



The Law Society

Adjudication in a matter raised by DV
Law Society Freedom of Information Code
December 2012



1. The issue

Whether the Law Society acted appropriately in accordance with its Freedom of Information Code when it refused to provide an applicant, known here as DV, with information concerning any complaints which might have been made against a firm of solicitors, known here as K LLP.

2. The background

On 24 October DV wrote to the Solicitors Regulation Authority (SRA) as follows [names redacted by the adjudicator]:

“1. I researched the Companies House website which showed that [K LLP] had dissolved and re-registered as a company on 12th September 2012. Is that correct? Do you have any information on the history of the company? Have there been any complaints against the company?

2. I wrote to the above company in September requesting a list of their members. I have not received a reply. My communications - email sent to company website in mid September and recorded letter sent on 22nd September to [name redacted], whom I am told is the Human Resources/Office Manager, have been ignored. How may I obtain a list of [K LLP] members?

3. I received a letter from the company, reference KM. When I contacted the company, the person who took my call said KM is the initial of staff member [name redacted] (spelling provided by respondent. [sic] However, your records show that there is no registration for a solicitor of that name in England and Wales. I am concerned that this person may be misrepresenting himself as a solicitor and would like you to investigate the matter.”

On 19 November the Law Society's Information Compliance Manager, Mr Bob Stanley, replied, giving DV answers to most of her questions but withholding details of any complaints that might have been made against K LLP. He said he was withholding these under section 14.5 of the Society's Freedom of Information Code (“the Code”) because releasing the information would have the effect of undermining investigations into the firm.

On 23 November DV asked for the matter to be referred for adjudication and on 26 November I invited both her and the Law Society to make written submissions as to how the Society's decision to withhold the information did or did not accord with the Code.

3. Submission by DV

Though making no submission as to whether the Society had or had not acted reasonably in accordance with the Code, DV provided background information as to her concerns about K LLP and why she had contacted the SRA about the firm.

K LLP had written to her but she had been suspicious about the origin of the letter and had researched the firm on the internet. On its website, the firm had claimed to be regulated by the SRA and offered to provide a list of firm's members upon request but when DV had made such a request she had been repeatedly ignored.

4. Submission by The Law Society

On 5 December the Law Society made its submission. It said that the SRA had intervened into K LLP on 23 November 2012. [Intervention means closure of the firm, with the SRA taking charge of all the firm's records and money, and contacting all its clients]. The submission included a confidential annex containing a Forensic Investigation Report setting out details of SRA investigations into the firm and the reasons for the decision to intervene.

The Society said that, in its view, it would be unfair to the solicitor who was the sole director of K LLP if it were to disclose into the public domain at this stage information as to the reasons for the SRA's intervention. It said that any findings against the solicitor would be published on the SRA website in due course but the Society's view was that it would not be in the public interest to publish the Forensic Investigation report. The Society said that the fact that there had been an intervention would be published on the SRA website in due course but this would not include any of the details in the report. The fact that K LLP had been wound up by HMRC was a matter of public record.

The Society said it did not believe it would be in the public interest to disclose the detail of the ongoing investigations which would have formed part of the supporting case for intervention. The fact that there had been an intervention into the firm did not mean that the allegations were proven. To publish the allegations against K LLP in response to DV's request would be likely to have a prejudicial effect on the SRA's continuing investigations.

The Society added that, although it had not relied upon section 16 of the Code in this case, it believed that even if section 14.5 did not apply then the Forensic Investigation Report would need to be heavily redacted to ensure that the Data Protection Act rights of K LLP's director and others mentioned in the report were not compromised.

5. Adjudication

The Forensic Investigation Report supplied to the adjudicator contains details of various allegations of dishonesty and failure to comply with the SRA's accounting rules. As the Society's submission makes clear, the SRA's investigations continue and may lead to Findings against the solicitor concerned, but the allegations currently remain unproved. The information sought by DV appears to me to fall clearly within the scope of section 14.5 of the Code in that it is about specific investigations arising from the Society's regulatory role.

Release of information under Freedom of Information constitutes publication: in other words, information cannot be released to one person under Fol and then withheld from someone else. Information once released is held to be in the public domain.

DV made no formal submission in this case and it is unclear whether she was a client of K LLP or whether she simply wished to have more information about the firm because she became suspicious. Either way, I consider that premature release of the allegations, and some of the evidence, against the director of K LLP might prejudice the outcome of any regulatory investigation, and the public interest is best served by that investigation running its course so that it may result in appropriate Findings. I therefore find for the Society in this case.

Richard Ayre
Freedom of Information Adjudicator
11 December 2012