

CANCEL CULTURE, EMPLOYMENT LAW AND ACADEMIC FREEDOM:

When are controversial views on politics, gender and other topics protected and how to manage these with student concerns about bias, discrimination and psychological safety?

Presented by Sarah Fregon, Belinda Miller, Will Spargo and Shannon Chapman



17 October 2025

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& ROGERS**

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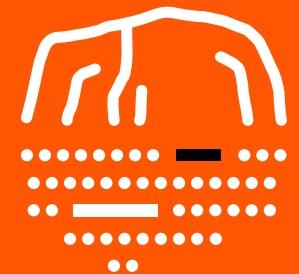


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ACKNOWLEDGEMENT OF COUNTRY

Lander & Rogers acknowledges the Traditional Custodians of the land on which we work, in Perth, the Whadjuk People of the Nyoongar Nation, and we pay our respects to Elders past and present.

As a law firm, we are aware that our legal system is based on the dispossession of First Nations people, who have a sacred and sovereign connection to the land.

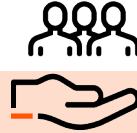


Our evolving landscape ...



Controversial litigation claims

Increase in **sexual harassment, bullying** and **discrimination claims**



Changes to anti-discrimination laws

Additional protected attributes: breastfeeding, gender identity and intersex status



Increase litigation relating to social media and out of hours conduct

Discipline for **misconduct related to social media and/or out of hours**



Individual claims on the rise

Increase in **individual claims** from both staff and students



Growth in social media activity

Use of social media by employees and students in and outside workplace continues to grow

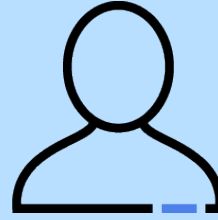
MEET OUR PARTIES

Suze



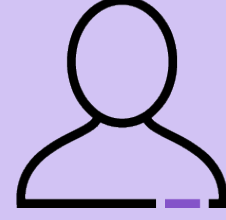
- Former mental health nurse.
- Now a nursing lecturer at a University.
- Convenes a compulsory course called 'Models of care: delivering patient focused care across diverse communities'.

Win



- A student at the University.
- Takes one of Suze's courses.

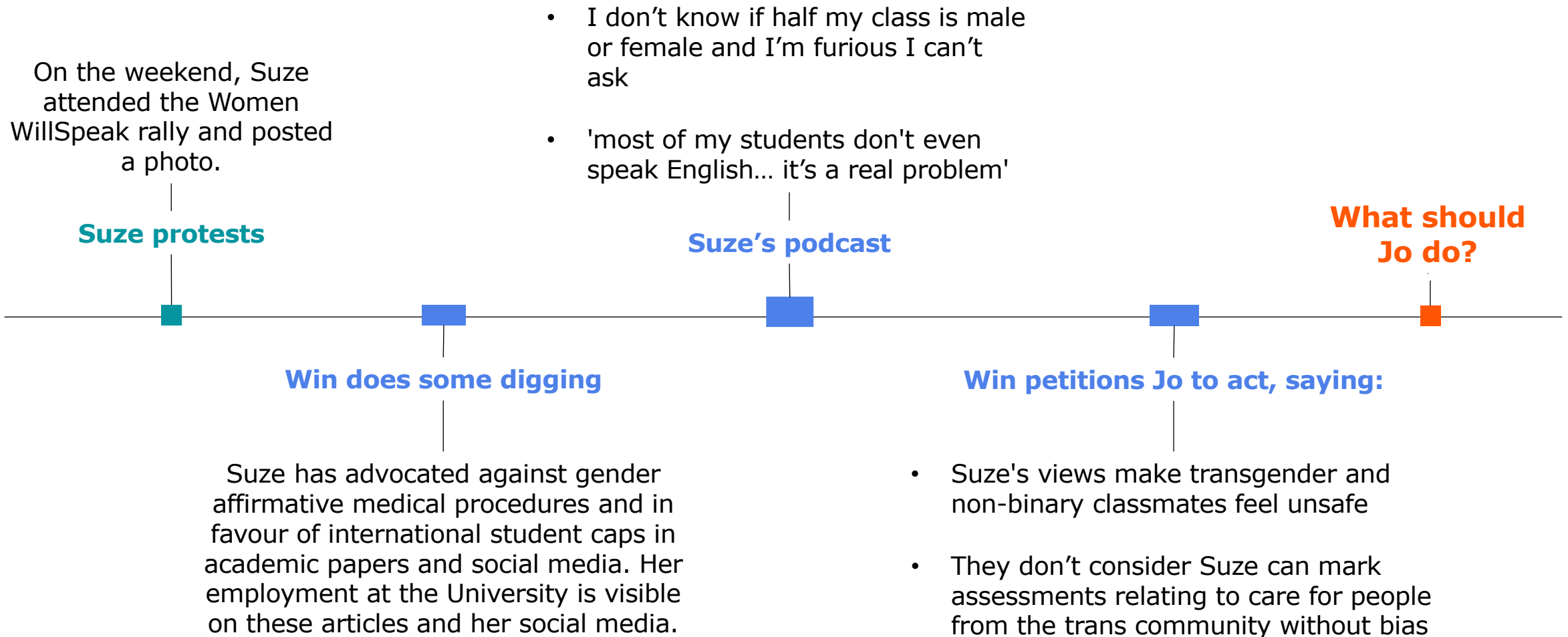
Jo



- The Dean of Suze's Faculty.

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OUR SCENARIO



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WHERE DO WE START?

Federal Anti-Discrimination Legislation

State and Territory Anti-Discrimination Legislation

Fair Work Act 2009 (Cth)

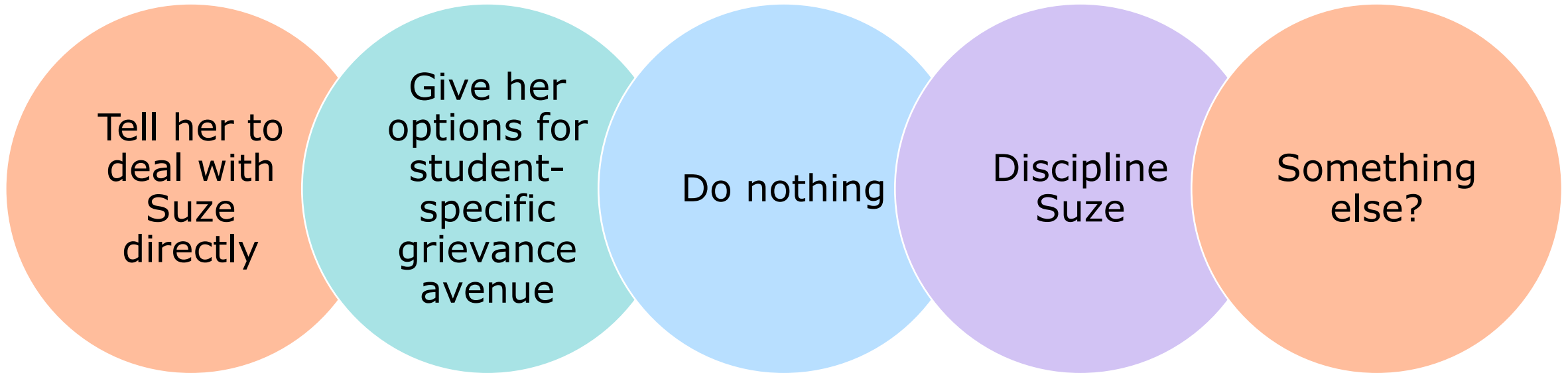
Work Health and Safety Legislation

Industrial Instruments

Contracts

Policies and Procedures

WHAT SHOULD JO DO?



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Political opinion then ...

Sayed v Construction, Forestry, Mining and Energy Union: The ground of a political opinion may encompass any opinion on **any matter in which the machinery of state, government and policy may be engaged**.

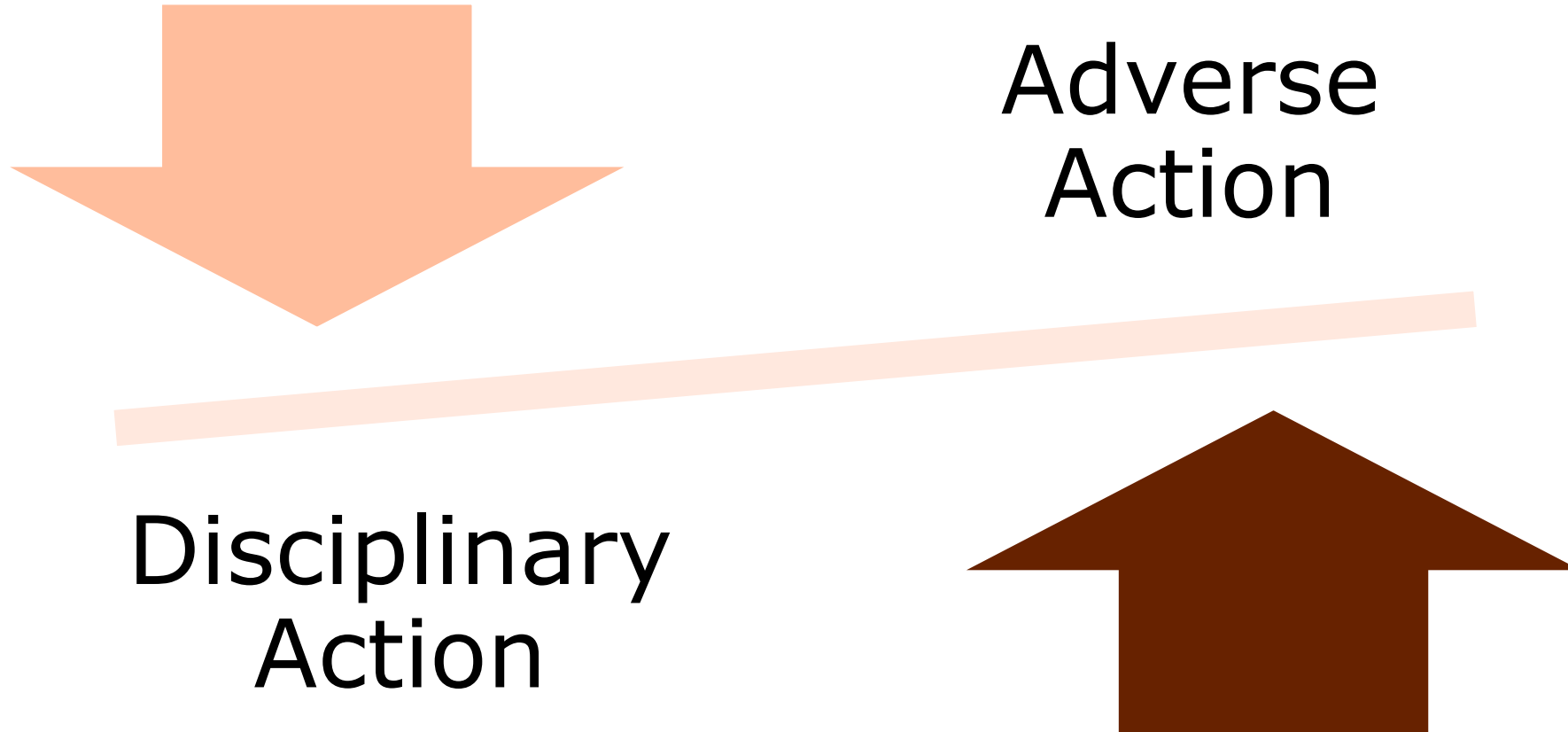
The definition of political opinion was expanded in *Henry v Leighton* to **apply to political activity and matters to which such activity is directed at any given time**.

And now ...

- Protection relates to **holding** and **expressing** a political opinion
- Encompasses the opinion about the policies or actions of the government of a country or its armed forces, **and may extend to the way media organisations report about such policies or actions**
- Matters pleaded as "political opinions" must be **considered in the context of the pleading as a whole** and the case the applicant seeks to establish



JO TAKES ACTION AGAINST SUZE



OTHER STAFF GET INVOLVED

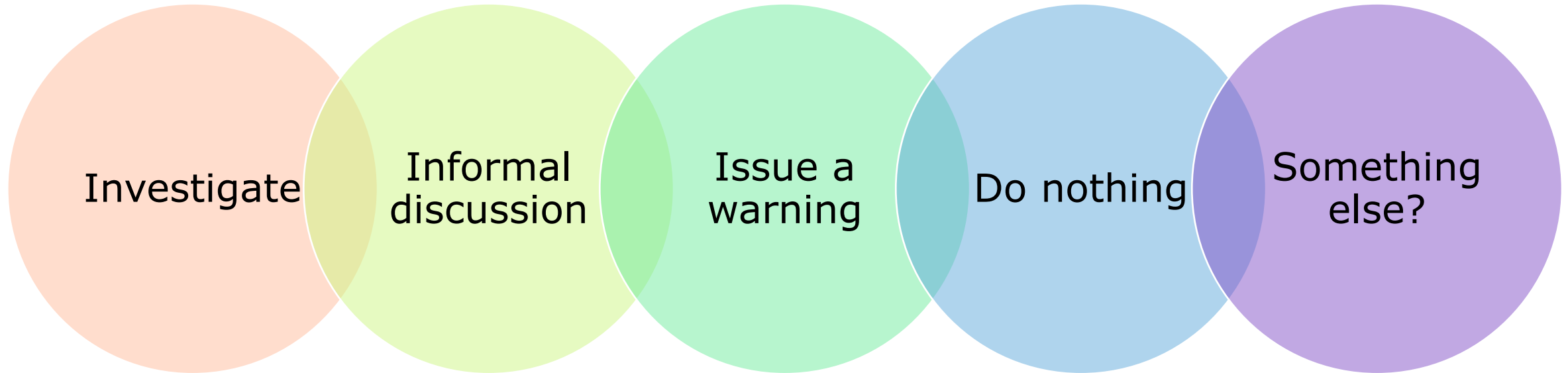
Several of Suze's colleagues hear about the students' concerns and look for Suze's posts.

During a faculty meeting, one of Suze's colleagues, Chris, raises the complaints and Suze's views and starts an 'academic debate' questioning the validity of Suze's gender critical views.

The debate becomes heated and Chris calls Suze a 'white supremacist' and a 'feminazi'.

SUZE MAKES A FORMAL COMPLAINT TO JO ABOUT CHRIS ...

WHAT SHOULD JO DO WITH CHRIS?



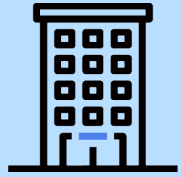
Lessons from Ridd about academic freedoms

- The exercise of a right to intellectual freedom need not conform to the Code of Conduct - it need not be respectful, collegial, or courteous to be a protected exercise of rights
- Exercising intellectual freedom does not require the individual to afford respect and courtesy
- A failure to maintain confidentiality while expressing opinion on university decision or process cannot be protected under freedom of speech rights
- The rule that a direction to an employee to maintain the confidentiality of information gathered and recorded during disciplinary processes will be lawful and reasonable



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Discipline for out of hours conduct



Nature of the employer's business



Duties and obligations of the employee's position



Identification as an employee of the employer



Nature and severity of the comments / posts



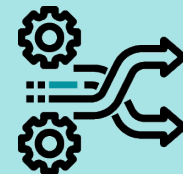
Any policies governing out-of-hours activity



Liability employer for out-of-hours activity



Reach of the activity

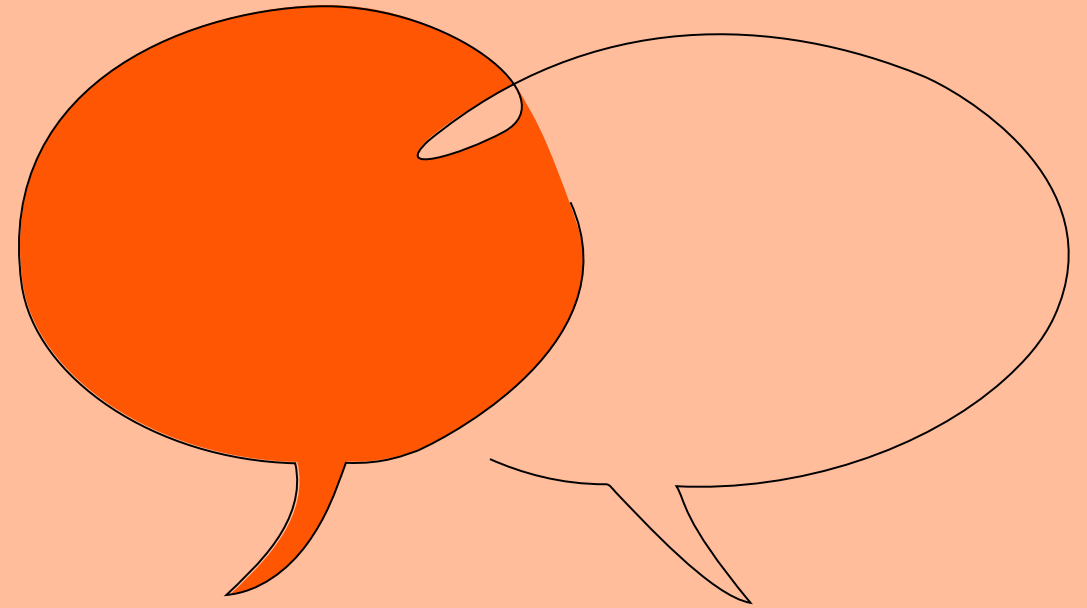


Test in *Rose v Telstra*

THE FAIRYTALE ENDING? OR NOT?



QUESTIONS



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THANK YOU

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