

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

Question No: 212(l)

Screen Australia

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. See attached.
2. In accordance with subsection 15(3) of the *Public Service Act 1999*, Screen Australia has established procedures for determining whether an employee has breached the Code of Conduct. No breaches of the Code of Conduct were determined between 14 September 2015 and 9 February 2016.



POLICY

Title: Code of Conduct and Values
Overview: This policy sets out the APS Code of Conduct and the Screen Australia Code of Conduct and provides guidance as to the standards of conduct required of Screen Australia Employees under the Codes.
Policy Owner: Chief Operating Officer
Policy Contact: Human Resources Manager
Approval Authority: Chief Executive Officer
Approval Date: 6 July 2015
Version: 2.1 See page 2 for Change Control Log

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Change Control Log

Changes to this policy or its dependent processes and procedures should not occur without the involvement of the Policy Contact, and should not be implemented without approval of the Policy Owner.

The table below lists the changes to the policy that have been approved, and the stakeholders consulted:

Version No.	Date	Stakeholders Consulted	Amendment Description
1	02 December 2009	n/a	New policy
2	June 2013	n/a	Updated in line with APS Code of Conduct and Values amendments
2.1	June 2015	HR, Governance, Senior Leadership Team, Staff Consultative Committee	Updated to ensure consistency with PGPA Act, PS Act and transferred into new template

1. Introduction

- 1.1. The Australian Public Service (APS) and Screen Australia Codes of Conduct (the Codes) set the standard of behaviour that is expected of all Screen Australia employees. The APS Code of Conduct sets the standard of behaviour required of APS employees engaged under the *Public Service Act 1999* (PS Act) and the Screen Australia Code of Conduct sets the standard for employees engaged under the *Screen Australia Act 2008* (Screen Australia Act). The Codes refer to the APS and Screen Australia Values (the Values) and provide that an employee must always behave in a way that upholds the Values and the integrity and good reputation of the APS and Screen Australia respectively.

2. Purpose

- 2.1. The purpose of this policy is to inform Screen Australia employees of their responsibilities and obligations, and clearly define the standard of behaviour required of them under the Codes.
- 2.2. Dependency
 - 2.2.1. This policy forms the foundation for all related processes and procedures. Any changes to this policy must be reflected in changes to the supporting processes, procedures, tools and systems or alternatively any changes to processes, procedures, tools and systems must be in compliance with this policy.

3. Scope

- 3.1. Coverage
 - 3.1.1. This policy applies to employees of Screen Australia, employed under the PS Act and the Screen Australia Act.
- 3.2. Compliance
 - 3.2.1. This policy needs to be read and complied with by all Screen Australia employees.

4. Policy

- 4.1. The Codes describe the expected standard of behaviour with which all employees of Screen Australia are required to comply. These standards provide a framework for employees to base their decisions and actions in relation to their behaviour and conduct in employment and reflect Screen Australia's corporate values. They also reflect good corporate governance.
- 4.2. Screen Australia is committed to maintaining the highest standards of conduct in the way we do business: this includes how we work together and how we work with clients, customers, suppliers, business partners, and our industry as a whole.
- 4.3. At Screen Australia it is expected that employees will respect the trust placed in them and the integrity of the positions or functions they perform, and always maintain the highest standards of ethical business practice. All business should be conducted legally, honestly and fairly, without conflict of commercial or personal interest, or improper or inappropriate benefit or gain.
- 4.4. All employees of Screen Australia are required to strictly adhere to and abide by the relevant Code. This is a legal obligation and means that an employee's day to day decisions and actions must reflect the ethical standards embodied in the Codes.

- 4.5. It is expected that appropriate standards of conduct will be maintained at all times. Common sense, integrity, honesty and sound judgment should be applied in all circumstances. Where there is any doubt about the required conduct in a particular situation, employees are expected to consult an appropriate manager.
- 4.6. Where an employee is unsure about any aspect of the Code, they should consult with their Department Head, the Chief Operating Officer, or the Human Resources Manager. It is an employee's personal responsibility to ensure they comply with the Codes.
- 4.7. Policies and guidelines that are linked to an employee's personal and professional behaviour include: Screen Australia's Conflict of Interest Policy, Guidelines for Handling Misconduct, Grievances and Complaints Procedure, Public Interest Disclosure Act procedures, Gifts and Benefits Policy and Workplace Bullying Prevention Policy and Workplace Discrimination and Harassment Prevention Policy.

5. Conflict of Interest

- 5.1. Employees must take reasonable steps to avoid a conflict of interest in connection with their employment at Screen Australia.
- 5.2. Employees must ensure that they familiarise themselves with and fulfil their responsibilities under the Screen Australia's Conflict of Interest Policy and comply with the requirements of the policy.

6. Outside Employment

- 6.1. With Screen Australia's prior approval (see further at clause 6.4 below), employees are able to undertake work outside of their Screen Australia employment provided it does not conflict with or adversely affect the performance of their official duties.
- 6.2. Outside employment includes paid work, running a business, maintaining a professional practice, being director of an organisation, or acting as a tax agent, as well as unpaid work such as at a film festival.
- 6.3. In considering undertaking work outside of Screen Australia, employees should consider factors including whether the work:
 - would conflict or be perceived to conflict with their employment, and/or
 - is likely to affect their ability to perform their duties in Screen Australia.
- 6.4. Employees, who are considering employment outside of Screen Australia, are required, in the first instance, to consult with the Human Resources Manager. Any approval to engage in outside employment will take into consideration whether there is any incompatibility between the outside employment and the employee's duties at Screen Australia. In considering whether to approve outside employment, Screen Australia will balance Screen Australia's interests and the employee's rights. Approval may be made conditional on satisfactory performance of official duties.
- 6.5. Employees should inform Screen Australia if the nature or circumstances of any approved outside employment changes or their official duties change to the extent that it could give rise to a conflict of interest with the outside employment.

6.6. Directorships

- 6.6.1. When considering whether to become a director of an organisation or serving on a committee, employees should consider whether the organisation:

- is or is about to enter a contractual relationship with the Commonwealth or its authorities
- receives financial assistance from the Commonwealth
- has a primary role to lobby Ministers, Members of Parliament or government agencies and authorities about issues related to the person's official duties
- is regulated by the employee's agency, including the portfolio agency
- would give another business, including a government enterprise, reasonable grounds to perceive a conflict of interest.

6.6.2. You must disclose to the Human Resources Manager if you are currently serving or plan to serve on a board or committee.

6.6.3. Screen Australia will determine whether the appointment to such a board or committee is appropriate taking into consideration clause 6.6.1.

6.7. Use of paid and unpaid leave

6.7.1. The rules relating to undertaking outside employment (including the requirement to seek prior approval from Screen Australia) apply to any outside employment performed during any period of leave whether the leave is unpaid or paid, including annual/recreational and long service leave.

6.8. Volunteer work

6.8.1. Volunteer or charity work can also conflict with a person's official duties. Usually, approval for volunteer or charity work is not required if the organisation/charity is not associated in any way with Screen Australia. However, if an employee is in any doubt, they should consult with the Human Resources Manager as to whether the voluntary/charity work would involve real or perceived conflicts of interest.

6.8.2. Any volunteer work with organisations with an association to Screen Australia e.g. a film festival, on a festival advisory panel must be approved by Screen Australia.

7. Acceptance of Gifts or Benefits

7.1. An employee must not offer, procure, accept, or retain any value or benefit from anyone doing business with or seeking to do business with Screen Australia.

7.2. Employees must ensure that they familiarise themselves with and fulfil their responsibilities under the Screen Australia's Gifts and Benefits Policy and comply with the requirements of the policy.

8. Use of Commonwealth Resources

8.1. Screen Australia employees must be scrupulous in the use of Commonwealth and Screen Australia resources, such as money, credit cards, goods, services, vehicles, office equipment, official records (including electronic records) and telecommunications and information technology applications.

8.2. Commonwealth and Screen Australia resources should not be used for private gain. However, employees may have limited private use of office equipment, for example reasonable and necessary telephone or email communication with family.

9. Detection of Fraud

- 9.1. Fraud is defined by the Commonwealth Fraud Control Policy as 'dishonestly obtaining a benefit [whether tangible or intangible], or causing a loss, by deception or other means'. Fraud against the Commonwealth is a serious offence and can result in penalties being imposed under the Criminal Code. Screen Australia employees who commit fraud may face misconduct action under the Screen Australia's Guidelines for Handling Misconduct. Under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), Screen Australia employees may also be liable to pay amounts to the Commonwealth for any relevant losses.
- 9.2. It is the responsibility of all Screen Australia employees to adopt working practices that minimise the risk of fraud and enhance the likelihood of detecting any fraud that does occur. If an employee becomes aware of working practices that leave Screen Australia open to fraudulent activity, he/she has a responsibility to bring those instances to the attention of management. An employee who has a reasonable suspicion that fraud is occurring has an obligation to report the matter to his/her department Head or the Chief Operating Officer as appropriate. Failure to report could be seen as compounding or assisting fraud and therefore could constitute improper conduct under the Codes.

10. Political Participation

- 10.1. Screen Australia has no particular political affiliations and supports the rights of employees to political freedom, but employees must be careful about the possibility of any conflict of interest between their political affiliations and their official duties. Employees, whether or not they are members of political parties, are expected to separate their personal views on policy issues from the performance of their official duties.
- 10.2. Employees that are active in any political party, event, cause, or movement must always represent themselves as private individuals and not express views as though they are representing Screen Australia.
- 10.3. Individuals have the right to make public comment and publicly debate political and social issues. However, in such cases employees should make it clear they are not making an official comment nor speaking as employees representing the official position of Screen Australia.
- 10.4. Where an employee is involved in publicly promoting party or other views on certain issues, and where their duties are directly concerned with advising on or directing the implementation or administration of government policy on those issues, there is potential for conflict of interest.

11. Public Comment

- 11.1. Public comment includes public speaking engagements, comments on radio and television and expressing a view in letters to newspapers or in books, journals or notices or where it might be expected that the publication or circulation of the comment would spread to the community at large.
- 11.2. Whilst employees, as members of the community, have the right to make public comment and to enter into public debate on political and social issues, there are some circumstances in which public comment is inappropriate. These circumstances would be where there is an implication that the public comment, although made in a private capacity, is in some way an official comment of Screen Australia or the Government or connected to Screen Australia employment. Employees should avoid

making private statements about matters relating to Screen Australia unless it is made clear that the employee is speaking as a private citizen.

- 11.3. In addition, employees must ensure that they familiarise themselves with and fulfil their responsibilities under the Screen Australia Social Media Policy and comply with the requirements of the policy.

12. Use of Official Information

12.1. Employees can disclose information which is normally given to members of the public. Employees should only disclose other official information or documents acquired in the course of their employment when required to do so by law, in the course of their duties, when called to give evidence in court, or when prior approval has been given by the Chief Executive Officer. There is a legal and regulatory framework that governs the general disclosure and use of official and personal information by Screen Australia employees and access to information by the public. The framework includes:

- *Public Service Act and Regulations*
- *Crimes Act 1914*
- *Criminal Code Act 1995*
- *Freedom of Information Act 1982*
- *Archives Act 1983*
- *Public Interest Disclosure Act 2013*
- *Privacy Act 1988*

13. Using Information or Position

13.1. Screen Australia employees must not improperly use information or their position to gain personally or benefit any other person. For example, employees should not use their employment with or position in Screen Australia to influence a person or organisations for personal gain. Also, information obtained at work should not be used to inform decisions on personal financial investments or interests.

14. Attachments

- 14.1. Australian Public Service (APS) Values
- 14.2. Australian Public Service (APS) Code of Conduct, summary of reg 2.1 of the *Public Service Regulations 1999* and s 15(2A) of the PS Act
- 14.3. Screen Australia Code of Conduct
- 14.4. Screen Australia Organisational Values

ATTACHMENT 15.1

Australian Public Service (APS) Values *Section 10, Public Service Act 1999*

The APS Values are as follows:

Committed to service

- (1) The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.

Ethical

- (2) The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.

Respectful

- (3) The APS respects all people, including their rights and their heritage.

Accountable

- (4) The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.

Impartial

- (5) The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.

ATTACHMENT 15.2

Australian Public Service (APS) Code of Conduct

Section 13, Public Service Act 1999

1. An APS employee must behave honestly and with integrity in connection with APS employment.
2. An APS employee must act with care and diligence in connection with APS employment.
3. An APS employee, when acting in connection with APS employment, must treat everyone with respect and courtesy, and without harassment.
4. An APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws. For this purpose, **Australian law** means:
 - (a) any Act (including this Act), or any instrument made under an Act; or
 - (b) any law of a State or Territory, including any instrument made under such a law.
5. An APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction.
6. An APS employee must maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff.
7. An APS employee must:
 - (a) take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the employee's APS employment; and
 - (b) disclose details of any material personal interest of the employee in connection with the employee's APS employment.
8. An APS employee must use Commonwealth resources in a proper manner and for a proper purpose.
9. An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.
10. An APS employee must not improperly use inside information or the employee's duties, status, power or authority:
 - (a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or
 - (b) to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person.
11. An APS employee must at all times behave in a way that upholds:
 - (a) the APS Values and APS Employment Principles; and
 - (b) the integrity and good reputation of the employee's Agency and the APS.
12. An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia.
13. An APS employee must comply with any other conduct requirement that is prescribed by the regulations.

Regulation 2.1 of the *Public Service Regulations 1999* (which is made under s 13(13) of the PS Act) contains additional conduct requirements relating to the disclosure of information by APS employees:

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- An APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if it is reasonably foreseeable that the disclosure could be prejudicial to the effective working of government, including the formulation or implementation of policies or programs (reg 2.1(3)).
 - An APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if the information:
 - (a) was, or is to be, communicated in confidence within the government; or
 - (b) was received in confidence by the government from a person or persons outside the government.whether or not the disclosure would found an action for breach of confidence (reg 2.1(4)).

Regulation 2.1(3) and (4) do not apply in certain circumstances – see reg 2.1(5).

Section 15(2A) of the PS Act also provides that an APS employee is taken to have breached the Code of Conduct if a person is found to have, before being engaged as an APS employee:

- knowingly provided false or misleading information to another APS employee, or to a person acting on behalf of the Commonwealth; or
 - wilfully failed to disclose to another APS employee, or to a person acting on behalf of the Commonwealth, information that the person knew, or ought reasonably to have known, was relevant; or
 - otherwise failed to behave honestly and with integrity;
- in connection with the person's engagement as an APS employee.

ATTACHMENT 15.3

Screen Australia Code of Conduct

Employees employed under the Screen Australia Act must comply with Screen Australia's Code of Conduct, which is based on the Australian Public Service (APS) Code of Conduct. These employees must:

1. behave honestly and with integrity in connection with their employment with Screen Australia;
2. act with care and diligence in connection with their employment with Screen Australia;
3. when acting in connection with their employment with Screen Australia, treat everyone with respect and courtesy, and without harassment;
4. when acting in the course of their employment with Screen Australia, comply with all applicable Australian laws. For this purpose, Australian law means;
 - (a) any Act (including this Act), or any instrument made under an Act; or
 - (b) any law of a State or Territory, including any instrument made under such a law;
5. comply with any lawful and reasonable direction given by someone in Screen Australia who has authority to give the direction;
6. maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff;
7. take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment with Screen Australia; and disclose details of any material personal interest of the employee in connection with their employment with Screen Australia
8. use Screen Australia resources in a proper manner and for a proper purpose;
9. not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's employment with Screen Australia;
10. not improperly use inside information or the employee's duties, status, power or authority:
 - (a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or
 - (b) to cause, or seek to cause, detriment to Screen Australia, the Commonwealth or any other person.
11. at all times behave in a way that upholds Screen Australia's Values and the integrity and good reputation of Screen Australia;
12. when on duty overseas must at all times behave in a way that upholds the good reputation of Australia; and
13. not disclose information which the employee obtains or generates in connection with the employee's employment in Screen Australia if it is reasonably foreseeable that the disclosure could be prejudicial to the effective working of government, including the formulation or implementation of policies or programs.
14. not disclose information which the employee obtains or generates in connection with the employee's employment in Screen Australia if the information:
 - (a) was, or is to be, communicated in confidence within the government; or
 - (b) was received in confidence by the government from a person or persons outside the government.

ATTACHMENT 15.4

Screen Australia Organisational Values

Screen Australia's values complement the APS Values and Code of Conduct, which Screen Australia employees employed under the Public Service Act are required to uphold. As it works towards its objectives, Screen Australia requires that all employees (both APS and non-APS) uphold and embody the following values in their work. These values demonstrate Screen Australia's commitment to integrity and professional ethics.

1. Excellence

bringing outstanding results to all activities; setting and meeting high standards

2. Leadership

doing what is right in adversity; empowering and guiding others

3. Innovation

finding new and better ways to do the things we do; encouraging diversity in ideas

4. Courage

making hard decisions and giving difficult feedback

5. Accountability

taking responsibility for the consequences of our actions