

Minutes of the Joint Consultative Panel

Held on Monday 30 September 2019

Attendance :

Councillors Brackenridge, Cooper, Edwards (Chair), Jenkins, Miller

Steve Price-Hunt – Fire Brigades Union

Sasha Hitchens - Fire Brigades Union

Aaron Pell - Fire Brigades Union

Maurice Carter – UNISON

Benjamin Brook, Strategic Enabler, Culture

Satinder Sahota, Monitoring Officer

Karen Gowreesunker, Clerk to the Authority

Wendy Browning Sampson, People Support Manager

Helen Sherlock, People Support Manager

8/19 Apologies

Julie Felton - Julie Felton was due to attend the meeting of the Panel as part of her personal development but would now be attending the meeting scheduled for 4 November 2019.

Kevin Rowsell, Fire Officers' Association

9/19 Declarations of Interest

None were received on this occasion.

10/19 Introductions

As this was the first meeting of the municipal year, and there were some new members, all members of the Panel introduced themselves.

11/19 Terms of Reference

The Terms of Reference of the Committee had been updated as part of the Employee Relations Framework and agreed with the representative bodies and approved at the Annual General Meeting of the Fire Authority on the 24 June 2019.

12/19 Notes of the Joint Consultative Panel held on the 8 April 2019

The Chair of the Panel stated that the report on the Disciplinary Process would be presented to the next meeting of the Panel scheduled for the 4 November 2019.

The Fire Brigades Unions stated their disappointment with the delay in receipt of the report as they had requested the information five months ago previously, they felt that the data was available and the amount of money spent on disciplinary cases could possibly amount to a six figure sum.

Steve Price-Hunt also enquired about the debrief and outcomes of the large case debrief as these had been requested at the April meeting of the Panel. The full costs involved in complicated and large cases had been requested together with the costs involved in secondments, backfilling of posts, referrals to Occupational Health and the costs involved in sickness and mental health referrals and investigations. The Fire Brigades Union had expected the information to be provided at the Panel.

It was requested that the next meeting of the Panel should be limited to this one substantial item.

The Chair confirmed that the report would be available to the Panel at its meeting scheduled for the 4 November 2019.

13/19 Dispute Resolution Report

The Panel noted the contents of the Dispute Resolution Report for the period 1 January 2019 to 30 June 2019.

The report informed the Panel of the number, type and outcomes of discipline and grievance hearings and other dispute resolutions including Employment Tribunal activity that had occurred during the reporting period.

The proposed change in reporting dates for future reports was to align the dates for other performance management data to provide the same reporting cycles. This would change to April to September and October to March for future reports. Instead of January to June and July to December.

The Panel noted the proposed change to reporting dates for future reports to be submitted to the Joint Consultative Panel.

Five grievances had been received during the reporting period relating to working practices.

One grievance was resolved locally and four of the grievances went to a formal hearing.

There were two outstanding grievances from the previous reporting period, they were concluded and there were no appeals submitted.

The Service was not in receipt of any Employment Tribunals related to the above grievances.

Disciplinary

There were ten cases (5 at gross misconduct and 5 at misconduct) as set out in the report.

Of the five at Gross Misconduct, three went to a formal hearing and two were ongoing.

Of the Misconduct Hearings, one went to a formal hearing, one was managed locally, three were ongoing.

The outcomes of the four hearings were four Final Written Warnings.

Debriefs were being carried out and feed into the debrief process.

No Employment Tribunal Claims had been received during the reporting period and the Service was currently managing two Employment Tribunals from the previous reporting period. Provisional dates had been set for 2020 but these dates were outside the control of the Service.

There had been an agreement with management and Trade Unions to hold a Joint Working Party to specifically look at the amendments and enhancements that had been identified following the analysis of trends from the debriefs.

The Joint Working Party would be looking at:

- 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
- The process for undertaking significant or large cases where increased resources are required for all key stakeholders.

The first meeting of the Joint working Party would be held in September 2019.

In respect of protected characteristics, there wasn't any adverse impact on any particular group and a summary was provided together with a summary of the previous reporting period.

It was confirmed that more grievances were appealed than disciplinary cases.

Members felt the information was now presented in a better format and the information on the protected characteristics was welcomed but were concerned by the sexual harassment issues.

The policies on sexual harassment was being reviewed and updated and the Diversity, Inclusion, Cohesion and Equality Team (DICE) would be rolling out training broadly highlighting issues on what is acceptable.

The training would be rolled out to bespoke groups over the next six months, but all staff would be made aware of the policy.

It was confirmed that the Organisational Learning and Personal Development, Workforce Planning and DICE teams are reviewing the progression model to ensure individuals have the required understanding and skills in the application of our policies.

If an issue was reported, Supervisory managers were advised to try and act early and to challenge behaviours.

Managers also needed to be able to show that they were able to understand and apply a policy and be able to use the softer skills.

It was confirmed that the Service has a development session based on behaviours within the workplace that is being used with staff. The evaluation has had positive feedback.

The Dispute Resolution Summary set out the information that had been collated since the figures started to be collated in 2013.

Cllr Brackenridge welcome the data on protected groups and requested that the presentation be forwarded to Members of the Panel.

Concern was expressed on the amount of time taken for Disciplinary Hearings, the explanation in respect of criminal charges was understood but it was suggested that it would be good idea to set a time period for certain disciplinaries for example 2 -3 months, as this was a stressful time and if necessary the timeframe could be extended.

Councillor Jenkins enquired about the number of disciplinaries starting with Gross Misconduct and the results then reducing in some cases to written warnings and felt that this was happening too often.

The Chair stated that this matter had been raised previously.

Steve Price-Hunt thanked the members and referred to the table of cases including:

135 gross misconducts

23 misconducts

Of these 86 resulted in Written Warnings and this was one of the reasons the Fire Brigades Union wished the Members to look at the figures and costs.

It was stated that it costs on average £250 a day for a member of staff to be away from work. 10% of the workforce had been disciplined under a gross misconduct charge and 60% had been part of a disciplinary hearing. The FBU felt that this was costing £100,000s per year and not helping industrial relations and the Union felt they had legitimate concerns for a number of years.

In response to a query from Sasha Hitchens regarding the figures, Helen Sherlock agreed to check the minutes and it was confirmed that a rolling breakdown was forwarded to all the main union representatives on a regular basis. Steve Price-Hunt confirmed that he received the documents. Helen Sherlock agreed to share the details of the figures for the last 18 months – two years at the next meeting of the Panel.

The process for deciding the level of gross misconduct or misconduct was for an officer to commence a process, with the support of the People Support Services (PSS) Team, and this was then given to the Strategic Enabler (People). Officers were starting to see the impact on the cases. The definitions are those set out in the ACAS Code of Conduct and Standing Order 2.1

For Employment Tribunals, if no there was no mitigation the likelihood would be that an employee would be dismissed, but the differentials depend on the cases put forward.

The commissioning officer sets a process and this falls within a range of 2 – 6 weeks, but they can go back to seek an extension to the process. PSS also check if officers have any leave scheduled.

PSS are now recording the time taken for cases to be processed, and collecting data but this was not historically collected.

Councillor Jenkins was concerned about the human cost on employees and not just the financial implications of disciplinary hearings.

Steve Price-Hunt stated that cases very rarely meet timeframes and are usually extended.

The figures of 135 cases with 23 results evidenced the work involved, but welcomed the current figures and hoped that the changes to the process have bucked the trend and the education and courses provided have assisted. It was hoped that following the report being presented to the November meeting of the Panel, that there would be a noticeable change to the previous default of gross misconduct and looked forward to working collectively with officers.

Strategic Enabler Ben Brook confirmed that the Service was committed to moving the impacts of Disciplinary Hearings through for individuals and managers. This had to be balanced against the fact that some investigations were complex and needed the right amount of time to fully investigate them ensuring that all information was collected and considered.

Maurice Carter from Unison fully supported the FBU's stance on the issue of Gross Misconduct. He considered that mitigating factors could be spotted a lot sooner and Managers could manage situations earlier and issues could be solved earlier by better management of employment. He felt that Managers could intervene sooner as they knew those they managed best.

Cllr Miller asked for clarity around the case management number increase in August 2016 report. Helen Sherlock committed to providing clarity on the cases at this time.

Helen Sherlock stated that this was a valid point and PSS would be talking to managers regarding the behaviours of staff and the new training programme on behaviours would be rolled out to all employees.

Wendy Browning Sampson confirmed that officers were working with the Trade Unions on the toolkits for behaviours and rolling this out would help both managers and employees.

Cllr Brackenridge stated that indicative timescales would be useful in respect of the Joint Working Party.

However, he felt the information provided was much improved especially in respect of protective groups. He requested an

indication of the number green and grey book employees and the level of officers involved.

He suggested that this information would assist in identifying spikes and issues.

Councillor Brackenridge stated that this information had been found to be helpful in his own Council in Wolverhampton.

He welcomed the direction of travel now taking place and that good discipline was needed.

Cllr Cooper asked who decided on whether to charge someone with Misconduct or Gross Misconduct and Helen Sherlock stated that the Middle Manager makes the initial assessment with the support of the PSS Business Partner. In the event of a potential gross misconduct this is then discussed and agreed with a nominated SET member who then commissions the gross misconduct investigation.

Satinder Sahota asked when considering welfare issues, if resilience was built into the assignment of a Single Point of Contact. Helen Sherlock confirmed that this was usually the Line Manager with two primary and secondary officers to cover rotas.

Sasha Hitchin asked if any cases had gone from Gross Misconduct to Misconduct to come down. SPH can remember one

Satinder Sahota was not aware of this happening during the investigation but was more likely at the outcome stage.

SPH stated that there was a drastic difference for employees between Misconduct and Gross Misconduct charge. Employees found the process alarming and they always became ill and worried when the letter was sent out to their home address. It is difficult for employees to accept that the likelihood is low and they fear for their jobs and livelihood. He reiterated that the latest figures appeared to buck the trend and felt the decision to challenge had been correct.

The Panel discussed the process for gross misconduct hearings and the Monitoring Officer confirmed that it made sense for a review of the charge only when the investigation is concluded.

The Monitoring Officer Satinder referred the Panel back to the Terms of Reference and stated that the Commissioning manager had an opportunity to review allegations, the Representatives Bodies have an opportunity to make representations and the outcome warning will reflect the change.

The Outcome letter should then record the change.

The Chair felt that some thought should be given to the Monitoring Officer's suggestion as to whether this was desirable or implementable.

Steve Price Hunt said that the Toolkits would help with the decision making and education and training was very useful.

The Chair stated that as part of the ACAS Code of Conduct, individuals must be notified within certain timescales that are not open to change.

Helen Sherlock confirmed that Management Investigations take place before formal notifications and the Joint Working Party would look at this during the debriefs. This would come back to the Joint Consultation Panel in due course.

Maurice Carter stated that Managers should be spotting signs during performance reviews.

If left until the investigation phase this leaves no room for preventative action to take place.

Helen Sherlock confirmed that the numbers are small and although some trend analysis could be undertaken it is difficult. Correlations can be made but there wasn't enough to indicate trends, but a more detailed report would be submitted to the November meeting.

Wendy Browning Sampson confirmed that training on the Employee Relations Framework was being rolled out to employees and Members.

Members agreed that further Employment Law training would be useful for all Members of the Authority.

Cllr Brackenridge suggested that it would be useful for employees to receive employment law training before they are promoted and Councillor Edwards stated it had not been easy to recruit firefighters to crew commander posts.

Steve Price-Hunt enquired about the roll out programme re the Employee Relations Framework.

It was confirmed that Strategic Enabler Simon Barry had been working with the Unions on IPDR and this training was fully supported and needed to be embedded.

Cllr Brackenridge suggested that the training should be undertaken prior to promotion in order to make the organisation more resilient.

The meeting closed at 1340.