



The Bar Council

Sanctions guidance

Purpose:	To advise barristers regarding the structure of UK sanctions and barristers' professional obligations
Scope of application:	All practising barristers
Issued by:	The Money Laundering and Sanctions Working Group
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Status and effect:	Please see the notice at end of this document. This is not "guidance" for the purposes of the BSB Handbook I6.4.

(1) Introduction

1. This guidance is for barristers practising in England and Wales and their professional support staff. It focuses on barristers' professional obligations, and chambers' systems and controls. This guidance is not legal advice. It outlines the structure of UK sanctions, gives links to relevant guidance and to the Bar professional conduct rules relevant to compliance with sanctions.

2. Core Duty 10 of the BSB Handbook requires barristers to take reasonable steps to manage their practice to achieve compliance with legal and regulatory obligations. Self-employed barristers are individually responsible for compliance with UK sanctions. Rules C89.9 and C94.11 place obligations on sets of chambers and entities to take reasonable steps to ensure appropriate risk management procedures are in place.

3. The Bar Standards Board’s guidance on sanctions explains that compliance with Core Duty 10 requires barristers to “ensure that you have procedures in place to enable you to comply with sanctions” and that “[a]ll barristers and BSB entities should assess their own exposure and put in place processes to check sanctions that are in force to manage any identified or anticipated risks of breaching sanctions”.¹ The BSB expects policies and controls to be developed by chambers and wishes to ensure that chambers’ management committees have mechanisms and guidance in place to assure themselves that risk is appropriately and consistently assessed, and compliance controls are consistently applied, by each member of chambers.

4. Each practitioner should also ensure that they have procedures in place to enable them to comply with sanctions. Depending on a barrister’s practice and nationality, barristers may need to comply not only with the UK sanctions regime but also with sanctions regimes of any other countries or territories where a barrister practises, resides or holds citizenship, such as the EU, US, Australian, Canadian, or other sanctions regimes.

(2) Outline of UK sanctions

(a) UK sanctions regimes

5. The UK currently has 37 sanctions regimes in force.² Some of these regimes give effect to the UK’s obligations under UN Security Council Resolutions. Others are autonomous UK sanctions regimes. HM Treasury’s Office of Financial Sanctions (“**OFSI**”), is responsible for the implementation and enforcement of financial sanctions in the UK³ and issues guidance.⁴ The Office of Trade Sanctions Implementation (“**OTSI**”) within the Department for Business and Trade implements and enforces trade sanctions in conjunction with other UK Government bodies.⁵

¹ See [here](#).

² See [here](#). These 37 regimes refer to those housed in regulations made under the Sanctions and Anti-Money Laundering Act 2018. While the term “sanctions regime” is sometimes used more broadly to refer to measures under, for example, freezing orders under the Anti-Terrorism, Crime and Security Act 2001, these are not considered here. Consolidated versions of each regulation may also be obtained from databases like www.globalsanctions.co.uk, and legal search engines such as Westlaw or LexisNexis.

³ A wide range of other UK government bodies are also responsible for enforcement of different aspects of UK sanctions regimes. This is summarised in a table at p.25 of the UK Sanctions Strategy (published 22 February 2024), see [here](#).

⁴ OFSI’s general guidance for financial sanctions is [here](#); OFSI’s guidance on enforcement and monetary penalties for breaches of sanctions is [here](#) and OFSI’s Russia guidance as at December 2023 [here](#). Updated versions of all guidance are on www.globalsanctions.co.uk.

⁵ OTSI has powers under the Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024, which come into effect on 10 October 2024. For OTSI’s guidance, see [here](#). Other UK

Compliance with sanctions is mandatory for everyone to whom UK sanctions laws apply, including barristers.

6. Every UK sanctions regime, whether it gives effect to a UN Security Council resolution, or whether it is an autonomous UK regime, is given effect under its own regulations, which are made under the Sanctions and Anti-Money Laundering Act 2018 (“**SAMLA 2018**”). For example, the UK’s Russia sanctions regime is given effect by the UK (Sanctions) (EU Exit) Regulations 2019 (“**the Russia Regulations**”). Each regime has accompanying statutory guidance.⁶

7. Some sanctions measures under UK sanctions regimes are targeted at “designated persons”, which means individuals or entities who have been individually sanctioned – an asset freeze is an example of an individually targeted measure.⁷ Or sanctions measures can be aimed more generally - import and export controls on whole economic sectors, for example, and restrictions on trade.

8. Designated persons are named on the “UK Sanctions List”, which is available online.⁸ UK sanctions regimes provide that the asset freezing measures that apply to a designated person also apply to an entity which is “owned, held or controlled” by a designated person.⁹ The entities owned or controlled by a designated person are usually not identified on the UK Sanctions list; and their identification is a common issue in practice.¹⁰

Government bodies also have responsibilities for implementing and enforcing trade sanctions. For example, the Export Control Joint Unit issues licences, and HMRC enforces criminal penalties in respect of breaches of trade sanctions.

⁶ See for example guidance on Russia sanctions [here](#); on Iraq sanctions [here](#); on Lebanon sanctions [here](#); on Yemen sanctions [here](#); on Myanmar sanctions [here](#); on Afghanistan sanctions [here](#); on Venezuela sanctions [here](#); on Libya sanctions [here](#); on Belarus sanctions [here](#); on Bosnia and Herzegovina sanctions [here](#); on Syria sanctions [here](#) and [here in respect of cultural property](#); on Iran sanctions [here](#) and [here on human rights sanctions](#); on Nicaragua sanctions [here](#); on Somalia sanctions [here](#); on Sudan sanctions [here](#); on South Sudan sanctions [here](#); on DRC sanctions [here](#); on Central African Republic sanctions [here](#); on Democratic People’s Republic of Korea sanctions [here](#); on Lebanon sanctions [here](#); on Burundi sanctions [here](#); on Mali sanctions [here](#); on Guinea sanctions [here](#); on ISIL and Al-Qaida sanctions [here](#); on counter terrorism sanctions [here](#); on global anti-corruption sanctions [here](#); on cyber sanctions [here](#); on unauthorised drilling activities sanctions [here](#).

⁷ Consolidated lists of asset freeze and financial sanctions targets [here](#).

⁸ See [here](#).

⁹ See reg. 11(7) of the Russia Regulations, read in light of reg. 7.

¹⁰ OFSI has provided guidance on ownership and control [here](#). Some of the difficulties in applying the test are summarised in a joint Law Society and Bar Council note, [here](#). The Supreme Court has given permission to hear an appeal in the case of NBT v Mints [2023] EWCA Civ 1132, a key case on aspects of the ownership and control test. For discussion see also Hellard & Ors v OJSC Rossiysky Kredit Bank & Ors [2024] EWHC 1783 (Ch).

9. UK sanctions regimes are given effect, with some modifications, in the UK's Overseas Territories through Orders in Council. In the Crown Dependencies (Guernsey, Jersey, Isle of Man), UK sanctions regimes are mirrored, with some modifications, through locally enacted legislation. The licencing regime is not unified as between the UK, the Overseas Territories, and the Crown Dependencies; therefore local licenses may be required from those jurisdictions.¹¹

(b) Territorial scope

10. UK sanctions apply in the UK and to UK nationals everywhere. SAMLA 2018 also allows UK sanctions regulations made thereunder to impose prohibitions or requirements outside the UK, in relation to: conduct in the UK or in the territorial sea by any person; or conduct elsewhere, if the conduct is by a UK person. "United Kingdom person" is defined as a UK national, or a body incorporated or constituted under the law of any part of the UK.¹²

(c) Sanctions prohibitions

11. Sanctions prohibitions are organised according to the types of sanctions measures. For example, the Russia Regulations impose the following types of prohibition: finance; immigration, trade, and transport. As noted above, some of these measures are targeted at designated persons (and entities owned or controlled by them), while others apply more generally. Whether a person has breached, or would breach a given prohibition requires legal analysis of the relevant prohibition and is fact specific.

12. Persons designated under UK financial sanctions are subject to (i) asset freezing restrictions, which means it is prohibited to deal with funds and economic resources that are owned, held or controlled by them (including via companies or other persons), and (ii) making-available prohibitions, which mean it is prohibited to make funds or economic resources available to them (directly or indirectly) or for their benefit, in some cases subject to further conditions.

(d) Reporting obligations

13. All UK sanctions regimes impose reporting requirements. OFSI provides guidance on how to report information, and the relevant form on which to do so.¹³ Taking the Russia Regulations as an example, the reporting requirements relevant to

¹¹ www.globalsanctions.co.uk has pages relating to the overseas territories and crown dependencies including relevant sanctions authorities.

¹² SAMLA 2018, s.21(2).

¹³ See [here](#).

barristers are set out in reg. 70. All “relevant firms”, which includes barristers practising as independent legal professionals, are required to inform OFSI promptly if they know or reasonably suspect that a person is a designated person or has committed offences under: any provision of Part 3 (Finance) regs. 46Z9B to 46Z9D (maritime transportation of certain oil and oil products), or regulation 67 (finance: licensing offences), where that information is received in the course of carrying on business.¹⁴

14. By way of exception, a barrister (or solicitor) is not required to disclose any privileged information in their possession in that capacity. Accordingly, in practice, the need for any reporting by barristers is likely to be limited. However, OFSI has said that it will challenge any attempts to take a blanket approach to legal professional privilege to prevent any sharing of information about a designated person. A barrister might consider noting why they consider that legal professional privilege applies in situations in which this issue arises.

15. From 12 October 2024 there is also a reporting obligation on “relevant firms”, which includes barristers practising as independent legal professionals, to report to OTSI known or reasonably suspected breaches in respect of trade, aircraft, and shipping sanctions (see regs. 15-16 of the Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024).¹⁵

16. OFSI has not issued guidance as to what the position is with respect to barristers’ reporting obligations if your instructing solicitor reports a breach (or suspected breach). OFSI’s Guidance on reporting under the Legal Services General Licence in respect of the receipt of fees from a designated person or a person paying fees on their behalf makes clear that barristers do not need to report if instructing solicitors have already done so.¹⁶ It may be that OFSI would take the same view on other reporting obligations but has not said so expressly. If a barrister is relying on a solicitor’s report, it is recommended that the instructing solicitor, when reporting the breach, makes clear that the report is made on behalf of counsel too, subject to counsel’s consent.

(e) Penalties

¹⁴ Defined in UK sanctions legislation relevantly as “a firm or sole practitioner that provides to other persons, by way of business — ... (ii) legal or notarial services, (iii) advice about tax affairs, ...”.

¹⁵ See regs. 15-16 of the Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024.

¹⁶ FAQ 79 (“When should Counsel report to OFSI?”) states that: “Counsel should only report to OFSI when they receive funds directly from a DP or someone on behalf of a DP which does not include a law firm. Where law firms have already reported the payment from the DP or someone on behalf of a DP there is no need for Counsel to report to OFSI as well”. See [here](#).

17. Breaches of UK sanctions prohibitions are a criminal offence; breaching sanctions can result in criminal prosecution or a fine.¹⁷

18. Section 146 of the Policing and Crime Act 2017 provides that the Treasury may impose a monetary (civil) penalty on a person if it is satisfied, on the balance of probabilities, that the person has breached a prohibition, or failed to comply with an obligation, that is imposed by or under “financial sanctions legislation”. This is on a strict liability basis; civil monetary penalties may be issued for sanctions breaches without proof of knowledge or reasonable cause to suspect that activity breaches sanctions.

19. “Financial sanctions legislation” is defined to include, inter alia, finance measures in UK sanctions regimes.¹⁸ OFSI provides guidance on its approach to the enforcement of monetary penalties.¹⁹ OFSI’s guidance states that even though liability for monetary penalties is on a strict liability basis, OFSI take knowledge into account as a mitigating factor in deciding whether to impose a monetary penalty: *“OFSI will consider appropriate due diligence conducted on the ownership and control of an entity to be a mitigating factor where the ownership and control determination reached was made in good faith and was a reasonable conclusion to draw from such due diligence”*.²⁰ OFSI explains how it responds to breaches in its guidance on enforcement and monetary penalties:²¹ *“when we consider what action to take, we take into account the level of actual and expected knowledge of financial sanctions held by an individual or a company, considering the kind of work they do and their exposure to financial sanctions risk. Regulated professionals should meet regulatory and professional standards. We may consider their failure to do so an aggravating factor”*.

20. The OFSI enforcement and monetary penalties guidance sets out what mitigating or aggravating factors it will consider in the event of a breach, when assessing the degree and quality of research and due diligence conducted on ownership and control. OFSI will consider whether the level of due diligence conducted was appropriate to the degree of sanctions risk and nature of the transaction. It would expect to see evidence of a decision making process that took account of the sanctions risk and considered what would be an appropriate level of due diligence in light of that risk. OFSI would usually expect these decisions to be made by reference to an internal framework or policy.

¹⁷ In the Russia Regulations, for example, this is set out at reg. 80.

¹⁸ Policing and Crime Act 2017, s.143; read in light of SAMLA 2018, s.3(1)-(2).

¹⁹ See [here](#).

²⁰ See also the SRA guidance on OFSI monetary penalties, [here](#).

²¹ See [here](#). Version dated 2 May 2024.

(f) Licences

21. Licensing powers are contained in the sanctions regulations made under SAMLA and can allow otherwise prohibited transactions and prohibited activity to take place in certain circumstances.²²

22. A licence (not to be confused with an *exception* to a prohibition that applies automatically in certain defined circumstances as set out in the relevant regulations) is a written permission from, for example, OFSI or the Department for Business & Trade (“**DBT**”) allowing an act that would otherwise breach prohibitions imposed by financial and trade sanctions respectively.

23. There are two types of licences: general, and specific. A general licence allows multiple parties to undertake specified activities which would otherwise be prohibited by sanctions legislation, without the need for a specific licence. General licences cannot be applied for: they are published by OFSI on behalf of HM Treasury, and they can be varied, suspended or revoked at any time.²³ Each general licence includes requirements for reporting and record-keeping.

24. In the context of legal fees and financial sanctions, a licence – subject to rare cases where the advice itself might constitute an economic resource or fund – is not required to provide legal advice to, and act for, a designated person; it is, however, a requirement for any person or organisation involved in a transaction with those subject to financial sanctions. OFSI has stated in guidance that generally there is no prohibition on providing legal advice (as distinct from receiving payment) without a licence.

25. Lawyers therefore need a licence in order to receive payment for any work on behalf of a designated person (and any related disbursements) so that they are not in breach of, *inter alia*, the asset freeze prohibition at regulation 11. Barristers cannot be paid for legal services provided to or for the benefit of a sanctioned person under UK financial sanctions (whether or not they are expressly designated) without a licence from OFSI, either a general or specific licence, authorising the payment. This is so whether or not the sanctioned person is paying for the legal services. Any conditions of a licence must be complied with.

26. There is a general licence to permit payments for legal fees and disbursements incurred in connection with the representation of persons designated under the Russian and Belarusian sanctions regime. For all other UK sanctions regimes, specific

²² SAMLA 2018, s.15(2)(b) and s.15(3).

²³ The licensing section of www.globalsanctions.co.uk contains all current and former general licences.

licences must be sought in order to be paid for legal services. The current legal fees General Licence was issued on 26th April 2024 (INT/2024/4671884).²⁴ This General Licence – granted under regulation 64 of the Russia Regulations and regulation 32 of the Belarus Regulations – disapplies the prohibitions in regulation 11-15 to any act necessary to give effect to the licence. Legal services are defined as those “*provided to a designated person, including legal advice and/or representation in court, whether provided within the UK or another jurisdiction, in relation to any matter except a claim for defamation or malicious falsehood*”. Reliance on the general licence requires reports to be made, set out in the general licence.

27. There are separate conditions for payment obligations that predate designation and those that post-date designation. The terms of the general licence include a cap on total fees paid by a sanctioned person. This means that barristers and solicitors will need to co-ordinate so that the cap is not breached.²⁵

28. OFSI has published Frequently Asked Questions, which includes a section on those related to licensing issues.²⁶

29. Where the legal fees General Licence does not apply (for example in a regime other than Russian and Belarusian sanctions regime or where the amounts in question have been exhausted), an application can be made for a specific legal fees licence.²⁷ For specific licences, OFSI will expect the instructed law firm to provide a schedule demonstrating the anticipated legal fees (and/or those incurred to date). Barristers ought to know when specific licences (or proposed amendments) that include their services and rates have been submitted to OFSI. When issuing a licence to enable the payment of professional fees and expenses for the provision of legal services, OFSI is obliged under SAML 2018 to ensure that those fees and expenses are reasonable.²⁸ As a result, barristers should know whether they are being paid for legal services under a specific licence or general licence. OFSI’s Guidance in respect of reporting under the Legal Services General Licence in respect of the receipt of fees from a designated person or a person paying fees on their behalf makes clear that barristers do not need to report if instructing solicitors have already done so.²⁹

²⁴ See [here](#). It expires on 28 October 2024. However, OFSI’s practice has to date always been to issue a replacement licence.

²⁵ On this point see also the BSB’s guidance on sanctions, see [here](#).

²⁶ See [here](#).

²⁷ The application form is [here](#).

²⁸ See [here](#).

²⁹ OFSI FAQ 79. See [here](#).

30. Barristers, arbitrators and mediators should be aware that, even where licences are in place, payment difficulties may be encountered in practice when acting for a client who is sanctioned or there is otherwise a sanctions concern. Fees are at risk on this basis until a payment route has been agreed, including by the banks who will need to process the payments.

Prohibitions on legal services

31. Barristers should consider whether providing legal advice in any particular case is prohibited by UK sanctions for any reason and may require a licence.

32. In particular, the Russia Regulations impose a prohibition on “legal advisory services”, which is a trade measure, such that licences in respect thereto are provided by the DBT (and not OFSI).

33. Note that the introduction of the legal advisory services prohibition generated confusion as to whether lawyers could provide sanctions compliance advice. This resulted in the DBT issuing a general licence.³⁰ This was clarified by the amendment of the Russia Regulations, with effect from 6 September 2024,³¹ to make clear that, in summary, sanctions compliance advice is permitted (see the exceptions to the provision of legal advisory services at reg. 60DB of the Russia Regulations). The DBT general licence was revoked simultaneously with this amendment of the Russia Regulations.

(g) Other sanctions regimes

34. This guidance only concerns UK sanctions. However, barristers advising on UK sanctions issues should be aware of whether other sanctions regimes may apply. The two other regimes most likely to be relevant are those of the EU and the US, but there are a number of others. This is especially important for barristers who hold EU, US or other nationality; EU sanctions apply to EU citizens wherever they are.

35. Note in particular that the legal services restrictions in the EU Russian sanctions regime is different to that in the UK Russia sanctions regime.

(3) Professional obligations and Chambers systems and controls

(a) Professional obligations

³⁰ The Russia sanctions – Legal Advisory Services, General Licence.

³¹ The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2024. See [here](#).

36. All barristers are required to take reasonable steps to manage their practice in such a way to achieve compliance with legal and regulatory obligations. This includes compliance with the UK sanctions regime: see Core Duty 10 in the BSB Handbook.³²

37. Barristers' chambers also have an obligation to ensure appropriate risk management procedures are in place and are being complied with: see Rule C89.8 and C94.11 in the BSB Handbook. Critically, compliance with the UK sanctions regimes cannot be outsourced to third parties, including solicitors.

(b) Chambers systems and controls

38. Chambers should consider implementing a process to mitigate against the risk of inadvertently receiving payment in breach of a UK sanctions regime:³³

(1) New cases taken on by individual barristers should be subject to sanction checks using OFSI's screening platform.³⁴ NB: this check will only capture individuals and entities that are designated, and not individuals/entities that are controlled by designated persons so additional due diligence will be required.³⁵

(2) If the work is in an area which the barrister or clerks consider to involve an enhanced risk then further checks may be necessary. Enhanced risk factors include (but are not limited to):³⁶

(a) Jurisdiction: e.g., is there a dedicated sanctions regime for that jurisdiction (currently Iran, Iraq, Myanmar, Russia, Belarus, Afghanistan, Central African Republic, Bosnia and Herzegovina, North Korea, Democratic Republic of the Congo, Guinea, Guinea-Bissau, Libya, Mali, Sudan, South Sudan, Venezuela, Yemen and Zimbabwe); is it a jurisdiction with well-established financial links with a jurisdiction with a named regime (e.g. Moldova, Cyprus and Kazakhstan have strong economic links with Russia), or is it a jurisdiction which may be able to provide services or entities that help hide ownership?

³² "You must take reasonable steps to manage your practice, or carry out your role within your practice, competently and in such a way as to achieve compliance with your legal and regulatory obligations."

³³ See the BSB's commentary on chambers' sanctions compliance policies (dated 27 June 2023); found [here](#).

³⁴ See [here](#).

³⁵ See OFSI's guidance on ownership and control of public and private bodies by public officials, see [here](#).

³⁶ On this point see further the SRA Guidance [here](#).

(b) Nature of the individual or entity: Does the individual or entity have links with the jurisdictions identified above? Is the individual an ultra-high net worth individual?

(c) Nature of the transaction: For example, are you being asked to advise on a structure/legal arrangement which may make it more difficult to identify the individuals behind it?

(d) Sanctions in other jurisdiction: Is the individual or entity sanctioned in any other jurisdiction?

39. There is additional guidance in the NCA/OFSI Red Alert.³⁷ Chambers should consider keeping a record of checks undertaken. Other checks a chambers may consider putting in place could include: what information clerks should log on receipt of a new case; what clerks should do in relation to licences, payment, fees paid into chambers accounts; the level of KYC required; and the drafting of letters of engagement to ensure solicitor compliance with the General Licence for Legal Fees.

(c) Individual barristers' systems and controls

40. All barristers should assess their own exposure and put in place processes to check sanctions that are in force to manage any identified or anticipated risks of breaching sanctions. Barristers should familiarise themselves with the UK sanctions regime outlined in this guidance note, and keep up to date with any sanctions regulations and/or General Licences for the provision of legal services, which may be relevant to their current practice. OFSI issues alerts changes to the sanctions regime.³⁸ Barristers cannot rely on others, such as solicitors, to confirm that their clients are not designated persons subject to sanctions.

41. The BSB's Supervision Team, when reviewing policies and processes to ensure compliance, will consider the following³⁹:

- What is the risk that, in your practice, you will engage with clients that are subject to sanctions? Have you conducted a risk assessment and how is it kept up to date?
- What processes do you have in place to make yourself aware of current sanctions that are in place and how do you keep up to date with changes?

³⁷ See [here](#).

³⁸ See [here](http://www.globalsanctions.co.uk). www.globalsanctions.co.uk gives free alerts and free full subscriptions for students and academics.

³⁹ BSB's guidance on sanctions, see [here](#).

- What processes are in place to check the consolidated list of sanctions when engaging with a new client?
- Do you take a risk-based approach? For example, are there enhanced due diligence checks for clients (and their beneficial owners) from countries that are covered by the sanctions regime?
- Have you documented your policy and processes for screening clients (and their beneficial owners) and ensured that relevant persons (for example clerks that may carry out some of these processes for you) have received appropriate training?
- When are clients screened? Are any long-standing clients regularly screened where appropriate?

Important Notice

This document has been prepared by the Bar Council to assist barristers on matters of professional conduct and ethics. **It is not “guidance” for the purposes of the BSB Handbook I6.4, and neither the BSB nor a disciplinary tribunal nor the Legal Ombudsman is bound by any views or advice expressed in it.** It does not comprise – and cannot be relied on as giving – legal advice. It has been prepared in good faith, but neither the Bar Council nor any of the individuals responsible for or involved in its preparation accept any responsibility or liability for anything done in reliance on it. For fuller information as to the status and effect of this document, please see [here](#).