

INQUIRY INTO THE HANDLING OF CHILD ABUSE BY RELIGIOUS AND OTHER NON-GOVERNMENT ORGANISATIONS

Parliamentary Privilege and the Child Abuse Inquiry

The following information regarding the powers and privileges of the Parliament should provide some guidance around how Parliamentary privilege will apply to the Inquiry.

However, if a person is considering making a submission or appearing before the Committee and requires advice with respect to a specific matter, he or she should contact a legal practitioner as the Committee is not able to give specific legal advice. However, please note that a legal practitioner cannot represent a person called as a witness.

How does Parliamentary privilege apply to this Inquiry?

Parliamentary privilege refers to the special powers that ensure any proceedings, reports or documents published or accepted in camera by the Committee cannot be used in a court of law.

Statements which attract Parliamentary privilege, such as submissions and evidence given in hearings, may not form the basis of civil proceedings (including defamation or breach of confidence) or criminal proceedings (including proceedings for perjury) under any circumstances.

Parliamentary privilege and submissions

Parliamentary privilege applies to all things said in written submissions which have been accepted by the Committee.

There will be three types of submissions for this Inquiry.

Published submissions

- The name of the individual or organisation who made the submission will be published when the report is released to the public (tabled in Parliament).
- The Committee warns that Parliamentary privilege may not necessarily apply to reproduction of submissions on a website or forum other than the Committee's.

Confidential submissions

- The Committee may accept a submission on a confidential basis when confidentiality is requested. This will generally be granted when people or organisations believe that giving evidence may have an adverse effect on them or their families.
- Confidential submissions will be used to inform Committee deliberations but will not be published or quoted in a report of the Committee.

Name withheld submissions

- Due to the sensitive nature of this Inquiry, the Committee will consider withholding the name of the individual or organisation who made the submission if revealing their identity would increase their vulnerability or cause distress.
- It may apply to people making submissions who would like the content of their submission to be made available publicly, but who do not want their identity known (such as victims of abuse) or who may suffer detrimental treatment from third parties because of the evidence they provide.
- The Committee will only publish those parts of the name withheld submission which do not contain specific allegations, and the parts of the submission which do contain specific allegations will be treated as evidence received or taken in private.

Parliamentary privilege and hearings

Parliamentary privilege applies to evidence given to the Committee in a public hearing and to all evidence taken by the Committee in private (in camera).

Frequently asked questions

I've signed a confidentiality agreement with an organisation as part of a settlement deal. Am I covered by Parliamentary privilege?

Any evidence accepted by the Committee is protected by Parliamentary privilege. This includes any submission accepted by the Committee or any evidence given during hearings.

What if I'm uncomfortable with my submission being made public and want it treated as confidential?

You may request that your submission be treated as confidential if you believe giving evidence may have an adverse effect on you or your family. Confidential submissions will be used to inform Committee deliberations but will not be published in either the report or on the website.

What if I want my identity protected but I want the contents of my submission to be made public?

The Committee will consider withholding the name of the individual or organisation who made the submission if revealing their identity would increase their vulnerability or cause distress. The Committee may hide information in the submission that identifies the author and will not publish parts of the submission that make specific allegations.

Who is covered by Parliamentary privilege?

Parliamentary privilege extends to people appearing before the Committee when giving evidence and making submissions, as well as to the Committee members.

What does Parliamentary privilege not cover?

Written submissions

- Submissions may not be accepted by the Committee if they do not address the Terms of Reference of the Inquiry or are frivolous or offensive. If a submission is not accepted by the Committee then the contents of the submission will not be used during the Inquiry or published in any way.

Verbal evidence

- Parliamentary privilege does not apply when the Committee has refused to hear evidence as it is outside the Terms of Reference or is frivolous or offensive. (This is unusual as the person being interviewed at a hearing will be warned by the Committee when this is about to happen.)

Reproduced submissions

- The Committee's view is that Parliamentary privilege does not necessarily apply to the publication of submissions on a website or forum other than the Committee's.

What legislation relates to Parliamentary privilege?

Section 19 of the *Constitution Act 1975* (Vic) provides that the Legislative Assembly and the Legislative Council, the members of the Parliament and the committees of the Parliament shall hold such powers, privileges and immunities as were held by the British House of Commons on 21 July 1855. The powers, privileges and immunities of the Parliament include those provided for in the *Bill of Rights of 1689*. Article 9 of the Bill of Rights declares:

That the freedom of speech and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

Further provision for the relationship between court proceedings and proceedings before the Committee is made by s 50 of the *Parliamentary Committees Act 2004* (Vic):

The proceedings of a Joint Investigatory Committee or any recommendations or reports made by a Joint Investigatory Committee or any documents published by a Joint Investigatory Committee—

- a) do not give rise to a cause of action in law;***
- b) must not be the subject of, or in any way be called into question in, a proceeding before a court.***

The Committee is a Joint Investigatory Committee within the meaning of s 50.

The privileges granted by the provisions set out above may be referred to collectively as Parliamentary privilege.