



## **THE IMPORTANCE OF CONSIDERING APPROPRIATE SANCTIONS FOR INAPPROPRIATE CONDUCT IN THE WORKPLACE\***

In a recent decision by the Employment Appeals Tribunal (the “EAT”) the EAT found that the dismissal of an employee who put in derogatory comments on Facebook about a colleague was unfair.

In this case the employee admitted that the actions were rude and demeaning. It was accepted that the employee put his hands up and provided the employee with a full apology.

The employee in this case had a good employment record. In this case the employer acknowledged that it did not consider any other sanctions as the comment have been on Facebook which was a public forum.

The EAT determined that there were flaws in the employer’s policies and procedures that rendered the dismissal unfair and an award of €5,000 was made but the EAT also determined that the employee had significantly contributed to his own dismissals as his actions were offensive and inappropriate.

This recent decision is important as:

1. It confirms that Irish Law allows employers to take an employee’s use of social media into account in disciplinary matters.
2. It is vital that employers set ground rules in relation to the use of social media. Therefore employers should have an appropriate social media policy. The policy should set out acceptable usage.
3. Any policy and procedures and procedure should deal with bullying, harassment and sexual harassment to include where such issues arise in a virtual sense. By this we mean the use of any form of social media.
4. An employer in considering disciplining an employee for inappropriate social media use must make sure there is a sufficient link between their activity on social media and their employment.
5. Before any disciplinary action particularly relating to dismissal is taken it is important that employers consider whether other sanctions are appropriate.



**\*Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

**\*\*In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**