



THE AI POWERED EMPLOYEE SHOULD EMPLOYERS BE WORRIED?

1. INTRODUCTION

For years, the 'power gap' in employment disputes was defined by who had the better legal writing. That gap has closed. Today, a disgruntled employee with a smartphone can generate a 20 page, legally cited grievance in under 60 seconds.

From drafting complex appeals to 'hallucinating' case law, artificial intelligence (AI) is changing the speed and volume of employee relations. In this month's Hot Topic, we explore how to manage a workforce that is using AI to write their own scripts, grievances, and legal claims.



2. THE RISE IN AI-GENERATED GRIEVANCES:

AI can positively transform business most of the time, but it can also lead to significant challenges with its widening use by employees.

Pre the 'AI era', grievances would be one, or even two pages long, now they're twenty or even more. With advancements in technology, employees can, at a click of a button, ask AI to quote case law and legislation, seek employment advice and write their grievance statement and even their tribunal claim, incorporating this information.

AI grievances and appeals are increasing; we see this ourselves through the case work we support, but we also have research by Irwin Mitchell solicitors (November 2025) which found 60% of businesses had handled grievances that had been suspected of being generated by AI and 52% saying AI drafted grievances were harder to resolve.

The latest tribunal statistics (January to March 2026) show a significant increase in single claims, increasing by 55% over the last year creating a standing case load of 64,000. Whilst many factors contribute to this, it can't be ignored that AI will be one which is contributing to these record numbers.

The 'AI powered employee', is proving challenging for employers. Management time increases due to deciphering the crux of the issues. It also unnecessarily elongates workplace processes because the scale of the complaints over exaggerates issues.

Employers do need to exercise caution though, because there can be genuine reasons why employees use AI. An employee may need to use AI to assist in their writing, because they are dyslexic or their first language isn't English. An 'AI grievance' does not automatically mean there is no complaint. They may be poorly evidenced or exaggerated on paper but can still be legally valid.

3. CAUTION

AI makes mistakes; it can give incorrect information or advice, misrepresents facts either because it is out of context or irrelevant to the business circumstances. It also 'hallucinates' by making information up resulting in case citations, statutory references, and legislation that sound authoritative but are fabricated.

These are all significant challenges because what this does is to trick the employer into thinking the employee's case is more severe and risky than what it is, and exaggerate what may, ordinarily, be a minor issue.

Particularly for small employers, with limited time and resources, AI generated employee documents are hard to deal with for several reasons:

1. Accepting legal citations at face value may feel more intimidating than they should be
2. Employers may make concessions or settlement offers based on legal obligations that don't exist



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3. Dismissing grievances because 'it looks AI-generated' risks ignoring genuine complaints that may be poorly evidenced yet legally valid
 4. Employers failing to verify cited legal authorities leading them to act inconsistent with what the law is and has previously been adopted. This can lead to processes being criticised, even when the underlying decision was sound.

4. SPOTTING THE AI GHOSTWRITER

So how do you spot, what has become known as the 'AI Ghost Writer' (the term given to generative AI that produces written content)?

Documents may look legally robust and give a polished look but may not reflect the strength of the underlying complaint and include legal arguments the employee cannot elaborate on or substantiate.

Here are some signs that can help you spot an AI generated grievance. The principals of which can be applied to any form of employee document:

Structural formality incongruent with the writer

AI tools tend to produce very well-structured content, quoting legislation and case law and using formal legal language. If your employee has never previously produced anything resembling this in any written communication, it is noteworthy.

Here are some examples:

- 'it is submitted that'
- 'without prejudice'
- 'the Respondent's conduct amounts to a repudiatory breach' or
- 'the Claimant reserves all rights under the Employment Rights Act 1996'
- "this *could* amount to discrimination" or
- "this *may* be a protected disclosure".

These are hallmarks of AI-drafted grievances because most employees, don't write in this way.

Inconsistent tone

Look for inconsistency in tone or language, because AI documents will often shift in tone or language part way through. From perhaps using formal legal language to then writing with language that is informal. This will most likely be because of having been edited in parts, or sections added using own words.

Fabricated response

There have been cases where AI have fabricated citations or used ones that are real but misapplied. Since AI is trained on legal texts, it often produces case names that are genuine but uses them for situations they do not support. For example, '*Polkey v AE Dayton Services Ltd [1987]*' might be cited correctly for the principle of procedural fairness but misapplied to an entirely different context.



Length disproportionate to the complaint

A grievance about a single incident that runs to ten pages, with appendices, and cross references between sections, is likely to have been drafted with AI assistance. Length alone proves nothing, but combined with other indicators, can illustrate its usage. Such as:

- **American spelling**, e.g. “behavior” instead of “behaviour”, “organization” instead of “organisation”, and “favoritism” instead of “favouritism”.
- **American grammar**, e.g. placing commas or full stops inside quotation marks (“like this.”) rather than outside (“like this”), or treating collective nouns as singular (“the team is” vs British English “the team are”).
- **Frequent use of em dashes** (—) instead of standard punctuation, such as commas, colons, or semi-colons.
- **Overused stock phrases or transitions**, such as “in conclusion”, “it is important to note” or “as mentioned above”.
- **Vague or generic content**, such as claims lacking specifics, unrealistic examples, or no reference to personal experience or context.
- **Repetition of ideas or synonyms**, where the same point is made multiple times in slightly different words.

By recognising these patterns, it can help you identify when a grievance (or any other employment document) may have been AI-generated.

5. CONFIDENTIALITY AND THE DATA LEAK

There is also the issue of confidentiality and data protection breaches. This is a dimension of the AI-grievance problem that needs considering because it represents a genuine legal risk.

When an employee uses a public AI tool to draft their grievance, they are probably typing into that tool sensitive information about their employer, their colleagues, and their workplace, which can include:

- names, job titles, and details about identified colleagues.
- details of management decisions, performance processes, or financial matters
- personal sensitive data about the employee themselves (health conditions, protected characteristics)
- information that is subjected to the employee’s confidentiality clause in their employment contract.

For example, entering a colleague’s name, salary, or disciplinary history into a US hosted AI tool violates their data rights under the UK GDPR. Because these overseas data transfers often lack proper adequacy statements or safeguards, personal data is left unprotected.

Furthermore, employees who do this are likely breaching their own contractual confidentiality obligations without realising it.

If an employer discovers that confidential business information, such as client data, financial details, or commercially sensitive processes has been entered into a public AI tool, this may constitute a data breach that must be reported to the Information Commissioner's Office (ICO).





6. PRACTICAL STEPS FOR EMPLOYERS

We advise employers to take immediate steps to protect their business from the risks of AI generated employment documents outlined above. At the same time, employers must treat all grievances seriously. Never dismiss, deprioritise, or challenge an employee simply because they used AI to draft their complaint.

An employment tribunal does not care how a document was written; it only cares whether the employer properly investigated and addressed the underlying concerns.

Here are ways in which you can respond to this new and developing challenge:

Establish AI rules

- Introduce an AI Workplace Policy, alongside carrying out an artificial intelligence impact assessment
- Create a single page AI acceptable user guide aligned to the policy that acts as a concise, highly visual reference tool to give workers immediate instructions on using AI ethical and lawfully.
- Introduce a dedicated AI Workplace Policy that sets clear boundaries regarding what is and isn't acceptable use of AI across the entire organisation.
- Create a single page quick guide that accompanies the policy with a highly visual, one page reference tool giving workers immediate, clear instructions on using AI ethically and lawfully.

Tighten core employment policies

- Review and update your Data Protection Policy, and IT policies.
- Review and update your disciplinary, grievance, performance, and absence policies to ensure they align with your AI rules.
- Classify misconduct by explicitly stating that the unauthorised use of AI tools for official employment and HR procedures constitutes misconduct.
- Mandate the "own words" standard by explicitly stating that during formal hearings, employees are expected to speak for themselves and explain issues in their own words. An employee must be able to explain the basic premise of their own claim.
- Introduce authorship and integrity clauses requiring employees to sign a declaration confirming their written submissions accurately reflect their personal recollection and understanding of events, rather than AI-automated text generation.
- Set and communicate clear rules for AI usage (with exceptions) stating that the use of undeclared AI tools is against company policy. If exceptional circumstances require it (such as supporting neurodivergent employees or those whose first language isn't English), the use of the tool must be explicitly declared.
- Remind employees of the human support that already exists, such as the right to be accompanied by a colleague, union representative, or accessing the Employee Assistance Programme (where there is one). This will help to reduce their perceived need to turn to AI.

Procedural updates

- Move away from free form, narrative grievance letters by introducing a structured, online grievance form. This shifts the focus exclusively to data-driven facts. The form should strictly ask what specific event(s) occurred? On what exact date and time did the incident(s) occur? Who was present? What objective evidence (emails, messages, logs) supports the complaint? Which specific company policy do you believe has been breached? What resolution/outcome are you seeking?



- Introduce a mandatory early scoping meeting into the grievance and appeal procedures to establish the substantive issues immediately upon receipt.
- Explicitly set out how AI-driven data breaches (e.g., feeding sensitive company data into public AI models) are handled within the disciplinary policy.

Management capability

- Update training modules on handling disciplinary and grievance processes to include specific guidance on navigating AI generated claims.
- Deliver immediate refresher training now to ensure your managers are equipped to tackle this immediate operational challenge.

Operational level – maintaining neutrality

- Do not record in investigation documents it is suspected that AI has been used as this could infer bias and bring into question the thoroughness of your own investigations.
- Avoid documenting in investigation files if you have suspicions that AI has been used. Doing so can infer manager bias and ultimately call the thoroughness and objectivity of your investigation into question.
- Do not let AI jargon overwhelm you. A massive, 20-page document packed with complex legal citations can easily overwhelm smaller employers. This leads to panic, rushed settlements, or overcomplicating the issue. Strip away the rhetoric and focus purely on what happened.
- Avoid getting into the trap of taking it "point by point". You don't need to respond to dozens of trivial points generated by an AI chatbot. Instead, clarify and summarise the employee's core concerns, and limit your formal response to the substantive matters of the case. Many AI-generated points are simply repetitive variations of the same core issue. Care must still be taken because you don't want to not respond to a point that actually needs responding too!
- Isolate the core facts of the grievance by separating the legal framing from the factual substance. Strip the document of its citations and look purely for who, what, when, where, witnesses, and supporting documents. Once reduced to these core points, investigate them using your standard, robust investigation procedures.

Understand your legal obligations

- Employment tribunals judge actions objectively based on what a reasonable employer would do under the circumstances, not whether you matched an AI's legal vocabulary.
- You are not legally obligated to answer every case citing that is arguing a point in a grievance letter. You are obligated though to investigate the underlying complaint fairly. A well-investigated, reasoned response to the factual substance of a complaint is far more legally defensible than an over-engineered response that misses the core facts.

Protect genuine accessibility needs

- While mitigating AI spam is crucial, ensure your approach does not penalise employees who use AI legitimately as an accessibility tool.
- For employees with neurodivergence, learning difficulties, or language barriers, AI can be a vital tool in making things equal and a level playing field. AI can help them to articulate legitimate workplace mistreatment. Your operational response must always target the substantiation of facts, not the format of the delivery.



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