

Workwatch

Staff codes of conduct

It is now almost universal for organisations, public and private, to have codes of conduct governing the behaviour of all staff and officers. The increased adoption of such codes arose largely in response to what were seen as corporate excesses of the 1980s, often unguided by procedures aimed at protecting organisational reputations and the interests of smaller players. In the library sector, applicable codes will commonly be the overarching codes of public service, local government or corporations.

An emerging issue in the context of codes of conduct is the use of internet and email facilities, especially in relation to comments made about a place of employment or organisation with which the author has a business or professional relationship. This issue relates not only to use of an organisation's own communication facilities, but also use of personal blogs for circulation of comment about an organisation. There is growing recognition that organisations are entitled to object to statements affecting the organisation's reputation, security interests or confidential commercial information being published on personal blogs. This area of concern is distinct from personal comments made in private conversations or in email messages between individual staff members which remain personal communications. Intervention by organisations to prevent publication of certain kinds of material by staff is not regarded as censorship, but as legitimate action to protect corporate interests in a way that is consistent with most codes of conduct. More generally, blogs and other internet facilities, while promoting the flow of information and opinion, remain subject to laws governing bullying, harassment, defamation and privacy.

For example, ALIA has recently adopted codes of conduct governing its Board members, staff and contractors engaged by ALIA. The Board Code requires Directors to 'conduct themselves in a manner which does not damage or undermine the reputation of ALIA or its staff'.¹ This requirement would reasonably apply to comment made about ALIA on an internet bulletin board which would be available to a wide audience and where the comment made could not be separated from the officer's role within ALIA. Similarly, the Public Service Act, covering the Australian Public Service, stipulates that 'An APS employee must at all times behave in a way that upholds the APS values and the integrity and good reputation of the APS' and that 'An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia'.²

What constitutes objectionable comment? What steps should employers take to prevent unreasonable online comment?

There is no simple answer to the first of these questions as each case will turn very much on its own facts. A basic pointer to something to which an organisation may reasonably object would be the extent to which the organisation can be identified in an online statement. As has been established in defamation cases, an organisation does not have to be named to be identifiable.³ Certain information, description or simply

knowledge among readers as to where a 'blogger' works is sufficient for problems to arise for the organisation.

As to how employers might prevent problems arising from blogging or other public or semi-public comment, several steps can be taken. Organisations should review codes of conduct to ensure that they refer to use of internet and email facilities.

Specific reference should be made to the issues of reputation, security and commercial confidentiality. Where an organisation believes that inappropriate content has been published, the employee or business associate should be counselled in the first instance, especially if the relevant content has not been egregious – an approach that is consistent with management of other forms of misconduct. In cases where comments can reasonably be perceived as amounting to serious misconduct, termination of employment may be justified.

Further information concerning blogging, especially in connection with employment-related issues, can be found at <http://www.caslon.com.au/weblogprofile20.htm> and <http://www.blogherald.com/2008/02/26/thou-shall-not-blog>



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1. <http://www.alia.org.au/governance/board.code.of.conduct.Feb.08.pdf>
2. Public Service Act 1999 s13(11) and (12). Can be viewed at <http://www.comlaw.gov.au>
3. *Mt Cook Group Ltd v Johnstone Motors Ltd (1990) NZLR 488*



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