

BLOGGING

The internet has made it possible for people to communicate with each other and exercise their right of freedom of speech without being subject to the limits of physical boundaries. There are different technologies that make this possible. Real time communication is possible in internet chat rooms and by using various forms of instant messaging. There are also ways of communicating on the internet that do not necessarily happen in real time. Examples are bulletin boards and blogs. (A blog is short for 'web log' and is publicly accessible internet web page which serves as a daily journal of an individual. Blogs typically link to other websites and blogs, and allow readers to comment on the original posting, thereby allowing audience discussions.)

The ordinary law applies to any communication made using the internet. This means that what is said, for example, on a blog may be criminal, defamatory or a breach of copyright or confidentiality in the same way as if it were published in, for example, a newspaper. Bulletin boards and blogs also leave a permanent record that makes it easy to prove that the communication took place.

Those using a blog, bulletin board, internet chat room, list server or other internet-based communication medium to express their opinions must bear in mind that these opinions may be widely read. Opinions expressed in an ordinary social environment that are no more than indiscreet can easily become, when published on the internet, material for legal action. The legal action may be brought by outsiders personally against employees or, in some circumstances, against their employer. Legal action may also occur between employees and an employer for revealing confidential information or a breach of the contractual relationship.

To reduce uncertainty and minimise the possibility of legal disputes, it is in the interests of employer and employees that there should be clarity about what employees can say when they use any internet-based communication media. For this reason this business requires that employees using internet-based communication media to express their opinions must not, unless they have obtained prior written consent from the business's Public Relations officer, do any of the following:

- Identify themselves directly or indirectly (as by giving a business email address) as employees of the business.
- Comment favourably or unfavourably on the policies or practices of the business.

- Give out any information about the business and how it conducts itself, about its clients and its dealings with its clients or about any other matter about the business.

Former employees of the business are no longer bound by this policy but should remember that the ordinary law governing intellectual property, trade secrets and defamation applies to what they may publish about the business and opinions they may express.

It has been suggested that employment contracts should include a survival clause which binds the employee in regard to the blogging issue after the termination of the employment contract. Making the policy survive the contract of employment is extremely doubtful. It would be an intrusion on the former employee's rights to freedom of speech. Looking at the attitude the courts take to contracts in restraint of trade, which are analogous, it is believed that such a clause would not stand a legal challenge.

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