

You have probably heard about the recent decision of the House of Lords in *A v Hoare*, which has been referred to as “the Lotto rapist case”. This landmark decision will have a significant impact upon the way many child abuse and other claims are litigated. It will make claims in some circumstances easier and claims in other circumstances harder. Contrary to the impression given in the newspapers, it will not be good news for all victims of sexual abuse.

Until now the law has drawn a distinction between claims arising out of deliberately inflicted injuries (such as claims against abusers themselves and their employers if their abuse was sufficiently connected with their employment) and injuries inflicted negligently (such as claims against organizations who did not actually perpetrate the abuse, but were careless about keeping a victim safe from an abuser who posed an obvious danger).

The time limit for bringing claims arising out of deliberately inflicted injuries has been 6 years from either the date of the incident or from the claimant’s 18<sup>th</sup> birthday, after which time any claim has been conclusively time barred. The time limit for claims in negligence has always been 3 years from the later of either the date of the incident or from the claimant’s 18<sup>th</sup> birthday. However, importantly, the time limit for negligence claims can be extended in certain circumstances.

Following *A v Hoare*, the law is now that the 3 year extendable time limit is applicable to all claims. The effect of this is that some previously impossible claims may now be possible. For example, claims against abusers (or their employers) can now be brought many years after the event if a fair trial is still possible. This will be important where there is no evidence that anyone owing you a duty of care was negligent in allowing the abuse to occur.

If your claim was not brought within 3 years of the abuse or before your 21<sup>st</sup> birthday, the position remains that it is still strictly out of time, although that time limit can be extended.

The House of Lords gave some guidance as to when the time limit will be extended, which will very much depend on the facts of each particular case. The court will have to undertake a balancing exercise in each case.

Some of the factors which would be likely to make a court more likely to extend the time limit would be: the silencing effect of the abuse on you, your understandable reasons for not coming forward, if the abuser has been convicted, if the abuse was not a very long time ago and if there are (or have been) lots of cases against or about this abuser.

Some of the factors which might make a court less likely to extend the time limit would be: if the abuse was a very long time ago, if all of the records have been lost, if the abuser has died without the abuse being proved against him, if you could have brought the claim a long time ago but chose not to or if a fair trial is no longer possible.