



AUSTRALIAN RAIL TRACK CORPORATION LTD

Discipline: Human Resources

Category:

Guideline

Code of Conduct

HR06-001

Applicability

ARTC Network Wide	✓
Interstate Network	✓
Hunter Valley	✓

Document Status

Version	Date Reviewed	Prepared by	Reviewed by	Endorsed	Approved
1.0	March 2001	R. Kennett	G. Atkinson		D. Marchant
2.0	September 2004	N. Farr	J. McAuliffe		G. Atkinson
3.0	May 2007	K. Riches	J. McAuliffe		Executive Committee
3.1	January 2010	M. Savage	N. Farr	J. McAuliffe	Executive Committee
3.2	November 2011	J. Turner	N. Farr	J. McAuliffe	Executive Committee
3.3	April 2012	J. Turner	N. Farr	J. McAuliffe	Executive Committee
3.4	May 2014	J. Fanning	K. Riches	N. Farr	Executive Committee

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Amendment Record

Version	Date Reviewed	Clause	Description of Amendment
2.0	September 2004	All	Reissue
3.0	May 2007	All	Reissue
3.1	January 2010	All	Document translated into approved ARTC template
		1.4	Clause relating to detrimental action amended to clarify intention
		Definitions	Definitions added consistent with ARTC procedure
		4.2	Clause amended to include 'lawfully'.
		5.2, 9.1, 9.2,	Position titles amended to reflect changes to ARTC organisational structure - Senior Legal Counsel/Company Secretary, the exit of General Manager Corporate Affairs and the addition of the Protected Disclosure Officer consistent with ARTC C001-007 Reporting Fraud, Corrupt Behaviour, Dishonest Conduct and Breaches of the Corporations Act Procedure (Reporting Procedure)
		9.1,	Reference to Reporting Procedure title amended to reflect approved ARTC procedure
		9.2	Clause amended to include 'where the allegation does not relate to reportable breach of the Corporations Act'
	Previous section 12	Section on breaches of the Corporations Act removed. Refer to Reporting Procedure	
3.2	November 2011	All	Position titles amended to reflect changes to ARTC organisational structure and removed reference to ARTC Services Company
		5	Insertion of social media clause
		11	Inclusion of 001-PP-30 Workplace E-mail and Internet Policy as a reference document
		12	Inclusion of definitions for Employees, Contractors and Social Media
3.3	April 2012	All	Inclusion of directors in coverage
		8	Position title amended from Media and Communications Manager to General Manager Media and Communications
		9	Update of clause in line with <i>Work Health and Safety Act 2011</i> (Cth)
		12	Inclusion of the definition of Worker
3.4	May 2014	2,3	Bullying clause updated in line with Fair Work definition and examples. Clauses referencing "individual" updated with the defined term "worker".
		10	Clause amended to reference Public Interest Disclosure procedure
		11	Inclusion of C01 - 007 Public Interest Disclosure Procedure as a reference document. Links updated.

Document Distribution List

Version	Location	Date
3.1	ARTC Intranet	February 2010
3.2	ARTC Intranet	January 2012
3.3	ARTC Intranet	April 2012
3.4	ARTC Intranet	May 2014

Contents

1	Introduction	4
1.1	Purpose	4
1.2	Scope	4
1.3	Procedure Owner	4
1.4	Responsibilities	4
2	Principles of Behaviour	5
3	Harassment, Bullying and Discrimination	5
3.1	What do harassment, bullying and discrimination mean?	5
3.2	Examples of harassment, bullying and discrimination	5
3.3	Conduct that does not amount to harassment, bullying or discrimination ..	6
3.4	Possible consequences.....	6
4	ARTC Resources/Confidential Information	7
4.1	ARTC Resources.....	7
4.2	Confidential Information	7
4.3	Intellectual Property	7
5	Social Media.....	8
5.1	Use of social media at work.....	8
5.2	Authorised media spokespersons	8
5.3	Personal use of social media.....	8
5.4	Identifying inappropriate use of social media	9
6	Conflict of Interest	10
6.1	Examples of Conflict of Interest	10
6.2	Disclosing a Conflict of Interest.....	10
7	Dress Code.....	10
8	Public Relations	11
9	Work Health and Safety (WHS).....	11
10	Breaches of the Code	12
10.1	Reporting a Suspected Breach of the Code	12
10.2	Investigating a Suspected Breach of the Code	12
10.3	Breaches of the Code and Disciplinary Action.....	13
10.4	Guidance Only	13
11	Reference documents and templates	14
12	Definitions	14

1 Introduction

1.1 Purpose

The ARTC Code of Conduct sets out the principles of conduct and behaviour required of ARTC employees, directors, contractors, and consultants (referred to as workers).

All workers must comply with the Code of Conduct. Breaches of the Code may result in disciplinary action including dismissal (employees), or termination of contract (directors, contractors or consultants).

All workers must also comply with applicable Australian laws. Criminal proceedings may result from an individual's behaviour in the workplace as well as through their private actions.

Workers should discuss with their ARTC manager if they require more information on any matter associated with the Code of Conduct. All suspected breaches of the Code should be reported as per [Section 10](#) regarding [Breaches of the Code](#).

1.2 Scope

The Code of Conduct applies to all employees, directors, contractors and consultants (workers) of ARTC.

1.3 Procedure Owner

The Executive General Manager People Culture and Development is the Procedure Owner.

1.4 Responsibilities

Executive General Managers, General Managers and Managers will:

- Take all reasonably practicable steps to ensure workers are aware of and comply with the Code of Conduct;
- Take all necessary action to prevent breaches from occurring and, when appropriate, take immediate action to stop breaches or suspected breaches from continuing;
- Ensure that information about a breach or suspected breach is only disclosed as is considered appropriate, on a "need to know" basis, or as required by law; and
- Ensure that the identity of a person who reports a breach or suspected breach is only disclosed as is considered appropriate, on a "need to know" basis, or as required by law.

Workers will:

- Comply with the Code of Conduct at all times;
- Report any breaches or suspected breaches of the Code of Conduct as per [Section 10](#) regarding [Breaches of the Code](#);
- Ensure that information about a breach or suspected breach of the Code of Conduct is only disclosed as is considered appropriate, on a "need to know" basis or as required by law;
- Not aid or encourage any reprisal or detrimental action against any person known or suspected to have reported a suspected breach of the Code of Conduct; and
- Clarify ARTC requirements with their manager where there is any uncertainty.

2 Principles of Behaviour

All workers must ensure that their behaviour is at all times compliant with the Code of Conduct and applicable legislation.

Appropriate behaviour includes:

- Honesty – All workers must be honest and truthful in their communications with others
- Respect – All workers must be respectful and courteous in their communications with others
- Integrity – All workers must undertake their duties and responsibilities with integrity
- Reliability – All workers must undertake their duties with professionalism and diligence in accordance with their contract of employment and position description

These principles apply to interactions with all workers whether at work or out of work.

3 Harassment, Bullying and Discrimination

ARTC is committed to ensuring positive working relationships. Harassment, bullying and/or discrimination will not be tolerated. Harassment, bullying and discrimination is unacceptable behaviour between workers whether this occurs at work or out of work.

3.1 What do harassment, bullying and discrimination mean?

ARTC defines these terms as follows:

- Harassment is unreasonable behaviour directed towards an individual worker or group of workers that:
 - Is unwelcome and unsolicited;
 - The individual considers to be offensive, humiliating, intimidating or threatening; and
 - A reasonable individual would consider to be offensive, humiliating, intimidating, or threatening.
- Bullying at work occurs when a person or a group of people repeatedly behaves unreasonably towards a worker or a group of workers at work and the behaviour creates a risk to health and safety.
- Discrimination is the direct or indirect less favourable treatment of an individual worker or group of workers because of differences such as their ethnicity, gender, marital status, pregnancy, family responsibilities, sexuality, disability, age, religion or political opinion.

3.2 Examples of harassment, bullying and discrimination

Examples of harassment include:

- Offensive jokes, suggestions or derogatory comments about an individual's racial or ethnic background, sex, sexual preference, disability, physical appearance or age;
- Persistent questioning or remarks about an individual's private life;
- Persistent and deliberate following or stalking;
- Displaying pictures, posters, graffiti or written materials that are considered offensive or obscene;
- Phone calls, letters or messages on electronic mail or computer networks which are threatening, abusive or offensive;
- Dismissive treatment based on stereotypical assumptions about an individual's racial or ethnic background, sex, sexual preference, disability, physical appearance or age.

Examples of unreasonable behaviour that amounts to bullying includes overt and covert types of behaviour such as:

- Aggressive or intimidating conduct;
- Belittling or humiliating comments;
- Spreading malicious rumours;
- Teasing, practical jokes or 'initiation ceremonies';
- Exclusion from work-related events;
- Unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level;
- Displaying offensive material; and
- Pressure to behave in an inappropriate manner.

Examples of discrimination include

- Refusing to offer employment, promotions, transfers or benefits to an individual because of that individual's ethnicity, gender, marital status, pregnancy, family responsibilities, sexuality, disability, age, religion or political opinion;
- Isolating or excluding an individual from work activities because of that individual's ethnicity, gender, marital status, pregnancy, family responsibilities, sexuality, disability, age, religion or political opinion.

3.3 Conduct that does not amount to harassment, bullying or discrimination

Reasonable management action conducted in a reasonable manner is not harassment, bullying or discrimination. The actions of a manager or supervisor legitimately and reasonably exercising their authority at work should not be confused with workplace harassment or bullying.

Managers and supervisors may be required to:

- Allocate work to a worker;
- Issue reasonable orders and directions to direct and control how work is performed and monitor workflow and work output;
- Set reasonable goals, standards and deadlines for workers;
- Control workplace behaviour;
- Discuss unsatisfactory performance with workers;
- Undertake disciplinary action.

Each of the above and any other reasonable performance management processes and/or feedback process regarding work related behaviour relating to an individual or group does not constitute harassment, bullying or discrimination.

3.4 Possible consequences

Instances of harassment, bullying and/or discrimination may result in disciplinary action as per the ARTC Discipline Policy, which may include dismissal. Such conduct may also amount to a breach of work health and safety, discrimination, equal opportunity or other legislation.

4 ARTC Resources/Confidential Information

4.1 ARTC Resources

Workers must ensure that all ARTC resources are used appropriately.

ARTC resources include:

- Financial resources;
- Materials, premises, equipment, and vehicles;
- Documentation and records (including confidential information and electronic records);
- Internet, telephone and email facilities; and
- Work time.

Workers will safeguard ARTC resources under their control and take all reasonably practicable steps to minimise risk of theft, damage or misuse of such resources.

ARTC resources must not be used in a manner that may be considered offensive to others.

Private use of ARTC resources may only occur where approved by the employee's Executive General Manager or General Manager, where the cost to ARTC is negligible and where the use may not be considered offensive to others.

All workers should ensure that they are familiar and compliant with ARTC policies relating to ARTC resources before use.

4.2 Confidential Information

All workers must use confidential information only as authorised to do so by their ARTC manager, and may not use confidential information for personal gain.

Confidential information is information which workers become aware of, create, generate or develop during their engagement by ARTC and includes documents, records or other information concerning:

- Business strategies and/or performance;
- Financial and accounting information;
- Processes, procedures, and know-how;
- Customer and employee records; and
- Computer records, databases and passwords.

Workers must ensure that all confidential information remains confidential at all times, unless the information comes lawfully into the public domain.

4.3 Intellectual Property

ARTC owns intellectual property created or developed by workers as a result of their employment/engagement with ARTC. Workers must do all things reasonably requested by ARTC to enable the company to assert its rights in relation to intellectual property.

5 Social Media

5.1 Use of social media at work

ARTC recognises the importance of worker participation in the use of social media online applications. Access to social media is provided by ARTC in accordance with the [ARTC Workplace E-mail and Internet Policy](#).

For the purpose of this section, social media includes, but is not limited to:

- Social networking sites including Facebook, MySpace, LinkedIn and Friendster;
- Video and photo sharing websites such as Flickr and YouTube;
- Micro blogging sites including Twitter;
- Weblogs including corporate blogs, personal blogs or blogs hosted by traditional media publications;
- Forums and discussion boards;
- Online encyclopaedias including Wikipedia; and
- Any other websites that allow individual users or companies to publish personal views or opinions.

Any material presented online in reference to ARTC is the responsibility of the poster. ARTC encourages all communication to be made in an identifying manner, to establish credibility above all else. Along with clear identification, workers must state that any opinion belongs to them individually and is not a form of official communication from ARTC.

5.2 Authorised media spokespersons

Only authorised media spokespersons for ARTC may participate in any conversation on behalf of ARTC via social media platforms (refer [Section 8](#)). All other workers are prohibited from discussing business or contract sensitive information using social media, as well as from making slanderous or offensive comments about ARTC, its employees, directors, contractors, stakeholders or suppliers.

In addition, the use of the ARTC brand and name on social media websites cannot occur unless the administrator of the site has the permission of an authorised media spokesperson in writing.

5.3 Personal use of social media

Workers must not allow their use of social media during work hours to have an adverse impact on their work performance. Workers must adhere to the [ARTC Code of Conduct](#) and [ARTC Workplace E-mail and Internet Policy](#) when using social media at work, for personal use.

All workers are reminded that they should not have an expectation of privacy when it comes to content and information stored or posted in the social media environment. Even if the worker's intent is to keep the information private, it may unintentionally enter the public domain. Inappropriate content and information stored or posted in the social media environment, which is capable of being connected to ARTC, may adversely affect ARTC's brand image as well as the reputation of an ARTC worker.

ARTC recommends that workers remain aware of their personal online reputation, security and safety at all times. Workers must not disparage or speak adversely about ARTC or its workers. This includes use of social media during work and outside of work.

Please note that this clause **does not** apply to workers' personal use of social media platforms, where there is no reference to ARTC, its workers and does not identify themselves as an ARTC worker.

5.4 Identifying inappropriate use of social media

If a worker notices inappropriate or unlawful content relating to ARTC, or content that may otherwise have been published in breach of this section, this should be reported as per [Section 10](#) regarding [Breaches of the Code](#).

6 Conflict of Interest

A conflict of interest can arise when private interests of a worker has the potential to influence the worker in performing work for and on behalf of ARTC. Private interests include interests of a personal or commercial nature, and include those of an individual or an individual's household. Workers must do all things necessary to avoid a conflict of interest.

6.1 Examples of Conflict of Interest

Conflict of interest may include:

- Allowing private interests to influence or prevail over commercial decisions including normal operations of the business;
- Owning shares or having any other form of commercial interest in an individual or company that ARTC deals with such as a client or supplier, whether owned individually or by a household member;
- Not disclosing the full nature of all personal and commercial relationships (including those of a household member) with an individual or company that is, or proposes to become, a client, supplier, or worker for ARTC or with any other entity who has or proposes to have a business relationship with ARTC;
- Offering or accepting any kind of payment or gifts to/from clients, suppliers or other business related parties that could influence commercial decisions; and
- Making decisions about employment, engagement, promotion or termination on the basis of private interests (including personal relationships) rather than merit.

6.2 Disclosing a Conflict of Interest

Workers must disclose to the General Counsel & Company Secretary all actual or perceived conflicts of interest as soon as practical. They must take all appropriate steps to avoid the situation that has given, or could potentially give, rise to the conflict of interest.

If ARTC does not give its express consent, workers must take steps to avoid the conflict of interest.

The General Counsel & Company Secretary will maintain a register of declared conflicts of interest. Conflicts of interest discovered by ARTC that are not on this register will be treated as potential breaches of the Code of Conduct.

7 Dress Code

Workers will present for work with clean and well maintained clothing appropriate to the work being conducted.

All individuals must ensure that they wear appropriate Personal Protective Equipment (PPE) as required at any specific work site. Where PPE is required, the PPE must be utilised in accordance with any instructions and in the manner necessary to protect health and safety.

PPE may include:

- Protective clothing;
- High visibility clothing (e.g. bright orange safety vest);
- Safety boots; and
- Appropriate protective equipment (e.g. head, hearing or eye protection).

Defective PPE should be reported to the supervisor for immediate replacement. PPE must be worn as directed by signs, task procedures and verbal instructions from the supervisor.

8 Public Relations

Workers must not speak with the press or media about matters pertaining to ARTC unless specifically requested by ARTC.

Public relations and public comment including public speaking engagements, comments on radio or television, opinions expressed to newspapers or in books, journals, Internet sites or notices should be made only by those employees with the appropriate delegation. No worker is to represent or claim to represent ARTC on any matter without first having been given the relevant authority by the Chief Executive Officer, an ARTC Executive General Manager or the General Manager Corporate Affairs.

ARTC will not restrict workers from engaging in public debate as private citizens so long as they do not represent themselves or their view purporting to be that of ARTC, or use their position to support their opinion.

Workers must not disclose information that is particular to ARTC or its work activities, other than to authorised persons in the course of their duties. Workers may release official information only after approval by their ARTC manager or if required by law.

In these circumstances, workers should only disclose factual information and not express an opinion on official policy or practice.

This is the case even when what workers are being asked to comment on is public information.

Unless otherwise advised, the General Manager Corporate Affairs manages all comments from ARTC to the media and all media requests should be referred to the General Manager Corporate Affairs.

9 Work Health and Safety (WHS)

ARTC's Work Health and Safety Procedures set the framework for the management of WHS across the company. All workers are required to make themselves aware of, understand and comply with the WHS Procedures and legislative requirements in relation to WHS. This includes:

- Understanding and complying with requirements of the Commonwealth Work Health and Safety Act 2011 and the Commonwealth Work Health and Safety Regulations 2011;
- Understanding and complying with rail safety legislation applicable in each State within which ARTC operates;
- Ensuring that drugs and/or alcohol pose no risk to workplace safety or work performance, as per requirements of the Work Health and Safety Procedure, rail safety legislation and the ARTC Drug and Alcohol Policy and Procedure; and
- Cooperating with ARTC to meet health and safety responsibilities.

Workers must clarify WHS requirements with their ARTC manager where there is any uncertainty.

10 Breaches of the Code

10.1 Reporting a Suspected Breach of the Code

Suspected breaches of the Code of Conduct involving a person dishonestly using their position in the company for gain or to the detriment of the company, such as fraud, corruption, dishonest conduct or illegal activity affecting the company must be reported as per [C01-007 Public Interest Disclosure Procedure](#).

Any manager who receives such a report, or suspects that they are about to become aware of a reportable breach of the Corporations Act, or suspected or probable illegal conduct or other wrongdoing, must treat the matter as strictly confidential and immediately refer the worker to the Company Secretary who is the Authorised Internal Recipient, as per the procedure for dealing with allegations of Disclosable Conduct in accordance with [C01-007 Public Interest Disclosure Procedure](#).

All other suspected breaches of the Code of Conduct must be reported to a person's immediate ARTC manager or to the Executive General Manager People Culture and Development and will be treated in accordance with this Section ([Section 10](#)).

10.2 Investigating a Suspected Breach of the Code

The process for investigating and determining whether an individual has breached the Code of Conduct will be carried out as expeditiously as a proper consideration of the matter allows. Formal investigations will be invoked at the discretion of the relevant ARTC Executive General Manager if they consider that such an approach is warranted having regard to the seriousness and gravity of the suspected breaches.

If an ARTC manager suspects or receives a report of a suspected breach of the Code of Conduct and considers that their involvement in the investigation and determination of the matter may lead to a conflict of interest, the manager should refer the matter to the next highest level of management or other appropriate manager as soon as is possible.

Where an ARTC manager suspects or receives a report of a suspected breach of the Code of Conduct (or has had such a matter referred to them) and where the allegation does not relate to a reportable breach of the Corporations Act), they will:

1. Implement any measures as required to ensure that:
 - a. The matter is kept confidential and only disclosed as is considered appropriate, on a "need to know" basis or as required by law;
 - b. The identity of the individual who has reported the breach or suspected breach is kept confidential and only disclosed as is considered appropriate, on a "need to know" basis or as required by law; and
 - c. The individual who has reported the breach is not subjected to detrimental action for having done so.
2. Consider informal approaches to the investigation of the matter (e.g. informal discussion with the individual against whom the allegation has been made) and, if possible, resolve the matter on this basis. Resolution of this type may include (without limitation) an apology, a joint agreement between relevant individuals, informal or formal counselling or the provision of appropriate training.
3. In conjunction with the relevant Executive General Manager and the Executive General Manager People Culture and Development consider suspension of employment (with pay), or contract (without pay) or temporary re-assignment of duties of any of the relevant parties involved in the matter.
4. If the suspected breach may also be a criminal offence consider referral to the Police.
5. In conjunction with the relevant Executive General Manager and the Executive General Manager People Culture and Development consider initiating a formal investigation if

warranted, having regard to the seriousness and gravity of the suspected breach(es). If it is decided that a formal investigation is warranted, then the following steps must be taken:

- a. The relevant Executive General Manager and the Executive General Manager People Culture and Development will appoint a person who is both independent and unbiased to determine whether a breach of the Code of Conduct has occurred (the Investigator). The Investigator may be either internal or external to ARTC.
- b. The Investigator will ensure that the individual suspected of breaching the Code of Conduct is given a reasonable opportunity to provide a response to the allegations within a reasonable time. The Investigator may ask for this response to be provided in writing within a reasonable time.
- c. The Investigator may seek any additional information as required to determine whether a breach of the Code of Conduct has occurred. This may include speaking with other ARTC workers, or obtaining further written statements.
- d. The Investigator must ensure that the investigation, the matters arising from the investigation, and the identity of workers involved in the investigation (including the identity of the worker who reported the suspected breach) are kept confidential and only disclosed as is considered appropriate, on a "need to know" basis or as required by law.
- e. The Investigator will propose, on the balance of probabilities, whether a breach of the Code of Conduct has occurred. The Investigator will complete a draft written record of the determination and the reasons for them, and provide this to the relevant Executive General Manager and the Executive General Manager People Culture and Development.
- f. The relevant Executive General Manager and the Executive General Manager People Culture and Development will then decide, having regard to the Investigator's determination, what action (including disciplinary action) should be taken. Notice of the decision will be provided in writing to the person suspected of breaching the Code of Conduct.

10.3 Breaches of the Code and Disciplinary Action

Where, as a result of the above processes, a worker is found to have breached the Code of Conduct, ARTC may take one or more of the following actions:

- Disciplinary action may be taken in relation to an employee as per the ARTC Discipline Policy, which may include dismissal;
- Contracts of service may be terminated;
- The matter may be referred to the Police or other bodies; and
- Any other action as deemed appropriate.

10.4 Guidance Only

The processes outlined in this Section (Section 10 – Breaches of the Code) provide guidelines only. These processes are not intended to, and do not, have contractual force and do not form part of the contracts of any worker. Being guidelines, ARTC may treat any matter on a case by case basis and may, in any given case, adopt different procedures for handling of the matter.

11 Reference documents and templates

The following documents support this procedure:

- [C01-007 Public Interest Disclosure Procedure](#)
- [WHS-001 Work Health and Safety](#)
- [HR06-006 Discipline Procedure](#)
- [HR07-003 Drug and Alcohol Policy](#)
- [HR07P-030 Drug and Alcohol Procedure](#)
- [001-PP-30 Workplace E-mail and Internet Policy](#)

12 Definitions

The following terms and acronyms are used within this document:

Term or acronym	Description
Code	Refers to the ARTC Code of Conduct
Corporations Act	<i>Corporations Act 2001</i> (Cth) as in force from time to time
Employee	Refers to all employees of ARTC
Social Media	Refers to the communication forums such as weblogs, social blogs, micro-blogging, wikis, podcasts, pictures, video, rating and social book marking
Worker	Refers to employees, directors, contractors, subcontractors, consultants and labour hire employees