

TASRAIL PUBLIC INTEREST DISCLOSURES (WHISTLEBLOWERS) POLICY SUMMARY

TASMANIAN RAILWAY PTY LTD (ABN 83 139 383 761)
Approved by the TasRail Board 01.12.2020

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1. POLICY OVERVIEW

TasRail is committed to the highest standard of conduct and to facilitating the making of disclosures of improper conduct under the *Public Interest Disclosures Act 2002 (Tas.)* ('PID Act'), the *Corporations Act 2001 (Cth.)* ('Corporations Act') and the *Tax Administration Act 1953 (Cth)* ('Tax Act') and is committed to protecting whistleblowers as part of the disclosure process.

2. PURPOSE

The purpose of this policy is to outline TasRail's process for managing disclosures made under the PID Act, the Corporations Act and the Tax Act. The policy is designed to:

- encourage and facilitate disclosures of wrongdoing by TasRail and its employees;
- protect persons making disclosures; and
- provide for matters disclosed to be properly investigated and dealt with.

TasRail recognises that it is in the public interest for whistleblowing to occur and that this is encouraged and facilitated by improving whistleblowing culture and increasing transparency.

3. WHO DOES THIS POLICY APPLY TO?

This policy applies to all officers, employees and contractors of TasRail. It also applies more broadly to others able to make disclosures under the Corporations Act and Tax Act (for example, relatives of an employee).

4. THE POLICY

The PID Act ('Tasmanian regime') and the Corporations Act and Tax Act ('Commonwealth regime') operate separately, but in some circumstances may overlap. The whistleblowing procedures differ between the Tasmanian regime and the Commonwealth regime (for example the Commonwealth regime recognises a broader category of discloser, the eligible recipients for a disclosure are different and the scope of disclosable matters is determined by different legislation).

This policy sets out, at a high-level, the disclosures, investigations, and the protections under the Tasmanian regime and the Commonwealth regime. Accordingly, this policy is to be read in conjunction with the Public Interest Disclosure Procedure in respect of the Tasmanian regime (see link at paragraph 6.6) and the Commonwealth Regime Disclosures Procedure for the Commonwealth regime (see link at paragraph 7.5).

Where a disclosure is protected under both the Tasmanian and Commonwealth regime, TasRail will determine the most appropriate regime to apply.

TasRail encourages anyone who is aware of any wrongdoing at TasRail to speak up and will support any potential discloser in navigating the Tasmanian and Commonwealth regimes. If you have any queries about this policy or the process for making a disclosure, please contact:

- Karen van der Aa, Chief Financial Officer / Company Secretary:
Email: karen.vanderaa@tasrail.com.au

5. HOW TO DISCLOSE

The Public Interest Disclosure Procedure and the Commonwealth Regime Disclosures Procedure contains details about making disclosures under, respectively, the Tasmanian regime and the Commonwealth regime.

Under both regimes, TasRail maintains the following confidential email address which is available to all eligible disclosers (including current employees, past employees and family members and contractors):

- Email: whistleblower@tasrail.com.au

This email account is managed by the Public Disclosure Officers and may be accessible by trained information technology personnel for administration and back-up purposes only. Any emails received will be treated confidentially by TasRail.

6. TASMANIAN REGIME

6.1 Introduction

A disclosure made under the PID Act will be managed by TasRail in accordance with this policy and the Public Interest Disclosures Procedure.

Disclosures may be made by public officers (members, officers and employees of TasRail) and TasRail contractors (being an entity or employee/contractor of an entity who has entered into a goods or services contract with TasRail).

Disclosures may be made in relation to "Improper Conduct" (either on the part of TasRail or another public officer) or in relation to "Detrimental Action" (either on the part of TasRail or another public officer) against a person in reprisal for making a protected disclosure.

Detrimental Action means action causing injury, loss or damage, intimidation or harassment, discrimination, disadvantage or adverse treatment in relation to employment, career, profession, trade or business (including taking disciplinary action) and threats of detrimental action.

Improper Conduct means serious or significant illegal or unlawful activity, corrupt conduct, maladministration, professional misconduct, waste of public resources, conduct constituting a danger to public health and/or safety or a danger to the environment or a breach of the code of conduct.

6.2 Protections

Detrimental Action against a person in reprisal for a making or intending to make a protected disclosure is prohibited. A person who makes a protected disclosure is protected from any civil, criminal or administrative liability for making the disclosure. This immunity does not apply to any improper conduct of the person that is the subject of the disclosure.

The courts are able to make a wide variety of preventative and compensatory orders if detrimental action is established. The Tasmanian regime requires that information in respect of a protected disclosure must not be disclosed (including the identity of the discloser) with limited exceptions.

6.3 Making a Disclosure

A protected disclosure can be made to the following:

- Ombudsman Tasmania;
- the Tasmanian Integrity Commission; or
- TasRail via the Principal Officer (CEO) or the delegated Public Interest Disclosure Officers.

Disclosures can be made to the above in person or via any method of communication including email, phone or post. The confidential TasRail email address for disclosures is detailed in Section 5 of this policy.

Note that contractors may only make disclosures to Ombudsman Tasmania or the Integrity Commission.

6.4 Support for Disclosers

The following support is provided by TasRail to any person who makes, or is considering making, a protected disclosure:

- direction on the application of the dual Tasmanian and Commonwealth regimes;
- treatment of all disclosures in the strictest of confidence;
- protection from victimisation and other detrimental action;
- provision of a support person/welfare manager if necessary; and
- prompt investigation and resolution of all matters the subject of a disclosure.

6.5 TasRail Responsibilities

TasRail and its employees must not:

- take detrimental action against a person in reprisal for a protected disclosure being made;
- divulge information obtained as a result of the handling or investigation of a protected disclosure without legislative authority;

- obstruct the Ombudsman in performing his responsibilities under the PID Act; or
- knowingly provide false information with the intention that it be acted on as a disclosed matter.

6.6 Public Interest Disclosures Procedure

This policy should be read in conjunction with the Public Interest Disclosure Model Procedures found on the TasRail website.

These are procedures for dealing with disclosures, investigations, and the protection from reprisals of persons making disclosures under the Tasmanian regime.

7. COMMONWEALTH REGIME

7.1 Introduction

A disclosure made under the Commonwealth Regime will be managed by TasRail in accordance with this policy and the Commonwealth Regime Disclosures Procedure.

Disclosures may be made by current or former officers and employees of TasRail, service providers to TasRail (and their employees), associates of TasRail (which includes the directors and company secretary) and a relative, dependant or spouse of an eligible discloser.

To be eligible for protection, a disclosure made under the Commonwealth regime must contain information that the discloser has reasonable grounds to suspect one of the following:

- misconduct or improper state of affairs or circumstances (including in relation to tax affairs);
- conduct that constitutes an offence against, or in contravention of, the *Corporations Act 2001 (Cth)*;
- conduct that constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of twelve months or more; or
- conduct that represents a danger to the public or the financial system.

Examples of conduct that is likely to qualify for protected disclosure include bribery, fraud, detrimental conduct against a whistleblower and other illegal conduct (i.e. theft). Disclosures that relate solely to personal work-related grievances (i.e. interpersonal conflict or industrial disputes) do not qualify for protection unless the grievance also includes a disclosable matter.

If, following investigation, a disclosure is deemed to be incorrect it may still qualify for protection.

7.2 Protections

As with the Tasmanian regime, the Commonwealth regime requires the discloser's identity to remain confidential (subject to limited exceptions) and prevents any victimisation, detrimental action or legal liability against them.

7.3 Making a Disclosure

A disclosure under the Commonwealth regime may be made to:

- the Australian Securities and Investments Commission ('ASIC'), the Australian Prudential Regulation Authority or other Commonwealth authority that may be designated under the legislation;
- legal practitioners;
- an officer or senior manager of TasRail, including the officers detailed in Section [4] of the Commonwealth Procedure.
- TasRail's internal or external auditor (as set out in the Annual Report));
- a registered tax agent or BAS agent of TasRail; or
- a journalist or parliamentarian provided that the disclosure is a public interest disclosure or an emergency disclosure under the Corporations Act.

Disclosures can be made in person or via any method of communication including email, phone or post. In most cases it is recommended that disclosures are made to TasRail in the first instance via the confidential email address for disclosures detailed in Section 5 of this policy.

7.4 Support for Disclosers

TasRail acknowledges that any persons the subject of a disclosure are entitled to procedural fairness in the course of any investigation and any subsequent actions. TasRail supports disclosers by:

- providing confidential, accessible and anonymous methods to make disclosures;
- direction on the application of the dual Tasmanian and Commonwealth regimes;
- treatment of all disclosures in the strictest of confidence;
- protection from victimisation and other detrimental action;
- access to TasRail's employee assistance services;
- provision of a support person/welfare manager if necessary; and
- prompt investigation and resolution of all matters the subject of a disclosure.

7.5 Commonwealth Regime Disclosures Procedure

This policy should be read in conjunction with the Commonwealth Regime Disclosures Procedure.

These are procedures for dealing with disclosures, investigations, and the protection from reprisals of persons making disclosures under the Commonwealth regime.

8. KEY STAKEHOLDER RESPONSIBILITIES

The Chief Executive Officer is the Principal Officer for the purposes of the PID Act but may appoint delegated officers to undertake any or all of their functions.

The Board Secretary/Executive Officer and the Risk and Compliance Manager have been appointed as Public Interest Disclosure Officers in accordance with the PID Act. Additional responsibilities may fall on other persons from time to time in the role of the investigator or welfare manager.

The Chief Executive Officer, and all senior managers (including directors and the TasRail Executive Team) are eligible recipients of disclosures under the Commonwealth regime.

9. NON-COMPLIANCE WITH THIS POLICY

All non-compliances with this Policy will be recorded in accordance with the Compliance Policy and reported to the Board.

Incidents of wilful non-compliance with this Policy are considered to be serious and will be dealt with in accordance with TasRail's normal performance management process, which may include dismissal.

Failure to comply with the provisions of the PID Act, Corporations Act or Tax Act may result in criminal sanctions.

10. RELATED POLICIES

- Compliance Policy
- Public Interest Disclosures Procedure
- Commonwealth Regime Disclosures Procedure
- Gifts, Benefits and Hospitality Procedure
- Code of Conduct
- Delegation Policy
- Procurement Policy

11. POLICY APPROVAL AND REVIEW



TasRail's Board is responsible for approving this Policy at least every three years, or earlier if a significant change occurs that may impact the policy.

The TasRail Executive Team and TasRail's Board have reviewed this policy to ensure awareness of the obligations in relation to whistleblowing and receipt of disclosures.

12. PUBLICATION

This Policy is approved for publication on TasRail's website.

Approved by the Board on 1 December 2020.