

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates 26 May-6 June 2014

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Outcome/Program: 1.1 Prime Minister and Cabinet

Topic: Social media policy

Senator: Senator the Hon Penny Wong

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Question:

Has the Department of the Prime Minister and Cabinet issued a social media policy to employees that places restrictions on speech used on social media, including when using personal devices outside work hours?

Does the Department require employees who become aware that another employee is engaging in conduct that may breach this policy to report the conduct to the Department? If so, why?

On what date was the current social media policy issued?

Did the Department consult with the Office of the Prime Minister before issuing the policy?

In preparing the policy, did the Department have regard to the speech by Mr Abbott to the Institute of Public Affairs on 6 August 2012 in which he said: "Thanks to free speech, error can be exposed, corruption revealed, arrogance deflated, mistakes corrected, the right upheld and truth flaunted in the face of power," and free speech "should never be restrained in order to protect poor performance"? If not, why not?

Does the policy apply to public comments by the Secretary?

How many "dob-ins" have been received since the policy was published?

Under the policy, how many employees have been:

(a) warned?

(b) disciplined?

Can a copy of the social media policy be provided?

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Answer:

1. The Department has issued a policy which outlines employees' obligations and responsibilities when using social media in either an official or unofficial capacity. The policy is consistent with the *Public Service Act 1999* and the circular released by the Australian Public Service Commission - Circular 2012/1 regarding making public comment and participating online.
2. The PM&C Social Media Policy articulates the reporting requirement on other employees who may observe behaviour which may be inconsistent with the policy and the APS Code of Conduct. This is supported by the Australian Public Service Commissioner's Directions 2013 and the APSC guidelines on handling misconduct which both refer to an expectation that employees will report suspected breaches of the Code of Conduct.
3. The Social Media Policy was issued on 4 April 2014.
4. No.
5. No. The Department developed the policy to be consistent with the APS Values and Code of Conduct and the broader guidance on the use of social media issued by the Australian Public Service Commission.
6. Yes.
7. Nil.
8.
 - (a) Nil.
 - (b) Nil.
9. Yes. Refer attached.

DEPARTMENT OF THE PRIME MINISTER AND CABINET

SOCIAL MEDIA POLICY

1. BACKGROUND

The role of the Department of the Prime Minister and Cabinet (PM&C) is to provide policy and implementation advice and support to the Prime Minister, the Cabinet, Cabinet Secretary, Parliamentary Secretary, Portfolio Ministers, and the Government as a whole.

PM&C's particular role in government administration, including its role in advising the Prime Minister and Cabinet across a wide range of policy areas, means that it is necessary to place some restrictions on employees' official and unofficial use of social media. These restrictions are directed at ensuring that:

- an employee's use of social media is consistent with the employee's obligations under the *Public Service Act 1999*, including the APS Code of Conduct; and
- public confidence in PM&C (and the APS more generally) as an impartial and effective public service is maintained.

2. APPLICATION OF POLICY

2.1 This Policy applies to an employee's use of social media, including:

- use of social media in an official capacity; and
- use of social media in an unofficial capacity (whether professional or personal use).

2.2 Employees should be aware that the requirements contained in this Policy may extend to an employee's use of social media:

- when using their personal computing devices, as well when using PM&C's IT systems or devices provided by PM&C; and
- in the workplace and during work hours, as well as use that may occur outside of the workplace or outside of working hours.

2.3 For the purpose of this Policy, social media is defined as online technologies and resources that the public use to share information, resources and opinions. Examples of social media include social networking sites (such as Facebook and LinkedIn), content sharing sites (such as YouTube, Pinterest and Flickr), micro-blogging sites (such as Twitter) and blogs, forums, discussion boards and Wiki's including wikepedias.

2.4 If an employee becomes aware of another employee who is engaging in conduct that may breach this policy there is an expectation that the employee will report the

conduct to the Department. This means that if you receive or become aware of a social media communication by another PM&C employee that is not consistent with this policy, you should advise that person accordingly and inform your supervisor.

3. **APPLICATION OF APS CODE OF CONDUCT AND OTHER PM&C POLICIES**

3.1 The APS Code of Conduct, APS Values and other PM&C policies also apply to employees' use of social media, both in an official or unofficial capacity.

3.2 A failure to comply with this Policy may constitute a breach of the APS Code of Conduct. If an employee is found to have breached the APS Code of Conduct, the Secretary (or delegate) may determine that it is appropriate to impose a sanction, which could include termination of employment.

3.3 Other PM&C & APSC policies that may apply to employees when using social media include:

- [PM&C ICT & Internet Usage Policy](#)
- [PM&C Information and Communication Technology Security Policy;](#)
- [PM&C Workplace Bullying and Harassment Prevention Employment Guideline;](#)
- [PM&C Media Management Policy;](#)
- [APSC Circular 2012/1: Revisions to the Commission's guidance on making public comment and participating online;](#) and
- [Public Service Regulations 1999 Clause 2.1](#)

Responsibilities of employees when using social media in an official capacity

3.4 When using social media in an official capacity on behalf of PM&C, an employee must:

- (a) be authorised to use social media on behalf of PM&C. This authorisation will be a written authorisation provided by an SES employee within PM&C and will clearly set out permitted official use(s) of social media and any specific requirements or restrictions which the employee is required to observe when using social media in this capacity;
- (b) comply with PM&C's media and communications policies;
- (c) only post content where their role requires them to do so and their relevant SES Band 1 or above has authorised them to do so, using the Social Media Official Usage Authorisation Form;
- (d) uphold the APS Values, APS Employment Principles and APS Code of Conduct;
- (e) behave in a way that upholds the integrity and good reputation of PM&C specifically and the APS more generally;

- (f) be mindful of the requirements set out in Regulation 2.1 of the *Public Service Regulations 1999* concerning the disclosure of information;
- (g) comply with PM&C's obligations under legislation including the *Privacy Act 1988*, the *Archives Act 1983* and the *Copyright Act 1968*; and
- (h) not make statements that could bring PM&C or the APS into disrepute.

4. UNOFFICIAL USE OF SOCIAL MEDIA

4.1 There are two categories of unofficial use of social media:

- **Personal use** – where an employee engages in social media use as a private individual such as to communicate with friends and relatives, to keep up to date with particular products and trends and to follow news and current events.
- **Professional use** – where an employee engages in social media use as an experienced person in their field or subject matter expert, rather than as a PM&C employee. For example, an employee who is a scientist might publish in an academic article online.

4.2 Both categories of use are covered by this Policy.

Expressing opinions online

4.3 The Australian Public Service Commission Circular, *Circular 2012/1: Revisions to the Commission's guidance on making public comment and participating online* relevantly provides that:

- it is quite acceptable for APS employees to take part in the political life of their communities; and
- from time to time, APS employees may seek to participate robustly, like other members of the Australian community, in public policy conversations.

4.4 However, participation of this kind is qualified by the employee's obligations as an APS employee. The APSC Circular recognises these responsibilities by noting that:

The APS Values stipulate that the APS is, among other things, 'apolitical, performing its functions in an impartial and professional manner', but this does not mean that APS employees must be apolitical in their private affairs. Rather, it means that employees should avoid behaving in a way that suggests they cannot act apolitically or impartially in their work.

All employees will need to make these judgements for themselves. Before posting material on matters of public policy, ask yourself whether a Prime Minister, from either political party, having read the material, would feel confident that any advice from you was impartial and balanced.

4.5 The responsibilities of PM&C employees when using social media are set out below.

Responsibilities of employees

4.6 When using social media, an employee must:

- (a) uphold the APS Values, APS Employment Principles and APS Code of Conduct (even when posting material anonymously, or using an 'alias' or pseudonym) (see section 4.9(e) below);
- (b) at all times behave in a way that upholds the integrity and good reputation of PM&C specifically and the APS more generally; and
- (c) be mindful of the requirements set out in Regulation 2.1 of the *Public Service Regulations 1999* concerning the disclosure of information.

4.7 When using social media, an employee must not:

- (a) make comment which could be interpreted as an official statement on behalf of PM&C, the Commonwealth of Australia or the Government;
- (b) make comment that is, or could be perceived to be:
 - (i) compromising the employee's capacity to fulfil their duties in an unbiased manner;
 - (ii) so harsh or extreme in their criticism of the Government, Government policies, a member of parliament from another political party, or their respective policies, that they could raise questions about the employee's capacity to work professionally, efficiently or impartially;
 - (iii) so strong in its criticism of the administration of PM&C that it could seriously disrupt the workplace;
 - (iv) a gratuitous personal attack that might reasonably be perceived to be connected with their employment;
 - (v) unreasonable criticism of an agency's clients and other stakeholders; or
 - (vi) compromising public confidence in PM&C or the APS;
- (c) include information about another person obtained through work or from which such a person could be identified, without their express written consent;
- (d) post derogatory comments, obscene material, or personal attacks that may call into question the integrity and good reputation of PM&C or the APS;
- (e) use social media as an avenue to engage in inappropriate activities or behaviours towards other PM&C employees or persons with whom an employee comes into contact in the course of their duties (stakeholders).

Inappropriate activities, such as threatening, bullying or harassing behaviour, by PM&C employees towards other PM&C employees or stakeholders may be subject to the APS Code of Conduct, even if that conduct occurs outside the workplace;

- (f) act in a way that would call into question the employee's ability to perform their duties in an apolitical, impartial and professional manner;
- (g) post photos of other PM&C employees or stakeholders online without their permission; and
- (h) post photos of the interior of PM&C buildings or of PM&C documents.

Example of inappropriate personal use of social media

Case study

An employee who has insider knowledge about a particular area of the Department's work chooses to publicly air their concerns, disagreement and/or anger with the Government's policies on their social media account/s. The employee is critical or highly critical of the Department, the Minister or the Prime Minister.

Even if the employee doesn't use their real name, or identify their affiliation with the Department it is still possible for the comments to be linked back to the employee and the Department. This would be inappropriate personal use of social media and a potential breach of the APS Code of Conduct.

A similar case was recently deemed a dismissible offense by the Federal Court.

Definition

Publicly - includes the use of all social media regardless of an individual's privacy and security settings. While the privacy and security settings may initially limit the number of people that can access the information; the information can be replicated, copied, forwarded to or viewed by persons who the employee did not intend as recipients.

- 4.8 When using social media in an unofficial professional capacity, an employee must:
- (a) notify his or her managers of any comments that the employee proposes to make in an 'expert' role that might reasonably reflect on their APS employment;
 - (b) make clear, when making public comments, that he or she is not representing PM&C, the Commonwealth of Australia or the Government; and
 - (c) manage situations where the relationship between the employee's professional interests and their APS employment may create ambiguity about the capacity in which the employee's comments are being made.

Example of inappropriate unofficial professional use of social media

Case study

Outside of their work at the Department an employee manages the social media presence of a local Energy Sustainability company.

On the company website they post comments which are highly critical of the Government's policy on wind farms, drawing on information they have learned through their work at PM&C.

This is a conflict of interest, an inappropriate use of social media by the individual and a potential breach of the APS Code of Conduct.

Considerations when using social media

- 4.9 Employees should also be mindful of the following issues associated with the use of social media, which could lead to an employee's social media use contravening this Policy:
- (a) any information posted online in relation to an employee's employment (such as their role, duties or employing agency) may be able to be located easily (for example, using a search engine);
 - (b) the speed and reach of online communications means that comments posted online might become available immediately to a wide audience, and may be replicated, copied and forwarded to, or viewed by persons who the author did not intend to see or receive the comments;
 - (c) it may be difficult, or impossible, to delete material once it is uploaded to a social media forum;
 - (d) employees should not rely on a social media forum's security settings as a guarantee of privacy, as material posted in a relatively secure setting can still be copied and reproduced elsewhere; and
 - (e) employees must still uphold the APS Code of Conduct, APS Employment Principles and APS Values even when material is posted anonymously, or using an alias or pseudonym, and should bear in mind that even if they do not identify themselves online as an APS employee and/or as an employee of PM&C, they could nonetheless be identified as such. Employees should assume that even if they are posting anonymously or using an alias or pseudonym, their identity and the nature of their employment could be revealed.

5. CYBER-BULLYING OF PM&C EMPLOYEES

- 5.1 Cyber-bullying is any behaviour, using digital technologies, that could reasonably be considered humiliating, intimidating, threatening or demeaning to a person, or group of people, and which creates a risk to health and safety. Not every adverse comment or complaint using digital technologies is unreasonable or is an instance of cyber-

bullying. Clients and other members of the public have a right to express their views or make a complaint online about agencies in the same way as they can in person or in writing. The problem arises when complaints are in the form of inappropriate online behaviour directed at PM&C employees.

- 5.2 Employees should be aware that the APSC has released guidance in relation to dealing with cyber-bullying by members of the public, titled *Cyber-bullying of APS employees by members of the public*. If you have a concern that you may have been subject to cyber-bullying by a member of the public, you should make a report to your supervisor immediately.
- 5.3 If you have a concern that another PM&C employee is engaging in cyber-bullying, the matter should be dealt with in accordance with the *Workplace Bullying and Harassment Prevention Employment Guideline*.

6. **FURTHER INFORMATION**

If an employee has any queries about the operation of this Policy, are unsure about how this policy applies to them, or their use of social media, or they require a Social Media Official Usage Authorisation Form they should email HR Help at hrhelp@pmc.gov.au or phone extension 5454.

Related Policies, Guidelines and Publications

[*APSC Circular 2012/1: Revisions to the Commission's guidance on making public comment and participating online;*](#)

[*APS Code of Conduct*](#)

[*APS Values*](#)

[*APS Employment Principles*](#)

[*Archives Act 1983*](#)

[*Copyright Act 1968*](#)

[*Cyber-bullying of APS employees by members of the public*](#)

[*Human Resources Delegations Manual | Intranet*](#)

[*PM&C ICT & Internet Usage Policy*](#)

[*PM&C Information and Communication Technology Security Policy;*](#)

[*PM&C Media Management Policy;*](#)

[*PM&C Workplace Bullying and Harassment Prevention Employment Guideline;*](#)

[*Privacy Act 1988*](#)

[*Public Service Act 1999*](#)

[*Public Service Regulations 1999*](#)