

Social media guidance for attorneys

In December the Law Society of South Africa (LSSA) introduced a new resource document on social media.

The LSSA's guideline document 'Introduction to social media – legal implications for South African law firms' was prepared by Mark Heyink, an attorney specialising in information law.

The guideline is intended to be a useful starting point for attorneys who need assistance in the effective use of social media.

According to the guideline: 'Social networking is not a fad and its application is an important development in the communications technologies which will shape changes in how we will communicate in the future. It is important that attorneys become familiar with the technologies and their application to enable them to determine both the advantages and risks inherent in their use.'

'It is predicted that within a relatively short space of time communication using social media services will outstrip traditional e-mail technologies,' the guideline states.

The document identifies broader social media issues pertaining to attorneys, including –

- legal implications in the use of social media from a professional perspective;
- the use of social media by attorneys' employees that may impact on an attorney's professional obligations and how these are addressed; and
- how attorneys can educate themselves in the potential use of social media.

LSSA chief executive officer Nic Swart said: 'As is indicated in the guideline, it is predicted that communication through social media – particularly in African countries – will in a relatively short space of time be used as much as traditional e-mail. Attorneys' firms, like other businesses, need to adapt to the changing communication requirements and expectations of their clients, particularly as firms acquire younger clients who are more comfortable with electronic communication. Many of these clients prefer the communication technologies provided by social media networks.'

Mr Swart said that it was important, however, for attorneys who see opportunities and benefits in the use of social media for communication and marketing to take note of the associated risks. He added that, as the guideline points out, professional conduct and the rules of practice and of the statutory law societies must be observed and this is therefore not a course to be taken lightly. 'The safeguards necessary in embarking on the implementation of social media need to be carefully considered,' he said.

Confidentiality, privacy settings, integrity and professional independence are discussed in the guidelines, as is the use of social media by employees. A draft social media policy has also been included in the guidelines as an example.

Mr Swart said that the LSSA wanted to provide basic information to smaller firms planning to use social media. 'Most of the larger firms have specialists who have drafted internal guidelines and policies for the firm. However, the LSSA wanted to provide some basic information and a draft social media policy for the smaller firms that may be using social media platforms or may be considering using these platforms. In a number of issues last year, *De Rebus* published articles on social media for law firms. These guidelines and policies were drafted to provide practical assistance to attorneys wishing to put the theory into practice.'

Mr Swart said that the social media guidelines should be read with the other relevant LSSA guidelines, namely 'The management of e-mail – guidelines for South African law firms' (April 2012) and the 'Information security guidelines for South African law firms' (June 2011).

In respect of the LSSA's view on attorneys using social media, Mr Swart said:

'As attorneys' firms are, in effect, business concerns, the decision to use social media platforms for communication and marketing is a business decision for each individual firm to include in its business and communication plan should it choose to do so. However, practitioners must take heed of the benefits and the risks, and then implement the necessary safeguards. Their staff must also be aware and be informed.'

Mr Swart added: 'Attorneys must take into account the ethical rules of professional conduct, including marketing and advertising guidelines, by their relevant provincial law societies. These also apply to social media platforms.'

The guideline and other resource documents mentioned above can be found at www.lssa.org.za under 'Resource documents for attorneys' under the 'Legal practitioners' tab.

- See also 2012 (Dec) *DR* 6, 2012 (Nov) *DR* 26 and 30 and 2012 (Apr) *DR* 8.

Kathleen Kriel, kathleen@derebus.org.za