Code of Conduct
For Public Transport Authorised Officers
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INTRODUCTION

Authorised Officers (AOs) are employed by passenger transport companies to perform statutory duties and functions essential to the successful and safe delivery of public transport services in Victoria.

Responsibility for ensuring the successful performance of an AO is divided between the Department of Economic Development, Jobs, Transport & Resources (DEDJTR) and the passenger transport company or association which employs the AO.

DEDJTR has responsibility for ensuring that AOs are performing their duties and functions in accordance with the provisions of the Transport (Compliance and Miscellaneous) Act 1983 (the Act) and, as such, acts as a regulator of AOs.

The passenger transport companies and Bus Association Victoria (BAV) as employers of AOs are required to ensure that their staff are properly trained and equipped with the skills to perform their duties. Each of these employers has its own procedures, policies and operating requirements relevant to how its AOs go about their work. The passenger transport companies and BAV are required to have their own Authorised Officer Management System (AOMS) and to keep proper records in relation to it.

This Code of Conduct for Public Transport Authorised Officers (the Code) has been developed by DEDJTR to provide guidance on the obligations and responsibilities of AOs from the regulatory perspective. It has been written with AOs as the intended audience.

The Code is not intended to be a comprehensive outline of how AOs are expected to conduct themselves as employees. It does not address issues which are more properly the responsibility of the passenger transport companies. It must be read in conjunction with other documents containing the operational and policy requirements of each AO’s employer.

The team within DEDJTR which is responsible for the authorisation and regulatory oversight of AOs and passenger transport companies sits within Legislation & Legal Services (L&L) in the Transport Group.

Further information about the regulatory framework can be obtained from:

Director, Operations Branch
Legislation & Legal Services
Department of Economic Development, Jobs, Transport & Resources
PO Box 2797 Melbourne Victoria 3001
(03) 9655 2004
OBJECTIVE OF THIS CODE

The principal objective of this Code is to promote knowledge of, and compliance with, the legislative responsibilities of AOs.

The primary functions of an AO are to:

• act as a deterrent to fare evasion, vandalism and anti-social behaviour
• report ticketing and behavioural offences against the Act and regulations made under the Act
• provide evidence to any court or tribunal relevant to ticketing and behavioural offences.

This Code draws on the following legislation and instruments, and should be read in conjunction with them:

• Transport (Compliance and Miscellaneous) Act 1983
• Transport Integration Act 2010
• Transport (Infringements) Regulations 2010
• Transport (Conduct) Regulations 2005
• Transport (Ticketing) Regulations 2006
• Transport (Passenger Vehicles) Regulations 2005
• Information Privacy Act 2000
• Charter of Human Rights and Responsibilities Act 2006
• Conditions of AO authorisation
• Government Gazette - Determination of relevant incidents and occurrences
• Victorian Fares & Ticketing Manual
• Public Transport Law and Procedure Reference Notes for Authorised Officers and Certificate III training course, including guidelines for the collection, use and storage of personal information obtained through the public transport compliance process.

AOs must also have detailed knowledge of all relevant operating procedures and internal policies of the passenger transport company or association that employs them.
OVERVIEW

AOs have two lines of accountability. The first is to the passenger transport company or bus company or association that employs them as part of the employer-employee relationship.

The second is to DEDJTR, which is responsible for regulatory oversight of AO conduct in accordance with the Act. The Act sets out the situations in which a person can be authorised, as well as the situations which trigger DEDJTR’s ability to discipline an AO.

This Code reflects expectations relating to the second of these accountabilities – that is, the regulatory one.

1. LEGISLATIVE FRAMEWORK

The Secretary is the statutory office responsible for the authorisation of AOs. Section 221AB of the Act empowers the Secretary to authorise a person who is employed or engaged by a passenger transport or bus company or BAV, but only if the Secretary is satisfied of the matters set out in section 221C. The Secretary has delegated these powers and functions to a number of DEDJTR officers.

These officers include the:
- Executive Director, Legislation & Legal Services
- Director, Operations Branch
- Manager, Prosecutions and Investigations Unit

References to the Secretary in this Code also refer to those DEDJTR officers to whom the Secretary has delegated relevant powers and functions under the Act.

To authorise a person as an AO, the Secretary must be satisfied that the person:
- is competent to exercise the functions of an AO
- is of good repute, having regard to character, honesty and integrity
- has agreed in writing to exercise the functions conferred on an AO by the Act according to performance criteria established from time to time by the Secretary (this includes the conditions imposed on an authorisation)
- is employed or engaged by a passenger transport company or BAV which have been accredited by the Secretary under Division 4A of the Act.

AOs must also adhere to a broader, overlapping list of criteria set out in section 221L to maintain authorisation. This list relates to competence, good repute, honesty and integrity as well as matters that trigger the Secretary’s powers to investigate officer behaviour and suspend or revoke an authorisation.

The Secretary’s disciplinary powers are found in sections 221J, 221K and 221L. If the Secretary becomes aware of any situation or conduct as set out in s 221L, the Secretary may investigate that situation or conduct. If satisfied that the AO has behaved in a way which is inconsistent with the characteristics set out in section 221L, the Secretary can do a number of things, including suspending or revoking the person’s authorisation.

If the Secretary decides to take action against an AO, the AO has the right to seek review of that decision by the Victorian Civil and Administrative Tribunal (VCAT).
2. CONDUCT GENERALLY

AOs are required to conduct themselves at all times in a manner which is consistent with the law and the lawful instructions of their employer.

AOs are required to perform duties to the best of their ability and in a professional, conscientious and diligent manner. Their conduct should at all times be ethical, honest, appropriately civil and within the requirements of applicable laws, this Code and any other lawful instructions of their employer. Such conduct is fundamental to maintaining all of the characteristics required for their authorisation.

AOs should ensure that there is no conflict between their personal interests and the impartial fulfilment of their official duties and obligations. They are not to accept any benefit (including any gift, gratuity, remuneration, allowance, fee, subsidy, consideration, free service or entertainment) from any person or organisation that may require, or appear to require, them to forego or prejudice their duties or obligations.

All information relating to persons allegedly committing an offence which AOs collect in the course of their duties must be treated lawfully.

Under no circumstances should AOs behave in a way that could reasonably be expected to call into disrepute the public perception of AOs. For example, AOs must:

- show respect for members of the public, their colleagues and the personal property of other people
- refrain from using language or behaving in any way which could be deemed offensive, improper or inappropriate by the Secretary, their employer or reasonable members of the public
- ensure that they constantly assess passenger safety and comfort considerations in the execution of their duties to report ticketing compliance breaches and other offending behaviour.

3. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

Public authorities are required by the Victorian Charter of Human Rights and Responsibilities Act 2006 (the Charter) to act in a way that is compatible with human rights. The term “public authority” is defined to include an entity whose functions are of a public nature, when it is exercising those functions on behalf of the State. This means that transport companies and AOs conducting enforcement duties under the Act are required to comply with the Charter.

AOs are expected to be aware of the rights set out in the Charter. Some of these rights are very relevant to their enforcement duties. In particular, AOs should note a person’s right to:

- protection from degrading treatment
- freedom of movement
- protection of privacy and reputation
- freedom of expression
- peaceful assembly and freedom of association
- the presumption of innocence
- liberty.
The Secretary is required to have regard to the Charter when deciding if an AO has behaved in a way which breaches the Act. In other words, if an AO has unreasonably interfered with a right a passenger has under the Charter, or without proper excuse, the Secretary might consider that this interference constitutes a lack of competence by the AO or an abuse of power, depending on the circumstances.

Examples:

If an AO has arrested a person on a train, he or she must not prevent other members of the public who they do not believe have committed an offence from leaving the train when it arrives at a station.

An AO must not use insulting or intimidating language or gestures towards a person who they have lawfully arrested.

An AO must not physically restrain a person unless he or she has complied with the Act to effect a lawful arrest.

4. **IDENTITY CARD AND BADGE**

Official identity cards, wallets and badges are issued to AOs to allow them to identify themselves to people for the purposes of compliance reporting activities. AOs are to keep these identification materials safe and secure at all times. Identity cards are to be inserted and housed in the clear display panel of the badge wallet issued by DEDJTR.

Whenever AOs are performing official duties they are required to:

- carry their identity card and badge
- produce the identity card and badge to any person they intend to report for non-compliance
- produce their identity card and/or badge to any person who requests to see the identity card or badge.

It is an offence under the Act for an AO to fail to - or to refuse to - produce their identity card upon request (section 221I(3)). Misuse of the badge or identity card may, depending on the circumstances, call into question an AO’s honesty and integrity, or may be considered a failure to properly exercise the functions of an AO.

**Uniform badges**

The uniform badge is a replica of the AO official badge. DEDJTR prefers that AOs wear the uniform badge, except when the AO is undertaking duties in plain clothes.

5. **REQUEST TO STATE NAME AND ADDRESS**

AOs must introduce themselves as AOs, state their name and produce proof that they are an AO when requesting a person who they intend to report for an offence to state his or her name and address. It is an offence under section 221I of the Act not to provide identity when asked to do so. Failure by an AO to properly identify him or herself may also be considered a failure to properly exercise his or her duty.

If the person being reported asks an AO to repeat their name, or to show their identity card again, the AO must comply with that request. If asked to supply their own name in writing, or a supervisor’s name and contact details, the AO should do so.
AOs are not obliged to state their residential address but must give their work address, if requested. This information may be given orally or in writing, but should be given in writing if this is specifically requested.

6. PRIVACY REQUIREMENTS

When AOs collect personal information from any person, for example, the person’s name, contact details and age, the AO must comply with the Information Privacy Act 2000. Misuse of any such information by the AO will result in disciplinary action as it would reflect a lack of competence, inappropriate use of power or lack of honesty and integrity.

Whenever personal details are obtained from a person, an AO should either provide the brochure entitled “What happens if you are reported” or state the following or similar:

You have been spoken to by me.............., I am an authorised officer and I believe on reasonable grounds that you have committed an offence under the Transport (Compliance and Miscellaneous) Act 1983 or the Regulations. I am required to obtain and confirm your name and address to enable a report to be submitted to the Department of Transport, Planning & Local Infrastructure. This information will be stored in accordance with the Information Privacy Act and it will not be disclosed to any other party except for the legal or related purpose for which it has been collected.

AOs must also collect personal information only by lawful and fair means and not in an unreasonably intrusive manner or by illegal means.

7. ARREST

An AO should only arrest a person when they have no other lawful choice. Arresting a person should not be the first response as it deprives that person of their liberty. This is always a serious matter.

The need to arrest a person should be fully corroborated, regardless of whether the arrest is accompanied by conflict.

As soon as the reason for the arrest ceases to exist, the person arrested must be informed that he or she is “no longer under arrest” and is “free to leave” or words to this effect. If an arrest is recklessly or negligently effected or maintained contrary to these requirements, the AO may be liable to disciplinary consequences and/or to civil or criminal action for false arrest or false imprisonment. Such an arrest may also be considered to be an abuse of power.

When an AO arrests a person, he or she may only use force that is reasonable in all the circumstances to effect that purpose, which in most cases will be to obtain confirmation of an identity.

8. NOTIFIABLE INCIDENTS

The Secretary has determined a series of incidents and occurrences which must be reported to DEDJTR. These incidents are listed in the Government Gazette and are updated from time to time.

Responsibility for reporting these incidents to DEDJTR ultimately falls on the relevant passenger transport company, however, AOs are responsible for reporting any incidents that may fall under any of these categories to their supervisor or manager. If AOs do not report relevant incidents to their manager, it may be considered a failure to display honesty and integrity or go to an issue of competence.

Notifiable incidents and occurrences under section 228H of the *Transport (Compliance and Miscellaneous) Act 1983*:

1. Disciplinary action taken by an accredited company in respect of an authorised officer employed or engaged by that accredited company during the course of the authorised officer’s duties.
2. An incident between an authorised officer and a member of the public involving the use of physical force by an authorised officer, including lawful arrests.
3. An incident involving an authorised officer which results in a person (excluding the authorised officer) being injured, or the person alleging that he or she has been injured.
4. An incident involving an authorised officer which results in damage to, or interference with, the personal property of a member of the public.
5. A finding of guilt by a court against an authorised officer for a criminal offence.

* For the purposes of this notice, ‘incident’ includes a complaint received by an accredited company.