



## Computer hacking and misuse in Queensland

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When people hear references to computer hacking and computer misuse or even cyber-crime, most might think that it relates to sophisticated computer experts who are remotely able to get past a company's security measures to obtain financial benefits or to download confidential information. What most people don't realise is that computer hacking and misuse can relate to conduct as simple as looking at files on their work allocated computers that they are not supposed to be looking at, even if they have ready access to the files. And it's a crime in Queensland.

### Unauthorised access to a work allocated computer is a criminal offence

If you use a work allocated computer that has security measures installed to restrict who can access the content, such as a password, you are using what the Queensland criminal law refers to as a 'restricted computer'. If you use a restricted computer in a manner for which your employer does not authorise, you face the risk of being charged with a criminal offence.

### What are the penalties for computer hacking or misuse?

Section 408E of the *Criminal Code* 1899 (Qld) renders computer hacking or misuse to be unlawful. Depending on the nature of the unauthorised use, computer hacking charges carry a maximum penalty of anywhere from two (2) years of imprisonment (when no benefit is obtained) to 10 years of imprisonment (where detriment or damage occurs, or when a financial benefit of \$5,000 or more is obtained).

Experiencing problems in the workplace?

Call for assistance [1800 333 444](tel:1800333444)

Unsuccessful attempts to misuse a restricted computer, particularly when the primary objective is to cause damage or detriment, or to obtain a financial benefit of \$5,000 or more, is also a criminal offence which carries up to 10 years of imprisonment.

## How is computer hacking or misuse detected?

Hall Payne Lawyers has assisted a range of clients who have been charged with computer hacking or misuse in response to the way that they have used their employer's information technology systems.

All of the clients that we have represented have been charged after their employer uncovered the nature of their unauthorised use by auditing metadata, which creates a digital footprint and allows a controller of a restricted computer to obtain a full picture of any files that you have accessed and when.

We have acted for people who work in a range of professions that require them to use a restricted computer as part of their employment, including:

- nurses;
- paramedics;
- custodial correctional officers;
- police officers;
- bank tellers; and
- teacher aides.

Most people have faced criminal charges because they have looked up files that relate to people they know, predominantly ex-partners or work colleagues, and viewed confidential information such as medical conditions, residential addresses, bank account balances and payslips. All of them thought that they were allowed to access the file because the files were not locked or restricted.

It is important to understand that you should only access files on your work computer that you need to access as part of your job. If you stumble across a file accidentally and it doesn't feel as though you should be read it, the safest option is to not open it all or close the file immediately. It may also be prudent to let your immediate supervisor know of the accidental access.

It's also important to note that aside from any criminal charges you could face, you may also be in breach of employment laws. This could lead to disciplinary action and potential termination of employment.

To ensure that you understand your obligations when using a work computer, you should read the user terms that apply to the work computer, and any policies that your employer has about computer usage.

# Get help

If you have been charged with computer hacking or misuse, or if you are approached by your employer or a police officer and asked questions about the way that you have used a restricted computer, you should obtain legal advice as soon as possible.

Our [criminal lawyers are able to provide expert advice in relation to computer hacking and misuse](#) and are also able to represent you in court or when dealing with the police. We can also ensure you have the appropriate employment law advice if required.

## Computer hacking cases in Queensland you may find interesting

- [Former QCS officer prosecuted for computer hacking](#)
- [Queensland police computer hacking: no action taken in nearly 90% of cases](#)
- [Computer game hacker pleads guilty to nine charges in Brisbane District Court](#)

## Legal advice and assistance continues during COVID-19

We continue to provide our client services during the coronavirus outbreak.

Most of our teams have now returned to their respective offices with others remaining fully equipped to work remotely, where necessary.

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

Phone: [1800 659 114](tel:1800659114)

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