

Social Media in the Workplace: A Handbook

Chris Bryden

Barrister, 4 King's Bench Walk

Michael Salter

Barrister, Ely Place Chambers



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PREFACE

4 And they said, ‘Come, let us build ourselves a city, and a tower whose top is in the heavens; let us make a name for ourselves, lest we be scattered abroad over the face of the whole earth.’

5 But the Lord came down to see the city and the tower which the sons of men had built.

6 And the Lord said, ‘Indeed the people are one and they all have one language, and this is what they begin to do; now nothing that they propose to do will be withheld from them.

7 Come, let Us go down and there confuse their language, that they may not understand one another’s speech.’

8 So the Lord scattered them abroad from there over the face of all the earth, and they ceased building the city.

9 Therefore its name is called Babel, because there the Lord confused the language of all the earth; and from there the Lord scattered them abroad over the face of all the earth.

Genesis 11:4-9

Communication is the defining achievement of human society, and social media may be its apotheosis. Social media platforms are deeply rooted in the human desire to connect and to communicate. It is the first truly global active method of mass communication. The culmination of millennia of theory and invention has resulted in the instantaneous ability to share views or thoughts with the world at large, and immediately receive commentary, criticism, praise and opprobrium. Famous names, ancient and modern, have contributed to this process, from the programmable mechanical devices of Hero of Alexandria, the mechanical calculator of Blaise Pascal, the mechanical computer of Charles Babbage, to the algorithmic developments of digital computation pioneered by Alan Turing and the development of Colossus. Building on such work, Ferranti and IBM separately created commercial machines capable of then-astonishing computing power. From valves to transistors to integrated circuits, computers as we know them developed and refined. The US, UK and France developed linked networks of machines through ARPANET, the precursor to the internet as we know it, in the 1960s and 1970s. The foundations of social media were

laid by Sir Tim Berners-Lee and the creation of the world wide web and the concept of web pages in 1989. After centuries of development, these tools were quickly harnessed by visionaries and entrepreneurs to create social media as we know it today.

Even prior to the advent of the world wide web, the newly created internet was being used for personal and social interaction over vast distances. As early as the 1970s, passive message posting was available on primitive bulletin boards. Delphi, now Delphi Forums, was established in 1983. Web-based forums developed in around 1994. Social media as we now know it grew out of precisely such boards.

In October 2003, Mark Zuckerberg wrote the code for Facemash. After this was shut down, he coded thefacebook.com. Within a month, half of the undergraduates at Harvard were members. By July 2010 it had 500 million members. By October 2012 that number had passed a billion. It now has brand recognition up there with the most famous companies, and a vast stock market valuation, empowering it to grow, develop, and move into more and more socio-internet areas. The first tweet was sent by Jack Dorsey on 21 March 2006: 'Just setting up my twtr'. 400,000 tweets were posted per quarter in 2007; 100 million in 2008; and 50 million tweets per day by 2010. By September 2013 this had grown to 400 million tweets per day, with 200 million users. Even less successful mediums, such as MySpace and FriendsReunited, have entered the popular consciousness and merely act to bolster existing social media platforms.

By contrast, the Gutenberg printing press, developed in around 1440, took 60 years to produce between 8 and 20 million books. It took another 100 years before the presses had produced 200 million books, leading to Francis Bacon declaring that the printing press was an invention that had changed the world. Whilst undoubtedly true, social media has in a fraction of the time had arguably just as great an impact and will continue to do so in more and more advanced forms potentially for decades or centuries to come.

Social media has certainly changed the modern workplace. It opens up new markets, but also gives rise to new risks. Employees previously vented their grievances in the kitchen, the watercooler or the pub after work. This had the advantage of being limited in scope, time and reputational risk. No longer. An employee with a social media account can now broadcast their grievance to the world at large. Even if regretted and deleted the morning after, retweets, copied posts and forwarded emails will ensure that the unwise interaction remains in the ether, effectively unremovable. The risk to employers of the proliferation of social media is significant, and it is essential that employers take such steps as they can to protect themselves from claims, whether of unfair dismissal, harassment, victimisation, defamation or from third parties. This book explores the issues that the modern employer may find itself facing from a legal perspective. It is intended to be a guide for employers and managers seeking to understand the effects of social media on their relations with employees and

more widely, and to take protective steps proactively to insulate themselves from the problems that the use of social media can cause.

As may become apparent, a significant number of the reported cases have included posts or other communications via social media containing strong language and obscenities. Indeed, it is often the case that the nature of the language expressed in such posts is a core reason for the invocation of disciplinary or other procedures. Given that this is the case, extracts from case-law cited in this book are reproduced in their original form and thus include in all their glory the infelicitous and colourful language deployed, for the purpose properly of illustrating the principles considered.

Chris Bryden and Michael Salter

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