Solicitors Regulation Authority

Devonalds (Devonalds)
Ty Caradog, 13 Courthouse Street, Pontypridd , CF37 1JW
Recognised body
210361

Agreement Date: 20 July 2023

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 20 July 2023

Published date: 1 August 2023

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Devonalds, a recognised body, authorised and regulated by the Solicitors Regulation Authority (SRA), agrees to the following outcome to the investigation:

a. Devonalds will pay a financial penalty in the sum £2,000, under Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules
b. to the publication of this agreement, under Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules
c. Devonalds 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.

Reasons/basis

2. Summary of Facts

2.1 We carried out an investigation into Devonalds (the firm) following a proactive AML inspection.

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 The firm failed to have in place an AML practice-wide (firm-wide) risk assessment, as required by Regulation 18 of the MLRs 2017, until 26 March 2021 and therefore failed to have sufficient regard for the SRA's warning notice (first issued on 7 May 2019 and updated on 25 November 2019) on this topic.

2.4 The firm incorrectly made a declaration to us on 3 February 2020 that it had a firm-wide risk assessment which was compliant with Regulation 18 and in line with relevant guidance, when it did not. The MLRs 2017 set out five key risk areas which must be assessed. The firm had no documented risk assessment, and therefore had failed to assess any of those key areas as detailed below:

- its customers,
- the countries or geographic areas in which the firm operates,
- the products or services which the firm provides,
- how the firm's products and services are delivered, and
- its transactions.

2.5 The risks associated with conveyancing and controlling client money, a significant area of work for the firm accounting for around half of its fee income, should have been addressed in a firm-wide risk assessment. Conveyancing is a high risk area, likely to be targeted by criminals and firms are directed to take this into account by considering the HM Treasury National Risk Assessment of Money Laundering and Terrorist Financing (issued December 2020) and the SRA's Sectoral Risk Assessment (dated 28 January 2021).

2.6 In addition, the lack of a firm-wide risk assessment also showed a failure to have sufficient regard for the Legal Sector Affinity Group guidance (first the 2018 and latterly the 2021 guidance), our sectoral AML risk assessment and the warning notice.

3. Admissions

3.1 The firm admits, and we accept, that by failing to comply with money laundering legislation up to 26 March 2021 (when the firm brought itself into compliance with Regulation 18 of the MLRs 2017), the firm has:

From 26 June 2017 to 25 November 2019 (when the SRA Handbook 2011 was in force)

a. failed to behave in a way that maintains the trust the public places in the firm and in the provision of legal services, in breach of

Principle 6 of the SRA Principles 2011.

b. failed to carry out the business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SRA Principles 2011.
c. failed to achieve Outcome 7.2 of the SRA Code of Conduct 2011 (the Code) – 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. failed to achieve Outcome 7.3 of the Code – which states you identify, monitor and manage risks to compliance with all the Principles, rules and outcomes and other requirements of the Handbook if applicable to you and take steps to address issues identified.
e. failed to achieve Outcome 7.5 of the Code, which states you comply with legislation applicable to your business, including anti-money laundering and data protection legislation.

From 25 November 2019 (when the SRA Standards and Regulations came into force) to 26 March 2021:

f. failed to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons, in breach of Principle 2 of the SRA Principles 2019.
g. failed to comply with all of the SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, in breach of Rule 2.1 of the SRA Code of Conduct for Firms 2019.
h. failed to keep up to date with and follow the law and regulation governing the way you work, in breach of Rule 3.1 of the SRA Code of Conduct for Firms 2019.

4. Why the agreed outcome is appropriate

4.1 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).

4.2 This could have been avoided had the firm established an adequate practice-wide (firm-wide) risk assessment prior to 26 March 2021.

4.3 It was incumbent on the firm to meet the requirements in the regulations. 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. This is reinforced by the warning notices we have issued, to alert the profession and those acting in-scope of the MLRs 2017, to play their part in preventing and detecting money laundering and terrorist financing.

4.4 The lack of compliance showed an AML control environment failing at the firm, and

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.
c. The firm has assisted the SRA throughout the investigation, admitted the breaches and has shown remorse for its actions.
d. The firm did not financially benefit from the misconduct.
e. The firm recognises that it failed in its basic duties regarding statutory money laundering regulations and regulatory compliance, as identified during our inspection.

4.5 Rule 4.1 of the SRA 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 what is stated in Rule 4.1 and on that basis a financial penalty is appropriate.

4.6 In deciding the level of the financial penalty reference is made to The SRA's Approach to Setting an Appropriate Financial Penalty (first issued in August 2013 and updated in July 2022). Further updates to this guidance were published by us on 30 May 2023, which gave us greater fining powers.

4.7 For the purposes of this agreement, we continue to use the July 2022 guidance. This is because our negotiations started before the commencement of the increased fining powers. To adjust the fine now, at this late stage in the negotiations would be unfair. Our decision is to continue on the July 2022 guidance, to bring this matter to a timely and proportionate end.

Following the three-step fining process, the SRA has determined the following:

a. The nature of the misconduct is high. The firm's failure to ensure that it was compliant may not have been intentional at first, but when completing the declaration, the firm knew or ought to have known that the firm-wide risk assessment needed to be completed. Despite knowing this, the misconduct continued for a significant period after it was known to be improper. For these reasons, the nature of the firm's misconduct was high, giving a nature score of three (3).
b. The harm or risk of harm is low. While there is no evidence that any clients were directly affected by the firm's failure to have the proper

risk assessment in place, the risk assessment is necessary to safeguard against the firm being used to facilitate money laundering. Therefore, the conduct had the potential to cause risk of harm to others (impact score two (2)).

The associated 'Conduct band' is "B", owing to the total score of five (5), giving a penalty bracket of £1,001 to £5,000.

The seriousness of the firm's conduct is high as a considerable period of time was taken to remedy the breaches. In addition to this, the firm's conduct had the potential to impact/cause harm to others. The conduct is appropriate for a fine towards the lower part of a penalty bracket and it has been concluded that a basic penalty of £2,000 is appropriate.

We do not consider there are any mitigating factors at this time.

Publication

4.8 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.

4.9 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.

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

5.1 The firm agrees that they will not act in any way which is inconsistent with this agreement, such as by denying responsibility for the conduct referred to above. That may result in a further disciplinary sanction. Acting in a way which is inconsistent with this agreement may also constitute a separate breach of Principles 1, 2 and 5 of the SRA Principles contained within the SRA Standards and Regulations 2019 (such SRA Principles having been in force since 25 November 2019).

6. Costs

6.1 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.

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