Solicitors Regulation Authority

Oakmount Law Solicitors
114 St Helens Road, Bolton , BL3 3PJ
Recognised body
621189

Agreement Date: 30 November 2023

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 30 November 2023

Published date: 14 December 2023

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1.Agreed outcome

1.1 Oakmount Law Limited (trading as Oakmount Law Solicitors), a recognised body authorised and regulated by the Solicitors Regulation Authority, agrees to the following outcome to the investigation:

a. Oakmount Law Limited will pay a financial penalty in the sum of £3,120, pursuant to Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules
b. to the publication of this agreement, pursuant to Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules
c. Oakmount Law Limited will pay the costs of the investigation of £600, pursuant to Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Procedure Rules.

2. Summary of Facts

2.1 We carried out an investigation in to Oakmount Law Limited (the firm), following a proactive AML desk based review.

2.2 The investigation identified areas of concern in relation to the firm’s compliance with the Money Laundering, Terrorist Financing (Information

on the Payer) Regulations 2017 (MLRs 2017), the SRA Principles 2011, the SRA Code of Conduct 2011, the SRA Principles 2019 and the SRA Code of Conduct for Firms 2019.

2.3 If you are in scope of the MLRs 2017, your firm must have a documented firm-wide AML risk assessment (FWRA) in place, pursuant to Regulation 18 of the MLRs 2017.

2.4 On 26 June 2017 the MLRs 2017 came into force. The MLRs 2017 imposed additional obligations on firms working in areas of higher money laundering risk. The aim of the MLRs 2017 is to stop criminals using professional services to launder money by requiring those professionals to take a risk-based approach. The regulations require such firms to have measures to identify their clients and monitor how they use the firm's services.

2.5 Regulation 12 of the MLRs 2017 defines certain types of work to which the MLRs 2017 apply. Firms carrying out those types of work ('in-scope' firms) must comply with the MLRs 2017. This applies to the firm because since the MLRs 2017 came into force, the firm has and continues to undertake conveyancing, which is in scope of the Regulations and forms the majority area of practice for this firm (95% of turnover for 2023-2024 – 51% residential property and 44% commercial property).

2.6 Regulation 18 of the MLRs 2017 requires in-scope firms to carry out a risk assessment to identify and assess the business' risks of money laundering and terrorist financing (the firm-wide risk assessment - FWRA). A FWRA must consider information published by the Government, us, address statutory risk factors and be appropriate to the size and nature of the business.

2.7 Regulation 19(1)(a) of the MLRs 2017 requires the firm to have up to date anti-money laundering Policies, Controls and Procedures (PCPs) to mitigate and manage the risks of money laundering and terrorist financing.

2.8 In 2022 our AML desk-based review was conducted by our AML Proactive Supervision team. This identified several AML control failings which were outlined in our letter to the firm on 24 August 2022. Some of the failings related to the firm's FWRA and PCPs. This resulted in a referral to our AML Investigations team.

2.9 In a questionnaire that was completed by the firm on 25 February 2022 it admitted that, up until 16 February 2022 it had been using a client and matter risk assessment as its FWRA. On review of this document, it does not meet the requirements of Regulation 18 of the MLRs 2017, as it is not tailored to the firm and does not address the key risk factors as set out in Regulation 18(2)(b) of the MLRs 2017.

2.10 The firm confirmed in the questionnaire that as of 16 February 2022 it updated its FWRA to a far more comprehensive document. A FWRA dated June 2022 was provided to our AML Proactive team for review and we were generally satisfied with this document.

2.11 The firm has admitted that its PCPs were first drafted on 16 February 2022. The desk-based review found that these were not compliant, as they did not include details of how the firm assesses and mitigates the risks associated with new products and business practices. Further guidance was provided to the firm on other topics that were also missing or not addressed in sufficient detail. It was recommended that the firm incorporate the missing criteria.

2.12 The firm provided an updated version of its PCPs dated 5 January 2023. These PCPs now meet the requirements of Regulation 19 of the MLRs 2017.

3. Admissions

3.1 By failing to comply with the MLRs 2017, Oakmount Law Limited makes the following admissions, which the SRA accepts:

From 26 June 2017 to 25 November 2019 (when the SRA Handbook 2011 was in force), the firm has breached:

a. Principle 6 of the SRA Principles 2011 – which states you must behave in a way that maintains the trust the public places in you and in the provision of legal services.
b. Principle 8 of the SRA Principles 2011 – which states you must run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial risk management principles.
   And the firm has failed to achieve:
c. Outcome 7.2 of the SRA Code of Conduct 2011 – which states you have effective systems and controls in place to achieve and comply with all the principles, rules and outcomes and other requirements of the Handbook, where applicable.
d. Outcome 7.5 of the SRA Code of Conduct 2011 – which states you comply with legislation applicable to your business, including anti-money laundering and data protection legislation. And from 25 November 2019 (when the SRA Standards and Regulations came into force) until January 2023, the firm has breached:
e. Principle 2 of the SRA Principles 2019 – which states you act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.
f. Paragraph 2.1(a) of the SRA Code of Conduct for Firms – which states you have effective governance structures, arrangements, systems and controls in place that ensure you comply with all the

SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, which apply to you.

4. Why a fine is an appropriate outcome

4.1 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.

4.2 When considering the appropriate sanctions and controls in this matter, the SRA has taken into account the admissions made by the firm, and the following mitigation put forward:

a. The firm took urgent steps to rectify the non-compliant documents and is now fully compliant with the MLRs 2017.
b. The firm has cooperated with the SRA's AML teams.

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

a. the agreed outcome is a proportionate outcome in the public interest because it creates a credible deterrent to others and the issuing of such a sanction signifies the risk to the public, and the legal sector, that arises when solicitors do not comply with anti-money laundering legislation and their professional regulatory rules.
b. there has been no evidence of harm to consumers or third parties and there is now a lower risk of repetition since the firm brought itself into compliance in January 2023.
c. the firm recognises that it failed in its basic duties regarding statutory money laundering regulations and regulatory compliance, as identified during our desk-based review and subsequent investigation.

4.4 A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. There is nothing within this Agreement which conflicts with what is stated in Rule 4.1 and on that basis a financial penalty is appropriate.

5. Amount of the fine

5.1 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).

5.2 Having regard to the Guidance, the SRA and the firm agree that the nature of the misconduct was more serious (score of three) because although there was no direct loss to clients, the firm's failure to ensure it had proper AML controls and documentation in place, for around five to six years since the MLRs 2017 came into force, put it at greater risk of being used to launder money, particularly when acting in conveyancing

transactions. The nature of conveyancing is considered high-risk, owing to the risk of abuse of the system by criminals. This left the firm at risk of being used to launder money and in turn increased the risk of harm. The Guidance gives this type of misconduct a score of three.

5.3 The SRA considers that the impact of the misconduct was medium (score of four) because the firm failed to ensure it had fully compliant FWRA and PCPs in place on 26 June 2017, in breach of Regulations 18 and 19 of the MLRs 2017. The firm failed to ensure that it was fully compliant with its statutory obligations until June 2022 and January 2023 respectively, though it is acknowledged (and justifying an assessment of 'medium' as opposed to 'high') that some documents were in place earlier, albeit they were inadequate. The Guidance gives this level of impact a score of four.

5.4 The firm has an annual domestic turnover of £243,865. The nature and impact scores add up to seven (three plus four), placing the misconduct in the penalty bracket Band "C". Therefore, the Guidance recommends a broad penalty bracket of C1 (£3,900) to C5 (£7,800) [which equates to 1.6% to 3.2% of annual domestic turnover respectively].

5.5 The SRA considers a basic penalty of £3,900 (C1) to be appropriate. I am not aware of any aggravating factors that would increase the penalty band within the broad penalty bracket. Band C1 determines a basic penalty of 1.6% of annual domestic turnover.

5.6 The SRA considers that the basic penalty should be reduced by 20% to £3,120. The reduction reflects the admissions made by the firm, the steps the firm took to ensure compliance with the regulations, the firm's cooperation with us and the appetite of the firm and the SRA to seek a resolution to the matter now.

5.7 The firm does 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 £3,120.

6. Publication

6.1 Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules states that any decision under Rule 3.1 or 3.2, including a Financial Penalty, shall be published unless the particular circumstances outweigh the public interest in publication.

6.2 The SRA considers it appropriate that this agreement is published, as there are no circumstances that outweigh the public interest in publication, and it is in the interests of transparency in the regulatory and disciplinary process to do so.

7. Acting in a way which is inconsistent with this agreement

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

7.2 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.

7.3 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.

8.Costs

8.1 The firm agrees to pay the costs of the SRA's investigation in the sum of £600. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

The date of this Agreement is 30 November 2023.

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