

Group Briefing

February 2019

Lecturer with ‘non-PC’ views not protected by UK employment equality legislation

Ireland M&A Legal Adviser of the Year 2018
Mergermarket European M&A Awards

Ireland Client Service Law Firm of the Year 2018
Chambers Europe Awards

Ireland Law Firm of the Year 2018
International Financial Law Review (IFLR)
Europe Awards

Advised on Equity Deal of the Year 2018 – Allied Irish Banks IPO
International Financial Law Review (IFLR)
Europe Awards

Ireland Law Firm of the Year 2018
Who’s Who Legal

Ireland Law Firm of the Year 2017
Chambers Europe Awards

Best Firm in Ireland 2018, 2017 & 2016
Europe Women in Business Law Awards

Best National Firm for Women in Business Law 2018, 2017 & 2016
Europe Women in Business Law Awards

Best National Firm Mentoring Programme 2018, 2017 & 2016
Europe Women in Business Law Awards

Best National Firm for Minority Women Lawyers 2018
Europe Women in Business Law Awards

This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

A UK Employment Tribunal has found that those who express ‘non-PC’ views in the workplace cannot expect to claim a right to those beliefs in an employment equality context.

A UK Employment Tribunal (“ET”) has rejected a claim for unfair dismissal brought by a former senior lecturer at the University of Lincoln, who was disciplined and ultimately dismissed following interpersonal issues and disagreements with colleagues. The academic, who worked in social policy, claimed that he had been discriminated against as a result of his non-PC beliefs. In rejecting his claim, the ET stated that “...the tendency to favour what is palatable in social policy discussion over the truth (in colloquial terms this tendency is known as political correctness) is not a philosophical belief that has the protection of section 10 of the [UK] Equality Act 2010.”

BACKGROUND

The claimant asserted that the “discrimination” against him began in 2015, when he set-up a Twitter account in order to promote a book he had written. Having been labelled a “Tory bigot” by a fellow Twitter user, he stated that he was astonished to see “left wing” colleagues from the University join in on what he described as discriminatory attacks.

In one instance, a colleague of the claimant responded to one of the Twitter users, urging the individual not to “...discount the whole team off the back of the work of one member of staff.” The claimant also alleged that during this time the Deputy Head of the University’s School of Social and Political Science appeared to sneer at him, and questioned whether his work was worthy of funding.

After the claimant complained to his line manager, the University commenced an investigation into the matter, eventually concluding that both the claimant and certain of his colleagues had breached the University’s “respect” policies. The claimant contended that the fact that his colleagues had been found in breach of the policies led to “the inescapable conclusion” that he had been discriminated against on the basis of “political philosophical beliefs”. Disputes between the claimant and his colleagues continued until August 2017 when the claimant was dismissed by the University, following which he brought the claim for unfair dismissal.

WILL THE IRISH COURTS FOLLOW THIS APPROACH?

As the ET's judgment was delivered orally, we do not have the benefit of the ET's detailed legal analysis. Given the diverse and sometimes conflicting viewpoints expressed by employees in the workplace, it is encouraging to see a rational approach being taken as to whether something truly constitutes discrimination on a protected ground. However, in considering whether the Irish courts would following this line of reasoning, two points are worth noting.

1. In Ireland, academic freedom is conferred on universities and their

academic staff by the Universities Act 1997 (the "**Act**"). The Act gives academic staff the freedom, within the law, to "...state *controversial or unpopular opinions*" and provides that they "...shall not be *disadvantaged, or subject to less favourable treatment by the university, for the exercise of that freedom.*" The precise scope of this right is unclear as the statutory provisions conferring academic freedom have not yet been tested in the Irish courts.

2. In addition, there is no specific protection against discrimination on the "philosophical belief" ground contained in the

Employment Equality Acts 1998 to 2015. Nevertheless, there are numerous cases where employees have been found to have suffered discrimination for having expressed controversial beliefs. One such case is *Mbuyi v Newpark Childcare (Shepherds Bush) Limited*, where the dismissal of an Evangelical Christian for negative comments on homosexuality was held to be discriminatory. In a climate where it has been suggested that political correctness has 'gone mad', we can expect that this issue will soon be revisited.

AUTHORS



CIAN BEECHER
PARTNER

+353 1 920 1193

cian.beecher@arthurcox.com



DECLAN MACQUILLAN
ASSOCIATE

+353 1 920 1308

declan.macquillan@arthurcox.com



NIAMH FENNELLY
PROFESSIONAL SUPPORT LAWYER

+353 1 920 1392

niamh.fennelly@arthurcox.com

OUR TEAM



SEAMUS GIVEN
HEAD OF EMPLOYMENT GROUP
+353 1 920 1210
seamus.given@arthurcox.com



KEVIN LANGFORD
PARTNER
+353 1 920 1226
kevin.langford@arthurcox.com



CIAN BEECHER
PARTNER
+353 1 920 1193
cian.beecher@arthurcox.com



LOUISE O'BYRNE
PARTNER
+353 1 920 1185
louise.obyrne@arthurcox.com



DEBORAH DELAHUNT
ASSOCIATE
+353 1 920 1085
deborah.delahunt@arthurcox.com



GRACE GANNON
ASSOCIATE
+353 1 920 1077
grace.gannon@arthurcox.com



SARAH LAWN
ASSOCIATE
+353 1 920 1769
sarah.lawn@arthurcox.com



SALLY DOYLE
ASSOCIATE
+353 1 920 1785
sally.doyle@arthurcox.com



NIAMH FENNELLY
PROFESSIONAL SUPPORT LAWYER
+353 1 920 1392
niamh.fennelly@arthurcox.com



RACHEL BARRY
ASSOCIATE
+353 1 920 1281
rachel.barry@arthurcox.com



JOHN CASEY
ASSOCIATE
+353 1 920 1268
john.casey@arthurcox.com



SHANE MCCARTHY
ASSOCIATE
+353 1 920 1263
shane.mccarthy@arthurcox.com



MAILLE BRADY BATES
ASSOCIATE
+353 1 920 1351
maillie.brady.bates@arthurcox.com



SARAH FAULKNER
ASSOCIATE
+353 1 920 1296
sarah.faulkner@arthurcox.com



HANNAH O'FARRELL
ASSOCIATE
+353 1 920 1293
hannah.ofarrell@arthurcox.com



DECLAN MACQUILLAN
ASSOCIATE
+353 1 920 1308
declan.macquillan@arthurcox.com

arthurcox.com

Dublin

+353 1 920 1000
dublin@arthurcox.com

Belfast

+44 28 9023 0007
belfast@arthurcox.com

London

+44 207 832 0200
london@arthurcox.com

New York

+1 212 782 3294
newyork@arthurcox.com

Silicon Valley

+1 650 943 2330
siliconvalley@arthurcox.com