

# 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 Transport (DoT) and the passenger transport company which employs the AO.

DoT 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, 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 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 DoT 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 AOs employer.

The team within DoT which is responsible for the authorisation and regulatory oversight of AOs and passenger transport companies, is the Public Transport Regulatory Operations branch.

Further information about the regulatory framework can be obtained from:

Director, Public Transport Regulatory Operations  
People and Business  
Department of Transport  
PO Box 2392 Melbourne Victoria 3001  
(03) 8392 6666  
Email: [aorta@ecodev.vic.gov.au](mailto:aorta@ecodev.vic.gov.au)

## 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:

- check tickets and report ticketing and behavioural offences against the Act and regulations made under the Act, whilst exercising discretion where special or exceptional circumstances exist, or where cases of inadvertent non-compliance are apparent
- provide passenger information
- improve safety on the network by acting as a deterrent to vandalism and anti-social behaviour
- help during special events and disruptions
- provide evidence to any court or tribunal relevant to ticketing and behavioural offences.

Note: Authorised Officers do not issue warnings or fines.

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 (Compliance and Miscellaneous) (Conduct on Public Transport) Regulations 2015
- Transport (Infringements) Regulations 2010
- Transport (Compliance and Miscellaneous) (Ticketing) Regulations 2017
- Privacy and Data Protection Act 2014
- Charter of Human Rights and Responsibilities Act 2006
- Conditions Imposed on a Person Authorised under Section 221AB of the Act
- Government Gazette, G38, 22 September 2011 page 2244 - Determination of relevant incidents and occurrences
- Victorian Fares & Ticketing Manual
- Public Transport Law and Procedure Reference Notes for Authorised Officers
- Certificate III in Public Transport Customer Service and Compliance, 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 that employs them.

## OVERVIEW

AOs have two lines of accountability. The first is to the passenger transport company or bus company that employs them as part of the employer-employee relationship. The second is to DoT, which is responsible for regulatory oversight of AO conduct in accordance with the Act.

The Act sets out the provisions/conditions in which a person can be authorised, as well as the situations which allow the Secretary of DoT (the Secretary) to hold an inquiry into the conduct of an AO and to impose disciplinary action where appropriate. 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, 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 DoT officers. References to the Secretary in this Code also refer to those DoT 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 which has 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 of the Act 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 has powers to investigate and discipline AOs under Part VII of the *Transport (Compliance and Miscellaneous) Act 1983* if the Secretary becomes aware of any situation or conduct as set out in section 221L. If satisfied that the AO has behaved in a way which is inconsistent with the characteristics set out in section 221L, the Secretary can take a variety of actions, ranging from a reprimand to suspending or revoking a person's authorisation.

An AO can appeal any decision made by the Secretary at 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. If there are any actual or perceived conflict of interest circumstances raised, AOs must notify their employer of all the circumstances in accordance with their company policy.

AOs 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. (refer to Section 6 - Privacy Requirements)

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
- 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 *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 passenger 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 directly 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 has done so 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 detain a person unless they are effecting 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.

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.

## 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 their 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 themselves may also be considered a failure to properly exercise their 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 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 *Privacy and Data Protection Act 2014*. Misuse of any such information by the AO will result in disciplinary action.

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 of ..... under the Transport (Compliance and Miscellaneous) Act 1983 or its regulations. I am required to obtain and confirm your name and address to enable a report to be submitted to the Department of Transport. This information will be stored in accordance with the Privacy and Data Protection Act 2014 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 as a last resort when they have no other lawful choices. 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".

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 unlawful 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 DoT by the relevant Passenger Transport Company. These incidents are listed in the Government Gazette and are updated from time to time.

The current incidents are described in Government Gazette, G38, 22 September 2011, page 2244 (<http://www.gazette.vic.gov.au/gazette/Gazettes2011/GG2011G038.pdf>). They are listed below.

Responsibility for reporting these incidents to DoT ultimately falls on the relevant passenger transport company (called 'accredited company' in the Government Gazette), 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 officers' 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.

## 9. OTHER REPORTABLE INSTANCES OR OCCURRENCES

In addition, although not notifiable under section 228H of the *Transport (Compliance and Miscellaneous) Act 1983*, AOs must report the following instances or occurrences to the Secretary as follows:

1. If an authorised officer changes their name and/or address, the Secretary must be notified of the new details **within 14 days**.
2. If any criminal proceeding is brought against an authorised officer, he or she **must within 48 hours**, notify the Secretary. This condition includes any offence(s) irrespective of whether it be under an Act or regulations and includes all traffic offences.
3. If any civil proceeding is brought against an authorised officer, he or she **must within 48 hours** notify the Secretary. This includes any intervention order taken out or applied for, against the authorised officer.
4. If an authorised officer receives four or more infringement notices within any 12-month period, he or she **must** notify the Secretary **within 14 days** of receipt of the fourth notice. (Six or more during each period of authorisation will result in the authorised officer being interviewed by the Secretary or delegate)
5. If an authorised officer is notified of an allegation that while conducting enforcement duties they used excessive force unreasonable force or an inappropriate action they must notify the Secretary and his or her employer within 48 hours.
6. If an authorised officer suffers the loss, theft or destruction of their identity card, or any document or thing relevant to their enforcement duties issued by the Secretary, they **must within 24 hours** notify the Secretary. In addition, the authorised officer **must** obtain and submit a lost/stolen property report from the police to the Secretary, together with a statutory declaration describing the loss theft or damage **within 7 days**. If the card is damaged, a police report is not required but the AO is still required to notify the Secretary as soon as possible.