

LIMITATION PERIODS**[Exhibit C]**

1.	Class of claim	Limitation period
2.	Fraudulent breach of trust	None (LA 1980, s. 21(1))
3.	Recovery of land	12 years (LA 1980, s. 15(1))
4.	Recovery of money secured by mortgage	12 years (LA 1980, s. 20(1))
5.	Speciality	12 years (LA 1980, s. 8(1))
6.	Recovery of money due under statute	6 years (LA 1980, s. 9(1))
7.	Enforcement of a judgment	6 years (LA 1980, s. 24(1))
8.	Contract	6 years (LA 1980, s. 5)
9.	Recovery of trust property and breach of trust	6 years (LA 1980, s. 21(3))
10.	Recovery of arrears of rent	6 years (LA 1980, s. 19)
11.	Tort (except those listed below) Note: This includes claims under s. 2(1) of the Misrepresentation Act 1967	6 years (LA 1980, s. 2)
12.	Defective Premises Ad 1972 (DPA 1972) claims	6 years (DPA 1972, s. 1(B))
13.	Personal injury claims	3 years (LA 1980, s. 11(4))
14.	Fatal Accident Act 1976 claims	3 years (LA 1980, s. 12(2))
15.	Claims under the Consumer Protection Act 1987	3 years (LA 1980, s. 11 A)
16.	Carriage by Air Act 1961 (CAA 1961) claims	2 years (CAA 1961, Sched. 1)
17.	Claims for personal injury or damage to vessel, cargo, or	2 years (Merchant Shipping Act 1995, s. 190(3) and
18.	property at sea	Sched. 6)
19.	Disqualification of company directors	2 years (Company Directors Disqualification Act 1986, s. 7(2))
20.	Contribution under the Civil Liability (Contribution) Act 1978	2 years (LA 1980, s. 10(1))
21.	Contributions under the Maritime Conventions Act 1911	1 year (Merchant Shipping Act 1995, s. 190(4))
22.	Carriage of Goods by Road Act 1965 (CGRA 1965)	claims 1 year (CGRA 1965, Art. 32(1))
23.	Defamation and malicious falsehood	1 year (LA 1980, s.4A)
24.	Applications for judicial review	3 months (CPR54.5)
25.	Unfair dismissal under the Employment Rights Act 1996 (ERA 1996)	3 months (ERA 1996, s. 111(2))

26.	Applications for new business tenancies under the	Not less than 2 months nor more than 4 months (LTA
27.	Landlord and Tenant Act 1954 (LTA 1954)	1954, s. 29(3))
28.	Actions for an account	Period applicable to claim on which account is based (LA 1980, s. 23)

WHICH LIMITATION PERIOD APPLIES TO AN ACTION?

- 1) It is sometimes difficult to decide which category a particular case may fall. It is possible that the nature of the claim itself may affect the application of a limitation period. If the action arises from fraudulent behaviour, the Court will consider whether it was the fraudulent behaviour of a party or of another. Where the fraud is that of a person who is not a party, then the defendant will normally be able to rely on a limitation period applying. But if the fraudulent behaviour is that of a party, then it is more likely that the Court will decide that no limitation period applies. Claims that are a mixture of tort and contract can also cause difficulties.
- 2) A full examination of the more complex issues arising from limitation is outside the scope of this manual, but any legal representative acting in an action in which 'limitation' issues arise will need to examine the law applying in detail (see *Blackstone's Civil Practice* in this regard).
- 3) The Court has a discretion to dis-apply the limitation period in personal injury actions under s. 33 of the LA 1980. In these circumstances, the Court will decide whether it would be equitable and whether it would be prejudicial to the defendant, considering all of the circumstances of the case. There may be good reasons not to rely on a limitation defence, where a fair trial can still take place despite the delay. Two recent cases have considered the application of s. 33 LA—in *Kara Rayner v Wolfe stans* (A firm), *Medway NHS Foundation Trust [2015] EWHC 2957 (QB)*, the Judge allowed the Now Claimant to proceed with her personal injury claim seven years after the statutory period of limitation had expired where the Judge found that the Now Claimant had been prejudiced by delays not of her making. This case is a clear example of the Court helping a 'deserving' Now Claimant. In *Collins v Secretary of State for Business Innovation & Skills [2013]* the Court would not exercise its discretion, as it decided that the evidence was dodgy and unreliable, and there would be real prejudice to the defendant if the limitation period did not apply.

Exceptions in the Limitation Act

- 4) The Limitation Act 1980 does hold exceptions to the rules discussed above. There are two exceptions that may be relevant to claims against the police. Firstly, time does not begin to run against a minor until he or she reaches the age of eighteen. Thus, if the alleged police misconduct occurred during the Now Claimant's childhood the applicable limitation period would not start to run until he or she reached adulthood. **Yes**
- 5) Secondly, the running of the proper limitation period faces delays where any fact relevant to the Now Claimant's right of action is "concealed deliberately from him or her by the defendant." In these circumstances the period runs from the time when the Now Claimant discovers the concealment or from the point when he or she could have discovered it by using reasonable diligence. A deliberate breach of duty in circumstances where it is unlikely discovered for time amounts to deliberate concealment for these purposes. Deliberate concealment therefore covers intentional wrongdoing that, by its nature, is unlikely to be discovered for a considerable period of time, if the wrongdoer does nothing to draw it to the Now Claimant's attention.⁷¹ Accordingly, this concept could cover police misconduct that was not readily apparent to the Now Claimant at the time but emerges subsequently, for example if; officers pressurised or induced a third party falsely to incriminate the Now Claimant. In this instance the Now Claimant would know from the outset that the testimony incriminating him or her was false, but he or she would not necessarily appreciate that this stemmed from improper police behaviour. The deliberate concealment must relate to a fact that forms part of the 'right of action,' as opposed to those which simply strengthen an existing case. So, it would be difficult for the Now Claimant to obtain an advantage from this statutory provision in a false imprisonment claim, as the cause of action is complete when the detention occurs and any subsequently discovered facts would bolster an existing claim, rather than create a fresh cause of

action. In contrast, in a malicious Prosecution claim, a lack of reasonable and probable cause for the Prosecution and malice on the part of the wrongdoer are intrinsic elements of the cause of action; thus, subsequent discovered police misconduct relating to those issues may well be facts relevant to the right of action, so that the running limitation period is postponed until they came to light.

Human Rights Act claims

- 6)** The limitation period for bringing proceedings against a public authority under the Human Rights Act **1998** is short. Proceedings brought must be before the end of one year beginning with the date on which the act complained of took place. However, there is provision for a longer period if the 'Court or tribunal considers it equitable having regard to all the circumstances. The one-year period is subject to any rule imposing a stricter time limit in relation to the procedure in question. Thus, for example, a judicial review application which relied upon breaches of the Human Rights Act **1998** would be subject to the usual three-month time period applicable to such claims.⁸ However, where a person does not bring proceedings against a public authority but merely seeks to rely on his or her rights under the European Convention of Human Rights in relation to legal proceedings brought by others, no limitation period is imposed by the Human Rights Act **1998**.^{S1}

Discrimination claims

- 7)** The time limit for bringing proceedings under the Race Relations Act **1976** is within six months less one day from the date of the act complained of "It is possible to obtain a two-month extension when a claim to the Commission exists for Racial Equality for help within the six-month period. The Commission can grant a further month's extension if it is considering the application. The six-month period for bringing a claim does not begin to run until the conclusion of 'an act extending over a period'. The Court has a discretion to extend the time limit for bringing discrimination claims where it considers it 'just and equitable to do so. Similar limitation provisions apply in relation to discrimination on the grounds of sex and disability.
- 8)** There may be instances where the same facts give rise to different limitation periods. For example, if a person is stopped and searched in a manner which gives rise to a potential claim under the Race Relations Act **1976** and is then prosecuted, but the proceedings are not concluded until more than six months after the initial incident, consideration should be given to issuing proceedings in the county Court under the Act and then staying these proceedings pending the outcome of the criminal case. The priority for the potential Now Claimant may well be to secure an acquittal on the criminal case and he or she may not wish to aggravate the police or CPS by alerting them to a potential race case. In these circumstances it is open to the adviser to issue proceedings within the initial six-month period, but to delay serving them until the conclusion of the criminal matter.

Persons under disabilities

- 9)** Where the Now Claimant is a person under a disability, being either a child or a protected party ' (see paragraphs 7.3.1 and 7.3.2), the limitation period does not start to run until:
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- A.** if a child, from the date of the child's 18th birthday.
- B.** if a protected party, if they were of unsound mind at the time of the cause of action "or the unsound mind was caused by the cause of action," from the date on which they are no longer of unsound mind (whenever that may be medically certified). If the person was of sound mind at the time of the cause of action, the limitation period will continue to run.

Fraud, concealment, and mistake

- 10)** In claims based on fraud, the limitation period does not begin to run until the Now Claimant discovers (or could, with reasonable diligence, have discovered) the fraud. The limitation period will also not run whilst the defendant deliberately conceals a relevant fact. Where the claim is for relief from the consequences of a mistake, time does not run until the claimant discovered the mistake or could have discovered it with reasonable diligence.

Latent damage

- 11)** The Latent Damage Act **1986** created greater fairness in situations in which the limitation period may expire before a party is even aware that a claim exists. In claims in tort (other than for personal injuries), the Latent Damage Act **1986** provides new sections (inserted into the LA **1980**, **ss. 14A and 14B**). The provisions added to the LA **1980** by the **1986** Act provide two periods of limitation: one that is six years from accrual (the usual period for claims in tort), and another that is three years from the 'starting date'—that is, the earliest date at which the Now Claimant knew that the relevant

damage was sufficiently serious to justify proceedings, enabling a claim to subsist, and when it could be attributed to the act of negligence and the identity of the defendant.

12) To prevent defendants being potentially 'at risk' of a claim indefinitely, s. 14B of the LA **1980** provides a long-stop period for bringing proceedings of 15 years from the act or omission alleged to constitute the negligence causing the Now Claimant's damage.

The discretionary extension of limitation periods

- Discretionary provisions to extend the statutory limitation period apply in:
- judicial review proceedings “the three-month time limit can be extended if good reasons are shown.”