

**Senate Standing Committee on Environment and Communications**

**Answers to Senate Estimates Questions on Notice**

**Additional Estimates Hearings February 2016**

**Communications Portfolio**

**Special Broadcasting Service**

**Question No: 212(c)**

**Special Broadcasting Service**

**Hansard Ref: Written, 19/02/2016**

**Topic: Department Staff Misconduct**

**Senator Ludwig, Joe asked:**

Since the change of Prime Minister on 14 September, 2015:

1. Please provide a copy of the departmental staff code of conduct.
2. Have there been any identified breaches of this code of conduct by departmental staff?
  - (a) If yes, list the breaches identified, broken by staffing classification level.
  - (b) If yes, what remedy was put in place to manage the breach? If no remedy has been put in place, why not?
  - (c) If yes, when was the breach identified? By whom? When was the Minister made aware?
  - (d) If yes, were there any legal ramifications for the department or staff member? Please detail.

**Answer:**

1. A copy of the SBS Code of Conduct is attached.
2. Yes.
  - a. Breach of the Code relating to SBS Organisational Reputation SBS – BAND3.
  - b. Counselling and Formal Written Warning.
  - c. Line Manager identified breach 18 October 2015.
  - d. Staff member was charged by Police. The matter is still before the court.



# CODE OF CONDUCT

## **WHAT IS THE CODE OF CONDUCT AND ETHICS?**

The Code of Conduct and Ethics (“the Code”) sets the standards for the way we work at SBS – it guides us in our interactions with our colleagues and the broader community.

The Code provides a practical set of guiding principles to help you make decisions in your day to day work, whatever you do and wherever you do it. The Code is supported by a number of more detailed policies, procedures and protocols which SBS may amend or replace from time to time (Policy Framework) that can be found on the SBS Intranet. However, the Code is not intended to be an all-inclusive summary of the Policy Framework and SBS requires you to comply with and remain up-to-date with the Policy Framework.

This Code and the policies, procedures and protocols within the Policy Framework do not form part of your contract of employment or contract of engagement and do not either directly or indirectly give rise to any express or implied contractual obligations on the part of SBS. SBS retains the right to add, change or delete the Code, or any other policies, procedures and protocols referred to in the Code, at any time as circumstances may warrant without obtaining another person’s consent or agreement.

## **WHO DOES THE CODE APPLY TO?**

The Code applies to anyone who is employed by or works at SBS including employees (both permanent and temporary), contractors, consultants and officers of the organisation.

## **WHEN DOES THE CODE APPLY?**

The Code applies to you whenever you are working for or on behalf of SBS, and whenever you could reasonably be identified by a member of public as being a representative of SBS. In some circumstances this will include times when you are outside of your immediate workplace or working hours, for example at work functions, out of hours work activities, when you are out in the community on behalf of SBS or when you are interacting with others on social media and are clearly identifiable as a representative of SBS.

## **WHAT WILL HAPPEN IF I BREACH THE CODE?**

You are required to comply with this Code and the Policy Framework. Failure to comply with the Code or Policy Framework may result in disciplinary action, including termination of your employment.

## **HOW CAN I BE SURE THAT MY CONDUCT COMPLIES WITH THE CODE?**

While the Code provides general guidance and minimum expectations regarding your conduct, no code or policy can ever cover every conceivable circumstance. In everything you do, you are expected to act in the best interests of SBS and uphold and maintain the SBS values.

If you are in doubt as to whether your conduct is consistent with the Code, it may help you to ask yourself the following questions:

- *Do I think this is the right thing to do?*
- *Would I be o.k. if this was reported in the media?*
- *Would other people in the organisation consider my behaviour appropriate?*
- *What impact might this have on SBS and its commitment to our Charter and value commitments?*
- *Would my family, friends, neighbours or others in the community consider my actions or behaviour appropriate?*

## **WHAT IF I SUSPECT A BREACH OF THE CODE?**

If you reasonably believe another person is breaching the Code, you should discuss this with your immediate supervisor and/or Cost Centre Manager promptly.

## **HOW DOES SBS ENSURE THE CODE IS EFFECTIVE?**

P&C is responsible for the ongoing review and development of the Code.

At the commencement of your employment, and on an ongoing annual basis, you must complete the Code of Conduct and Ethics declaration, to show that you understand the Code, confirm that you have complied with it in the previous 12 months and agree to comply with the Code in future.

## WHAT ARE THE STANDARDS OF BEHAVIOUR THAT SBS EXPECTS?

As an SBS employee or worker, you should:

- a. treat other SBS employees, workers and members of the community with honesty, respect, fairness, courtesy and sensitivity;
- b. adopt a professional approach when dealing with other SBS employees, workers and members of the community. A professional approach includes using appropriate levels of:
  - skill;
  - care;
  - diligence;
  - impartiality; and
  - conscientiousness;
- c. comply with any lawful and reasonable direction given by another SBS employee who has authority to give it; and
- d. maintain high standards of work performance.
- e. ensure Indigenous Cultural and Intellectual Property (ICIP) rights are appropriately considered in our working environment

## WHAT IS EXPECTED OF MANAGERS?

Managers at SBS should promote a culture of ethical behaviour in the workplace, and should model appropriate conduct. In addition, as an SBS manager, you should:

- *Ensure that people you manage understand their responsibilities under the Code and the Policy Framework;*
- *Make opportunities to discuss the Code and reinforce the importance of ethical behaviour;*
- *Create an environment where employees and other workers feel comfortable raising concerns including breaches of the Code or Policy Framework with Managers;*
- *Consider the conduct of those you manage in relation to the Code and the Policy Framework when evaluating employee performance; and*
- *Always take reasonable steps to prevent or stop infringements of the Code or Policy Framework by those you manage.*



**OUR CHARTER AND VALUES SHAPE THE CULTURE AND DEFINE THE CHARACTER OF OUR COMPANY. THEY ARE AT THE HEART OF WHO WE ARE AND WHAT WE DO.**

## **SBS CHARTER, PURPOSE AND VALUES**

### **SBS CHARTER**

The principal Charter function of SBS is to:

*Provide multilingual and multicultural radio, television and digital media services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multicultural society.*

The full text of the Charter is available in the SBS Act on the SBS Intranet (and in *SBS's Corporate Plan 2013 - 2016*).

As a public broadcaster, SBS is accountable to the Australian people through the federal parliament of Australia. This accountability means that SBS must:

- maintain the highest standards of integrity, impartiality and service; and
- be focussed on producing exceptional quality radio, television and digital media services for all Australians; and
- ensure all SBS services are delivered in an extremely cost effective and professional manner.

### **SBS PURPOSE & VISION**

SBS's Purpose outlines how we put our Charter into effect.

Our Purpose is:

*SBS inspires all Australians to explore, appreciate and celebrate our diverse world and in doing so, contributes to a cohesive society.*

SBS's Vision is a statement of our aspirations. Our Vision is:

*To make a vital difference through our distinctive role in Australia's media landscape.*

## **SBS VALUES**

SBS's Values underpin our success as an organisation. They inform our behaviours and actions, guiding our decisions about what we do and how we do it and how we engage with each other, both internally and externally.

### **OUR VALUES ARE:**

**CREATIVITY.** This means:

- Our content is thought provoking, bold and adventurous; we thrive on distinctive storytelling; and
- We are continuously innovating and driven in everything we do.

**RESPECT.** This means:

- We act with integrity, honesty and accountability; and
- We are passionate and considerate in the way we interact with our audiences and each other.

**DIVERSITY.** This means:

- Embracing multiculturalism is at our core; and
- The unique nature of people and cultures is a source of inspiration and we harness our differences to improve performance.

**COLLABORATION.** This means:

- We interact with transparency and openness with all stakeholders, internally and externally; and
- Together we can make a difference.



## **SBS CORPORATE PLAN**

The SBS Corporate Plan outlines:

- the strategic priorities of SBS;
- the goals of SBS for the period covered by the plan;
- the strategies SBS will implement to achieve its goals; and
- the performance measures SBS will use to measure success in achieving its goals and strategies.

The Corporate Plan also sets out the parameters for all planning activities at SBS.

Please refer to the current *Corporate Plan* for details of SBS's strategic direction and goals. The Corporate Plan can be found on the SBS Intranet under Strategy & Communications.

## **RESPECTING DIVERSITY - OUR COMMITMENT TO EACH OTHER**

The experiences, skills, and insights of employees from a variety of backgrounds and cultures enrich our corporate environment, improve our employees' and workers' effectiveness and satisfaction, and ultimately contribute to the success of SBS. SBS is a diverse and vibrant employer and believes every employee and worker is entitled to fair treatment, courtesy, and respect. We do not tolerate discrimination, bullying or workplace harassment under any circumstances. This conduct is prohibited under various state and federal laws. We maintain a diverse and inclusive work environment where the cultural differences of employees are embraced.

## **UPHOLDING SBS'S REPUTATION**

You must not engage in any act, including using new or social media in a personal or SBS capacity, which may compromise the reputation or integrity of SBS.

This includes:

- a. Not taking advantage of your employment or engagement with SBS in a way that may compromise the reputation or integrity of SBS; and
- b. Being careful not to engage in activities in your private life that could adversely affect the reputation or integrity of SBS.

The obligations of SBS employees and workers regarding the use of social media are set out in SBS's Social Media Protocol, which is available on the People and Culture Intranet page. You must familiarise yourself with your responsibilities and obligations under the Protocol.

## COMPLIANCE WITH RELEVANT LAWS AND REGULATIONS

You must comply with and familiarise yourself with any relevant state and federal laws or regulations which apply to you and to SBS and its operations. It is your responsibility to understand the relevant legal requirements and to work within the parameters of those laws. Your ignorance of the law is not an excuse.

## CONFLICT OF INTEREST

A “Conflict of interest” can be defined as:

*“an employee having a direct or indirect involvement or interest in any matter or dealing with an external individual or organisation, and from which the employee could receive personal reward, remuneration or any other type of advantage as a result of the relationship of their position and that particular matter or dealing”. (Refer SBS Accounting Manual)*

SBS employees and workers must avoid any direct, or indirect conflict of interest that could compromise SBS, and should disclose any current or potential conflict of interest in writing to their Cost Centre Manager or Division Head. The SBS Accounting Manual outlines procedures that are to be taken to disclose any direct or potential conflicts of interest. SBS expects all employees and workers to comply with those guidelines.

It is impossible to formulate an exhaustive set of guidelines regarding what constitutes a conflict of interest. Therefore, in determining whether a conflict of interest has arisen or could potentially arise, Managers and/or employees and workers must consider:

- the capacity of the employee or worker to influence the dealings SBS may have with a third party; and
- the level of personal benefit to the employee, worker or third party that may result from exercising that influence; and
- the extent to which the other interests/ employment/ engagement may conflict with their responsibilities and obligations as an employee or worker of SBS.

A Conflict of interest may result from:

- outside employment;
- involvement with political parties and groups;
- associations with community groups;
- financial interest (direct or indirect) in a supplier or SBS contractor;
- involvement with organisations or companies in competition with SBS; and
- holding of company or other directorships.

Some examples of conflict of interest include:

- Working for or at any other media organisation or other competitor of SBS (e.g. Language Services provider);
- Using or misusing any SBS resources or the confidential information of SBS for personal, employment or other interests;
- Having a personal interest in a business that provides services to SBS;
- Running for Government office.

It is your responsibility to notify your Cost Centre Manager or Division Head in writing if any of the above situations apply to you or if any other situation may result in a conflict of interest.

SBS does not require automatic disclosure of information on any membership in organisations such as political parties and community groups. You should consider whether any of your memberships could give rise to a conflict of interest and follow the required procedures.

Section 4 of the SBS Editorial Guidelines outlines additional guidelines on Conflict of Interest for program makers and content producers. SBS expects program makers and content producers to comply with those guidelines.

## **WE TREAT OTHERS WITH RESPECT, VALUE DIFFERENCE AND MAINTAIN A SAFE WORKING ENVIRONMENT**

### **HARASSMENT, BULLYING AND DISCRIMINATION**

SBS's Elimination of Workplace Harassment policy outlines SBS's commitment to providing a workplace that is free from harassment, bullying and discrimination. The Elimination of Workplace Harassment policy outlines obligations and expectations of employees, workers, supervisors and managers in the prevention and elimination of workplace harassment, bullying and discrimination. SBS makes employment decisions based on merit, and not on attributes that are irrelevant to employment or performance.

No harassment, bullying and/or discrimination will be tolerated at SBS, including the use of social media in connection with a person's employment or engagement at SBS to make inappropriate, discriminatory, threatening or offensive comments about others. In addition to being unlawful, such behaviour is a breach of this Code and the Policy Framework.



## **WORKPLACE HEALTH AND SAFETY (WHS)**

SBS is committed to providing a workplace which is safe and without risk to health. Accordingly, SBS views this commitment as an individual and collective responsibility of all employees.

You must not engage in any act which risks the health and safety of yourself or others, and you must not interfere with any systems and/or equipment provided for the purposes of health and safety.

SBS employees and workers are therefore expected to comply with SBS's WHS policies and procedures.

## **GIFTS AND BENEFITS**

SBS employees and workers must not improperly use their position, status, power or authority to gain a benefit or advantage for themselves or others. Therefore you must not accept or give gifts and/or benefits except where it is the custom and practice of a particular culture or organisation with which SBS is dealing. If you do accept a gift and/or benefit you must ensure that it is accepted on behalf of SBS, and inform your manager.

The SBS Accounting Manual outlines SBS's policy and procedures relating to gifts and benefits. SBS expects all employees and workers to comply with this section. A copy of the Accounting Manual is available on the SBS intranet ("Finance" site).

## **INFORMATION, FACILITIES AND RESOURCES**

SBS employees and workers must use SBS information, facilities and equipment in an efficient, careful and honest manner.

SBS owns all intellectual property in any material developed and/or made by employees in the performance of their duties or in the course of their employment with SBS.

"Material" includes but is not limited to copyright, specific knowledge, documentation, files, processes, technologies, databases, programs, recordings, films, musical compositions, software, trade secrets, etc.

You may not:

- use SBS's information, property, services or facilities; or
- use material created in the course of your employment
- improperly and/or for your own or any other person's or organisation's private benefit or gain. This obligation continues during and after employment with SBS.

You must be mindful of the public interest and report any misuse of information, facilities or resources to your immediate supervisor and/or Cost Centre Manager.

SBS's Computer, Email and Internet Usage Policy outlines acceptable use of information technology resources including computers, email and internet. SBS expects employees and workers to comply with this policy. SBS will not tolerate any breach of this policy. A copy of the Computer, Email and Internet Usage Policy is available on the SBS intranet.

## **PRIVACY AND CONFIDENTIALITY**

SBS is required by law to manage all personal information it collects in a responsible, open and transparent way. The Privacy Act 1988 ("the Privacy Act") governs the collection, storage and security, access and correction, use and disclosure of personal information. "Personal information" is broadly defined in the Privacy Act as any information or an opinion about an individual whose identity is apparent (or can be reasonably ascertained).

SBS employees and workers may be required during their employment or engagement, to collect or use personal information (including for example, information relating to users of the SBS website, subscribers of an SBS database, or other SBS employees).

We are all required to comply with the Privacy Act, Australian Privacy Principles (APPs) and SBS's Privacy Policy and ensure that any "personal information" obtained during the course of your employment or engagement is not disclosed inappropriately and/or illegally, and that personal information is secured against loss and unauthorised access, use, modification, disclosure or other misuse. If you have any questions about these obligations, please contact the SBS Privacy Officer.

The Freedom of Information Act 1982 provides a formal mechanism for the lawful disclosure of official information and documents.

In addition to the Privacy Act requirements, in the course of your employment or engagement with SBS, you may have access to confidential and/or commercial-in-confidence information. This material must not be disclosed to any third party or employee or worker who does not have a valid commercial reason for receiving it, unless the disclosure is required under relevant laws or regulations. If confidential information is required to be provided to third parties or other employees or workers for valid commercial reasons, you must take adequate precautions to seek to ensure that information is only used for those valid commercial purposes for which it is provided and it is not misused or disseminated to SBS's detriment. These confidentiality obligations continue to apply to you after your employment or engagement with SBS ends.

## **PUBLIC COMMENT**

As members of the community, we all have the right to make public comment and to enter into public debate. However, there are some occasions where public comment by an SBS employee or worker is inappropriate.

“Public comment” includes views expressed in any forum or media, including social media, where it is reasonably foreseeable that the comment may spread to the community at large.

SBS makes a distinction between public comment on “SBS matters” and “non SBS matters”.

### **SBS MATTERS**

You should not make public comment about SBS matters without the authority of the Managing Director or his or her delegate.

“SBS matters” include programming, editorial, employment and management decisions, policy and practices, and any other matters relating to SBS’s operations.

### **NON-SBS MATTERS**

SBS is a publicly funded national broadcaster which must be, and be seen to be, objective and impartial. There may be occasions when public comment on non-SBS matters by an employee or worker acting as a private individual could be detrimental to public perceptions of SBS’s independence, particularly when the employee or worker has a high public profile which may then impact on their ability to do their job or to be respected by the audience.

Where there is the potential for such a situation to arise, you should ensure that your status as a private individual is clearly established before any public comment is made. If you are in any doubt, you should seek advice from your immediate supervisor and/or Cost Centre Manager.

## **FRAUD**

The term 'fraud' is used to describe illegal, unethical, improper or dishonest acts including, but not limited to, deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. For practical purposes fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation and/or causing a loss to another party.

SBS, as a publicly funded broadcaster with responsibility for the appropriate use of taxpayer funds, will not tolerate any acts of fraud perpetrated by an employee or contractor. SBS will refer any acts of fraud or suspected fraud to the police and criminal or civil actions may be taken against employees or workers who participate in such unlawful acts.

SBS is not required to use a criminal conviction and/or prosecution of fraud as the basis for determining whether an act is fraudulent and/or in breach of this Code.

Any suspected case of fraud will be investigated by the relevant Manager/Supervisor and may be referred to the SBS Board Audit and Risk committee by the Chief Financial Officer.

The SBS Accounting Manual outlines the procedures for controlling fraud and cases of suspected fraud. SBS expects employees and workers to comply with this section.

## **PUBLIC INTEREST DISCLOSURES/WHISTLEBLOWING**

SBS has a process in place which allows SBS employees and workers to pass on information which they believe, on reasonable grounds, tends to show 'disclosable conduct' (for instance, this could include conduct which contravenes a law of the Commonwealth, state or territory,) so that SBS may investigate and respond to the information provided. A disclosure may be made to an Authorised Officer (there is a list of Authorised Officers on the SBS Intranet), your manager/supervisor or anonymously.

The intranet contains more information about the types of conduct which may be disclosable and how you can make a public interest disclosure.





## FURTHER INFORMATION

If you are unsure of any aspect of the Code you should discuss this with your immediate supervisor and/or Cost Centre Manager.

Your **People & Culture** Business Partner is available to provide advice and assistance.

## POLICY FRAMEWORK

SBS Charter

SBS Corporate Plan

SBS Accounting Manual

SBS Editorial Guidelines

SBS Corporate Plan 2013-2016

(SBS Policies)

SBS's Elimination of Workplace Harassment policy

SBS's WHS policies and procedures

SBS's Computer, Email and Internet Usage Policy

SBS Social Media Protocol

(Australian Commonwealth Government Act)

The Privacy Act 1988 ("the Privacy Act") or Australian Privacy Principles

The Freedom of Information Act 1982

Public Interest Disclosure Act 2013