Tribunal considers reasonable adjustments to standard processes and the application of “zero tolerance” policies for neurodivergent employees

In *Halstead v JD Wetherspoons plc*, the Employment Tribunal has considered whether an employer failed to make reasonable adjustments to their processes and the way in which they applied a “zero tolerance” policy to an employee with autism, and whether that failure amounted to disability-related harassment.

What happened in *Halstead*?

Facts

Mr Halstead started his employment with Wetherspoons as a kitchen porter in late 2018 in Berkhamsted. Although he left for a short period, he returned to work for the same branch in May 2019 and later, in 2021, moved to the Wetherspoons in Trowbridge. He had been diagnosed with autism at the age of two and had informed the Berkhamsted branch of this, however this information was not shared with Trowbridge at the time of his transfer.

In August 2023, Mr Halstead and his mother went for a family meal at a Wetherspoons pub along with five visiting family

members. Mr Halstead, assisted by his mother, place the order through the Wetherspoons app and ticked the box to confirm that he accepted the employee discount policy and privacy policy. As a result, Mr Halstead's employee discount of 20% was applied to the entire order, even though the policy said the discount was only permitted to be used for groups of up to four people.

Mr Halstead was investigated and subjected to a disciplinary process in relation to his use of the discount and potential breaches of Wetherspoons' data protection and confidentiality policies (because he permitted his mother to access the app). During the investigation, the impact of Mr Halstead's autism on his day-to-day activities was discussed, including a requirement that someone directs him to read necessary documents (ideally sitting him down to go through any document with him). They explained that delay would highly impact his anxiety and that the process was causing him significant distress. Despite this, Wetherspoons did not make any adjustments to the disciplinary process.

Mr Halstead subsequently went off sick from work, and a long-term sickness meeting was arranged prior to obtaining the outcome of his occupational health referral. The occupational health report set out clear adjustments that should be made. These included giving 1-2-1 explanations of important documents, and confirming the extent to which his mother needed to be involved in his meetings and day-to-day tasks. It also emphasised the need for additional notice and other adjustments to meetings.

Contrary to the occupational health advice, no adjustments were made to the meeting for Mr Halstead's grievance, which he had raised about his treatment. An adjusted meeting was

eventually arranged, following his mother's objections. There had also been no update on the disciplinary process, Mr Halstead had not been having his appraisals, and had not been paid correctly, all of which contributed to his anxiety.

In December 2023, Wetherspoons invited Mr Halstead to a "some other substantial reason" (**SOSR**) hearing to discuss what they asserted was a breakdown in the employment relationship and his apparent failure to attend meetings about his long-term sickness and his grievance. For this hearing, Wetherspoons offered numerous adjustments including the questions being sent in advance, an option for written submissions, an option to change the meeting time and location, confirmation of his mother's eligibility as companion and an open invitation to suggest any other adjustments in advance. This meeting was successful and in January 2024, Wetherspoons ended the SOSR process and instead invited Mr Halstead to an informal meeting to enable his return to work. In March 2024, Mr Halstead returned to work with several practical adjustments to support him.

Mr Halstead had approached ACAS for early conciliation during his grievance process and, whilst he had successfully returned to work, Wetherspoons had declined to offer him any financial compensation for the prior treatment. He therefore brought a claim under the Equality Act 2010 (**EqA**) for a failure to make reasonable adjustments (Section 20 and 21) and disability-related harassment (Section 26). It was accepted that his condition amounted to a disability under Section 6 EqA, and that Wetherspoons had known about it at the relevant time.

Tribunal's Decision

The Tribunal upheld Mr Halstead's claim of a failure to make reasonable adjustments, but did not find that Wetherspoons' actions had amounted to harassment. Their key observations were as follows:

- Wetherspoons had failed to adjust its investigation, disciplinary, grievance and long-term sickness processes to accommodate Mr Halstead's needs as an autistic person. In each case they had applied their standard process, including standard notice periods, template letters and options of companion at meetings, and had not permitted the Claimant's mother to attend the majority of the meetings with him. They had also applied their standard categorisation of the breach as gross misconduct and suspended him during investigation, despite there being no apparent risk to the company of him working.

- In the disciplinary letter, Wetherspoons had also referred to Mr Halstead's conduct as "dishonesty" and "abuse", which had caused Mr Halstead undue distress. They remarked that this was notable given that a typical feature of autism was a strong desire to adhere to rules, and that there was no evidence of dishonesty; Mr Halstead had admitted to the breach, had explained the misunderstanding, and had confirmed it would not happen again now that he understood the rule.

- Mr Halstead had therefore been placed at a substantial disadvantage in these procedures compared to someone without his condition. The Tribunal considered that once it had been established that the breach had been caused by his condition, the matter should have been dealt with

informally and not as a disciplinary matter at all.

- From December 2023 onwards, it was clear that the company had taken on board their positive duty to make adjustments. The Tribunal described their approach from this point on as “exemplary”.

- Whilst it had clearly been distressing for Mr Halstead, the Tribunal did not consider that Wetherspoons’ conduct had amounted to harassment. The company had addressed the conduct in a standard manner which was inherently stressful and challenging for those involved, but this did not meet the threshold of intimidation (otherwise employers would never be able to conduct performance management).

Mr Halstead was awarded £25,412, the majority of the award being made for injury to feelings.

What can employers learn from this case?

The decision in *Halstead* offers a clear demonstration of the positive impact that making reasonable adjustments can have and, conversely, the negative impact that a failure to make them can have on a neurodivergent employee’s wellbeing and their ability to participate in standard processes.

Given the Tribunal’s commentary regarding the “exemplary” nature of the approach taken by Wetherspoons from December

2023 onwards, the judgment can serve as a helpful guide for employers as to the type of adjustments which can be made to support neurodivergent employees. Examples include:

- Providing longer notice periods for meetings, including investigation meetings. If notice would not usually be given for fact-finding meetings, consider whether this can be adjusted to allow them sufficient time to prepare without compromising the investigation.

- Giving clear explanations of the purpose of meetings, allegations made and the potential consequences (including agendas for meetings, where possible). Ensure that the employee understands the nature of the meeting and (if applicable) the seriousness, including the next steps after the meeting and potential outcomes.

- Allowing flexibility with the options of who can accompany the employee to meetings. This may require the employer to go beyond the standard categories of trade union or colleague companions.

- Minimising delays as much as possible and offering regular updates.

- Carefully wording allegations to ensure that they do not inappropriately presume guilt, dishonesty or cause unnecessary distress.

- Remaining open to any other adjustments suggested by occupational health providers or the employee themselves, and implementing them unless there is a very

good reason not to.

Adjustments should also be considered more widely during employment to ensure that neurodivergent employees are placed on an equal footing with their colleagues. Employers should ensure that, where they know an employee has a condition that affects them at work, this is tracked through their employment journey and information is shared (with their consent) to enable proper support. This will be particularly relevant for employees whose conditions may lead to challenges in asking for support.

In addition, this case highlights for employers the danger of enforcing “zero tolerance” policies. The Tribunal was critical of such policies, suggesting that they can be problematic if applied on a blanket basis because they fail to consider the diverse needs of employees. Whilst the employer may consider a policy breach to be serious enough for suspension and potentially dismissal, they may nevertheless need to consider adjusting the standard applied to employees whose conditions may affect their understanding of the relevant policy or ability to comply with it. This may be surprising to some employers, as the concept of reasonable adjustments is commonly thought of in terms of processes rather than substantive expectations. However, it is clear from this case that applying policies in a one-size-fits-all manner could result in a failure to make necessary adjustments for disabled employees.

Finally, employers should note that it will not always be sufficient to rely on a contractual requirement to abide by

all of their policies. They need to take active steps to ensure their policies are understood: this could include training, written communication and, where necessary, individual explanation.

Halstead v JD Wetherspoons plc

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Pre-prepared disciplinary scripts and evidential disputes: when will a dismissal no longer be fair?

In *Alom v Financial Conduct Authority*, the Employment Appeal Tribunal considered the extent to which a script prepared by HR can demonstrate a pre-judged disciplinary outcome, and the level of evidence which must be provided to an employee in a fair process. In addition, the EAT considered the circumstances in which delays in issuing a Tribunal judgment and errors within that judgment can be grounds to overturn a decision.

What happened in this case?

Mr Alom was employed by the Financial Conduct Authority (**FCA**) and was dismissed in relation to his conduct towards his colleague, Ms Shaukat. Mr Alom and Ms Shaukat had formerly maintained a friendship, however following an altercation in January 2020 at work, Ms Shaukat accused Mr Alom of stalking her. Later that day, Ms Shaukat received an anonymous email which contained, among other matters, specific comments regarding her having made allegations of stalking against the sender and about a course that she had recently commenced (on which Mr Alom had previously congratulated her). Ms Shaukat raised the matter with HR, as well as other concerns regarding Mr Alom's conduct towards her, and Mr Alom also made a complaint about Ms Shaukat. Upon receiving the results of the investigation into his complaint against her, Mr Alom emailed Ms Shaukat's manager referencing the recommendations made.

Following a disciplinary investigation, it was determined that Mr Alom was likely to have been the sender of the anonymous email (which he denied) and that the email sent to Ms Shaukat's manager had been a breach of confidentiality. As a result, Mr Alom was dismissed for gross misconduct, and this outcome was upheld on appeal.

Mr Alom brought a number of claims in the Employment Tribunal against Ms Shaukat and the FCA, however following several applications and rounds of case management, Ms Shaukat was removed as a respondent and the claims were narrowed to direct sex discrimination, direct race discrimination, harassment based on race and/or sex, victimisation and unfair dismissal.

Under a reserved judgment issued on 16 February 2024, the Tribunal concluded that none of Mr Alom's claims should succeed. In summary, it determined that none of the FCA's actions had been motivated by Mr Alom's race or his sex, and the dismissal had been for the potentially fair reason of conduct, was within the range of reasonable responses and had followed a fair procedure.

What was decided?

Mr Alom appealed to the Employment Appeal Tribunal on several grounds, each of which was addressed by the EAT as follows:

- Mr Alom asserted that the Tribunal's judgment had erred in relation to whether or not a witness had flown back to the UK to give evidence. The EAT did not agree that this was an error, and considered it clear from the judgment that the witness had planned to fly to the UK but, following the withdrawal by Mr Alom of all but one of the claims which concerned her conduct, it had been recorded by the Tribunal that she would no longer do so. The consequences of her not attending (with regard to cross-examination) had been explained to Mr Alom and he had withdrawn the only remaining complaint against her. This ground of appeal therefore failed.

- Mr Alom alleged that the Tribunal had erred in making a factual finding that he had been notified by the FCA of

the intention to search his computer, and as a result his case that the search had been an infringement of his Article 8 rights (the right to respect for private and family life) rendering the dismissal unfair had been impacted. The EAT noted that it could not consider the Article 8 infringement as a standalone issue but only with relevance to the fairness of the dismissal. They determined that the decision to dismiss had not relied on the report which was produced from the computer search, and noted that Mr Alom had actually sought to rely on the report as evidence in support of his case. Even if the search had been a disproportionate interference in Mr Alom's rights, there was therefore no proper basis to conclude that this made the dismissal unfair. As a result, this ground of appeal also failed.

- Mr Alom asserted that the delay in issuing judgment until February 2024 (following the hearing in May 2023) had led to a real risk that he did not receive a fair trial. He believed that this was compounded by factual inaccuracies in the judgment, including those noted above and a discrepancy as to whether a witness had attended via video link. The EAT acknowledged that the delay had been unacceptably long, but noted that this had been expressly explained in the judgment and that the Tribunal had convened the day after the hearing to deliberate and reach a decision when it was fresh in their minds. The inaccuracies were insubstantial in what was otherwise what they deemed a "*meticulous, thorough, and closely-reasoned decision*". This ground of appeal therefore also failed.

- Mr Alom stated that he had not been provided with transcripts of the interviews conducted with Ms Shaukat, which he believed made his dismissal unfair as he did not know the case he was required to answer (with reference to the ACAS Code of Practice on Disciplinary and Grievance Procedures). The EAT concluded that he had still been provided with sufficient information to respond to the charges, which had stemmed solely from the two emails rather than any witness evidence from Ms Shaukat. Whilst it would have been best practice for the Tribunal to address the submission made by Mr Alom that this had made his dismissal unfair, the fact that they had failed to do so did not affect the result given the narrow nature of the disciplinary charges. This ground of appeal therefore also failed.

- Mr Alom claimed that the script prepared by HR for the disciplinary meeting echoed the conclusions drawn by the disciplinary decision-maker, and that this showed the outcome having been pre-judged and therefore unfair. In particular, Mr Alom took issue with the assertion in the script that the anonymous email had been "*one of the most unpleasant emails I've read,*" and considered that the guidance from HR had gone beyond the permitted remit of law and procedure. The EAT considered that the Tribunal, having heard evidence from the disciplinary decision-maker, had been satisfied that he had come to his own view and had done so only after hearing from Mr Alom. This ground of appeal therefore also did not succeed.

The appeal was therefore dismissed by the EAT. A representative for Mr Alom has reportedly confirmed that he intends to appeal this outcome further.

What does this mean for employers?

For employers, the most pertinent takeaway from the *Alom* case is likely to be the commentary made by the EAT regarding the level of input from HR into the disciplinary script.

Whilst they did not uphold the ground of appeal, the EAT made some notable observations that they could "*see the force in the submission that the framing of these particular parts of the script was inappropriate, because they suggested what view Mr McLean should put forward*". This appeared to be particularly relevant to the part of the script that referred to the speaker having read the anonymous email, considered that it was "*one of the most unpleasant emails*" they had read, that they concurred with the investigation report's findings that "*its tone and language are aggressive and threatening and create an intimidating and hostile environment, that is clearly unwanted*", and that his response to an email querying his involvement had been "*evasive*".

This is a helpful reminder of the dangers in relying on prepared scripts for disciplinary matters, and emphasises the need for scripted questions to remain open, impartial and not tailored towards any particular response or outcome. The disciplinary decision-maker must be confident both that they have heard the employee's input before arriving at a decision, and that the decision reflects their own personal judgment on the matter. The input from HR teams (or indeed from internal or external counsel) should be limited to matters of law and

procedure, and employers should be mindful that communications between HR and the disciplinary manager may not always be covered by legal advice or litigation privilege.

In addition, employers should take note of the issue raised in this case regarding the consent obtained to search Mr Alom's computer. As the EAT had determined that any breach of Article 8 rights was not pertinent to the fairness of the dismissal, it was not necessary to make a factual finding in relation to whether the search had been permitted or wrongful in any sense. However, counsel for Mr Alom alleged that the FCA's policy highlighting the possibility of such searches was insufficient to justify this particular exercise, and counsel for the FCA only relied upon the existence of this policy as part of a broader picture of why the search was proportionate (rather than being decisive). Employers should therefore bear in mind that a policy permitting monitoring of company property may not, of itself, mean that all surveillance of an employee's activity is automatically permissible.

Finally, it is worth noting the EAT's approach to the evidence that should be provided to employees ahead of a disciplinary meeting. In particular, they focused on the fact that both the decision-maker and Mr Alom had been provided with the same evidence, and that the evidence which Mr Alom claimed had been withheld from him had not led to either of the disciplinary charges. This is a useful reminder for employers that if the decision to dismiss relies on documents which were not provided to the employee, this could have a considerable impact on whether a fair procedure has been followed.

Alom v Financial Conduct Authority [2025] EAT 138

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Botched disciplinary process breached duty of care owed to an employee accused of sexual harassment

The recent case of *Woodhead v WTTV Limited and anor* reminds employers of the importance of handling disciplinary processes with sensitivity, especially when mental health issues are involved. Employers must act transparently, avoid unnecessary urgency, and adapt their approach once informed of an employee's psychiatric vulnerabilities.

What happened in this case?

The Claimant was employed by the Respondent television company as its Managing Director. In November 2019, he was selected for redundancy and his employment was due to terminate in May 2020. On 28 November 2019, the Claimant was asked, without notice, to attend a "fact finding" meeting with the Director of Fair Employment Practices and the Director of Human Resources of NBC Universal International Ltd (**NBC**), being the Respondent's majority shareholder.

At the meeting, the Claimant was informed that a freelance colleague, known as “NPQ”, had made complaints of sexual harassment against him. He was not shown NPQ’s written complaint during the lengthy meeting. Instead, the complaints were explained to him, and he was asked for his responses. After the meeting, the Claimant was suspended pending further investigation.

At the time of suspension, the Claimant suffered from long-standing psychiatric conditions. He was a recovering alcoholic since 1991 and had been in therapy since 1992. He suffered from compulsive sexual behaviour disorder, anxiety and depression and he had a history of self-harm. After the meeting, the Claimant’s mental health rapidly declined. He was signed off work with depression and anxiety from 3 December 2019 and diagnosed with “adjustment disorder” on 11 December 2019. He was admitted to hospital for in-patient treatment on 13 December 2019. He was discharged in January 2020 but treated for a further seven weeks as an out-patient and remained signed off sick until 8 May 2020, when his employment terminated by reason of redundancy. The disciplinary decision was sent to him in September 2020.

The Claimant brought a personal injury claim (alongside other claims) in the High Court, arguing that the Respondent’s conduct of the investigatory and disciplinary process between 28 November 2019 and the end of September 2020 breached their duty of care not to expose him to a risk of psychiatric injury.

What was decided?

To succeed, the Claimant needed to show that:

- it was reasonably foreseeable that he could suffer an injury to his health attributable to the conduct of the investigatory and disciplinary process;

- the Respondent breached its duty of care to him by failing to take reasonable care to reduce or prevent the harm; and

- that breach of duty caused or materially contributed to the harm suffered.

Was the risk of an injury reasonably foreseeable?

The Judge determined that, as of 4 December 2019, it was reasonably foreseeable that the Claimant could suffer harm to his health from stress due to the process. It was on this date that the Respondent received a letter from the Claimant's psychologist stating that the Claimant was a recovering alcoholic and that this traumatic episode had destabilised him, causing a relapse of depression. The letter said it was essential that treatment was effective and ongoing before the Claimant was subjected to further stress. The Judge concluded that upon receipt of this letter, the Respondent was on notice that the Claimant suffered from long-term and serious mental illness and that there was a risk to his health by continuing with the disciplinary process.

If yes, did the Respondent breach its duty of care to the Claimant?

The Judge identified four significant failings in the Respondent's conduct of the process, three of which were found to amount to breaches of the duty of care.

Failing 1 – The conduct of the investigatory meeting

First, the fact-finding meeting of 28 November 2019 was handled badly. The Claimant was called into a lengthy meeting without notice. He was not given a written copy or summary of the complaints. He was not suspended pending an investigatory meeting (which would have been in line with NBC's Disciplinary Policy). Instead, the meeting was conducted as an investigatory meeting. The Claimant clearly found it intensely distressing – he later said he experienced a *"disassociative episode"* in the meeting and was left *"reeling".*

The Judge observed that there was no reason why matters had to be dealt with in this way. There was nothing that required urgency or a response on that day rather than a few days later. It was not the approach of an employer acting reasonably and it had a particularly severe impact on the Claimant's mental health. However, this could not amount to a breach of the duty of care because it took place *before* the date on which the risk of harm became reasonably foreseeable (i.e. 4 December 2019).

Failing 2 – The conduct immediately following the meeting until 11 December 2019, when the process was suspended

On 29 November 2019, the Claimant's solicitor wrote to the Respondent to ask for all communications to go to him and for

the investigatory meeting to be rescheduled, this time with written notice of the questions. He also said that the Claimant was suffering from stress, taking medical advice and may be disabled. On 2 December 2019, the Respondent refused to reschedule the investigatory meeting but gave the Claimant until 4 December 2019 to comment on the investigatory report (a copy of which was sent to him later that day). When the investigatory report was sent to the Claimant,the "findings" column was left blank – suggesting that all complaints against him were still live. In fact, by the time the report was sent to the Claimant, the Respondent already knew that some of the complaints would *not* be taken forward. It later emerged that this was not an inadvertent error. Rather, the column showing the findings (including the findings favourable to the Claimant) had been deliberately removed.

The Judge criticised the Respondent's imposition of a short deadline for a response; there was no sufficient reason for it and no cause for urgency. Although the Respondent's tactics were worthy of criticism, ultimately, the Judge held that it was not a breach of the duty of care to have continued with the process until 11 December 2019, after which the process was suspended in light of the Claimant's hospitalisation. However, the decision not to tell the Claimant that some of the complaints against him had been dropped *was* a breach of duty. It gave a false impression of the extent of the matters that he had to respond to. It would have been reasonable and appropriate to make clear that only part of the complaints would be going forward.

Failing 3 – Attempting to revive the disciplinary process when the Claimant was still on sick leave in February 2020

The Claimant's sick note at the relevant time stated he was

suffering from PTSD, anxiety and acute depression with suicidal ideation and receiving ongoing therapies/psychiatric treatment. Nevertheless, the Respondent sought to revive the disciplinary process on 12 February 2020. The Claimant's solicitor wrote on 13 February 2020 to remind the Respondent that the Claimant was still signed off and not able to engage in the process. The Respondent continued to chase a response.

The Judge found that the Respondent's approach was neither necessary nor reasonable and *was* a breach of duty. It ought to have been clear that he was not fit to participate in the process and if there had been any doubt, the Respondent should have sought clarification from his doctor or referred him to Occupational Health. The Judge discounted the Respondent's suggestion that it needed to resume the process due to NPQ's ongoing distress. This was not borne out by evidence. Emails from the time showed her to be lucid and clear-headed and preoccupied with seeking financial compensation. There was no evidence of distress.

Failing 4 – Pursuing an Occupational Health referral between 16 April 2020 and 8 May 2020

During this period, the Claimant was certified as sick. Covid restrictions meant that any Occupational Health professional would not have been able to meet with the Claimant in person. At best, it would have been a video call, which the Judge said was *"highly unlikely"* to afford any information sufficient to assess the Claimant's state of health. Yet the Respondent's solicitor continued to pursue the point, even when asked to refer to the Claimant's doctor instead. No consideration was given to the Claimant's circumstances, the fact of the lockdown restrictions or the option of getting information from the doctors treating the Claimant.

The Judge remarked the Respondent's solicitor was pursuing an "*entirely pointless*" referral and appeared to be more concerned with form over function. This was not a reasonable course of action and was another breach of duty.

If yes, did the breaches cause the Claimant's injury?

Two of the three breaches were held not to have caused injury.

First, the attempts to revive the disciplinary process when the Claimant was still on sick leave in February 2020 did not materially add to the injury the Claimant suffered either by exacerbating or prolonging it. The issue had been dealt with by the Claimant's solicitor and any distress that the Claimant experienced was not long lasting.

Second, the pursuit of an Occupational Health referral between 16 April 2020 and 8 May 2020 did not materially add to the Claimant's injury. It had been dealt with by solicitors and the requests were not communicated to the Claimant at the time. He was only told when the issue had been dropped. There was no evidence that it had a significant impact on the Claimant.

However, the decision to mislead the Claimant about how much of the complaint against him remained live *did* cause injury. The initial shock and breakdown he suffered was worsened by the perception of not being heard or understood by the Respondent. This contributed to the existence and duration of the psychiatric condition. The failure to inform the Claimant that the scope of the disciplinary proceedings against him had been narrowed materially contributed to his psychiatric

injury.

What does this mean for employers?

Although the Claimant's victory was limited to one point, employers should pay close attention to the Judge's scathing comments about the employer's conduct. Importantly, this was a personal injury claim in the High Court, but the employer's serious failings may have also provided a sufficient basis to claim constructive unfair dismissal and/or disability discrimination in the Employment Tribunal.

- **Remember your duty of care to employees accused of sexual harassment.** Employers often feel under pressure to investigate allegations of sexual harassment promptly and robustly, however, this case reminds us that employers continue to owe a duty of care to the accused as well as to the complainant. Investigatory and disciplinary processes should be approached with compassion, transparency, and fairness, particularly where an employee is known to be vulnerable.

- **Always follow a fair process.** Sudden and lengthy investigatory meetings without prior notice or disclosure of allegations can be highly distressing. Similar issues arose in the case of Weir v Citigroup Global Markets Ltd, which drew criticism from the Employment Tribunal. Employers must follow their

owndisciplinary policies, ensuring procedures are fair, consistent, and not unnecessarily urgent or onerous.

- **Make adjustments to processes as needed.** Once on notice of an employee's mental health condition, takereasonable steps to prevent further harm. Pursuing disciplinary processes despite clear medical advice that an employee is not fit to participate can constitute a breach of the duty of care.

- **Transparency is critical.** Failing to communicate that certain complaints had been dropped was found to be misleading and harmful. Misleading an employee in this way is also likely to amount to a serious breach of the duty of trust and confidence, meaning an employee could constructively dismiss themselves.

- **Use Occupational Health appropriately.** Occupational Health referrals should be meaningful and appropriate to the context. If better information can be obtained from the employee's own doctors, this route should be pursued instead.

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No retrospective application of legal privilege to a grievance investigation report

In University of Dundee v Chakraborty, the EAT held that legal advice privilege could not be applied retrospectively to the original version of a grievance investigation report where it had been amended afterwards by the Respondent's legal advisors.

ACAS publishes new guidance for employers on suspension

The Advisory, Conciliation and Arbitration Service (ACAS) has published new guidance for employers on how to handle staff suspensions. In particular, it focuses on suspension during investigations.

USE OF WHATSAPP MESSAGES TO BRING DISCIPLINARY PROCEEDINGS AGAINST POLICE OFFICERS WAS NOT A BREACH OF PRIVACY RIGHTS

The Court considered that there was a legal basis for the Police Service in Scotland to bring misconduct proceedings against individual police officers based on messages they had sent to each other on a WhatsApp group.

Does gross misconduct need to be a single act?

The EAT has clarified the circumstances in which an employee can fairly be dismissed for gross misconduct.

SMCR extension: now is the

time for firms to prepare

Cerys Williams and Nick Wilcox discuss the steps firms should take to prepare for the extension of the Senior Managers and Certification Regime.

Can employers take into account expired warnings in deciding to dismiss?

In some cases, an employer can take into account an employee’s history of expired written warnings in deciding to dismiss them.

How to investigate serious allegations of misconduct

A higher standard of disciplinary investigation is necessary to ensure a fair dismissal where the misconduct alleged is very serious.

How to dismiss an employee who has a prior written warning

An employer should be wary of relying upon previous unfair disciplinary sanctions to justify a subsequent dismissal.

To which cases does the Acas Code apply?

When will an employee be able to claim an uplift for breach of the Acas Code?