

EMPLOYMENT UPDATE

SOCIAL MEDIA AND EMPLOYMENT

The use of email, Facebook, Twitter, LinkedIn and other social media by employees in and outside the workplace is widespread. Some employers view social media as a marketing tool and an opportunity to expand their company brand, while others are worried about lack of control and how quickly reputations can be damaged. Below are some cases that deal with these issues.

In *Preece v. J D Wetherspoons plc* an employment tribunal decided that Miss Preece, a pub manager, had been fairly dismissed for gross misconduct after she made inappropriate comments on Facebook whilst at work about two of her customers, who had verbally abused and threatened her. It did not matter that Miss Preece thought that her privacy settings meant only close friends could see her entries; in fact a wider audience was able to view her Facebook page, including the relatives of the customers in question. As a result, Miss Preece was found to be in breach of her employer's email and internet policy, which specifically referred to employees' use of media such as Facebook while at work.

In *Gosden v. Lifeline Project Limited* an employment tribunal held that Mr Gosden was fairly dismissed by Lifeline (a charity that assigns its employees to HM Prison Service) for sending an offensive email from his home computer and outside of working hours to his colleague's home computer. No privacy attached to the email since it was a chain email asking recipients to pass it on. Mr Gosden's colleague decided to forward the email to a colleague that worked at HM Prison Service and so the email entered its computer system. As a result, Mr Gosden's action was found, by forwarding the email to one of its biggest clients, as something which might damage Lifeline's reputation.

However, in *Taylor v. Somerfield* (unreported) the employee was found to have been unfairly dismissed after posting on YouTube a video clip of colleagues fighting with plastic bags while at work. Somerfield sought to argue that the conduct brought its business into disrepute. The tribunal disagreed, finding that there was no clear association with Somerfield and, in any event, the clip appeared to have been viewed only eight times.

We can expect to see more of these types of cases. It is essential that organisations protect their business by putting in place a properly drafted social media policy to provide guidelines on the use of social media sites in a business context, a warning that comments made on social media sites should be treated as public, rather than private and a warning that breach of that policy might lead to disciplinary action, up to and including dismissal.

If you would like to receive further information on this update or if you would like to unsubscribe, please contact Elizabeth Pollock by email at eep@brookenorth.co.uk or by telephone on 0113 297 9000.

You should not act upon the matters referred to in these updates without first seeking specific advice.