

**Note: Delete this page and following pages (total 3 pages) once you complete tailoring the template for your own business**

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### **Why do you need this document?**

The Code of Conduct template can be used by all Australian employers and sets out and describes the minimum standards of behaviour and conduct expected from employees and contractors in their dealings with customers, clients, co-workers, management and the general public.

Non-compliance with the code of conduct may lead to disciplinary action from the employer.

### **Related documents**

- Performance and Misconduct Policy

While the Code of Conduct sets out the minimum standards and behaviour required, the Performance and Misconduct Policy sets out the process to correct unacceptable performance or conduct (other than in situations where summary dismissal is appropriate).

### **1. What the code might cover**

A 'Code of Conduct' may cover such matters as fighting, language, dress standards, alcohol, drugs, smoking, confidentiality, other employment, maintaining the workplace, borrowing company property, theft, and statements to media.

### **2. Unfair dismissal – failure to comply with Code of Conduct**

A senior public servant who breached a departmental code of conduct, which subsequently cost the Commonwealth \$3.9m, was reinstated by (then) Fair Work Australia – mitigating factors included the employee's unblemished 24 years of service. The employee was reinstated but did not receive wages or accrued any leave for the period between the dismissal and his reinstatement (approximately 8 months). See *Black v Commonwealth of Australia (Department of Defence)* [2011] FWA 293.

(Then) Fair Work Australia found there was a valid reason for termination of the employee's employment: the employee breached company policies which were known to him, in the context of a series of earlier deliberate and persistent breaches of company policies and procedures which were also known to him. The continued pattern of disregard by the employee of company policies and procedures, despite numerous counselling and warnings over nearly two years was such that the employer was entitled to lose trust and confidence in the employee and his preparedness to adhere to company policies and procedures. See *Aperio Group (Australia) Pty Ltd t/a Aperio Finewrap v Sulemanovski* [2011] FWAFB 1436.

In circumstances where the policy is both lawful and reasonable and the employer has stressed the importance of the particular policy to the business and made it clear to employees that any breach is likely to result in termination of employment, then an employee who knowingly breaches the policy will find it difficult to convince the Fair Work Commission that there is no valid reason for termination. See *Woolworths (t/a Safeway) v Brown* – PR963023 [2005] AIRC 830.

### 3. Reasonableness of policy

If an employer wishes to restrict employees' political activities or public comment, any direction must be reasonable and lawful. The Fair Work Commission determined that as long as the policy had a reasonable connection with work, a restraint could be lawful and within the scope of the contract of employment. The policy must not restrict an employee on what they could do in their own time.

#### Getting it wrong

A Code of Conduct policy indicates to employees the standard of behaviour that is expected of them at work and what the consequences of the breach will be.

***In the absence of a code of conduct policy, dismissing an employee because of 'unacceptable behaviour' leaves the employer open to a successful claim for unfair dismissal because the employee could argue he or she was unaware the employer considered such behaviour as inappropriate.***

As with any successful claim for unfair dismissal, the employer could be ordered by the Fair Work Commission to reinstate the employee to their previous position, or pay up to 6 months' ordinary remuneration to the affected employee.

#### How to complete this template

##### Designed to be customised

It is completely customisable based on your specific requirements.

##### Include what you must and can comply with

This document should be used in conjunction with your contract of employment, and any specific company procedures and processes. Only include the commitments you are confident you can comply with, make sure you update and review the document regularly.

**Important:** You may have legal obligations to your employees under an employment or industrial agreement such as an award, workplace agreement or employment contract. Make absolutely certain what's written in this document is consistent with these. If you're unsure what covers your employees, ACFA Members can contact ACFA's workplace advice team on 1300 342 248 or on 02 4340 2000 for further advice/assistance.

##### To complete the template:

1. Using Word's Replace function, search for (INSERT COMPANY NAME) and replace with your company name.
2. Replace (items in brackets) with your own wording.
3. Once you have finished work on the template, delete the first TWO pages of the document.
4. Update page numbers.

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SAMPLE

## Code of Conduct

### Purpose

(Insert company name) recognises the importance of a work environment which actively promotes best practice. The purpose of this Code of Conduct is to describe the standards of behaviour and conduct expected from workplace participants in their dealings with customers, suppliers, clients, co-workers, management and the general public.

(Insert company name) expects all workplace participants to observe the standards set out in this Code of Conduct. Compliance with this Code is expected and non-compliance may result in disciplinary action. Agents and contractors (including temporary contractors) may have their contracts with (insert company name) terminated or not renewed.

### Commencement

This Code of Conduct will commence from XX/XX/XXXX. It replaces all other codes of conduct (whether written or not).

### Application of policy

This Code of Conduct applies to employees, agents and contractors (including temporary contractors) of (insert company name), collectively referred to in this policy as 'workplace participants'.

The Code of Conduct does not form part of any contract between an employee and (insert company name) nor does it form part of any other workplace participant's contract for service.

### The Code

All employees of (insert company name) are expected to observe the highest standards of ethics, integrity and behaviour during the course of their employment with (insert company name). This Code provides an overview of (insert company name)'s fundamental business values. It is by no means exhaustive, but summarises some of our most important policies, which are based on standards that underlie our business ethics and professional integrity, standards that apply to all workplace participants.

As representatives of (insert company name), all workplace participants are expected to conduct themselves in a professional and courteous manner and observe the following standards of behaviour both inside the workplace and outside the workplace where the workplace participant can be perceived as representing (insert company name):

- Comply with all laws, policies, procedures, rules, regulations and contracts.
- Comply with all lawful and reasonable directions from (insert company name).
- Be honest and fair in dealings with customers, clients, suppliers, co-workers, management and the general public.
- Display the appropriate image of professionalism at your workplace. Wear the required uniform, safety equipment or work clothes, and if a workplace participant wears their own clothes, ensure their appearance is neat and tidy.

**\* This is only a preview of the document, you will need to purchase the document to see all the content.**

*\*Please Note: As a Business Plus or Premium ACFA Member you can download all the policies on our website for free or have them customised specifically for your business at no additional charge. ACFA Members can also request policies and resources which are not on our website through our HR Department. This is just one of the many services that are included with our annual membership subscription.*