

News story: Civil news: backdating powers now available for civil cases

Regulations giving the Director of Legal Aid Casework (DLAC) the discretion to backdate the effect of certain legal aid determinations are now in force.

We have also closed the 'out of hours' service. This service can no longer be used to obtain urgent determinations from caseworkers on emergency representation.

When can the backdating power be used?

The new backdating power gives the LAA a discretion to backdate an:

It will only be possible to use backdating powers where applications are made as soon as reasonably practicable and we are satisfied that:

- it was in the interests of justice for the services to be carried out before the date of the determination
- the services could not have been carried out as controlled work

For determinations made on review or following an appeal DLAC can also consider whether it is appropriate to backdate having regard to all the circumstances. This includes information available to the provider when the application for services or a review was made.

How do I request a backdated determination?

When applying for legal aid that you want backdated you should include this request in the merits report on CCMS. You should provide the following information:

- date you want the determination to take effect from
- brief justification on why it is appropriate to backdate, with reference to the requirements in the regulations

You can also ask for the effect of a determination to be backdated at any point by submitting a case enquiry. This should include the information set out above.

Are there any transitional provisions?

Yes, the new power is only available for applications for a determination

submitted on or after 20 February 2019 i.e. after midnight on 19 February 2019.

This includes applications for an amendment made on or after this date, even if the original certificate was issued earlier.

Are you issuing guidance about this power?

We have updated relevant Client and Cost Management System user guides to reflect the new process.

When will the 'out of hours' service close?

The last day of operation for this service was 19 February 2019. Providers are no longer able to contact caseworkers to obtain a determination using this service.

Further information

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

[CCMS website: managing live cases](#) – to download 'Backdating Powers' guidance