconsistent expectations being tested before the SDT. A transparent approval process is important to reduce uncertainty and conflicting obligations.</p>
12	<p>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?</p>	<p>Yes, subject to clarity on onward sharing with the SRA which is essential where information indicates potential professional misconduct, to support timely assessment and appropriate action.</p>
13	<p>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?</p>	<p>Information sharing is critical to avoid fragmented investigations. The SDT strongly supports strengthening duties to share intelligence promptly with other regulators, especially where broader conduct concerns arise.</p>
14	<p>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?</p>	<p>The SDT recognises the importance of SAR intelligence to the integrity of the AML regime. However, any SAR-sharing arrangements must preserve confidentiality and legal professional privilege and should not involve routine or unrestricted sharing beyond what is necessary and lawful.</p> <p>Where SAR-derived intelligence indicates potential professional misconduct (misuse of client account, dishonesty, facilitation), there must be a clear and safeguarded procedure for referral to the relevant bodies.</p>
15	<p>Do you agree that these existing whistleblowing protections are sufficient and appropriate?</p>	<p>It is likely that existing whistleblowing protections should be reviewed in the</p>

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		context of a broader review by the FCA and other stakeholders.
16	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?	It is a concern that this may give rise to long consecutive ‘prosecutions’ and investigations, where professional conduct, particularly multi-factorial matters arising from the same facts loses its significance by virtue of the delay in bringing parallel enforcement proceedings. The practical mechanisms for how this will work must be discussed, agreed, and reflected in clear protocols (including primacy/coordination rules and evidence-sharing timeframes).
17	Are there any additional enforcement powers that you feel the FCA should be equipped with to ensure non-compliance is disincentivised effectively?	Any exercise of FCA enforcement powers that gives rise to issues of solicitor or legal-firm misconduct must be capable of timely referral through the SRA to the SDT for independent adjudication in accordance with the SDT’s statutory role. The SDT does not propose additional enforcement powers beyond what is required to ensure effective supervision.
18	Do you think any amendments to regulations 81 and 82 would help the FCA issue minor fines for more routine instances of non-compliance such as failure to register?	Where minor fines or related enforcement action under regs 81 or 82 gives rise to questions of solicitor or legal-firm professional conduct, consideration must be given to referral through the SRA and, where appropriate, proceedings before the SDT. Procedural safeguards should not be weakened simply because a case is described as “routine”.
19	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?	We agree that enforcement decisions of supervisory authorities should be appealable to an independent public tribunal, as is currently the case in the solicitors’ profession. It is also important that appellate routes remain coherent with, and clearly distinct from, professional misconduct proceedings before the SDT, to avoid duplication and inconsistent outcomes.
20	Do you have any comments regarding the FCA charging fees, under regulation 102,	We have no detailed comment on fee design, save to observe that solicitors are already charged a practising fee for their

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	noting the possible proposed amendments?	ongoing supervision. This fee includes a modest amount to cover the running of the SDT, which is scrutinised under existing budgetary arrangements. Any additional fees should be proportionate and transparent and should avoid unnecessary duplication of regulatory costs.
21	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?	<p>Yes. We consider the following essential:</p> <ul style="list-style-type: none"> • a formal referral protocol between FCA to SRA and then SRA to SDT, for conduct matters; • joint training and handover procedures so investigators understand which matters are AML-only and which are multi-factorial; • clear timeframes for evidence sharing to prevent delay in conduct cases; • preservation of evidential integrity, ensuring FCA-gathered material remains usable and admissible before the SDT.
22	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?	<p>Strongly supported. Failing to implement such a regime risks:</p> <ul style="list-style-type: none"> • duplicate investigations; • conflicting factual narratives; • delayed referrals to the SDT; • increased red tape contrary to policy goals and the aim of a coherent regime. • Increased and disproportionate cost to solicitors
23	Are there other legislative measures that would prevent additional regulatory burdens arising?	<p>Yes. We recommend:</p> <ul style="list-style-type: none"> • a statutory prohibition (or equivalent clear rule) against duplicative investigative action where an SRA/SDT proceeding is already underway involving the same factual matrix,

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		<p>supported by primacy/coordination principles;</p> <ul style="list-style-type: none"> • clear delineation between supervisory breaches (FCA) and professional misconduct (SRA/SDT); • joint guidance clarifying referral criteria and pathways for enforcement and information-sharing.
24	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.	Any oversight body should ensure arrangements promote consistent referral of conduct cases to the SDT via the SRA and support coherent handling of legacy issues during transition.
25	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?	Yes. Alignment between the MLRs and the Solicitors Act 1974 / Legal Services Act 2007 is needed to ensure the SDT's adjudicatory jurisdiction is not inadvertently constrained and that referral pathways remain clear and workable.
26	Should any changes be made to the economic crime objective introduced for legal regulators by the Economic Crime and Corporate Transparency Act?	Policy must be drafted to preserve a clear delineation between supervisory functions and adjudicatory functions, to avoid confusion which could undermine coherent referrals and disciplinary proceedings.
27	Do you have any issues with our intention to apply the FCA's existing accountability mechanisms in carrying out its additional supervisory duties?	Decisions about referrals, evidence transfer and coordination should be clear, auditable and capable of scrutiny.
28	What measures do you think should be taken to ensure a proportionate overall approach to supervision, including prioritising growth?	<p>From an adjudicatory perspective:</p> <ul style="list-style-type: none"> • proportionate supervision reduces unnecessary referrals and prevents duplicative burdens that slow conduct proceedings (particularly important for smaller firms); • clarity in roles ensures only matters with genuine professional misconduct implications reach the SDT, supporting proportionality, fairness and efficiency.

3. Conclusion

- 3.1 The SDT supports the ambition to create a streamlined and effective AML/CTF supervisory regime, provided the framework is designed and implemented in a way that avoids duplication, delay and unfairness.
- 3.2 To ensure reforms are successful, the SDT stresses the following:
 - AML-only matters may appropriately be supervised and enforced by the FCA;
 - multi-factorial cases, where AML breaches form part of a wider pattern of professional misconduct, must continue to be referred to the SRA and, where appropriate, determined by the SDT;
 - clear, timely and enforceable information-sharing mechanisms are indispensable to avoid duplication, delay and double jeopardy;
 - legal professional privilege, confidentiality and SAR-regime integrity must be protected; and
 - the SDT's role as the independent adjudicator of solicitor misconduct must remain intact to uphold procedural fairness, sector-specific expertise and public confidence.

We would welcome continued engagement with HM Treasury and the FCA as the policy develops and would be pleased to discuss operational safeguards or referral frameworks in more detail.

Signed: **Solicitors Disciplinary Tribunal**
Dated: **24 December 2025**