

Practice Note (G-01) – Counsel Assisting in Commission Inquiries

Background

1. This Practice Note sets out the general roles and responsibilities of Counsel Assisting the Commission (Counsel Assisting) in Commission inquiries.
2. This Practice Note has been approved by the Commission to promote consistency in the way the Commission conducts hearings and inquiries. However, the Commission may, at its absolute discretion, vary the operation of a practice note where it considers the relevant circumstances make it appropriate to do so.
3. A practice note that has been approved by the Commission for a particular type of inquiry and which specifies a different, additional or more limited role for Counsel Assisting in such an inquiry, takes precedence over this Practice Note.

Appointment of Counsel Assisting

4. The Commission will generally appoint a suitably qualified lawyer to be Counsel Assisting a Commission inquiry.

Role of Counsel Assisting

5. The roles of Counsel Assisting are to:
 - (a) facilitate the conduct of an inquiry with a view to ensuring that the Commission has before it all relevant and appropriate evidence, presented in a fair and reasonable manner, to inform the Commission's decision making
 - (b) provide the Commission with legal advice concerning its powers, duties, functions and obligations.
6. For this purpose, Counsel Assisting may do one or more of the following (as appropriate for the particular inquiry):
 - (a) provide advice to the Commission about how the inquiry (including preliminary hearings and conferences) should be conducted
 - (b) identify and/or collate documents that may be relevant to the inquiry
 - (c) provide advice about, and assistance with, the use of the Commission's investigative powers
 - (d) tender documents or lead evidence
 - (e) ask questions of parties and witnesses
 - (f) make submissions on relevant matters
 - (g) assist in the preparation of draft reasons for decision of the Commission.
7. Counsel Assisting is expected to:
 - (a) act impartially and transparently in their dealings with parties and witnesses
 - (b) act in accordance with the lawful directions given by the Commissioners.

8. Counsel Assisting cannot provide legal advice to parties, but can provide guidance to parties concerning the Commission's usual practices and procedures in conducting an inquiry.

Effective Date: This practice note was approved by the Commission on 23 March 2017 and applies to all inquiries commenced after this date.