

DRAFT SECOND READING SPEECH

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Commissions of Inquiry Amendment (Private Sessions Information) Bill 2025

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Honourable Speaker, I move that the Bill now be read a second time.

The Tasmanian Government is committed to implementing reforms to assist victim-survivors of child sexual abuse, including by removing or reducing legal or administrative barriers where possible.

The Commissions of Inquiry Amendment (Private Sessions Information) Bill 2025 has been developed to support this commitment, the purpose of which is to remove barriers to individuals accessing the information they provided to or for a private session with the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (the Commission).

Private sessions are confidential meetings where people can share their experiences with a Commission of Inquiry. These sessions are not 'evidence' for a Commission, but a protected way that a Commission can learn about a matter.

The Commission held more than 120 private sessions across 2021 – 2023, which Marcia Neave AO, Professor Leah Bromfield and the Honourable Robert Benjamin AM KC described in their Final Report as 'sessions with Commissioners'.

Private sessions were first introduced by the Commonwealth for the purposes of the *Royal Commission into Institutional Responses to Child Sexual Abuse in 2013* to allow people to share some of their most confidential experiences.

The strict confidentiality and protections around private sessions are designed to encourage people to engage with a Commission and to provide a forum that is less formal or intimidating.

Tasmania introduced private sessions via the *Justice Miscellaneous (Commissions of Inquiry) Act 2021*, which were largely modelled on the relevant provisions of the Commonwealth's *Royal Commission Act 1902*.

These amendments were introduced on 1 March 2021 for the purpose of the most recent Commission that was established on 15 March 2021 and concluded its work on 31 August 2023.

The 2021 reforms included protections which makes it a criminal offence to disclose private sessions information, except in particular circumstances. This offence is provided for in section 19C of the *Commissions of Inquiry Act 1995* (COI Act).

Honourable Speaker, an unanticipated consequence arising from the 2021 amendments to the COI Act is that currently, the records of a private session cannot be provided back to the participant of a private session with the Commission – unless they, and any person they spoke or wrote about, consent to that information being disclosed.

Whilst these provisions were designed to protect the privacy of individuals, they pose a significant barrier for people who are trying to access their own information that they provided to the Commission for the purposes of a private session. This is because people could have mentioned the names or actions of a number of different people, over many years, when sharing their experiences.

The Bill proposes to address this records issue by making a minor amendment to the COI Act.

The Bill introduces the new subsection 19C(2)(da), which provides for an additional exception to the criminal offence of disclosing private sessions information.

The new exception enables a participant of a private session to record or use, or have disclosed to them, their own private sessions information.

When the former Commission concluded in 2023, the Commission's records were transferred to the State Archives for safe keeping. The new exception means that, upon application from a participant, the State Archives will be able to provide a participant's private session information back to them without an offence being committed.

The new exception will allow a participant of a private session to be able to use their own private sessions information as they see fit – in accordance with Tasmanian law and any applicable restricted publication orders made by the former Commission.

This reform is critical – as it is their own information that they shared with a Commission. It should be their choice what they do with their own information and experiences - just as they are free to retell their experiences as they wish.

The new subsection in the final Bill also provides further protections than what was originally contained in the consultation draft.

Honourable Speaker, my Department identified that the consultation version of the Bill did not provide adequate protection for people who may have taken part in a private session with a co-participant. For example, a victim-survivor with a family member or another victim-survivor.

This issue would be most acute in the instance of an audio recording or transcript of the proceedings – where redactions may have had to have been made to someone's own information – which is very much against the policy intent of these critical reforms.

The new exception in 19C(2)(da) allows a participant to receive their private session information as long as it does not disclose the identity, or lead to the identification of, any other co-participant in the private session. However, the Bill provides for a full record of the private session to be disclosed to a participant, if the co-participant consents to that occurring. If the co-participant does not consent, their identity will be redacted.

These amendments further empower people to receive a full record of their engagement with the Commission in a private session, but also protects the identity of any co-participant in a private session.

I note that my Department and the Office of the State Archives are currently collaborating to develop supporting materials for applicants who wish to receive a copy of their own private sessions information. It is important to note that this pathway will be independent to the RTI process. These supporting materials will be made available following the passage of the Bill.

The other key clause contained within the Bill relates to its retrospective effect.

Clause 2 stipulates that the Bill is taken to have commenced on 1 March 2021. As I have previously stated, this was the date of the introduction of private sessions into Tasmanian law through the *Justice Miscellaneous (Commissions of Inquiry) Act 2021*.

This means that these critical reforms will be backdated to apply to the private sessions of the 2021 Commission, as well as any future Tasmanian Commission of Inquiry.

I thank the stakeholder groups and members of the public who contributed to the development of this Bill in the consultation process. I note that several amendments to the Bill were made as a result of stakeholder recommendations.

I would also like to thank the Statutory Officers that engaged with my Department during the consultation period. The *Commissions of Inquiry Act*

1995 is used widely across the statute books to support proceedings in relation to, for example, the Tasmanian Industrial Commission, the Land Titles Office, the Ombudsman Tasmania, and the Tasmanian Civil and Administrative Tribunal. Thank you for assisting my Department in developing this critical reform.

The community rightly expects that people who have engaged in a private session with a Commission should be able to have their own record of that information. I am pleased to present this Bill as a way to address this issue and to remove a legal and administrative barrier for victim-survivors of abuse.

Honourable Speaker, I commend the Bill to the House.