



The Law Society of Jersey



Memorandum of Understanding

between

the Solicitors Regulation Authority

and

The Law Society of Jersey



1. The SRA is committed to serve the public interest and protect consumers of legal services by working to achieve the appropriate public interest outcomes in the prevention, detection, investigation and prosecution of dishonesty and serious misconduct in the community regulated by the SRA.
2. In support of that aim, this MOU sets out the framework for effective liaison and communications between The Law Society of Jersey and the SRA.
3. As the statutory regulatory body for the legal profession in Jersey, the Law Society of Jersey is committed to the protection of consumers of legal services in Jersey. It regulates the conduct of advocates and solicitors of the Royal Court of Jersey and of legal services bodies recognised by the Law Society of Jersey.
4. The Parties, recognising the need for mutual co-operation between them as a means for improving their effectiveness in administering and enforcing the laws of their respective jurisdictions, have reached the understanding set out below.
5. This MOU sets out the Parties' intent with regard to cooperation and the exchange of information for the purpose of their respective functions. The Parties acknowledge that they may only provide information under this MOU if permitted or not prevented under applicable laws, regulations and other requirements.
6. The Parties recognise and respect their differing duties, operational priorities and constraints, and confidentiality requirements. However, they commit themselves to professional co-operation in preventing or taking action in relation to dishonesty or serious misconduct involving advocates, solicitors or LLPs regulated by The Law Society of Jersey and firms or solicitors regulated by the SRA.

Legal status and effect

7. Nothing in this MOU shall, or is intended to:
 - a. create any legal or procedural right or obligation which is enforceable by either of the Parties against the other; or
 - b. create any legal or procedural right or obligation which is enforceable by any third party against either of the Parties, or against any other third party; or
 - c. prevent either of the Parties from complying with any law which applies to them;
or
 - d. fetter or restrict in any way whatsoever the exercise of any discretion which the law requires or allows the Parties to exercise; or
 - e. create any legitimate expectation on the part of any person that either of the Parties to this MOU will do any act (either at all, or in any particular way, or at any particular time), or will refrain from doing any act.

Nevertheless, the Parties are genuinely committed to pursuing the aims and purposes of this MOU in good faith, and intend to act in accordance with its terms on a voluntary basis.



Roles and responsibilities

8. 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>
9. 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.
10. The SRA may inspect material that is subject to a law firm's client's 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.
11. Members of The Law Society of Jersey are obliged to co-operate with the Law Society in respect of all proper and reasonable requests for information and documentation relating to the conduct of the individual member and/or the conduct, activities, financial probity or operation of a firm or legal services body, in accordance with the provisions of The Law Society of Jersey Law 2005, The Law Society of Jersey Code of Conduct, The Law Society of Jersey Accounts Rules 2018 and The Law Society of Jersey Bye-Laws 2018. The Law Society of Jersey does not have statutory powers of intervention but may directly, or in conjunction with the Attorney General, bring a representation to the Royal Court of Jersey.

Information sharing

12. Where it is lawful and in the public interest to do so, the Parties agree to disclose information to the other:
 - a. to enable the assessment of risk to the public such as to:
 - i. minimise the risk of financial default;
 - ii. minimise the risk of fraud or other criminality; and
 - iii. identify the risk of financial failure; and
 - iv. minimise the risk to clients;
 - b. so that alleged criminality, misconduct, breach of the SRA or Law Society of Jersey Code of Conduct or principles, or other failures are properly investigated and decided upon;
 - c. to enable the proper processing of claims or applications for redress or compensation of any description; and
 - d. for the purposes of regulatory, disciplinary or other legal proceedings, whether in public or not;
- provided that the recipient is reasonably considered able to take regulatory or other proper action upon the information.



13. The recipient of information received from the other Party will:
 - a. comply at all times with Data Protection Laws and any related or analogous legislation;
 - b. keep the information secure;
 - c. use the information only for proper purposes, such as regulatory, disciplinary or other legal investigations or proceedings; and
 - d. liaise or co-operate where appropriate to avoid action that prejudices or may prejudice an investigation by another party or person.
14. Proper purposes may also include further lawful disclosure of the information such as to persons under investigation, witnesses, legal advisers, other regulators, professional bodies, prosecuting bodies, and law enforcement agencies. However, disclosure to these, or any other persons, requires the prior permission in writing of the Party that originated the disclosed information.
15. The Parties agree to ensure that disclosures to the other Party are lawful.
16. The disclosing Party also agrees to notify the recipient of:
 - a. any restrictions on the use to which the information can be put; and
 - b. any restrictions which apply to the onward disclosure of the information, and in the absence of such notification, the receiving Party may assume that there are no such restrictions (in addition to any restrictions that apply as a matter of law).

Practical exchange of information

17. To the extent permitted or not prevented under applicable laws, regulations and other requirements and consistent with their own policies and procedures, the Parties will provide, spontaneously or upon request from the other, any available information that may be relevant to the other party's functions.
18. Where a request for information is made and where it is possible to do so, a brief statement of the underlying facts justifying the request should be provided.
19. All information exchanged between the Parties should be passed via nominated SPOC. The nominated SPOCs are detailed in Appendix A.

Additional assistance

20. Either of the Parties may request additional co-operation in the following areas, and such requests shall be given due consideration:
 - a. sharing subject-matter expertise;
 - b. supplying witness statements, expert advice or oral evidence for use or potential use in court or tribunal proceedings.



Security and assurance

21. All information exchanged by the Parties will be subjected to strict controls and safeguards to ensure that the information is used only in an authorised matter and is treated in a confidential manner.
22. The Parties agree to:
 - a. only use the data for the purposes for which they have received it;
 - b. store data securely;
 - c. ensure that only people who have a genuine business need to see that data will have access to it;
 - d. report data losses or wrongful disclosure to the SPOCs;
 - e. only hold it while there is a business need to keep it;
 - f. destroy it in line with applicable guidelines; and
 - g. provide assurance that they have complied with these principles, upon request.

Compliance with legislation

23. Both Parties undertake to comply with the requirements of the relevant Data Protection Laws and Human Rights laws in the operation of this agreement.

Requests under Freedom of Information Legislation

24. The SRA is not subject to the Freedom of Information Act 2000 but operates its own Transparency Code in spirit of the Act. If a request under the FOIS is received in relation to the other Party's information then the receiving Party will inform the other Party, and invite representations on the potential impact of disclosure.

The Law Society of Jersey is not subject to the Freedom of Information (Jersey) Law 2011. Information which is subject to informal requests may be disclosed where it is in the public interest to do so and where individual data protection rights are not compromised.

Charges

25. No charges will be made in relation to the exchange of information between the Parties.

Resolving issues

26. Any issues or problems that arise between the Parties will be resolved through discussion by the SPOCs, with escalation to more senior managers where necessary.



Reporting and review arrangements

27. The Parties may, by joint written agreement, amend, relax or waive any of the terms of the MOU.
28. This MOU will continue in effect for an indefinite period unless terminated by either Party giving the other thirty days written notice of its intention to terminate the MOU: unless both parties agree to waive this requirement. If either Party gives such notice, this MOU will continue to have effect with respect to all requests for assistance that either Party had made before the effective date of termination.

Signed this 11 day of February 2019

**Neville Benbow
Chief Executive Officer
The Law Society of Jersey**

**Carol Westrop
Head of Legal Policy
Solicitors Regulation Authority**



The Law Society of Jersey



Appendix A

SINGLE POINT OF CONTACT (SPOC)

SRA

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The Law Society of Jersey

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