



MAPLES  
GROUP

# Controversial Beliefs – When can Dismissal or Discipline be Justified?

**Karen Killalea**

Partner and Head of Employment Maples and Calder (Ireland) LLP

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# Overview

Why does this  
matter?

Sources of law  
and guidance

Case Studies  
Immigration  
Global Conflicts

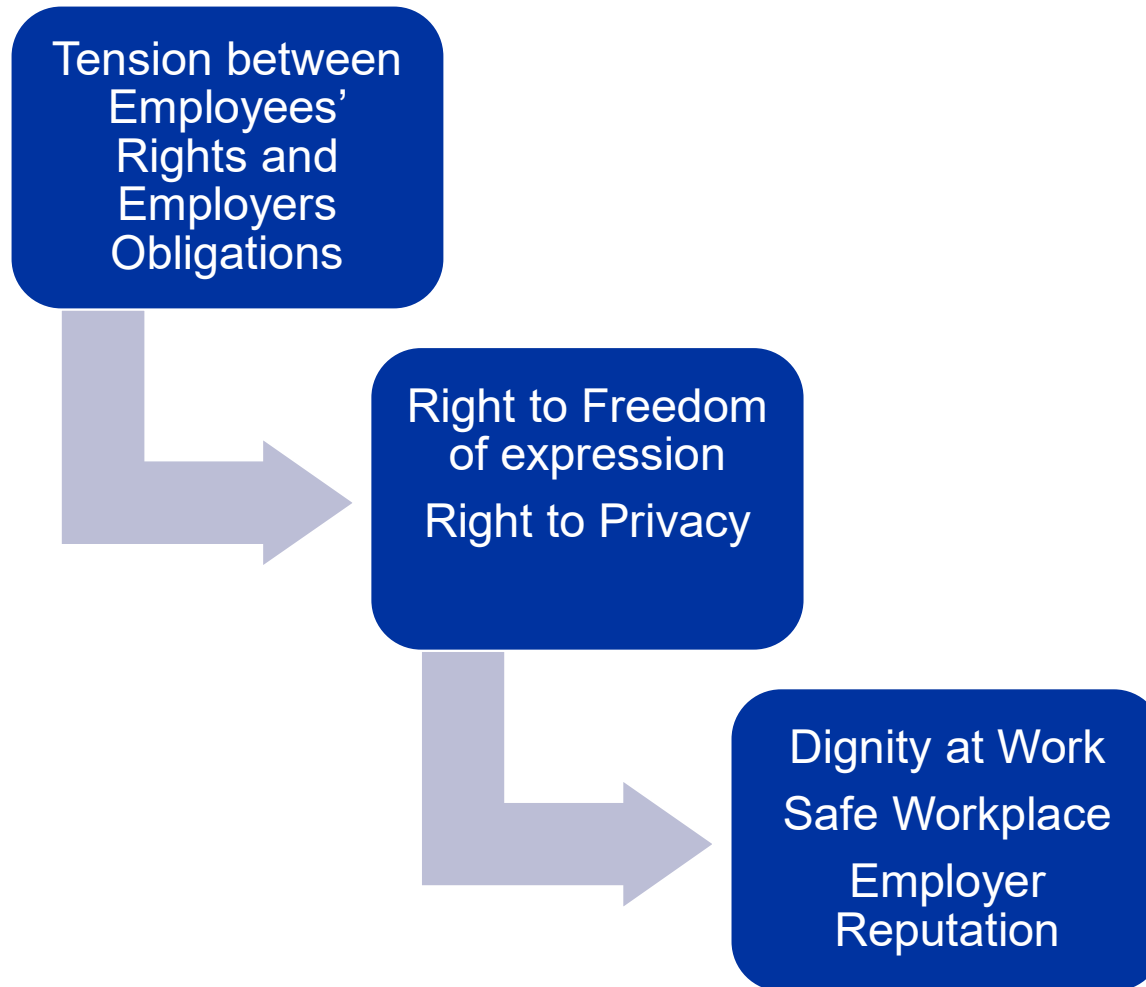
Case Studies  
Religion at Work

Case Studies  
Transgender

Key Takeaways

Questions

# Why does this matter?



# Sources of Law and Guidance

- **Irish Constitution**: Article 40.6.1 – freedom of expression (not absolute).
- **Employment Equality Act 1998**: 9 protected grounds (religion protected; "belief" not standalone).
- **Codes of Practice**: Prevention of Bullying and Harassment and Sexual Harassment.
- **Unfair Dismissals Act**: s6(2)(b) – dismissal unfair if mainly due to religious or political opinions.
- **Hate speech**: Prohibition of Incitement to Hatred Act 1989; Criminal Justice (Hate Offences) Act 2024.
- **EU Charter**: Arts 10, 11, 52; Directive 2000/78 (religion or belief).

## Let's keep the following in mind...

How private or public were the comments?

Does the incident impact colleagues or customers or reputation?

What workplace policies, if any, are engaged?

What role does social media play?

# A quick word on Kiernan v A Wear Limited 2007



# Case Study – Glynn v Carlow Dental Centre 2019

- Anti-refugee comments on Facebook – while on sick leave
- WRC applied the principles governing unfair dismissals
- “If an employee is to be dismissed for breaking the rules, he should know or have an opportunity to know what they are”
- The dismissal was both procedurally and substantively unfair
- Substantively- Employer had no social media policy and was aware of previous comments
- Sanction disproportionate on the facts – invitation to desist and warning more suitable
- Procedurally – unfair process
- Award: **€10,564.62 (approximately 4 months pay)**

## **Takeaway:**

- Clear policies, proportionality, and evidence of impact are essential.

# Case Study – Carey v Wix 2024

- LinkedIn posts on Israel-Gaza conflict
- Employer admitted procedural unfairness (no fair procedures followed)
- WRC focused on compensation: **€35,000** awarded

## Takeaway:

- Even with controversial content, process failures (not the content itself) create legal risk
- Reputational damage
- Legal Costs



# Case Studies – Shanahan v Clonmel Chamber 2022

- Unauthorised political commentary by the CEO on LinkedIn
- Instructed to take comment down
- Tried to delete it but it remained and was picked up by media, liked and shared
- Dismissal disproportionate, dismissal unfair substantively and procedurally
- No social media policy; €20,000 (about 8 months salary)

## **Takeaway:**

- Ask employees do they know how to remove a comment/delete it
- Give clear instructions
- Social Media Policy

# Religion at Work - McAteer

- **McAteer (EDA153)** –
- Evangelical Christian Faith - Refusal to follow instruction not to preach at work
- Dismissed – Successful discriminatory dismissal claim
- The Labour Court decided there is a right to manifest religion in teaching and observance.
- The employer's prohibition against preaching during working hours could place the employee at a particular disadvantage to those of no religious belief or those of a different religious belief whose beliefs do not require them to evangelise in the same manner
- €70,000

## **Takeaway:**

- An employee is entitled to manifest religious beliefs in work. That right must be balanced with the right of an employer to limit these rights provided there is an objective justification for doing so and such limitation must be proportionate.

# Religion at Work – Shaz Minhaz

*“ expectation of the respondent’s legal duty towards him was far too high and unrealistic”*

Practising Muslim –  
requested to pray  
during working hours

- Offered three prayer rooms;
- Facilitated shift changes;
- Facilitate prayer breaks;

Discrimination Claim  
failed

# Employees expressing views - Transgender

- **Higgs v Farmor's School [2025]:**

- Christian Employee posted comments regarding their beliefs and their manifestation through expression are protected;
- Dismissal for “speculative reputational risk” is disproportionate

- **Forstater v CGD:**

- Gender-critical beliefs protected;
- Manner of expression can be regulated;
- £100,000 awarded

# Employees expressing views - Transgender

- **Sarah Holmes v National Women's Council of Ireland**
  - Equal Status Case
  - Delegate excluded from a NWCI Conference because of threat of violence related to anti-transgender comments
  - Exclusion justified – no discrimination - reasonable apprehension of disorderly or criminal conduct.
- **Hannon v First Direct Logistics Ltd [DEC S2011-066].**
  - “it is well established in law that the gender ground protects transgender persons from sex discrimination, that is, discrimination arising essentially if not exclusively from the sex of the person concerned”

# Key Takeaways



## Social Media Policy and Media Policy:

- Have one
- Roll it Out
- Apply it consistently

## When an Issue arises - Do

- Identify the policy;
- Investigate Fairly;
- Balancing Act between freedom of expression, privacy and the interests of the employer

## When an Issue arises – Don't

- Avoid knee jerk reactions
- Don't shortcut the investigation - the facts may not speak for themselves
- Avoid a disproportionate sanction

## Reputational Damage

- Assess the damage dispassionately
- How real is the threat?
- And to what? Reputation? Customers? Employees?

The image features a dense field of three-dimensional blue question marks. In the center-right foreground, one question mark is highlighted in a bright yellow color, standing out from the rest. The blue question marks are arranged in a way that creates a sense of depth and repetition, with some appearing closer and larger than others. The lighting is soft, casting gentle shadows and highlights on the surfaces of the question marks.

Any questions?