Solicitors Regulation Authority

Henry Moorhead & Company (Henry Moorhead & Company)

2 Stade Street, Hythe , CT21 6BD
Recognised sole practitioner
565665

Agreement Date: 10 April 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 10 April 2024

Published date: 26 April 2024

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Henry Moorhead & Company (the Firm), a recognised sole practice agrees to the following outcome to the investigation of its conduct by the Solicitors Regulation Authority (SRA):

a. it is fined £3,620.
b. to the publication of this agreement.
c. it will pay the costs of the investigation of £600.

2. Summary of Facts

2.1 We carried out an investigation into the firm following an inspection by our AML Proactive Supervision team.

2.2 Our inspection 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.

Firm-wide risk assessment (FWRA)

2.3 The firm did not have in place a documented FWRA between 26 June 2017 and 5 May 2022, in breach of Regulation 18 of the MLRs 2017. Between 6 May 2022 and 7 September 2023, the firm failed to have in place an appropriate FWRA.

2.4 The firm is required to have a FWRA which includes details of the firm's assessment of money laundering risks in five key areas. The firm failed to have in place a documented FWRA until 6 May 2022. The FWRA that was introduced on 6 May 2022 was not compliant with the MLRs 2017, as it had not been tailored to the firm and required further detail on the five required areas.

2.5 On 8 September 2023, an updated FWRA was provided to us which is compliant with Regulation 18 of the MLRs 2017. The document is dated 7 September 2023.

Policies, controls and procedures (PCPs)

2.6 Between 26 June 2017 and 5 May 2022, the firm failed to establish and maintain PCPs, which mitigate and effectively manage the risks of money laundering and terrorist financing, and regularly review and update them, in breach of Regulation 19 of the MLRs 2017.

2.7 The PCPs provided to us as part of the inspection were not compliant with the MLRs 2017, as they did not cover multiple mandatory areas set out in the regulations.

2.8 The firm provided a copy of its updated AML PCPs, which were dated 7 September 2023. These documents are compliant with Regulation 19 of the MLRs 2017.

Training

2.9 Between 26 June 2017 and 4 June 2023, the firm failed to take appropriate measures to ensure its relevant employees were given training in how to recognise and deal with transactions, and other activities or situations, which may be related to money laundering or terrorist financing, as required by Regulation 24 of the MLRs 2017.

2.10 During the inspection we identified some members of staff at the firm that would fall into the definition of a relevant employee under the MLRs 2017. However, we were informed that the Registered Sole Practitioner Mr Henry Moorhead was the only member of staff that had received Anti-Money Laundering (AML) training.

2.11 On 8 September 2023 we were provided with the firm's training records showing that training for relevant employees commenced on 5

June 2023, which satisfies the firm's obligations under Regulation 24 of the MLRs 2017.

3. Admissions

3.1 The firm admits, and the SRA accepts, that by failing to comply with the MLRs 2017:

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 that 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 September 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 2019 – 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.
g. Paragraph 3.1 of the SRA Code of Conduct for Firms 2019 – which states that you keep up to date with and follow the law and regulation governing the way you work.

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:

a. The Firm acted 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 Proactive and Investigations teams.

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

a. The conduct showed a disregard for statutory and regulatory obligations and had the potential to cause harm, by facilitating dubious transactions that could have led to money laundering (and/or terrorist financing). This could have been avoided had the firm established adequate AML documentation and controls.
b. It was incumbent on the firm to meet the requirements set out in the MLRs 2017. The firm failed to do so. The public would expect a firm of solicitors to comply with its legal and regulatory obligations, to protect against these risks as a bare minimum.
c. 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.

4.4 Rule 4.1 of the Regulatory and Disciplinary Procedure Rules states that a financial penalty may be 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 Rule 4.1 of the Regulatory and Disciplinary Rules 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, we and the firm agree that the nature of the misconduct was more serious because although there was no direct loss to clients, the firm's failure to ensure it had proper documentation in place for over six years shows a persistent disregard of the firm's regulatory obligations. This is more serious given the lack of AML training at the firm and the fact that the firm did not take steps to action the guidance received from the AML Proactive Supervision team for over 10 months. The Guidance gives this type of misconduct a score of three.

5.3 The SRA considers that the impact of the misconduct was medium because the firm's conduct left it vulnerable to the risks of money laundering, 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. The firm left itself without effective arrangements in place to manage compliance with the MLRs 2017 for a period of over six years, which would diminish the public's trust in the firm and the wider legal profession. The Guidance gives this level of impact a score of four.

5.4 The firm has an annual domestic turnover of £167,613. The nature and impact scores add up to seven. Therefore, the Guidance recommends a broad penalty bracket of £2,681 to £5,363 which equates to 1.6% to 3.2% of annual domestic turnover.

5.5 We recommend a financial penalty in Band C3. This is aggravated as the firm did not have any documentation in place until 2022 and the documentation was then not compliant with the MLRs 2017 until September 2023, over six years after the MLRs 2017 came into force. It is accepted that there was minimal impact to the files we reviewed despite the lack of AML controls. Band C3 determines a basic penalty of 2.4% of annual domestic turnover amounting to £4,023.

5.6 In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph 4.2 above. We consider that the basic penalty should be reduced by 10% to £3,620.

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 £3,620.

6. Publication

6.1 We consider 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.

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 our investigation in the sum of £600.

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