



Bar Council response to recovering the costs of OPBAS: proposed fee rates for 2018/19

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the FCA consultation entitled “Recovering the costs of OPBAS: proposed fee rates for 2018/19”.¹
2. The Bar Council represents over 16,000 barristers in England and Wales. It promotes the Bar’s high quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession; and the development of business opportunities for barristers at home and abroad.
3. A strong and independent Bar exists to serve the public and is crucial to the administration of justice. As specialist, independent advocates, barristers enable people to uphold their legal rights and duties, often acting on behalf of the most vulnerable members of society. The Bar makes a vital contribution to the efficient operation of criminal and civil courts. It provides a pool of talented men and women from increasingly diverse backgrounds from which a significant proportion of the judiciary is drawn, on whose independence the Rule of Law and our democratic way of life depend. The Bar Council is the Approved Regulator for the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board (BSB).

Overview

4. In January 2018 we responded to the previous consultation concerning OPBAS fee levels (“the January consultation”).² In that response³, we expressed agreement

¹ Financial Conduct Authority (2018) CP18/32: Recovering the costs of the Office for Professional Body Anti-Money-laundering Supervision (OPBAS): proposed fee rates for 2018/19. Available here: <https://www.fca.org.uk/publication/consultation/cp18-32.pdf>

² Financial Conduct Authority (2017) CP17/35: Recovering the costs of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS): fees proposals. Available here: <https://www.fca.org.uk/publication/consultation/cp17-35.pdf>

³ Bar Council response to Recovering the costs of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS): fees proposals (2018). Available here: https://www.barcouncil.org.uk/media/627788/bar_council_response_to_recovering_the_costs_of_the_office_for_professional_body_anti-money_laundering_supervision_fees_proposals.pdf

with the principle of a minimum fee and indicated that we did not object to the sum proposed (which was, as now £5,000 per supervisor). That remains our position.

5. We identified a number of issues with the definition of “*supervised individuals*” proposed, but agreed - as did the BSB in its response to the January consultation⁴ - that the fee calculation governing cost recovery should not be referable to total membership, but rather to the level of supervisory oversight required.

6. We note that the number of “*supervised individuals*” by the General Council of the Bar of England and Wales will fall comfortably below the threshold of 6,000. This view is shared by the BSB itself – see its answer to Q5 in the January consultation.

Q1: Do you have any comments on our proposed variable fee of £45.49 per supervised individual?

7. We note that OPBAS have now amended this figure from £45.49 to £41.03.

8. We take no issue with the methodology proposed for the calculation of the fee-rate. We do however reiterate a general point made in our response to the January consultation, that the running costs have not to date been substantiated by data.

Q2: Do you agree that for fees purposes professional body supervisors should report the most recent count of supervised individuals in the 12 months ending 5 April each year and submit the figure to us by 31 October of the year preceding the relevant fee-year?

9. We understand from the response of the BSB to the January consultation that the proposed reporting deadline would be capable of being met. We therefore have no additional comments to make on this topic.

**Bar Council⁵
December 2018**

⁴ BSB response to Recovering the costs of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS): fees proposals (2018). Available here: https://www.barstandardsboard.org.uk/media/1912700/2018_01_04_opbas_fees_consultation_bsb_response.pdf

⁵ Prepared for the Bar Council by the Money Laundering Working Group.

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