

FREQUENTLY ASKED QUESTIONS

What is the NSW Government proposing?

The NSW Government is considering whether to amend the Limitations Act 1969 to reduce barriers to survivors of child sexual abuse commencing a claim for compensation.

What is a statutory limitation period?

People who have been injured by the actions or negligence of another have a general right to bring a compensation claim, to be determined by a court.

However, the law restricts the maximum time after an event that legal proceedings may be initiated. Many jurisdictions, including NSW, provide for extensions in exceptional circumstances.

In NSW the time limit for civil proceedings for child sexual abuse is determined by when the abuse occurred and may be between 3 and 12 years.

Why should the Limitations Act 1969 be amended?

Civil litigation offers survivors of child sexual abuse an opportunity to sue perpetrators and responsible institutions for damages suffered as a result of their abuse.

However, it is well documented that many survivors do not disclose their experiences or act on them until decades after the abuse, if ever.

The Royal Commission into Institutional Child Sexual Abuse Interim Report states the average time for a survivor to disclose sexual abuse is 22 years, with men taking longer than women.

As a consequence, statutory limitation periods can result in many claimants being statute barred and unable to obtain civil remedies.

Arguably, denying a person the opportunity to have their claim determined by a court can be a serious denial of justice.

What has the NSW Government already done about limitation periods?

Last year the NSW Government announced interim measures as part of its response to the Royal Commission into Institutional Child Sexual Abuse.

This included a list of guiding principles for NSW government agencies. Principle 10 provides that state government agencies should not generally rely on a statutory limitation period defence unless the matter involves multiple defendants.

However, this only applies to state government agencies. The standard limitations periods continue to apply to non-Government defendants, including perpetrators and non-government institutions.

What does the discussion paper canvas?

The discussion paper asks whether legislative change is required to alter or remove limitation periods for civil claims for child sexual abuse.

It raises issues of interest to all survivors of child sexual abuse and is not confined to those abused in institutions or organisations.

The discussion paper canvasses a number of reform options and raises discussion questions about:

- retrospectivity
- serious physical abuse
- impact on number of cases and
- any potential effects on insurance premiums.

What else is the NSW Government doing to support survivors?

In addition to the guiding principles for NSW government agencies, late last year the NSW Government announced:

- An active place of recognition at the Parramatta Girls home.
- Unlimited counselling for survivors through the Victims Support Scheme.
- Increased resources for the Department of Family and Community Services to fast track survivors' access to their care records.

How can people provide feedback?

Public consultation will begin on Friday 23 January 2015 and will close on Tuesday 10 March 2015.

The discussion paper is available on the NSW Justice website at www.justice.nsw.gov.au or through the NSW Government consultation site www.haveyoursay.nsw.gov.au

Submissions can be sent to **Justice Policy, Department of Justice**, GPO Box 6, Sydney, NSW, 2001 or via email justice.policy@agd.nsw.gov.au