Human Resources Management In The Era Of Social Media



Just a few short years ago, not many of us could have imagined the extent to which the Internet and social media now play a major role in our society. Employers have not been immune to the spread of this phenomenon, and many now use these technological tools for several aspects of human resources management: recruiting, hiring, disciplinary sanctions, etc.

Are you on board with this trend?

Recruiting

According to a survey conducted in the United States by the firm Jobvite, 94% of American firms used social media as part of their hiring process in 2012. That represents an 89% increase over the previous year. In Québec, the proportion of employers using social media for hiring purposes is lower – closer to 49% – but is expected to increase.

“Social” recruiting is characterized primarily by monitoring social media sites as part of a search for candidates, looking at their online presence and then contacting promising candidates. The most-used social media for this purpose are LinkedIn, Facebook and Twitter.

But employers are not the only ones using the Internet and social media to identify prospects. Many job seekers also surf the Web for information on potential employers. Recently, websites such as “RateMyEmployer.ca” have appeared on the Internet. These sites allow employees – particularly former employees – to evaluate their employers and share their comments with other net users, generally those looking for work. The comments, which can be made entirely anonymously, are often far from flattering. Employers thus have an incentive to constantly monitor such sites in order to change their stripes if necessary.

There’s no denying it – job candidates and your future employees are present on social media. But are you?

Hiring

In addition to using the Internet for image management, more than one in three employers have reportedly rejected candidates because of information found on social

media.

According to a survey conducted by the American firm Reppler, the reasons most often cited by employers for rejecting a candidate are the following:

- Inappropriate photographs or information (11%);
- Content indicating that the candidate drinks alcohol or takes illegal drugs (9%);
- Criticism of a previous employer or co-worker (11%);
- Poor communications skills (10%);
- Misrepresenting qualifications (13%).

A caveat must be entered here, however. The fact that many employers use social media as a recruiting tool doesn't necessarily make the practice legal. A prudent employer must ensure that it respects the following guidelines:

- Generally the employer must obtain personal information regarding a candidate **directly from the candidate or, with the latter's consent, from a third party**;
- The employer can only gather personal information that is **necessary** for hiring purposes.

That being said however, nothing prevents an employer from attempting to obtain personal information about a candidate that is available to the public or has been published, notably on social media.

In principle, candidates must give free and informed consent to the collection of their personal information. However, consent may be implied by specific conduct of a candidate on social media, namely the publication of information that can be readily accessed. This does not however legitimize the use of lies or trickery to become the candidate's Facebook "friend" and thereby gain access to information not otherwise available to the public.

Finally, it should be noted that an employer cannot rely on any information, from whatever source, that prompts the employer to refuse to hire an individual on a prohibited ground of discrimination (race, colour, sex, sexual orientation, pregnancy, marital status, age, religion, political convictions, language, ethnic origin, social status, handicap or the use of any means to compensate for a handicap).

Disciplinary measures

Employers can sometimes use evidence found on social media to justify taking disciplinary measures.

For example, in the matter of *Syndicat des employé(es) du Centre Hospitalier de l'Université de Montréal (CSN)* v. *Centre Hospitalier de l'Université de Montréal (Hôpital Notre-Dame),* 2012 CanLII 31164 (QC SAT), arbitrator Jean Ménard had to decide on a grievance contesting an employee's dismissal. The complainant had suffered a work-related accident in February 2010. She maintained that she had difficulty turning her head and could thus not drive long distances.

In August 2010 her superior asked to become her friend on Facebook and the complainant agreed. The superior was thus able to access photographs and videos posted on the complainant's Facebook page, some of which showed her in situations incompatible with her declared symptoms, including going for a long drive in an automobile. The complainant was accordingly fired.

Based on the evidence submitted by the employer, the arbitrator found that the complainant had feigned and exaggerated her incapacity in order to continue receiving benefits to which she was not entitled. The arbitrator concluded that the employee had made false and misleading statements about her state of health and thereby breached the relationship of trust with the employer. The dismissal was therefore upheld.

In another decision, *Canada Post Corporation* v. *Canadian Union of Postal Workers,* (2012) C.L.A.D. No. 85, the complainant, an employee of Canada Post for 35 years, had been fired for inappropriate use of Facebook.

The employer discovered that she had published contemptuous and derisory comments on her Facebook page about her superiors and her employer. The comments had been sent to more than 50 of the complainant's "friends", some of whom included co-workers.

The arbitrator upheld her dismissal, finding that the published comments were abusive, menacing and derisory. Moreover, the evidence showed that the comments about the complainant's supervisors had actually harmed them, causing them to be miss work because of psychological distress.

In the arbitrator's opinion, the complainant was responsible for what she had written on Facebook, despite her belief that her comments were private in nature.

Use of the Internet at work

The Internet has unquestionably revolutionized the way we work. It allows us to be more productive and efficient, and makes research more accurate and exhaustive.

But the Internet can also have a negative impact in the workplace.

A study by the French firm Olfeo indicates that in 2013 the average employee spent 97 minutes a day on the Internet, versus an average of 89 minutes in 2011. In 2012, 59% of the time spent at work on the Internet was for non-employment related reasons.

The lost time and productivity at work due to Internet use is increasing apace. One reason for this is the popularity of smart-phones, which allow employees to access the Internet, social media and their own personal email accounts discretely and practically untraceably.

Policy on the use of information technology

Today more than ever it is essential for employers to adopt a written policy on information security and the use of information technology.

Such a policy should in particular:

- Lessen employees' expectation of privacy when using the employer's computer system;
- Remind employees that they do not have the right to use the Internet for non-work related reasons;
- Remind employees that they are responsible for comments they make on social media that directly or indirectly concern their employer or co-workers;
- Clearly explain the consequences of failing to respect the rules stipulated in the policy.

In order to be valid, the policy must be reasonable and made known to all employees.

Social media and the Internet in general are now an inescapable part of human

resources management. Employers have no choice but to adapt to this new reality.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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Article by Geneviève Beaudin and Marie Cousineau
Langlois Kronstrom Desjardins s.e.n.c.r.l.