



The Law Society

Adjudication in a matter raised by CB

Law Society Freedom of Information Code

November 2012



1. The issue

Whether the Law Society acted appropriately in accordance with its Freedom of Information Code when it declined to release personal information about its staff and the staff of other organisations who were, or would be, dealing with a particular complaint to the Solicitors Regulation Authority.

2. The background

On 8 October 2012 the Solicitors Regulation Authority (SRA) received a request from an applicant, known here simply as CB. He asked a number of questions [re-numbered here because, *inter alia*, there was originally no question 4, and edited to remove the names of individual firms of solicitors]:

1. How details of my summary dismissal were passed to you.
2. Who forwarded my information to you?
3. Date, time and copy of the entire correspondence to you
4. Certification, qualification, CV's, Identification and if possible photo ID of all members of your organisation that have or will be dealing with this matter in the future.
5. Certification, qualification, CV's, Identification and if possible photo ID of all members of any organisation you are aware of, that will be dealing with this matter in the future, these include but are not limited to [name deleted] Solicitors, [named deleted] Solicitors, [name deleted] Solicitors and [name deleted].
6. Who would I be able to escalate this matter to further?
7. Please provide full details of any and all financial payments between the Solicitors Regulation Authority and [name deleted] Solicitors this includes payment for licenses, certificates, membership fee's etc.
8. Please confirm if any financial transactions have occurred between the SRA and [name deleted]
9. Please provide an electronic copy of your letter of 25th September 2012 and send it to [applicant's email address].
10. Please forward an electronic copy of your internal complaints procedures to [applicant's email address]

CB also asked for personal data held by the SRA about him: this was treated as a subject access request under the Data Protection Act and is not relevant to this adjudication. The Law Society's Information Compliance Manager, Mr Bob Stanley, replied on 24 October, giving the following answers.

1. The details of your summary dismissal were passed to the SRA via email.
2. The information was forwarded to the SRA by [name deleted] at [named deleted] Solicitors.
3. I am withholding this information under section 16 of the Code because it constitutes personal data about these individuals and therefore it is exempt from disclosure under the provisions of the Data Protection Act 1998. Section 16 of the Code states that we cannot disclose personal information about someone else. In making this decision I have taken into consideration the fact that any information disclosed under the Code is deemed to be placed in the public domain and not just disclosed to the person making the request. It is our view that it would not be in the public interest for your personal data to be made public. This point will be considered under your outstanding subject access request under the Data Protection Act 1998 reference SA/BS/454.

4. I am withholding this information under section 16 of the Code because it constitutes personal data about these individuals and therefore it is exempt from disclosure under the provisions of the Data Protection Act 1998. Section 16 of the Code states that we cannot disclose personal information about someone else.
5. I am withholding this information under section 16 of the Code because it constitutes personal data about these individuals and therefore it is exempt from disclosure under the provisions of the Data Protection Act 1998. Section 16 of the Code states that we cannot disclose personal information about someone else.
6. [Name deleted], Supervisor at the SRA, is the main point of contact if you wish to escalate this matter further. Please find the contact details below.
7. As far as we are aware, the only financial payments in existence are the ones normally processed between the SRA and a firm of solicitors, such as renewal of Practising Certificates, renewal of recognition and any other applications such as authorisation to take trainees.
8. Yes. See answer to [previous] question.
9. Please find attached a copy of the requested letter.
10. Please find attached a copy of the SRA complaints policy.

Mr Stanley attached the items referred to in 9 and 10. He also told CB that, under the Society's Freedom of Information Code ("the Code") he had the right to seek independent adjudication of the decision to withhold some of the requested information.

Subsequently, Mr Stanley wrote to CB saying that the information relating to question 3 contained personal data relating to CB himself, and that therefore that would also be treated as a subject access request under the Data protection Act.

On 24 October CB asked for adjudication and on 25 October Mr Stanley provided me with the correspondence relating to these matters. The matter for adjudication is the Society's withholding of information in response to questions 4 and 5, citing section 16 of the Code.

In writing to CB on 25 October to invite him to make a submission as to why he believed the information should not have been withheld I pointed out that, unlike all the other sections of the Code, which the Society volunteers to abide by, section 16 reflects a legal obligation imposed by the Data Protection Act (DPA) not to disclose personal data in response to a Freedom of Information request and not to disclose personal data about a third party unfairly. I pointed out to CB that, because this is a legal obligation, I have consistently taken the view in previous adjudications that, even if I were to feel that the Society had wrongly applied the provisions of the DPA, I could not instruct the Society to release information if doing so might, in its judgement, breach that Act.

3. Submission by CB

CB made no submission.

4. Submission by The Law Society

On 1 November the Law Society made its submission. It said the Society's clear view was that the information requested at question 4 was personal data relating to the Society's

employees. To disclose any or all of the information requested would be a breach of the Data Protection Act.

The Society said it took the same view in relation to question 5, although it was not clear to the Society who the people were to whom CB had been referring when he asked it. The Society said it did not know who, if anyone, might be dealing with the matter in the future but it took the view that the information requested would be personal data relating to any such individuals who may have such dealings at some future date. The Society said that this could be seen as a request for information not held by the Society but it had taken the view that it would certainly be personal data if the Society did hold it and so had also declined this element of CB's request under section 16 of the Code.

5. Adjudication

The information requested about CB is unquestionably personal data. The names alone are personal data, because they are capable of identifying individuals. So too are the individuals' qualifications and CVs, as are their photographs. In certain circumstances some of this information might also constitute sensitive personal data as defined by the DPA.

Section 16 of the Code summarises the legal obligation imposed by the DPA not to handle personal data unfairly. The Society intends that its Code should reflect, on a voluntary basis, the same principles the Freedom of Information Act imposes on public authorities. The Information Commissioner offers Guidance as to how to balance the right to freedom of information with the duty under the DPA to handle personal data fairly. The Commissioner makes clear that, unlike in other areas of freedom of information, in the case of personal data the presumption is to withhold it unless there are stronger reasons to release it.

CB has identified no public interest in the release of the information he has requested which might outweigh the presumption of withholding it. In the absence of compelling argument to the contrary, I can see none either.

Insofar as CB asked for information about people in other organisations who might deal with his case in the future, his question was probably unanswerable but, as the Law Society says, even if the Society did possess this information it would be covered by the requirements of the DPA not to process personal data unfairly, just as the information about the SRA's staff is.

I therefore find for the Society in this case.

Richard Ayre
Freedom of Information Adjudicator
13 November 2012