



Royal College
of Nursing

Legal advice for RCN members using the internet

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Introduction

Information technology (IT), and the internet in particular, is now an integral part of our daily lives, and almost every nurse or health care worker will have access to a computer at work, and very often at home as well. However, employers and professional bodies are becoming increasingly alert to the potential abuse of the internet. The growing popularity of social networking sites like MySpace, Facebook, Bebo and Twitter has raised the risks of a health care worker experiencing potentially serious legal and professional repercussions through the inappropriate use (if only inadvertently) of this recent technology.

Younger people are generally more familiar with technology than their older colleagues, in both the workplace and profession. It is estimated, for example, that one-in-six employees aged between 18 and 24, and 10 per cent of those aged 25 or over, rely on social networking sites to create and develop work-related relationships. Although many employers are reasonable about the use of IT in the workplace for personal reasons, there is a growing awareness of how its misuse may be highly detrimental to the employing organisation, and monitoring or even outright bans are not now uncommon.

This briefing is a reminder to RCN members of the risks to which they may be exposed if they misuse computers in general, and the internet in particular, at work and even sometimes at home. It gives advice on some essential do's and don'ts.

Communicating online

Having finished a long and tiring day of work or in studies, sharing bits of gossip and other information over the internet with friends, in the comfort of your own home, is a common past-time for many people. But it is very tempting to forget that electronic communications are not as private as a telephone call or letter, and there are

potentially some real dangers in describing incidents, people or situations that you have encountered at work, that struck you as funny, stressful or exciting. Never forget that the law, such as defamation and harassment, still applies irrespective of where you happen to be communicating. Obviously, it is recognised that everyone is entitled to a life outside of work, but that doesn't by any means preclude either your employer or professional body taking account of some of your actions occurring in your home or social environments. In other words, what you do outside of work may be relevant to your employment and professional status.

Social network sites make personal information publicly accessible, allowing people to upload a profile with personal details, photos, videos and notes and to then link with their friends' profiles. This raises immediate concerns about privacy. In response to some highly publicised cases of misuse by employees, some employers now ban social network sites being used by employees in the workplace, arguing that they place the organisation at risk because:

- it affects the performance of their organisation's IT systems
- it brings the employer into disrepute by the posting of damaging remarks whether about the employer, their clients or other employees
- it reduces the employees' productivity as they use part of the day to access the websites talking to friends
- it gives rise to risks of legal claims against the employer who is generally vicariously liable for the actions of its staff.

Through the inappropriate use of the internet you may:

- breach your organisation's internet policy
- breach your organisation's harassment policy
- damage your employer's reputation in such a way as to constitute a breach of your employment contract, leading to disciplinary action and possible dismissal.

Not only are there risks to your employment if you misuse IT, but the NMC Code of Practice is also

very explicit that registrants must uphold the reputation of the profession in their daily lives, and inappropriate behaviour outside of work may be considered potential misconduct.

Do's and don'ts

If it is not banned many employers are now issuing clear policy statements on what is permissible behaviour when using the organisation's IT, limiting for example, its use for social purposes to non-working breaks. However, employers may also state clearly what employees can say about their organisation even outside of work.

So here are some critical do's and don'ts to remember about using IT:

don't make disparaging remarks about your organisation, its clients or fellow employees on a social network site

avoid any identification of your employer on your profile page of a social network site

don't make any remarks on a social network site that may embarrass your employing organisation. In particular, do not air your grievances where countless others might be able to read all about it

don't use the social networking site or other non-work related sites when you are supposed to be working

under no circumstances identify patients in your care, or post information that may lead to the identification of a patient. If you do, you interfere with their privacy and breach the law on confidentiality, your employment contract and your professional Code of Practice

never take private film or photos, whether on phone cameras or otherwise, of patients in your care

never post sexually explicit, racially offensive, homophobic or other unlawfully discriminatory remarks on your network site

always read and comply with your employer's policy on IT use in the workplace

never access or download inappropriate websites at work, such as those containing sexually explicit material, or gambling sites

observe your employer's bullying, harassment and dignity policies when composing emails to colleagues at work

avoid responding in haste to emails which have made you angry or upset. Take time to compose a reply and even think about talking to a friend or colleague about the content if you intend to be very critical

avoid sending emails etc. to the 'All Users' address, or large numbers of other staff, when making criticisms of a work colleague's behaviour or actions towards you. Remember that criticising someone in the presence of others may be considered in certain circumstances as bullying or harassment.

Assess the risks

It is also worth noting that any form of online posting can expose you to risk. Message boards and blogs are both considered to be public mediums and material posted on those resources is subject to the same laws as those for print. There have been cases where people have posted comments on particular products or services on their blogs and then been sued by the company cited in the post. Even if the post is deemed to have merit by a court the blogger can still be liable for the costs of the trial, which are usually extremely high. The best advice is to avoid making controversial comments about any organisation, product or service in an online medium, that you wouldn't be comfortable about making in a published magazine. Also be aware that many companies now routinely search the internet for comments about their products. Just because you only post a few words on your blog, Facebook page or message board doesn't mean that they will not be read.

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