



Succeed with Social Media

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Legal Considerations with Social Media

The Internet is full of legal concerns, and social media is no exception. Even if your company does not participate in social media, your employees undoubtedly use it on their own time, creating potential liabilities. For companies that do engage in social media, various risks should be considered—from who owns a Twitter handle and followers (company or employee) to privacy breaches (and violations of the Data Protection Act) to what happens when an employee bad-mouths a superior on Facebook.

The law is still developing, so companies should proactively protect themselves. One option is additional insurance cover. There are various types of cyber risk policies available, and some include social media liabilities. Talk to Crendon Insurance Brokers Ltd about insuring this risk.

The best way to protect your company is to have a clear, comprehensive policy addressing all relevant social media concerns for employees.

Drafting a social media policy

When you start thinking about your social media policy, don't think of it as a punitive document that outlines a framework for disciplining various infractions. Instead, think of it as a set of guidelines to help employees understand the issues and risks, and stay out of trouble (thereby keeping the company out of trouble). Consider including the following components in your policy:

- **Employee rights.** This is a good way to start, so that employees feel their personal rights are valued by the company.
 - Emphasise that all employees have the right to use social media for self-expression on their own time.
 - Include a right to digital privacy—that the company will not bypass the security or privacy settings of a social site to see employee content that is not available publicly.
 - Explain what online harassment and bullying is, and that it is not considered acceptable by the company.
- **Internal usage guidelines.** This should clearly define use rights during work hours.
 - Specify whether social media is allowed during work hours, and/or using company equipment. A compromise could be made allowing employees to use social media during lunch and break times.
 - If personal use is not allowed during work hours, specify what constitutes acceptable use for business purposes only.

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- Include security rules and protocols for downloading files, videos, third-party software, etc.
- **External usage guidelines.** This can be a complicated issue, as is any issue regarding employee conduct outside of work hours. The law is still developing, but there have already been several high-profile legal actions about whether a company can punish an employee for what is posted online. Consider including the following guidelines in your policy:
 - For employees with a social media role in the company, the line between business and personal use can easily be blurred if they use the same account for both. Remind these employees how their social media activity will always affect the company's reputation.
 - For employees with personal social media accounts, urge caution. Tell them to think twice about anything they post about the company on a social network, because there is a chance a colleague, manager or client could see. Encourage employees to use good judgement to avoid risking their reputations—or their jobs. Because this area is especially problematic, be sure to get competent legal advice or legal opinion on the language.
- **Social media confidentiality and nondisclosure guidelines**
 - Revealing any confidential company or client information online should be prohibited, even in a “private” forum or message, as the security of the site could be compromised.
 - Emphasise that your company policies related to confidentiality and nondisclosure apply to social media as well.
- **Official communication guidelines**
 - Have a policy in place regarding ownership of accounts and followers for all employees using social media for business purposes. Legal actions could spring from this issue, as employees leaving companies tried to take their account and followers with. Develop a policy now so it is easier to enforce later.
 - Discuss what is expected of employees when they represent the company on social networks—and be specific. Include policies, procedures, dos and don'ts, so that employees know their expectations and responsibilities in their social media role.

After your policy is developed, make sure it is distributed to all employees, and have employees sign a form verifying that they received and understand the policy. You may also consider requiring social media employee training to supplement this policy.

As with all employee policies, be sure to get competent legal advice or legal opinion on your social media policy before finalising.

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