



## Special Commission of Inquiry into Offending by Former Corrections Officer Wayne Astill at Dillwynia Correctional Centre

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# PRACTICE GUIDELINE 1

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## Leave to appear

### INTRODUCTION

1. This Practice Guideline relates to the conduct of the Special Commission of Inquiry into offending by former Corrections Officer Wayne Astill at Dillwynia Correctional Centre (**Special Commission**). It should be read in conjunction with the *Special Commissions of Inquiry Act 1983 (NSW) (Act)*, the terms of reference contained in the Letters Patent establishing the Special Commission dated 13 September 2023 and any other Practice Guidelines.
2. This Practice Guideline sets out general guidance about applications for leave to appear before the Special Commission.
3. This Practice Guideline may be varied or replaced at any time.

### WHEN LEAVE TO APPEAR MAY BE GRANTED

4. Hearings enable the Special Commission to inquire into, and receive evidence concerning, a particular topic falling within the terms of reference.
5. The Special Commission's general process for applications for leave to appear is that the Special Commission invites written applications for leave to appear from people who believe that they have a direct and substantial interest in the scope of a particular public hearing.
6. Leave to appear may be granted when an applicant has a direct and substantial interest in a hearing, part of a hearing or the subject of inquiry, or the applicant's conduct in relation to any such matter has been challenged to the person's detriment, and will generally be granted when an applicant:
  - a. has been summoned to give evidence;
  - b. is the subject of an inquiry to be undertaken; or



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- c. is likely to be the subject of an adverse allegation.
7. Leave to appear before the Special Commission may be granted subject to such conditions or limitations as the Special Commission determines.
8. Leave to appear before the Special Commission may, at any time, be varied or withdrawn by the Commissioner, or made subject to altered or additional limitations or conditions.
9. Applications for leave to appear should be made on the form annexed to this Practice Guideline entitled “Application for leave to appear at a hearing of the Special Commission”. 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 the submission should be lodged with the Special Commission by emailing it to [astill.inquiry@justice.nsw.gov.au](mailto:astill.inquiry@justice.nsw.gov.au) by the date required.
10. Where a person is granted leave to appear:
  - a. the person to whom leave to appear is granted is entitled to participate in the public hearing concerning the particular inquiry, subject to the Commissioner’s control and to such extent as the Commissioner considers appropriate;
  - b. the person, or the person’s legal representative, may:
    - i. subject to paragraphs 9 and 15 of Practice Guideline 2, apply to have evidence tendered or heard;
    - ii. apply in writing for leave to examine/cross-examine a witness; and
    - iii. make submissions about the findings available to the Special Commission following the relevant hearing; and
  - c. the Commissioner may determine the nature and extent of any other conditions attaching to any grant of leave taking into account relevant considerations, including the individual circumstances of the applicant and the contents of the applicant’s application for leave.



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11. If any person who has been granted leave to appear wishes to raise a procedural or legal matter, or wishes to make a submission about the determination of their application for leave, they should communicate with the Solicitors Assisting the Special Commission in writing, identifying the issue and providing a brief outline of the submission to be made, unless the matter is urgent or it is otherwise not possible to provide advance notice in writing.

22 September 2023