

Resolving Disputes

Read and précis Part D of ILEX booklet 'The Legal Environment' prior to the lecture.

Produced by Dr Peter Jepson.

Lecture rules ...

- Turn off your mobile
- Raise your hand if you have a question.
- Show your read and précis notes - the lecture will be postponed if a single student fails to show them.
- Annotate your Pdf slides.

Legal Advice

The best source is a solicitor - problem is the likely cost. Alternatives:

- CAB (what do the initials stand for?)
- Housing Advice Centre
- Consumer Advice Centre
- Shelter
- Trading Standards Officer
- Online services ...

Access to Justice Act 1999

- Replaces the old Legal Aid Board and Legal Services Commission.

Split into two areas:

- Criminal Defence Service
- Community Legal Service (civil legal aid).

Criminal Defence Service

Three elements -

- (1) **Advice and Assistance** (Duty Solicitor Scheme at both the Police Station and magistrates; Court).
- (2) **Advocacy Assistance** - Solicitor prepares case and gives initial representation at the Mags or Crown Court (Legal Services Commission cover the fees (D pays nothing)).

Criminal Defence Service (Cont'd)

- (3) **Representation** - covers the cost of a Solicitor and Barrister to prepare and represent in case.
- A court on application considers if it is in the "interests of justice" that the accused be represented. If the accused has financial means the court will determine if it is in the interests of justice that he contributes towards the cost.
- There are some "Public Defenders" employed by CDS (USA style?)

The Civil Legal Aid Scheme

- Aim of the Access to Justice Act 1999 was to reduce cost of legal aid.
- **Legal Services Commission** controls spending and they manage a budget called the **Community Legal Services Fund**. In order to obtain funding Solicitors need a contract and a 'Quality Mark'.

The Civil Legal Aid Scheme

- Funding is NOT available for civil cases less than £5,000 or for tribunal cases. Nor for Personal Injury claims - restricted to cases related to care and welfare of children, benefit entitlement, and alleged breach of human rights cases. Even then, means and merit testing is required.

Conditional Fee Agreements

- Replaces legal aid - "No-win - No Fee" as advertised on TV.
- Conditional Fee - winner claims from loser. Fee is normally "normal fee" together with a "success fee" of no more than 25%.
- Insurance often taken against loss.
- See www.legalservices.gov.uk

Alternative Dispute Resolution.

ADR - settled disputes outside of court.
Main methods (students to discuss in Law Firms and then explain them):

- Negotiation.
- Tribunals
- Arbitration
- Mediation
- Ombudsman

Structure of Civil Courts

- 'Small claims track' - up to £5000
- 'Fast-track' £5,000 - £15,000.
- 'Multi-track' over £15,000.

Basic idea is that Multi-track cases heard in the High Court.

- New procedure: Plaintiff is now claimant, Pleadings are now "statements of claim" and Summons is now "claim form".

The new civil procedure ..

- If D decides to defend the claim - **Allocation Questionnaire** is sent to parties.
- From which the District Judge allocates the track - some legal cases could be sent for a multi-task hearing if it displays complex areas of law.
- **ADR is encouraged** (What is that?) - Small Claims -County Court or High Court place of hearing.