

Managing employee's social networking

Social networking sites such as Facebook, Twitter and LinkedIn provide users with an on-line platform through which they can share information, photographs and video clips and join in discussions with friends and contacts. The use of these sites can be very beneficial to businesses in terms of marketing opportunities and attracting new clients. We are only just beginning to work through the implications of this revolution in communications but it is certainly qualitatively different from other forms of communication such as the telephone, e-mail, paper and face to face.

The broadcasting potential in these new technologies is immense. Millions of people can be reached instantaneously by just the click of a button. However, because of this, such communications can also have wide-reaching negative and costly implications in terms of bad publicity, potential Employment Tribunal claims and breach of confidentiality.

One area of concern is the time employees spend during working hours visiting social networking sites. This can easily be resolved by restricting access to such sites if appropriate or allowing restricted access and providing guidance on usage.

Of more significant concern is the information that employees may post on either work or personal social networking sites during working hours. Some of the potential problems are:

- Breach of confidentiality by employees leaving information either about themselves, the company or clients on their own profiles;
- An employee posting negative comments about their employer therefore bringing the employer's name into disrepute;
- Employees breaching their post-termination restrictions by announcing their next employment destination on a social networking site;
- Employees posting discriminatory comments about work colleagues on their profiles, which may leave the employer open to a discrimination claim;
- Employees using social networking sites to bully and harass work colleagues; and
- Breach of Data Protection by employee using personal data obtained through their employment on social media.

Where an employee has posted discriminatory comments or has bullied and harassed another employee, whilst at work or on a work social media account, employers may find themselves defending claims for discrimination and/or constructive dismissal where the employer failed to take steps to prevent the treatment. An employer can be vicariously liable for the actions of its employees in the course of employment. In addition to this, where problems arise and a number of employees are involved in online discussions, all of them would need to be treated in a fair and consistent manner. Failure to treat employees consistently could lead to discrimination or other claims.

The best way to discourage such behaviour from employees is to have an appropriate social networking policy in place to set out the boundaries of acceptable behaviour and make it clear that, if the policy is not complied with, the employer has the right to take disciplinary action against the employee. Email and internet use in the workplace is governed by the Data Protection Act 1998. An employer should warn employees that their actions and usage of such sites is being monitored randomly. Monitoring should be carried out with caution and only where misuse is detected will further investigation be justified.

If you require a social networking policy, advice on the implications of social networking or advice on any other area of employment law please contact Elizabeth Judson on 0115 9 100 200 or e-mail enquiries@actons.co.uk. For information on how to comply with the Data Protection Act 1998 in monitoring employee's e-mail and internet activities please contact Claire Bell on 0115 9 100 200 or e-mail enquiries@actons.co.uk.

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