



The Law Society

Adjudication in a matter raised by AO
Law Society Freedom of Information Code
June 2012



1. The issue

Whether the Law Society acted appropriately in accordance with its Freedom of Information Code (“the Code”) in withholding the Risk Assessment Profile when it released to an applicant, known here as AO, a copy of the Solicitors Regulation Authority file into a complaint he had lodged.

2. The background

On 1 February 2012 the Solicitors Regulation Authority (SRA) wrote to AO to explain to him why, after having investigated his claim of inappropriate behaviour by representatives of a law firm in attempting to serve him with a Court Order, the SRA felt unable to take further action. In response, AO asked the SRA to consider the matter again, but the SRA repeated that the file would remain closed.

On 22 February AO replied that he was considering taking legal advice and he asked the SRA to send him “all the bundle of your investigation”. The SRA told him to make his request to the Law Society’s Information Compliance Manager, Mr Bob Stanley, and on 11 April AO did so.

On 4 May Mr Stanley sent the Society’s substantive reply. He provided AO with a copy of the file, except for one document – the Risk Assessment Profile (RAP) – which Mr Stanley said the Society was withholding under section 14.5 of the Code. That states that the Society does not have to release information about “specific investigations, disciplinary cases or applications arising from (its) regulatory role”.

Mr Stanley said that, because s.14.5 of the Code was a ‘qualified exception’, requiring the application of a public interest test in determining whether the information should be released, the Society had carried out such a test. Its view was that it would not be in the public interest to release the RAP form. In reaching this decision, Mr Stanley said that the Society had taken into consideration the fact that information disclosed in response to Freedom of Information requests was deemed to have been placed into the public domain, and not just disclosed to the person making the request.

Outlining the way the SRA approaches its regulation of law firms, Mr Stanley said that information provided by a complainant could result in different types of action by the SRA: keeping the information for future use in deciding whether a particular law firm posed a risk to the public; using the information to supervise a law firm more closely; or using the information as part of a formal investigation of a particular firm.

It was the Law Society’s view that it would not be appropriate to publish the RAP, because the document contained the criteria and scoring system which was used by the SRA to determine whether any further regulatory action would be taken, and it also contained an evaluation of the reliability of the information provided by an informant. Therefore, the Society believed, publication of the document might have the effect of prejudicing the SRA’s regulatory role.

Mr Stanley said that, despite that, he was able to provide AO you with comments written on the RAP. Mr Stanley then quoted five sentences from a box in the RAP entitled “Comments” which summarised the complaint AO had made against the firm of solicitors.

Mr Stanley also informed AO that he had the right to ask for the matter to be referred for adjudication and on 17 May AO asked for that to happen.

On 18 May, having received the request from Mr Stanley, together with the relevant exchanges of emails, I invited the Law Society and AO to make submissions to me.

3. Further developments

On 25 May, in the light of an unrelated adjudication in which I found against the Society in its wish not to disclose the *pro forma* used for the purpose of making an RAP, the Law Society reconsidered its response to AO's request and provided him with a completed copy of the RAP in his case, but with various redactions. The Society listed these redactions for AO. They were: the SRA Assessor's name; AO's name; the name and identifying detail of the solicitor and of the solicitor's firm; the "impact rating"; the "source credibility score"; the "strength of evidence score"; the "security protocol scores"; the total score; and the "red/amber/green rating".

The Society told AO that it was withholding these items under s.14.5 of the Code and that the Society believed it would not be in the public interest to release them.

In the light of this further release of information the Society asked AO if he wished to continue to seek adjudication, and he indicated that he did.

4. Submission by the Law Society

On 30 May the Society made its submission. It listed again the items of information it had redacted from the Risk Assessment Profile before releasing it to AO. The Society said that its view was that it would not be in the public interest to publish the form without the redactions. In reaching this decision, the Society said, it had taken into consideration the fact that information disclosed in response to requests under the Code was deemed to have been placed into the public domain, and not just disclosed to the person making the request.

The Society said that publication of an unredacted version of the form would put information into the public domain that needed to remain confidential to enable the SRA to effectively carry out any future investigations into the same firm of solicitors or based on information provided by AO.

5. Submission by AO

AO made no formal submission.

6. Adjudication

Having read the Society's submission I wrote to Mr Stanley on 3 June to say that I found it hard to understand how the publication of certain scores which had been redacted from the RAP released to AO could impede the effectiveness of the SRA in carrying out future investigations, given that neither the firm nor the complainant would be identifiable. I asked the Society to share its reasoning in this regard.

On 6 June, having further considered its position in regard to redactions, the Law Society provided AO with a copy of the RAP from which only information which might identify either the complainant or the firm complained about had been redacted.

7. Adjudication

In the light of the Society's belated decision to release to AO with the information he had requested, with only his and the firm's identities redacted, I consider this matter to have been **resolved**.

Richard Ayre
Freedom of Information Adjudicator
8 June 2012