



QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

PROCEDURAL GUIDELINE 03-2012

Witnesses

Who will be a witness

1. Subject to the Commissioner's direction, Senior Counsel Assisting will:
 - (a) determine the list of witnesses;
 - (b) when and in what order they will be called and examined; and
 - (c) what documents or other things will be tendered to the Commission as a Commission exhibit.
2. Those who have leave to appear and who wish to have evidence adduced from a witness not on the list of those witnesses determined by Senior Counsel Assisting, must:
 - (a) Provide written notice to Senior Counsel Assisting;
 - (b) Provide a proof of evidence from the witness verified in affidavit or statutory declaration form;
 - (c) Provide a written statement of reasons why the proposed witness should be examined before the Commission;
 - (d) Make the witness available for Commission staff to interview and take additional proofs of evidence from, if considered necessary.
3. If Senior Counsel Assisting advises that the proposed witness will not be called or fails to respond to a written notice within two business days an application may be made directly to the Commissioner that the proposed witness should be called and examined before the Commission.

Advance notice of witnesses to be called

4. Reasonable advance notice of witnesses to be called will be given whenever practicable. Where possible the Commission's website will publish the identity of the witnesses in the week during which it is expected they will be called to give evidence.
5. Advance notice of witnesses will be given to:
 - (a) a person who, in the opinion of Counsel Assisting, may be substantially and directly interested in anticipated evidence at the Commission;
 - (b) a person whose rights or legitimate interests are likely to be adversely affected by evidence likely to be given or reported in the public domain.

6. A person to which 5 above applies will, if practicable, and where the requirements of procedural fairness require, be given:
 - (a) prior notice of the general nature of potentially detrimental aspects of the expected evidence; or
 - (b) at least, a copy of the relevant extract of the transcript as soon as reasonably convenient thereafter; and if requested,
 - (c) a reasonable opportunity of responding at an appropriate time.

Evidence in chief

7. After a witness is sworn or affirmed, Counsel Assisting will examine the witness and ask him or her to confirm, clarify, correct or expand on their proof of evidence.

Cross examination

8. Only a witness's own legal representative and those parties with leave to appear or being legally represented before the Commission are entitled to question witnesses examined by Counsel Assisting on relevant matters in which they demonstrate a sufficient interest.
9. Duplication, needless repetition, scandalous questions, prolixity or overbearing of witnesses will not be allowed.
10. In the interests of ensuring that hearing proceedings run as orderly and expeditiously as possible while at the same time meeting acceptable standards of fairness the Commissioner may restrict the topics or issues about which a witness may be questioned and/or impose reasonable time limits on questioning.
11. If cross examination is proposed an application for leave to cross examine must be made as follows:

The application-

 - (a) is to be made to Counsel Assisting;
 - (b) must be in writing;
 - (c) must be made at least two (2) clear days prior to the particular witness being called; and
 - (d) must be supported by a statement that:
 - (i) identifies the issues the proposed questions will cover;
 - (ii) briefly explains how the proposed questioning will assist the Commission achieve its objects;
 - (iii) estimates as accurately as possible how much time the proposed questioning will take.
12. The application will be decided on the statement supporting the application.

13. However, nothing in this guideline prevents a party from seeking leave to cross examine a witness at any time during the hearing if something occurs during the hearing which leads the party to believe that their interests may be adversely affected.
14. A party intending to ask a witness questions about a document that is already available on the Commission's website must give reasonable advance notice to Counsel Assisting of the identify the document and the witness to be examined.
15. If a copy of any document that might be shown to a witness is not already available on the Commission website it must be provided to Counsel Assisting beforehand preferably in electronic format.

Unchallenged evidence

16. The Commission is entitled to accept any and all adopted and unchallenged parts of a witnesses evidence as being prima facie accurate statements of facts or opinion.

Variations

17. This guideline maybe subject to variation, change or replacement without notice at any time.

Form of Oath

“The evidence which you shall give to this Commission of Inquiry shall be the truth the whole truth and nothing but the truth. So help me God”

Form of Affirmation

“I solemnly affirm and declare that the evidence given by me to this Commission of Inquiry shall be the truth, the whole truth and nothing but the truth”