



PRACTICE DIRECTION NO. 1 – GENERAL INFORMATION

Released 1 June 2021

INTRODUCTION

1. This Practice Direction is issued under section 5(3)(a)(iii) of the *Commissions of Inquiry Act 1995* (Tas) (Act) and sets out general guidance about certain procedures that will be followed by the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (Commission). Further practice directions addressing specific issues will be issued in due course.
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 the Commission's terms of reference.
3. This Practice Direction, and any other practice directions issued by the Commission, 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.

INVITATION FOR PUBLIC SUBMISSIONS

4. The Commission invites written submissions from all persons, groups and organisations with information or documents relevant to any of the matters set out in the Order.
5. Information on how to make a written submission, the intended closing date for written submissions, and the treatment of submission information is available on the Commission's website.

COMMUNICATING WITH THE COMMISSION

6. All general enquires regarding Commission processes may be made by telephone to 1800 950 110 or email to contact@commissionofinquiry.tas.gov.au.
7. 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.

LEAVE TO APPEAR

8. Applications by interested parties for leave to appear should be made in accordance with *Practice Direction No. 2 – Leave to Appear*. Applications for leave to appear will generally be determined on the papers, but applicants will be notified if they are required to appear before the Commission for their application to be considered.

PUBLIC HEARINGS

9. The Commission proposes to conduct public hearings subject to any relevant directions made under the *Public Health Act 1997* (Tas) and further practice directions issued by the Commission.



10. The Commission will publish its program of public hearings on its website, with details of the topics to be examined and witnesses being called to give evidence.
11. Subject to any direction or order of the Commission to the contrary, the public hearings will generally be open to the public, including via a live-stream on the Commission's website. In certain situations, hearings may be closed to the public as detailed in paragraphs 29–33.
12. The Commission will make available to authorised media representatives access to the public hearings, subject to any direction or order of the Commission to the contrary.
13. A transcript of each public hearing will be placed on the Commission's website as soon as possible after it becomes available, subject to any direction or order of the Commission to the contrary.

COVID-SAFE HEARINGS

14. The Commission's public hearings will be subject to any relevant directions made under the Public Health Act.
15. Where the Commission considers it necessary or appropriate to do so, public hearings may also be conducted online, using remote access technology.
16. Information regarding the conduct of the public hearings will be the subject of a further practice direction to be issued in due course.

COMPLIANCE WITH NOTICES TO PRODUCE, PREPARE A STATEMENT AND/OR APPEAR AT THE PUBLIC HEARINGS

17. From time to time the Commission may issue a notice to compel a person to produce documents (notice to produce), prepare a statement (notice to prepare) and/or appear to give evidence (notice to appear) under sections 22 or 23 of the Act.
18. In accordance with section 27 of the Act, it is an offence to refuse or fail to comply with a notice to produce (including any notice to prepare which forms part of it) or a notice to appear without reasonable excuse. A person served with a notice to produce or notice to appear may make a claim to the Commission that the person has a reasonable excuse for failing to comply with the notice.
19. A person may make a claim of reasonable excuse by:
 - 19.1 notifying the Commission's lawyers in writing of the claim, accompanied by a short written submission of no more than five pages setting out the basis upon which each claim is made, and
 - 19.2 making that claim:
 - 19.2.1 in relation to a notice to produce, on or before the production date specified in the notice, or



19.2.2. in relation to a notice to appear to give evidence, three business days prior to the appearance date.

20. If the Commission is satisfied the claim of reasonable excuse is established, it may vary or revoke the relevant notice and will advise the applicant in writing.
21. If the Commission is not satisfied the claim of reasonable excuse is established, it will advise the applicant in writing.

PRODUCTION OF DOCUMENTS

22. If the Commission issues a person or organisation with a notice to produce, a person's obligations in relation to the production of documents in response is governed by the Act, other legislation and the general law. Nothing in this Practice Direction replaces those obligations.
23. The Commission requires documents to be produced electronically in accordance with *Practice Direction No. 3 – Production of Documents and Document Management Protocol*, unless a notice to produce specifies that some other form of production (for example, hard copy format) is required. Any person or organisation seeking to produce documents in hard copy format should communicate in advance with the Commission.
24. Persons or organisations producing documents in accordance with Practice Direction No. 3 should contact the Commission by email at lawyers@commissionofinquiry.tas.gov.au prior to production to confirm the party codes available for use.

RESTRICTED PUBLICATION ORDERS

25. The Commission may, in accordance with section 14 of the Act, make an order prohibiting or restricting the public reporting of certain information (restricted publication order). The Commission may itself decide to make such orders or may do so if someone applies for a restricted publication order.
26. A restricted publication order may prohibit or restrict the public reporting of a hearing or the publishing of any evidence given to the Commission, including the identity of the person giving evidence or other people.
27. Notice of any such application must be given to the Commission's lawyers as soon as possible once the basis for the application is identified. The application must be made in writing and provided to the Commission's lawyers prior to the date on which the witness is to appear or the evidence is to be given. The application must address the basis for the application with regard to the matters (where relevant) identified in section 14 of the Act.
28. A person served with a notice to produce documents or prepare a statement who wishes to make an application seeking a restricted publication order should make such an application at the time of production. The application must be made in writing and be provided to the Commission's lawyers.



The application must address the basis for the application with regard to the matters (where relevant) identified in section 14 of the Act.

CLOSED HEARINGS

29. The Commission recognises the public interest in its public hearings. The Commission also recognises that in some circumstances, it may be necessary or appropriate to receive part or all of the evidence from a witness or witnesses in a restricted or closed hearing.
30. The Commission may, in accordance with section 13(2) of the Act, make an order excluding a person or persons from a proceeding of the Commission.
31. A person granted leave to appear may make an application seeking an order that a person or persons be excluded from a proceeding of the Commission.
32. Notice of any such application must be given to the Commission's lawyers as soon as possible once the basis for the application is identified. The application must be made in writing and provided to the Commission's lawyers prior to the date on which the witness is to appear or the evidence is to be given. The application must address the basis for the application with regard to the matters (where relevant) identified in section 13(2) of the Act.
33. If the Commission makes an order excluding any person or persons from a hearing or any part of it, the Commission will notify parties and the public in accordance with section 13(3) of the Act.

PRIVATE SESSIONS

34. The Commission may, in accordance with Division 1A of the Act, hold a private session to allow the Commission to obtain information in relation to its inquiry.
35. A private session of the Commission is not a hearing. Any person who appears at a private session of the Commission is not deemed to be a witness before, and does not give evidence to, the Commission.
36. Further information about the Commission's private sessions will be published to the Commission's website.

MEDIA GUIDELINES

37. Media Guidelines for public hearings will be published on the Commission's website. Members of the media should refer to those guidelines for further information on access to and publication of evidence.