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White Paper Conference 2026 AI Generated Appeals and Grievances

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Overview

How far can you push back on AI-generated grievances or disciplinary appeals that are excessive, misguided or simply wrong – without hampering the investigation or hearing?

1

Introduction

What AI are we talking about?
How is it being used in the workplace?

2

“Fair Use Principles”

How the Courts and WRC responding and helping shape the principles for employers in investigations?

3

Caselaw

Examples of how irresponsible AI use has featured in caselaw

4

Practical Guidance

Handling disruptive AI use in grievances, DAW complaints, PDs and disciplinaries

Introduction – Generative AI in the Workplace



What is Gen AI?

- Generates 'new' text, audio, images and video
- LLMs predict one word at a time – they do not “think” or “understand” –uses statistical and probability methods.
- Built for fluency: output looks convincing even when wrong

The Numbers

- 60%+ of employees use GenAI at work (Deloitte)
- WRC: 44% rise in adjudication applications; 30% rise overall
- UK: claims up 29%, spike in whistleblowing claims

An AI-Generated Complaint

- Unfamiliar legal language;
- Irrelevant, misquoted or non-existent authorities
- But may still raise genuine allegations
- How do you triage an AI information dump?

Real World Examples of the “Curious” Use of AI



Hidden Prompts in CVs

Candidates embedding “HIRE ME” or “RECRUIT ME” in their CVs to influence AI screening tools

AI will tell you what “key terms” to use in a CV

Insist on handwriting?

Claude – Am I being made redundant?

An employee asks a licensed internal AI tool “who is being made redundant?” – and it generates the list from an HR Sharefile location, including the employee.

AI in Meetings and Everywhere

AI recording and transcription switched on for meetings overtly and covertly;

“AI etiquette” training now offered to employers and workers (FT)

Emerging Fair Use Principles

Recent decisions and guidance show what is a reasonable approach to “disruptive” AI

High Court

Court of Appeal

WRC

Labour Court

WRC Guidance (updated 26 May 2026)

- AI may organise ideas and draft – but submissions are the party’s own work: own it, check it, explain it
- Verify every case, statute and fact; keep sensitive data out of public tools
- Errors waste time and can damage credibility
- Encourage parties to communicate to others if they have used AI tools
- Optional Disclosure of AI use but it is not a substitute for verification

Labour Court (March 2026)

- AI permitted, but parties remain responsible
- Understand hallucination, bias and confidentiality risks
- Optional Disclosure of AI use is not a substitute for verification
- Encourage parties to communicate to others if they have used AI tools
- Disclosure is not a substitute for verification

Superior Courts Guidance

From guidance to consequences

High Court Practice Direction on the Responsible Use of AI September 2026

- “appropriate and responsible use of GenAI Tools”
- Affidavits must reflect the witness’s own evidence, with an AI declaration
- Sanctions: costs, strike-out, LSRA referral

Courts Service Feb 2026

Guidance for Non-Lawyers on
the Responsible Use of
Generative AI in Court
Proceedings

For Litigants in Person and
McKenzie Friends

“AI cannot predict the outcome
of your case. It is not a lawyer.”

Court of Appeal Practice Direction

- Court of Appeal direction (11 Aug 2026) is substantively identical
- AI does not dilute duties of accuracy and candour

Oliveira v Ryanair DAC October, 2025

The Facts

- Lay litigant – Cabin Crew with Ryanair
- Extensive written submissions and complaint form citing multiple alleged breaches including matters within and not within jurisdiction of WRC to investigate

Principles

- Parties have an obligation to ensure submissions are “relevant and accurate”
- Parties must not “set out to mislead”
- The submissions in this case “rife with citations that were not relevant, mis-quoted and in many instances, non-existent”
- Reliance on “phantom citations” was “egregious and an abuse of process.”

Conclusion

AI review was “a poor second to human oversight”
Relatively mild rebuke in this case – matters have moved on however

Ferko v Beyond Reach Limited WRC March, 2026

What happened

- Complaint prepared by his sister using AI
- Not fully reviewed or verified
- Could not articulate the legal nature of the complaint

The Outcome

This “materially reduced the weight that could be attached to the Complainant’s evidence.”

AI assistance was not “improper” but ultimately materially unhelpful

Guerin v O'Doherty (Court of Appeal)

Litigant in person relied on non-existent AI authorities, needlessly adding to costs – pre-dated the Guidance

1 Use AI for research responsibly – do not mislead the Court

2 Tell the other parties and the court it was used

3 A self-represented party remains responsible for the final work

4 Independently verify AI-assisted research

5 Cite no authority until verified as genuine and supportive

Lesson for Employers

- ❖ The Court was not harsh – the guidance was not yet available
- ❖ Insist on accuracy and ownership
- ❖ Do not treat the mere use of AI as a presumption of bad faith

AI Rules – Extrapolation of the Principles for Workplace Grievances/Disciplinary

A	Accuracy	Writer: check before you submit; don't mislead. Reader: ask for evidence and confirmation of accuracy
I	Inform	Writer: advisable to say AI was used to draft. Reader: ask was AI used and if so how?
R	Respect	Respect the reader's time – volumes of AI-dumped material delay resolution, undermine credibility and waste resources
U	Understand	Understand how AI works and its limitations and the rules governing its use
L	Law	AI use must comply with the rules in particular as it relates to privacy, non waiver of privilege and internal policies on information security
E	Entitlement	Both sides may use AI to polish and save time; AI is now embedded. We need to get used to it.
S	Safe & Secure	Take care uploading personal data to external GenAI tools

Privacy and Privilege Considerations for the Employer

Privacy

- Employees should be using approved, secure tools only
- Information used in workplace complaints includes personal data, confidential information, third party data special category data, financial information, medical information
- Consider Data Breaches and reporting obligations
- Consider Retention obligations

GDPR

- AI prompts may be in scope for a DSAR
- Manage the scope of the investigation - Data minimisation is important
- The Investigator and not the tool must assess the evidence and make the decision
- EU AI Act – “high risk” AI includes automated decision making
- Using AI systems to infer emotions in the workplace is prohibited

Legal Privilege

Employer AI Searches

AI assistant searches – and their iterations – relating to a workplace investigation are unlikely to be privileged and could be discoverable

Uploading Privileged Material

Uploading privileged material, including checking your legal adviser's advice, may waive privilege

Third party service providers or your own clients/customers may prohibit uploading of information relating to them to Gen AI Tools

Practical Tips: The Normal Rules Apply to Investigations

Employer's legitimate interest in clarity, accuracy and an evidence base	Employee's Rights
• The normal rules of engagement apply in terms of what an employer and an employee should expect from each other in a workplace investigation • Most grievance and DAW policies will require clear articulation of: • Dates • Times • Witnesses • Detailed information on the event • Other evidence of the complaint.	• To be heard, impartially • To have the complaint fairly examined by a human • To challenge evidence and witnesses as reasonable using proportionate questioning • A reasonable, proportionate outcome

Practical Tips for Employers

Grievance, Disciplinary and DAW Policies
Update to reflect the use of AI in investigations

Define permitted AI use
Define prohibited use
Identify approved tools
Warn of consequences of Breaches

HR and others who are involved investigations must have AI literacy
EU AI Act – restrictions on automated decision making in employment situations
AI systems to infer emotions are prohibited

Practical Tips: Pushing Back Fairly – The AI Tennis Match

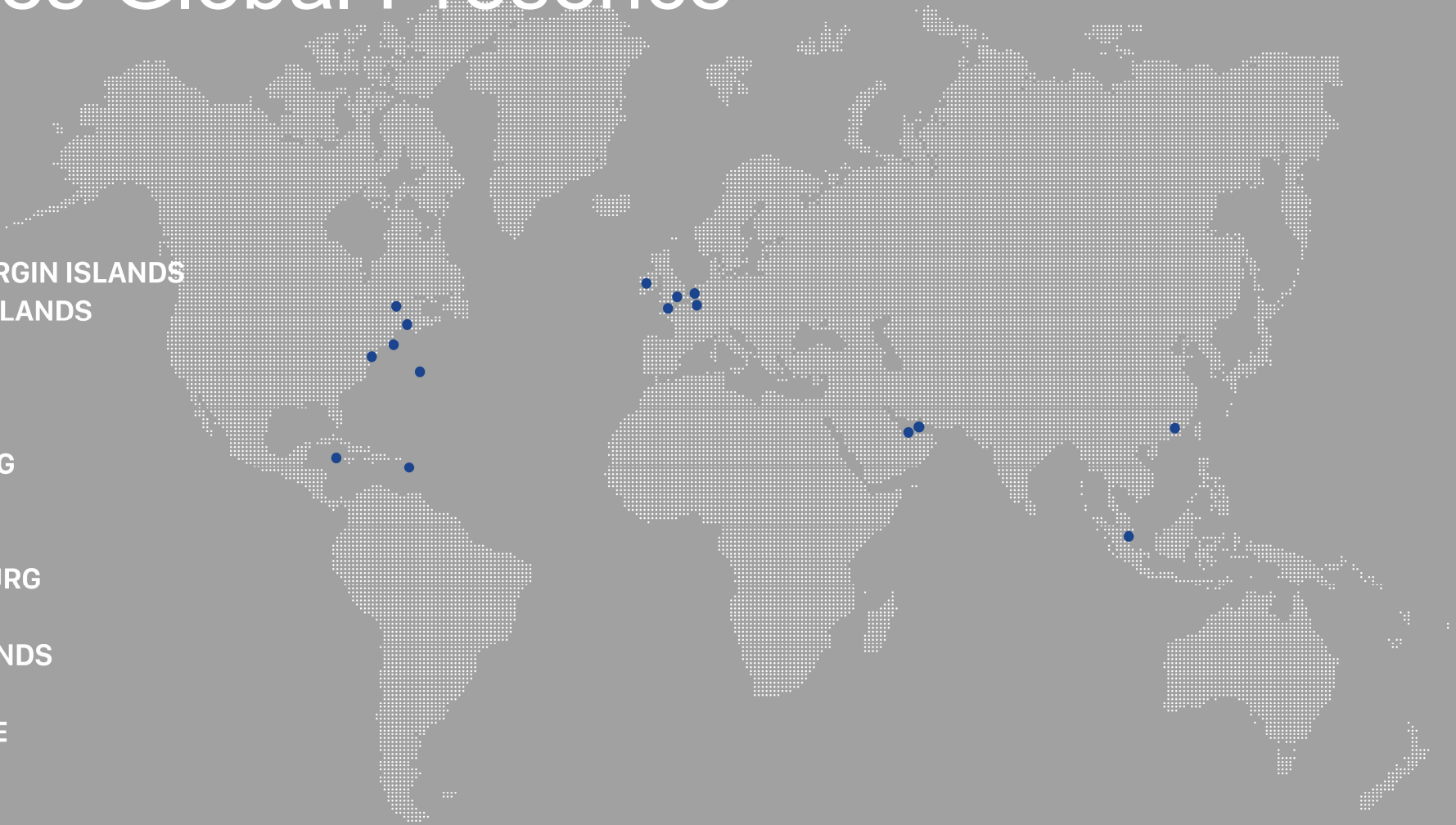
Employer Use of AI

- Check it, understand it and be ready to explain it in the witness box
- Be careful what you put in writing – the “front page of the Irish Times test”
- Remember PRIVACY and PRIVILEGE



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