

Laceys Solicitors LLP (Laceys Solicitors LLP)

5 Poole Road, Bournemouth , BH2 5QL

Recognised body

592116

[Agreement Date: 26 May 2023](#)

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 26 May 2023

Published date: 30 May 2023

Firm details

Firm or organisation at date of publication

Name: Laceys Solicitors LLP

Address(es): 5 Poole Road, Bournemouth

Firm ID: 592116

Outcome details

This outcome was reached by agreement.

Decision details

Agreed outcome

Laceys Solicitors LLP (the Firm), a recognised body, agrees to the following outcome to the investigation of its conduct by the Solicitors Regulation Authority (SRA):

- it is fined £4,250.00 under Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules
- to the publication of this agreement, under Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules
- it will pay the costs of the investigation of £1350, under Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Procedure Rules.

Summary of Facts



The SRA carried out an investigation into the firm following a report from the beneficiary of an estate. The report raised concerns that the firm had acted in an own interest conflict and failed to advise its clients to obtain independent legal advice when an error had occurred.

The firm was instructed to divide a property into two separate titles. This property consisted of a house and adjacent land. The instructions were to separate the land from the house and its curtilage. This was based upon a plan the firm submitted to HMLR.

There was a subsequent dispute between the firm's client and the subsequent purchaser of the house about the boundary. In the sale the firm acted for the previous client, the seller. The sale had proceeded upon the basis of the plan the firm had previously submitted to HMLR.

The firm then acted for its client in the post-sale boundary dispute, despite this being based upon its previous work on the title division and plan.

The firm did not consider an own interest conflict had either arisen or was at risk of arising based on the information known to them at that time. Consequently, the firm continued to act and did not advise the client to take independent legal advice. Indeed, at one point the firm advised that the client should not seek other legal advice as it was not good use of estate funds given that counsel's opinion was about to be taken.

However, the client did discuss the matter with another firm and was told the firm are "doing a good job" which they relayed to the firm. The firm considered this meant the client had obtained independent legal advice at that time.

2.7 On 8 November 2016, the client expressed dissatisfaction that the situation had arisen due to the firm's error at the time of registration. The client said he did not want to make a claim against the firm. The solicitor referred the matter to the Firm's Compliance officer for legal practice ("COLP") who stated the matter should be referred to the firm's professional indemnity insurers and the client should be advised to obtain independent legal advice.

2.8 Despite this, the firm did not advise the client to take independent legal advice and continued to act in the matter.

2.9 Subsequently, the client made a professional negligence claim against the firm, which was settled without any admission of liability.

Admissions

The firm makes the following admissions which the SRA accepts:



- It acted for the Executors in an application to amend the title plan at the Land Registry in circumstances where an own interest conflict had either arisen or was at the significant risk of arising. In doing so it:
 - Breached Principles 4 and 6 of the SRA Principles 2011. And
 - Failed to achieve Outcome 3.4 of the SRA Code of Conduct 2011
- It failed to advise the Executors to obtain independent legal advice. In doing so it:
 - Breached Principles 4 and 6 of the SRA Principles 2011; and
 - Failed to achieve Outcome 1.2 of the SRA Code of Conduct 2011.

Why a fine is an appropriate outcome

The SRA's Enforcement Strategy sets out its approach to the use of its enforcement powers where there has been a failure to meet its standards or requirements.

When considering the appropriate sanctions and controls in this matter, the SRA has considered the admissions made by the firm and the following mitigation which it has put forward:

- At all times, the firm did its best to exercise professional judgement in difficult circumstances and took advice from counsel to ensure it was taking the correct steps at all times.
- The firm accepts this occurred due to an error on its part but submits that it was a genuine mistake following the exercise of its professional judgement and that it was not reckless.
- The firm is now much more alert to the risks that arise in such circumstances and for the need for them to be kept under constant review as a matter develops. The firm have shown insight into its actions meaning it is unlikely such a situation should arise again.
- It did not gain financially from its actions.
- It co-operated with the SRA investigation.

The SRA considers that a fine is the appropriate outcome because:

- The firm bore sole responsibility for the misconduct occurring
- The firms' actions showed a failure to comply with its regulatory obligations.
- The firm only admitted to the conduct towards the end of our investigation.

A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons because any lesser sanction would not prove a credible deterrent to the firm and others. A credible deterrent plays a key role in maintaining professional standards and upholding



public confidence. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

Amount of the fine

The amount of the fine has been calculated in line with the SRA's published guidance on its approach to setting an appropriate financial penalty (the Guidance).

Having regard to the Guidance, the SRA and the firm agree that the nature of the misconduct was low because the firm co-operated with the investigation and the conduct does not appear to form a pattern of misconduct. In addition, the conduct does not appear to have been intentional nor reckless. The Guidance gives this type of misconduct a score of one.

The SRA considers the impact of the misconduct was medium because it has had a moderate impact which continued for longer than it should have. The firm have accepted that once it recognised there was a need for advice to be given in November 2016, it ought to have acted quicker in advising the clients to take legal advice and ceasing to act. Had this been done, the impact and inconvenience would have been minimal. The Guidance gives this level of impact a score of four.

The nature and impact scores add up to five. Therefore, the Guidance recommends a broad penalty bracket of £1001 to £5000.

In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph 4.2 above which the firm has put forward.

However, this must be balanced against the fact that the firm had full culpability for the impact by letting the misconduct continue longer than it should have, indicating a fine at the top end of the bracket. In addition, the SRA must consider the time taken for remedial action to be taken the delay in recognising the misconduct. As such, the SRA considers a basic penalty of £5000, at the higher end of the bracket, is appropriate.

The SRA considers that the basic penalty should be reduced to £4250. This reduction reflects the subsequent admission of misconduct made by the firm.

The firm do not appear to have made any financial gain or received any other benefit as a result of its conduct. Therefore, no adjustment is necessary to remove this, and the amount of the fine is £4250.

Publication

The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. The firm agrees to the publication of this agreement.

Acting in a way which is inconsistent with this agreement

The firm agrees that it will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

If the firm denies the admissions or acts in a way which is inconsistent with this agreement, the conduct which is subject to this agreement may be considered further by the SRA. That may result in a disciplinary outcome or a referral to the Solicitors Disciplinary Tribunal on the original facts and allegations.

Acting in a way which is inconsistent with this agreement may also constitute a separate breach of principles 2 and 5 of the Principles and paragraph 3.2 of the Code of Conduct for Firms.

Costs

The firm agrees to pay the costs of the SRA's investigation in the sum of £1350. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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