



## INTEGRITY TRIBUNAL

### General Information

#### About this practice direction

This Practice Direction provides an overview of the operations of an Integrity Tribunal conducting an inquiry.

#### Overview

The Practice Directions (the Directions) for the Integrity Tribunal (the Tribunal) are issued by the Chief Commissioner of the Integrity Commission (the Commission) under section 69(2) of the *Integrity Commission Act 2009* (Tas) (the Act).

The Directions set out information and the procedures that will be followed by a Tribunal when conducting an inquiry. They should be read together with the Act and any other guidelines or procedural information issued by the Tribunal or the Inquiry Office. The Directions do not replace or modify legislation, and to the extent of any inconsistency, the legislation applies.

The current list of Directions of the Tribunal is:

- ▼ Practice Direction No 1 – General Information
- ▼ Practice Direction No 2 – Leave to be Represented and/or Appear
- ▼ Practice Direction No 3 – Production of Documents
- ▼ Practice Direction No 4 – Conferences and Hearings

Up-to-date Directions are available from the Commission's [website](#).

The Tribunal is not bound by the Directions and may vary its procedures for individual inquiries.

All references in the Directions to sections of an Act are to sections in the Act, unless otherwise specified.

#### Definitions

The Act has an Interpretation section at section 4. The following will assist with understanding the terms or phrases used in the Directions:

**Board of the Integrity Commission** (the Board) – established under section 12; is responsible for reviewing and making decisions about the Commission's investigations, including deciding whether an inquiry is to be held and potentially its terms of reference; has no active role in an inquiry

**Chief Commissioner** – holds the position defined under section 15 and chairs the Board; convenes and leads the Tribunal unless otherwise conflicted

**Counsel Assisting** – a legal practitioner appointed by the Tribunal under section 63(1) to assist with conducting an inquiry; may assist the Chief Commissioner with examining witnesses in a hearing

**Inquiry** – an inquisitorial process determined by the Board under section 58(2)(e) and conducted under Part 7; will proceed to suit the issues that the Tribunal needs to determine, including by receiving written material only, or involving hearings

**Inquiry Coordinator** – an Inquiry Officer appointed under section 63(2), with responsibility to assist the Tribunal in the administration of an inquiry

**Inquiry Office** – the central contact point for an inquiry

**Integrity Commission** – established under section 7; responsible for conducting the initial investigation and providing administrative support to the Tribunal

**Integrity Tribunal** – conducts the inquiry into an allegation of misconduct or any other matters, as determined by the Board; is convened and conducted by the Chief Commissioner and up to 2 other people

**Principal officer** – the head of the relevant public authority

**‘Public officer who is the subject of the inquiry’** – the person who is the subject of any misconduct allegations being considered in an inquiry (also referred to as ‘the subject officer’); will have received a Notice of Inquiry under section 65

**Relevant public authority** – the public authority to which the subject officer is appointed or the public authority which is the subject of an inquiry

**Witness** – a person who appears before the Tribunal or is otherwise interviewed; for the purposes of Part 7, div 5, a witness must have been required to appear or requested to attend a place to be interviewed.

The general definitions above do not displace the interpretation provided in section 4 or elsewhere of the Act.

## Equal access

The Inquiry Office is focused on ensuring equal access to information about a Tribunal and its procedures. Contact the Inquiry Coordinator if you need:

- ▼ a translation of a Direction or other procedural information
- ▼ assistance to participate in an inquiry, whether in person or remotely, or in preparing a statement, or
- ▼ a particular communication support.

In its proceedings a Tribunal will have regard to the Recommended National Standard for Working with Interpreters in Courts and Tribunals (see Judicial Council on Cultural Diversity, 2017, [jccd.org.au](http://jccd.org.au)).

## Convening the Tribunal for an inquiry

The Board will have decided that an inquiry is to be undertaken by a Tribunal under section 58(2)(e) of the Act. This follows an investigation by the Commission into allegations of misconduct or other systemic misconduct issues or risks.

The inquiry commences when the Chief Commissioner convenes a Tribunal under section 60. The Chief Commissioner will nominate another member of the Board to conduct the Tribunal if they have a conflict of interest in the matter.

The Chief Commissioner may include up to 2 other people to be on the Tribunal. These people will have the requisite experience and expertise relevant to the inquiry.

## Function and powers of the Tribunal

The inquiry process is flexible and enables the Tribunal to receive the best information in the most appropriate way for the issues it has to determine. It is an inquisitorial process that involves collecting information and asking questions. It is not a trial and differs to a Commission of Inquiry conducted under *the Commissions of Inquiry Act 1995* (Tas).

Part 7 of the Act deals with the operation of the Tribunal. The central function of the Tribunal is to undertake the inquiry, and make findings and determinations in respect of the matters central to the inquiry (section 61(1)).

In carrying out its functions the Tribunal may, if it determines it necessary:

- ▼ hold a hearing
- ▼ receive submissions or evidence
- ▼ inform itself of any matter it considers appropriate, and
- ▼ exercise all or any of the powers conferred by the Act

The Tribunal has particular powers under section 64, and may:

- ▼ require any person to appear before it or to answer any questions
- ▼ hold a hearing in the absence of any person who has been required to appear
- ▼ require evidence by affidavit or by statutory declaration
- ▼ require oral evidence on oath or affirmation
- ▼ require any person to produce or to authorise another person to produce any records, information, material or things in that person's possession or subject to that person's control, and
- ▼ adjourn the inquiry from place to place and from time to time.

The Tribunal may determine its own procedures and conduct the inquiry in any manner it considers appropriate, including:

- ▼ obtaining information from any persons in any manner it considers appropriate
- ▼ making any inquiries it considers appropriate

The Tribunal must observe the rules of procedural fairness; however, the Tribunal is not required to hold a hearing.

Inquiries are held in private and are confidential, unless otherwise determined by the Tribunal. Hearings (if held) are open to the public unless the Tribunal has reasonable grounds to close the hearing to the public.

## Determination of the tribunal

After conducting the inquiry, the Tribunal will make a determination under section 78. The Tribunal may do any one or more of the following:

- ▼ dismiss the complaint
- ▼ make a finding that misconduct or serious misconduct has occurred
- ▼ recommend to the Premier that a commission of inquiry be established under the *Commissions of Inquiry Act 1995* in relation to the matter, and
- ▼ make such report as it considers appropriate in relation to the matter.

If the Tribunal makes a finding that misconduct has occurred, it may refer the determination and any material that it considers relevant to entities nominated section 78(3). In doing so, the Tribunal may make a recommendation as to appropriate sanctions that should be imposed or action that should be taken in relation to the matter.

A determination of the Tribunal is a reviewable matter under the *Judicial Review Act 2000*.

The Tribunal may publish its determination in any manner it thinks fit.

## Offences relating to Tribunals and generally

Sections 68 and 80–81 provide offences relating to Tribunals.

Other offences exist in the Act, including:

- ▼ section 96 (False and misleading statements)
- ▼ section 97 (Destruction or alteration of records or things), and
- ▼ section 98 (Certain notices to be confidential documents)

## Communicating with the Tribunal

The Inquiry Office is the first point of contact for all communication about an inquiry or with a Tribunal. It is not permitted for parties to communicate directly with the members of a Tribunal.

The Tribunal will usually communicate through the Inquiry Office. That contact may be by telephone, email or post. Parties participating in an inquiry may provide their preferred contact details.

Sensitive material may be distributed by the Inquiry Office through the Commission's secure platform. Parties will be provided with details for accessing the platform.

Anyone providing information or material to the Tribunal should do so through the Inquiry Office.

The Tribunal may make directions about the sharing of information in the course of an inquiry. For example, directing experts to exchange reports.

Contact details for the Inquiry Officer are:

- ▼ 1300 720 289
- ▼ [contact@integrity.tas.gov.au](mailto:contact@integrity.tas.gov.au)
- ▼ GPO Box 822, Hobart TAS 7001

## Addressing the Tribunal

All written communication, whether email or post, should be addressed to the Chief Commissioner through the Inquiry Office, and include the inquiry reference number.

The Tribunal operates with as little formality as is required and guidance will be provided by the Tribunal conducting an inquiry.

The Tribunal may convene a hearing and, unless otherwise instructed, at a hearing these are the forms of address:

- ▼ Chief Commissioner: Chief Commissioner
- ▼ Tribunal members: Commissioner or Ms/Mr/Dr (Surname)
- ▼ Counsel Assisting: Counsel Assisting or Ms/Mr (Surname)
- ▼ Inquiry Coordinator: Ms/Mr (Surname)

Mobile phones, laptops, tablets and other electronic devices must be placed on silent while in the hearing room.

## Notices of the Integrity Tribunal

Most notices issued by a Tribunal will be subject to confidentiality. This protects the privacy of individuals participating in the inquiry and the integrity of the inquiry itself. Exceptions to the confidentiality requirements are provided under section 98; see IS01 Confidentiality.

The Tribunal will issue a **Notice of inquiry** upon the public officer who is the subject of any allegation of misconduct, under section 65. The notice will include the substance of the evidence supporting the allegations. Recipients of a section 65 notice may respond to the notice by making written or oral submissions or giving evidence that explains or contradicts the allegation or the evidence in the notice. They may also call or cross-examine a witness, or produce any records, information, material or other thing.

The Tribunal may schedule a **Directions conference**, under section 68. Persons required to attend will receive a Notice of directions conference, containing information about when and how they are required to participate. (See PD04 Conferences and Hearings)

During an inquiry the Tribunal may also require information from a person either by that person producing or showing some information that will assist with the inquiry, or attending to give evidence to the Tribunal. These notices include:

- ▼ **Notice to give evidence** (section 71(a)) – this requires the person to appear at a hearing or other location to give evidence
- ▼ **Notice to produce** (sections 71(b) or 75(5)(b)) – this requires the named person to provide to the Tribunal or an Inquiry officer any documents, record, information, material or thing that is listed in the Notice
- ▼ **Notice to attend hearing** (Schedule 6 clause 2) – this requests or requires certain persons to attend a Tribunal hearing, irrespective of whether they are required to give evidence

## Responding to a notice

A person receiving a Notice should read it carefully, including any attachments to the Notice. The Notice may include details about the format of providing information or the details about appearing before the Tribunal; it will also include rights to legal or other representation.

Notice recipients should contact the Inquiry Office if they need clarification of any requirements or conditions of the Notice.

It may be an offence for a person to fail to comply with a Notice.

## Making applications to the Tribunal

There may be times when a person involved in an inquiry needs to apply for a procedural decision to be made by the Tribunal, or to request reconsideration about a Notice issued or other decision by the Tribunal. This might include applying for:

- ▼ clarification or a change to the format of material to be produced
- ▼ a closed (or private) hearing
- ▼ confidentiality over content in a document
- ▼ redaction of documents, or
- ▼ confidentiality over identity, for example, requesting a pseudonym.

The application is to be:

- ▼ made before the due date of the action (such as the date listed in a Notice or direction)
- ▼ in writing, setting out clearly and concisely the request and the reasons for it, and supporting documentation may be provided
- ▼ lodged with the Inquiry Coordinator at the Inquiry Office

The Inquiry Coordinator will provide the application to the Tribunal.

The Tribunal will consider the application, including whether there is sufficient information for the application. The Tribunal may accept the request in part or in full or reject it fully.

The Tribunal may at its discretion inform all parties about the application and its decision on the request.

Any questions about making an application to the Tribunal should be directed to the Inquiry Coordinator.

## Prior contact with a Tribunal member

If a person who is to attend or appear before a Tribunal:

- ▼ has a relationship, or has had contact, with a Tribunal member outside of a Tribunal's inquiry, or
- ▼ otherwise considers that a Tribunal member may have a conflict of interest in relation to that person (or any person or organisation they represent),

that person is encouraged to identify the potential issue to the Inquiry Office.

Such a relationship or contact may include, but is not limited to, contact during or involvement in previous legal proceedings involving a Tribunal member.

Notice of such matters must be given to the Inquiry Office as soon as the issue is identified and, as far as possible, at least 3 business days prior to the person

appearing before the Tribunal. The application must be made in writing and set out a summary of the relevant relationship, contact or conflict of interest.

The Tribunal will consider that information and make a decision as to whether that Tribunal member should recuse themselves when that person appears, or declare the nature of the prior relationship or contact at the hearing.

## Restrictions on filming and recording

Subject to any direction to the contrary, it is not permitted for parties participating in or attending a Tribunal to film (including still photography) or otherwise record the Tribunal's proceedings. This includes:

- ▼ a hearing room or other rooms and facilities at the hearing venues
- ▼ any witness box or public gallery within the hearing room
- ▼ any foyer, reception or lifts of a building in which the Tribunal is conducting a hearing, and
- ▼ any Tribunal member, Counsel Assisting the Tribunal, Tribunal staff, Tribunal lawyers, witnesses, their legal representatives or members of the public, either in the hearing room or entering or leaving the hearing room.

The Tribunal may at its discretion permit limited filming of hearings by a pool camera or a photographer engaged by the Tribunal.

At all times, news media organisations and their representatives must comply with:

- ▼ any media guidelines or directions issued by the Tribunal
- ▼ relevant legal requirements, including (without limitation) the *Evidence Act 2001* (Tas) and the *Youth Justice Act 1997* (Tas)
- ▼ any restricted publication orders and exclusion orders, and
- ▼ requests by Tribunal members or Tribunal staff

Mobile phones, laptops, tablets and other electronic devices must be placed on silent while in the hearing room.

**This direction is given under section 69(2) of the *Integrity Commission Act 2009*.**

**This takes effect from 29 August 2022.**



### Inquiry Office

We are available to provide support and assistance with managing your participation in the inquiry: [contact@integrity.tas.gov.au](mailto:contact@integrity.tas.gov.au) or 1300 720 289.

For more information on inquiries and Integrity Tribunals, go to [www.integrity.tas.gov.au/investigating/integrity-tribunals](http://www.integrity.tas.gov.au/investigating/integrity-tribunals)