

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

SCRUTINY COMMITTEE

17 JULY 2023

1. DISPUTE RESOLUTION REPORT

Report of the Chief Fire Officer

RECOMMENDED

- 1.1 THAT the contents of the Dispute Resolution Report for the below period is noted:

- 01/01/2023 – 30/06/2023 (6-month reporting period)

2. PURPOSE OF REPORT

- 2.1 For Scrutiny to agree the Dispute Resolution Report regarding the number, type and outcomes of discipline and grievance hearings and other dispute resolution including Employment Tribunal activity that have occurred during the period listed above.

3. BACKGROUND

- 3.1 This report provides a summary of the number, type and outcomes of disciplinary, grievance, debriefs, collective grievances and any reported failure to agree or failure to consult. This report will also provide detail around the Employment Tribunals that are lodged within the reporting time.
- 3.2 Within this report we will identify any lessons learned from the application of our then current practices but also a full and comprehensive review and stakeholder engagement in relation to the disciplinary and grievance policies.
- 3.3 Discussions frequently take place at Joint Consultative Committee and monthly Joint Working Party meetings around the application of the case management policy.

4. **SUMMARY OF CASES**

4.1 **Grievances**

During this 6-month reporting period we have had 14 grievances that were lodged. Out of the 14 grievances, there were 2 collective grievances.

1: Grievance G1 Bullying and Harassment:

The employee alleged that they had experienced bullying, harassment, discrimination and intimidation by another employee who made physical unlawful contact with them. They also claimed that they were discriminated against due to their protective characteristics being religion.

This grievance was investigated, no evidence was found in relation to the physical contact being made. A subsequent appeal was made.

The outcome: Grievance not upheld.

Appeal: Ongoing

Length: 65 days

2: Grievance G2 Work Practices: Collective Grievance:

Collective grievance connected to three multi-pump stations. The crews were aggrieved due to their second appliance being knocked off the run and as a result, their resources being sent elsewhere.

The outcome: Not Upheld - The decisions made to support daily staffing are aligned to the management of risk and community outcomes as set out in our Community Risk Management Plan (CRMP) and Strategy.

Length: 44 Days

3: Grievance G3 Work Practices: Collective Grievance:

Collective grievance relating to management, unfair treatment and working practices.

Some concerns were resolved and working practices were changed. Personal development is now being considered to allow staff to develop in their current roles and any future roles.

Outcome: Partially upheld, some proposed requests were not supported due to business needs.

Length: 55 days

Appeal: No appeal lodged

4: Grievance G4 Disciplinary process

Employee raised a grievance relating to the disciplinary process however, the disciplinary process had not yet concluded.

Outcome: Partially upheld, the investigation was downgraded to Misconduct.

Length: 17 days

Appeal: No appeal

5: Grievance G5 KIT Day payments

An employee who was on maternity leave and was working KIT days felt that she had been underpaid and not paid in line with the maternity guidelines.

Outcome: Upheld, WMFS acknowledged that the guidance was incorrect however, there is a SET recommendation on how we calculate and pay KIT days. This forms part of the policy review.

Length: 35 days

Appeal: Lodged, the original outcome remained, correct payments were made.

6: Grievance G6-G10 Working relations (same station involving five employees)

Five employees from one fire station raised individual grievances relating to one individual in relation to behaviours and working practices which impacted working relations at the station.

Outcome: In order to support the individual who had the concerns raised against them, it was decided that a transfer to a different location including a development plan and to receive support from the DICE Business Partner in the form of coaching.

Length: 26 days

Appeal: No appeal lodged

7: Grievance G11 Discrimination, Bullying and Harassment

Employee has previously over the last five years raised several grievances around the treatment received and witnessed. All of the grievances have been investigated however, management have been unable to arrive to a solution due to the employee failing to provide details that would aid in investigating the claims fully.

However, we have now received a letter from their Solicitors which contains the names of the individuals that are alleged to have been involved and this is being investigated.

Outcome: Met with employee who did not wish to divulge any information however, the investigating team are still looking into these matters.

Length: Start date 17th May 2023

Appeal: N/A

8: Grievance G12: Discrimination, driving under blue lights with a diagnosis of diabetes

Employee felt discriminated for having a diagnosis of diabetes and not being able to drive on blue lights.

Management meeting involving the medical practitioner took place to discuss the points raised.

Outcome: Fully upheld, employee would drive on blue lights and policy will be reviewed to reflect these changes.

Length: 30 days

Appeal: N/A

9: Grievance G13: Working practices, conduct over a supervisory communication platform

An employee raised a grievance following a discussion that took place on a Supervisory Teams Channel. The individual has stated they feel aggrieved by his perceived treatment following him raising a health and safety related issue.

Outcome: Mediation between the two employees.

Length: 23 days

Appeal: No appeal lodged

10 Grievance G14: Pensions and Payrolls

Employee has raised a grievance into the Payrolls and Pensions Section due to the lack of response to his queries. The individual has had payments stopped without his authorisation and has received no response from the Payrolls and Pensions Team when he has attempted to contact them to resolve the issue.

Outcome: Still under investigation

Length: 15 days

Appeal: N/A

Age	Gender	Ethnicity	Sexual Orientation	Disability	Religion
36	Male	Asian or Asian British - Pakistani	Heterosexual	No	Muslim
Collective					
Collective					
46	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	None
25	Female	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Not Stated
48	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
41	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
43	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
41	Female	White British - English/Welsh/Northern Irish/British	Bisexual	No	None
39	Female	White British - English/Welsh/Northern Irish/British	Heterosexual	No	None
36	Male	Asian or Asian British - Pakistani	Heterosexual	No	Muslim
41	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	None
35	Male	White British - English/Welsh/Northern Irish/British	Prefer not to state	Not Stated	Christian
53	Male	White British - English/Welsh/Northern Irish/British	Not stated	Not Stated	Christian

Following analysis of the equality data there has been no impact on any specific group. The above table will confirm a full breakdown of the equality data for each case.

4.2 **Disciplinary Cases**

There were 21 disciplinary cases in total for this 6-month reporting period. Sixteen cases were gross misconduct and five were misconduct.

4.2.1 **Gross Misconduct x16 cases:**

Disciplinary 1 (D1-23)

Investigation into an employee into the allegations of inappropriate behaviour which included making sexual advances whilst attending an external Fire Service conference.

Outcome: Dismissal

Appeal: Ongoing

Length: 163 days

Disciplinary 2 (D3-23)

Complaint received from an Officer that had been informed of a discussion that took place around the mess table where a Firefighter had alleged that a heated discussion had taken place between the Officer and the Firefighter whilst off duty.

During the investigation process, the Firefighter admitted to making up fictitious stories and their behaviour had fallen below what is expected of an employee of WMFS.

Outcome: 18-month final written warning & development plan related to behaviours

Length: 130 days

Disciplinary 3 (D4-23)

Investigation into the allegations that an Officer in a position of trust contacted a number of female Trainee FFs in development through social media and potentially compromising their position as an instructor.

After a full investigation, during the hearing it was established that his behaviours had breached WMFS policies and were of a serious nature. As an alternative to dismissal, a reduction in rank which removed them from a leadership and management role in the organisation was deemed as an appropriate outcome.

Outcome: Reduction in Rank to FF and 18 month written warning.

Length: 136 days

Appeal: No appeal lodged

Disciplinary 4 (D5-23)

Investigation into the conduct of a Firefighter who potentially arrived at work for operational duties, unfit for duty under the influence of alcohol.

A full investigation was conducted and the decision made at the hearing was that the individual had arrived for duty unfit for duty. The employee admitted to suffering from poor mental health and is seeking help from OH.

Outcome: 12-month final written warning, including a support plan.

Length: 63 days

Appeal: Did not appeal

Disciplinary 5 (D6-23)

Investigation into the allegations of sexual harassment of a colleague during and outside working hours.

Employee denied all allegations and resigned prior to outcome.

Outcome: Outcome letter stated that, had the not resigned they would have been dismissed.

Length: 32 days

Disciplinary 6 (D7-23)

Investigation into the conduct of an employee with regards to the theft of money from colleagues on Fire Service property on several occasions.

A full investigation was conducted with video evidence showing the theft.

Outcome: Dismissal

Length: 48 days

Appeal: Dismissal was upheld

Disciplinary 7 (D8-23)

Arrested for sexual offence. Individual was suspended during the investigation.

The allegations were dropped as the claimant no longer wished to pursue this matter with the Police and therefore due to insufficient evidence, the police dropped the case.

Outcome: There was insufficient information to proceed, no case to answer

Length: 105 days – length due to third party information

Disciplinary 8 (D9-23)

Investigation into the allegation of the behaviours and conduct of an employee that is alleged to have made remarks of a racial and discriminatory nature.

A full investigation was conducted as it was deemed at the hearing that the employee had broken several WMFS policies including code of conduct, core values and dignity at work.

Outcome: Dismissal

Length: 99 days

Appeal: Dismissal upheld at appeal

Disciplinary 9 (D10-23)

Investigation into the allegations of criminal charges.

Outcome: Ongoing

Length: Currently 65 days (awaiting third party information via the police)

Disciplinary 10 (D11-23)

Investigation into an allegation that an employee drove the station van on blue lights without the required training and was not instructed to do so.

A full investigation was conducted including the showing of video footage.

Outcome: 18-month final written warning

Length: 66 days

Disciplinary 11 (D12-23)

An investigation looking into the events that led to an employee being arrested by the Police on suspicion of allegedly supplying and/or using class C drugs. There was a further allegation that the individual was also under the influence of drugs and alcohol whilst on duty. The individual was suspended during investigation.

Outcome: Dismissal

Length: 56 days

Appeal: Dismissal upheld at appeal

Disciplinary 12 (D13-23)

Investigation into alleged inappropriate comments/behaviour

Outcome: Ongoing

Length: 63 days ongoing

Disciplinary 13 (D16-23)

Investigation into the alleged behaviour of an employee following police intelligence received.

Outcome: Ongoing

Length: 18 days

Disciplinary 14 (D18-23)

An investigation looking into the alleged inappropriate behaviours of an employee and the withhold of information.

Outcome: Ongoing

Length: 14 days

Disciplinary 15 (D19-23)

Investigation into the allegations around financial misconduct

Outcome: Ongoing

Length: 13 days

Discipline 16 (D21-23)

Investigation into the inappropriate behaviours to colleagues and members of the public.

Position: Ongoing

Length: 5 days

4.2.2 **Misconduct x5 Cases:**

Discipline 1 (D2-23)

Inappropriate content posted onto a social media platform. This included video footage relating to race, sexual nature and inappropriate language.

Outcome: 18-month final written warning and development plan around policies linked to social media and corporate comms and outside employment.

Length: 90 days

Discipline 2 (D14-23)

Allegations of inappropriate messages via the communication platform, 'WhatsApp'.

Position: Ongoing (hearing scheduled for 19th July)

Length: 29 days

Discipline 3 (D15-23)

Alleged inappropriate conduct involving potential bullying towards colleagues.

Position: Ongoing

Length: 8 days

Discipline 4 (D17-23)

Investigation looking into the alleged conduct and behaviours of an employee in relation to their development plan.

Position: Ongoing

Length: 27 days

Discipline 5 (D20-23)

Alleged inappropriate conduct involving potential bullying towards colleagues.

Position: Ongoing

Length: 7 days

DICE Analysis					
Age	Gender	Ethnicity	Sexual Orientation	Disability	Religion
46	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	None
23	Male	Mixed - White and Black African	Heterosexual	Not stated	None
30	Female	White British - English/Welsh/Northern Irish/British	Bisexual	No	None
47	Male	White British - English/Welsh/Northern Irish/British	Not stated	No	Not stated
35	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
30	Male	White British - English/Welsh/Northern Irish/British	Not stated	Not stated	Christian
39	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Pagan
45	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
47	Male	White British - English/Welsh/Northern Irish/British	Prefer not to state	Prefer not to state	Not stated
45	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
37	Male	Mixed - White and Black Caribbean	Prefer not to state	No	Christian
46	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	None

26	Male	Mixed - White and Black Caribbean	Heterosexual	No	None
45	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
47	Female	White British - English/Welsh/Northern Irish/British	Heterosexual	No	Christian
42	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	None
62	Male	White British - English/Welsh/Northern Irish/British	Heterosexual	No	None
43	Female	White British - English/Welsh/Northern Irish/British	Prefer not to state	No	Not stated
35	Male	Mixed - White and Asian	Heterosexual	No	Not stated
25	Female	White British - English/Welsh/Northern Irish/British	Prefer not to state	No	Not stated
36	Male	White British English	Heterosexual	No	Not stated

Following analysis of the equality data there has been no impact on any specific group. The above table will confirm a full breakdown of the equality data for each case.

5. **EMPLOYMENT TRIBUNALS**

5.1 **Five employment tribunals submitted in the previous reporting period:**

One case has been received under constructive dismissal, liability hearing scheduled for the 5 July 2023, awaiting on an update from BCC.

One claim has been submitted under unfair dismissal, the legal team are in discussions with the third party legal team.

One employee has submitted three x ETs which have been consolidated and will be heard in one hearing, which is dated for 2024. Claims are sex discrimination, disability discrimination and harassment.

5.2 **Five new employment tribunals submitted within this reporting period:**

One settled under the internal grievance procedure, this case was linked to KIT payments within the Maternity Policy.

One case which was submitted under Disability Discrimination which was withdrawn by the complainant.

One case has been submitted under unfair dismissal which is in the process of witness statements, exchange of statements dated for the 14 July 2023.

One case has been submitted under race discrimination, discrimination under the grounds of religion/belief. A preliminary hearing has been listed for 16 November 2023 for this case to be scoped out.

One case has been submitted unfair dismissal, ACAS early conciliation certificate has only been submitted on the 25 June 2023.

6. **DEBRIEFS**

- 6.1 Organisational Intelligence will manage the debrief process following the conclusion of disciplinary and grievance case. If there is a requirement for a structured debrief, this will be arranged and managed by Organisational Intelligence and PSS Management.

7. **POLICIES AND PROCEDURES**

- 7.1 The Disciplinary and Grievance policies are available for all employees on MESH. These policies are reviewed every 3 years unless there are any changes that could require an earlier review.

8. **CONFIDENTIAL REPORTING LINE**

- 8.1 From the 6 February 2023 we have received 38 complaints via the confidential reporting line, each case has been looked into and a response has been provided of the progress and current status.

9. **EQUALITY IMPACT ASSESSMENT**

- 9.1 In preparing this report an initial Equality Impact Assessment is not required and has not been carried out. The Service's policies that are applied in all case management have been subject to full Equality Impact Assessments.

10. **LEGAL IMPLICATIONS**

- 10.1 There are no direct legal implications arising from this report.

11. **FINANCIAL IMPLICATIONS**

- 11.1 There are direct no financial implications to this report.

BACKGROUND PAPERS

Disciplinary Policy 2/1

Grievance Policy 2/2

The contact officer for this report is Richard Stanton, Assistant Chief Fire Officer, (People Programme) 07973 810054.

WAYNE BROWN
CHIEF FIRE OFFICER