



# PUBLIC INTEREST DISCLOSURE POLICY

<b>Document Reference No:</b>	GD24/2815	<b>Version:</b>	One
<b>Service Unit:</b>	Governance		
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<b>Responsible Director:</b>	General Manager		
<b>Authorisation Date:</b>	13/12/2023	<b>Review Date:</b>	Dec 2025
<b>Minute No:</b>	OCM 12-12-2023		

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## Purpose

All government agencies in NSW are required to have a Public Interest Disclosure (**PID**) Policy under section 42 of the *Public Interest Disclosures Act 2022* (**PID Act**).

At Central Darling Shire Council (CDSC) we take reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing. The integrity of our organisation relies upon our staff, volunteers, contractors, and subcontractors speaking up when they become aware of wrongdoing.

This policy sets out:

- how CDSC will support and protect you if you come forward with a report of serious wrongdoing.
- how we will deal with the report and our other responsibilities under the PID Act.
- who to contact if you want to make a report.
- how to make a report.
- the protections which are available to you under the PID Act.

This policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detrimental action.
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

In NSW, that framework is the PID Act. This policy will provide you with information on:

- ways you can make a voluntary PID to CDSC under the PID Act.
- the names and contact details for the nominated disclosure officers in CDSC.
- the roles and responsibilities of people who hold specified roles under the PID Act and who are employees of CDSC.
- what information you will receive once you have made a voluntary PID.
- protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you.
- CDSC procedures for dealing with disclosures.
- CDSC procedures for managing the risk of detrimental action and reporting detrimental action.
- CDSC record-keeping and reporting requirements.
- how CDSC will ensure it complies with the PID Act and this policy.

## Application

This policy applies to, and for the benefit of, all public officials in NSW. You are a public official if you are:

- a person employed in or by an agency or otherwise in the service of an agency – including Councils.
- a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate.
- an individual in the service of the Crown.

- a statutory officer.
- a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer.
- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an agency and are involved in providing those services or exercising those functions.
- a judicial officer.
- a Member of Parliament (**MP**), including a Minister.
- a person employed under the *Members of Parliament Staff Act 2013*.

The General Manager of CDSC and other nominated disclosure officers and managers within CDSC have specific responsibilities under the PID Act. This policy also provides information on how people in these roles will fulfil their responsibilities. Other public officials who work in and for the public sector, but do not work for CDSC may use this policy if they want information on who they can report wrongdoing to within CDSC.

This policy does not apply to:

- people who have received services from CDSC and want to make a complaint about those services.
- people, such as some contractors, who provide services to CDSC - for example, employees of a company that sold computer software to CDSC.

This means that if you are not a public official, this policy does not apply to your complaint. However, you can still make a complaint to CDSC. This can be done by:

- Phoning our Customer Service Team on (08) 8083 8900.
- Filling in an online Customer Request Form on our website, under the “Have your Say” section: <https://www.centraldarling.nsw.gov.au/Council/Have-Your-Say>.

## Definitions

For the purposes of this policy:

**Agency** - ‘Agency’ is defined in section 16 of the PID Act to mean any of the following:

- a public service agency
- a group of staff comprising each of the following services, or a separate group of those staff: – the NSW Police Force – the Teaching Service of New South Wales – the NSW Health Service – the Transport Service of New South Wales
- a statutory body representing the Crown
- an integrity agency
- a public authority whose conduct or activities are authorised to be investigated by an integrity agency under another Act or law
- a state-owned corporation or its subsidiaries
- a Local Government Authority
- a Local Aboriginal Land Council
- the Department of Parliamentary Services, the Department of the Legislative Assembly and the Department of the Legislative Council.

## Corrupt Conduct

Corrupt conduct in the PID Act has the same meaning as in sections 7, 8 and 9 of the Independent Commission Against Corruption Act 1988. It involves deliberate or intentional

wrongdoing involving (or affecting) a public official or agency in NSW. Corrupt conduct includes:

- conduct of any person that adversely affects, or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials, or any agency
- any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of their official functions
- any conduct of a public official or former public official that constitutes or involves a breach of public trust
- any conduct of a public official or former public official that involves the misuse of information or material that they acquired during their official functions, whether for their benefit or for the benefit of any other person.

**Detrimental Action** - Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment, or a threat of detriment, to a person (whether express or implied) as defined under section 32 of the PID Act. Detriment to a person includes:

- injury, damage or loss
- property damage
- reputational damage
- intimidation, bullying or harassment
- unfavourable treatment in relation to another person's job
- discrimination, prejudice or adverse treatment
- disciplinary proceedings or disciplinary action, or
- any other type of disadvantage.

**Disclosure Coordinator** – is the person that holds the position of Governance Officer.

**Disclosure Officer** – those persons identified as “disclosure officers” per Annexure A to this policy.

**Government Information Contravention** – a failure, other than a trivial failure, by an agency or public official to exercise functions in accordance with the *Government Information (Information Commissioner) Act 2009*, *Government Information (Public Access) Act 2009* (GIPA Act) or the *State Records Act 1998*.

**Integrity Agency** – as defined in section 19 of the PID Act:

- the Ombudsman
- the Auditor-General
- the Independent Commission Against Corruption
- the Law Enforcement Conduct Commission
- the Inspector of the Independent Commission Against Corruption
- the Inspector of the Law Enforcement Conduct Commission
- the Secretary of the Department of Planning, Industry and Environment (when exercising certain functions under the Local Government Act 1993)
- the Privacy Commissioner
- the Information Commissioner
- a person or body declared by the regulations to be an integrity agency.

**Local government pecuniary interest contravention** - the contravention of an obligation in relation to a pecuniary interest imposed by the *Local Government Act 1993* (LG Act) or a code of conduct adopted by a Council under section 440(3) of the LG Act.

**Mandatory PID** – where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.

**Pecuniary Interest** – an interest that a person has in a matter because they have a reasonable likelihood, or expectation, of appreciable financial gain or loss to themselves or someone within their family.

**Privacy contravention** - a failure, other than a trivial failure, by an agency or public official to exercise functions in accordance with the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002*.

**Public Interest Disclosure** – when a public official reports serious wrongdoing in their workplace, or in another public authority. Serious wrongdoing includes corrupt conduct, serious maladministration and serious and substantial waste of public money.

**Public Official** – as defined in section 14 of the PID Act as follows:

- (a) a person employed in or by an agency or otherwise in the service of an agency,
- (b) a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate,
- (c) an individual in the service of the Crown,
- (d) a statutory officer,
- (e) a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor, or volunteer,
- (f) if an entity, under a contract, subcontract, or other arrangement, is to provide services on behalf of an agency or exercise functions of an agency in whole or in part—an employee, partner or officer of the entity who is to be involved in providing the services in whole or in part, or who is to exercise the functions,
- (g) a judicial officer,
- (h) a member of Parliament, including a Minister,
- (i) a person employed under the Members of Parliament Staff Act 2013.

**Serious maladministration** - defined in the PID Act as conduct, other than conduct of a trivial nature, of an agency or public official relating to a matter of administration that is unlawful, unreasonable, unjust, oppressive, or improperly discriminatory, or based wholly or partly on improper motives.

**Serious and substantial waste of public money** – includes any uneconomical, inefficient, or ineffective use of resources, whether authorised or unauthorised, and which results in a loss of public funds or resources.

**Serious wrongdoing** - per section 13 of the PID Act, 'serious wrongdoing' means one or more of: corrupt conduct, serious maladministration, government information contravention, a privacy contravention, or a serious and substantial waste of public money.

**Voluntary PID** – a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.

**Witness PID** - A PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

## Provisions

### 1. How to make a report of serious wrongdoing

#### (a) Reports, complaints and grievances

When a public official reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

Some internal complaints or internal grievances may also be PIDs, if they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy, but we will also make sure we follow our Workplace Grievance and/or Incidents Procedure.

It is important that we quickly recognise that we have received a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections and we have certain decisions that we must make on how we will deal with the PID and how we will protect and support the person who has made the report.

#### (b) When will a report be a PID?

There are three types of PIDs in the PID Act. These are:

2. *Voluntary PID*: This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
3. *Mandatory PID*: This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
4. *Witness PID*: This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 2 of this policy. Voluntary PIDs are the kind of PIDs most people have in mind when they think about public interest reporting and 'whistleblowing'. They involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:

1. A report is made by a public official

2. It is made to a person who can receive voluntary PIDs

3. The public official *honestly and reasonably believes* that the information they are providing *shows (or tends to show) serious wrongdoing*

4. The report was made orally or in writing

5. The report is voluntary (meaning it is not a mandatory or witness PID)

If the report has all five features, it is a voluntary PID.

You will not be expected to prove that what you reported happened or is serious wrongdoing. You *do* have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing. Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

If we make an error and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review via a written request to the General Manager, or we make seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in section 7 of this policy.

### **(c) Who can make a voluntary PID?**

Any public official can make a voluntary PID — see ‘Who this policy applies to’. You are a public official if:

- you are employed by CDSC.
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of CDSC, or
- you work for an entity (such as a non-government organisation) who is contracted by CDSC to provide services or exercise functions on behalf of CDSC — if you are involved in undertaking that contracted work.

A public official can make a PID about serious wrongdoing relating to *any* agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside our agency. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (ICAC) and the NSW Ombudsman. Annexure B of this policy has a list of integrity agencies.

### **(d) What is serious wrongdoing?**

Reports must be of one or more of the following categories of serious wrongdoing to be a voluntary PID (in addition to having the other features set out here). When you make your report, you do not need to state to CDSC what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing. Serious wrongdoing is defined in the PID Act as:

- corrupt conduct — such as a public official accepting a bribe.
- serious maladministration — such as an agency systemically failing to comply with proper recruitment processes when hiring staff.
- a government information contravention — such as destroying, concealing, or altering records to prevent them from being released under a Government Information Public Access application.
- a local government pecuniary interest contravention — such as a senior council staff member recommending a family member for a council contract and not declaring the relationship.
- a privacy contravention — such as unlawfully accessing a person’s personal information on an agency’s database.

- a serious and substantial waste of public money — such as an agency not following a competitive tendering process when contracting with entities to undertake government work.

#### **(e) Who can I make a voluntary PID to?**

For a report to be a voluntary PID, it must be made to certain public officials.

##### Making a report to a public official who works for CDSC

You can make a report inside CDSC to:

- The General Manager.
- a disclosure officer for CDSC — a list of disclosure officers for CDSC and their contact details can be found at Annexure A of this policy.
- your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

##### Making a report to a recipient outside of CDSC

You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity agency. These include:

- the *head of another agency* — this means the head of any public service agency.
- an *integrity agency* — a list of integrity agencies is located at Annexure B of this policy.
- a *disclosure officer for another agency* — ways to contact disclosure officers for other agencies is in an agency's PID policy which can be found on their public website.
- a *Minister or a member of a Minister's staff* but the report *must be made in writing*.

If you choose to make a disclosure outside of CDSC, it is possible that your disclosure will be referred to us so that appropriate action can be taken.

##### Making a report to a Member of Parliament or journalist

Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from CDSC:
  - notification that CDSC will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
  - the following information at the end of the investigation period:
    - notice of CDSC's decision to investigate the serious wrongdoing.
    - a description of the results of an investigation into the serious wrongdoing.



- details of proposed or recommended corrective action because of the previous disclosure or investigation.

Investigation period means:

- after six months from the previous disclosure being made, or
- after 12 months if you applied for an internal review of the agency's decision within six months of making the disclosure.

If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

#### **(f) What form should a voluntary PID take?**

You can make a voluntary PID:

- *in writing* — this could be an email or letter to a person who can receive voluntary PIDs.
- *orally* — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- *anonymously* — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for us to investigate the matter(s) you have disclosed if we cannot contact you for further information.

#### **(g) What should I include in my report?**

You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time, and location of key events.
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved.
- your relationship with the person(s) involved, such as whether you work closely with them.
- your explanation of the matter you are reporting.
- how you became aware of the matter you are reporting.
- possible witnesses.
- other information you have that supports your report.

#### **(h) What if I am not sure if my report is a PID?**

You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for us to understand what is or may be occurring. We are then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of the agency's policies for dealing with reports, allegations, or complaints.

### **(i) Deeming that a report is a voluntary PID**

The General Manager can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'. By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act. If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the General Manager of CDSC to request that they consider deeming your report to be a voluntary PID.

A decision to deem a report to be a voluntary PID is at the discretion of the General Manager. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

### **(j) Who can I talk to if I have questions or concerns?**

If you require further information about this policy, how public interest disclosures will be handled and the PID Act you can:

- confidentially contact a nominated disclosure officer within CDSC.
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto:pidadvice@ombo.nsw.gov.au), or
- access the NSW Ombudsman's PID guidelines which are available on its website.

If you require legal advice with respect to the PID Act or your obligations under the PID Act, you may need to seek independent legal advice.

## **2. Protections**

### **(a) How is the maker of a voluntary PID protected?**

When you make a voluntary PID you receive special protections under the PID Act. We are committed to taking all reasonable steps to protect you from detriment because of having made a PID. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with. We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report, or are believed to have made a report.

The maker of a voluntary PID is protected in the following ways:

- *Protection from detrimental action*
  - A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation, or dismissal.
  - Once we become aware that a voluntary PID by a person employed or otherwise associated with CDSC that concerns serious wrongdoing relating to CDSC has been made, we will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
  - It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
  - A person may seek compensation where unlawful detrimental action has been taken against them.
  - A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management). Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.

- *Immunity from civil and criminal liability*

Some public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued, or criminally charged for breaching confidentiality.

- *Confidentiality*

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

- *Protection from liability for own past conduct*

The Attorney General can give the maker an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.



### **(b) Protections for people who make mandatory and witness PIDs.**

Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act:

- *A mandatory PID:* This is a PID where the public official has made the report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- *A witness PID:* This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
<b>Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief, or awareness that a person has made, may have made or may make a PID.</b>	✓	✓
<b>Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.</b>	✓	✓
<b>Ability to seek injunction — An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.</b>	✓	✓

<p><b>Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for:</b></p> <ul style="list-style-type: none"> <li>• <b>breaching a duty of secrecy or confidentiality, or</b></li> <li>• <b>breaching another restriction on disclosure.</b></li> </ul>		
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### 3. Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report this directly to us by contacting (by email or phone) either the Human Resources Officer or the Risk and WHS Officer.

You can also report any experience of adverse treatment or detrimental action to an integrity agency. A list of integrity agencies is located at Annexure B of this policy.

### 4. General support

A key contact person will be allocated to the maker of the report. This contact person will take steps to protect the discloser’s interest, for example, if they are at risk of detrimental action. People who have made a report may also obtain wellbeing support via the Employee Assistance Program.

### 5. Roles and responsibilities of CDSC employees

Certain people within CDSC have responsibilities under the PID Act.

#### General Manager

#### (a) As the head of the agency, the General Manager is responsible for:

- fostering a workplace culture where reporting is encouraged.
- receiving disclosures from public officials.
- ensuring there is a system in place for assessing disclosures.
- ensuring CDSC complies with this policy and the PID Act.
- ensuring that CDSC has appropriate systems for:
  - overseeing internal compliance with the PID Act.
  - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action.
  - implementing corrective action if serious wrongdoing is found to have occurred.
  - complying with reporting obligations regarding allegations or findings of detrimental action.
  - complying with yearly reporting obligations to the NSW Ombudsman.

PID reporting functions outlined above have been delegated by the General Manager to CDSC’s Governance Officer.

#### (b) Disclosure officers

Disclosure officers are responsible for:

- receiving reports from public officials.
- receiving reports when they are passed on to them by managers or supervisors.
- ensuring reports are dealt with appropriately, including by referring the matter to the appropriate member/s of the Governance team.
- ensuring that any oral reports that have been received are recorded in writing.

### **(c) Managers and Supervisors**

The responsibilities of managers and supervisors include:

- receiving reports from persons that report to them or that they supervise.
- passing on reports they receive to a disclosure officer.

### **(d) All employees**

All employees must:

- report suspected serious wrongdoing or other misconduct.
- use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of CDSC.
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

All employees must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

## **6. How we will deal with voluntary PIDs**

### **(a) How CDSC will acknowledge that we have received a report and keep the person who made it informed**

When a disclosure officer in CDSC receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive the following information:

- An acknowledgment that the report has been received. This acknowledgement will:
  - state that the report will be assessed to identify whether it is a PID.
  - state that the PID Act applies to how we deal with the report.
  - provide clear information on how you can access this PID policy.
  - provide you with details of a contact person and available supports.
- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
  - that we are investigating the serious wrongdoing.
  - that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral
  - If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you about the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.

- If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
  - o a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place.
  - o information about any corrective action because of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what we have put in place to address that serious wrongdoing.
- Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing.
- There may be some details about both the findings made because of the investigation and the corrective action taken that cannot be revealed to you. We will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations we have.
- If you have made an anonymous report, in many cases we may not be able to provide this information to you.

### **(b) How CDSC will deal with voluntary PIDs**

Once a report that may be a voluntary PID is received we will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. This assessment will be made by a panel usually consisting of the Human Resources Officer, Risk and WHS Officer, and Governance Officer. A panel representative will then consult with the General Manager and ensure that we comply with the requirements in the PID Act.

Even if the report is not classified as a voluntary PID, it will still be dealt with in a manner consistent with our Workplace Grievances and Incidents Procedure or through an alternate process. We will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report.

If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review via the General Manager, or request that the matter be conciliated. We can, but do not have to, request the NSW Ombudsman to conciliate the matter.

If further investigations reveal that the subject matter does not have all the features of a PID, we may stop dealing with the report under the PID Act and will advise this decision in writing.

If the report is a voluntary PID:

- In most cases we will investigate to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the agency engaged, in serious wrongdoing. The investigation may be conducted by member/s of the Governance team, or an external investigator via LG NSW. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been reported and investigated.
- There may also be circumstances where we decide that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the *Independent Commission Against Corruption Act 1988*.

- Before referring a matter, we will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.
- If we decide not to investigate a report and to not refer the matter to another agency, we must let you know the reasons for this and notify the NSW Ombudsman.

### **(c) How CDSC will protect the confidentiality of the maker of a voluntary PID**

We understand that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential. Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency.

There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or delegate reasonably considers it necessary to disclose the information to protect a person from detriment
- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

We will not disclose identifying information unless it is necessary and authorised under the PID Act. We will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for us to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified. We will do this by:

- limiting the number of people who aware of the maker's identity or information that could identify them.
- ensuring that any person who knows the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential.
- ensuring that only authorised persons have access to emails, files or other documents that contain information about the identity of the maker.
- advising the maker about the importance of maintaining confidentiality, for example, by telling them not to discuss their report with other staff.

If confidentiality cannot or is unlikely to be maintained, CDSC will:

- advise the person whose identity may become known.
- implement strategies to minimise the risk of detrimental action.
- provide additional support to the person who made the PID.



- remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental activity is a criminal offence and may also be a disciplinary matter.

**(d) How CDSC will assess and minimise the risk of detrimental action**

CDSC will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses, or the person the report is about. We will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

Detrimental action against a person is an act or omission that causes, comprises, involves, or encourages detriment to a person or a threat of detriment to a person (whether express or implied). Detrimental action does not include:

- lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- the lawful making of adverse comment, resulting from investigative action
- the prosecution of a person for a criminal offence
- reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

We will take steps to assess and minimise the risk of detrimental action by describing the protection options (for example working remotely or approved leave for the duration of the investigation) and outlining the supports that will be provided.

**(e) How CDSC will deal with allegations of a detrimental action offence**

If we become aware of an allegation that a detrimental action offence has occurred or may occur, we will:

- take all steps possible to stop the action and protect the person(s)
- take appropriate disciplinary action against anyone that has taken detrimental action
- refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC or the Law Enforcement Conduct Commission (whichever is applicable)
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

**(f) What CDSC will do if an investigation finds that serious wrongdoing has occurred**

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, we will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

Corrective action can include:

- a formal apology
- improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- providing additional education and training to staff where required



- taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

The General Manager and Governance Officer will receive the findings of an investigation and consult with appropriate members of the Management/Executive (ManEx) group on the steps to be taken to address any findings. The most senior person of the affected business unit will be responsible for ensuring that corrective action takes place, and progress on implementation will be monitored and reported to the Audit and Risk Improvement Committee (ARIC) by the Governance Officer. The maker of the PID will be notified in writing by the General Manager of the proposed corrective action.

## **7. Review and dispute resolution**

### **(a) Internal review**

People who make voluntary PIDs can seek internal review of the following decisions made by CDSC:

- that CDSC is not required to deal with the report as a voluntary PID
- to stop dealing with the report because we decided it was not a voluntary PID
- to not investigate the serious wrongdoing and not refer the report to another agency
- to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.

We will ensure internal reviews are conducted in compliance with the PID Act. If you would like to make an application for an internal review, you must apply in writing to the General Manager within 28 days of being informed of our decision. The application should state the reasons why you consider CDSC's decision should not have been made. You may also submit any other relevant material with your application.

### **(b) Voluntary dispute resolution**

If a dispute arises between us and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where CDSC and the maker of the report are willing to resolve the dispute.

## **8. Other CDSC obligations**

### **(a) Record-keeping requirements**

We must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that CDSC complies with its obligations under the *State Records Act 1998*. All information relating to PID reports and investigations will be classed as highly confidential, and only available to Council Officials who are directly involved in these processes. All documents pertaining to a PID matter will be stored in CDSC's Electronic Document Management System with restricted access control.

### **(b) Reporting of voluntary PIDs and CDSC annual return to the Ombudsman**

Each year we provide an annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by CDSC during each return period (yearly with the start date being 1 July).
- action taken by CDSC to deal with voluntary PIDs during the return period.
- how CDSC promoted a culture in the workplace where PIDs are encouraged.

The Governance Officer is responsible for collecting information and lodging the annual return. Statistical results will be published in CDSC's Annual Report and available to the public via Council's website.

### **(c) How CDSC will ensure compliance with the PID Act and this policy**

We will ensure compliance with the PID Act by reporting annually to the ARIC:

- types and numbers of matters reported.
- activities undertaken which have promoted and encouraged the making of PIDs.
- responses and corrective actions taken.
- monitoring the effectiveness of controls.

## **Legislation**

*Public Interest Disclosures Act 2022*

*Government Information (Public Access) 2009, NSW*

*Local Government Act 2009*

*Privacy and Personal Information Act 1998*

## **Related Documents**

This policy should be read in conjunction with:

- Code of Conduct
- Complaints Management Policy
- Risk Management Policy
- Fraud and Corruption Prevention Policy
- Statement of Business Ethics Policy

## **Monitoring and Review**

This policy will be monitored and reviewed by the General Manager to ensure compliance. Once adopted, it remains in force until it is reviewed by Council. It is to be reviewed approximately every two (2) years to ensure that it meets requirements, or sooner if the General Manager determines appropriate.

## **Annexure A — Names and contact details of disclosure officers for Central Darling Shire Council**

Details of disclosure officers will be updated as and when required on an administrative basis.

General Manager – Greg Hill. E: [hillg@centraldarling.nsw.gov.au](mailto:hillg@centraldarling.nsw.gov.au) Phone (08) 8083 8900 or 0429 915 904

Director of Shire Services – Reece Wilson. E: [wilsonr@centraldarling.nsw.gov.au](mailto:wilsonr@centraldarling.nsw.gov.au) Phone (08) 8083 8905 or 0429 915 992

Finance Manager – Kevin Smith. E: [smithk@centraldarling.nsw.gov.au](mailto:smithk@centraldarling.nsw.gov.au) Phone (08) 8083 8911 or 0417 590 902

Customer Services Manager – Jane McEwan. E: [mcewanj@centraldarling.nsw.gov.au](mailto:mcewanj@centraldarling.nsw.gov.au) Phone (08) 8091 4392 or 0429 914 392

Operations Manager – John Carleton. E: [john.carlton@centraldarling.nsw.gov.au](mailto:john.carlton@centraldarling.nsw.gov.au) Phone (08) 8083 8825 or 0455 238 654

Human Resources Officer – Evelyn Pollard. E: [pollarde@centraldarling.nsw.gov.au](mailto:pollarde@centraldarling.nsw.gov.au) Phone (08) 8083 8815 or 0459 632 220

Risk and WHS Officer – Kara Mohr. E: [mohrk@centraldarling.nsw.gov.au](mailto:mohrk@centraldarling.nsw.gov.au) Phone (08) 8083 8808 or 0459 671 438

Governance Officer – Nerida Carr (Disclosures Co-ordinator). E: [carrn@centraldarling.nsw.gov.au](mailto:carrn@centraldarling.nsw.gov.au) Phone (08) 8083 8822 or 0427 911 854



## Annexure B — List of integrity agencies

Integrity agency	What they investigate	Contact information
<b>The NSW Ombudsman</b>	Most kinds of <b>serious maladministration</b> by most agencies and public officials (but not NSW Police, judicial officers or MPs)	<b>Telephone:</b> 1800 451 524 between 9am to 3pm Monday to Friday <b>Writing:</b> Level 24, 580 George Street, Sydney NSW 2000 <b>Email:</b> <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
<b>The Auditor-General</b>	<b>Serious and substantial waste of public money</b> by auditable agencies	<b>Telephone:</b> 02 9275 7100 <b>Writing:</b> GPO Box 12, Sydney NSW 2001 <b>Email:</b> <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>
<b>Independent Commission Against Corruption</b>	<b>Corrupt conduct</b>	<b>Telephone:</b> 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday <b>Writing:</b> GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364 <b>Email:</b> <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a>
<b>The Inspector of the Independent Commission Against Corruption</b>	<b>Serious maladministration</b> by the ICAC or the ICAC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> PO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oiicac_executive@oiicac.nsw.gov.au">oiicac_executive@oiicac.nsw.gov.au</a>
<b>The Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the NSW Police Force or the NSW Crime Commission	<b>Telephone:</b> 02 9321 6700 or 1800 657 079 <b>Writing:</b> GPO Box 3880, Sydney NSW 2001 <b>Email:</b> <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a>
<b>The Inspector of the Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the LECC and LECC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> GPO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oilc executive@oilc.nsw.gov.au">oilc_executive@oilc.nsw.gov.au</a>
<b>Office of the Local Government</b>	<b>Local government pecuniary interest contraventions</b>	<b>Email:</b> <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>The Privacy Commissioner</b>	<b>Privacy contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
<b>The Information Commissioner</b>	<b>Government information contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>