

Crime and Policing Bill – Clause 82 – House of Lords second reading: briefing from the Association of Personal Injury Lawyers (APIL) – October 2025

Introduction

Clause 82 removes the limitation period which requires survivors of child sexual abuse to bring a civil claim for compensation within three years of turning 18 years-old. The clause was added to the Crime and Policing Bill at House of Commons report stage, so the Bill's passage through the House of Lords will be the only opportunity for detailed scrutiny of the proposals.

The Association of Personal Injury Lawyers (APIL) supports the removal of the limitation period for claims by survivors of child sexual abuse but, without amendment, clause 82 risks creating uncertainty, and delays to justice for survivors.

Vital support for survivors

It is not always easy for survivors to bring a claim for compensation within the current three-year limitation period. Trauma, shame, mistrust in authorities, and fear are some of the very valid reasons why people hold back from speaking out about what happened to them, let alone take the step to seek justice. Some survivors do not even know that they are able to claim compensation until much later in life. One survivor has told us that she was 24 years-old before she knew she could claim compensation for what happened to her as a child. She was nearly 50 years-old when she felt ready to make a legal claim.

The reasons why survivors do not always make a claim within the three-year time limit were recognised by the Independent Inquiry into Child Sexual Abuse (IICSA). IICSA recommended that the limitation period be removed in these claims, but that a court could still dismiss a claim if a defendant can prove that a fair trial is not possible¹. The Government, however, has gone further, and given an unnecessary extra layer of protection for defendants, which was not part of IICSA's recommendation.

¹ Recommendation 15 of the Final Report of the Independent Inquiry into Child Sexual Abuse
https://webarchive.nationalarchives.gov.uk/ukgwa/20221215051709/https://www.iicsa.org.uk/key-documents/31216/view/report-independent-inquiry-into-child-sexual-abuse-october-2022_0.pdf

'Substantial prejudice' – an unnecessary additional protection for defendants

Clause 82 will apply to claims for abuse which occurred both before and after it comes into force. The clause will be retrospective in its effect.

In claims for abuse which occur after the clause comes into force, the defendant can ask the court to dismiss the claim if the court is satisfied that it is not possible for the defendant to receive a fair trial. But in claims which relate to abuse which occurred before the clause comes into force, there is an extra layer of protection for the defendant. In those claims, the court must also dismiss a claim if there would be 'substantial prejudice' to the defendant if the claim was to proceed. The court must also have regard to the 'prejudice' to the claimant if the claim is dismissed, before it is satisfied that it would not be equitable to allow the claim to proceed.

The Government has provided no justification for giving some defendants this extra layer of protection, making it harder for survivors to receive justice. Nor is there any reason whatsoever why it should be included in the Bill. All defendants will already have sufficient protection by the ability of the court to dismiss a claim if it is not possible for the defendant to receive a fair trial, thereby ensuring their rights under Article 6 of the European Convention on Human Rights – right to a fair trial.

When Lord Chancellor Shabana Mahmood MP announced the Government's decision to abolish the limitation period for these claims, she said that these measures would help survivors pursue their path to justice². But the inclusion of the 'substantial prejudice' provision will put before survivors a hurdle they must jump before they can continue on that path. It will create delays while the courts consider whether defendants face 'substantial prejudice', and could result in further litigation while the courts decide what is meant by 'substantial prejudice', which is not defined in the Bill. This undermines the very purpose of the IICSA recommendation, and will not provide the certainty and support which survivors deserve. The Government should, therefore, stand by its original commitment to deliver IICSA's recommendation in full, and amend clause 82 to remove the 'substantial prejudice' provision'.

² <https://www.gov.uk/government/news/new-reforms-to-support-victims-of-child-sexual-abuse>

In including the ‘substantial prejudice’ provision, the Government appears to have just copied the approach used in Scotland, where the limitation period for child abuse claims was abolished in 2017. The ‘substantial prejudice’ provision was included in the Limitation (Childhood Abuse) (Scotland) Act 2017 to account for the retrospective nature of the legislation and provide a safeguard for defendants ‘who may be required to meet claims long after the events in question’³. The Act’s explanatory notes provide an example of when the test might be used – ‘i.e. where the fact that the law on limitation has changed subsequent to abuse taking place is the cause of the prejudice’⁴.

The differences between the legal jurisdictions in Scotland and in England and Wales, however, means a direct copy of the legislation is not appropriate for survivors.

In both legal jurisdictions, the courts have had the ability to allow a claim to proceed after the limitation period had expired, but law firms report that the power in Scotland is not used widely⁵. The Scottish legislation, therefore, represented a much more fundamental departure from the law, and potential defendants in Scotland may not have been prepared, financially for example, to defend an historic claim. It is the experience of our members in England and Wales, however, that the court’s discretion to allow a claim to proceed after the limitation period has expired is used more widely. Potential defendants, therefore, should be aware, and be prepared, that one day they might to have to respond to an historic claim, especially with the increased public discussions in recent years about support for survivors of child sexual abuse. This makes the ‘substantial prejudice’ test even more inappropriate and unnecessary in England and Wales.

About APIL

Members of the Association of Personal Injury Lawyers (APIL) a not-for-profit campaign group which was formed in 1990, have experience and expertise in supporting survivors of child sexual abuse, and one of our directors gave evidence to IICSA on APIL’s behalf.

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³ Scottish Government Policy Memorandum – Limitation (Childhood Abuse) Scotland) Bill paragraph 47.

⁴ <https://www.legislation.gov.uk/asp/2017/3/notes>

⁵ <https://www.harpermacleod.co.uk/insights/what-is-the-personal-injury-claims-time-limit/>