

# **Memorandum of Understanding**

## **between the**

# **Intellectual Property Regulation Board**

## **and the**

# **Solicitors Regulation Authority**

### **Introduction**

1. The Solicitors Regulation Authority (SRA) and the Intellectual Property Regulation Board (IPReg) are committed to working together to establish working arrangements to facilitate the operation of the Framework MOU dated 1 March 2019.
2. The aims of this Memorandum of Understanding (MOU) include:
  - a. to assist both parties in their regulatory 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 IPReg;
  - c. as far as reasonably practical, to prevent or resolve regulatory conflicts and prevent unnecessary duplication;
  - d. a mechanism for resolving complex issues and to ensure consumers are best informed of the regulatory environment.
3. IPReg and the SRA recognise and respect their differing operational priorities and confidentiality requirements. However, in the public interest they commit

themselves to professional co-operation in preventing or taking action in relation to dishonesty or serious misconduct involving those they regulate.

### **Legal status and effect**

4. 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.

### **Role of the SRA**

5. The SRA is a company (Solicitors Regulation Authority Limited) registered in England and Wales (company registration number 12608059) whose registered office is at the Cube, 199 Wharfside Street, Birmingham B1 1RN. It is the independent regulatory body responsible for the regulation of legal services by law firms and solicitors in England and 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 Standards and Regulations.
6. The SRA investigates allegations of breaches of its requirements and where appropriate makes findings and imposes disciplinary sanctions. 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.

### **Role of IPReg**

8. IPReg is a company (Intellectual Property Regulation Board Limited) registered in England and Wales (company registration number 06624948) whose registered office is at 21-27 Lamb's Conduit Street, London, England, WC1N 3GS.
9. IPReg was set up in 2010 by the Chartered Institute of Patent Attorneys (CIPA) and the Chartered Institute of Trade Mark Attorneys (CITMA) to be the independent regulatory body for the Patent Attorney and Trade Mark Attorney professions.
10. CIPA and CITMA are Approved Regulators under the Legal Services Act 2007, and in 2010 in order to separate their regulatory functions from their representational functions, they each set up a Regulation Board (a Patent Attorney Regulation Board and a Trade Mark Attorney Regulation Board) which as far as is possible act and take decisions together as the Intellectual Property Regulation Board. IPReg's powers arise from various statutes and regulations including the Copyright, Designs and Patents Act 1988, the Trade Marks Act 1994 and the Legal Services Act 2007.
11. IPReg investigates allegations of breaches of its requirements and where appropriate makes findings and imposes disciplinary sanctions. IPReg has statutory and rule-based powers to require the production of documents or information, such as section 93 of the Legal Services Act 2007.
12. IPReg 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. IPReg also protects the LPP and confidentiality of clients. LPP material will not be disclosed by IPReg 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 IPReg, including material comprising communications in furtherance of crime or fraud.

## Information sharing

13. 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) protect clients or beneficiaries (iii) minimise the risk of fraud or other criminality and (iv) identify the risk of financial failure;
- b. so that alleged criminality, misconduct, breaches of the SRA 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 receipt of the information.

14. The recipient of information received from the other party will:

- a. comply at all times with UK data protection legislation and any relevant codes of conduct or certifications
- 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.

15. 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 including the Police.

16. The parties agree to ensure that disclosures to the other party are lawful including the common law principles of confidentiality and privacy and the Human Rights Act 1998.

17. 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
- c. in the absence of such notification the receiving party will assume that there are no further restrictions except those which apply as a matter of law.

18. The parties agree that, where one party has received information from the other, they will seek consent before passing the information on to a third party, subject to any duties under any applicable laws.

### **Practical exchange of information and relevant points of contact**

19. Where matters of policy, principle or general issues that IPReg or the SRA think could pose a risk to customers or other joint interests not relating to a specific case need to be raised, the relevant point of contact at the SRA will be the Intelligence Manager of the Intelligence Unit who will liaise directly with Fran Gillon, Chief Executive Officer.

20. Where appropriate the parties will co-ordinate their regulatory work. This may include sharing the context of work by one party in relation to the other, such as potential risks to consumers and outcomes sought. Where a risk of duplication or inconsistency exists each party will work towards a resolution which best protects consumers and the general public, contains costs and ensures consistency.

21. Where the SRA and IPReg wish to communicate in respect of specific firms of solicitors that are, or could be, causing customer detriment or significantly hindering the operation of IPReg, the contact at the SRA will be the Intelligence Manager of the Intelligence Unit who will liaise directly with Shelley Edwards, Head of Registration.

### **Security and assurance**

22. The parties agree to:

- a. only use the data for the purposes for which they have received it;
- b. store the data securely;
- c. ensure that only people who have a genuine business need to see the data will have access to it;
- d. report data losses or wrongful disclosure to the relevant points of contact as detailed in paragraph 19 and to each organisation's designated data controller;
- e. only hold the data while there is a business need to keep it and in accordance with data protection legislation;
- f. destroy the data in line with retention policies; and

- g. upon request, provide assurance that they have complied with these principles.

### **Freedom of information Act 2000 (“FOIA”)**

23. IPReg is not bound by the FOIA. However, when there is a request for information from a member of the public under relevant freedom of information law (which is binding on the party receiving it or with which the receiving party wishes to voluntarily comply), the party receiving the request will inform the other party and invite representations on the potential impact of disclosure.
24. The SRA similarly is not subject to the provisions of the FOIA, however as a transparent regulator, the SRA applies its own Transparency Code in a similar way to the FOIA.

### **Costs/charges/liability**

25. No charges will be made in relation to the supply of information by either party. Neither party shall be liable to the other for any loss howsoever arising in connection with this agreement in so far as is permitted by law.

### **Resolving issues**

26. Issues and problems that arise between the parties will be resolved through discussion by the relevant points of contact as detailed in paragraph 21 with escalation to more senior managers where necessary.

### **Reporting and reviewing arrangements**

27. This MOU will remain in force until terminated by either party.
28. The parties will use their best endeavours to review the operation of this MOU every three years and in line with the Framework Memorandum of Understanding.
29. Any changes to this MOU must be agreed in writing.

### **Transparency**

30. Each regulator agrees to keep relevant consumers fully informed so as to ensure they understand:
  - a. who regulates relevant individuals and entities;
  - b. the protections afforded in each case, including any limitations of protection;
  - c. to which regulator complaints should be addressed; and
  - d. where redress may be sought.

31. This MOU is a public document, and the parties may publish it as they separately see fit.

**Signatories**

**Name: Fran Gillon.....for IPReg**

**Title:**



**Signed:**

**Date: 19 May 2023**

**Name: Andrew Turton.....for the SRA**

**Title: Director of Risk and Information Governance**

**Signed:** 

**Date: 3 May 2023**

