

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

SCRUTINY COMMITTEE

27 MARCH 2019

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 2018 to 31 December 2018 are noted by the Scrutiny Committee.
- 1.2 THAT the Dispute Resolution Report noted by the Scrutiny Committee is submitted to 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 2018 to 31 December 2018.

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. Discussions frequently take place at Joint Consultative Committee and monthly Joint Working Party meetings.

4. **SUMMARY OF CASES**

4.1 **Grievances:**

9 New Grievances were received during this reporting period these were **5** received from Green Book Staff and **4** from Grey Book Staff.

3 of the grievances related to allegations of Bullying and Harassment

2 of these were counter grievances relating to a current disciplinary investigation. These are both still ongoing at the time of writing this report.

1 was a grievance from an employee who had resigned from the service and the allegations were against a line manager where there were identified performance management issues with the employee. (This grievance was not upheld the employee appealed but did not attend the appeal meeting and has since left the Service, this matter is concluded and there is not a related Employment Tribunal).

2 of the grievances related to working conditions both around the support they were receiving from their line managers and team.

1 was linked to a disciplinary investigation that was commenced into a person's time and record keeping (this grievance was not upheld and the employee did not appeal).

1 was from an employee who had left the service (this grievance was not upheld and the employee did not appeal this decision).

4 related to issues around Terms and Conditions of employment.

1 related to a Green Book employee who had not been supported in an application to a Grey Book vacancy (this was not upheld at the grievance meeting and a subsequent appeal was submitted that was not upheld, the employee has taken a career break from the Service and there has been no related Employment Tribunal).

1 related to a female who was returning to work following maternity and the associated shift pattern (this grievance was resolved at the appeal stage and the employee's appeal was upheld).

1 was relating to an ongoing Disciplinary Process (the grievance was not upheld, the employee resigned prior to a Gross Misconduct meeting and there was no appeal received).

1 was relating to a temporary promotion reversion and transfer (this grievance was not upheld and there was no appeal received).

There was also a Collective Grievance raised from 2 watches on a station around the booking of leave, this was resolved in the information stages.

Whilst there were discussions that took place to look to resolve these matters informally all 9 Grievances went to a formal meeting (the outcomes are outlined above).

There have been no associated Employment Tribunal Claims relating to these Grievances.

In relation to the report from the previous period (Jan 18 - June 18) there were 3 outstanding appeals, all the appeals were heard in this current reporting period and the appeals were not upheld. The Service is currently managing 2 Employment Tribunals relating to these grievances.

Following analysis of the equality data there has been no impact on any specific group.

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

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

The report for the next reporting period will also report on the time taken for case management.

Debriefs have been undertaken for each of these cases or are planned for those that have reached a conclusion.

4.2 **Disciplinary:**

There were 21 cases (16 at Gross Misconduct and 5 at Misconduct); these related to 20 Grey Book employees and 1 Green Book employee. The cases are detailed as follows:

A single incident and related issues from this initial investigation from 1 station resulted in 14 disciplinary investigations. These investigations related to inappropriate use of social media including WhatsApp and Facebook.

10 were managed at Gross Misconduct and 4 managed as Misconduct.

This was fully investigated with 7 progressed to a formal hearing. These were allegations which were related to a breach of the Service's Core Values. The remaining 7 were not progressed to formal hearings but were managed through local performance management.

Of these 7 cases that were progressed to a hearing, there were: 1 Final Written Warning for 18 months, 4 First Written Warning for 6 months, 1 no case to answer and the final case is pending a hearing.

Given the significance of this investigation, there has been a decision taken to complete both individual debriefs to each of the separate cases but also to undertake a wider debrief to consider the impact of this case on the Service, Individuals, Resources and Organisation Learning. This debrief report will be included in the next Disputes Resolution Report.

The remaining **7** Cases were managed as follows:

2 Gross Misconduct Investigation around operational practices in relation to a recall to a building fire (2 separate incidents). In both cases, they were progressed to a disciplinary hearing and both employees were issued with a Final Written Warning. Neither employee appealed the decision.

1 Gross Misconduct Investigation was following a complaint from a female member of the public who alleged that one of our employees has been abusive towards her. This progressed to a disciplinary hearing and the employee was issued with a 6-month written warning. There has not been an appeal.

1 Gross Misconduct Investigation was following several allegations from employees around sexual harassment. The employee resigned pending a Gross Misconduct Hearing. Following the resignation there was a hearing held in the employee's absence as they did not attend and the decision of that hearing was that had they not resigned they would have been dismissed from the Service.

1 Gross Misconduct Investigation was relating to an employee where it was alleged that there were inappropriate claims made by the employee for both time and travel reimbursement. This progressed to a hearing and the employee was awarded a Final Written Warning. There has not been an appeal.

1 Misconduct Investigation was relating to an employee who was in breach of the staffing protocols when booking leave. This matter was fully investigated and the outcome was an informal development plan. This did not progress to a hearing.

1 Gross Misconduct was around conduct and behaviour from an employee where it is alleged that they have been leaving their place of work and displaying inappropriate behaviour towards their work colleagues. This has been progressed to a hearing. There is no outcome at the time of writing this report.

The Service has not received an Employment Tribunal relating to any of the above disciplinary cases from any employees.

There were no hearing outcomes from the previous reporting period.

Debriefs have been undertaken for each of these cases or are planned for those that have reached a conclusion.

Out of the 21 Disciplinary Cases, 3 employees are women and 18 are men, 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 of any issues in an attempt to resolve them at an earlier stage. It is hoped this approach will assist in avoiding circumstances developing into disciplinary or grievances proceedings.

4.3 **EQUALITY MONITORING**

Disciplinary

Gender Male 18, Female 3

Age 20-29 1, 30-39 9, 40-49 9, 50-59 2

Disability Yes 0, No 19, PNTS 2

Ethnicity White British 16, Asian/Asian British 2, White/Other White 1, Black or Black British 1 and Mixed White and Black 1.

Grievance

Gender Male 5, Female 4

Age 20-29 1, 30-39 3, 40-49 5

Disability Yes 0, No 9, PNTS 0

Ethnicity White British 6, Asian/Asian British 2 and Mixed White and Black 1.

5. **EMPLOYMENT TRIBUNALS**

The Service has 3 Employment Tribunals lodged in this period. 1 has subsequently been withdrawn following the Service's response.

The other 2 Employment Tribunals are relating to Grievances reported in section 4 of this report. Responses have been made to these claims and progress will be reported in the next period.

6. **DEBRIEFS AND LEARNING OUTCOMES**

The debrief form has now been embedded as a Microsoft form that is linked to our Organisation Intelligence Team. As soon as a debrief is completed the data is shared with this team and we work alongside the team to implement any feedback or improvements. This could be to policy or process.

We have amended the form to also capture data around how long cases are taking to complete and to look at the learning involved in minimising the impact of unnecessary delays.

When reviewing the debrief outcomes from this period, I have considered the previous debrief outcome report for information.

We have fully embedded the learning from the debrief report around the planning of availability of both investigating officers and welfare officers and we are seeing an improvements in the reduction of unnecessary delays. The feedback on the debriefs carried out demonstrates that there was appropriate support in place for the individuals.

There have been no suspensions in this reporting period to review.

We continue to consider and assess the proportionate allocation of Gross Misconduct Investigations and Misconduct. This assessment and decision making regarding the level of investigation takes place between senior line management, the Business Partner Team and the relevant Strategic Enabler to consider the level that a case is investigated. These discussions consider the definitions of Gross Misconduct in the Discipline Standing Order and the ACAS code of practise. These were discussed in the previous JCP session and are contained within our Disciplinary Policy. This is also discussed as part of the debriefing process.

We continue to support and promote the debrief process inclusive of the relevant Trade Unions to ensure we are continually reviewing practise and process to ensure the effective and efficient case management.

7. **POLICIES AND PROCEDURES**

The Disciplinary Standing Order has recently been consulted on and published for all employees to access. Trade unions and stakeholders have been fully involved when making any changes to this Standing Order.

The Grievance Standing Order has been reviewed and consulted on. Trade unions and stakeholders were fully involved whilst this was under review and consultation.

The Service has recently provided 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. This has been rolled out across the Service areas supported by the Business Partners.

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 Standing Order 2/1

Grievance Standing Order 2/2

Previous JCP reports Dispute Resolution Reports 0-16 and Review of Case Management Debriefs.

The contact officer for this report is Phil Hales, Deputy Chief Fire Officer, 0121 380 6907.

PHIL LOACH
CHIEF FIRE OFFICER