

PRACTICE GUIDELINE 3 – LEGAL REPRESENTATION OF MORE THAN ONE PERSON

1. The Commissioner may authorise a person giving evidence at a public hearing to be legally represented: see Practice Guidelines No. 1 and 2. The Commissioner may also authorise a person giving evidence at a private hearing to be legally represented.

2. The Commissioner strongly prefers that each person seeking to be represented, whether at a public hearing or a private hearing, have separate legal representation.

3. The Commissioner will be generally reluctant to grant leave for a single legal practitioner or firm of lawyers to represent more than one person whether at a public hearing and/ or at private hearings because of, among other things, the high potential for conflicts of interest to exist, or to arise, which have the capacity to disrupt the orderly conduct of the hearing. Any application that would involve a single legal practitioner or firm of lawyers being permitted to represent more than one person appearing, whether at a public hearing or in one or more private hearings, should be able to demonstrate, in written submissions lodged with the Commission beforehand, that:

- (a) there is some reasonable purpose for seeking representation of that kind;
- (b) the most senior lawyer involved in seeking to represent the two or more persons is able to assure the Commission that no conflict of interest is present or anticipated; and
- (c) all of the lawyers involved in representing the two or more persons give an undertaking, through the most senior lawyer, to inform the Commissioner immediately upon recognising that a conflict of interest has arisen.

4. At his discretion, the Commissioner may also require a legal practitioner to provide a statutory declaration to the effect that he/she is free from any conflicts of interest in relation to the intended joint representation.

5. The Commissioner will seek to deal with any application that would involve a single legal practitioner or firm of lawyers being permitted to represent more than one person appearing at the hearing as expeditiously as practicable.

6. The Commissioner may refuse and, where leave is granted, may withdraw leave for a person to be represented by a particular practitioner, where, by virtue of a conflict of interest or for any other reason, the circumstances pose a potential for the hearing to be prejudiced. The Commissioner may at any time reconsider the question of leave, including as the evidence evolves, or where any changes to the subject-matter of the hearing suggest a potential for a conflict of interest to arise.

Alan John MacSporran QC

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