

**CONFIDENTIAL**

**Ms N Klosterkotter-Dit-Rawe**  
**3 Jefferson House**  
**11 Basil Street**  
**London**  
**SW3 1AX**

**Our ref: 31681**

**12 May 2005**

Dear Ms Klosterkotter-Dit-Rawe

**Re: Mr R Twyman & Ms L McLean of Piper Smith Watton (formerly Piper Smith Basham), 31 Warwick Square, London SW1V 2AF**

Further to our previous correspondence, I am writing to let you know that we have now received the file on your case from the Law Society and I have considered what you say about the way that they dealt with your complaint about the above. I will refer to the firm as Piper Smith Basham throughout this report. All the correspondence and related documents on the Law Society's file have been reviewed, and I am writing now to let you know my conclusions.

On 16 March 2004, you complained to the Law Society about Mr Twyman and Ms McLean of Piper Smith Basham, whom you said that you had instructed to act on your behalf in a dispute with your landlord as to service charges. Your complaint involved a number of overlapping allegations of professional negligence, professional misconduct and inadequate professional service, some of which were directed at the barrister Piper Smith Basham instructed in the matter, Mr Gallagher, others directed at your landlord's solicitors. (For reasons that will become apparent, I will not refer here in any further detail to the various aspects of your complaint). You told the Law Society that you had complained to Piper Smith Basham who had stated that your case had been '*properly managed*' and confirmed their satisfaction with the acceptability of '*the quality of service...provided*'. You asked the Law Society, in their capacity '*as the supervising body*' if they shared the solicitors' view, and told them that, if not, you were seeking the return of your costs of £5,000, compensation for distress and inconvenience and reimbursement of your financial losses including loss of earnings.

The Law Society opened a file on your complaint, which they allocated to a caseworker in their Client Relations Office. The caseworker immediately made you aware of the limited assistance that the Law Society could give you in relation to your concerns about your landlord's solicitors and told you that you would need to approach the General Council of the Bar if you were

dissatisfied with your barrister's service/advice. She also explained that the Law Society's compensatory powers were limited and, in the majority of cases, would lead to modest awards where there were formal findings of inadequacy of professional service. Consequently, the caseworker suggested that you should consider taking independent legal advice about the viability of a legal claim against Piper Smith Basham (presumably, for professional negligence).

Nevertheless, you told the caseworker that you wanted her to investigate the issues that you had raised and she asked the solicitors to respond formally to your complaint. Piper Smith Basham's complaint handling partner, Mr I Skuse, replied on 1 July 2004 and refuted your allegations by reference to two lever arch files of supporting documentation. Piper Smith Basham's response triggered further rounds of correspondence between the parties, which I will not particularise, as it would serve no useful purpose. In the course of that correspondence, the caseworker sought further information from Mr Skuse after you challenged a number of his responses. She also told you, by reference to detailed reasons, based (where appropriate) on explanations of the Law Society's powers, that she had decided that it would not be appropriate to investigate further a number of the concerns that you had raised.

On 22 September 2004, the caseworker wrote to you to confirm her view that the available evidence was only sufficient to justify three relatively minor findings of inadequacy of service, which would justify a compensatory payment to you from the solicitors of £150-£200. She asked if you were happy to proceed on that basis and said that if you were dissatisfied with any of her conclusions she was prepared to reconsider them if you were able to provide further relevant information or evidence. However, you replied on 30 November and told the caseworker that you wanted her to close the file with immediate effect, as you had '*wasted enough time*' with the Law Society and now intended to complain to my Office. Despite the caseworker's subsequent warning that this Office would only look at your complaint once the Law Society's investigation had been properly concluded, you insisted that you wanted the file closed without further action on the Law Society's part.

You made a very detailed submission to my Office on 5 December 2004, in which you said that the Law Society had '*either ignored or dismissed all the substantive points in your complaint*'. However, it is clear to me, as it was to the caseworker, that your demand that the Law Society close their file with immediate effect meant that their investigation of your complaint was incomplete and that your referral to my Office is premature. My primary role is to oversee the manner in which professional bodies like the Law Society deal with complaints about lawyers, with a view to ensuring that they follow proper procedures and that they reach decisions that fall within the bounds of reasonableness. The difficulty I have in this case is that there is no concluded investigatory procedure or resulting decision for me to review, as you insisted that the Law Society's file was closed, despite the caseworker's warning as to the consequences of that action on any subsequent referral of the matter to me. For the avoidance of any doubt, I cannot consider matters that have not first been dealt with by the relevant professional body.

It is open to you to go back to the Law Society and ask them to re-open their investigation now that I have confirmed to you the limits on my powers in cases like you own. However, if you decide to go down that road, I would ask you to bear in mind that the Law Society are not a judicial body. They do not possess the resources or the jurisdiction to conduct "trials" and they are able to exercise only a limited measure of control over the parties. In this context, they are required to conduct their investigations fairly and to reach conclusions that are, in the light of the evidence in their own jurisdiction (and having regard to the limits on their powers to provide a

complainant with redress), reasonable. In the same way, it is important for you to understand that the system of professional self-regulation, of which the Law Society and this Office are part, is unable to perform a judicial function; it cannot be used as a substitute for the courts.

In the circumstances, I take the view that the Law Society's closure of their file at your insistence, having warned you as to the consequences of that action on any subsequent approach to my Office, was justified.

I am required by Section 23(1) of the Courts and Legal Services Act 1990 to report my conclusions to the parties involved. I am therefore sending a copy of this letter to Piper Smith Basham and to the Law Society.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Zahida Manzoor', with a long horizontal flourish extending to the right.

Zahida Manzoor CBE  
**Legal Services Ombudsman for England and Wales**