

Meeting of 23rd March 2017

Timing Issue

IRP Implementation Oversight Team

Agenda

- Recap of last meeting
- How start of time is calculated
- How long is allowed
- Additional issues

Recap of last meeting

- Presentation of analysis of public comments received (Malcolm)
- Threshold question: moratorium?
- Options for moving forward

How time is calculated

- David & Malcolm:

A CLAIMANT must file their claim no later than the later of the following dates

(1) XX days after the date of the harm; or

(2) XX days after the date CLAIMANT became aware of the harm, or ought reasonably to have been aware of it

(Sidenote: Whether the harm actually occurred may be disputed; legal team to ensure such a dispute doesn't subvert the intent of the above)

How long is allowed

- Most public comment respondents say 45 days is too short
- The most popular suggestion was 180 days (6 months)
- The second most popular suggestion was 90 days (3 months)

Additional issues

- Exclude days during mediation
- Clarify: calendar days
- Day count to start from date translated documents are available
- Discretionary power to hear late claims
- Review of effectiveness

Additional issues: mediation

- RySG proposes that days spent in intermediation should be excluded from the count of days, for the purposes of counting the time bar, so as not to discourage an agreed settlement
- What would this apply to?
 - CEP?
 - Request for Reconsideration?
 - Other?

Additional issues: calendar days

- Auerbach queries whether our proposal relates to business days or calendar days, and if business days, how business days should be calculated.
- Strawman proposal:
 - If we are agreeing on 180 days, rather than 45, it seems reasonable to say this means calendar days. That also avoids the difficulty of how to calculate business days.

Additional issues: translated documents

- Perez proposes that all notice periods and deadlines should be calculated from the date that translated documents are available, not from the date that documents were available in English only.
- If we agree, how do we apply this to the time bar?

Additional issues: discretionary hearing of late claims

- LINX proposes that we add discretionary power for IRP panel to hear claims filed late, subject to conditions:
 - if it is necessary to fulfil the purposes of IRP, and
 - only if passage of time does not impair the ability of the panel to assess the claim
- Would this help address the translated documents issue too?

Additional issues: review of effectiveness

- ALAC proposes that the effect of these rules of procedure should be kept under review.

- If we agree, how do we implement?
 - Recommend that this group be revived after a period?
 - Recommend that IRP panel conduct such a review?
 - Recommend that this be added to ATRT3?
 - Other?