

Members Quarterly

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President's Message

Monitoring Social Media: To Do or Not to Do?

An employer's perspective



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One of the interesting moral and legal questions facing employers now is whether or not they should monitor their employees' activities on social media. Do you even want to? In many cases the answer will be simple. There may be no good or valid reason for this type of activity. Case closed. But in other scenarios, the answer is not as clear. Given the fact that social media continues to expand at a rapid pace, these situations will increase. So how do you the employer balance the need to respect the privacy of employees with the need to monitor and regulate employee conduct that may be prejudicial to your interests?

First, let's look at a little background on the World Wide Web. The Internet started as a research and analytical vehicle that allowed the military and academia to store and search massive amounts of data and information. Along the way, they let the rest of us in on the Inter-net action and we started to access the research and share it with others. Soon we were also communicating with each other through email and then shared our own ideas and opinions through chat groups and eventually blogs. Finally, social media blew the Internet wide open and now everybody could not just read the news but create it as well.

It is still amazing to me how this Internet revolution has evolved. By the time we got to 2007, email was being used by nearly everyone in the workplace and not just for work. According to Statistics Canada by 2007, Canadians were sending an average of three personal emails a day from their workplace. This has only increased in the past five years as has the use of social networking both at home and at work. Facebook, the most popular social networking site, has grown from 132 million active users in 2008 to over 500 million today.

So given the prevalence of social media, it is not difficult to imagine how problems arise for employers when it comes to its use. These problems generally fall into a number of categories as people email, post or tweet about their activities, about work or from the workplace. Those areas may include confidentiality, reputation, defamation or even harassment. The biggest problem is that there are few cut and dried answers when it comes to these topics and their definitions in the new world of social media. Here are a few questions to consider.

If an employee posts material on their blog, is it private or public? Who makes that determination? If an employee talks about their employer as being unfair in their handling of a labour dispute, is it damaging to the employer's reputation? Probably. Could it be the subject of disciplinary action? There is the new area for our lawyers and courts to handle.

An employee makes a Facebook post that infers that another employee has loose morals. Another employee uses Facebook on his own time to repeatedly ask a married co-worker to have a relationship with him. Are these cases of defamation and harassment that the employer has to worry about? I would certainly be concerned.

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The waters around social media and the workplace are muddy and full of potential hazards for employers. We haven't even got into looking at the employee's reasonable rights to expect privacy in their personal communication or on their own time. Both the ethical and legal framework around these questions are still being debated and drawn up. So what can and should an employer do in the meantime?

Online activity at work is already being monitored, more so in the United States, but is a growing practice in Canada as well. We are still mostly looking at Internet and email usage, but it is moving into Facebook and the blogosphere. There is also a growing trend by employers all over the world to screen prospective employees' previous social media and Internet use prior to their employment.

In Canada, this is already -prob-lematic because of human rights legislation but until we get the official legal policies confirmed, it will likely continue. The best advice about this type of monitoring is to use extreme caution or avoid this practice completely.

Another suggestion is to make sure that your employees are aware of the organization's policies regarding the use of social media and the Internet. If a problem arises in the future, it will be much easier to resolve if everyone knows the rules in advance. You also need to have a look at your company and industry and evaluate the risks and rewards of Internet and social media use by your staff. Then you can determine the appropriate limits to suggest as well as any penalties that might apply for any misuse of your policy.

The truth is that we are all still fairly new and green about how to proceed as responsible managers when it comes to these areas. But like all new situations, a little patience and a lot of common sense will go a long way, even in the Internet Era.