



Private Eyes are watching you; they see your every move..... even at work

Do you ever get the feeling that we have a lot of rules about the protection of privacy but your private world remains constantly under threat?

We have the much loved / maligned / misunderstood Privacy Act and the Privacy Commissioner who acts as watchdog over our privacy rights.

We easily give up rights to privacy by *choice* on a daily basis particularly with social networking – Facebook, Trade Me, LinkedIn and the like.

Lack of privacy intrudes on every aspect of our world and that includes *workplaces*.

Personal use of the internet and email accounts at work pose a number of tensions in the workplace that now constantly have to be managed by employers and employees.

For the employer, tensions arise because employees use the employer's technology for both work and personal purposes. So the employer has to juggle each party's employment law rights and obligations with the employee's right to privacy and with the employer's legitimate proprietary interests.

For the employee, who spends the majority of life at work, the tension is juggling reasonable time out and the occasional need to deal with personal matters at work – who hasn't used the internet at work to do a spot of internet banking? AND those joke emails that we all forward to friends, family or work colleagues?

So what are the rules for employee use of technology in the workplace? What about personal internet use during a lunch break and personal emails that are sent and received? Can an employer monitor these and how could they use the information gathered? Or should we expect "that private eyes are watching our every move?" Is there absolute privacy?

Even if an employee's every move can be watched while at work, should it be?

Legally, the employer is entitled to monitor employee use of the workplace internet and email. This may mean the employer can read the content of an employee's email.

The Privacy Act – The Rules

There are 12 privacy principles that govern how agencies (including workplaces) should handle (gathering of, use of and storage of) personal information. There are exceptions to the principles but essentially they are:

- personal information should be gathered directly from the person,
- personal information should be used only for the purpose it is gathered,
- personal information should be stored correctly, and
- people must be able to access and correct their own personal information.

This has pragmatic implications at work and even prior to being employed (the job application process).

But let's face it: the tools at work (computers and internet access) belong to the employer and are provided for work purposes.

Email and Internet

Most workplaces will allow a degree of personal use where this does not interfere with an employee's ability to do the job or put the employer's interests at risk (and is not "wasting time"). Some workplaces, prudently, ban access to sites like Trade Me, Facebook and the like for security reasons. Most workplaces will also ban the viewing and sending of offensive material. All of this is common sense.

Because email and internet are a business tool, we can expect that to be monitored. An appropriate policy is the best way for an employer to be able to safely monitor and then use the personal information gathered to enforce legitimate rules around excess use of the internet, misuse of the internet, proper attention to work duties and a host of other workplace rules around conduct.

Employers can discipline employees for breaching the rules/policies of the workplace and this can include dismissal.

The side affect of over-monitoring is a culture of distrust and this can impact productivity.

The key message, then, is to use business tools wisely and to use common sense.

There are clear rules around the monitoring of employee use of the workplace internet and emails. Obviously we encourage you to take some advice or, at the very least, to check out the Privacy Commissioner's website (but perhaps not on work time unless you are the boss).



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