



## Coronavirus (COVID-19)

The Commission is carefully monitoring the Commonwealth and State Government's announcements and health advice relating to coronavirus (COVID-19) to ensure that arrangements are in place for the Commission and parties participating in the Commission's work to mitigate any adverse impacts on people and operations.

The below guidelines will be reviewed regularly to ensure that they are consistent with any changes that may be recommended by Commonwealth and State agencies in relation to COVID-19. If any party or person has any concerns in relation to the operation of a practice guideline and the impact of COVID-19 please contact the Commission at [RCNDA.Notices@royalcommission.gov.au](mailto:RCNDA.Notices@royalcommission.gov.au) or 1800 909 826.

### PRACTICE GUIDELINE 1

### CONDUCT OF HEARINGS

#### Introduction

1. This Practice Guideline relates to the conduct of public hearings of the Royal Commission into National Natural Disaster Arrangements (Commission). Public hearings are scheduled to commence at the Sunshine Coast, Queensland on 20 April 2020.
2. A list of the witnesses the Commission intends to call during the public hearings will be available on the Commission's website at <https://naturaldisaster.royalcommission.gov.au/> in the near future, and will be updated during the course of the public hearings.

#### Giving evidence before the Commission

3. The Commission will decide whether a witness will be required to attend a hearing for the purpose of examination.
4. In general, a statement that the Commission intends to take into evidence will be published on the Commission's website. The Commission may make directions in relation to the publication or non-publication of documents, including statements made by witnesses, or parts of statements of witnesses, if it considers it appropriate or necessary to do so.
5. Where witnesses are called to give oral evidence, unless the Commissioner(s) grant leave to another person, only Counsel Assisting the Royal Commission (**Counsel Assisting**) will be allowed to examine and/or cross-examine any witness.

6. In determining whether a person has sufficient interest to examine or cross-examine a witness, the Commissioners may call upon the examiner to:
  - a. identify the purpose of the examination;
  - b. set out the issues to be canvassed; and
  - c. provide copies of any documents to which they propose to take the witness, noting that if an examiner proposes to put a document to a witness, the examiner must provide a copy of that document to Counsel Assisting through the Office of the Royal Commission as soon as possible after a decision is made to use the document and, in all cases, prior to its intended use.
7. The witness may then be examined or cross-examined by, or on behalf of, any person granted leave who is considered by the Commissioners to have sufficient interest to do so.
8. The legal representative of the witness may then examine the witness.
9. Counsel Assisting will then re-examine the witness.
10. It is an offence not to answer questions posed by the Commission or to answer them falsely.

#### **Documents which may be tendered in hearings**

11. Subject to the control of the Commissioners, Counsel Assisting will determine which documents are to be referred to in the public hearings.
12. Before the commencement of any public hearing of the Commission, each person or organisation authorised to appear at that hearing may be given confidential electronic access to certain documents likely to be referred to at the public hearing.
13. Copies of these documents will not otherwise be provided to any person or organisation. Additional documents may be referred to by Counsel Assisting during the course of the public hearing. Where such additional documents are referred to, the Commissioners will provide a person or organisation with a copy of the relevant document where, in the opinion of the Commission, the person or organisation has a significant interest in the issues to which each document relates.

#### **Non-Publication Directions**

14. The Commission has powers under the *Royal Commissions Act 1902* (Cth) (**the Act**) to direct that any evidence given before it not be published. The Act provides that the Commission can direct that any evidence given before it, the contents of any document produced or information which might enable a person who has given evidence before the Commission to be identified, not be published except as specified.
15. The Commission will ensure that confidentiality is maintained where the Commission considers that it is necessary. Any person who feels a particular concern in this area is encouraged to contact the Office of the Royal Commission.
16. Relevantly, sections 6L and 6M of the Act provide that it is an offence to prevent a person from producing information or a statement or otherwise cause or inflict any

violence, punishment, damage, loss, or disadvantage to any person for or on account of that person having appeared before, or provided evidence, documents or information to, the Commission.

17. Any person granted confidential electronic access to documents or otherwise given access to documents which are proposed to be referred to at a public hearing should notify the Office of the Royal Commission of any application for a non-publication direction in relation to any document or part of a document. The application should clearly identify the material sought not to be published and reasons why it is suggested that the material should not be published. The Commissioners will determine whether or not to hear oral submissions in support of such written applications.
18. Those persons making written applications for non-publication directions will be advised of the decision once the applications have been determined by the Commissioners.

### **Publication and Access to Evidence**

19. In respect of all evidence, oral and documentary, the following will apply unless varied either generally or in respect of particular evidence:
  - a. transcripts of evidence in public hearings will be uploaded to the Commission's website as soon as they are available;
  - b. the evidence of any witness before the Commission will be published by the Commission unless a direction is made prohibiting or restricting the publication of particular evidence;
  - c. any person (or the legal representative of that person) having leave to appear before the Commission will have access to any book, document or writing referred to in evidence (limited to that evidence that is directly relevant to the issues in relation to which they have been given leave to appear) for the purpose only of appearance before the Commission and subject to any other direction made by the Commissioners;
  - d. for the purpose of, and to the extent necessary for the public reporting of the proceedings of the Commission, any representative of a newspaper, magazine, radio station, online publication or television channel may inspect and take extracts from any book, document or writing referred to in evidence after it has been notified as available for inspection by counsel assisting, subject to the condition that:
    - i. it not be used or permitted to be used for any purpose other than the public reporting of the proceedings of the Commission; and
    - ii. any part of the contents the subject of a direction prohibiting its publication must not be published. If it is believed that any such direction may obstruct proper reporting of any matter of significance, application may be made to vary or lift the non-publication direction.
20. Any person appearing before the Commission may apply for a direction that all or part of their evidence not be published.

21. The Commission has developed Media Guidelines for Public Hearings which are available on the Commission's website. Members of the media should refer to these guidelines for further information on publication and access to evidence.
22. Any application for access should be made in writing, in the first instance, to the Office of the Royal Commission at [RCNDA.Notices@royalcommission.gov.au](mailto:RCNDA.Notices@royalcommission.gov.au).

### **Telephone or Video Proceedings**

23. At the discretion of the Commissioners, part of any hearing may be conducted either by telephone, video link or other mechanism as approved by the Commissioners. This is particularly so in light of the changing health guidelines for COVID-19.
24. Any person appearing before the Commission may apply to participate by telephone, video link or other mechanism.
25. Where evidence is to be given either by telephone, video link or other approved mechanism, the Office of the Royal Commission will make the necessary arrangements and provide the details of the proceedings, the witness or witnesses, location, telephone numbers and the date, time and estimated duration to the parties. Where the Commissioners consider it appropriate, details will be published on the Commission's website.

### **Interpreters**

26. Interpreters will be provided by the Commission as needed. Witnesses and parties must ensure that the Office of the Royal Commission is advised of the need for an interpreter as soon as reasonably practicable, and, in any event, in sufficient time for arrangements to be made. Interpreters will be accredited at the first professional level, Interpreter, with the National Authority for Accreditation of Translators and Interpreters (NAATI). Only in languages where no professional level interpreter is accredited will a Paraprofessional Interpreter be utilised.

### **General**

27. Nothing in this practice guideline should be taken as limiting the Commissioners' powers, whether at the request for any person or on the Commissioners' own initiative, to treat any material or information as confidential and to take any steps in respect of the preservation of such confidentiality.