



**Office of Transport
Safety Investigations**

Code of Conduct and Ethics

Code of Conduct and Ethics

Index

1 Policy Statement.

2 What principles guide the Code of Conduct?

Employment

3 What does my employment contract require?

4 What are my obligations regarding employment outside OTSI?

5 What are my obligations to OTSI when I leave to work elsewhere?

Conduct

6 What personal and professional behaviour is expected of OTSI officers.

7 Where might I face a conflict of interest, and how do I deal with it?

8 What if I am offered gifts, benefits or bribes?

9 What are my obligations in using public resources?

10 Can I participate in political activities?

Information

11 What obligations are there on my use of OTSI information?

12 How should I respond if asked to publicly comment on OTSI'S work?

Accountability and enforcement

13 What if I become aware of, or suspect, corrupt conduct inside OTSI?

14 How will this code of conduct be enforced?

1 Policy Statement

- 1.1 The Code applies to all staff and officers of the Office of Transport Safety Investigations (“**Officers**”) and includes contractors, staff seconded from other organisations, temporary staff and consultants.
- 1.2 The Office of Transport Safety Investigations (“OTSI”) places paramount importance on integrity, probity and the promotion of a positive and responsive attitude.
- 1.3 This Code sets out the principles you are expected to uphold, and prescribes specific conduct in areas considered central to the exercise of OTSI’s functions. It also provides an ethical framework for the way in which the OTSI operates.
- 1.4 OTSI was established to conduct investigations into rail, bus and ferry accidents and incidents and to report on its findings to the Minister and to review reports prepared by transport operators.
- 1.5 OTSI is constituted under section 45C of the *Transport Administration Act 1988* as a statutory authority with its principle statutory functions and duties arising under that Act, the *Rail Safety Act 2002* and the *Passenger Transport Act 1990*. Whilst OTSI is established within the Transport Services portfolio, it is independent of the Minister in respect of its key Investigatory functions. Governance processes incorporate legislative requirements to report on accidents and incidents to the Minister, who is obliged to table such reports in both Houses of the Parliament.
- 1.6 In carrying out their duties, individuals employed as officers of OTSI are expected to:

“...exhibit independence, rigour and excellence in carrying out investigative functions...” (Section 45A(2)).
- 1.7 The Code will be reviewed regularly, and updated and expanded to reflect changes both within and outside OTSI.

2 What principles guide the Code of Conduct

2.1 The Code of Conduct is guided by the following principles, which should also assist you in guiding your conduct and informing decisions made in your day to day work:

- (a) the obligation to have due regard to the impact of your professional and personal conduct on OTSI's standing and reputation;
- (b) your undertaking to ensure confidentiality in respect of the business of OTSI;
- (c) your agreement to refer requests for comment concerning OTSI's business to the appropriate spokesperson; the Chief Investigator;
- (d) the obligation to carry out your work impartially, with integrity and in the best interests of OTSI;
- (e) you must be accountable for your work, and keep full and accurate records;
- (f) approaching your work in an impartial and objective manner and dealing with decisions in a timely fashion;
- (g) dealing with all persons in the course of your work without discrimination or harassment;
- (h) you must act ethically, mindful of the matters contained in this Code. When faced with an ethical dilemma, ask yourself the following questions:
 - (1) is it lawful;
 - (2) is it consistent with OTSI's values, principles and policies;
 - (3) do I think it's the right thing to do;
 - (4) what will the consequences be for my colleagues, OTSI, other parties, and me;
 - (5) can I justify my actions;
 - (6) is there a conflict of interest or could the decision lead to a personal gain at public expense;
 - (7) can the decision be justified in terms of the public interest and would it withstand public scrutiny,

if uncertain still about what course of action to take, advice should be sought from the Chief Investigator.

The following sections of the Code provide detailed guidance on how you are expected to apply these principles in practice.

Employment

3 What does my employment contract require?

- 3.1 You are expected to perform the duties described in your position description promptly and efficiently and as required by law. You must also comply with any reasonable instructions from your supervisor or the Chief Investigator.
- 3.2 You have an obligation to be aware of and comply with this Code of Conduct, procedures and manuals implemented by OTSI.
- 3.3 Officers should be continually alert to their individual employment obligations to ensure they are acting ethically, responsively and productively.

Prescribed medication and other drugs

- 3.4 You must advise your supervisor or manager in the event that you are taking prescribed medication that could affect the performance of your work.
- 3.5 You must not be on duty if you are under the influence of any illegal drug or prohibited substance.
- 3.6 You must not use, keep or sell any illegal drugs at work or at any work location.

Occupational Health & Safety

- 3.7 ITSRR has an obligation to ensure your health, safety and welfare. Similarly, you have an obligation to ensure your own safety as well as the safety of your fellow officers.
- 3.8 You are required to advise your supervisor or manager of any risks to health or safety of which you become aware.

Alcohol

- 3.9 You must not be on duty if your blood alcohol content is greater than 0.02g of alcohol per 100ml grams of blood.

Criminal charges

- 3.10 You must advise your supervisor or manager if you have been charged with or convicted of any criminal offence. The report of such information will be kept confidential.

Attendance

- 3.11 You are required to attend work in accordance with the hours and days advised in your contract of employment. If you are unable to attend work for any reason, you must advise your supervisor or manager.
- 3.12 All applications for leave and flex time shall be directed to your manager or supervisor.

Appearance

- 3.13 You are required to be neat, clean and tidy when reporting for duty.
- 3.14 You must use personal protective equipment provided to you at an investigation site and inform yourself of and comply with the instructions and circumstances for its use.

4 What are my obligations regarding employment outside ITSRR?

- 4.1 You may not have or take a second job or carry out any business outside of your official duties which may affect your ability to perform your duties.
- 4.2 You must obtain the approval of the Chief Investigator to take a second job or carry on a business.
- 4.3 You must obtain approval from the Chief Investigator to undertake voluntary work for accredited transport operators.
- 4.4 You must declare to your manager if you are undertaking any voluntary work which may affect your ability to perform your duties.

5 What are my obligations to ITSRR when I leave to work elsewhere?

- 5.1 If you have been offered, and intend to accept a position with close or sensitive links to work you perform for OTSI, you should advise your supervisor or manager as soon as possible so that any conflict or potential conflict of interest can be managed.
- 5.2 You must maintain confidentiality of OTSI's business in accordance with your undertaking which is described in greater detail at clause 11.

Conduct

6 What personal and professional behaviour is expected of ITSRR officers?

- 6.1 All officers must maintain an appropriate professional standard of behaviour. This means that you must:
 - (a) treat members of the public, officers of OTSI and other public officials with respect, courtesy, honesty and fairness, and have proper regard to their interests, rights, safety, health and welfare;
 - (b) ensure that your work habits, behaviour and personal and professional relationships at the work place contribute to a harmonious and productive work environment;
 - (c) treat the affairs of OTSI and fellow officers with confidentiality (an allowable exception to confidentiality, protected disclosure is described in greater detail at clause 11);
 - (d) perform your work honestly, diligently and with commitment;

- (e) make decisions in a fair and timely manner, complying with all rules, procedures and policies (and where in doubt, seek advice from your supervisor);
- (f) fulfil your obligation to keep detailed and accurate records;
- (g) comply with the legal and Regulatory requirements applicable to the OTSI (and if in doubt, consult with your supervisor or the Chief Investigator);
- (h) recognise and respect individual and cultural differences amongst staff, the rest of the public sector and the community, value diversity of thought, experience and skills;
- (i) not engage in discrimination or harassment,
- (j) observe common courtesies and etiquette in terms with day to day relationships with other staff;
- (k) comply with OTSI 's Drug and Alcohol provisions and,
- (l) uphold the values of OTSI and not act in a way that will bring OTSI into disrepute.

7 Where might I face a conflict of interest, and how do I deal with it?

- 7.1** You must ensure that your private interests do not conflict with the performance of your duties at work.
- 7.2** A conflict of interest exists when:
 - (a) you have a private interest that influences the way in which you carry out your duties at work;
 - (b) a reasonable person could consider that a private interest influences the way you carry out your duties at work; and
 - (c) a colleague, friend or family has a private interest that could lead you to be influenced in the way you carry out your duties at work.
- 7.3** If the public interest that you serve comes into conflict with a private interest that you may have, then the conflict must be managed in such a way as to ensure public faith in the process of government. The public interest must come first on all such occasions.
- 7.4** When you commence employment with OTSI, you must make a declaration of your interests and whenever new interests emerge. These declarations should be checked at regular intervals or whenever changes in your interests occur.
- 7.5** You should advise your supervisor or manager if you become aware of a conflict of interest or potential conflict of interest. If in any doubt, seek advice from your supervisor or the Chief Investigator.

8 What if I am offered gifts, benefits or bribes?

- 8.1 You must never ask for any money, gifts or benefit in relation to your employment. Similarly, you must never accept any offer of money in relation to your employment. An officer doing so may be found guilty of the common law offence of bribery and such conduct may also be an offence under the *Crimes Act 1900* or the *Independent Commission Against Corruption Act 1988*.
- 8.2 The acceptance of gifts and other benefits has the potential to compromise your position by creating a sense of obligation in the receiver and so undermining your impartiality. It may also affect the public perception of the integrity and independence of OTSI and its officers. As a general rule such offers should be declined.
- 8.3 There are some circumstances when to refuse a gift would be perceived as rude or offensive. You must exercise sound judgment when deciding whether or not to accept a gift or other benefit. For example:
- (a) you must decline any offer from an individual or organisation you know to be the subject of an investigation by OTSI, or the subject of a complaint to, or report by, OTSI;
 - (b) you must decline any offer which is individually targeted and not available to colleagues or associates who share a common task and purpose. For example, you may accept a modest lunch which is offered to a working group, but should pay for your own when you are the only person to whom an offer is made;
 - (c) you may accept an item which relates to the work of OTSI, such as a book on a relevant topic, but you must refuse items which are unrelated to your work; and
 - (d) you may accept a gift, benefit, travel or hospitality only if it is of a token kind.
- 8.4 Token gifts, benefits, travel or hospitality are things which are not worth much, for example: light refreshments at a work function; pencils or pens; note pads. If you are in doubt that attending a function or receiving any other benefit provides only a token measure you should consult with your manager and obtain approval of the Chief Investigator prior to receiving the benefit.
- 8.5 If you are in any doubt regarding the value of a gift or benefit, or whether a gift or benefit is token or not, do not accept it.
- 8.6 If you have been approved to speak officially at functions, where possible, you should notify your host in advance of the occasion that it is inappropriate to offer gifts, benefits or rewards.
- 8.7 You must ensure that records are kept of any gifts or other benefits of more than token value that have been offered or received. This may be done by filling out the Register of Gifts and other Benefits maintained by the Manger Business Services.
- 8.8 You should inform your supervisor or manager as soon as possible if such an event occurs, preferably in writing. Any evidence of an unsolicited gift should not be destroyed as it may be important. If you believe that you or a

colleague has been offered a bribe, you must provide a detailed written report to the Chief Investigator immediately that you have become aware of this.

- 8.9 You may obtain further guidance on this subject by reading “*Gifts, Benefits or Just Plain Bribes? Guidelines for Public Sector Agencies and Officials*”, published by the Independent Commission Against Corruption in June 1999.

9 What are my obligations in using Public Resources?

- 9.1 OTSI's resources can be generally categorised into three areas:

- (a) equipment;
- (b) people; and
- (c) finances.

All three are funded by public monies. Because they are publicly funded, the use of those resources needs to be both efficient and appropriate. Whilst seeking to ensure that OTSI's resources are directed toward the performance of public duty, OTSI allows some flexibility in these areas.

- 9.2 In general terms, equipment resources are provided for the work of OTSI, however, a limited degree of private use may be acceptable. For example, staff may utilise non mobile phones and facsimile machines for private use if that use is short, infrequent and does not interfere with the work of OTSI.

10 Can I participate in political activities

- 10.1 Your right to participate in party political activities as an individual is recognised by OTSI, provided you do so in a private capacity and provided you do not allow a conflict of interest to arise.

- 10.2 In participating in any political activity, you must ensure that:

- (a) any comment or discussion does not cast doubt on your ability or willingness to implement OTSI policies and guidelines objectively;
- (b) you do not participate in private political activities in the work environment;
- (c) you do not use OTSI resources to assist you in your personal political activities;
- (d) you do not use information obtained through your work at OTSI to assist your political activities, or make such information known to any other person; and
- (e) you do not misrepresent the position of OTSI on any issue, or allow OTSI's position to be misrepresented.

- 10.3 It is your obligation to take all reasonable steps to ensure that any such involvement is understood to represent your personal views as a private citizen.

- 10.4 It is also your responsibility to ensure that your supervisor or manager is made aware of any political association that may affect, or be possibly seen to affect, a matter that you encounter in your day to day work.

Information

11 What obligations are there on my use of OTSI information?

- 11.1 You are required to maintain confidentiality in relation to all information acquired in the course of your employment with OTSI other than as required by law or in respect of information that is generally available to the public.
- 11.2 You undertake to abide by the secrecy and confidentiality provisions of the *Transport Administration Act (NSW) 1988*, the *Rail Safety Act (NSW) 2002*, the *Passenger Transport Act 1990* and any other relevant legislation. You must keep confidential information that is disclosed to you or of which you become aware in the course of your employment or engagement with OTSI in accordance with your Confidentiality Undertaking.
- 11.3 You must not use information to gain a personal or commercial advantage for yourself or another person.
- 11.4 OTSI files and other confidential documents and information are not to be removed from the premises except for operational purposes.

Confidentiality

- 11.5 If you leave OTSI to work elsewhere, you are obliged by the Act and your Confidentiality Undertaking to preserve the confidentiality of information that you have come across in your work, and you should respect OTSI's intellectual property rights over material produced by OTSI.
- 11.6 Unless otherwise authorised, when you cease duty with OTSI, you cannot take any in-house resources such as manuals, processes and materials produced as official functions of OTSI, or download information. These are the property of OTSI.
- 11.7 You should treat the affairs of the OTSI and fellow officers with confidentiality. An exception to this principle will arise where you are compelled by law to deliver confidential information to a court, authority or agency, or to a third party where disclosure is in the public interest as set out in the *Protected Disclosures Act 1994*.

Non Disclosure of Personal Information

- 11.8 In addition to confidential information, officers must not use or disclose personal information relating to an identifiable person without having the authority to do so for legitimate purposes. For further information relating to legislative requirements applicable to the handling of personal information, see the Chief Investigator or the Manager Business Services.

12 How should I respond if asked to publicly comment on OTSI's work

- 12.1 You must refer all requests for public comment to the Chief Investigator.
- 12.2 The unauthorised or improper release of information to the media may have the effect of compromising an investigation or undermining public confidence in OTSI.

- 12.3 Even in the event that you do not provide any information to the person seeking public comment, you should advise the Chief Investigator of any approaches from the media for information or comment.
- 12.4 You are entitled to make personal comment on issues of public and social interest. You should ensure, however, that your personal views are not presented or interpreted as official comment.
- 12.5 If you are aware that comments you have made socially or inadvertently may be used to harm OTSI's reputation or compromise its work, you should notify the Chief Investigator immediately.

Accountability and enforcement.

13 What if I become aware of, or suspect, corrupt conduct inside OTSI?

- 13.1 If you are aware of, or suspect, corrupt conduct at OTSI, you must promptly report such conduct to the Chief Investigator.
- 13.2 If the report concerns the Chief Investigator, it may be reported to the Transport Policy Advisor, Office of the Minister for Transport.
- 13.3 Cases of suspected corrupt conduct can also be reported to the Independent Commission Against Corruption, maladministration can be reported direct to the NSW Ombudsman, whilst matters of serious and substantial waste can be reported direct to the Audit Office.
- 13.4 Officers who report suspected corrupt conduct are not to be disadvantaged or discriminated against for making such a report.
- 13.5 Officers who report suspected corrupt conduct must make sure that the information provided in their report is accurate and not false and misleading.

Protected disclosures

- 13.6 It is an offence to take detrimental action against a person in reprisal for making a protected disclosure, which conforms with the *Protected Disclosures Act 1994*.
- 13.7 For further advice on this issue and how to make a protected disclosure, refer to the Manager Business Services.

14 How will this code of Conduct be enforced?

- 14.1 This Code contains principles expected to be upheld, and conduct to be undertaken, by officers of OTSI. Breach of the Code may result in disciplinary action including counselling, official notification of unsatisfactory performance, dismissal or prosecution.
- 14.2 Matters for which disciplinary action may be taken against an employee include:
 - (a) Misconduct involving deliberate acts such as:
 - theft of property
 - breaches of the *Code of Conduct and Ethics*

- acts in contravention of established policies
 - harassment
 - physical or sexual assault
 - destruction of official records or making false entries in such records
 - unauthorised use of technology (eg the internet)
 - unauthorised use of cars or other property
 - unauthorised or unacceptable absence from the workplace
- (b) negligence, carelessness, inefficiency or incompetence on the discharge of duties;
- (c) disobeying or wilfully disregarding any lawful request, direction or order given in the course of employment by any person having the authority to do so; and
- (d) serious criminal offence (one which is punishable by imprisonment for six (6) months or longer).
- 14.3 Disciplinary options available include:
- (a) Caution or reprimand
 - (b) Regression or reclassification
 - (c) Suspension with or without pay
 - (d) Dismissal
 - (e) Transfer
- 14.4 Throughout the disciplinary process the principles of procedural fairness must be followed:
- (a) A person must be made aware of each complaint/incident that is the subject of an investigation to determine if the disciplinary action is warranted;
 - (b) A person should have an opportunity to put his or her case forward;
 - (c) A person found guilty of a breach of discipline (other than a caution or a reprimand) should be given a separate opportunity to make representations in relation to what punishment (if any) should be imposed upon them; and
 - (d) The person conducting the investigation must not prejudge the issues and must act fairly and without bias at all times.
- 14.5 As individuals, you are responsible for your own acts and omissions. In the event that you witness or become aware of unsatisfactory acts or omissions by other officers, an obligation rests with you to report the act or omission to your supervisor or the Chief Investigator.
- 14.6 It is the responsibility of supervisors and managers to ensure that officers under their control understand their duties, know what expectations are placed upon them and that their performance is continually reviewed.
- 14.7 In the event that you are unsure of any aspect of this Code or require clarification in respect of any issue contained in the Code, you must consult your supervisor or the Manager Business Services.