

The High Court to the rescue?

Seeking interim injunctions to restrain disciplinary processes

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[McKenzie v First Greater Western Limited \[2026\] EWHC 868 \(KB\)](#)

Where disciplinary processes are contractual they can be enforced, and remedies granted on the basis of them, in the civil courts as well as in any claim for unfair dismissal. That includes, at least in theory, applications for interim injunctions requiring an employer to comply with the terms of any contractual process.

As *McKenzie v First Greater Western Limited [2026] EWHC 868 (KB)* shows, however, the courts will be reluctant to intervene in a process that is fundamentally an aspect of what the court in this case described as part of the “hierarchical” employment relationship.

However, it should be borne in mind that the underlying merits of the case in question did not appear (based on this judgment) to be particularly strong.

Relevant Background

The Claimant, Mr McKenzie, sought an injunction restraining his employer from carrying out a disciplinary hearing until a number of purported breaches of what he said was a contractual disciplinary process were rectified.

The Claimant had been employed by the Defendant for 28 years as a customer service representative. In late 2024 and early 2025 he raised a number of grievances which were not upheld by a manager, Victoria Isaacs.

He was subject to disciplinary investigation from March 2025, including on the basis that some of the allegations made during his grievances had been made maliciously, and that he had

been verbally aggressive during a phone call in which Ms Isaacs communicated her decision on the grievance.

The outcome of the investigation was given to the Claimant in May 2025 in a letter which the court described as “a thorough and carefully reasoned document”.

Meanwhile, the Claimant’s appeal against his grievance outcome was not upheld and C filed a “wide ranging claim” against D in the ET.

After significant delay, the Defendant was looking to proceed with the disciplinary hearing in the Spring of 2026, which appears to have prompted the application made by the Claimant to the High Court.

Allegations of Procedural Breaches

It is not necessary to set out in full the nature of the Claimant’s allegations about the Defendant’s process. As noted above, the court did not appear to consider there was significant merit in them.

In short, there were alleged failures relating to providing disclosure and the fairness of the investigation. It was said that the proposed chair for the disciplinary hearing was not independent and impartial. It was also said that the Claimant was medically unfit to attend the hearing, and the Defendant should be restrained from proceeding in those circumstances.

The Court assumed that the disciplinary procedure is contractual, this having been conceded by the Defendant for the purposes of this hearing (but not generally).

Consideration of Relevant Case Law

Court gave a useful and concise summary of the relevant case law at Paragraphs 21 to 26 of the judgment that is worth reading in full.

In summary however, the relevant principles are set out below:

- The application, being for an interim injunction, is to be determined according to the principles in *American Cyanamid v Ethicon*. Those include whether damages would be

an adequate remedy for any potential legal wrong, and consideration of the balance of convenience in making (or not making) the injunction;

- The fundamental purpose of a disciplinary procedure is for an employer to inform *itself* whether an employee has acted in an inappropriate way and, while it must be carried out fairly, that process is “far removed from the process of litigation or adjudication”;
- The courts will not engage in “micro-management” of employment procedures
- The availability of an appeal process and of a claim for UD in the ET are both relevant to the question of whether a court should intervene in the process

Decision of the Court

An important strand of the court’s reasoning is that the matters which the Claimant was complaining of can (and should) be raised as part of the disciplinary process that was underway.

For example, one point of dispute concerned the disclosure of witness statements gathered during the Claimant’s grievance (rather than the disciplinary process). The court noted that he could call those witnesses directly in the disciplinary hearing if he thought they had relevant evidence.

On the purported failures of the investigation, the court concluded that “It is a matter for the person conducting the disciplinary hearing to decide [...] what the effect of any failure by [the investigating officer] has on his or her findings”.

In respect of the Claimant’s argument that the Defendant should be restrained from proceeding with the disciplinary hearing until it had evidence of his fitness to attend hearings, the court held that it was a matter for the disciplinary manager whether to proceed (including what adjustments may be necessary to facilitate C’s participation).

In any case, and perhaps most usefully, for those representing employers in such cases, the court held that damages were an adequate remedy (should the Claimant be dismissed in breach of contract) and rejected the submission that the Claimant’s very long service at the Defendant meant that they were not.

While each case will clearly be considered on its merits, the fact that 28 years of service (most of it in the same role) was insufficient to ground such an argument in this case could serve as a useful benchmark in other cases where this argument is put.

The court also noted that the balance of convenience, in this case at least, “falls firmly” against granting an injunction.

Conclusion

Although, as noted at the outset, there is nothing preventing the enforcement of contractual terms concerning disciplinary processes in the civil courts, such cases are rare.

It is therefore useful to have an up-to-date authority, from a senior court, setting out the relevant principles from previous caselaw in one place. Those principles make clear that employee applicants will often face an uphill battle in persuading a court to intervene in a disciplinary process through the making of injunctions, and that the kind of complaints that are commonly advanced in unfair dismissal claims are unlikely to be sufficient when, as in this case, the court will likely conclude that those points can and should be made as part of the disciplinary process itself.

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