

# What do the confidentiality amendments mean for my client?

## Key messages

- The Government has amended the *Royal Commissions Act 1902* (Cth) to improve confidentiality protections for information given to the Disability Royal Commission
- The changes apply retrospectively to submissions received before the law changed
- Call us on 1800 77 1800 for legal advice and further information

## What are the amendments?

On 30 August 2021, the Government amended the *Royal Commissions Act* to improve confidentiality protections for people giving information to the Disability Royal Commission outside of a private session. The amendments came into effect with Royal Assent on 10 September 2021. They will also apply to submissions received by the Royal Commission before the law changed.

## What will change?

When making a submission, a person can let the Royal Commission know how they want their submission used. The submission form asks whether a person would like their submission

to be made public, anonymous, or restricted.

Previously, the Royal Commission could only guarantee that information and documents marked 'restricted' would be kept fully confidential for the life of the Royal Commission. After this, the information could potentially be accessed through Freedom of Information (FOI) requests.

Now, the amendments make it possible for certain information to remain fully confidential beyond the life of the Royal Commission, exempt from FOI requests until the open access period in 99 years. The provisions also apply retrospectively to submissions marked 'restricted' or confidential.

There are other protections for information given confidentially:

- Statements and documents are not admissible in evidence in court
- Unauthorised use or disclosure of information is an offence.

Like in private sessions, in limited circumstances the Royal Commission can pass on information about serious criminal offences or child protection to relevant authorities. If you or your client have concerns, please get legal advice from Your Story.

## How will the changes apply?

The amendments apply when a person gives information to the Royal Commission that they want to be confidential and that information:

- contains an account of their own or someone else's experiences of violence, abuse, neglect or exploitation
- contains an account of their own or someone else's experiences of systemic violence, abuse, neglect or exploitation; and
- identifies the person who gave the information, or the person on whose behalf the information was given.

The amendments also specifically protect information about policies, procedures or practices that may have contributed to a person experiencing violence, abuse, neglect or exploitation.

## When should you come to Your Story?

We can answer questions and explain to you and/or your client what these changes mean for them.

We recommend that you and/or your client speak to one of our lawyers when they need to know:

- If the amendments apply to their submission
- If they are protected as a whistleblower
- The implications of each confidentiality option
- What will happen with their information
- Whether the changes apply retrospectively to their submission

There may be other legal issues to consider, so it's a good idea to get legal advice if you and/or your client are thinking about taking part in the Disability Royal Commission.

Call us on 1800 77 1800 for legal advice.

**Disclaimer:** This information is intended as a general guide. It should not be relied on as legal advice and we recommend you talk to a lawyer about your particular situation.