

Who owns your LinkedIn profile?

We've recently presented a few workshops on 'Social Media and the Law'. For many attendees, one of the hottest topics has been the ownership of personal LinkedIn pages. Have you ever considered that your LinkedIn profile (along with your password and connections) could actually belong to your company? We kid you not...

Decentralised databases

In the good old days, one of the golden rules of marketing was to have a centralised company database that was – ideally – managed and updated by only one person. That's all been thrown out the window now, as we all build up our own LinkedIn databases from a combination of friends, colleagues, clients and – very importantly – potential clients. The problem from a company's point of view is that employees do not typically transfer the potential clients' details into the company's CRM system.

Restraint of trade enforcement

Having all these decentralised LinkedIn databases makes enforcing restraint of trade agreements tricky to say the least. If an employee decides to start his/her own business (in the process changing employment status on LinkedIn), how can the company prevent potentially lucrative clients from making use of the new business? It's hard enough enforcing restraint of trade agreements with existing clients!

Company ownership of LinkedIn profiles makes perfect sense from an employer's point of view, but it's not likely to sit well with employees who've spent a considerable amount of time and effort (not to mention money – premium memberships aren't cheap) to build up networks of quality connections. Most employees feel entitled to use their hard-earned knowledge and contacts when embarking on new ventures – and with good reason.

Company policy versus LinkedIn Ts & Cs

The terms and conditions of LinkedIn's own user agreement state that the individual owns the profile and that a company cannot force an employee to hand over their details when they resign. These Ts and Cs can, however, be overruled by a company social media policy if it's incorporated into the employment contract.

And what about POPI?

To make things even more complicated, social media policies can contravene POPI – the legislation designed to protect all personal information and prevent identity theft. If potential clients have 'linked' to a person, they do so out of choice and respect for the person (and not the company) and may well not want their details transferred to the company when their 'connection' resigns.

Fuzzy landscape

Love it or loathe it, social media blurs the divide between personal and professional communication. This is not necessarily a bad thing: studies show that if a client or potential client becomes a real-life friend, you're far more likely to maintain or win their business.

If a company's social media policy does stipulate that employees' LinkedIn profiles belong to the company, what about all their other social media pages including Facebook and Twitter? Where do company's right begin and end with regards to data ownership? Worse, still, are Farmville credits ceded to the company upon resignation?

Why fuss anyway?

In the US, many lawsuits have been filed by companies seeking to maintain ownership of LinkedIn profiles – the costs of which have surely outweighed the value of the contacts. To avoid litigation, we'd advise ongoing director/marketing/sales meetings in which new business is discussed and contact details are transferred into the company's CRM system on a weekly/monthly basis.

Balancing of rights

It's a jungle out there and lawyers across the globe are struggling to decipher how the law relates to social media. It's important to remember that there should be a balance of rights between employers and employees (a little reciprocal respect goes a long way) so that the various platforms can be used in such a way that they benefit both parties.

Not sure where you stand? Do email linda@fincommunications.com if you'd like a presentation on social media and the law in financial services. We'd also love to help you with a social media policy that clearly defines what the company regards as intellectual property including LinkedIn client contacts. Prevention is always better than cure.