

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 Entities, 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 PII 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

23. 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.
24. 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.

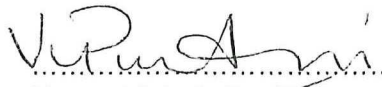
COMMENCEMENT DATE

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
Name: Victoria Purtil
Description: Director of Authorisation and Supervision

Date... 8 March2018

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

Date... 8 March2018

Switching between approved regulators protocol: the SRA and CILEx Regulation

Introduction

1. The parties to this switching protocol are the SRA and the CILEx Regulation. It sits under the overarching Framework Memorandum of understanding (FMOU) signed by the approved regulators and other professional regulators and under the bilateral MOU between the parties. Its purpose is to specifically deal with switching arrangements from one party to the other. The protocol has been agreed between the SRA and CILEx Regulation, the independent regulatory bodies of the Law Society and the Chartered Institute of Legal Executives respectively, who are both approved regulators.
2. For the purposes of this switching protocol the term 'approved regulator' is used to mean either approved regulator or licensing authority.
3. This switching protocol mirrors the terms of paragraph 3 of the FMOU and does not create any legal or procedural rights, prevent compliance with the law, fetter or restrict discretion of the parties nor create any legitimate expectations on the part of the parties to it.
4. Consumer protection arrangements including requirements for the level and scope of professional indemnity insurance ("indemnity arrangements") can be put in place by approved regulators to provide financial protection to clients of firms. These protections are overseen by the Legal Services Board.
5. The Legal Services Board has recently reviewed switching arrangements across the approved regulators. The review acknowledged that switching arrangements between regulators do not present a material risk to consumers. The findings indicated that while the level of switching remained low, the data on this was captured in an inconsistent manner. It also identified a need for greater assurance about the information sharing between regulators during the authorisation processes.
6. The aim of this switching protocol is to:
 - a. confirm the parties' responsibility for a firm's regulation and its indemnity arrangements once a firm switches regulator.
 - b. provide a framework to facilitate the switching between the parties, including the sharing of lawful information in support of the protection of consumers.
 - c. support the parties in keeping consumers informed about who regulates which individuals and firms.

Protecting the financial interests of consumers

7. This protocol recognises that:

- a. absolute protection is not achievable at reasonable cost and this is ultimately reflected in the cost of legal services to the public.
- b. indemnity arrangements differ across the approved regulators.

Responsibility for indemnity arrangements

8. Consumer protection provided by indemnity arrangements is the responsibility of the regulator authorising a firm.
9. It is the responsibility of the receiving regulator to assess all relevant risks to consumers should the switch take place and to make such enquiries as it thinks fit to satisfy itself that it can be a suitable regulator of the firm seeking to switch.
10. The receiving regulator becomes 'the regulator' upon the date that the authorisation of the firm takes effect and from that date is solely responsible for the indemnity arrangements of the firm including for historic work.
11. The receiving regulator will decide if it is necessary for the firm to take steps, as the regulator thinks fit, to notify clients of any changes to their protection.

Responsibility for compensation arrangements

12. Consumer protection provided by compensation arrangements will be dealt with under the appropriate rules of each regulator.

Handling of compensation claims between regulators

13. Issues and problems that arise between the parties will be resolved on the basis of the bilateral MOU at paragraph 30.

Sharing information

14. Where it is lawful, the parties agree to disclose information to enable the receiving regulator to assess the risk to the public and evaluate the level of consumer protection the receiving regulator will need to have in place following the proposed switch.
15. Where information is shared it is shared in accordance with paragraphs 12 - 14 and 16 of the bilateral MOU.
16. The parties agree that where bilateral protocols or the overarching MoU are amended for any regulator, that all other regulators subject to similar arrangements will aim to notify them of that change in order that consideration can be given to introducing similar arrangements into their bilateral protocols and/or MoU.



Keeping consumers informed

17. Each party agrees to take whatever steps it considers reasonable to make sure consumers are informed so they understand:
 - a) who regulates relevant individuals and firms;

- b) the protections afforded in each case
- c) where and how redress may be sought.

The date of this protocol is 8 March 2018

Signatories:

Approved Regulators	Signed on behalf of the Regulator
Solicitors Regulation Authority (the independent regulatory body of the Law Society)	 Name: Head of Regal Position: Policy & Advice
CILEx Regulation Ltd (the independent regulatory body of the Chartered Institute of Legal Executives)	 Name: Director of Authorisation Position: & Supervision

Definitions

Approved regulators are designated under Part 1 of Schedule 4 of the LSA 2007 in respect of reserved legal activities as specified in the Schedule. Approved regulators authorise individuals to carry on any reserved legal activity in respect of which it is a relevant¹ approved regulator. Approved regulators also regulate traditional entities² pursuant to the LSA 2007 and other legislation applicable to each regulator. In most cases where the Approved Regulator is also the representative body, regulatory functions are delegated to front line regulators.

Licensing authorities are permitted under the LSA 2007 to license entities known as licensed bodies which can provide reserved legal services alongside non-reserved and non-legal services. An approved regulator may be designated as a licensing

¹ An approved regulator is a 'relevant approved regulator' in relation to an activity which is a reserved legal activity of which the approved regulator is designated by Part 1, or under Part 2, of Schedule 4 to that reserved legal activity (S20(3)(a) of LSA 2007)

² Firms delivering only legal services

authority under Part 1 of Schedule 10 of the LSA 2007 in respect of its approved reserved legal activities.

Individuals are regulated personally by their own professional regulator but may be involved in an entity which itself is regulated by a different regulator being either a licensing authority or an approved regulator. In these cases, such an individual may also be regulated by the entity regulator.