



Employment Law Newsletter - March 2019

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Stop employees damaging your business on social media

Employee misuse of social media can cost you millions, so you need a policy and training that guides your employees on how to use social media appropriately both inside and outside work. The benefit of having that policy was revealed in [Elliott v RMS Cash Solutions Limited](#) where the tribunal decided that a cash transit firm had fairly dismissed an employee whose Snapchat posts revealed a colleague's personal details. Those posts created a risk of 'tiger kidnapping', where a member of an employee's family is kidnapped to force the employee to help commit a crime.

Mr Elliott had placed 'selfies' taken at work on Snapchat. They showed the company's logo followed by messages containing a colleague's name, city of origin and job title. This breached the policy and training that prohibits staff from including material that could identify colleagues.

So, what should your social media policy say?

Definition

Explain that your rules apply to any online platform or app that allows instant communication or data to be shared in a public forum. List well known social forums, such as Twitter, Facebook and LinkedIn, along with video and image-sharing websites such as YouTube. Say that the list is not exhaustive because there are many more examples of social media than can be listed and it is a constantly changing area. State that your guidelines apply to them all.

Use

Explain whether social media will be blocked on your laptops and computers, or whether you will allow reasonable and appropriate use provided that it doesn't interfere with their duties or that you positively encourage its use to promote the business and communicate with customers.

Excessive use

Warn employees not to spend an excessive length of time using social media at work. If its use interferes with their other duties, then it is excessive because it reduces their productivity.

Monitoring

Reserve the right to monitor employees' use of social media on your equipment. Explain who will do it, how and for what business purposes.

Personal use

Set rules on whether employees using social media in a personal capacity can mention your business or your work, and if so under what circumstances.

Discipline

Explain that all employees, and workers if appropriate, are required to adhere to this policy, with breaches potentially leading to disciplinary action up to and including summary dismissal.

We have a template social media policy [here](#) (Word document). Please speak to us about tailoring it to your circumstances.

A week's pay is changing

On 6th April 2019, the statutory maximum week's pay rises from £508 to £525. It must be applied to any unfair dismissal and redundancy payments made on or after that date. In addition, the maximum compensatory amount the tribunal can award for unfair dismissal will rise to £86,444.

However, this level of award is rarely ordered because there is another statutory cap that limits compensation to 52 weeks' gross salary.

Increase in parental pay

Revised rates of statutory maternity pay (SMP), statutory adoption pay (SAP), statutory paternity pay (SPP), statutory shared parental pay (ShPP) and statutory sick pay (SSP) for 2019/20 will also take effect in April 2019.

The standard weekly rates of SMP, SAP, SPP and ShPP will increase from £145.18 to £148.68 (or 90% of the employee's average weekly earnings if that's less than the statutory rate) and the weekly rate of SSP will increase from £92.05 to £94.25.

The lower earnings limit, below which employees aren't entitled to these statutory payments, will increase from £116 to £118 per week.

Is it safe to refer to jobs as 'junior' or 'senior'?

Many of your organisations will have jobs that it describes as 'junior' or 'senior'. Are you running the risk of age discrimination claims?

The good news is that the Equality Act 2010 doesn't stop you from using the words 'junior' and 'senior' to describe an existing job or when advertising a vacancy provided that they describe the status of the role and have no bearing on a person's age.

The power of suggestion

However, the words can paint a picture in our minds so we may assume that a post described as 'junior administrator' is only suited to a younger person when you intend the word to describe experience and skills rather than age. Similarly, the word 'senior' can also suggest a job is only suited to an older person.

No restriction

If you use the words "junior" and "senior" in job advertisements, make it clear that the job is open to applicants of all ages. Saying 'over 30s only' would exclude younger workers and amount to age discrimination. However, you can insist that the successful candidate has specific skills, qualifications and experience if the job requires it.

Graduates

Asking for 'recent graduates' can amount to indirect age discrimination. Those most likely to fall into this category are younger people, whereas an older graduate may still have the skills and experience required for the job but the wording rules them out. Instead, say 'a university degree or equivalent qualification is required for this job'.

Only seek a graduate if you can genuinely and objectively justify that doing the job requires a degree.

Paid 'safe leave' for those experiencing domestic abuse

Vodafone's research found that almost a third of workers in the UK had experienced some form of domestic abuse and, in response, the company has announced a new policy of allowing ten days' paid 'safe leave' for any employee who is experiencing domestic abuse. Around half of abused employees felt too ashamed to discuss their situation at work.

The leave can be used to obtain specialist help and counselling, to attend appointments with the police or court hearings, to find a new home and to support any children. Managers will also receive specialist training in how to support domestic abuse victims and help them seek professional advice.

Should you introduce a similar policy in your workplace?

You're not obliged to have a policy. However, you do have a duty to protect the health, safety and welfare at work of your employees as far as is reasonably practicable. This includes reducing any risks presented by third parties, including abusive partners. A partner doesn't have to be cohabiting with the employee for your duty to be triggered; they could reside in a different household.

Cost

Employees who experience domestic abuse are far more likely to take time off work and suffer reduced productivity levels. The government has suggested that domestic abuse costs the UK £66 billion a year. Its draft Domestic Abuse Bill plans to introduce the first ever statutory definition of domestic abuse to help people understand what constitutes abuse and encourage more victims to come forward.

Support

To help employers support those employees who are experiencing domestic abuse, Public Health England has created a [free online toolkit](#) that explains the practical support you can provide. This might include offering to attend the police station with an employee who wishes to report domestic

abuse or allowing them to redirect their personal post to your premises whilst they are looking for new accommodation.

Policy

Any policy should explain how many days' leave will be granted, and whether it will be paid. Provide examples of how the leave can be used but do not dictate how it must be used. Make no distinction between men and women that require your help.

Our latest short seminar – restrictive covenants

This is your invitation to 'Restrictive covenants in Employment Law: do you need them, making them work', the latest in our series of short seminars. These sessions, which will be in Manchester and London, complement our annual employment law updates, which are held in June. I do hope you will be able to join us.

Restrictive covenants are a helpful way to protect your business, your workforce, your customers and confidential information. They can also be used to prevent an unjustified advantage being exploited after the conclusion of the employment relationship.

Nevertheless, the Courts are naturally sceptical of any restriction that restrains one party unreasonably so the clauses must, therefore, be carefully drafted to protect the employers interests without going too far and rendering the restrictions unenforceable, which could leave no protection at all.

Our team of experienced employment lawyers will take you through the key issues including where such restrictions typically arise, how restrictive covenants are typically enforced in practice, which can include seeking an injunction. There will also be plenty of opportunity to ask for specific advice on any matters you are currently dealing with. The main questions we will be answering are:

- What principles will the courts apply in deciding whether our covenants are enforceable?
- Do covenants need to be signed to be enforceable?
- When drafting the clauses, how can I avoid the common pitfalls and strengthen the restrictions?
- What are the different types of restrictions and which are most likely to be enforced?
- If I breach an employee's contract, will I still be able to enforce their restrictive covenants?
- How are restrictive covenants affected by a TUPE transfer?
- Can we be liable for employing someone who is subject to restrictive covenants with their previous employer?
- What can we do if one of our employees breaches their restrictions?
- What are the practical lessons from successful court litigation in enforcing restrictive covenants?

There is no charge to attend. The seminars will start at 9.15am, and finish by 11.15am. Refreshments will be available at 8.45am (with registration) and during a mid-morning break.

Click [here](#) to register, and fill in the form. We shall acknowledge your booking promptly and will send you more details on the event. If you have any questions or queries please contact us on +44 161 703 5611.

Places on the seminar are limited, so act early to reserve yours.

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If you would like to discuss these or any other issues facing your organisation please speak to your usual contact at Watershed or Keith Morgan on +44 161 703 5611

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