

Social media and the employment relationship – what next?

The number of employees using social media has increased dramatically in the last 10 years. ACAS has reported that almost 6 out of 10 employees now use it at work. This of course means that instead of working employees are spending significant parts of the working day distracted by social media in particular social networking sites such as Facebook, Twitter and MySpace. According to ACAS this is costing the UK economy up to £14 billion per year.

Employers therefore need to think carefully about how to consult with employees and if necessary Trade Union organisations about the use of social media and the internet at work. Employers should issue guidelines to all staff. These should be set out in a social media policy document which gives clear instructions to employees about the organisation's expectations.

A well drafted social media policy will help to protect the employer against the actions of its staff, assist employees to draw a line between their private and professional lives, ensure compliance with the law on discrimination, data protection and health & safety and give clear guidance on employee monitoring and the use of disciplinary rules and sanctions.

The policy should cover the following restrictions:

- staff use of the employer's IT resources;
- staff use of the employer's intellectual property assets and confidential information;
- protection of third party confidentiality and privacy;
- prohibition on harassment or bullying of other employees;
- prohibition on discrimination;
- prohibition on negative comments about the organisation, its staff, business contacts or competitors.

When looking at what is acceptable behaviour the following different categories of use should be considered:

- Internet and emails: limits may need to be set on any personal use of the internet and email system.
- Smart phones: the policy needs to keep abreast of any new ways of accessing social networking tools and any changes in employee's attitudes and behaviour.

- Social networking sites: employees should be told about the privacy settings that apply to networking sites to ensure that employees are aware of their actions.
- Blogging and tweeting: if an employee is representing the organisation ensure that rules are set out on what information can be disclosed and what opinions can be expressed to third parties.

The employer also needs to train human resources management on the appropriate and effective monitoring of staff and on the enforcement provisions of any policy adopted to ensure that it is used effectively. It should also consult with staff on the policy to ensure that it is fair and relevant to the organisation's needs. For example, if your employees handle confidential information on members of the public your policy needs to accommodate this.

Finally, the increasing use of social media by employers to advertise and recruit for new employees also needs careful consideration. This method of recruitment and assessment is not without its problems. It may exclude people who do not have access to these facilities which means your recruitment process could miss out on valuable recruits. Also employers need to be aware that if they spy on job applicants on social networking sites they are leaving themselves open to charges of discrimination. This is because by checking applicants out online employers are more likely to be able to obtain information about sexual orientation, ethnicity, religion and age, making it easier for candidates who are rejected to claim that the grounds for the decision were discriminatory.

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This article is not intended to be a full summary of the law and advice should be sought on individual circumstances.