

**Consumer Complaints Service**

Resolving complaints about legal services

Our Ref: CRO/45399-2004/RT4/AA1 R TUTT CRO

Your Ref:

**Private and Confidential**

**Ms Klosterkotter-Dit-Rawe**

3 Jefferson House

11 Basil Street

London

SW3 1AX

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8 Darnley Road  
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2 June 2004



The Law Society

Dear Ms Klosterkotter-Dit-Rawe

**Your complaint about Piper Smith & Basham Solicitors**

Thank you for your letter dated 30 April 2004, in response to my letter dated 27 April 2004. As I explained in my letter, I am the caseworker who has been asked to investigate your complaint.

**Our approach**

I have written to the solicitors asking for their formal response to your complaint and I enclose a copy of my letter for your information. I also enclose an information sheet, which explains how we will approach the investigation.

You have raised certain complaints that we are unable to investigate. The issue(s) concerned and the reasons for this are set out below.

**1. Professional Judgement**

In your letters of complaint you raise a number of issues that you asked the solicitors to deal with, but which they failed to do. For example, you asked the solicitor to consider whether the Part 36 Offer was compliant with the Civil Procedure Rules, you asked the solicitor to deal with the issue of interest payable to CKFT and you asked the solicitor to send a second revised reply to CKFT as you were unhappy with the original document.

The solicitors chose not to deal with these issues, and that is a matter for their professional judgement. This office is unable to question the professional judgement of a solicitor or the appropriateness of any action which he may take during the course of a matter. You may feel that their approach to your case was inappropriate, but it is not a function of this office to question their approach, as this is a function of the Court. ! !

I sympathise with you in that you suffered considerable anxiety and distress whilst the matter was ongoing. I appreciate the difficulties you may have encountered, and whilst I note your comments regarding the solicitor's failure to deal with these issues, I must emphasise that this office is not able to question the particular course of action which the solicitor follows on behalf of a client. ! !

However, I am able to consider whether the solicitors advised you adequately of the reasons why they did not consider that these issues were worth pursuing, and you will see that this is a complaint that I have raised in my letter to the solicitors.

## 2. Intimidation and bullying

In your letters of complaint, you also suggest that the solicitors used intimidation and bullying tactics to pressurise you in to making decisions against your will.

This is a strong allegation of professional misconduct, which would need to be supported with documentary evidence before I could consider it further.

Having reviewed the file, I can see that where you feel you were being pressurised or bullied, the solicitors were merely advising you of your legal position. For example, in relation to the section 20 notice, Ms McLean advised you that she would need written confirmation from the other lessees of Jefferson House before she could make an application on their behalf. I do not consider that this was intended to force you to withdraw your application. It is a legal requirement, that the other tenants should consent to the action being bought on their behalf. Similarly, in relation to the Part 36 Offer. Ms McLean advised you that you could either accept it as it stood, or reject it, you could not amend it to reflect the terms that you would wish to settle on. You feel that Ms McLean was forcing you to accept the offer against your will. As I see it, she was advising you of the law, and the options available to you.

I understand that you may have been upset with the advice given. I cannot question whether the advice was correct, and you would need to seek advice from an independent solicitor if you wish to query this.

The Law Society Records Department holds a database of practising solicitors in England and Wales. They will be able to provide you with details of a solicitor in your local area who will be able to assist you with a professional negligence claim. I provide the records department number below for your convenience:

Law Society Records Department  
0870 606 6575

I understand that you may not wish to take on a further legal claim, after your experience with Steel Services. However, many solicitors' firms now offer one hour initial advice sessions for free. During this hour you would discuss your case, and the solicitor would advise you of your prospects of success. If the solicitor considered that your case was worth pursuing in the Courts, you could then instruct him to deal with your claim.

## 3. Failure to ensure that Steel Services complied with deadlines

In relation to the Witness Statements which were to be submitted at Court, you state that your solicitor took no action to ensure that Steel Services would comply with the deadline set.

I do not consider that Ms McLean was obliged to do this. It was a matter for CKFT, solicitors acting for Steel Services, to ensure that their client met the set deadlines.

I will therefore be unable to investigate this complaint further.

#### **4. Complaints against your Barrister**

You also raise complaints against Mr Gallagher, the barrister representing you. You state that he misrepresented events and that he overlooked certain facts which were highly material.

This Office is only able to investigate complaints against solicitors. If you wish to make a complaint against Mr Gallagher you must refer this to the Bar Council, and I provide their contact details below for your convenience:

General council of the Bar  
3 Bedford Row  
London  
WC1R 4DB

Tel: 020 7242 0082

Please note that strict time limits apply, so if you wish to make a complaint, you would need to do so quickly.

These issues were not included in my letter to the solicitors. Please contact me as soon as possible if there are any other matters that you believe should be addressed, which I did not include in the letter to the solicitors, or if I misunderstood any of your concerns. This will avoid any unnecessary delay in investigating your complaint.

If I do not hear from you, my investigation will focus only upon the matters I set out in the letter that I have already sent to the solicitors.

#### **Our powers**

As you will be aware from the information sheet enclosed, if we decide the service you received from your solicitors was inadequate, we can do one or more of the following:-

- reduce the solicitors' bill
- tell the solicitors to pay compensation
- tell the solicitors to take specific action at their own expense to put matters right.

We are able to consider awarding compensation only if we decide the service you received from your solicitors was not of a reasonable standard. There is no guarantee that compensation will be awarded and it is only in a very small minority of cases that the maximum award will be made.

If you wish to claim compensation for financial loss, which you think was caused by the solicitors' poor service, please let me have details. If we are to take this into consideration we will also need evidence of the loss and explain why you feel the solicitors caused that loss.

I advised you in my previous letter that an award by this office is likely to be lower than the sum you are looking to recover. It is for this reason that I have advised that if you wish to recover such a high sum of compensation, you consider pursuing a legal claim in the Courts. Awards of compensation by this office are intended to compensate you for the distress and anxiety you suffered.

I would refer you to the Law Society Awards Data Scheme. This can be found on the Law Society's website and is entitled '*Ways of Dealing with Poor Service, a Guide for Clients*'. The Guidance explains how this office approaches compensation awards and you may use the information to assess the sort of award applicable in your case.

You can access the Guidance by visiting [www.lawsociety.org.uk](http://www.lawsociety.org.uk). Go to 'Can We Help', and then click on 'Ways of dealing with service'. If you have any problems in accessing the website, please call me and I will try to assist you. Alternatively, I could send you a hard copy of the Guidance.

I hope that this will be of assistance to you.

If you think that I have left out or misunderstood any of your concerns, please let me know as soon as possible. If you have any supporting information or documentation it would be helpful if you send this to me by 16 June 2004.

Finally, if at anytime during our investigation, you have concerns about our service, please let us know. We have an internal complaints procedure to deal with such concerns, and we will do all we can to resolve your complaints and respond positively to your comments.

I will contact you again as soon as I have received and considered the solicitors' response to your complaints.

Yours sincerely



Rajdeep Tutt (Ms)  
Caseworker  
Client Relations Office

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Enc(s):- Letter to solicitor.  
Information Sheet (IS02).

If I am unavailable when you call, please speak to Amundip Atwal, on direct line number 01926 822059 who will be glad to assist in my absence.

**\*\*Please quote our above reference whenever contacting us\*\***