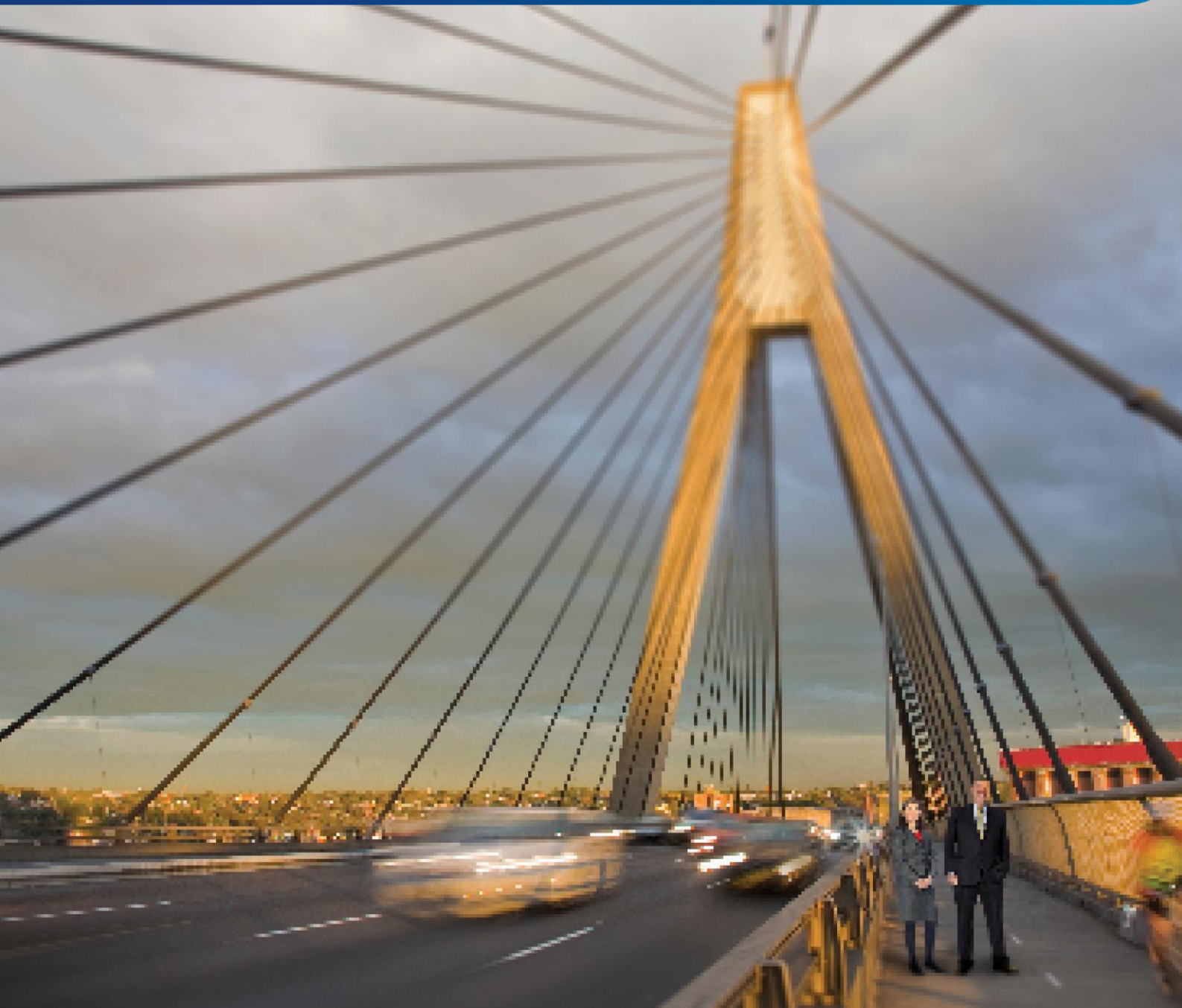




Transport
for NSW

Code of Conduct - Driving Instructors and Assessors

Cover Subtitle



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1. Introduction

1.1 Purpose and outcomes

The Code of Conduct (The Code) is a standard issued by Transport for NSW to accredited participants under Driving Instructors Act 1992 and Regulation 2016. The purpose of the Code is to provide clear guidelines for the standard of conduct expected of accredited Driving Instructors, Assessors and Providers in New South Wales.

The Code should be used as a reference guide by accredited Driving Instructors, Driving Assessors, Registered Training Organisations (Providers), nominated representatives and their employees. The Code can also be made available to learner drivers and members of the public so they know what behaviours are to be expected.

This Code applies to:

- Driving Instructors and Assessors,
- Motorcycle Rider Training,
- Older Driver Assessors,
- Heavy Vehicle Competency Based Assessment providers and their nominated representatives and
- Safer Driver Course providers
- The Code applies at all times when:
 - Providing a driving instructor function,
 - Providing professional driver training,
 - Conducting driving competency assessments and
 - Attending work-related social events, training events and on business trips.

1.2 Scope

The Code reflects the Transport for NSW core values of customer focus, collaboration, solutions, integrity and safety. These values underpin Transport for NSW decision making, behaviour and how Transport for NSW works and interacts with its customers, stakeholders, partners and colleagues.

For more information see Transport for NSW Code of Conduct and Ethics.

This Code aims to assist Driving Instructors, Driving Assessors and Providers in solving ethical dilemmas whilst performing their duties. The Code covers:

1. Courtesy
2. Safety
3. Diversity and Inclusion

4. Responsibilities
5. Confidentiality
6. Conflict of Interest
7. Acceptance of Bribes
8. Acceptance of gifts or benefits
9. Fraud and Corrupt Prevention
10. Procedural Fairness
11. Compliance and Enforcement

2. Definitions

HVCBA	Heavy Vehicle Competency Based Assessment
ICAC	Independent Commission against Corruption Assessment
ODA	Older Driver Assessment
PCBU	Person Conducting a Business or Undertaking
RTO	Registered Training Organisation
SDC	Safer Driver Course
TfNSW	Transport for NSW
WHS	Work Health and Safety
WHSMS	Work Health and Safety Manage

3. Code of Conduct Training

Heavy Vehicle Competency Based Assessment

Registered Training Organisations have a requirement to deliver annually, the Code of Conduct training to Driving Instructors and Driving Assessors and nominated representatives operating under the Heavy Vehicle Competency Based Assessment regulatory program agreement.

Rider Training Providers

The Code of Conduct will be delivered by Transport for NSW as part of the induction training to Riding Instructors operating under the Rider Training Program Accreditation Agreement.

Older Driver Assessment

The Code of Conduct will be delivered by Transport for NSW as part of the induction training to Driving Instructors and Driving Assessors operating under the Older Driver Assessment regulatory program agreement.

Safer Driver Course for Learner Drivers

The Code of Conduct will be delivered by Transport for NSW as part of the induction training to Facilitators / Coaches and Driving Instructors operating under the Safer Driver Course for Learner Drivers Accreditation Agreement.

Code of Conduct certification

The Code of Conduct certification Form No. 1727 is to be retained for audit purposes.

4. Code of Conduct

4.1 Courtesy

Driving Instructors, Driving Assessors and Providers shall behave courteously towards all persons with whom he/she comes in contact when providing pre-licence driver training or conducting a competency assessment or during an audit by Transport for NSW staff.

While undertaking pre-licence driver training or a competency assessment, driver trainers shall apply themselves solely to the task and not engage in other activities. For example:

- Read documentation or other material, or operate items such as a iPad, laptop or any equipment not directly relevant to the training or assessment session;
- Smoke in a vehicle while providing training / assessing, eat or drink while providing training in a way that is inappropriate or distracting to the learner driver.
- Use of mobile phones while conducting training. All calls should be diverted to a message bank and returned between lessons where necessary. The ring tone on the mobile phone should be set on silent mode so as not to distract the learner driver.

4.2 Safety

The NSW Work Health and Safety Act 2011 and the Work Health and Safety Regulation 2017, sets out health and safety responsibilities of any 'Person Conducting a Business or Undertaking' (PCBU), including a primary duty of care to ensure, so far as is reasonably practicable, the health and safety of workers (including employees, contractors, volunteers) and others whose work activities are influenced or directed by the PCBU.

The primary duty of care requires duty holders to ensure health and safety by eliminating risks to health and safety. If this is not reasonably practicable, risks must be minimised so far as is reasonably practicable.

It is a Transport for NSW expectation that service providers acknowledge their duty of care under the WHS Act, and take proactive steps to meet their responsibility for the health, safety and wellbeing of their workers and others to whom they owe a duty of care.

Notwithstanding the obligations of a service provider under the WHS Act, it is a Transport for NSW expectation that service providers implement and maintain a contemporary work health and safety management system (WHSMS) that reflects a systematic, risk-based and outcome-driven approach to meeting obligations under the WHS Act.

In particular, for Driving Instructors and Driving Assessors, Providers are expected to:

- Ensure the provision of a safe place of work including whilst conducting their work at customer premises;
- Proactively identify, and routinely have consultations about, all hazards and risks associated with the work undertaken;
- Have processes in place to ensure that risks are eliminated, or minimised so far as is reasonably practicable;
- Undertake risk assessment, inspection and incident investigation as necessary to ensure that risk controls are working effectively;
- Provide and maintain appropriate plant, structures and systems of work that are safe and without risks to health to workers and others;
- Have processes in place to consult, coordinate and cooperate with relevant stakeholders and industry partners when making decisions about health and safety management;
- Ensure competency standards to safely undertake the work activities required, including the skills to participate in WHS incident reporting, risk management, and safety
- Maintain documented policies and procedures to ensure all parties understand and comply with WHS legislative requirements in conduct of their work activities;
- Have processes in place to facilitate desirable health and safety performance, behaviours and outcomes;
- Make reference to reliable data, risk information and better practice material in making decisions about the management of health and safety;
- Maintain appropriate records and documentation in regard to the WHSMS and any incidents or investigations as well as the corrective actions taken in relation to these

Some examples of unacceptable behaviour include:

- To intimidate, abuse or threaten a person.
- To make offensive jokes, or use offensive language.
- Abusive comments about the person's learning or driving ability.
- Unwelcome comments or questions about a person's sex issues.
- Coercive behaviour intended to inappropriately influence.

It is the responsibility of the Provider to monitor their WHSMS to ensure that systems are adequate and effective in meeting their duty of care under the WHS Act. Should Transport for NSW request a service provider to demonstrate the effectiveness of their health and safety management arrangements, the service provider may be required to provide evidence of the effectiveness of one or more of the above aspects of a WHSMS.

4.3 Diversity and Inclusion

Transport for NSW is committed to building a work culture which values the benefits that a diverse workforce and a more inclusive workplace offer as key enablers to meet business objectives. A workforce that reflects and understands the diversity of our customers can help us provide a better customer-focussed service. An inclusive workplace can help us increase our performance and productivity through innovation, creative problem solving and motivated staff. Transport for NSW expects Driving Instructors, Driving Assessors and Providers to also implement a culture that creates a diverse and inclusive workplace.

Diversity

Refers to a broad range of factors that make people unique including: - gender and gender identity, sexual orientation, religious belief, race (including colour, nationality, descent and ethnic, ethno-religious or national origin or immigration), age, disability (including both visible disabilities - physical - and less obvious disabilities such as sensory, intellectual, mental health or psycho-social), marital or parental status, educational background and socioeconomic status.

Inclusion

Refers to the achievement of a work environment where there is respect and support for differences and diversity of thought. The workplace is characterised by a flexible work culture supportive of diverse needs and free from discrimination, harassment or bullying. It's about having a workplace culture where different perspectives are heard and encouraged to contribute to the success of the business.

Examples of unacceptable behaviour:

- The use of swearing or expletives whilst conducting training or an assessment.
- Obscene Gestures / Actions e.g. Spitting out the window during training or an assessment.
- Inappropriate conversation topic e.g. Topic of a sexual nature.
- Abusive behaviour against applicants e.g. aggressive criticism if an applicant repeatedly makes an error.
- Discriminating against a person due to gender, sexual orientation, religious belief, race, age or disability.

4.4 Responsibility

Driving Instructors and Driving Assessors must perform training and assessment in a way to promote public trust and confidence in the integrity of the training and assessments in the regulatory programs ie Heavy Vehicle Competency Based Assessment Industry and Older Driver Assessment.

Driving Instructors, Driving Assessors and Providers need to be aware the reputation of Transport for NSW can be affected by their actions and, in certain circumstances, by their conduct outside the workplace.

Driving Instructors, Driving Assessors and Providers must comply with the following:

- Behave in a lawful manner, honestly and competently.
- Act within their delegated authority and in accordance with Roads and Maritime policies and procedures, and any relevant legislative, industrial and administrative requirements.
- Conduct themselves in a professional and ethical manner at all times when conducting assessments or when their actions may be associated with Roads and Maritime.
- Ensure they present an image of professionalism Roads and Maritime wishes to present to its customers and, in the case of Driving Instructors and Driving Assessors, that what they wear to work is suitable for their duties.
- Not bring Roads and Maritime or the accreditation system into disrepute or ridicule by their actions or conduct.
- Be prepared to take personal responsibility and be accountable for their own conduct, actions or omissions.
- Co-operate with and obey lawful requests, directions or instructions given to them by Roads and Maritime.
- Keep up to date with advances and changes in their area of expertise and in Roads and Maritime.
- Driving Instructors and Driving Assessors must have the requisite qualifications, licences, permits and level of expertise and experience required to perform his or her role.

4.5 Confidentiality

Driving Instructors and Driving Assessors must conduct all training and assessment in accordance with the Accreditation Agreement. In particular:

- All official information and records acquired in the course of business should be stored securely and not be misused or disclosed.
- Immediately notify Roads and Maritime of any unauthorised access to, use or disclosure of any confidential information

4.6 Conflict of Interest

Conflict of Interest” means any circumstances that exist or occur which:

- a. Constitute an actual conflict;
- b. Constitute a known risk of conflict; or
- c. May be perceived by others to be a conflict, between the duties of training and assessing to Transport for NSW and their duties to another person in relation to the activities under this agreement.

Animosity as well as friendship can also give rise to actual or perceived conflicts of interest.

A conflict of interest occurs when you are influenced by a private interest (financial or otherwise) when carrying out your work-related duties. A conflict includes any applicant who is a family member or other person known to the Personnel. A conflict of interest that knowingly leads to partial or biased decisions for personal benefit may constitute corrupt conduct.

Conflicts of interest may be:

- Actual — involving a real and direct conflict between your current duties and responsibilities and existing private interests;
- Potential — arising when you have private interests that could conflict with your official duties in the future; and/ or
- Perceived — existing where it could be perceived by a third party that your private interests could improperly influence the performance of your duties, whether or not this is in fact the case.

Driving Instructors and Driving Assessors must use their best endeavours to ensure that no action is taken by itself, which results in a conflict of interest.

In particular, they must take all necessary and proper precautions to prevent themselves from receiving or making, providing or offering to any person a gift, entertainment, payment, loan or other consideration from any applicant or potential applicant.

Upon becoming aware of the existence or possibility of a Conflict of Interest, you must:

- inform Transport for NSW immediately.
- Driving Instructors and Driving Assessors must also within five business days after a request
- by Transport for NSW, advise in writing of all potential and actual conflict of interest,
- including details of the conflict, the persons involved, and the steps taken to address the
- conflict.

4.7 Acceptance of Bribes

Most people involved in issuing and obtaining licences are honest. However, money, gifts, and other favours could be offered or asked for in return for passing an assessment without actually performing the assessment or not having the appropriate driving skills. Driving Instructors, Driving Assessors and Providers are expected by Transport for NSW to adhere to the same requirements of honest, ethical and fair conduct as Transport for NSW employees.

It is a criminal offence to offer or accept any payment, gratuity, or present in consideration of any act pertaining to duties as an Driving Instructors and Driving Assessors for Transport for NSW. Penalties are severe and may include fines and imprisonment.

Driving Instructors and Driving Assessors are performing a public official function and as such their actions can also be scrutinised by the Independent Commission Against Corruption.

Indirectly Offered Bribes

If a Driving Instructor and/or Driving Assessor become aware of circumstances which suggest that a bribe is being indirectly offered, e.g. money is placed in a conspicuous place, the Driving Instructor and Driving Assessor should inform the Applicant that the services will be terminated unless the money is removed by the applicant. If anything is said or done by the applicant to indicate an offer of a bribe has been made, the service should be terminated and action taken according to the procedures outlined below.

4.8 Acceptance of Gifts or Benefits

Driving Instructors and Driving Assessors must ensure that they do not engage in or condone any bribery, corruption or collusion in the delivery of assessments. For example, an Assessor must not directly or indirectly (i.e. through a spouse, relative or friend) or by implication demand or solicit a gift or benefit of any kind in respect of any assessment.

Driving Instructors and Driving Assessors must not engage in or condone any bribery, corruption or collusion in the delivery of assessments.

Driving Instructors and Driving Assessors must immediately report any evidence or suspicion of bribery, corruption or collusion to the contact details given below.

In this clause, references to “bribery” include requesting or accepting benefits of any kind from or on behalf of an Applicant for an Assessor (whether the benefit is for the Assessor or a third person) but excludes, any training or assessment fee which the Assessor usually charges.

Assessors are not to accept any gifts associated with the Assessment process, including ‘thank you’ gifts before and/or after the assessment because it can be perceived as a conflict of interest.

Bribery is a criminal offence and is therefore a matter for investigation by the Police. Strong action will be taken against all parties involved in such conduct. The essential action is for the Police to be notified immediately. That should be uppermost in the mind of any person involved in such situations.

It would not be acceptable to receive gifts or benefits in the following situations:

- A company wanting to do business with you, offers two tickets to the VIP box at the football final
- An applicant's family member hands you an envelope containing \$250 and says ‘I hope this will help you enjoy your holiday. Have dinner on me’.
- An applicant's family member gives you an obviously expensive gift e.g. an item of jewellery.

4.9 Fraud and Corruption Prevention

Fraud

While there are varying definitions of fraud, it is often described as deception deliberately practised in order to gain a financial or other benefit, dishonestly. The benefit can be for you or for another person.

Corruption

Corruption is defined specifically by the Independent Commission against Corruption (ICAC). Corrupt conduct, as defined in the Independent Commission Against Corruption Act 1988 (ICAC Act), is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation. While it can take many forms, corrupt conduct occurs when:

- A public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others;
- A public official dishonestly exercises his or her official functions, or improperly exercises his or her official functions in a partial manner, breaches public trust or misuses information or material acquired during the course of his or her official functions;
- A member of the public influences, or tries to influence, a public official to use his or her position in a way that is dishonest or partial.

Driving Assessors perform a public official function when conducting assessments and as such are classified as public officials. All reasonable suspicions of fraud or corruption are reported. All fraud and corruption investigation reports are referred back to the Transport for NSW, Principal Manager Corruption Prevention and Investigation who then decides what action is necessary to address the investigation findings.

Reporting Fraud and Corrupt Conduct Whenever an offer of a bribe is made or there are any suspicions of fraud or corruption behaviour:

- The incident should be reported to their employer at the first opportunity.
- The NSW Police Service should be immediately notified and the names of the attending Police Officers and their Police Station are to be recorded.
- Transport for NSW is also to be informed at the first opportunity.
- Reports of suspected corruption must be made to the Transport for NSW , Principal Manager Corruption Prevention and Investigation (02) 9462 6238 or Roads and Maritime and Fraud and Ethics Hotline on 1800 043 642 or the Independent Commission Against Corruption (ICAC) on (02) 8281 5999 and the Senior Manager, Education and Training.

The Driving Instructors and Driving Assessors are to report all offers of gifts to the Senior Manager, Education and Training.

4.10 Procedural Fairness

If reports of non-compliance with standards of behaviour set out in this code of conduct are alleged, Driving Instructors, Driving Assessors and Providers will be required to provide feedback and comment on the allegations made.

4.11 Compliance and Enforcement

Driving Instructors, Driving Assessors and Providers found to have breached this Code of Conduct may be subject to penalties and/ or their accreditation to continue to perform assessments may be reviewed by Transport for NSW.

Roads and Maritime may suspend or terminate the accreditation of a Provider or suspend/terminate/remove a Driving Instructor and Driving Assessor, or may refer the matter to other authorities (including the Police or the ICAC where appropriate).