

2020 No. 439

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Civil Legal Aid (Procedure) (Amendment) Regulations
2020**

<i>Made</i>	- - - -	<i>17th April 2020</i>
<i>Laid before Parliament</i>		<i>21st April 2020</i>
<i>Coming into force</i>	- -	<i>15th May 2020</i>

The Lord Chancellor makes these Regulations, in exercise of the powers conferred by sections 12(2), (3)(a), (b), (e) and (g) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

Citation, commencement and interpretation

1. These Regulations may be cited as the Civil Legal Aid (Procedure) (Amendment) Regulations 2020 and come into force on the 15th May 2020.

2. In these Regulations, “the Procedure Regulations” means the Civil Legal Aid (Procedure) Regulations 2012(b).

Amendment of the Procedure Regulations

3. The Procedure Regulations are amended as follows.

4. In regulation 2 (Interpretation) omit the definition of “face-to-face provider”.

5. Part 2 (Gateway Work) is revoked.

6. In regulation 23 (The application), after paragraph (1B), insert—

“(1C) Where—

- (a) an application is made for legal help in relation to any matter described in paragraph 41 (inquests) of Part 1 of Schedule 1 to the Act, and
- (b) the Director has disapplied the financial eligibility limits in respect of that application in accordance with regulation 10(1) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013(c),

the Director may specify that the determination is to be treated as having effect from a date earlier than the date of the determination.”.

7. For regulation 61 (The application) substitute—

(a) 2012 c.10
(b) S.I. 2012/3098
(c) S.I. 2013/753

“61.—(1) An individual applying for family mediation must attend the mediator’s premises in person unless—

- (a) the proposed mediator decides that attendance in person is not necessary in accordance with the mediator’s arrangement with the Lord Chancellor under section 2(1) of the Act; or
- (b) the individual—
 - (i) resides, or is present, in the European Union;
 - (ii) cannot attend in person for good reason; and
 - (iii) authorises another person to attend on their behalf.

(2) An individual applying for family mediation must also—

- (a) complete the application form specified by the Lord Chancellor; and
- (b) provide any additional information and documents requested by the Director in order to make a determination in relation to the application.”

8. In Schedule 1 (Supporting Documents: Domestic Violence)—

- (a) In paragraph 14, after “they are providing”, insert “, or have provided,”;
- (b) In paragraph 15, after “they are providing”, insert “, or have provided,”;
- (c) In paragraph 17, in sub-paragraph (2), for “England and Wales”, substitute “the United Kingdom”;
- (d) In paragraph 20, for “under paragraph 289B of the Immigration Rules”, substitute “as a victim of domestic violence”.

Transitional provision

9.—(1) The amendments made by regulations 4 and 5 do not apply to an application for Gateway Work on which a determination is made before the coming into force date.

(2) For the purposes of this regulation, “determination” means a determination as described in Section 2 of the Specification to the 2013 Civil Legal Advice Contract and Section 2 of the Specification to the 2018 Civil Legal Advice Contract.

10.—(1) The amendments made by regulation 8 do not apply to an application for civil legal services that is made before the coming into force date.

(2) For the purposes of this regulation, an application is to be treated as being made before the coming into force date if the application is—

- (a) for Controlled Work and the application is signed and dated before the coming into force date;
- (b) for Licensed Work, other than an application for emergency representation, and the application is—
 - (i) signed and dated before the coming into force date and received by the Director by 5.00 pm on the seventh day after the coming into force date, or
 - (ii) submitted through the Client and Cost Management System before the coming into force date;
- (c) for emergency representation and the application—
 - (i) results in a determination being made by a provider before the coming into force date and that determination is notified to the Director within five working days of the determination,
 - (ii) is emailed or faxed to, and received by, the Director before the coming into force date, or
 - (iii) is submitted through the Client and Cost Management System before the coming into force date.

(3) In regulations 9 and 10 –

“Client and Cost Management System” means the client and cost management system used by the Director in relation to applications for civil legal services;

“coming into force date” means the date specified by regulation 1;

“Controlled Work” has the meaning given in regulation 21(2) of the Procedure Regulations;

“emergency representation” has the meaning given in regulation 2 of the Procedure Regulations;

“Licenced Work” has the meaning given in regulation 29(2) of the Procedure Regulations;

“provider” means a person who provides civil legal services under Part 1 (legal aid) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales for the purposes of paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971.

“2013 Civil Legal Advice Contract” and “2018 Civil Legal Advice Contract” mean the contracts so named between the Lord Chancellor and a provider for the provision of civil legal services(a).

Alex Chalk

Parliamentary Under Secretary of State
Ministry of Justice

17th April 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Procedure) Regulations 2012 (“the Procedure Regulations”) in relation to applications for determinations that an individual qualifies for civil legal services under sections 9 and 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c10) (“the Act”).

Regulation 4 omits the definition of face-to-face provider in regulation 2 of the Procedure Regulations. Regulation 5 revokes Part 2 of the Procedure Regulations which relates to Gateway Work.

Regulation 6 amends regulation 23 of the Procedure Regulations to enable a determination about legal help for inquests to have effect from a date earlier than the determination where the Director has disapplied financial eligibility limits in relation to the application.

Regulation 7 amends regulation 61 of the Procedure Regulations to set out circumstances when an individual applying for family mediation need not attend the provider’s premises in person.

Regulation 8 amends Schedule 1 to the Procedure Regulations to expand further the types of evidence of domestic violence which may support an application for civil legal services under paragraph 12 of Part 1 of Schedule 1 to the Act.

Regulation 9 provides that the amendments made to revoke Part 2 (and to remove the definition of face-to-face provider) do not apply to applications on which determinations are made before the coming into force date of these Regulations. Regulation 10 provides that the amendments relating to supporting evidence for domestic violence do not apply to applications for civil legal services made before the coming into force date of these Regulations.

(a) The 2013 and 2018 Civil Legal Advice Contract and their Specifications are available at <https://www.gov.uk/topic/legal-aid-for-providers/contracts>. Copies can be inspected at The Legal Aid Agency (Head Office) at 102 Petty France, London, SW1H 9AJ.