

**Submission  
No 36**

## **INQUIRY INTO PROTECTION OF PUBLIC SECTOR WHISTLEBLOWER EMPLOYEES**

**Organisation:** RailCorp  
**Name:** Mr Rob Mason  
**Position:** Chief Executive Officer  
**Telephone:**  
**Date received:** 21/11/2008

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# RailCorp

Chief Executive Officer, Level 6 18 Lee Street CHIPPENDALE NSW 2008  
PO Box K349 HAYMARKET NSW 1238  
Ph: (02) 8202 3175 Fax: (02) 8202 2291

Our reference: 2008/780

Frank Terenzini MP  
Chair  
Parliament of New South Wales  
Committee on the Independent Commission Against Corruption  
Macquarie Street  
SYDNEY NSW 2000

By email: [icac@parliament.nsw.gov.au](mailto:icac@parliament.nsw.gov.au)

Attention Ms Helen Minnican

Dear Mr Terenzini

## INQUIRY - PROTECTION OF PUBLIC SECTOR WHISTLEBLOWER EMPLOYEES

I refer to your letter dated 14 October 2008 giving notice that the Committee on Independent Commission against Corruption wishes to take evidence from RailCorp in relation to the Inquiry into the Protection of Public Sector Whistleblower Employees set down for public hearing on 24 November and 1 December 2008.

We understand the hearing is scheduled to hear from RailCorp at 1.30 -2.10pm on 24 November 2008

Please find **attached** an outline of RailCorp's submissions.

Yours sincerely

Rob Mason  
Chief Executive Officer  
2/ November 2008

## SUBMISSIONS

### **Inquiry into the protection of public sector whistleblower employees**

#### **1.**

##### **Introduction**

The Committee on the Independent Commission Against Corruption (the Committee) is conducting an inquiry into the protection of public sector whistleblower employees. The terms of reference are as follows:

*That the Committee on the Independent Commission Against corruption, which is a joint statutory committee, inquire into and report on the effectiveness of current laws, practices and procedures in protecting whistleblower employees who make allegations against government officials and members of Parliament.*

On 30 September 2008, and following the first round of hearings and submissions, The Chair of the Committee, the Honourable Frank Terenzini MP issued a Media Release indicating that as part of the next stage of its inquiry the Committee "*will be hearing from a range of agencies, departments and investigating authorities to try to focus on the way in which the Protected Disclosures Act works and how effective it is in protecting whistleblowers.*"

By way of letter to RailCorp dated 14 October 2008, Mr Terenzini MP informed RailCorp that the Committee has identified RailCorp as one organisation that it wished to take evidence from at the next round of public hearings. RailCorp is informed that this round of public hearings will focus on the practices and procedures in place to protect whistleblowers and the fundamental issues with the operation of the legislation. The Committee seeks a written submission from RailCorp in advance of the public hearings.

#### **2.**

##### **Scope of RailCorp's submission.**

This submission outlines the practices and procedures implemented by RailCorp in compliance with its obligations under the *Protected Disclosures Act* ("*PD Act*") and how it as an organisation:

- encourages and facilitates the reporting of corrupt conduct, maladministration, and serious and substantial waste;
- investigates disclosures of corrupt conduct, maladministration and serious and substantial waste;
- protects persons reporting corrupt conduct, maladministration, and serious and substantial waste.

### 3.

#### **Profile of RailCorp**

Rail Corporation New South Wales (RailCorp) is a statutory state owned corporation that operates under the *Transport Administration Act 1988* and the *State Owned Corporations Act 1989*. The organisation's legislated mandate is to deliver, maintain and provide safe and reliable passenger rail services throughout the Sydney metropolitan area and rural New South Wales.

RailCorp directly employs about 14,000 employees and has working relationships with a large numbers of contractors and consultants.

### 4.

#### **RailCorp's commitment to the *Protected Disclosures Act* and the protection of whistleblowers**

RailCorp is committed to complying with the aims and objectives of the *PD Act*. This commitment is given practical effect primarily through RailCorp's *Protected Disclosures and Reports of Corrupt & Other Serious Misconduct /Maladministration Procedure* ("*Protected Disclosures Procedure*") and within the framework established by RailCorp's *Code of Conduct*.

The Protected Disclosure Procedure reflects the 'Model internal reporting policy for state government agencies' that was published in Appendix 1 to the *NSW Ombudsman Protected Disclosures Guidelines* (5th edition, May 2004)

#### **Code of Conduct**

The RailCorp *Code of Conduct* provides a framework for the performance of work within the organisation and outlines the minimum standards of behaviour expected of all employees, contractors and consultants. Breaches of the *Code of Conduct* can lead to disciplinary action and / or performance counselling. The *Code of Conduct*, was published in early 2006 and briefings to all employees have followed from that.

Part 14 of the *Code of Conduct* deals with corrupt conduct, maladministration or serious and substantial waste and the obligations on employees to report on these issues. Reports can be made internally or directly to external investigating authorities. The *Code of Conduct* makes express reference to the *PD Act*. It outlines the process of making a protected disclosure and discusses the protections provided under the *PD Act*. Persons considering making a protected disclosure are referred to RailCorp's *Protected Disclosures Procedure*. They are also advised that further information regarding protected disclosures can be obtained from RailCorp's Corruption Prevention HotLine.

A copy of the **Code of Conduct** is enclosed with this submission.

### **RailCorp's Protected Disclosure Procedure**

RailCorp's *Protected Disclosures Procedure* became operational on 25 June 2007. It replaces earlier State Rail and Rail Infrastructure Corporation policies and is designed to ensure RailCorp meets its obligations under the *PD Act* by:

- encouraging the reporting of matters that concern corrupt or other serious inappropriate conduct;
- identifying key options available for RailCorp employees, contractors and consultants wishing to report corrupt conduct, maladministration or serious and substantial waste;
- assisting managers and supervisors to respond appropriately to all reports from employees, including protecting employees from reprisals and maintaining confidentiality;
- communicating the process to be followed by employees wishing to make a protected disclosure; and
- identifying the protections offered by the *PD Act*.

The *Protected Disclosure Procedure* makes provision for the following:

#### **i) Nominated Disclosures Officers**

An employee wishing to make a protected disclosure through RailCorp's internal reporting system can only make the report to a Nominated Disclosures Officer. RailCorp's Nominated Disclosures Officers are holders of the following positions:

##### **Internal Audit**

- Manager Investigations
- Manager Corruption Prevention
- General Manager Internal Audit

##### **Workplace Conduct Unit**

- Manager Workplace Conduct Unit

##### **RailCorp Executive**

- Group General Manager Human Resources
- Chief Executive Officer

The Nominated Disclosures Officer will;

- make arrangements where necessary to ensure a protected disclosure can be made privately and discreetly;
- record the details of any disclosure received orally, and have the employee sign and date the document;
- clearly explain to the employee what will happen in relation to the information provided;
- ensure the disclosure is registered with either the Workplace Conduct Unit or Internal Audit;
- forward details of the disclosure to the Protected Disclosures co-ordinator for assessment;
- support the employee from victimisation, harassment and any other form of reprisal.

## ii) Investigation of the protected disclosure

### *Workplace Conduct Unit ("WCU")*

The WCU investigates allegations of serious workplace misconduct and administers the discipline process across RailCorp's workforce. The WCU is responsible for investigating serious workplace misconduct such as alcohol and drug breaches, misuse of resources, violence, bullying, harassment and recruitment misconduct. The WCU investigates these matters whether or not they are made as protected disclosures.

### *Internal Audit Investigations Unit*

The Internal Audit Investigations Unit operates as part of RailCorp's independent Internal Audit Division. The Division undertakes a comprehensive programme of internal auditing within the Corporation with full and unrestricted access to all functions, personnel records, accounts, files and other documentation. The Internal Audit Investigations Unit investigates allegations of corrupt conduct, including allegations of fraud, bribery, theft, timesheet fraud, committed by staff members or contractors including allegations made as protected disclosures. Internal Audit Investigations investigate the majority of the protected disclosures made to RailCorp.

The General Manager, Internal Audit, is the Protected Disclosures Coordinator for RailCorp. The Protected Disclosures Coordinator is responsible for ensuring that Protected Disclosures within RailCorp are managed in accordance with the *PD Act* and in accord with the *Protected Disclosure Procedure*.

## *Reporting*

All matters of possible corrupt conduct are reported to the Independent Commission Against Corruption pursuant to section 11 of the ICAC Act.

### *iii) Protection of the person making a protected disclosure*

In accord with its *Protected Disclosures Procedure*, RailCorp has put in place the following procedures to protect whistle blowers :

- by making provision for anonymous reports;
- by making provision for protected disclosures to be made privately and discreetly;
- by maintaining the confidentiality as far as possible of persons making a protected disclosure;
- by investigating protected disclosures professionally;
- by keeping registers of protected disclosures; and
- through implementation of policies and procedures pursuant to which any discrimination, harassment or victimisation of any employee is unacceptable and of which may lead to investigation.

### *iv) Notifications in relation to protected disclosures*

In conformity with s.27 of the *PD Act*, the *Protected Disclosure Procedure* provides that RailCorp will notify the person making a protected disclosure (where the identity of that person is known to the organisation) of the action taken or proposed to be taken in relation to the disclosure within 6 months of the making of the disclosure.

A copy of the **Protected Disclosures procedure** is enclosed with this submission.

## **5.**

### **Education of RailCorp's Workforce**

RailCorp encourages its workforce to report corruption, maladministration and waste. It does this in a number of ways including by:

- briefing of all RailCorp employees on the Code of Conduct including briefing in Protected Disclosures;
- by operation of a Corruption Prevention Hotline;
- by educating RailCorp's workforce about the availability of protected disclosures and by providing on-line electronic reporting forms;

- ethics training including in relation to recruitment practices, procurement and purchasing, secondary employment, people management, and ethical decision making;
  - policies such as the *Grievance Resolution* policy which refer to behaviours that may be appropriately referred for management under the Protected Disclosure Procedure.
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# 1. POLICY: Workplace Standards

## 1.3 PROCEDURE: PROTECTED DISCLOSURES AND REPORTS OF CORRUPT & OTHER SERIOUS MISCONDUCT/MALADMINISTRATION

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# 1 Introduction

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## 1.1 Purpose

RailCorp is strongly committed to maintaining an ethical workplace including:

- complying with the law, RailCorp policies and procedures, applicable Government policies, relevant parts of the *Australian Standard for Whistleblower Protection Programs for Entities (AS8004:2003)* and other corporate compliance obligations
- being ethical and honest in all our decision making, behaviour and relationships
- ensuring that employees comply with the RailCorp Code of Conduct.

Timely reporting is essential to detect and stop conduct which would be detrimental to RailCorp and employees.

This procedure is designed to:

- encourage the reporting of matters that concern corrupt or other serious inappropriate conduct, as these may cause financial or non-financial loss to RailCorp or damage to RailCorp's reputation
- identify the options available for RailCorp employees, contractors and consultants wishing to report corrupt conduct, maladministration or serious and substantial waste
- assist managers and supervisors to respond appropriately to all reports from employees, including protecting employees from reprisals and maintaining confidentiality
- communicate the process to be followed by people wishing to make a protected disclosure and the protections offered under the *Protected Disclosures Act 1994*.

Employees making disclosures should be sure of the truth of their concerns, and some form of proof may be required by the person investigating the matter.

To report safety breaches employees should refer to the Safety Management System, available on the RailCorp intranet under Safety/Safety Management System.

## 1.2 Relationship to Policy

This Procedure is one of a number of Procedures that are designed to implement RailCorp's *Workplace Standards Policy*. It is also designed to ensure RailCorp meets its obligations under the *Protected Disclosures Act 1994*.

## 1.3 Coverage

This Procedure covers RailCorp and:

- RailCorp permanent, temporary or casual employees, whether employed under an enterprise agreement or contract
- consultants and contractors, including temporary staff employed through an agency
- RailCorp Board members.

## 2 Definitions

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For the purpose of this Procedure:

- Consultants and Contractors:** include a person or organisation engaged under contract on a temporary basis to do a specific job or provide specialist or technical advice. Contractors include temporary staff employed through an agency
- Corrupt conduct:** is the dishonest or partial exercise of an official function by a public official. Conduct of a person who is not a public official, when it adversely affects the impartial or honest exercise of official functions by a public official comes within the definition. Examples of corrupt conduct include: the inappropriate use of information or material, bribery, blackmail, offering secret commissions, forgery etc.
- Employees:** includes RailCorp's permanent, temporary or casual employees, whether employed under an enterprise agreement or contract and Board members.
- Frivolous:** matters that are trivial, shallow, silly and not worthy of serious notice.
- Maladministration:** is inefficient, bad or improper administration of a serious nature, which is unlawful, unreasonable, unjust, oppressive, discriminatory or is based on improper motives. Maladministration covers both action and inaction.
- Nominated Disclosures Officers:** are people appointed in RailCorp to receive a protected disclosure. These officers have specific responsibilities under the *Protected Disclosures Act 1994*.
- Protected disclosures:** are reports made under the *Protected Disclosures Act 1994*. This Act offers legal protection against reprisals or victimisation for making a report. Only certain groups of people can make a protected disclosure and there is a specific process for lodging and dealing with protected disclosures. See section 5 for more information.
- Public Official:** means a person employed under the *Public Sector Employment and Management Act 2002*, an employee of a State owned corporation (eg RailCorp), a subsidiary of a State owned corporation or a local government authority or any other individual having public official functions or acting in a public official capacity.
- Serious and substantial waste:** is the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources. Waste may be serious and/or substantial where it
- is significant in cost/money terms; and/or
  - indicates a pattern of waste as a result of a system weakness; and/or
  - is significant in nature, that is it may be improper or inappropriate. This may also constitute maladministration as defined in the *Protected Disclosures Act 1994*.

**Vexatious:**

means things that are without substance and are deliberately annoying, distressing or embarrassing to someone or an organisation; or that could be reasonably expected to cause annoyance, distress or embarrassment.

Examples of corrupt conduct, maladministration and serious/substantial waste are provided at **Attachment A**

### 3 Responsibilities

Who	Responsible for
All employees	Behaving ethically and professionally Reporting incidents of corrupt conduct and serious misconduct/maladministration Not engaging in retaliation against an employee who makes a report, even if not a protected disclosure
Managers/Supervisors	Acting on a reported incident of corrupt conduct or serious misconduct/maladministration in accordance with RailCorp policy and procedures Referring reports of a serious nature to the appropriate RailCorp area for investigation. Seeking appropriate advice Maintaining confidentiality in accordance with this procedure Not engaging in retaliation against an employee who makes a report, even if not a protected disclosure
Nominated Disclosures Officers (refer section 5.4.1)	Managing protected disclosures in accordance with RailCorp policy and procedures Ensuring that each protected disclosure received is registered
Protected Disclosures Coordinator (General Manager, Internal Audit)	Ensuring that Protected Disclosures within RailCorp are managed in accordance with the Act

## 4 Reporting Corrupt and Other Serious Misconduct/Maladministration

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### 4.1 Reporting options

If RailCorp employees witness or have information that shows or tends to show serious wrongdoing - such as corrupt conduct, maladministration or serious and substantial waste of public money - they are required to report the matter through appropriate channels.

Reports can be made to line managers or supervisors or to a more senior manager.

In some circumstances, employees may feel uncomfortable or think that it is inappropriate to report the matter to their manager or supervisor. In such cases, employees can report the matter to:

- the RailCorp Corruption Prevention Line, where specially trained corruption prevention staff are available (see 'Further information' section for contact details) or
- the Manager, Workplace Conduct Unit (see 'Further information' section for contact details) or
- one of the RailCorp Nominated Disclosures Officers (see 'Further Information' section for contact details), if they wish to report the matter as a 'protected disclosure' under the *Protected Disclosures Act 1994* or
- to the appropriate external investigating authority, as described later in this Procedure. Reports made to an external investigating authority can also be made as protected disclosures.

Corrupt conduct such as stealing, claiming time not worked, accepting expensive gifts from contractors or companies that RailCorp deals with, showing favouritism to a contractor or hiring a friend etc should be reported to the RailCorp Corruption Prevention Line (see 'Further information' section for contact details) – a service which also provides advice on ethical issues.

Workplace conduct issues such as drug and alcohol use while on duty, sexual harassment, workplace bullying, physical assault and damage to property should be reported to the Manager Workplace Conduct (see 'Further information' section for contact details).

ALL cases are treated as confidential and if the report concerns corrupt conduct, maladministration or serious and substantial waste, you can ask for your report to be 'protected' under the *Protected Disclosures Act 1994*.

**To make an internal protected disclosure the disclosure must be made to a Nominated Disclosure Officer and it must be stated that a protected disclosure is being made.**

RailCorp is committed to complying with the aims and objectives of the *Protected Disclosures Act 1994* and supports disclosures being made by employees which reveal corrupt conduct, maladministration or serious and substantial waste of public money.

### 4.2 Confidentiality and protection from reprisals

Employees who report or disclose corrupt or other serious misconduct or maladministration, in good faith and in line with this procedure, will not be personally disadvantaged by having made the report or disclosure. For example, they will not be dismissed, demoted, subjected to any form of harassment, discrimination, victimisation or current or future bias, as a result of their reporting a matter.

Even where a report is not made as a protected disclosure, confidentiality will be maintained as much as is practicable. Information about the identity of the reporter and the matter itself will only be provided to those who need to know in order for the matter to be investigated. All related documents will be maintained in a secure place.

### 4.3 Anonymous reports

RailCorp will accept anonymous reports. This is not the preferred approach, however, as it does not allow clarification or follow-up questions. Without an employee's contact details, it might not be practical for RailCorp to reasonably and fully assess the allegations or provide any feedback to the reporter.

RailCorp's commitment to compliance with the aims and objectives of the *Protected Disclosures Act 1994*, and the opportunity to speak directly to an independent Nominated Disclosure Officer, should make anonymous reports unnecessary.

### 4.4 Vexatious or Frivolous Complaints

If during the course of an investigation the complaint is found to be vexatious or frivolous disciplinary action may be taken against the complainant.

## 5 Protected Disclosures

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### 5.1 Protected Disclosures Act 1994

The *Protected Disclosures Act 1994* provides protection for public officials who report disclosures that satisfy all of the following:

- are made by a public official
- are made in accordance with the Act
- are about corrupt conduct, maladministration, or serious or substantial waste of public money
- are not false, misleading, frivolous or vexatious
- are based on fact or other evidence and are not made out of revenge, as a joke, or based on rumour or speculation
- do not primarily question the merits of government policy
- are not made with the intention of avoiding dismissal or other disciplinary action
- are made voluntarily.

### 5.2 Confidentiality and other protections under the Act

The *Protected Disclosures Act 1994* requires investigating authorities to whom a protected disclosure has been made (or referred), not to disclose information that might identify (or tend to identify) the person who made the disclosure.

There can be exceptions to the confidentiality requirement such as when the person making the disclosure consents in writing to the disclosure of the information, or if RailCorp is compelled by the law to do so.

Under the *Freedom of Information Act 1989* a document may not be released if it contains a matter concerning a protected disclosure, provided that disclosure is made in accordance with the *Protected Disclosures Act 1994*.

Employees who make a protected disclosure are protected throughout the investigation process.

Under the *Protected Disclosures Act 1994* an employee is protected from any detrimental action, which may result from making the disclosure. This includes:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage, adverse treatment, dismissal from or prejudice in relation to employment or
- disciplinary proceeding.

Retaliation against any person who has made a protected disclosure which complies with the Act is a criminal offence.

### 5.3 Making a protected disclosure

For a disclosure to be made under the *Protected Disclosures Act 1994* the person making the report needs to state that they wish to make a protected disclosure and must make the report to a Nominated Disclosure Officer – or to an appropriate external authority. If a person making a report of corrupt conduct, maladministration or serious and substantial waste expresses concern that they will be victimised or harassed for making it, the person receiving the report should provide advice on how to make a protected disclosure and should recommend it if appropriate.

Anyone receiving a report should ensure that it is referred to the relevant RailCorp area for investigation (as outlined in 4.1 'Reporting options').



## 5.4 Internal reporting of a protected disclosure

An employee wishing to make a protected disclosure through RailCorp's internal reporting system **can only make the report to a Nominated Disclosures Officer**.

### 5.4.1 Nominated Disclosures Officers

RailCorp's Nominated Disclosures Officers are holders of the following positions:

#### **Internal Audit**

- Manager Investigations
- Manager Corruption Prevention
- General Manager Internal Audit

#### **Workplace Conduct Unit**

- Manager Workplace Conduct Unit

#### **RailCorp Executive**

- Group General Manager Human Resources
- Chief Executive Officer

Contact details for the above Nominated Disclosures Officers are listed in the Further Information section of this procedure.

### 5.4.2 Protected Disclosures Coordinator

The General Manager, Internal Audit is the Protected Disclosures Coordinator for RailCorp.

The Protected Disclosures Coordinator is responsible for ensuring that Protected Disclosures within RailCorp are managed in accordance with the Act.

### 5.4.3 External reporting of a protected disclosure

An employee wishing to make a protected disclosure through an external investigating authority can do so by contacting one of the following agencies:

- **Independent Commission Against Corruption (ICAC)** - for matters involving corrupt conduct
- **NSW Ombudsman** - for maladministration
- **Audit Office of NSW** - for matters involving serious and substantial waste of public money

Contact details for external investigating authorities are listed in the Further Information section of this procedure.

## 5.5 Disclosures to a member of parliament/journalist

Employees who speak directly to Members of Parliament and journalists without first pursuing the reporting options outlined above will not be offered protection under the *Protected Disclosures Act 1994*. RailCorp's commitment to the aims and objectives of that Act should make it unnecessary to pursue such a course of action.

In terms of the *Protected Disclosures Act 1994* reports to journalists and politicians are protected only if they have already been made to the appropriate authorities and the appropriate authorities have decided not to investigate, decided to investigate but not completed it within six months, investigated but not recommended any action, or failed to notify the person making the disclosure within six months of whether or not the matter is to be investigated.

## 5.6 What happens to a protected disclosure?

If an employee makes a disclosure to one of the Nominated Disclosures Officers, the Nominated Disclosures Officer will:

- when requested, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary, away from the workplace)
- clearly explain to the employee what will happen in relation to the information provided
- write down the details of any disclosure received orally, and have the employee sign and date the document
- deal with the disclosure impartially
- ensure the disclosure is registered with either Workplace Conduct Unit or Internal Audit
- forward details of the disclosure to the Protected Disclosures Coordinator for assessment
- support and protect the employee from victimisation, harassment and any other form of reprisal.

## 5.7 False or misleading disclosures

In making a disclosure, the employee must not wilfully make a false statement to, or mislead or attempt to mislead an investigating authority, public authority or public official.

Penalties including imprisonment of up to 12 months may apply

## 5.8 Notification to person making disclosure

The investigating authority, public authority or officer receiving the disclosure under the *Protected Disclosures Act 1994*, either directly or by referral, must notify the person who made the disclosure, within 6 months of the disclosure being made, of the action taken or proposed to be taken in respect of the disclosure.

## 6 Further information

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### 6.1 Internal reporting and information

For further information about this Procedure or to report a matter to an officer within RailCorp, contact

- Manager Workplace Conduct Unit (02) 8202 2203
- Specialist corruption prevention staff or Internal Audit Nominated Disclosures Officers on the Corruption Prevention Line 1800 629 826
- Group General Manager Human Resources (02) 8202 2169
- Chief Executive Officer (02) 8202 2000

### 6.2 External reporting and information

The following external agencies can also provide information about the matters covered in this Procedure and will accept complaints and reports

- about corrupt conduct  
Independent Commission Against Corruption (ICAC): (02) 8281 5999 or 1800 463 909  
[www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)
- about maladministration  
NSW Ombudsman: (02) 9286 1000 or 1800 451 524  
[www.nswombudsman.nsw.gov.au](http://www.nswombudsman.nsw.gov.au)
- about matters involving serious and substantial waste of public money  
Audit Office of NSW: (02) 9275 7100  
[www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)

## 7 References

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### RailCorp documentation

The table below lists RailCorp documentation that supports or is referred to in this document

Number	Title
	<a href="#">Workplace Standards Policy</a>
	<a href="#">Code of Conduct</a>

### Other material

The table below lists material that supports or is referred to in this document

Number	Title
	<i>Independent Commission Against Corruption Act 1988</i>
	<i>Independent Commission Against Corruption Regulation 2005</i>
	<i>Freedom of Information Act 1989</i>
	<i>Protected Disclosures Act 1994</i>

## 8 Document control information

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### Document status

The current status of this document is shown below

<b>Title</b>	Protected Disclosures and Reports of Corrupt and Other Serious Misconduct/ Maladministration Procedure
<b>Document number</b>	D2006/106057
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<b>Authorised by</b>	Group General Manager, Human Resources
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### Document history

The history of changes made to this document is shown below

Version	Date Published	Author	Description
1.0	25 June 2007	HR Policy, Equity and Diversity	Approved by EMT 7/11/2006

## 9 Attachment A: Examples of corrupt conduct, maladministration and serious/substantial waste

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### **Corrupt Conduct**

Examples of corrupt conduct in RailCorp may include:

- Stealing money or RailCorp property
- Falsifying attendance records, timesheets, travelling allowance forms or motor vehicle diaries
- Falsifying personnel files
- Falsifying local purchase orders or purchasing card entries
- Accepting money in exchange for RailCorp intellectual property
- Falsifying medical information, samples (D&A), claims for injury/illness
- Engaging in criminal activities
- Supplying illegal drugs
- Awarding contracts to family members or friends in exchange for money or any other form of benefit
- Dishonest or partial behaviour in the exercise of official functions, including interference in selection processes
- Breaching public trust
- Not disclosing conflicts or potential conflicts of interest
- Misusing information or material for personal gain or to benefit any other person
- Improperly releasing confidential information

### **Maladministration**

Examples of maladministration in RailCorp may include:

- Purchasing goods and services which are above an employee's delegated level
- Employees giving mailing lists or personnel details or other private information, for whatever purpose, to people not employed by RailCorp
- Allowing people not employed by RailCorp to access records and files which are confidential and not generally available to the public

### **Serious/Substantial Waste**

Examples of serious and substantial waste in RailCorp may include:

- Purchasing unnecessary goods and services
- Deliberately over staffing a particular area, incurring costs which might otherwise have been avoided
- Buying unnecessary goods merely to use all allocated or budgeted funds
- Purchasing greatly overpriced goods or services from one supplier rather than those from another supplier at a more competitive rate

# Code of Conduct



Customer service



Safety



Respect



Teamwork



Continuous improvement



Integrity



Safe, clean and reliable passenger services



**RailCorp**

Customer service



Continuous improvement



Teamwork



Respect



Integrity



Safety



## RailCorp's Values

The Code of Conduct is based on RailCorp's corporate values:

### Safety

We will put safety first

### Customer Service

We will work hard to provide quality customer service

### Teamwork

We will work together

### Integrity

We will establish a Just Culture and will be honest and ethical

### Respect

We will treat our customers and each other equitably and with respect

### Continuous improvement

We will encourage and support each other to improve the quality and productivity of our work, our systems and our assets.





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## Assistance

### English

If you need assistance in reading the Code of Conduct please phone: 8922 4499

### Arabic

إذا كنت في حاجة لمساعدة في قراءة مدونة السلوك، يرجى الاتصال بالهاتف رقم: 8922 4499

### Simplified Chinese

如果你在阅读本行为准则上需要协助的话，请拨打8922 4499

### Greek

Αν χρειάζεστε βοήθεια για να διαβάσετε τον Κώδικα Συμπεριφοράς, παρακαλούμε τηλεφωνήστε στο 8922 4499

### Hindi

अगर आपको आचार-संहिता समझने में सहायता चाहिए तो कृपया दूरभाष: 8922 4499 पर संपर्क करें।

### Italian

Se avete bisogno di assistenza per leggere il Codice di Comportamento telefonate al: 8922 4499

### Macedonian

Ако ви треба помош при читањето на Правилникот за работа, ве молиме телефонирајте на: 8922 4499

### Filipino

Kung nais ninyo ng tulong sa pagbasa ng Kodigo sa Pamamalakad, mangyaring tumawag sa: 8922 4499



## Introduction

It is RailCorp's business to provide safe, clean and reliable passenger services that are efficient, sustainable and to the satisfaction of our customers. As RailCorp employees, contractors and consultants we each have an obligation to work towards achieving these expectations. This includes operating in a professional and ethical manner.

The RailCorp Code of Conduct aims to provide us with an ethical framework for our decisions, actions and behaviour. It is not intended to be read as a set of workplace rules as it is not possible to address all ethical challenges that we might come up against in carrying out our work. Rather, the Code exists to encourage a positive organisational culture that will result in a healthy work environment for everyone.

The Code outlines the minimum standards of behaviour expected of all RailCorp employees, contractors and consultants. These behaviours are to be displayed and upheld at all times whenever and wherever relevant to our work and responsibilities.

We are all obliged to read the Code carefully and thoroughly because ultimately we are all responsible for our own behaviour. RailCorp will take action in relation to any breach of the Code. Such action may include performance-counselling and disciplinary action.

The Code operates in conjunction with the legal and regulatory requirements of federal and state laws and RailCorp's policies, procedures and rules.

A handwritten signature in black ink that reads "Vince Graham". The signature is written in a cursive, flowing style.

Vince Graham  
Chief Executive Officer

# 1. Acceptable behaviour and responsibilities

## 'We are all responsible for behaving positively'

The RailCorp Code of Conduct establishes the acceptable behaviours and responsibilities expected of all RailCorp employees, contractors and consultants. The Code applies to all RailCorp employees, contractors and consultants.

It is essential that we understand all the requirements of the Code, its supporting policies and procedures, delegations and instructions. This is because we are responsible for our actions and behaviour, including any failures to take action. You may be asked why you have chosen a particular course of action. If so, you may also be required to demonstrate that a decision you have made is reasonable in the circumstances and is fair and equitable.

RailCorp employees, contractors and consultants are to comply at all times with the behaviours outlined in the Code. You are also to adhere to the following general principles:

- Put safety first in everything we do.
- Always act in the best interest of RailCorp.
- Maintain and promote high levels of acceptable behaviour.

- Help to build and maintain a 'Just Culture' where employees are treated fairly and justly.

As an employee, contractor or consultant of RailCorp you are responsible for the way you behave and your actions. All your decisions must be ethical and comply with legislation, awards, policies, procedures, rules and job requirements. In your work at RailCorp you must:

- Carry out your duties carefully, safely, honestly, courteously and fairly.
- Be aware of possible conflicts of interest and breaches of the Code and notify senior employees as appropriate.
- Use your authority and delegation/s in an appropriate and unbiased way for the intended work-related purposes.
- Use RailCorp resources properly, efficiently and economically.
- Treat members of the public and colleagues fairly and consistently.
- Be honest and accurate in timekeeping and in meeting attendance requirements.
- Immediately inform your supervisor or manager if you have been convicted of a serious criminal offence (an offence punishable by imprisonment for six months or longer) or any other offence which prevents you from performing your full range of duties safely (for example losing your driver's licence or drink driving offences). If you are convicted by a court of a serious criminal offence, RailCorp is entitled to take disciplinary action.





- Create and maintain full and accurate records of work performed, including reasons for your decision making.
- Provide fair, accurate and appropriate advice.
- Consider in your decision making any adverse impacts on the environment.
- Report unethical and dishonest behaviour.
- Present yourself in a businesslike and professional manner, including wearing uniforms and safety equipment as specified.
- Keep up to date with advances and changes in your area of expertise.
- Carry out all lawful directions from managers/supervisors to the best of your ability.

If you are a manager or supervisor, you have additional responsibilities. You must:

- Lead by example.
- Promote the highest standards of professional conduct.
- Ensure you do not permit or encourage any employee to act in breach of the Code.
- Maintain the integrity and security of official documents or information.
- Ensure you properly and diligently discharge your supervisory responsibilities.
- Ensure employees, contractors and consultants have access to all RailCorp information, including this Code, policies, procedures and rules, required to carry out their work diligently.
- Provide advice and assistance to employees wherever necessary.

Supervisors and managers are in many cases accountable for what their employees, contractors and consultants do or fail to do. As a manager or supervisor you may be asked to explain why you have chosen a particular course of action and demonstrate that a decision you have made is reasonable in the circumstances, and is fair and equitable.

**If you are uncertain about what is required of you under this Code, you should immediately seek advice from your manager, supervisor or from the manager human resources. Always ask for help if unsure.**

Counselling for personal or other issues is available through the Employee Assistance Program (T:1300 364 213, 24 hours per day).



## 2. Safety

### 'We put safety first'

At RailCorp we put safety first in everything we do. RailCorp is required to deliver safe, clean and reliable passenger services that are efficient, sustainable and to the satisfaction of our customers. Our safety vision is to have a:

- Safe railway
- Safe workplace
- Safe and Just Culture.

All RailCorp employees, contractors and consultants must ensure they:

- Comply with the obligations and requirements of the Occupational Health and Safety Act and RailCorp's safety and safeworking policies, procedures, rules, and guidelines or instructions that apply in your workplace.
- Report to a manager/supervisor any incident causing potential or actual injury, unsafe equipment or work practices.
- Take care with their own safety and the safety of other people.

- Comply with any reasonable request for giving aid or preventing a risk to others.
- Participate in consultative processes to improve and enhance safety.
- Use safety equipment, uniforms and protective clothing as provided.
- Keep the workplace clean and tidy.
- Report any interference, obstruction, or misuse of anything provided for the safety of people in the workplace.

If you are a manager or supervisor you are also required to:

- Maintain workplaces in a safe condition.
- Provide information, instruction, training and supervision necessary to ensure safety.
- Be available to employees, contractors and consultants who seek advice or assistance.

## Safety

### Examples

You are running late for your train at Central Station and you contemplate crossing the road against the lights. You decide to wait for the pedestrian lights even though you are running late as it is important to take care of your own safety, which includes when travelling to and from work. You decide to leave home earlier in future so that you don't ever put your own safety at risk.

One of your colleagues thinks it would be a good idea to tamper with someone's mail and make it look like it could be a dangerous package to give them a scare. You respond to your colleague that playing practical jokes may put people's lives at risk.



### 3. Occupational Health and Safety (OH&S)

#### 'We promote a safe and healthy workplace'

RailCorp employees, contractors and consultants must promote a safe and healthy work environment for all people. This is a legal requirement under the *Occupational Health and Safety Act 2000 (NSW)* and associated Regulations.

You are responsible for taking care of your own health and safety and that of others. In addition, RailCorp managers and supervisors must take all steps possible to reduce workplace risks in accordance with the *Occupational Health and Safety Act 2000*.

While at work you must follow the safeworking guidelines applicable to your job, correctly wear any required protective clothing or uniforms, and advise your supervisor of any faulty equipment or other hazards in the workplace. You must not endanger yourself, or others, by your actions or failure to carry out your duties in accordance with lawful direction. You must immediately report unsafe work practices to your manager/supervisor.

**Smoking** is not permitted in any RailCorp workplace. 'Workplace' includes any place where work is performed and includes:

- Train cabs.
- RailCorp vehicles.
- Lifts, storage areas, food preparation areas.
- Covered passenger platforms, workshops, trains, station rooms and offices, waiting areas.
- Offices, sheds, amenities and any covered areas at maintenance depots and sites.
- Building entrances and lobbies, stairwells, elevators, toilets, meal rooms, lounge areas, training rooms, conference rooms and meeting rooms.

**Counselling for personal or other issues (including quitting smoking) is provided through the Employee Assistance Program (T:1300 364 213, 24 hours per day).**



## Occupational Health and Safety

### Example

You have been asked to do a job which requires use of correct harnesses. The harnesses are uncomfortable and you have done this job many times before and nothing has happened to you. You are tempted to do the job without harnesses but don't because safety is your first priority.

## 4. Alcohol and drug free workplace

### 'We maintain an alcohol and drug free workplace'

RailCorp is committed to protecting the health and safety of all employees, contractors, consultants, customers and members of the public by minimising accidents, incidents or injuries. This commitment involves maintaining an alcohol and drug free workforce while on duty. **Safety is our priority.**

RailCorp is a drug and alcohol free workplace. All employees, contractors and consultants are required to be drug and alcohol free while at work. All employees, contractors and consultants may be subject to random or targeted testing for drugs and alcohol.

Any RailCorp employee, contractor or consultant will breach the requirement of a drug and alcohol free workplace if their:

- Drug level is at or above the cut off level stipulated by the Australian Standard AS/NZS 4308, or
- Alcohol level is at or above 0.02% blood alcohol concentration.

Employees, who breach these standards or who refuse a drug or alcohol test will be subject to counselling and/or disciplinary action. Serious or ongoing breaches may result in dismissal. Contractors and consultants risk contract termination for breaching these requirements.

Railway employees, contractors and consultants who undertake railway safety work are also subject

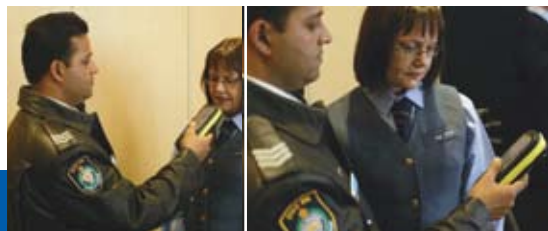
to the provisions of the *Rail Safety Act 2002* and *Rail Safety (Drug and Alcohol Testing) Regulation 2003*. Breaches of the above drug or alcohol levels or testing requirements may also be subject to prosecution action in a court of law.

Employees, contractors and consultants are not permitted to have or sell alcohol or prohibited drugs or prohibited plants or be in possession of any item or equipment for the use or the administration of a prohibited drug or plant on RailCorp premises. Suspected instances will be reported to the police.

**It is an individual's responsibility to ensure that they are drug and alcohol free at work.**

If you are taking a prescribed or non-prescribed drug which might adversely affect your work performance, or pose a risk to your safety or that of others, you must let your supervisor or manager know. If you are assessed as being able to continue work, your supervisor or manager must accommodate your individual needs if practical, while maintaining safety standards.

Inform your supervisor, manager or human resource manager if you are concerned about your safety because you believe you are working with an employee who may be abusing drugs and/or alcohol. Alternatively contact the RailCorp Employee Assistance Program (T:1300 364 213, 24 hours per day) for further advice and/or counselling.



## Drug and alcohol

### Examples

You attend your daughter's 21st birthday party on a Sunday night, and drink more than you intend. On Monday morning as you prepare to go to work you realise that you are probably over the 0.02% blood-alcohol level. You phone your Manager to advise that you believe that you are not fit for duty. This is the first time in your 14-year service that you declare that you are not fit for work as a result of alcohol consumption. Your manager is confident that this was a unique situation and no further action is required. In this case you demonstrated responsibility for workplace safety.

You are a Customer Service Attendant with RailCorp and have a long history of regular cannabis use outside of work. You realise that this practice will jeopardise your employment with RailCorp. You self identify and are offered, and agree to attend, a rehabilitation program. You find RailCorp employees to be very positive and supportive throughout your attendance at the program, and at your temporary placement in a non-safework position. You successfully complete the rehabilitation program and return to your position.

## 5. Sustainability and the environment

### 'We all have a role in protecting the environment'

Environmentally sustainable design, planning and construction form the underlying basis for future development of the public transport system. Environmental incidents and pollution are preventable and we are moving towards creating communities that work with the natural environment to reduce energy usage and minimise waste.

You have a role to play in protecting the environment and achieving outcomes that can be maintained in the long term. You should be aware of the impact of your work on the work environment.

RailCorp employees, contractors and consultants must demonstrate a commitment and willingness to comply with environmental legislation and regulations as well as RailCorp's environmental policy. Employees, contractors and consultants must also adhere to the following underlying principles:

- Employees, contractors and consultants are to protect the environment at their worksites.
- Managers are to show leadership and commitment towards assessing and managing environmental risks.
- Damage to the environment should be minimised and corrected.
- The natural and cultural heritage should be conserved.
- Environmental responsibility is encouraged.

## Sustainability and the environment

### Example

You take any rubbish you find on a train and dispose of it properly – you do not throw it out of the cab onto the tracks because this would be in breach of the Code.





## 6. A discrimination, harassment and bullying free workplace

### 'We value equity and diversity in the workplace'

RailCorp is required by law to provide a work environment that is free from harassment, discrimination, victimisation and bullying.

You must not discriminate, victimise, intimidate or harass any other employees, contractors, consultants or members of the public for any reason including:

- Sex/gender
- Marital status
- Pregnancy
- Age
- Race (including ethnic, religious or national origin)
- Disability (physical, mental or intellectual)
- Family responsibilities (carers, parental responsibilities)
- Religious beliefs or political convictions
- Sexual orientation
- Transgender (transexuality)
- HIV/AIDS
- Political or trade union affiliations
- Medical conditions.

Such harassment or discrimination may constitute an offence under the *Anti Discrimination Act 1977 (NSW)* and Commonwealth discrimination laws.

Harassment is a form of discrimination. It is any unwanted, unwelcome or uninvited behaviour that makes a person feel humiliated, intimidated or offended. Harassment is not always intended.

Bullying may or may not be harassment or discrimination, but nevertheless creates a hostile or unpleasant environment, and may result in a breach of Occupational and Safety Legislation.

**Supervisors and managers** must make sure the workplace is free from all forms of harassment and discrimination. They should understand and apply the principles of equal employment opportunity and ensure the employees, contractors and consultants they supervise are informed of these principles. Supervisors and managers should take all necessary steps, such as training and other active measures, to prevent and deal with harassment, discrimination, victimisation and bullying in their work area.

Further information/advice on

- Resolving grievances contact the Grievance Advisory Service on 23500 or 8202 3500 or 1800 015 743 or [gas@railcorp.nsw.gov.au](mailto:gas@railcorp.nsw.gov.au)
- Strategies to eliminate discrimination, harassment and bullying contact HR Policy Equity and Diversity Unit on 8922 4499.

## Discrimination and harassment

### Examples

You notice that a new employee is being subjected to verbal taunts and exclusionary behaviour as a direct result of his ethnic background. You notify the manager of this inappropriate behaviour. The manager initiates a discussion with the employees regarding discrimination and harassment issues and the types of behaviour that are inappropriate in the workplace. Subsequently, the negative behaviour towards the new employee ceases.

You are a new RailCorp employee and are appointed to an established work unit. The current employees in the unit are resentful as they had not been consulted about your appointment. They create a very unwelcoming environment and you feel isolated and intimidated. The manager of the unit observes this situation and initiates discussion with all staff regarding appropriate behaviour and teamwork. The employees had been unaware of the impact of their behaviour on you and the manager's intervention results in positive change in the behaviour.

## 7. Fairness and equity

### 'We are committed to a fair and open workplace'

As a RailCorp employee, contractor or consultant any information or advice you give, or any decisions you make, should be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with RailCorp procedures, in a non-discriminatory manner, and in conformity with procedural fairness. You may be asked why you have chosen a particular course of action and to demonstrate that a decision you have made is reasonable in the circumstances, and is fair and equitable.

When making a decision, you should ensure that you:

- Take all relevant facts into consideration.
- Assess the particular merits of each case, and not take irrelevant matters or circumstances into consideration.

RailCorp has resources to help you make sure your decisions are fair and equitable. These include approved supplier/contractor lists and recruitment procedures. You must refer to and use such information where relevant.

In your dealings with others you must:

- Behave ethically and courteously and treat the public, customers and co-workers with respect.
- Show professionalism.
- Not allow considerations that are irrelevant to the workplace to affect your judgement or affect how you treat others.
- Not start rumours or participate in the spreading of rumours or accusations.

- Not repeat official confidential information about others (particularly their personal circumstances), unless doing so is necessary to fulfil your duties as a RailCorp employee, contractor or consultant.

Procedural fairness must be applied at RailCorp. This requires that people who are significantly affected by a decision have the right to put forward their case. Further, the subsequent decision must be made in a fair and impartial manner. You also have the right to be represented by your union or another chosen representative.

All complaints must receive fair and equitable treatment and be managed in a timely, unbiased, sensitive and confidential manner.



## Fairness and equity

### Examples

You are working as a CSA on a station and are cleaning the platform when you see a wallet lying on a seat. You take the wallet to the manager on duty and follow the process of reporting lost property. The customer is able to recover his wallet and writes a complimentary letter about you to management. The team leader praises you for your honesty and lets all team members know about the incident.

One of your team members has done something that upsets you. A person from another team tells you a rumour about that person's personal life. You tell them you do not want to hear or participate in gossip or rumour spreading because you would not like it to happen to you – and it is in breach of the Code.

## 8. Use of resources

### 'We will use facilities and resources efficiently and economically'

You must not use RailCorp's facilities or equipment for private purposes, unless prior permission is granted by a manager or supervisor who has the delegation to do so. RailCorp resources include:

- Material, equipment and vehicles.
- Financial resources.
- Documents, data, records, e-mails and e-mail attachments, internet and other information.
- Your designated work time.

You may use some RailCorp facilities (for example, telephones, photocopiers or computers) for limited private use. Private use must not provide financial benefit to you or another person and must be minor, at minimal or no cost to RailCorp and be safe.

Private use of resources for purposes unrelated to RailCorp's business is prohibited if it is illegal, unethical, anti-social, used to gain personal profit or interferes with you carrying out your job.

RailCorp internet, e-mail, or computer systems must not be used to create, access, store or distribute pornographic, harassing, obscene, threatening, sexist, sexually explicit, racist, discriminatory or offensive material. RailCorp computer systems and resources are not to be used to access, download, copy, store or play non-work related videos, audio or music files. Employees, contractors and consultants must read and agree to apply the RailCorp Internet ICT

Access and Usage Policy before using RailCorp computer or communications equipment.

You must care for RailCorp equipment used at home and any uniforms or protective clothing issued to you.

Procurement cards must only be used to purchase items for RailCorp.

RailCorp vehicles that are not part of a salary sacrifice arrangement must only be used for work-related activities. Fuel cards must only be used for the specific vehicle to which they are allocated.

Except in unusual circumstances or one-off situations that provide a specific benefit to RailCorp, you must not carry non-work related passengers in RailCorp vehicles.

If you have used a RailCorp vehicle or other RailCorp resource for non-work related purposes without approval, you must notify a manager or supervisor in your work area as soon as possible.

You are not permitted to drive a RailCorp vehicle without a valid or appropriate class of licence. If you have an accident without a valid or appropriate class of licence, RailCorp's insurance may not cover you. If you are required to drive a RailCorp vehicle and your licence is cancelled or suspended you must tell your manager or supervisor immediately.

## Use of RailCorp equipment

### Example

You are a RailCorp employee and in the course of your duty you are often required to drive a RailCorp vehicle and take it home with you. On weekends you are constantly under pressure to transport children to sporting events in this vehicle. You explain that you can only use the vehicle for work related business.

## 9. Gifts, benefits or favours

### 'We will be open in our dealings'

You must not ask for or accept, for yourself or anyone else, gifts, benefits or favours which might compromise or influence you in your RailCorp capacity.

As a RailCorp employee, contractor or consultant, it is an offence to accept or ask for a payment or gift for carrying out or failing to carry out any part of your duties.

You must tell your manager or the Corruption Prevention Unit immediately if you believe you have been offered a bribe, or if you have been offered or received a substantial favour or benefit.

Offering and/or accepting a bribe is a criminal offence under the NSW Crimes Act and a matter for police investigation. It is essential that the police and the RailCorp Corruption Prevention Unit be notified immediately of bribes offered to RailCorp employees, contractors or consultants.

You must decline substantial or expensive gifts (whether goods or services) such as offers of free travel, substantial hospitality and accommodation. Under no circumstances should you accept gifts of cash. There may be situations where an official overseas visitor may offer a substantial gift to RailCorp or a RailCorp employee, contractor or consultant. It may be considered impolite to have to refuse the gift outright when the gift may be accepted on the behalf of RailCorp. Discuss the matter immediately with your manager or the Corruption Prevention Unit.

You may accept gifts of a token nature such as calendars, coffee mugs or pens, acts of moderate or inexpensive hospitality such as a coffee, or the provision of moderate meals during genuine business meetings, only if they are unlikely to be seen as compromising you or RailCorp.

If you are not sure whether a gift or an offer of hospitality falls into the category of substantial or token, or you need further advice, discuss it with your manager or call the Corruption Prevention Line on 1800 629 826, or (internal) 32847.

RailCorp maintains details of all substantial gifts offered or received. If you receive or are offered a substantial gift call the Corruption Prevention Line on 1800 629 826, or (internal) 32847 to provide details.

## Gifts and benefits

### Examples

You are attending a working group meeting that is being held at the offices of a consultant to RailCorp. The consultant has arranged for a light sandwich lunch to be brought in to enable the group to maximise the work time available. You may accept this hospitality.

You have been working closely with a private company that supplies RailCorp with the majority of their stationery requirements. It is Christmas time and the company sends you a food hamper valued at approximately \$500. You realise that you might be compromised in your future dealings with this company. You contact the company and thank them for their generosity but explain why you are unable to accept the gift.

## 10. Use of information and intellectual property

### 'We will maintain high levels of confidentiality'

You must not use business information about RailCorp or any information you have access to through your work for any personal gain or gain for others such as friends, relatives or business associates. You can only use RailCorp information when authorised to do so, and then you must keep to the facts and not give a personal opinion.

Confidential RailCorp information that must be protected may be in the form of:

- Files, plans, drawings, microfilm.
- Information about employees.
- Business strategies.
- Written records and documents (including those marked commercial-in-confidence).
- Computer records, databases, search engines, passwords.
- Information on systems management or maintenance.

You must:

- Take care to keep RailCorp information secure and confidential if it is identified as being confidential.
- Routinely create appropriate records as part of your work.
- Use RailCorp record systems to store official RailCorp information.
- Handle records with care.
- Only destroy RailCorp records when proper authority has been given.
- Find out about and comply with RailCorp

- policies and procedures for managing records.
- Seek advice from appropriate RailCorp employees (eg Corporate Counsel or Insurance Services) before providing information or making comments about matters such as potential insurance claims or matters that concern legal liability. If you are not sure, ask your manager or supervisor.
- Safeguard your PC password.

You must not:

- Use confidential RailCorp information for your own purposes.
- Reveal, trade or sell confidential information to other people, for example, potential or actual suppliers, external companies, banks or credit unions, insurance companies, relatives or friends.
- Use RailCorp information for personal gain or to cause harm to any person, organisation or to RailCorp.
- Use RailCorp information to help you speculate in shares, property or commodities.

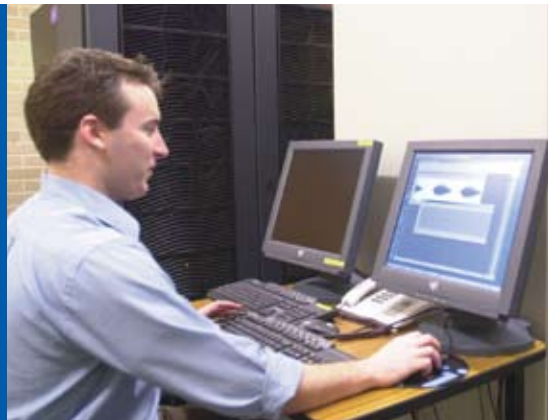
RailCorp owns intellectual property developed, invented or created by you, alone or in working with others, in the course of your employment or engagement with RailCorp.

Intellectual property includes copyright, trademark and design patent. It also includes specific information, techniques or knowledge such as RailCorp's methods in areas such as construction, the development of goods, maintenance or the provision of services. This is sometimes referred to as trade secrets and these must stay with RailCorp. This means that you can use any common knowledge and experience you have gained during your employment or engagement with RailCorp but not specific information and techniques.

### Use of official information

#### Example

In your role as a RailCorp employee you have access to personnel records. You are approached by a private advertising organisation and asked if you would be willing to provide information including the name and private address of all RailCorp employees. You are offered money for this information. You decline to provide the information and report the incident to your manager and the Fraud Investigation Unit.



## 11. Conflict of interest

### 'We act in the best interests of RailCorp'

A conflict of interest exists where a personal interest, aim, goal, personal business interest or desired outcome influences the way you carry out your duties as a RailCorp employee, contractor or consultant. You are to avoid situations where the way you do your job could be influenced, or seen to be influenced, by a personal or other interest outside of RailCorp.

Examples of conflicts of interest include:

- Having a family member, friend or acquaintance who is involved financially or otherwise in a RailCorp matter.
- Beliefs or attitudes that influence the advice you give.
- Being part of the recruitment process when you have a personal relationship with an applicant eg the applicant is a relative.
- Having a second job that affects your ability to do your RailCorp work.

You may often be the only person aware of the potential for conflict of interest. Remember to always act in the best interests of RailCorp. You must immediately notify your manager or supervisor in writing if a private interest conflicts, or may appear to conflict, with your RailCorp responsibilities.

Your manager or supervisor will look at whether the personal interest in question is likely to affect your ability to do your job in a fair and honest manner. He or she will also determine whether there will be any negative perceptions that may cause problems. Your manager or supervisor will decide with you whether a conflict of interest, perceived or actual, exists and how best to manage it.

### Conflict of interest

#### Example

You are asked to be a member of a selection panel. When the list of applicants is finalised you realise that one of the applicants to be interviewed is your daughter. You disclose the relationship and request to be removed from the selection process.



## 12. Secondary employment and voluntary work

### 'My work at RailCorp is my first priority'

Secondary employment means work other than your job with RailCorp and includes operating a private business and voluntary work. All of these may interfere with your ability to perform your RailCorp duties.

Prior to undertaking secondary employment (whether paid or voluntary) you must have the written approval of your manager or supervisor. The work must not:

- Cause a conflict of interest with your RailCorp duties.
- Cause a conflict of interest with RailCorp working hours.
- Interfere with or adversely affect your employment with RailCorp, eg working excess hours can lead to fatigue and result in workplace safety incidents.
- Involve the use of RailCorp's intellectual property, confidential information or RailCorp resources.
- Involve lobbying RailCorp or any other government agency, or Member of Parliament, where that lobbying would conflict with the interests of RailCorp.
- Involve claiming that you speak or act on behalf of RailCorp.

All requests and responses relating to secondary employment and volunteering must be in writing. This information will be stored and reviewed regularly.

If your RailCorp position, secondary work or voluntary work changes in any way (for example changes to your actual job, hours worked, location of work) your manager must be notified in writing immediately and must reassess the approval. Such approval will not be unreasonably withheld.

Your work with RailCorp must always come first. Refer to the RailCorp Secondary Employment and Voluntary Work Procedure which is available on the intranet at My HR

**It is your responsibility to ensure that RailCorp is fully informed and has approved any secondary employment or volunteering BEFORE you start additional work (paid or unpaid). If you are considering employment with RailCorp you must declare all secondary and volunteer work PRIOR to commencing your position with RailCorp.**

## Secondary employment

### Example

You are a full-time employee in a rail safety role that requires you to do shift work. You have been offered casual work as a builder's labourer on your days off. You believe this casual work may expose you to fatigue issues because it could require you to work up to nine hours a day. You apply in writing to your manager who assesses the fatigue risk and determines approval/non approval.

## 13. Public comment

### 'Only speak on behalf of RailCorp when authorised'

All enquiries from the media (including newspapers, radio, television, electronic or print media) about RailCorp must be forwarded to the Manager Public Affairs (Contact (02) 8202 2228 – this line is available 24 hours a day).

Unless authorised by RailCorp to do so, you must not make any comment on behalf of RailCorp or claim to represent RailCorp on any issue. This includes:

- Public speaking engagements.
- Making comments to the media.
- Giving opinions in letters, e-mails, newspapers, books, journals or notices.

As a member of the community, you have the right to enter into public debates on political and social issues. For example, you have the right

to express your opinion in letters to newspapers or on talk back radio, and to take an active role in community groups, as long as you do not represent yourself as a RailCorp employee or representative speaking on RailCorp's behalf.

As a general rule, you must not disclose information that is particular to RailCorp, unless it is through a recognised process such as:

- If required by law (eg Freedom of Information Act).
- To authorised persons in the course of your duties.
- If called to give evidence in court.
- If proper authority has been given for the disclosure.

If you are required to make any comments on RailCorp's behalf, provide only factual information and do not express an opinion on official policy or practice. If in doubt talk to your supervisor, manager or the Manager, Public Affairs.

## 14. Corrupt conduct, maladministration or serious and substantial waste

### 'We will act in the best interests of RailCorp'

RailCorp will not tolerate any behaviour that is corrupt, involves maladministration, or serious or substantial waste.

**Corrupt conduct** is illegal and may have serious consequences such as dismissal and/or imprisonment. Corrupt conduct includes bribery, blackmail, fraud, the abusive or fraudulent use of official material or information, the dishonest use of a position of employment, or interference with the honest performance of another employee's duty.

**Maladministration** is a failure to comply with proper procedures or the law and may involve action or inaction and inefficient, bad or improper administration. Examples of maladministration would include failing to act on complaints about illegal activities, failing to comply with tendering processes or misusing confidentiality provisions.

**Serious waste** refers to uneconomic or ineffective use of RailCorp's resources, whether authorised or not, that leads to significant resources or money

## Public comment

### Example

You are dressed in a RailCorp uniform and are approached by a TV crew for an interview. You correctly decline the interview and refer the interviewer to the Public Affairs Unit.





being wasted. Examples of serious waste include:

- Purchasing expensive materials and equipment that are never or rarely used.
- Spending extensively beyond the budget on a contract due to ineffective contract management.
- Misuse of RailCorp equipment resulting in unnecessary maintenance costs.

## Reporting

If you know about possible corrupt conduct, maladministration or serious waste you must report it. You do not need proof that corrupt conduct is occurring, you merely need to suspect it on reasonable grounds.

You can report your suspicions internally to any of the following:

- Your supervisor or manager
- Your General Manager
- The Manager, Internal Audit
- The Corporate Counsel
- The Manager, Corruption Prevention (or the Corruption Prevention Line 1800 629 826)
- The Manager, Workplace Conduct Unit
- The Chief Executive Officer.

While RailCorp strongly encourages the reporting of matters within RailCorp, reports may be made directly to an external investigating authority, such as the:

- Independent Commission Against Corruption (02 8281 5999 or 1800 463 909).
- NSW Ombudsman – to report maladministration (02 9286 1000 or 1800 451 524).
- Auditor General – to report serious and substantial waste (02 9275 7100).

## Protected Disclosures

You may also be able to report possible corrupt conduct, maladministration or serious and substantial waste under the *Protected Disclosures Act 1994 (NSW)*. To do this you must be a public official as defined under the *Protected Disclosures Act 1994 (NSW)* and make the disclosure to a RailCorp-nominated disclosures officer, the principal officer of a public authority or to one of the three investigative bodies: the Independent Commission Against Corruption, the Auditor General or the Ombudsman. RailCorp's

nominated disclosures officers are listed in the Reporting Corrupt and other Serious Misconduct/Maladministration procedure. Remember to tell the person you are making the report to that you would like it treated as a protected disclosure.

The Protected Disclosures Act may provide certain protections against reprisals for persons who voluntarily report such matters. Such protections do not apply in cases of vexatious or malicious allegations.

Refer to the RailCorp Reporting Corrupt and other Serious Misconduct/Maladministration procedure for details on making a protected disclosure. Further information regarding protected disclosures can also be obtained from the Corruption Prevention Line.

## Corruption

### Examples

You are working on a tender submission for the construction of a new station building. One of the tenderers phones and requests information regarding the other tenderers. You decline to give this information in accordance with your obligations outlined in the Code of Conduct.

You are responsible for awarding contracts to a company and in exchange you receive financial benefits. An investigation also reveals that you are a shareholder in the company. You are interviewed and consequently dismissed. RailCorp then commences legal action to recover the financial benefits obtained by you.

## Protected Disclosures

### Example

You are a long time employee of RailCorp and a protected disclosure has been received regarding your inappropriate behaviour. The allegations relate to making false claims for overtime, travel expenses, secondary employment and misuse of RailCorp equipment. A comprehensive investigation is conducted into the false overtime claims and misuse of equipment, and as a result you are dismissed. The person making the disclosure was given full protection against any possible reprisal or detrimental action.

## 15. Obligation after leaving RailCorp

### 'We have obligations if we leave RailCorp'

You should not use your current position to inappropriately gain opportunities for future employment.

If you leave RailCorp you must maintain the confidentiality of information gained in your RailCorp capacity.

Prior to leaving you must return all RailCorp equipment, property and documentation provided or obtained as part of your work. This includes instruction manuals, uniforms, identification or travel passes, corporate or procurement cards, keys, cab charge docket, mobile phones, pagers, other communication devices, personal protective equipment, small tools, computer software and hardware.

You must repay any outstanding debts prior to leaving RailCorp (for example, personal calls from your mobile phone).

You must be extremely careful in dealings with ex-employees, contractors or consultants of RailCorp and make sure you do not give them favourable treatment or access to information that belongs to RailCorp. This is particularly important when a former employee, contractor or consultant is now involved in work or business that involves the same or similar work they did for RailCorp.

If an attempt to influence you is made, you must report it to your supervisor or manager or the Corruption Prevention Unit (T: 1800 629 826).

## 16. Dealing with breaches of the Code

### 'Everybody is accountable for their actions'

The Code of Conduct sets out minimum standards of behaviour required of RailCorp employees, contractors and consultants. All RailCorp employees, contractors and consultants are accountable for their own actions and must comply with the Code and supporting policies, procedures and instructions.

If you believe there has been a breach of the Code you must report it to your supervisor, manager, or human resources manager.

RailCorp will investigate any alleged breach of the Code. This action will be fair and objective.

Outcomes of an investigation may include:

- Counselling
- Caution or reprimand
- Regression
- Fine
- Transfer
- Suspension
- Dismissal
- Proceedings under legislation for example referring the matter to the police for potential criminal investigation.

If an employee, contractor or consultant intentionally acts in bad faith or acts maliciously, criminally or otherwise, in addition to other disciplinary action RailCorp may seek to recover from the employee, contractor or consultant the cost of any damages.

## Obligation after leaving RailCorp

### Example

On leaving RailCorp you realise you still have your uniforms. You consider donating them to a charity shop but then think about how the uniforms could be inappropriately used by a member of the public pretending to be a guard. You contact the Human Resources Unit to arrange return of the uniforms.



## 17. Applicable laws

The RailCorp Code of Conduct does not stand alone. It is consistent with relevant State and Federal legislation. Relevant legislation includes, but is not limited to, the following.

- *Anti Discrimination Act 1977 (NSW)* and the Commonwealth discrimination laws (Race, Sex and Disability).
- *Freedom of Information Act 1989 (NSW)*.
- *Independent Commission Against Corruption Act 1988 (NSW)*.
- *Industrial Relations Act 1996 (NSW)*.
- *Occupational Health and Safety Act 2000*.
- *Occupational Health and Safety Regulations 2001 (NSW)*.
- *Ombudsman Act 1974 (NSW)*.
- *Privacy and Personal Information Protection Act 1998 (NSW)*.
- *Protected Disclosures Act 1994 (NSW)*.
- *Public Finance and Audit Act 1983 (NSW)*.
- *Rail Safety Act 2002 (NSW)*.
- *Rail Safety (General) Regulation 2003 (NSW)*.
- *Rail Safety (Drug and Alcohol Testing) Regulation 2003 (NSW)*.
- *State Owned Corporations Act 1989 (NSW)* and Regulation.
- *Transport Administration Act 1988 (NSW)* and Regulations.
- *Workplace Relations Act 1996 (Commonwealth)*.

## 18. Relevant RailCorp policies and procedures

Updated copies of all RailCorp policies and procedures can be located on the RailCorp intranet site.



## 19. Assistance

This Code is intended to provide you with practical assistance when faced with ethical challenges. No employee should ever be in a position of facing such ethical dilemmas without help. Assistance is available from:

- Your immediate supervisor or the manager of your work area
- Manager Human Resources
- Alcohol and Drug Information Service – (02) 9361 8000 or 1800 422 599 (outside Sydney)
- Auditor General (if you are reporting serious and substantial waste) – (02) 9275 7100
- RailCorp's Corruption Prevention Line - 1800 629 826 or 32847
- RailCorp's Employee Assistance program (for advice and counselling) – 1300 364 213 (24 hours a day)
- Greenline environmental issues – 1300 656 999
- Independent Commission Against Corruption – (02) 8281 5999 or 1800 463 909
- Safety, Incident and Injury Hotline – 1800 772 779
- RailCorp Public Affairs – (02) 8202 2228 (24 hours a day)
- NSW Ombudsman (if you are reporting maladministration) – (02) 9286 1000 (Sydney metropolitan) 1800 451 524 (Regional NSW)
- RailCorp's Workplace Conduct Unit hotline 8202 3187
- RailCorp's Grievance Advisory Service 23500 or 8202 3500 or 1800 015 743

- Office of Transport Safety Investigations Confidential Hotline – 1800 180 828
- Your Occupational Health and Safety representative.
- HR Policy helpline 8922 4499.





Version 1.2  
For the most up-to-date version visit My HR on the intranet or email [hrpolicy@railcorp.nsw.gov.au](mailto:hrpolicy@railcorp.nsw.gov.au)

