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# CHIEF EXECUTIVE

David Mulholland

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David Cheesman  
Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

25 April 2019

Dear David,

**Recovering the costs of the Office for Professional Body Anti-Money-laundering Supervision (OPBAS): further consultation on fees structure**

The Bar of Northern Ireland welcomes the opportunity to respond to the Financial Conduct Authority's further consultation (CP19/13) on removing the minimum fee threshold from the OPBAS fees model. The Bar previously responded to the FCA's October 2018 consultation paper (CP18/32) on proposed fee rates for 2018/19 in December 2018.

We note that section 2 provides feedback on CP18/32 with references at paragraph 2.11 to the cost of OPBAS. We welcome the recognition at paragraph 2.14 that the running costs to be recovered have been revised down from £2 million to £1.4 million meaning that the annual funding requirement (AFR) to be recovered in 2018-19 is £1.65 million. However, we would reiterate the point made in our previous consultation responses to the FCA that the set-up costs have never been explained in detail to supervisors who have had no visibility or input into OPBAS expenditure to date in order to allay our reservations around whether the fees can be shown to be justifiable, controlled and value for money.

We have previously expressed our concern that the FCA still has not provided adequate transparency or any detailed breakdown on the costs that are to be incurred by OPBAS. We note that paragraph 2.13 attempts to justify the lack of transparency by stating that OPBAS has been established as a "cost centre" within the FCA and that the FCA's annual report and accounts do not detail individual cost centres. It adds that the bulk of the set up and running costs relate to employment costs, accommodation, IT and common services. This explanation provides little in the way of additional information for supervisors and therefore we must still conclude that the AFR remains excessive and we object to being required to fund OPBAS when few discernible savings or benefits will be gained by those funding it.

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The Bar remains disappointed that the approach being adopted in seeking to ensure compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs) still largely represents a 'one size fits all' that does not translate across the diverse supervisory landscape. The reported figures for supervised individuals provided by PBSs which are referenced at paragraph 2.18 illustrate that 69% of the individuals reported are supervised by 3 PBSs; this represents the higher risk sectors which should be a greater focus for the MLRs yet small PBSs operating in very low risk sectors, such as the Bar of Northern Ireland, find themselves subject to requirements which are simply not applicable to the work of the independent referral Bar. The current fees model, including the latest proposals in CP19/13, results in the Bar continuing to pay the £5,000 minimum charge yet to date none of our members have been engaged in any work which falls within the remit of the MLRs.

- 1. Do you agree that we should remove the minimum fee structure and charge all PBSs a flat rate of £20.59 per supervised individual, subject to a minimum charge of £5,000? Please support your view with evidence demonstrating the impact on the viability of professional body supervisors and on the individuals they supervise.**

The Bar of Northern Ireland is in effect given no option under either of the proposals described in the consultation. The Bar of Northern Ireland is evidently one of the "two outliers supervising very few individuals" referenced at paragraph 2.18. Thus we will pay £5000 if OPBAS maintains the current rule, which sets a minimum fee for all PBSs of £5,000 plus a variable fee on individuals supervised above 6,000 of £41.65. However, we will also be required to pay £5000 under the alternative option which gives a fee-rate of £20.59, subject to a minimum charge of £5,000. Given that the Bar currently supervises no practitioners conducting work within the remit of the MLRs, the proposed flat rate of £20.59 per supervised individual does not apply to us.

This seems to clearly penalise and unfairly burden the Bar of Northern Ireland into effectively subsidising larger and riskier cohorts, forcing us to meet the punitive and unwarranted cost of £5,000 for potentially zero relevant persons to be supervised. This illustrates once more that we are caught up in a scheme that is entirely unsuitable for our needs as supervisors of a population who are prohibited from holding or handling client money and are therefore uniquely low-risk.

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Therefore if a fee-rate of £20.59 per capita is to be applied, it should apply equally to the Bar of Northern Ireland and we should not be required to pay a minimum fee of £5000 when our supervised community will be significantly smaller than the 250 people that this would represent under the proposed charging scheme.

The current rule, which sets a minimum fee for all PBSs of £5,000 plus a variable fee on individuals supervised above 6,000 at least meant that the Bar of Northern Ireland was one of several bodies to be subjected to the same fee and avoided the extreme unfairness that we will experience under the proposed change.

We nevertheless maintain our position that the minimum fee of £5,000 is still an extremely high levy given our very limited level of exposure. It is worth noting that as a small supervisor the Bar is being disproportionately impacted by this fee alongside all of the indirect costs of OPBAS that we are required to absorb. The internal costs of engaging with OPBAS in addition to HM Treasury place a significant burden on our limited resources. This is especially pertinent given that we currently have no supervised individuals and yet are still subject to the £5000 levy, making our per-capita costs disproportionately high with no fair means of recovering these costs from our supervised population. Consequently, we are still disappointed that £5,000 is deemed an appropriate minimum fee level for a supervisor of zero individuals and would be entirely opposed to any fee increase in the future given the detrimental effect that this would have on the Bar and our members.

If I can be of any further assistance in this matter at this time, please do not hesitate to contact me.

Yours sincerely,



David Mulholland  
**Chief Executive**

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