

ABI's limitation agreements and protocols for the jurisdictions of: England and Wales (with Thompsons Solicitors), Scotland (with APIL and MASS) and Northern Ireland (with APIL)

All three limitation protocol agreements can be found on the ABI's website here: <https://www.abi.org.uk/products-and-issues/choosing-the-right-insurance/motor-insurance/coronavirus-protocol/> with details on how to sign your firm up to the agreements and a list of signatories to each one.

Extension to the Personal Injury Protocol in England and Wales

Following a joint review it has been agreed that the protocol will continue until at least 17 June with a further joint review commencing on 8 June. The protocol that continues in effect is as follows:

1. An agreement that all limitation dates in all personal injury cases are frozen and claimants undertake to respond constructively to defendant requests for extension of time to serve a Defence;
2. An escalation process whereby any issue arising by a party's failure to act in accordance with the agreement in 1. above and which cannot immediately be resolved between the parties is referred to an email and/or telephone 'hotline' specifically established for this situation; and
3. A commitment that the email and telephone hotline will be monitored regularly and referred to senior people within the respective organisations who will be able to make a swift decision as to whether the stance being taken should be adjusted in light of prevailing circumstances.

ABI and Thompsons, Reviewed 19 May 2020



Agreement on the use of limitation in Scotland

The ABI and the Association of Personal Injury Lawyers have agreed a position in relation to cases where limitation would possibly be an issue in the next few months. This is set out below:

1. For the purposes of sections 17 and 18 of the Prescription and Limitation (Scotland) Act 1973 ("the 1973 Act"), in respect of any claim for damages for personal injuries which would otherwise "time bar" in accordance with the 1973 Act between 30 March 2020 and 17 June 2020 ("the limitation period") no limitation defence will be raised by the parties in respect of said period.
2. Given the uncertainty of the present situation, and the potential for an extension of the limitation period, Parties are agreed that this Agreement will **continue until at least 17 June with a further joint review commencing on w/c 8 June..**

Parties should take a consensual approach in relation to time limits and not seek to take unfair advantage of a party not complying with a procedural requirement. Particular regard should be had to service of an Initial Writ or Summons, and the lodging of a Notice of Intention to Defend or Defences. We would emphasise that parties and their representatives are expected to behave sensibly in the current crisis and that we would hope that the judiciary will take a dim view of behaviour that seeks to abuse the situation.

31 March 2020, Reviewed 15 April 2020 and 19 May 2020



Limitation Protocol Agreement – Northern Ireland

A protocol is agreed between the ABI and APIL and comes into effect immediately. It will remain in effect and continue until at least 17 June with a further joint review w/c 8 June of the following:

1. That as between the parties, but ultimately subject to the authority of the court, limitation dates in all personal injury cases shall be frozen for the duration of this Protocol and any further extensions to the period of this Protocol:
2. That Defendants' representatives will, for the duration of this agreed Protocol and any extensions to same, accept service of proceedings by email should that be necessary: including cases on which protective proceedings have been previously issued provided the proceedings are correct in every respect as they would be if served in the normal way and are emailed to the nominated address for service.

ABI and APIL, reviewed 19 May 2020