

Transport Asset
Holding Entity
of New South Wales

Code of Ethics and Conduct

**Employees, Contractors
and Consultants**

Approved on – July 2020

1. Purpose

The purpose of the Code of Ethics and Conduct (**Code**) is to identify mandatory requirements and best practice conduct for all Transport Asset Holding Entity of New South Wales (**TAHE**) employees and contractors/consultants (collectively referred to in this Code as employees) which is consistent with the Ethical Framework for the Government Sector in Part 2 of the *Government Sector Employment Act 2013* (**Ethical Framework**).

Behaviour consistent with the Code is to be demonstrated by employees in their professional relations with their colleagues, other government sector employees, clients and customers, stakeholders and the Government of the day.

The Code applies at all times when employees are acting in the course of, or in connection with, TAHE activity.

The Code also specifies actions to be taken if there are breaches of the Code.

2. Core Values

The core values for the government sector and TAHE and the principles that guide the Ethical Framework and this Code are:

Integrity

- Consider people equally without prejudice or favour;
- Act professionally with honesty, consistency and impartiality;
- Take responsibility for situations, showing leadership and courage; and
- 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; and
- Provide apolitical and non-partisan advice.

Service

- Provide services fairly with a focus on customer needs;
- Be flexible, innovative and reliable in service delivery;
- Engage with the not-for-profit and business sectors to develop and implement service solutions; and

- Focus on quality while maximising service delivery.

Accountability

- Recruit and promote employees 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;
- There is no hierarchy among the core values and each is of equal importance; and
- Nothing in the Ethical Framework gives rise to, or can be taken into account in, any civil cause of action.

3. General Provisions

Responsibilities

All TAHE **employees** have a responsibility to:

- Understand the Code;
- Demonstrate high levels of personal conduct consistent with the Code;
- Seek assistance when unsure about how to implement the Code;
- Report possible breaches of the Code to relevant officers; and
- Declare in writing private interests or associations that have the potential to influence, or could be perceived to influence, decisions made or advice given by the employee.

In addition, all TAHE **managers/supervisors** have the responsibility to:

- Ensure employees are issued with the Code and understand its requirements;
- Ensure that the general conduct and management of functions and activities in TAHE is in accordance with the Code;
- Ensure workplace culture, practices and systems (including recruitment and promotion) operate consistently with the Code;
- Recognise and promote employees' and team conduct that exemplifies the Code; and
- Act promptly and with due process to prevent and address any breaches of the Code.

4. Declaration of Private Interests

All TAHE employees (including persons seconded to TAHE roles, or contractors) must make a written declaration of private financial, business, personal or other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made or advice given by them. TAHE's Declaration of Interests and Associations form is to be used for this declaration, and is available on the intranet in the "Forms" tab.

Where an employee has no such private interests to declare, s/he must declare a "nil return".

After an initial declaration is made, a fresh declaration must be made:

- At least annually;
- As soon as practicable, following any relevant change in the private interests or associations; and
- As soon as practicable, following the assignment to a new role or responsibility.

5. Managing Conflict of Interest

Sometimes you may find that your private interests make it difficult for you to perform your duties impartially in the public interest. Guiding principles when managing conflicts of interests are that you should always disclose actual, potential or reasonably perceived conflicts of interests to TAHE as soon as reasonably practicable.

The test used to recognise whether a conflict of interest could occur is where:

- It is likely that someone with an interest could be influenced by that interest; and
- A reasonable person would believe that they could be influenced.

Where a conflict of interest arises, it should always be resolved in favour of the public interest, rather than an individual's interest.

Conflicts of interest include:

- Where there is a direct conflict between your current duties and responsibilities and your private interests (an 'actual' conflict of interests);
- A person could reasonably perceive that your private interests are likely to improperly influence the performance of your official duties, whether or not this is in fact the case (a 'reasonably perceived' conflict of interests); and
- You have a private interest that could conflict with your official duties in the future (a 'potential' conflict of interests).

Examples of situations which may give rise to a conflict of interest affecting the performance of an employee's official duties include:

- A financial interest (the employee's, or that of a family member, relative, friend or associate) in a matter the employee deals with, in the course of their work;
- An employee's personal beliefs or attitudes that could influence, or may be perceived to influence, the employee's impartiality;
- Other employment that conflicts with the employee's official duties; and
- An interest in a project or matter being dealt with by TAHE.

Where a person has declared an actual, reasonably perceived, or potential conflict, the following actions should be considered:

- When TAHE'S view is that there is no actual conflict or the potential for conflict is minimal, informing likely affected persons that a disclosure has been made and for the sake of transparency providing a brief outline of the declaration to the affected parties;
- Appointing further persons to a panel/committee/team to minimise the actual or perceived influence or involvement of the person with the actual or reasonably perceived conflict;
- Restricting the access of the person to relevant information that is sensitive, confidential or secret;
- Directing the person to behave at all times in ways that are consistent with their agency's responsibilities and functions;
- Removing the person from duties or from responsibility to make decisions in relation to the matter for which the conflict arises, and reallocating those duties to another person (who is not supervised by the person with the conflict); and
- Persons with a conflict who are members of boards, steering groups or committees absenting themselves from, or not taking part in, any debate or voting on the issue.

6. Colleagues, Clients and Stakeholders

All TAHE employees are to treat their colleagues, clients and stakeholders in other agencies in a way which is demonstrated by the following:

- Considering people equally without prejudice or favour;
- Acting professionally with honesty, consistency and impartiality;
- Taking responsibility for situations, showing leadership and courage;
- Placing the public interest over personal interest;
- Appreciating difference and welcoming learning from others;
- Building relationships based on mutual respect;

- Upholding the law, institutions of government and democratic principles;
- Communicating intentions clearly and inviting teamwork and collaboration;
- Providing apolitical and non-partisan advice;
- Providing services fairly with a focus on customer needs;
- Being flexible, innovative and reliable in service delivery;
- Engaging with the not-for-profit and business sectors to develop and implement service solutions;
- Focusing on quality while maximising service delivery;
- Recruiting and promoting employees on merit;
- Taking responsibility for decisions and actions;
- Providing transparency to enable public scrutiny;
- Observing standards for safety; and
- Being fiscally responsible and focus on efficient, effective and prudent use of resources.

7. Public Comment

In the course of their official duties some senior executives and/or senior managers may be called on to make public comment. This can only occur with the approval of the TAHE CEO.

“Public comment” includes public speaking engagements, comments to radio, television, or print reporters. It also includes letters to newspapers, comments in books, journals or notices, on internet sites and social media, or broadcast by electronic means, or in any other circumstances where it could be expected that the comments will be spread to the community at large.

In these cases, comment should be confined to factual information concerning public administration. Opinions on NSW government policies or NSW government decisions should be avoided except with the express permission of the TAHE CEO.

Employees, as members of the community, have the right to make public comment and enter into public debate on political and social issues. They must observe the restrictions on the release of official information and must make it clear that their comments are made in a private capacity and do not represent the official view of TAHE.

8. Information Normally Provided to the Public

Employees and managers/supervisors need to maintain open communications with their relevant stakeholders. Successful management requires that stakeholders are kept fully informed of matters relating to the role, function and operations of TAHE, except where specific exemptions apply to documents or processes for reasons of confidentiality.

Within their area of responsibility, employees should be aware of the information published by TAHE or normally made available to members of the public on request. Employees may provide such information on request, but if unsure, must refer the request to the CEO.

TAHE has procedures for dealing with the media and for the release of information under the *Government Information (Public Access) Act 2009*. If employees are unsure of the procedures they should refer questions to the CEO for advice.

9. Interacting with Lobbyists

All TAHE employees must comply with Premier's Memorandum M2019-02, NSW Lobbyists Code of Conduct published on the Department of Premier and Cabinet's website, as amended from time to time.

10. Appropriate Use of Public Resources

Employees 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.

If you are responsible for receiving, spending or accounting for money, ensure you know, understand, and comply with the requirements of the *Government Sector Finance Act 2019*, the *Public Works and Procurement Act 1912* and the *Government Advertising Act 2011*.

Employees must strive to ensure that TAHE's supply chain, purchasing practices and engagements with suppliers comply with all applicable anti-slavery and human trafficking laws, including but not limited to the *Modern Slavery Act 2018 (NSW)*.

11. Personal Information

Employees need to be aware of, and comply with, the *Privacy and Personal Information Protection Act 1998*. Care must be taken with the collection, storage, use and disclosure of personal information in order to protect individuals' privacy. In general, employees must not use or disclose personal information for a purpose other than that for which it was collected, unless consent for other uses or disclosure is obtained from the person to whom the information relates.

Personal information collected or held by employees of TAHE must be held securely to avoid loss, unauthorised access, use, modification or disclosure and all other misuse.

The *Privacy and Personal Information Protection Act 1998* contains criminal sanctions for the unauthorised use and disclosure of personal information by employees.

12. Security of Information

Employees are to ensure that any information in any form (eg printed or electronic) cannot be accessed by unauthorised persons and that sensitive information is only discussed with persons (inside or outside of TAHE) who are authorised to have access to it.

Employees are not to attempt to access information unless it is immediately relevant to the work they are performing.

TAHE is responsible for seeing that premises are secure, and that suitable arrangements are in place to maintain security of confidential and sensitive documents, including transferring these by hand.

13. Records Management

Employees need to be aware of and comply with the *State Records Act 1998* and TAHE's documents management procedures.

All employees have a responsibility to create and maintain full and accurate records of their activities, decisions and other business transactions, to capture records into official records systems, and not to destroy records without appropriate authority. Managers have a responsibility to ensure that employees reporting to them comply with their records management obligations.

14. Signatures and Personal References

Employees should review carefully any document they are asked to sign. Employees should not sign any document which they know is not true and correct.

Employees must only sign their own name and must never permit or encourage anyone to sign a name other than their own.

Employees should only use their own name (eg when sending emails) and should not give the impression that they have the authority of another person without their permission.

Managers/supervisors must not coerce employees to sign any document.

Managers/supervisors are not to provide written personal references for any current or former worker on TAHE letterhead nor use their title and position for this purpose. Official references should be limited to a statement of service and conduct. Managers/supervisors are able to provide verbal referee reports as part of the recruitment selection process.

15. Drugs and Alcohol

Employees must not undertake work for or make any kind of representation on behalf of TAHE, whilst under the influence of substances that are adversely affecting their mental or physical performance, be they legal or illegal. Alcohol and illicit drugs are not permitted on any TAHE premises.

Possession of illegal substances whilst acting or representing TAHE, during or outside of office hours, in the office or at work related functions, will result in disciplinary action being taken and may be referred to the police for further investigation.

Employees who attend work-related functions outside work hours, where alcohol is served, must take a responsible approach to its consumption.

Testing for drugs and alcohol may be carried out on TAHE premises on a random or targeted basis.

Employees must NOT:

- Record a test result level at or above 0.02% blood alcohol concentration, record a level of drug presence at or above the cut off levels stipulated by the Australian Standard AS/NZS 4308, or be under the influence of alcohol and/or drugs;
- Without reasonable cause, fail to comply with a direction in relation to any test or sample collection procedure;
- Be involved in any substitution of any sample, either for themselves or another employee;
- Attempt to interfere with or constrain the operation of the testing program in any way.

Breaches may lead to disciplinary action, up to and including termination of employment.

Employees who are required to take prescription medication may wish to advise their direct manager/supervisor if they have concerns about taking their medication at work.

Employees must not smoke or permit smoking in any TAHE offices, or enclosed area.

16. Secondary Employment and Private Interests

Employees must obtain approval from their director to engage in any form of paid employment outside of official duties. This requirement also applies to new employees who, on joining TAHE, have outside employment they wish to continue.

The TAHE Secondary Employment policy provides further information about how to apply for approval.

17. Behaviour Contrary to this Code

Behaviour contrary to this Code can bring individual employees into disrepute, undermine productive working relationships in the workplace, hinder customer service delivery, and damage public trust in TAHE or the broader government sector.

If you are unsure of what is appropriate conduct under any particular circumstances, please discuss the matter with your manager/supervisor or the relevant member of TAHE's executive.

If you see someone act in ways that are contrary to this Code, you should in the first instance discuss that person's behaviour with your immediate manager/supervisor, or report your concerns to any member of TAHE's Executive.

If you believe certain conduct is not just unethical, but may also be corrupt, a serious and substantial waste of government resources, maladministration or a breach of government information and privacy rights, then report your concerns in accordance with TAHE's Public Interest Disclosure Policy. Under the *Public Interest Disclosures Act 1994*, it is both a criminal offence and misconduct to take reprisals against a worker who makes a public interest disclosure.

18. Breaches of this Code

When deciding what, if any, action should be taken in relation to a breach of the Code, each case should be considered on its own facts and circumstances. Action may be taken in relation to any conduct that contravenes the requirements of the Code.

The matters to consider when deciding what action to take include:

- The seriousness of the breach;
- The likelihood of the breach occurring again;
- Whether the employee has committed the breach more than once;
- The risk the breach poses to employees, stakeholders, and any other persons; and
- Whether the breach would be serious enough to warrant action for misconduct.

A breach of the Code may also constitute corrupt conduct as defined in the *Independent Commission Against Corruption Act 1988*.

Allegations of criminal conduct will be reported to the NSW Police.

Employees may be suspended from duty (with or without pay) until an allegation of misconduct or criminal charge or investigation of corrupt conduct has been dealt with.

Contractors, consultants, volunteers or students who breach the Code may have their contract/placement terminated.

19. Related Legislation

The Code should be read with the relevant NSW laws which employees are obliged to follow, including:

- *Anti-Discrimination Act 1977*;
- *Crimes Act 1900*;
- *Government Information (Public Access) (GIPA) Act 2009*;
- *Government Sector Employment Act 2013*;

Code of Ethics and Conduct

Transport Asset Holding Entity of New South Wales

- *Government Sector Finance Act 2018;*
- *Health Records and Information Privacy Act 2002;*
- *Independent Commission Against Corruption Act 1988;*
- *Industrial Relations Act 1996;*
- *Modern Slavery Act 2018;*
- *Ombudsman Act 1974;*
- *Privacy and Personal Information Protection Act 1998;*
- *Public Interest Disclosures Act 1994;*
- *State Records Act 1999; and*
- *Work Health Safety Act 2011.*

Authorised by:	Chief Executive Officer	1 July 2020
Review by:		July 2022