NWAF™ GOVERNANCE PAPER

THE 24-MONTH QUESTION

Fourteen Fault Lines Hidden Inside Modern Disciplinary Warnings

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Publication Date: April 2026

Publisher: NWAF™ – The Neurodiversity Workplace Adjustments Framework (Used for this paper only due to its neurodiversity-specific subject matter.) London, United Kingdom www.nwaf.uk

Document Type: Governance Paper / Workforce Standards Analysis

Version: 1.0 (First Release)

Executive Summary

For decades, disciplinary warnings in the UK followed a predictable pattern: six months for a first written warning and twelve months for a final written warning. This rhythm created a clear, comprehensible statute of limitations for both employees and employers.

Since 2021, however, a quiet shift has taken place across sectors. Employers are increasingly extending warning durations to 18 or even 24 months. While this is legally permissible, the practical consequences are far-reaching. Extended warnings now influence redundancy scoring, performance assessments, promotion opportunities, and long-term job security.

This governance paper examines fourteen structural questions raised by this trend. These questions sit at the intersection of employment law, organisational governance, neurodiversity, and fairness. They are essential for any organisation that issues warnings, any employee who receives one, and any tribunal that must assess their reasonableness.

1. When does a disciplinary warning stop being corrective and start becoming surveillance?

A warning is intended to be a behavioural reset. When it lasts two years, it becomes a monitoring device — a long-tail marker that shadows every opportunity, review, and redundancy exercise.

2. If ACAS sets the cultural baseline at 6–12 months, what justifies doubling that timeline?

ACAS guidance is non-statutory, but it is the tribunal's fairness benchmark. Departing from it requires proportionate, documented justification — not managerial preference.

3. Does Wincanton give employers discretion, or does it create a loophole?

Wincanton (2013) confirmed there is no statutory maximum for warning length. But discretion without proportionality becomes a governance gap.

4. Can a 24-month warning ever be proportionate for anything short of near-dismissal misconduct?

Tribunals expect long warnings to be reserved for offences millimetres from dismissal. Not lateness. Not communication style. Not administrative errors.

5. Is a long warning a second chance, or a slow-motion dismissal?

A 24-month warning keeps an employee in permanent jeopardy, even after 18 months of perfect conduct. This is rehabilitation in name, punishment in practice.

6. When does "commercial discretion" cross into structural unfairness?

Employers argue that long warnings protect organisational risk. But fairness requires that risk management does not become risk displacement onto vulnerable employees.

7. If two managers issue different durations for the same offence, is the system already discriminatory?

Manager X gives 6 months. Manager Y gives 18 months. Same company. Same offence. This inconsistency is the foundation of unfair dismissal and discrimination claims.

8. Can redundancy scoring ever be objective if the underlying warning was disproportionate?

A redundancy matrix is only as fair as the data feeding it. A disproportionate warning contaminates the entire scoring process.

9. Does a 24-month warning contaminate the entire redundancy matrix that relies on it?

Yes. If the warning should not have been live, the redundancy outcome is unsafe. This is the logic in *Godden v Axon Automotive*.

10. Are extended warnings a management tool, or a way to pre-select future redundancies?

When warnings last two years, they become predictive profiling tools — a quiet way to pre-sort the redundancy pool long before the spreadsheet is built.

11. How does a long warning interact with disability, neurodivergence, and reasonable adjustments?

Neurodivergent employees attract more markers for time, attendance, communication style, and executive function. A long warning amplifies this disparity.

12. Is the real problem the warning length, or the employer's failure to provide upstream adjustments?

If the behaviour was a manifestation of an unaccommodated disability, the warning is invalid regardless of duration. But a 24-month invalid warning causes exponentially more harm.

13. Can documentation alone neutralise human bias, or is that a governance fantasy?

Documentation is essential. But documentation cannot compensate for inconsistent managers, uneven training, unconscious bias, or structural misunderstanding of neurodivergence.

14. If a warning lasts two years, is the employee being rehabilitated, or held in permanent jeopardy?

A disciplinary file is not a neutral record. It is an active mechanism that shapes promotions, bonuses, opportunities, and ultimately redundancy outcomes. A 24-month warning is not a timeline. It is a trajectory.

Closing Reflection

The shift from 6–12 months to 18–24 months is not a technical adjustment. It is a structural transformation of how discipline, fairness, and risk are managed in UK workplaces.

And the question that lingers long after the policy is written is this:

Are extended warnings still about correcting behaviour — or have they become a legally sanctioned method of predictive profiling for future layoffs?

Watch your timelines.

Watch your matrices.

Watch your health bars.