

**Curwens LLP (Curwens LLP)**  
**Crossfield House, Gladbeck Way, Enfield , EN2 7HT**  
**Licensed body**  
**521123**

[Agreement Date: 29 September 2023](#)

## **Decision - Agreement**

Outcome: Regulatory settlement agreement

Outcome date: 29 September 2023

Published date: 5 October 2023

## **Firm details**

No detail provided:

## **Outcome details**

This outcome was reached by agreement.

### **Decision details**

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

1.1 Curwens LLP (the Firm), a licensed body agrees to the following outcome to the investigation of its conduct by the Solicitors Regulation Authority (SRA):

- a. it is fined £14,116.46
- b. to the publication of this agreement
- c. it will pay the costs of the investigation of £600.00.

### **Reasons/basis**

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

2.1 We carried out an investigation after receiving two reports dated 8 September 2021 and 27 October 2021 from the Firm.

2.2 The investigation identified areas of concern in relation to the Firm's compliance with the Solicitors Accounts Rules 1998, SRA Accounts Rules 2011, SRA Accounts Rules 2019, Solicitors Code of Conduct 2007, Solicitors of Code of Conduct 2011, Code of Conduct for Firms 2019, SRA Principles 2011 and SRA Principles 2019.



2.3 The investigation identified that the Firm:

- a. Did not have and/or failed to implement adequate procedures to deal with residual client balances on inactive or closed matters.
- b. Used systems and processes that did not identify and allocate unidentified receipts in client account.
- c. Used its client account as a banking facility.
- d. Used its client account to retain rent deposits when it no longer carried out legal services connected to the rent deposits.

### 3. Admissions

3.1 The Firm makes the following admissions which the SRA accepts:

3.2 From 14 July 2008 to on or around 15 October 2021 the Firm failed to have and/or implement adequate procedures to deal with residual client balances on inactive or completed matters resulting in residual client balances totalling £104,966.68 as of 15 October 2021 being held on client account.

As a result, from 1 July 2007 to 5 October 2011 the Firm breached or failed to achieve:

- a. Rule 1.04 of the Solicitors Code of Conduct 2007 'You must act in the best interests of each client.'  
and from 14 July 2008 to 15 September 2011 the Firm breached or failed to achieve:
- b. Rule 15(3) of the Solicitors Accounts Rules 1998 (as amended) (the 1998 Rules) 'Requires funds to be returned to the client "promptly" once there is no longer any proper reason to retain the funds eg at the end of the matter'.
- c. Rule 15(4) of the 1998 Rules 'Where client money is retained after a matter has ended, the solicitor must inform the client of the amount of funds held and the reason for retained the funds. This should be done promptly.

If a solicitor continues to hold such funds, they must report to the client in writing at least once every 12 months detailed reasons for the continued retention'.

and from 16 September 2011 to 24 November 2019 the Firm breached or failed to achieve:

- d. Rule 14.3 of the SRA Accounts Rules 2011 (the 2011 Rules) 'Client money must be returned to the client (or other person on whose behalf the money is held) promptly, as soon as there is no longer any proper reason to retain those funds. Payment received after you have already accounted to the client, for example by way of a refund, must be paid to the client promptly.'



- e. Rule 14.4 of the 2011 Rules 'You must promptly inform a client (or other person on whose behalf the money is held) in writing of the amount of any client money retained at the end of a matter (or the substantial conclusion of a matter), and the reason for that retention. You must inform the client (or other person) in writing at least once every twelve months thereafter of the amount of client money still held and the reason for the retention, for as long as you continue to hold that money.'
- f. Outcome 7.2 of the Solicitors Code of Conduct 2011 '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' and from 6 October 2011 to 24 November 2019 the Firm breached or failed to achieve:
- g. Principle 4 of the SRA Principles 2011 'You act in the best interests of each client.'

and from 25 November 2019 to 15 October 2021 the Firm breached or failed to achieve:

- h. Rule 2.5 of the SRA Accounts Rules 2019 ("the 2019 Rules) 'You ensure that client money is returned promptly to the client, or the third party for whom the money is held, as soon as there is no longer any proper reason to hold those funds.'
- i. Paragraph 2.1(a) of the SRA Code of Conduct for Firms 2019 'You have effective governance structures, arrangements, systems and controls in place that ensure:
  - a. you comply with all the SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, which apply to you'
- j. Principle 7 of the SRA Principles 2019 'You act in the best interests of each client'.

3.3 From October 2013 to October 2021 the Firm failed to have effective systems or processes in place to identify and allocate unidentified receipts in client account, leading to an improper use of a suspense ledger with a significant unresolved balance of £34,453.95 in April 2021.

In doing so from October 2013 to 24 November 2019 the Firm breached or failed to achieve:

- a. Rule 29.1 of the 2011 Rules 'You must at all times keep accounting records properly written up to show your dealings with
  - a. client money received, held or paid by you; including client money held outside a client account under rule 15.1(a) or rule 16.1(d)'
- b. Outcome 7.2 of the Solicitors Code of Conduct 2011 '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'.



- c. Principle 4 of the SRA Principles 2011 'You act in the best interests of each client'.  
and from 25 November 2019 the Firm breached or failed to achieve:
- d. Rule 8.1(a) of the 2019 Rules 'You keep and maintain accurate, contemporaneous, and chronological records to:
  - a. record in client ledgers identified by the client's name and an appropriate description of the matter to which they relate:
    - i. all receipts and payments which are client money on the client side of the client ledger account;
    - ii. all receipts and payments which are not client money and bills of costs including transactions through the authorised body's accounts on the business side of the client ledger account;
  - b. maintain a list of all the balances shown by the client ledger accounts of the liabilities to clients (and third parties), with a running total of the balances; and
  - c. provide a cash book showing a running total of all transactions through client accounts held or operated by you.'
- e. Paragraph 2.1(a) of the SRA Code of Conduct for Firms 2019 'You have effective governance structures, arrangements, systems and controls in place that ensure:
  - a. you comply with all the SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, which apply to you.'
- f. Principle 7 of the SRA Principles 2019 'You act in the best interests of each client.'

3.4 Between May 2011 and 21 October 2021, the Firm allowed its client account to receive, hold and transfer funds in relation to rent and rent deposits received in relation to the Firm practising address, owned by partners or ex-partners of the firm and connected parties, where such receipts and transfers did not relate to an underlying transaction, or a regulated service provided by the Firm.

In doing so from May 2011 to 5 October 2011 the Firm breached:

- a. Rule 15(2) of the 1998 Rules 'only client money or controlled trust money may be paid into or held in a client account'.

and from 16 September 2011 to 24 November 2019 the Firm breached:

- b. Rule 14.2 of the 2011 Rules 'Only client money may be paid into or held in a client account,'
- c. Rule 14.5 of the 2011 Rules which provides 'You must not provide banking facilities through a client account. Payments into, and transfers or withdrawals from, a client account must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of your normal regulated activities'.



and from 25 November 2019 to 21 October 2021 the Firm breached:

- d. Rule 3.3. of the 2019 Rules 'You must not use a client account to provide banking facilities to clients or third parties. Payments into, and transfers or withdrawals from a client account must be in respect of the delivery by you of regulated services.'

3.5 From February 2010 the Firm's client account was used to retain rent deposits on 25 matters when such retention was no longer connected to the Firm's delivery of legal services amounting to total held of £103,000.

In doing so from February 2010 to 5 October 2011 the Firm breached:

- a. Rule 15(2) of the 1998 Rules 'Only client money or controlled trust money may be paid into or held in a client account'.

and from 16 September 2011 to 24 November 2019 the Firm breached:

- b. Rule 14.5 of 2011 Rules which provides 'You must not provide banking facilities through a client account. Payments into, and transfers or withdrawals from, a client account must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of your normal regulated activities.

and from 25 November 2019 the Firm breached:

- c. Rule 3.3. of the 2019 Rules 'You must not use a client account to provide banking facilities to clients or third parties. Payments into, and transfers or withdrawals from a client account must be in respect of the delivery by you of regulated services.'

#### **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. Self-reported its conduct to us.
- b. Expressed remorse that the Firm's compliance systems and processes were not sufficiently robust.
- c. Put in place a Financial Compliance Action plan (Action Plan) and Task Force to oversee its process and timelines to improve the quality of the Firm's financial compliance.
- d. Regular updates were provided to the SRA regarding the Firm's progress with its Action Plan.
- e. Undertook a review of its compliance policies and procedures.



- f. Training provided to staff to raise greater awareness in relation to the SRA Accounts Rules.
- g. Fully rectified the issues identified in their self-report to us.

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

- a. The conduct showed a disregard for the Firm's regulatory obligations and whilst the breaches have been rectified the misconduct continued for longer than was reasonable.
- b. There was no lasting significant harm to clients or third parties but there was the potential there would have been if the misconduct had continued.
- c. It was incumbent on the Firm to meet its regulatory obligations and to ensure it had robust financial systems and controls in place to do so.
- d. There was no evidence the Firm misused client money.

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 and creates a credible deterrent to the firm, individuals, or others from similar behaviour in the future. 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 more serious because:

- a. The conduct whilst not intentional was not acceptable because it went on for a long time.
- b. The firm held onto funds which belonged to its clients for an unacceptable period.
- c. The conduct continued for one month without being addressed after the Firm's former COFA asked fee earners to address balances held on inactive matters.
- d. The firm failed to send annual letters to its clients regarding the amount of money held on their behalf. Had the Firm done so this may have raised a red flag.
- e. Retaining funds in client account for a long period of time which included rent deposits showed a pattern of behaviour.

The Guidance gives this type of misconduct a score of three.

5.3 The SRA considers that the impact of the misconduct was low because:



- a. There was limited harm to clients, the Firm's records were good which enabled the Firm to identify and return funds to its clients, with interest.
- b. Within the sums of the money held by the Firm there were legitimate retentions, payments of indemnity insurance policies and payment of Firm invoices that had not previously been delivered to clients (although the Firm had held those monies for an unreasonable period as set out above).
- c. Where it was not possible for the Firm to trace its clients or third parties, the funds were paid to charity with indemnity. This amounted to £857.69.
- d. Using the firm's client account to receive and transfer funds relating to property owned by partners and former partners of the firm was not client money. None of the risks identified by the SRA Warning Notice in respect of the use of a client account as a banking facility were present (e.g. money laundering, avoiding obligations in an insolvency situation and improperly hiding assets).

The Guidance gives this level of impact a score of two.

5.4 The Firm provided details of its annual domestic turnover. For the purposes of the Guidance, it is not a firm of greater means. The nature and impact scores add up to five. Therefore, the Guidance recommends a broad penalty bracket of between 0.4% to 1.2% percent of 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:

- a. Self-reported its conduct to us.
- b. Showed remorse that its compliance systems and processes were not sufficiently robust.
- c. In October 2021 a Financial Compliance Action plan (Action Plan) and Task Force were put in place to oversee its process and timelines to improve the quality of the Firm's financial compliance.
- d. Regular updates were provided to the SRA regarding progress with its Action Plan.
- e. A review of its compliance policies and procedures was undertaken.
- f. Training provided to staff to raise greater awareness in relation to the SRA Accounts Rules.

5.6 On this basis the SRA considers that the Firm's poor systems and controls allowed the Firm to let the issues raised in paragraph 2.2 and 2.3 above to happen which continued over a long period of time. Balance this against the action taken by the Firm from October 2021 to set up a Task Force and implement its Action Plan to address the issues indicates a fine at the lower end of the bracket. The SRA considers a basic penalty of £16,607.60, which is at the bottom of the bracket, to be appropriate.



5.7 The SRA considers that the basic penalty should be reduced to £14,116.46. This reduction reflects the level of fine be adjusted by 15% because the Firm:

- a. self-reported the issues to us but should have done so sooner.
- b. fully co-operated with our investigation and
- c. proactively sought to remedy the issues identified and any harm caused.

5.8 The Firm does not appear to have made any financial gain or received any other benefit because of its conduct. Therefore, no adjustment is necessary to remove this. The amount of the fine is £14,116.46.

## **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 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 £600.00. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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