

Monitoring Staff at Work A Code for Employers

Many employers are increasingly worried about the amount of potentially productive time that is lost by employees' inappropriate behaviour. This can be staff browsing the internet during work, using email to friends and family, inappropriate use of the telephone, excessive absenteeism etc. Not surprisingly, many employers are looking closely at effective monitoring of employees. Care must be taken to ensure that you, the employer, act reasonably and within the confines of the Data Protection Act 1998. If you covertly monitor your staff's private correspondence or conversations, you could end up with a case being brought against you.

The Information Commissioner has just published a Code of Practice on monitoring staff. The Code is intended to help employers comply with the Data Protection Act 1998 and to encourage businesses to adopt good practice. It covers activities such as checking emails and internet access, keeping records of telephone conversations, to hiring a private detective.

The Code gives some clarity both on employee's expectation of privacy but more importantly, the core principles to follow if you, the employer, intend to monitor staff. If an employee brings a claim against you and you have not followed the principles, you are at risk of the claim going against you.

Much of the Code is common sense and simple to follow. The Code assumes that it is usually intrusive to monitor your workforce and that employees have a legitimate expectation of privacy. Consequently, monitoring should take place in the context of some core principles. The main principles are:

- Employers that wish to monitor their employees should be clear about the purpose of the monitoring and satisfied that their monitoring arrangements are justified. It would not be justified to monitor employees' telephone calls without warning because you like to have control over what your staff are up to.
- Employees should be aware of the nature, extent and reasons for any monitoring, through a policy. There are instances where covert monitoring is appropriate but they are rare and will involve the employer suspecting that the employee is committing a crime or some other very serious act.

In the light of the Code, it is clear that if you intend to monitor your staff, you should have a policy that has set out in clear terms your right to monitor and the extent to which you will do so. You should introduce the policy to staff, give them a copy and use it as part of your induction process with new staff. For those of you who do have a policy, it now seems that it will not be sufficient for it to simply state that you will monitor.

We can assist you in drafting a policy for staff monitoring that fits your organisation's needs. We can also assist you with introducing monitoring procedures that comply with the Code and offer you the appropriate degree of protection. For more specific information or to discuss your requirements please call either Amanda Galashan or Julie Calleux at EmployEase on 0207 831 5052, or email us at info@employease.co.uk

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