

- 2.7 It is early days but, perhaps by the time of the Inquiry seminars expected in the second half of 2019, there may be more information available to assist in understanding the impact (if any) of the changes in Scotland on claims based on historic child sexual abuse.
- 2.8 Evidence was provided to the Inquiry of court decisions where claims were dismissed under the Limitation Act. However, it was also noted that the section 33 discretion was “*commonly exercised*” in favour of the claimant (Transcript Day 13, [56:57], ABI witness, Philippa Handyside). This is the application of the Limitation Act in practice. Zurich also recognises the separate point made by victims in their evidence – that they felt on the back foot from the outset when making a claim because the limitation defence was raised early by defendants and used, in their view, as a threat throughout the claims process. To address this, the position that Zurich is looking to put forward is that, where Zurich has handling authority in relation to a claim, limitation should only be raised as a defence where, following reasonable enquiries, it is considered that a fair trial would not be possible. In circumstances where Zurich does not have full handling authority, such as where an insured customer has a significant deductible or another insurer bears the larger proportion of the claim, Zurich will seek their agreement to Zurich's approach, which it believes is both a responsible one and one that recognises the particular limitation issues in child sexual abuse claims. Zurich will promote this approach with its external panel of solicitors and other stakeholders so that it is clear that the passage of time alone from the abuse to the date of the claim will not result in a limitation defence being pursued.
- 2.9 The approach detailed in 2.8 above goes further than what is currently set out in Zurich's guidelines, which have been provided to the Inquiry. Zurich can only ensure that its position is adopted where it is the decision-maker in relation to the claim, but it will continue to engage with customers, MMI and other stakeholders to promote this approach in discussions. Zurich is reviewing the correspondence prepared by it or on its behalf by external representatives at the outset of matters so that it is clearer to claimants and their representatives that, where any reference is made to the passage of time and needing to make enquiries at the outset to establish the facts and assess the claim, Zurich is not putting up an unreasonable barrier for the claimant. Rather, Zurich will look to make it clear that enquiries need to be made and will ask claimants to provide information to accelerate the process and arrive at a decision as soon as possible. Zurich expects that the claimants’ legal representatives will play a key role in guiding their clients through what is expected, particularly where there is little evidence in support, so that the process is less daunting.
- 2.10 Zurich is, and has been since MMI stopped writing new business in 1993, contractually required to handle claims on behalf of MMI. Currently around one third of the abuse claims handled by Zurich