

Practice Resource

Sample internet and email use policy

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Foreword

Use of email and the Internet can result in a huge productivity increase for a law practice. Through email, lawyers and their staff can save time by avoiding telephone tag and voice mail jail and can save money by avoiding long-distance telephone calls and the transmission of documents by costly methods such as faxes or long-distance couriers. Moreover, use of email says to clients that your firm knows how to take advantage of the latest communication methods for everyone's benefit.

Email can, however, also expose a law firm to embarrassment, unwanted media exposure and litigation. Increasingly lawyers are becoming adept at discovery of electronic evidence such as email, including email the User thought had been deleted, but in fact has remained in data back-ups or on uneraser hard drives.

It is prudent for a law firm to take a reasoned policy approach to the Internet that balances the innovative and productive use of Internet resources against inappropriate use.

This policy is intended as a sample, not a model. It does not and cannot purport to be the best of all possible policies, for the simple reason that any precedent must be modified to meet the needs of your firm, your clientele and your practice. In particular, this Internet and Email Use Policy should also be considered in light of federal or provincial protection of privacy legislation that may at some point extend to law firms.

This document will be amended from time to time. The firm must take steps to introduce the policy initially to all staff, take steps in order that all new staff are made aware of the policy, and lastly that all changes are communicated to all members of the firm.

Policy scope

This "Internet and Electronic Mail Use Policy" applies to all Firm employees, partners and associates, guests and third-parties (hereinafter "Users") whose access to or use of Internet and email resources is provided by the Firm or available through equipment owned or leased by the

¹The author gratefully acknowledges the prior work of Jerry Lawson, author of *The Complete Internet Handbook for Lawyers*, published by the American Bar Association, and Jane M. Savard, Internet, technology and small business lawyer of Seattle, Washington, in their respective sample Internet and Email Use policy statements. These statements have served as precedents for this document and portions of which have been incorporated into this document.

Firm, whether or not that access is during normal working hours and whether such access is from the Firm's premises or elsewhere.

Policy purpose

This Policy is to establish guidelines and minimum requirements governing the acceptable use of the Firm's Internet and electronic mail (Internet and email) resources.

By the Firm establishing and maintaining compliance with this policy, the benefits of these communication tools can be realized while the risks and costs are mitigated. The objectives of this Policy are to ensure that:

- use of the Firm's email and Internet resources are related to, or for the benefit of, [**name of law firm**] (hereinafter "**the Firm**");
- users understand that email messages and documents may be subject to the same laws, regulations, policies and other requirements as information communicated in other written forms and formats;
- disruptions to the Firm's activities from inappropriate use of the Firm's email and Internet services are avoided; and
- users are provided guidelines describing their personal responsibilities regarding confidentiality, privacy and acceptable use of the Firm's Internet and email as defined by this Policy.

Principles of acceptable use

As with any resource provided by the Firm, Internet and email resources should be dedicated to legitimate Firm business activities and governed by rules of conduct similar to those applicable to the use of other information technology resources. The use of Internet and email resources imposes certain responsibilities and obligations on all Users and is subject to the Firm's policies and procedures and all provincial and federal laws.

Acceptable use must be legal and ethical. Acceptable use demonstrates respect for intellectual property, ownership of information, network system security mechanisms, and individuals' rights to privacy and freedom from intimidation, harassment, and unwarranted annoyance. Furthermore, the nature of email raises expectations for a timely response — all Users are urged to read and respond to all email in a prompt and courteous manner.

All Internet and email use shall:

- respect and uphold the law, including provincial and federal laws and regulations and the laws of other jurisdictions;
- comply with the Firm's stated policies, procedures and standards;

- be courteous and follow accepted standards of etiquette;
- protect others' privacy and confidentiality;
- reflect responsible use of email and Internet resources;
- use information technology resources efficiently and productively; and
- contain a clause that claims lawyer confidentiality over the contents of any communication.

Acceptable and unacceptable activities

Acceptable Internet and email activities are those that conform to the purpose, goals, and mission of the Firm and to each User's job duties and/or responsibilities. The following list, although not exhaustive, provides examples of unacceptable uses:

- engaging in the unauthorized practice of law in other jurisdictions;
- engaging in any illegal activity or using the Firm's resources for any illegal purpose;
- knowingly disseminating harassing, abusive, malicious, sexually explicit, threatening or illegal information, including jokes or cartoons;
- using the Firm's resources for purposes unrelated to the Firm's business activities, such as personal commercial use, advertisements, solicitations or promotions;
- using the Firm's resources to send messages expressing controversial, potentially offensive and/or defamatory comments of individuals, bodies corporate or groups including, but not limited to, religion, politics and social policies;
- downloading or using the material, software or other intellectual property of others in violation of software licenses, copyright and trademark laws;
- disclosing any passwords or security means and methods adopted by the Firm;
- downloading or using any software not approved for use by the Firm;

Users may use the Firm's Internet and email resources for incidental and occasional personal use, provided that such use is reasonable in duration, does not result in increased costs to the Firm and complies with this Policy, in particular the section on other use.

Furthermore, Users must recognize that electronic correspondence is not inherently private, that messages could be misdirected and that the Firm takes no responsibility resulting from the disclosure of private communications occurring over the Firm's resources. Furthermore, the Firm retains the right to monitor any and all electronic communications and use of the Internet to ensure the integrity of the system and compliance with this Policy. Users are reminded that ALL

documents, including electronic copies, may be subject to a court order and, as such, disclosure may apply to a User's personal documents as well as any work-related documents.

Users are urged to keep in mind that, if they do not wish their mother to read about it in the media (e.g., Province or Vancouver Sun), they should not put it into an email message.

Furthermore, use of Internet and email resources may be subject to limitations as determined from time to time by the Firm's supervising authority. Users are advised to remove themselves from email and Internet lists not dealing with work-related topics.

Other use

All use of the Firm's Internet and email resources for commercial purposes unrelated to the Firm or for non-commercial, charitable or not-for-profit uses must first be approved in writing. Any such use must comply with this Policy.

Privacy considerations

Files in Users' accounts and data on the network are regarded as personal: that is, the Firm does not routinely monitor this information. However, the Firm reserves the right to view or scan any file, email or software stored on the Firm's systems or transmitted over the Firm's networks and may do so periodically to verify that software and hardware are working correctly, to look for particular kinds of data or software (such as computer viruses or unauthorized software), or to audit the use of the Firm's resources. Potential violations of this Policy that come to the Firm's attention during these and other activities may be acted upon.

Users must not send email messages containing unusually sensitive information over the Internet without using an encryption method approved by the Firm. Furthermore, the Firm must be provided with a copy of all passwords and/or private keys needed to decrypt the communications.

Sanctions

Potential violations of this Policy may result in suspension of the User's access to the Firm's Internet and email resources, followed by review of any costs and/or charges incurred by the Firm.

Violations of this Policy may subject Users to the loss of Internet and email privileges and may result in disciplinary action, including termination.

Illegal acts involving the Firm's Internet and email resources may also subject violators to prosecution by local, provincial, and/or federal authorities. Suspected law violations may be referred to police agencies. The Firm may seek legal action against any violators, including damages, indemnification and costs.

User's acknowledgement

I acknowledge that I have read, understand and agree to comply with this Internet and Email Use Policy as set forth above. I understand that failure to comply with this policy may result in disciplinary action, including termination, as well as legal action against me to seek damages, indemnification and costs.

Name

Date