GUIDELINES RELATING TO THE CONDUCT OF THE INQUIRY UNDER THE
CHARITABLE FUNDRAISING ACT 1991

General

1. These Guidelines are issued pursuant to section 41F of the Charitable Fundraising Act 1991 (NSW).

2. In these Guidelines references to the “Act” are references to the Charitable Fundraising Act 1991 (NSW).

3. Any contact with the Inquiry should be made to:
   Address: Level 3, 1 Prince Albert Road, Queens Square, Sydney NSW 2000
   Post: PO Box Q716, Queen Victoria Building, NSW 1230
   Email: contact@rsлинquiry.nsw.gov.au
   Telephone: 1800 213 428

4. These Guidelines and other information relevant to this Inquiry are available through the website of the NSW Department of Finance, Services and Innovation (www.finance.nsw.gov.au) at:

Public hearings

5. Public hearings will usually be from 10.00am to 1.00pm and from 2.00pm to 4.00pm. Details of each day’s public hearings will be published on the website the previous day.

6. Those present during any hearings are not to film or record any part of the Inquiry and are expected to have any mobile telephones and computers on silent mode. Wi Fi will not be made available. However, individuals may use their own portable network adaptors, hot-spots or similar facilities.
Authorisation to appear

To represent a witness while giving evidence

7. Where a legal practitioner seeks authorisation to appear before the Inquiry for the limited purpose of representing an individual while that individual is giving evidence at the Inquiry and the legal practitioner does not (and in the case of Counsel, the instructing solicitors also do not) act for any other person in relation to the Inquiry:
   (a) such an application may be made orally immediately prior to the individual being called to give evidence;
   (b) the legal practitioner must indicate that he or she does not (and in the case of Counsel, the instructing solicitors also do not) act for any other person in relation to the subject matter of the Inquiry; and
   (c) unless the Public Inquirer determines otherwise, the legal practitioner will be authorised to appear before the Inquiry for the limited purpose of representing the individual while the individual is giving evidence.

Other applications

8. In any other case, any person or legal practitioner wishing to be granted authorisation to appear at the Inquiry or a specified part thereof should lodge with the Inquiry a written application in the form annexed to these guidelines by 4pm on 30 August 2017.

9. The outcome of any written application for authority will be notified to the applicant in writing.

10. Nothing in paragraphs 7 to 9 above prevents a person from seeking authorisation to appear at any time, in particular if an initial application has been refused or something has occurred which leads the person to believe that the person's interests may be affected. Any such application should address the matters identified in the form of application annexed to these Guidelines and will be dealt with by the Public Inquirer at such time as the Public Inquirer considers appropriate having regard to all relevant
considerations.

11. Section 41I of the Act provides that a person who is appearing or about to appear before a public inquiry may apply for legal or financial assistance. Such applications may be made to the Minister for Innovation and Better Regulation or his delegate. Details will be made available on the website.

Terms of authorisation

12. Unless the Public Inquirer otherwise determines, every authorisation to appear is granted on the following conditions:

(a) authorisation may be withdrawn by the Public Inquirer or made subject to altered or additional limitations or conditions at any time;

(b) the nature and extent of the participation of the authorised person or authorised legal practitioner (as the case may be) in the Inquiry, including any public hearings, is subject to the Public Inquirer's control from time to time;

(c) the authorised person or authorised legal practitioner (as the case may be) has no automatic right to examine any witness. Amongst other things, the Public Inquirer may, depending on the circumstances at the relevant time, direct that there should be no examination of a particular witness by the authorised person or authorised legal representative (as the case may be), or that any such examination shall be limited as to topic, time or otherwise.

Legal professional privilege

13. Where any person claims that access to any document should be refused or limited on the ground of legal professional privilege, that person must, either at or prior to the time for producing the document or other thing lodge with the Inquiry a document that identifies in respect of each such claim:

(a) the document (or the relevant part of the document) in respect of which the claim is made;
(b) details of any judgment or order where the relevant document (or part thereof) has been found to be privileged;

(c) the facts and matters relied upon in support of the claim of legal professional privilege.

Self-incrimination

14. The protection from self-incrimination in respect of the production of records, documents or things, the giving of information and evidence and the answering of questions and the procedure to be adopted in that regard is set out in section 41N of the Act.

Witnesses

15. Subject to the control of the Public Inquirer, counsel assisting the Public Inquirer will determine which witnesses are called and the order in which those witnesses are called and examined. It may be necessary to call some witnesses to give evidence on more than one occasion.

16. The Public Inquirer may decide to receive the evidence of a witness orally or by written statement. The Public Inquirer will decide whether to require a witness giving evidence by written statement to attend for oral examination.

17. Persons required to give evidence will be provided with appropriate notice of the time the Public Inquirer will call upon their summons to attend and give evidence. Witnesses with a particular period of unavailability should give notice of that unavailability to the Inquiry at the earliest possible opportunity.

18. Witnesses will provide evidence by examination by Counsel Assisting.

19. It may be that witnesses will be questioned by or on behalf of any person considered by the Public Inquirer to have sufficient interest to do so. The witness may then be examined by his or her own legal representative. Counsel Assisting may then question the witness at the conclusion of this process. Duplication and repetition...
must be avoided.

20. The Public Inquirer may:
   (a) limit the particular topics or issues upon which a witness may be examined;
   (b) impose time limits upon examination of a witness.

21. If the Public Inquirer is to be invited to disbelieve a witness, the material grounds upon which it is said that the evidence should be disbelieved should be put to the witness so that the witness may have an opportunity to offer an explanation.

22. Where it is to be contended that deliberately false evidence has been given, or that there has been a mistake on the part of the witness on a significant issue, the grounds of such contention must be put to the witness.

Documents

23. Subject to the control of the Public Inquirer, Counsel Assisting will determine which documents are tendered and the time at which they will be tendered as exhibits in the Inquiry.

24. The Public Inquirer will determine which authorised persons, authorised legal representatives and other persons (if any) are to be provided with access to documents.

25. Any application (other than in a hearing) for access by an authorised person, an authorised legal representative or any other person to documents that have been tendered as exhibits in the Inquiry should be notified to the Inquiry in writing.

26.1 Prior to the anticipated tender of some documents, those persons considered by the Public Inquirer to be substantially and directly interested in the subject matter to which the documents relate (or their legal representatives) may be granted confidential access to those documents.

26.2 Until marked as exhibits in the Inquiry, the contents of any documents to which access has been granted are not to be published to any persons other than persons
to whom the Public Inquirer has granted access and are to be kept confidential and not to be used for purposes other than in connection with the Inquiry.

26.3 Persons who are granted access to any documents prior to their tender are not to provide a copy of those documents or facilitate any person gaining access to any part thereof in respect of which access has not been granted.

Evidence from interested persons

27. Leave may be granted to any person to adduce exculpatory, mitigatory or other relevant evidence bearing upon issues in the Inquiry. Any person wishing to adduce such evidence should apply for leave as soon as reasonably practicable and in any event prior to the conclusion of the hearings of the Inquiry.

28. Any person wishing to have evidence of a witness or witnesses placed before the Inquiry (including from that person) must notify the Inquiry of the name of the witness and provide a statement containing the witness’ expected evidence, which should be signed by the intended witness unless for good reason that is not possible. Counsel Assisting will decide whether or not the statement of the witness will be tendered and/or whether the witness will give oral evidence. An application may be made directly to the Public Inquirer to call the witness only after the above procedure has been completed.

29. A copy of any document proposed to be put to a witness must be provided to Counsel Assisting as soon as possible after a decision is made to use the document and in all cases prior to its intended use.

30. Any person wishing to have a document placed before the Inquiry must notify the Inquiry by providing a copy of the document to the Inquiry. The production of other documents may then be required. Counsel Assisting will decide whether or not to tender any document. An application may be made directly to the Public Inquirer to tender a document only after the above procedure has been completed.
Transcripts of public hearings

31. Where a transcript of any part of the Inquiry is made available, any person seeking to make corrections thereto should do so by way of notice in writing to the Inquiry as soon as possible.

32. Oral applications for urgent transcript corrections of significance may be made at hearings.

Publication of evidence.

33. The evidence of any witness to the Inquiry given at a hearing held in public may be published unless a direction is made prohibiting the publication of particular evidence.

Non-publication

34. A direction for non-publication of evidence or of the contents of documents may be made, in particular in relation to names and identifying details of persons who have a legitimate need for protection or in respect of information of a commercially sensitive nature.

35. Any application for a direction for non-publication or for part of the public hearing to be held in private should be notified and made as soon as possible to the Inquiry and, where possible, this should be in writing. The notification and application should clearly identify the material or the part of the public hearing (as may be appropriate) in respect of which the application is sought and the facts, matters and grounds on which the application is made.

36. The Public Inquirer will determine the procedure in respect of any such application, including whether to receive written or oral submissions.
Prior notification of issues

37. Any authorised person, authorised legal representative or other person who wishes to raise any issue of law or procedure (including, by way of example only, confidentiality issues, non-publication concerns and administrative arrangements) should, wherever possible, give the Inquiry written notice of that issue and any contentions to be raised in respect of that issue as soon as possible.

Submissions

38. The Public Inquirer may make directions in relation to final written submissions. Having regard to the reporting timeframe in respect of this Inquiry, it is anticipated that there will only be a limited time available to interested parties to finalise their written submissions following the completion of the hearings. The Public Inquirer may decide to allow some oral submissions.

39. The Public Inquirer may limit the persons who may make submissions and the particular topics or issues that may be addressed; and may impose time or page limits on submissions.

15 August 2017

The Honourable PA Bergin SC
Public Inquirer
APPLICATION FOR AUTHORISATION TO APPEAR

Part 1 – Name and contact details of applicant

Name:
Address:
Contact person:
Telephone:
Fax:
Email:

Part 2 – Name and contact details of legal practitioner

Name of counsel (if applicable):
Address:
Telephone:
Fax:
Email:

Name of solicitor:
Firm name:
Contact person:
Address:
Telephone:
Fax:
Email:
Part 3 – Extent of authority sought

To what extent do you seek authority to appear?

Part 4 – Nature and extent of interest

What is the subject matter in respect of which you claim an interest; and what is the nature and extent of your interest?

Part 5 – Conflicts

In the case of an application for authorisation for a legal practitioner to appear, does the practitioner (and in the case of Counsel, his or her instructing solicitors) act for any other person in relation to the Inquiry and the matters it is inquiring into? If so, what information can be provided to the Public Inquirer such as to enable the Public Inquirer to determine whether it is appropriate for authorisation to be granted?

Please note that the Public Inquirer may seek further information from applicants for authorisation to appear prior to any decision being made as to whether such authorisation will be granted.