

Advice to employers: social media policies and unfair dismissals

Insights - 30/10/2018

New rule in unfair dismissal

In order for a dismissal to be deemed fair in accordance with the Unfair Dismissal Acts 1977 - 2015 (UDA), the dismissal must be for a genuine reason and fair procedures must be followed in implementing the dismissal.

Precedent

The case which led to the development of this rule concerned a Dublin Bus driver who posted a photo of a loose wheel on the bus he was driving on Facebook. He was conscious not to show the brand of Dublin Bus when posting the photo and subsequently removed the photo a few hours later.

The individual acknowledged that he was wrong in posting the photo, but felt that the decision by his employer to dismiss him on foot of posting the photo on social media was disproportionate and harsh in the circumstances.

The employer, in standing over its decision to dismiss, relied on the company's social media policy which made clear that the actions of the employee was a dismissable offence and they were therefore justified in their actions.

Although the Workplace Relations Commission (WRC) accepted that the employee was wrong to post negative images about its employer, it held the dismissal was unfair as the employer had failed to fully inform and educate the employee on the existence of the policy.

Advice to employers

This case is a key example of the importance of having suitable employment policies in place, and making sure that the workforce have been made aware of them, including where applicable, suitable training on the policy as well.

The WRC only directed a small award of €990 and it would seem that the Adjudication Officer would have found in the employer's favour had the employee received training on the social media policy making him aware of the seriousness of the act he had done, and that his actions could have resulted in his dismissal.

For advice on implementing employment policies, please contact Bláthnaid by emailing blathnaid.evans@ogier.com.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Meet the Author



Bláthnaid Evans

Head of Employment and Corporate Immigration
Ireland

E: blathnaid.evans@ogier.com

T: [+353 1 632 3113](tel:+35316323113)