



**Waugh & Musgrave**  
**50 Main Street, Cockermouth, Cumbria , CA13 9LU**  
**Recognised sole practitioner**  
**057403**

**Fined Date: 15 November 2023**

**Decision - Fined**

Outcome: Fine

Outcome date: 15 November 2023

Published date: 9 January 2024

**Firm details**

No detail provided:

**Outcome details**

This outcome was reached by SRA decision.

**Decision details**

The SRA Transparency Rules came into effect on 6 December 2018. They require all firms authorised and regulated by the SRA to display specified information on their websites if they provide certain types of legal services. The purpose of the Transparency Rules is to ensure people have accurate and relevant information about a solicitor or firm when they are considering purchasing legal services. They are intended to help members of the public and small businesses make informed choices, improving competition in the legal market.

As of 10 July 2023, the firm failed to publish mandatory details about its costs and/or services in breach of rule 1.5 of the Transparency Rules.

The firm was ordered to pay a fixed financial penalty of £750 pursuant to rules 3.1(h) and 11.3 of the Regulatory and Disciplinary Procedure Rules. The firm was also ordered to pay investigation costs of £150.

**Agreement Date: 27 September 2023**

**Decision - Agreement**

Outcome: Regulatory settlement agreement



Outcome date: 27 September 2023

Published date: 3 October 2023

## **Firm details**

### **Firm or organisation at date of publication**

Name: Waugh & Musgrave

Address(es): 50 Main Street, Cockermouth, Cumbria

Firm ID: 57403

## **Outcome details**

This outcome was reached by agreement.

### **Decision details**

#### **1. Agreed outcome**

1.1 Waugh & Musgrave (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 £1,438.40
- b. to the publication of this agreement
- c. it will pay the costs of the investigation of £300.00.

#### **2. Summary of Facts**

2.2 Prior to completion the Firm provided a signed undertaking on 12 June 2017 to Bermans Solicitors. This undertaking included specific actions where the Firm was to submit the transfer of title and notification of the change against the property to HM Land Registry.

2.3 Subsequently, these elements of the undertaking were not satisfied by the Firm within a reasonable amount of time.

#### **3. Admissions**

3.1 The Firm accepts that it failed to perform the above undertaking within a reasonable period of time in breach of paragraph 1.3 of the Code of Conduct for Firms.

#### **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 which it has put forward:

- a. that the pressures of work, the coronavirus pandemic and HMLR backlog contributed to the delays
- b. there does not appear to have been any harm caused
- c. that measures have been implemented to prevent future recurrence to include:
  - i. introduction of a file undertaking form to act as a reference document, reminder of undertakings and schedule of key dates
  - ii. introduction of an undertakings register
  - iii. introduction of diary reminders for all undertakings.

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

- a. undertakings play a significant role in conveyancing matters. It is a reasonable expectation that a member of the public would expect any solicitor engaged in related transactions to have clear understanding of this fact and be able to execute their duties according to the undertaking in a timely manner
- b. a fine would deter the firm and others from similar conduct in the future. The firm created a risk of harm over a significant period of time and was directly responsible for the acts and omissions
- c. the concern was only addressed by the Firm after reminders from the complainant firm.

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. A publicised outcome will send an appropriate message to the firm, the wider profession and the public that matters of this nature will be appropriately enforced. This case is a fundamental and prolonged failure to complete the agreed undertaking. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

## **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 low because it was not intentional, nor was it a result of recklessness or gross negligence. The conduct does not form a pattern of behaviour. The Firm did not apply attention to detail at a



time of competing demands and clear attempts have been made at remediation. The Guidance gives this type of misconduct a score of one.

5.3 The SRA considers that the impact of the misconduct was medium because undertakings are an integral element in conveyancing matters and are relied on for legally compliant completion of related transactions. A failure to honour the undertaking in this case had the potential for moderate harm for any or all parties. For instance, any sale of the related property or land during the intervening period could have been compromised due to titles and charges not being registered as they should have been. The Guidance gives this level of impact a score of four.

5.4 The fine has been calculated in accordance with the Guidance as falling into a broad penalty bracket of between 0.4 and 1.2 percent of the annual domestic turnover.

5.5 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.

5.6 On this basis, the SRA considers that the lack of harm caused and the remedial action taken by the Firm indicate a fine at the lower end of the bracket. However, this must be balanced against the fact that this matter was allowed to continue for a significant period. The SRA considers a basic penalty of £1,598.22, to be appropriate.

5.7 The SRA considers that the basic penalty should be reduced by 10 percent to £1,438.40. This reduction reflects the facts that the Firm cooperated with the investigation and made admissions to the conduct from the outset. Additionally, steps have been introduced to mitigate against future recurrences.

5.8 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 £1,438.40.

## **6. Publication**

6.1 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.

## **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, breaches the undertakings referred to in paragraph 1.2 above 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 £300.00. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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