

IN THE MATTER OF JOHN CHARLES ARNOLD, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr L N Gilford (in the chair)
Mr D Green
Mr M C Baughan

Date of Hearing: 12th February 2008

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Rosemary Jane Rollason, solicitor of Field Fisher Waterhouse, 35 Vine Street, London, EC3N 2AA on 9th September 2005 that John Charles Arnold of Bicester Road, Long Crendon, Aylesbury, Buckinghamshire, solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

The allegations were that the Respondent had been guilty of conduct unbecoming a solicitor in the following particulars namely:

- (i) he failed to reply to correspondence from the OSS/Law Society between approximately January and September 2004 relating to a complaint by Mr MS in breach of Principle 30.04 of the Guide to the Professional Conduct of Solicitors (Eighth Edition);
- (ii) he failed to notify The Law Society of details of his practice address at 13 Castle Street, Reading, contrary to the requirements of Section 84(1) Solicitors Act 1974;

- (iii) he failed to notify The Law Society of the closure of his practices, Arnolds Solicitors and Dukes Arnold Solicitors in December 2004, contrary to the requirements of Section 84(1) Solicitors Act 1974;
- (iv) by abandoning his practice without making appropriate arrangements for its closure, he acted contrary to Rule 1 of the Solicitors Practice Rules 1990, in particular his actions were likely to compromise or impair:
 - (a) his duty to act in the best interests of his clients;
 - (b) the good repute of the solicitor's profession.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 2nd February 2008 when Rosemary Jane Rollason appeared as the Applicant and the Respondent did not appear and was not represented.

The Tribunal accepted that due service had been achieved following compliance with its earlier Order for substituted service.

At the conclusion of the hearing the Tribunal made the following Order:

The Tribunal Orders that the Respondent, John Charles Arnold of Bicester Road, Long Crendon, Aylesbury, Buckinghamshire, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 12th day of February 2008 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,004.44

The facts are set out in paragraphs 1 to 20 hereunder:

1. The Respondent, born in 1957, was admitted as a solicitor in 1983. From 7th August 2001 he was the sole principal of Arnolds, St James' House, James Street, Oxford and also of Dukes Arnold at High Wycombe. It appeared that Arnolds had another office at Reading but The Law Society had not been advised of the existence of that office.

Allegation (i)

2. On 5th November 2003 Mr MS wrote to the Office for the Supervision of Solicitors ("the OSS") to submit a complaint against Arnolds Solicitors. Mr MS had complained to the Respondent on 21st July 2003 and on 9th September 2003 but had received no reply.
3. Mr MS complained that his case relating to driving offences had not been put fully at Oxford Magistrates Court, and his appeal against conviction had not been progressed. It subsequently transpired that the appeal was out of time.
4. The OSS spoke to the Respondent on 22nd January 2004 by telephone. The Respondent stated he had no knowledge of Mr MS's complaint. The OSS sent copies of Mr MS's letters to the Respondent and his response was requested within 14 days. No response was received.

5. The OSS caseworker made telephone calls, sent faxes and letters to the Respondent who made no satisfactory response over a period from 11th February 2004 until reference to an Adjudicator who directed disciplinary proceedings in November 2004.
6. On 4th January 2005 The Law Society's Customer Assistance Unit received a call from a Mrs B, an employee of Arnold's Solicitors. She stated that on Christmas Eve, the Respondent had said he was closing all the offices because none of his staff was coming back after Christmas and he had no one to staff the offices. Mrs B indicated that none of the staff had been paid for the month of December and they could not contact the Respondent nor obtain their "P45s."
7. In a further telephone conversation on 4th January 2005. Mrs B said there were rumours that the Respondent's firm was going to be "closed down by The Law Society", that he was being pursued by his former partner, Mr D, and was going to be made bankrupt, that she was aware that prior to Christmas 2004 he was sorting out all the files and on 23rd December, he had informed her that he had found out that staff in the Oxford and High Wycombe offices had left and therefore he could not carry on. Mrs B did not believe the Respondent had made adequate arrangements for the closure of the firm.
8. On 5th January 2005 Mrs B stated that as far as she was aware, the offices of Arnolds and Dukes Arnold had been closed. She believed that the client files had been passed to AP Solicitors in Kidlington, Oxford. She believed that the Respondent had arranged for letters to be sent to all clients to advise that the offices were closing and the files were being passed to other solicitors. The Law Society had been unable to contact the Respondent.
9. The solicitor at Kidlington advised that the Respondent had contacted her on 21st December 2004 to enquire whether she wished to take on all of his current Legal Aid files. She agreed and the files were passed to her during December 2004. She was not aware whether there were any outstanding client files which had not been passed to her. She did not know what arrangements had been made for storage of old client files or other arrangements for the closure of the firm. She had taken on some of the former staff of Arnolds but not all of them. She said she was not a successor practice. She offered The Law Society access to inspect the Arnolds files.
10. The Law Society had also, in December 2004, received information from Brookstreet Des Roches ("BSDR"), Solicitors who advised that they were acting for the Respondent's former partner, Mr D. Fox Williams had been representing the Respondent but had made an application to come off the record because they could not contact their client.
11. A Law Society caseworker spoke to Mr D on 12th February 2005. He said that a bankruptcy petition had been issued by the Inland Revenue and served on him, but not upon the Respondent. He believed the Respondent had evaded service.
12. It had been reported to him that the Respondent was shredding files and documents relating to Arnolds and staff of Arnolds had not been paid for the month of December.

13. Mr D believed that there would be only a modest sum of money held in client account as the as the firm undertook criminal work. He had been made aware by Lloyds Bank of two dormant client accounts containing £8,000 to £9,000.
14. On 6th January 2005 The Law Society wrote to the Respondent at his Oxford address by DX, recorded and normal post and at his High Wycombe address by DX. The letter sent by DX to the Oxford office was returned on 13th January with a note stating that the DX box had been closed.
15. In its letter of 6th January 2005 The Law Society requested the Respondent to provide evidence to show he had made satisfactory arrangements to close down his practice. He was asked to confirm whether the practices had been abandoned or what arrangements he had made. He was reminded of his obligation to report such matters to The Law Society.
16. The Law Society made a number of attempts to contact the Respondent by telephone but could not obtain a reply.
17. The DX service had not been able to recover the post delivered to the Respondent's office. The police had to become involved as the Respondent was committing a criminal offence by withholding DX post.
18. On 17th January 2005 the DX service contacted The Law Society to advise that all three offices of Arnolds had been boarded up and the police had not been able to assist in recovering DX post.
19. The Law Society Consumer Complaints Service received several complaints from individuals and other solicitors who had been unable to contact the Respondent. The Respondent was holding documents and had failed to pay sums owing to various parties.
20. On 21st January 2005 The Law Society decided that grounds for intervention into the Respondent's practice had arisen.

The Submissions of the Applicant

Allegation (i)

21. In failing to reply to correspondence from The Law Society the Respondent was in breach of Principal 30.04 of The Guide to the Professional Conduct of Solicitors ("the Guide") (8th Edition). Paragraph 30.04 at page 44 of the Guide provided that:

"A solicitor is obliged to deal properly and substantively with correspondence from the OSS. Failure to answer commonly results in disciplinary proceedings and failure to give a sufficient and satisfactory explanation of the solicitors conduct may make the solicitor subject to Sections 12 and 13(a) Solicitors Act 1974 by virtue of Section 12(1)(e)".

22. A solicitor's failure to meet his fundamental obligations to respond to his professional body rendered it impossible for The Law Society properly to regulate the profession and damaged the public's confidence in the profession.

Allegation (ii) and (iii)

23. Section 84(1) Solicitors Act 1974 provided:

"For the purpose of facilitating the service of notices and other documents, every solicitor who has in force, or who has applied for, a practising certificate shall give notice to the Society of any change in his place or places of business before the expiration of 14 days from the date on which the change takes effect."

The Respondent had not notified details of his practice address in Reading. He had not notified the closure of his practices.

Allegation (iv)

24. The Respondent had made very few and inadequate efforts to deal properly with the closure of his three offices.
25. Paragraphs 3.11, Note 1 of the Guide provided that:

"where there has been a material alteration to the composition of the firm, all clients of the firm who may be affected must be informed promptly."

He had not made proper arrangements and had not acted in the best interests of his clients.

26. The failure to make proper arrangements for the closure of his practices caused inconvenience to other parties, not least his staff, his landlord, the DX postal service and other parties to whom he owed monies. Such conduct served to bring the solicitors' profession into disrepute.

The Submissions of the Respondent

27. The Respondent took no part in the proceedings.

The Findings of the Tribunal

28. The Tribunal found the allegations to have been substantiated. The Tribunal took into account that there appeared to have been no dishonesty on the part of the Respondent. It appeared on the facts before the Tribunal that he had simply "given up the ghost". Such behaviour on the part of a solicitor is not acceptable. He has a high duty to put the best interests of his clients first and unless he conducts himself properly and ensures that no client is left unrepresented and inconvenienced, it marks a very serious failure.

29. The Tribunal recognises that a failure on the part of a solicitor to make appropriate notification of the nature of his practice to The Law Society and a failure to respond promptly and substantively to enquiries addressed to him by The Law Society prevents The Law Society from fulfilling its duty to act as a the regulator of the profession and that in turn can only damage the good reputation of the solicitors' profession.
30. The Tribunal regards the Respondent's failures as extremely serious but in the absence of a finding of dishonesty or any explanation from the Respondent the Tribunal concluded that it could fulfil its first duty to protect the public by imposing the appropriate and proportionate sanction of indefinite suspension from practice upon the Respondent.
31. The Applicant sought the costs of and incidental to the application and enquiry and had given details of the sum sought to the Tribunal. Whilst the Tribunal considered that on its face the figure appeared to be rather high, the Respondent had been uncooperative, service of documents had been difficult and the matter had been going on over a long period of time. The Tribunal therefore accepted the figure requested by the Applicant. It was right that the Respondent should in the circumstances of this case pay the costs of and incidental to the application and enquiry and the Tribunal ordered him to do so fixed in the sum sought by the Applicant. This was not to be considered as a further sanction imposed upon the Respondent but represented the fact that the Respondent had caused his professional body a great deal of time and trouble.

Dated this 19th day of March 2008
On behalf of the Tribunal

L N Gilford
Chairman