

## Shooting yourself in the foot with social media

Social media has become a powerful communication tool, but using it can have far-reaching consequences. This has been illustrated by recent reports in the media involving employees who have been fired or suspended for allegedly making racist comments on social media. But can employees be dismissed for expressing their personal opinions outside the workplace and outside of working hours?

The widely publicised cases of Chris Hart, Penny Sparrow and Gareth Cliff illustrate how powerful social media can be. So powerful that the expression of their 'private' opinions can impact negatively on the employment relationship. Economist Chris Hart allegedly tweeted that 25 years after apartheid ended, the victims are increasing, along with a sense of entitlement and hatred towards minorities. He was suspended by Standard Bank pending an enquiry into the matter. Penny Sparrow allegedly referred to black beachgoers as 'monkeys' on Facebook. Two of her previous employers reportedly felt the repercussions of the incident when they were approached, and in one case even being accused of being racist. Gareth Cliff of 'Idols' supposedly tweeted, with reference to Sparrow, that 'people do not understand free speech'. M-Net ended his contract. One might question why the employers in the Hart and Cliff cases reacted so severely. Would their reaction have been as severe if the 'private' opinions of their employees had not been expressed and spread via social media?

Quite recently we featured an article about employees being dismissed for making derogatory statements about their employers on social media – see 'Trashing your boss on Facebook' – <http://www.labourwise.co.za/labour-articles/trashing-your-boss-on-facebook> . The case under discussion in the article demonstrates how conduct outside the workplace and outside of working hours can be justification for dismissal. The CCMA commissioner in that case made the following comment: *"If employees wish their opinions to remain private, they should refrain from posting them on the internet"*.

### Link between organisation and employee

But, one might ask, if a person makes a comment on Facebook, Twitter or other social media that is not directed against the employer, what does it have to do with the employer? As we have seen, there is a much stronger link than one might think!

The majority of our waking hours are spent at the service of our employers. All employees are to some extent representative of the organisation they work for. From an outsider's point of view a person is associated with whom he or she works for, even if the views he or she espouses on social media are his or her own private views. Even more so if it is made known who the employer or former employer is. The extent of the association between the person and the employer is affected by matters such as the nature of the organisation, the organisation's public profile and the employee's position within the organisation. In some cases the association is glaringly obvious, even without it being stated (such as in the cases of Chris Hart and Gareth Cliff).

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## Values, rules and standards

But how should employees know whether their employer might object to what they share on social media? What should employers do? In order to avoid confusion, employers should be clear about where they stand on matters that may have an impact on the employment relationship, including the use of social media. The organisation's values should be clearly stated in its policies. These should be elaborated upon in rules or standards of conduct expected of employees.

An employer could, for example, implement a social media policy with rules that prohibit employees from acting in a way that is racist or promotes racial intolerance, religious intolerance, sexism or other forms of discrimination in the workplace or outside of it. The rule should caution employees against expressing such opinions in the workplace or elsewhere in the public domain, including social media. The rule should further state the possible consequences, namely that a transgression will lead to disciplinary action with dismissal as a possible outcome.

## Dismissal as penalty

In deciding on an appropriate penalty, we are brought back to the consequences or potential consequences of the employee's transgression. Causing disharmony in the workplace is bad enough. But the consequences could be even worse. For example, if a senior employee of a high profile company expresses 'private' opinions on social media that are highly offensive, this may be incompatible with the company's stated values. It could also seriously taint the company's public image. Dismissal may then very well be an appropriate penalty.

*Article provided by Jan Truter from Labourwise*

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