

12 October 2007

**Private and Confidential**

Mr M Glasgow  
3 Tansley Court  
Highfield Lane  
Chesterfield  
S41 7AW

Our Ref: CRO/76256-2007/TW/IA

Your Ref:

Dear Mr Glasgow

**Complaint about Robert L. Bashforth & Co. Solicitors**

I am writing further to my letter to you dated 13 September 2007, as I have now received and fully reviewed the firm's response to my letter dated 15 August 2007.

**Background**

I understand that you instructed Robert L. Bashforth & Co Solicitors on 12 June 2006 to deal with your criminal matter.

**Our Powers**

The Legal Complaints Service considers and investigates complaints against solicitors. When looking at a complaint, the Legal Complaints Service considers whether the service the client received from the solicitor was of a reasonable standard. If we consider that the solicitor provided an inadequate service we can reduce the solicitor's bill, ask your solicitor to pay you compensation or tell your solicitor to correct a mistake and pay any costs involved.

As I previously advised you within my letter dated 15 August 2007, when reviewing a complaint of inadequate professional service we are not able to consider whether the advice given by a solicitor was correct or whether the tactics he adopted in a case were appropriate. These are matters of a solicitor's professional judgement and any challenge to their appropriateness would have to be considered by a court. Our investigation is based to a large extent on documentary evidence provided by each party.

Having carefully reviewed all of the documentation which both you and the solicitor have provided this office with, I feel that there are no issues of poor service that I am able to investigate further as I feel that the solicitor provided you with a reasonable level of service.

I will now refer to the issues concerning this file and explain why in my opinion there is no evidence of inadequate professional service. I understand that this conclusion may be disappointing to you and so I would like to give you 14 days from the date of this letter in which to contact me should you

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**Legal Complaints Service**

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wish to provide me with any further evidence to support the claims as outlined below. If I do not hear anything within this time period then I will close my file.

### **1. Failure to advise**

You have said that after appearing at Derby Crown Court in March 2007, you were asked to attend a meeting with your Barrister in Nottingham. You have raised the complaint that Robert L. Bashforth & Co. Solicitors failed to advise you of the venue / time that you were meeting with Counsel.

You have also said that the firm failed to advise you that you could call upon character witnesses in court.

The firm has advised me that the only Conference that was arranged was on 16 January 2007. The firm has provided me with a file note dated 16 January 2007, which shows that you arrived for the meeting at 11am rather than at 3pm / 4pm (I have enclosed a copy of this file note for your information). The firm has said that this issue was resolved and that the confusion as to the time was an error on your part. I am of the opinion that there is no inadequate professional service in respect of this issue as the firm had advised you of the date and location of this meeting. There is no evidence to show that the firm had advised you that the meeting was at 11 rather than 4pm and later 3pm. If you have evidence to show that the time you were given for the meeting was incorrect then this is something that I would be able to consider further. As indicated above I would need this evidence within the next 14 days in order to pursue this issue.

In terms of the failure to advise you that you could call upon character witnesses in court, the firm has advised me that both the firm and Counsel looked into this issue very carefully. The firm has said that a charge of Affray is not one where character witnesses would normally be called as in the firm's opinion character witnesses would have little impact. The firm has said that Counsel (Mr Munt) has said that this issue was touched upon in Conference in January and that the difficulty was that they felt that the witnesses available would be unsuitable with them being members of the British National Party (BNP). The solicitor has said that when your matter came to trial, Mr Johal called upon character witnesses and so the question of witnesses was explored again but that again at this time it was felt that the witnesses available were unsuitable due to the reasoning above.

As indicated above, this office is unable to look at the appropriateness of the tactics the solicitor took / consider issues relating to the professional judgement of the solicitor regarding whether character witnesses would be appropriate for your case as these are legal issues that would need to be determined by a court. If you wish to pursue this element of your complaint, you would need to seek independent legal advice.

### **2. Failure to follow instructions**

You have raised the concerns that on making the request, Robert L. Bashforth & Co. Solicitors failed to obtain CCTV footage of the incident or make the appropriate enquiries in this regard. You have said that on requesting the CCTV footage, the firm advised you that there was none available.

You have also raised the concern that the firm failed to provide you with the floor plan of the Coronary Care Unit (CCU) that you requested before the trial.

In addition to this, you have said that a representative from Robert L. Bashforth & Co. Solicitors failed to attend Chesterfield Magistrates court for committal proceedings on 18 May 2007.



In terms of the CCTV footage, the firm has provided me with a letter from the CPS to the firm dated 14 November 2006, which shows that enquiries were made by the firm to the CPS regarding the CCTV footage. It further shows that enquiries were made with the hospital regarding the CCTV footage and that the Head of Security had said that there was no CCTV coverage of the offence and that at the hospital there is no CCTV coverage on the Coronary Care Unit or in the entrance to the Coronary Care Unit. Again, I have enclosed a copy of this letter for your information. As this letter suggests that the firm did make enquiries in relation to the CCTV, I am of the opinion that there is no inadequate professional service in respect of this complaint.

Regarding the provision of a copy of the floor plan of the Coronary Care Unit, again, I am of the opinion that there is no inadequate professional service in respect of this issue. This is because, the firm has provided me with a copy of a file note dated 20 January 2007 (a copy of which is enclosed with this letter) which shows that Mr Harold Robinson, visited the CCU at the hospital with you to enable you to point out to him where various parts of the incident had taken place in relation to the photos and floor plan they had. Further to this, the firm has also provided me with copies of the floor plan and photo's. This evidence shows that the firm had the aforementioned plans and that these had been considered. In the absence of any evidence to show that you specifically requested a copy of the plan from the firm / that this was denied to you without any explanation, I am of the opinion that there is no inadequate professional service in respect of this issue. If you have documentary evidence to indicate the contrary, i.e. to show that you requested a copy of this plan from the firm and that no explanation was given to you as to why you could not have a copy of the plan then I will be able to consider this issue further provided this evidence is given to me within the next 14 days.

In terms of the complaint that a representative from the firm failed to attend Chesterfield Magistrates Court for Committal Proceedings on 18 May 2007, the firm has provided me with a copy of a letter to you dated 11 May 2007 which advises you of the date, venue and time of the Sentencing and that a representative and your Barrister would be attending with you. The firm has also provided me with a copy of a file note dated 18 May 2007, which shows that Harold Robinson of Robert L. Bashforth & Co. Solicitors attended Court with you. The evidence therefore shows that a representative from Robert L. Bashforth & Co. Solicitors attended Chesterfield Magistrates court for Committal Proceedings on 18 May 2007 and I am therefore of the opinion that there is no inadequate professional service in respect of this complaint. I have enclosed a copy of both the letter dated 11 May 2007 and the file note dated 18 May 2007 for your information.

Whilst I appreciate that my letter may come as a disappointment to you, I hope that it has helped to explain why, in my opinion, there are no issues of inadequate professional service that are able to be pursued further and why I feel that the firm provided you with a reasonable level of service. If you are able to provide me with any further documentary evidence in support of your complaints, please do this within 14 days of the date of this letter. If I have not heard anything by 26 October 2007, then I will be closing my file.



Yours sincerely

*Tara Walzman*

Tara Walzman  
Caseworker  
Complaint Centre 3

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Encs:- File note dated 16 January 2007  
Letter dated 14 November 2006  
File note dated 20 January 2007  
Letter dated 11 May 2007  
File note dated 18 May 2007

If I am not available when you call, please speak to Ian Anderson, Customer Support Administrator, on direct line number 01926 822287 who will be glad to help in my absence.

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