# WhatsApp messages in workplace tribunal cases soar, revealing risks of informal chats



It’s late evening and your phone vibrates with a flurry of messages from colleagues. Engaging in light-hearted banter, you might feel a sense of camaraderie, but as dawn approaches, an unsettling thought creeps in: how might these casual exchanges be perceived in a workplace context? This scenario reflects the dual nature of WhatsApp, which has evolved from a social messaging app into an integral part of workplace communication—often with serious consequences.

The charm of WhatsApp lies in its informality, yet this very quality renders employees vulnerable, especially in disputes that escalate to legal action. As corroborated by an analysis of over 2,000 cases in UK employment tribunals since 2019, WhatsApp messages have increasingly served as crucial evidence, revealing patterns of misconduct and discrimination. In the past, employees might have used these chats to assert claims such as promised pay rises or flexible working hours, but employers have also harnessed them to substantiate allegations of misconduct, such as sharing confidential information without authorisation.

The numbers tell a compelling story: in 2018, only 48 tribunal cases referenced WhatsApp messages; by 2024, this figure had surged to 562. The predominant issues arising from these cases include unfair dismissal, breaches of contract, harassment, and discrimination. For instance, in the notable case of Ms B Djagbo v Women’s Health Dulwich Ltd, a tribunal awarded her nearly £20,000 after she was removed from a workplace WhatsApp group upon announcing her pregnancy, which contributed to her claims of unfavourable treatment.

Similarly, in the case of Mr D Robson v NGP Utilities Ltd, the claimant, a gay man, reported harassment stemming from a WhatsApp group message that perpetuated homophobic jokes. The tribunal found in his favour, awarding him over £36,000. These incidents underscore a broader troubling trend where workplace WhatsApp groups become conduits for discriminatory jokes or informal discussions, blurring the boundaries of professionalism.

Recent court rulings highlight the imperative of preserving digital communications as they often form the backbone of legal claims. An illustrative case involved former Judge Andrew Easteal, who lost an appeal after being dismissed for deleting WhatsApp conversations essential to a police investigation. The High Court ruled that preserving these communications was vital to maintaining judicial integrity, emphasising that even seemingly private messages must be considered carefully in legal frameworks.

However, the increasing reliance on WhatsApp in workplaces raises significant concerns regarding employee privacy. A 2023 High Court case warned that while WhatsApp messages can be used as evidence, employees hold a reasonable expectation of privacy. This cautious approach signals that employers must navigate the delicate balance between accessing relevant evidence and respecting personal boundaries. Furthermore, there’s a growing call for employers to revise their communication policies, which could help set clear expectations about after-hours messaging and group chat conduct.

In this evolving landscape, one clear lesson emerges: casual conversations, even those perceived as harmless, can carry substantial legal weight. A misguided humour shared in a late-night chat could open the door to harassment claims, while neglecting to respond to a message may be scrutinised as a mark of underperformance.

With remote work becoming increasingly commonplace, the reliance on platforms like WhatsApp will likely continue to burgeon. For both employers and employees, understanding the potential implications of these digital dialogues is crucial. Encouraging conscious communication and developing comprehensive guidelines could mitigate the risks inherent in utilising informal messaging platforms for workplace discussions. As such, simply banning WhatsApp may not be feasible; instead, fostering a culture of mindfulness about digital interactions is essential in navigating the complexities of modern workplace communication.

### 📌 Reference Map:

* Paragraph 1 – [[1]](https://theconversation.com/your-whatsapp-messages-could-get-you-sacked-255073), [[4]](https://www.peoplemanagement.co.uk/article/1831690/using-whatsapp-messages-evidence-whats-ok-whats-not)
* Paragraph 2 – [[1]](https://theconversation.com/your-whatsapp-messages-could-get-you-sacked-255073), [[2]](https://www.reuters.com/legal/government/uk-judge-loses-appeal-over-dismissal-deleting-messages-suspected-drug-dealer-2024-05-15/), [[6]](https://www.spencershaw.co.uk/news/the-rise-of-whatsapp-in-evidence/)
* Paragraph 3 – [[3]](https://www.gordonsllp.com/the-risk-of-relying-on-whatsapp-messages/), [[5]](https://clarkslegal.com/insights/articles/employee-unlawfully-harassed-on-whatsapp/), [[7]](https://redmans.co.uk/insights/employee-monitoring-can-i-be-sacked-over-a-whatsapp-message/)

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## Bibliography

1. <https://theconversation.com/your-whatsapp-messages-could-get-you-sacked-255073> - Please view link - unable to able to access data
2. <https://www.reuters.com/legal/government/uk-judge-loses-appeal-over-dismissal-deleting-messages-suspected-drug-dealer-2024-05-15/> - In May 2024, former Judge Andrew Easteal lost his appeal against dismissal for deleting WhatsApp conversations with a drug dealer. The High Court ruled that his actions breached judicial conduct rules, as the deleted messages were pertinent to a police investigation. This case underscores the importance of preserving digital communications, even those deemed private, as they can be crucial in legal proceedings.
3. <https://www.gordonsllp.com/the-risk-of-relying-on-whatsapp-messages/> - A 2023 High Court case highlighted the risks for employers using employees' private WhatsApp messages as evidence. The court emphasised that employees have a reasonable expectation of privacy, and employers must inform employees and return any private messages obtained. This case serves as a cautionary tale for employers considering the use of personal messaging data in legal disputes.
4. <https://www.peoplemanagement.co.uk/article/1831690/using-whatsapp-messages-evidence-whats-ok-whats-not> - An article from People Management discusses the use of WhatsApp messages as evidence in employment tribunals. It highlights that while such messages can be admissible, employees have a reasonable expectation of privacy. Employers are advised to inform employees and return any private messages obtained, and to exercise caution when considering the admissibility of such evidence.
5. <https://clarkslegal.com/insights/articles/employee-unlawfully-harassed-on-whatsapp/> - In December 2020, the Employment Tribunal found that a black female employee was unlawfully harassed via WhatsApp by colleagues. The messages contained offensive comments about her race, religion, and sex. The employer was held liable for harassment under the Equality Act 2010, highlighting the risks of workplace group chats and the need for employers to address inappropriate conduct promptly.
6. <https://www.spencershaw.co.uk/news/the-rise-of-whatsapp-in-evidence/> - A 2024 report by Spencer Shaw noted a threefold increase in employment tribunals using WhatsApp messages as evidence, from 150 cases in 2019 to 427 in 2023. This trend reflects the growing role of digital communications in workplace disputes and underscores the importance for employers to manage and monitor such communications effectively.
7. <https://redmans.co.uk/insights/employee-monitoring-can-i-be-sacked-over-a-whatsapp-message/> - An article from Redmans Solicitors discusses the use of WhatsApp messages in employment tribunals. It highlights a significant increase in their use as evidence, from 150 cases in 2019 to 427 in 2023. The article advises employers to be cautious when accessing and using employees' private messages, as they can be admissible in legal proceedings and may lead to claims of privacy invasion.