

# Tukutuku/Private Sessions: Self-incrimination policy



Te Kōmihana Karauna mō ngā Tūkino o Mua  
ki te Hunga i Tiakina e te Kāwanatanga  
i Tiakina hoki e ngā Whare o te Whakapono

Royal Commission of Inquiry into Historical Abuse  
in State Care and in the Care of Faith-based Institutions

## Introduction

1. The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions recognises that in order for the inquiry to fulfil its terms of reference, survivors must feel free to make full and frank disclosures of the extent of the abuse they suffered and also the ongoing consequences of that abuse. For this reason, the Inquiry's Tukutuku/ Private Sessions are intended to be an environment where survivors are able to speak freely and frankly.

## Privilege against self-incrimination

2. Because participation in Tukutuku/ Private Sessions is entirely voluntary, no person will be required to provide any information or to answer any question. In addition, all participants in the Royal Commission, including participants in Tukutuku/ Private Sessions, are entitled to the privilege against self-incrimination.<sup>1</sup> For both these reasons, no participant in Tukutuku/ Private Sessions will be required to provide any information that would be likely to incriminate them.
3. It is recognised that some participants in Tukutuku/ Private Sessions may choose to talk about criminal offending committed as a consequence of their abuse, or otherwise. Participants may also voluntarily provide documents that disclose such offending, and/or may disclose a present intention to harm themselves, or others.

## Confidentiality of information provided in Tukutuku/ Private Sessions

4. All information provided in Tukutuku/ Private Sessions will be kept confidential, unless:
  - a. the participant consents to it being released; or
  - b. the information relates to the anticipated or proposed commission of a crime that is punishable by imprisonment for 3 years or more; or
  - c. the Royal Commission reasonably believes that disclosure of the information is necessary to prevent a serious risk to the health and safety of any person;  
or
  - d. disclosure is required by law, or by order of a court.

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<sup>1</sup> Inquiries Act 2013, s 27.

5. Disclosure in accordance with paragraph [4] will be only to an appropriate agency or person, and only to the extent reasonably necessary for the required purpose.

### **Confidentiality of information about past offending**

6. The effect of this policy is that the Royal Commission will not disclose information about past criminal offending provided in a Tukatuku/ Private Sessions, unless the information falls within the exceptions listed in paragraph [4] above.
7. It is noted that a person compelled to provide information to the Royal Commission under the Inquiries Act 2013 may be able to claim the protection of s 63 of the Evidence Act 2006,<sup>2</sup> which makes any information disclosed inadmissible in a criminal proceeding. A person seeking the protection of s 63 of the Evidence Act 2006 may consider inviting the Inquiry to exercise its compulsory powers. The Inquiry will consider any such request on its merits.

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<sup>2</sup> By virtue of s 27 of the Inquiries Act 2013.