



# Anti-Money Laundering and Counter Terrorist Financing

Annual Report 2023 - 2024



FACULTY OF ADVOCATES



## Faculty of Advocates | Regulation 46A Report

### Foreword

The Faculty of Advocates is the regulatory and supervisory body for more than 450 self-employed Scottish Advocates. It ensures that the people of Scotland, regardless of wealth, background or location, have access to the very best independent, objective legal advice. The Faculty has been at the forefront of legal excellence since 1532 and regulates the training and professional practice, conduct and discipline of Advocates.

The maintenance of an independent referral Bar represents one of the cornerstones of the legal system in Scotland. The existence of a strong and independent Bar is paramount in promoting public confidence in the expert representation provided by Advocates. As independent professionals, Advocates seek to serve their clients to the best of their ability, whilst also serving justice and fulfilling their duties to the court. The specialist advocacy skills which they deploy are essential in helping to contribute to the high regard in which our legal system is held around the world.

The Faculty seeks to adhere to the highest standards of regulation in all that it does.

Members of Faculty must comply with the Money Laundering Regulations if the work they undertake falls within the scope of the Regulations.

The Faculty remains committed to effective anti-money laundering (AML) supervision. During the reporting period to year 5 April 2024, Faculty has implemented changes to its AML team and structure. Those changes include the appointment of a Head of Compliance, Fiona Barr, who joined Faculty on 27 November 2023. Ms Barr holds an AML Diploma (merit level) issued by the International Compliance Association. She joined Faculty with a wealth of experience in regulatory compliance.

The Faculty has also undertaken an in-depth project to review its AML processes. That project began in January 2024 and ran until May 2024. The project saw the introduction of new AML Policies to strengthen Faculty's AML regime and included policies such as a Segregation of Duties Policy, Supervised Member Enforcement and Escalation Policy and a Suspicious Activity Reporting Policy. Faculty has also introduced an updated process for supervisory meetings. The new changes also include the introduction of a new compliance email inbox, which is designated for any enquires for AML/CTF matters. Both the AML and Deputy AML Officers have access to, and monitor, the emails received. This process has facilitated easy and efficient access for members of Faculty to the AML and Deputy AML officers, which has assisted in increasing engagement across the board.

This report describes the Faculty's approach to determining the risk of money laundering and terrorist and proliferation finance within the Bar in Scotland, to the year to 5 April 2024, and explains why the risk profile associated with Advocates and the work which they are engaged to carry out, is considered to be low. It also provides an update on the work which Faculty carries out as a regulator in this area, including the measures taken to monitor and enforce compliance with the Regulations.

**Susan Ower, K.C.**  
**Convenor of the Faculty Regulatory Compliance Committee**



## Remit & Role in AML Supervision

The Faculty of Advocates (Faculty) is a Professional Body Supervisor as defined under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulation 2017 (“MLRs”). The Faculty is the Regulatory Body for all Advocates practising in the jurisdiction of Scotland, and we see this function as being a vital and fundamental obligation in maintaining the standards of, and confidence in the profession.

This places an obligation on the Faculty to ensure adherence with the MLRs and in doing so to work closely with OPBAS (Office for Professional Body Anti-Money Laundering Supervision), an HM Treasury body that supervises all Professional Body Supervisors.

## Faculty AML Structure and Team

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.

The Faculty has a dedicated AML Officer who operates as a single point of contact (“SPOC”) for all AML matters, which is currently our Co-CEO, Fiona Barr. Fiona joined the Faculty in November 2023 as Head of Compliance and following her appointment there has been significant time devoted to developing and advancing Faculty’s AML supervision processes which will be described in more detail in the body of our report. The AML Officer is assisted in carrying out our role as a supervisory authority by the Faculty’s Deputy AML Officer, Andrew Tregoning.

The AML and Deputy AML Officer meet at least quarterly with the Faculty’s Regulatory Compliance Committee who also assist in fulfilling our obligation as a supervisory authority. The remit of the committee is to:

- a) Monitor the development of national and international legislation and regulations in connection with Anti-Money Laundering and assess the likely impact on the Faculty and its Members;
- b) Make recommendations to the Dean and/or Faculty Council on any changes required to the Faculty’s Guide to Professional Conduct or Training syllabus in connection with AML;
- c) Recommend an appropriate monitoring regime to allow the Faculty to meet its obligations as a supervisory body under the AML regulations; and
- d) Consider reports from the CEO regarding the Register of Members approved to carry out work covered by the AML regulations.

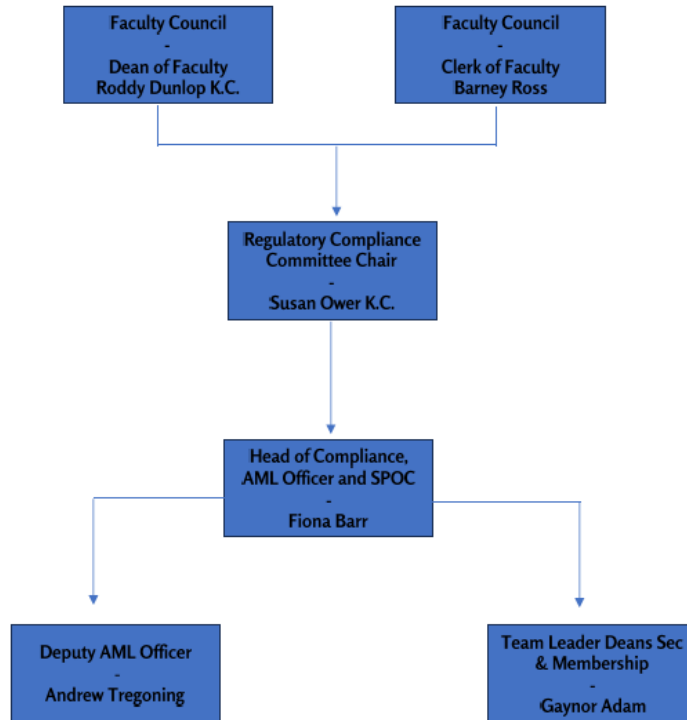
The current Regulatory Compliance Committee is:

Susan Ower, K.C. – Convenor  
Fiona Barr – AML Officer  
Michael Upton, Advocate  
Bryan Heaney, Advocate  
Kirsty Tyre, Advocate  
Victoria Arnott, Advocate  
Andrew Tregoning, Deputy AML Officer

All members of the Committee are required to declare any conflicts prior to the start of meetings, and to complete an annual Conflicts of Interest declaration which is then added to our internal Conflicts of Interest Register.



Faculty of Advocates Regulatory Compliance Governance Chart  
January 2024



**Risk Based Supervision Approach**

In developing our current risk assessment methodology, the Faculty has taken into account examples of best practice and approaches adopted by the various sources itemised under Regulation 17 (2) of the MLRs. The Faculty’s approach is kept under review and updated in response to revised guidance or changes to the risk profiles and emerging threats.

The Faculty aims to be proportionate in our supervision of Advocates practising in Scotland who we supervise, and we regularly engage in forums including the Legal Sector Affinity Group (LSAG) and Anti Money Laundering Supervisors Forum (AMLSF) for examples on best practices.

The Faculty has to date and will continue to take steps to inform itself of:

- Risk factors within the UK as a whole – drawing upon information provided from sources such as HM Treasury, NCA, FATF, the Police and others;
- Risk factors within the Professional Body Supervisors across the accountancy and legal sectors that have been discussed and disseminated in particular over the past 12 months in forums such as Intelligence Sharing Expert Working Groups (“ISEWG”) and OPBAS;
- Specific risk factors within the legal sector that have been the subject of ISEWG and LSAG consideration;
- Risk factors within Scotland, drawing upon any specific guidance or awareness raising provided by devolved government departments;



- Specific risk factors within the Advocates' profession taking into account the referral nature of the profession and the consequent relationship between the advocate and instructing solicitor; and
- Information obtained directly from each of the Advocates whom we supervise by means of AML specific information obtained from annual mandatory review meetings with those subject to the MLRs.

The Government's [National Risk Assessment](#) assesses the risk of money laundering in the legal sector as high with most of the risk of exploitation being associated with conveyancing, trust and company service providers and the handling of client accounts. None of these activities are carried out by Advocates.

Having applied our risk assessment methodology and having monitored risk factors over the period covered by this report we consider those that we supervise to be low risk for the following reasons:

- Advocates are self-employed individuals and are sole traders. They operate with the support of shared services made available to them from our service company Faculty Services Limited.
- Advocates are generally not permitted to engage in direct access work meaning that they can only receive work from instructing solicitors who are also bound by AML/CFT supervision and regulated under the MLRs. Certain exceptions are contained in [The Guide to Professional Conduct](#), to which all Advocates are subject ("the Guide") however the level of direct access instruction is not material.
- In terms of the Guide, Advocates are only permitted to receive client money in return for their services. Advocates cannot control, handle or manage clients' money in any other circumstances. This applies whether acting on the instructions of a solicitor or in terms of the Direct Access Rules. The prohibition extends to holding client money or other assets in person or through any agent, third party or nominee. They are paid by the instructing solicitor and are not permitted to have any financial relationship with the lay client. This prohibition also applies to direct access instructions. Advocates cannot act as Trust and Company Service Providers.
- The instructing solicitor maintains the relationship with the lay client. The Guide imposes clear and strict boundaries in relation to any contact the Advocate may have with a lay client. This has a material bearing on lowering the risk presented by Advocates. Nevertheless, they must identify when the regulations apply to them and when they do, they must be authorised by the Faculty to undertake the work. They must meet their own obligations to carry out a risk assessment, undertake Customer Due Diligence ("CDD") before acting and keep a record of their compliance with the Regulations.
- Advocates are only permitted to accept instructions under direct access in a small number of instances which are detailed in the Direct Access Rules and Guide to Conduct, and guidance has been issued to practice clerks that any instructions in relation to non-contentious tax (being the area of work that we have assessed as being most likely to be in scope of the AML Regulations) must first be discussed with the AML Officer. The majority of instructions for Advocates are received from solicitors who are members of the Law Society of Scotland (who are themselves a professional body supervisor).
- The Advocate places proportionate reliance on CDD also being performed by the instructing solicitor. This also mitigates the risk of the role performed by the Advocate and, where the Advocate is instructed by a solicitor, it may be possible, with their consent, to rely on the CDD that they have carried out. However, the Advocate remains legally responsible for the regulatory compliance checks and therefore for any failings in them. The Advocate must be satisfied that they have obtained the necessary information to satisfy their own CDD obligations.

### AML Requirements Placed Upon Advocates During the Year to 5 April 2024

The Faculty has identified that the nature of work most likely to fall within scope of the MLRs is non-contentious tax work. Any Advocate who wishes to carry out work which brings their practice within the scope of the MLRs is required to seek authorisation from the Faculty to do so. Advocates are regularly reminded of



the need to so register prior to undertaking any work falling within the scope of the MLR's, and this is done via our intranet for members, and our weekly newsletter which is sent to all practising Advocates.

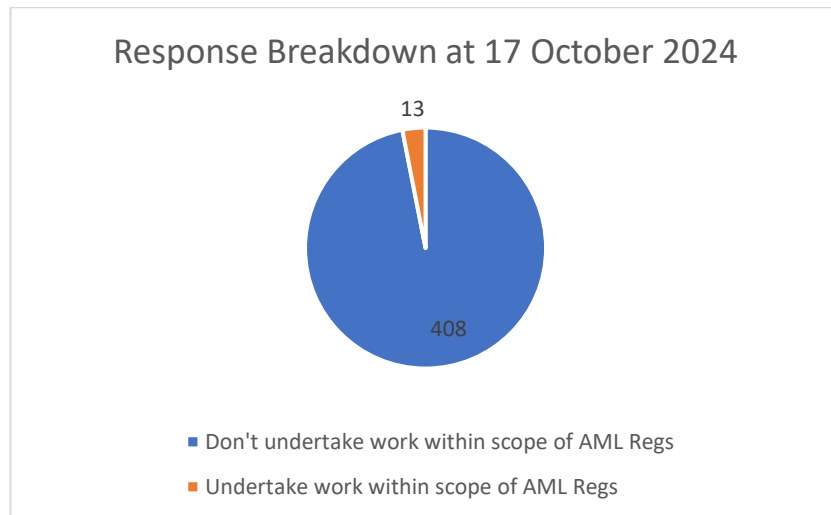
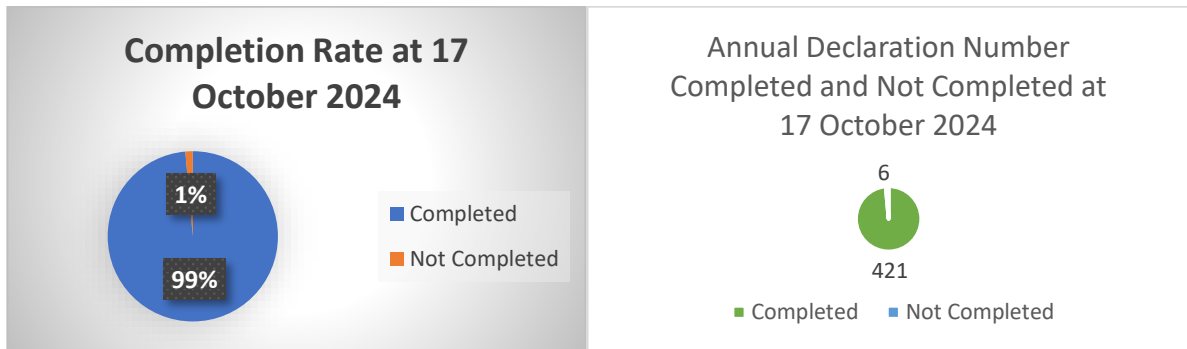
In the year to 5 April 2024 Faculty implemented a new requirement for all practising Advocates to make an annual declaration to declare either:

- A) I declare that having reviewed my areas of practice and available guidance that I do not undertake work which falls within the scope of the AML Regulations Regulation 11(d) & 12(1)(a to e).
- B) I declare that having reviewed my areas of practice and available guidance that I do undertake work which falls within the scope of the AML Regulations, Regulation 11(d) & 12(1)(a to e), and will require to register with the Faculty.

To create the annual declaration, we added an additional functionality in our case management system which will store members responses. The declaration is a mandatory requirement and will be used on an annual basis going forward. To ensure all members responded to the declaration a memo was sent out to the membership from the Dean of Faculty, and reminder emails were sent to any member that had not completed the declaration. We anticipate that in the next reporting period for our supervised population to increase slightly, but not exponentially.

In Q4 of 2024 we intend to undertake quality assurance testing from responses to the declaration, and results from this will inform our 2025 annual report.

### Statistics of AML Declaration





### Supervised Population

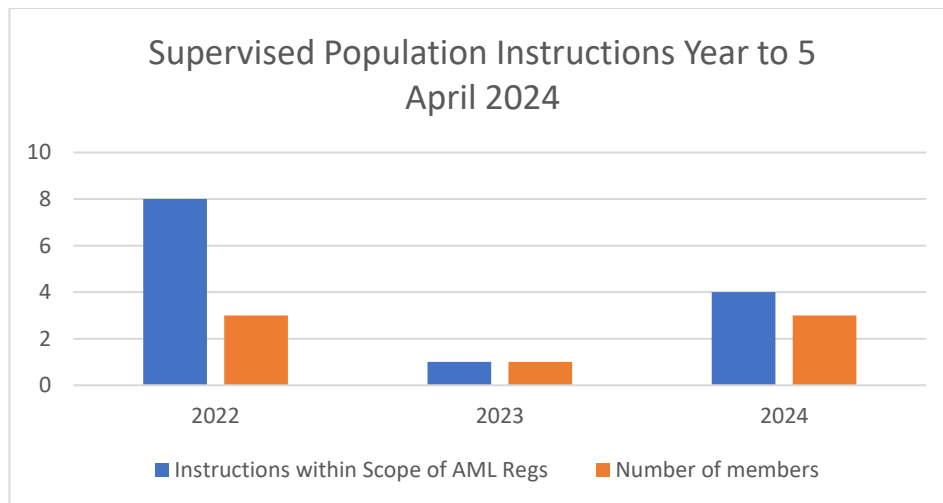
The Faculty maintains a register of persons authorised to carry out work under the MLR’s (“the Supervised Population”)

Table 1	Number of Advocates within the Supervised Population
2022	7
2023	8
2024	8

Of those who are registered many carry a registration in order to undertake work, mainly non-contentious tax advice, should they be so instructed. In reality, because instructions of that nature are not received, the registrations may not in fact be required.

The Faculty’s AML and Deputy AML Officer conducted interviews with each of the Faculty’s Supervised Population, and three members had undertaken a matter which fell within the scope of the MLRs. Based on the interviews, it is likely the size of the Supervised Population would be materially reduced if it reflected only those Advocates who were carrying out work subject to the MLRs in a given year.

During the reporting period we received one new application to join the AML Register in February 2024 which was accepted. The number of supervised members however remained the same due to a previously supervised member ceasing to practice and becoming a non-practising member of Faculty.

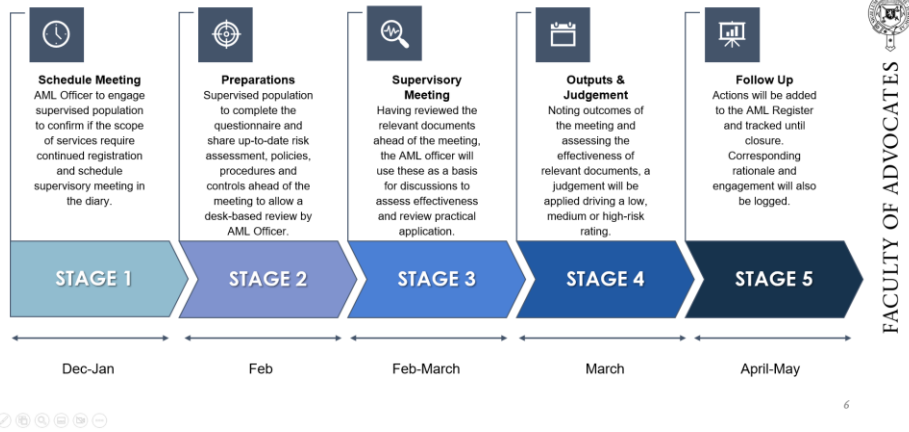


The small size of the supervised population enables the Faculty to monitor it more closely. In the year to 5 April 2024, the Faculty’s AML and Deputy Officer met with each of the Supervised Population to discuss the nature of their practices, their risk assessments and any AML issues that had arisen during the year. In each case the risk was agreed as low, and no AML issues had been identified over the reporting period.

The supervisory meeting process was amended for 2024, the process is noted below, to be more in line with the OPBAS sourcebook and resulted in actions for the supervised members to close following their meeting. All members were given actions for their PCP’s and risk assessments, but none required escalation in line with our Escalation and Enforcement Policy.



## Process & Expectations



The supervisory meetings are held annually with all our supervised members, so long as that remains less than 10, should the number of supervised members increase to over 10 we would then conduct those on a sample basis. Any member that is considered to be a higher risk would be selected for a supervisory meeting and then a sample basis which would be done by reviewing our internal case management system.

Year	Number of Supervised Members	Actions Following Meeting	Actions Closed
2022	7	0	N/A
2023	8	0	N/A
2024	7	7	7

The actions that were given to supervised members were logged on an internal action tracker to allow clear visibility, and those were followed up on in a timely manner to ensure those actions were closed out in an effective and efficient way. The actions ranged from minor updates to more in-depth requirements to update members risk assessments to take account of updates to the treatment of domestic PEPs compared to non-domestic PEPs.

To increase engagement with the supervised population we have also initiated a quarterly engagement email to be circulated to those members, with the first one being circulated in March 2024. The aim of this is to summarise key updates, which may have previously been shared with the members, and to request feedback from members. Any information that is received from members during the course of these quarterly engagements is logged on our internal monitoring system.

### Case Study of Supervisory Meetings

During our 2024 supervisory meetings each member was given some form of minor remedial action, none of which required escalation. One case study we can include is a member who had been given four remedial actions, which were added to the AML Register action tracker. Those actions were given to the member during their meeting and followed up by email. To ensure that those were closed in a timely manner a reminder was set to contact the member one month after the remedial actions were issued to get an update, at which time they had closed three of the actions. Another reminder was set to close out the remaining action for another two weeks and once contacted the member confirmed the action was closed and sent copies of the updated risk assessment, PCP and criminal convictions check from Disclosure Scotland.

The actions that were given during our 2024 annual supervisory meetings were minimal in nature and did not relate to any member deemed high risk. The recurring theme of the actions included version control of documents, and updates to distinguish the appropriate level of CDD to be applied to domestic PEPs compared to non-domestic PEPs following the MLR amendment issued in December 2023.





## Analysis

Following the supervisory meetings each supervised member was given a risk rating, the range of which is low, medium and high. All members were given a low-risk rating, one member was initially given a medium risk rating due to the number of remedial actions issued, but following appropriate and effective updates to their PCP's and risk assessments this was downgraded to low. The main reason for the low-risk rating across the board was due to members having effective PCP's and risk assessments, and due to the low volume of instructions they had received within the scope of the AML Regulations.

Due to our small number of supervised members, we are of the view that the updated procedures and process implemented over the reporting period allows Faculty to maintain an effective and compliant AML Supervision strategy. We are in the fortunate position that our small portion of members that may undertake work within scope allows us to meet with each member individually and set aside sufficient time and resources to discuss directly with them, review their relevant PCP's and risk assessments and to ensure any remedial actions issued are closed out in an efficient manner.

The risk rating scope is detailed below:

Rationale will be provided in terms of the quality of controls, identification and management of key risks aligning to, and meeting regulatory requirements all of which are maintained on an ongoing basis. The rating is used to risk profile each registered member against one of the following:

- **Low:** Demonstrates up to date and effective utilisation of the risk assessment which identifies key risks and corresponding controls and processes. This is supported by effective policies aligned to the regulatory expectations and standards. Minimum exposure in terms of low volume and value of relevant client transactions. Minor to no follow up actions required.
- **Medium:** Sufficient use of the risk assessment to identify key risks and corresponding controls and processes. Policies require some improvements to increase effectiveness. Variable volumes and value of relevant client transactions. Some follow up actions required.
- **High:** Minimal effectiveness of the risk assessment which fails to identify key risks and corresponding controls and processes. Out of date policies which do not align to the regulatory expectations and standards. Sizeable exposure in terms of volume and value of relevant client transactions. Considerable follow up actions required.

The judgement applied will drive the level and standard of follow up and ongoing monitoring required.

## Monitoring and Enforcing Compliance During the Year to 5 April 2024

While the risk of an Advocate becoming involved in conduct that involves money laundering or terrorist financing is low (for the reasons given above) our advice to all Advocates is that some risk remains. Advocates must therefore know how to address those risks and how and when to take the correct and necessary action when such risks arise. This assessment should take into account risk factors including those relating to the client, the countries or areas in which the Advocate practises, the nature of the services they offer, the type of transactions they advise on and the source of their instructions.

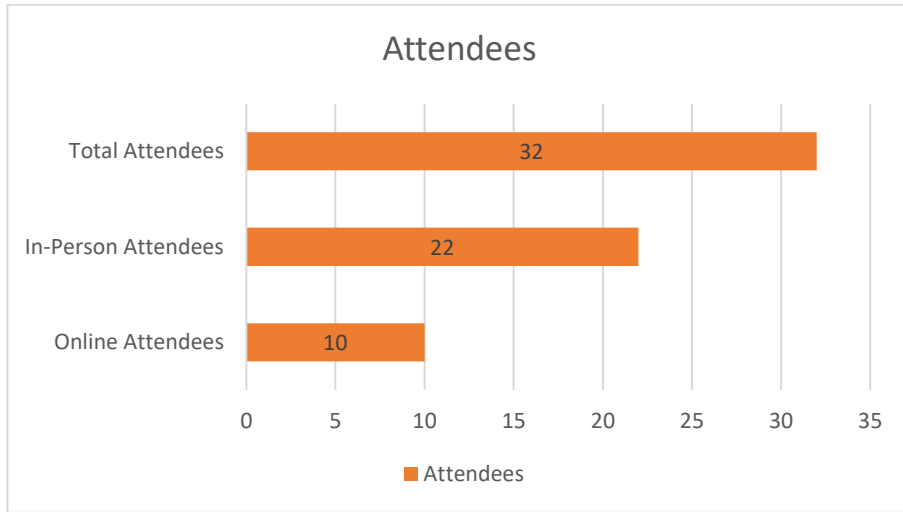
Along with the above-mentioned annual declaration, Faculty also obtained an updated legal opinion from senior counsel on the applicability of the AML Regulations to Advocates, and instructed Pinsent Masons to provide a summarised document from the legal opinion. The summary document has been circulated to all practising members to give them further guidance and information on the nature of work that may come within scope of the AML Regulations.

## Training for Advocates and Supervised Population

The Faculty runs at least one yearly seminar which is open to all members of Faculty to attend on Anti Money Laundering. On 8 December 2023 Faculty held a seminar which was given by Tom Stocker, Pinsent Masons on the legal responsibilities of Advocates. The talk was attended by 32 members. The breakdown of those



who were registered as having attended the event was 22 in-person and 10 joining online, 32 attendees overall. The talk was recorded and the below analytics from Echo 360 show the number of views the recording had up to the year 5 April 2024.



Overview

	Unique Viewers	Total Views	View Time	Average View Time	Downloads	Average Play-Through
Anonymous Views	-	17	8:38:29	30:29	0	44%
Authenticated Views	29	43	29:54:31	41:43	0	60%
Total Activity	29	60	38:33:00	38:33	0	56%

Last 12 months

We intend to host a further training session for members and staff in Q4 of 2024/Q1 of 2025 which will cover Suspicious Activity Reporting.

Suspicious Activity Reporting

During the reporting period to 5 April 2024, the Faculty has not received or submitted any suspicious activity reports from members. We have introduced a new SAR Policy to assist in aiding members to understand their obligations when it comes to suspicious activity reporting. Although we have not received any SARs during the reporting period, we have encountered increased engagement from members of Faculty which is a positive step.

We expect to have more information to include in this section in next year’s report.

Emerging Threats and Trends

The Faculty are members of ISEWG and attend regular meetings which include a UK wide ISEWG and a regional ISEWG for Scotland. These meetings allow us to hear of emerging threats and trends that other Professional Body Supervisors are encountering. Given the limited scope that Advocates work within the scope of the Regulations the impact of those threats and trends on Advocates is limited or not applicable, however it is an important forum to allow us to review the impact that these threats and trends may have on Advocates and the Faculty.

During the reporting period members of Faculty and Supervised Members were reminded of the sanctions regime in place and were issued with updated guidance on this. The guidance was also shared with staff and a copy has been included on our intranet and Members Hub for quick and easy access.

Over the course of the reporting period the Faculty has not identified any emerging threats or trends from the interviews of the Supervised Population.



## Future Supervisory Activity

Over the next year Faculty intends to continue to review our processes, procedures and policies to ensure that our approach to AML remains robust and efficient.

We have recently introduced a number of new policies and developed existing policies based on OPBAS recommendations and the OPBAS sourcebook and we will hold annual reviews of our policies to keep those updated and relevant to the current risks and emerging threats.

In Q4 of 2024 we intend to conduct QA testing of our recently introduced declaration which will involve a sample test of the responses which will be reviewed against our internal case management system.

The AML and Deputy AML Officer will also continue to engage with relevant AML Groups such as LSAG, ISEWG, Regional ISEWG, AMLSF, and the Legal Regulators AML Forum.

## Where to Find More Information

Further information is available from:

- The Faculty's website: [Faculty of Advocates](#)
- LSAG Guidance for Legal Sector: [Legal Sector Guidance](#)
- Legal Sector Anti-Money Laundering Guidance for Barristers and Advocates: [LSAG Guidance](#)
- The Guide to Professional Conduct: [The Guide](#)
- The Office of Professional Body Supervisors: [OPBAS](#)
- The Office for Sanctions Implementation: [OFSI](#)
- The National Crime Agency: [NCA](#)
- UK National Risk Assessment: [National Risk Assessment](#)
- NCA Suspicious Activity Reports: [NCA SARs](#)
- NCA SAR Portal: [SAR Portal](#)
- Financial Action Task Force (FATF): [FATF UK MER](#)

We can be contacted with any questions or feedback by emailing [facultycompliance@advocates.org.uk](mailto:facultycompliance@advocates.org.uk)