

## Briefing Note: Email and Online Risks

### An Introduction to the Briefing Note

This Briefing Note highlights the risks that your business and your employees face when using the internet or sending emails. It also gives some practical suggestions on how to minimise those risks.

This briefing note should not be relied upon as legal advice and you should contact us for advice on your specific circumstances.

**Briefing Note**  
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**For detailed advice on all  
employment law matters  
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### Reputational risks

Information written on the internet or in emails 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.

### Stop and think before you click

- Writing something on the internet or in an email 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 email.
- Inappropriate information written online or in an email 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 emailing or using social media in their own time, they could still get themselves and your business in serious trouble.

### Emails and internet postings can be used in legal proceedings

- Emails 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 emails relating to:
  - a legal dispute
  - an investigation or
  - a potential dispute or investigation.

### It is very difficult to delete emails and online postings

Simply deleting emails or internet postings will not necessarily solve the problem. Forensic IT equipment can still find supposedly "deleted" messages.

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### Do not be hurtful or spread rumours

- Online content or emails 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 email 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 email could lead to your business being sued, even if the email was only sent to one person.

### Take care with confidential information

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

### Do not make a contract by mistake

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

### Do not copy someone else’s work

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

### 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 email seems peculiar.
- If there is a risk that an email may contain a virus, it should not be opened and your IT department should be contacted immediately.

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- Make your employees aware that they could be disciplined or even dismissed for forwarding inappropriate emails or accessing inappropriate websites at work. In severe cases it could also be a criminal offence.

### Avoid unproductive usage

- Most businesses allow light personal internet and email 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 emails at work may be treated as gross misconduct for which they could be dismissed.
- Emails can often be a waste of time. Encourage your employees to think carefully before copying someone in on an email, especially if there is a long chain of emails attached.

If you would like to know more about this topic or our other legal services, please contact Paul Maynard [pcm@gabyhardwicke.co.uk](mailto:pcm@gabyhardwicke.co.uk)

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