

## Policy Development and Implementation to the Rescue

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What are your employees' expectations of privacy regarding the personal use of company-owned computer devices such as laptops, blackberries and iPhones? Company-owned computer devices are provided to employees at times out of necessity due to specific occupational demands. Essentially, in most organizational settings, these devices have become the tools needed to maintain efficient and effective communication within and outside of the organization. In many circumstances employees are in sole possession of these company-owned devices around the clock. With the high tech capabilities of computer devices, the evolution of social media and texting, employees are inclined more than ever to use these devices for personal use. A common belief amongst most individuals is that if an employee is in sole possession and the exclusive user of a company-owned computer device, it is assumed that he/she must be the actual owner, therefore in control of the privacy of its contents. This might be an old school way of thinking, but is it a reasonable expectation for an employee to have.

An organization can reduce or eliminate an employee's reasonable expectation of privacy by developing and implementing written policies that address the personal use of company-owned cell phones, computers and other electronic devices. Furthermore, organizations need to inform employees that the contents on company-owned computer devices are not private and are not protected from organizational scrutiny. An organization that chooses not to develop and implement clear policies to address the personal use of company-owned computer devices are opening the

floodgates to undesirable situations that management will be forced to deal with.

An example of an undesirable situation occurred early in 2011. A school board in Northern Ontario lacked clear written policies that addressed the personal use of company-owned computer devices, which in turn opened a "Pandora's Box". A teacher who was employed by the school board believed that he had a reasonable expectation of privacy with respect to the contents of his company-owned laptop. The teacher became the focus of a police investigation which ultimately found that the teacher in question was in possession of child pornography on his laptop and accordingly charged. Prior to the police investigation, the teacher's computer was accessed remotely by a member of the school board's IT department to perform a routine virus scan and, while doing so came across explicit photographs of a young student. The technician reported the matter to the school principal and the principal asked the technician to save the explicit photographs to a disc. The school board then obtained the laptop from the teacher and made a copy of the computer's temporary internet files on a second disc. The discs and computer were then provided to the police.

The teacher's expectation of privacy with respect to the contents of his company-owned laptop was a result of there not being clear cut policies regarding the personal use and the monitoring or searching of teachers' laptops. Despite the fact that the computer was owned by the school board, the teacher was in exclusive possession of the laptop, and was given permission by the school board to employ the laptop for personal use. The school board's policy on computer use did include a warning with respect to random searches of e-mail communication by the school board, but there were no warnings and/or restrictions regarding the storage of other information stored on the personal computer or on the school board's network.

From the above example, we are suggesting that it is critical that organizations set expectations for their employees, by developing and implementing written policies for employees to adhere to and provide a basis for discipline if a violation occurs. It is important for organizations to develop crystal clear policies for their employees as a means of preventing the type of public relations nightmare experienced by the school board. Policies concerning the personal use of company-owned computer devices should state that communication sent/received or information stored on company-owned computer devices are not confidential and are also subject to review and random audits. In addition, policies should advise employees about the organization's right to copy and use for its own purposes any information on its computer devices.

Well defined and updated policies help an organization save time when new problems arise, these issues can be handled effectively and efficiently through an existing policy. Policies and procedures showcase a guide for leadership, which takes a proactive approach to present and future issues. New and updated policies show your organization is growing and changing to meet new situations that come about in the workplace. Policies consistent with the values of the organization demonstrate that the organization is being operated in an efficient and professional manner.

By maintaining updated policies, your organization is effectively fostering a leadership role in its own right and nurturing a respectful and disciplined workplace. Delaying the development and implementation of written policies today may ultimately lead to a potentially costly and embarrassing situation. So don't delay or else you may have to pay?