



USE OF NETWORKING & SOCIAL MEDIA WEBSITES

There is considerable case law on gross misconduct in relation to commenting in public and bringing your employment into disrepute.

A common problem at present is social networking where someone makes comments which are relayed to the employer. The employer sees it as inappropriate and dismisses the employee. The Tribunals have decided that comments on social networking are essentially an extension of the workplace, or are linked, and that the employer has the right to take action. The Tribunal does not have the remit to substitute its view for the employers - i.e. the ET would not be able to say 'we would not have dismissed' all they can do is review the procedure the employer used and decide if they had a reasonable belief the employee was guilty of misconduct.

Another example would be if someone wrote to the local newspaper and openly criticises the employer, identifying themselves as an employee. If they make claims that are either unsubstantiated or differ from the employer's position and could be seen as detrimental to the employer's position the employee is open to allegations of gross misconduct.

My advice is simple. Do not make comments in the press or public domain. If there is some information which you feel needs to be made public then collate the evidence and share it with Union colleagues who can decide if they believe it should go into the public domain. We can then review the evidence and publicise it if necessary. Your contracts of employment outline what is expected in relation to commenting in public and confidentiality.

If staff choose to do this then any reference, either names and addresses or numerical references, MUST be removed before it is shared with any colleagues.

The law provides protection for employees who whistle blow but only in certain circumstances. If you provide information to someone who is in a position to correct any injustice or bad practice you are covered however if you reveal any information to the press you are not covered. The person who receives the information must be a 'proper officer', that is someone like an MP, Government Official or Union Official.

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