

MEMORANDUM OF UNDERSTANDING

(MOU)

between

THE LEGAL SERVICES COMMISSIONER (the LSC)

and

THE COMMISSIONER FOR FAIR TRADING (the OFT)

BACKGROUND AND PURPOSE

- The LSC is responsible for dealing with complaints about lawyers and the provision of legal services under the *Legal Profession Act 2007*.
- The OFT is responsible for dealing with complaints under the *Australian Consumer Law (Qld)* (the ACL), including complaints about lawyers and the provision of legal services.
- The ACL is 'generic' consumer protection legislation. The LPA is specialist legislation directed solely to the regulation of lawyers and the provision of legal services and related matters.
- The ACL sits side by side with and overlaps with the LPA. Importantly, it will rarely if ever be the case that the conduct of a law practice, lawyer or law practice employee which contravenes the ACL does not at the same time contravene the law practice's, the lawyer's or the law practice employee's professional or service obligations under the LPA and the common law.
- The parties agree to share information we each obtain in the course of exercising our respective responsibilities under the ACL and the LPA. The purpose of this MOU is to document that agreement.

REFERRAL OF COMPLAINTS AND CONSULTATION

- The OFT will refer inquiries and complaints about law practices, lawyers, law practice employees and unlawful operators to the LSC for mediation and/or investigation under the LPA and enforcement action as appropriate. [**Note:** *unlawful operators are people who engage in legal practice as if they are solicitors or barristers when they are not, and people who represent or advertise themselves to be entitled to engage in legal practice as if they are solicitors or barristers when they are not.*]
- The OFT will share with the LSC any information about law practices, lawyers, law practice employees and unlawful operators obtained during OFT investigations and enforcement actions.

- The LSC will share with the OFT information about any matters which arise in the exercise of the LSC's responsibilities under the LPA and which:
 - appear to involve a contravention of the ACL and cannot be satisfactorily resolved under the LPA; or
 - appear to raise issues of a 'test case' nature about the application of the ACL to law practices, lawyers, law practice employees and unlawful operators; or
 - demonstrate systemic conduct by law practices, lawyers, law practice employees or unlawful operators that contravenes the ACL.
- The parties will respond promptly to any request for information either party may make of the other.
- The parties will each nominate a contact officer for the purposes of this MOU.

COORDINATION AND ENFORCEMENT

- The parties may agree to cooperate in joint investigations. If that occurs, the parties will give each other advice about their respective statutory and regulatory powers to ensure that the investigation is conducted effectively and efficiently and is well coordinated.
- The parties will keep each other fully informed about their investigation plans, the progress of and the outcomes of any joint investigation or enforcement action.

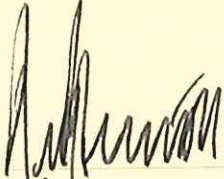
PRIVACY

- The parties will share information fully and freely but will comply with their respective statutory obligations in relation to privacy and non-disclosure.

LEGAL STATUS

- The parties enter into this MOU in good faith but it is not a contract and does not create any legally binding obligations.
- The parties may vary the MOU by agreement in writing.

SIGNED FOR AND ON BEHALF OF THEIR RESPECTIVE AGENCIES BY


 John Briton
 Legal Services Commissioner

Date 30/11/11



David Ford
 Commissioner for Fair Trading

Date 30.11.11