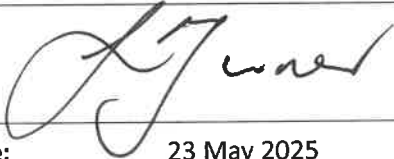




Whistleblower Policy

Purpose	This Policy is designed to promote integrity and accountability within CLC, facilitate and encourage the making of Public Interest Disclosures, ensure any CLC employees or any other public officials who make public interest disclosures are supported and protected from adverse consequences relating to the disclosures, and ensure disclosures are properly investigated and dealt with.
Scope	This policy applies to all Central Land Council (CLC) employees, former employees, contractors, consultants, Council Members and other public officials.
Related Documents	<ul style="list-style-type: none">• Code of Conduct• Code of Conduct for Council Members• Fraud Strategy Statement• Fraud & Corruption Control Policy• <i>Public Interest Disclosure Policy 2013 (Cth)</i>• <i>Public Interest Disclosure Standard 2013 (Cth)</i>• <i>Public Interest Disclosure Rules 2025 (Cth)</i>• <i>Public Governance, Performance and Accountability Act 2013 (Cth)</i>• <i>National Anti-Corruption Commission Act 2022 (Cth)</i>
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Signature	
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1. Purpose

1.1 The Central Land Council ('CLC') is committed to the highest standards of legal and ethical behavior. The CLC does not tolerate corruption, fraud or criminal or other improper conduct.

1.2 The CLC recognizes that these types of wrongdoing are likely to be first identified by its employees, or other people who are involved in the everyday operations of the organisation (e.g. contractors or Council Members).

1.3 The CLC has obligations to protect people who make reports about wrongdoing (known as 'whistleblowers') and others who assist with a report, and to follow certain processes once a report is made. These obligations are set out in the *Public Interest Disclosure Act 2013* ('**PID Act**'). A report of wrongdoing made under this Policy and the PID Act is called a Public Interest Disclosure ('**PID**').

1.4 The CLC is a Corporate Commonwealth entity under the provisions of the *Public Governance, Performance and Accountability Act 2013* (Cth) ('**PGPA Act**'). The CLC is mandated by the PGPA Act and the *Public Governance, Performance and Accountability Rule 2014* ('**PGPA Rule**') to have effective governance systems in place to ensure that the funding it receives is used appropriately, and to detect and respond to fraud and corruption. This policy is part of the CLC's response to its obligations under the PGPA Act and PGPA Rule.

1.5 The principles upon which this Policy is based are transparency, a culture that encourages employees and others to speak up about wrongdoing, and care and support for people who report wrongdoing and also those who are the subject of reports.

1.6 This Policy explains:

- what a PID is and what types of PIDs the CLC can receive
- who can make reports that are protected by this Policy (someone who makes such a report is called a 'discloser')
- what kinds of behaviour reports can be made about
- how a report can be made
- how a person will be protected and supported if they make a report under this Policy or provide assistance in relation to a report (including protecting the person's identity)
- the steps that will be followed once a report is made

1.7 The Procedure annexed to this Policy at Annexure B – CLC PID Procedure ('**the Procedure**')



provides more detail about the protections for disclosers and witnesses, and the key roles and steps involved in allocating and investigating a PID.

2. Aims

This Policy aims to:

- Minimise the risk of illegal, corrupt, fraudulent, or other improper conduct
 - Promote integrity and accountability within the CLC
 - Create an environment of transparency
 - Encourage, protect and support those who make reports of misconduct or may be considering making such reports, and those who provide assistance in relation to the investigation of a report
 - Provide thorough and effective reporting and investigation process in relation to PIDs
-

3. Advice and location of this Policy

- 3.1 This Policy will be available to all staff via the Intranet and to the public via the CLC website.
 - 3.2 References to this Policy will progressively be included in associated policies.
 - 3.3 For advice or information about this Policy please contact one of the Authorised Officers listed in clause 8.3 or talk to your manager or supervisor.
-

4. What is a Public Interest Disclosure

- 4.1 Not all disclosures of information about wrongdoing will be a Public Interest Disclosure for the purposes of the PID Act or this Policy. Under the PID Act, there are five categories of Public Interest Disclosure, being:
 - Internal Disclosures
 - External Disclosures
 - Emergency Disclosures
 - Legal Practitioner Disclosures
 - National Anti-Corruption Commission ('NACC') Disclosures
 - 4.2 For a report to be a Public Interest Disclosure ('PID'), it must:
 - Be made by a Public Official (see clause 5 for more information about who is a Public Official)
 - Be made to a particular person (who that person can be will change depending on the category of PID)
 - Meet a number of other requirements in terms of information that is disclosed (what these requirements are will change depending on the category of PID)
 - 4.3 This Policy deals with Internal Disclosures, as this is the type of disclosure most relevant to CLC employees and other eligible disclosers.
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- 4.4 More information about the requirements for making the other types of PIDs is provided at **Annexure A - Requirements for Public Interest disclosures other than Internal Disclosures.**

Internal Disclosure

- 4.5 An Internal Disclosure is a disclosure of information where:
- it is made by a Public Official, including someone who is, or has been, an employee of the CLC (clause 5 explains who is a Public Official);
 - the recipient of the information is an Authorised Officer, or a supervisor or manager of the discloser (clauses 5 and 6 explain when a disclosure must or can be made to an authorised officer of agency other than the CLC);
 - the information disclosed tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of disclosable conduct; and
 - the disclosure is not part of the Public Official's ordinary functions.
- 4.6 For the purposes of determining whether a disclosure of information is an Internal Disclosure, when considering whether information 'tends to show' disclosable conduct (or a discloser believes on reasonable grounds that it does), information that is just an allegation with nothing to support it will not be enough. However, a discloser does not have to prove their allegation. They only need to give enough information to put the organisation on notice that disclosable conduct is happening or may have happened.

5. Who can make an Internal Disclosure to the CLC?

- 5.1 Anyone who is a Public Official who belongs to the CLC can make an Internal Disclosure to the CLC. The term 'Public Official' is defined in the PID Act. Under the PID Act and this policy, Public Officials who belong to the CLC include current and former:
- Employees of the CLC (including part time, casual, and fixed-term or temporary employees)
 - Suppliers of services or goods to CLC and their officers and employees (e.g. current and former contractors, consultants, service providers and business partners)
- 5.2 A Public Official who belongs to another agency can only make an Internal Disclosure to the CLC if the disclosure is about a Public Official who belongs to the CLC. For example, a CLC Member (who 'belongs' to the Department of Prime Minister and Cabinet) can make an Internal Disclosure to the CLC if they are making a disclosure about a Public Official who belongs to the CLC (e.g. a CLC employee).



- 5.3 An Authorised Officer may also determine to treat a person who is not a Public Official as a Public Official if the Authorised Officer believes the person has disclosed or plans to disclose information about disclosable conduct. This will be most appropriate where a disclosure is about more serious disclosable conduct, or where more specific information is provided in the report. An Authorised Officer may make this determination on their own initiative, or at the request of the person. Examples of people an Authorised Officer may treat as a Public Official include:
- A relative, dependent or spouse of a Public Official (e.g. the partner of a CLC employee)
 - An intern or secondee who has performed work at the CLC
 - A person who makes a report anonymously (and so it is not known whether the person is a Public Official)
- 5.4 If an Authorised Officer makes a determination under clause 5.3, they must write to the person the determination is about to tell them they will be treated as a Public Official for the purpose of the disclosure.

6. What to report under this Policy?

- 6.1 A Public Official can make a report if they reasonably believe their report is about disclosable conduct. The following section explains the term 'disclosable conduct' as it is used in the PID Act and in this Policy.

Disclosable conduct

- 6.2 Disclosable conduct is conduct engaged in by an agency or any Public Official. In the CLC's context, it may include conduct engaged in by the following:
- the CLC
 - an employee or former employee of the CLC, in connection with that person's position as an employee
 - a CLC Member or former CLC Member in connection with that person's position as a Member
 - a member or former member of the CLC's Audit and Risk Committee, in connection with that person's position as a member of that committee
 - a contracted service provider for a contract to which the CLC is a party, under which goods and services are to be, or were to be, provided to the CLC or for or on behalf of the CLC, in connection with the CLC's functions or powers in connection with entering into, or giving effect to that contract
- 6.3 In addition to the requirements of clause 6.2, disclosable conduct must also be at least one of the following:



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- (a) A contravention of a law of the Commonwealth, a State or a Territory;
- (b) Fraud or corruption;
- (c) Perverting or attempting to pervert the course of justice;
- (d) Conduct that results in a wastage of public funds or property;
- (e) Maladministration, including conduct that is based upon improper motives, is unreasonable, unjust or oppressive, or is negligent;
- (f) Conduct that is an abuse of public trust
- (g) Conduct that is an abuse of the person's position as a Public Official ;
- (h) Conduct that, if proved, would give reasonable grounds for terminating the Public Official's appointment or employment
- (i) Conduct that results in the wastage of public money or property;
- (j) Conduct that unreasonably results in a danger to the health or safety of one or more persons, or unreasonably results in, or increases, a risk of danger to the health and safety of one or more persons;
- (k) Conduct that results in a danger to the environment, or results in or increases, a risk of danger to the environment.

7. What is not covered by this Policy?

Ordinary duties

- 7.1 If a report is made as part of the discloser performing their ordinary functions as a Public Official (e.g. as a CLC employee) the report is not a PID, and so not covered by this Policy. An example of this would be the routine reporting of a work health and safety incident.

Reports by a Council Member about another Council Member

- 7.2 A report by a Council Member about another Council Member cannot be made to the CLC as a PID, and so is not covered by this Policy. Reports of this type can be made to the Department of Prime Minister and Cabinet, or, in some circumstances, the Commonwealth Ombudsman.

Personal work-related conduct

- 7.3 Personal work-related conduct is generally not disclosable conduct and is therefore NOT covered by this Policy.
- 7.4 Personal work-related conduct is action taken by one Public Official in relation to another Public Official's engagement, appointment, employment or exercise of functions and powers that has or might have personal implications for the second Public Official.



Examples of personal work-related conduct include:

- an interpersonal conflict between the discloser and another employee (e.g. bullying or harassment);
- a decision by a manager at the CLC that does not involve a breach of workplace laws;
- the engagement, transfer, or promotion of the discloser;
- a decision about the discloser's terms and conditions of engagement;
- suspending or terminating the engagement of the discloser, or taking other disciplinary action against them.

7.5 Concerns that relate solely to personal work-related conduct may be addressed under other CLC policies, including the CLC Grievance Handling Policy, Anti-Discrimination Policy or Workplace Bullying Policy.

7.6 Personal work-related conduct only becomes disclosable conduct if it falls into one of the categories listed above at clause 6.3 and is:

- A reprisal for making a PID, or
- Of such a significant nature that it would undermine public confidence in the CLC, or have other significant implications for the CLC

7.7 If a single disclosure relates to both disclosable conduct and personal work-related conduct, it will be treated as an Internal Disclosure.

8. How to make a disclosure under this Policy

8.1 If you witness or have information about disclosable conduct at CLC, we want you to feel safe in reporting it. For a range of reasons, you may feel more comfortable reporting wrongdoing in a particular way. This section of the Policy sets out who you can make a report to, and how to do it.

8.2 You can report your concerns confidentially at any time via email, letter, telephone (anonymously, if you prefer) or in person.

Who to make a report to

8.3 You can report disclosable conduct to your supervisor or manager, or to the following authorised Officers:



Authorised Officers			
Name	Mr Lesley Turner	Dr Josie Douglas	Ms Mischa Cartwright
Position	Chief Executive Officer	General Manager, Professional Services	General Manager, Regional and Development Services
Phone	08 8951 6201	08 8958 2803	08 8951 6203
Email:	PID@clc.org.au NB: this email goes to ALL Authorised Officers		

- 8.4 Where the disclosable conduct does not relate to your supervisor or manager, we encourage you to report any concerns to them. They will then be responsible for ensuring that the disclosure information received is then confidentially provided to an Authorised Officer. An Authorised Officer will assess the information and may refer the disclosure for investigation in line with the Procedure.
- 8.5 Supervisors and managers who receive information from someone they supervise or manage that they believe is about or could be about disclosable conduct (even if the discloser didn't say they were making a PID) must:
- Inform the discloser that it could be treated as an Internal Disclosure under the PID Act and this Policy;
 - Explain to the discloser the procedure by which the disclosure will:
 - be given to an Authorised Officer,
 - allocated to an agency to investigate (usually this will be within the CLC, but rarely it could also be allocated another agency, such as the Commonwealth Ombudsman)
 - If allocated to the CLC, be investigated by the CLC's PID Investigation Officer
 - Advise the discloser that the disclosure may be referred to another agency, person or body (i.e. internally within the CLC or externally) if the PID Officer considers it would be more appropriate for the disclosure to be dealt with under another law or power.
 - Explain to the discloser that people who make a PID, and those who provide assistance in relation to a PID (e.g. by answering questions or providing documentation) are protected against reprisals (see clause 10.3 for more information about what a reprisal is); and
 - As soon as reasonably practicable, give the disclosure information to the CEO or PID Officer.
- 8.6 If a supervisor or manager receives information that they think tends to show disclosable conduct, but they are unsure of this, they should err on the side of caution and provide the



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information to an Authorised Officer. In these circumstances the supervisor or manager should also explain to the discloser the matters listed at clause 8.5

Reporting to the Commonwealth Ombudsman

- 8.7 The CLC encourages you to make a disclosure to CLC via the above channels in the first instance as we have procedures in place to effectively deal with any reports of disclosable conduct. However, if you believe it would be appropriate for the disclosure to be investigated by the Commonwealth Ombudsman, you can make the report to them. Please see the Commonwealth Ombudsman's website for more information on how to make a report - <https://www.ombudsman.gov.au/>
- 8.8 If your report of disclosable conduct relates to an Authorised Officer, or someone close to them (e.g. a family member of an Authorised Officer) you should report the matter directly to a different Authorised Officer (i.e. do not use PID@clc.org.au which goes to all Authorised Officers, but use a method such as reporting in person or over the phone, or consider whether it would be more appropriate to report to the Commonwealth Ombudsman.
- 8.9 In the case of a report of disclosable conduct in relation to the CEO, the CLC encourages you to consider reporting this directly to the Commonwealth Ombudsman.

Where protections will not apply

- 8.10 If you do not make your report of disclosable conduct to your supervisor or manager, an Authorised Officer or the Commonwealth Ombudsman, it cannot be considered a PID. This means you will not have the protections provided to a person who makes a PID under this Policy and the PID Act.

How much information should be reported?

- 8.11 You should provide as much specific detail in your report as you can, including:
- Your name and contact details (unless you wish to remain anonymous, which you are entitled to do);
 - The nature of the disclosable conduct;
 - Who you believe has committed the disclosable conduct;
 - When and where the disclosable conduct occurred;
 - Relevant circumstances and events surrounding the conduct;



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- Describing any action you have already taken in response to the disclosable conduct (please note the CLC does not encourage you to gather any evidence or carry out any investigations yourself);
- Names of other people who may know about the disclosable conduct and may have allowed it to continue;
- Names of any people who witnessed what happened or who may be able to verify the allegation;
- Any concerns you have about possible reprisals as a result of making the disclosure; and
- Any supporting information or documents you have.

False reports

- 8.12 When reporting disclosable conduct, you must have reasonable grounds to believe the conduct amounts to disclosable conduct. You do not have to have firm evidence to support that belief, but your belief must be reasonable in the circumstances.
- 8.13 If you report a concern that is subsequently found not to be substantiated, you will not be penalised for this. However, it is a serious breach of this Policy to knowingly make a false report of disclosable conduct against another person. This can lead to significant emotional harm to the person against whom a false allegation is made. If it is established you knowingly made a false report, disciplinary action will be taken against you, up to and including dismissal.

Anonymous reports

- 8.14 If you make a report of disclosable conduct, it is our preference that you provide your contact details so that we can make any necessary follow-up enquiries with you. However, you may choose to report your concerns anonymously (you do not have to give your name to anyone). However, if we cannot contact you at all, we will not be able to:
- ask for further information, which may inhibit a proper and appropriate inquiry or investigation into your report; or
 - provide you with feedback on the progress or outcome of your report.
- 8.15 If you choose to remain anonymous, we would prefer that you make your disclosure via email to PID@clc.org.au so that we can respond to your email.

Confidentiality

- 8.16 If you make an Internal Disclosure, we will keep your identity confidential. This means that nobody is permitted to disclose or use information that is likely to enable you to be



identified as a person who made a disclosure under this Policy, unless:

- it is for the purposes of the PID Act;
- it is reasonably necessary for investigating the issues raised in the disclosure
- it is for the purpose of referring the disclosable conduct for investigation under another law or power
- it is for the purpose of complying with a Commonwealth, state or territory law; or
- it is necessary to protect you against a reprisal for making the report.

8.17 The CLC will take all reasonable steps to reduce the risk that you will be identified as a person who made a report of disclosable conduct, including:

- training all staff, including Authorised Officers, supervisors and managers about the importance of maintaining confidentiality and how to do so;
- removing as much identifying information as possible when your disclosure is provided to an investigator; and
- in relation to a PID, keeping all records relating to the disclosure (both hard copy and electronic) in a secure location with access restricted to authorised officers, and those who are involved in investigating or otherwise handling the disclosure only. Ensuring communications and documents relating to a PID are not sent to an email address to which other staff have access.

What will happen to my concern once I report it?

8.18 If you have made a report of disclosable conduct to your supervisor or manager, they will confidentially pass it on to an Authorised Officer. The steps the Authorised Officer will take after they receive a report from a supervisor or manager, or directly from you are set out in detail in **Annexure B - CLC PID Procedures**.

8.19 You should be aware that once a disclosure has been made, it is up to the CLC to determine the steps that will be taken in relation to it, including whether an investigation will occur, and the recommended outcomes of any investigation. The CLC will listen to your views about the disclosure, however it must follow this Policy, the Procedure set out in Annexure B and the requirements of the PID Act.

9. Allocation and investigation

Assessment and allocation

9.1 All disclosures will be taken seriously and carefully assessed by an Authorised Officer. The main function of an Authorised Officer is to determine what initial action should be taken in relation to a disclosure. The Authorised Officer must try to make a decision about allocating a disclosure within 14 days of receiving it.



- 9.2 Once an Authorised Officer receives a disclosure of suspected wrongdoing, the possible ways they can deal with the matter are as follows:
- If they are satisfied the disclosure is an Internal Disclosure and it is appropriate to investigate, the report will usually be allocated to the CLC for the matter to be investigated as a PID (or in some instances, another agency); or
 - If they are satisfied the report is an Internal Disclosure, but consider it would be more appropriately investigated under another law or power, take steps to refer the disclosure (externally or internally to the CLC); or
 - If they are satisfied the report is not an Internal Disclosure, it cannot be allocated or investigated under this Policy. This could mean that no further formal action will be taken. However, if appropriate, the disclosure may instead be referred to any other appropriate part of the CLC for steps to be taken.
- 9.3 The details of the process of an Authorised Officer assessing and determining whether to allocate a disclosure are set out in the Procedure.

Investigation

- 9.4 When an Internal Disclosure is allocated to the CLC for investigation, the PID Investigation Officer will oversee this process. The PID Investigation Officer also has the discretion to decide not to investigate a disclosure in the circumstances set out in the Procedure.
- 9.5 The CEO has delegated the role of PID to the Strategy and Performance Manager.
- 9.6 Further details about investigations, including the role of the PID Investigation Officer and the written records that must be kept of certain decisions and details are set out in the Procedure.

Referral to the National Anti-Corruption Commission

- 9.7 The CEO, PID Investigation Officer and Authorised Officers are all required under the *National Anti-Corruption Commission Act 2022* to refer disclosures involving serious or systemic corrupt conduct to the National Anti-Corruption Commission ('NACC').
- 9.8 After any referral to NACC, work must continue on a disclosure unless the NACC issues a 'stop action direction' that prevents this. Further information about the effect of a stop action direction issued in relation to a disclosure, and the associated notification requirements, can be found in the Procedure.

What will I know about the investigation?

- 9.9 When an Internal Disclosure is allocated to the CLC for investigation, the CLC will maintain regular communications with the discloser and aim to provide updates about the progress of any investigation every two weeks until the investigation is completed. In giving these updates, the CLC will provide an appropriate level of detail taking into consideration the confidentiality of the investigation and the privacy of other people involved in the investigation.

How will the investigation be carried out?

- 9.10 The exact process, extent of the investigation activities and timeframes are at the discretion of the PID Investigation Officer and will vary depending on the nature and complexity of the conduct and circumstances involved. However an investigation of an Internal Disclosure conducted by the CLC will be conducted in a fair and objective manner in accordance with the requirements set out in the Procedure.

10. Protections and support

- 10.1 The CLC is committed to providing our employees, contractors, suppliers, and others with an environment in which they can safely raise concerns about wrongdoing.
- 10.2 We will take all reasonable steps to protect Public Officials who belong to the CLC, including assessing the risks to disclosers or any other Public Officials and developing an appropriate support plan. More detailed information on the steps the CLC will take can be found in **Annexure B – CLC PID procedures**.
- 10.3 We will not tolerate anyone taking a reprisal against another person in relation to a PID reported under this policy. A reprisal happens when someone causes detriment to another person because they believe or suspect that person, or someone else, may have made, intends to make, or could make a PID. The CLC will take disciplinary action against any employee who takes a reprisal against another person in relation to a PID.
- 10.4 Under this Policy, detriment includes:



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- Terminating an employee;
- Disadvantaging an employee (e.g. loss of pay, loss of promotion opportunity, suspension)
- Changing an employee's position or duties to their disadvantage;
- Discriminating between two employees;
- Harassment or intimidation;
- Harm or injury to a person, including psychological harm;
- Damage to a person's property, reputation, business, or financial position.

10.5 An action that is reasonable to protect a person from detriment (e.g. moving a person from their normal work area to ensure they are not harassed) is not a reprisal. However, the person affected should be consulted before any such action is taken.

10.6 If you have been involved or implicated in any wrongdoing which you have reported under this Policy, the CLC may take that into consideration when considering an appropriate sanction to be applied to you for that conduct. However, reporting under this Policy does not protect you from the consequences of your own wrongdoing, and will not give you immunity from disciplinary action or from regulatory or criminal actions.

10.7 Nothing in this Policy stops the CLC from taking steps to address any unsatisfactory work performance of a person who makes a PID (or any other person), or addressing disciplinary issues unrelated to the making or potential making of a PID.

11. Breaching confidentiality or taking a reprisal

11.1 A person must not:

- disclose the identity, or information that may lead to the identification, of a person who has made a PID, other than in accordance with the PID Act and this Policy (see clause 8.16)
- engage in conduct that causes any detriment to any other person because that person or someone else has, may, could or proposes to make a PID
- Threaten to cause any detriment to any other person because that person or someone else has, may, could or proposes to make a PID.

11.2 The CLC takes its obligations to support Public Officials to make PIDs very seriously, and as such will take disciplinary action, up to and including dismissal, against any employee who does any of the things in clause 11.1. The CLC may also be liable for the actions of its employees if those actions occur.

11.3 Separately from any action taken by the CLC, it may be a criminal offence if a person engages in any of the conduct listed at clause 11.1. They may also be fined by a court, or



required to pay compensation to the person they took the action against.

11.4 If you have made a disclosure under this Policy and believe that:

- your confidentiality has been breached; or
- you have suffered or been threatened with detrimental action for making a report;

please report your concerns to your supervisor, manager, an Authorised Officer or the PID Investigation Officer so the action can be taken to investigate and protect you from reprisals. You can also report such conduct to the Commonwealth Ombudsman.

11.5 The PID Act contains a number of legal protections for people who make PIDs. Some of these protections are also protections under this Policy. Others include things that apply if there are court or tribunal proceedings (e.g. a discloser is not required to disclose their identity to a court or tribunal). You should refer directly to the PID Act for further information about the legal protections it provides.

12. Monitoring and review of this Policy

12.1 This Policy will be reviewed annually by the CLC and updated if necessary.

12.2 The PID Investigation Officer will provide information and assistance to the Commonwealth Ombudsman as requested in relation to the preparation of reports, and monitor and report on the effectiveness of this Policy to the Audit & Risk Committee.



ANNEXURE A – Requirements for Public Interest Disclosures other than Internal Disclosures

In addition to Internal Disclosures, there are several other types of Public Interest Disclosures Public Officials can make. The requirements to be met for each before protections under the PID Act would apply are summarised below, but eligible disclosers should carefully check the requirements of the PID Act (and, for a NACC disclosure, the *National Anti-Corruption Commission Act 2022* (Cth)).

More information on each of the types of PIDs summarised below can be found on the Commonwealth Ombudsman's website: [Commonwealth Ombudsman Public Interest Disclosures - Information for Disclosers](#).

External disclosures

An external disclosure can be made, to any person (other than a foreign public official), but only if:

- (a) The information tends to show, or the discloser believes on reasonable grounds that the information tends to show one or more instances of disclosable conduct;
- (b) The discloser has previously made an internal disclosure that consisted of, or included, the information now disclosed;
- (c) Any of the following apply:
 - A disclosure investigation was conducted (under Part 3 of the PID Act) in relation to the conduct being the subject of the internal disclosure and the discloser believes on reasonable grounds that the investigation, or the response to the investigation, was inadequate;
 - A disclosure investigation was conducted in relation to the internal disclosure (whether or not under Part 3 of the PID Act) and the discloser believes on reasonable grounds that the response to the investigation was inadequate;
 - A disclosure investigation was required to be conducted but was not completed within the required time limit (usually 90 days unless an extension is provided by the Commonwealth Ombudsman).
- (d) The disclosure is not, on balance, contrary to the public interest;
- (e) No more information is publicly disclosed than is reasonably necessary to identify one or more instances of disclosable conduct;
- (f) The information does not consist of, or include intelligence information.
- (g) None of the conduct with which the disclosure is concerned relates to an intelligence agency.

Emergency disclosures

An emergency disclosure can be made to any person (other than a foreign public official), where:

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- (a) The discloser believes, on reasonable grounds that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the environment.
- (b) The extent of the information disclosed is no greater than is necessary to alert the recipient to the substantial and imminent danger;
- (c) If the discloser has not made an internal disclosure of the same information, there are exceptional circumstances justifying why you did not make an internal disclosure;
- (d) If the discloser has previously made an internal disclosure of the same information, there are exceptional circumstances justifying an emergency disclosure being made before a disclosure investigation of the internal disclosure is completed;
- (e) The information does not consist of, or include, intelligence information.

Intelligence Information is defined in the PID Act. It includes information that originated with or has been received from an intelligence agency (such as the Australian Security Intelligence Organisation). Intelligence information also includes information about operations of an intelligence agency, information from public officials of other countries, certain information from the Australian Defence Department, and information that might prejudice Australia's law enforcement interests.

Legal practitioner disclosure

A legal practitioner disclosure can be made for the purpose of seeking legal advice about making another kind of PID. A legal practitioner disclosure can be made where:

- (a) The recipient of the disclosure is an Australian Lawyer who holds a practising certificate
- (b) The disclosure is made for the purpose of obtaining legal advice, or professional assistance, from the recipient in relation to the discloser having made, or proposing to make, a public interest disclosure;
- (c) If the discloser knew, or ought reasonably to have known, that any of the information has a national security or other protective security classification, the recipient holds the appropriate level of security clearance;
- (d) The information does not consist of or include intelligence information.

NACC disclosure

A NACC disclosure can be made if:

- (a) It is made to the National Anti-Corruption Commission
- (b) The information disclosed tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of Disclosable Conduct
- (c) The disclosure provides information about whether a person has, is or will engage in corrupt conduct. Corrupt conduct includes conduct that might affect proper performance of a public official's powers or duties, conduct of a public official that involves a breach of public trust, an abuse of that person's office or the misuse of information or documents.

For more information about NACC disclosures, refer to information about the NACC published by the Attorney-General's Department: [National Anti-Corruption Commission](#)

It is important that you understand the requirements for making any of the above public interest disclosures. If in doubt, and to ensure you are protected by law, you should seek independent legal advice before making an external, emergency or NACC public interest disclosure.



ANNEXURE B – CLC PID Procedure

1. This procedure is to be read in conjunction with the CLC's Whistleblower Policy ('the Policy').

Roles and responsibilities, investigation outcomes and support

Authorised Officers - Roles and Responsibilities

2. Each Authorised Officer should be aware of their obligations under this Policy and the PID Act. They must operate independently of management when carrying out their functions as an Authorised Officer.
3. The person undertaking the role of an Authorised Officer should have the appropriate background, experience and skill set to manage the defined roles and responsibilities, as outlined below.
4. Overall, each Authorised Officer will be responsible for the following in relation to a disclosure, outlined further in this Procedure:
 - Providing advice to Public Officials about the PID process
 - Adhering to confidentiality requirements set out in the Policy
 - Assessing allegations of wrongdoing and determine if they constitute an Internal Disclosure
 - Making a decision about allocating a disclosure, including allocating it to the CLC or another agency, referring it for investigation under another law or power, or taking no further steps
 - Assessing the risk of reprisal against Public Officials in relation to disclosures, and taking reasonable steps to protect them against reprisals
 - Notifying the NACC of serious or systemic corrupt conduct
 - Making notifications and records of their decisions
5. If an Authorised Officer receives a disclosure that may cause a conflict of interest (e.g. because it involves a person in their reporting line that is senior to them, or involves a family member), then the Authorised Officer should refer the matter to a different Authorised Officer to deal with and have no further involvement with the matter.
6. If an Authorised Officer requires legal advice in relation to any aspect of their role, they are to request that the Principal Legal Officer make arrangements for that legal advice to be provided. However, an Authorised Officer must not disclose any specifics of the nature of the advice that will be sought



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(beyond it being related to the PID Act) without first obtaining the explicit consent of the Principal Legal Officer. This is because, in most circumstances, the Principal Legal Officer, as primary legal advisor to the CLC, will establish an information barrier and arrange for an alternate internal or external legal advisor to give advice to the Authorised Officer.

Assessment and allocation

7. Once an Authorised Officer has received a disclosure of suspected wrongdoing, they must make a decision about allocating the disclosure within 14 days, unless there is a good reason they need more time.
8. The Authorised Officer may either allocate the disclosure to an agency, including the CLC or the Ombudsman, or decide not to allocate the disclosure. See below for more information on how the Authorised Officer may make this decision.
9. The Authorised Officer must make an initial assessment to determine whether the information they have received is an Internal Disclosure. To do this, the Authorised Officer should refer to the description of an Internal Disclosure in Clause 4 of the Policy. However, in general, the Authorised Officer will be satisfied the information is an Internal Disclosure if:
 - The discloser is a Public Official who can make a disclosure under the Policy, including a deemed Public Official
 - It includes disclosable conduct
 - It is not only about personal work-related conduct
 - It was made to an Authorised Officer or the discloser's supervisor or manager
 - Nothing else in the Policy prevents it being a PID (examples of circumstances in which a disclosure will not be a PID include that the disclosure was made in the course of the discloser performing their ordinary duties, is only an assertion, or is a complaint that is only about disagreement with a CLC policy)

Preliminary inquiries

10. In order to make an allocation decision about a disclosure (that is, whether to allocate, and if so, where), the Authorised Officer may need to make preliminary inquiries. This might involve, for example, asking the discloser for further brief information, or to clarify something. These inquiries should only be for the purpose of making a decision about where to allocate a disclosure. The Authorised Officer should be careful not to start an investigation into the report, as this is not their function.
11. Although it will normally be clear from the disclosure itself, if an Authorised Officer is not sure which organisation the conduct relates to, the Authorised Officer may need to make preliminary inquiries



with the discloser to determine this issue.

Information for Discloser

12. If an Authorised Officer makes preliminary enquiries, and believes that a person may have made a disclosure without being aware that it may be a PID, the Authorised Officer must tell the person that it could be treated as one. The Authorised Officer must also tell the person:

- What the requirements are for an Internal Disclosure
- When a disclosure must be referred to another agency
- If there are any legal restrictions on publishing the information the PID Officer is aware of

Decision not to allocate

13. Once the Authorised Officer has considered whether the disclosed information is an Internal Disclosure, they must decide whether to allocate it for investigation. The Authorised Officer assessing a disclosure may only decide NOT to allocate it in two circumstances. These circumstances are:

- They are satisfied the conduct is an Internal Disclosure, however it would be more appropriately investigated under another law or power (see below); or
- They are satisfied there is no reasonable basis the disclosure is an Internal Disclosure because:
 - The discloser is not a Public Official (or a Public Official who can make the disclosure to the CLC), and not deemed a Public Official;
 - It does not include disclosable conduct;
 - It was not made to an Authorised Officer or supervisor; or
 - It is otherwise not a PID (examples include that the disclosure was made in the course of the person performing their ordinary duties, is only an assertion, or is a complaint that is only about disagreement with a CLC policy)

14. The Authorised Officer might consider a disclosure would be more appropriately investigated under another power if, for example, the power under another law include the ability to impose disciplinary action, or would provide a more effective way to investigate the disclosure. If the Authorised Officer decides not to allocate a disclosure because it would be more appropriately investigated under another law or power, they must take steps, as soon as practicable, to refer or facilitate the referral of the conduct disclosed. This might include giving the discloser forms or information about another body or agency, or transferring documents. However, more often, this will involve a referral to a different section of the CLC.

15. If the Authorised Officer considers the disclosure is about serious or systemic corrupt conduct (see Annexure A), then they cannot decide not to allocate the disclosure only because it involves a



corruption issue. If this is the case, the Authorised Officer must refer the matter to the NACC, and also continue the allocation process.

Record keeping and notice requirements for decision not to allocate

16. As soon as possible after deciding not to allocate a disclosure for one of the reasons listed at paragraph 13 above, the Authorised Officer must write to the discloser (if it is possible to contact them) to tell them:
 - The disclosure will not be allocated for investigation
 - The reasons for the decision not to allocate the disclosure (including giving the discloser as much of an explanation as possible)
 - If the Authorised Officer has taken or will take any action to refer the matter to another law or power, the details of that action (including a referral within the CLC)
 - If the Authorised Officer is not proposing to take any referral action, any steps that might be available to the discloser to do so
17. After giving the notice at paragraph 16 above to the discloser, the Authorised Officer must make a written record the day and time the notice was given, how the notice was given and the matters included in the notice. The Authorised Officer must also keep a copy of the original notice with this record.
18. If it is not possible for the Authorised Officer to contact the discloser with the above information, the Authorised Officer must make and keep a records of their decisions and the reasons for it, including making a note of why the discloser was not contactable (e.g. because they made an anonymous disclosure without providing a method of contact).
19. Any record made by an Authorised Officer under paragraph 17 or 18 above must be entered on the register maintained by the PID Investigation Officer.
20. As soon as possible after the Authorised Officer has made a decision not to allocate a disclosure, they must also notify the Commonwealth Ombudsman of the following (using the relevant form available on their website):
 - The decision not to allocate the disclosure
 - The reasons for the decision not to allocate the disclosure
 - If the matter is an Internal Disclosure, whether the Authorised Officer has or plans to take any action to refer the matter, and the details of this action
21. Any notification to the Commonwealth Ombudsman under paragraph 20 must be entered into the register maintained by the PID Investigation Officer.

Decision to allocate

22. Once an Authorised Officer is satisfied a disclosure is an Internal Disclosure, and it is appropriate to investigate it as a PID, they must make a decision about where to allocate it.
23. If the disclosure is about conduct that relates to the CLC, in most cases the Authorised Officer should allocate it to the CLC for investigation. It will generally only be appropriate for the Authorised Officer to allocate a matter to the Commonwealth Ombudsman where the disclosure is about the CEO.
24. If allocating a disclosure to the CLC, the Authorised Officer will advise the CEO and PID Investigation Officer of the matter (see below for notification requirements), and will provide all relevant material to facilitate investigation.
25. If allocating a disclosure to the Commonwealth Ombudsman, that agency must consent to the allocation. The Authorised Officer must therefore contact the Commonwealth Ombudsman and request their consent prior to making the allocation.
26. If the disclosure relates to another agency, it will usually be appropriate for the Authorised Officer to allocate the matter to that agency, with the agency's consent. Prior to allocating the matter, the Authorised Officer must therefore contact the agency they propose to allocate the matter to and request their consent to do so.

Record keeping and notice requirements for decision to allocate

27. Once an Authorised Officer makes a decision to allocate a matter to the CLC they must, as soon as possible, write to the CEO of CLC, the PID Investigation Officer and the Commonwealth Ombudsman telling them:
 - The matter has been allocated to the agency
 - The information that was disclosed
 - The conduct disclosed
 - The name and contact details of the discloser, only if the discloser consents to them being provided
28. If the Authorised Officer has made the decision to allocate the matter to another agency, then the Authorised Officer must write to the head of that agency and the Commonwealth Ombudsman, giving them the information outlined in paragraph 27.
29. If the discloser declines to have their name and contact details provided in any notice to be given under paragraph 27 and 28, they should be asked if they would like to provide an anonymous means of contact. While a discloser's name and contact details cannot be provided where they do not



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consent, the Authorised Officer should explain to the discloser that other information provided to the CEO or PID Investigation Officer for the purposes of the PID Act may enable them to be identified.

30. If it is possible to do so, the Authorised Officer must give a copy of the written notice provided under paragraph 27 or 28 to the discloser as soon as practicable. Whether or not it is possible to give the notice to the discloser, the Authorised Officer must make and keep a written record of the following:
 - Whether the notice was given to the discloser, and if not, why not
 - If the notice was given to the discloser:
 - the day and time the notice was provided
 - the means by which it was provided
 - the matters it included
31. Any record made by an Authorised Officer under paragraph 30 above must be entered on the register maintained by the PID Investigation Officer.
32. If a matter has been allocated to the CLC, at the same time the Authorised Officer gives a notice to the discloser as required by paragraph 30, they must also advise the discloser that the matter will be handled by the PID Investigation Officer, who may:
 - Decide not to investigate the disclosure (for one of the reasons set out in paragraph 13)
 - Decide not to investigate the disclosure further (if the same conduct has already been investigated as a PID, or under another law or power)
 - Decide to refer the disclosure for investigation under another law or power

Assessing the risk of reprisal – Authorised Officers

33. In addition to making an allocation decision about a disclosure, an Authorised Officer must also conduct an assessment of the risk of a reprisal being taken against any Public Official who belongs to the CLC because of a disclosure under this Policy.
34. This process may involve assessing the risk for a person who makes a disclosure, as well as witnesses and other Public Officials who may be involved (for example, in some circumstances this might include a Public Official who is a close family member of a discloser). This should be done as soon as possible after the Authorised Officer receives a disclosure.
35. Where the discloser is anonymous, the Authorised Officer should still conduct the parts of a risk assessment that they can, in order to assess whether the discloser's identity can be readily determined or may become apparent during an investigation.
36. Where the Authorised Officer determines not to allocate a matter under paragraph 13 of this Procedure, on the basis it is not an Internal Disclosure, they should complete any risk assessment



process that has been started, but do not need to make further updates.

37. The discloser is likely to be the best source of information for conducting a risk assessment. In particular, asking the discloser why they are reporting wrongdoing and who they might fear reprisal from can be helpful in assessing perceptions from others about why a discloser has come forward, understanding the discloser's expectations about how other staff might perceive their disclosure (if it became known) and identifying the motives of staff allegedly later involved in reprisals.

38. Noting the above, the Authorised Officer should use the following four step framework to assess reprisal risk to Public Officials who belong to the CLC:

- **Identify:** The Authorised Officer should use the following table as a guide to assist in identifying risk factors. Risk factors may include (but are not limited to) those listed in the left hand column of the table. Some considerations for each factor (if relevant) are listed in the right hand column. The Authorised Officer should consider whether there are any other relevant risk factors.

Risk Factor	Considerations
Threats or past experience	<ul style="list-style-type: none">• Has a threat against the discloser or other relevant Public Official been made?• Is there a history of conflict between the discloser and the subjects of the disclosure, management, supervisors or colleagues?• Is there a history of reprisals or other conflict in the workplace?• Is it likely the disclosure will exacerbate this?
Confidentiality unlikely to be maintained	<ul style="list-style-type: none">• Who knows that the disclosure has been made or was going to be made?• Has the discloser already raised the substance of the disclosure or revealed their identity?• Who in the workplace knows the discloser's identity or the identity of any witnesses (or potential witnesses) or anyone else providing assistance?• Is the discloser's immediate work unit small?• Are there circumstances, such as the discloser's stress level, that will make it difficult for them to not discuss the matter with others at work?• Will the discloser become identified or suspected when the existence or substance of the disclosure is made known or investigated?• Can the disclosure be investigated while maintaining confidentiality?
Significant	<ul style="list-style-type: none">• Are there allegations about individuals in the disclosure?



wrongdoing reported	<ul style="list-style-type: none">• Who are those individuals' close professional and social associates within the workplace?• Is there more than one wrongdoer involved in the matter?• Is the reported wrongdoing serious?• Is the disclosure particularly sensitive or embarrassing for any subjects of the disclosure, senior management, the CLC or the Government?• Do these people have the intent to take reprisals—for example, because they have a lot to lose?• Do these people have the opportunity to take reprisals—for example, because they have power over the discloser?
Vulnerable discloser, witness or other Public Official	<ul style="list-style-type: none">• Is or was the reported wrongdoing directed at the discloser?• Are there multiple subjects of the disclosure?• Is the disclosure about a more senior employee or official?• Is the discloser employed part time or on a casual basis?• Is the discloser isolated—for example, geographically?• Are the allegations unlikely to be substantiated—for example, because there is a lack of evidence?• Is the disclosure being investigated outside the CLC?• Are any witnesses or other public officials vulnerable because of any of the above considerations?



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- **Assess:** The Authorised Officer should consider and note:
 - The likelihood of reprisals or threats of reprisals, which may be higher if there is already conflict in the workplace or there is a history of threats being made
 - The potential consequences to both the Public Official and the CLC if the risks eventuate
- **Control:** The Authorised Officer should identify strategies to be put in place to prevent or contain reprisals or conflict. The Authorised Officer should consult with the discloser or other Public Official about any proposed strategies before implementing them. Strategies might include:
 - Reducing or eliminating the need for the discloser to interact with the subject of the disclosure
 - Having a third party oversee interactions between the discloser and the subject of disclosure
 - Ensuring the discloser understands how to seek help if they are the subject of reprisal
 - Maintaining confidentiality of the discloser and any investigation as much as practicable.
- **Monitor and Review:** the Authorised Officer should monitor and review the risk assessment(s) regularly until they have completed the allocation process. If, during that time, the Authorised Officer becomes aware of anything that would affect the risk assessment they have conducted (e.g. a new witness is identified who is a Public Official), they should make an update accordingly.

39. The Authorised Officer must keep a written record of the risk assessments undertaken, including any updates made. If a disclosure is allocated to the CLC, the Authorised Officer should provide the PID Investigation Officer with all risk assessments in relation to the disclosure, if the discloser consents to their identity being provided.

NACC stop action direction preventing allocation

40. If a disclosure has been referred to the NACC (see clause 9.7 of the Policy), the Authorised Officer must continue their work on it unless the NACC issues a stop action direction that prevents this occurring.
41. If the NACC issues a stop action direction, and that direction prevents the Authorised Officer from dealing with the disclosure further, it may be appropriate for the Authorised Officer to advise the discloser of this. However, the Authorised Officer should consider the terms of the stop action direction before notifying the discloser, as this may be prevented by the terms of the direction itself.
42. If a stop action direction is issued that prevents an Authorised Officer allocating a disclosure, the Authorised Officer notify the Commonwealth Ombudsman (using the relevant form available on their

website) of the following:

- The information that was disclosed
- The conduct disclosed
- The discloser's name and contact details (if known) if the discloser consents to these details being provided
- The stop action direction that prevents disclosure

43. Once an Authorised Officer becomes aware a stop action direction no longer applies to a disclosure, they must continue the allocation process under this Procedure. The 14 day period for the Authorised Officer to make an allocation decision applies from the day they become aware the stop action direction no longer applies.

PID Investigation Officer – roles and responsibilities

44. The PID Investigation Officer should be aware of their obligations under this Policy and the PID Act. They must operate independently of management when carrying out their functions as a PID Investigation Officer.

45. The person undertaking the role of PID Investigation Officer should have the appropriate background, experience and skill set to manage the defined roles and responsibilities, as outlined below.

46. If the PID Investigation Officer identifies any conflict of interest at any point of their involvement in a disclosure, they must notify the CEO, who, if they consider it appropriate, will make a delegation for a different person to perform the role of PID Investigation Officer in relation to the matter. The PID Investigation Officer should not have further involvement in a matter once they have identified a conflict of interest.

47. If the PID Investigation Officer requires legal advice in relation to any aspect of their role, they are to request that the Principal Legal Officer make arrangements for that legal advice to be provided. However, the PID Investigation Officer must not disclose any specifics of the nature of the advice that will be sought (beyond it being related to the PID Act) without first obtaining the explicit consent of the Principal Legal Officer. This is because, in most circumstances, the Principal Legal Officer, as primary legal advisor to the CLC, will establish an information barrier and arrange for an alternate internal or external legal advisor to give advice to the PID Investigation Officer.

48. Overall, the PID Investigation Officer will be responsible for the following in relation to an Internal Disclosure allocated to the CLC, as outlined further in this Procedure:



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- Investigate and make enquiries as they see fit in relation to an allocated disclosure
- Ensuring appropriate resources and suitably qualified individuals (internal or external) are engaged to conduct any investigation (if required)
- Keep the discloser notified of the progress of an investigation
- Assessing the risk of reprisal to the discloser and / or other implicated individuals
- Adhering to the PID Act confidentiality and identity protection requirements

Assessing the risk of reprisal – PID Investigation Officer

49. Once the PID Investigation Officer has been advised that a disclosure has been allocated to the CLC for investigation they must review any risk assessments undertaken by the Authorised Officer.
50. Throughout any investigation process, the PID Investigation Officer must update a risk assessment if they become aware of any matter that would affect it, or any other Public Official who belong to the CLC who may be subject to reprisal in relation to the disclosure. The PID Investigation Officer should refer to the framework at paragraph 38 to conduct any further risk assessment update.
51. The PID Investigation Officer must keep a written record of the risk assessments undertaken, including any updates made. These records will be required to complete an investigation report once any investigation has finished.

Deciding whether to investigate under the PID Act

52. Once the PID Investigation Officer has been advised that a disclosure has been allocated to the CLC for investigation they must commence investigating it, unless they decide not to. The PID Investigation Officer may decide not to investigate an Internal Disclosure (or, stop investigating it at any time, if they have already started) for any of the following reasons:
- The discloser is not a Public Official, or not a Public Official who can make a disclosure to the CLC, (and the Authorised Officer mistakenly believed they were)
 - The information disclosed is not serious disclosable conduct. Whether disclosable conduct is 'serious' is a matter for the PID Investigation Office to determine. Factors they may consider include whether the wrongdoing, if proven, involves an offence, the level of harm or potential harm arising from the conduct, the level of risk to others or the organisation, and the level of trust or responsibility placed in the person who is accused of the wrongdoing.
 - The disclosure is frivolous or vexatious. Factors the PID Investigation Officer may consider in this regard include whether the disclosure was made only in order to annoy or embarrass another person, or for some other improper reason, the allegations are so obviously baseless they could not be made out, or the discloser has made repeated disclosures of a similar nature.



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- The conduct disclosed is the same or substantially the same as conduct previously disclosed under the Policy (including if it was disclosed by a different Public Official), and the earlier disclosure has or is being investigated, or was the subject of a decision not to investigate.
- The conduct disclosed is the same or substantially the same conduct that is being investigated under another power and it would be inappropriate to conduct another investigation at the same time.
- The conduct disclosed is the same or substantially the same conduct that has already been investigated under another law or power (including if that was conduct disclosed by another Public Official) and there are no further matters requiring investigation.
- The conduct disclosed would be more appropriately investigated under another law or power (in which case, the PID Investigation Officer must take steps to refer the conduct disclosed, or facilitate its referral).
- The discloser does not want the conduct investigated, and the PID Investigation Officer is satisfied on reasonable grounds there are no matters concerning the disclosure that warrant investigation.
- It is impractical to investigate the disclosure because the information is so old it may make investigation difficult, the discloser has not disclosed their name or contact details, or the discloser has failed to or is unable to give the investigator assistance

53. If the PID Investigation Officer decides not to investigate a matter, or to stop investigating a matter, for one of the reasons listed in paragraph 52 they must make a written record of their decision and the reasons for it. This written record must be recorded on the register kept by the PID Investigation Officer. The PID Investigation Officer must then notify, in writing:

- The discloser (if it is possible to contact them), including providing the reasons for the decision and details of any referral for investigation under another law or power, if relevant
- The Commonwealth Ombudsman, including providing the reasons for the decision and details of any referral for investigation under another law or power, if relevant

54. One disclosure may contain several allegations of disclosable conduct. The PID Investigation Officer may decide to continue investigating some conduct and not investigate, or stop investigating, other conduct. In this case, any notice provided under paragraph 53 should be clear about the conduct which will not be investigated, or which will stop being investigated.

Investigation

55. If the PID Investigation Officer has not exercised their discretion not to investigate a disclosure allocated to the CLC for one of the reasons listed above, and if no stop action direction has been issued by the NACC, they must conduct an investigation in accordance with this Procedure. The purpose of any such investigation is to establish whether disclosable conduct has occurred.



Notification, time limits and allocation of any alternative investigator

56. If, after considering the disclosure, the PID Investigation Officer does not consider it is appropriate for them to conduct the investigation into a matter personally, they must determine who the most appropriate person to investigate the matter is, noting such a person may be an external contractor. The PID Officer should create terms of reference for the investigation and request the CEO delegate that person the power to conduct the investigation on those terms. If another person is allocated to investigate the disclosure, that person must comply with the requirements set out in this Procedure as if they were the PID Investigation Officer.
57. An investigation of an Internal Disclosure must be completed within 90 days of the day after the disclosure was allocated to the CLC. If a stop action direction was issued by the NACC, the 90 day period starts the day after the PID Investigation Officer becomes aware the direction no longer applies. The investigation is considered complete when an investigation report is prepared and finalised.
58. The PID Investigation Officer must write to the discloser after receiving the allocation from the Authorised Officer to advise them that they are required to investigate the disclosure, and notify them of the estimated length of their investigation. If possible, this communication should be made to the discloser within 14 days.
59. If longer than 90 days is required, or is expected to be required to complete an investigation, the PID Investigation Officer must seek an extension from the Commonwealth Ombudsman using the relevant form available on their website. Where possible, the PID Investigation Officer should make any such request at least 10 business days prior to the end of the 90 day period. The PID Investigation Officer should advise the discloser of any such request.
60. The PID Investigation Officer should be aware that the Commonwealth Ombudsman may not grant an extension of time to complete the investigation, and will consider all the circumstances when determining any such request. Unreasonable delays on the part of the CLC may cause the request to be declined. Failure to complete an investigation within the time limit (including any extension) may be grounds for the discloser to make an External Disclosure.

Investigation requirements

61. The PID Investigation Officer will determine how they will conduct an investigation into an Internal Disclosure, provided they comply with the requirements of this Procedure.
62. The formality of the investigation should be commensurate with the seriousness and nature of the alleged conduct. The PID Investigation Officer must keep records that contain sufficient detail appropriate to the nature of the investigation.



63. Noting clauses 8 and 11 of the Policy, the investigation process should protect the discloser's identity as much as possible, unless they have consented to being identified, have acted in a way that is inconsistent with keeping their identity confidential or it is necessary to investigate the disclosure. The identity of the subject of the disclosure, and of any witnesses, should also be kept as confidential as possible.
64. When obtaining information for an investigation, the PID Investigation Officer may obtain information from any person and make such inquiries as they think fit. The PID Investigation Officer does not have any power to compel a witness to attend interviews, answer questions or produce documents. However all Public Officials must use their best efforts to assist in a PID investigation. It may also be misconduct for an employee of the CLC to fail to follow a lawful and reasonable direction from the CLC.
65. Any interview as part of investigation into a PID must remain confidential. Attendance at an interview should be limited to those people who are necessary to conduct it. The PID Investigation Officer must remind all of those present at an interview that the matter is confidential, that the release of information may jeopardise the investigation and that they may commit an offence if they release any information that is likely to identify the discloser.
66. When the PID Investigation Officer interviews a person as part of investigating a PID disclosure, including over the phone or by other electronic means, they must tell that person:
- The name of the person conducting the interview, and anyone else who may be present (e.g. in a record making capacity)
 - The function of each of the people present in the investigation
 - That the CEO is required to investigate a disclosure to establish whether there has been disclosable conduct
 - The legal authority of the person conducting the investigation (i.e. the power has been delegated to them by the CEO)
 - Information about the process of conducting a PID investigation, including that the investigation is confidential and the discloser's identity must be kept confidential (if they are aware of the identity of the disclosure as a result of the investigation)
 - That, under the PID Act, they have immunity from civil, criminal or administrative action, and immunity from enforcement of contractual or other rights on the basis of the assistance they provide to the investigation (e.g. answering a question or providing a document)
67. The PID Investigation Officer should follow the requirements in paragraph 66 when they seek information from a person in writing, to the extent they are relevant (for example, it would not be relevant to note who is present, but it would be relevant to include information about the legal authority for conducting the investigation).



68. The PID Investigation Officer must keep written records of any interview. Audio or visual recordings must not be made without the interviewee's knowledge. At the conclusion of an interview, the interviewee must be given the opportunity to make a final statement or express an opinion. Any such statement or opinion must be included in the record of interview.
69. The PID Investigation Officer must ensure that a person against whom allegations are made is accorded procedural fairness. This applies to any person that allegations come to light about during an investigation, which could include the discloser. This means they are entitled to:
- Have a decision maker act fairly and without bias
 - If an adverse finding could be made about their conduct – know the substance of the allegations and evidence against them and have a reasonable opportunity to respond.
70. Procedural fairness does not require:
- The subject of the disclosure being given a copy of the disclosure, or being told the identity of the discloser
 - The subject of a disclosure being given the allegations against them as soon as an investigation is received (there may be good reasons for undertaking other enquiries first)
 - Providing the discloser with the opportunity to comment on evidence obtained by the PID Investigation Officer, or their draft views (unless there will be adverse findings against the discloser)
71. The PID Investigation Officer should consider appropriate support for a Public Official who is the subject of an investigation, as they are likely to find the experience stressful. If the person is an employee, the PID Investigation Officer should ensure the person knows how to access the CLC's employee assistance program.
72. The standard of proof required in an investigation of an Internal Disclosure is the balance of probabilities. This means that the PID Investigation Officer cannot make a finding that there has been disclosable conduct unless they are satisfied, on the basis of the evidence gathered during the investigation, that it is more likely than not the disclosable conduct occurred.
73. The PID Investigation Officer must ensure that any finding of fact in an investigation is based on logical evidence. The PID Investigation Officer must also ensure that the evidence relied on in an investigation is relevant.

Reporting to police

74. If the PID Investigation Officer suspects that information disclosed as part of an internal disclosure, or obtained during their investigation of a disclosure, is evidence of an offence against a Commonwealth, state or territory law, they may report the matter to police. The PID Investigation Officer must report the matter to police if the suspected offence is punishable by imprisonment for 2



or more years. However, the PID Investigation Officer is not required to report any matter to police that has already been reported to the NACC.

75. If the PID Investigation Officer makes a report to police, this does not mean an investigation into an Internal Disclosure can or should stop. The PID Investigation Officer must discuss the matter with police to ensure any continued investigation by the CLC does not prejudice a potential criminal investigation. If there is a risk of this, the PID Investigation Officer should consider whether to seek an extension of time to complete the investigation from the Commonwealth Ombudsman on this basis.

Investigation report

76. After an Internal Disclosure has been investigated, the PID Investigation Officer must prepare a report of the investigation. An investigation is only completed once the report has been prepared and finalised. The investigation report must state:

- The matters considered in the investigation including the disclosable conduct alleged, and any other possible disclosable conduct identified through the investigation
- How long the investigation took
- The steps taken to gather evidence
- A summary of the evidence, and how the evidence informed the findings
- The PID Investigation Officer's findings, including whether any disclosable conduct was found, and if so, what type, and the laws, rules etc to which the disclosable conduct relates
- Any action taken or recommended to be taken to address the findings, including changes to processes or policies, referrals, training, audits mediation etc.
- The action that should be taken to communicate the outcome of the investigation to both the discloser and the person who was the subject of the disclosure
- Any claims of reprisal action taken against the discloser or any other person, and the evidence for this
- Whether the CLC found any evidence of reprisal action against the discloser or any other person
- The CLC's response to any claims or evidence relating to reprisal
- The action taken or recommended to be taken to address any findings of reprisal

77. The PID Investigation Officer must give a copy of the investigation report to the discloser within a reasonable time of preparing it. The copy of the report given to the discloser may have some information deleted if it is likely to enable the identification of any person (e.g. a witness).

78. The PID Investigation Officer must give a copy of the investigation report to the Commonwealth Ombudsman within a reasonable time of preparing it. The copy of the report given to the Commonwealth Ombudsman may redact information that is likely to enable the identification of any person (e.g. a witness). The Commonwealth Ombudsman may review the report, and may make



recommendations to the CLC about the handling of the disclosure.

NACC stop action direction preventing investigation

79. If the NACC issues a stop action direction in relation to a disclosure after it has been allocated for investigation, directing the CLC not to start or continue with an investigation, the PID Investigation Officer must not commence an investigation or, if the investigation has already started, must stop the investigation.
80. If the PID Investigation Officer cannot investigate or must stop investigating the disclosure pursuant to a stop action direction, they must give written notice to the discloser (if possible) as soon as reasonably practicable advising them that a stop action direction has been issued. However, the PID Investigation Officer should consider the terms of the stop action direction before notifying the discloser, as this may be prevented by the terms of the direction itself.
81. If a stop action direction prevents the PID Investigation Officer from investigating, or further investigating, a disclosure, the PID Investigation Officer must give written notice of the direction to the Commonwealth Ombudsman, using the relevant form on their website.
82. Once the PID Investigation Officer becomes aware a stop action direction no longer applies to a disclosure, they must continue the investigation process under this Procedure, unless they exercise their discretion not to investigate further under paragraph 52. The 90 day investigation period restarts from the day after the CEO becomes aware that a stop action direction no longer applies. The PID Investigation Officer must give written notice to the discloser (if possible) as soon as reasonably practicable that a stop action direction no longer applies to the disclosure.

After the investigation

83. The CEO will consider the investigation report and take action they consider appropriate in response to the recommendations and other matters contained in the report.
84. Based on the recommendations of the investigation report, the person who was the subject of the allegations should be formally made aware of the outcome of the investigation as it relates to them, consistent with confidentiality limitations.
85. The discloser should be notified of the outcome of the investigation. If the allegations are not substantiated, the discloser should be given as much information as possible about the outcome, consistent with confidentiality limitations. This is an important part of conveying to a discloser that the CLC values their contribution in bringing the matter to the attention of the organisation. Regardless of the outcome, the discloser should be assured that as they made an Internal Disclosure, they will have the protections of the PID Act and the Policy.



Support for disclosers and others who assist

86. The CLC recognises the importance of providing practical and effective support to Public Officials who make Internal Disclosures relating to the CLC, and also to any other person who provides or is considering providing assistance in relation to a disclosure.
87. After an Internal Disclosure has been received, and throughout the allocation and investigation process outlined in this Procedure, options for supporting the discloser and any other person who provides or is considering providing assistance in relation to a disclosure that should be considered include:
- Encouraging the discloser to access the CLC's Employee Assistance Program (and ensuring additional sessions are available, if necessary)
 - If the discloser wishes, appointing a support person to the discloser, and asking that person to check in on the wellbeing of the discloser regularly
 - Providing the discloser with regular updates of the progress of the investigation of the PID
 - Checking in periodically with the discloser to ensure they are not experiencing reprisals
 - Considering any request from the discloser in relation to any risks of reprisal identified by the discloser
88. All individuals involved in dealing with a disclosure under the Policy and this Procedure should ensure they consider the support it would be appropriate for them to provide to the discloser and any other person who provides or is considering providing assistance in relation to a disclosure. However, the primary obligation for considering and providing the above support sits with:
- The Authorised Officer – until an allocation decision has been made under this Procedure and the discloser has been advised of that decision
 - The PID Investigation Officer – after a decision to allocate a matter has been made and until any investigation is finalised



INSTRUMENT OF DELEGATION

under section 77(1) of the *Public Interest Disclosure Act 2013 (Cth)*

I, Lesley Turner, Chief Executive Officer of the Central Land Council, under section 77(1) of the *Public Interest Disclosure Act 2013 (Cth)* ('PID Act') delegate all my powers and functions conferred by sections 47, 48, 50, 50AA, 50A, 51, 52, 53, 54 and 55 of the PID Act to the person who holds the position of Strategy and Performance Manager.

This delegation instrument takes effect on and from 23 May 2025.

A handwritten signature in black ink, appearing to read 'L. Turner', written over a horizontal line.

Lesley Turner

Chief Executive Officer

Central Land Council

Date: 23 May 2025