



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART II

LEGAL SERVICES

Introductory

17 The statutory objective and the general principle

- (1) The general objective of this Part is the development of legal services in England and Wales (and in particular the development of advocacy, litigation, conveyancing and probate services) by making provision for new or better ways of providing such services and a wider choice of persons providing them, while maintaining the proper and efficient administration of justice.
- (2) In this Act that objective is referred to as “the statutory objective”.
- (3) As a general principle the question whether a person should be granted a right of audience, or be granted a right to conduct litigation in relation to any court or proceedings, should be determined only by reference to—
 - (a) whether he is qualified in accordance with the educational and training requirements appropriate to the court or proceedings;
 - (b) whether he is a member of a professional or other body which—
 - (i) has rules of conduct (however described) governing the conduct of its members;
 - (ii) has an effective mechanism for enforcing the rules of conduct; and
 - (iii) is likely to enforce them;
 - (c) whether, in the case of a body whose members are or will be providing advocacy services, the rules of conduct make satisfactory provision in relation to the court or proceedings in question requiring any such member not to withhold those services—
 - (i) on the ground that the nature of the case is objectionable to him or to any section of the public;

Status: This is the original version (as it was originally enacted).

- (ii) on the ground that the conduct, opinions or beliefs of the prospective client are unacceptable to him or to any section of the public;
 - (iii) on any ground relating to the source of any financial support which may properly be given to the prospective client for the proceedings in question (for example, on the ground that such support will be available under the Legal Aid Act 1988); and
 - (d) whether the rules of conduct are, in relation to the court or proceedings, appropriate in the interests of the proper and efficient administration of justice.
- (4) In this Act that principle is referred to as “the general principle”.
- (5) Rules of conduct which allow a member of the body in question to withhold his services if there are reasonable grounds for him to consider that, having regard to—
- (a) the circumstances of the case;
 - (b) the nature of his practice; or
 - (c) his experience and standing,
- he is not being offered a proper fee, are not on that account to be taken as being incompatible with the general principle.

18 The statutory duty

- (1) Where any person is called upon to exercise any functions which are conferred by this Part with respect to—
- (a) the granting of rights of audience;
 - (b) the granting of rights to conduct litigation;
 - (c) the approval of qualification regulations or rules of conduct; or
 - (d) the giving of advice with respect to any matter mentioned in paragraphs (a) to (c),
- it shall be the duty of that person to exercise those functions as soon as is reasonably practicable and consistent with the provisions of this Part.
- (2) A person exercising any such functions shall act in accordance with the general principle and, subject to that, shall—
- (a) so far as it is possible to do so in the circumstances of the case, act to further the statutory objective; and
 - (b) not act in any way which would be incompatible with the statutory objective.