

Dr A Stonis
Email: alfonsasstonis@gmail.com

File Ref: CAS019185_2

3 November 2025

Dear Dr Stonis

Complaint about Gillian Potts – Review request

I refer to your email received by this Office on 24 September 2024 requesting a review of my decision to close your complaint. I acknowledge it has taken some time for me to have an opportunity to consider this matter, and I thank you for your patience.

I have carefully considered your request for a review, including your submissions forming the basis for your review request.

As advised in Fact Sheet 1 (enclosed with my letter to you of 25 September 2024), I have an absolute discretion, in accordance with the *Legal Profession Uniform Law (NSW)* (the '*Uniform Law*') to conduct a review only if I consider it appropriate to do so (see section 313(1) of the *Uniform Law*).

Section 313(1) of the *Uniform Law* does not require an assessment of the merits. That being, whether the decision was dealt with appropriately and whether the decision was based on reasonable grounds. An assessment of the merits is only relevant if I decide to review the decision (see section 313(2) of the *Uniform Law*).

Having carefully considered the matter, I have determined not to exercise my discretion, and I will not be conducting a review of the decision.

I am declining to exercise my absolute discretion, having regard to public interest considerations and having considered your submissions on review.

Your original complaint

You complained about the conduct of Ms Gillian Potts as your previous legal representative in a personal injury matter.

Broadly, you complained about the way Ms Potts handled your personal injury claim. You said that she failed to gather evidence relevant to your claim, failed to include certain evidence relating to your PTSD diagnosis when submitting documents for assessment, and gave negligent advice regarding your claim.

Having reviewed the complaint and the information before me, I decided to close your complaint without taking further action.

The alleged conduct subject to this complaint was out of time. Section 272(1) of the *Uniform Law* states that a complaint must be made within three years after the conduct

is alleged to have occurred. The conduct subject to this complaint occurred between 2018 and mid 2020, more than three years before the complaint was received by this Office on 13 May 2023. While I do have the power to waive the time requirement if certain conditions are met, I did not consider the circumstances of this complaint warranted such action. In my view, it was not just and fair to waive the time requirement in these circumstances.

In summary, I noted the following reasons for refusing to waive the time requirement:

1. You had various opportunities to lodge a complaint while Ms Potts was representing you but did not do so.
2. Given how long ago the events occurred, it was my view that it was unreasonable to expect Ms Potts to recall specific details or facts.
3. Although you cited mental health issues as the reason for the delay, the impact this caused you did not appear to affect your ability to change lawyers, compile comprehensive documents and written submissions, and submit other complaints during that time.
4. You acknowledged you have a high level of education (Doctorate), and your submissions suggest you are a capable and informed client.
5. The invoice dated 13 May 2020 exceeded both the time limit and monetary limit for my Office to consider.
6. Investigating your complaint would not have served the public interest, especially since the matter has already been resolved, a settlement accepted, and funds disbursed.

Your request for review

In your email to my Office, you stated:

I am sending my request to review the decision made to dismiss my complaint CAS012565 about solicitor Gillian Potts on the grounds of the complaint being made outside of the three years deadline.

To clarify, only a portion of Potts actions were outside of a 3 years deadline at the time of submission of complaint. I provided this information in the previous explanation why I was not able to submit a complaint any earlier.

Please, see attachment "2024-09-23 Request to review decision for complaint CAS012565.pdf".

I refer to the reasoning in your review request application and have adopted your numbering for ease of reference. In your letter you said:

'4. This decision is incorrect as a significant part of the complaint is within the 3 years time limit. It is outlined in the document "2023-06-07 Reasons for late submission of complaint.pdf" section "Actions within 3 yearstime [sic] limit".

5. *The complaint was submitted on [13 May 2023]. The actions by Potts and relating documents are from [14 May 2020] - [31 July 2020]. All these actions are within the LPUL time limit.*

6. *The complaint has been dismissed based on incorrect preliminary assessment when action has been taken.*

8. *If the time extension for other actions are not granted then at least the actions that are within the time limits should be considered. This includes providing incorrect information in legal advice (about the further process of the claim, impact of fraudulent Moodley report and further actions), exaggerated legal costs (while OLSC can not [sic] order reduction of cost they still can assess that cost were grossly exaggerated), refusal to act on instructions, pressure to settle using incorrect legal advice and exaggerated legal costs.*

9. *The detailed information these actions were provided in the complaint and further information provided. It is most of the main complaint text items from 28 to 40 that are within the 3 years time limit. However, they were organised based on the subject more than timeline as I was not aware that part of the complaint may be submitted late'.*

You included '*other reasons to review decision to dismiss the complaint Actions [sic] beyond time limit*'. I have outlined and addressed items 10 through 19 below in my consideration of your request.

My consideration of your request

At the outset, please know that I am mindful of the distress you explained this situation has caused you, and I wish to emphasise that I have carefully reviewed the information you have provided me. While I am unable to address every matter you have raised, I have taken them into consideration when dealing with the key issues relevant to this request for review.

Having considered your review submissions and all the documentation on file, I am not persuaded the matters raised in your application would cause me to alter my conclusion set out in my letter closing your complaint. I do not consider that I can assist you in your stated aim of resolving your complaint as a consumer matter. The resolutions you seek appear to be punitive and disciplinary in nature, which are not outcomes my Office can achieve when dealing with consumer complaints. Notwithstanding this, and despite not being required to address the merits of your review application, I make the following observations with respect to your abovementioned reasons, which you have listed as 'items' in your submissions:

Items 4-9 '*items within the time limit*': You said the following 'items' from your main complaint, listed 28 to 40 are within the required period. I have viewed these items and note the following:

- Item 28 - You said the Traumatic Stress Clinic Report was '*dismissed by [Ms] Potts as not useful, later it proved essential when PIC did assessment and recognized [sic] PTSD having a major impact on [your] life*'. While I can

appreciate the frustration you indicated this caused you, lawyers are required to bring their forensic judgment to a matter and they are bound by ethical and procedural obligations. Sometimes a lawyer must give an opinion, based on their experience and knowledge of the law, to a client that will not be receptive to it. This is not a breach of their professional obligations.

- Items 29 through 35 occurred between 29 January and 14 April 2020. These items fall outside the 3-year time requirement of 14 May 2020 and 14 May 2023.
- Item 36 - refers to the costs, which as previously mentioned, are outside my jurisdictional limitations exceeding both the time and monetary limitations of the *Uniform Law*.
- Item 37 – You stated that Ms Potts told you she would prevent you from going to PIC for assessment and that you could not continue your claim with another lawyer. You also submitted a copy of a Tripartite Deed and explained that Ms Potts agreed to transfer your file once you accepted her costs. However, no further evidence was provided to support this allegation. Without supporting documentation or additional information, I was unable to take further action on this aspect of your complaint.
- Item 38 – You alleged that Ms Potts *'lied'* about the status of your claim by presenting two options: to settle with the insurer or to agree to her costs. You also said that your new solicitor, Ms DeLuca, later arranged a new medical assessment which was reviewed by PIC. While I acknowledge your concerns, there is insufficient evidence to support the allegation that Ms Potts lied. Lawyers are entitled to use their professional judgement when advising clients on possible outcomes. The fact Ms Potts provided options based on her assessment does not, in itself, amount to dishonesty.
- Item 39 – You stated that from November 2020, Ms Potts began telling you that *"no one is going to believe [you],"* and from March 2021, she allegedly called you names such as *"useless, good for nothing, worthless, weakling, who tries to profit from an honest insurance company."* You included one email dated 2 June 2020 in support of this claim. I have reviewed that email, the items you submitted with it, and the evidence labelled "All emails" from your original complaint file. Based on this examination, I did not find any evidence to support the allegations you made.
- Item 40 –It appears you raised concerns about a delay in transferring your file from Ms Potts to your new solicitor. You mentioned the file was transferred in July 2022. While this does suggest a delay, the reasons for it are not clear. You also noted that, once received, the file was *"no longer useful for [your] claim."* However, you did not explain how this caused you any disadvantage, and it's uncertain whether your new solicitor could have accessed the necessary information through online portals or other means. Even so, given that the case has been settled and closed, it is unclear what further action my Office could take in relation to this aspect of your complaint.

Item 10 - *Some actions that occurred outside the 3-year limit became more significant later, especially when followed by actions within the time limit:* While I acknowledge that earlier events may provide context, the required time limit exists to ensure fairness

and procedural certainty. The LPUL does not provide for retrospective significance as a basis to approve a waiver for out of time conduct. Each allegation must be assessed on its own merits and fall within the required period unless an application for out of time conduct is made and approved.

Item 11 - *It was unreasonable to claim Ms Potts cannot recall events simply due to the passage of time:* In my closing letter, I stated it was my opinion that it was unreasonable for Ms Potts to recall details or facts given the passage of time. I maintain that position. This is especially relevant given that concerns could have been raised either when her engagement ended or when you began working with a new solicitor. Similarly, once a matter has been settled and a payment amount agreed and paid, it is unclear what consumer-related actions my Office could take to resolve the complaint.

Item 12 - *Several key complaint items missed the 3-year deadline by only a few months, and it is only fair to expect the solicitor to explain those actions given the proximity to the in-time allegations:* While I acknowledge the proximity and perceived relevance of the out-of-time conduct to the in-time matters, this does not form the basis of my decision. Additionally, I have not identified any material on file that clearly demonstrates the out-of-time conduct had a significant influence on the conduct within the required period.

Item 14 - *Ms Potts could have provided accurate information and taken steps in June 2020, (similar to those later taken by Moya de Luca-Leonard) to help reduce the harm caused by not disclosing your PTSD:* Lawyers may, and often do, take different approaches to managing a matter. It would not be appropriate to comment on Ms Potts' actions based on the conduct of another lawyer in hindsight.

Item 15 - *PTSD significantly limits cognitive capacity to deal with trauma related tasks:* While you have explained the impact of PTSD on your ability to engage with the complaints process, it is also relevant that you were legally represented following the conclusion of Ms Potts' engagement. It would have been open to your legal representatives at the time to raise any concerns on your behalf, particularly if you were not in a position to do so personally.

Item 16: You provided further support letters from medical professionals in conjunction with previous medical records. You said without the supports of your GP, social worker, and mental health clinician your complaints and submissions would have taken much longer: I acknowledge the effort involved in writing the review request and obtaining the additional medical report. While these reports are supportive in nature and substantiate your diagnosis of PTSD and the challenges you faced, they do not, on their own, establish that it would be just and fair to waive the time limit.

Item 17 and 18 - *The argument that changing solicitors for personal injury claims requires the same amount of mental efforts as writing a complaint is incorrect; and, to change solicitors you only need to sign an agreement:* On reflection, I do not disagree with you when you said that preparing a complaint involves a different type of 'mental effort' than changing legal representation. However, the key consideration

was not a comparison of difficulty, but whether there was a reasonable opportunity to raise your concerns. You were legally represented following Ms Potts' termination, and it was open to you or your representative to raise those concerns at the time.

Item 19: You said it was in the public interest to investigate Ms Potts. In considering whether to waive the time requirement in the public interest, I must be satisfied that the complaint involves an allegation of professional misconduct and that it is in the public interest to deal with it. Having considered the complaint, I have not identified any evidence to suggest that the conduct alleged rises to the level of professional misconduct, as defined under the *Uniform Law*. The material before me does not indicate a pattern of behaviour or a breach of professional standards that would warrant additional action in the public interest.

Conclusion

Notwithstanding the fact that I am not required to assess the merits of my decision to close your complaint, I am satisfied that there is no obvious error in the decision under review, which warrants a detailed review of the decision pursuant to sections 313(2) and (3) of the *Uniform Law*.

Accordingly, pursuant to my absolute discretion under section 313(1) of the *Uniform Law*, I do not consider it appropriate to conduct an internal review.

This concludes my Office's involvement in your matter.

Yours sincerely



Samantha Gulliver
Legal Services Commissioner