

News story: Civil news: backdating powers in civil cases to be introduced

Discretionary powers to backdate certain legal aid determinations are to be given to the Director of Legal Aid Casework from 20 February 2019.

These powers are being introduced under regulations laid by the government. They mean that legal aid will be available to cover urgent work carried out before the Legal Aid Agency (LAA) makes a determination.

When the regulations come into force we will close the 'out of hours' service. Where appropriate, providers will be able to apply to backdate a determination to cover any urgent work they have started e.g. at the weekend.

When can the power be used?

The new power will allow the LAA to backdate an initial grant of licensed work or special case work. It also allows amendments to the scope of legal aid authorised under a certificate to be backdated. This includes where the determination is made following a review or appeal. It will only be possible to use the backdating power where certain conditions are met. These conditions are set out in the new regulation – see link below. We will provide more detail before the legislation comes into force.

When will these new powers be available?

The new backdating power is due to come into force on 20 February 2019. It will be available for all applications for a determination that are made after that date. This includes applications for an amendment. The power will not be available for applications for a determination made before 20 February 2019 even where the LAA decision takes place after that date.

Will this affect my delegated functions?

No, you will still have delegated functions to grant emergency representation in the same cases as at present. These can be used to cover urgent work where appropriate.

How do I ask for a backdated determination?

We will provide further information in the next few weeks on the process providers should follow to request that a determination be backdated.

When will the 'out of hours' service close?

We will close the 'out of hours' service when the new backdating power comes into force. The last day this service will operate will be 19 February 2019.

Following this, providers will no longer be able to contact caseworkers to obtain a determination using this service.

Further information

[The Civil Legal Aid \(Procedure\) \(Amendment\) Regulations 2019 \(SI 2019/130\)](#) – the regulation making these changes