

**Memorandum of Understanding**  
**between**  
**The Bar Standards Board**  
**and**  
**Solicitors Regulation Authority (SRA)**

## **PURPOSE**

1. The purpose of this Memorandum of Understanding ("MoU") is to provide a framework for co-operation, co-ordination and the sharing of information between the Bar Standards Board ("BSB") and the Solicitors Regulation Authority ("SRA").
2. Neither the BSB 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 the BSB 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 the BSB 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**

3. 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>
4. 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.
5. The SRA may inspect material that is subject to a law firm's client's legal professional privilege (LPP) or confidentiality by 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.
6. As the independent regulatory arm of the Bar Council, the BSB regulates barristers called to the Bar in England and Wales in the public interest. The BSB must discharge its regulatory functions subject to the requirements of the Legal Services Act 2007 and its constitution.
7. The primary role of the BSB is to regulate the Bar so as to promote high standards of practice and safeguard clients and the public interest. This is achieved by setting standards of entry to the profession and by ensuring that professional practice puts consumers first as far as is consistent with barristers' and authorised bodies' obligations under the BSB Handbook and their duty to the court.

## DEFINITIONS

**"Bar Standards Board (BSB)"** means the independent regulatory body of the Bar Council of England and Wales.

**"Information sharing"** means the transfer of information from one party to the other via electronic means, in paper records, or verbally and can include the sharing of both personalised and depersonalised information as well as non-personal information;

**"Member"** means a person who is entitled and qualified to carry on the practice of that profession and, in practising it, is subject to rules of the SRA or the BSB. The term includes those who are qualified to practise but do not hold current practising certificates.

**"Parties"** means the SRA and the BSB.

**"Regulated bodies"** means chambers, authorised bodies, including alternative business structures, applicant entities and licensable bodies.

**"Regulated persons"** means a barrister, solicitor, Registered European Lawyer, Registered Foreign Lawyer, a manager, role holder, owner, interest holder or employee of an authorised body (including a former manager or employee).

**"Applicant"** means a person in the course of an application to be a member, trainee, solicitor, Registered European Lawyer, Registered Foreign Lawyer, interest holder, owner, role holder.

**"Solicitors Regulation Authority (SRA)"** means the independent regulatory body of the Law Society of England and Wales;

## AIMS

8. Taking account of the regulatory objectives set out in the Legal Services Act 2007, the aims of this MoU include to:
  - a. provide a framework for lawful information sharing about members, regulated bodies and persons or bodies applying to either party for authorisation to be a regulated body or member;
  - b. increase consumer protection and redress through increased collaboration and co-ordination between the parties; and
  - c. agree a co-ordinated approach to oversight which aims to reduce regulatory cost through the minimisation of duplication of effort

## PRINCIPLES

9. The regulatory objectives in 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 co-operate and collaborate.

### 10. **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 Data Protection Act 1998, the Human Rights Act 1998 and common law duties, including confidentiality and privacy.

11. 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 recipient is reasonably considered able to take regulatory or other proper action upon that information.
12. The parties agree to use the information shared only for proper purposes, such as regulatory, disciplinary, contractual or other legal, enforcement or regulatory investigations or proceedings. The disclosing party will notify the recipient of any restrictions on the use to which the information can be put and any restrictions which apply to the onward disclosure of the information.
13. The SRA may seek information from the BSB pursuant to section 44BB of the Solicitors Act 1974 or any analogous or replacement power.
14. In this context, the parties agree to disclose information to each other to:
  - a. enable the risk to the public posed by a regulated body, member, including an applicant or a body applying for authorisation to be assessed;
  - b. ensure that alleged criminality, misconduct or other failures can be properly investigated and decided upon by the most appropriate party; and
  - c. ensure that the interests (financial and otherwise) of consumers are protected.
15. Co-ordinated Oversight and Minimisation of Duplication of Effort

The parties will co-operate where appropriate in co-ordinating oversight and investigation.
16. Where one of the parties identifies that the other may have a proper interest in issues or persons subject to an investigation within its regulatory remit, it will discuss the proposed investigation with the other party and determine whether further exchange of information is appropriate.
17. Where both parties have a proper interest in issues, regulated bodies or members, the parties will agree the most appropriate steps to deal with the matter, including but not limited to identifying the lead party or working in parallel.
18. Each party will notify the other of proceedings or findings against each other's regulated bodies or members.
19. 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**

20. 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.
21. 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; and
  - d. data security policies and staff training

## **REVIEW AND REPORTING**

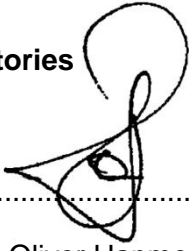
22. This MoU will remain in force until terminated by either of the parties.
23. The parties will use their best endeavours to review its operation every two years and consult each other with a view to improving its effectiveness and to resolve any difficulties.
24. Any changes to this MoU may be agreed in writing by the parties.

## **COMMENCEMENT DATE**

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

## **PUBLICATION**

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

**Signatories**

..... for BSB

Date 19/10/2015

Name: Oliver Hanmer  
Description: Director of Supervision

..... for SRA

Date 19/10/2015

Name: Carol Westrop  
Description: Head of Legal Policy, General Counsel Directorate