

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

SCRUTINY COMMITTEE

23 JANUARY 2023

1. DISPUTE RESOLUTION REPORT

Report of the Chief Fire Officer

RECOMMENDED

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

- 01/07/2022 – 31/12/2022 (6-month reporting period)

2. PURPOSE OF REPORT

- 2.1 For Scrutiny Committee to note the report which provides details on the number, type and outcomes of discipline and grievance hearings and 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, collective grievances and any reported failure to agree, or failures to consult. The report will also provide detail around any Employment Tribunals that are lodged or scheduled within the reporting time.
- 3.2 The report also identifies significant lessons learned from a policy or management perspective of the reported cases. The Service is committed to completing a debriefing process at the conclusion of all significant disciplinary processes.
- 3.3 Discussions frequently take place at Joint Consultative Committee and monthly Joint Working Party meetings around

the application of the relevant policies and their application allowing all stakeholders to contribute to continuous improvement.

4. **SUMMARY OF CASES**

4.1 **Grievances**

During this 6-month reporting period 10 grievances have been lodged.

4.1.1 **Grievance G16 Bullying and Harassment**

The employee made allegations that they had experienced bullying and harassment due to a medical condition and their ethnicity.

There was a thorough investigation into all aspects of the grievance which showed that full support had been provided by their Line Manager for their medical condition. The individual was unable to provide any evidence for their other claims. A subsequent appeal was made, but due to no new evidence, this was not upheld.

Outcome: Not upheld due to no further evidence provided to support the allegations.

Appeal: Not upheld

Length: 108 days

4.1.2 **Grievance G17 Unfair Treatment**

The employee alleged that they had been unfairly treated following flexible working requests. A thorough investigation confirmed that all policies and procedures had been followed.

A subsequent appeal was made, but the individual failed to engage with the process and subsequently resigned.

Outcome: Not upheld
Appeal: NFA due to resignation
Length: 38 days

4.1.3 **Grievance G18 Unfair Treatment**

Employee felt that he had been unfairly treated by the recruiting manager, during a process which forms part of the redeployment policy.

The individual cited that the approach and decision making of the recruiting manager was not to appoint which he felt was unfair and not all factors were considered as he was on the redeployment list, under ill-health. This was not the case, as the manager had enough information to confirm the outcome of the non-appointment.

However, the learning from this was that when managing a case for ill-health the capability process should be followed, and not the 4Rs policy.

Outcome: Partially upheld, due to the manager not working in line with the correct policy, feedback has been given to the manager.
Appeal: Partially upheld, the above decision did not change however, policy changes were recommended.
Length: 32 days

4.1.4 **Grievance G19 Disability and Sex Discrimination**

Employee had requested an appeal to his disciplinary award 18 months after the award had been issued. Due to this being outside of our disciplinary process timelines, this disciplinary appeal was not accepted.

Employee claims disability discrimination as he was suffering with stress and anxiety whilst the disciplinary was in progress. He also claims sex discrimination as he feels he was being treated less favourably than his female partner.

Outcome: Not upheld

Appeal: In progress

Length: 79 days (duration for this process has exceeded due to multiple grievances and information being submitted by the employee)

4.1.5 **Grievance G20 Discrimination (maternity)**

The employee raised concerns around the pregnancy, maternity and uniform policy and felt that she had been denied progression opportunities due to her pregnancy.

There was a thorough investigation into all aspects of the grievance.

The grievance was partially upheld and as a result the Pregnancy and Maternity policy is under review and procurement are looking at new uniform suppliers for maternity uniform.

All policies and procedures in relation to progression had been followed.

Outcome: Partially upheld

Length: 42 days

4.1.6 **Grievance G21 Bullying and Harassment**

The employee made allegations that following her discipline, she has been subject to bullying by another employee.

A management investigation is being conducted to review the allegations.

Outcome: Grievance was upheld however, the management investigation is in progress

Length: 105 days (delay due to annual leave and witness availability)

4.1.7 **Grievance G22 Work Practices**

The employee raised concerns regarding a disciplinary investigation that took place involving a trainee FF. Following a review of actions and timelines, the complainant accepted the rationale and the grievance came to an end.

Outcome: No further action

Length: 10 days

4.1.8 **Grievance G23 Plagiarism and Victimisation**

The employee made allegations that following an interview for a temporary position in which she was unsuccessful, the ideas she provided during the interview were subsequently used.

In addition, she was concerned her images were used without her permission by a third party/charity organisation.

There was a thorough investigation into all aspects of the grievance and employee was informed that suggestions/ideas do not qualify under copyright law and is not considered plagiarism.

The victimisation element of the grievance was upheld, and it was agreed that the image should not have been used without permission.

Outcome: Partially upheld

Length: 63 days

4.1.9 **Grievance G24 Unfair Treatment**

The employee made allegations against their Line Manager who they felt had treated them differently in an application process compared to other applicants and a feeling on not being supported fairly.

Following a thorough investigation there was no evidence of a direct action to support the employee feeling unsupported. However, the investigation found that communication could be improved between employee and Line Manager and have recommended formal mediation.

Outcome: Partially upheld

Appeal: Upheld

Length: 59 days

4.1.10 **Grievance G25 Discrimination**

Employee felt that a recruitment process had not been fair and open and that he had been victimised.

A thorough investigation confirmed that all recruitment policies and procedures had been followed and can find no evidence of the employee being victimised.

Outcome: Insufficient evidence to proceed.

Length: 82 days

	Position	Green/Grey Book	Age	Gender reassignment	ethnicity/Race	Sexual Orientation	Marital Status	Religion/Belief
Grievance	Tech 3A	Green	53	Male	Asian or Asian British	Hetrosexual	Divorced	Hindu
	Tech 2C	Green	38	Male	Not Stated	Not stated	Not Stated	Not Stated
	WCdrA	Grey	33	Male	White - Irish	Hetrosexual	Single	Christian
	CCdr	Grey	34	Male	White British	Hetrosexual	Single	Christian
	FF	Grey	24	Female	White British	Hetrosexual	Single	Not Stated
	TFF	Grey	42	Female	Not Stated	Not stated	Not stated	Not Stated
	WCdrB	Grey	44	Male	White British	Hetrosexual	Legally separated	Christian
	CCdr	Grey	42	Female	White British	Hetrosexual	Married	Not Stated
	SCdr	Grey	45	Female	White British	Gay/Lesbian	Domestic Partner	Catholic
	FF	Grey	46	Male	Other	Not stated	Married	Christian

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

4.2 **Disciplinary Cases**

There were 3 disciplinary cases in total for this 6-month reporting period.

All 3 cases were at Gross Misconduct level.

Gross Misconduct - 3 cases are as follows

4.2.1 **Disciplinary 1 (D10-22)**

Arrested for dangerous driving and showing aggression to arresting officer. Employee informed the line manager and thorough investigation has been carried out. Employee retired prior to hearing date. Hearing proceeded without individual's attendance.

Outcome: 12 months First Written Warning

Length: 91 days

4.2.2 **Disciplinary 2 (D11-22)**

Arrested for breaching his court restraining order. Employee failed to give notice of the arrest or subsequent court appearance to their line manager. Thorough investigation has been carried out. Investigation team aware of restraining order due to previous investigation.

Outcome: Investigation report has been submitted; hearing date is 13th January 2023

Length: ongoing

4.2.3 **Disciplinary 3 (D12-22)**

Criminal charges/safeguarding. Employee was arrested and charged for Serious Sex Offences. Due to serious nature of offences and information received from the Police, a hearing was arranged prior to the Court outcome. The individual was suspended. No appeal lodged.

Position: Dismissal

Length: 28 days

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

	Position	Green/Grey Book	Age	Gender reassignment	ethnicity/Race	Sexual Orientation	Marital Status	Religion/Belief
GROSS MISCONDUCT	FF	Grey	54	Male	White British	Hetrosexual	Common-inlaw	Christian
	WCdrB	Grey	61	Male	White British	Hetrosexual	Single	None
	FF	Grey	51	Male	White British	Not stated	Single	Not stated

5. **EMPLOYMENT TRIBUNALS**

5.1 5 ETs have been allocated dates of hearings over the next 12 months:

- Unfair Dismissal/Age Discrimination (started November 2022 – judgment 6th February 2023)
- Unfair Dismissal/Disability Discrimination (Starts February 2023)
- Constructive Dismissal/Race Discrimination (23-29th May 2023)
- Constructive Dismissal/Age Discrimination (starts unspecified date 2023)
- Sex Discrimination/Disability Discrimination (preliminary hearing 23rd January 2023)

6. **DEBRIEFS AND LEARNING OUTCOMES**

- 6.1 Organisational Intelligence manage the debrief process following the conclusion of disciplinary and grievance case. If there is a requirement for a structured debrief, this is jointly managed by Organisational Intelligence and PSS Management.
- 6.2 For the reporting period, Organisational Intelligence has debriefed 11 cases (7 disciplinary cases and 4 Grievance Cases).

Please note that some of these debriefs are in relation to cases that were reported in the previous reporting period.

6.3 One structured debrief was held following a grievance, with the learning points listed below.

- Redeployment policy requires updating
- Ensure feedback is given to successful and unsuccessful candidates following decisions
- Redeployment and promotion processes should not happen at the same time
- Recruitment managers aware that personnel being redeployed are not required to have development plans in place
- Redeployment should be prioritised over other processes

Organisational Intelligence will continue to provide debrief forms once the cases come to an end.

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. **EQUALITY IMPACT ASSESSMENT**

8.1 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.

9. **LEGAL IMPLICATIONS**

9.1 There are no direct legal implications arising from this report.

10. **FINANCIAL IMPLICATIONS**

10.1 There are no financial implications to this report.

11. **ENVIRONMENTAL IMPLICATIONS**

11.1 There are no environmental implications to this report.

BACKGROUND PAPERS

Disciplinary Policy
Grievance Policy

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

The contact officer for this report is Simon Barry, Assistant Chief Fire Officer, Strategic Enabler (People Programme) 07973 810 657.

WAYNE BROWN
CHIEF FIRE OFFICER

Case Comparison Information

Having received feedback from some members of the Authority, it was decided that we would include some comparison data from the previous reporting period relating to Disciplinary and Grievance cases.

It is important to note that there are 3 reporting periods that are outside of the normal reporting process, this was due to being in Covid-19 situation.

Reporting period	Discipline	Gross Misconduct	Misconduct	Grievance	Live ET
Apr 2020 - Mar 2021 - 12 month report (Covid)	27	18	9	20	5
April 2021 - 30 Sept 2021 - 6 month report (Covid)	10	6	4	6	7
1st Oct 2021 - 31st Dec 2021 - 3 month report (Covid)	5	4	1	4	6
Back in line with the normal reporting timeframes of 6 months					
01/01/2022 - 30/06/22	9	7	2	5	5
01/07/2022 - 31/12/2022	3	3	0	10	5