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CS ENERGY STANDARD

PROTECTED DISCLOSURES

CS-GOV-13

Responsible Officer: Special Counsel
Responsible Manager: Company Secretary
Responsible Executive: Executive General Manager Corporate Services

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CONTENTS

DOCUMENT HISTORY 1

1 PURPOSE..... 3

2 SCOPE..... 3

3 RESPONSIBILITIES AND ACCOUNTABILITIES 4

3.1 CS Energy Board 4

3.2 Chief Executive Officer 4

3.3 Executive General Manager Corporate Services 4

3.4 Company Secretary 4

3.5 Executive Leadership Team..... 4

3.6 Managers / Superintendents / Supervisors..... 4

3.7 Employees / Contractors / Consultants 4

4 PART 1 5

4.1 Disclosure Assessment Overview..... 5

4.2 Step 1 – Record the Disclosure 5

4.3 Step 2 – Identify Who is Making the Disclosure 5

4.4 Step 3 – Assess the Type and Nature of Disclosure 6

4.5 Step 4 – Refer Disclosure (If required)..... 6

4.6 Step 5 – Determine Action to be Taken..... 6

4.7 Step 6 – Report 7

4.8 Step 7 – Respond to Discloser 7

5 PART 2 8

5.1 CS Energy Supporting Procedures 8

6 PART 3 8

6.1 Guiding Principles 8

6.2 Key Concepts..... 8

6.3 Conducting Enquiries and an Investigation 11

6.4 Confidentiality and Disclosure to afford Natural Justice..... 12

7 DEFINITIONS..... 13

8 REFERENCES 13

9 RECORDS MANAGEMENT..... 13

10 ATTACHMENTS 14

10.1 Attachment 1 – Disclosure Steps 14

1 PURPOSE

The purpose of this standard (**Framework**) is to support:

- CS Energy's Governance, Risk and Compliance Policy, and the achievement of CS Energy's behavioural and business objectives; and
- compliance with legislative obligations under the *Corporations Act 2001* (Cth) and *Taxation Administration Act 1953* (Cth) (collectively, the **Whistleblower Protection Law**), the *Crime and Corruption Act 2001* (Qld) and the *Public Interest Disclosure Act 2010* (Qld).

At CS Energy, everyone is responsible for reporting a suspected breach of our Code of Conduct, policies and standards.

CS Energy values good faith disclosures received from internal and external sources for the insight they provide into the conduct of CS Energy business activity.

This Framework provides a high-level overview of CS Energy's processes for managing and investigating protected disclosures under Whistleblower Protection Law, public interest disclosures (**PID**) and suspected corrupt conduct.

2 SCOPE

This Framework applies to:

- CS Energy and its subsidiary companies (collectively **CS Energy**);
- all CS Energy directors, employees and contractors (**Personnel**); and
- third parties including members of the public.

This Framework is not intended to be contractually binding. It provides guidance to CS Energy officers and employees and is to be read in conjunction with applicable CS Energy standards and procedures, including:

- Whistleblowing by Internal Persons – Procedure [B/D/19/32610](#)
- Whistleblowing and Public Interest Disclosures by External Persons – Procedure [B/D/20/16088](#)
- Public Interest Disclosures – Procedure [B/D/20/16089](#)
- Reporting Corrupt Conduct – Procedure [B/D/12/67752](#)

This Framework does not apply to the management of disclosures related to employee grievances. Disclosures of that nature are managed in accordance with the applicable site enterprise agreement and CS Energy procedures. Further guidance on progressing these concerns is available from site HR Business Partners.

This Framework is intended to complement normal communication channels between Personnel, and between CS Energy and third parties. Personnel and third parties are encouraged, subject to the requirements of this Framework, to raise any concerns directly with their managers or CS Energy contact.

This Framework consists of three parts:

- Part 1 – Disclosure assessment process;
- Part 2 – CS Energy supporting Procedures; and
- Part 3 – Guiding principles.

3 RESPONSIBILITIES AND ACCOUNTABILITIES

The following accountabilities and responsibilities are assigned according to substantive position.

3.1 CS Energy Board

The CS Energy Board has ultimate accountability for CS Energy's Code of Conduct and Governance Risk and Compliance Policy, on which this Framework is based.

3.2 Chief Executive Officer

The Chief Executive Officer has primary accountability and responsibility for management and investigation of disclosures received by CS Energy, including determining suspected corrupt conduct that should be referred to the Crime and Corruption Commission (**CCC**).

3.3 Executive General Manager Corporate Services

The EGM Corporate Services has functional responsibility for this Framework.

3.4 Company Secretary

The Company Secretary is responsible for:

- the maintenance and review of this Framework;
- advising the Executive Leadership Team and the CS Energy Board about policy changes and implications for this Framework; and
- giving advice, guidance and assistance about this Framework.

3.5 Executive Leadership Team

The Executive Leadership Team (**ELT**) is responsible for ensuring that CS Energy's commitment to complying with this Framework and supporting procedures is clearly demonstrated to all Personnel and stakeholders.

3.6 Managers / Superintendents / Supervisors

Managers, Superintendents and Supervisors are responsible for ensuring that:

- the Personnel they manage; know, understand and comply with this Framework;
- disclosures received are promptly reported to Company Secretary/Legal and actioned;
- appropriate support is provided to persons who make disclosures or are involved in disclosure investigations; and
- all reasonable steps are taken to ensure there is no disadvantage or reprisal against a discloser including, dismissal, demotion, future bias, discrimination or any form of harassment as a result of any good faith disclosure made.

3.7 Employees / Contractors / Consultants

In addition to any other responsibilities under this Framework, all Personnel must:

- comply with the requirements of this Framework and supporting procedures;



Standard No: CS-GOV-13
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- promptly report disclosures to Company Secretary/Legal, including the time and date of the disclosure, the name and other details of the discloser and the nature and substance of the disclosure.
- report any suspicion of corrupt conduct to Company Secretary/Legal (including via the Whistleblower hotline) in accordance with [Procedure – CS-GOV-2 – Reporting Corrupt Conduct](#). Directors may also report suspected corrupt conduct to the Chair of the Board or the Chief Executive Officer;
- make any disclosure in good faith (this means you must make the disclosure with a genuine belief in its truth) and not make deliberately false or vexatious complaints; and
- maintain confidentiality with respect to disclosures and their investigation.

4 PART 1

4.1 Disclosure Assessment Overview

CS Energy encourages Personnel and third parties to informally raise concerns with their Manager or CS Energy contact, where appropriate. This is generally the preferred disclosure method, supporting transparent communication and timely reporting and management of concerns.

CS Energy’s protected disclosure assessment process is set out below, to assist persons receiving disclosures to understand the nature of the disclosure and how it should be treated. **Attachment 1** provides a flowchart of the assessment process.

4.2 Step 1 – Record the Disclosure

All protected disclosures received are to be recorded in the Recordable Disclosures Register maintained by Company Secretary/Legal. Strict reporting requirements apply depending on the type of disclosure. Accordingly, it is important that each disclosure is recorded as soon as practicable after it is received by the receiving officer.

The receiving officer should promptly liaise with Company Secretary/Legal to record the disclosure and to obtain support in relation to managing the disclosure.

Details of the disclosure, including the names of the discloser (unless anonymous) and the subject officer (if known), are to otherwise be kept confidential in order to protect against the possibility of reprisal action and to support the integrity of the investigation and/or disclosure management process.

4.3 Step 2 – Identify Who is Making the Disclosure

Unless the disclosure is received on an anonymous basis, the receiver of the disclosure must identify who is making the disclosure, and whether they are an employee or officer of CS Energy, or an external person. The types of protected disclosures that may be made depend on whether the discloser is an employee or officer of CS Energy, or a third party external to CS Energy. The below table outlines what disclosures may be made by certain persons. In this table, officer includes any contractor, secondee or volunteer.

	Employee or officer of CS Energy	Persons external to CS Energy
Protected Disclosure	✓	✓
Corrupt Conduct	✓	✓
Public Interest Disclosure	✓	✗

In circumstances where the disclosure is made anonymously, the identity of the person should not be recorded, and the disclosure should be assessed against all three types of disclosures listed in Step 3.

4.4 Step 3 – Assess the Type and Nature of Disclosure

The receiver, in conjunction with Company Secretary/Legal, must determine the type of disclosure that has been made. This may not be expressly stated by the discloser, so assessment checklists have been developed to assist in categorising and managing the disclosure. Disclosures may constitute:

- protected disclosures under the Whistleblower Protection Laws;
- PIDs; or
- suspected corrupt conduct.

Some disclosures may fall within more than one category (for example, PIDs are usually also disclosures of suspected corrupt conduct).

4.5 Step 4 – Refer Disclosure (If required)

Before any action is taken in response to a disclosure, the receiver must obtain advice from the Company Secretary/Legal. This is particularly important where the disclosure gives rise to a suspicion of corrupt conduct, is properly categorised as a PID or is a protected disclosure.

Company Secretary/Legal are responsible for managing reports of suspected corrupt conduct, PIDs and protected disclosures. Company Secretary/Legal will determine if the disclosure needs to be referred externally and may assist the receiver to manage the disclosure or may directly manage disclosures of a serious nature.

CCC and Corrupt Conduct Referral Register

All suspected corrupt conduct disclosures must be reported to the Crime and Corruption Commission (CCC). The CCC may assume responsibility for investigating suspected corrupt conduct or refer the matter back to CS Energy for investigation. Occasionally, the CCC may direct CS Energy to take no further action. Company Secretary/Legal, through the CCC Liaison Officers, will manage reporting and communication with the CCC and will record the disclosure in the *Corrupt Conduct Referral Register*. If a matter is referred back to CS Energy by the CCC, Company Secretary/ Legal may investigate, appoint an external investigator or support the receiver or another internal person to investigate, depending upon the circumstances.

4.6 Step 5 – Determine Action to be Taken

4.6.1 Investigate

Refer to Part 3 of this standard for Guiding Principles on conducting an investigation into protected disclosures, PIDs or suspected corrupt conduct.

4.6.2 No Further Action

Suspected Corrupt Conduct

If the Chief Executive of CS Energy does not reasonably suspect that a disclosure gives rise to a reasonable suspicion of corrupt conduct, and therefore determines that the disclosure does not need to be reported to the CCC, the CCC Liaison Officer must record the decision not to report. Refer to the CS Energy *Reporting Corrupt Conduct Procedure* for more information.

Alleged Public Interest Disclosure

If, after completing an assessment, CS Energy determines that the disclosure does not amount to a PID, the discloser must be provided with written reasons for the decision that the information does not meet

the threshold for a PID. The discloser may have right to request a review of the decision in certain circumstances. Refer to the CS Energy *Public Interest Disclosure Procedure* for more information.

4.7 Step 6 – Report

4.7.1 Queensland Ombudsman

All PIDs must be reported to the Queensland Ombudsman within 30 days of finalising the management of the disclosure. The Queensland Ombudsman is the oversight agency that is responsible for reviewing the management of PIDs by Government Owned Corporations (GOCs), including CS Energy.¹ It is important that all details of the disclosure and investigation are recorded as this information can be requested by the Queensland Ombudsman for their review. The Chief Executive, through the CS Energy PID Coordinator, will manage reporting of such information, primarily through the prescribed RaPID portal <https://go.qld.gov.au/fmi/webd/RaPID>

4.7.2 CCC

If the matter has been referred to the CCC, CS Energy may be required to report to the CCC on the outcome of any internal investigation and action taken.

4.7.3 Other Bodies

In some cases, CS Energy may also be required to report to another regulatory authority, for example, the Regulator under the *Work Health and Safety Act 2011* (Qld) or the Queensland Police.

4.7.4 Internal Reporting

All internal reporting on receipt, investigation and recommendations associated with protected disclosures, PIDs, and suspected corrupt conduct, should be on a need to know basis having regard to confidentiality, privacy and related considerations.

4.8 Step 7 – Respond to Discloser

Within the bounds of confidentiality and the principles of natural justice; appropriate, timely feedback should be provided to the discloser and relevant stakeholders to assure stakeholders that the disclosure is being appropriately managed.

CS Energy will provide a discloser with a response following receipt of a disclosure, indicating either:

- proposed action, including why such action is appropriate in the circumstances and any outcomes known at the time of the response; or
- no action will be taken, in which case, CS Energy will provide the discloser with reasons for taking no action or discontinuing action.

Where a disclosure is received without a name or address, or the discloser does not require a response, no response information will be provided to the discloser. CS Energy will also not provide a response if doing so would disclose information about the disclosure that would be contrary to the public interest.

¹ Queensland Ombudsman, Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting.

5 PART 2

5.1 CS Energy Supporting Procedures

The procedures listed in 5.1.1 provide further guidance on the management of protected disclosures received by CS Energy.

Personnel and third parties should follow the relevant procedure when making a protected disclosure or PID to CS Energy.

5.1.1 Procedures

For disclosures received from third parties, the following procedures apply:

- Whistleblowing and Public Interest Disclosures by External Persons – Procedure [B/D/20/16088](#)
- Reporting Corrupt Conduct - Procedure [B/D/12/67752](#)

For disclosures received from CS Energy employees and officers, the following procedures apply:

- Whistleblowing by Internal Persons – Procedure [B/D/19/32610](#)
- Public Interest Disclosures – Procedure [B/D/20/16089](#)
- Reporting Corrupt Conduct – Procedure [B/D/12/67752](#)

6 PART 3

6.1 Guiding Principles

This part provides guiding principles for handling and investigating disclosures made to CS Energy. Persons responsible for receiving, assessing and investigating protected disclosures, PIDs or suspected corrupt conduct should apply these principles to guide the investigation process.

6.2 Key Concepts

6.2.1 Corrupt Conduct

Corrupt conduct generally relates to a person's powers, authorities, duties and behaviour in the workplace and usually does not relate to any private misconduct, unless the conduct would amount to a criminal offence. There are two types of corrupt conduct:

Type A corrupt conduct is conduct by any person that affects, or could affect, how a Unit of Public Administration (including CS Energy) or an individual person holding an appointment (including in CS Energy) performs their functions or exercises their powers.

Type B corrupt conduct is conduct that impairs, or could impair, public confidence in public administration.

Corrupt conduct includes taking reprisals against someone because they previously reported a suspicion of corrupt conduct

The *Government Owned Corporations Act 1993* requires CS Energy's Chief Executive to report complaints, information or matters, relating to CS Energy, that give rise to a suspicion of corrupt conduct to the CCC.

For more information, including a comprehensive definition of corrupt conduct, refer to CS Energy's *Reporting Corrupt Conduct Procedure* [B/D/12/67752](#).

6.2.2 Natural Justice

Persons must act fairly in the making of decisions that can affect the rights, interests or legitimate expectations of individuals. In the context of a disclosure made against an individual, natural justice (or procedural fairness) requires that the following principles are followed:

- conduct a comprehensive investigation into the disclosure, where appropriate;
- conduct investigation fairly and without bias;
- persons involved in responding to a disclosure are provided support, and afforded an adequate opportunity to understand and respond to allegations; and
- CS Energy standards and procedures are followed.

Natural justice is a common law principle and is often referred to as 'procedural fairness'.

6.2.3 Public Interest Disclosure (PID)

Public Interest Disclosure (**PID**) is a disclosure of information in the public interest about wrongdoing of another CS Energy employee, or another person.

An employee of CS Energy can make a PID to CS Energy or the CCC if they have information about:

- the conduct of another employee of CS Energy that could, if proved, be corrupt conduct; or
- the conduct of another person that could, if proved, be a reprisal relating to a previous PID made by the employee.

An employee is deemed to have information about the conduct of a person if:

- the employee honestly believes on reasonable grounds that the information tends to show the conduct; or
- the information tends to show the conduct, regardless of whether the employee honestly believes the information

Any person may make a PID about CS Energy to a public sector entity (that is a proper authority for the purposes of receiving the PID) other than CS Energy, about:

- substantial and specific danger to the health or safety of a person with a disability;
- the commission of an offence or contravening approval conditions that is or would be a substantial and specific danger to the environment; or
- the conduct of another person that could, if proved, be a reprisal.

CS Energy is not a proper authority to receive external PIDs. However, general complaints about these matters may be received by CS Energy from external parties or referred to CS Energy by other entities.

It is an offence under the PID Act to intentionally make a false and misleading statement that is intended to be a PID.

6.2.4 Procedural Fairness

Rules of procedural fairness require an investigator or decision maker to avoid bias and give a fair hearing. Procedural fairness is also sometimes referred to as Natural Justice.

6.2.5 Protected Disclosure

A protected disclosure is a disclosure made in accordance with the Whistleblower Protection Laws, by an eligible whistleblower, where the person has reasonable grounds to believe that the disclosure concerns misconduct or an improper state of affairs or circumstances in relation to CS Energy or in relation to the tax affairs of CS Energy.

A person making a protected disclosure is also known as a 'whistleblower'.

An eligible whistleblower includes:

- officers, employees and associates of CS Energy; and
- former officers and employees of CS Energy, former consultants, secondees and volunteers of CS Energy, current and former contractors, suppliers and agents of CS Energy (to the extent that they are individuals and not bodies corporate), current and former employees of current and former contractors, suppliers and agents of CS Energy, and spouses or relatives of any of the above.

6.2.6 Reprisals

Reprisal means causing, attempting to cause or attempting to induce a person to cause detriment to a person because, or in the belief that, that person or someone else:

- has made or intends to make a disclosure; or
- is, has been, or intends to be, involved in a protected proceeding, against any person.

Personnel making a disclosure in good faith (and who have not been involved in the reported conduct) must not be penalised or personally disadvantaged because of the complaint, by any of the following actions:

- dismissal;
- demotion;
- any form of harassment;
- discrimination; or
- bias.

Reprisals against Personnel making disclosures in good faith will not be tolerated. Disciplinary measures up to and including dismissal will apply to Personnel found to have penalised or personally disadvantaged a person who has made a disclosure in good faith.

Reprisals may constitute a criminal offence and a tort. Personnel who take reprisals (and CS Energy) may be liable in damages to any person who suffers detriment as a result.

Reasonable management action taken by CS Energy, including reasonable disciplinary action, is not a reprisal.

The risk of reprisal action must be assessed and managed during the investigation process. Reasonable action must be taken to protect the discloser and others from reprisal.

6.2.7 Standard of Proof

The standard of proof is the measure by which a fact or issue must be proved. The standard of proof in investigations of suspected corrupt conduct, protected disclosures and PIDs is on the balance of probabilities.

For a disclosure to be proved on the balance of probabilities, the evidence must establish that it is more probable than not that the alleged conduct occurred.

Where the allegations are serious in nature, such as that of corrupt conduct and fraud allegations, the strength of the evidence necessary to establish an allegation increases.

6.2.8 Support Person

A person, not connected in any capacity with the investigation, who attends an interview to support the interviewee. The support person may be a friend or relative, colleague, union or legal representative. The support person must not act as an advocate for the interviewee.

6.2.9 Whistleblower

See protected disclosure.

6.3 Conducting Enquiries and an Investigation

6.3.1 Planning an Investigation

The planning stage of any investigation is important. Determine the objectives of the investigation and the responsibilities of the investigator, i.e. is the responsibility to substantiate the conduct, provide recommendations.

6.3.2 Rules of Evidence and Standard of Proof

For any evidence, the most fundamental consideration is relevance. There must be some logical connection between the evidence and the facts at issue.

Hearsay evidence is based on what has been reported to a witness by others, rather than what he or she has heard himself or herself. Hearsay evidence should be treated with caution. It should only be relied upon where it is considered to be highly reliable and there is no more direct evidence available.

A witness's opinions about a person, or about what happened or should have happened, are generally irrelevant to an enquiry. As a general rule, witnesses should be steered away from expressions of opinion about something or someone. Witnesses should describe in detail what they actually perceived with their senses (i.e. saw, heard, felt, tasted or smelt).

In disciplinary investigations, the civil standard of proof applies — that is, the allegations must be proved on the balance of probabilities. This is a lower standard of proof than that required in criminal matters, where allegations must be proved beyond reasonable doubt.

For a case to be proved on the balance of probabilities, the evidence must establish that it is more probable than not that the alleged conduct occurred.

The strength of evidence necessary to establish an allegation on the balance of probabilities may vary according to the:

- relevance of the evidence to the allegations
- seriousness of the allegations
- inherent likelihood (or improbability) of a particular thing occurring, and
- gravity of the consequences flowing from a particular finding.

It is the strength of the evidence necessary to establish a fact or facts, particularly key facts in dispute, and not the standard of proof that may vary according to the seriousness of the allegations and the outcome.

6.3.3 Conduct of interviews

Where practicable, all interviews should be conducted separately in order to preserve the integrity of the investigation and evidence.

All interviewees should be afforded the opportunity to bring a support person to any interview. A support person can be a friend, relative, representative (either union or legal representative) provided they are not in any way involved in the investigation.

The support person's role is to provide emotional support to the interviewee, not to act as an advocate. If, during an investigation, the support person begins acting as an advocate for the interviewee, the interviewer should remind the support person of their responsibilities before continuing the interview.

A fact sheet outlining the expectations and responsibilities of a support person should be provided to the nominated support person prior to the interview to ensure the interview runs efficiently and all parties understand their responsibilities.

6.3.4 Investigation report

When the investigator is satisfied that they have all necessary evidence and material to make findings, an investigation report should ordinarily be prepared. The investigation report is an important document in informing the relevant decision maker within CS Energy of the findings and conclusions of the investigator. In certain circumstances, a verbal investigation report may be provided to the relevant decision maker, including the Board or Senior Management.

6.4 Confidentiality and Disclosure to afford Natural Justice

Maintaining confidentiality should be at the forefront of any investigation:

- to meet statutory obligations;
- to ensure the integrity of the investigation; and
- to minimise the risk of harm to all parties involved.

However, respondents to disclosures must be provided with sufficient information to enable them to understand and respond to the disclosure made against them.

Applying the principle of natural justice, certain information that is confidential may be required to be disclosed to the subject officer in order to afford the subject officer natural justice. This is a serious decision and an investigator must liaise with Legal prior to deciding to disclose any confidential information, particularly if the matter under investigation could be a protected disclosure.

The *Privacy Act 1988* (Cth) provides an exception to the rule requiring personal information not to be disclosed - in circumstances where the disclosure of personal information is authorised or required by law.² Natural justice is an important common law principle which falls within the exception. However, this decision should not be made lightly. The risk of reprisal must be considered before a decision is made to disclose the identity of any discloser or witness.

Where the disclosure is a PID, the PID Act expressly provides that information that is likely to disclose the identity of the PID may be disclosed where it is essential to do so under the principles of natural justice. Before disclosing any confidential information, CS Energy must have assessed the likelihood of any reprisal action against the discloser and be satisfied that reprisal is unlikely.³ Any such decision must be made in consultation with Legal and documented, including the reasons for the decision.

This exception does not apply to protected disclosures.

² *Privacy Act 1988* (Cth) sch 1, cl 6.2(b).

³ *Public Interest Disclosure Act 2010* (Qld) s 65(4)-(5).

7 DEFINITIONS

Term	Definition
Corrupt Conduct	<p>Has the meaning given under section 15 of the <i>Crime and Corruption Act 2001 (Qld)</i> https://www.legislation.qld.gov.au/view/html/inforce/current/act-2001-069#sec.15</p> <p>There are two broad types of corrupt conduct, namely:</p> <ul style="list-style-type: none"> • Conduct of a person, that affects, or could adversely affect, directly or indirectly, how CS Energy or a person holding an appointment with CS Energy perform their functions or exercise their powers; and • Conduct of a person, that impairs, or could impair, public confidence in CS Energy

8 REFERENCES

Reference No	Reference Title	Author
B/D/11/39710	Policy - Code of Conduct	CS Energy
B/D/11/39708	Policy - Governance, Risk and Compliance	CS Energy
B/D/12/67752	Procedure - CS-GOV-2 - Reporting Corrupt Conduct	CS Energy
B/D/13/17881	Risk Matrix – Risk Management Framework	CS Energy

9 RECORDS MANAGEMENT

In order to maintain continual improvement, suitability, safety and effectiveness of the organisation, registered documents will be reviewed on a two-yearly basis or at intervals specified by legislative or regulatory requirements. Review of controlled documents should occur where it has been identified that there are changes in technology, legislation, standards, regulation or where experience identifies the need for alteration to the content. Registered documents should also be reviewed following an incident, change management process, modification or where directed as part of a risk assessment process. A 'review' can simply mean that it has been identified, confirmed and appropriately recorded that no changes are required and that the existing process remains the same.

Government Owned Corporations must ensure that records are retained according to accountability, legal, administrative, financial, commercial and operational requirements and expectations. In compliance with records retention and disposal, all documentation created in relation to business must be retained in line with minimum retention periods as detailed in legal retention and disposal schedules.

10 ATTACHMENTS

10.1 Attachment 1 – Disclosure Steps

CS Energy requires the recipient of any disclosure to refer the disclosure to the Company Secretary/Legal in the first instance. Company Secretary/Legal will work with recipients to identify the nature of the disclosure and determine what steps must be taken in response to it.

