
Final Decision

14 November 2023

The firm in this matter, Bloomsbury Law Solicitors, provided a service to Mr B in relation to a court hearing in XXXX in which he was ordered to pay a debt (£45,413.06).

Mr B's son, Mr C, communicated with the firm on his father's behalf at the time. The complaint was initially submitted in the joint names of Mr B and Mr C; however, Mr B has always been the primary complainant on the file.

Payment to the firm (discussed later) is evidenced as being made from Mr B's bank account, and Mr B has provided a signed agreement for the investigation to proceed with Mr C as his representative.

As any comments made are on behalf of Mr B, I will refer to these being from Mr B in the course of this decision.

The firm have twice raised challenges to the investigation continuing.

In February 2023 they raised they considered the complaint should be dismissed under either rule 5.7e or 5.7j (a comparable complaints/cost-assessment scheme or court has already dealt with the same issue, or the issues concern someone who has not complained, and an ombudsman considers it would not be appropriate to deal with the issue without their consent). They were able to raise this request under rule 5.4c.

This was determined on 2 March 2023. The complaint was not dismissed.

After the investigator completed his investigation he issued his Case Decision (which set out his view) on 4 August. The firm and Mr B responded, and the case was assigned to me to consider making a Final Decision.

I first reviewed the file on 25 September. I noted the evidence that my colleague had relied on had not been shared alongside his Case Decision. I returned the case to my colleague, who reissued his Case Decision, alongside a bundle of relevant evidence, on 26 September. A further opportunity was given for any additional comments. No further comments were provided by the firm. Mr B confirmed he had no new comments to make.

The case was then returned to me. I reviewed the file on 13 October, and this included consideration of the merits of the decision and comments. In doing this, I noted the firm's response. I considered this to amount to a challenge to the Legal Ombudsman's jurisdiction to consider the complaint (under rule 5.4a, stating rule 2.8 was not fulfilled).

I wrote to both parties the same day explaining this challenge would need to be considered by an independent ombudsman before I could proceed.

After the necessary procedure was followed, a colleague made this determination on 2 November. It was decided the complaint was within jurisdiction.

Those decisions are separate from this determination of the merits of the complaint. I write this decision with it having been determined it is within jurisdiction and should not be dismissed.

The firm have not provided any further comments on the merits of the decision reached beyond they did not consider the complaint to be within jurisdiction, so they could not be criticised for poor service. I recognise the firm state they will not comply with an Ombudsman's decision they consider to be perverse, and it is open for the Legal Ombudsman to refer them to the SRA for non-compliance. I, however, must make the decision I consider to be fair and reasonable in the circumstances before me. Any subsequent possible enforcement or misconduct proceedings are separate from the determination of the complaint.

Returning to the complaint agreed for investigation, this is:

1. The client made a payment of £20,000 to the firm towards an insurance settlement, but the £20,000 was not paid forward by the firm.

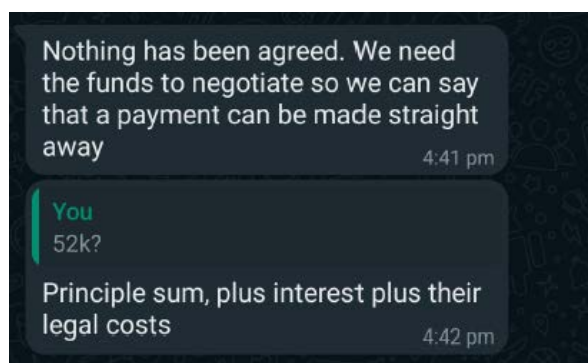
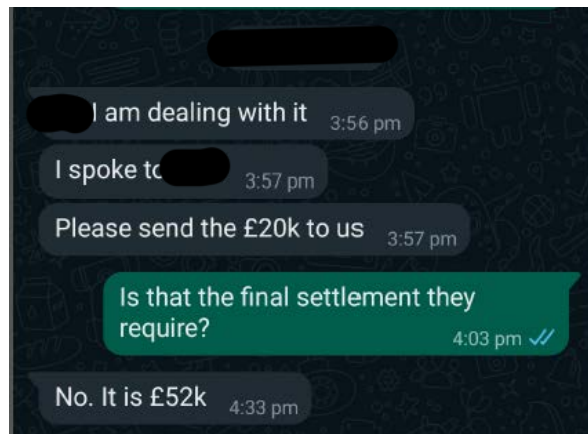
My colleague investigated this matter and found the firm's service to be unreasonable. He found £20,000 was paid to the firm in XXXX, but in XXXX, the other side confirmed they had not received the £20,000. He directed £20,000 should be returned to Mr B.

He considered an award of interest but did not direct this. He did however find the firm should pay a further £500 in recognition of the distress and inconvenience caused by not making the payment, finding this out 18 months later, and then having to negotiate a payment plan for the entire judgement amount.

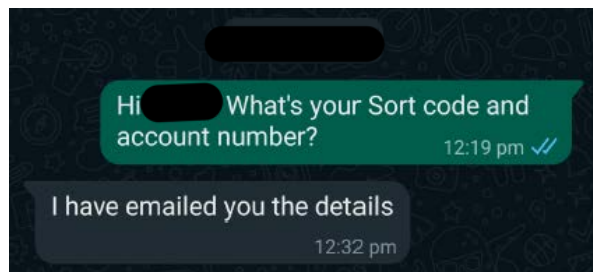
I now explain my decision:

1. The client made a payment of £20,000 to the firm towards an insurance settlement, but the £20,000 was not paid forward by the firm.

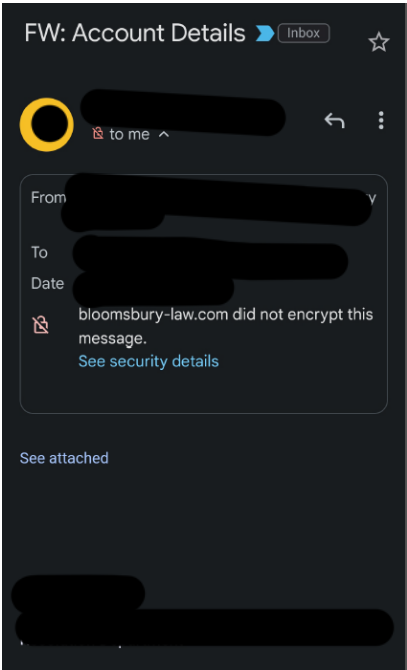
- 1.1. There is limited information available on this file, although I consider the firm to have had a fair opportunity to provide anything further.
- 1.2. An evidence request was made on 8 March 2023 and followed up on 1 March 2023. The firm were informed a misconduct referral had been made on 24 April, and once my colleague had formed his views, he attempted to arrange to speak in an email on 10 July.
- 1.3. The firm did respond on 11 July, repeating their challenge regarding the SRA having already determined the matter (the challenge under 5.7e). XXXXX
- 1.4. While I recognise the firm's position, this challenge was made and determined. That decision has not been challenged (by way of Judicial Review). It stands and is not reconsidered within this decision.
- 1.5. The firm were then sent a copy of the investigator's conclusions (his Case Decision) on 4 August. A response was chased by the Investigator (and also his manager while he was on leave). The firm responded on 7 September. They did not provide any further evidence.
- 1.6. This led to the second 5.4 challenge (this time under 5.4a) as I have explained above. That found the matter was within jurisdiction. As with the previous decision, that point is not reconsidered within this decision.
- 1.7. I am consequently in a place where I consider fair opportunity has been given to the firm to provide any additional comments or evidence. I therefore determine this complaint with reference to the information which is available.
- 1.8. I have seen WhatsApp messages with the firm in XXXX. These have been provided by Mr C, and also reference the firm speaking to a further brother (Mr D). In this exchange, the firm asks for the £20,000 to be paid to them:



- 1.9. The firm were then asked for their bank details on XXXX, and explained they had been emailed:



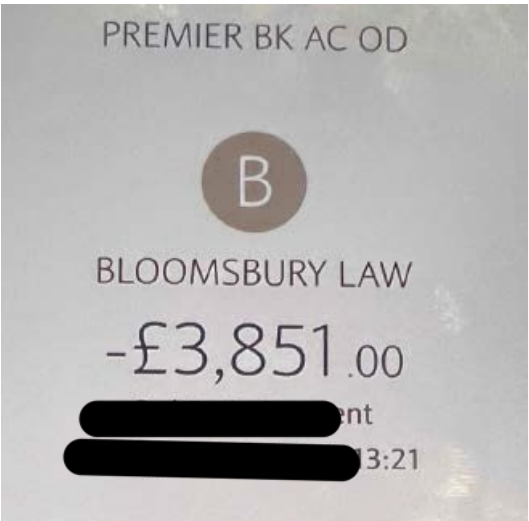
- 1.10. There is then an email from the firm to Mr C on XXXX, this is entitled 'Account Details', and attached a pdf of the account details. The domain of the email ('@bloomsbury-law.com') is the same as recorded on our systems. This matches the sequence of correspondence from the WhatsApp messages, which I find gives weight to the evidence:



1.11. The WhatsApp messages then confirm payment has been made, and this is evidenced by Mr B’s bank statement. It shows a payment of exactly £20,000 to the firm on XXXX:

[REDACTED]	BLOOMSBURY LAW CLI	FPO		20,000.00
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1.12. An invoice was subsequently raised on Mr B’s matter in XXXX for £3,851 (inclusive of VAT and disbursements). WhatsApp messages show this invoice was paid later (on XXXX) in addition to the £20,000 paid in June.



- 1.13. There is no evidence of further work on the file (although ultimately this complaint is only about paying on the £20,000 paid to the firm). That there appears to be no further work is however relevant to explain the breakdown in the relationship which led to Mr B changing solicitors. This change of solicitors took place before XXXX.
- 1.14. By XXXX, a new firm had been instructed, and I have seen emails in XXXX between solicitors seeking to confirm what remained outstanding, and what (if anything) had been paid.
- 1.15. The other side's solicitor first confirmed the charging order had not been satisfied, then referred the later firm to the XXXX order. Finally, XXXX, the solicitor for the claimant confirmed no payments had been received, and the full sum remained owing:

From [redacted]
[mailto:[redacted]]
Sent: [redacted]
To: [redacted]
Subject: RE: [redacted]

Dear Sirs,

No such payment was received by us therefore the full sums remain payable.

I look forward to hearing from you with regards to payment of the same.

Kind Regards,

[redacted]

- 1.16. A payment plan was subsequently agreed (£10,000 lump sum, then £1,000 per month).
- 1.17. I find this sequence of correspondence compelling to establish (1) £20,000 was paid to the firm to pay on in part-payment of the judgment, (2) this was separate from payment of fees, (3) this sum has not been paid on, and the payment plan entered into is for the full judgement amount.
- 1.18. I therefore find £20,000 has been paid to the firm and has not been paid on. There is no justification for this.

- 1.19. I find the firm have been given sufficient opportunity to respond, challenge the evidence relied on, or provide any further evidence. None has been provided. I therefore find the complaint is made out and upheld. The firm were paid £20,000 of client money, and there is no evidence this has been paid on (nor returned to Mr B). Mr B has agreed to a payment plan excluding this money, so even if the firm simply still holds it, it should be returned.
- 1.20. I find the firm should return £20,000 to Mr B.
- 1.21. I note my colleague considered whether interest should be added to this award, as the firm have, in light of this decision, held this money for some years, however I recognise that in the period up to the complaint being referred to this office, interest rates were at historic lows, and I would not find it fair for the firm to pay interest for the period the matter has been with this office. I therefore agree no separate payment for interest is applicable.
- 1.22. Instead, I agree a further payment in recognition of the frustration, uncertainty and inconvenience caused is appropriate. I can see this lack of understanding of the £20,000 payment persisted for some time and was even raised with the claimant's solicitors to confirm if payment was made to them. This shows a concern taking place over a significant period.
- 1.23. In light of this, I find a further 'significant' payment in recognition of the emotional detriment is merited. My colleague recommended a further £500 payment. This is an appropriate payment within the 'significant' range of our guidance. I note on Mr B's behalf it is raised this should be increased, as the firm caused a lot more emotional damage, I consider this to be in line with our guidance.
- 1.24. I therefore find a further payment of £500 is reasonable to recognise the avoidable distress Mr B has faced in following up and seeking to resolve this matter (which includes through his son, Mr C).

Therefore, my final decision is that there has been unreasonable service that requires a remedy and direct that the firm:

- 1. Pay Mr B £20,000 (this is a return of £20,000 placed on the client account),**
- 2. Pay Mr B an additional £500 in recognition of the avoidable emotional impact of the unreasonable service.**

This is an overall payment of £20,500 to Mr B.