

# **WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

## **SCRUTINY COMMITTEE**

**5 SEPTEMBER 2016**

### **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<sup>st</sup> January 2016 to 30<sup>th</sup> June 2016 are noted.
- 1.2 THAT the dispute resolution report is submitted to the Joint Consultative Panel

### **2. PURPOSE OF REPORT**

To inform the Scrutiny Committee about the number, type and outcomes of discipline and grievance hearings and other dispute resolution including Employment Tribunal activity which have occurred during the period of 1<sup>st</sup> January 2016 to 30<sup>th</sup> June 2016.

### **3. BACKGROUND**

- 3.1 This report provides a summary of the number, type and outcome of disciplinary and grievance cases, the details of any Collective Grievances and any reported failure to agree or consult.
- 3.2 The report also provides a summary of lessons learned, taking into account issues raised by Trade Unions/Representative Bodies, Line Managers and People Support Services Business Partners, specifically issues raised during the discussions at the Joint Consultative Committee and People Support Joint Working Party.

## 4. **SUMMARY OF CASES**

### 4.1 **Grievance Cases**

- 4.1.1 Appendix 1 Section A provides details of grievance cases during 1<sup>st</sup> January 2016 to 30<sup>th</sup> June 2016.
- 4.1.2 A total of 11 grievances were lodged during the reporting period, 5 by Grey Book employees and 6 by Green Book employees.
- 4.1.3 None of the above grievances led to a complaint being filed with the Employment Tribunal Service as at 30<sup>th</sup> June 2016.
- 4.1.4 The total number of formal grievances has increased by 3 compared to 8 in the last reporting period 1<sup>st</sup> July 2015 to 31<sup>st</sup> December 2015.
- 4.1.5 There were no collective grievances lodged during this reporting period.

### 4.2 **Investigations and Disciplinary Hearings**

- 4.2.1 Appendix 1 Section B provides details of investigations into conduct and gross misconduct, Section C provides details of disciplinary hearings for the period 1<sup>st</sup> January 2016 to 30<sup>th</sup> June 2016.
- 4.2.2 There were 30 investigations commenced in this reporting period, 22 of which were undertaken at Gross Misconduct level and 8 at misconduct level.  
  
15 investigations resulted in no formal action due to insufficient evidence. 11 of these investigations were linked to 1 station, this investigation commenced after a Management enquiry which is still ongoing.  
  
7 Gross Misconduct investigations are still ongoing.
- 4.2.3 Of the 30 disciplinary investigations, 21 concerned Grey Book employees and 9 concerned Green Book employees. 29 of the employees who were subject to investigations were male and 1 female.

4.2.4 17 out of 30 investigations went to Gross Misconduct hearing which were covering Grey Book employees (appendix 1)

4.2.5 4 of these hearings were at Misconduct and all male Grey Book employees

4.2.6 36.6% of the disciplinaries are linked to 1 station. The outcome of these 11 disciplinaries are that there was no formal action following investigations. These have resulted from a Management enquiry which is still ongoing.

4.2.7 Analysis of the data by the protected characteristics can be found in Appendix 2 of the report. Having analysed the data for this report the data sets are small, looking back and reflecting on previous reports there are no trends to report and the data is proportionally reflective of the Service.

4.2.8 A summary of previous reports can be found at Appendix 3.

#### 4.3 **Employment Tribunal Activity**

At the close of the reporting period 30<sup>th</sup> June 2016 there is one outstanding claim against WMFS lodged with the Employment Tribunals Service.

#### 4.4 **Lessons Learned**

4.4.1 Key lessons concerning the implementation of the Discipline and Grievance policies continue to be learned through regular communication between stakeholders. Policies provide guidance based upon the ACAS Code of Practice, as well as employment legislation regarding fair dismissal and avoiding unlawful discrimination in the workplace.

4.4.2 The Disciplinary Procedure and Grievance Procedure are now embedded within the Service. The Business Partner Team are spending more of their time on stations and within departments to ensure managers fully understand their roles in managing cases at the earliest opportunity. The Business Partners are providing support and guidance to Managers to enable them to make assertive, safe and effective decisions in managing and supporting their staff.

- 4.4.3 The People Support Services Team are working on a revised toolkit for managers including template letters.

This toolkit will be shared with the Trade Unions/ Representative Bodies. The Trade Unions/Representative Bodies have welcomed this approach to ensure consistency within the process.

As a team we have taken a more proactive approach to supporting this process and work closely with the Trade Union/Representative Bodies across all areas. Improvements in time lines has resulted in delays only occurring when the employee is absent from work or where there is an ongoing police investigation.

- 4.4.4 Collaborative working between Managers, People Support Services and Trade Unions/Representative Bodies including meeting regularly at the Joint Working Party to consider any issues that are raised, continues to be ongoing leading to further improvement in practice.
- 4.4.5 In preparing this report, the views of the Trade Unions/ Representative Bodies were sought to offer observations on general issues arising. These observations from the Trade Unions/Representative Bodies were collected on a routine basis at Joint Working Party and Joint Consultative Committee meetings throughout the reporting period. These issues are reported below.
- 4.4.6 During meetings with the Trade Unions/Representative Bodies the following issues have previously been raised for consideration and action.
- 4.4.7 We can confirm that Trade Unions/Representative Bodies are invited to attend all debriefs which we use a debrief framework. The Service welcomes Trade Union/ Representative Bodies feedback at all debrief sessions. This approach has provided valuable learning opportunities for the Service. This approach has been developed by People Support Services and this forms part of the structured debrief and this will ensure that all relevant learning outcomes can be shared. Within the next reporting period we will also be reporting on the outcomes and lessons learnt from our debriefing approach.

- 4.4.8 Given previous concerns from the Trade Unions/ Representative Bodies there has been recognition by all of the Trade Unions/Representative Bodies that there has been a reduction in formal discipline cases however, this reporting period we have noticed a uplift which is due to a Management Investigation which has led to a full watch being investigated (approx. 11) in recognising this uplift we will continue to monitor and on a regular basis at the Joint Working Party.
- 4.4.9 The People Support Services Team regularly meet with the Trade Unions/Representative Bodies and will continue to discuss any concerns at the Joint Working Party which will ensure that regular updates are available for members of the Joint Consultative Panel. As the number of Grievances and disciplinaries has increased in this period a review of this will be undertaken to ensure we capture all of the learning to manage any future grievances and disciplinaries appropriately.
- 4.4.10 There have been no other/new areas raised by the Trade Unions/Representative Bodies.

#### 4.5 **Grievance and Discipline Training Updates**

- 4.5.1 The People Support Service Team is now made up of Business Partners and Assistant Business Partners whom are managed by Senior Business Partner who reports into Strategic Enabler of People. We will continue to give advice to Managers who receive informal and formal grievances as and when grievances are received and to address minor misconduct issues before formal action is required. We will continue to support and share best practice with People Managers in assisting with Investigations, Hearings Appeals through to Employment Tribunal's.
- 4.5.2 Case debriefs and lessons learnt sessions continue to be utilised following complex cases from a disciplinary/grievance and Employment Tribunal perspective.

4.5.3 In the last report we reported on a new training programme for Line Managers 'The Effective Managers Series' which was provided to managers to refresh the development given to Managers across the organisation on a range of management issues including Discipline and Grievance, Capability and Attendance Management. Following this training programme, Business Partners are now attending station meetings where best practice is shared and new developmental ideas are implemented to support new and existing line managers when dealing with any people management.

The purpose of attending these meetings is to encourage Managers to deal with issues at the earliest opportunity and give them the confidence to manage in an assertive, safe and effective way.

#### 4.6 **Dispute Resolution**

There has been 1 failure to consult submitted during this reporting period. The relevant Trade Union Representative body are in dialogue with the organisation to reach a satisfactory resolution.

#### 4.7 **Collective Grievances**

There were no collective grievances submitted in this reporting period.

#### 4.8 **Failure to Consult/Agree**

This information is covered in 4.6 Dispute Resolution

### 5. **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. The matters contained in this report will not lead to a policy change. Equality data is analysed as part of this report and details can be found in paragraph 4.2.7 and Appendix 2.

### 6. **LEGAL IMPLICATIONS**

There are no direct legal implications arising from this report.

## 7. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report.

## 8. **TRADE UNION CONSULTATION**

- 8.1 In preparing this report, Trade Union Representatives' views on general issues concerning grievance handling and disciplinary procedure handling were sought in addition to monthly case updates.
- 8.2 A Standing Item features on the Joint Working Party and Joint Consultative Committee 'Discipline and Grievance' and comments received from the Trade Union and Representative Bodies on these occasions are included within this report.
- 8.3 Further exchanges of comments and observations took place before the submission of the final report for the Joint Consultative Panel.

## **BACKGROUND PAPERS**

Disciplinary Standing Order 2/1, Grievance Standing Order 2/2  
Previous JCP reports '01' to '10'

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

PHIL LOACH  
CHIEF FIRE OFFICER

## **APPENDIX 1**

### **Report No.**

*Reporting Period 1st January 2016 to 30<sup>th</sup> June 2016*

### **Section A: WMFS Formal Grievance & Appeal Cases**

<b>Grievance Description</b>	<b>Total no. Grievances</b>	<b>No. Grievances Resolved</b>	<b>No. Grievances Rejected</b>	<b>No. Grievances Appealed</b>	<b>No. Appealed Grievances Upheld</b>	<b>No. Appealed Grievances Rejected</b>	<b>No. Grievances leading to ET claim</b>
No. of Grievances raised by <b>Grey Book</b> employees	<b>5 raised</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>
No. of Grievances raised by <b>Green Book</b> employees	<b>6 raised</b>	<b>0</b>	<b>6</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>

**3 rejected grievances are from green book employee's – awaiting for possible Appeal**

#### **Further details (including E&D information)**

- The subject nature of the 11 grievances included:
  - Organisational Change x 1
  - Bullying and Harassment x 3
  - Working Practises/Processes x 7
  - At Resignation x 0

*Reporting Period 1st January 2016 to 30<sup>th</sup> June 2016*

## **Section B: Investigation Activity**

<b>Description</b>	<b>Gross Misconduct</b>	<b>Misconduct</b>	<b>Investigation result was no formal action</b>	<b>Outcome not yet confirmed</b>	<b>Formal disciplinary hearing</b>	<b>Resigned during and after investigation</b>
No. of Investigations into <b>Grey Book</b> employees	<b>17</b>	<b>4</b>	<b>13</b>	<b>5</b>	<b>3</b>	<b>0</b>
No. of Investigations into <b>Green Book</b> employees	<b>5</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>4</b>
No. of investigations into allegations of bullying/harassment	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>21</b>	<b>8</b>	<b>15</b>	<b>7</b>	<b>4</b>	<b>4</b>

### **Further details**

- There have been 30 disciplinary investigations which have commenced during this reporting period.
- There are 7 investigations ongoing (outcome of investigation outstanding) as at 30<sup>th</sup> June 2016.
- 4 Green Book employees resigned after and during investigation hence why only 1 reached formal disciplinary hearing

*Reporting Period 1st January 2016 to 30<sup>th</sup> June 2016*

### **Section C: Discipline Hearings & Appeal Cases**

<b>Discipline Description</b>	<b>No. of Hearings</b>	<b>Outcome: <i>no formal action</i></b>	<b>Outcome: <i>1<sup>st</sup> WW</i></b>	<b>Outcome: <i>Final WW</i></b>	<b>Outcome: <i>Dismissal</i></b>	<b>No. outcomes appealed</b>	<b>No. overturned at appeal</b>
No. of misconduct cases	3	3	2	0	1	0	0
No. of gross misconduct cases	1	13	0	1	0	0	0
<b>Totals</b>	<b>4</b>	<b>15</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>

***- 7 Disciplinary Investigations are still ongoing and 4 employees have resigned during investigation.***

**APPENDIX 2**

Table 1 summarises the data into 3 protected characteristics: Sex; Disability and Race. A key to the abbreviations is at table 1.1.

**Table 1**

	SEX			DISABILITY					RACE					
	M	F	TG		YES	NO	PNTS	NS	WB	BBC	WIr	BBR	Wh-BL Car	PNTS
	8	3	0		1	10	0	0	11	0	0	0	0	0
<b>Grievance X 11 Discipline X 30</b>	29	1	0		1	16	1	13	23	0	0	0	0	7

**Table 1.1 Key for table 1****Sex**

F – Female

M – Male

TG – Transgender

**Disability**

PNTS – Preferred not to say

NS – Not stated

**Race**

WB – White British

BBC – Black/British Caribbean

WIr – White Irish

BBR- Black British

Wh-BL Car – White and Black Caribbean

Table 2 summarises the data into 3 protected characteristics: Religion and Belief, Sexual Orientation and Age. A key to the abbreviations is at table 2.1.

**Table 2**

	RELIGION AND BELIEF					SEXUAL ORIENTATION				AGE				
	NS	CHRN	MUSLIM	NO REL	OTHER	GAY/ LESBIAN	HETERO SEXUAL	PNTS	NOT DECLARED	20-29	30-39	40- 49	50- 59	60+
<b>Grievance X 11</b>	2	7	0	2	0	0	8	0	3	0	1	3	4	3
<b>Discipline X 30</b>	13	12	0	3	2	1	17	5	7	2	6	14	5	3

**Table 2.1 Key for table 2**  
**Religion and Belief:**

NS – Not stated  
 CHRN – Christian  
 NO REL – No religion  
 SIKH – Sikh  
 MUSLIM – Muslim  
 OTHER – Other religion

Table 3 summarises the data into 3 protected characteristics: Married/Civil Partnership, Pregnancy/Maternity and Gender Re-assignment.

**Table 3**

	<b>MARRIED/ CIVIL PARTNERSHIP</b>					<b>PREGNANCY/ MATERNITY</b>	<b>GENDER RE- ASSIGNMENT</b>
	MARRIED	SINGLE	DIVORCED	LIVING Together	PREFER NOT TO SAY		
<b>Grievance X 11</b>	6	3	1	0	1	NONE	NONE
<b>Discipline X 30</b>	16	4	3	1	6	NONE	NONE

**APPENDIX 3****Dispute Resolution Summary**

			Types of Grievance					Level				Outcomes			
Report No.	Date of Report	No of Grievances	Work Practice	Bullying/ Harassment	Org Change	Other	No of Discipline Investigations	Gross Mis-conduct	Mis-conduct	Other	No of Discipline Hearings	Dismissal	Final Written Warning	Written Warning	No Formal
1	Mar-11	4	na	na	na	na	na	na	na		12	3	3	4	2
2	Oct-11	14	6	3	5	na	11	6	5	0	10	2	4	3	1
3	Mar-12	6	na	1	na	5	14	8	6	0	5	1	3	0	1
4	Sep-12	9	2	4	3	na	5	4	1	0	5	2	2	0	1
5	Apr-13	17	2	4	6	5	12	8	1	3	4	2	2	0	0
6	Sep-13	7	2	2	3	0	8	5	2	1	8	5	1	0	1
7	Apr-14	7	0	0	6	1	15	14	1	0	4	1	2	1	0
8	Sep-14	13	0	9	4	0	21	20	1	0	9	2	5	2	0
9	Mar 15	8	0	3	5	0	13	13	0	0	15	4	4	3	4
10	Oct 15	3	0	1	2	0	4	4	0	0	2	2	0	0	0
11	Mar 16	8	2	4	1	1	4	4	0	0	2	0	1	1	0
12	Aug 16	11	7	3	1	0	30	22	8	0	4**	1**	1**	2**	16**

\*\*August 2016 report - 6 Disciplinarys are still ongoing.  
4 employees resigned