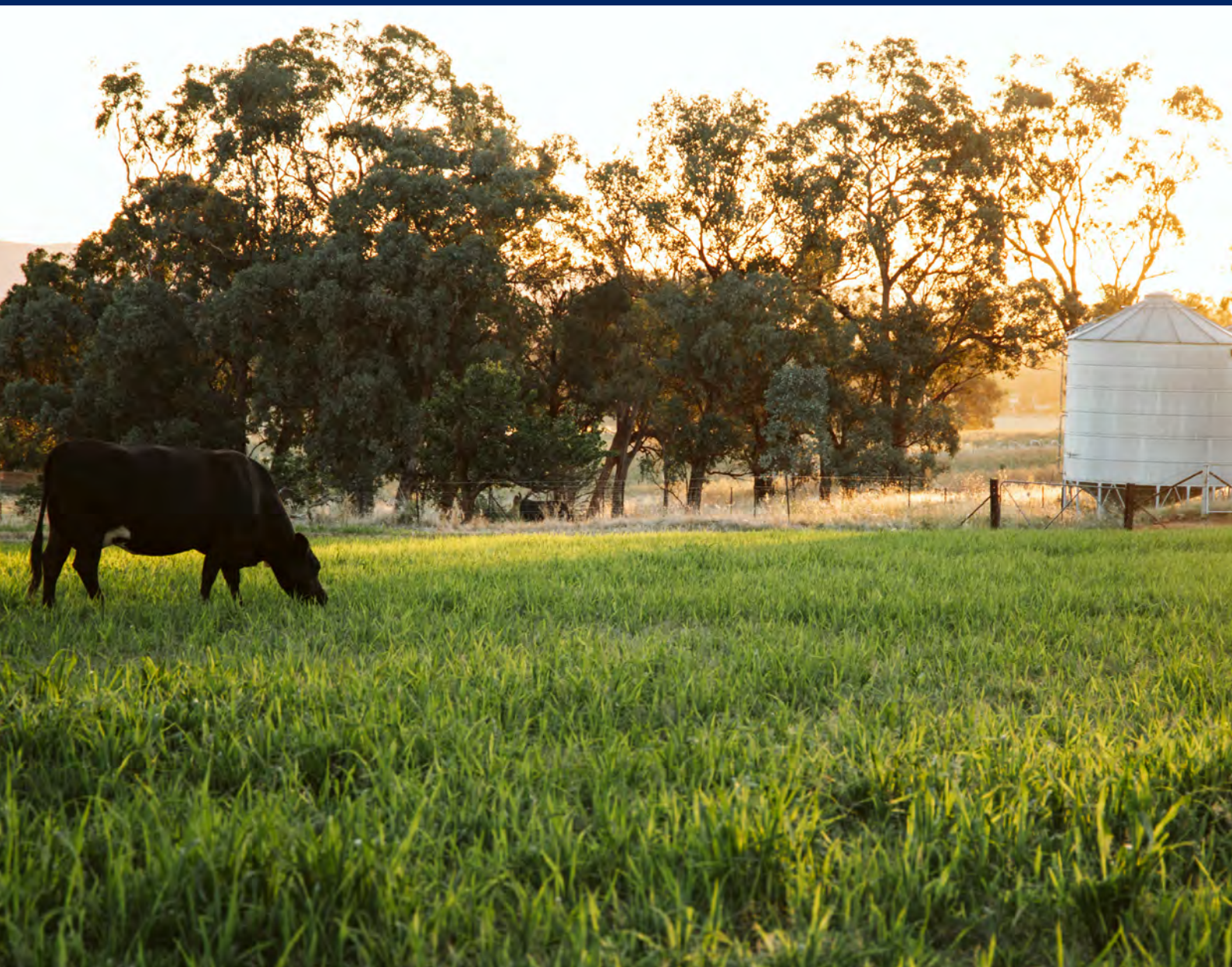


# Code of conduct

Local Land Services Board and local board members



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# Introduction

As public officials, members of the Local Land Services Board and local boards have an obligation to act in the public interest.

The LLS Board and local board member Code of Conduct (the Code) sets out the standards of behaviour expected of all members.

Reasonable standards of behaviour are referenced in the *Local Land Services Act 2013* and are further defined in each section of this Code.

All board members shall have a clear understanding of their public duty, legal responsibilities and act for a proper purpose without exceeding their powers in accordance with the *Local Land Services Act 2013*.

This code contains information sourced from:

- Local Land Services Act NSW 2013
- NSW Public Service Commission's Ethical Framework
- NSW Government Boards and Committee Guidelines
- Local Land Services Board Charter.

All board members and chairs must comply with and model the expected standards of behaviour described in this Code and uphold all other Local Land Services policies applicable to their role.



# Local Land Services Act 2013

Division 3 of the LLS Act defines expectations related to honesty and conduct. Specifically, s.34 defines minimum expectations related to LLS Board and local board member conduct:

1. Every Board and local board member must —
  - a. act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act, and
  - b. act for a proper purpose in carrying out his or her functions under this or any other Act, and
  - c. not use his or her office or position for personal advantage, and
  - d. not use his or her office or position to the detriment of the Board or the member's local board (respectively), and
  - e. disclose any interest (whether pecuniary or otherwise) that could conflict with the proper performance of his or her functions under this or any other Act and avoid performing any function that could involve such a conflict of interest.

Although this section places certain duties on Board and local board members, nothing in this section gives rise to, or can be taken into account in, any civil cause of action.

## **Section 35 describes expectations around the Code of Conduct:**

1. The Board may issue a code of conduct to be observed by all members of the Board and local boards.
2. Without limiting what may be included in the code, the code may relate to any conduct (whether by way of act or omission) of a member in carrying out his or her functions that is likely to bring the Board or a local board into disrepute.
3. In particular, the code may contain provisions for or with respect to the following conduct —
  - a. conduct that contravenes all or specified provisions of this Act or the regulations in all or specified circumstances,
  - b. improper or unethical conduct,
  - c. abuse of power and other misconduct,
  - d. action causing, comprising or involving any of the following —
    - i. intimidation, harassment or verbal abuse,
    - ii. discrimination, disadvantage or adverse treatment in relation to employment,
    - iii. prejudice in the provision of a service to the community,
  - e. conduct of a member causing, comprising or involving any of the following —
    - i. directing or influencing, or attempting to direct or influence, a member of staff of Local Land Services in the exercise of the functions of the staff member,
    - ii. an act of disorder committed by the member at a meeting of the Board or a local board,
  - f. the disclosure by members of interests (whether pecuniary or otherwise) that could conflict with the proper performance of a member's functions and avoidance of conflicts of interest,
  - g. the disclosure by members of confidential documents and information.
4. A member of the Board or a local board must not contravene the code.
5. Nothing in this section or such a code gives rise to, or can be taken into account in, any civil cause of action, and nothing in this section affects rights or liabilities arising apart from this section.

# Ethical Framework

The Ethical framework for the government sector<sup>1</sup> applies to all NSW government sector employees, irrespective of the Department of agency for which they are working for.

Whilst LLS Board and local board members are not employees under the Government Sector Employment Act, it is considered fair and reasonable that they uphold the same standards of the Staff Agency.

The Ethical framework for the government sector promotes the NSW Government's core values of integrity, trust, accountability and service.

## Integrity

- Consider people equally without prejudice or favour.
- Act professionally with honesty, consistency and impartiality.
- Take responsibility for situations, showing leadership and courage.
- Place the public interest over personal interest.

## Trust

- Appreciate difference and welcome learning from others.
- Build relationships based on mutual respect.
- Uphold the law, institutions of government and democratic principles.
- Communicate intentions clearly and invite teamwork and collaboration.
- Provide apolitical and non-partisan advice.

## Accountability

- Recruit and promote staff on merit.
- Take responsibility for decisions and actions.
- Provide transparency to enable public scrutiny.
- Observe standards for safety.
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

## Service

- Provide services fairly with a focus on customers needs.
- Be flexible, innovative and reliable in service delivery.
- Engage with the not-for-profit and business sectors to develop and implement service solutions.
- Focus on quality while maximising service delivery.

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<sup>1</sup>[www.psc.nsw.gov.au/culture-and-inclusion/workplace-culture/behaving-ethically](http://www.psc.nsw.gov.au/culture-and-inclusion/workplace-culture/behaving-ethically)

Working within the bounds of the Ethical Framework will assist LLS Board and local boards, meet their legislative requirements including:

- *Anti-discrimination Act 1977* (regarding equal employment and access to services)
- *Crimes Act 1900* (regarding criminal offences)
- *Data Sharing (Government Sector) Act 2015* (regarding sharing data with other NSW government sector agencies)
- *Government Advertising Act 2011* (regarding requirements to issue advertising compliance certificates)
- *Government Information (Public Access) Act 2009* (regarding public access arrangements to agency information)
- *Government Sector Finance Act 2018* (regarding the system of internal control over the financial and related operations of agencies)
- *Independent Commission Against Corruption Act 1988* (regarding reporting of any matter suspected on reasonable grounds to involve corrupt conduct and to comply with any requirement or direction of the ICAC in relation to a referral of matters by the ICAC)
- *Modern Slavery Act 2018* (regarding reporting and conducting risk-based assessments to identify, and address modern slavery risks)
- *Ombudsman Act 1974* (regarding obligations to cooperate with investigations by the Ombudsman)
- *Privacy and Personal Information Protection Act 1998* (regarding the protection of personal information, and the protection of the privacy of individuals generally)
- *Public Interest Disclosures Act 1994* (regarding receiving, assessing and dealing with public interest disclosures) (to be replaced by the *Public Interest Disclosures Act 2022* when the latter Act commences)
- *State Records Act 1998* (regarding the creation, management and protection of agency records and public access to those records)
- *Public Works and Procurement Act 1912* (regarding the procurement of goods and services by government agencies)
- *Work Health and Safety Act 2011* (regarding the health and safety of employees and the maintenance of healthy and safe workplaces).



# Standards of Conduct

As a member of the LLS Board or local board it is your responsibility to know, understand and comply with all the ethical and legal obligations that apply to you. At all times, your conduct must be consistent with the following standards:

## Respect and inclusion

Board members must model respectful and professional behaviour in meetings, events, and interactions with members of the public, customers and colleagues. You must not:

- harass
- bully
- victimise, or
- discriminate

There is zero tolerance for directing or influencing, or attempting to direct or influence, a member of staff of Local Land Services in the exercise of the functions of the staff member.

## Workplace safety

Local Land Services is committed to eliminating and minimising work health and safety (WHS) risks as far as reasonably practicable. You must adhere to the requirements in the *Work Health and Safety Act 2011*.

When representing LLS at meetings or events, board members must:

- take reasonable care for your own health and safety and do nothing that adversely affects the safety of others
- look for workplace hazards and take action if you see a safety risk
- report all WHS incidents, including near misses, within 24 hours to the Chair and Senior Executive.

## Additional requirements for LLS State Board Members

LLS state board members are considered officers under the WHS Act<sup>2</sup>.

Due diligence requires an officer to take reasonable steps under s27(5) of the *WHS Act 2011*, namely:

1. to acquire and keep up-to-date knowledge of work health and safety matters
2. to gain an understanding of the nature of the operations of the business or undertaking of the person conducting the business or undertaking and generally of the hazards and risks associated with those operations
3. to ensure that the person conducting the business or undertaking has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking
4. to ensure that the person conducting the business or undertaking has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information
5. to ensure that the person conducting the business or undertaking has, and implements, processes for complying with any duty or obligation of the person conducting the business or undertaking under this Act
6. to verify the provision and use of the resources and processes referred to in paragraphs 3 to 5.

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<sup>2</sup> Note: local board members are not considered officers under the WHS Act 2011

## Sexual harassment

Board members must contribute to providing a safe and respectful workplace free from all forms of sexual harassment.

Sexual harassment is both a conduct and work health and safety issue and all reasonably practicable steps must be taken to eliminate or minimise the health and safety risks of sexual harassment in the workplace.

When Local Land Services respond to reports we will treat all parties fairly and support all parties appropriately taking into account the facts and merits of each matter. We will prioritise the rights, needs and wishes of complainants and reporters and also ensure appropriate support and procedural fairness is provided to all parties.

As an LLS board member you must not tolerate sexual harassment in any form in the workplace or in any other work-related setting. This includes out-of-hours work-related activities, events or gatherings, and interactions involving colleagues, by phone or on social media or other messaging and communication platforms.

You are encouraged to report any instances of sexual harassment you experience or witness, to your Chair, a senior executive, or a designated sensitive disclosures officer.

## Good decision making

Decisions of the board must be accountable and ethical. You must be transparent and exercise probity. Decisions and outcomes must be recorded, made in the public interest and be able to withstand public scrutiny.

Decisions are the responsibility of the members as a group and are to be exercised and discharged as a group.

You must:

- make decisions collectively, and accept and convey majority decisions respectfully
- refrain from participating in the day-to-day management of Local Land Services, making representations or agreements on its behalf, or influencing management as individuals
- support Local Land Services decisions when in contact with other parties on behalf of Local Land Services.

The following key steps are central to good decision making by the LLS and local boards:

1. I/we have the power to make the decision under the Local Land Services Act, including current approved delegations
2. It is appropriate for me/us to make the decision (i.e. the decision is free from bias, no conflict of interest exists and/or the decision does not need to be escalated to a higher decision maker)
3. I/we have followed procedural requirements and taken the right things into account when making the decision (including approved policies and procedures, not omitting relevant information and fact based)
4. I/we have given procedural fairness to persons affected by the decision (including taking into account comments and feedback from stakeholders and timeliness of decision)
5. I/we have documented the decision (remembering that each board is accountable for maintaining accurate records as part of the State Archives and Records Act and sharing decisions as part of the Government Information (Public Access) Act).
6. I/we have communicated the decision to all required parties.



## Lobbying

Board members must adhere to the NSW Government Lobbyist Code of Conduct.

The Code regulates contact between registered lobbyists and Government representatives and restricts the circumstances in which a lobbyist can be appointed to an NSW Government board or committee.

A third-party lobbyist and any individual engaged to undertake lobbying for a third-party lobbyist, is ineligible for appointment to any LLS board (or board committee) if the functions of the board relate to any matter on which the third-party lobbyist or individual represents the interests of third parties or has represented the interests of third parties in the 12 months prior to the date of the proposed appointment.

Third-party lobbyists must not lobby on a matter that relates to the functions of a LLS board of which they (or the individuals they engage to undertake the lobbying for them) are members.

General memberships of peak industry bodies are not considered lobbyists.

## Public expenditure

All board members are members of governing boards and must ensure the efficient and responsible expenditure of public monies in accordance with legislation and government policies and guidelines.

This includes financial management, asset management and procurement requirements.

## Public resources

Board members must use public resources in an efficient, effective, and prudent way.

Never use public resources (money, property, equipment, or consumables) for your personal benefit, or for an unauthorised purpose.

Vehicles, digital devices, purchase cards, equipment, staff and other resources may be provided to a board to perform its functions and should be used only in relation to those functions and in accordance with any guidelines or rules about the use of those resources.

You must ensure the efficient and responsible expenditure of public money in accordance with the *Government Sector Finance Act 2018*, the *Public Works and Procurement Act 1912* and the *Government Advertising Act 2011*.

## Public comment

Board members must not make public comment about, or on behalf of, Local Land Services unless authorised to do so. This includes statements to the media and using all types of social media. If you are asked to comment please refer the inquiry to the LLS Director, Communications & Engagement.

If you personally undertake speaking engagements, make statements at community meetings, express views in letters to newspapers, on social media, or in books or notices that appear in the public arena, you must avoid giving the impression that you are speaking on behalf of Local Land Services without prior approval.

## Accessing services

If a board member wishes to pursue a service, activity or program (whether paid, free or other) as a customer to Local Land Services, you must:

- Adhere to the principles of probity and accountability
- Adhere to the M2022-07 Grants Administration Guide ([nsw.gov.au](https://nsw.gov.au)) and discuss options to apply for grants in their personal capacity as a landholder with their relevant General Manager or CEO in the first instance
- Respect the fairness, integrity and transparency of Local Land Services processes
- Follow any other Local Land Services policy and procedures
- Inform your Chair of any such involvement and complete a Conflict-of-Interest Declaration Form to be submitted to the Office of the CEO, as soon as the conflict or intent is realised
- Work in a cooperative manner to manage all risks and promote a relationship based on Integrity, Trust, Accountability, and Service.

## Access to information

Board members must not disclose official information or documents acquired because of their membership, other than as required by law, or when the member has been given proper authority to do so. Members must uphold privacy and confidentiality.

The Government Information (Public Access) Act 2009 (GIPA Act) contains a right to information system for NSW Government to make government information more readily available and improve openness and accountability.

The GIPA Act applies to all NSW government agencies, including boards and committees. Members must be aware of their obligations under the GIPA Act and understand that records created in the course of their official business, and as part of meetings is Government information and must be stored and accessible in accordance with Local Land Services record keeping practices (assistance can be sought through the secretariat).

Boards and committees are encouraged to proactively release decisions of their meetings in accordance with the NSW Government's Open Government policy unless there is an overriding public interest against disclosure.

## Gifts, benefits and hospitality

In the course of work, board members may be offered gifts or benefits from customers, applicants, suppliers or other persons and organisations.

Not gifts and benefits are intended simply as a memento or small token of appreciation, for example a book or gift presented to a speaker at a field day or conference. Accepting a gift or benefit of this kind is unlikely to be inconsistent with a board member's obligation under the Ethical framework for the government sector.

Accepting a gift or a benefit that could be perceived by other persons to be an inducement or incentive is inconsistent with the standards of conduct required under the Ethical framework for the government sector.

You must not accept any gift, benefit or hospitality, other than low risk hospitality, such as light refreshments or token gifts incidental to a meeting, conference, networking event or official business-related function with a value greater than \$50 in a single instance or cumulatively.

All offers of gifts, benefits or hospitality that exceed this threshold must be declared to the Office of the CEO to be included on the official register.

## Gifts, benefits and hospitality cont.

## Conflicts of interest

## Managing conflicts of interest

### Don't:

- Solicit a gift or benefit
- Accept a gift or benefit as an inducement or incentive to act in a certain way
- Accept a gift or benefit where there could be a perception that it has been offered as an inducement or incentive to act in a certain way
- Accept cash, cheques, money orders or gift vouchers
- Accept a gift or benefit where it is to be provided to a family member, relation, friend or associate
- Accept a gift or benefit where you currently, or may in the future, exercise discretion in the making of a decision affecting the giver
- Accept a gift or benefit if you are unsure whether you should.

### Do:

- Politely decline a gift or benefit which is not allowed
- Seek approval from the Office of the CEO to accept an allowable low value gift or benefit. Promptly record gifts and benefits in the register through the Office of the CEO, as soon as possible and within 10 working days
- Surrender any gifts over the threshold of \$50 to the Office of the CEO using the declarations form and for inclusion on the official register.

A conflict of interest exists when it is likely that a board member could be influenced by a personal or business interest. If a conflict of interest leads to partial decision making, it may constitute corrupt conduct. A conflict of interest, whether real, potential or perceived, may arise for example from:

- Other directorships or employment
- Personal, professional, financial and business interests and associations
- Investment interests or the investment interests of friends or relatives
- Relationships
- Participation in political activities
- Personal beliefs.

### You must:

- Disclose full and accurate details of a conflict of interest at the time the conflict arises, within a meeting and make record of this
- Complete a Conflict-of-Interest Declaration Form and submit to the Chair and Office of the CEO for inclusion on the official register
- Manage the conflict of interest as indicated and agreed on the declaration form.

There are several ways of managing conflicts of interest including:

- Agreeing that the board member will not take part in any discussion of the board relating to the interest or issue, not receive any relevant board or committee papers
- Be absent from the meeting room when any discussion or vote is taking place and not vote on the matter
- Severing the connection, for example resignation from a position in another organisation giving rise to the conflict
- Resignation of the member from the board (or board committee).



## Pecuniary interest disclosure

A board member must disclose all personal interests (which include positions and pecuniary interests) in corporations, partnerships or other businesses or organisations that may be relevant to the activities of the board or committee. These interests include those of an associate or close relative.

Disclosure should be made at the beginning of a member's term and during the term at least annually, using the Disclosure Form and submit to the Chair and Office of the CEO for inclusion on the official register.

A register of such interests will be maintained by the Office of the CEO, on behalf of the LLS Board and local boards, and must also be reported to the Minister.

After a member has disclosed the nature of an interest in any matter, the member must not, unless the Board or the local board otherwise determines:

- be present during any deliberation of the Board or local board with respect to the matter, or
- take part in any decision of the Board or local board with respect to the matter.



# Breaches of the Code

If you fail to meet these standards, corrective action may be taken.

If there is a finding of misconduct, the action taken will depend on the circumstances, but may include caution or reprimand, termination, and escalation of the matter to the Minister, NSW Police, Independent Commission Against Corruption (ICAC), NSW Ombudsman or the Information Privacy Commission (depending on the nature of the Breach)

## Reporting suspected corrupt conduct

The *Public Interest Disclosures Act 2022* (PID Act) sets out a system under which people working within the NSW public sector can report serious allegations of wrongdoing in a way that gives them protection.

You can make a public interest disclosure about corrupt conduct, serious maladministration, serious and substantial waste, and a failure to properly fulfil functions and responsibilities under the *Government Information (Public Access) Act 2009* (GIPA Act).

You can make internal reports to a Senior Executive or to the Chief Executive Officer.

You can also report directly to the following investigative bodies:

- Serious and substantial waste may be reported to the Auditor-General
- Concerns about government information systems may be reported to the Office of the Information Commissioner
- The ICAC also provides information relating to making a public interest disclosure about corrupt conduct, and reports can be made to the ICAC using its online reporting system.

## Ladder of escalation

You have a right to speak up about issues of concern. When raising an issue, there is an expectation that you raise it constructively and effectively in the best interests of all parties involved (including yourself and Local Land Services). The options are outlined in the Ladder of Escalation (next page).

## 1

### Clearly define the issue

If you are concerned about the activities or actions being undertaken or planned to be undertaken by Local Land Services, ask yourself 'who should I raise my issue with?'

If possible, clearly define the issue of concern and what the ideal outcome or remediation could look like to assist you in communicating your concern constructively and rationally.

Consider both internal and external factors when doing this, so that you have the correct context, the whole picture and are raising concerns that are based on fact and not on rumour. Also, keep in mind the level of confidentiality of the matter and handle any discussions discretely and appropriately.

Consider whether this matter meets the definition of a Public Interest Disclosure and if so, follow the relevant protocols as required.

If possible, raise the issue of concern at your local board level, by raising it with your Chair. If your Chair believes that your matter of concern is valid, they will consider whether discussion needs to occur at an upcoming local board meeting or will undertake the relevant internal inquiries and either remediate and resolve the issue or provide guidance on how it can be remediated, including liaising with the Regional General Manager (GM) if required or appropriate.

If you have concerns about speaking with your Chair or board members, or your concerns appear justified and cannot be resolved at a regional level, then escalate the issue.

## 2

### Escalate the issue to a senior officer

If the issue is related to operations or misconduct by a staff member, raise the matter with the relevant Regional General Manager. If you have concerns about speaking with your Regional GM, speak to the Local Land Services CEO directly.

If the GM or CEO believes that your matter of concern is valid, they will undertake the relevant internal inquiries and either remediate and resolve the issue or provide guidance on how it can be remediated.

If the issue is related to governance, policy, funding or is Minister related, raise the issue with the Local Land Services Board Chair. If the Local Land Services Board Chair believes that your matter of concern is valid, they will undertake the relevant internal inquiries and depending on the nature of the concern they will remediate and resolve the issue of concern or provide guidance on how it can be remediated.

## 3

### Escalate the issue to the Secretary or Minister

If you are reluctant to raise the issue with the CEO or Local Land Services Board Chair, you can:

- together with your local board chair, raise your concerns with the Department Secretary; or
- together with your local board chair, raise your concerns with the Minister.

For transparency purposes, and as a courtesy, the Local Land Services Board Chair is required to be informed of the issue being raised with the Secretary or Minister prior to this occurring.

If the Department Secretary or the Minister believes that your matter of concern is valid, depending on the nature of the concern they will undertake the relevant internal inquiries and resolve the issue.



# Document information and review

This policy document will be reviewed at least every 3 years.

Version	Effective	Approved by	Amendment details or notes
2.0	Enter date 1 May 2023	Local Land Services Board	Includes reference to good decision making, sexual harassment, acknowledging GIPA requirements, referencing new NSW Govt Grant Guidelines and PSC updates including Gifts & Benefits Direction

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