

QUEENSLAND RACING COMMISSION OF INQUIRY

PRACTICE GUIDELINE No. 02 (PUBLISHED 23 AUGUST 2013)

Preliminary statement

The Commission, in investigating matters within the Terms of Reference:

- has received more than 180,000 documents of various kinds, in response to requirement notices sent to 104 persons and entities;
- has received approximately 60 statements from persons served with a requirement to provide written statements, on oath or affirmation;
- has required some persons to attend for interviews; and
- is continuing its review of documents and statements, expects to receive further statements and a substantial number of further documents, and has scheduled or intends further interviews in the coming weeks.

The Commission will shortly summons certain persons who have provided statements to attend and give evidence at public hearings, to commence in mid-September 2013, which are expected to continue for three or four weeks.

The Commission continues to encourage any person (herein including any natural person or legal entity) with information and/or documents the person believes are or may be relevant to the Terms of Reference to volunteer their assistance to the Commission. Relevant information may include identification of another person or persons who are expected to be able to provide evidence to the Commission on any relevant subject but who may not have already been identified.

Any person with relevant information who has not already been in contact with the Commission, should contact the Secretary of the Commission as soon as possible.

Part A. Introductory matters – this Guideline, and variation to Guideline No. 01

1. This document should be read in conjunction with Practice Guideline 01 (published 2 July 2013), the *Commissions of Inquiry Act 1950*, and the Order in Council establishing the Commission which includes the Terms of Reference. The Order in Council is available on the Commission's website at www.racinginquiry.qld.gov.au.

2. Paragraph 24 of Practice Guideline 01 is varied as follows, subject to claims of confidentiality accepted by the Commission:
 - (a) all witness statements (including exhibits) which have been received by the Commission will be publicly accessible on the Commission's website from 26 August 2013; and
 - (b) the Commission will publish further key material, including minutes of board meetings of Queensland Racing and Racing Queensland Limited, as it considers appropriate and practicable, for the assistance of persons with leave to appear and in the interests of conducting an open inquiry.

Part B. Responding to statements

3. All persons who have knowledge of matters within the Terms of Reference, including particularly those who have already provided statements to the Commission, should:
 - (a) provide written statements (or supplementary statements) as soon as possible in response to any matters raised by statements published on the Commission's website; or
 - (b) if necessary, given time restrictions or otherwise, contact the Secretary to the Commission to provide details of any matters which are known to be incorrect, or materially incomplete, within the published statements and to discuss any evidence which exists in relation to those matters (but which does not already appear in any witness statement).

Part C. Public sittings

4. The Commission will hold public sittings commencing in the week of 16 September 2013, which are expected to continue for three to four weeks.
5. A list of witnesses intended to be summonsed to attend and give evidence at the public sittings will be published on the Commission's website on or about 28 August 2013. Witnesses will be listed in the order in which they are expected to be called, but this will be subject to change at any time.

6. The Commission will also publish on its website:
 - (a) changes to the expected order of witnesses as they arise;
 - (b) as the commencement of public sittings approaches, indicative dates when each witness is likely to be called (noting that such dates are, again, subject to change at any time); and
 - (c) by 5pm on each hearing date, a list of the witnesses expected to give evidence on the next day or hearing date.

7. Witnesses who have been summonsed will be separately notified, as far in advance as practicable, of the date or dates during which it is likely they will be called. They should ensure that:
 - (a) the Commission is notified by 2 September 2013 of any dates or times which the Commission is asked to avoid requiring the witness to attend;
 - (b) the Commission always has up-to-date contact details for the witness or (where represented) their representative, including a mobile telephone number, so that any last-minute scheduling changes can be communicated to the witness.

8. At the public sittings, subject at all times to the direction and control of the Commissioner:
 - (a) Counsel Assisting the Inquiry will call the witnesses who have been summonsed to attend and give evidence;
 - (b) each witness's evidence in chief will be given primarily by way of the statement or statements which they have provided to the Commission;
 - (c) each person who has leave to appear before the Commission will be given an opportunity to examine each witness summonsed to attend, but that opportunity will always be subject to consideration of whether (and the extent to which) the person with leave has a sufficient interest to examine the witness;

- (d) a person with leave to appear who seeks to examine any witness should be prepared to address the Commissioner as to the sufficiency of their interest, for the purposes of (c) above, including by identifying the purpose of the examination, issues to be canvassed and, if a contrary affirmative case is intended to be made, what evidence is separately available in that regard;
 - (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 in order to supplement, correct or clarify matters arising on the face of the witness's statement;
 - (ii) next, subject to (c) and (d) above, by those representing any person with leave to appear other than the witness;
 - (iii) then, by those representing the witness; and
 - (iv) last, by Counsel Assisting the Commission;
 - (f) in the interests of order and expedition, the Commissioner may at any time impose restrictions as to the issues on which a witness may be examined and the time available for examination by any other person; and
 - (g) at the completion of examination of a witness, unless the witness is excused from further attendance, the witness shall be taken to have been stood down only and will be subject to re-call at the direction of the Commission if necessary.
9. It is intended that no document will be tendered in evidence before the Commission other than by Counsel Assisting. If a person with leave to appear intends to examine a witness summonsed to attend about any document, which is not available on the Commission's website as an exhibit to a statement or otherwise, the person's representative must give reasonable advance notice to Counsel Assisting (via the Secretary) of the identity of the document and the witness to be examined; if requested, a copy of the document must be provided.

10. Should any person with leave to appear wish to examine any person who has provided a statement to the Commission but who is not on the Commission's list of witnesses to be called:
 - (a) that person must by 4pm on 6 September 2013 (or such extended time as the Commission allows) notify the Secretary in writing of the person sought to be examined along with a summary of the intended purpose of the examination, issues to be canvassed and, if a contrary affirmative case to the witness's statement is intended to be made, what evidence is separately available in that regard; and
 - (b) the Secretary will notify that person, as soon as practicable, as to whether the person will be called or the process by which the question will be the subject of further consideration and determination by the Commissioner.
11. If any person with leave to appear intends to raise a procedural matter for consideration by the Commissioner, the matter must be raised in advance by writing to the Secretary identifying the matter, stating the outcome sought, and summarising the submissions to be advanced in support of that outcome.

Part D. Submissions

12. In referring to "submissions", this Practice Guideline distinguishes between documents setting out factual matters within any person's knowledge or belief (that is, evidence) and documents setting out arguments or assertions as to the conclusions the Commission should reach in relation to all or any part of the Terms of Reference (that is, submissions). See further Part C of Practice Guideline 01 in this regard.
13. The Commission will receive submissions in writing:
 - (a) from any person with leave to appear:
 - (i) in relation to any matter relating to the Terms of Reference which that person wishes to address, as soon as possible but in any event at any time up to 4pm on 11 October 2013; and

- (ii) otherwise as directed by the Commissioner during the course of the public sittings or subsequently (noting that the limited time available will mean that any submissions will be required, at latest, within seven days from the expected date of completion of public sittings); and
 - (b) from any person who does not have leave to appear, only by arrangement pursuant to paragraphs 11 and 12 of Practice Guideline No 01.
- 14. It is not intended that Counsel Assisting will provide written submissions. Every effort will be made to provide advance notice to persons with leave to appear, or other persons, of the substance of any adverse findings likely to be made concerning them individually which have not already been put to them when giving evidence and to which they may wish to respond.

Hon. Margaret White AO

Commissioner