

Below are my observations on the PHSO Decision Letter.PDF Of 27th March 2020.

My personal view is that a fundamental breakdown has occurred. I have no faith in your ability to investigate this matter or act impartially.

The "omissions" below demonstrate a lack of understanding. Your further involvement will lead to major concerns being raised.

You have made several statements that I feel have no basis.

I understand that the usual process is based upon resolving the issue for both you and me, however, I am unsure as to what could be proposed for me to accept a realistic solution.

SO I AM REQUESTING AN OFFICIAL REVIEW OF THE CASE BEFORE INVOLVING HIGHER
AUTHORITIES

PHSO Decision Letter.PDF Of 27th March 2020

“You complain that the LAA provided you with a bill for services from a solicitor it employed on your behalf in 2017 on 25 February 2018. As a result, you say you were unexpectedly charged for the bill. You say this has impacted on you financially.”

Incorrect!

This comment shows a clear lack of understanding of how **Legal Aid** works.

My solicitor was initially involved from 2017.

After several errors made by them and many complaints from me, I terminated their involvement with this matter on **25th February 2018. (The date you misquote)**

This was also the date that the LAA informed me of my eligibility for Legal Aid **BASED ON** My contribution of **£3500 (this is not the exact amount but an approximation)**

This was also the date I first contacted the Legal Ombudsman.

My complaint to the Legal Ombudsman was (amongst others) **“Failed to adequately deal with the Legal Aid Agency leading to his funding being withdrawn. When the funding was reinstated he had to make a contribution of £3,500;”**

The Legal Ombudsman decision was given on **28th June 2019**. The above question was answered as **“It is therefore my decision that the firm’s handling of Mr McMorrow’s Legal Aid has been poor. However, Mr McMorrow has suffered no detriment as his case proceeded to a successful outcome. I have seen no evidence to show the firm’s Legal Aid calculation was wrong, so Mr McMorrow was always going to make a contribution towards his Legal Aid”**

As part of my complaint, I have issued a **Subject Access Request** from the disclosed files. We can see that I have informed the LAA of my dissatisfaction with my former solicitors before the LAA accepted the bill.

I see no evidence that the LAA has tried to establish the extent of my dissatisfaction with my former solicitors

Daniel McMorrow disclosure bundle

Page 162 **12-Feb-2018 10:18:40** and **12-Feb-2018 12:57:07**

Page 164 **20-Feb-2018 12:40:30**

In my Stage Two response

Legal Aid Agency - Stage Two Complaint Response - 2019-09-23

The LAA state **“I am unable to comment on the response from the ombudsman but I note the following:”**

therefore before I seek legal action please show me where I have mentioned or somehow implied any financial impact as your state

“You say this has impacted on you financially.”

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“You also complain that when you made a Subject Access Request (SAR) to the LAA for all its communication with you, the LAA did not include copies of its call recordings. You complain that it did not include any information about a ‘substantive amendment’ your solicitor made to the legal aid claim and a reinstated legal aid certificate.

You also complain that the ICO did not properly consider your request for it to review LAA’s response to your SAR request.

As a result of all these alleged failings, you say you have not received all the information you need from the LAA to make a complaint to the Legal Ombudsman. You say this has caused you distress and frustration.”

Incorrect!

My Subject Access Request (SAR) made 19th July 2019

Legal Aid Agency - SAR Stage One - 2019-07-19

This concerned my **entire case file**. I have stipulated in my request that I was interested in three particular things. Item 3 stated **communication** at the time of writing in believing **"communication"** covered recorded phone calls.

After exhausting Stage One

Legal Aid Agency - Stage One Complaint - 2019-08-27

and exhausting Stage Two

Legal Aid Agency - Stage Two Complaint - 2019-09-11

Notwithstanding the LLA complaint procedures, I was able to progress further to the ICO.

My first complaint to the ICO was made on **2nd October 2019**

Legal Aid Agency - ICO Stage One - Complaint - 2019-10-02

The ICO responded on **2nd January 2020**

email.20200102.1415Your.Data.Protection.Complaint.[Ref.RFA0879498]

However, the response only focused on one aspect of my original complaint..

Legal Aid Agency - ICO - Complaint - 2020-01-03

Was submitted to **Benjamin Brady** as the author of the ICO response of **2nd January 2020**.

Benjamin Ash responded on **20th January 2020** with a non-specific answer

email - 20200120-1224-Your data protection concern [Ref. RFA0879498]-64773

Benjamin Brady responded to only one aspect of my complaint, This needs to be explained.

My response on **20th January 2020**

email.20200120.1246.Re_Your.data.protection.concern.[Ref.RFA0879498]-64774

Benjamin Ash Responded on **24th January 2020**

email.20200124.1505.Your.data.protection.concern.[Ref.RFA0879498]-65027

On **7th February 2020**, I requested a review of the case.

email.20200207.1630Re_Your.data.protection.concern.[Ref.RFA0879498]-65746

On **11th February 2020** The ICO responded to the case review

email - 20200211-1001-Your data concern review [RCC0908949][Ref. RCC0908-65922

At this point, I realise I was smashing my head against a wall. The ICO is incompetent and the constant arguments are going round in circles. The LLA failed my SARs, **Benjamin Brady** of the ICO did not fully investigate my case and the ICO won't admit it. The LAA has ignored the ICO **one-month** notice and has demonstrated a lack of a sensible approach to the Data Protection Act.

email.20180523.1438.3000000341475-Mr.D.McMorrow Here they proceeded to suggest I ask for private data in a **Freedom of Information Request!**

On **19th February 2020 (outside the additional month given by the ICO)** The LLA disclosed a **176-page** document **Daniel McMorrow disclosure bundle**

Page 169 19th July 2019 at 16:00:48

This put to rest any ambiguity over my **Subject Access Request**.

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“Complaint about the LAA’s Bill You complain that on 25 February 2018 the LAA provided you with a bill for services from a solicitor it employed on your behalf in 2017.

The Community Legal Service (Funding) Order 2007 details the billing powers the LAA has under law. It does not say there is any restriction on when solicitors can provide the LAA with bills for their services or when the LAA can ask customers to pay for the bills, if the services were provided before 2007. As the solicitor provided the services in 2017, LAA’s decision to charge you for this bill does not appear outside of relevant guidelines. “

Incorrect!

You state **“LAA provided you with a bill for services from a solicitor it employed on your behalf in 2017”** from my understanding this is wrong. I found and employed my former solicitor. They applied for Legal Aid had this been granted the LLA would have paid for my legal services.

The **LCS** (debt management company) Informed me of the LLA debt ...I first became aware of the debt when **LCS** called me on **19th July 2019**. No letters prior to this had been received.

The invoice was for work done between **20th October 2017** and **2nd November 2017**. So On **21st February 2018**, I fired former solicitors as I have lost faith in their ability. They issued me a bill acknowledgement (**I never got**) 147 days later On **18th July 2018** they finally submitted it to the **Legal Aid Agency (LLA)** On **15th March 2019**. 250 days from submitting to myself

On **19th February 2020**, The LLA disclosed a **176-page** document **Daniel McMorrow disclosure bundle Page 157 to 176** are notes of phone calls between me and the LLA.

From these notes we can see prior to the LLA accepting the bill I warned them. At no point did anyone from the LAA contact me to discuss these concerns. The LLA are happy to let the solicitors inform applicants about Legal Aid, procedures need to be in place for when applicants are not informed.

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“Complaint about the LAA’s response to your SAR You also complain that when you made a SAR to the LAA for all its communication with you, the LAA did not include copies of its call recordings. You complain that it did not include any information about a ‘substantive amendment’ your solicitor made to the legal aid claim before reinstating the legal aid certificate.

The ICO’s guidance Subject Access Request Code of Practice, published on its website, says that organisations have a responsibility to provide copies of personal data within 40 days of receiving a SAR. You made an SAR to the LAA on 19 July 2019 and requested a copy of the communication made between yourself and the LAA. In response to this, the LAA sent you 13 files in July 2019. You noticed that it did not include the audio recordings of your phone calls with the LAA. The ICO considered your request and the ICO asked the LAA to provide copies of the phone call recordings to you. The LAA provided copies of its call recordings to you on 19 February 2020.”

Incorrect!

It’s highly embarrassing I’m having to correct you on this.

The 13 files were disclosed **12th August 2019**
email.20190812.0916.SAR.190725011

Prior to signing the **GDPR** a **SARs** did have a **40-day time limit**, however, it’s now **one-month**
<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/>

The ICO indeed did ask the LAA to provide me with my call recording on **2nd January 2020**
email.20200102.1415Your.Data.Protection.Complaint.[Ref.RFA0879498]

The **one-month** time limit was again ignored.

On **5th February 2020 (outside the one-month time limit)**

email.20200205.1429.SAR.200102043-Call.Recordings

The call recording was finally received **6th February 2020**. I was surprised to receive a letter **with** the USB with the **password** to the compressed zip file. This is like locking the door and leaving the keys in the lock.

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“You made a SAR for a copy of the substantive amendment the LAA made to your legal aid claim in 30 September 2019. You followed this up with emails on 1 and 2 October 2019 saying you would bring your complaint to the ICO if it did not fulfil the requests on the same working day. You contacted the ICO, but it did not address this complaint. The LAA provided a copy of the substantive amendment on 19 February 2020.

The LAA wrote to you on 12 March 2020 and in this letter, it apologised that its original response to your SAR did not include all the relevant documents. It also said it was making changes to how it approached SARs to prevent similar issues happening in future.”

Incorrect!

I have only ever made one SARs Request to the LLA. That was on **19th July 2019**

Legal Aid Agency - SAR Stage One - 2019-07-19

The Letter of **11th September 2019**.

Legal Aid Agency - Stage Two Complaint - 2019-09-11

It was a request to escalate my complaints to stage two. This was sent to the LAA, not the ICO

I asked:

email - 20200327-1903-Re_Ombudsman Complaint Reference C2105350-68411

The reason for the question was I never said **“you would bring your complaint to the ICO if it did not fulfil the requests on the same working day”** I don't believe this was ever been implied.

Please Note.

Upon receiving, **Legal Aid Agency - Stage Two Complaint Response - 2019-09-23** I could have gone to the ICO, these emails demonstrate my reluctance and desire to informally resolve these issues

This email chain started when the LAA disclosed 13 files.

email.20190812.0916.SAR.190725011 on 12th August 2019

I was asked to explain what was missing!

email.20190930.1425.Re_SAR.190725011

Please Note

This is not how a **SAR** works. I have no knowledge of the LLA workings, my request was for **“my entire case file”** It is unacceptable that the LAA asked me to state what was missing.

I sent:

email.20190930.1450.Re_SAR.190725011

Then I wrote emails on **1st and 2nd October 2019** that was sent out of frustration. As it shows my concern was this debt

I did finally write to the ICO on **2nd October 2019** but the email dated **30th September 2019** has not been answered.

Please Note

Before the “they need time” comments are made. I sent email **30/09/2019 14:16**

They responded **30/09/2019 14:25**. 9 Minutes.

If more time was needed, they should have said.

The LAA did disclose the **substantive amendments** on **19th February 2020**.

email.20200219.1435.Re_SAR.200102043-Call.Recordings

The LAA disclosed a **176-page** document **Daniel McMorrow disclosure bundle**

I ask

email.20200219.1516.Re_SAR.200102043-Call.Recordings

They say

email.20200219.1532.Re_SAR.200102043-Call.Recordings

I state

email.20200219.1620.Re_SAR.200102043-Call.Recordings

This email has never been answered. The LAA never explained the **176-page** document **Daniel McMorrow disclosure bundle**

The **substantive amendment** was actually disclosed by yourself.

email - 20200319-1346-Ombudsman Complaint Reference C2105350-67925

A discussion was held

email - 20200319-1457-Re_Ombudsman Complaint Reference C2105350-67933

The use of "plain English" is a part of Data Protection; it should not require a request or complaint.

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/#6>

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“The evidence shows that the LAA did not provide both the call recordings and the substantive amendment to you with 40 days. This is not in line with the ICO’s guidance for SARs.

We then considered how this affected you. You say that this has affected your ability to raise a complaint with the Legal Ombudsman. The Legal Ombudsman’s Scheme Rules published in April 2019 lists the powers it has under law. It says that the Legal Ombudsman has the power to request any information it needs from the organisation it is investigating. This means that if you did raise a complaint with the Legal Ombudsman, it has the power to request the information you sought through a SAR. Therefore, we cannot say that the LAA’s actions have affected your ability to complain to the Legal Ombudsman.”

Incorrect!

My Complaint to the Legal Ombudsman was about my solicitor, not the LLA.

“organisation it is investigating” would be about my former solicitors.

While the Legal Ombudsman has no legal power to ask the LLA for my personal information (**Data Protection Act**) I could have given them permission. However, this would impede my ability to make a complaint. My Involvement with the LAA has been since 2017, during that time a number of documents have been exchanged between me, them and my former solicitors. The Legal Ombudsman would never accept my handing of the documents and would just say that my solicitors are “bad”

And from your very very poor understanding of my complaint, it is evident that I need a clearer understanding

I asked

email - 20200327-1903-Re_Ombudsman Complaint Reference C2105350-68411

On **27th March 2020**, I asked the **Legal Ombudsman** for a comment on this statement. Today it’s not been answered.

I also note Article 82 of the GDPR (right to compensation for material or non-material damage), “non-material damage” includes distress.

<http://www.legislation.gov.uk/ukpga/2018/12/section/168>

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“You also say that it caused you distress and frustration waiting for the information from the LAA. Your communication with the LAA shows that you were distressed and frustrated due to the amount of time you were waiting for this information, which indicates to us that you were impacted by the LAA’s actions. We do note most of your distress was because you wanted to make a timely complaint with the Legal Ombudsman.

We can see that the LAA has already apologised to you and is reviewing its approach to SARs. We considered whether it needs to take any further action to remedy the distress and frustration it caused. Our Financial Remedy Guidance published by the Parliamentary and Health Service Ombudsman in 2018 says that when there is an administrative failing which causes a short period of frustration and distress, the named organisation should not provide a financial remedy and instead should apologise to the person affected. As the LAA has already apologised for the issues in its handling of the SAR and is making changes to its service, we are satisfied that it has taken enough action to put things right for you.”

Incorrect!

While I regard the apology as nothing more than lip service.

As the PHSO published **“Financial Remedy Guidance”** every single organization is going to publish an apology so if the PHSO gets involved, the PHSO looks favourably on them.

<https://www.ombudsman.org.uk/sites/default/files/Our-guidance-on-financial-remedy-1.pdf> page 8 states **“Emotional Distress, worry, annoyance and similar emotional impacts, injustice of the sort which a healthy adult would be expect to deal with on a regular basis, without external support, and which does not impact on the affected person’s day to day functioning, or their ability to live a normal life; for a period of up to 2 weeks. One-off clinical or administrative failures causing minor worry or annoyance.”**

Now the distress was a **£240** bill...

My **SARs** was issued **19th July 2019** it was finally answered **22nd February 2020**. This is more than a **short period**

You are also unaware of my daily life. **“injustice of the sort which a healthy adult would be expect to deal with on a regular basis”** I’m disabled, part of this was a hypoxic brain injury.

<https://www.dropbox.com/s/6278be4pnpohdow/Letter%202011-11-30.pdf?dl=0>

I don’t like to disclose this as it’s embarrassing and should not be necessary to get a reasonable level of service. My doctor has me on antidepressants, though not a direct result of the LAA they reduce my stress, so if it was apparent in emails it would have been significant..

I’ve been seeking assistance since this debt came to light I, however, the involvement of the Legal Ombudsman is making people cautious.

<https://www.ombudsman.org.uk/making-complaint/getting-advice-and-support>

Is limited to NHS advocacy groups. And groups with selective criteria.

At this stage, I’m having to raise a complaint with the LLA, ICO, Legal Ombudsman, my MP and the PHSO. Had the LAA acted appropriately only the complaint to the Legal Ombudsman would have been necessary.

A lawyer who was involved in the same case as my former solicitors (who is going to remain anonymous) said **“From memory, I recall there being significant concern with your former legal representatives and the way they had acted. I would need to know more in relation to what you would be looking to do, but if it is as I suspect, that you are looking to take action against your former legal representatives I would not be able to assist. I do not believe there is any conflict situation but I am simply not best placed to assist, as**

this is not a line of work I pursue. You are welcome to e-mail me with further details and I can re-assess the situation then. It is highly unlikely though that I can assist.”

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“The ICO’s handling of your request for a review You also complain that the ICO did not properly consider your request for it to review LAA’s response to your SAR request.

You contacted the ICO on 2 October 2019 and asked the ICO to review the LAA’s response to your SAR. You told the ICO you did not feel the LAA’s response was complete as it did not include any of its internal correspondence and the solicitor’s claim was not complete. You also said it included financial records which you had not requested.

The ICO asked you which information you felt the LAA had not included in the SAR. You again said the solicitor’s claim was incomplete, some abbreviations had not been explained to you and you said it did not include a substantive amendment to your legal aid claim.”

It is unacceptable to ask me what's missing. I have no idea what data the **Legal Aid Agency (LAA)** has on me.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712008/LAA_Information_Charter.pdf

Page 2 list of personal data, **financial** data. These should have been disclosed in the first instance.

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“The ICO responded on 2 January 2020. It included a summary of the complaint that it investigated, which said it had considered whether the LAA had provided a copy of all its communication records. The ICO said that the LAA had not provided copies of its recorded phone calls and asked the LAA to provide these, which it did in February 2020.

You then requested a review of the complaint, as you felt the ICO caseworker had not addressed all your complaints. The ICO agreed that the caseworker had not considered all the issues you raised. It apologised to you for not addressing the concerns, but said it was satisfied that the LAA had not breached the Data Protection Act 2018 or that it warranted further involvement from the ICO. When we discussed the LAA’s response to your SAR sent on 20 February 2020, you said that as far as you were aware it had provided all the documents you had requested.

The evidence shows the ICO did not consider all the issues you raised in your request for its review. We then considered whether this had an impact on you. We can see from your correspondence with us and the ICO that its omissions caused you frustration and distress until the LAA provided you with all the documents you required.

We then considered Our Financial Remedy Guidance, which says that we should generally recommend that an organisation apologises to the person affected when it causes them a short period of distress and frustration due to an administrative failing, without the need for a financial remedy. As the ICO has already apologised to you, we are satisfied that it does not need to take any further action to put things right for you.”

You state

“but said it was satisfied that the LAA had not breached the Data Protection Act 2018”

However

<http://www.legislation.gov.uk/ukpga/2018/12/section/54>

puts a one-month time limit on the disclosure response, This did not happen. So the did breach the **DPA 2018**. The **ICO** statement is not supported by the facts.

As previously stated While I regard the apology as nothing more than lip service.

As the PHSO published **“Financial Remedy Guidance”** every single organization Is going to publish an apology so if the PHSO gets involved, the PHSO looks favourably on them.

Please review.