

## Addendum to the Policy and Guidelines for the Grant of Indemnities and Legal Assistance to Public Officers of the State of Tasmania (the Policy and Guidelines)

### Public Officers in receipt of a coercive notice from the Integrity Commission

This Addendum applies to Public Officers (POs) in receipt of a coercive notice<sup>1</sup> from the Integrity Commission (IC) irrespective of whether they are the subject of an investigation or a witness to it.

1. A PO who is the recipient of a coercive notice from the IC may inform his or her Relevant Responsible Officer<sup>2</sup> that he or she has received the coercive notice.<sup>3</sup>
2. If the PO is specifically instructed by the IC not to inform his or her Relevant Responsible Officer about the coercive notice,<sup>4</sup> he or she may instead inform the Solicitor-General or, if the PO is an officer or employee of the State Service, the Secretary, Department of Premier and Cabinet<sup>5</sup> (the Alternate Person).
3. Either the Relevant Responsible Officer or the Alternate Person, as appropriate, will also be bound by the confidentiality provisions attached to the coercive notice.
4. On being informed of the receipt of a coercive notice by the PO, the Relevant Responsible Officer or the Alternate Person may authorise 'basic legal assistance' up to \$3,000 (the Authorised Amount).
5. 'Basic legal assistance' may be used for:
  - (a) Legal advice on the IC process;
  - (b) Hours required to attend the IC; and
  - (c) Preparation of written representations/submissions to the IC.
6. The PO may engage a private legal practitioner and direct bills for payment up to the Authorised Amount to the Relevant Responsible Person or Alternate Person for authorisation and payment.
7. When the PO is advised by the IC that the matter is complete, or the confidentiality provisions attached to the notice no longer apply,<sup>6</sup> the PO may seek reimbursement of costs associated with the legal assistance over and above the capped amount, via the normal Indemnity and Legal Assistance Panel process under the Policy and Guidelines.

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<sup>1</sup> Coercive notices include all notices issued under s47 and s 71 of the *Integrity Commission Act 2009* (IC Act), including notices with section 98 confidentiality provisions attached.

<sup>2</sup> As specified in clause 3.1 of the Policy

<sup>3</sup> It is a 'reasonable excuse' for a PO to disclose that he or she has received a notice from the IC for the purposes of seeking 'basic legal assistance' under this Addendum (section 98(2)).

<sup>4</sup> Or if the notice has confidentiality provisions under section 98 attached which preclude the PO informing his or her Relevant Responsible Officer about the notice.

<sup>5</sup> Unless the PO is specifically instructed by the IC not to inform the Secretary, Department of Premier and Cabinet

<sup>6</sup> Section 98(3) enables the Commission to advise a person that the notice is no longer confidential. This is a practice adopted by the Commission, but usually not until the end of the investigation.

8. If, at any point, it becomes clear that the PO is the subject of an investigation by the IC, he or she may apply for indemnity/legal assistance in accordance with the provisions of the Policy and Guidelines.<sup>7</sup> A PO may also make an application for indemnity/legal assistance where there are 'exceptional or extenuating circumstances'<sup>8</sup> even if they are not the subject of the investigation, or it is not yet clear if they are the subject. If the PO wishes to apply for indemnity/legal assistance, he or she should make an application as soon as practicable.
9. When the PO is specifically instructed by the IC not to inform the person who is his or her Relevant Responsible Officer about the coercive notice, he or she may instead give notice in accordance with clause 3.1 of the Policy to the Alternate Person. In those circumstances:
  - (1) Except for Ministers<sup>9</sup> and members of the Government, the Panel is to comprise:
    - (a) The Secretary, Department of Justice (Chair); and
    - (b) The Solicitor-General.
  - (2) Where the Secretary, Department of Justice, is the Relevant Responsible Officer whom the PO has been specifically instructed by the IC not to inform about the coercive notice, the Panel is to comprise:
    - (a) The Secretary, Department of Premier and Cabinet (Chair); and
    - (b) The Solicitor-General.
  - (3) For a member of the Government, who is not a Minister, but who was lawfully directed to act on behalf of the Crown (such as a Parliamentary Secretary or backbencher authorised as a Government spokesperson), the Panel is to comprise the Solicitor-General and one member chosen from the Deputy Premier and Attorney-General.

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<sup>7</sup> Seeking indemnity/legal assistance under the Policy and Guidelines is, in accordance with section 98(2) of the Act, a 'reasonable excuse' to disclose the existence of a confidential coercive notice to the Relevant Responsible Officer.

<sup>8</sup> See clause 3.12 of the Policy.

<sup>9</sup> Ministers are automatically indemnified