

Senate Standing Committee on Environment and Communications
Answers to Senate Estimates Questions on Notice
Additional Estimates Hearings February 2016
Communications Portfolio
Australia Council

Question No: 212(g)

Australia Council

Hansard Ref: Written, 19/02/2016

Topic: Departmental 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. Please see attached copy of the Australia Council Code of Conduct Policy.
2. No.

AUSTRALIA COUNCIL CODE OF CONDUCT POLICY

Date Issued: 09/07/2014

CONFIDENTIALITY STATEMENT

The content of this document is the confidential information of the Australia Council for the Arts (Australia Council) It may not be reproduced, disclosed or otherwise used in any form except for the purpose of evaluating the proposal. The contents of this document may be disclosed only to persons with the “need to know” and who agree to be bound by obligations of confidentiality, or otherwise with Australia Council’s consent. © Australia Council

TABLE OF CONTENTS

1.	Purpose of the Code of Conduct Policy	3
1.1.	Code of Conduct	3
2.	Statement of Principles	4
3.	Personal and Professional Conduct	5
3.1.	Your Accountabilities	5
3.2.	Making Public Comment	6
3.3.	Sexual Harassment	6
3.4.	Discrimination	6
3.5.	Bullying and Harassment	7
3.6.	Professional Relationships with Stakeholders, Partners and Clients (including grant applicants and recipients)	8
4.	Using Australia Council's Resources	9
4.1.	The Australia Council's Financial Resources	9
4.2.	The Australia Council's Physical Resources	9
4.3.	Resignation or End of Contract	10
5.	Disclosing Information	11
5.1.	Disclosing Information about Stakeholders, Partners and Clients	11
5.2.	Information about Performance of Non-Australia Council Work	11
5.3.	Conflicts of Interest	11
5.4.	Disclosing Information Regarding Gifts, Benefits or Payments	12
6.	Breach of the code of conduct	14

1. PURPOSE OF THE CODE OF CONDUCT POLICY

The Australia Council's Code of Conduct policy contains the values and standards of the organisation that all employees are expected to follow.

The policy ensures your work is carried out:

- in the best interests of the Australia Council for the Arts (the Australia Council) and its clients
- in a fair manner
- within the law
- in a way that protects you as an employee.

1.1. Code of Conduct

All employees of the Australia Council must comply with the organisation's values and conduct standards. The following values and standards are incorporated in the Australia Council's Enterprise Agreement:

1. Behave honestly and with integrity.
2. Act with care and diligence.
3. Treat everyone with respect and courtesy and without harassment of any kind.
4. Comply with all applicable Australian laws.
5. Not provide false or misleading information in response to a request for information that is made for official purposes.
6. Comply with any lawful and reasonable request given by any Australia Council staff member who is authorised to give the direction.
7. Maintain appropriate confidentiality.
8. Disclose and take reasonable steps to avoid any conflict of interest (real or perceived) in the course of your employment.
9. Use Australia Council and Australian Government resources in a proper manner.
10. Not make improper use of inside information, or your duties, status, power or authority to gain, or seek to gain, a benefit or advantage for yourself or any other person.
11. Behave in a way that upholds the integrity and reputation of the Australia Council at all times.

2. STATEMENT OF PRINCIPLES

The Code of Conduct applies to the Australia Council's paid employees, contractors and volunteers.

The Code of Conduct explains the ethical behaviour expected of all employees and how to work as part of an effective team. You are expected to follow the Code in all aspects of your work and participation in Australia Council activities.

The values underpinning the Code are:

Collaboration	We work together towards the realization of our shared goals
Respect	We treat each other with openness and honesty in a workplace where everyone's contribution is acknowledged
Integrity	We are accountable and ethical in our work
Service	We pride ourselves on the pursuit of excellence in everything we do
Diversity	We embrace cultural, community and individual difference in all its forms
Leadership	We support decisive action and initiative based on sound judgment

You are expected to sign the Work Practices Agreement when you join the Australia Council. By signing the agreement, you are agreeing to support the principles that underpin the Code of Conduct. In doing so, you agree to:

- Apply the same standards of ethical behaviour and accountability that the Australia Council promotes and expects from other organisations.
- Be responsible for your actions and decisions.
- Use the Australia Council's resources for the work of the Australia Council.
- Not allow bias or favouritism to compromise the work of the Australia Council as per the Conflict of Interest Guidelines.

It is important that you talk to your manager if you are unsure whether your actions conform to the Australia Council's Code of Conduct. Depending on the situation, your manager can be your direct manager, the CEO, a director or an executive director or a delegate of any of these roles.

3. PERSONAL AND PROFESSIONAL CONDUCT

You are expected to communicate openly with colleagues and clients, and provide necessary assistance, explanation and support at all times.

When performing your duties you are expected to:

- Provide all necessary assistance to stakeholders, partners and clients.
- Keep up-to-date where practical with all information necessary to perform your duties.
- Make efficient use of the resources of the Australia Council.
- Talk to your manager if you are unsure of the legality of any work-related activity.
- Notify your manager if you become aware of any unethical or illegal activity.
- Act in an honest and trustworthy manner.
- Account for your time accurately and honestly.
- Ensure you are authorised to implement a decision or take action before you do it.
- Be fit for work each day and not under the influence of alcohol or drugs.
- Ensure you know and understand all relevant policies and procedures.

Where your decisions or actions may affect the work of others or have a financial implication for others, you are expected to:

- Consult the relevant people before enacting your decision.
- Inform the relevant people of the decision and the action taken.

3.1. Your Accountabilities

You are responsible for your own actions and are held accountable for them by the Australia Council.

To assist you, your manager will help you understand:

- What is expected of you during your probationary period.
- Your specific duties.
- The boundaries under which you operate.
- The behaviours you are expected to demonstrate to be successful in your work.
- Relevant or new information that will assist you to do your work.

You are expected to advise volunteers working with you on specific projects that they are held to the same account as paid employees with regard to the Code of Conduct Policy.

You should talk to your manager if you have any doubt about your duties or how to respond to various situations.

Your manager will work with you to develop a performance agreement to ensure your continued learning and development and effective assessment of your performance. You are equally responsible for the success of the process.

3.2. Making Public Comment

The official spokesperson for the Australia Council is the CEO, unless the role is specifically delegated to another person. As an employee of the Australia Council, you are expected to read and conform to the Australia Council's policies with regard to public comment. The relevant policy is the Public Representation of the Australia Council, which is in the Australia Council Governance Manual.

All requests for information from media representatives are to be directed, in the first instance, to the Director, Marketing and Communication or one of the communication officers.

3.3. Sexual Harassment

Sexual harassment is unacceptable at the Australia Council.

The Australia Council is committed to exercising its responsibility under the Sex Discrimination Act 1984, which legislates for the elimination of sexual harassment at work. Sexual harassment includes a wide range of covert or overt behaviour of a sexual nature that is unwanted and unreciprocated, and which causes you or your colleagues and/or clients to become distressed.

Examples of sexual harassment include:

- personally offensive verbal or sexual comments.
- comments or teasing about a person's alleged sexual activities or private life.
- using your position to force a person who reports to you to engage in sex with you.
- using your position to force any other employee to engage in sex with you.
- following people home from work or being followed home from work.
- offensive hand or body gestures.
- making threats or accusations of any sort against a colleague because they refused your sexual advances.
- unwanted physical contact such as patting, pinching, touching or putting an arm around another person's body at work.
- sexual assault.

3.4. Discrimination

The Australia Council recognises its responsibilities under the following acts: Human Rights and Equal Opportunity Commission Act 1986, Disability Discrimination Act 1992, Racial Discrimination Act 1975, Sex Discrimination Act 1984 and Age Discrimination Act 2004.

As such the Australia Council is committed to building an organisation that represents the diverse Australian community. This can only be achieved with the support and commitment of all employees.

It means being accepting of differences and proactively promoting diversity at the Australia Council.

Discrimination includes attitudes and/or behaviours that do not conform to Equal Employment Opportunity (EEO) laws or the broader values of the Australia Council. Discrimination causes people to feel that they are unable to achieve their full potential at work because of who they are.

You are expected to respect your colleagues and clients by accepting their:

- sex/gender
- religion
- sexual orientation (whether sexual orientation is towards persons of the same sex, persons of a different sex, or persons of the same sex and persons of a different sex)
- gender identity (the gender-related characteristics of a person, regardless of their sex at birth)
- age
- disability
- race
- political affiliation
- intersex status (the status of having physical, hormonal or genetic features that are neither wholly female nor wholly male, a combination of female and male or neither female nor male)
- marital or relationship status (s 6). The Amendment Act extends the current 'marital status' ground of discrimination to include discrimination based on 'marital or relationship status', which would also create protections for same-sex de facto couples.

3.5. Bullying and Harassment

Bullying is unacceptable at the Australia Council.

Workplace bullying puts the health, safety and wellbeing of employees at risk and is a breach of the Code of Conduct and our behaviours. The Australia Council recognises its duty of care under the Commonwealth Work Health and Safety Act 2011 to do everything reasonably practicable to protect the health, safety and welfare of its employees and others in the workplace. In this context, the Australia Council will not tolerate bullying in the workplace, including toward, between or by peers, consultants/contractors, clients or employees.

Workplace bullying is repeated unreasonable behaviour directed toward an employee or group of employees or others that creates a risk to health and safety. It includes behaviour that could be expected to intimidate, undermine, offend, degrade or humiliate a person or person(s). Workplace bullying is unwelcome action involving the persistent ill treatment of an individual at work by one or more people. It may occur in a one-on-one situation, face-to-face, within a group of people or by written, visual or electronic communications such as letters, drawings, emails or telephone calls.

Bullying behaviour may be overt or covert, ranging from physical and verbal assault and abuse to the continual subtle undermining of another person.

The Isolating Bullying and Harassment Policy is available on the intranet.

3.6. Professional Relationships with Stakeholders, Partners and Clients (including grant applicants and recipients)

The Australia Council expects employees to develop and cultivate effective working relationships with stakeholders, partners and clients. As part of that commitment, you must recognise the boundaries between yourself as a provider/partner and members of these groups. You are expected to uphold a standard of behaviour that does not bring you or the Australia Council into disrepute. In practice, this means you must never use your position at the organisation in any way that brings you or the Australia Council into disrepute.

You are expected to follow work practices defined by your manager within the unit or division that employs you. Expectations regarding work practices set down by your manager underpin the Work Practices Agreement you signed before commencing work with the Australia Council. It is your responsibility to understand and implement those expectations and to ask questions about any aspect of work practices that is unclear or that you do not understand.

4. USING AUSTRALIA COUNCIL'S RESOURCES

As an employee of the Australia Council you are expected to make effective use of the organisation's resources. This ensures the organisation can maintain the trust of its stakeholders, notably the Federal Government and the general public.

You may not use the Australia Council's resources for your own financial gain. The term 'resources' covers, but is not limited to, the following: money, purchase orders, petty cash, Cabcharge cards and vouchers, office equipment, telephones, vehicles, buildings and other employees.

4.1. The Australia Council's Financial Resources

You are expected to understand the proper use of the Australia Council's funds and follow them in your daily work with the organisation:

- You may only approve payments if you are authorised to do so, or if that responsibility has been delegated to you.
- When representing the Australia Council at forums, you may not agree to or commit the Australia Council to additional work without the necessary authority.
- Purchase orders are used exclusively to purchase goods and/or services for the Australia Council.
- You may only incur liabilities or enter into agreements or contracts, whether verbally or in writing, if you are authorised to do so, or if the authority to do so has been delegated to you.
- You must properly receipt and bank all monies received from external sources. You are not permitted to pay for expenses out of this money before it is banked.
- You may not under any circumstances borrow money for personal use from petty cash or from any other Australia Council funds.

4.2. The Australia Council's Physical Resources

Working effectively within the organisation requires you to apply common sense when dealing with competing requirements for the same resources. You are expected to demonstrate respect for colleagues when booking resources, and where resources are needed in greater numbers, you must allow the organisation to plan purchases that will improve resourcing.

Use of the telephones, fax machines and the internet for private purposes is acceptable if that use is short, infrequent and does not interfere with your work. International phone calls are to be made only with approval from your manager or as required by your contract of employment. Personal mail may be sent from the office if you have supplied the necessary postage.

4.3. Resignation or End of Contract

When you resign your position with the Australia Council or when your contract of employment expires, you are expected to leave with your manager all items that belong to the Australia Council on your final day at work, including materials, documents, training manuals, library books, keys, swipe cards, mobile phones and other assets or equipment.

You are also expected to leave your computer password with your supervisor and to leave intact the files on your computer that represent your work for the Australia Council. This will allow your colleagues to access information without disrupting service to stakeholders, partners and clients. You are expected to remove any personal information stored on your computer prior to your departure.

5. DISCLOSING INFORMATION

5.1. Disclosing Information about Stakeholders, Partners and Clients

You may have access to sensitive and confidential information about the Australia Council's stakeholders, partners and clients. The Australia Council accepts its responsibility under the Privacy Act 1988 and the associated Australian Privacy Principles. To this end you must ensure that:

- Confidential information always remains confidential. It is not to be discussed with anyone except where:
 - You have been specifically authorised to divulge it.
 - The information is relevant to the work of you and another person in the organisation.

You are not to discuss confidential information in public areas within the building or outside. Discussions of this nature in kitchens or corridors, which are within earshot of other people, are a breach of confidentiality and may also result in disciplinary action or, in extreme cases, prosecution.

You are expected to be familiar with and abide by the Australia Council's Privacy Policy. This is available on the intranet.

5.2. Information about Performance of Non-Australia Council Work

You must tell your manager if you are doing any work outside the Australia Council and complete the Notification of Non-Australia Council Work Form. Your manager will provide the form and discuss it with you before submitting it to your manager for approval. You will be advised if the work is not approved. The form will be held on your personnel file.

Outside work must:

- Not interfere with the performance of your duties at the Australia Council.
- Not compromise your position or the work of the Australia Council e.g. it must not cause a conflict of interest.
- Not involve the use of Australia Council resources or equipment.
- Take place outside your normal working hours unless otherwise authorised.

The Notification of Non-Australia Council Work Form must be completed and given to your manager each time you change employer and/or the nature or type of paid or unpaid work that you are involved in outside the Australia Council. This form will be retained on your personnel file.

5.3. Conflicts of Interest

You must ensure that your interests or those of people close to you do not conflict with the proper performance of your job. A conflict of interest may occur when:

- There is a reasonable likelihood of a direct or indirect financial benefit to you, your partner, family members or organisations you are involved in, where you are part of the decision making process.
- You have a personal interest that could influence the way you do your work e.g. if you are involved with an organisation that is an applicant or client of the Australia Council.
- You have a personal interest that could lead people to think you might be influenced in the way you do your work e.g. your best friend owns a business that competes with the Australia Council for business.
- You are in a relationship with a person who has dealings with the Australia Council, which could lead others to think that person receives beneficial treatment from you as a result of that relationship.

If you or your partner, family members, friends or an organisation you are involved with have financial or other interests that could conflict with the proper performance of your work, you must immediately inform your manager in writing and take whatever action is necessary to avoid the conflict.

The Australia Council's Guidelines for Managing Staff Conflict of Interest are available on the intranet.

5.4. Disclosing Information Regarding Gifts, Benefits or Payments

The guidelines below will help members, participating peers and employees of the Australia Council to determine if they can accept a gift or benefit. These guidelines also apply to the family of members, participating peers or employees, where acceptance of a gift or benefit may affect their official duties.

A gift or benefit may include:

- offers of cash or works of art
- gifts, such as bottles of wine
- promotional materials, including clothing, books or compact discs
- sponsored travel
- benefits under loyalty schemes, such as frequent flyer schemes
- airline competition prizes
- meals or other hospitality
- accommodation and hire car discounts
- entertainment, such as meals or tickets to theatre events
- discounts on commercial items
- free or discounted places on training and development courses (other than contra-deals associated with the presentation of papers).

Although there are limited circumstances in which gifts may be accepted, as a general principle, members, participating peers and employees should not accept gifts or benefits.

Accepting a gift or benefit may result in an actual or perceived conflict of interest. In extreme cases, it could be perceived as a bribe, which is a breach of the Australia Council's Code of Conduct, and an offence under the Commonwealth Criminal Code and the Public Governance, Performance and Accountability Act 2013 (PGPA Act), specifically the following sections:

- Section 25: Duty of care and diligence
- Section 26: Duty to act in good faith and for proper purpose
- Section 27: Duty in relation to use of position
- Section 28: Duty in relation to use of information
- Section 29: Duty to disclose interests

It is essential to maintain public confidence in the impartiality and professionalism of the Australia Council.

Acceptance of gifts or benefits from a person or organisation is inappropriate if the person or organisation is:

- Involved in a tender process with the Australia Council for the procurement of goods or services
- The subject of a decision within the discretionary power or substantial influence of the member, participating peer or staff.

Particular care should also be taken if:

- The person or organisation is in a contractual relationship with the Australia Council
- The organisation's primary purpose is to lobby Ministers, Members of Parliament or agencies.

If you are asked to speak, attend functions or do any work in an official capacity that attracts payment, you must ensure that the payment is made to the Australia Council.

6. BREACH OF THE CODE OF CONDUCT

The Australia Council encourages all its employees to work together in a spirit of cooperation. The Code of Conduct Policy will help you understand the attitude and behaviour that are expected of you and equally, what you can expect of your colleagues. Commitment to the Code of Conduct allows the Australia Council to function efficiently. Discussing aspects of the Code of Conduct with your colleagues to improve your collective understanding of the policy is encouraged.

Breaches of the Code are taken seriously. Where identified, they will be addressed as per the requirements of the Australia Council's relevant policies and/or guidelines.

CHANGE HISTORY

Date	Change Description	Reason for Change	Author	Issue No:
19.07.06	Creation		Denis Fuelling	0.1
14.08.06	Recommendations from Legal and Compliance	Changes to the 5.3 Conflict of Interest, 5.4 Disclosing Information Regarding Gifts, Benefits or Payments and 3.5 Bullying	Martin Muntz and Lynne Shortt	0.2
21.09.06	Streamlining the content and ensuring accuracy	General changes to the document to ensure alignment	Stephen Mahoney	0.3
16.10.06	Improving relevance of the policy	Addition of references to the relevant legislation in 3.3 Sexual Harassment, 3.4 Discrimination, and 5.1 Disclosing Information about Stakeholders, Partners and Clients. Reference to the Conflict of Interest Guidelines in 2 Statement of Principles and definition of our key stakeholders in 4 Using the Australia Council's Resources along with minor word changes in other parts of the policy.	Executive Group	0.4
23.11.06	Clarification of clauses 3.1 and 5.4	Input from the Leadership Group	Denis Fuelling	0.5
02.01.07	Clarification of clause 3.1 specifically defining expectations regarding volunteers.	Input from members of the Workplace Forum	Denis Fuelling	0.6
02.04.07	Endorsed by the Executive.			1.0
18.06.09	Streamlining content	Slight changes to the document	Jill Chambers	1.1
01.07.11	Added InSTEP Behaviours to the policy	Correcting oversight in not adding the InSTEP behaviours after the 2009 EA negotiations	Denis Fuelling	1.2
08.07.13	Added to the types of discrimination that are unacceptable at the Australia Council	The Sex Discrimination Act 2013 adds to the type of sexual discrimination that is against the law. This policy is amended to reflect the legal changes	Director Human Resources	2.0
09.07.14	Changed reference from CAC Act to PGPA Act; InSTEP	Executive endorsed increased focus on values and removal of InSTEP behaviours	Director Human Resources	3.0

	behaviours replaced with Values Legislative change applies from 1 July 2014.			
--	--	--	--	--