

By email only

Rt Hon Dominic Raab MP
Deputy Prime Minister



[] April 2022

Dear Deputy Prime Minister

LEGAL SECTOR EFFORTS TO REINFORCE THE SANCTION REGIME IN RESPONSE TO THE RUSSIAN INVASION OF UKRAINE

Thank you for your letter of 7 April, and a similar letter to the LSB's Chief Executive, Matthew Hill. I am replying on behalf of the LSB.

I am very grateful for the support you set out for the work the LSB and the legal services regulators are doing to assist OFSI in ensuring the effective operation of the sanctions regime.

While there remains much to do, we have made a very good start. The LSB will shortly be writing to the regulators to establish central expectations of them in terms of their role in upholding the regime. That will cover such matter as assessing the exposure of their parts of the sector, raising and testing awareness of the sanctions regime, sharing information, monitoring compliance and, where necessary, taking appropriate enforcement action. We will continue to press and support with urgency and rigour.

You ask in your letter about how best the Government might support these efforts.

While we are confident that the existing legislation provides both a mandate and a range of powers to ensure the legal services sector plays its part in upholding the sanctions regime, there are a number of areas in which it would undoubtedly be helpful to put matters beyond doubt. They include information sharing, broader powers and remit.

Information sharing

We have worked with regulators to establish a core "ask" on information sharing. In summary, the following are the types of information we all consider it helpful to be shared between the regulators, OFSI and any other relevant authorities (for example the NCA or intelligence agencies):

- Firms and individuals which have applied for/been granted/denied licences, for which activities and for what fees (OFSI)
- Known licence breaches/enforcement activity (OFSI)
- Assessment of fees as reasonable/otherwise (OFSI/Regulators)
- Concerns about particular authorised firms or individuals (OFSI/Regulators other crime and intelligence authorities)

- Thematic areas of practice that may present greater risk, emerging trends, and threats to the legal sector's compliance with the sanctions regime (OFSI/Regulators)
- Issues with poor reporting (eg on Suspicious Activity Reports) which might help target supervision/compliance activity (NCA, Regulators)
- Asset freeze breaches (OFSI)

We are clear that a great deal of this can be achieved through existing mechanisms, given sufficient will to make use of them. However, there is a strong case for legislating to put beyond doubt the ability of the various parties to share this information. In the meantime we will continue to do everything we can to further these aims within the existing framework.

Broader powers

We have collated the following requests from regulators for broader powers that could be instrumental in enabling compliance by their regulated communities. Although these early considerations will need to be developed further, they include:

- Greater fining powers to create a more credible deterrent against wrongdoing
- Greater powers to require information from firms about sanctions, money laundering and suspicious activity
- Legislation to require source of funds/wealth checks (beyond the existing limited circumstances)
- Powers to restrict individuals from acting as a money laundering reporting officer or money laundering compliance officer if the regulator does not consider them suitable
- Ability to set guidance on AML with approval from HMT rather than all twelve regulators and representative bodies.

Remit

Finally, while we are clear that the Legal Services Act 2007 strongly implies a remit for the legal services regulators in this area, it would again be helpful to put the matter beyond doubt. We consider that three of the Act's objectives – supporting the rule of law, ensuring a strong, diverse, independent and effective legal profession and ensuring adherence to the professional principles – combine to provide a strong and compelling mandate. However, we know from experience since the war in Ukraine began that some businesses and professionals have been challenging this view, giving rise to operational difficulties in enforcing the regime.

It might be helpful to the regulators, and would send a strong message to the profession, to consider how the remit might be clarified. We believe this might begin to address part of the central proposition of your letter which is the importance of being able to say with absolute certainty that while we will all defend to the end the right of anyone to a legal defence, the legal sector in this country does not enable criminals or warmongers to profit from their activities.

I look forward to our continuing correspondence on these matters.

Yours sincerely

Dr Helen Phillips
Chair