



The Law Society

Adjudication in a matter raised by CW
Law Society Freedom of Information Code
March 2014



1. The issue

Whether the Law Society acted appropriately in accordance with its Freedom of Information Code (“the Code”) in its responses to three questions concerning Alternative Business Structures (ABS) in firms regulated by the Solicitors Regulation Authority (SRA).

2. Background

On 7 February 2014 the applicant (known here as CW), continuing an earlier correspondence in which she had expressed concerns about the way The Law Society and the Solicitors Regulation Authority regulated the profession, wrote again to the Society. She quoted various sections of The Legal Services Act 2007 and then asked three questions concerning ABS firms:

1. Who is a “lawyer”? Please provide the precise definition of a lawyer as per the Legal Services Act 2007 and the regulation of lawyers in ABS Structures as I have queried the SRA CEO’s definition as per his letter to [an M.P.] in September 2013. I maintain that the lawyer [name withheld by the adjudicator] is a lawyer and is not a “Non lawyer manager”.
2. Who is a “Non lawyer manager”? Please provide the precise definition of a “Non lawyer manager” as per the Legal Services Act 2007 and the regulation of “Non lawyer managers” in ABS Structures as I have queried the SRA CEO’s definition as per his letter to [an M.P.] in September 2013. I maintain that the lawyer [name withheld by the adjudicator] is a lawyer and is not a “Non lawyer manager”.
3. How many ABS Structures have “Non lawyer managers” regulated by the SRA? Please state which ABS structures these are, and who the “Non lawyer managers” are. I request this under the FoI Act 2000, although I believe that this should be made readily available to the public on the public register so that the public can see immediately who are the SRA-regulated “Non lawyer managers” and who are the SRA-regulated “lawyers”.

On 7 March the Society’s Information Compliance Manager, Bob Stanley, replied. He said that the information CW had requested fell under section 14.1 of the Society’s Freedom of Information Code (“the Code”), which allows the Society not to disclose information if the applicant can reasonably be expected to find it by other means.

Mr Stanley told her she could find the answers to questions 1 and 2 in the SRA Handbook, and he gave her the weblink to its glossary of definitions:

<http://www.sra.org.uk/solicitors/handbook/glossary/>

Mr Stanley said that CW could find the answers to question 3 on the ABS Register and he provided a further link to it: <http://www.sra.org.uk/solicitors/firm-based-authorisation/abs-register/register.page>

On 8 March CW asked for adjudication on the Society’s decision. She said she had been unable to find the answers to questions 1 and 2 at the place on the website

indicated by Mr Stanley. She said that it seemed to be a “thorny issue” as to what the precise legal definitions of a “lawyer” and a “Non-lawyer manager” were, and this went to the heart of the issue regarding the Legal Services Act 2007 where, according to CW, the definition of lawyer was at variance to what the SRA had said in a letter to the MP in 2013. CW said she believed that The Law Society would have case law and practice law or even statute law on the precise definitions.

CW said that, in relation to question 3, she could not easily discern from the website provided by Mr Stanley who was and who was not a lawyer, because the ABS Register did not say whether the person was a solicitor or barrister or lawyer or what.

CW concluded that the Society’s reason for withholding the information – namely, that she could reasonably be expected to find it elsewhere - was wide of the mark.

3. Submission by CW

Adding to the points she had already made when asking for adjudication, CW said that it was difficult to see at a glance, from the weblink provided by Mr Stanley, the actual list of ABS structures. It showed no list, merely a search engine. She said that, opening each individual link to a specific firm showed the identities of two people - the HOLP and the HOFA – but it did not explain whether they were lawyer managers or a non-lawyer managers.

CW said she had searched in vain for the easy way in which Mr Stanley had said she could use this database to discover the information. She stressed that she was not asking to be given the names of any individuals.

4. Further developments

On 10 March I wrote to The Law Society to say that, in respect of Question 3, having looked at the website to which Mr Stanley had directed CW, I could not find any reference to who is or is not a “non-lawyer manager” among the 250 firms listed.

On 17 March the Society informed me that it had now sent a list of the names of those firms with non-lawyer managers and the number of non-lawyer managers.

In various further exchanges of emails with CW I said that my preliminary view was that The Law Society had complied with the terms of its Code in its answers to her first two questions and that, having sent her the list of non-lawyer managers, it had now complied in its answers to the third too. Nonetheless, it appeared that CW wished the adjudication process to continue. She also said that she believed there was an omission from the list of non-lawyer managers in respect of one firm which she cited, and asked whether it was possible to confirm whether or not she was right.

On 20 March the Society, in answer to my query about the firm in question, confirmed that there had been a Non-lawyer Manager with a Director post up until 10 March but that he no longer had what the Society called “an open post” at the firm which is why he was not included in the listing sent to CW.

5 Submission by The Law Society

On 20 March the Society repeated its view that CW had been provided with a full response to her request under the Code. The Society said it believed the application of section 16 was appropriate in this case as to disclose this information would constitute a breach of the Data Protection Act 1998.

6 Adjudication

In its original answer to CW, the Society told her that she could find the answers to her first two questions from the SRA's website and it gave her an appropriate link. That link leads to a list of definitions, including those for "lawyer" and "non-lawyer". I cannot explain why CW was apparently unable to find the answers she wanted, since the definitions are listed in alphabetical order on that page. It is true that there is not a definition of "non-lawyer manager" but its natural meaning is of a non-lawyer who acts as a manager. It was entirely reasonable, in my view, for the Society to have referred CW to this website for the answers, as permitted by the Code in section 14.1 where an applicant can reasonably be expected to find the information from a readily available source.

In answering her third question, the Society referred CW to another SRA webpage but in practice this did not answer her question about how many firms had "non-lawyer managers". After I asked the Society how she was supposed to discover that information from the website it rapidly provided her with a breakdown of the firms concerned.

Although in her third question CW had asked "who the non-lawyer managers are" she has made it repeatedly clear throughout the adjudication process that she does not want to know the names of individuals. It is therefore unnecessary for me to take a view as to the applicability of the Data Protection Act to this information.

Although the Society initially failed to provide the correct information in response to CW's third question it rectified this omission. There are therefore no grounds upon which to uphold CW's appeal and I find for The Law Society.

Richard Ayre
Freedom of Information
Adjudicator
20 March 2014