



The Law Society

Adjudication in a matter raised by Mr Brian Pickerill

Law Society Freedom of Information Code

June 2010

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1 The issue

Whether the Law Society acted appropriately in accordance with its Freedom of Information Code ('the Code') when it refused to give Mr Brian Pickerill a report it holds in connection with a complaint he had lodged against the conduct of a solicitor.

2 The background

On 29 March 2010 Mr Pickerill, authorised by his daughter to act on her behalf, wrote to the Solicitors Regulation Authority (SRA) concerning a complaint his daughter was pursuing against a firm of solicitors. He said he had received a copy of the findings of the Arbitrator in the case and that within the 'First Instance Decision' there had been a reference to a Report prepared by the SRA ('the Report'). Citing the Freedom of Information Act, he asked to receive a copy of the Report or to be told why he could not have it.

The Law Society acknowledged receipt of this request on 7 April, and on 28 April the Society's Information Compliance Manager, Mr Bob Stanley, wrote to say that he was unable to provide the Report because Section 16 of the Code said that the Law Society must not release personal information about someone else. Mr Stanley said that to do so would be a breach of the Data Protection Act 1998.

On 6 May Mr Pickerill responded by asking for a further explanation of that decision. He said that there were references within the Arbitrator's Findings to named individuals whom Mr Pickerill described as victims of the solicitor's conduct, but they had been referred to simply by initials such as Mrs D and Mrs M, so he believed that no-one who was not already aware of them would have been able to identify them. He said that, if only initials had been used in the Report, he was at a loss to understand why his request had been denied. Alternatively, if the Report contained the full names of individuals, Mr Pickerill asked whether he could receive a copy of the Report with those names redacted.

On 12 May Mr Stanley replied, saying that the Report contained personal information about the solicitor who was the subject of the complaint by Mr Pickerill's daughter, and that was why it was being withheld. Mr Stanley said that although Mr Pickerill's daughter had had a traumatic experience in her dealings with the solicitor that did not confer any right of access to personal information about him. Such information was safeguarded by the Data Protection Act. Mr Stanley added that, if Mr Pickerill was dissatisfied with the way his request had been handled, he could ask for independent adjudication.

On 17 May Mr Pickerill wrote again to Mr Stanley, thanking him for clarifying whose personal data in the Report had led the Society to withhold it. Mr Pickerill said that he and his daughter believed that there would be information in the Report which would assist them in their case against the solicitor and that they thought they might have to undertake litigation against him to recover expenditure which they believed his conduct had cost them. Mr Pickerill therefore asked that the matter be referred for adjudication.

On 28 May the Law Society forwarded to me the correspondence between the parties and a copy of the Report. On 30 May I invited the Law Society to make a submission in defence of its decision to withhold the information. In particular I asked

it to clarify which elements of the Report it considered to constitute personal data, and to consider whether redaction would enable it to release the substance of the Report. I also invited Mr Pickerill, if he wished, to make a submission as to why, under the terms of the Code, the Society should have released it.

3 Submission by Brian Pickerill

On 16 June Mr Pickerill made a submission as to why he believed the Law Society had acted inappropriately in denying him the information. He believed that the solicitor in question had been dealt with very leniently considering the way that members of Mr Pickerill's family had been treated. He thought the outcome would have been different if all the evidence had been taken into consideration.

Mr Pickerill explained the background to litigation between a bank and his daughter and said that he was still trying to recover the costs of that litigation. He believed that this might not have been necessary if he had had a copy of the Report.

He emphasised that he was not interested in any references in the Report to other clients of the solicitor, only to his daughter, and he believed that it should be easy for the Law Society to delete any references to others. Mr Pickerill said he did not accept that the solicitor's privacy should be considered, because he had caused so much pain to his former clients.

Mr Pickerill confirmed that he was pursuing a complaint through the SRA and that the information he was seeking would aid his daughter's case.

4 Submission by the Law Society

On 23 June the Law Society said that in preparing its submission it had reconsidered the decision to withhold the report requested by Mr Pickerill. The Law Society said that, although the report contained personal information relating to the solicitor, this was now largely in the public domain as a result of the publication of an Adjudicator's findings. This meant that the information was no longer 'personal data' in terms of the Data Protection Act and so section 16 of the Code could not apply. The Society said that, although section 14.5 of the Code (relating to information about investigations by the Society) could apply, it had concluded that the public interest was best served by releasing the information.

The Society enclosed a copy of a letter it had sent to Mr Pickerill enclosing a copy of the Report.

5 Adjudication

The Society's belated decision to release the information Mr Pickerill had asked for means that this particular case is resolved.

Richard Ayre

Freedom of Information Adjudicator

23 June 2010