Anti-Money Laundering Supervision Strategy

Regulatory Objective

The Faculty of Advocates is a Professional Body Supervisor ("PBS") in terms of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the AML Regulations").

The core objective of Faculty in carrying out its functions as a PBS is to mitigate the risk of money laundering, counter terrorism finance and proliferation financing involving any member of Faculty who carries out work which is subject to the AML Regulations ("the Supervised Population").

In meeting this objective Faculty will take a risk-based approach, as required by the AML Regulations, responding on a pro-active basis to any emerging threats and themes.

Faculty is committed to preventing the misuse of financial systems for the purpose of proliferation financing. Proliferation financing refers to the provision of funds or financial services to support the development, acquisition, or transfer of weapons of mass destruction (WMDs) or their delivery systems. Although the risk of proliferation financing is low for Advocates, we will ensure members are aware of the risk and take effective action to mitigate those risks.

Background and Governance

1. The Faculty is led by elected office-bearers: the Dean of Faculty, the Vice-Dean, the Treasurer, the Clerk and the Keeper of the Library. The Faculty also elects the Chairman of Faculty Services Limited, a company established to provide administrative and other support services to Advocates including the services of Advocates' Clerks.

2. Key decisions are made by Faculty Council, which comprises Advocates elected for constituencies within the Bar. The Faculty Secretariat supports the office-bearers, Faculty Council and committees in the work of the Faculty.

3. Much of Faculty's work is undertaken by committees established for particular purposes. Faculty has a dedicated Regulatory Compliance Committee the remit of which is set out in Appendix 1. The Committee reports annually to Faculty Council but operates independently of it.

AML Officer

4. Faculty has a dedicated AML Officer who operates as a single point of contact for all AML matters. The AML Officer is currently Fiona Barr, Co-CEO. The AML Officer is responsible for:

    a. Monitoring and managing the Faculty's compliance with its duties under the AML Regulations including those under Regulation 47 (Regulation 49(2)(b));
    b. Establishing and maintaining the Anti-Money Laundering Register which records details of the Supervised Population;
    c. Supervising the Supervised Population (including reviewing risk assessments and policies and procedures of registered Advocates, and keeping written records of supervision in line with the process described in Appendix 2) (Regulation 46);

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d. Acting as reporting point for any staff concerns or queries in relation to Anti-Money Laundering including any issues raised under the Faculty's Whistleblowing Scheme for AML issues.
e. Reporting to the Regulatory Compliance Committee any issues in relation to a member of the Supervised Population, on an anonymised basis, and on the operation of the Faculty's Anti-Money Laundering Regime;
f. Maintaining contact with other PBS, law enforcement agencies and other bodies in order to identify any emerging AML threats and themes which may impact on Faculty members, whether registered or not and to report thereon to the Regulatory Compliance Committee and members of Faculty as appropriate.
g. Arranging appropriate training for staff in the AML team and others as appropriate on Anti-Money Laundering and the Faculty's approach to its supervisory responsibilities;
h. Representing the Faculty on LSAG and AMLSF groups and at other meetings, seminars and workshops as appropriate. The AML Officer will be assisted in discharging his/her functions by at least one other suitably trained member of staff.

5. Where in the course of carrying out any of his/her supervisory functions or otherwise the AML Officer knows or suspects or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering or terrorist financing he/she must as soon as possible report that to the NCA (Regulation 46(6)).

6. To assist the AML Officer, Faculty has appointed a Deputy AML Officer who is currently Emma-Jane Gunda, Compliance Officer.

Code of Conduct/Disciplinary Rules

7. Contravention by an Advocate carrying on regulated work of a "relevant requirement" within the meaning of the 2017 Regulations may constitute professional misconduct. Chapter 11 of the Guide to the Professional Conduct of Advocates and the Faculty of Advocates Disciplinary Rules in force from time to time are referred to. Any complaint in respect of the professional misconduct of an Advocate should be sent to the Scottish Legal Complaints Commission. Such a complaint may be made by the Dean or an Officebearer. If the Dean, an Officebearer or the Faculty Secretariat become aware of a complaints received relating to Anti-Money Laundering, they will ensure that the AML Officer is provided with a copy. No member of the Regulatory Compliance Committee will be involved in any investigation or disciplinary procedure in relation to an Anti-Money Laundering matter.

Registration in Order to Carry out Regulated Work

8. Advocates who wish to carry out regulated work must register with the Faculty prior to doing so.

9. The AML Officer will contact any Advocate he/she believes may require to register with the Faculty for Anti-Money Laundering purposes and invite them to do so or alternatively confirm that, having read the guidance available, they do not require to register.

10. Advocates will be reminded on a regular basis of the requirement to register with the Faculty if they wish to undertake work covered by the AML Regulations. Other communication on matters related to Anti Money Laundering may be included in the Weekly Memo on an ad hoc basis or otherwise communicated as appropriate.

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Achievement of Outcomes

The Faculty will establish whether it has achieved its regulatory objective through an annual review carried out after the review meetings with the Supervised Population, or a sample thereof, as dictated by Appendix 2.

Desired outcomes will include:

1. Members of Faculty being aware that they may not carry out regulated work unless registered to do so;
2. Appropriate checks being carried out in relation to any Member of Faculty who asks to be included in the register of the Supervised Population, including Disclosure Scotland checks or their equivalent;
3. The Supervised Population having appropriate policies in place and apply them in accordance with the AML Regulations and LSAG Guidance
4. Any member of the Supervised Population who has carried out regulated work having done so in accordance with the AML Regulations and LSAG Guidance
5. Members of Faculty being aware of relevant emerging threats and themes.
6. Members of Faculty being aware of the risk of proliferation financing and taking appropriate steps to mitigate that risk.

AML Officer and Deputy AML Officer

The Faculty has appointed an AML and Deputy AML Officer to assist in our responsibility as a professional body supervisor. Should you have any queries in relation to this policy or Anti Money Laundering more generally please contact either the AML or Deputy AML Officer using the below contact details:

AML Officer
Fiona Barr
Co-CEO
E-Mail: Fiona.barr@advocates.org.uk

Deputy AML Officer
Emma-Jane Gunda
Compliance Officer
E-Mail: Emma-jane.gunda@Advocates.org.uk



FACULTY OF ADVOCATES

Appendix 1

REGULATORY COMPLIANCE COMMITTEE

The Regulatory Compliance Committee ('the Committee') is a standing sub-committee of the Faculty of Advocates with delegated authority to approve key decisions, policies and reporting for onward submission to the Clerk of Faculty.

1.2 The Committee shall provide oversight and scrutiny of regulatory compliance by the Faculty of Advocates, members of Faculty and staff. This will be done by:

- Oversight of how regulatory compliance risk is managed and mitigated by members of Faculty and staff.
- Scrutiny of reporting using relevant data and Management Information to challenge effectiveness of regulatory compliance oversight and understand key themes and trends.
- Monitoring developments in the external regulatory environment, assessing the impact of such changes and considering their application and implementation, insofar as relevant to Faculty.
- Review and propose appropriate risk-based monitoring assurance activity to measure compliance and evidence how Faculty meets its regulatory obligations.
- Proposing training initiatives as appropriate for the purpose of keeping regulated members up to date and having regard to the development needs of staff.
- Regular ongoing monitoring of registered members and related internal processes and controls.
- Input and approval of external regulatory reporting when required.
- Approval of any regulatory compliance related policies.

1.3 The regulatory objectives of the Committee include:

- Oversight of Faculty's compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the AML Regulations"), in particular Regulation 46 which requires that: *"A supervisory authority must effectively monitor the relevant persons for which it is the supervisory authority…"*
- Oversight of Faculty's compliance with its data protection obligations under *inter alia* Chapter 2 of the Data Protection Act 2018, which sets out the six principles of data protection relating to lawful and fair data processing, requirements of explicit purpose, that data be accurate, adequate, secure, and stored for no longer than necessary.
- Monitoring of anticipated regulatory changes arising through the Regulation of Legal Services (Scotland) Bill; and oversight of Faculty's implementation of such measures as may be necessary to achieve full compliance with its functions and duties under any new regulatory regime.

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Appendix 2

THE FACULTY OF ADVOCATES: POLICY FOR THE SUPERVISION OF MEMBERS CARRYING ON REGULATED WORK

- The AML Officer is responsible for supervising members carrying on regulated work within the scope of the AML Regulations to the extent that they carry out such work.
- Under Regulation 66 of the Regulations a supervisory body such as the Faculty may by notice in writing require a relevant person to inter alia:
    - (i) provide specified information or information of a specified description;
    - (ii) produce specified documents or documents of a specified description; and
    - (iii) attend at a time and place specified to answer questions.
- Powers in Regulation 66 may only be exercised in relation to information or documents reasonably required in connection with the exercise by the Faculty of its supervisory function under the AML Regulations.
- Where the Faculty requires information to be provided or documents to be produced the notice relative thereto must set out the reasons why the information is required to be provided or the documents produced unless the Faculty or the AML Officer is not permitted to disclose this information.
- If the Faculty's supervised population is less than 10, all members carrying on regulated work will be subject to the following annual monitoring regime. If the population is more than 10 annual supervisory checks will be carried out on a sample basis.
- In the ordinary course of annual supervision the Faculty will request by written notice that a member carrying on regulated work attend a meeting with the AML Officer on a specified date and there produce:
    - (i) copies of the member AML risk assessments, and AML policies and procedures;
    - (ii) an explanation of the nature of regulated work undertaken during the preceding 12 months;
    - (iii) examples of client due diligence carried out;
    - (iv) confirmation that the member has met the Faculty's annual CPD requirement in relation to Anti-Money Laundering;
- The AML Officer will report the outcome of their supervision of members to the Regulatory Compliance Committee on an anonymised basis including any requirement for remedial action.
- The Regulatory Compliance Committee will review the Faculty's supervision process annually and propose any changes they think necessary.

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- Where in the course of carrying out supervisory functions the AML Officer knows or suspects or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering or terrorist financing or has breached a relevant requirement within the meaning of the AML Regulations, they must as soon as possible report that matter to the NCA.

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