

# Inquiry into Greyhound Racing NSW

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## PRACTICE GUIDELINE 1

22 August 2024

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### Conduct of Hearings

#### A. INTRODUCTION

1. This Practice Guideline relates to the conduct of hearings of the Inquiry into Greyhound Racing NSW (**Inquiry**). It should be read in conjunction with the *Greyhound Racing Act 2017* (NSW) (**Act**), the terms of reference of the Inquiry and any other Practice Guidelines.
2. This Practice Guideline, and any others that may be issued by the Inquiry, may be varied, withdrawn, or replaced at any time.
3. The Inquiry intends to conduct hearings. Those hearings will enable the Acting Commissioner to inquire into, and receive evidence concerning, particular topics falling within the terms of reference.
4. This Practice Guideline addresses the procedures that apply to:
  - a. applications for authorisation to appear at any hearings of the Inquiry, including by a legal practitioner (Part B); and
  - b. the conduct of hearings of the Inquiry (Part C).

#### B. AUTHORISATION TO APPEAR AND LEGAL REPRESENTATION

5. Authorisation to appear may be granted where it is shown to the satisfaction of the Acting Commissioner that an applicant has a direct and substantial interest in the subject of inquiry, or the applicant's conduct in relation to any such matter has been challenged to the person's detriment.
6. The Inquiry invites written applications for authorisation to appear, including to be represented by a legal practitioner, from people who believe that they have a direct and substantial interest in the scope of a particular hearing, or in the subject-matter of the inquiry generally. Those applications are to be made and will be dealt with in accordance with paragraphs 11 to 15 of this Practice Direction.

7. Authorisation to appear will generally be granted when an applicant:
  - a. has been issued a notice to attend and give evidence at a hearing of the Inquiry; or
  - b. is likely to be the subject of an adverse allegation.
8. Where a person is authorised to appear, and subject to the control of the Acting Commissioner:
  - a. the person is entitled to participate in a hearing to such extent as the Acting Commissioner considers appropriate; and
  - b. the person, or the person's legal representative (in the event leave is granted for the person to be legally represented), may:
    - i. subject to paragraphs 29 and 35 of this Practice Guideline, apply to have witnesses called or documents tendered;
    - ii. seek leave to examine/cross-examine a witness; and
    - iii. make submissions about the findings available to the Inquiry.
9. Authorisation to appear may be granted subject to such conditions or limitations as the Acting Commissioner considers appropriate, including by limiting:
  - a. the person's participation to the provision of written submissions;
  - b. the person's participation to particular hearings or issues; or
  - c. the extent of any examination of witnesses that may occur by that person or on that person's behalf (see further below as to the examination of witnesses).
10. An authorisation to appear may be withdrawn, or made the subject of additional or varied conditions, by the Acting Commissioner at any time.

**Applications for authorisation to appear or to be legally represented**

11. Any applications for authorisation to appear or for a witness to be legal represented should be made in the form annexed to this Practice Guideline entitled "*Application for authorisation to appear at a hearing of the Inquiry*". This form should be accompanied by a submission not exceeding one page setting out the basis on which it is said that the applicant has a substantial or direct interest in appearing. The form and accompanying submission should be lodged with the Inquiry by sending it to the Office of the Inquiry into Greyhound Racing NSW (**Office of the Inquiry**) by email to [gwicinquiry@dciths.nsw.gov.au](mailto:gwicinquiry@dciths.nsw.gov.au) by the date recorded on the Inquiry's website.

12. Legal representation is not required for an application for authorisation to appear to be made or for an applicant (granted such authorisation) to appear at a hearing of the Inquiry. The grant of leave to be legally represented will be considered in each case.
13. Applications may be determined on the papers in advance of a hearing. The outcome will be communicated to the applicant. Alternatively, the Acting Commissioner may notify the applicant or the applicant's legal representative that they will be required to appear before the Inquiry on a specified date for consideration of the application.
14. If it is not practicable to determine an application for authorisation to appear in advance of the hearing date, an application may be determined at a hearing.
15. A person may seek authorisation to appear at any time if something has occurred during a hearing that leads them to believe that they may have a substantial and direct interest in the subject matter of the Inquiry.

#### **C. CONDUCT OF HEARINGS**

16. The subject, date, time and location of any hearing of the Inquiry will be published on the Inquiry's webpage, and advertised in the Gazette and such newspapers as the Acting Commissioner considers appropriate.
17. Hearings will sit on weekdays and usual sitting hours will be from 10.00 am to 1.00 pm and from 2.00 pm to 4.00 pm.
18. The date, time and location of a hearing may be varied by the Acting Commissioner at any time.

#### **Witnesses**

19. Subject to the control of the Acting Commissioner, Counsel Assisting will determine the witnesses to be called and the order in which they are to be called.
20. The Inquiry may decide to receive the evidence of a witness orally or by written statement. The Inquiry will decide whether to require a witness giving evidence by written statement to attend for examination or cross-examination.
21. Persons required to give evidence orally will be provided with a notice to attend and give evidence and will be given appropriate notice of the time and date they are required to attend.
22. Subject to the control of the Acting Commissioner, the usual procedure for examination of witnesses will be as follows:

- a. Counsel Assisting will call the witness;
  - b. the witness will be invited to take an oath or affirmation;
  - c. Counsel Assisting will examine the witness and may tender the statement of the witness (if any);
  - d. the witness may be cross-examined by or on behalf of any person who is considered by the Acting Commissioner to have a sufficient interest to do so;
  - e. the witness may be examined by his or her own legal representative (if any); and
  - f. Counsel Assisting may re-examine the witness.
23. In determining whether a person has a sufficient interest to cross-examine a particular witness (either at all or as to a particular topic), the Acting Commissioner may call upon the person to:
- a. identify the purpose of the proposed cross-examination; and
  - b. set out the issues to be canvassed in the cross-examination.
24. In granting leave to a person to cross-examine a witness, the Acting Commissioner may impose:
- a. limits as to the topics or issues upon which a person may cross-examine a witness; and
  - b. time limits upon any cross-examination.
25. During the evidence of any witness, the Acting Commissioner may:
- a. disallow questions posed to witnesses; and
  - b. ask questions of a witness at any time.
26. Once a witness has been cross-examined on a particular issue, no further cross-examination on that issue will be permitted unless the person wishing to cross-examine the witness on that issue can demonstrate to the satisfaction of the Acting Commissioner that the proposed cross-examination differs to a significant degree from the cross-examination that has already taken place.
27. Subject to the control of the Acting Commissioner, Counsel Assisting may call a witness to give their evidence concurrently with any other witness or witnesses (including in relation to particular issues or topics).

28. A witness may be called to give evidence at more than one hearing.
29. Unless otherwise arranged with the Office of the Inquiry, any person wishing to have a particular witness called during a hearing must, a reasonable time prior to when it is proposed that the witness be called:
  - a. notify the Office of the Inquiry of the name and contact details of the proposed witness;
  - b. provide a signed statement containing the evidence that it is expected the proposed witness will give; and
  - c. provide electronic copies of any documents that it is proposed to tender through or be shown to the witness during their evidence.
30. Counsel Assisting will decide whether to call the witness. If Counsel Assisting declines to call the witness, an application may then be made to the Acting Commissioner for the witness to give evidence. The fact that an application has not been made in accordance with paragraph 29 above will not necessarily result in the refusal of the application if the Acting Commissioner is otherwise satisfied that it is appropriate for the witness or witnesses to be called to give evidence.

#### **Tendering documents**

31. Subject to the control of the Acting Commissioner, Counsel Assisting will determine what documents are to be tendered, and the time at which they will be tendered.
32. Before the commencement of a hearing each person granted leave to appear at that hearing may, where it is practicable to do so and at the discretion of the Office of the Inquiry or Counsel Assisting, be given confidential electronic access to certain documents likely to be tendered as exhibits in the hearing.
33. Any person wishing to have a document tendered to the Inquiry must:
  - a. notify the Office of the Inquiry of that request;
  - b. identify the issue or issues to which the document relates; and
  - c. provide an electronic copy of the document(s) sought to be tendered.
34. Upon reviewing any request made in accordance with paragraph 33 above, the Office of the Inquiry may request the production of additional documents from the applicant.

35. Counsel Assisting will decide whether the document is to be tendered. If Counsel Assisting has declined to tender a document, an application may be made to the Acting Commissioner for the document to be tendered. The fact that an application has not been made in accordance with paragraph 33 above will not necessarily result in the refusal of the application to tender a document to the Inquiry if the Acting Commissioner is otherwise satisfied that it is appropriate for that document to be tendered.

**Private hearings and non-publication directions**

36. In an appropriate case, the Acting Commissioner may:

- a. direct that a public hearing, or any part of a public hearing, take place in private and give directions as to the persons who may be present during such part of the hearing to be held in private; and
- b. give directions prohibiting or restricting the publication of evidence at the Inquiry or of matters contained in records provided for the Inquiry.

37. Any person summoned to give evidence or who has been granted leave to appear who seeks a direction for a private hearing for particular evidence, or a direction for non-publication of particular evidence must (as soon as is reasonably practicable in advance of the hearing) provide Counsel Assisting or the Office of the Inquiry with a copy of the proposed direction sought, an outline of the proposed evidence and any submissions in support of the application.

**Addresses and submissions on evidence**

38. At the conclusion of the evidence at a hearing and at the discretion of the Acting Commissioner, it will be determined who will have the right to address the Inquiry, when and in what form (e.g. orally or in writing), on what issues and in what order.

**Contact with the Inquiry**

39. All contact with the Inquiry made necessary by this or any other Practice Guideline, or any other inquiries in respect of the Inquiry, should be made through the Office of the Inquiry by email to [gwicinquiry@dciths.nsw.gov.au](mailto:gwicinquiry@dciths.nsw.gov.au).

22 August 2024

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Inquiry into Greyhound Racing NSW