

Tom Ridge
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Dear Mr Ridge,

Red tape challenge: anti-money laundering

Providers of legal services play a significant role in facilitating property and other major financial transactions and as such have important responsibilities to protect the integrity and stability of the financial system through anti-money laundering and related measures. As you will be aware, 'independent legal professionals' are specifically covered within the legal framework that underpins the Government's objectives in this area.

The Legal Services Board (LSB) is the independent body responsible for overseeing the regulation of lawyers in England and Wales. We do not regulate lawyers directly, but oversee a number of front-line regulatory organisations which do, for example, the Solicitors Regulation Authority. Therefore, while it would not be appropriate for the LSB to have a policy position on money laundering regulation, we are concerned to ensure that, across the breadth of their work, the regulators operate effectively and efficiently, and in line with the better regulation principles. Some regulators' arrangements include specific provision in relation to money laundering.

As part of our research programme on the cost of regulation, the LSB has evidence on lawyers' perceptions of the regulatory burden relating to money laundering. To aid your review, my team has prepared a summary of relevant findings, which includes additional analysis and material beyond that contained in our published report. I have also enclosed a copy of the full report so that you can consider the findings in their appropriate context.

I hope that you find the materials useful and look forward to reading the outcome of your team's work in due course.

Yours sincerely,

A handwritten signature in blue ink that reads 'Caroline Wallace'.

Caroline Wallace
Strategy Director

Summary of research evidence on money laundering

Background to the study

During the LSB's triennial review in 2012 and the Legal Services Red Tape Challenge Review in 2013, legal sector businesses raised concerns about the cost of regulation in the legal sector. However, there has been limited evidence available against which to assess these concerns. To help address this knowledge gap, the LSB carried out an online survey of 967 providers of legal services between October and December 2014. The research explored providers' views on the extent to which regulation represents value for money and areas where regulation could potentially be scaled back.

The full report, 'The regulated communities' views on the cost of regulation', and linked datasets were published in March 2015 and are available on the LSB's website.

Findings

Cost of Regulation

The survey sought to understand respondents' views on the cost of regulation through asking a series of questions around whether they felt the cost of regulation was too high. As with other surveys into the cost of regulation, the survey made a key distinction between annual fees paid to regulators and the cost of complying with regulation.

As context, legal services regulation may apply to both individual practitioners and business entities. 35% of entity respondents and 20% of individual respondents rated money laundering regulations as high cost. Our data enables some demographic analysis of the findings, although this should be treated with caution due to sample size. Of those entity respondents who rated money laundering compliance as high cost, 42% worked in organisations with 2 to 10 individuals and 28% in organisations with 11 to 49 individuals. This may suggest that small businesses are particularly likely to experience money laundering compliance as a burden.

It is possible to analyse the findings for each legal services regulator (effectively, each professional group), which in some cases allows us to make inferences about different practice areas. 41% of entities regulated by the Council for Licensed Conveyancers (a specialist conveyancing and probate regulator), 37% of individuals regulated by the Intellectual Property Regulation Board (a specialist regulator for patent attorneys and trade mark attorneys) and 35% of entities regulated by the Solicitors Regulation Authority rated money laundering regulations as high cost. However, for both entities and individuals, a series of other types of regulation were more often identified as high cost, in particular professional indemnity insurance and the annual practising certificate renewal process.

Regulations to remove

Respondents were asked whether they would remove one or more areas of regulation on the grounds of disproportionate cost. If they answered yes, they were asked to specify which area of regulation they would remove. Of the 519 respondents to the survey who wanted to remove any specific regulation, 68 respondents (13%) wanted to remove money laundering compliance regulation – this equates to 7% of the total survey respondents. While overall just 7% of respondents suggested that money laundering compliance regulations should be removed, this was the most frequently mentioned area by entities and the second most frequent area mentioned by individuals. This area of regulation is the only area in the survey which had more respondents wanting to remove it than keep it.

Selecting from a list of reasons why they might want to remove regulation, respondents were most likely to cite their view that money laundering compliance regulation does not achieve its purpose or it does not achieve its purpose cost effectively.

Table 1 below shows the percentage of respondents in each practice area who wanted to remove money laundering compliance. This was highest for respondents working in intellectual property – with 17% suggesting that money laundering compliance regulations should be removed. The qualitative comments recorded indicate some disquiet about how the Intellectual Property Regulation has interpreted the money laundering regulations. Conveyancing, and wills, trusts and probate, were other common practice areas.

Again with caveats on sample size, our data enables some demographic analysis of the findings. Of the 68 respondents who wanted to remove money laundering regulation, 36 were classified as regulated as individuals while 32 were classified as regulated as entities. Of the entity respondents who wanted to remove money laundering regulations 12 (38%) were from organisations with 11 to 49 employees and 10 (31%) were from organisations with 2 to 10 employees).

Table 1: Areas of regulation that should be removed

Chosen area of regulation to remove	% of all respondents (n = 964)	Commercial and business affairs (n=288)	Conveyancing (n=200)	Crime (n=116)	Employment (n=167)	Family (n=206)	Intellectual property (n=186)	Personal Injury (n=140)	Wills, trusts and probate (n=213)
Money Laundering Compliance	7%	7%	12%	6%	5%	8%	17%	6%	9%

Regulations to keep

The survey also asked respondents to identify the single area of regulation they felt should be retained. This resulted in 4% of all entity respondents and 1% of all individual respondents highlighting money laundering regulations as the top area to keep. Clearly, this finding has limitations for the purposes of the Red Tape Challenge since it records the highest ranked area of regulation rather than all regulations that respondents would wish to keep.

For entities, the most frequently cited reason for keeping money laundering regulation was that collective regulation in this area reduces the cost individual firms' face. For individuals, the most frequently cited reason was that having certainty as to what the regulator wants allows them to manage their business more effectively.

Table 2 shows the percentage of respondents in each practice area who wanted to keep money laundering compliance. This was highest for respondents working in commercial and business affairs, conveyancing and wills, trusts and probate – with 5% in each of these groups suggesting that money laundering compliance regulations should be kept.

Table 2: Areas of regulation to keep

Chosen area of regulation to keep	% of all respondents (n = 964)	Commercial and business affairs (n=288)	Conveyancing (n=200)	Crime (n=116)	Employment (n=167)	Family (n=206)	Intellectual property (n=186)	Personal Injury (n=140)	Wills, trusts and probate (n=213)
Money Laundering Compliance	3%	5%	5%	3%	4%	2%	1%	3%	5%

Comments on Money Laundering Compliance

Finally, the survey was structured so as to give an opportunity for respondents to provide free-form comments. Respondents self-selected to give comments which means these comments reflect the underlying bias of the individual respondent. A selection of these comments relating to money laundering is provided below:

“Money laundering checks are important but the rules are unclear and the guidance also not especially helpful. There is an uneasy balance, with which I struggle, between using common sense to judge whether money laundering or criminality may be

involved in work being done and more formal 'box ticking' processes. I think the former should prevail."

"Money laundering [rules are] time consuming with no real benefit"

"Money laundering regulations. We do not handle client money, so there is no warrant for having to comply with ML (money laundering) regulations."

"It is completely unnecessary for 99.9% of our profession (IP). The risk of money laundering through the work we do is tiny. We could still be responsible for flagging-up risks when we see them and for some internal training to spot such risks but for us to have to comply with ID checks and finding out who owns more than 25% of an entity is just disproportionate for our profession."

"Anti-money laundering - it is repetitious and disproportionate to the risk."

"Money laundering compliance. This is damaging to clients when time critical dates are involved. Patent law is replete with time critical dates."

"The impact of the money laundering regulations appears to be very severe because it would appear that the regulator will take an excessively cautious approach and force us to take unreasonable steps. The cost also includes loss of business."

"We are low risk for money laundering and should not fall under the scope of the legislation at all."