

NEUTRAL CITATION NUMBER: [2024] EWHC 2818 (Admin)

Case No: AC-2023-LDS-000194

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT AT LEEDS

Leeds Combined Court Centre
1 Oxford Row
Leeds LS1 3BG

Thursday, 9 May 2024

BEFORE:

HER HONOUR JUDGE BELCHER
(Sitting as a Judge of the High Court)

BETWEEN:

THE KING
(ON THE APPLICATION OF ADAMS)

Claimant

- and -

LEGAL OMBUDSMAN

Defendant

JOHN DAVID WILLIAM ADAMS appeared in person.
MR S KOSMIN (instructed by Legal Ombudsman in-house solicitor, Tobias Haynes) appeared on behalf of the Defendant
MR R O'BRIEN KC (instructed by Laura Mellstrom) appeared on behalf of the Interested Party

JUDGMENT
(Approved)

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(Official Shorthand Writers to the Court)

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1. JUDGE BELCHER: This is a renewed permission hearing by which the claimant seeks permission to challenge the decisions of the Ombudsman dated 31 May 2023, dismissing his complaints against the interested party, a barrister engaged by the executors to provide advice to them in that capacity. That was dismissed under rule 5.7(g) as being something more suited to determination by a court and, in other parts, having dismissed the rest of his complaints under rule 5.7(n). There was also a dismissal under rule 5.7(a), which both the Defendant, the Legal Ombudsman, and the Interested Party accept was wrong. I am invited to say that the decision would have been the same without that error such that the error does not affect matters.
2. The background to these proceedings is this. The Claimant's father, David John Adams, died leaving a will dated 18 March 2016. He died in May 2020. He apportioned his residual estate between his four children equally, of whom the Claimant is one. Probate was granted to two of the Claimant's siblings, Richard and Vivian who were the named executors in the will. The estate comprised some cash, as I understand it, or investments to a particular value mentioned in counsel's opinion, but also significantly the property at The Old Stables, Spring Lane, Olney, Buckinghamshire. That was essentially the principal asset in the estate.
3. A number of bids were submitted for the purchase of the property. It was originally dealt with by bids and the highest bid came from Thomas, the son of Richard Adams one of the executors, and grandson of the deceased. The lowest bid was from the Claimant and his other sister, Tina. A bidding war ensued, with the result that the executors sought counsel's advice from the Interested Party on the self-dealing rule, and whether a sale to Richard's son Thomas would breach that rule.
4. The Interested Party's written advice was issued to the executors on 15 March 2021. It is in the bundle because the executors made it available to the Claimant, and I have read it (Tab 6). Significantly, having set out the facts, there is no mention of what is at the thrust of the complaint in this case, and that is that the purchase of The Old Stables, which ultimately took place was a purchase by Thomas, which was funded in part by Richard, this Claimant's older brother who was one of the executors.

5. Whilst this matter is not mentioned in the written advice, the advice sets out very fully the background facts which counsel had and deals with the issues very fully, and in my judgment it would appear entirely properly, notwithstanding that the Claimant before me says the opinion is wrong. He asked me about those rules and how I would define them, and I declined to deal with that because that is no part of these proceedings. In any event I do not, sitting here without more and without the benefit of legal submissions on that, have the capability to deal with that issue at this time. It is not necessary for me to do so.
6. In the course of his submissions I pointed out to Mr Adams, that he cannot say that counsel was in possession of the information that his brother Richard was planning to fund, at least in part, the purchase by his son Thomas. Mr Adams' position on this in front of me today is "Well, everybody knew", that he had a text about this from his brother Richard, that the solicitors must have known, and so counsel must have known. The reality is that is speculation, and he cannot make good on that assertion. The reason that is relevant will become clear when I turn to complaints one, two, and three.
7. In due course the house was sold to Richard's son Thomas, who made the highest bid. There was a bidding war between Thomas on the one hand, and the Claimant and his sister Tina on the other. It reached a point where the Claimant and Tina said they would not place any higher bids. They plainly objected to what was going on, and they were entitled to make those views known to the executors, which they did.
8. On 22 March 2021, the Claimant made a formal complaint to Fenners Chambers, the chambers of the Interested Party, Mr Varnam, and that complaint was dismissed on the basis that the advice was given, not to the complainant (the Claimant in this action) but to the executors and that they were Mr Varnam's client. Therefore the complaint was not something chambers were prepared to deal with any further.
9. On 25 June 2021, the Claimant made a complaint to the Ombudsman, albeit naming the barrister himself rather than Fenners Chambers. It was the chambers that handled the complaints process, but nobody has taken any point about that.

10. On 4 September 2021, the Interested Party applied to dismiss the complaint, and on 24 September 2021, Ombudsman Charlton refused the Interested Party's application. Her refusal letter is at Tab 12 in the bundle and states this:

"I am writing to you about the above case, which has been referred to me for a decision on the Barrister's challenge and request for dismissal under 5.4 of the scheme rules. At this stage, my role is to consider only the request for dismissal, and I will not be deciding on the complaints about the firm's service."

11. She concluded, clearly and properly, that there was jurisdiction to hear the complaint as the complainant was a beneficiary of the estate. She dismissed other arguments raised by the barrister and concluded, amongst other things, that "The complaints about service provided in the administration of the estate in which you are a beneficiary have been raised and not addressed at first tier." In other words they were not dealt with in the complaint decision of the barrister's chambers, (for reasons that I have already explained). She says, "As the issues have not been resolved to your satisfaction you are permitted to refer the matter to this organisation for investigation."
12. She makes it clear the case is currently at the assessment stage, and at this preliminary stage, neither party has been asked to provide evidence and therefore a determination of the reasonableness of the service cannot be made. But the point is, she was not dealing with the substance of the complaints as she made clear in her first paragraph, "I will not be deciding on the complaints about the firm's service." The relevance of that will become clear when I deal with ground four of the complaint.
13. On 31 May 2023, the Defendant issued its decision dismissing the complaint (Tab 21 in the bundle). I will go through that as I deal with the respective grounds of challenge. The first ground of challenge in these proceedings is that the dismissal of complaints one to three under rule 5.7(g) was irrational. Complaints one to three (set out at Page 24 of the Bundle) are as follows:

(1) the barrister's advice about the self-dealing rule was unreasonable as (a) it wrongly considered only one party had alleged the rule applied, being [the Claimant] and not

the solicitor; (b) the report failed to refer to Mr Adams' brother's direct financial involvement in the property purchase.

(2) The barrister's report failed to include the following information: (a) the basis of the indirect self-dealing rule; (b) why the self-dealing rule did not strictly apply to the proposed transaction.

(3) The barrister failed to advise on the application of the self-dealing rule by omitting reference to the wider rule and genuine transaction of the rule, including any conflict of interest a trustee has in a transaction.

14. Those complaints were dismissed on the basis that the Ombudsman's office is not best placed to determine whether or not the barrister's advice was correct, that they do not have the appropriate legal knowledge on self-dealing to determine this, and the Ombudsman considered the issue would better be dealt with by the court and that the complaints should be dismissed, therefore, under rule 5.7(g) of the scheme rules.
15. Mr Adams simply does not accept that that was right. He makes a number of points in the course of his various documents. He asserts that the rules on self-dealing and indirect self-dealing are really very easy. He suggests somewhere in the paperwork that of course the Ombudsman can deal with that, that he had looked her up. She has a law degree from Aston University and therefore it was a nonsense to suggest that she could not deal with it. That, I regret, shows a misunderstanding of the complexity of rules of this type and the way in which they are applied on the facts of any given case.
16. Also, the complaint is that the report failed to refer to Mr Adams's brother's direct financial involvement in the property purchase. In the course of discussion with Mr Adams this morning, I have challenged him as to how he can say the barrister knew that and he says "Well, it must be obvious". He said it would have been so easy, when he personally contacted the barrister, for the barrister to tell him that information. As I pointed out to Mr Varnam, counsel has advised his clients based on his instructions. The facts are set out very fully, and I would be surprised if counsel in fact had that information, but that is not the issue before me.

17. Whilst Mr Adams did not concede that the barrister did not know and continued to maintain that he barrister must have known, he did concede after discussion with me, that this is speculation on his part. For example, Mr Adams said that his brother Simon had told him and his sister Tina that he (Simon) was going to fund his son's purchase. Just because his brother told him that does not mean that his brother told the solicitors at the time counsel was instructed, or that his brother or the solicitors told counsel.
18. Mr Adams this morning makes the further point that the solicitors did the conveyancing. As I explained to Mr Adams, they obviously did so after counsel's advice was received. I would have expected them to have warned Richard Adams and the co-executor that, based on counsel's advice, there might be a risk that the Claimant and/or Tina would challenge the transfer in the courts as direct dealing, and that nevertheless, Richard and Thomas Adams decided to go ahead.
19. Of course, I do not know if that advice was given, but what I was explaining to Mr Adams, was that the fact that the solicitor carried out that conveyancing, proves no more than that he knew the source of funds at the date of the conveyancing. He would be entitled to carry out that conveyance if he gave that advice, and even if he knew the source of funding as alleged by the Claimant. If the Claimant and his sister had decided to challenge that transfer in the courts, then the conveyancing solicitor would be protected from any claim from Richard Adams and the co-executor. If he did not give that advice, then that would have been a matter between the solicitor and the executors and nothing at all to do with the Claimant and Tina.
20. Having explained that to Mr Adams in court this morning, his principal complaint about all of that is that it would involve him going to court, which would be time consuming and costly. That is right. But that is, in my judgment, entirely the proper place to have challenged the fact of the transfer, which is what this is really about. The written advice from counsel was not given to the Claimant, and he accepts that there would be no duty of care owed to him in the giving of that advice. But that does not alter the fact that he could, had he chosen to do so, have challenged the transfer itself.

21. He did not choose to do so, and if that is because of concerns about legal costs involved, those are perfectly proper concerns and matters he is entitled to take into account. But none of that renders the Ombudsman's decision incorrect, when stating that the issues as to whether or not the barrister's advice was correct, whether or not the transfer was appropriate and matters of that sort, should be dealt with in the courts. Such a challenge would not in fact be in the context of whether a duty of care is owed to the Claimant, but in the context of whether the transfer could and should be set aside. Of course, those proceedings would not have been based on the advice given. It would have been for the court to determine as between those parties, whether in fact there was a breach of the indirect self-dealing rule or other wider rules that the Claimant refers to.
22. There is no basis at all in my judgment for saying it was irrational to dismiss those aspects of the complaint on the basis they would be better dealt with by the court. They self-evidently involve issues of law and issues of fact, namely what was known about payment from Richard to his son, and those are matters which it is not appropriate or proper for the Ombudsman to deal with.
23. Mr Adams made a number of points about how privilege had obviously been waived because the advice was made available by the executors to him and his sister. That does not necessarily mean privilege is waived for all matters, nor does it put Mr Varnam in a position where he has to deal with this Claimant directly which is really the thrust of the complaint here.
24. The Claimant asserts that by making his complaint he, in effect, spoke to Mr Varnam, and that Mr Varnam could so easily have told him whether or not he had that information about the source of funding and that would have saved the Claimant three years of "this bother". The matter is not that straightforward. Mr Varnam could be in breach of data protection, breach of client privilege and in breach of other professional obligations, and as I explained to the Claimant, it is not up to counsel to accept information from third parties and/or to assume it is accurate. That is the more so in this case, when counsel had ample information, as is clear from his opinion, about the correspondence between the family members after their father's death, correspondence he described in terms of this Claimant and Tina as being vituperative in its nature.

Whatever the bad blood between the family members of course is beside the point, but it simply illustrates why Mr Varnam should not have been expected either to deal with the Claimant, or to accept at face value anything he is being told against that background. There is nothing at all irrational in the Ombudsman's decision in relation to those complaints. That disposes of Ground 1.

25. Ground 2 is that it was irrational to dismiss complaints 4-7. I turn then to complaints 4, 5, 6, and 7. Complaint 4 is “The barrister was due to complete his report by 2 March and failed to complete until 15 March 2021”; 5 is “The barrister failed to address Mr Adams' complaints of 22 March and failed to signpost him to the legal ombudsman”; 6 is “The barrister shared Mr Adams' formal complaint on 22 March 2021 with the solicitor and that that was in breach of confidentiality”; and 7 is “The barrister breached a number of core duties of his code of conduct by not being independent and by being dishonest”. So right at the outset, an allegation against Mr Varnam of dishonesty.
26. The decision in relation to those matters was that the thrust of the complaint, and the real crux of the complaint, was complaints (1) to (3), namely that the advice was wrong and did not deal with various matters and that the service issues were peripheral issues. The Ombudsman concluded that because it could not fairly investigate the crux of the complaint, it would not be a good use of time to investigate the remaining complaints leaving the rest to be dealt with, if appropriate, by a court and therefore decided there was no compelling reason why an investigation should proceed. They dismissed those under rule 5.7 (n).
27. The decision goes on to say that a further compelling reason for an investigation not to proceed is that the advice provided by the barrister was given to the executors who have not raised any concerns in relation to this. In relation to that paragraph the Claimant's point in front of me is that that is hardly surprising. He pointed out the advice was to the executors who wanted to proceed with this sale. He said that turkeys do not vote for Christmas and the executors were unlikely to complain. Nevertheless, the point really being made in the decision letter is that this is about service matters, such as the late completion of an advice and the alleged failure to signpost the Claimant to the Legal; Services Ombudsman. I do not know whether there was a clear

representation that the advice would be done by 2 March, rather than a hope or expectation that it would be done by that date. The nature of barristers' practices is that they suddenly get called to court and often dates slip. I simply do not know.

28. The fact that the executors have not complained simply goes to the issue, amongst others, as to whether it is appropriate for the Ombudsman to spend time and resources dealing with what are properly described as peripheral matters, save, in my view, it could not be said that an allegation that a barrister was being dishonest, was peripheral. Having said that, however, there is nothing at all that supports that very serious allegation.
29. The point made by the defence in response to this, and supported by the interested party, is that this comes nowhere near the hurdle which would need to be satisfied for a judicial review, namely that there is arguable ground for judicial review with a realistic prospect of success. It is submitted that this was well within the wide discretion afforded to the Ombudsman, and the Defendant's own guidance about when they can dismiss complaints and it is well within their discretion as to whether or not to deal with those matters. I accept those submissions. I find nothing irrational or arguably irrational in the dismissal of these complaints
30. A new point was raised by Mr Adams before me this morning as regards the rules. He submitted that there is circularity in the rules and that it was incumbent on this Ombudsman to investigate these additional complaints. His point is this. The barrister in this case was not charged any fee, and Mr Adams submitted that the rules, and in particular rule 5.7, are such that before waiving fees, the Ombudsman must take reasonable steps to satisfy himself that all steps were taken to deal with the complaint.
31. Mr Adams's point this morning was that it was a nonsense to dismiss under rule 5.7 and irrational because, until the investigation was undertaken, the Ombudsman would not know whether all reasonable steps had been taken to resolve the complaint, and it could not and should not therefore have waived the fee. He said to me that he thought that was his best point under ground two, although he relied on everything else in his skeleton. He said it was the intention of Parliament that all complaints should be

investigated properly and to dismiss complaints five to seven is a complete travesty without some investigation.

32. In response to that point Mr Kosmin took me to the statutory sections (Tab 28) and the rules (Tab 27). A point that counsel made is that if rule 6.2 is satisfied, and that is the rule that Mr Adams was relying upon, then the situation under the rules and in accordance with the statutory scheme providing for the rules to be made is that a fee cannot be charged. The rule is that a case fee is payable by the business partnership or individual authorised person for every potentially chargeable complaint when it is closed, unless (a) the complaint was abandoned or withdrawn, settled, resolved or determined in favour of the authorised person; and (b) the Ombudsman is satisfied that the authorised person took all reasonable steps under his or her complaints procedure to try and resolve the complaint.
33. Mr Adams' point is the Ombudsman cannot reach that decision and satisfy itself as to paragraph 6.2(b) unless it has carried out some investigation. Mr Kosmin accepts that the Ombudsman has to be satisfied that the authorised person took all reasonable steps to try and resolve the complaint, and that if he does so, rule 6.2 is an absolute bar to the charging of a fee. However, under paragraph 6.1 there is general broader discretion which states that a complaint is potentially chargeable unless (a) it is out of the jurisdiction; or (b) it is dismissed or discontinued under paragraph 5.7.
34. So Mr Kosmin's point is that whilst there is an absolute bar under 6.2, there remains a general and broad discretion under 6.1 to not charge a fee if the matter is discontinued under 5.7. In response to that, Mr Adams says that overarching discretion cannot be right because it gives the Ombudsman the right to decide anything, and that his point still stands, and that those rules run contrary to the Parliamentary intention in the Legal Services Act.
35. That is not right because, if you look at the relevant sections of the Act, the rules that I have been referring to are made in accordance with those sections. The section is 136 of the Legal Services Act 2007 (found at pages 186 to 187 in the bundle). It deals with charges payable by respondents. Under subsection (2) it deals with what has become

rule 6.2 of the Ombudsman's Rules. Section 136(5), so far as relevant, provides as follows:

"The rules may, among other things -

(a) provide for the OLC to reduce or waive a charge in such other circumstances as may be specified;...."

So there is under section 136(5)(a), a general discretion to make a rule providing for charges to be reduced or waived "in such other circumstances as may be specified." So to say that that rule is contrary to the Parliamentary intention cannot be right.

36. I have come to the conclusion that there is no substance in that point. I have already mentioned that Mr Adams indicated that was perhaps his best point on Ground 2, and I dismiss it as not arguable.
37. It is important to deal with some of the other points that the Claimant makes in relation to Ground 2. He says the decision is a "let off". He refers to some case law. The judge refusing permission has referred to the case of *R (on the application of Rosemarie) v Office for Legal Complaints*, which is in the bundle, and concerns an issue as to poor complaints procedure. In reliance on this case, Mr Adams says it is clear that a Defendant may dismiss the complaint in full or in part. I accept that is right. There is no doubt in my judgment that the suggestion that the complaint stands or falls as a whole is not right. It can be just dealt with in whole or in part. However, in looking at the remaining part, namely complaints 4-7, the Ombudsman is nevertheless entitled to take into account that it has chosen, for reasons which I find to be valid and proper, to decline to consider complaints 1-3, and to consider in the round that the remaining complaints are peripheral, not the crux of the complaint, and that it is appropriate to dismiss them.
38. At Paragraph 24 of his skeleton the Claimant describes the Defendant's determination that the complaint has a main part (or crux), as a "straw man argument", where the Defendant wished to create a narrative in order to dismiss the complaint. At Paragraph 25 of his skeleton, he says "It is an obvious contention that failing to recognise the Claimant's right to make a complaint was to deliberately frustrate any investigation of

the complaints, (i.e. dishonesty of the part of the Firm and failing to charge the Firm for poor complaint handling runs section to contrary 136. Mr Adams' reference to "Firm" is a reference to Mr Varnam's barristers chambers.

39. In my judgment there is no irrationality here. It is not remotely arguable that the decision reached by the Ombudsman on those matters was outside the ambit of its very wide discretion and I dismiss Ground 2.
40. I turn then to Ground 3, which is a ground of apparent bias. There is simply nothing in my judgment to support this. There is nothing that identifies specific bias. In reality the allegations are no more than complaints that the claimant does not agree with the decision made by the Ombudsman. In his paperwork Mr Adams seeks to rely upon statistics showing that the use of rule 5.7 to dismiss claims has risen from less than one in ten in 2020, to one in three in 2022. He told me that the figures dismissed on that basis in 2022 amounted to the same number as for the whole of the period 2017 up to 2022.
41. I indicated to him I would not deduce bias from statistics, and that in my view that would be wholly inappropriate. His response to this was "Well, that is exactly why the Ombudsman has not given the information publicly." He suggested that they were withholding information deliberately, and that is evidence of bias. He told me that all areas of science rely on statistics and suggested it would be wrong for this court not to do so. He went further and said on the balance of probabilities to see such a dramatic shift in the number of dismissals under rule 5.7 meant that the court should look at everything put together and in the round.
42. I indicated to Mr Adams that of course the court uses statistics in appropriate cases, and that the court can look at them in the round with other evidence, but all the figures do here is show numbers of cases rejected. There could, as I said to him, be any number of reasons why that is the case. For example, it could be that there has been a significant rise in complaints with no merit or in complaints raising points that do not merit investigation.

43. He plainly thought that was a poor point on my part because he said there is such a dramatic shift, that the public does not get to see any of the decisions made by the Ombudsman, and all he can do is turn this round and say that he had a decision and it went from a 70 per cent likelihood his case would be investigated (that is referring to the decision of Ombudsman Charlton) to a decision by the Ombudsman who made the final decision that it was 70 per cent likely his case would not be investigated.
44. Mr Adams said that the Ombudsman is just showing bias. Mr Adams said that he has never said that he does not believe there is a duty of care, and that the Ombudsman's reference to that shows bias. He suggests different investigators have said different things about the duty of care and he accused Ombudsman Charlton of lying when she says she does not know if a duty of care was owed to a beneficiary (as opposed to the executor clients). Mr Adams asserts that as the case progressed forwards, the lack of investigation got worse. If you bind all of this together, he said, there are series of concerns and that there is no oversight of all of this. He said in terms that the Ombudsman hid the data because they only released the data to him in April. He said this, "There are thousands out there who should have had their claim investigated and have not, and if you look at everything together, the only logical conclusion you can come to is that there is bias."
45. He also referred me to pages 8 and 9 of his skeleton where he says this at Paragraph 29: "The Chief Ombudsman is on record when asked directly in August 2022: *"In an attempt to speed up the process, would it not make it more likely that the Legal Ombudsman chooses not to investigate something that they should have therefore causing more difficulties for complainants?"*, the Chief Ombudsman responded: *"The same outcomes are delivered, but earlier on"*. Mr Adams states, "This is clearly untrue". He said in his oral submissions, "This organisation is smoke and mirrors and it undermines faith in the entire legal service", a matter that he refers to in his costs submissions when he also draws comparisons with the Post Office wrongful prosecutions and loss of faith in the entire legal service, including specifically mentioning the judiciary.

46. He is entitled to those opinions, but there is no basis in my judgment for saying that those statistics are evidence from which this court could properly even begin to deal with the suggestion of bias or any dishonesty or deliberate attempt by the Ombudsman service to avoid dealing with complaints. This Ground must fail.
47. His final ground is that there was a legitimate expectation that his complaint would be investigated. The Defendant and Interested Party make the point that there has to be a clear representation giving rise to a legitimate expectation, and they say there is none in this case. I read out earlier the relevant parts of the decision of Ombudsman Amanda Charlton and said I would return to it later for its relevance, and that is at this point, because the representation relied upon by Mr Adams is in her decision. I have already made the point that she makes it clear at the outset that her role at that stage was to consider only the request for dismissal from the barrister, and that she would not be deciding on the complaints about the firm's service.
48. On the final page, she says:

"I consider the complaints about the service provided in the administration of the estate in which you are a beneficiary have been raised and not addressed at first tier. As the issues have not been resolved to your satisfaction you are permitted to refer the matter to this organisation for investigation." (Tab 12, page 75)

Mr Adams says that that amounts to a finding that he had a valid complaint. It plainly does not. It amounts to a finding that, at that stage and based on the information put forward at that stage, Ombudsman Charlton did not accept the suggestions that his complaint was out of the jurisdiction or that it should be dismissed under rule 5.7 at that time.

49. In my judgment, that is not a clear representation that the complaints would inevitably be investigated, or that they would not and/or could not be dismissed subsequently under rule 5.7. The point is also made by the Defendant that, if made, any such representation would amount to an unlawful fetter on the discretion of the Ombudsman service. In my judgment that is plainly right.

50. The Defendant also made the point that the details of exactly what was to be investigated in the complaint evolved over time, and that at the date of Amanda Charlton's decision, the final details of what the complaint would be had not been finalised and listed in the form in which they were ultimately considered by the Ombudsman. Mr Adams sought to challenge that by reference to an earlier letter, but that only set out some of the final complaints. That does not make the point for him. He also asserted that in general terms it was clear what he was claiming. That is not sufficient. The Ombudsman service is entitled to refine matters to make sure that the details of exactly what the complaint is and what they want him to look at are agreed and finalised, and they clearly did so. Having done that, they revisited the matter and decided, well within their broad discretion, to dismiss the matters under rule 5.7.
51. I am asked by the defence not just to dismiss all these grounds but to determine that they are totally without merit. For the reasons I have given, I am satisfied that there is no merit at all in any of these grounds. It seems to me that really what Mr Adams wants is for, what he believes to be, bulletproof complaints to be resolved by the Legal Ombudsman rather than having to pursue the matter through court. He did indeed say to me at one point that if the barrister had simply given him the information he wanted three years ago, in other words, telling him whether or not the fact of his brother's contributing to the purchase price was in the instructions, that would have saved everyone a lot of time and three years of progression and indeed the need for this case.
52. He also said the idea that he has to go to court and cannot go and ask the barrister for a correction is not right. He challenged the points I had raised with him as not having been explained to him previously in the bundles, and I explained that I was simply using those points in discussion with him to illustrate and explain some of the difficulties he had. I was seeking to help him, and to try and explain where the errors in his reasoning are. He disagrees with a number of matters and says that the opinion was not privileged, and the barrister should have dealt with him direct. I cannot accept that. He also said in his final statement to me, "I think the advice was deficient". That may or may not be right, but that is not the issue before this court, but it does illustrate, as found by the Ombudsman, that really that is the thrust of his complaint.
53. I dismiss all grounds and I find that they are totally without merit.

Order: The renewed Application for Permission is refused and certified as totally without merit.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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(This judgment has been approved by the judge)