

Our research reveals that 80% of employers have concerns about how employees use social media.

And in our opinion, rightly so.

Social media usage affects all businesses, regardless of size or sector. Whether your employees are using social media at work or at home, your organisation can be exposed to numerous risks.

Rachel Lamsley,
Senior Employment Law Adviser



Manage the risk effectively by following these 7 things you must know about social media



1 Recruitment

Employers want to know as much as they possibly can about prospective employees, so it is becoming increasingly common to look at individuals' Facebook or Twitter accounts to screen candidates.

However, you should take care when carrying out these pre-employment social media checks. The Information Commissioner's Office states that employers should 'only use vetting where there are particular and significant risks involved to the employer, clients, customers or others, and where there is no less intrusive and reasonably practicable alternative'.

If you have a justifiable need to complete the checks, then you should inform the candidate of the checks, giving them a chance to respond to any information you have. Finally, make sure that you are relying on accurate information to make an informed decision.



2 Vicarious Liability

Actions that occur outside of work could be the responsibility of the employer if there is an underlying unlawful act, such as harassment, bullying, violence or discrimination, and it is considered 'in the course of employment'.

Make sure all staff are trained up in anti-harassment policies as this gives you the best defence if you end up facing a claim.



3 Bullying & Harassment

You may receive grievances from employees or complaints from customers about posts, tweets or pictures that amount to bullying or harassment. This could amount to gross misconduct and end in dismissal.

Make sure you have a clear policy about what constitutes bullying and harassment and refer to this in your social media policy. Be sure to follow the policy when taking action as this will help you justify the outcome.



4 Use of Equipment in Work Hours

You can prohibit personal usage of social media during working hours.

Before you dismiss an employee for misconduct make sure you carry out a fair and reasonable investigation. Remember that you should be consistent – **don't let one employee off and take action against another.**



5 Reputational Issues

Employees' social media posts can badly affect your organisation's reputation. You need to think about whether there has been a real risk of reputational damage, if there is proof and if there is a sufficient work related link.



6 LinkedIn

You may have concerns about what happens to contacts on LinkedIn when the employee leaves and you may wish to protect your business from competition.

You may feel the need to insert clauses into your employees' contracts regarding LinkedIn as well as tailoring restrictive covenants.

Make sure you take advice when drafting these.



7 What Should Your Policy Say?

A good clear policy should contain rules on computer use, email and internet use, social media and LinkedIn. You should set out what happens if the policy is breached.

 elliswhittam.com

 0845 226 8393

 /elliswhittam

 @elliswhittam

 /company/ellis-whittam



elliswhittam

Employment Law / HR / Health & Safety