

**Memorandum of Understanding**

**between**

**CILEx Regulation**

**and**

**Solicitors Regulation Authority**

## **PARTIES**

1. The parties to this Memorandum of Understanding are:
  - a. CILEx Regulation and
  - b. the Solicitors Regulation Authority (SRA)

## **PURPOSE**

2. The purpose of this Memorandum of Understanding (MoU) is to provide a framework for co-operation, co-ordination and the sharing of information between CILEx Regulation and the Solicitors Regulation Authority ("SRA"). The operation of this MoU will:
  - Assist with regulatory work in the public interest
  - Ensure consumers fully understand the regulatory environment
  - Enable CILEx Regulation and the SRA to co-operate to help prevent and/or take action against dishonesty and/or serious misconduct

## **LEGAL STATUS AND EFFECT**

3. Neither CILEx Regulation nor the SRA will incur any legal liability arising solely from non-compliance with this MoU and nothing in this MoU shall be construed as requiring CILEx Regulation or the SRA to take any action which would otherwise be prohibited by law. The MoU does not create any legal right or obligation by any third party against either party and nor does it fetter the discretion of either party in its exercise of its work. Nevertheless, both the SRA and CILEx Regulation are genuinely committed to pursuing the aims and purposes of this MoU in good faith and intend to act in accordance with its terms.

## **ROLES AND RESPONSIBILITIES**

4. The SRA is the independent regulatory body established by the Law Society for the regulation of legal services by law firms and solicitors in England & Wales. The SRA's powers arise from various statutes and regulations including the Solicitors Act 1974, the Administration of Justice Act 1985, the Courts and Legal Services Act 1990, the Legal Services Act 2007 and the SRA's Handbook: <http://www.sra.org.uk/solicitors/handbook/welcome.page>
5. The SRA has statutory and rule-based powers to require the production of documents or information, such as section 44B of the Solicitors Act 1974 and section 93 of the Legal Services Act 2007.
6. The SRA may inspect material that is subject to a law firm's client's legal professional privilege (LPP) or confidentiality but may only use such material for its regulatory purposes. The SRA also protects the LPP and confidentiality of clients. LPP material will not be disclosed by the SRA to any other person other than where necessary for its regulatory purposes. Material that is not subject to LPP may be disclosable in the public interest, in the absolute discretion of the SRA, including material comprising communications in furtherance of crime or fraud.

7. The Chartered Institute of Legal Executives (CILEx) is the professional body representing Chartered Legal Executives (also known as Fellows) and individuals in other grades of CILEx membership. CILEx is an Approved Regulator under the Legal Services Act 2007 and has delegate its regulatory functions to CILEx Regulation In accordance with the Royal Charter and Bye-Laws 30 January 2012.
8. CILEx Regulation regulates on a contractual basis whereby its regulated community (Chartered Legal Executives (Fellows), CILEx Practitioners, CILEx Authorised Entitles, Associate Prosecutors and individuals in other grades of CILEx membership) signs up to adhere to the CILEx Code of Conduct, and other CILEx rules and regulations.
9. CILEx Regulation may inspect material that is subject to a law firm's client's legal professional privilege (LPP) or confidentiality but may only use such material for its regulatory purposes. CILEx Regulation also protects the LPP and confidentiality of clients. LPP material will not be disclosed by CILEx Regulation to any other person other than where necessary for its regulatory purposes. Material that is not subject to LPP may be disclosable in the public interest, in the absolute discretion of CILEx Regulation, including material comprising communications in furtherance of crime or fraud.

## **AIMS**

10. The MoU is designed to provide a framework for the co-ordination of regulatory work and as such its aims include:
  - a) Provision of a framework for lawful information sharing about the regulated community of each of the parties to this MoU, and which includes any persons or bodies applying to either party for authorisation to become a regulated body or person.
  - b) Consumer protection and redress through increased collaboration and coordination between the parties.
  - c) A coordinated approach to oversight which aims to reduce regulatory cost through the minimisation of duplication of effort.
  - d) Taking into account that absolute protection is not available at reasonable cost, where there is uncertainty and, where possible, working together to clarify which approved regulator will deal with an application for a grant out of a Compensation Fund.
  - e) Provide a framework for the co-ordination of regulatory work to help protect the financial interests of consumers in relation to PI I and compensation arrangements.

## **PRINCIPLES**

11. The regulatory objectives set out in section one of the Legal Services Act 2007 establish the key guiding principles of this MoU. Further principles are set out below to assist in a fuller understanding of how the parties will cooperate and collaborate.
12. Sharing of Information  
This MoU is guided by statutory, regulatory, common law and other considerations, duties, obligations and constraints as they apply to the sharing and disclosure of information in the operation of this MoU including the Human Rights Act 1998 and common law duties, including confidentiality, privacy and the Data Protection Act 1998 and thereafter the General Data Protection Regulation (GDPR) as saved by the EU Withdrawal Bill, UK data protection legislation and any relevant codes of conduct or certifications . Subject to being lawful and in the public interest, the parties agree to disclose relevant information to the other to enable the assessment of risk to the public such as to:
  - Minimise the risk of financial default
  - Minimise the risk of fraud or other criminality
  - Identify the risk of financial failure
  - Minimise the risk to clients
  - Ensure clients understand who is dealing with matters
  - Resolve regulatory conflicts
  - Minimise duplication
13. The appropriateness and lawfulness of sharing the information will be determined by the disclosing party on a case by case basis and is subject to the condition that the receiving party is reasonably considered able to take regulatory or other proper action upon that Information.
14. The parties agree to use the shared information, for proper purposes only, such as regulatory, disciplinary, contractual or other legal, enforcement or regulatory investigations or proceedings. The disclosing party will notify the receiving party of any restrictions on the use to which the information can be put including any restrictions as to the disclosure of the shared information to third parties.
15. The SRA may seek information from CILEx Regulation pursuant to section 44BB of the Solicitors Act 1974 or any analogous or replacement power.
16. The parties agree to share information with each other to:
  - a) Enable the risk of harm and/or detriment to the public posed by a regulated body, or person, including an applicant to be assessed and mitigated where practicable and appropriate.
  - b) Ensure that alleged criminality, misconduct or other failures can be properly investigated and decided upon by the most appropriate party.
  - c) Enable the protection of consumers' interests (financial and otherwise).

## 17. Co-ordinated Oversight and Minimisation of Duplication of Effort

The parties will co-operate where appropriate in coordinating oversight and investigation to achieve the regulatory objectives as set out in the Legal Services Act 2007.

18. Where one party identifies that the other party may have a proper interest in issues, persons or bodies subject to an investigation within its regulatory remit, the Identifying party will discuss whether exchange of Information is appropriate with the other party. Proper purposes may also include further lawful disclosure of the information such as to persons under investigation, witnesses, legal advisers, persons subject to intervention, other regulators, professional bodies, prosecuting bodies and law enforcement agencies including the police, HMRC and the National Crime Agency (or any successor body).
19. Investigations will usually be undertaken or led by the party which regulates the body, where that party has received the complaint or report first.
20. Where an Individual is regulated by the other party not taking the lead Investigation the parties will discuss and agree the most appropriate course of action to take in order to ensure that investigations are not compromised.
- 21 Each party will notify the other party of proceedings or findings against each other's regulated bodies or persons. In addition, the parties agree to lawfully disclose relevant information in relation to interventions, any other action taken, failure of a body's systems or controls, intelligence giving rise to concerns or potential concerns including fitness to practice, whether that arises from visits or contact with any other person, specific and emerging trends/risks and anything else relevant to the supervisory or regulatory functions.

## 22. Transparency

The parties will work together to ensure common and consistent standards to ensure that consumers understand about the different roles of each organisation.

## INFORMATION GOVERNANCE AND SECURITY

21. This MoU will be complemented and supported by written operational procedures which will include detailed provisions for information governance and security, including the practical exchange of information.
22. Given the confidential and sensitive nature of the information likely to be shared by the parties, at a minimum these procedures will cover:

- a) The nature and content of the information that may be shared, including how the accuracy of that information will be ensured.
  - b) Common rules for the retention and deletion of the shared information and procedures for resolving any differences between the parties.
  - c) Common technical and security arrangements and policies, including the transmission of and access to the shared information.
  - d) Data security policies and staff training.
25. The parties agree to share information using secure email and to store the shared information in a secure manner in accordance with the parties' retention policies
26. Where there is a need to make a public statement about the exchange of information, the parties agree to liaise before finalising the individual statements each party will make.

#### REVIEW AND REPORTING

27. This MoU will remain in force until terminated by either of the parties.
28. The parties will use their best endeavours to review its operation at least every three years and consult each other with a view to improving its effectiveness and to resolving any difficulties.
29. Any changes to this MoU that are agreed will be confirmed in writing by the parties and incorporated into a revised MoU.

#### RESOLUTION OF CONFLICT

30. Any Issues or difficulties will be resolved through discussion between the parties. Where issues or difficulties arise, these need to be fully documented in a format readily understood by a third party. Where necessary, issues or difficulties will be referred to senior management in the respective organisations for resolution.

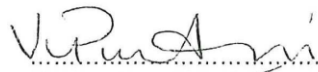
#### COMMENCEMENT DATE


31. This MoU will come into effect when signed by both of the parties.

#### PUBLICATION

32. This MoU is a public document and the parties will publish it as they see fit.

SIGNATORIES

..... for CILEx Regulation      Date 8 March ..... 2018  
Name: Victoria Purtil  
Description: Director of Authorisation and Supervision

..... for the SRA      Date 8 March ..... 2018  
Name: Carol Westrop  
Description: Head of Legal Policy, General Counsel Directorate