

GUIDANCE NOTE

Online and Email Risks at Work

February 2012

This guidance note highlights the risks that your business and your employees should be aware of when using the internet or sending e-mails and gives some practical suggestions of how to minimise those risks.

1. Reputational risks

Information that is written on the internet or in e-mails can seriously damage your business' reputation and the reputation of individual employees. Your employees could lose their job, be sued or face criminal charges and your business could be sued or fined.

2. Stop and think before you click

- Writing something on the internet or in an e-mail is exactly the same as writing on paper and, because of the lack of control of who might ultimately see it, sometimes worse. Your business cannot control what the recipient does with an e-mail.
- Inappropriate information that is written online or in an e-mail can have severe financial repercussions for your business. It can also create serious personal and disciplinary issues for individual employees.
- Even if your employees are e-mailing or using social media in their own time, they could still get themselves and your business in serious trouble.

3. E-mails and internet postings can be used in legal proceedings

- E-mails and internet postings can be used against your business in legal proceedings or other regulatory investigations and you may have a legal obligation to disclose them to the other party, even if it is not aware of them.
- Your business should never delete e-mails relating to:
 - a legal dispute;
 - an investigation; or
 - a potential dispute or investigation.

4. It is very difficult to delete e-mails and online postings

Simply deleting e-mails or internet postings will not necessarily solve the problem. Forensic IT equipment can still find supposedly “deleted” messages.

5. Do not be hurtful or spread rumours

- Online content or e-mails that could be thought of as obscene, racist, sexist, bullying or hurtful should never be posted or sent. Your business can be held liable for discriminatory acts committed by your employees.
- If a comment is made about another employee online or in an e-mail that amounts to harassment, your business could be liable even if the employee was using their own equipment when they made the comment.
- Exaggerating or making false or inaccurate statements about another company or person online or in an e-mail could lead to your business being sued, even if the e-mail was only sent to one person.

6. Take care with confidential information

- Where possible, avoid sending confidential information by e-mail. Your business should take legal advice on how the information can be best protected.
- Any e-mail containing confidential information should be clearly marked as “confidential”.
- If your business receives an e-mail that contains “dangerous” material (for example, another company’s trade secrets), you should take legal advice immediately.

7. Do not make a contract by mistake

- A legally binding contract can be made by a simple exchange of e-mails.
- Your business should make it clear if it does not intend to be bound by what is communicated in an e-mail.

8. Do not copy someone else’s work

- Other people’s work should not be used in e-mails or online posts unless:
 - your business has permission from the original author; or
 - you know that it is not protected by copyright.

9. Do not send or view offensive or unknown material

- Encourage your employees to carefully monitor what arrives in their inbox, especially if they do not recognise the sender or the title of the e-mail seems peculiar.
- If there is a risk that an e-mail may contain a virus, it should not be opened and your IT department should be contacted immediately.
- Make your employees aware that they could be disciplined or even dismissed for forwarding inappropriate e-mails or accessing inappropriate websites at work. In severe cases it could also be a criminal offence.

10. Avoid unproductive usage

- Most businesses allow light personal internet and e-mail usage as long as it does not interfere with their employees' duties. However, you should make sure your employees are aware that excessive, unproductive use of the internet and e-mails at work may be treated as gross misconduct for which they could be dismissed.
- E-mails can often be a waste of time. Encourage your employees to think carefully before copying someone in on an e-mail, especially if there is a long chain of e-mails attached.

The comments in this guidance note are of a general nature only. Full advice should be sought on any specific problems or issues

ASHTON BOND GIGG
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