1.0 Introduction

1.1 Purpose
The purpose of this Guidance Note is to provide information, commentary, opinion, advice and to Members acting as experts in judicial or quasi-judicial proceedings.

1.2 Status of Guidance Notes
Guidance Notes are intended to embody recognised ‘good practice’ and therefore may (although this should not be assumed) provide some professional support if properly applied. While they are not mandatory, it is likely that they will serve as a comparative measure of the level of performance of a Member. They are an integral part of the Valuation and Property Standards Manual.

1.3 Scope of this Guidance Note
This Guidance Note applies to Members acting as experts in judicial or quasi-judicial proceedings and is intended to provide information on what is considered to be good practice where a member is required to give expert evidence.

2.0 Responsibilities

2.1 Duty to the Judicial Body
The duties of an expert witness can be defined as follows:
• The primary duty of the expert witness is to assist the court or tribunal.
• The duty is to be truthful as to fact, honest as to opinion and complete as to coverage of relevant matters. The duty is the same whether or not the Expert is giving evidence in Court or to a Tribunal on oath or not on oath.
• Expert evidence must be independent, objective and unbiased.

2.2 Instructions
On receipt of instructions the expert should establish whether any conflict of interest may arise. If a conflict of interest exists or may exist the expert should either refuse the assignment or seek...
written confirmation of instructions following disclosure.

3.3 Purpose of Evidence

The purpose of expert evidence is to assist a judicial body in exercising its functions.

The evidence given should, therefore, give all the necessary detail from which conclusions have been drawn in order to enable the judicial body to judge the appropriateness of the conclusions based upon the facts submitted.

3.4 Evidence of Fact

The expert witness is often required to assist the judicial body in establishing, clarifying and ordering logically the relevant facts and issues to be addressed.

The expert should be aware that evidence to the judicial body may take precedence over any contractual, professional or other duty.

Where an expert is instructed to give an opinion based on assumption or number of assumptions, the experts report should state the assumption or assumptions.

A written report provided by an expert should include a schedule of the documents relied upon and where necessary, copies of such documents or the relevant portions thereof. The expert should indicate the source of factual information relied upon.

3.5 Giving Evidence

Expert evidence must be objective, independent and unbiased. Opinion should not be exaggerated or seek to obscure alternative views.

When experts are instructed to meet to agree facts they may be instructed also to endeavour to agree opinions and, in such instances they should disclose facts and information relevant to their evidence and where they disagree the reasons for disagreement should be recorded and reported.

Where an expert changes their opinion, for whatever reason, such change should be communicated immediately in writing to the appointer, with whom the responsibility will lie to communicate it to other parties and the judicial body.

4.0 Acting as an Advocate

A member is entitled to act as an advocate for a client however the advocacy role is subject to proper professional practice in conducting negotiations on the clients behalf and that role must be declared to all parties. A member must not act as an advocate then as an expert in the same matter (see ANZPS 1).

5.0 Acting as an Arbitrator

Experts appointed as arbitrators are usually required to act in accordance with the uniform commercial arbitration legislation.

The Institute of Arbitrators and Mediators Australia and New Zealand conducts education and training for arbitrators and mediators and grades arbitrators according to experience.

Experts should not act as arbitrators unless they have the appropriate education, training and experience in relation to the commercial arbitration legislation.