

14 November 2011

Press release

Lawyer held to account for delays

In the first case of its kind, the High Court has fined a solicitor £5,000 + £15,550 costs for failing to co-operate with an investigation by the Legal Ombudsman.

Howard Robert Gillespie Young, a solicitor who practised in Bolton, Lancashire, for CMG Law failed to provide documents to enable the Ombudsman to investigate a case.

A complaint was first made to the Ombudsman in October 2010 by the complainants who paid £500 to Mr Young to make a claim on an insurance policy. They were told that after a certain period of time he could commence litigation to get the money they were owed under the policy. That time period expired and little, if anything, was done to progress their claim. The complainants also instructed Mr Young to assist with an employment tribunal but the case was dismissed when a judge's patience was stretched by delays caused by Mr Young.

When the complaint came to the Legal Ombudsman, Mr Young failed to provide documents to help with the investigation. This delayed its progress.

Mr Justice Lindblom said: *"Mr Young consciously persisted in his default for about two and a half months, apparently ignoring the Ombudsman's process entirely. For [the complainants] the delay in their documents being found must have been frustrating, to say the least. Mr Young's default was the more serious in the light of his unfortunate disciplinary history, in which a pattern of ignoring correspondence and requests for information is plain."*

Mr Justice Lindblom also outlined how, in other cases, he would consider imposing more than a fine: *"Undoubtedly there will be cases, though they are likely to be more extreme in their facts than this, in which the court will see no option but to impose a sentence of immediate imprisonment"*


for a failure to comply with a requirement imposed under section 147 of the 2007 Act”.

Commenting on the ruling, Chief Ombudsman Adam Sampson, said:
“We regret having to take these measures in this case. Most of the time lawyers cooperate fully with the Ombudsman and want to resolve complaints. But we are pleased with the clear support from the Courts for the Ombudsman’s role. It’s now clear to all that in those rare cases where a lawyer fails to co-operate we can use powers to respond appropriately.”

Mr Sampson added: *“I know this will be of great comfort to consumers seeking redress. The legal profession will also be strengthened thanks to the clarity of the ruling in this case.”*

Notes for Editors

1. The Ombudsman investigated a complaint about legal services provided by Mr Young. The complaint was made in October 2010. By the notice he issued under section 147 of the Legal Services Act 2007 the Ombudsman required Mr Young to produce specific documents, files and bills which the Ombudsman considered were necessary to enable him to determine the complaint. Mr Young failed to comply with that requirement. On 24 January 2011 the Ombudsman, submitted a report to the Solicitors’ Regulation Authority (“the SRA”) under sections 143, 145 and 148(2) of the 2007 Act, stating, among other things, that he believed Mr Young had failed to comply with the requirements imposed on him by the section 147 notice. The documents required were still not produced. The Ombudsman considered Mr Young to be a defaulter, as defined by section 149 of the 2007 Act, and duly certified that he had failed not only to provide the information he had been required to provide and to produce the documents he had been required to produce but also to give any good reason or excuse for that failure.
2. Lawyers could face an unlimited fine or up to two year imprisonment under the terms of the 2007 Act.
3. The Legal Ombudsman recently announced it will, in 2012, move to a system of naming lawyers and firms that provide an ineffective service. Read the decision on making this move at <http://www.legalombudsman.org.uk/downloads/documents/consultations/Publishing-Decisions-Consultation-Response-Final-111031.pdf>

- 
4. It's free for consumers who wish to use the services of the Legal Ombudsman. They can contact the service on 0300 555 0333 or email <mailto:enquiries@legalombudsman.org.uk>
 5. The Legal Ombudsman for England and Wales was set up by the Office for Legal Complaints (our Board) under the Legal Services Act 2007. We are independent and impartial. This means that when we receive complaints, we will look at the facts in each case and weigh both sides of the story. We are not consumer champions or part of the legal profession, and we are also independent of Government.

For further details or to arrange an interview please contact:

Alan Schofield

Email: alan.schofield@legalombudsman.org.uk

Phone: 07881 415696