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your rights @ work

Big Brother in the Workplace – Work Phones

Remember who owns the devices you're using.

If your employer gives you a mobile phone for work use, they own all data accessed on that device (internet, documents, texts, emails), however the content of your calls cannot be recorded without your express knowledge and permission.

Monitoring or recording someone without their permission is ILLEGAL. Under the Surveillance Devices Act 1998 (WA), any device that records or transmits private conversations is a listening device. It is illegal to install, maintain or use any such device without the consent of all parties.

Sensitive Personal Information

There are limits on what your employer can collect. Collection of Sensitive Personal Information – including data pertaining to a person's race, religion, sexual preferences, medical details or political views – is subject to the National Privacy Principles and stringent control.

Issue: Implied Consent

There is the possibility that employers might try to claim that 'consent' of a worker can be implied from their agreement to the terms of an EBA, policy, or by accepting the phone. This is misleading. Whilst it was found that there is nothing in the Fair Work Act which prevents the inclusion of such a clause in an Agreement, it cannot and does not override the Surveillance Devices Act 1998 in Western Australia.

Solution:

Remember that the device you have been supplied with belongs to your employer. If you think there is a listening/monitoring device on your mobile, provide your employer with an express denial of consent. Let your employer know you do NOT consent before you accept the device.

Issue: Ghost / Spying Apps

There are a number of 'Ghost' or 'Spying' apps that can be downloaded onto devices. The app transmits everything on one device to another, without the original user knowing they are being monitored.

Solution:

Unfortunately, this is legal. Given that the phone belongs to the employer, they are allowed to monitor and install anything they like on the phone. The best option is to be aware of the possibility that you are being monitored. If in doubt, use your own phone for personal calls / texts / internet browsing.

Protect Yourself!

Make sure you know your rights and obligations regarding your work phone. Do not use a work mobile or device for anything inappropriate or unrelated to work tasks or jobs, no matter where you are or when it is. Remember the phone bill will also provide your employer with a record of your calls, times they were made, and the location based on the mobile tower that was accessed.

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For more information, please contact your Union Organiser, Delegate or the Member Service Centre on 9427 7777 or 1800 064 657.



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