

Checklist

Social media

Best practice for a company to consider regarding employee use of social media, based on UK law.

1 Adopt a social media policy

- Send a clear signal about company expectations for employee use of social media by adopting a stand-alone social media policy or including one in an employee handbook.
- Use the policy to remind employees that social media activity in the workplace is not necessarily private and that the employer can discipline employees for conduct that breaches employee policies in the social media arena, just as in other arenas. Also remind them that online conduct harmful to the company can amount to misconduct or in some cases gross misconduct.
- Include appropriate restrictions covering:
 - Employee use of company IT resources
 - Employee use of company intellectual property assets and confidential and privileged information
 - Employee use of third-party intellectual property
 - Protection of third-party confidentiality and privacy
 - Prohibition on harassment or bullying of other employees
 - Prohibition on discrimination
 - Prohibition on negative comments about the company, its employees, business contacts or competitors.
- Ensure the social media policy is consistent with your other company policies: eg. anti-harassment and bullying, disciplinary rules, electronic information and communications systems policy.
- Preserve good business relationships and promote a positive corporate image by:
 - Specifically prohibiting defamation through social media in the employment contract
 - Amending policies to ensure that employees understand that social media messages may reflect on their employer. Consider requiring employees to state in their social media postings that their views do not necessarily reflect the views of the company.

2 Protect confidential and proprietary information

- Educate employees about the consequences of disclosing or misusing the company's confidential information or intellectual property in the social media context.
- An employee's disclosure or misuse of confidential information or intellectual property could:
 - Result in breach of the employment contract
 - Breach the terms of a confidentiality agreement between the company and a third party, causing the company to be in breach
 - Compromise the company's ability to preserve its intellectual property rights
 - Create embarrassment or confusion among employees or clients
 - Jeopardise legal privilege between the company and its in-house legal counsel
 - Breach securities laws, by disclosing material non-public information, by not including appropriate cautionary statements or necessary information together with the disclosure, or by creating a false or misleading impression of the market for a company's securities with fraudulent or misleading information.
- Amend company policies and employment contracts to address these risks.

3 Prevent harassment and bullying via social media

- Include references to social media in anti-harassment and anti-bullying policies and in any training offered to prevent workplace harassment.
- Make sure the corporate response to harassment (sexual or otherwise) and bullying through social media is consistent with the response to harassment and bullying in other contexts.

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4 Train employees

- Train human resources management on appropriate and effective employee monitoring and enforcement of the various company policies, restrictions, guidelines and contract provisions relating to social media. Do so in compliance with employees' privacy rights.

5 Avoid imposing unnecessary restrictions

- Disproportionate restrictions can undermine employee morale and invite non-compliance, without real benefit to the company in terms of protecting its property, reputation or employees.

In summary

Do:

- Adopt a social media policy to encourage appropriate employee use of social media.
- Use the policy to prohibit employees using social media in ways that could damage the company.
- Provide training to employees on the appropriate use of social media, and monitor for compliance.

Do not:

- Allow employees to disclose or misuse confidential or proprietary information.
- Permit employees to use social media to harass colleagues.
- Impose unnecessary restrictions on employee use of social media.