



# Access to Justice Act 1999

## 1999 CHAPTER 22

### PART I

#### LEGAL SERVICES COMMISSION

##### *Community Legal Service*

#### **4 Community Legal Service.**

- (1) The Commission shall establish, maintain and develop a service known as the Community Legal Service for the purpose of promoting the availability to individuals of services of the descriptions specified in subsection (2) and, in particular, for securing (within the resources made available, and priorities set, in accordance with this Part) that individuals have access to services that effectively meet their needs.
- (2) The descriptions of services referred to in subsection (1) are—
  - (a) the provision of general information about the law and legal system and the availability of legal services,
  - (b) the provision of help by the giving of advice as to how the law applies in particular circumstances,
  - (c) the provision of help in preventing, or settling or otherwise resolving, disputes about legal rights and duties,
  - (d) the provision of help in enforcing decisions by which such disputes are resolved, and
  - (e) the provision of help in relation to legal proceedings not relating to disputes.
- (3) Services which the Commission is required to fund as part of the Criminal Defence Service do not fall within subsection (2).
- (4) Every person who exercises any function relating to the Community Legal Service shall have regard to the desirability of exercising it, so far as is reasonably practicable, so as to—

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- (a) promote improvements in the range and quality of services provided as part of the Community Legal Service and in the ways in which they are made accessible to those who need them,
  - (b) secure that the services provided in relation to any matter are appropriate having regard to its nature and importance, and
  - (c) achieve the swift and fair resolution of disputes without unnecessary or unduly protracted proceedings in court.
- (5) The Commission shall fund services of the descriptions specified in subsection (2) as part of the Community Legal Service in accordance with the following sections.
- (6) The Commission shall also inform itself about the need for, and the provision of, services of the descriptions specified in subsection (2) and about the quality of the services provided and, in co-operation with such authorities and other bodies and persons as it considers appropriate—
- (a) plan what can be done towards meeting that need by the performance by the Commission of its functions, and
  - (b) facilitate the planning by other authorities, bodies and persons of what can be done by them to meet that need by the use of any resources available to them;
- and the Commission shall notify the [<sup>F1</sup> Secretary of State] of what it has done under this subsection.
- (7) The Commission may set and monitor standards in relation to services of the descriptions specified in subsection (2).
- (8) In particular, the Commission may accredit, or authorise others to accredit, persons or bodies providing services of the descriptions specified in subsection (2); and any system of accreditation shall include provision for the monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.
- (9) The Commission may charge—
- (a) for accreditation,
  - (b) for monitoring the services provided by accredited persons and bodies, and
  - (c) for authorising accreditation by others;
- and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.
- (10) The [<sup>F1</sup> Secretary of State] may by order require the Commission to discharge the functions in subsections (6) to (9) in accordance with the order.

#### Textual Amendments

- F1** Words in s. 4 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(a\)](#)

## 5 Funding of services.

- (1) The Commission shall establish and maintain a fund known as the Community Legal Service Fund from which it shall fund services as part of the Community Legal Service.

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- (2) The [<sup>F2</sup> Secretary of State]—
  - (a) shall pay to the Commission the sums which he determines are appropriate for the funding of services by the Commission as part of the Community Legal Service, and
  - (b) may determine the manner in which and times at which the sums are to be paid to the Commission and may impose conditions on the payment of the sums.
- (3) In making any determination under subsection (2) the [<sup>F2</sup> Secretary of State] shall take into account (in addition to such other factors as he considers relevant) the need for services of the descriptions specified in subsection (2) of section 4 as notified to him by the Commission under subsection (6) of that section.
- (4) The [<sup>F2</sup> Secretary of State] shall lay before each House of Parliament a copy of every determination under subsection (2)(a).
- (5) The Commission shall pay into the Community Legal Service Fund—
  - (a) sums received from the [<sup>F2</sup> Secretary of State] under subsection (2), and
  - (b) sums received by the Commission by virtue of regulations under section 10 or 11.
- (6) The [<sup>F2</sup> Secretary of State] may by direction impose requirements on the Commission as to the descriptions of services to be funded from any specified amount paid into the Community Legal Service Fund.
- (7) In funding services as part of the Community Legal Service the Commission shall aim to obtain the best possible value for money.

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**Textual Amendments**

**F2** Words in s. 5 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(a\)](#)

## **6 Services which may be funded.**

- (1) The Commission shall set priorities in its funding of services as part of the Community Legal Service and the priorities shall be set—
  - (a) in accordance with any directions given by the [<sup>F3</sup> Secretary of State] , and
  - (b) after taking into account the need for services of the descriptions specified in section 4(2).
- (2) Subject to that (and to subsection (6)), the services which the Commission may fund as part of the Community Legal Service are those which the Commission considers appropriate.
- (3) The Commission may fund services as part of the Community Legal Service by—
  - (a) entering into contracts with persons or bodies for the provision of services by them,
  - (b) making payments to persons or bodies in respect of the provision of services by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, services,

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- (d) establishing and maintaining bodies to provide, or facilitate the provision of, services,
  - (e) making grants or loans to individuals to enable them to obtain services,
  - (f) itself providing services, or
  - (g) doing anything else which it considers appropriate for funding services.
- (4) The [F3 Secretary of State] may by order require the Commission to discharge the function in subsection (3) in accordance with the order.
- (5) The Commission may fund as part of the Community Legal Service different descriptions of services or services provided by different means—
- (a) in relation to different areas or communities in England and Wales, and
  - (b) in relation to different descriptions of cases.
- (6) The Commission may not fund as part of the Community Legal Service any of the services specified in Schedule 2.
- (7) Regulations may amend that Schedule by adding new services or omitting or varying any services.
- (8) The [F3 Secretary of State]—
- (a) may by direction require the Commission to fund the provision of any of the services specified in Schedule 2 in circumstances specified in the direction, and
  - (b) may authorise the Commission to fund the provision of any of those services in specified circumstances or, if the Commission request him to do so, in an individual case.
- (9) The [F3 Secretary of State] shall either—
- (a) publish, or
  - (b) require the Commission to publish,
- any authorisation under subsection (8)(b) unless it relates to an individual case (in which case he or the Commission may publish it if appropriate).

#### Textual Amendments

**F3** Words in s. 6 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(a\)](#)

## 7 Individuals for whom services may be funded.

- (1) The Commission may only fund services for an individual as part of the Community Legal Service if his financial resources are such that, under regulations, he is an individual for whom they may be so funded.
- (2) Regulations may provide that, in prescribed circumstances and subject to any prescribed conditions, services of a prescribed description may be so funded for individuals without reference to their financial resources.
- (3) Regulations under this section may include provision requiring the furnishing of information.

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## **8 Code about provision of funded services.**

- (1) The Commission shall prepare a code setting out the criteria according to which it is to decide whether to fund (or continue to fund) services as part of the Community Legal Service for an individual for whom they may be so funded and, if so, what services are to be funded for him.
- (2) In settling the criteria to be set out in the code the Commission shall consider the extent to which they ought to reflect the following factors—
  - (a) the likely cost of funding the services and the benefit which may be obtained by their being provided,
  - (b) the availability of sums in the Community Legal Service Fund for funding the services and (having regard to present and likely future demands on that Fund) the appropriateness of applying them to fund the services,
  - (c) the importance of the matters in relation to which the services would be provided for the individual,
  - (d) the availability to the individual of services not funded by the Commission and the likelihood of his being able to avail himself of them,
  - (e) if the services are sought by the individual in relation to a dispute, the prospects of his success in the dispute,
  - (f) the conduct of the individual in connection with services funded as part of the Community Legal Service (or an application for funding) or in, or in connection with, any proceedings,
  - (g) the public interest, and
  - (h) such other factors as the [F<sup>4</sup> Secretary of State] may by order require the Commission to consider.
- (3) The criteria set out in the code shall reflect the principle that in many family disputes mediation will be more appropriate than court proceedings.
- (4) The code shall seek to secure that, where more than one description of service is available, the service funded is that which (in all the circumstances) is the most appropriate having regard to the criteria set out in the code.
- (5) The code shall also specify procedures for the making of decisions about the funding of services by the Commission as part of the Community Legal Service, including—
  - (a) provision about the form and content of applications for funding,
  - (b) provision imposing conditions which must be satisfied by an individual applying for funding,
  - (c) provision requiring applicants to be informed of the reasons for any decision to refuse an application,
  - (d) provision for the giving of information to individuals whose applications are refused about alternative ways of obtaining or funding services, and
  - (e) provision establishing procedures for appeals against decisions about funding and for the giving of information about those procedures.
- (6) The code may make different provision for different purposes.
- (7) The Commission may from time to time prepare a revised version of the code.
- (8) Before preparing the code the Commission shall undertake such consultation as appears to it to be appropriate; and before revising the code the Commission shall

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undertake such consultation as appears to it to be appropriate unless it considers that it is desirable for the revised version to come into force without delay.

- (9) The [<sup>F4</sup> Secretary of State] may by order require the Commission to discharge its functions relating to the code in accordance with the order.

#### Textual Amendments

**F4** Words in s. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(a\)](#)

VALID FROM 01/02/2010

#### [<sup>F5</sup>8A Funding code: pilot provisions

- (1) The code may contain provisions (“pilot provisions”) which are to have effect for a specified period not exceeding 3 years.
- (2) Pilot provisions may be expressed so as to apply only in relation to—
  - (a) one or more specified areas or localities;
  - (b) one or more specified descriptions of court or tribunal;
  - (c) one or more specified descriptions of service that may be provided as part of the Community Legal Service;
  - (d) one or more specified classes of person;
  - (e) persons selected—
    - (i) by reference to specified criteria; or
    - (ii) on a sampling basis.
- (3) Pilot provisions may disapply any other provision of the code in relation to any of the matters mentioned in paragraphs (a) to (e) of subsection (2).
- (4) The period for the time being specified in relation to pilot provisions may be revised—
  - (a) if the period is one of less than 3 years, so that it becomes a longer period not exceeding 3 years;
  - (b) so that it becomes a period which exceeds 3 years by such amount as the Commission thinks necessary for the purpose of securing that the pilot provisions remain in operation until the coming into force of a revised code that contains similar provisions that will have effect—
    - (i) generally, or
    - (ii) for purposes wider than those for which the pilot provisions have effect.
- (5) If the code contains pilot provisions, the code may also contain consequential or transitional provision with respect to the cessation of the pilot provisions on the expiry of the specified period (or that period as revised under subsection (4)).]

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#### Textual Amendments

**F5** S. 8A inserted (prosp.) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 149(3)**, 182 (with s. 180)

### 9 Procedure relating to funding code.

- (1) After preparing the code or a revised version of the code the Commission shall send a copy to the [<sup>F6</sup> Secretary of State] .
- (2) If he approves it he shall lay it before each House of Parliament.
- (3) The Commission shall publish—
  - (a) the code as first approved by the [<sup>F6</sup> Secretary of State] , and
  - (b) where he approves a revised version, either the revisions or the revised code as appropriate.
- (4) The code as first approved by the [<sup>F6</sup> Secretary of State] shall not come into force until it has been approved by a resolution of each House of Parliament.
- (5) A revised version of the code which does not contain changes in the criteria set out in the code shall not come into force until it has been laid before each House of Parliament.
- (6) Subject as follows, a revised version of the code which does contain such changes shall not come into force until it has been approved by a resolution of each House of Parliament.
- (7) Where the [<sup>F6</sup> Secretary of State] considers that it is desirable for a revised version of the code containing such changes to come into force without delay, he may (when laying the revised version before Parliament) also lay before each House a statement of his reasons for so considering.
- (8) In that event the revised version of the code—
  - (a) shall not come into force until it has been laid before each House of Parliament, and
  - (b) shall cease to have effect at the end of the period of 120 days beginning with the day on which it comes into force unless a resolution approving it has been made by each House (but without that affecting anything previously done in accordance with it).

#### Textual Amendments

**F6** Words in s. 9 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 11(1)(a)**

### 10 Terms of provision of funded services.

- (1) An individual for whom services are funded by the Commission as part of the Community Legal Service shall not be required to make any payment in respect of the services except where regulations otherwise provide.

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- (2) Regulations may provide that, in prescribed circumstances, an individual for whom services are so funded shall—
- (a) pay a fee of such amount as is fixed by or determined under the regulations,
  - (b) if his financial resources are, or relevant conduct is, such as to make him liable to do so under the regulations, pay the cost of the services or make a contribution in respect of the cost of the services of such amount as is so fixed or determined, or
  - (c) if the services relate to a dispute and he has agreed to make a payment (which may exceed the cost of the services) only in specified circumstances, make in those circumstances a payment of the amount agreed, or determined in the manner agreed, by him;
- and in paragraph (b) “relevant conduct” means conduct in connection with the services (or any application for their funding) or in, or in connection with, any proceedings in relation to which they are provided.
- (3) The regulations may include provision for any amount payable in accordance with the regulations to be payable by periodical payments or one or more capital sums, or both.
- (4) The regulations may also include provision for the payment by an individual of interest (on such terms as may be prescribed) in respect of—
- (a) any loan made to him by the Commission as part of the Community Legal Service,
  - (b) any payment in respect of the cost of services required by the regulations to be made by him later than the time when the services are provided, or
  - (c) so much of any payment required by the regulations to be made by him which remains unpaid after the time when it is required to be paid.
- (5) The regulations shall include provision for the repayment to an individual of any payment made by him in excess of his liability under the regulations.
- (6) The regulations may—
- (a) include provision requiring the furnishing of information, and
  - (b) make provision for the determination of the cost of services for the purposes of the regulations.
- (7) Except so far as regulations otherwise provide, where services have been funded by the Commission for an individual as part of the Community Legal Service—
- (a) sums expended by the Commission in funding the services (except to the extent that they are recovered under section 11), and
  - (b) other sums payable by the individual by virtue of regulations under this section,
- shall constitute a first charge on any property recovered or preserved by him (whether for himself or any other person) in any proceedings or in any compromise or settlement of any dispute in connection with which the services were provided.
- (8) Regulations may make provision about the charge, including—
- (a) provision as to whether it is in favour of the Commission or the body or person by whom the services were provided, and
  - (b) provision about its enforcement.



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**Modifications etc. (not altering text)**

- C1** S. 10(1) applied (4.4.2005) by [The Community Legal Service \(Asylum and Immigration Appeals\) Regulations 2005 \(S.I. 2005/966\)](#), **reg. 9(3)** (with regs. 2, 9(4))
- C2** S. 10(7) excluded (1.4.2000) by [S.I. 2000/516](#), **reg. 44**  
S. 10(7) applied (1.4.2000) by [S.I. 2000/516](#), **reg. 49**

**11 Costs in funded cases.**

- (1) Except in prescribed circumstances, costs ordered against an individual in relation to any proceedings or part of proceedings funded for him shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances including—
- the financial resources of all the parties to the proceedings, and
  - their conduct in connection with the dispute to which the proceedings relate;
- and for this purpose proceedings, or a part of proceedings, are funded for an individual if services relating to the proceedings or part are funded for him by the Commission as part of the Community Legal Service.
- (2) In assessing for the purposes of subsection (1) the financial resources of an individual for whom services are funded by the Commission as part of the Community Legal Service, his clothes and household furniture and the tools and implements of his trade shall not be taken into account, except so far as may be prescribed.
- (3) Subject to subsections (1) and (2), regulations may make provision about costs in relation to proceedings in which services are funded by the Commission for any of the parties as part of the Community Legal Service.
- (4) The regulations may, in particular, make provision—
- specifying the principles to be applied in determining the amount of any costs which may be awarded against a party for whom services are funded by the Commission as part of the Community Legal Service,
  - limiting the circumstances in which, or extent to which, an order for costs may be enforced against such a party,
  - as to the cases in which, and extent to which, such a party may be required to give security for costs and the manner in which it is to be given,
  - requiring the payment by the Commission of the whole or part of any costs incurred by a party for whom services are not funded by the Commission as part of the Community Legal Service,
  - specifying the principles to be applied in determining the amount of any costs which may be awarded to a party for whom services are so funded,
  - requiring the payment to the Commission, or the person or body by which the services were provided, of the whole or part of any sum awarded by way of costs to such a party, and
  - as to the court, tribunal or other person or body by whom the amount of any costs is to be determined and the extent to which any determination of that amount is to be final.

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## [<sup>F7</sup>11A Pilot schemes

- (1) This section applies to the following instruments—
  - (a) any order under section 6(4) or 8(9),
  - (b) any regulations under section 6(7), 7, 10 or 11, and
  - (c) any regulations under section 22(5) having effect in relation to the Community Legal Service.
- (2) Any instrument to which this section applies may be made so as to have effect for a specified period not exceeding 3 years.
- (3) In the following provisions of this section—
  - (a) “pilot scheme” means any instrument which, in accordance with subsection (2), is made so as to have effect for a limited period;
  - (b) “connected instrument”, in relation to a pilot scheme, means an instrument made under the same provision as the pilot scheme.
- (4) A pilot scheme may provide that its provisions, or the provisions of a connected instrument, are to apply only in relation to—
  - (a) one or more specified areas or localities;
  - (b) one or more specified descriptions of court or tribunal;
  - (c) one or more specified descriptions of service that may be provided as part of the Community Legal Service;
  - (d) one or more specified classes of person;
  - (e) persons selected—
    - (i) by reference to specified criteria; or
    - (ii) on a sampling basis.
- (5) The period for the time being specified in a pilot scheme may be varied—
  - (a) if the period is one of less than 3 years, so that it becomes a longer period not exceeding 3 years;
  - (b) so that it becomes a period which exceeds 3 years by such amount as the Lord Chancellor thinks necessary for the purpose of securing that the pilot scheme remains in operation until the coming into force of a connected instrument that will have effect—
    - (i) generally, or
    - (ii) for purposes wider than those for which the pilot scheme has effect.
- (6) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period (or that period as varied under subsection (5)).]

### Textual Amendments

**F7** S. 11A inserted (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 149(5), 182 (with s. 180)

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