

Employment law lessons from Hillary Clinton

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Employment law lessons from Hillary Clinton

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There can be little doubt that Donald Trump's victory was assisted by the scandal surrounding Hillary Clinton's use of personal email for work purposes.

It will have been a learning experience for Hillary Clinton but this is also a story that has relevance for our own working lives in the UK. Conflating work and personal communications could be career-defining, as it was for

Hillary.

You should think carefully before doing as Hillary did and using personal email for work-related purposes. That one spreadsheet that you forward to your Gmail address could cause you significant problems.

This is because sending a document such as that to your personal account is likely to place you in breach of at least one of your employer's rules, if not more. Most employers will have policies stating that company information must be stored in a secure way (remember the high-profile cases of suitcases containing confidential information being left on trains?). Your employer is also likely to have a rule that says the privacy of client information is paramount.

When you transfer a work-related document to your Gmail account, you are taking it outside of the server that your employer controls. Whilst email is an inherently insecure form of communication, employers are often irked when one of their documents is transferred to a server which they no longer control or monitor. Sometimes sending emails containing confidential information to a third party can trigger a red flag notification to your employer's IT department leading to monitoring of your email.

It is not unknown for an employer with a particular agenda to search an employee's Sent Items to see if they have ever sent documents to their personal email address – and then use that as a basis to mount disciplinary proceedings to achieve a dismissal.

Using your employer's email account as a tool for social interaction is also risky. Your employer is very likely to have the ability to monitor the emails you send and receive and you would be surprised at the amount of email monitoring that takes place. Circulating your comments on a "viral" email that a friend sends to you could land you in hot water – as

happened to the technical director of Leeds United in 2013, who went on to bring, and lose, a £140,000 High Court claim as a result.

One of the most commonly-committed employment “offences” is seeking work during your employer’s working time. Strictly speaking, the law requires you to look for a new job (and attend interviews) outside of your employer’s working time. Bear in mind that if you use the mobile telephone that your employer gives you to search out and speak to potential new employers, it will be very easy for your employer to establish if you have acted in breach of your duty not to look for new employment during your normal working hours. Even WhatsApp messages could be disclosable in a court case, provided their content is relevant.

The safest course of action is to keep work-related correspondence on work devices and personal correspondence on your personal devices. Perhaps if Hillary Clinton had followed this advice, she could have been the 45th President of the United States of America.

Paul McAleavey, Senior Associate at Brahams Dutt Badrick French LLP

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