

Social Media IN THE WORK PLACE

Social media undoubtedly blurs the lines between work and personal.

If an employee posts something on their “personal” account which is likely to have a negative impact upon their employer, they may be subject to disciplinary action up to and including termination of employment.

When expressing personal opinions, employees need to be mindful to ensure that they disclaim the opinions are their own and not those of their employer. The workplace social media policy clearly outlines what an employee must do, comment on behalf of the employer and in what circumstances and what is appropriate for an employee to comment on. It is really important that employees are familiar with this policy and ensure that their after-hours social media behaviour is appropriate.



UNDER NO CIRCUMSTANCES

- Post or respond to material that is offensive, obscene, defamatory, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, infringes copyright, constitutes a contempt of court, breaches a Court suppression order, or is otherwise unlawful
- Use or disclose any confidential or secure information
- Make any comment or post any material that might otherwise cause damage to the company’s reputation or bring it into disrepute
- Employees are personally responsible for the content they publish in a personal capacity on any form of social media platform. When in doubt, employees should seek guidance from their manager on how to comply with their obligations.



TO BREAK IT DOWN, EMPLOYEES ARE NOT TO:

- Imply that you are authorised to speak as a representative of the company
- Post information about work, customers or clients
- Post any form of confidential information – including information on your pay rate, work duties, performance reviews, performance management conversations or any other detail that may be considered confidential
- Post information about co-workers



DISCUSS THE FOLLOWING SCENARIOS WITH THE GROUPS

- I saw that my colleague is posting photos fishing they day they called in sick and I'm upset because I had to pick up their workload for the day but I don't want to tell my boss so I think that I might just send them a nasty messenger message about it when I get home tonight.
- I posted a photo of my colleague on a drunken night out which has offended them and now there is conflict at work.
- Two of the people I work with have been sending each other nasty messages at night and I have had to unofficially mediate their dispute during work time as I am friends with both of them
- My friend posted a photo that she took at work which showed confidential information and she was terminated. Her employer lost the client because of the photo. She said that she didn't mean to and she never intended any ill toward her employer.
- My friend took a photo and posted it to social media which was of a client and she didn't have their permission to do so. The client was ok with it (it was flattering!) but she got a written warning anyway.
- My PlayStation handle is "blowthemaway" and my colleague has made a complaint about the inappropriate comments that I made while playing Call of Duty. I think this is unfair as I was just playing a game in my own time.



Case Studies

SOME INTERESTING CASES TO READ OUT TO THE GROUP
SOURCE: SMARTCOMPANY.COM.AU



FAIR WORK HOLDS FIRM ON MANAGER SACKED FOR "GROSSLY OFFENSIVE" FACEBOOK POST (2014)



THE CASE

In 2014, [an employee took credit management company Credit Corp to the Fair Work Commission](#) after he was fired for a Facebook post in which he said a new employee was "the newest victim of butt rape".

THE DECISION

In defending his actions, the worker said he didn't understand how Facebook worked and thought he was posting in a private group. However, the Commission found the worker's posts clearly damaged his relationship with other staff members, and could have brought the business into disrepute. Because the employee had previously been warned about his social media use, the Commission found the business was within its rights to fire him.





FAIR WORK FINDS PORTS BUSINESS WITHIN RIGHTS TO FIRE WORKER FOR SENDING PORN IN FACEBOOK MESSAGE (2017)

THE CASE

A worker at ports business [Hutchison brought the company to Fair Work](#) last year after it dismissed him for sharing a pornographic message in a Facebook group chat that included some of his colleagues at the company.



THE DECISION

The decision: The employee argued the message had been sent outside of work hours and he had not meant to offend anyone. However, the Commission found the business had a clear policy in place to discipline staff for harassment. Because other staff members had complained about the message, the Commission found the employee's actions had the potential to "spill" into the workplace, meaning the employer was within its right to dismiss him. The case highlights how important it is for employers to explain in social media policies that messages sent out of hours could require disciplinary action, according to workplace lawyers.



MANAGER WHO SENT "AGGRESSIVE AND ABUSIVE" LINKEDIN EMAILS LOSES UNFAIR DISMISSAL BID (2015) ...

THE CASE

In 2015, a worker at a [road operations business claimed he had been unfairly fired](#) after his employer ended the relationship over a number of complaints, including that he had used his work LinkedIn account to send messages to someone who appeared to be an ex-partner.



THE DECISION

The Commission found the business was within its right to fire the worker, because when the employer warned him about using a LinkedIn account that was connected to the business for personal use, he was unable to be "civil" with the employer. Anthony Massaro, a principal at Russell Kennedy Lawyers, told SmartCompany at the time the decision indicated that a worker's social media posts can be grounds for dismissal if the posts clearly identify the worker and their employer.



