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Limitation: What you need to know

One of the first considerations in bringing a claim is whether it is time-barred. An action must be brought within the relevant "limitation period". If not, a defendant has a defence to the claim.

Limitation period

- The limitation periods are governed by the Limitation Act 1980.
- These periods vary depending on the cause of action.
- The following are some general examples, but the facts of any claim should be checked carefully to ensure that it does not fall into an exception under the Act. For example, a personal injury claim may only be 2 rather than 3 years if the accident occurred in the air or at sea.

Action	Starting date	Limitation period
Simple contract	Date of breach of contract	6 years
Certain torts	Date of damage suffered	6 years
Personal injury or death	Date of injury or death Date of first knowledge of injury	3 years
Defamation or malicious falsehood	Date of cause of action	1 year
Deeds	Date of cause of action	12 years
Latent damage other than personal injury	Date damage caused Date when claimant first had knowledge to bring action	6 years 3 years
Recovery of rent	Date when rent arrears due	6 years
Enforce judgment	Date judgment becomes enforceable	6 years

Commencement of time

- The start date tends to be the date on which the cause of action accrued.
- In some cases, this may not be apparent, and it will run from the date when a claimant discovers or could discover the facts giving rise to a claim. This is mostly relevant in personal injury, clinical negligence claims, and construction claims involving latent damages.

- There may be variations or special rules as to when the period starts to run, and again, it is important to check the facts of each case against the Limitation Act. For example:
    - In contract, the cause of action accrues on the date of the contract breach, regardless of any substantial loss having been caused.
    - In claims for payment of works or services, the start date runs from the date of completion of the works.

Claims against companies

- A claim against a company that is not time-barred when a company goes into liquidation remains alive as time stops running effectively for limitation purposes.
- If a company is in administration, the limitation periods against the company continue to run.

Bringing a claim

A claim needs to be commenced within the relevant limitation period. It also must be sent to the court for issue and received within that time.

What if there is not enough time?

If there is little time left to bring a claim, you may need to issue and then apply to the court for a stay in proceedings to formulate your case.

Alternatively, you may enter into a standstill agreement with the defendant, which effectively suspends or extends the limitation period.

Checklist

On commencing any claim, the following steps are important:

- To provide a clear date when the cause of the action arose or when you first became aware of a right to claim.
- Check the Limitation Act to confirm the relevant limitation period and calculate the exact date when that period ends.
- Ensure that you have sufficient time in which to formulate the claim and issue it in court.
- Diarise the limitation date and ensure that a deadline for steps to comply with that date is set perhaps 6 months beforehand for risk management purposes.