



The Law Society

Adjudication in a matter raised by Ms PS
Law Society Freedom of Information Code
April 2012



1. The issue

Whether the Law Society acted appropriately in accordance with its Freedom of Information Code when it refused to provide Ms PS with information she had requested about the educational qualifications of a solicitor.

2. The background

On 5 April 2012 Ms PS contacted the Law Society to ask for information about a solicitor (referred to here as Mr H). She asked at which university he had gained his law degree and the class of degree awarded.

The Society's Information Compliance Manager, Mr Bob Stanley, replied, refusing her request. He said the information was being withheld under section 16 of the Society's Freedom of Information Code ("the Code"). Mr Stanley said that the information requested was Mr H's personal data and to publish it would be a breach of the Data Protection Act 1998 ("the DPA"). Mr Stanley said that, in arriving at this decision, the Law Society had taken into account the fact that information released under the Code was deemed to have been disclosed to the world at large and not just to the person making the request. He added that the University attended and class of degree awarded were not part of a solicitor's record that the Law Society was required to make public under the Solicitors Keeping of the Roll Regulations 2011, and he provided Ms PS with a web link to those regulations.

<http://www.sra.org.uk/solicitors/handbook/keepingoftheroll/content.page>

Mr Stanley informed Ms PS that she had the right, under the Code, to seek adjudication of the Society's decision.

Later that day Ms PS replied, saying that she would like the Society to reconsider what she called its rather hasty response. She said that doctors' university degree details were published on the website of the General Medical Council (GMC), so there was no real bar to providing this information. However, she said that if the Society was unwilling to provide the information she would like the matter referred to the adjudicator. She added that, in her view, the information she had asked for was not personal at all.

Mr Stanley duly referred the matter for adjudication and on 6 April I invited the Society to make a written submission in support of its reliance upon section 16 in withholding the information. I also invited Ms PS, if she wished, to make a submission. I also drew her attention to the fact that, in a series of recent adjudications I have made clear that, unlike the other provisions of the Code which the Society adheres to on a voluntary basis, section 16 reflects its understanding of its legal obligations under the DPA. I pointed out that I have consistently said that, while I may comment upon the Society's reliance upon section 16, I am not able to direct the Society to release information publication of which it believes would constitute an offence under that Act.

3. Submission by Ms PS

In response, on 11 April Ms PS said that the Law Society did not wish to comply with the Freedom of Information Act: if it did it would subject itself to that Act. She said her conclusion was that the Law Society was an opaque, secretive organisation. Ms PS said she viewed her time as too valuable to engage in what she called a nonsensical dance with the

Society or the adjudicator because it was quite obvious that neither would provide her with the answer to her question.

4. Submission by the Law Society

On 16 April the Law Society made its submission. It said the information requested by Ms PS was personal data relating to Mr H as defined in section 1 of the DPA. To publish the information would be a breach of the DPA. In arriving at this decision the Law Society repeated that it had taken into account the fact that any information released under the Code was deemed to have been disclosed to the world at large and not just to the person making the request under the Code. The University attended and class of degree awarded were not part of a solicitor's record that the Law Society was required to make public under the Solicitors Keeping of the Roll Regulations 2011 (link below).

<http://www.sra.org.uk/solicitors/handbook/keepingoftheroll/content.page>

The Society pointed out that the DPA defines personal data as data which relate to a living individual who can be identified (a) from those data or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

5. Further enquiries

On 16 April, having received the Society's submission, I wrote to Mr Stanley to follow up Ms PS's point that the practice of the General Medical Council in making freely available information as to when and where qualified doctors had received their primary medical qualifications. I noted that the Society appeared to have no obligation under the Solicitors Keeping of the Roll Regulations 2011 to provide similar information about solicitors. I also noted that those regulations were made by the SRA Board itself and I suggested that Regulation 3.1(i) appeared to give the SRA the authority to add additional information which might be regarded as reasonable to be held on the Roll.

In the light of that, I asked if the Society had any comments to make as part of its submission as to whether, and if so why, the SRA feels that there is no case for it to take a similar position to that of the GMC in making available information in which there might be a *prima facie* public interest.

On 25 April the Society provided a response from the SRA's Legal Department. In summary, it said that it would not be in accordance with statute if the SRA were to divulge the academic qualifications held by individual solicitors. A full copy of the SRA's opinion on its legal obligations has been provided to Ms PS along with this adjudication.

In a cover note accompanying the advice from the SRA's Legal Department, Mr Stanley added that the SRA does hold the name of the University which awarded the law degree of Mr H. (the solicitor Ms PS had asked about), but it does not hold the class of degree obtained. Mr Stanley said that he had been unaware of this at the time of his response to Ms PS on 5 April and, had he been, he would have set that out that position rather than applying section 16 of the Code to both elements of the request.

6. Adjudication

Before embarking upon this adjudication I drew Ms PS's attention to the fact that, as I have explained in a whole series of adjudications in recent months, section 16 of the Code is

different from all the other sections. Whereas the Law Society chooses on a voluntary basis to adhere to the broad approach of the Freedom of Information Act, section 16 represents the Society's legal obligation to abide by the DPA. There is a clear legal obligation not to release personal data in response to a freedom of information request. I have invariably taken the view that, even if I were to disagree with the Law Society's decision to regard some particular piece of information as personal data, I would not feel able to require the Society to disclose it if in doing so the Society believed it would be committing a breach of the DPA.

In this case, however, I am clear that the details of an individual's educational record do constitute personal data. I therefore agree with the Society that it acted in accordance with section 16 of the Code in withholding it. **I therefore find for the Society.**

Richard Ayre
Freedom of Information Adjudicator
27 April 2012