

Setting your own rules

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Social media is a public platform and certain challenges come with the territory. Gillian Anderson outlines the pitfalls surveyors need to avoid

People often associate social media with free advertising, improved customer service and increased contact with clients. While all of this can be true, engaging with social media also brings with it myriad problems such as damage to reputation, infringement of intellectual property rights, loss of control over your information, potential claims of defamation and risk of breach of professional obligations.

'Social media' is a catch-all term used to describe hundreds of online resources. The classic forms include social networking websites, social diaries, blogs, wikis and interactive services such as LinkedIn, Facebook, Twitter, MySpace and Bebo.

While typically social media is used in a business context to advertise services, it is becoming more common for businesses to 'reach out' to customers on these sites. The intention is to create a stronger connection and to humanise an intangible brand, although where professional opinions are conveyed in this context there are significant risks for both the individual posters and their employer.

To post or not to post

Use of sites is likely to be governed by an employer's social media policy. All employees should ensure that they are familiar with this and understand how it is intended to operate in practice. Ignorance will not offer protection if an employer tries to rely on the policy to commence discipline proceedings for breaches.

Some employers impose a complete ban on use of social media, and this view flows from the fact that they can be found to be liable for content posted in the course of an employee's working hours. Posts containing professional opinions will therefore cause considerable concern because they are likely to be uploaded without review by the employer.

Where an employer encourages interaction, the social media policies are likely to provide guidance on what kind of information can and cannot be shared. It is crucial for employees to be aware of any such limitation before they post any content online.

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The [RICS Conduct Rules](#) require all members to act at all times with integrity and to avoid any actions or situations that are inconsistent with their professional obligations. A rule of thumb for employees is that social media should be subject to the same ethical and professional standards imposed for offline activities. Social media is a public forum so employees should treat online posts as if they were speaking in public or writing for publications either officially or outside work.

This rule of thumb is often forgotten because social media by its very nature encourages informal interaction. When engaging with clients and potential clients, employees can on occasion respond in an unguarded manner, resulting in content being posted without any consideration for professional obligations, client confidentiality or potential conflicts of interest.

It is fundamental to understand that information posted on social media will be accessible to a much wider audience, with the added complication that the information can be shared instantaneously. Failing to keep these issues in mind may result in the RICS Conduct Rules being breached.

Finally, an employee must remember that once information is posted it is very difficult to remove all trace of the content.

Employees should avoid commenting on any controversial issues or provide personal opinions on issues under reference to the employer's name. If they would not be comfortable expressing this point of view in a meeting room with clients then it should not be shared online.

Similarly, the accuracy of the information posted on social media must be checked and double checked before the 'upload' button is clicked. It goes without saying that incorrect advice or an ill founded opinion posted on social media may damage the business's reputation and credibility. An embarrassing comment or opinion could have a lasting impact.

Duty of care

Incorrect advice can also have wider repercussions. It has long been established that a third party can bring a claim if they relied on expert advice. Even where there is no contract, if the maker of the statement knows or ought to know that if someone is relying on their advice, they will owe that person a duty of care.

If it can be shown that no other party who claimed to have the same experience and skills would have given the same opinion/advice, then the 'expert' may be liable for losses the third party sustains if they rely on the opinion/ advice given.

This liability will usually only arise where the expert knew or ought to have known that the third party would rely on the advice in connection with a particular transaction without obtaining independent advice.

However, the point to take away is clear: providing professional opinions on social media is high risk because invariably advice is sought without all of the relevant background relating to the individual or the background to the transaction being disclosed.

Where social media is encouraged, the onus falls on the employees to be clear they understand the parameters for its use, and if in doubt they should seek guidance from their employers

On occasion, a claim of defamation may result from comments or opinions expressed online. It tends to be overlooked that even content posted anonymously can be traced back to the original poster so employees should think about the potential implications.

Likewise, an employee re-posting or sharing information or comments that are already on social media sites could also be found guilty of making the defamatory statement. In contrast, statements that are true or can be justified or categorised as 'fair comment' do not usually lead to a finding of defamation.

Information that forms the basis of an opinion or advice may have come to the employee through a previous piece of work that may be subject to confidentiality. In such circumstances, great care and consideration should be given to the content of a post to ensure that confidentiality is not breached because that may result in the employee's integrity being compromised and a finding of a breach of the RICS Conduct Rules.

Care must be taken if information shared on social media sites could be viewed as an advertisement for the business the employee works for. In March 2011, [Advertising Standards Authority \(ASA\)](#) regulations were extended to cover 'non paid for space online'. These provide that advertisements must not be misleading and with particular reference to social media, where sponsored tweets are used, it must be clear that they are adverts. Where this is found not to be clear, then the ASA will apply sanctions against the business.

Lastly, information relating to existing clients should not be shared, because this would amount to a breach of confidentiality. Employees must be cautious of inadvertent disclosure by making off the cuff remarks about the work they have carried out.

There is no one-size-fits-all approach to engaging with social media. Some employers will be more trusting of their employees and have confidence that they understand the policies put in place to control use of social media. Where social media is encouraged, the onus falls on the employees to be clear they understand the parameters for its use, and if in doubt they should seek guidance from their employers.

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