



## Intellectual Property Information Sheet

# Social Networking Sites: Guidance & Best Practices

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As popular as social networking sites are, they raise a number of legal issues in terms of data protection, privacy and safety of users, copyright infringement and defamation, among others. This Guidance Note provides a summary of practical tips that social networking providers may follow to help ensure both legal compliance and success of its site.

### Provision of Information

The provider of a social networking site should provide users with certain information, including:

- Its identity.
- What personal information it will collect and retain, ways in which it will use the personal information (e.g. on the user's public profile or with third parties) and any other information to ensure such data processing is fair. It must comply with a number of regulations including EU and domestic data protection regimes both for the purposes of handling personal data and marketing.
- What personal information will be disclosed in the user's profile page and whether a user's profile page can be searched by others. It is recommended that all social networking providers have the functionality to allow users to have a public profile but one which is not searchable via search engines.
- A sufficient complaints procedure complete with guidance on how to make a complaint.

### Protecting Users' Privacy

Social networking operators should take steps to protect the privacy rights of users, for example:

- Establish privacy-friendly default settings taking into account the age and intentions of users (e.g. making a page private automatically unless the user specifically requests it to be made public),
- Default settings including privacy settings should be able to be changed at the users' discretion.

- Tools such as blocking functions should be made available.
- Sufficient information and warnings regarding privacy risks ought to be given when users upload data onto the site.
- Users should be advised that when uploading content relating to other individuals, it must only be done with the consent of that individual.

### Protecting Users' Safety

As a social networking site provider, active steps ought to be taken to protect the safety of users. Some examples are as follows:

- Personal information of users should be requested and validated where appropriate, for example through the use of passwords.
- Messages and warnings should be published to ensure users behave in a responsible and appropriate manner.
- Inappropriate content should be removed and cases where bullying and harassment arise, users should be aware that serious action will be taken e.g. removing the bully as a member of the site or perhaps even contacting the police.
- Establish a complaints procedure for dealing with safety issues including bullying. Making this complaints procedure easily accessible is also important.

### Protecting Minors

Steps ought to be taken to ensure that minors are adequately protected and are able to use the site safely. For example:

- Age limits should be appropriately set for the use of the site and warnings regarding the content and safety of sites should be evident.
- "Cookies" can be used to track users who have attempted to register and are below the minimum age, to help identify those that try to re-register using a false name and/or age.

- The profiles of users under the age of 18 (if permitted) should be kept private and not searchable.
- Take down procedures in respect of user profiles and photos of those under the age of 18 should be particularly rapid.
- Have links in place which can be used to report abuse or flag profiles which may be inappropriate for minors. One option would be to use the "CLICKCEOP" button – this was created by the Child Exploitation and Online Protection Centre and allows minors to seek help immediately from the police if they suspect online activity of an illegal or inappropriate nature.
- Consider screening content including photographs on the site and block any which are inappropriate for minors.

Conditions together with appropriate disclaimers elsewhere on the site.

- Putting in place responsive "take-down" procedures for cases where complaints or allegations of defamatory or unauthorised content are received. If it is not possible to take down defamatory material immediately, place a disclaimer beside the relevant content to the effect that the information may not be true.

Members of the public will more often than not direct any claims directly against the social networking provider – it is easier to identify and almost certainly has more money than individual users and therefore is more likely to be worth suing. To minimise exposure, it is important that social networking providers take action as soon as possible and making it easy for users to notify the social networking provider of such content will help to achieve this.

### Copyright Infringement and Defamation

Publishing user generated content can often result in material being published on a site which is defamatory and/or infringes third party copyright. To reduce the risks of liability consider:

- Notifying users that they can be held liable should the material they post on the site be defamatory or infringe third party rights. This can be communicated via the Website Terms and



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This Information Sheet is intended to provide general advice in relation to social-networking sites. For more specific guidance, legal advice should be sought. Thorntons is a trading name of Thorntons Law LLP.

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