



PRACTICE DIRECTION NO 2

LEGAL REPRESENTATION AND WITNESSES

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INTRODUCTION

1. This Practice Direction should be read in conjunction with Practice Direction 1, which addresses a number of matters relevant to legal representation and witnesses. This Practice Direction and any other practice directions published by the Royal Commission may be varied, changed or replaced from time to time. The Royal Commission may, at any time, depart from this Practice Direction if it considers it appropriate to do so.
2. In this Practice Direction, “witness” should be taken to refer to a person who is a witness called to give evidence before the Royal Commission or who might reasonably be expected to be called.
3. The Royal Commission is concerned to ensure that:
 - conflicts of interest are avoided;
 - witnesses have access to legal representation who will act in their best interests; and
 - integrity of evidence is protected by avoiding collusion, falsity and distortion of evidence.
4. The purpose of this Practice Direction is to:
 - a) inform legal practitioners of the Royal Commission’s position with respect to conflicts of interest and representation of multiple witnesses; and
 - b) provide guidance to witnesses and their legal representatives concerning their obligations.

Legal Representation

5. A legal practitioner representing a witness must not, directly or indirectly, provide or disclose any information (including legal advice) to that witness, which was obtained, directly or indirectly, from another witness, or a legal representative of another witness.
6. Legal practitioners must not act on behalf of entities or witnesses where there is any risk of conflict of interest or the potential for distortions of evidence, which can occur when multiple entities or witnesses have the same legal representation. The Royal Commission will not grant legal practitioners leave to appear on behalf of entities or witnesses where those risks exist. The Royal Commission expects legal practitioners who represent, or are considering representing multiple entities or witnesses, to be aware of those risks and to avoid them.
7. If a legal practitioner who acts for a witness or entity (the current client), also acts for, or has acted for any other witness or entity (the previous client), and has thereby had access to information which might relate to the evidence to be given by both clients, the Royal Commission will be unlikely to grant authorisation for that legal practitioner to appear on

behalf of the current client, unless it is satisfied that there is no risk of conflict of interest or distortion of evidence.

8. The Royal Commission may require a legal practitioner to provide detailed written submissions or to attend in person to make submissions on questions of conflicts of interest and the protection of integrity of evidence.

Witnesses

9. The Royal Commission expects that oral and documentary evidence provided to it is untainted by distortions which can occur due to communications between witnesses and other persons.
10. Witnesses and legal representatives must ensure that the Commission's processes are not hindered by improper communications of this type.
11. The Inquiries Act 2014 establishes criminal offences for hindering or obstructing the Commission¹ and for providing false or misleading evidence to, or withholding certain information from, the Commission.²
12. Witnesses who have been served with a Notice to Attend must not knowingly communicate with other witnesses who have also been called to give evidence about the evidence they may give.
13. Any witness concerned about particular communications, a Notice to Attend or their likely or actual evidence should immediately contact the Royal Commission for clarification. Any witness concerned about their safety or welfare or that of others, should immediately contact Victoria Police.

¹ *Inquiries Act 2014* section 49.

² *Inquiries Act 2014* section 50.