



# PRACTICE DIRECTION NO. 4 – SESSIONS WITH A COMMISSIONER

Released 28 June 2021

## INTRODUCTION

1. This Practice Direction is issued under section 5(3)(a)(iii) the *Commissions of Inquiry Act 1995* (Tas) (Act) and relates to the giving of information at sessions with a Commissioner, including private sessions, to be conducted as part of the work of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (Commission).
2. This Practice Direction should be read in conjunction with the Act and the Order under section 4(1) of the Act dated 15 March 2021 establishing the Commission (Order), including its terms of reference.
3. This Practice Direction may be varied or replaced at any time. The Commission may, at any time, depart from this Practice Direction if it considers it appropriate to do so, subject to the Act and the Order.

## CONDUCT OF SESSIONS WITH COMMISSIONERS

4. The Commission may hold a session with a Commissioner to enable a participant to give information face to face. Sessions with a Commissioner are not public hearings. The Commission may choose to hold a session based on the nature of the information a participant may wish to share with the Commission, taking into account a participant's preferences and circumstances.
5. The Commission will discuss with a participant their preferences regarding how any information they give is used by the Commission. Information provided during a session will be managed in accordance with the Commission's [Providing Information to the Commission](#) document dated 13 May 2021. A participant may decide that they want the session to be conducted as a private session (refer to paragraphs 8–10).
6. If a session is held, the room will usually only include the following people:
  - 6.1 a Commissioner
  - 6.2 a Commission staff member
  - 6.3 the participant who is giving information at that session, and
  - 6.4 a person chosen by the participant to support them, if any.
7. Any support person who attends a session must keep any information disclosed at the session confidential. If a participant has a lawyer and wants them to attend the session, they may do so.

## PRIVATE SESSIONS UNDER THE ACT

8. One particular type of session with a Commissioner is a private session held in accordance with Division 1A of Part 3 of the Act. These sessions are confidential. The Act limits how the Commission



can use information obtained at a private session and these limits only apply where information is given to the Commission at a private session.

9. Any participant who appears at a private session is not a witness before, and does not formally give evidence to, the Commission.
10. Information given to the Commission at a private session which relates to a participant may not be included in a report or recommendation of the Commission unless that information:
  - 10.1 is also formally given in evidence to the Commission other than at a private session (for example, in a written submission or at a public hearing), or
  - 10.2 does not disclose the identity of, or lead to the identification of, the participant.

#### **WHO MAY GIVE INFORMATION AT A SESSION WITH A COMMISSIONER**

11. People interested in attending a session with a Commissioner are encouraged to contact the Commission.
12. The Commission will determine who will be able to attend a session.

#### **DETAILS OF SESSIONS WITH COMMISSIONERS**

13. The Commission will determine the dates and locations of sessions.
14. Generally, sessions with a Commissioner will be for one hour. Following the session, participants will have the opportunity to meet privately with a psychologist or qualified counsellor.

#### **EXPENSES OF PARTICIPANTS**

15. Participants in sessions with a Commissioner will be entitled to the payment of expenses (such as travel, meals and loss of income).
16. The Commission will release an expenses policy and claim form and provide copies of these to participants in sessions with a Commissioner.

#### **COVID-19 SAFE SESSIONS**

17. The Commission proposes to conduct sessions subject to any relevant directions made under the *Public Health Act 1997* (Tas) and further practice directions issued by the Commission.
18. Where the Commission considers it necessary or appropriate to do so, sessions may be conducted online, using remote access technology.

#### **RULES OF EVIDENCE**

19. Subject to the provisions of the Act, the conduct of sessions with a Commissioner will be within the discretion of the Commission.
20. In accordance with section 20 of the Act, the Commission is not bound by the rules of evidence when conducting a session.



## PRIOR CONTACT WITH A COMMISSIONER

21. If a person who is to give information in a session before the Commission:
  - 21.1 has had prior contact with a Commissioner outside of the Commission's processes, or
  - 21.2 otherwise considers that a Commissioner may have a conflict of interest,that person must bring that information to the Commission's attention.
22. Prior contact may include, but is not limited to, involvement or contact in previous legal proceedings.
23. At least **1 week** before the participant is due to give information in a session, that participant must provide the Commission with the following details:
  - 23.1 the participant's full name
  - 23.2 which Commissioner they have had prior contact with, and
  - 23.3 a summary of the circumstances of that prior contact or perceived conflict of interest.
24. The Commission will then consider that information and make a decision as to whether that Commissioner should participate in a session.

## CONTACTING THE COMMISSION

25. All general enquires regarding Commission processes may be made by telephone to 1800 950 110 or email to [contact@commissionofinquiry.tas.gov.au](mailto:contact@commissionofinquiry.tas.gov.au).
26. The Commission will assume that all communications from the Commission to a person or organisation may be directed to the email address or postal address from which the communication to the Commission was received, unless a person has specified another email address or postal address as their contact address.

## RIGHTS OF A PERSON WHO GIVES INFORMATION

27. An employer cannot prejudice or dismiss a person because they give information or produce any document or thing to the Commission (or because of the content of that information, document or thing) (s 33(3) of the Act).
28. A person cannot intentionally prevent, or try to prevent, another person from producing any document or thing to the Commission (s 33(1) of the Act).
29. A person cannot punish another person or cause them loss, damage or disadvantage because that other person gives information or produces any document or thing to the Commission (or because of the content of that information, document or thing) (s 33(2) of the Act).
30. If a person appears before the Commission, they will be given the same protections and immunities as a witness who appears before the Supreme Court (ss 8(5), 19B(2) of the Act). This includes being protected against defamation and negligence actions.