
Final Decision

27 November 2024

Introduction

Mr A instructed Mr Mohammed Latif ('the barrister') by direct access in XXXX to assist him with his immigration matter. Mr A had retained the barrister to draft and submit his citizenship application for him. Mr A's application was not submitted and he raised a complaint with the barrister on XX and XX June XXXX. After receiving no response Mr A referred his complaint to this office.

The barrister has failed to respond to any contact from this office. My colleague contacted the Bar Standards Board and the information received stated that the barrister was regulated until June 2022. I therefore take this to mean that the barrister is no longer currently practising. All evidence supplied has been from Mr A.

My colleague investigated the following complaints:

- 1. The barrister failed to send the agreed retainer documents to Mr A following his initial appointment on XXXX. The agreed documents were:**
 - a) a client care letter**
 - b) a receipt for the £1200 payment Mr A made to you for the agreed legal work.**
- 2. The barrister repeatedly advised Mr A that they would keep him updated about the progress of his citizenship application, but failed to do this.**
- 3. The barrister repeatedly failed to respond to Mr A's text messages and phone calls.**
- 4. The barrister repeatedly rescheduled or cancelled appointments with Mr A without providing sufficient notice.**
- 5. The barrister failed to submit Mr A's citizenship application in line with his instructions.**
- 6. The barrister failed to provide Mr A with proof that his citizenship application had been submitted, despite his repeated requests.**
- 7. The barrister failed to refund Mr A and return his file of papers in line with his requests.**
- 8. The barrister failed to respond to Mr A's complaints**

My colleague, in her Case Decision dated 14 October 2024, found that the barrister's service had fallen below a reasonable standard in relation to all of the complaints

with the exception of complaint four only. She recommended a remedy of £2,280 which comprised of the costs of a new application and compensation for the distress and inconvenience caused. Mr A confirmed his acceptance of the Case Decision on 15 October 2024. The matter has now been passed to me to make a Final Decision on the complaints.

Conclusion

My role as an ombudsman is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. When determining what is 'fair and reasonable', I am expected to take into account (but I am not bound by) what decision a court might make, relevant regulatory rules and what I consider to be good practice. I confirm that I have taken such factors into account, and the decision that I set out below, is what, in my opinion, I consider to be fair and reasonable in all the circumstances of this case.

In making my decision, careful consideration has been given to all of the comments received. I shall refer to these comments during my decision below, but if I don't refer to specific comments that does not mean I have not taken them into account. All comments have been considered before I have reached my decision.

1. The barrister failed to send the agreed retainer documents to Mr A following his initial appointment on XXXX. The agreed documents were:

- a) a client care letter**
- b) a receipt for the £1200 payment Mr A made to you for the agreed legal work.**

- 1.1. Mr A says he received neither a client care letter of a receipt for the payment he made for his legal fees.
- 1.2. There is no evidence to demonstrate that Mr A was provided with a client care letter or a receipt for his payment. I have seen that Mr A in later messages to the barrister refers to a payment of £1,200 being made and requests a refund of this amount.
- 1.3. Whilst I have not seen that Mr A specifically requested either a client care letter or a receipt, I would expect the barrister to provide some information to the client as to the contractual terms that the retainer would be based upon. I therefore find the barristers service unreasonable for his failure to provide this to Mr A and I uphold complaint 1 a).
- 1.4. Similarly, even if Mr A did not receive a specific receipt when he made the payment of £1,200, I would expect the barrister to provide some form of invoice to Mr A to confirm the fees that had been paid and a description of

the work undertaken for the same. I therefore find that the barristers service has also been unreasonable for his failure to provide this Mr A and I uphold complaint 1 b). I will explain my remedy for all complaints that have been upheld at the end of my decision.

2. The barrister repeatedly advised Mr A that they would keep him updated about the progress of his citizenship application, but failed to do this.

- 2.1. Mr A says he was told he would be keep informed about his application however this did not occur.
- 2.2. The only evidence of communication between the barrister and Mr A that Mr A was able to provide was text messages between XXXX and XXXX. The text messages show that Mr A repeatedly had to contact the barrister for updates and the barrister's responses mainly consisted of excuses why the application had not been submitted. I am aware that no application was in fact submitted as I have seen the Home Office later confirmed to him no application had been submitted since XXXX.
- 2.3. I have seen some messages from the barrister in which they state the application had been submitted despite the evidence demonstrating that no application had been submitted at all.
- 2.4. Accordingly, I find that the barristers service was unreasonable for their failure to proactively update Mr A about the progression of his application and also note that the barrister actually appeared to mislead Mr A by giving false information about the application. I uphold this complaint.

3. The barrister repeatedly failed to respond to Mr A's text messages and phone calls.

- 3.1. Mr A says that the barrister did not respond to his text messages and telephone calls.
- 3.2. I have not been provided with any direct evidence of telephone calls made to the barrister but I do note that within a text message on XXXX Mr A did refer to the barrister ignoring his calls. I therefore consider it more likely than not that the barrister did fail to reply to Mr A's calls otherwise he would have no reason to raise this with him directly.
- 3.3. I have also seen that when Mr A raised his complaint in his text messages of XX and XX June XXXX, the barrister did not provide him with any response.

Further I have seen the text messages of Mr A's to the barrister on XXXX, XXXX and XXXX were also not responded to.

- 3.4. From the evidence I have seen and the inferences I have drawn I am satisfied that the barrister did fail to respond to Mr A's calls and text messages and therefore I uphold this complaint.

4. The barrister repeatedly rescheduled or cancelled appointments with Mr Nela without providing sufficient notice.

- 4.1. Mr A has stated that the barrister did not provide sufficient notice and cancelled multiple appointments.
- 4.2. I have seen the first appointment was arranged for XXXX and this went ahead as expected. On XXXX the barrister suggested a meeting on XXXX at 9am which Mr A confirmed he could attend. The barrister then messaged Mr A at 1.51pm on XXXX to inform him he had to cancel the meeting due to another work commitment and suggested an appointment on the weekend instead. Mr A, again, agreed to attend at that time.
- 4.3. The barrister then messaged Mr A on XXXX and stated that due to an event in the city centre the office would not be accessible due to road closures and suggested a meeting on XXXX. The text messages on XXXX demonstrate that this meeting took place as arranged. I have seen no evidence of any further meetings.
- 4.4. I recognise that Mr A would have been somewhat frustrated that the barrister was unable to attend prearranged appointments. I have considered the barrister's reasons as to why he was unable to commit to the meetings due to professional commitments and festivals affecting access to the city centre and I deem these to be reasonable.
- 4.5. I note the barrister notified Mr A at midday the day before on one occasion and at 11.46am on the day of the other when the meeting was scheduled for 4pm. Whilst I consider that more advance notice would have been preferable on the second occasion, I consider it was a matter outside the barristers control that he was likely unaware of until the same day. Ultimately, I am looking to hold the barrister to a standard of service that is reasonable, not perfect.
- 4.6. Overall, I am satisfied that whilst meetings were rescheduled there were reasonable reasons for this and these were communicated to Mr A. In addition, I do not consider notice was insufficient in the circumstances. As such, I do not uphold this complaint.

5. The barrister failed to submit Mr A's citizenship application in line with his instructions.

6. The barrister failed to provide Mr A with proof that his citizenship application had been submitted, despite his repeated requests.

5.1. I have adopted the same approach as my colleague and grouped these two complaints together as they cover a similar issue and the same evidence.

5.2. Mr A has explained that his instructions were to submit the application and he later found out that this had not been done.

5.3. I have seen that Mr A, after becoming frustrated with the lack of clarity about his application from the barrister, contacted the Home Office to get an update on his application. On XXXX, the Home Office confirmed that his last application was submitted on XXXX and they have no record of a current application being submitted.

5.4. The evidence therefore demonstrates that the barrister failed to submit the application despite instructions to do so. I therefore uphold complaint 5.

5.5. Furthermore, the barrister was unable to provide Mr A with any proof of the application as he had not submitted it. That being said, the barrister informed Mr A on XXXX that he had sent it the previous day and communication after that point continued with the barrister repeatedly claiming to be unable to supply the confirmation letter due to technical problems.

5.6. Taking into consideration the evidence from the Home Office, I can only conclude that the barrister was misleading Mr A in stating that his application was submitted and that he could provide proof when none existed. As such, I also uphold complaint 6.

7. The barrister failed to refund Mr A and return his file of papers in line with his requests.

8. The barrister failed to respond to Mr A's complaints

7.1. Again, I have decided to group my conclusions on these complaints together to avoid any repetition as the evidence overlaps for both complaints.

7.2. Mr A says he requested his papers be returned to him and also a refund of the £1,200 he paid for his legal fees. He says he received no further contact from the barrister after he made this request and raised his dissatisfaction with the service he received.

7.3. I have included below the text messages where Mr A raises his issues with the barristers service and also his request for his papers and a refund:

[REDACTED]

[REDACTED]

[REDACTED]

7.4.

7.5. There is no evidence to show that the barrister had any further correspondence with Mr A and I understand he did not receive his papers or a refund of the fees he paid.

7.6. As Mr A had raised a complaint, I would expect this to be dealt with in line with the barristers complaint procedure. Given no complaint response was provided I uphold complaint 8 that the barrister failed to reply to the complaint.

7.7. Similarly, there is no evidence that the barrister refunded Mr A's fees or provided him with his papers despite these been requested. As such, I also uphold complaint 7.

Remedy

Insofar as I have upheld all of the complaints with the exception of complaint 4, I now have to consider what detriment this had on Mr A and if a remedy is appropriate to award.

I am mindful that Mr A paid the barrister £1,200 to submit his application however it was confirmed by the Home Office that no application was ever submitted. Accordingly, I find as it appears no work was done on Mr A's matter therefore the fees he paid for his application ought to be refunded to him. I note that the costs

incurred in pursuing a citizenship application have now increased from the £1,200 to £1,630. I have included an extract from the government website taken today that confirms the increased fee:

Application fees

Adults applying for British citizenship

Application form	Type of application	Total fee payable
AN	Naturalisation	£1,630

I take the view that if it was not for the barrister's unreasonable service, Mr A would have had the opportunity to submit his application at the time when the fee was £1,200. As such, I find it fair and reasonable and Mr A ought to receive financial compensation to the value of £1,630 to cover the costs of the new application.

Furthermore, I also have to consider the emotional impact that the barristers service had on Mr A. It is clear from the text messages sent by Mr A that he was becoming increasingly frustrated with the barrister's lack of responses and attempts to avoid providing proof of the application. I note that Mr A had to contact the Home Office himself after the barrister stopped corresponding with him entirely. I recognise that this would have caused significant stress as Mr A had no idea as to the status of his application and had to resort to making the enquiries himself. It would doubtless have caused shock and disappointment to learn that no application as ever submitted and the barrister had taken his money but done no work.

Accordingly, I am satisfied that Mr A ought to receive compensation for the emotional impact of the service failing and due to the reasons set out above deem this to fall within the 'significant award' bracket of the Legal Ombudsman's guidance for compensation of this type. The impact on Mr A, in my view, can rightly be said to have been serious but thankfully Mr A can still submit an application and his future citizenship application does not appear to have been prejudiced by the barrister's inaction. As such, I direct that Mr A should receive an additional compensatory award of £650.

Decision

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

- **Pay Mr A £1,630 in financial compensation.**
- **Pay Mr A £650 to recognise the emotional impact of the service failings.**

This provides for a total award of £2,280.