

Policy on the Release of Information to the Public



INDEPENDENT
TRANSPORT
SAFETY AND
RELIABILITY
REGULATOR

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1. INTRODUCTION

1 Purpose

As a Regulator the Independent Transport Safety and Reliability Regulator (ITSRR) creates and receives a vast amount of valuable information about the operations of Government and privately owned transport operators. Some of this information is the subject of intense media and public interest. This policy identifies the type of information that ITSRR may consider necessary to release to the public for the safe operation of a transport service as authorised under section 42L of the Transport Administration Act 1988 (TAA), see Attachment A. This policy will ensure that ITSRR adopts a consistent approach to the dissemination of information.

2 Scope

This policy applies to all documents and electronic records and other information held, created and collected by (ITSRR). Section 42L of the Transport Administration Act 1988 relates to the disclosure necessary and desirable for the promotion of safe transport services.

3 Approval Authority Chief Executive Officer

The Chief Executive of ITSRR has the discretion to determine whether or not information or documents should be made public under the provisions of Section 42L Transport Administration Act 1988 and may seek the advice of the Advisory Board in relation to the application of this discretion. This information may be published on the ITSRR Website or released in other ways.

Information that the Chief Executive may consider “necessary” to disclose for the purposes of section 42L includes:

- The regulatory policies and procedures of ITSRR
- The number of statutory and non statutory notices issued to accredited rail operators, their identity and a summary of the nature of their breach
- Information about the reliability of publicly funded transport operators

4 Reference / Informing Documents

In undertaking this responsibility, the ITSRR Determining Officer will adhere to the policies and principles of:

- Transport Administration Act 1988 No 109
- Freedom of Information Act 1989 No 5
- Rail Safety Act 2002 No 96
- Passenger Transport Act 1990 No 39
- The Premiers Department, Freedom of Information Manual
- Privacy and Personal Information Protection Act 1998.
- Health Records and Information Privacy Act 2002



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- New South Wales Ombudsman's Guidelines for Freedom of Information (FOI) applications.
- ITSRR and OTSI Emergency Response Plan and Procedures- Date of Issue: 12 May 2004
- ITSRR Privacy Management Plan
- Annual Report (Statutory Bodies) Act 1984 No 87
- Annual Report (Statutory Bodies) Regulation 2000
- Public Finance and Audit Act 1983 No 152

5 Principles

One of ITSRR's statutory functions is to disseminate information to the public in relation to the safe operation of transport services and the reliability of publicly funded transport services. Also, it is authorised under section 42L of the Transport Administration Act 1988 (See Attachment A) to disclose certain information.

Aside from its statutory obligations to disclose information, as a matter of governance ITSRR is committed to the highest levels of transparency in the exercise of its functions. The ITSRR corporate plan identifies transparency as a key corporate value of ITSRR.

The Corporate Plan states "we are open with the community and industry about our practices and policies, the information we collect and analyse and the decisions we make."

The practical application of this key corporate value collectively with ITSRR's statutory obligations to release and disclose information means that ITSRR will generally make information publicly available except where there are restrictions on its disclosure such as to protect the privacy of individuals or commercial interests. Restrictions on disclosure will also apply under the *Freedom of Information Act 1989*.

6 Requests for information by the media or member of the public

The Manager of Strategic Communications is responsible for dealing with requests for information from the media.

Most often these media requests will be for information that is not already publicly released pursuant to any statutory requirement or has been prepared for the purposes of being publicly released.

The granting of requests for information, including access to documents, will be guided by the principle of a presumption in favour of release except where other restrictions apply to the release of the information (for example commercially sensitive material, privacy, breach of confidence). In some cases, ITSRR will require the request for information to be made through an application under the FOI Act as it is only through this process that a person secures a legally enforceable right to access information.



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Except where disclosure is otherwise required or determined by ITSRR under the FOI Act, as a general guide ITSRR **will not release** information relating to:

- the allocation of ITSRR resources or its operations where disclosure is likely to reduce the effectiveness of any future regulatory action or investigation.
- Information of a commercially sensitive nature.
- the conduct, progress and results of an incomplete investigation conducted by ITSRR outside of Interim Factual Statements or any RISN.
- Individuals, where it constitutes “personal information” within the meaning of the *Privacy and Personal Information Act 1998*.
- A confidential report of a safety matter under section 46E of the Passenger Transport Act; or Section 65A of the Rail Safety Act.
- The content of draft reports, audit reports, compliance investigation reports, compliance inspections.
- Reports prepared for the consideration of Cabinet or a Sub Committee of Cabinet.
- Any ongoing disciplinary action taken against any member of staff of ITSRR.
- Information that has legal protection or is legally privileged.
- Annual Safety Audits of accredited rail operators.
- Information where disclosure could impact on public safety or the safe operation of transport services.



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Attachment A

Transport Administration Act 1988 No 109

42L Disclosure of information by ITSRR

- (1) The ITSRR may, if the ITSRR thinks it necessary for the safe operation of a transport service, disclose information acquired by the ITSRR in the performance of the ITSRR's functions under this or any other Act to any other person.
- (2) The ITSRR may, if the ITSRR thinks it desirable for the promotion of the safe operation of a transport service, publish any information, including the report of a rail safety inquiry or a transport safety inquiry.
- (3) A publication under subsection (2) must not identify a person by name.
- (4) This section does not apply to the disclosure of the whole or part of a train safety record to the Commonwealth or an authority of the Commonwealth under the Rail Safety Act 2002.
- (5) This section does not permit the disclosure of information in contravention of section 65A of the Rail Safety Act 2002 or section 46E of the Passenger Transport Act 1990.
- (6) Sections 72 and 73 of the Rail Safety Act 2002 do not apply to a disclosure permitted under this section.