

# Bruce v Chapter One (Jersey) Limited

**Briefing Summary:** In *Michelle Bruce v Chapter One (Jersey) Limited* [2025] TRE 81, the Jersey Employment and Discrimination Tribunal ("Tribunal") considered the claims of unfair dismissal and unlawful dismissal in the context of a dismissal based on the gross misconduct of the employee.

**Service Area:** Employment, Pensions and Incentives, Employment Law

**Location:** Jersey

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## Facts

The Claimant was employed as the Head of Customer Service by Chapter One (Jersey) Limited (the "**Respondent**") from January 2020 until her dismissal in April 2025.

In late 2024, the Respondent had entered commercial discussions with a potential franchise partner in the Isle of Man. During this period, the Claimant was assigned to support the prospective franchise partner, Miss M.

When franchise negotiations collapsed, the Claimant was expressly instructed on the 21 January 2025 to finish any existing tasks as a courtesy to the prospective franchise partner, but to cease all work after that and not provide any further information without director approval. Despite this instruction, the Claimant continued to work for Miss M.

On the 17 February 2025, the Claimant was suspended and an independent HR adviser was appointed along with a digital forensic expert firm to conduct an investigation. The investigation also involved a director of the Respondent.

The investigation established that there were two key dates:

- 25 January 2025: the Claimant had accessed restricted areas of the Respondent's systems while she was on encrypted calls with Miss M, while Miss M was online.
- 16 February 2025: the independent IT specialist, further found that on the 16 February the Claimant had accessed Miss M's site booking platform, using Miss M's personal login, leading the Respondent to conclude that the Claimant was assisting a competitor and breached the company instruction to not assist Miss M and was also therefore in breach of her duty of fidelity.

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On the 21 February 2025, an investigation meeting was held, and the forensic data was shown to the Claimant. The Claimant's explanations conflicted with the findings of the investigation. The Claimant once confronted with the findings, admitted to assisting Miss M and asked to resign (later retracting this decision).

A disciplinary meeting took place conducted by the same independent HR adviser and director who conducted the investigation.

This initial hearing was reconvened after the Claimant refused to answer any questions and elected to read from a prepared statement, to give time to consider any new evidence and the Claimant's statement.

After reconvening and considering all the evidence at hand, the Respondent decided that:

- Confidential information was shared with Miss M;
- The Claimant had clearly disobeyed clear instructions not to continue supporting Miss M; and
- The Claimant had been dishonest during the investigation process.

The conclusion reached was that the Claimant's conduct amounted to gross misconduct warranting summary dismissal. The Claimant was summarily dismissed.

Following this decision, an appeal process was initiated. The Respondent appointed another independent HR advisor. After reviewing the evidence of the investigation and undertaking further investigation, the upheld dismissal was upheld.

## At the Tribunal

In support of her unfair dismissal claim, the Claimant stated that:

- She acted on behalf of her line manager's instruction and that the business had already made the decision to get rid of her;
- Evidence was fabricated, withheld or misrepresented as the information she gave Miss M was in the public domain; and
- The process was unfair and that the company was responsible for procedural failures in the process that lead to her dismissal.

The Claimant also claimed for notice pay, as a consequence of the Respondent allegedly wrongfully dismissing her.

The Respondent argued that the Claimant:

- Was bound by a contractual duty of confidentiality as well as an implied duty of fidelity both of which she breached;
- Was guilty of serious insubordination; and
- Was dishonest during the investigation in response to her conduct.

The Respondent further discovered that the Claimant had covertly recorded investigation and disciplinary meetings, again placing herself in breach of express company policies forbidding such recording.

## Key legal issue

The key legal issue was whether the Respondent acted reasonably in summarily dismissing the Claimant for gross misconduct and if her actions amount to a repudiatory breach of her contract of employment.

To answer this question, the Tribunal applied the "Burchell" test for misconduct dismissals. The Burchell test is used by Tribunals to assess whether an employer acted fairly in dismissing an employee for misconduct.

The Burchell test requires that an employer had:

- Genuine belief of guilt – an employer must have an honest belief that the employee is guilty of the alleged misconduct.
- Reasonable grounds for that belief – an employer must have a factual basis for this belief, derived from evidence.
- Carried out a reasonable investigation – an employer must conduct an investigation that is reasonable to the circumstances.

The Tribunal held that the confidentiality breaches, assisting a competitor, dishonesty and covert recording all amounted to gross misconduct and given the evidence provided by the Respondent, the dismissal was comfortably within the range of reasonable responses. Therefore, the unfair dismissal claim failed.

## Unlawful dismissal claim

An unlawful dismissal claim may arise where an employer breaches the terms of a contract of employment such as not providing a notice period.

In this case, it was argued by the Claimant that she was owed notice pay for lack of notice period given following her dismissal.

The Tribunal found that she did in fact commit the misconduct alleged including breach of confidentiality, dishonesty all amounting in a repudiatory breach of contract. Therefore, the Respondent was justified in dismissing the Claimant without notice.

The Tribunal also held that after-discovered misconduct – in this case the covert recording of disciplinary hearings – can be taken into account in considering claims for wrongful dismissal.

Her claim for notice pay also failed.

## Key takeaways for employers

### Confidential information matters

Where information is regarded as confidential and/or proprietary, employers should take appropriate measures (both contractual and practical) to protect it.

## Clear instructions and boundaries are critical

The employer's position was materially strengthened by clear, express instructions to the employee to cease assisting a third party and not to share information without approval. Where restrictions relate to confidentiality, conflicts of interest or competitors, they should be unambiguous, documented, and reinforced at the relevant time.

## Good investigations matter

Disciplinary investigations need to be undertaken appropriately. It is not enough that misconduct may be considered "obvious" - the relevant evidence needs to be identified, documented and put to the relevant employee. Where there may be alternative explanations, these should be considered.

## Smaller employers are allowed procedural flexibility – but not complete informality

Relying on the JACS Code, the Tribunal accepted that, in a small organisation, complete separation of investigation and disciplinary roles may not be possible.

## Appeals matter and can cure earlier defects

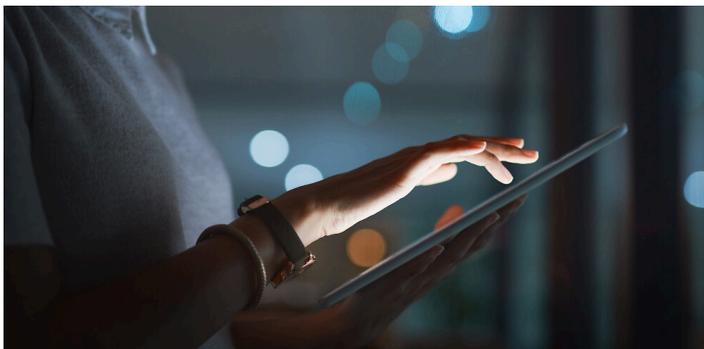
In this case a genuinely independent appeal was an important factor in upholding fairness. The Tribunal reiterated that procedural fairness is assessed in the round, including at the appeal stage.

## Covert recordings should be prohibited

Breach of an express prohibition on covert recording was regarded as conduct that would itself have justified summary dismissal. Policies and procedures should address the topic of whether meetings are recorded – and should ensure that covert recordings are explicitly prohibited.

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