

# Operational Policy

## Resources Safety and Health

### Policy for Making Public Statements

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## Purpose

Resources Safety and Health (RSH) is responsible for promoting, improving and regulating the safety and health of workers in the mining, explosives and petroleum and gas industries in Queensland.

RSH undertakes compliance and enforcement activity with the goal of achieving a safe and healthy industry that benefits all Queenslanders.

As part of its activities, RSH recognises the importance of sharing information with industry, workers and the public as an essential part of:

- raising awareness about risks that may affect the safety and health of workers and the broader community
- promoting good safety and health practice in industry
- deterring practices and behaviours that endanger the safety and health of workers and the broader community.

Therefore, it is RSH's policy to make public statements containing information and details of incidents and compliance activity ("public statement") where doing so assists in advancing these purposes.

This document is primarily concerned with the publication of information about incidents, investigations and compliance activities of RSH. It is not intended to restrict the sharing or dissemination of information, nor set rigid procedures for doing so. Each case will depend on its own circumstances. RSH also publishes information and advice that may be about risks or other safety and health matters generally and not concerned with specific incidents.

# Policy Determination

## Publication principles

A public statement may be made where it is in the public interest to do so. In determining whether or not it is in the public interest to make a public statement in a particular case, the decision-maker may have regard to matters such as the following principles (“the publication principles”):

- whether the facts of the incident or activity involve a risk to safety and health of sufficient importance that publication is warranted to warn of risk to workers or the broader community
- whether publication would have a deterrent effect on substandard or undesirable behaviour with regard to safety and health
- whether there is any other reason for making the public statement in the public interest.

## Decision to publish

Under legislation administered by RSH, certain office-holders, including the chief executive and the chief inspector, are provided with express powers to make public statements about specific matters. These powers (“the publication powers”) are:

- section 275AC of the *Coal Mining Safety and Health Act 1999* (“the Coal Act”)
- section 254C of the *Mining and Quarrying Safety and Health Act 1999* (“the MQ Act”)
- section 126C of the *Explosives Act 1999* (“the Explosives Act”)
- section 851A of the *Petroleum and Gas (Production and Safety) Act 2004* (“the P&G Act”).

Statements that include personal information or commercially sensitive information may only be made under the publication powers.

The Executive Director, Resources Safety and Health has been delegated the publication powers by the chief executive.

For matters not falling within the publication powers, the Executive Director, Resources Safety and Health or the relevant chief inspector will decide whether or not to publish a statement.

Generally, publication will be on the department’s website. However, the decision-maker should consider whether the circumstances warrant other modes of communication – for example, circulation to all site senior executives and industry safety and health representatives.

## Content of publication

If, having regard to the publication principles, the decision-maker decides to make a public statement, the contents of the public statement are subject to the following considerations.

a. No suggestion of guilt prior to trial or sentence

Any statement that is published must not suggest or pre-empt a determination of guilt of any party to a potential offence in a matter that is yet to be prosecuted.

Where an entity is prosecuted and has been found guilty of, or has pleaded guilty to, an offence, RSH may publish details of the conviction.

b. Identification of individuals or commercially sensitive information

Public statements may only identify personal details about individuals or commercially sensitive information in circumstances where the publication powers apply, namely, in any of the circumstances set out below.

*Under section 275AC of the Coal Act and section 254C of the MQ Act:*

- where the publication concerns offences committed against the Act. This should only occur following a finding of guilt by a court, or a plea of guilty.
- where the publication concerns an investigation, conducted under the Act, in relation to a serious accident (e.g. release of an investigation report about a fatality).
- where the publication concerns action taken by the inspectorate to enforce the Act (e.g. publishing details of a directive issued to a mine in respect of substandard safety practice may serve as a deterrent to substandard safety practice).
- the cancellation of a certificate of competency (by an industrial magistrate following conviction, or by the Board of Examiners).

*Under section 126C of the Explosives Act:*

- where the publication concerns offences committed against the Act. This should only occur following a finding of guilt by a court, or a plea of guilty.
- where the publication concerns an investigation or inquiry into an explosives incident conducted under the Act (e.g. release of an investigation report).
- where the publication concerns action taken by the inspectorate to enforce the Act.
- the suspension or cancellation of an authority under section 24 or 25 of the Act.

*Under section 851A of the P&G Act:*

- where the publication concerns offences committed against the Act. This should only occur following a finding of guilt by a court, or a plea of guilty.
- where the publication concerns an investigation under the Act (e.g. release of an investigation report).
- where the publication concerns action taken by the inspectorate to enforce the Act.

The publication powers permit, but do not require, identification of individuals or commercially sensitive information in these circumstances. It is a matter for the decision-maker to determine whether publication of this information is warranted under the publication principles. The decision-maker should consider whether, in the specific circumstances of the case, identification of this information would be unfair or prejudicial to any party, and whether this would be in the public interest.

*Where the publication powers do not apply*

Public statements may also be made that are consistent with the publication principles but where the publication powers do not apply. Examples include:

- statements about incidents where no enforcement action is taken but the decision-maker considers that publishing details about the incident will raise awareness of risks or hazards
- reports of investigations of incidents other than serious accidents under the Coal Act or MQ Act (e.g. an investigation report of a high potential incident).

Where the publication powers do not apply, the published statement must not identify personal details about individuals, nor disclose any commercially sensitive information.

c. Natural Justice

If the decision-maker proposes to make a public statement which identifies parties or commercially sensitive information, those affected must be afforded natural justice.

The decision-maker will write to the relevant party, including a copy of the proposed public statement and advising the party:

- that the decision-maker proposes to make the public statement
- of the time and manner of publication that is proposed (e.g. by posting on the department's website from a stated day)
- that prior to making any decision about publishing, the decision-maker will take into consideration any representations the party makes, which are received by a time stated by the decision-maker.

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