



TasNetworks Policy

TasNetworks Public Interest Disclosures ("Whistleblowers") Policy

Version Number 3.0

May 2016

Overview of this Policy

TasNetworks aims to ensure through this policy that all disclosures of improper conduct made to it are processed in accordance with the procedures recommended in the Public Interest Disclosure Act 2002 (Tas) and that it protects the person making the disclosure from any detrimental action.

1. Introduction and Purpose

TasNetworks is committed to the highest standard of conduct and to facilitating the making of disclosures of improper or corrupt conduct or detrimental actions. The purpose of this policy is to outline the effect of the *Public Interest Disclosures Act 2002* (the **Act**) on the TasNetworks Group and to formulate appropriate policy and procedures to be applied in administering the requirements of the Act to facilitate disclosures.

The Act aims to:

- encourage and facilitate disclosures of improper conduct by public officers and public bodies;
- protect persons making those disclosures, and others, from reprisals;
- provide for the matters disclosed to be properly investigated and dealt with; and
- provide all parties involved in the disclosures with natural justice.

The Act is about “whistle-blowing” for Tasmanian public bodies. The Act is based on the precepts that it is in the public interest for whistle-blowing to occur, and that this will be encouraged and facilitated by providing due protection for whistle-blowers, and by ensuring that disclosures which they make are properly investigated and dealt with.

2. Scope

This policy is effective from 1 July 2014 and applies to the TasNetworks Group.

3. Policy Revision

This policy is to be reviewed and endorsed at least once every three years, consistent with the timeframes under the Act, or when there is a significant change to the business, which may impact the policy.

4. Policy detail

As a “public body” within the meaning of the Act, the Act has implications for TasNetworks.

The purpose of the Act is to encourage and facilitate the making of disclosures of improper conduct, corrupt conduct or detrimental action by public officers, and public bodies. The Act provides protection to persons who make disclosures in accordance with the Act, and establishes a system for the matters disclosed to be investigated and rectifying action to be taken.

Three key concepts under the Act are:

- Improper Conduct

A disclosure may be made by anyone and it may be about improper conduct by a public body or public official or their contractors. Improper conduct means conduct that is corrupt, a substantial mismanagement of public resources, or conduct involving substantial risk to public health or safety or to the environment.

- Corrupt Conduct

Means:

- conduct of any person (whether or not a public official) that adversely affects the honest performance of a public officer's or public body's functions;
- the performance of a public officer's functions dishonestly or with inappropriate partiality;

Public Interest Disclosures (“Whistleblowers”) Policy

- conduct of a public officer, former public officer or a public body that amounts to a breach of public trust;
 - conduct by a public officer, former public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their official functions; or
 - a conspiracy or attempt to engage in the above conduct.
- Detrimental Action

The Act makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure. Detrimental action includes:

- action causing injury, loss or damage;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action; and
- threats of detrimental action.

Section 60 of the Act requires that a public body establish procedures for dealing with disclosures, investigations, and the protection from reprisals of persons making disclosures. The Ombudsman, who has oversight of the Act, has established model procedures that set out all of the necessary matters for inclusion in such procedures and which can be adopted by public bodies. TasNetworks has adopted those procedures.

The procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors. As an alternative, employees may make a disclosure of improper conduct or detrimental action under the Act in accordance with the procedures.

The Chief Executive Officer is the Principal Officer for the purposes of the Act, but may delegate his responsibilities to Public Interest Disclosure Officers (section 62B). Pursuant to the model procedures, the following persons are proposed to be appointed as Public Interest Disclosure Officers:

- Company Secretary & General Counsel
- General Manager Finance and Business Services.

Such appointments must be made by a formal instrument and can only be made if the Principal Officer is satisfied that the delegated officers have the necessary skills and knowledge to fulfil the role.

5. Key stakeholder and responsibilities

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

The Company Secretary & General Counsel, and General Manager, Finance & Business Services will be appointed as Public Interest Disclosure Officers in accordance with the Act.

Additional responsibilities may fall on other persons from time to time in the role of the investigator or welfare manager under the Act.

- Principal Officer (Chief Executive Officer)
 - preparing procedures for approval by the Ombudsman ;
 - receiving public interest disclosures and ensuring they are dealt with in accordance with the Act;
 - ensuring the protection of witnesses;
 - ensuring the application of natural justice in the public body’s procedures;

Public Interest Disclosures (“Whistleblowers”) Policy

- ensuring the promotion of the importance of public interest disclosures and general education about the Act to all staff, and ensuring easy access to information about the Act and the public body’s procedures, and
 - providing access to confidential employee assistance programs and appropriately trained internal support staff for those involved in the process.
- Public Interest Disclosure Officers
 - As delegated by the Principal Officer, but would normally include:
 - acting as a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action;
 - making arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
 - receiving any disclosure made orally or in writing (from internal and external disclosers);
 - recording in writing the details of any disclosure which is made orally;
 - impartially assessing the allegation and determining whether it is a disclosure made in accordance with Part 2 of the Act (that is, a protected disclosure);
 - impartially assessing under s 33 of the Act whether a disclosure is a public interest disclosure, and
 - taking all necessary steps to ensure that the identity of the discloser and the identity of the person who is the subject of the disclosure are kept confidential.
 - Investigator

Where TasNetworks has determined that a disclosure is a public interest disclosure, or where the Ombudsman has referred a disclosed matter to TasNetworks for investigation, the Principal Officer will appoint an investigator to investigate the matter in accordance with the Act. An investigator may be a person from within the public body or a consultant engaged for that purpose.

- Welfare Manager

The welfare manager will be appointed by the Principal Officer or by a Public Interest Disclosure Officer, and is responsible for looking after the general welfare of the discloser. The welfare manager will:

- examine the immediate welfare and protection needs of a person who has made a disclosure, and seek to foster a supportive work environment;
- advise the discloser of the legislative and administrative protections available to him or her;
- listen and respond to any concerns of harassment, intimidation, victimisation or other detrimental action which may be occurring in reprisal for making disclosure;
- so far as is practicable, protect the identity of the discloser in the course of carrying out these responsibilities.

A welfare manager may be a person from within TasNetworks or a consultant engaged for that purpose.

Public Interest Disclosures (“Whistleblowers”) Policy

- Employees

Employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures if for any reason they are uncomfortable with other existing reporting processes.

All employees of TasNetworks have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

6. Compliance Statement

Failure to comply with the provisions of the Act may result in TasNetworks, or individual officers within TasNetworks, being subjected to criminal sanction:

- It is an offence for a person to take detrimental action against a person in reprisal for a protected disclosure being made. The Act provides a maximum penalty of a fine of 240 penalty units or two years imprisonment or both.
- It is an offence for a person to divulge information obtained as a result of the handling or investigation of a protected disclosure without legislative authority. The Act provides a maximum penalty of 60 penalty units or six months imprisonment or both.
- It is an offence for a person to obstruct the Ombudsman in performing his responsibilities under the Act. The Act provides a maximum penalty of 240 penalty units or two years imprisonment or both.
- It is an offence for a person to knowingly provide false information under the Act with the intention that it be acted on as a disclosed matter. The Act provides a maximum penalty of 240 penalty units or two years imprisonment or both.

If a matter is referred to the Ombudsman for investigation and TasNetworks fails to comply with any recommendations made as a result, the Ombudsman may make an adverse report to Parliament. Such matters may also be referred to the Integrity Commission for investigation.

7. References

Other documents or references of information that can be referred to for further information:

- Public Interest Disclosures Act 2002
(http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=ALL;doc_id=16%2B%2B2002%2BAT%40EN%2B20140526140000;histon=;prompt=;rec=;term=public%20interest%20disclosure)
- Ombudsman Tasmania
(http://www.ombudsman.tas.gov.au/publications_and_media/guidelines/pid_guidelines_and_standards)
- Guidelines and Standards for procedures to be followed by Public Bodies
(http://www.ombudsman.tas.gov.au/data/assets/pdf_file/0004/168268/110329_pid_guideline_and_standard_no1_2011_sa.pdf)
- Model procedures issued by the Ombudsman and adopted by TasNetworks
(http://www.ombudsman.tas.gov.au/publications_and_media/model)

Public Interest Disclosures (“Whistleblowers”) Policy

Term	Definition
TasNetworks Group	Includes all legal entities, employees and contractors associated with TasNetworks

8. Contact for enquiries (policy owner)

Company Secretary and General Counsel

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9. Authorisations

Action	Name	Date	Signature
Prepared by	Sarah Pidgeon, Executive Assistant to Company Secretary and General Counsel	4 June 2014	
Reviewed by	Phillippa Bartlett, Company Secretary and General Counsel / Ross Burridge, GM Finance and Business Services	5 June 2014	
	Kate Bradshaw, Corporate Counsel	19 April 2016	
Authorised by	Board		
Review cycle	Every three years or when appropriate		

10. Document Control

Date	Version	Description	Author	Approved by
5 June 2014	0.1	For approval	Phillippa Bartlett	
20 June 2014	1.0	Version for Board approval	Phillippa Bartlett	Board
9 July 2014	2.0	Amendment – Inclusion of approval date	Sarah Pidgeon	
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