

Legal Services Direction

Judiciary Act 1903

I, GEORGE BRANDIS, Attorney-General, acting under subsection 55ZF(1) of the *Judiciary Act 1903* and paragraphs 8.1 and 8.2 of the *Legal Services Directions 2005*, and in my capacity as First Law Officer of the Commonwealth give the following approval and direction:

Legal work covered by direction – time-barred child abuse claims

1. This approval and direction applies to legal work in which:
 - a. a damages claim is brought against a Commonwealth agency¹ by way of originating process in a proceeding in an Australian court;
 - b. the damages are claimed to compensate for personal injuries allegedly suffered as a result of sexual abuse of the claimant in an institutional context while they were a minor; and
 - c. in relation to that damages claim for child abuse it is open to the Commonwealth agency to either (i) plead a defence based on the expiry of a limitation period which applies to the originating process or (ii) oppose an application for an extension of a limitation period which applies to the originating process,

referred to in this direction as a **time-barred child abuse claim**.

2. For the purposes of this approval and direction, ‘institution’ and ‘institutional context’ carry the same meaning as those terms in the Letters Patent establishing the Royal Commission into Institutional Responses to Child Sexual Abuse.
3. This approval and direction does not apply to any proceeding in which a court has already determined (i) a defence to time-barred child abuse claim based on the expiry of a limitation period or (ii) an application for an extension of a limitation period in relation to a time-barred child abuse claim.

Approvals to non-corporate Commonwealth entities - paragraphs 8.1 and 8.2

4. For the purposes of cl 8.1 of the *Legal Services Directions 2005* I give approval to non-corporate Commonwealth entities to not plead a defence to a time-barred child abuse claim based on the expiry of an applicable limitation period in relation to that claim.
5. For the purposes of cl 8.2 of the *Legal Services Directions 2005* I give approval to non-corporate Commonwealth entities to not oppose an application for an extension of a limitation period in relation to a time-barred child abuse claim.

¹ *Commonwealth agency* is defined in paragraph 15 of the *Legal Services Directions 2005*.

Direction to Commonwealth agencies

6. I direct that Commonwealth agencies are not to plead a defence to a time-barred child abuse claim based on the expiry of an applicable limitation period in relation to that claim.
7. I direct that Commonwealth agencies are not to oppose an application for an extension of a limitation period in relation to a time-barred child abuse claim.

Particular cases subject to further notice

8. Paragraphs 4 to 7 above do not apply to a time-barred child abuse claim in any proceedings in which the Attorney-General or a delegate of the Attorney-General has given notice to the relevant Commonwealth agency to the effect that those paragraphs do not apply to that claim.

Timing for direction

9. This direction ceases to apply after 30 April 2019.

Dated: 4 May 2016

Senator the Hon George Brandis QC
Attorney-General of the Commonwealth