

# **Code of Best Practice for the NSW Driver Trainers Association**

**as**

## **ADTA (Nat) Inc's NSW Representative**

**June 2010**



## **Code of Best Practice Amendment Record**

Amendments of this Code of Best Practice since the previous edition are detailed below.

October 2008 – The initial issue of this Code is currently being reviewed by ADTA ( National) in keeping with industry changes and Regulatory requirements.

August 2010 – Changes made in this issue of the Code have been made to best reflect the association name change from DARE Alumni to the NSW Driver Trainers Association, as well as changes to CBT&A and other legislative changes.

July 2011- Amendment to the Code to include section 11 on Ethical Conduct.

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## 1 Introduction

1.1 the purpose of this Code of Best Practice is to provide a basic set of principles and operational guidelines for driving instructors/trainers ("Instructors") as NSW Driver Trainers Association (NSW DTA) members. Current membership indicates an acceptance of the codes content.

1.2 The code has two functions. It provides; -

- a) A document that informs the public, and particularly clients, of the standards they can expect in terms of performance and conduct from instructors; and
- b) An outline of the regulatory processes applied State regulator in pursuance of the relevant NSW Acts and Regulations.

1.3 To ensure compliance with the Code, the NSW DTA may impose an administrative sanction if a breach is found to have occurred. Administrative sanctions may include, but are not limited to, warnings, attaching conditions, and suspension or revocation of an Instructors membership.

1.4 All enquiries in relation to this Code of Best Practice should be addressed in the first instance to the NSW DTA's Public Officer, PO Box 680, Campbelltown, NSW, 2560. Phone: 02 4228 9939. Fax: 02 4228 9937. Email: [members@nswdrivertrainers.com.au](mailto:members@nswdrivertrainers.com.au)

## 2 Definitions

"Approved training Provider" – any Registered Training Organisation (RTO) that has been approved to deliver CBA programs for driver licence issue.

"Approved Document" – any document approved for the purpose of driver training and/or assessment.

"Approved Training Vehicle" – any vehicle approved by the State Regulator for the use of Instructors in training and assessing drivers.

"Auditor" – a person approved by the State Regulator to conduct audits on behalf of the State Regulator.

"Bribe" – anything given, promised or offered to influence decisions of an approved training provider or and officer of the State Regulator.

"Breach" – and activity contrary to this code.

“Complaints Policy” – any approved policy relating to complaint management.

“CBA based Course Provider” – and individual or group who has been granted Approved Training Provider status for the delivery and assessment of CBA based programs.

“Dual Controls” – duplicate vehicle controls for Instructors use – minimum of a brake pedal operable from the front passenger seat of a training vehicle.

“Disqualification” – the removal of ones eligilbilty to hold or obtain a licence whether resulting from an administraitive action or a decision of the State Regulator or courts.

“Instructor” – and person who holds a driving instructors licence and, for fee or reward, instructs or teaches a person or persons to drive motor vehicles.

“Lesson” – a single period of time during which theory instruction and/or practical driver/rider training or assessment of a client is provided.

“Legislation” – the NSW Act(s) and or Regulation(s) currently in force and reveiwed from time to time.

“Licence Testing Officer (LTO)” – an officer of the State Regulator authorised to conduct practical driving tests.

“Prompt – Prompting” – and assistance provided to a student driver under test/assessment whether by voice, gesture, posture or written word.

“RTA” – the Roads and Traffic Authority of NSW. The NSW State Regulator.

### **3 Punctuality**

3.1 An Instructor shall arrange his or her affairs to ensure as far as practicable, that a lesson appointment with a client is not delayed. Where a delay is unavoidable the Instructor shall endeavour to contact the client by telephone or other means to advise him or her of the extent of the delay, and shall provide an opportunity for the client to cancel the appoinment and make a new appointment without financial penalty.

### **4 Courtesy**

4.1 An Instructor shall behave courteously towards his/her students, State regulator staff and all other persons with whom he/she may speak or otherwise deal in the cours of providing instructions, lessons or assessments or otherwise conducting his/her business.

4.2 An instructor shall not smoke whilst providing lessons or assessments. An Instructor has the right to terminate a lesson or assessment if a client smokes during that lesson or assessment.

- 4.3 An Instructor shall not, whilst conducting a lesson, read material or operate any equipment, including computers and mobile phones that are not relevant at the time to the lesson being provided to the client.
- 4.4 An Instructor shall not harass, abuse, threaten or demean a client, State regulator staff member or other person. Examples of such conduct include, but are not limited to:-
- Offensive jokes.
  - Suggestions or derogatory comments about a person's racial or ethnic background, sex, sexual preference, disability or physical appearance.
  - Unwelcome comments or questions about a person's sex life or any other personal matters.
  - Unnecessary familiarity such as deliberately touching a person or repeated accidental touching.
  - Any form of physical or verbal abuse including sledging.
  - Threats and intimidation of any kind.
  - Display of pictures or written material that can be interpreted as offensive and/or obscene.
  - Coercive behaviour intended to inappropriately influence any decision.
  - Discrimination against a person on the basis of their age, race, ethnicity, gender, nationality or politics.

## **5 Theory**

- 5.1 Any person so authorised by the State regulator may provide CBA based road user theory (and practical) instruction.
- 5.2 CBA based course providers may utilise outside instructors authorised by the State regulator for road user theory (and practical) components of approved programs, however quality assurance for the program remains the responsibility of the course provider.
- 5.3 For CBA based exercises, class sizes for theory instruction will be restricted to a maximum of 25 applicants except with prior approval of the State regulator.

## **6 Presentation of Instructor and vehicle**

- 6.1 Instructors must comply with any current legislation with regard to the displaying of "L" plates, either attached to the vehicle, or on vehicle signage.
- 6.2 It is recommended that where applicable (i.e. Class LR, MR etc), Instructors display a "Driver Under Instruction" sign conspicuously so as to be clearly visible from the rear of the vehicle.

Such a sign should be placed on the exterior of the vehicle so that the vision of the student driver and instructor is not obstructed.

- 6.3 Instructors involved in the delivery of training for Class C (car) licence applicants may only use approved training vehicles for the driver-training/assessment activities except where the student provides a vehicle, in which case section 6.5 of this code applies.
- 6.4 Vehicles provided by Instructors for the instruction or assessment must be clean and tidy both inside and out, having regard to prevailing weather conditions, and must have sufficient and readily accessible legal seating positions for the client, Instructor and Auditor or State regulator staff.
- 6.5 Any vehicles used for instruction or assessment must be registered and roadworthy. Auditors and State regulator staff may inspect a vehicle to ensure that it complies with all roadworthiness (and modified vehicle registration where dual controls are fitted). In the event of any disputation, Auditors and State regulator staff may request that an instructors vehicle, or any other vehicle used by an Instructor in the delivery of lessons be inspected by a person authorised by the State regulator for this purpose.
- 6.6 Any vehicle provided by clients for the purpose of instruction or assessment must meet conditions outlined in 6.1, 6.2, 6.4 and 6.5 of this Code unless otherwise approved by the State regulator.
- 6.7 Instructors must have a neat, clean and tidy appearance, including safe and practical clothing and appropriate footwear (e.g. enclosed footwear- not thongs).
- 6.8 An Instructor shall not conduct and driving lesson without first verifying the identity of the client and sighting the current licence held.

## **7 Relations with Clients**

- 7.1 The Instructor shall, before the first lesson, inform the client of the fee for the lesson (or package of lessons), whether any fee increases can be imposed during the series of lessons, of acceptable methods of payment, and of any refund policy.
- 7.2 The Instructor shall inform the client either before, or at the first lesson, of the existence and purpose of this Code of Best practice. The Instructor shall make a copy of this Code available upon request.
- 7.3 The Instructor has a duty to preserve the confidentiality of his or her clients. The Instructor must not disclose, or allow the disclosure of confidential or personal information about a client without the client's written consent, unless required to do so by the law.
- 7.4 The Instructor must respond properly to a complaint by a person about the work, behaviour or services carried out by the Instructor. An Instructor must advise the person of his or her right to make a complaint to the Association, Fair Trading, ASIC or the State regulator.

- 7.5 An Instructor must submit to any procedures for mediation and conciliation recommended by the Association or State regulator for management and resolution of complaints.
- 7.6 As per legislation Instructors must obtain and keep current a "Self Employed Working with Children" certificate.

## **8 Relevant Legislation**

- 8.1 The NSW Driving Instructors Act and Regulations, prescribe requirements that must be met in order to obtain and maintain and Instructors Licence.
- 8.2 The Code of Best practice is not intended to displace any duty or liability that an Instructor may have under common law, or the statute law of NSW or the Commonwealth of Australia, in relation to a matter covered by the Best of Practice.
- 8.3 Instructors must comply with any current legislation relevant to the driver training industry.

## **9 Fit and Proper Person**

- 9.1 Applicants for an Instructors Licence must be medically fit, and of good character prior to first issue of the licence.
- 9.2 The State regulator may attach conditions to, suspend or cancel the licence of an Instructor who cease to be medically fit or of good character.
- 9.3 An Instructors licence shall be suspended or cancelled during any period when the Instructors full driving licence is suspended or cancelled.
- 9.4 An instructor must immediately notify the State regulator of any new complaint, charge, or conviction for any offence.
- 9.5 An Instructor must immediately notify the State regulator of any medical condition that may adversely affect his or her ability to drive or otherwise operate as a driving instructor.
- 9.6 Instructors must have zero blood alcohol levels and must not be under the influence of other drugs whilst delivering any driver training session.
- 9.7 Instructors must comply with all relevant provisions of the various Acts and Regulations and the Australian Road Rules at all times, and particularly when in the company of student drivers.
- 9.8 Instructors conducting practical tests or performing assessments must not prompt, advise, or assist the student driver/candidate in any way except to prevent a crash or to prevent a dangerous situation from arising.
- 9.9 An instructor whose licence/authorisation/accreditation is withdrawn by the State regulator, courts or administrative process for any reason must immediately surrender and driver licence.

Where appropriate, an amended licence reflecting the current status will be issued by the State regulator at nil cost to the instructor.

## **10 Review of Decisions**

- 10.1 State regulator internal review procedures will in all cases uphold the general principles of natural justice and the individual's right to privacy.
- 10.2 An Instructor has the right to seek an internal review of a decision of the State regulator to impose conditions upon, suspend or cancel that Instructors Licence/authority.
- 10.3 An Instructor has the right to seek an internal review of a decision of the State regulator in relation to driver training vehicle roadworthiness or driver training delivery.
- 10.4 Officers delegated by the State regulator to consider a review of such a decision will have had no direct involvement in the original decision making process.
- 10.5 A written request for review of a decision must be lodged with the State regulator/court within 28 days of receipt of written advice of the original decision, or the opportunity to appeal will lapse.
- 10.6 Written advice of progress of a review will be provided within 28 days of lodgement of the review request.
- 10.7 Notification of the final outcome of any review will be provided to the Instructor concerned in writing within 7 days of the decision being made.
- 10.8 An Instructor aggrieved by any internal review decision may seek whatever legal recourse the law permits.

## **11 Ethical Conduct**

- 11.1 All members must conduct themselves and their businesses in an ethical manner at all times. Any complaints made to the association, either by a member of the public, government body or another member, with regard to behaviour considered unethical will be referred to a specially formed ethics committee. This ethics committee will investigate the claim and make a determination as to the ethical nature of the behaviour included in the complaint, and will make recommendations as to a resolution of the situation.
- 11.2 The ethics committee will not have set members, but will instead be selected using members of the management committee at the time of the complaint. If the complaint is about an individual committee member or company representative on the committee or the company a committee member works for, that committee member will not hold a position on the ethics committee dealing with this complaint.

**I have received, read and agree to comply with the contents and intent of the NSW Driver Trainers Associations Code of Best Practice.**