

Case summary

Disciplinary procedures and mental health: Employer considerations

21 May 2025  Maz Dannourah

In the recent case of *Woodhead v WTTV Ltd*, the High Court found that an employer's conduct of disciplinary proceedings had caused their employee psychiatric injury.

In brief, the case concerned the employer's handling of disciplinary proceedings against an employee who suffered from serious mental health conditions and had suffered a serious deterioration in his health following the start of an investigation into alleged misconduct. The alleged misconduct was of a serious nature and related to alleged sexual harassment of another employee.

High Court findings on employer's duty of care

Whilst the employee's personal injury claim progressed through the civil courts rather than the Employment Tribunal, the findings in respect of the employer's conduct of the disciplinary procedure serve as a useful reminder of the care required to be taken by employers faced with employees suffering from mental health conditions.

In particular, the High Court found breaches of a duty of care to the employee by the employer in the following respects:

- Providing an edited summary of the investigator's findings regarding allegations against the employee, deleting references to decisions of 'no further action' to be taken in respect of some allegations.
- Unreasonably pressing for the continuation of the disciplinary procedure after the employee's admission to hospital and while he remained on sick leave.
- Requiring the employee to undergo an Occupational Health assessment, which was found to be 'pointless' due to the employee's ongoing ill health and the limitations of conducting the assessment via video call.

Employer considerations in disciplinary proceedings

Employers frequently deal with challenges when employees with mental health issues must engage in disciplinary procedures. They must balance making necessary adjustments or allowing time for the employee's health with addressing serious misconduct such as ones concerning allegations of sexual harassment, as in this case.

Care should be taken when pursuing disciplinary proceedings involving an employee with a known mental health condition. Where the employee is signed off during the course of the disciplinary proceedings, consideration should be given to adjustments when resuming to avoid triggering further sickness absence including:

- The manner in which the proceedings are pursued including how allegations and evidence are presented to the employee;
- Consideration of delays and postponements where the employee is signed off;
- Careful assessment of the relative benefit of an Occupational Health assessment and whether or not such an assessment will provide useful evidence beyond what is provided by the employee and those treating them.

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