

PRACTICE GUIDELINES – 02/2015

Publication of Witness Statements and other Evidentiary Materials and Public Hearings

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Further Amended 28 January 2016

1. Subject to any orders by the Commissioner prohibiting publication of any documents or information provided to the Commission, witness statements (including attachments) and other evidentiary materials which are provided to the Commission, including documents produced on summons, will be accessible as follows –
 - (a) where the material has been lodged with the Commission but has not yet been admitted into evidence, only to persons authorised by the Commissioner to have access to it and then in accordance with the confidentiality protocol published on 12 October 2015; and
 - (b) witness statements (and attachments) which have been admitted into evidence at a hearing, to the public at large via the Commission’s website; and
 - (c) other evidentiary materials, including expert reports and submissions from persons (or groups of persons) having particular knowledge or expertise in the subject matter of the Terms of Reference which have been admitted into evidence at a hearing, usually to the public at large via the Commission’s website (subject to the Commission’s further consideration in light of the public importance and quantity of such material).

2. At hearings conducted by the Commission, subject at all times to the direction and control of the Commissioner –
 - (a) all witnesses giving evidence will be called and examined in chief by Counsel Assisting the Commission;
 - (b) each witness’s evidence in chief will be given primarily by way of the witness statement or statements they have provided to the Commission;
 - (c) no document may be tendered in evidence other than by Counsel Assisting;
 - (d) each person who has leave to appear before the Commission will be given an opportunity to examine each witness who gives evidence in chief, subject to any conditions attaching to the order giving them leave to appear and any further order by the Commissioner;

- (e) the order of examination of each witness will be in the discretion of the Commissioner, and duplication and repetition must be avoided, but each witness will usually be examined –
 - i. first, if necessary, by Counsel Assisting to supplement, correct or clarify matters arising on the face of the witness's statement;
 - ii. next, by those representing persons with leave to appear other than the witness;
 - iii. then, by those representing the witness;
 - iv. last, by Counsel Assisting;
 - (f) in the interests of order and expedition, the Commissioner may at any time impose restrictions on the issues about which a witness may be examined and the time available for examination by any other person; and
 - (g) at the completion of the examination of a witness, the witness shall, unless excused from further attendance, be taken to have been stood down only and to be subject to recall at the direction of the Commission.
3. By 4:00pm on 10 February, 2016 Counsel Assisting will provide all parties or their legal representatives with a document setting out the key issues the Commission intends to focus upon during the course of the hearings.
4. Subject to any orders the Commissioner may make, while hearings are on foot -
- (a) where possible, the Commission will regularly publish to the parties and/or on its website a list of the witnesses to be called to give oral evidence and the proposed dates and times of their evidence;
 - (b) that list will be updated regularly and is subject to change;
 - (c) where possible, if the witness' statement has not already been made available to the parties, the Commission will make the witness' statement available to the persons with leave to appear two business days in advance of the witness being called;
 - (d) where possible, four business days before a witness is called, the Commission will give the witness or his legal representative notice of the Commission's area of interest and a list of the documents the witness may be taken to (other than those attached to or referred to in the witness' statement) and provide all other parties with copies of the notice and the list;
 - (e) at least two business days before the witness is to be called to give evidence, any person with leave to appear who wishes to cross examine the witness must give notice to the Executive Director by email to info@barrettinquiry.qld.gov.au specifying –
 - i. the name of the witness they wish to cross examine;

- ii. a considered estimate of the time which will be required for the cross examination;
 - (f) if the person giving a notice of proposed cross examination anticipates showing the witness any document –
 - i. if the document has already been provided to the Commission, it must be identified in the notice;
 - ii. if the document is not already available on the Commission’s website (whether as an attachment to a witness statement or otherwise), a copy of it must be provided with the notice in one of the following electronic formats –
 - Text for plain text records;
 - Fully text searchable PDF/A or PDF for formatted document type records;
 - TIFF for images such as plans;
 - JPEG 2000 or JPEG for photos;
 - MPEG4 for videos;
 - (g) any person with leave to appear who wishes to have evidence adduced from a witness other than a witness proposed to be called by Counsel Assisting must give notice to the Executive Director by email to info@barrettinquiry.qld.gov.au accompanied by a proof of evidence from the witness.
5. Nothing in this guideline prevents a person seeking leave to cross examine a witness at any time during the Inquiry if something occurs during the Inquiry which leads them to believe their interests may be adversely affected.
6. Any person with leave to appear who wishes to raise a procedural matter for consideration by the Commissioner must give notice to the Executive Director by email to info@barrettinquiry.qld.gov.au identifying the matter, stating the outcome sought, and summarising the submissions to be advanced in support of that outcome.

The Hon. Margaret Wilson QC
Commissioner