

Elliott James Legal Ltd
Gloucester House, 72 Church Road, Stockton on
Tees , TS18 1TW
Recognised body
812902

[Agreement Date: 21 June 2024](#)

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 21 June 2024

Published date: 9 July 2024

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Elliott James Legal Ltd, (the Firm), a recognised body, authorised and regulated by the Solicitors Regulation Authority (SRA), agrees to the following outcome to the investigation:

- a. Elliott James Legal Ltd will pay a financial penalty in the sum of £3,295, under Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedures Rules,
- b. to the publication of this agreement, under Rule 9.2 of the SRA Regulatory and Disciplinary Procedure rules; and
- c. Elliott James Legal Ltd will pay the costs of the investigation of £600, under Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Rules.

Reasons/basis

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

2.3 The firm did not have in place a documented firm-wide risk assessment (FWRA) between 11 January 2021 and November 2022, in breach of Regulation 18 of the MLRs 2017. Between November 2022 and November 2023, the firm failed to have in place a compliant 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 November 2022. The FWRA provided for the inspection to us, was not compliant with the MLRs 2017, as it was missing information required under Regulation 18.

2.5 On 22 February 2024 a FWRA was provided to us by email. This document is dated 30 November 2023. We consider this document to meet the requirements of Regulation 18 of MLRs 2017.

Policies, controls and procedures (PCPs)

2.6 Between 11 January 2021 and November 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 Between November 2022 and November 2023, the firm failed to establish and maintain fully compliant policies, controls, and procedures (PCPs) to mitigate and effectively manage the risks of money laundering and terrorist financing, identified in any risk assessment (FWRA), under Regulation 19 of the MLRs 2017.

2.8 On 6 October 2023 we inspected the firm's AML documents and found a delay in it implementing its PCPs until November 2022, although the firm has been providing in-scope work since 2021. Therefore, the firm failed to have any PCPs in place for at least a period of nearly two years.

2.9 On 22 February 2024, the firm provided a copy of the updated PCPs dated 30 November 2023. We consider this document to meet the requirements of Regulation 19 of MLRs 2017. Therefore, the firm failed to ensure that it was fully compliant with its statutory obligations until November 2023, a period of nearly three years.

3. Admissions



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

- a. 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.
- b. 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.
- c. 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 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.

4.2 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.

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 a low risk of repetition.
- c. The firm has assisted the SRA throughout the investigation and has shown remorse for its actions.
- d. The firm did not financially benefit from the misconduct.

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 (score of three). This is because the firm failed to have a FWRA and AML PCPs in place until November 2022 and failed to ensure it had a fully compliant FWRA and PCPs in place until November 2023, which in breach of Regulation 18 and 19 of the MLRs 2017. Therefore, the firm failed to ensure that it was fully compliant with its statutory obligations until November 2023, a period of nearly three years since the firm started trading.

5.3 The impact of the harm or risk of harm is assessed as being medium (score of four). The nature of conveyancing is considered high-risk, owing to the risk of abuse of the system by criminals. We note the firm completes a higher portion of conveyancing transactions, and this puts it at a higher risk of being used to launder money. There is no evidence of there being any direct loss to clients or actual harm caused as result of the firm's failure to ensure it had proper documentation in place.

5.4 The 'nature' of the conduct and the 'impact of harm or risk of harm' added together give a score of seven. This places the penalty in band "C", as directed by the Guidance.

5.5 We and the firm agree the financial penalty to be in Band C1, which determines a basic penalty of 1.6% of annual domestic turnover (firms).

5.6 The latest declared annual domestic turnover, to be used in the calculation of the financial penalty, is £228,787.

5.7 The basic penalty is therefore £3,661 ($£228,787 \times 1.6/100$).

5.8 We have also considered mitigating factors and consider that the basic penalty should be discounted by 10%. This is to take account of the following factors as indicated by the Guidance:

- a. FWRA and PCPs – the firm did have some AML documents in place from November 2022.
- b. Remedy harm – the firm took steps to rectify the non-compliant documents and is now fully compliant with the MLRs 2017.
- c. Cooperating with the investigation – the firm has cooperated with the SRA's AML Proactive and AML Investigation teams.

5.9 The adjusted penalty is therefore £3,295.

5.10 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 and the financial penalty is £3,295.

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 interest of transparency in the regulatory and disciplinary process.

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

7.1 The firm agrees that it will not act in any way which is inconsistent with this agreement, such as by denying responsibility for the conduct referred to above. This may result in a further disciplinary sanction.

7.2 Acting in a way which is inconsistent with this agreement may also constitute a separate breach of Principles 1, 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 21 June 2024
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