



# Code of Conduct

**Authorised by the  
Australian Competition and Consumer Commission  
19 February 2008**

**Information Technology Contract & Recruitment Association**  
Suite 314, Level 3, 343 Little Collins Street, Melbourne, 3000  
Phone: (613) 8622 4700 Fax: (613) 9600 1950  
Email: [info@itcra.com](mailto:info@itcra.com)

[www.itcra.com](http://www.itcra.com)

## Preface

*ITCRA's goal with this Code of Conduct is for it to be an effective part of a meaningful strategy for upholding ethical work practices in the IT contract and recruitment industry. It is directed at ensuring that the industry maintains its credibility. If a Member signs on to this Code of Conduct, but conducts their business in a contrary manner, ITCRA's strategy is nullified. Such a Member is merely paying lip service to the Code.*

*Management may endorse the Code on behalf of their company, believing that they act in an ethical manner, but in fact be far removed from the coalface. Consequently, they may not be aware of the work practices of their staff, which may be impacting negatively on the industry's reputation. If they do become aware, perhaps as a result of a complaint being referred by the Association's Conduct Committee, they should act immediately and strongly. Self-regulation is the most powerful means for correcting unethical work practices.*

*This Code of Conduct only has value if it is effectively policed and kept relevant. The fearless reporting of breaches is the foundation of such action. ITCRA encourages the staff of Members to be active in reporting breaches of the Code to the Conduct Committee. They can be assured that by so doing they will be making a difference to the reputation of their industry.*

*A penalty system applies for Members who breach the Code. This can result in the cancellation of membership.*

*Ensuring that this Code of Conduct is maintained as a document that is relevant to the ethical issues that impact industry practices requires that it is regularly reviewed and revised. Members are invited to assist by submitting proposals for change to the Convenor of the Conduct Committee. Such submissions will be considered and if appropriate, recommendations for change will be prepared for the determination of the ITCRA Board.*

*If ITCRA Members work together to uphold this Code of Conduct, it will become something of which they can be proud, knowing that it is building their credibility with their customers and thereby ensuring the future of their industry.*

The ITCRA Board

19 February 2008

# 1 Introduction

This Code of Conduct provides a framework for Members of the *Information Technology Contract & Recruitment Association* (ITCRA) to operate their business in a professional and ethical manner. ITCRA operates for the mutual benefit of its Members, their clients and the employment seeking public. Members shall conduct their business ethically and shall not act in a manner prejudicial to, or likely to bring discredit upon, the prestige and good reputation of ITCRA, its Members and the IT recruitment industry.

# 2 Commitment to Standards of Ethical Practice

All Members of ITCRA subscribe to this Code of Conduct and are thereby committed to ensuring that their staff are provided with the appropriate training and development required to uphold the standards of professional practice reflected in it.

# 3 Definitions

## **“Candidate”**

A “Candidate” is any person seeking or contemplating employment or contract of employment who has provided a Member with personal details, curriculum vitae or resume.

## **“Contractor”**

A “Contractor” is an individual who is engaged under a contract for services and on-hired to a Client to provide the services specified by the Member and Client.

## **“Client”**

A “Client” is any person, firm or company seeking to employ or contract personnel who or which has paid or agreed to pay or become legally liable to pay any Member a professional fee.

## **“Confidential Information”**

“Confidential Information” refers to any information which may reasonably be regarded as confidential, or which was communicated in circumstances implying an obligation of confidence and, without limiting the generality of the foregoing, includes information relating to any dealings, trade secrets, transactions, or affairs of any Candidate or Client, and to any organisational or operational details.

## **“Member”**

A “Member” is any recruitment consultancy that is a financial member of ITCRA.

## **“Professional Contact”**

“Professional Contact” is communication made by a person while acting as partner, director, employee or agent of a Member.

## **“Supplier”**

A “Supplier” is a body corporate or other organisation which provides labour services to third parties either through contracting arrangements for the supply of contracted labour for specified projects or for recruitment services. A Supplier may, or may not, be a Member.

## 4 Member - Member Relationship

- 4.1 Members shall not:
- 4.1.1 Disparage any Member or the profession or to condone any employee or director of the Member to disparage or criticise any Member or the profession.
  - 4.1.2 Knowingly encourage or induce a person to breach a term of an employment contract or contract for services.
  - 4.1.3 Divulge or allow to be divulged any Confidential Information relating to any Candidate or Client with whom the Member has Professional Contact without the consent of the Candidate or Client; or
  - 4.1.4 Divulge or allow to be divulged any Confidential Information relating to any Member or Members by whom or which the Member was engaged as a partner, director, employee, principal or agent.
  - 4.1.5 A Member shall, upon becoming aware that a partner, director, employee or agent at any time engaged by it, or associated with it, has done or allowed to be done any act of the kinds described in paragraph 4.1, immediately take all reasonable steps to stop any loss or damage which any Member, candidate or client has suffered as a result.
- 4.2 In the case of a dispute between Members, ITCRA in its capacity as 'Conduct Committee' as outlined in ***Schedule B: Operational Guidelines*** will act as arbitrator and its decision shall be binding. In the case of dispute between Members and others the Association shall act as an arbitrator if so requested by the third party.
- 4.3 Should the Conduct Committee be called upon to adjudicate in, or rule upon, a dispute between members as to who is entitled to a fee, the Conduct Committee will make their judgement based on the available evidence. The process for lodging a complaint is outlined in ***Schedule B: Operational Guidelines***.
- 4.4 Members will not engage in the practice of seeking to tie candidates to exclusive representation by the member for unspecified roles with a Client.
- 4.5 Any person who has a conduct complaint against a Member or wishes to resolve a dispute with another Member may lodge a ***Conduct Complaint / Notification of Dispute Form (Schedule C)*** with the Executive Director of ITCRA, who after a preliminary investigation and consultation with the parties concerned, will refer the complaint to the Conduct Committee for action.

## 5 Member – Candidate Relationship

- 5.1 A Member's responsibility to Candidates is to represent them ethically and professionally, serving their best interests in good faith and preserving their right to use their abilities to further their careers.
- 5.2 Candidates shall be referred to Clients for interviews where authority to do so has been given by the Client.
- 5.3 A Candidate's identity and employment details shall not be disclosed to a prospective Client without first obtaining the candidate's written permission to release such details to the specific Client for each specific position.
- 5.4 Representations made to Candidates about the duties; probable length of the employment; hours and salary of a prospective position shall be in conformance with the best knowledge of the Member.
- 5.5 A Member shall not knowingly refer a Candidate to a Client where the Client does not comply with relevant laws, regulations or other legal requirements.
- 5.6 Candidates who are not legally entitled to work in Australia or New Zealand or have limited work rights, should only be referred to Clients when full details of their immigration status are provided to the Client, and the Client has been advised of the steps necessary to comply with Australian and New Zealand immigration laws.
- 5.7 Information about a Candidate will be used only for the purpose of finding employment for the Candidate. Confidential Information shall be treated accordingly. All reasonable steps will be taken not to jeopardise any current employment of a Candidate.
- 5.8 Members shall not charge a Candidate fees for registration or placement.
- 5.9 Members shall not engage in indiscriminate faxing or transmission of resumes without express authority of the Candidate and request from a Client.
- 5.10 No Member shall enter into an agreement with a Contractor that would cause a breach of his or her contract with another Member agency or with a Client.

## 6 Member – Client Relationship

- 6.1 A Member's responsibility to the Client is to represent their best interest by acting as an effective extension of the Client's recruitment function and to respect every confidence entrusted to the Member.
- 6.2 Members shall state their charges and terms of business to Clients, prior to commencement of an assignment.
- 6.3 A Candidate's employment record, qualifications and salary requirements shall be stated to the Client as accurately and fully as possible, or as expressly requested by the Client.
- 6.4 Confidential Information relating to the business policy of Clients, which is imparted as an aid to the effective handling of their recruitment requirements, shall be treated accordingly.
- 6.5 Members shall not divulge to Clients the personal contact information of Candidates except for the personal contact information of the successful Candidate for a specified position where the Candidate has agreed to its release.

## 7 Contractor Transitioning

- 7.1 In the event that a Client changes Suppliers to the exclusion of an existing Supplier:
  - 7.1.1 existing contracts with the contractors of outgoing Suppliers will be honored until their completion; and
  - 7.1.2 the incoming Supplier agrees not to encourage or induce the Contractor to breach a term of a contract for services; and
  - 7.1.3 where the outgoing Supplier and the Client cannot agree on the terms of the cessation of the contract, the incoming supplier and the outgoing Supplier will enter into negotiations in order to reach agreement on the terms under which the Contractor may be transitioned to the incoming Supplier; and
  - 7.1.4 the incoming Supplier and the outgoing Supplier will negotiate in good faith and in accord with the principles outlined in this Code of Conduct.
- 7.2 From the commencement of a supply agreement with a Client which provides for a change of Suppliers:
  - 7.2.1 The existing contract and payment provisions will be transferred to the incoming Supplier allowing for sufficient provision for the negotiation of an administrative and / or pay rolling fee between the outgoing Supplier and the incoming Supplier;  
or
  - 7.2.2 by mutual agreement a buyout of the contract may be negotiated between the outgoing and incoming Suppliers.
- 7.3 The process for the transition of contractors between Members shall be conducted in accord with ***Schedule A: Contractor Transition Process.***

## 8 Advertising

- 8.1 Members shall not advertise in a misleading manner and shall refer to bona fide positions.
- 8.2 Advertising should indicate to Candidates that they are dealing with a recruitment consultancy or else this must be clearly revealed upon enquiry.

## 9 Membership

- 9.1 Application for Membership is open to all recruitment agencies within the Information Communications Technology sector throughout Australia and New Zealand. Application forms can be downloaded from the ITCRA website at [www.itcra.com.au](http://www.itcra.com.au) or by writing to ITCRA at Suite 314, Level 3, 343 Little Collins Street, Melbourne, Victoria 3000, Australia.

## 10 Compliance

- 10.1 Each Member must ensure that its employees are aware of their obligations under this Code of Conduct. To this end, each Chief Executive Officer (or equivalent officer within that organisation) must forward a copy of this Code of Conduct to their employees and require that their employees sign an agreement that they will comply with the provisions of this Code of Conduct.
- 10.2 Members shall provide ITCRA with reports regarding their compliance with performance indicators as determined by ITCRA from time to time.
- 10.3 ITCRA will review the workings of the Code of Conduct at least every 3 years and for this purpose may engage an appropriate qualified independent consultant.

## 11 Effect

- 11.1 Nothing in this Code of Conduct shall prevent the parties to a dispute or complaint from agreeing upon any other process for the resolution of the matter.
- 11.2 Nothing in this Code of Conduct is intended to exclude the jurisdiction of any Court of competent jurisdiction.

## Schedule A: Contractor Transition Process

Where a Client requires an incoming Member to arrange for the transfer of a Contractor engaged through an outgoing Member, the following steps are to be followed:

1. The incoming Member will give written notice of the transition request to the outgoing Member.
2. Both the incoming and outgoing Members will:
  - a) use reasonable endeavours to ensure that the transition arrangements are managed in a professional manner and are designed to minimise disruption to the Client, the Contractor and each other,
  - b) reach agreement with the Client on the timeframe within which the transition is to be completed,
  - c) ensure that any variation to the engagement of the Contractor only occurs with the prior notification to the Contractor by the outgoing Member,
  - d) attempt to resolve any Disputes regarding these transition arrangements through a process of negotiation (and, if required, mediation).
3. Upon the receipt of a transition request, the outgoing Member will:
  - a) promptly notify its Contractor that it has received a transition request relating to his / her role,
  - b) inform its Contractor of the circumstances that have lead to the transition request,
  - c) ensure that the Contractor is properly informed of matters relevant to his / her decision to transition or not to transition,
  - d) inform the Contractor of the circumstances that may be likely to result in a change termination or redundancy in the workplace.
4. Upon the delivery of the transition request, the incoming Member will make suitable arrangements for the orderly continuation of business and for the orderly transition of the Contractor by:
  - a) acknowledging:
    - i) that the outgoing Member may have invested a significant amount of work, money, time and intellectual resources in establishing a relationship with the Client, developing a critical understanding of their needs and the needs of the Contractor, training and inducting the Contractor in the work system in preparation to undertake the role.
    - ii) that this investment represents significant business capital, which has a value and which the outgoing Member is entitled to protect by lawful means.
  - b) identifying and giving effect to any relevant contractual or other legal obligations of the outgoing Member
  - c) taking reasonable steps to ensure, so far as practicable, that the Contractor honours his / her legal obligations to the outgoing Member reaching a fair and reasonable agreement with the outgoing Member that meets with their financial expectations.
5. In the event that an agreement is not reached regarding the transition of a contractor the aggrieved party will have a right to lodge a complaint / dispute under **Schedule B: Operational Guidelines**.

## Schedule B: Operational Guidelines

These guidelines are to be utilised when dealing with any complaint lodged against any Member or notification of a dispute lodged by a Member. In this part a complaint is the expression of a grievance while a dispute is a conflict between members.

- 1 On receiving a complaint / notification of a dispute related to an alleged breach of the Code of Conduct, the Executive Director of ITCRA shall:
  - a) Determine if the company concerned is a Member. Complaints / disputes can only be dealt with if they are made against a Member.
  - b) If a breach is claimed to have occurred a copy of the Code of Conduct and the complaint/notification of dispute form is to be forwarded to the complainant to allow a claim to be made.
- 2 Any complaint/dispute must be made in writing and specify details of the complaint / dispute in accordance with the Conduct Complaint/Notification of Dispute form (Schedule C) attached here.
- 3 The form is to specify which clauses of the Code of Conduct have been breached, and sufficient details given to allow the matter to be dealt with by the Conduct Committee.
- 4 Once the claim has been lodged in the correct format, within seven (7) days of receipt, the Executive Director shall forward the complaint / dispute to the Conduct Committee.
- 5 The Conduct Committee shall consist of at least three (3) people, two (2) of which must be representatives of Members of the Association as nominated by the Board of ITCRA. In all circumstances the third person shall be an independent party who is not a Member of ITCRA, or an employee of ITCRA.
- 6 A Board member may not sit on the Conduct Committee during the investigation of a complaint/dispute involving a member with whom that Board member has an affiliation.
- 7 ITCRA's Conduct Committee shall base their consideration of a complaint or dispute upon the parties right to:
  - a) A lawful outcome;
  - b) To be heard;
  - c) To know whether the Code of Conduct has been observed;
  - d) To provide and request all relevant material to support or respond to the complaint or dispute notification;
  - e) To be informed of the criteria and processes for determining the complaint or dispute notification, including avenues for further review;
  - f) To be informed of the responses of any party against whom allegations or cross allegations are made;
  - g) To be informed of the outcome and reasons for that outcome;
  - h) To have the complaint or dispute notification heard and determined independently so far as practicable;
  - i) To maintain the confidentiality of any Confidential Information;

- j) To maintain privacy in dealings with Candidates and Contractors and their personal information and so far as practicable in accordance with the National Privacy Principles (accessible at [www.privacy.gov.au](http://www.privacy.gov.au)) and subject to maintaining the visibility and remedial objectives of publishing the names and contraventions of persons who are found to have contravened the Code of Conduct; and
  - k) To have the matter disposed with as little cost, formality and delay as may be consistent with the requirements of fairness.
- 8 The Conduct Committee shall determine which clauses of the Code of Conduct appear to have been breached and contact the relevant parties within twenty one (21) days stating any directions required to be complied with in order for it to consider the matter.
- 9 The Conduct Committee may then choose to arrange to:
- a) interview the member who has had the complaint made against them and/or hear evidence from the member about the claim or dispute
  - b) interview the complainant as required to establish if a breach of the Code has occurred or in order to resolve the dispute.
- 10 Once satisfied that it has the appropriate evidence the Conduct Committee will then adjudicate upon the matter, and if a breach of the Code is established, make a determination of the facts of the matter ("*the determination*") with recommendations as to the appropriate sanction, if applicable.
- 11 If acting in relation to a dispute the Conduct Committee will adjudicate on the dispute and its decision shall be binding.

## Sanctions

- 12 If the determination is that a breach of Code of Conduct has occurred, the Conduct Committee shall make a recommendation to the Board of Directors of ITCRA as to a proposed sanction. Sanctions include, without limitation, the following:
- a) Exclusion from membership;
  - b) Suspension from membership;
  - c) A fine to a maximum of \$5,000;
  - d) A reprimand or severe reprimand;
  - e) A direction that the Member obtain such advice relating to the conduct of their business as may be prescribed;
  - f) A direction that the principals of the Member attend continuing education courses as may be specified;
  - g) A direction for payment of all or any portion of the costs and expenses incurred by ITCRA in carrying out disciplinary action; and
  - h) The publishing of full details of breaches of the Code of Conduct (including the name of the organisation, the breach and the outcome) on its website.
- 13 Exclusion from membership is the most serious sanction available to be imposed.

- 14 The Conduct Committee must then release copies of its determination and proposed sanction to the parties, the Board of Directors and to the Executive Director.
- 15 After consideration of the determination and the recommendation of the Conduct Committee, the Board of Directors of ITCRA may impose a sanction on a Member.
- 16 The Executive Director must then give written notice to the Member of the Board's resolution including the reasons for the decision and the Member's right of appeal. The resolution does not take effect until the expiration of the period within which the Member is entitled to appeal (or, if the Member exercises the right of the appeal, unless and until the outcome of the appeal has been finalised).
- 17 A party may appeal a resolution of the Board by providing written notice to the Executive Director within fourteen (14) days of being notified of the Board's resolution. Appeals are heard by an arbitrator to be appointed by the parties, or if they cannot agree upon a single arbitrator, the Board will appoint an arbitrator from a list of suitable arbitrators recommended by the Law Institute of Victoria. The arbitrator's award will be in the form of a determination. A copy will be provided to the Executive Director and will be binding upon the parties.

# Schedule C: Conduct Complaint / Notification of Dispute Form

This form is to be completed and lodged with the:

**Executive Director  
Information Technology Contract and  
Recruitment Association Inc.  
Suite 314, Level 3,  
343 Little Collins Street,  
Melbourne VIC 3000**

If you wish to lodge a complaint against a Member of ITCRA this form must be completed specifying the clause of the code of Conduct that has been breached. If you wish the Conduct Committee to resolve a dispute you must complete this form detailing the nature and parties involved in the dispute.

Name: .....

Company: .....

Address: .....

..... Post Code: .....

Phone: ..... Fax: ..... E Mail: .....

Member against who the complaint is made/ Member in dispute:

Contact Person: .....

Company: .....

Address: .....

Code of Conduct clause claimed to have been breached: .....

Date of Incident: .....

Details of the Incident: .....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Signed: ..... Date: .....