

MEMORANDUM OF UNDERSTANDING (MoU)

Between

The Solicitors Regulation Authority

And

Gambling Commission

1 Introduction

- 1.1 This agreement is between the Gambling Commission (the Commission) and the Solicitors Regulation Authority (the SRA).
- 1.2 The scope of this agreement is to achieve a common understanding and set of standards where the parties can:
 - promote a common understanding of, and co-operation between, both parties in support of their legitimate interests;
 - share information effectively in support of their legitimate roles and responsibilities and ensure appropriate consultation on matters of mutual interest.
- 1.3 The Commission is an independent, non-departmental public body, sponsored by the Department for Culture, Media and Sport (DCMS). Under the Gambling Act 2005 (GA 2005) the Commission regulates all gambling in Great Britain, apart from spread betting, in partnership with local Licensing Authorities. It does so in the public interest and through its statutory licensing objectives to:
 - prevent gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime;
 - ensure that gambling is conducted in a fair and open way;
 - protect children and other vulnerable persons from being harmed or exploited by gambling
- 1.4 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>
- 1.5 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.
- 1.6 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.
- 1.7 Nothing in this Memorandum of Understanding shall, or is intended to:

- create any legal or procedural right or obligation which is enforceable by either of the parties against the other; or
- 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
- prevent either of the parties from complying with any law which applies to them; or
- fetter or restrict in any way whatsoever the exercise of any discretion which the law requires or allows the parties to exercise; or
- create any legitimate expectation on the part of any person that either of the parties to this Memorandum of Understanding will do any act (either at all, or in any particular way, or at any particular time), or will refrain from doing any act.

1.8 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.

2 Information sharing

2.1 Legal obligations

2.1.1 To fulfil the above described roles effectively the parties agree to share information with each other where lawful to support their legitimate roles and responsibilities.

2.1.2 Where it is lawful and in the public interest to do so, the parties agree to disclose information to the other to enable the assessment of risk to the public such as to minimise the risks associated with gambling. The parties do so provided the recipient is reasonably considered able to take regulatory or other proper action upon the information.

2.1.3 The recipient of information received from the other party will:

- a) comply at all times with the General Data Protection Regulation (GDPR) and as later saved by the EU Withdrawal Bill, the Data Protection Act 2018, any relevant codes or conduct or certifications along with any related or analogous legislation including part 4 of Schedule 1 of the DPA where appropriate;
- b) comply at all times with the Human Rights Act 1998 and the common law principles of LPP, confidentiality and privacy.
- c) keep the information secure;
- d) use the information only for proper purposes, such as regulatory, criminal, disciplinary or other legal investigations or proceedings; and
- e) liaise or co-operate where appropriate to avoid action that prejudices or may prejudice an investigation by another party or person.

2.1.4 The Commission and the SRA are supervisory authorities under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. They may exchange information held relevant to their functions under these Regulations, provided the disclosure is made for purposes connected with

the effective exercise of the functions of either supervisory authority under these Regulations.

2.2 Data protection

2.2.1 Where lawful the parties may:

- Share general personal data by application of article 6(1)(e) of the General Data Protection Regulation (GDPR) and S8 of the Data Protection Act 2018 (DPA).
- Share special category data by application of article 9 of the GDPR along with a condition in Part 2 Schedule 1 of the DPA.
- Share personal criminal offence data by application of article 10 (in addition to article 6(1)(e)) of the GDPR along with a condition in Part 2 of Schedule 1 or para 33 Part 3 (for example for the purpose of prosecution functions in the substantial public interest) of schedule 1, as appropriate.
- Share information for the purposes set out in S52 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 in the application of the public interest test at common law.

2.3 Legal Gateways

2.3.1 S30(4) of the Gambling Act 2005 permits the provision of information received by the Commission in exercise of its functions to other parties for the purpose of a criminal investigation or criminal proceedings.

2.3.2 The legal gateway provided by S.30(4) does not override restrictions established by other Acts or common law and the further use or sharing of information provided by another body may be prohibited.

2.3.3. S52 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 states:

(1) A supervisory authority may disclose to a relevant authority information it holds relevant to its supervisory functions, provided the disclosure is made for the purposes connected with the effective exercise of -

(a) the functions of the relevant authority under these Regulations;

(b) the functions of the law enforcement authority; or

(c) in the case of an overseas authority, the functions provided for in the fourth money laundering directive, or equivalent functions.

(2) Information disclosed to a relevant authority under paragraph (1) may not be further disclosed by that authority, except—

- (a) in accordance with paragraph (1);
- (b) by the FCA to the PRA, where the information concerns a PRA-authorized person or a person who has a qualifying relationship with a PRA-authorized person;
- (c) in the case of an overseas authority, in accordance with any conditions imposed on further disclosure of that information by the supervisory authority which disclosed that information to the overseas authority;
- (d) with a view to the institution of, or otherwise for the purposes of, any criminal or other enforcement proceedings; or
- (e) as otherwise required by law.

2.4 The information sharing process

- 2.4.1 This process will not usually cover information that is already in the public domain.
- 2.4.2 The parties agree to share relevant information both pro-actively, i.e. where one party identifies information that is relevant to the others role, and reactively, i.e. in response to a request where one party believes the other holds information relevant to their role.
- 2.4.3 No electronic or non-electronic pro-forma shall be required for the exchange of information unless specified by either party.
- 2.4.5 Any specific technical and customary standards for the packaging, transmission, recording and reading of exchanged information shall be explicitly stated, otherwise standard commercial solutions shall be applied.
- 2.4.6 The Commission handles information in accordance with the United Kingdom government's Security Classification Policy and all marked information shall be handled in accordance with this criterion. Information not marked should be considered as 'OFFICIAL'.
- 2.4.7 Where other protective marking systems are used, the relevant parties shall agree common marking and handling guidelines.
- 2.4.8 The receiving party will verify that the request is lawful and compliant with this agreement and:
 - Provide the required information where it exists in the agreed format promptly, or
 - Provide a negative response where the information does not exist, or
 - Refuse the request and provide an explanation for refusal.
- 2.4.9 Requests will normally be fulfilled within 5 working days unless otherwise required.
- 2.4.10 Requests should be made to, and be authorised by, the designated Information Sharing Single Points of Contact (SPOCs) of both parties.
- 2.4.11 Shared information must not be further disclosed to any other party or used for a purpose alternative to any one stated without the consent of the originating agency.
- 2.4.12 Both parties will ensure that shared information is as accurate, up to date and adequate for the purpose disclosed.

2.4.13 Exception to this process shall only be permitted where they are agreed to by both parties, there is a clear requirement (e.g. time-sensitive operations) or harm or injury could occur otherwise.

2.5 Information storage

2.5.1 Both parties agree that shared information should only be retained for the period necessary to achieve the objectives of the disclosure.

2.5.2 Both parties will ensure that received information is attributable and traceable to the other by marking or referencing.

2.5.3 Both parties shall apply security controls to all processing of shared information including transmission, storage and destruction and that personal data shall be protected.

2.5.4 Both parties will ensure that staff handling protectively marked material are appropriately trained and vetted.

3 Management of the agreement

3.1 The day-to-day responsibility for control and management of this agreement, and resolution of issues arising from its operation will be:

Gambling Commission:

Robert Bradford, Intelligence Unit Manager
0121 230 6552
intelligencereports@gamblingcommission.gov.uk

SRA
Christopher Hall
Intelligence Team Leader
0121 329 6106
Christopher.Hall@sra.org.uk

3.2 Where issues cannot be resolved they may be escalated to

Gambling Commission:

Luke Traat, Information Manager
0121 237 4328
ltraat@gamblingcommission.gov.uk

Ann Marie Keeling
Senior Legal Consultant
0121 329 6447
Ann.Keeling@sra.org.uk

- 3.3 In the absence of these persons other, responsible individuals may be delegated.
- 3.4 Where appropriate, both parties will promote and advance this agreement internally.
- 3.5 Where members of the public have cause for complaint against activities generated by the operation of this agreement, any complaint received by either of the parties to the agreement should be forwarded to the other for consideration.
- 3.6 This agreement will be reviewed every three years.
- 3.7 Either party may cancel this notice by giving the other party 30 days notice in writing.

Freedom of Information (Fol) Act 2000

- 3.8. If a Fol request 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.
- 3.9 Both parties acknowledge that the SRA is not subject to the provisions of the Fol, however, as a transparent regulator the SRA applies its own SRA Transparency Code in a similar way to the Fol.

Costs/charges

- 3.10 No charges will be made.

Additional assistance

- 3.11 Either party may request additional co-operation in sharing subject-matter expertise, supplying witness statements, expert advice or oral evidence for us or potential use in court or tribunal proceedings. Such requests shall be given due consideration.

Transparency

- 3.12 This memorandum is a public document and the parties may publish it as they separately see fit.

4 Authorisation of the MOU

- 4.1 This agreement formalises the arrangements for joint operations, and the sharing of information between the Commission and the SRA. Both Parties agree to abide by the terms of this Agreement.

Signed:



For the Commission
Neil McArthur
Chief Executive



9 July 2019

Signed:
For the **SRA**
Carol Westrop
Head of Legal Policy
General Counsel Directorate