

# England's racist uproar raises the question: can businesses fire bigoted employees?

As vile reactions to England's Euro Cup loss spread on and offline, businesses whose employees were found to be racist were once again caught between ethical imperative and their legal obligations.



ENGLAND COACH GARETH SOUTHGATE COMFORTS BUKAYO SAKA AFTER THE TEAM'S LOSS TO ITALY (IMAGE: EPA/LAURENCE GRIFFITHS)

Before the game, the players on both sides took a knee to honour the Black Lives Matter movement. Before that, English fans booed the Italian national anthem.

After the match — after England had lost to Italy, after three English players had missed their chances in the penalty shoot-out, three English players who happen to be black — the dark sickness of English racism erupted.

Social media was vile, even by its own standards. You need no imagination to know what was going on.

Pushing back vainly against the tide, the English team was dignified and gallant in its visible embrace of and support for its own members. The Football Association denounced the “disgusting behaviour” of its own fans and declared them unwelcome. Prime Minister Boris Johnson told them to crawl back under their rocks, ignoring his own party’s blatant fanning of racism for political gain.

The social media platforms then copped their own abuse for allowing it to happen. Facebook and Twitter said they had been working frantically to take down racist posts and suspend accounts. We know, don't we, how effective that will be?

And attention turned, as it so often does these days, to the hunt for the perpetrators and the call for their blood. It is fashionable to publicly identify the employer of an online troll and demand that they act. Savills, the massive UK property company, became aware that one of its employees had been tweeting racist insults about the black players and promptly suspended him pending an investigation.

Businesses are caught here, between the insistent demands of public sentiment (a mixture of ethics-based calls for integrity and basic witch-burning) and the rights of employees. It does, after all, remain legal to be a bigot.

It may or may not be that the performance of duties in a real estate agency by a particular employee will be relevantly affected by the fact that that individual is a racist arsehole who likes sharing their opinions on genetics. If they're running a rent roll, definitely a problem. If they're repairing the printer, maybe not so much.

Employers have rights too, including protecting their other staff from exposure to awfulness. At the time of the Cronulla riots, in an earlier life, I summarily dismissed an administrative staff member when I discovered they had forwarded an email chain encouraging the racist attacks. I didn't think twice about it and wouldn't again. Whether I had the legal right to take that action is less certain.

The answer is contextual, depending on the employee's role and responsibilities, what's in their contract and the company's policies, and exactly what they did. As Israel Folau demonstrated, sacking an employee for expressing unpopular opinions is a fraught exercise.

Equally controversial would be the fate of the employee at Seven News who decided that the best way to headline a Facebook post reporting on the racist abuse of the England players was this:



Now that is racist, indefensibly so. Seven very quickly deleted the post as Twitter went into meltdown, but it had already been saved and shared a thousand times and the damage had been done.

I would argue that an act of such egregious offensiveness could not be committed by anyone who was not harbouring racist sentiments. It simply couldn't occur to them to type those words otherwise.

So could Seven, assuming it wanted to, take disciplinary action against the employee? Certainly, their actions brought the company's reputation down and were antithetical to what it says it stands for. I checked and yep, Seven has a diversity and inclusion policy. Tick.

For what it's worth, my view is that Seven would be justified in terminating each person who saw and allowed the post to go up. Those employees might fight that, and their grounds could include that they were only acting in pursuit of their understanding of what their employer likes to generate: clickbait.

It may be hard for media companies in particular to hold their own employees to social values which their own corporate actions often belie. Still, News Corp (in the US) has lately sacked some men for sexual harassment, and strangely none of them pointed out that the company has an apparent editorial policy of attacking uppity women.

The point, for employers, is that it is a minefield. There are no clear bright lines of tolerance, reflecting society's confusion about just how free speech should really be.

My advice, however: if you find that you have employed a person who hates people of colour, fire them. Whatever the law says about it, they're filth.

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ABOUT THE AUTHOR

## Michael Bradley

CRIKEY COLUMNIST [@MARQUELAWYERS](#)

Michael Bradley is a freelance writer and managing partner at Sydney firm Marque Lawyers, which was created in 2008 with the singular ambition of completely changing the way law is practised.

