

Poor attitudes to organisational change can be gross misconduct

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An employee's poor attitude towards organisational changes within their employer's business could amount to gross misconduct.

Ms Adeshina was the Principal Pharmacist in Wandsworth Prison. Medical service provision at the prison was initially nurse-led, but a decision was taken to move towards a pharmacist-led approach. Ms Adeshina was resistant to this change. A letter was sent to her to institute a disciplinary investigation. Among the allegations in that letter was *“failure as Head of Pharmacy Services at HMP Wandsworth to be cooperative and to support and lead the major service change in the Pharmacy Department which has resulted in a negative impact on the new treatment centre”*.

The investigation report concluded that the allegations were founded. It described Ms Adeshina’s conduct by reference to 4 categories of gross misconduct set out in its disciplinary policy: bringing the Trust into *“disrepute”*; *“serious insubordination”*; *“negligence”*; and *“verbal abuse”*. Following a disciplinary hearing, Ms Adeshina was summarily dismissed for gross misconduct.

Ms Adeshina brought a number of claims in the Employment Tribunal. At the Court of Appeal, she argued that her conduct was not capable of amounting to gross misconduct, and could not have justified summary dismissal.

The Court of Appeal held that the employer was entitled to view Ms Adeshina’s conduct, in terms of her poor attitude to the changes to the structure of medical treatment at the prison, as amounting to gross misconduct. It found nothing wrong in the employer saying that Ms Adeshina’s conduct fell into a number of categories listed in its disciplinary policy. In any event, the Court held that a finding that Ms Adeshina had been *“ostentatiously disengaged”* or *“expressing strongly disaffected views”* could be evidence of gross misconduct by itself.

Employers can take some degree of reassurance from this case; not only does it confirm that a poor attitude to management decisions can found a dismissal in some circumstances, but it

also shows that it is not critical to the fairness of a dismissal to give a consistent label to the misconduct alleged.

Adeshina v St George's University Hospitals NHS Foundation Trust and others [2017] EWCA Civ 257

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