

Kirkwoods
41a Church Road, STANMORE , HA7 4AB
Recognised body
079929

[Agreement Date: 21 May 2024](#)

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 21 May 2024

Published date: 22 May 2024

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Kirkwoods (the firm), a Recognised Body agrees to the following outcome to the investigation of its conduct by the Solicitors Regulation Authority (SRA):

- a. it is fined £1950
- b. to the publication of this agreement
- c. it will pay the costs of the investigation of £300.

2. Summary of Facts

2.1 On 25 March 2021 the firm's reporting accountants submitted a qualified accountant's report covering the period 1 April 2019-31 March 2020. The report identified breaches of the SRA Accounts Rules (the rules) around a number of client ledgers containing aged residual balances.

2.2 The SRA contacted the firm on 22 April 2021 and raised queries about the breaches identified in the accountant's report. The information provided by the firm showed 95 client matters with residual balances which were over 200 weeks' old. The SRA requested that the firm takes

steps to resolve the aged balances and bring the firm into compliance with the rules.

2.3 The report from the SRA Ethics Team identified nine communications from the SRA to the firm between April 2021 and February 2023 asking the firm to address the identified breaches of the rules, and seven responses from the firm. At the end of this time an unidentified number of aged balances remained in the firm's client accounts.

2.4 The slow progress made towards resolving the identified breaches through engagement led the SRA to open an investigation on 7 March 2023.

2.5 On 27 March 2023, the firm reported to the SRA that they still held 39 client files with aged residual balances.

2.6 On 7 November 2023, the firm provided evidence which showed that the firm had cleared all but one of the aged residual client balances. The firm outlined the steps they were taking to clear the last aged balance which relates to a commercial matter. The firm continue to work on clearing this sole remaining balance with the relevant parties as of the date of this agreement.

2.7 The firm has provided information about the measures they have put in place to avoid residual balances accumulating on client files in the future. This has included engaging staff to manage the firm's accounts and retaining a qualified accountant.

3. Admissions

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

- a. The firm admits breaching Solicitors Accounts Rules 2019 Rule 2.5 - 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.

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. The firm made an early and full admission of its breaches which were identified.



- b. The firm has worked to rectify the breaches. The remaining residual balance relates to a commercial matter and is in the process of being cleared.
- c. The firm has identified why the breaches occurred and has now put in place appropriately qualified staff and external accountants to ensure that the breaches do not arise again in the future.

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

- a. Proper record keeping for the holding of client money goes to the core of the SRA's regulatory role and public interest purpose. Firms hold client funds as custodians, and up to date and accurate accounting records ensure that the firm can properly account to clients.
- b. The breaches were rectified, and remedial action taken. However, as a result of the firm's conduct there has been an unacceptable delay in returning money to clients.
- c. There is no evidence of any financial loss or harm to clients.
- d. The firm has identified the circumstances which led to it breaching the rules. The firm has taken action to ensure that the breaches do not recur, by employing suitably qualified staff and retaining external accountants.

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 because it fulfils the purpose of deterring the firm or individual and others from similar behaviour in 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. This is because it continued for a long time after it was known to be improper. 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 it caused no/minimal loss to clients and there is no evidence it had any direct material impact on the legal work offered. The Guidance gives this level of impact a score of two.

5.4 The nature and impact scores add up to five. The Guidance places this in penalty bracket B and indicates a basic penalty of between 0.4% and 1.2% of gross annual turnover for the most recent financial year (2022-2023)

5.5 In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph 4 above which the firm has put forward:

- a. The firm made an early and full admission of its breaches which were identified.
- b. The firm has rectified the breaches.
- c. The firm has identified why the breaches occurred and has now put in place appropriately qualified staff and external accountants to ensure that the breaches do not arise again in the future.

5.6 The SRA has taken into account that although the breaches persisted for a long time, there was no evidence of dishonesty or any impact for clients on the management of their legal matters.

5.7 The firm has identified why it came to breach the rules. It has identified and put in place systems and controls to ensure a similar situation does not arise in the future.

5.8 The SRA therefore considers a basic penalty of £2,452.21, which is placed at the lower end of the bracket, to be appropriate.

5.9 The SRA considers that the basic penalty should be reduced by 20 percent. This is to reflect the firm's early admission of the conduct and the firm's cooperation with the investigation. This results in a penalty of £1950.

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 to remove this and the amount of the fine is £1950.

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 £300. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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