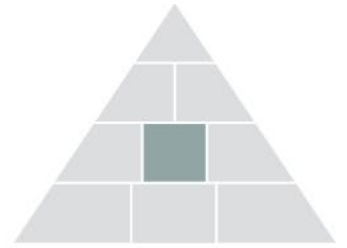


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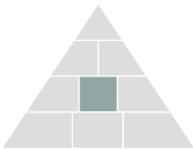


Public Interest Disclosures and Whistleblowing

MD-11-6837

QUEENSLAND RAIL OFFICIAL

Approved for public release



Document history

Document Information

Current Version	5.1
First Released	10 August 2011
Last Updated	16 August 2024
Review Frequency	Biennial
Review Before	16 August 2026
Document Authoriser	Chief Executive Officer (CEO)
Functional Owner	Group Executive People and Culture (GE P&C)
Document Owner / Approver	Senior Manager Employee Relations (SM ER)
Content Developer*	Manager Ethics & Investigations
Review Stakeholders	People and Culture
Audience	All employees (current and former), Directors, contractors or their employees, associates of Queensland Rail, spouse/relative/dependent of one of the people referred to here. Additionally members of the public (reduced format).

*Contact for further information

Document Amendment History

Version	Date	Section(s) Amended	Summary of Amendment
5.1	16/08/2024	2.12.2	Update the role of PID Coordinator Section from 'Manager Ethics and Investigations' to 'Team Leader, Safe Station'.
5.0	26/07/2023	Whole document	Redrafted to encompass ASIC Regulatory Guide <i>Whistleblower policies</i> and Queensland Ombudsman <i>Model Public Interest Disclosure Procedure</i> , new references to People and Culture Safe Station.
4.0	03/03/2020	Whole document	Re-work and inclusion of <i>Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019</i> (Cth)

This document contains confidential material relating to the business and financial interests of Queensland Rail. Queensland Rail is to be contacted in accordance with Part 3, Division 3 Section 37 of the Right to Information Act 2009 (Qld) should any Government Agency receive a Right to Information application for this document. Contents of this document may either be in full or part exempt from disclosure pursuant to the Right to Information Act 2009 (Qld).

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Table of Contents

1 Purpose	4
1.1 Why make a Disclosure?	4
2 Requirements of this Specification	5
2.1 Who can make a Disclosure?	5
2.2 What does the Disclosure have to be about?	6
2.3 Reasonable belief or reasonable grounds	7
2.4 Who can a Disclosure be made to?	8
2.5 How to make a Disclosure	10
2.6 What to include in a Disclosure	10
2.7 Legal Protections for Disclosers	11
2.8 Queensland Rail's support and general protections for Disclosers	12
2.9 Ensuring fair treatment of individuals mentioned in a Disclosure	14
2.10 Disclosure Process	15
2.11 Keeping the Discloser informed	17
2.12 Managing the Disclosure process	18
2.13 Lodging a complaint about the process	19
2.14 Breaches of this Specification	20
2.15 Penalties for non-compliance	20
2.16 False, misleading and/or frivolous Disclosures	20
3 Responsibilities	21
3.1 Who does what	21
4 Terms and definitions	21
5 Appendices	25
Appendix 1 – Related documents	25



1 Purpose

Queensland Rail holds the highest expectations of conduct and ethical behaviour in all our business activities and in achieving good corporate governance. In pursuit of this, Queensland Rail values the disclosure of information about suspected wrongdoing.

This Specification demonstrates this commitment, and ensures that practical and effective procedures are implemented which comply with the requirements of the relevant Legislation:

- Public Interest Disclosure Act 2010 (Qld) (PID Act), and
- Corporations Act 2001 (Cth)¹.

Queensland Rail does not tolerate anyone being discouraged from reporting, or them being adversely affected because they have reported corrupt conduct or workplace misconduct in accordance with this Specification.

This Specification adopts both state and federal legislation and establishes the minimum requirements for:

- promoting the public interest by facilitating reporting of wrongdoing;
- ensuring reported matters are properly assessed and, where appropriate, properly investigated and dealt with;
- ensuring appropriate consideration and support is given to the interests of persons who make the reports; and
- ensuring protection from reprisal/detriment is afforded to individuals making a report.

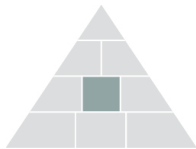
This Specification will be published on the Queensland Rail Hub (**Intranet**) and a condensed version on Queensland Rail's external webpage.

1.1 Why make a Disclosure?

Employees who are prepared to speak up about issues in the **public sector**, such as misconduct, wastage of public funds, suspected unlawful activity, or danger to health, safety or the environment, can be the most important sources of information to identify and address problems in public sector administration.

Often, such wrongdoing only comes to light because of individuals (acting alone or together) who are prepared to disclose it, sometimes at great personal and financial risk.

¹ Corporations Act 2001 (Cth) includes the Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth). Queensland Rail is a statutory authority established under the *Queensland Rail Transit Authority Act 2013 (Qld)* and is a corporation under the *Corporations Act 2001 (Cth)*.



Public Interest Disclosure (**PID**) and Whistleblowing policies help:

- provide better protections for individuals who disclose wrongdoing;
- improve the culture of reporting wrongdoing in Queensland Rail and increase transparency in disclosures and how they are handled;
- encourage more disclosure of wrongdoing; and
- deter wrongdoing, promote better compliance with the law and promote a more ethical culture, by increasing awareness that there is a higher likelihood that wrongdoing will be reported.

When making a Disclosure, the Discloser receives the protections provided under the relevant Legislation, which are detailed in Section 2.7 of this Specification.

Queensland Rail supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of Queensland Rail;
- it can result in improvements to systems that prevent fraud and other economic loss to Queensland Rail; and
- the community's trust in Queensland Rail is strengthened by having strong processes in place for reporting wrongdoing.

2 Requirements of this Specification

In accordance with section 28 of the PID Act, and section 1317AI of the Corporations Act 2001 (Cth) (**Corporations Act**), Queensland Rail is required to develop, implement, and publish reasonable procedures for dealing with Public Interest Disclosures and Whistleblowing.

Further, information and resources can be obtained from the Queensland Ombudsman's or the Australian Securities & Investment Commission's (**ASIC**) websites.

2.1 Who can make a Disclosure?

Under the PID Act, any person, including public officers, can make a Disclosure about the matters listed in Section 2.2 under the PID Act column.

Under the Corporations Act, an eligible Whistleblower is an individual who is, or has been, any of the following in relation to Queensland Rail:

- an officer or employee (e.g. current and former employees who are or were permanent, part-time, fixed-term or temporary, interns, secondees, managers, or directors);



- a supplier of services or goods to Queensland Rail (whether paid or unpaid), including their employees (e.g. current and former contractors, consultants, service providers and business partners);
- an associate of Queensland Rail e.g. Directors, Company Secretary; and
- a relative, dependant or spouse of an individual (e.g. relatives, dependants or spouse of current and former employees, contractors, consultants, service providers, suppliers and business partners).

In reporting a matter, a Discloser may wish to seek independent legal advice as to their rights and protections.

2.2 What does the Disclosure have to be about?

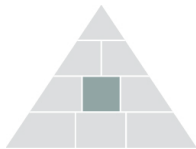
Queensland Rail has processes to report matters including employee complaints, procurement complaints, reporting environmental incidents or hazards. Information on reporting such matters can be found on the intranet or internet.

Otherwise, the following table sets out the types of matters which can be disclosed and under which legislation the Disclosure relates. In some cases, a Disclosure may be captured by both the PID Act and the Corporations Act.

Public Interest Disclosure Act	Corporations Act
<ul style="list-style-type: none"> • a substantial and specific danger to the health or safety of a person with a disability; or • the commission of an offence, or contravention of a condition imposed, under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment; or • reprisal because of a belief that a person has made, or intends to make a disclosure. <p>In addition, Queensland Rail personnel can make a disclosure about corrupt conduct.</p> <p>Should a Queensland Rail employee wish to make a disclosure about another Queensland Government agency, they should check with that agency as to whether the PID Act protections apply.</p>	<ul style="list-style-type: none"> • misconduct - includes 'fraud, negligence, default, breach of trust and breach of duty'; or • an improper situation or circumstances, in relation to Queensland Rail or a related company (This is intentionally broad and includes for example, unlawful conduct in relation to Queensland Rail of a systemic issue that the relevant regulator should know about to properly perform its functions. It may also relate to business behaviour and practices that may cause consumer harm); or • an offence against, or a contravention of, a provision of any other law or regulation of the Commonwealth (though in some cases the matter reported must be such that it would constitute an offence that is punishable by imprisonment for a period of 12 months or more); or • represents a significant risk to public safety; or • represents a danger to the financial system.

Disclosures that relate solely to mere disagreements over policy may not meet the threshold of a Disclosure and may not qualify for protection under the PID Act or Corporations Act.

Additionally, Disclosures that relate solely to personal work-related grievances do not qualify for protection under the Corporations Act. Examples include:



- an interpersonal conflict between the Discloser and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about the engagement, transfer or promotion of the Discloser;
- a decision about the terms and conditions of engagement of the Discloser; or
- a decision to suspend or terminate the engagement of the Discloser, or otherwise to discipline the Discloser.

However, a personal work-related grievance may still qualify for protection under the Corporations Act if:

- it includes information about misconduct, or information about misconduct includes, or is accompanied by, a personal work-related grievance (mixed report);
- the disclosure relates to information that suggests misconduct beyond the Discloser's personal circumstances;
- the Discloser suffers from or is threatened with detriment (harm) for making a disclosure; or
- the Discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

A Disclosure may attract protections under the relevant Acts even if the:

- Discloser reports the information as part of their duties – such as an auditor reporting a fraud or an occupational health and safety officer reporting a safety breach;
- disclosure is made anonymously – the Discloser is not required to give their name or any identifying information;
- Discloser has not identified the material as a disclosure – it is up to Queensland Rail to assess information received and decide if it is a disclosure; and/or
- disclosure is unsubstantiated following investigation – the Discloser is protected when the information they provide is assessed as a disclosure, whether it is subsequently investigated or found to be substantiated.

2.3 Reasonable belief or reasonable grounds

The Legislation makes reference to a 'reasonable belief' or 'reasonable grounds' as the basis for making a Disclosure in relation to the matters in Section 2.2.

Public Interest Disclosure Act	Corporations Act
A Discloser can have either a reasonable belief that wrongdoing has occurred, or provide evidence which tends to show the wrongdoing has occurred.	A Disclosure must have reasonable grounds to suspect wrongdoing.

A mere allegation with no supporting information is not likely to be considered as having 'reasonable grounds to suspect'. However, a Discloser does not need to prove their allegations.



A Discloser's motive for making a Disclosure, or their personal opinion of the person(s) involved, does not prevent them from qualifying as a Discloser or for protection.

2.4 Who can a Disclosure be made to?

Before making any Disclosure, a Discloser should first consider contacting People and Culture Safe Stations Team for advice. Additionally, to identify and address wrongdoing as early as possible, Disclosers are encouraged to raise their concerns with Queensland Rail in the first instance including to *Stopline*, the external disclosure service engaged by Queensland Rail.

To qualify for the protections under the Legislation, the Disclosures must be reported to an appropriate authority:

Public Interest Disclosure Act	Corporations Act
<p>Queensland Rail employees can make disclosures to:</p> <ul style="list-style-type: none"> a) any person in a Queensland Rail leadership position; b) the People and Culture (human resources) team; or c) the Chief Executive Officer. <p>Disclosures can also be made by any person to an agency that has a responsibility for investigating the information disclosed:</p> <ul style="list-style-type: none"> a) Crime and Corruption Commission (CCC) for disclosures about corrupt conduct including reprisal; b) Queensland Audit Office for disclosures about a substantial misuse of resources; c) Department of Children, Youth Justice and Multicultural Affairs for disclosures about danger to the health and safety of a child or young person with a disability; d) Department of Seniors, Disability Services, and Aboriginal and Torres Strait Islander Partnerships for disclosures about danger to the health and safety of a person with a disability. e) Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability; f) Department of Environment and Science disclosures about danger to the environment; or g) A Member of the Legislative Assembly (MP) for any wrongdoing or danger. <p>A disclosure can also be made to a journalist if the following conditions have been met:</p> <ul style="list-style-type: none"> a) a valid PID was initially made to a proper authority; and 	<p>Eligible whistleblowers can make disclosures to:</p> <ul style="list-style-type: none"> a) an officer (including a director or company secretary of an entity); b) or senior manager (executive level) of Queensland Rail or a related body corporate; c) the internal or external auditor (including a member of an audit team conducting an audit) or related body corporate; d) any person in a Queensland Rail leadership position; e) the People and Culture (human resources) team; f) the Chief Executive Officer; g) legal practitioners; h) regulatory bodies and other external parties - ASIC, APRA or another Commonwealth body prescribed by regulation and qualify for protection under the Corporations Act; or i) journalists or members of Commonwealth, state or territory parliaments, where: <ul style="list-style-type: none"> i. at least 90 days have passed since the Discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation; ii. the Discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure; iii. the Discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and iv. before making the public interest disclosure, the Discloser has given written notice to the body) (i.e. the body to which the previous disclosure was made) that:



Public Interest Disclosure Act	Corporations Act
b) the proper authority: <ul style="list-style-type: none"> i. decided not to investigate or deal with the disclosure; or ii. investigated the disclosure but did not recommend taking any action; or iii. failed to notify the Discloser within six months of making the disclosure whether or not the disclosure was to be investigated or otherwise dealt with. 	<ul style="list-style-type: none"> A. includes sufficient information to identify the previous disclosure; and B. states that the Discloser intends to make a public disclosure.

2.4.1 Disclosures to Journalists or Parliamentarians

Disclosers under the PID Act should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

Under the Corporations Act, an '**emergency disclosure**' is the disclosure of information to a journalist or parliamentarian, where:

- the Discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;
- the Discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
- before making the emergency disclosure, the Discloser has given written notice to the body (i.e. the body to which the previous disclosure was made) that:
 - includes sufficient information to identify the previous disclosure; and
 - states that the Discloser intends to make an emergency disclosure; and
- the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

A Discloser should seek independent legal advice before making a disclosure to a journalist or parliamentarian under either legislation.



2.5 How to make a Disclosure

There are several ways a Discloser can report their concerns. Disclosures can be made in writing or orally using one of the following options:

Option	In writing / In person (Handwritten or email)	By Phone
Queensland Rail Leader	Details available from the Hub	
People and Culture Safe Station	<u>People and Culture Safe Station Team</u> Level 2 - 305 Edward Street Brisbane 4001	1800 115 000 (Mon-Fri 8am – 4.30pm)
Stoptline	<u>QR@stoptline.com.au</u>	1800 951 277 (24/7)
CEO	<u>ceoqueenslandrail@qr.com.au</u> Level 14 - 305 Edward Street Brisbane 4001	07 30720781 (Business hours)
External Agency	Details can be sourced from the Internet or phone directory	

2.6 What to include in a Disclosure

To assist in the assessment, and any subsequent investigation, Disclosers are requested to provide the following information in writing to the authorised person in Section 2.4:

- a) provide contact details (this could be an email address that is created for the purpose of making the Disclosure, or a telephone number). While Disclosers are encouraged to include their contact details so that follow up questions can be asked, matters can be reported anonymously with the Discloser still protected under legislation; and
- b) provide as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are
 - any evidence that supports the information provided, and where the evidence is located
 - any further information that could help investigate the matter.

If the individual is unsure of whether a matter should be reported, Disclosers are advised to err on the side of caution and report anyway. Even where the reported matter proves to be



unsubstantiated, the Discloser who reported the matter will be afforded the relevant protections as long as the matter is reported in good faith.

2.7 Legal Protections for Disclosers

Disclosers should not suffer any form of detriment (harm) because of making a Disclosure. The following protections are provided to Disclosers under the PID Act and the Corporations Act:

Public Interest Disclosure Act	Corporations Act
<ul style="list-style-type: none"> • confidentiality – the Discloser’s name and other identifying information will be protected to the extent possible • protection against reprisal – the Discloser is protected from unfair treatment by Queensland Rail and its employees as a result of making the PID • immunity from liability – the Discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing • protection from defamation – the Discloser has a defence against an accusation of defamation by any subject officer. 	<ul style="list-style-type: none"> • identity protection (confidentiality) – a person cannot disclose the identity of a Discloser or information that is likely to lead to the identification of the Discloser (which they have obtained directly or indirectly because the Discloser made a disclosure that qualifies for protection). • protection from detrimental acts or omissions – a person cannot engage in conduct that causes detriment (harm) to a Discloser (or another person), in relation to a disclosure, if: <ul style="list-style-type: none"> – the person believes or suspects that the Discloser (or another person) made, may have made, proposes to make or could make a disclosure that qualifies for protection; and – the belief or suspicion is the reason, or part of the reason, for the conduct. • compensation and other remedies – a Discloser (or any other employee or person) can seek compensation and other remedies through the courts if: <ul style="list-style-type: none"> – they suffer loss, damage or injury because of a disclosure; and – the entity failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct. • civil, criminal and administrative liability protection – a Discloser is protected from any of the following in relation to their disclosure: <ul style="list-style-type: none"> – civil liability (e.g. any legal action against the Discloser for breach of an employment contract, duty of confidentiality or another contractual obligation); – criminal liability (e.g. attempted prosecution of the Discloser for unlawfully releasing information, or other use of the disclosure against the Discloser in a prosecution (other than for making a false disclosure)); and – administrative liability (e.g. disciplinary action for making the disclosure).

The protections under the relevant Legislation do not grant immunity for any misconduct a Discloser has engaged in.



2.7.1 Exceptions and considerations

It is illegal for a person to identify a Discloser or disclose information that is likely to lead to the identification of the Discloser. The exceptions to this are when:

- the information does not include the Discloser's identity;
- the entity has taken all reasonable steps to reduce the risk that the Discloser will be identified from the information; and
- it is reasonably necessary for investigating the issues raised in the Disclosure.

It is also an exception under the Corporations Act for a person to disclose the identity of the Discloser:

- to ASIC, APRA, or a member of the Australian Federal Police;
- to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act);
- to a person or body prescribed by regulations; or
- with the consent of the Discloser.

While Queensland Rail will make every attempt to protect confidentiality, a Discloser's identity may need to be disclosed to:

- provide natural justice to subject officers; and/or
- respond to a court order, legal directive or court proceedings.

Disclosers should be aware that while Queensland Rail will make every attempt to keep their details confidential, it cannot guarantee that others will not try to determine their identity.

Additionally, people may be able to guess the Discloser's identity if for example:

- the Discloser has previously mentioned to other people that they are considering making a Disclosure;
- the Discloser is one of a very small number of people with access to the information; or
- the disclosure relates to information that a Discloser has previously been told privately and in confidence.

2.8 Queensland Rail's support and general protections for Disclosers

Queensland Rail will undertake practical actions to help reduce the risk of detriment to a Discloser. The nature of action taken can vary in each instance and will depend on the identifiable risks to the Discloser.



Protection	Nature
Identity protection and Information Security	<p>Queensland Rail will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the Discloser wherever possible with:</p> <ul style="list-style-type: none"> Disclosures being handled and investigated by qualified employees; Redacting personal information or reference to the disclosure witnessing an event, using gender neutral context; Restricting access to, and storing securely, all records relating to disclosures; Communicating about disclosures using confidential processes such as if documents need to be printed then ensuring they are immediately collected, not emailing to addresses accessed by unauthorised employees; and Reminding personnel involved in handling and investigating disclosures of confidentiality requirements, and that unauthorised disclosures of a Discloser's identity may be a criminal offence. The exceptions and further considerations to this are outlined above at 2.7.1
Employee Assistance	<ul style="list-style-type: none"> At the start of an investigation, a Queensland Rail Support Officer will be assigned to provide updates and be a contact point. Queensland Rail will alert appropriate Leaders to maintain heightened vigilance. Queensland Rail has available the Employee Assistance Provider program (Converge) Phone: 1300 687 327/ Email: eap@convergeintl.com.au
Altered working arrangements	<p>Whilst the focus will be on not disadvantaging the Discloser, there will be times where for their own safety or practicality, or due to Queensland Rail operational needs, that it is the Discloser for whom a change of work arrangements may be implemented.</p> <p>Changes to the work arrangements of the Discloser, Respondent, or both may include but not be limited to:</p> <ul style="list-style-type: none"> alteration of work location including work from home; alteration of work hours; and/or reassigning to another team at the same level. <p>The Discloser may also wish to avail themselves of their accrued leave or leave without pay, if they choose to.</p>
Exclusion and/or Disciplinary Action	<ul style="list-style-type: none"> Excluding Respondents (including alteration of duties) in accordance with Queensland Rail's exclusion procedures Discipline Process Specification MD-10-52 Investigating and initiating disciplinary action for breaches of this policy.

Making a Disclosure does not prevent **reasonable management action**. That means that the Discloser will continue to be managed in accordance with normal, fair, and reasonable management practices during and after the handling of the Disclosure.

2.8.1 Support Officers

Support Officers are generally members of the People and Culture team. These officers are responsible for:

- providing acknowledgment of receipt of matters to the Discloser;
- undertaking risk assessments in consultation with Disclosers and other relevant officers;
- providing advice and information to Disclosers on reporting procedures and legislation;
- providing personal support and referral to other sources of advice or support as required;
- facilitating updates on progress of investigation; and



- proactively contacting Disclosers throughout the process.

Any arrangements are to be reviewed periodically or upon request by the Respondent.

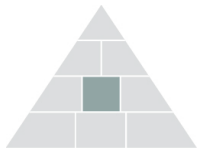
2.9 Ensuring fair treatment of individuals mentioned in a Disclosure

A person the subject of a disclosure may be referred to using terms such as Respondent, Subject Officer or Person of Interest. Queensland Rail will initiate processes to help ensure fair treatment of individuals mentioned in a disclosure such as:

- Disclosures will be handled confidentially;
- each disclosure will be assessed and may be the subject of an investigation;
- the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported;
- acknowledging that the disclosure is an allegation only until information or evidence obtained through an investigation substantiates the allegation;
- when an investigation needs to be undertaken, the process will be objective, fair, and independent, following the principles of natural justice; and/or
- an employee who is the subject of a disclosure will be;
 - advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any disciplinary actions being taken;
 - provided with information about their rights and the progress and outcome of any investigation; and
 - may contact Queensland Rail's support services (e.g. counselling).

Information and support will be provided generally through their leader, in consultation with the investigator, until the matter is finalised.

In some circumstances, informing the individual at an early stage of an investigation may compromise the effectiveness of the investigation, such as when there may be concerns that the individual may destroy information or the disclosure needs to be referred to the CCC, ASIC, APRA, or the Queensland or Federal Police. Employee Relations will determine the most appropriate time to inform the individual who is the subject of a disclosure about the investigation, provided that they inform the individual before making any adverse finding against them.



2.10 Disclosure Process

2.10.1 Assessing a Disclosure

Once a disclosure is received, a trained Queensland Rail member of the People and Culture team will objectively assess the matter to determine whether it meets legislative requirements for protection and if an investigation is required. This assessment will ordinarily occur within 48 hours.

Assessments will be conducted taking a broad approach, erring on granting protections when there is a level of uncertainty.

If there is any doubt as to whether a matter should be considered protected, further information may be obtained from the Discloser to inform the decision. If doubt remains, the matter will be considered and managed under this specification.

2.10.2 Referrals to other agencies

If a Disclosure is made, or considered to be made, under the PID Act and it is determined that there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency; and/or
- that agency has the power to investigate or remedy the matter.

Before referring the PID to another agency, Queensland Rail will conduct a risk assessment (see section 2.10.3 below) and will not proceed with the referral if there is an unacceptable (generally high or extreme) risk of reprisal as defined in Queensland Rail's Risk assessment criteria Specification MD-13-561.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the CCC where there is a **reasonable suspicion** that the matter involves or may involve corrupt conduct (as required by section 38 of the *Crime and Corruption Act 2001 (Qld)*).

The confidentiality obligations of the PID Act permit appropriate officers of Queensland Rail to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contacts with any other agency.

2.10.3 Risk Assessment

An assessment will be made by an appropriate Officer, being a Leader or Support Officer, as to the risk of detriment against a Discloser and other persons (e.g. other employees who



might be suspected to have made a disclosure), which will commence as soon as possible after receiving a disclosure.

The risk assessment will be conducted in accordance with Queensland Rail's Risk Management Standard MD-11-1338.

The Officer conducting the risk assessment should consult with the Discloser (or other affected party) where possible to assist in completing the risk assessment.

A risk assessment will still be undertaken if the Discloser is anonymous, based on the information available. The risk assessment will also consider the risk to persons who may be suspected of making the disclosure.

Queensland Rail will regularly monitor and review the risk of reprisal while the matter is being managed, in consultation with the Discloser, and review the controls if required, in accordance with the Risk Management Standard MD-11-1338.

In the event of reprisal action being alleged or suspected, Queensland Rail will:

- attend to the safety of the Discloser (or witnesses or affected third parties) as a matter of priority;
- review the risk assessment and controls to mitigate any further risks of reprisal; and
- manage any allegation of a reprisal as a standalone matter.

Records will be maintained of the risk assessment process.

2.10.4 Investigating a Disclosure

Where an investigation is to be conducted it will be performed in accordance with:

- Queensland Rail's *Discipline Process* Specification MD-10-52; and/or
- the CCC's *Corruption in Focus* guide.

The successful completion of an investigation may be limited if the Investigator is unable to contact the Discloser for context and further details.

If a matter requires specialist skills or expertise, appropriate internal / external resources will be consulted/engage.

Efforts will be made to ensure a timely investigation however this is dependent on a number of factors including, the number of other investigations being performed, resourcing, complexity of matter, availability of parties to the matter, instructions/directions from Regulator, and other business requirements.



If, as a result of an investigation, the information about wrongdoing provided in the disclosure is substantiated, appropriate action will be taken.

Where the investigation does not substantiate wrongdoing, Queensland Rail will consider systems, policies and procedures to identify whether there are improvements that can be made and consider if employee training is required.

2.10.5 Closing a matter

Queensland Rail may elect not to investigate or deal with a disclosure in circumstances including:

- The information has been provided anonymously and it is insufficient for the investigator to identify the parties or business area involved;
- the information disclosed has already been investigated or dealt with by another process;
- the information disclosed should be dealt with by another process;
- the age of the information makes it impractical to investigate;
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert Queensland Rail from the performance of its functions; and/or
- another agency with jurisdiction to investigate the information has informed Queensland Rail that an investigation is not warranted.

Once a disclosure is made, Queensland RAILS may have an obligation to look into the matter even if the Discloser later wishes to withdraw it.

2.11 Keeping the Discloser informed

Queensland Rail wants Disclosers to be kept informed of the decisions relating to the matters they report. Communications (generally emailed to preserve confidentiality) will be provided to the Discloser. For privacy and other legislative requirements such feedback may be limited.

Stage	What information will be provided to the Discloser
Assessing a matter	<p>Should a matter be reported where the Discloser states they are doing so under either the state or commonwealth legislation, and the matter is <u>assessed as not meeting the requirements</u> for protection, this will be explained to the Discloser, including:</p> <ul style="list-style-type: none">• that their information has been received but was not assessed as meeting the legislative requirements;• the reasons for the decision;• the review rights available if the Discloser is dissatisfied with the decision and how to request a review;• any action Queensland Rail proposes to take in relation to the matter; and• any other options the Discloser has in relation to the matter. <p>If <u>assessed as meeting the requirements</u> of legislation, the Discloser will be informed:</p> <ul style="list-style-type: none">• that their information has been received and assessed as a disclosure



Stage	What information will be provided to the Discloser
	<ul style="list-style-type: none"> the action to be taken by Queensland Rail in relation to the disclosure, which could include referring the matter to an external agency, or investigating internally; the likely timeframe involved; the name and contact details of the Queensland Rail support officer they can contact for updates or advice; of the Discloser's obligations regarding confidentiality; the protections the Discloser has under the legislation; the commitment of Queensland Rail to keep appropriate records and maintain confidentiality, except where permitted under legislation; how updates regarding intended actions and outcomes will be provided to the Discloser; and contact details for the Employee Assistance Program. <p>Where the disclosure is referred to another agency under section 2.10.2, the Discloser will be advised of the action taken by Queensland Rail.</p>
Investigating a matter	If a matter is assessed to meet the requirements of the legislation, a Support Officer will be assigned and will be in regular communication with the Discloser based on the level of risk, to provide regular updates on the investigation progress.
Closing a matter	<p>If a decision is made not to investigate or deal with a matter, Queensland Rail will give the Discloser written reasons for that decision.</p> <p>If the Discloser is dissatisfied with the decision they can request a review by writing to Queensland Rail's Chief Executive Officer within 28 days of receiving the written reasons for the decision.</p> <p>However, if a matter has been investigated and the outcome determined by management, the Discloser will be notified:</p> <ul style="list-style-type: none"> of the process used to investigate the matter; of the 'high level' outcome of the matter such as that appropriate action has been taken, training provided, policy enhanced; and whether the matter has been finalised.

The information provided to Disclosers will depend on the nature of the disclosure. There may be circumstances where it may not be appropriate to provide details of the outcome to the Discloser.

At all times, the Discloser must ensure they maintain confidentiality of the process and information received.

2.12 Managing the Disclosure process

2.12.1 Managing this Specification and Education

People and Culture Function is responsible on behalf of the Queensland Rail Board² and Chief Executive to manage the reporting process. This includes:

- Reviewing this Specification on a regular basis and general management of the reporting process and its effectiveness.
- Having a communication strategy to raise awareness among employees about reporting

² The board is ultimately responsible for Queensland Rail's Public Interest Discloser and Whistleblower policy, as part of the broader risk management and corporate governance framework.



wrongdoing with regular (annual) corporate wide communications to employees and Leaders. Additionally, this Specification will be published on the intranet and externally in a condensed format on the Queensland Rail webpage.

- Having a training strategy to give employees access to training about how to make a report, information on the support available, and advice on how reports will be managed.
- Having training and awareness about reporting for employees who may receive or manage reports, Disclosers or workplace issues relating to reports. Employees in People and Culture who are involved in managing Disclosures will undertake training such as that offered by the Queensland Ombudsman.

2.12.2 Responsibilities

Within People and Culture, managing Disclosures will be the responsibility of the **Coordinator of Disclosures**, being the Team Leader, Safe Station or delegate.

The Coordinator of Disclosures is responsible for:

- General administration of the process including enquiries
- Assessing reports received
- Allocating Investigators and Support Officers to reported matters
- Liaising with other agencies about referral of PIDs
- Reporting data on PIDs to the Queensland Ombudsman (anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database).

2.13 Lodging a complaint about the process

Any participant in a Disclosure process has various avenues of raising complaints about that process, dependant on the nature of the raised complaint and the Disclosure process.

Complaint nature	Public Interest Disclosure Act	Corporations Act
Information breach	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au Or with a regulator, such as ASIC, APRA.
Dissatisfaction with decision to not treat matter as a disclosure	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au Or request a review by writing to the Queensland Rail Chief Executive Officer within 28 days of receiving the written reasons for the decision	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au Or with a regulator, such as ASIC, APRA.
Dissatisfaction with investigation decision	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au Or with a regulator, such as ASIC, APRA.



Complaint nature	Public Interest Disclosure Act	Corporations Act
Dissatisfaction with this Specification	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au	Senior Manager Employee Relations - EthicsInvestigations@qr.com.au

Actions and outcomes from complaints are determined on a case-by-case basis dependent on the circumstances. Queensland Rail is not obliged to reopen an investigation where it finds that the investigation was conducted properly, or new information is either not available or would not change the findings of the investigation.

2.14 Breaches of this Specification

Compliance with this Standard is a condition of employment or engagement with Queensland Rail. Breaches of this Standard will be treated as a breach of the Code of Conduct and may lead to disciplinary action up to and including termination.

2.15 Penalties for non-compliance

Public Interest Disclosure Act	Corporations Act
<p>A person who takes reprisal against a Discloser is liable to a maximum penalty of 167 penalty units or two years imprisonment and is an indictable offence.</p> <p>If any Queensland Rail employee contravenes section 40 (reprisal/causing a detriment) in the course of employment, both Queensland Rail and the employee are jointly and severally civilly liable for the contravention, and a proceeding under section 42 (damages entitlement) may be taken against either or both.</p> <p>It is a defence to a proceeding under section 42 if Queensland Rail proves, on the balance of probabilities, that it took reasonable steps to prevent the employee contravening section 40.</p>	<p>ASIC is responsible for administering the whistleblower protection provisions in the Corporations Act, including the whistleblower policy requirement. Periodically, ASIC will conduct surveillance activities to ensure compliance with the obligations and pursue non-compliance in accordance with its enforcement approach and operational priorities.</p> <p>A Discloser may seek compensation and other remedies through the courts if they have suffered detriment (harm), including because a Discloser's employer failed to prevent detriment from occurring.</p> <p>The court may consider the extent to which the employer gave effect to their whistleblower policy.</p> <p>Failure to comply with the requirement to have and make available a whistleblower policy is an offence of strict liability with a penalty of 60 penalty units for individuals and companies, enforceable by ASIC.</p>

2.16 False, misleading and/or frivolous Disclosures

Queensland Rail accepts that most disclosures are made in good faith - in the best interests of safety, good governance, integrity, and public - even if in the end the findings of an investigation do not support the complaint. However, false, misleading, and frivolous reporting are occasionally identified. Where that occurs, this will be subject to disciplinary action and or potential referral to relevant enforcement agency.



3 Responsibilities

The following establishes the unique accountabilities and responsibilities of the key internal stakeholders for this Specification.

3.1 Who does what

Who	What
Ethics and Investigations	<ul style="list-style-type: none">• Assessment of a Disclosure (PID or whistleblower disclosure)• Management of a Disclosure• Investigate allegations of reprisal action• Arrange support for the Discloser.
Leader	<ul style="list-style-type: none">• Referral of disclosures to Safe Station• Duty of care to ensure a safe workplace by means of initial and on-going risk assessments particularly as it relates to disclosures• Regular welfare checks on employees who have been named in a Disclosure.• Ensuring confidentiality is maintained and heightened vigilance to ensure safety in the workplace.
Safe Station	<ul style="list-style-type: none">• Receive disclosures and assess how best to manage.• General support to the discloser.

4 Terms and definitions

The following key terms and definitions are unique to this Specification. Please refer to the Business Glossary for other terms not included in this section.

Term	Definition	Source ³
Corrupt Conduct	See section 15	<i>Crime and Corruption Act 2001 (Qld)</i>
Detrimental act/Detriment	<p>Detriment (harm) includes:</p> <ul style="list-style-type: none">(a) dismissal of an employee;(b) injury of an employee in his or her employment;(c) alteration of an employee's position or duties to his or her disadvantage;(d) discrimination between an employee and other employees of the same employer;(e) harassment or intimidation of a person;(f) harm or injury to a person, including psychological harm;(g) damage to a person's property;(h) damage to a person's reputation;(i) damage to a person's business or financial position; or(j) any other damage to a person. <p>Note: A person cannot make a threat to cause detriment to a Discloser (or another person) in relation to a disclosure. A threat may be express or implied, or conditional or unconditional. A Discloser (or another person) who has been threatened in relation to a</p>	<p><i>Schedule 4 – Public Interest Disclosure Act 2010 (Qld)</i></p> <p><i>Corporations Act 2001 (Cth)</i></p>

³ Where left blank, Source is not applicable.



Term	Definition	Source ³
	<p>disclosure does not have to actually fear that the threat will be carried out.</p> <p>Actions that are not detrimental conduct include:</p> <ul style="list-style-type: none"> • administrative action that is reasonable for the purpose of protecting a Discloser from detriment (e.g. moving a Discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment); and • managing a Discloser's unsatisfactory work performance, if the action is in line with the entity's performance management framework. 	
Disability	<p>(1) A disability is a person's condition that—</p> <p>(a) is attributable to—</p> <p>(i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p>(ii) a combination of impairments mentioned in subparagraph (i); and</p> <p>(b) results in—</p> <p>(i) a substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self care or management; and</p> <p>(ii) the person needing support.</p> <p>(2) For subsection (1), the impairment may result from an acquired brain injury.</p> <p>(3) The disability must be permanent or likely to be permanent.</p> <p>(4) The disability may be, but need not be, of a chronic episodic nature.</p>	<i>Disability Services Act 2006 (Qld)</i>
Discloser	A person who makes a public interest disclosure under the PID Act and/or a whistleblower disclosure under the <i>Corporations Act 2001</i> (Cth).	<i>Public Interest Disclosure Act 2010 (Qld)</i> <i>Corporations Act 2001 (Cth)</i>
Disclosure	<p>Refer to Section 2.2 of this Procedure</p> <p>As defined in section 11 of the <i>Public Interest Disclosure Act 2010</i> (Qld) and section 1317AA(4),(5) of the <i>Corporations Act 2001</i> (Cth)</p>	<i>Public Interest Disclosure Act 2010 (Qld)</i>
Journalist	<p>A person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.</p> <p>Journalist means a person who is working in a professional capacity as a journalist for any of the following:</p> <p>(i) a newspaper or magazine;</p> <p>(ii) a radio or television broadcasting service;</p> <p>(iii) An electronic service (including a service provided through the internet) that:</p> <ul style="list-style-type: none"> - is operated on a commercial basis; and - is similar to a newspaper, magazine or radio or television broadcast. 	<i>Section 20(-) - Public Interest Disclosure Act 2010 (Qld)</i> <i>Section 1317AAD Corporations Act 2001 (Cth)</i>



Term	Definition	Source ³
PID	Public Interest Disclosure	<i>As defined in section 11 of the Public Interest Disclosure Act 2010 (Qld)</i>
Public Sector Entities	As defined in Section 6 of the Public Interest Disclosure Act 2010 (Qld)	<i>Public Interest Disclosure Act 2010 (Qld)</i>
Reasonable grounds (in the context of a suspicion)	Is based on the objective reasonableness of the reasons for the Discloser's (PID or Whistleblower) suspicion. It ensures that a Discloser's motive for making a disclosure, or their personal opinion of the person(s) involved, does not prevent them from qualifying for protection. Whilst a Discloser need not be able to prove allegations, in practice, the absence of evidence/supporting information will likely lead to there being no reasonable grounds.	
Reasonable management action	<p>The law accepts that managers and employers may need to act if a worker is not doing their job well. They can take 'reasonable management action' to:</p> <ul style="list-style-type: none"> • help the employee improve their work • address poor performance or behaviour. <p>It is 'reasonable management action' for an employer to:</p> <ul style="list-style-type: none"> • start performance management processes (such as a performance improvement plan) • take disciplinary action for misconduct • tell a worker about work performance that is not satisfactory • tell a worker their behaviour at work is not appropriate • ask a worker to perform reasonable duties as part of their job • take action to maintain reasonable workplace standards. 	<i>Fair Work Commission</i>
Reprisal	<p>A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that –</p> <ul style="list-style-type: none"> (a) The other person or someone else has made, or intends to make, a disclosure; or (b) The other person or someone else is, has been or intended to be, involved in proceeding under the Act against any person. 	
Subject Officer	The person about whom a PID or whistleblower disclosure is made. Also known as Respondent or Person of Interest.	
Substantial and specific (in relation to danger)	Substantial means "of a significant or considerable degree". It must be more than trivial or minimal and have some weight or importance. Specific means "precise or particular". This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.	



Term	Definition	Source ³
Whistleblower	<p>A person who on reasonable grounds suspects that the information they are disclosing about Queensland Rail concerns:</p> <ul style="list-style-type: none"> • misconduct, or • an improper state of affairs or circumstances. <p>And; this information is about Queensland Rail, or an officer or employee engaging in conduct that:</p> <ul style="list-style-type: none"> • breaches the Corporations Act • breaches other financial sector laws enforced by ASIC or APRA • breaches an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months, or • represents a danger to the public or the financial system. 	<i>Corporations Act 2001 (Cth)</i>
Whistleblower Disclosure	<p>A disclosure made under the <i>Corporations Act 2001 (Cth)</i> whistleblower provisions.</p> <p>See section 2.2 of this Procedure.</p>	<i>Corporations Act 2001 (Cth)</i>
Whistleblowing	Making a Whistleblower Disclosure.	<i>Corporations Act 2001 (Cth)</i>



5 Appendices

Appendix 1 – Related documents

Queensland Rail documents

Document type	Document title
Standard	MD-10-62 <u>Code of Conduct</u>
	MD-13-327 <u>Performance and Behaviour</u>
	MD-11-1338 <u>Risk Management</u>
Principle	MD-12-555 <u>Values</u>
Specification	MD-10-52 <u>Discipline Process</u>
	MD-13-561 <u>Risk assessment criteria</u>
Strategy / Plan	MD-10-917 <u>Fraud and Corruption Control</u>
Procedure	N/A
Other	<ul style="list-style-type: none">• Crime and Corruption Commission 'Corruption in Focus'• Queensland Ombudsman PID Standards 1, 2 and 3• ASIC Information Sheet 238 Whistleblower rights and protections