WHY YOUR COMPANY SHOULD HAVE A SOCIAL MEDIA POLICY

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Many employees have access to their employer's confidential information by virtue of their position. Confidential information includes client information, trade secrets, computer passwords, information on sales and financial and may be extended to include information that your employer would generally not want to be public[1]. An employer has a right to protect its confidential information[2].

With the use of social media, there are a host of new risks that employers should be aware of in order to guard their company's confidential information. A good tool to have in place is a social media policy. A good social media policy aims to educate and help employees to make responsible decisions about how they use social media. It should clearly set out what constitutes social media misconduct and the consequences of social media misconduct.[3]

An example which illustrates the importance of having a social media policy is the case of Robertson and Value Logistics[4] , where an employee posted the following words on her Facebook page

"Amazing ladies, I have been retrenched by Jill Whittle and... 20 years and no good bye, no prior notification".

The post was premature, given the fact that the employee was undergoing a retrenchment process that had not been finalized. The employee was found guilty of gross misconduct because of the Facebook post. On appeal to a bargaining council the Arbitrator found that the employer had not linked the Facebook post to the company's code of conduct and that it is unclear whether the employee could have been expected to know that her actions would constitute misconduct. The employee was subsequently reinstated with compensation.

The take away from this case is that employers need to ensure that their employees conduct on social media sites is regulated by a set of rules and guidelines.

Over and above having a great social media policy it is imperative that employers need to communicate and make employees aware of what constitutes confidential information. The awareness training is important because it may prevent an employee from accidently leaking confidential information. In most cases once something is posted online it is very difficult to take it

back.

[1] https://work.chron.com/meaning-confidentiality-workplace-21886.html accessed 3 June 2019.

[2] Traka Africa (Pty) Limited v Amaya Industries and Another (2015/2082) [2016] ZAGPJHC 24 (18 February 2016)

[3] https://www.labourguide.co.za/workshop/1375-social-media-handout-cowen-harper-attorneys/file accessed 3 June 2019

[4] (2016) 37 ILJ 286 (BCA).