

The Royal Commission into Institutional Responses to Child Sexual Abuse

Appearing as a witness before the Royal Commission

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Free legal help to navigate
the Royal Commission

The Royal Commission into Institutional Responses to Child Sexual Abuse has the power to compel people and organisations to give evidence and/or produce documents at formal hearings. This fact sheet helps you to understand what process the Royal Commission may use to compel your attendance at a hearing and what legal assistance is available.

Will I be asked to appear as a witness?

The Royal Commission decides who will appear and give evidence before its hearings. This decision depends on what evidence the Royal Commission is seeking.

The Royal Commission might identify evidence and witnesses in its investigations, including from information obtained in private sessions, police investigations or documents returned under other coercive powers.

What process is used to compel a witness to attend?

The Royal Commission might compel evidence from a wide range of witnesses, including survivors and current or previous officials of institutions. The process followed is generally the same.

1. Pre-hearing interview with a lawyer

A person who is likely to be a witness at a hearing is usually asked by the Royal Commission to first attend an interview with a Royal Commission lawyer.

The purpose of the interview is to determine what evidence the person might provide and to develop a witness statement for the person to review and sign. That statement will later be used in the hearing as the basis for the person's evidence.

1. Summons to Appear

After an interview is complete, and if the Royal Commission decides the person should give evidence, the person will usually receive a 'Summons to Appear'. In some cases, the person may also receive a Summons or Notice to Produce documents.

A 'Summons to Appear' is a legal notice requiring you to attend a hearing before the Royal Commission at a specific time and place. The summons may also include a notice about the scope and purpose of the hearing you are required to attend.

The first paragraph in the 'Summons to Appear' will declare what laws govern your attendance.

How should I receive a Summons to Appear?

Generally, a Summons to Appear should be handed to individuals personally. A summons directed to a corporation should be handed to an officer of the corporation over the age of 16 personally and at the corporation's registered office.

What happens if I don't comply with a summons?

If you do not comply with a summons, you may be arrested, detained and face heavy penalties. You should contact **knowmore** if you do not understand, or cannot do, what a summons asks of you.



The conduct of hearings

Before you give evidence at the hearing, you will be asked to swear or make an affirmation that what you say is the truth. You will then be questioned about your evidence by the Royal Commission as well as by parties who may object to your evidence, such as the government, private institutions and individual perpetrators.

Refusing to answer questions or admitting you were negligent, committed a criminal offence or otherwise broke the law

You cannot refuse to answer a question simply because you might incriminate yourself by admitting that you have done something wrong. However, the evidence you give cannot generally be used against you in later civil or criminal proceedings.

You should also be aware that it is a criminal offence to refuse to answer a question put to you during the hearing or to intentionally provide false or misleading evidence.

Will the evidence I give be in public?

Evidence is usually given in public, but private hearings also occur. If you are concerned about giving evidence in public, you should discuss this with the Royal Commission. Some witnesses may have their personal information suppressed or might be allowed to adopt a pseudonym.

Submissions and rights of reply

At the end of the hearing, the Royal Commission lawyers will make submissions about how the evidence should be interpreted and the findings that are open to be made. Anyone who gave evidence, or who is at risk of an adverse finding, may also do the same.

Legal Advice and Representation

knowmore strongly encourages witnesses and potential witnesses to obtain the free legal assistance that is available. This is because serious consequences may flow from the evidence provided, including publicity and further investigation.

Free legal assistance is available to anyone who is:

- asked to attend a pre-hearing interview
- summoned, or granted leave, to appear at a hearing.

Contact knowmore

If you fall into these categories but are currently employed by the institution under inquiry, you may not be entitled to free legal assistance unless there are special circumstances. Ordinarily, you should first speak to your employer about obtaining legal assistance.

The Commonwealth Attorney-General's Department has guidelines about who can apply and in what circumstances. You may contact **knowmore** for more information about the guidelines or for help with locating a suitable lawyer to assist you.

Free advice line 1800 605 762

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