

Senate Standing Committee on Environment and Communications

Answers to Senate Estimates Questions on Notice

Additional Estimates Hearings February 2016

Communications Portfolio

nbn

Question No: 212(f)

nbn

Hansard Ref: Written, 19/02/16

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. A copy of the nbn Code of Conduct is attached.
2. (a) - (d). nbn co manages employees to ensure conduct and performance meets the expectations outlined in the Code of Conduct. While the management of any breaches can be wide ranging, and non-prescriptive, there have not been any breaches of the Code of Conduct since 14 September 2015 which have resulted in the termination of an employee's employment at nbn co.



Code of Conduct

UNCLASSIFIED | [BMS001706](#) | Rev 6.1 | 8 MARCH 2016
Owner: General Manager – Employee Relations

Background

The Code of Conduct contains standards of behaviour that are expected at **nbn** and us underpinned by the **nbn** values.

The Code of Conduct is based on our **nbn** values and the principle of respect.

- Respect for each other
- Respect for **nbn**
- Respect for the broader **nbn** reputation and environment

Employees, contractors and consultants are expected to be aware of and comply with this Code of Conduct as well as obligations set out in relevant legislation.

This Code of Conduct does not form a part of your contract of employment and or engagement, however, a breach of the Code of Conduct may result in disciplinary action being taken by **nbn** which may result in termination of your employment or your engagement with **nbn**.

Purpose

The purpose of this Code of Conduct is to promote a safe, healthy and productive workplace wherever **nbn** operates. A workplace that we are proud to be a part of; where we are held in high regard.

In this Code of Conduct a number of fundamental standards are provided to inform and educate you about **nbn**'s expectations of you, and the consequences of engaging in behaviour that is not acceptable.

Scope

This Code of Conduct applies to all **nbn** employees and their relationships with each other. This also applies to contractors and consultants that work at **nbn** workplaces.

You must be aware of these standards and the conduct required of you as an individual and as a member of work teams.

Contractors are required to adhere to this Code of Conduct and any other specific requirements provided for in **nbn** supplier contracts.

The standards of behaviour set out in the Code of Conduct are expected of employees and contractors both during work hours and whenever your behaviour impacts **nbn** or your relationship with other employees, contractors or consultants of **nbn**. This may include, and is not limited to:



- On-site lunch breaks
- A work trip conducted outside normal working hours
- Social functions with fellow workers (for example, Christmas parties)
- Working from home
- Activities on social media.

Policy

Standards of Behaviour

nbn is committed to maintaining the highest standards of professionalism, honesty, integrity and fairness. Employees, contractors and consultants are required to act in a manner consistent with this commitment by:

- being beyond reproach in matters of trust, honesty and confidentiality
- respecting cultural, ethnic and religious differences
- being courteous, sensitive, and honest in communications, and being considerate to the needs of others
- working cooperatively and collaboratively with others to achieve common goals and a harmonious work environment and culture
- behaving in a fair and consistent manner in all dealings with customers and suppliers
- not taking advantage of any property or information belonging to **nbn** or opportunities arising from those, for personal benefit independent from the business of **nbn** or to benefit any other business or person
- taking all steps to ensure the protection of **nbn** assets, premises and resources
- abiding by all applicable laws and regulations.

Values

Our values underpin the way in which we act and behave at **nbn**. They describe what's important to us, and guide our thinking and interactions with each other, our customers, and the community. Our values and key behaviours are:

- We are one team
 - Actively engages and values input from others
 - Focuses on and prioritises the common goal
 - Actively supports team decisions
- We are fearless
 - Transparent and speaks up to improve the outcome
 - Seeks new and better ways and takes informed risks
 - Decisive and acts with a sense of urgency



- We deliver
 - Sets clear goals, plans and measures progress
 - Takes accountability and owns actions
 - Focuses on and priorities the right things

Unacceptable behaviour and misconduct

nbn will not tolerate unacceptable behaviour that impacts adversely on other employees, contractors, consultants, customers or suppliers, or misconduct.

Unacceptable personal behaviour includes but is not limited to:

- verbal or written abuse, physical abuse or assault
- discrimination, harassment, bullying or victimisation
- threatening or intimidating behaviour towards others
- smoking in the workplace
- careless behaviour that could endanger the safety of yourself or others such as:
 - tampering with, ignoring or failing to use any safety/lockout device
 - tampering with any emergency or safety signage/equipment
 - participating in skylarking or practical jokes
- breach of nbn's drug and alcohol policy
- breach of relevant laws and regulations.

In addition **nbn** will not tolerate behaviour or activities that impact on **nbn** and its reputation.

These behaviours and activities may include but are not limited to:

- inappropriate use of nbn assets
- inappropriate use of nbn electronic communication facilities and internet for personal benefit or private purposes
- using nbn's electronic communication facilities for any illegal purpose or in a way that causes interference or disruption to other users, services, equipment and information assets
- using image-recording devices (such as photocopiers, scanners and cameras) to capture and/or distribute images of:
 - private, classified or copyrighted documents or other material
 - **nbn** property or facilities that are not accessible to the general public
 - any person without their express permission
 - any person, object, act or incident where the image would be considered inappropriate or offensive,



- accessing, storing, processing or transmitting any information of a threatening, obscene, pornographic, discriminatory or harassing nature.
- damage to **nbn** assets, or property
- theft or attempted theft
- fraud or attempted fraud
- failure to disclose a conflict of interest, or potential conflict of interest
- seeking gifts or benefits in connection with your role at **nbn**
- receiving a gift or benefit that influences and/or alters your decision making process or objectivity
- activities adversely affecting **nbn** or its reputation (e.g. making unauthorised public statements about **nbn** or their position in respect of any matter)
- directly or indirectly engaging in any activity which could by association cause **nbn** public embarrassment or bring **nbn** into disrepute (including any activities on social media)
- unauthorised passing of sensitive or confidential information relating to **nbn** and its operations to a third party or to an unauthorised external location, or posting such information in a public domain
- unauthorised use of **nbn's** name or logo
- failing to comply with the **nbn** values
- failing to comply with any relevant **nbn** policy.

Employees at **nbn** must not be engaged in any other employment, occupation, trade or business without prior written approval of an authorised Manager.

To grant approval **nbn** will require that any secondary employment does **not**:

- interfere with your employment with **nbn** in any way
- result in a real or perceived conflict of interest
- reflect unfavourably on **nbn**.

You should consult your manager if you are unsure about whether additional employment may involve a conflict of interest.

Misconduct covers a range of unacceptable behaviours, which include, but are not limited to:

- fighting, assault or attempted assault
- gross negligence or incompetence
- making false statements when applying for employment that had a direct bearing on whether or not the applicant would be employed
- neglecting your duty as an employee, such as unauthorised absence from the workplace whilst on duty (depending on the nature of the job, e.g. an employee whose absence could hold up the work of other employees and / or seriously prejudice **nbn's** business)
- persistent absenteeism (failure to attend work) without due cause or authorisation



- refusal to obey reasonable instructions given
- failing without reasonable cause to complete tasks set
- poor work quality/inefficiency: failing to carry out work to the required standard without reasonable cause and/or concealing defective work
- repeated poor timekeeping, e.g. arriving late or leaving early
- non-attendance without cause or authorisation.

Discrimination, harassment and bullying

nbn as an Equal Employment Opportunity employer, aims to provide a working environment free from discrimination, harassment or bullying.

All complaints of harassment, bullying and discrimination will be treated seriously and, if necessary, investigated promptly and impartially.

Any conduct which constitutes discrimination, harassment or bullying may be considered an act of unacceptable behaviour, misconduct or serious misconduct. Where investigation of a complaint establishes inappropriate conduct, appropriate disciplinary action will be taken and may result in termination of employment or your engagement with **nbn**.

To assist in determining whether conduct constitutes discrimination, harassment or bullying, the following outline may be utilised in conjunction with applicable legislation and regulations:

Discrimination

Discrimination occurs when one person or group is treated less favourably than another due to an attribute or characteristic that is protected under legislation. Discrimination may be direct or indirect.

Direct discrimination occurs when somebody is treated less favourably than another person in the same or similar circumstances because they have a certain status or belong to a particular group of people.

Indirect discrimination occurs when there is a particular requirement, condition or practice which appears to apply to everybody equally but which has the effect of disadvantaging more people with a particular characteristic, and which is not reasonable in the circumstances.

In Australia it is unlawful to discriminate against a person on the basis of a particular personal characteristic. Unlawful grounds include, but are not limited to:

- sex
- race, colour, or national extraction
- age
- marital status
- physical, mental or intellectual disability or impairment
- sexual preference, gender identity or transgender status
- pregnancy or potential pregnancy



- family responsibilities and/or/parental/carer status
- trade union membership or union/industrial activity
- religious or political beliefs.

Harassment

Harassment is a form of discrimination and may also be unlawful if it based on particular grounds. Harassment can take many forms. It may be verbal, physical, written or pictorial. Harassment is usually a pattern of behaviour but one act may constitute harassment if it is sufficiently serious.

Harassment is conduct that:

- is unwelcome or unwanted
- causes offence, intimidation or humiliation. The perception of whether or not the behaviour is threatening or harassing lies with the receiver
- occurs in circumstances where a reasonable person would have anticipated that the person harassed would be offended, humiliated or intimidated.

Harassment based on sex, race or disability is unlawful under discrimination legislation. Occupational Health and Safety legislation also makes harassment in the workplace unlawful because it constitutes a possible hazard to the health of employees.

Conduct that may be considered harassment includes, but is not limited to:

- sexual harassment, which may include:
 - pressure or demands for dates or sexual favours
 - unnecessary familiarity – for example, deliberately brushing against a person or constant staring at a person
 - unwanted physical contact – for example, touching or fondling
 - sexual jokes or innuendo – verbal or transmitted via electronic or any other media
 - offensive telephone calls and/or text messages of a sexual nature
 - unwelcome comments or questions about a person's sex life – in person, by phone, email or text message
 - display or circulation – by email or text message – of sexual material, including magazines, posters or pictures and messages
 - sexual assault,
- verbal or written abuse or comments that degrade or stereotype people because of their race, sexuality, pregnancy, disability, etc
- verbal or written public statements that may incite hatred or negativity towards an individual or a group of people
- jokes based on race, sexuality, pregnancy, disability, etc



- mimicking someone's accent, or the habits of someone with a disability
- offensive gestures based on race, sexuality, pregnancy, disability, etc
- ignoring or isolating a person or group because of their race, sexuality, pregnancy, disability, etc
- display or circulation (e.g. by email or text message) of racist, pornographic or other offensive material.

Using the internet or email to receive, access, store, process or distribute information considered to be of a threatening, obscene, pornographic, or harassing nature may also constitute harassment.

Examples of behaviour which is not harassment include:

- standard performance and/or behavioural counselling, where feedback is appropriate, reasonable and focussed on the work or behavioural improvement required
- mutual friendships or relationships based on welcome conduct
- reasonable managerial decisions about employment related issues such as reasonable allocation of work, implementation of organisational change.

Bullying

Workplace bullying occurs when:

- A person or a group of people repeatedly behave unreasonably towards a worker or a group of workers at work
- The behaviour creates a risk to health and safety.

Examples of behaviour that may be considered bullying include:

- Aggressive or intimidating conduct
- Belittling or humiliating comments
- Spreading malicious rumours
- Exclusion from work-related events
- Teasing, practical jokes or 'initiation ceremonies'
- Unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- Displaying offensive material
- Pressure to behave in an inappropriate fashion.

Reasonable management action conducted in a reasonable manner does not constitute workplace bullying.

Examples of behaviour which is not bullying include:

- Performance management processes
- Counselling or disciplinary action for behaviour or performance



- Ongoing meetings with a person to inform and address with them unsatisfactory work performance or inappropriate behaviour
- Directing a person to perform duties in keeping with their job
- Maintaining reasonable workplace goals and standards
- Genuine organisational change
- Investigations into allegations of misconduct.

Victimisation

It is also the intent of this policy to ensure that no employee, contractor or consultant is subject to victimisation. Victimisation occurs when an employee, contractor or consultant subjects another employee, contractor or consultant to a disadvantage as a result of making or intending to make, a complaint or an allegation, or giving evidence or information in connection with a complaint or allegation. Victimisation is unlawful and will not be tolerated. Anyone who victimises another will be subject to disciplinary action.

Employees, contractors and consultants, should also be aware it is possible under Federal and State anti-discrimination laws, the Crimes Act, the Fair Work Act and OH&S Legislation, for an individual to be personally liable for complaints of harassment, bullying or discrimination in the workplace.

Further, bullying which constitutes workplace violence must be reported to the appropriate statutory authority under occupational health and safety laws.

Roles and responsibilities

Employees, contractors and consultants are responsible for:

- their own behaviour and actions at all times
- being aware of and complying with this Code of Conduct, other **nbn** policies, procedures and relevant legislation
- treating other **nbn** employees, contractors and consultants fairly and with respect
- acting in the best interests of **nbn** at all times
- promptly informing their manager if they believe that the Code of Conduct has not been followed
- taking all reasonable steps to secure **nbn** premises and property
- seeking advice from your Manager before undertaking an action or activity that may be contrary to **nbn** policy.

Managers are responsible for:

- providing constructive feedback if there are emerging concerns about employees, contractors and consultants adhering to the Code of Conduct
- ensuring that their team are aware of and comply with **nbn** policies and procedures
- upholding and promoting the Code of Conduct and providing their team with a positive role model



- ensuring that all workplace processes and practices comply with relevant policies, procedures and legislation
- taking reasonable steps to prevent their team from engaging in conduct contrary to this Code of Conduct, as well as protecting them from such conduct
- ensuring that their team are familiar with internal avenues for resolving complaints
- dealing with complaints about unacceptable behaviour and misconduct quickly, effectively and confidentially.

More information

Talk to your manager immediately if you see **nbn** employees, contractors or consultants acting in breach of this policy. If it is not appropriate to talk to your Manager, contact either your Manager's Manager or Human Resources.

If you require additional information in relation to this policy please contact your manager or the Human Resources Support Centre.

Related policies

- Drug and Alcohol Policy
- Equal Employment Opportunity Policy
- Security Policy
- Leaving **nbn** Policy
- Managing Performance and Behaviour Policy
- Managing Workplace Grievance Policy
- Health Safety and Environment Policy
- Smoke Free Workplace Policy
- Social Media Policy

*General Manager – Employee Relations
Effective as of 8 March 2016*