

Risk Management: Social Media, Texting, and Websites



Introduction

In a technology driven world it is now seen as important to have a web presence and to be involved in social media. However, there are inherent risks that you need to be aware of and consider how they can be managed.

Websites

When setting up a website we suggest you review the following:

- Correctly set out your qualifications and skills and the legal activities you can offer.
- Include full contact information, including information about employees who deal with clients.
- Make sure it is accurate and up to date, including the news page if you have one.
- Are you displaying all the required information on your website correctly e.g. correct titles, regulatory statements, logos you are entitled to use, and companies house requirements?
- Ensure that the design is professional and appropriate to your business, conveying the correct image.
- Do you have relevant, verifiable client testimonials (see our 'Online Reviews and Endorsements' Risk Management information sheet).
- Make sure that it is accessible to all clients.
- Do you have the right security measures in place?
- Is the information on third party websites correct?

Ideally, your domain name should include the name of your practice. You may wish to register all variants (for example .com, .co.uk, .biz, .info) to reduce the risk of misuse by third parties. A website developer can help ensure that you are appropriately protected.

Measuring and improving performance

Consider putting web analytics code on your website so that you can measure the effectiveness of the pages you have loaded. This includes information such as:

- How many visitors you get to your website a day.
- Which of your web pages are most popular?
- Which of your web pages are never visited?

Privacy and data protection laws may be relevant here.

Risk Management: Social Media, Texting, and Websites

Texting

The use of text messages is now seen as a normal method of communication and it is recognised that they are not as formal as emails or letters. However, you need to be aware that your duties of professionalism apply in informal communications just as much as when writing a letter. You need to consider how these communications are viewed by a third party, as well as by the recipient.

It is important to avoid dealings which might be viewed as inappropriate. While some clients may benefit from being treated in a friendly and informal way others, including vulnerable clients, might benefit more from being treated respectfully. Think about the language you use.

Social Media

Social media are web-based and mobile technologies that allow users to communicate with each other. They create profiles, 'posting' comments and opinions, connecting or forming 'links' with others, joining different 'networks' and adding 'friends'.

Different types of social media

The different types of social media channels include:

- Forums and comment spaces on information-based websites.
- Social and business networking websites such as Facebook and LinkedIn.
- Video and photo sharing websites such as Flickr and YouTube.
- Weblogs, including corporate and personal blogs.
- Microblogging sites such as Twitter.

Setting a social media policy

When engaging in online activity you should consider having a policy in place that complies with the CILEx Code of Conduct. We would suggest that it includes:

- What value being online will bring to a practice and its clients?
 - Guidance to staff on what can be discussed, commented on or promoted, and how confidentiality is maintained at all times.
 - How to protect your practice's reputation from inappropriate use of social media, both internally and externally.
 - Who will manage your social media policy and be responsible for ensuring day-to-day compliance?
 - Guidance to staff on personal use and what is acceptable.
 - Guidance on instructions and training to all staff.
 - Guidance on the avoidance of inappropriate language.
 - Levels of online security to deter hackers and phishing.
 - How will you ensure your social media activity is consistent with your own branding guidelines?
- For smaller practices, it may not be necessary to have a written policy in place but you should still consider the above.

Ethical obligations

The same ethical obligations that you adhere to professionally also apply to your conduct online.

If you have an existing relationship with a client through social media, there is no reason for you and your client to stop. However, if you do continue, you should consider whether you might breach any of the principles in the CILEx Code of Conduct.

Think whether your presence on social media channels may inadvertently impact on your professional obligations towards your clients.

Posting comments and opinions

Using social media can allow you to share your experiences and opinions, as well as to engage in debate on current issues, affairs, and developments in the legal profession. However, if you post comments or opinions about clients, their cases, and other legal professionals, you may be breaching the requirements on client care and confidentiality.

Risk Management: Social Media, Texting, and Websites

Think about whether you are behaving with personal integrity, as this must characterise all of your professional dealings.

Your image and professional standing may be affected by any comments you make, for example;

- Inadvertently sending a comment intended for one person to all those you are connected with.
- By posting comments and opinions that might affect public trust and confidence in the legal profession.

One misplaced comment or opinion from you may not only damage your reputation but could reflect negatively on the legal profession more generally and lead to misconduct action.

Personal versus professional

As sites are used both personally and professionally, it is often not clear where boundaries lie and when your professional obligations start and end. There can be similar difficulties in distinguishing casual or informal interactions from more formal communication.

The same professional ethical obligations apply to your conduct in 'online' and 'offline' environments, so it is important that personal and professional uses are not confused. Any information you share with contacts or friends online, or information posted about you by contacts or friends, may be accessible to a much wider audience than is intended. This can reflect both positively and negatively on you.

Monitoring your online reputation

Increasingly, any presence online will dramatically impact on your reputation. Your online reputation, whether personal or corporate, can be damaged at a quicker speed than ever before. So, consider actively monitoring your online reputation. Review and monitor what is being said about you, as you will be affected by content on external websites which are out of your control.

Generally, communicating online with clients and potential clients to get links, 'likes' and comments will assist in building your reputation, as well as showing knowledge and attracting clients. But critical or negative comments are likely to dilute such comments.

This may be time-consuming initially but by doing this you can review, and possibly remove, any information that could reflect negatively on you or that do not feel comfortable with. When using any social networking site, you should review that site's privacy settings to enable you to control, and put restrictions on, who is able to access your information. However, by adopting privacy settings, this does not necessarily mean that the information you post will be protected. Some sites are totally open to the public.

You may wish to monitor each month:

- Search engine results page positioning - aim for top spot.
- @ replies in your Twitter feed or posts on your Facebook page;
general comments about your practice on social media or other review websites.
- Negative sites.

There are a number of tools to help you monitor your reputation, as well as bespoke services offering daily updates and alerts.

Responding to criticism

Where you can respond to online comments or reviews, whether these are positive or negative, you may wish to consider doing so, but how you do this will affect your overall reputation.

Responding to criticism in a prompt, polite manner will assist in building credibility, as well as being an effective means of correcting misleading or inaccurate information. Remember:

- Don't get personal.
- Feedback is helpful.
- Keep it short and sweet.

Risk Management: Social Media, Texting, and Websites

Think about those that you will, and will not, respond to.

- If a comment raises serious concerns or is constructive criticism, is it better to respond online, or take it offline?
- If comments are from users who are aggressive or abusive, consider if there is any value in responding.

Further action

If your reputation has been harmed by statements made by others, you may be able to take action for damages and to prevent those statements being repeated. Defamation law can apply to comments, opinions or communications made online. Harassment and/or data protection law can also be relevant.

Even if you decide to respond to such comments, or have decided that it is inappropriate to respond, you can take further action.

You can request that an Internet service provider (ISP) removes unlawful material, and social networking and review sites will often have procedures in place to manage these issues.

So you should bear this in mind at all times when engaging in any online activity.

Benefits of using social media

Profile: it raises the public's awareness of yourself and your practice. It allows you to give a message about your practice and focus on the areas that you would like promote.

Engagement with clients: appeals to those clients who may use social media channels, rather than email, as their main method of communication.

Marketing/advertising: an efficient marketing tool for promoting your legal services, can reach a wide audience.

Cost: likely to be relatively low financial cost but will need an investment of time.

Risks of using social media

Reputational: blurring of personal and professional boundaries.

Defamation: if comments you have made have damaged, or may have harmed, another's reputation, they can sue for damages or prevent you from making those statements. This can apply to any comments or opinions posted on social media sites.

Confidentiality: the risk that confidential information may be inadvertently (or otherwise) disclosed.

Logged in: allowing your account to be viewed by another user by not logging out.

Control over information: once out information goes fast and far.

Right to be forgotten: is information ever deleted from social media sites?

Disclosure: information on social media sites could be produced as evidence in litigation.

CILEx Regulation Limited

Kempston Manor, Kempston, Bedford MK42 7AB

T +44 (0)1234 845770 | F +44 (0)1234 840989

E info@cilexregulation.org.uk | www.cilexregulation.org.uk |  @CILExRegulation

PROFESSIONAL STANDARDS FOR SPECIALIST LAWYERS