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ETHICAL TECHNOLOGY SOLUTIONS

White Paper: Are personal blogs compatible with the business world?

Introduction

Many, many internet users maintain their own websites and blogs. For many, these represent an opportunity to share personal thoughts and opinions on a wide range of subjects. However, does maintaining such a site have implications for the authors ability to operate within a business?

In this paper, we'll be examining the possible ramifications of maintaining a personal 'blog', this could be in the form of a standard website, a blog hosted on a variety of platforms or even use of social networks such as Twitter and FaceBook.

We'll assume that any posts or updates are made in the user's free time as posting from work systems carries its own potential pitfalls.

When Personal Opinion and Business Needs Collide

We occasionally hear stories of people who have been dismissed for something they have posted online, in their own time. In some cases, it's a staff member who bragged about 'pulling a sicky' despite having their boss as a 'friend' on FaceBook, others who have described their job as boring^[1].

Society as a whole is rapidly embracing the Internet, and businesses have responded by using this rich resource for everything that they can. So, what steps do businesses take to monitor their employees, and can we expect to see more of this in the future?

Unknown Friends

Time and time again, we're told that we should not accept 'friend requests' from people that we don't know. Despite this, however, users continue to blindly hit accept in the hope to achieve staggering numbers of 'friends'^[2]. One of the tactics used, notably by a company called Nationale Suisse^[3], is to have an employee submit a friend request in order to monitor activity.

In the case of Nationale Suisse, a female employee was dismissed for using FaceBook whilst off work with a migraine. She had added a 'friend' that was acting as an "undercover Facebook operative" in order to monitor her online activity.

Although the unnamed woman claims that she was accessing FaceBook on her iPhone whilst in bed, the company have defended their actions by stating that *“those who are well enough to use FaceBook with a migraine are well enough to work with a migraine”*.

The ‘friend’ quickly disappeared once she had been dismissed.

Regardless of the rights and wrongs of this woman’s actions (which must surely come down to personal opinion), the case does highlight a worrying trend. Businesses are increasingly using our online exposure in order to help monitor the actions of their employee’s.

A Job Requirement?

So keen, in fact, are employers to monitor their employee’s activity that some employers have requested a candidate’s FaceBook details as part of their job application. In some cases^[4] a refusal to do so could lead to the candidate’s application not being considered. If a candidate does provide the details, they are not only open for further monitoring, but may find that their profile is thoroughly checked as part of the recruitment process^[5].

So although you may be a fully qualified, responsible professional it’s possible that those pictures from your stag night that your friend posted to FaceBook could lead to you failing to get the job.

So widespread has this practise become that Germany have felt the need to ban employers from using personal social networking sites as recruitment tools^[6].

Existing Employees

As we’ve already seen, it’s not just job candidates that are at risk. You could argue, however, that updating your blog (or social network status) whilst ‘ill’ is, at best, misguided. There’s certainly an argument in support of dismissing those who pull a ‘sicky’.

However, what if you haven’t ostensibly done anything wrong? Could posting a personal opinion put your job at risk?

Sadly, it seems that it can. The vast majority of cases relate to employees making disparaging remarks about their employer, product or customers.

Case Study 1^[7]

In 2008 two cases were brought before arbitration in Canada. The first was that of an administrative employee who maintained her own personal blog.

The blog had been started after she was advised to write her thoughts down (following the death of her father)

Although the blog largely contained personal opinions, there were articles relating to her employment. In these she referred to co-workers (using aliases) in a derogatory manner. She wrote the following about a menopausal co-worker;

(if she) had to choose a planet that she came from, I’d say it was some dark planet, with very little oxygen

In total, the blogger referred to six co-workers, all of whom were identifiable (despite the use of aliases).

She also posted an entry that was derogatory of management, describing her workplace as a 'lunatic asylum' and as 'a world like mine with imbeciles and idiot savants running the ship.'

When confronted, the blogger was unapologetic and defiant, and as a result was dismissed. The Alberta Arbitration board found that her dismissal was justified as "*in expressing contempt for her managers, ridiculing her coworkers and denigrating administrative processes, [the Grievor] engaged in serious misconduct that irreparably severed the employment relationship, justifying discharge*"

Despite her previous good record, her issues following her bereavement and her attempts to conceal the identities of those she blogged about, the content and public nature of her blog was sufficient to justify the termination of her employment.

Case Study 2^[7]

In another Canadian case, this time in Ontario, an employee of a nursing home was dismissed for the contents of her job. Again, the site primarily contained personal opinions but some of the posts were deemed to be insubordinate, derogatory and even abusive.

The employee also disclosed confidential information about patients, including photographs.

In this case, the blogger apologised for the contents of her blog, but the arbitrator concluded that the blogger's previous good record, family-related difficulties and apology were insufficient to outweigh the harm caused by the content of her blog.

What if there's no apparent harm?

Case studies 1 & 2, whilst concerning, both concern inappropriate behaviour when posting articles. Although it could be argued that personal opinions are protected under Freedom of Speech, it is understandable that businesses would wish to dismiss those who publicly embarrass them.

So, although those cases are unfortunate, both employees probably recognised that what they were doing was wrong. So how do bloggers stand if there's no apparent harm?

Case Study 3^[8]

Ellen Simonetti used to be a flight attendant for Delta Air Lines. She began a blog, titled “Diary of a Flight Attendant”, in January 2004. Blogging under the pseudonym “Queen of Sky”, Ellen has blogged about aviation related topics.

On September 25 2004, Ellen received an answering machine message from her supervisor asking that she call back immediately. She was told that she wouldn’t be able to fly the next day, because of some pictures on her website.

Ellen then had to wait over a week to meet with Delta management and find out exactly where the issue lay. The pictures that Delta were referring to involved Ellen and her colleagues posing in Delta Air Lines Uniforms.

At her meeting, Ellen was told that she had been suspended because the pictures were “inappropriate”.

Following the meeting, Ellen conducted some research and found that there was no specific company policy prohibiting either blogging or the posting of pictures to the web. She also found many pictures of male Delta Air Lines employees available on the web.

Ellen proceeded to file a sexual discrimination complaint against the company. Some three weeks later she received a call to say that her employment had been terminated due to “*inappropriate pictures in uniform on the Web*”.

Despite the frequent use of the term ‘*inappropriate*’ the images featured no nudity. The word ‘*inappropriate*’ is, of course, highly subjective and in this case appears to mean that they featured the company’s brand.

How do we know if it causes harm?

It seems fairly obvious that the blogger in Case Study 3 intended no harm, was not derogatory about her employer and didn’t realise that the posting of photos was banned (how could she with no corporate policy in place?).

It follows that she posted those photos in good faith, and her employer made an arbitrary decision that this was unacceptable.

So with this in mind, how are bloggers to know what is and isn’t permitted by their employer?

The simple answer is that there is no way to be 100% certain. Clearly, you want to avoid discussing your employer, colleagues, products/services or customers, but, is this enough? Could you be dismissed for maintaining a blog about controversial (but non work related) issues?

According to PersonalBranding^[9], you can;

Brand association is powerful and cannot be undone, which means you have to be smart about what kind of attention you want to draw to yourself. A reporter, journalist, producer or blogger can easily scrape your content and quote it in a story, without your permission. They can also link you to your company, even if the blog topic isn't related to your current work position. If news breaks out because of this visibility, your company can fire you for carelessness and for harming the corporate brand.

In summary, although your posting may be completely unrelated to your employment, your involvement with both could bring your employer into disrepute.

As an example;

Let's imagine that I maintain a blog campaigning to give all women the right to an abortion. My main job (at Company A) is completely unrelated to the issue I am blogging about, and there's absolutely no apparent way that the two could collide.

Except that a newspaper decides to support my campaign and reports on my efforts, and my blog is suddenly receiving millions of hits a day. The newspaper also reports that I maintain the blog in my spare time and work for Company A full time.

Unfortunately, the HQ of Company A is based in a very religious area of America and they begin to receive hate mail addressed to me. They may even need to deal with anti-abortion protests being held outside their building!

It's quite likely that I could lose my job at this point. Not only have my controversial views been assumed to be Company A's views, but they also have the additional workload of dealing with all my hate mail.

Without intending to (indeed with the very best of intentions), I have absolutely destroyed the value of my employers brand in parts of the world. Is it fair that I should lose my job after this? Opinions would obviously differ.

Can we avoid Controversy?

The problem for bloggers is that there are an endless number of subjects that could cause this scenario to occur. There are a great many personal blogs relating to;

- Campaigns for the decriminalisation of drugs such as Cannabis
- Religion
- Women's Rights (Abortion etc.)
- Use of Capital Punishment (whether for or against)
- Politics^[10]
- Human Rights

All of which are capable of provoking strong reactions, whether for or against the subject. The final category may seem misplaced, but consider the following;

You start a blog campaigning for better Human Rights in China, six months later your employer wants to enter the Chinese market.

If your blog becomes public knowledge, what impact will this have upon the company's brand in China? Whilst the Chinese people *may* support your efforts, it's likely that your employer may find artificial roadblocks are put in place by the Chinese Authorities in order to prevent them inciting 'subversion'.

In this scenario, you could find that your employment is terminated in order to try and repair relations with the Chinese Authorities.

No employment policy can possibly define all 'banned' topics, especially as the impact of any topic can be difficult to foresee. Some policies even go so far as to state that all personal publishing is prohibited (or must be approved by the Public Relations department).

Case Study 4^[11]

In 2008 CNN Producer Mr Chez Pazienza was fired for posting the following to his personal blog (named *Deus Ex Malcontent*)

I wake up every morning baffled as to why America hasn't deported George Bush and Dick Cheney, Hollywood hasn't stopped trying to convince me that Sarah Jessica Parker is attractive, gullible soccer moms haven't realized that they share absolutely no kinship with Oprah, and Fox canceled Firefly.

Although there is obviously a small amount of political commentary in the paragraph, it's quite clear that it's Mr Pazienza's personal opinion. However, CNN's employee handbook states that any writing published through a "non-CNN outlet" is prohibited unless it has been approved by CNN's Network Standards and Practices department.

Mr Pazienza hadn't been aware of this clause until he found an employee handbook. 24 hours after discussing the issue with his manager and a HR representative, his employment was terminated.

He later blogged about the issue, stating that he'd never seen a pertinent rule and had signed no agreement to say that he wouldn't write on his own time. At no point had he divulged where he worked, or even commented on events at work.

Quite simply, the *Deus Ex Malcontent* blog contained nothing relating to CNN whatsoever. Despite this, his employment was terminated simply because he had a blog.

So clearly, it becomes difficult to know what you are and aren't allowed to do. It seems reasonable to argue that a clause referring to 'non-CNN outlets' could simply be referring to competing organisations. Because the clause is vague, it may or may not include personal blogs.

Where do we draw the line?

Currently, the 'line' is defined by each individual employer. There has to be a line as information posted by employee's can be very harmful both to the brand and the operations^[12] of an organisation. Information posted online can also come back to haunt the author^[13].

Ideally, there'd be a consistent definition of what is and isn't acceptable, but the needs of each business differs. There's no practical way for a common definition to be accepted unless Governments chose to ensure that all personal postings are acceptable.

Conclusion

The status quo is an untenable situation, employee's aren't being told what they may or may not post to the Internet in their free time. Worse than this, organisations appear to be exploiting this uncertainty in order to help them dismiss employees.

Numerous bloggers have now been dismissed by their employers^[14], some for serious misjudgements in the suitability of the content that they are posting (as in Case Studies 1 & 2), others for posting content in good faith (Case Studies 3 & 4). Some have been fired for blogging about their personal relationships^[15], but all lost their jobs simply because they had posted content to their *own* blogs that their employer disapproved of.

Sadly, the uncertainty will probably continue. There's no easy way to define a consistent line between appropriate and inappropriate content, especially as the future ramifications of a post are very difficult to foresee.

Some would argue that postings made in personal time are no business of a blogger's employer (so long as they don't refer to that employment), but the reality is that we live in a world that likes to tar with the same brush. If you are publicly outed as holding a controversial view and it's known that you work for Company A, it's highly likely that your employer will also receive criticism for *your* views.

This could be very damaging for a business, especially if the subject matter is of a highly controversial (pro/anti abortion for example) or sensitive matter.

The only way to be 100% sure that blogging is not putting your job at risk is to either not blog, or to not hold a job. Sadly, neither is close to ideal.

Even if you are very careful, any content you post could come back to haunt you. However, you can lend yourself a little protection by observing the following list;

- Never identify your employer, refer to colleagues/customers/products or comment on events at work
- Never admit to criminal activities
- Avoid contentious subjects
- Check your employer's policy on private publishing
- Consider the potential future ramifications of your content on your employer

This should, at least, help to avoid the most common pitfalls. You may also wish to review whether your employer is able to view any social networking accounts that you may hold.

About the Author

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More whitepapers and free resources available at <http://www.viryatechnologies.com/>

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