



Australian Transport Safety Bureau (ATSB) interviews

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If you're involved directly or indirectly in a transport safety incident in Australia, you may be required by the Australian Transport Safety Bureau (ATSB) to be interviewed in relation to that incident. It's important for people who are required to participate in an ATSB interview to understand their rights and obligations.

What is the Australian Transport Safety Bureau?

The ATSB is an Australian government organisation responsible for investigating transport safety incidents in aviation, marine and rail transport. This includes accidents or incidents involving civilian aircraft (excluding those for recreational and sport purposes), commercial shipping and all rail operations.

The ATSB was established under the [Transport Safety Investigation Act 2003](#) (TSI Act) which originally commenced operation on 1 July 2003. The Act underwent significant amendment on 1 July 2009. The TSI Act establishes the Australian Transport Safety Bureau (ATSB) as an independent Commonwealth Statutory agency with powers of investigation in aviation, marine and rail transport.

Functions and investigations of the ATSB

An ATSB investigation is purely aimed at determining the factors which led to an [aviation](#), [marine](#) or [rail](#) accident or safety incident so that lessons can be learned and transport safety improved in the future.

Section 12AA (3) of the TSI Act clearly states that it is not the function of the ATSB to:

- apportion blame for transport accidents or incidents;
- provide the means to determine the liability of any person in respect of a transport accident or incident;
- assist in court proceedings between parties (except as expressly provided for in the Act); or
- allow any adverse inference to be drawn from the fact that a person is subject to an investigation under this Act.

Who can be required to participate in an ATSB interview?

Under the provisions of the TSI Act, ATSB investigators may interview anyone involved directly or indirectly in a transport safety occurrence.

Individuals not directly involved in a particular accident or incident may also be interviewed regarding certain operations or processes within an organisation.

Power to compel a person to participate in an ATSB interview

Under section 32 of the TSI Act, ATSB investigators can compel a person to answer questions. This is done by the ATSB providing an interviewee with a written notice (a section 32 notice) to attend an interview and answer questions.

It is an offence to fail to comply with a section 32 notice by:

- failing to attend before the ATSB in accordance with the requirements of the notice; or
- refusing to take an oath or make an affirmation when required by the ATSB to do so; or
- refusing or failing to answer a question lawfully put to the person; or
- failing to produce to the ATSB the specified evidential material in accordance with the requirement.

Protections for ATSB interview participants

If an ATSB investigation interviewee is answering a question that may incriminate them or make them liable to a penalty, then section 47 of the TSI Act applies. Section 47 prevents any answer or any information obtained as a direct or indirect consequence of the answer from being admitted as evidence against the person in any civil or criminal proceeding.

Get help from a lawyer experienced in ATSB interviews

An interviewee may have a representative such as a friend, work colleague or an industrial (eg. union representative or employment lawyer) or other legal representative, for example, a criminal lawyer) present with them at an ATSB interview.

The ATSB will need to authorise the interviewee's representative to attend the interview so that it is lawful for them to hear and/or view restricted information during the interview.

If you have received, or anticipate receiving, a section 32 notice, you should contact Gilshenan &Luton to ensure your rights are protected and you understand your obligations.

Contacting Gilshenan &Luton Criminal Defence Lawyers

[07 3361 0222](tel:0733610222) (24/7)

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