

GUIDANCE ON TRANSITIONAL ARRANGEMENTS FOR CONTROLLED WORK CASES FOLLOWING THE CIVIL LEGAL AID (PROCEDURE) (AMENDMENT) REGULATIONS 2020

This addition to the Lord Chancellor's guidance is issued by the Lord Chancellor to the Director of Legal Aid Casework under section 4(6) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ('the Act'). This guidance is in relation to legally aided cases previously classified as 'Gateway Work' where a determination on the appropriate format of advice was made before 15th May 2020. The Director must have regard to this guidance determining how civil legal services are to be made available under section 12(3)(a) of the Act.

Following the removal of the provisions on "Gateway Work" from Part 2 of the Procedure Regulations on 15 May 2020, individuals who apply for legal help the categories of debt, discrimination and special educational needs on or after this date no longer need to make their application via the Gateway. Transitional arrangements state that Part 2 of the Procedure Regulations continues to apply to a client's case where a determination was made prior to that date. This includes any determination that the client should receive services via a specialist telephone provider. However, the Director has the power to amend that determination under regulation 19(2).

When deciding whether to exercise this discretion, the Director should take into consideration that individuals are now able to choose how they receive services for legal aid in these categories. If, for example, an individual is able to demonstrate that they would have chosen to receive services from a face-to-face provider from the outset of their case, had that been an option, then the determination should be amended, if requested, to allow them to receive services in that way. The Director will not amend a determination where the applicant is unable to demonstrate that they would have chosen a face-to-face provider at the outset of their case, such as where they request face-to-face advice only to obtain a second opinion on their case.