



Stat Report 2015/03

Social media and the workplace: Not always a great mix

Social media is a lot of fun. It's a great way of keeping up with what your friends and family are doing, wherever they are in the world. But there are some big downsides to social media, especially when they include the workplace.

The increasing use of mobile devices combined with social media means there is an ever-increasing blur in the distinction between work and private life. And let's not forget that employers are regularly monitoring and watching social media for what employees are saying.

Like other areas of the law, industrial law has been slow to react with the increasing use of social media. However there have been a range of matters brought before the Fair Work Commission (FWC) relating to the use of social media by employees. FWC will consider if the conduct in question:

- Is likely to cause serious damage to the relationship between the employer and employee
- Damages the employer's interest
- Is incompatible with the employee's duty as an employee

Unfortunately workers have to be extremely careful in using social media when talking about their work and workplace. There is little doubt that a lot of social interaction exists in the workplace but it is vital to avoid some of the following pitfalls:

1. Social media is not private interaction; unless you set the strictest privacy levels for your content to protect yourself from being monitored by your boss.
2. Make sure you don't follow or friend the boss and work colleagues. It seems harsh but the number of work colleagues that have access to your social media can be an important determinant in any FWC proceedings.
3. Don't mention your boss and the company you work for. FWC will consider whether there has been a direct reference to the company or anyone individual. This doesn't mean you can't discuss wages and conditions or genuine grievances but make sure you don't mention the boss or the company.
4. Don't discuss patients and definitely don't name them. This is particularly relevant for health sector workers as it can result in disciplinary action because of breaches of the privacy of a patient or patients.
5. The degree of offence of the comments posted to social media will be an issue considered by FWC
6. Only post material that you would be happy to post in a public forum or shout out at in the middle of the MCG
7. There is definitely one golden rule for social media use and that is don't drink or use drugs and use social media.

If you have any questions make sure you contact the Union.

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Productivity Commission inquiry into Australia's industrial relations system

Last week the Productivity Commission released details of an inquiry into Australia's workplace relations system. In particular the Commission will be investigating the minimum wage; penalty rates; enterprise bargaining and protections for employees. The Productivity Commission in announcing the review released five issues papers into the key areas of the inquiry.

Going through the issues papers makes for very worrying reading as the Productivity Commission has seemingly already determined their position on key issues. There are some significant issues that will be investigated by the Productivity Commission and given the language used in the issues papers, it seems that serious attempts will be made to wind back the minimum wage, remove penalty rates and alter the bargaining processes with an emphasis on direct employer-employee negotiations or individual contracts.

However, given the breadth of the inquiry and the opportunity to raise other relevant matters, the Union will be making a comprehensive submission to the inquiry.

The Union strongly encourages all members to make their own submission to the inquiry. And to help you make your own submission the Union is preparing an outline to use in preparing your own submission.

To read the issues papers or to make a submission visit:

<http://www.pc.gov.au/inquiries/current/workplace-relations/issues>

Federal Government threatens to make changes to superannuation

The Abbott Government has sent a clear message it intends to put the interests of the big banks ahead of working Australians by attacking industry super funds - the best performing area of the superannuation industry.

"It's astounding that new Assistant Treasurer Josh Frydenberg's first public comment on superannuation is to attack the one area of the finance industry that actually puts the interests of millions of Australians ahead of the big banks," said ACTU Assistant Secretary Tim Lyons.

Mr Lyons said the current system of default super funds ensures that workers get the best returns on their retirement savings – not the big banks.

"Not-for-profit industry super funds have lower fees and have outperformed the for-profit retail funds owned by the big banks over any time period comparison

“Yet despite this indisputable fact, Mr Frydenberg has singled out removing default super funds from workplace agreements as one of his key priorities.

“The big banks already have your mortgage, your credit card and your savings – now they want your superannuation and the Abbott Government seems determined to give it to them.”

“The Commonwealth Bank financial planning scandal last year revealed that hundreds of millions of dollars was lost from the retirement savings of thousands of Australians through dodgy financial advice – yet the Abbott Government still wants to handover super to the big banks.

“The current system lets workers vote for their default superannuation fund through enterprise bargaining or alternatively the independent umpire, the Fair Work Commission, nominates the fund that will deliver the best returns to workers.

“It’s a fair and independent system that ensures workers end up with more money in their retirement savings – yet Mr Frydenberg wants to scrap the system and give it over to the big banks to profit from.”

Mr Lyons said it is in-keeping with the Abbott government’s track record of ideological decisions that undermine the living standards of all Australians.

“This is a government that wants to make people pay more to see the doctor, saddle university students with mortgage sized debts and now they want to let the big banks take millions of dollars out of the retirement savings of hardworking Australians.

“Tony Abbott talked about scraping off the barnacles last year but clearly nothing has changed - it’s a new year but the same old Abbott Government with its agenda to drive down the living standards of all Australians.”

Mr Frydenberg did not explain the precise policy measures that would help retail superannuation fund managers to compete against industry funds, but highlighted the reforms would aim to improve competition.

Mr Lyons said that industry funds had lower fees and had outperformed for-profit retail funds owned by the banks over “any time period comparison”.

Australia Day Holiday Entitlement

We’ve recently had enquiries about entitlements for public holidays on days on which they are not required to work. It’s particularly relevant with Australia Day having just been and gone.

Clause 69.5 of the enterprise agreement deals with this and it’s pretty straightforward:

If it’s a day you would normally work, you get paid for the day. As simple as that.

If it’s a day where you’re not normally required to work, you get paid on a pro rata basis. How this works is outlined in clause 69.5.2 as follows:

“Average weekly hours over the previous six months are to be determined and a pro-rata payment made, regardless of whether the employee would ever work on that day of the week.

Example:

Average Hours	Shift Length	Base Payment	Penalty	Payment
24/38 hours	X 8 hours	5.05 hours	T 1.0	5.05

	<i>(Where the ordinary shift length is 8 hours)</i>			
20/38 hours	X 10 hours <i>(Where the ordinary shift length is 10 hours)</i>	5.26	T1.0	5.26 hours

A practical example would be - say you normally work 3 days per week (being Tuesday, Wednesday and Thursday) and there's a public holiday on a Monday (such as Australia Day this year). If the standard shift length in your workplace is 8 hours, you will get 5.05 hours pay for that day.

If you have any concerns or questions please get in touch with the Union on 9623 9623.

Worth Reading: Minimal evidence against the minimum wage

"There's nothing more Australian than the minimum wage. Now, on the eve of Australia Day, it's up for grabs.

As Australian as Vegemite, the bionic ear and the preferential vote, the minimum wage became the law of the land in 1907. Victoria had gone out on its own a few years earlier. Britain, the United States and most of the rest of the developed world followed later. Even now their minimums are nowhere near as generous as ours."

Read the entire article by Peter Martin in The Age at:

<http://www.theage.com.au/comment/minimal-evidence-against-the-minimum-wage-20150124-12wn9c.html>

Worth Reading: Tony Abbott now admits \$1.8bn in hospital cuts will begin from July

"Tony Abbott has conceded the government is cutting a hospitals funding agreement with immediate effect, contrary to his weekend claim that the cuts did not take effect for years.

On Sunday Abbott said: "We're not talking about next week or next month or even next year; we are talking about changes in three years' time".

But Abbott now agrees the national partnership agreement on public hospitals, which begins on 1 July, has been cut. Budget documents say it has been cut by \$1.8bn over the next four years.

The prime minister says the reductions should be blamed on Labor because the former government had previously revised the agreement.

"There was a national partnerships agreement which the Labor party hadn't funded on [hospital] beds and we have decided not to renew it, but this is a Labor cut, it is not a Coalition cut," Abbott told the ABC.

But the budget document is clear that money has been cut by this government, stating: “The government will save \$1.8bn over four years from 2014-15 by ceasing the funding guarantees under the national health reform agreement 2011 and revising commonwealth hospital funding arrangements from July 2017.”

Read the entire article by Lenore Taylor in The Guardian at:

http://www.theguardian.com/world/2014/may/19/hospital-cuts-begin-july-tony-abbott-admits?CMP=share_btn_fb

Worth Reading: Industry Super caught in the political crossfire

“Prior to Keating, superannuation was guaranteed for some workers: those workers who had a trade union active in their workplace to negotiate a collective entitlement to superannuation.

In 1992, in response to the ageing population and submissions by the Australian Council of Trade Unions, the Keating government mandated superannuation contributions by employers. This provided an important, and universal, savings mechanism for workers and the economy in the face of the anticipated strain on the aged pension scheme.

At the time it was introduced, there was widespread criticism and fear mongering by big business and their representatives. Trade unions on the other hand, who had been involved in superannuation for some decades, argued it was a win for workers and the economy.”

Read the entire article by Giri Sivaraman and Alana Heffernan in Working Life at:

<http://workinglife.org.au/2015/01/21/industry-super-caught-in-the-political-crossfire/>

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