



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 1

#### LEGAL AID

##### *Providers of services etc*

#### **27 Choice of provider of services etc**

- (1) The Lord Chancellor's duty under section 1(1) does not include a duty to secure that, where services are made available to an individual under this Part, they are made available by the means selected by the individual.
- (2) The Lord Chancellor may discharge that duty, in particular, by arranging for the services to be provided by telephone or by other electronic means.
- (3) The Lord Chancellor's duty under section 1(1) does not include a duty to secure that, where services are made available to an individual under this Part, they are made available by a person selected by the individual, subject to subsections (4) to (10).
- (4) An individual who qualifies under this Part for representation for the purposes of criminal proceedings by virtue of a determination under section 16 may select any representative or representatives willing to act for the individual, subject to regulations under subsection (6).
- (5) Where an individual exercises that right, representation by the selected representative or representatives is to be available under this Part for the purposes of the proceedings.
- (6) Regulations may provide that in prescribed circumstances—
  - (a) the right conferred by subsection (4) is not to apply in cases of prescribed descriptions,

- (b) an individual who has been provided with advice or assistance in accordance with section 13 or regulations under section 15 by a person selected by the individual is to be taken to have selected that person under subsection (4),
  - (c) the right conferred by subsection (4) is not to include a right to select a representative of a prescribed description,
  - (d) that right is to select only a representative located in a prescribed area or of a prescribed description,
  - (e) that right is to select not more than a prescribed number of representatives to act at any one time, and
  - (f) that right is not to include a right to select a representative in place of a representative previously selected.
- (7) Regulations under subsection (6)(b) may prescribe circumstances in which an individual is to be taken to have selected a person to provide advice or assistance.
- (8) Regulations may provide that in prescribed circumstances the Lord Chancellor is not required to make available representation for an individual by a prescribed representative.
- (9) Provision made under subsection (8) does not prejudice any right of the individual to select another representative.
- (10) The circumstances which may be prescribed under this section include that a determination has been made by a prescribed person.

## **28 Position of providers of services**

- (1) The fact that services provided for an individual are or could be provided under arrangements made for the purposes of this Part does not affect—
- (a) the relationship between the individual and the person by whom the services are provided,
  - (b) any privilege arising out of that relationship, or
  - (c) any right which the individual may have to be indemnified by another person in respect of expenses incurred by the individual,
- except to the extent that regulations provide otherwise.
- (2) A person who provides services under arrangements made for the purposes of this Part must not take any payment in respect of the services apart from—
- (a) payment made in accordance with the arrangements, and
  - (b) payment authorised by the Lord Chancellor to be taken.
- (3) Regulations may provide that the withdrawal of a determination that an individual qualifies for prescribed services under this Part does not affect the right of any person who has provided such services to the individual under arrangements made for the purposes of this Part to remuneration for work done before the date of the withdrawal.

## **29 Code of conduct**

- (1) The Lord Chancellor must publish a code of conduct to be observed by the following persons when providing services to an individual under arrangements made for the purposes of this Part—
- (a) civil servants, and

- (b) employees of a body established and maintained by the Lord Chancellor.
- (2) The code must include—
- (a) duties to avoid discrimination,
  - (b) duties to protect the interests of the individuals for whom services are provided,
  - (c) duties to courts and tribunals,
  - (d) duties to avoid conflicts of interest,
  - (e) duties of confidentiality, and
  - (f) duties on persons who are members of a professional body to comply with the rules of the body.
- (3) The Lord Chancellor must lay the code, and any revision of the code, before Parliament.
- (4) The persons described in subsection (1)(a) and (b) are not subject to the direction of the Lord Chancellor when providing services to an individual under arrangements made for the purposes of this Part.

### **30 Position of other parties, courts and tribunals**

- (1) Except as expressly provided by regulations, any rights conferred by or under this Part on an individual for whom services are provided under this Part for the purposes of proceedings do not affect—
- (a) the rights or liabilities of other parties to the proceedings, or
  - (b) the principles on which the discretion of a court or tribunal is normally exercised.
- (2) Regulations may make provision about the procedure of a court or tribunal in relation to services made available under this Part.
- (3) Regulations under subsection (2) may, in particular, authorise the exercise of the functions of a court or tribunal by—
- (a) a member or officer of that court or tribunal, or
  - (b) another court or tribunal.