



INTEGRITY TRIBUNAL

Representation and appearances

About this practice direction

This Practice Direction provides an overview of the requirements for appearances before an Integrity Tribunal and information about legal and other representation for people involved in 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 prevails.

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

Definitions of common terms are provided in Practice Direction 1 and are not replicated here.

Requirement to appear

The Tribunal may require people to appear before it to give evidence, or to attend an interview with an Inquiry officer. It may also require parties to attend a Directions conference at the commencement of the inquiry.

A person who is required to appear or attend will receive a Notice to do so (see **Practice Direction 1** about Notices). The Notice will detail when and where the person is required; a person may apply to appear remotely (via telephone or teleconference).

You must comply with any Notice to appear before the Tribunal or to attend an interview. If a person has particular needs in order to comply with the Notice then it should be communicated to the Inquiry Office as soon as possible.

The Inquiry Office can answer general questions about what is required or will happen when a person appears; however Inquiry staff cannot provide legal advice.

Appearing before the Tribunal

In responding to a **Notice of inquiry** issued under section 65, the public officer who is the subject of the inquiry may make written or oral submissions or give 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 allow any person to participate in an inquiry, to the extent that the Tribunal considers appropriate, under section 67(1). In deciding whether to grant leave to appear, the Tribunal may have regard to the following:

- ▼ any direct or special interest a person may have in the matters relevant to an inquiry
- ▼ the probability that an inquiry may make a finding adverse to that person's interests, and
- ▼ the ability of a person to assist an inquiry to the extent that the Tribunal considers appropriate.

Leave to appear may be sought/granted on a conditional or unconditional basis. It may be conditional when an applicant's direct or special interest is limited to a specific issue or issues considered by the Tribunal.

Right of representation

The public officer who is the subject of an inquiry has the right to be represented by a legal practitioner or other agent when appearing before the Tribunal, under section 66(1).

The Tribunal may allow other witnesses appearing before it to be represented by a legal practitioner or other agent, under section 66(2).

Leave for representation

A witness may apply for permission to be represented. Only after the Tribunal approves the appearance of the representative can a person be represented in the inquiry.

In considering a request for appearance by a representative, the Tribunal will consider whether there is real risk that representative will have a conflict of interest in acting for the witness in the inquiry. Sometimes, such a conflict of interest risk will

only be known to the Tribunal. The Tribunal's discretion in this respect would relate only to the specific representative, not the person's right to be represented. If the Tribunal may require a person to obtain an alternative representative (or if the person wishes, to then not be represented).

A legal practitioner or other agent who has the approval of the Tribunal to appear may examine or cross-examine witnesses on behalf of the person.

Application process

Applications for leave to appear/participate or to be represented at an inquiry should be made on the attached *Application for Leave to be Represented and/or Appear at an Inquiry* form.

An application requires:

- ▼ Identification of the particular subject matter of the inquiry or specific issue or issues that may be material to the inquiry in which the applicant has a direct or significant interest, and
- ▼ be accompanied by a short submission (preferably no more than two pages) in support of the application.

The Tribunal will advise the outcome of the application through the Inquiry Office.

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

This takes effect from 19 August 2022.



Inquiry Office

We are available to provide support and assistance with managing your participation in the inquiry: 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