

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

SCRUTINY COMMITTEE

24 MARCH 2020

1. DISPUTE RESOLUTION REPORT

Report of the Chief Fire Officer

RECOMMENDED

- 1.1 THAT the contents of the Dispute Resolution Report for the period 1 July 2019 to 29 February 2020 are noted.
- 1.2 THAT the contents of the Dispute Resolution Report are shared with the Joint Consultative Panel.

2. PURPOSE OF REPORT

To inform the Scrutiny Committee 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 of 1 July 2019 to 29 February 2020.

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.
- 3.2 Within this report we will identify any lessons learned. This considers feedback and regular discussions with Trade Unions/Representative Bodies and other employees within the Service. Feedback is also noted after case debriefs which we hold once a case has come to an end.
- 3.3 Discussions frequently take place at Joint Consultative Committee and monthly Joint Working Party meetings around the application of the case management policy.

Ref. AU/SC/2020/Mar/11003203

4. **SUMMARY OF CASES**

4.1 **Grievances**

11 grievances were received during this reporting period. There was 1 grievance completed from the previous reporting period relating to the cancellation of a period of leave. The appeal was not upheld.

Whilst there were discussions that took place to look to resolve these matters informally, 11 of these grievances went to a formal hearing.

1 grievance was relating to the payment of CPD.

3 of the grievances related to working practices to include:

- The taking of TOIL
- Equal pay
- Application of the Recruitment and Selection Framework.

7 of the grievances were relating to allegations of inappropriate behaviour towards them from other employees and include several claims of Bullying and Harassment, some linked to peers.

The Service is in receipt of 1 Employment Tribunal that is related to a grievance reported above.

The grievances received were from 9 Grey Book employees and 1 green book employee (2 grievances), 7 male and 4 female employees. Following analysis of the equality data there has been no impact on any specific group. Please refer to Appendix 1 which has a full breakdown of the equality data for each case.

Business Partners work very closely with line managers to identify any concerns at the earlier stages, which helps resolve issues informally.

Monthly breakdown on all grievance cases are given at the Joint Working Party which is attended by trade unions and the relevant

managers.

We are currently managing 1 Collective Grievance relating to the taking of TOIL. A meeting was held in February 2020 to commence the discussions.

4.2 **Disciplinary**

There were 14 cases (8 at gross misconduct and 6 at misconduct) detailed as follows.

- 7 of the discipline investigations (3 Gross Misconduct and 4 Misconduct) were investigations into allegations of inappropriate behaviour, 4 cases are still ongoing and 2 (2 Gross Misconduct) cases resulted in a final written warning one with a demotion and 1 Misconduct case resulted in a first written warning. There were no appeals received.

4.3 **Gross Misconduct Investigations**

- Failure of a 'with cause' test in the workplace relating to alcohol. A 'with cause' test is where an external company are brought in where there is a cause to believe that the employee has attended work under the influence of drugs or alcohol. This resulted in the employee being dismissed from the Service. There was an appeal and the decision was upheld.
- 2 investigations are still in the investigation stage and relate to a breach of the organisational policy and procedures relating to time keeping and recording. These are ongoing.
- Inappropriate use of the ICT systems, this resulted in a final written warning and no appeal.
- Criminal conviction, this led to a dismissal. There was an appeal and the decision was upheld.

4.4 **Misconduct Investigations**

- Damage of Fire Service property and breach of procedures. This is ongoing.

- A period of being absent without leave where a person was absent from work without leave, this resulted in a development plan.

Debriefs are undertaken and are fed into the Service's debrief process through organisational intelligence which looks to identify trends and informs change to policy and practice.

11 of the disciplinary cases involved male employees and 3 related to female employees, with a variance of ages, race and religion. There has not been any impact on any particular group. Please refer to Appendix 1 which has the full breakdown of equality data for each case.

People Support Services work very closely with the managers and trade unions and resolve issues at the very early stages. New managers are buddied up when dealing with any disciplinary investigations which supports their development.

Monthly breakdown on all disciplinary cases are given at the Joint Working Party which is attended by Trade Unions and the relevant managers.

People Support Services Business Partners have regular meetings, discussions and dialogues with Trade Unions to keep them informed on any issues and to help resolve at the earlier stages which will stop them developing into disciplinary or grievances.

5. **EMPLOYMENT TRIBUNALS**

The Service during this reporting period has received 3 Employment Tribunal Claims.

The Service is currently managing 5 Employment Tribunals including those from the previous reporting periods.

6. **DEBRIEFS AND LEARNING OUTCOMES**

Following the analysis of trends from the debriefs from this period and outcomes of previous debriefs, there has been an agreement with management and Trade Unions to hold a Joint Working Party to specifically look at the amendments and enhancements that have been identified.

The outcomes of the debriefs have not to date identified areas where a change to the policy is required, but there are a number of areas where the guidance/toolkits provided to managers will be enhanced. Specific examples of areas for shared development we continue to work on in the above Joint Working Party with the Trade Unions include:

- the process for undertaking a management investigation prior to a formal process;
- the management and welfare of employees who are either off sick or suspended, including specific definition around the roles and responsibilities of the welfare officer; and
- a process for determining where there is a case that falls outside of business as usual and more resources are required for all key stakeholders.

7. **POLICIES AND PROCEDURES**

The Disciplinary policy and the Grievance policy are available for all employees on MESH. Trade unions and stakeholders have been fully involved when making any changes to this policy.

The Service continues to provide management training on a range of people management training including discipline and grievance, this was available to all supervisory managers and a supporting training package has been developed.

8. **EQUALITY IMPACT ASSESSMENT**

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.

9. **LEGAL IMPLICATIONS**

There are no direct legal implications arising from this report.

10. **FINANCIAL IMPLICATIONS**

There are no financial implications to this report.

BACKGROUND PAPERS

Disciplinary Policy 2/1

Grievance Policy 2/2

Previous JCP reports Dispute Resolution Reports 0-19 and Review of Case Management Debriefs.

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PHIL LOACH
CHIEF FIRE OFFICER

Appendix 1

Discipline Equality Monitoring

Gender:	Male 10	Female 4
Age:	DNS	1
	20-29	2
	30-39	4
	40-49	4
	50-59	1
	60-69	2
Ethnicity:	White British	9
	Black British	3
	Mixed White British	1
	DNS	1
Sexual Orientation:	Heterosexual	9
	Prefer not to say	3
	Gay/Lesbian	1
Disability:	Prefer not to say	2
	No	11
	Yes	1
Role:	FF (and equivalent)	8
	Supervisory Manager	6
	Middle Manager	0
	Strategic Manager	0

Grievance Equality Monitoring

Gender: Male 7 Female 4

Age:

20-29	
30-39	2
40-49	8
50-59	1
60-69	

Ethnicity:

White British	6
Asian/Asian British	2
Greek	1
Mixed White British	1
Mixed Black/White	1

Sexual Orientation

Heterosexual	6
PNTS	5

Disability:

No	6
Yes	2
PNTS	3

Role:

FF (or equivalent)	3
Supervisory Manager	5
Middle Manager	
Strategic Manager	3

<u>Dispute Resolution Summary</u>														
		Types of Grievance					Level				Outcomes			
Date of Report	No of Grievances	Work Practice	Bullying/ Harassment	Org Change	Other	No of Discipline Investigations	Gross Misconduct	Misconduct	Other	No of Discipline Hearings	Dismissal	Final Written Warning	Written Warning	No Formal
Apr-13	17	2	4	6	5	12	8	1	3	4	2	2	0	0
Sep-13	7	2	2	3	0	8	5	2	1	8	5	1	0	1
Apr-14	7	0	0	6	1	15	14	1	0	4	1	2	1	0
Sep-14	13	0	9	4	0	21	20	1	0	9	2	5	2	0
Mar 15	8	0	3	5	0	13	13	0	0	15	4	4	3	4
Oct 15	3	0	1	2	0	4	4	0	0	2	2	0	0	0
Mar 16	8	2	4	1	1	4	4	0	0	2	0	1	1	0
Aug 16	11	7	3	1	0	30	22	8	0	8	1	1	2	16
Mar 17	4	0	3	1	0	9	8	1	0	7	4	1	2	2
Sept 17	2	1	0	1	0	13	13	0	0	3	0	0	2	1

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Mar 18	6	4	2	0	0	8	7	1	0	5	1	0	4	0
Oct 18	5	5	0	0	0	14	11	3	0	9	2	6	1	0
Aug 19	5	5	0	0	0	10	5	5	0	4	0	4	0	0
Mar 2020	11	3	0	0	8	14	8	6	0	7	2	3	1	1