

4th October 2018

Duncan Lewis wins access to justice challenge against Legal Aid Agency and Lord Chancellor

[Duncan Lewis Solicitors](#) are the claimant in a claim for judicial review of the Legal Aid Agency's refusal to backdate legal aid certificates, even where solicitors have made a legal aid application as promptly as possible and it is necessary to begin work in order to secure access to justice for a client before the Legal Aid Agency has granted a certificate. Our contention in the litigation is that the Legal Aid Agency and Lord Chancellor have failed to recognise that the legal aid regulations must contain an implied power to backdate certificates, or are ultra vires.

In response to that claim, the Government has agreed, in open correspondence, to amend the Civil Legal Aid (Procedure) Regulations 2012 to expressly allow for legal aid certificates to be backdated to the date of application for legal aid.

The Government's concession that backdating is necessary will help countless people to challenge decisions made by public bodies, such as unlawful removals and unlawful detentions by the Home Office, and the failure of local authorities to provide accommodation for people at risk of being made homeless. It will avoid strong claims being stifled because of delays in the grant of legal aid. It will also ensure that solicitors can begin work as and when needed to secure the legal rights of their clients.

The Defendants have informed us that ministers are planning to lay a statutory instrument before parliament to amend the regulations. The details and timing of the amendments remain to be seen. We plan to discuss possible terms of settlement of our claim with the Defendants.

Duncan Lewis are the Claimant, with [Toufique Hossain](#) (Director of Public Law), [Jamie Bell](#) (Lead Solicitor) and [Jeremy Bloom](#) (Trainee Solicitor) preparing the case. [Osbornes Solicitors](#) are an Interested Party. Counsel for the Claimant are [Chris Buttler](#) and [Eleanor Mitchell](#) at [Matrix Chambers](#). [Alison Pickup](#) and [Katy Watts](#) at the [Public Law Project](#) are also assisting in the preparation of the case.

We are particularly grateful to the following firms and organisations for their invaluable assistance in providing evidence in support of the claim: [Bindmans](#), [Broudie Jackson Canter](#), [Deighton Pierce Glynn](#), [Legal Aid Practitioners Group](#), [Leigh Day](#), and the [Public Law Project](#).

Read more: [R \(Duncan Lewis Solicitors Ltd\) v Director of Legal Aid Casework and the Lord Chancellor](#)