



June 2016

Making allegations of corrupt conduct public

Is it in the public interest?

Submission form

Lodging a submission

Send your submission to us by 5pm Thursday 30 June 2016 by any of the following methods:

Online: <www.ccc.qld.gov.au/publicisingallegations/>

Post: Publicising allegations
Crime and Corruption Commission
Policy and Research
GPO Box 3123 Brisbane Qld 4001

Email: publicisingallegations@ccc.qld.gov.au

Fax: 07 3360 6333

We may not consider late submissions.

Do you wish to maintain partial or complete confidentiality?

We will generally publish submissions on our website — including the name of the submitter but no contact details. If you would prefer to maintain partial or complete confidentiality, please indicate your preference by selecting one of the following:

- NAME WITHHELD — PARTIAL CONFIDENTIALITY
I consent to my submission being published on the CCC website, without my name being disclosed.
- CONFIDENTIAL — COMPLETE CONFIDENTIALITY
I do not consent to my submission being published on the CCC website.

If there is no clear selection of one of these alternatives, we will regard any submission (including an anonymous submission) as a public document, and will publish it on our website.

The CCC may quote from your submission or refer to it, either generally or individually, in publications.

Privacy statement

No submission marked as confidential will be published on our website. However, any submission may be subject to disclosure under the *Right to Information Act 2009* and the *Information Privacy Act 2009*, and applications to access submissions will be determined in accordance with those Acts.

If you provide your details, we may contact you to ask whether you consent to further consultation for the purposes of this project.

Your details

Provide as much or as little information as you wish.

Name(s):	<input type="text"/>				
Organisation:	<input type="text" value="Queensland Rail"/>				
Address:	<input type="text"/>				
Phone:	<input type="text"/>	Mobile:	<input type="text"/>	Fax:	<input type="text"/>
Email:	<input type="text"/>				



Your ref: CO-16-0833 / RD
Our ref: 16/76301

Mr Alan MacSporran QC
Chairperson
Crime and Corruption Commission
Level 2 North Tower Green Square
515 St Pauls Terrace
Fortitude Valley Qld 4006

By email only: publicisingallegations@ccc.qld.gov.au

Dear Sir

Publicising allegations of corrupt conduct

I refer to your letter dated 1 June 2016, and the Crime and Corruption Commission's (CCC) discussion paper, titled 'Making allegations of corrupt conduct public: Is it in the public interest?' (**Discussion Paper**). Thank you for providing Queensland Rail with the opportunity to make a submission in relation to the Discussion Paper.

Queensland Rail respects the need for accountability, transparency and openness in government. However, it is Queensland Rail's view that these objectives are not always achieved by making allegations of corrupt conduct public.

From Queensland Rail's perspective, the key risks associated with making allegations of corrupt conduct public are:

- the risk that a public interest discloser may be inadvertently identified by the publication of the allegation of corrupt conduct;
- the risk that the individual the subject of the allegation is identified or identifiable by the publication at a time prior to the allegation being fully investigated;
- the risk that a witness to a corrupt conduct investigation could be identified by the publication; and
- the risk that the identification of the individual the subject of the allegation could damage the individual's reputation, erode their right to receive procedural fairness and natural justice, and cause them to be ostracised at work and in the community.

The consequences of these risks could be particularly severe if the allegations were made concerning persons in a remote or regional community where the publication of allegations (dependent upon their nature) could potentially bring broader ostracism, victimisation and ridicule to the individual concerned and their family. As the rail infrastructure manager of more than 6,500 km of track throughout Queensland, much of Queensland Rail's work occurs in remote and regional areas, which is why this issue is of particular concern to us.

Queensland Rail is mindful that a person's reputation can be damaged simply by being associated

with an allegation of corrupt conduct. In Queensland Rail's view, there is a need to protect the privacy of all individuals involved in allegations made to the CCC.¹

Respectfully, Queensland Rail considers that the risks associated with publicising allegations of corrupt conduct could be mitigated in a manner similar to that recommended by the Honourable Ian Callinan AC and Professor Nicholas Aroney, in their report '*Review of the Crime and Misconduct Act 2001*', dated 28 May 2013 (**2013 Review**).² That is, it is Queensland Rail's view that the *Crime and Corruption Act 2001* (Qld) (**CC Act**) should be amended to prohibit the disclosure by anyone of the fact or substance of a complaint to, or that it is being investigated by, the CCC if that disclosure would tend to identify any person associated with the complaint.

Queensland Rail envisages that this provision would be similar to section 56 of the *Independent Commissioner Against Corruption Act 2012* (SA), but that it be subject to the following exceptions and 'expiring events' which would permit disclosure of the relevant information:³

- the issue of a report by the CCC in which it is found there is sufficient evidence for a person to be charged or for disciplinary proceedings to be commenced;
- the decision by the CCC to hold a public hearing in relation to the matter;
- the Supreme Court authorises the publication or disclosure of information if there is a compelling public interest in doing so;
- the finalisation of the CCC's investigation of the allegation; or
- the person who is the subject of the allegation or investigation, and the discloser of the complaint, authorises the disclosure.

Queensland Rail does not consider that implementing the measures outlined above, or the recommendation proposed in the 2013 Review, will significantly hamper the CCC's transparency and accountability. As the 2013 Review points out, these legislative amendments only prohibit the publication of information which tends to identify a person specifically associated with a complaint submitted to, or an investigation being conducted by, the CCC. The measures proposed in this letter are aimed at protecting complainants, the individuals the subject of a complaint, and witnesses to an investigation. Publication of information about suspected maladministration, misconduct, corruption, or the identity of persons alleged to have perpetrated such matters continues to be governed by the general law, including the law of defamation.⁴

Please contact [REDACTED]
[REDACTED] if you require any further information.

Yours sincerely

[REDACTED]
Helen Gluer
Chief Executive Officer

28 June 2016

¹ These concerns are similar to those raised in the Parliamentary Criminal Justice Committee, *Review of the Operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission* (Part C), report no. 18, Legislative Assembly of Queensland, August 1992, at page 50.

² Chapter 6 of the 2013 Review dealt with this issue in detail. The recommendation was summarised in recommendation 8.

³ Pages 112 and 216 of the 2013 Review.

⁴ Page 109 of the 2013 Review.