

Limitation – The Clock is Ticking!

Harminder Sandhu, Managing Director and head of Dispute Resolution at Hawkins Hatton provides some guidance on the rules of limitation periods.

The Limitation Act 1980 stipulates time limits within which a party must bring a formal claim to Court (i.e., issue proceedings). If a limitation period has expired a claim will be statute barred, which means it cannot be brought.

The length of the limitation period depends on the type of claim for example whether it is a claim for breach of contract or personal injury. It is also essential to know when time starts to run as the “trigger” also differs according to the nature of the claim.

Below is a list of the most common types of claim with relevant limitation periods:

- Breach of Contract
Six years from the date of the Breach.
- Personal Injury / Death
Three years from the date of the injury or death or knowledge of the injury if later.
- Tort (Negligence but excluding personal injury)
Six years from the date of damage. In respect of negligence claims; it is possible to bring a claim outside the six years limitation period if the damage complained of was not discovered until after expiry of the six years limitation period (“latent damage”). In such circumstances a party has three years from either the date of knowledge of loss or the date he ought reasonably to have known of his loss. There is a fifteen year long stop date from the date of the negligence to ensure claims do not have an open ended life span.
- Defamation
One year from the date the defamation occurred.
- Rent Arrears
Six years from the date the rent became due.

The commencement of proceedings (when the Court receives the Claim Form) will stop time running for the claim.

Limitation often becomes an issue when parties to a dispute are involved in protracted negotiations in an attempt to avoid formal proceedings at all cost. In such circumstances a practical solution available to a potential claimant is to agree with his/her opponent to suspend time for the purpose of limitation and enter into what is known as a “standstill agreement”. This can avoid the parties becoming involved in time consuming and expensive litigation.

Limitation periods can be varied or excluded by agreement however any such contractual term would be subject to the “reasonableness test” under the Unfair Contract Terms Act 1977.

Limitation rules are complex and require careful consideration. For further information or advice contact Harminder Sandhu, Hawkins Hatton Corporate Lawyers Limited at hsandhu@hawkinshatton.co.uk or on 01384 216840