



The Law Society

Adjudication in a matter raised by Mr Spenser Poultney

Law Society Freedom of Information Code

November 2010

1. The issue	2
2. The background.....	2
3. Further enquiries	4
4. Adjudication	4

supporting
solicitors

1. The issue

Whether the Law Society acted appropriately in accordance with its Freedom of Information Code when it failed to give Mr Spenser Poultny a detailed breakdown of the source of complaints which have been received by the Solicitors Regulation Authority.

2. The background

On 20 October 2010 Mr Poultny emailed the Information Compliance team at the Law Society to ask a series of the questions about complaints to the Solicitors Regulation Authority (SRA). He asked for a breakdown of how many complaints had been investigated each year; how many of those had been brought by Judges, and who the Judges were; how many had been brought by Court staff, and which Courts they were; how many had been brought by other legal professionals; and how many had been brought by members of the public. He also asked for a list of other types of complainants and how many of each there had been. Finally, Mr Poultny asked for the numbers to date for the current year and when the year would end.

On 3 November the Law Society's Information Compliance Manager, Mr Bob Stanley, replied that between February 2007 and October 2010 the SRA had received 21,856 allegations of misconduct that had resulted in a "conduct investigation". As for how many of those had been brought by Judges, Court staff, or other legal professionals, Mr Stanley said that although the (identity of the) individual making the allegation was recorded on its system, the Society did not "consistently hold" information on whether the complainants fell into any of these categories. Mr Stanley said that the Society was therefore unable to answer the additional question about how many members of the public had brought complaints and what other types of complainants there might have been. He added that there had been 5115 allegations resulting in a conduct investigation from January to October 2010, and that the year end for these records was December.

In reply the same day Mr Poultny said it seemed that the SRA clearly held the data he wanted, though it might not be in a format which readily answered the questions as he had phrased them. He said, however, that Mr Stanley's reply had made no attempt to answer what Mr Poultny called "the fundamental question" of how many investigations had been due to referrals by Judges. Mr Poultny told Mr Stanley that it would not take "a competent IT guru" very long to come up with some figures, even if they were not 100 per cent accurate. He said that Mr Stanley's reply begged the question why the SRA could not answer what Mr Poultny called "even the most the basic questions" about the source of almost 22,000 complaints investigated to date. He asked Mr Stanley to reconsider and answer his request again.

Mr Poultney then said that he supposed an alternative would be for Mr Stanley to supply him with all 22,000 names and addresses so that Mr Poultney himself could extract the data. In the meantime, noting that Mr Stanley had said that the Society did not *consistently* hold information on whether the complainants were judges, court Staff, legal professional or members of the public, Mr Poultney said this implied that the Society had *some* information available. He asked if he could re-phrase his original questions in order to get what he called “a quick (interim) answer”.

Mr Poultney therefore asked, of the 21,856 allegations of misconduct that had resulted in a conduct investigation between February 2007 and October 2010, how many the Society could *identify* as having been brought by judges, court staff, legal professionals, and members of the public.

Later the same day Mr Poultney emailed the Information Compliance team again, asking that his email should be passed to the person who conducts Freedom of Information (Fol) reviews. He asked for a review of the Society’s handling of his request.

On 4 November Mr Stanley replied, saying that the Society did not have an internal review process for Fol requests but informing Mr Poultney of his right to seek adjudication. Later that day Mr Poultney asked Mr Stanley to “do whatever is necessary internally to progress this matter”. Mr Poultney added that, if it were possible to answer his re-phrased questions, it was possible that that would suffice, though it was hard to tell until he knew the answers.

On 5 November Mr Stanley referred the matter for adjudication and provided copies of the relevant exchanges between the Society and Mr Poultney. In a covering letter Mr Stanley said that the Society was of the view that Mr Poultney had received a full response to his request.

On receipt of the correspondence I emailed Mr Stanley to ask whether he had responded to the substance of the email of 3 November in which Mr Poultney had asked the Law Society to reconsider its position and posed the four “interim” questions which Mr Poultney believed could be readily answered. Mr Stanley replied that the “interim questions” were the same as the questions Mr Poultney had originally asked. On 9 November I wrote to Mr Stanley suggesting that Mr Poultney had interpreted the Society’s statement that it did not “consistently” hold information about the categories into which complainants fell as meaning that it held such information in some cases but not in all, and that he had therefore asked his “interim questions” about how many complainants of each category the Society was able to identify. I suggested that it would be helpful for the Law Society to answer Mr Poultney’s “interim questions” before I moved to begin the process of adjudication, if it were then to prove necessary.

On 10 November Mr Stanley wrote to Mr Poultney to say, in respect of each of his four “interim” questions, that the Society was unable to comply with his requests as to do so would involve disproportionate effort such that the cost of complying would exceed the appropriate limit of £450. This is the limit set out in section 3 (3) of the Government’s Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Mr Stanley explained that the Society’s computer systems did not record the information he had requested, and so to compile it would involve a manual inspection of each physical file.

3. Further enquiries

Following the Law Society's answer to Mr Poultney's "interim" questions he and I had email exchanges to establish whether he still wished me to adjudicate in this case. From these it became clear that, if it could be established that the Law Society's records of complaints could not readily be interrogated by reference to the categories of complainant Mr Poultney had asked about, he would accept that it would be disproportionate for the Society to try to discover the information by means of a manual search. I judged that, in this case, there was little point in inviting submissions from the Law Society and from Mr Poultney, when all that needed to be established was a matter of fact.

Accordingly on 15 November I attended the Law Society's offices to examine the complaints database (called ROAD). It appears to be a relatively simple database (and I was told that it was shortly due to be replaced) which is searchable by a number of criteria including the name of the complainant, the name of the solicitor or of the firm complained of, and the caseworker responsible. However, I can confirm that there are no search fields available which would produce a breakdown by type of complainant in the way that Mr Poultney had requested.

4. Adjudication

Given the volume of complaints involved, and the absence of any readily available way of sorting the complainants by the categories Mr Poultney had asked for, I accept that it would be disproportionate to expect the Society to provide the information in this case. **I therefore find for the Society.**

Richard Ayre

Freedom of Information Adjudicator

15 November 2010