

27 March 2019

Ms Sarah Cowie
Director
Health and Disability Services Complaints Office
GPO Box B61
PERTH WA 6838

Dear Ms Cowie

LIMITATION PERIODS FOR CLAIMS

The Law Society of Western Australia would like to commend the Health and Disability Services Complaint Office (HaDSCO) on the work that is done to offer an impartial resolution service for complaints relating to health, disability and mental health services. However, concerns have been raised about the fact that the limitation period to commence an action through the court system is not mentioned on the HaDSCO website.

Under section 14 of the *Limitation Act 2005* (WA), there is a three year limitation period from the time of the event that gave rise to the complaint. Initiating a complaint with HaDSCO does not stop the limitation period from running, and some complainants may be unaware of this.

There is a concern that as this information is not available on the HaDSCO website, complainants may choose to lodge a complaint with HaDSCO but run out of time to commence a court action if they consider their complaint is unresolved. This may be potentially misleading to the complainants.

The Law Society notes that in the 2017-18 HaDSCO Annual Report, the annual targets for the timely resolution of complaints was often met. That is to be commended. It is also noted, on the HaDSCO website, that complaints over two years old are generally not able to be dealt with, which does fall within the three year limitation period set by the Act.

In the rare circumstance where a complainant has allowed some time to pass before lodging a complaint with HaDSCO and the complainant is unsatisfied with the resolution, they may not realise that the limitation period has continued to run.

The Law Society requests HaDSCO include specific information relating to the statutory limitation period on the HaDSCO website, and that time will run notwithstanding a complaint being reviewed and determined by HaDSCO. Further it would also be prudent that a complainant be advised that litigation is an option.

If you would like to discuss the above further, please do not hesitate to contact Mary Woodford, General Manager Advocacy at mwoodford@lawsocietywa.asn.au or on (08) 9324 8646.

Yours sincerely


Greg McIntyre SC
President

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