

Mrs Zahida Manzoor CBE  
Office of the Legal Services Ombudsman  
3rd Floor  
Sunlight House  
Quay Street  
Manchester M3 3JZ

Ms N Klosterkötter-Dit-Rawé  
3 Jefferson House  
11 Basil Street  
London SW3 1AX

**(By Special Delivery)**

22 May 2005

Your Ref: 31681

Dear Mrs Manzoor,

**Your 12 May 2005 decision of 'premature referral' of my complaint to your Office**

**'Failure by the Law Society to deal with my complaint against Mr Richard Twyman and Ms Lisa McLean, Piper Smith Basham (now known as Piper Smith Watton), London SW1V 2AF'**

**1 Getting a final decision from the Law Society**

I acknowledge receipt of your 12 May 2005 letter in which you state: *"However it is clear to me ... that your referral to my Office is premature... The difficulty I have in this case is that there is no concluded investigatory procedure or resulting decision for me to review... I cannot consider matters that have not first been dealt with by the relevant professional body..."*

Can you please tell me why you are communicating this to me now i.e. *after 5 months* - given that:

1. In the **first 2 pages** of my 5 December 2004 complaint to your Office - i.e. **in my covering letter** – I wrote the following (part of which you quoted in your reply)

*"The subsequent correspondence entails a total of 3 replies from Ms Tutt and 2 from me... As you can see, in her 3<sup>rd</sup> reply, dated 22 September 2004, Ms Tutt is counting on keeping the exchange of correspondence going. I am simply not prepared to waste any more of my time corresponding with her. She has opted to ignore, among others, highly material evidence supplied to her on 2 occasions: in my complaint; in my reply dated 6 June 2004. I therefore see no point engaging in further correspondence"*

2. The 17 January 2005 letter from your Office states:

*"After reviewing your file, the Ombudsman has decided to investigate the way in which the Law Society dealt with your complaint"*

After writing this to me, you are now telling me that you cannot consider my complaint because I do not have a final decision from the Law Society?

You state: *"I have considered what you say about the way that they dealt with your complaint"*. You will have therefore seen that the caseworker, Ms Tutt, has opted to repeatedly ignore the incontrovertible evidence I supplied.

You describe the primary role of your Office *"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"*.

Given this definition of your Office's role, can you please tell me:

- Precisely how many more letters am I expected to write back to the Law Society repeating exactly the same thing: *"you have not considered the evidence I supplied"*?
- How many more of their correspondence in which they twist, distort and muddle the facts (all with the aim of wearing me down so that I give up) am I meant to answer?
- Exactly for how long is this 'game' meant to be taking place? Is it perhaps until I have passed the 3-year deadline for issuing proceedings against Piper Smith & Basham?

You quote from Ms Tutt, saying: *"she was prepared to reconsider her conclusions if I were able to provide further relevant information or evidence"*.

- As I replied to this, for example in relation to the 12 examples of what I view as **bullying and intimidation tactics**: *"What constitutes strong evidence for you? It is clear that whatever evidence you are provided with you would dismiss."*
- The second example relates to my 6 June 2004 reply to Ms Tutt's correspondence to Piper Smith & Basham. In this I wrote: *"While you have made specific reference to e.g. the interest and my lease, you have omitted to do this in relation to the **findings contained in the 17 June 2003 report by the Leasehold Valuation Tribunal** which were persistently ignored by Ms McLean and Mr Twyman over a period of 4 months – during which time I emphasised / explained / pointed out the issue to them at least **8 times**."*

To this, Ms Tutt replied on 8 June 2004: *"I note the amendments you have suggested. For the time being, I have not discussed these with the solicitors, but will do so at a later stage, if necessary"*. As I pointed out in my 30 November 2004 reply to her: *"There is no indication whatsoever that you have done this: PSB does not make a single comment about this in its reply, and nor do you"*.

The determination by the Tribunal is the crucial element in the resolution of my dispute with Steel Services. (This determination had the effect of reducing the global sum demanded for the major works by £500,000 – or nearly 70% of the original sum demanded by Steel Services - its agents).

- Another example is in relation to my **20C Order Application** for, which, in my 30 November 2004 reply to Ms Tutt, I wrote: *"In my opinion, in your 2 June 2004 letter you tested the ground as to what you would be able to reply. And, as the reply did not suit, you ignored it totally. I refer, among others, to points 28 and 29 of my 17 June 2004 letter (i.e. my reply to Ms Tutt) in which I provided irrefutable evidence that the advice I had been given by Mr Twyman and Ms McLean was totally the opposite of the view they held before I became a client"*

You state in your letter that the Law Society *"are required to conduct their investigation fairly..."*

Considering *just* the three above examples: do you consider that this requirement has been met?

I note that the Law Society's website states:

*"The way we regulate solicitors is carefully checked by government, the Legal Services Ombudsman and others"*

## **2 Receipt of my file by your Office from the Law Society**

The first sentence of your 12 May 2005 letter reads: *"...I am writing to let you know that we have now received the file on your case from the Law Society..."*

Yet, a letter from your Office dated 17 January 2005 i.e. four months previously, states: *"We have now received the file in the case shown above from the Law Society"*.

This was preceded by a 9 December 2004 letter from your Office stating: *"I have today asked the Law Society for their file. When we have received it, we will decide whether or not the Ombudsman should investigate the allegations you have made about their handling of your complaint"*

### **3 Piper Smith & Basham's replies to my complaint**

You refer in your letter to the replies I received from Piper Smith & Basham and the subsequent correspondence.

What I think of Mr Skuse's replies and of what Ms Tutt described as the *"work she had done"* to get PSB to answer the points contained in my complaint is captured in my (comprehensive) 30 November 2004 correspondence to Ms Tutt.

I draw your attention to a publication published by the Law Society *'Ways of dealing with poor service A guide for clients'* from which I quote: *"Discussing the problem with your solicitor - The solicitor should do everything in his or her power to sort out the problem to your satisfaction. You have the right to be treated with care and professionalism... Resolving a problem directly with your solicitor can be better for both you and the solicitor"*.

As I pointed out under point 155 of my 30 November 2004 reply to Ms Tutt: *"Considering the treatment I had received, my letter to PSB dated 2 December 2003 was unbelievably generous and conciliatory, giving them the opportunity to take corrective action. What I received in return was an arrogant and dismissive letter"*

Mr Skuse did not address many of the highly material points in my complaint. When I pointed these out in my 24 January 2004 reply, his reply was: *"At this stage, little point would be served in responding to each of the matters that you raised as these challenge the account that I have given you from my file which records a sequence of events that happened"*. In other words: Get lost! He also added *"Given your threat to potentially commence legal action against my firm, it would be entirely improper for my firm to continue to represent you or advise you further"*.

Ms Tutt's assessment of this correspondence was: *"It later became clear that they would be unable to resolve the complaint through their own complaints handling procedures..."*

Against her comment I pointed out to her (under point 155): *"But they still had a last ditch attempt at 'concluding the deal' - as captured in my 24 January 2004 letter to Mr Skuse:*

*"in her 12 December 2003 letter Ms McLean wrote: "One final point to make is that whilst there is a current complaint against me personally and the firm it would not be appropriate for me to continue acting for you, our relationship having broken down"*

*"in her 21 January 2004 letter she wrote: "There is also of course the outstanding issue of the concluded agreement. Once again if you wish to discuss the matter with me on the telephone I am happy to do so" (NB: Hence, she wrote this 6 weeks later) "*

And Ms Tutt's overall assessment of PSB's replies was: *"I do not consider that there was a failure to adequately address your complaints..."*

I draw your attention to point 6 of section 30.02 of the Solicitors Practice Rules - Investigation of complaints - *"Failure by the firm to attempt to resolve a complaint under practice rule 15 may result in additional compensation being awarded, if a formal decision has to be made"*

As I wrote to Ms Tutt: *"At the time I was considering filing a complaint against PSB, it occurred to me that, as your Office has the dual role of 'trade union' and 'regulator' of that profession, this might lead to a potential conflict of interest. Namely, to use a colloquial expression, that there*

*might potentially be the possibility of your 'not wanting to bite the hand that feeds you' ". That is exactly what has happened.*

#### **4 Powers of the Law Society**

I note that you are following the same line as the Law Society.

##### **4.1 My demanding that the Law Society considers my complaint**

You reiterate the statements made by Ms Tutt in her initial reply to me of 27 April 2004. Over 70% of this letter was a very loud message: *"Go away! We don't want to deal with your complaint"*.

Ms Tutt notes that I am expecting the maximum £5,000 compensation - which she recognises her Office can award. However, she then states *"...if you are looking to recover such a large amount of money from the solicitors, you should seek independent legal advice in respect of pursuing a legal claim against the firm"*.

She further attempts to 'put me off' by stating that *"In the majority of cases awards by this Office fall below £500"*.

Bearing in mind that I have contacted the Law Society in order to file a complaint against a solicitor, Ms Tutt then goes into great detail emphasising 'the ease' with which I could find another solicitor: (1) the Law Society database that will *"help you to find a solicitor in your local area"*, *"specialising in this area of law"*; (2) *"Many firms offer initial advice sessions for free..."*.

You state in your letter: *"Nevertheless, you told the caseworker that you wanted her to investigate the issues that you had raised"*. Yes - because I expect a 'regulatory body' to perform its remit i.e. to regulate, investigate and discipline as appropriate. It is not my role – as a member of the public – to perform their job. This, in effect, is the message that it communicated to me.

##### **4.2 The Law Society 'is' the regulatory body for solicitors**

This leads me to very strongly disagree with your statement that the Law Society *"...are able to exercise only a limited measure of control over the parties"*.

I draw your attention to the following currently on the Law Society's website:

- *"Who we are - The Law Society is the regulatory and representative body for solicitors in England and Wales"*
- *"How the Law Society regulates solicitors"*
  - *We set the rules of professional conduct*
  - *We monitor solicitors to make sure they comply with the rules*
  - *We investigate and, if necessary, discipline solicitors who don't meet the standards"*

The Law Society *"sets the rules"* through the 'Solicitors Practice Rules'. As stated on its website, these practice rules are *"made by the Council of the Law Society..."*

In terms of *"disciplining solicitors"*, it imposes fines that can be in the tens of thousands of pounds – and its Solicitors Disciplinary Tribunal strikes off solicitors.

#### **5 My expectation of the Law Society is to "investigate" my complaint "fairly"**

You inform me of my option of being able to go back to the Law Society while emphasising that I *"should bear in mind that the Law Society are not a judicial body. They do not possess the resources or the jurisdiction to conduct "trials"..."*

The Oxford dictionary definition of 'regulate' is *"To control by means of rules"*. It follows that if breaches of rules of conduct are reported to the regulator, it must investigate these breaches. Indeed, you do note in your letter that the role of the Law Society is to *"investigate"*.

This is what I am expecting: an "*investigation*" of the points in my complaint - to be "*conducted fairly*". This has not happen.

Performing this remit does not require any specialist knowledge. It certainly does not require being a judge. What it does require is: (1) the ability to read the evidence with an open, unbiased mind; (2) comparing and contrasting the trail of evidence with the aim of verifying the inconsistencies / discrepancies / conflicts highlighted by the complainant as supporting evidence to the complaint; (3) ask the solicitor to provide an explanation; (4) draw conclusions – with objectivity, fairness and integrity. For example:

1. In relation to CKFT's letter to me of 7 October 2002 in which it threatened to forfeit my lease unless I paid the full sum demanded within 48 hours - Asking Ms McLean why she wrote in her 25 September 2003 letter to me "*...it is perfectly legitimate for a landlord or those advising the landlord to threaten forfeiture proceedings for non payment of service charges*". Taking into account in her reply, among others, the fact that she had a copy of the Tribunal determination – as well as a copy of my surveyor's assessment, both of which powerfully demonstrated that the sum demanded of me was not due and payable.
2. In relation to the reply to Steel Services' offer - Asking Mr Twyman why the following, stated in Ms McLean's attendance note of the 28 October 2003 meeting with Mr Gallagher, was not captured in the reply to Steel Services. Ms McLean wrote "*In the covering letter if we were to accept the offer we would say that we were not happy that the specifications remain unchanged and the LVT had commented on the same fact, there had been no re -tendering of any sort, the matter had stayed with the same contractor etc etc*"
3. Still in relation to the offer, asking Mr Twyman and Ms McLean how they reconcile their insistence that I had agreed to the reply sent by Mr Twyman with the 24 November 2003 letter from Ms McLean asking me to "*confirm that the consent order may be signed*"
4. In relation to my repeatedly highlighting the fact that the demand was in breach of the terms of my lease, challenging Mr Skuse's reply that "*There is certainly no evidence on our file to suggest that this was a regularly raised topic*". In particular, asking why they (1) expect clients to identify the issues; (2) expect them to do this repeatedly.
5. Asking Mr Twyman why he refused to discuss my instructions in a document I sent him 5 working days before the reply to the offer was due
6. Asking Mr Twyman why he did not come back to me with any comments whatsoever to my identifying the ruling by Lord Woolf in relation to the requirements for the working of Part 36 offers
7. Asking Mr Twyman why he allowed less than 21 minutes (when I am at work) for me to look at the reply (which I had not previously seen) which he said to have then sent to CKFT
8. Asking Mr Twyman why he said that he received my reply one hour later than – as demonstrated – he actually had.

Etc, etc, etc.

## **6 Filing a complaint against CKFT**

In relation to my requesting a complaint form to file a complaint against Steel Services' solicitors, you wrote: "*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*"

"*Immediately*" is certainly the operative word, as the focus was on the Law Society not dealing with complaints not made by a solicitor's client. It is only in the last sentence (i.e. 20% of the paragraph) that Ms Tutt finally made the comment that the Law Society will "*investigate*" such complaints "*...where they raise issues of professional misconduct*".

Well, I have now seen how they handled that one as well!

## 7 Filing a complaint against my barrister

You point out to me that Ms Tutt "...told you that you would need to approach the General Council of the Bar if you were dissatisfied with your barrister's service/advice".

As I highlighted under point 34 of my 17 June 2004 reply to Ms Tutt: "I am not complaining to your Office about Mr Stan Gallagher. References to Mr Gallagher are entered in my complaint in the context of communication I have had with Ms McLean - and my question about Mr Gallagher is rhetorical".

I do not think that there can be any confusion whatsoever that my complaint relates only and exclusively to Piper Smith & Basham. Not only is it specified in the header to my complaint and my covering letter, it is also stated at the top of every page of my complaint ("Complaint against Ms Lisa McLean and Mr Richard Twyman, Piper Smith & Basham, London"). In other words, a total of 41 times.

This is a typical example of several irritating, side-tracking comments made by Ms Tutt to fill up space in her reply instead of focusing on addressing my complaint.

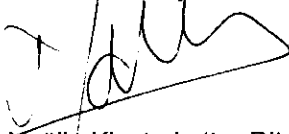
## 8 Which?

I am copying Which? on this letter as the 1<sup>st</sup> April 2005 reply I received from your Office in relation to my complaint against the Bar Council prompted me to contact them to add my support to their campaign for legal reforms.

I explained to Which? that I had referred a total of 3 complaints to your Office and given detail of the stage they were at namely: (1) initial review, or (2) decision to consider my complaint.

The 12 May 2005 response from your Office which, given your Office's previous correspondence is the output of stage two, will, I assume, be of interest to them.

Yours sincerely



Noëlle Klosterkotter-Dit-Rawé

cc. Which? Legal Services Regulation campaign

