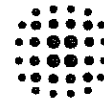




Jersey Financial  
Services Commission



Solicitors  
Regulation  
Authority

**Memorandum of Understanding**

**between the**

**Jersey Financial Services Commission**  
**(JFSC)**

**and the**

**Solicitors Regulation Authority**  
**(SRA)**



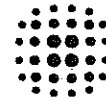
## Introduction

1. The Jersey Financial Services Commission (**JFSC**) and the Solicitors Regulation Authority (**SRA**) ("**the parties**") are committed to working together to achieve the appropriate public interest outcomes in the supervision of the businesses and individuals within the regulatory scopes of the SRA and the JFSC. In support of that aim, this memorandum of understanding ("**Memorandum**") sets out the framework for effective liaison and communications between the JFSC and the SRA.
2. The aims of this Memorandum include:
  - a. to assist both parties in their authorisation, supervision and regulation work in the public interest so far as such assistance is lawful;
  - b. to provide a framework for the lawful flow of information between the SRA and the JFSC.
3. The JFSC and the SRA recognise and respect their differing duties, operational priorities and constraints, and confidentiality requirements. However, in the public interest they commit themselves to professional co-operation in preventing or taking action in relation to dishonest or serious misconduct involving law firms regulated by the SRA or the financial services industry in Jersey, including individuals regulated by either party.

## Legal status and effect

4. Nothing in this Memorandum 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 Memorandum 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 Memorandum in good faith, and intend to act in accordance with its terms on a voluntary basis.



### Roles and responsibilities

5. 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>
6. 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.
7. 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.
8. The JFSC is a statutory body established under the Financial Services Commission (Jersey) Law 1998. The JFSC's main function is the supervision of financial services providers. This includes the supervision of banks, insurance companies, investment businesses, trust company businesses, general insurance mediation businesses, money service businesses and fund services businesses. The JFSC also operates Jersey's Registry of Companies, Limited Partnerships, Limited Liability Partnerships, Incorporated Limited Partnerships and Separate Limited Partnerships.
9. The JFSC is also responsible for supervising the compliance of financial service providers, estate agents, accountants and lawyers with their obligations under anti-money laundering and countering the financing of terrorism legislation.

### Information sharing

10. Where it is lawful and in the public interest to do so, the parties agree to assist and 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 including money laundering and the financing of terrorism; and
    - iii. identify the risk of financial failure; and
    - iv. minimise the risk to clients.



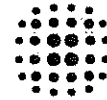
- b. so that alleged criminality, misconduct, financial unsoundness, or other failures are properly investigated and decided upon;
- c. to enable the proper processing of applications for authorisation or licence of a law firm or financial services providers or the admission or approval of an individual;
- d. to enable the proper processing of claims or applications for redress or compensation of any description; and
- e. for the purposes of enforcement, disciplinary or other legal proceedings, whether in public or not,

provided that the other party or recipient is reasonably considered able to take regulatory or other proper action upon the information and that the JFSC and the SRA will use the information solely in the exercise of their respective functions.

11. The recipient of information received from the other party ("**the receiving party**") will:
  - a. comply with the confidentiality provisions of paragraphs 23 to 25;
  - b. use the information only for proper purposes, such as regulatory, disciplinary or other legal investigations or proceedings; and
  - c. liaise or co-operate where appropriate to avoid action that prejudices or may prejudice an investigation by another party or person.
12. The parties agree to ensure that disclosures to the other party are lawful.
13. The SRA may seek information from the JFSC pursuant to section 44BB of the Solicitors Act 1974 or any analogous or replacement power.
14. The disclosing party also agrees to notify the receiving party of any conditions attached to the disclosure and, in the absence of such notification, the receiving party may assume that there are no such conditions (save those that apply as a matter of law and the conditions in paragraphs 23 and 24 as regards onward disclosure).

#### **Procedure for requests**

15. Requests for the provision of information or other assistance will be made in writing or – in urgent cases – made orally and confirmed in writing within 10 business days (or such other period as is agreed). To facilitate assistance, the party making the request ("**the requesting party**") should include in any written request:



- a. a description of the information requested (identity of persons, nature of the information sought, etc.);
  - b. If information is provided by the requesting party for confirmation or verification, the kind of confirmation or verification sought from the other party ("**the requested party**");
  - c. the purpose for which the information is sought.
16. In deciding whether, and to what extent, to fulfil a request under this Memorandum, the requested party may take into account:
- a. whether the request is lawful and conforms with this Memorandum;
  - b. whether the provision of assistance would be so burdensome as to disrupt the proper performance of the requested party's functions or otherwise prejudice the performance by the requested party of its functions;
  - c. whether it would be contrary to the public or national interest to assist.
17. Where a request for assistance is denied, the requested party shall provide reasons for not granting the assistance and consider whether there may be other assistance which could be given by itself or any other authority in its jurisdiction.

#### **Practical exchange of information**

18. All information exchanged between the parties should be passed via nominated Single Points of Contact (SPOC).
19. The nominated SPOC for the SRA is the Head of Fraud and Confidential Intelligence Bureau (FCIB) whose contact details are:
- ☎ 0121 329 6298  
✉ SRA, The Cube, 12th Floor, 199 Wharfside Street, Birmingham B1 1RN.
20. The SPOC for the JFSC is the Director of Enforcement, whose contact details are:
- ☎ 01534 822000  
✉ JFSC, PO Box 267, 14-18 Castle Street, St. Helier, Jersey JE4 8TP.

#### **Additional assistance**

21. 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;

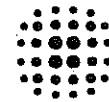
- b. supplying witness statements, expert advice or oral evidence for use or potential use in court or tribunal proceedings;
- c. assistance by way of onsite examinations.

### **Security and assurance**

22. In respect of information (data) exchanged under this Memorandum, the parties agree to:
- a. only use 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 data will have access to it;
  - d. report data losses or wrongful disclosure to the SPOCs;
  - e. only hold data while there is a business need to keep it;
  - f. destroy data in line with applicable guidelines and the parties own retention and disposal policies;
  - g. provide assurance that they have complied with these principles, upon request.

### **Confidentiality**

23. Each party will keep confidential requests made under this Memorandum, the contents of such requests, any matters arising under this Memorandum, including consultations, and unsolicited assistance. After consultation with the requesting party, the requested party may disclose the fact that the requesting party has made the request if such disclosure is required to carry out the request.
24. A party that receives non-public information under this Memorandum will only disclose that information in accordance with disclosure permitted under the laws to which the party is subject. The requested party's consent will be sought in good time before any voluntary disclosure by the requesting party to another person of information supplied under this Memorandum. The requesting party will comply with any restrictions set by the requested party on the use of information that are agreed when the information is provided.
25. In the event that a legally enforceable demand for disclosure of information supplied under this Memorandum is anticipated, the requesting party will notify the requested party of the possibility of disclosure. If there is a legally enforceable demand for information supplied under this Memorandum, the party receiving the demand will notify the party that supplied the information of the demand, unless



this is not practicable for reasons of urgency. The party receiving the demand will use all reasonable legal means to resist such a demand, including asserting such appropriate legal exemptions or privileges with respect to that information as may be available.

**Data Protection Act 2018 (DPA), Data Protection (Jersey) Law 2018 (DPL) and, Human Rights Act 1998 and Human Rights (Jersey) Law 2000 (HRA)**

26. Both parties undertake to comply with the requirements of relevant data protection laws and human rights protections in the operation of this Memorandum.

**Freedom of Information Act 2000 (Foi) and relevant regulations**

27. If a FoI request is received in relation to information supplied by the JFSC to the SRA then the SRA will inform the JFSC, and discuss what exemptions from disclosure might be available and invite representations on the potential impact of disclosure.

**Costs**

28. If the cost of fulfilling a request is likely to be substantial, the requested party may, as a condition of agreeing to give assistance under this memorandum, require the requesting party to make a contribution to the cost, although the parties will work to ensure information is disclosed to the other in the public interest.

**Resolving issues**

29. Issues and 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**

30. The parties will keep the operation of this Memorandum under review and will consult when necessary with a view to improving its operation and resolving any matters.
31. Any changes to this Memorandum shall be agreed in writing.

**Commencement and termination**


32. This Memorandum will take effect when both parties have signed it and will continue to have effect until terminated by either party giving 30 days' written notice.

33. In the event of the termination of this Memorandum, information provided under it will continue to be subject to the confidentiality provisions of paragraphs 23 to 25 above.

#### Transparency

34. This Memorandum is a public document and the parties may publish it as they separately see fit.

#### Signatories

  
..... for the JFSC  
**Name: John Everett**  
**Description: Deputy Director General**

Date 23/1/19  
.....

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

Date 5/2/19  
.....