

Fairbrother & Darlow
13 Milbanke Court, Milbanke Way, Bracknell , RG12
1RP
Recognised body
265043

[Fined Date: 9 February 2024](#)

Decision - Fined

Outcome: Fine

Outcome date: 9 February 2024

Published date: 20 February 2024

Firm details

Firm or organisation at date of publication and at time of matters giving rise to outcome

Name: Fairbrother & Darlow

Address(es): 13 Milbanke Court, Milbanke Way, Bracknell, RG12 1RP

Firm ID: 265043

Outcome details

This outcome was reached by SRA decision.

Decision details

Fairbrother & Darlow was directed to pay a penalty of £16,052.80 and ordered to pay costs of £1,350.

Reasons/basis

Facts of the misconduct

On 26 June 2017, the Money Laundering, Terrorist Financing and Transfer of Funds (information on the Payer) Regulations 2017 (MLRs 2017) came into force. Law firms who carry out certain work must comply with the MLRs 2017. Those firms must carry out a risk assessment to identify and assess the business' risks of money laundering and terrorist financing (the firm-wide risk assessment).

In March 2022, the SRA's Anti-Money Laundering (AML) Proactive Team undertook a desk-based AML review at the firm to assess its compliance against the MLRs 2017. The firm had been undertaking in-scope work since 2010.

It was found that the firm did not have a compliant firm wide risk assessment (FWRA) or policies, control, and procedures (PCPs) in place.

It also found that four in scope files had no client/matter risk assessments.

The firm had completed an online declaration in January 2020 to say that it was compliant with the MLRs 2017. This form had been completed by the firm's compliance officer for legal practice (COLP) in the mistaken belief that the firm was compliant when it was not.

The firm provided a fully compliant FWRA in April 2023 and fully compliant PCPs to the SRA in May 2023.

It was found that the firm:

1. Failed to have in place:

Between 26 June 2017 and 5 April 2023 any firm-wide risk assessment, as required by Regulation 18 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs 2017), and

Between 26 June 2017 and 3 May 2023, compliant policies, controls, and procedures (PCPs) as required by Regulation 19 of the MLRs 2017.

In doing so, to the extent that the conduct took place before 24 November 2019, the firm breached Principles 6 and 8 of the SRA Principles 2011 and failed to achieve outcome 7.5 of the SRA Code of Conduct 2011. In so far as the conduct took place after 25 November 2019 the firm breached Principle 2 of the SRA Principles 2019, and breached Paragraph 2.1(a) of the SRA Code of Conduct for Firms (2019).

2. On four files the firm failed to conduct client/matter risk assessments as required by Regulations 28(12)(a)(ii) and 28(13) of the MLRs 2017. In doing so, the firm breached Principle 2 of the SRA Principles 2019, and breached Paragraph 2.1(a) of the SRA Code of Conduct for Firms (2019).

3. On 9 January 2020, provided the SRA with inaccurate information, by making a declaration that its firm-wide risk assessment was compliant with the requirements of Regulation 18 of the MLRs 2017, when none was in place. In doing so, the firm breached Principle 2 of the SRA Principles 2019 and Paragraph 3.3(a) of the SRA Code of Conduct for Firms.

Decision on sanction

Fairbrother & Darlow was directed to pay a penalty of £16,052.80 and ordered to pay costs of £1,350.

This was because the firm's conduct was serious by reference to the following factors in the SRA Enforcement Strategy:

1. Its conduct was a breach of its regulatory obligations which persisted for longer than was reasonable. It demonstrated a pattern of non-compliance and was reckless.
2. The firm failed to have proper regard to the SRA's guidance and warning notices which explained what was required, the risks that failure to comply with AML requirements posed, and the regulatory consequences of failing to comply.
3. The firm was responsible for its own conduct which was serious and had the potential to cause serious harm to the public interest and to public confidence in the legal profession.

In view of the above, the firm's conduct was placed in conduct band C which has a financial penalty of 1.6% to 3.2% of annual domestic turnover. In light of these factors, the firm's conduct was placed towards the mid-range of this bracket.

The following mitigating factors were considered resulting in a fine of £16,052.80

1. There was no significant harm caused by the firm's failings,
2. The firm had made admissions,
3. The firm cooperated with the SRA,
4. The firm had remedied the breaches.

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