



**QUEENSLAND CHILD PROTECTION
COMMISSION OF INQUIRY**

PROCEDURAL GUIDELINE 06-2012

Special witnesses

1. For the purposes of this procedural guideline -

improper question means a question that uses inappropriate language, is misleading, confusing, annoying, harassing, intimidating, offensive, oppressive, scandalous or repetitive.

private hearing means a hearing of the Commission which:

- (a) the Commissioner is presiding at;
- (b) only persons authorised by the Commissioner may attend; and
- (c) is not broadcast, or the transcript is not publically published.

special witness means:

- (a) a person under 18 years of age; or
- (b) a person who, in the Commissioner's opinion—
 - (i) would, as a result of a mental or physical impairment, or any other relevant matter, be likely to be disadvantaged as a witness; or
 - (ii) would be likely to suffer emotional trauma as a witness; or
 - (iii) would be likely to be so intimidated as a witness as to be disadvantaged as a witness.

2. For the purposes of receiving evidence from a special witness:
 - (a) the Commissioner will hear the special witness' evidence in a private hearing;
 - (b) in any examination or cross-examination of the special witness, the special witness is to be treated with dignity, respect and compassion by those authorised to attend the private hearing;
 - (c) the Commissioner may take such measures to limit, to the greatest practical extent, any avoidable distress or needless trauma suffered by

a special witness when giving evidence, that the Commissioner deems necessary;

- (d) the Commissioner will not permit improper questions to be asked of a special witness in cross-examination; and
 - (e) the examination and cross-examination will be done expeditiously, so as to reduce the time that the special witness is required to give evidence.
3. In receiving evidence from a special witness, the Commissioner may make an order:
- (a) that while the special witness is giving evidence, all persons (other than those specified by the Commissioner) are to be excluded from the room in which the special witness is giving evidence;
 - (b) that a person, or persons, be present while the special witness is giving evidence, or is required to appear in a hearing, for the purpose of providing emotional support to the special witness;
 - (c) or direction the Commissioner considers appropriate in respect of the giving of evidence by the special witness, including, for example, any of the following—
 - (i) a direction about rest breaks for the special witness;
 - (ii) a direction that questions for the special witness be kept simple;
 - (iii) a direction that questions for the special witness be limited by time;
 - (iv) a direction that the number of questions for a special witness on a particular issue be limited.
4. In receiving evidence from a special witness, or considering objections to the asking of a question to a special witness, the Commissioner may:
- (a) disallow a question put to a special witness in cross-examination, or inform a witness a question need not be answered, if the Commissioner considers the question is an improper question;
 - (b) in deciding whether a question is an improper question, the Commission may take into account—
 - (i) any mental, intellectual or physical impairment the special witness has or appears to have; and
 - (ii) any other relevant matter about the special witness, including, for example, age, education, level of understanding, cultural background or relationship to any party to the proceeding.