

West Midlands Fire and Rescue Authority

Scrutiny Committee

**You are summoned to attend the meeting of Scrutiny Committee to be held on
Monday, 12 October 2015 at 12:30**

at Fire Service HQ, 99 Vauxhall Road, Nechells, Birmingham B7 4HW

for the purpose of transacting the following business:

Agenda – Public Session

- | | | |
|---|---|----------------|
| 1 | To receive apologies for absence (if any) | |
| 2 | Declarations of interests in contracts or other matters | |
| 3 | Scrutiny Committee - minutes - 17 08 15 | 3 - 6 |
| 4 | Dispute Resolution | 7 - 22 |
| 5 | Scrutiny Committee Work Programme 2015-16 | 23 - 26 |
| 6 | Date of next meeting | |

Distribution:

Peter Hogarth - Member, Sybil Spence - Member, Chris Tranter - Chairman, Ann Young - Member,
David Skinner - Member, David Barrie - Member, Bally Singh - Member, Anita Ward - Member

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Agenda prepared by Stephen Timmington

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This agenda and supporting documents are also available electronically on the West Midlands Fire Service website at www.wmfs.net

Minutes of the Scrutiny Committee

17 August 2015 at 10.30pm
at Fire Service Headquarters, Vauxhall Road, Birmingham

Present: Councillor Tranter (Chair);
Councillor Spence (Vice Chair);
Councillors Barrie, Hogarth, Singh, Skinner
and Ward

Apology: Councillor Young

Observer: Not applicable

14/15 **Minutes**

Resolved that the minutes of the meeting held on 15 June 2015, be approved as a correct record, subject to the following amendments in respect of minute 12/15 (An Analysis of Progress of Quarterly Performance against 'The Plan' – Quarter Four 2014/2015):

- Paragraph four, final sentence to state 'it was suggested that the Committee could seek to support progress in this area by carrying out a piece of work to look at the effectiveness of the Service's human resources policies *for this area*'.
- Paragraph seven to state 'Resolved that an item be placed on the Scrutiny Committee's work programme for 2015/2016 to review the effectiveness of the Service's *Human Resources policies that relate to positive action strategies*'.

15/15 **Partnerships Review Update**

The Committee noted the progress made in the review of the Service's partnership arrangements.

Jim Whittingham, Strategic Hub, thanked the members of the working group for their help in the review to date, including their engagement with Partnership Officers and Community Risk Reduction Officers, visiting station based staff, and participating in a home safety check.

The review has highlighted the importance to recognise the changing landscape of partnerships, in particular the need for partnership arrangements to be fine-tuned with regard to capturing opportunities for commissioning within the wider health and well being arena.

A number of learning points, opportunities for change set out in the covering report were discussed and it was agreed that these should be considered as areas for improvement in the final report. It was agreed that commissioning will enable the opportunity to realign and review the community safety team and management structure as well as re-determining the resources and roles of current command partnership resources in delivering the Service's commissioning aspirations, to ensure it is in the best place to provide the best service for the organisation.

It was recognised that the governance of partnerships is an area that requires improvement. Subsequently, the rating of the corporate risk associated with management of partnerships had been raised.

It was acknowledged that partnership arrangements, including the related support mechanisms, may be impacted upon by reviews that are being undertaken across the organisation, for example, the reviews of the Contact Centre and Fire Control and this will be considered in the final report.

It was noted that a report on the partnership review would be presented to the Committee for consideration at the October 2015 meeting.

Following an enquiry from a member regarding prevention work carried out in relation to deliberate fire setting and antisocial behaviour, it was noted that such work had previously been undertaken under the guise of the Arson Task Force. Funding for this function had ceased and it had been subsequently disbanded. It

was agreed that this would be examined to identify if there were any gaps, and this would be fed back to the member via the Committee.

A member advised the Committee of the collaborative model which is piloting collaborative arrangements, particularly data sharing, within the Coventry area. The member agreed to contact the lead of the collaborative model.

16/15

Positive Action Strategy for Recruitment, Progression and Retention

Further to Minute No. 12/15 (15 June 2015), the Committee noted the report submitted on the Positive Action Strategy for Recruitment, Progression and Retention, which provided a strategic overview of the Service's strategic approach to positive action and the current, and future proposals for positive action initiatives within the scope of the Service's Diversity, Equality, Inclusion and Cohesion (DICE) work.

Following the introduction of the recruitment freeze, it was agreed that the Service should maintain a fully co-ordinated approach to positive action, focussing on elements including staff retention and promotion. Although it was acknowledged that the recruitment freeze may have an impact on promotion opportunities as the establishment reduces, the Service remains confident that opportunities will still exist at all levels of the organisation. Members of staff with high potential will continue to be recognised and barriers removed (where they exist), using a pro-active approach via liaison with respective line managers and business partners within People Support Services, when vacancies arise.

Additionally, the Service will continue to promote the role of the Fire Service externally, challenging stereotypes and removing potential barriers that may prevent potential new applicants from considering applying to join the Service when the recruitment freeze is eventually lifted.

17/15

An Analysis of Progress of Quarterly Performance Against 'The Plan' – Quarter One 2015/2016

The Committee received an overview of the status of the Service's corporate performance indicators for quarter one of 2015/2016, along with progress made in delivering the three strategic objectives contained in 'The Plan' 2015-2018.

The Committee noted that overall, performance was very good across all performance indicators, in particular the performance reported for the Risk Based Attendance Standards.

Members were reminded of the open invitation to attend the Quarterly Performance Review meetings.

18/15

Work Programme 2015/2016

The Committee received the initial work programme for 2015/2016 which was accepted with the following amendment:

Resolved that the item noted against 17 August 2015 on the work programme, 'Review of Human Resources Policies (People Support Services)', be rephrased to 'Review of Human Resources Policies (People Support Services) *that relate to positive action strategies*'.

(Meeting ended at 12:15 pm)

Contact Officer: Stephen Timmington Strategic Hub West Midlands Fire Service 0121 380 6680

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

SCRUTINY COMMITTEE

12 OCTOBER 2015

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 January 2015 to 30 June 2015 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 January 2015 to 30 June 2015.

3. **BACKGROUND**

3.1 This report provides a summary of the number, type and outcome of disciplinary and grievance cases. The report also details 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 Parties.

4. **SUMMARY OF CASES:**

4.1 **Grievance Cases**

- 4.1.1 Appendix 1 Section A provides details of grievance cases during 1 January 2015 to 30 June 2015.
- 4.1.2 A total of 3 grievances were lodged during the reporting period, 1 by a Grey Book employee and 2 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 June 2015.
- 4.1.4 The total number of formal grievances has reduced compared to 8 in the last reporting period 1 July 2014 – 31 December 2014.
- 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 January 2015 to 30 June 2015.
- 4.2.2 There were 4 investigations commenced in this reporting period, 4 were undertaken at Gross Misconduct level. 1 was referred to a hearing, 3 were still outstanding at the end of this reporting period (compared to 13 in the reporting period 1 July 2014 – 31 December 2014).
- 4.2.3 Of the 4 disciplinary investigations, 4 concerned Grey Book employees. 4 of the employees who were subject to investigations were male.
- 4.2.4 There were 2 disciplinary hearing in this period (compared

to 15 hearings in the previous reporting period 1 July 2014 – 31 December 2014)

- 1 disciplinary hearing was scheduled within the same reporting period as the investigation commenced.
- 1 disciplinary hearing related to an investigation that commenced in the previous reporting period.

4.2.5 Both hearings were managed as gross misconduct resulting in 2 dismissals in this period. Of these dismissal decisions there was 1 appeal raised, the appeal was upheld and the employee was reinstated.

4.2.6 Analysis of the discipline case figures suggest that managers continue to give due consideration to individual circumstances when deciding the appropriate outcome for each case.

4.2.7 Analysis of the data by the 9 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.

4.3 **Employment Tribunal Activity**

At the close of the reporting period 30 June 2015 there was 1 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. Following the recent

reviews of People Support Services and the development of the business partner approach, teams are spending more of their time on stations and with 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 continuing to work on a toolkit for managers including template letters. This toolkit will be discussed with the Trade Unions/ Representative Bodies. The Trade Unions/Representative Bodies have welcomed this approach to ensure consistency within the process.
- 4.4.5 Following on from the discussions at the JCP, with effect from 1 January 2015 the People Support Services team have identified and are recording against a range of local performance indicators that will be used to provide more comprehensive information within this report. The local performance indicators will be used to measure our performance as a team but also highlight any areas for concern or improvements. These local performance indicators will be shared with the Trade Unions/ Representative Bodies as part of our ongoing communication.
- 4.4.6 Below are the local performance indicators that People Support Services have been reporting on from 1 January 2015, a review on the first 12 months period will be provided in the next report looking at data from 1 January 2015 to 31 December 2015.

Discipline
No of cases at Gross Misconduct (GM)
No of GM Investigations
No of GM Hearings
No of GM Appeal
No of GM Appeals Upheld
No of cases at Misconduct
No of Misconduct (Mis) Investigations
No of Mis Hearings
No of Mis Appeal
No of Mis Appeals Upheld
No of Dismissals
No of Cases managed informally
Time taken from Terms of Reference to Report
Time taken from Report to Hearing
Time taken from Hearing to Appeal

Grievance
No of Formal Grievance Trackers received
No of informal Grievance cases
Time taken from tracking form to Meeting
Time taken from meeting to outcome letter
Time taken to outcome letter to appeal
No of allegations relating to Bullying and Harassment
No of allegations relating to Organisational Change
No of allegations relating to Terms and Conditions

- 4.4.7 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.
- 4.4.8 In preparing this report, the views of the Trade Unions/ Representative Bodies were explicitly sought in connection with the data given in the Appendices and 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:-

- 4.4.9 During meetings with the Trade Unions/Representative Bodies the following issues have previously being raised for consideration and action.
- 4.4.10 In the previous report the Trade Unions/Representative Bodies indicated that they would still like to be regularly invited to all debriefs (this will continue to be considered on a case by case basis). This approach has provided valuable learning opportunities for the Service. A revised approach is currently being developed by People Support Services and this will form part of any future structured debrief. Whilst there have not been any formal debriefs to report on for this period, the People Support Services Team are now scheduling debriefs within the process. This will ensure that all relevant learning outcomes can be shared.
- 4.4.11 There were concerns raised by the Trade Unions/Representative Bodies that there were disciplinary cases that they perceived could have been dealt with managerially that were escalated to Formal Investigation. The People Support Services Team continues to work proactively with managers to provide the necessary guidance and support to enable the Manager to be proactive in their approach in preventing any escalation of issues. There has been recognition by all of the Trade Unions/Representative Bodies that there has been a significant reduction in formal cases in this reporting period; this will be continually monitored and discussed by all parties on a regular basis at the Joint Working Party.
- 4.4.12 The People Support Services Team regularly meet with the Trade Unions/Representative Bodies and will continue to discuss these concerns at the Joint Working Party which will ensure that regular updates are available for members of the Joint Consultative Panel.
- 4.4.13 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 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.
- 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 There is a an ongoing training programme 'The Effective Managers Series' which is being 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. The purpose of these sessions 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. These sessions are also being attended by the Trade Unions/Representative Bodies.

4.6 **Dispute Resolution**

There are no Failure to Consult or Agree that have been identified to present to the JCP during this reporting period.

4.7 **Collective Grievances**

There were no collective grievances submitted in this reporting period.

4.8 **Failure to Consult/Agree**

Whilst there have been no formal failures to consult or failures to agree issued by the Trade Unions/Representative Bodies there continues to be other issues raised during our internal consultative meetings which are managed and satisfactorily resolved. This continues to indicate that employee engagement initiatives across the Service are working and the Employee Relations Framework is embedded within the Fire Service.

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 being given sight of the data in the Appendices and 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 to took place on the 16th September 2015

BACKGROUND PAPERS

Disciplinary Standing Order 2/1, Grievance Standing Order 2/2
Previous JCP reports '01' to '09'

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

PHIL LOACH
CHIEF FIRE OFFICER

Report # 09

Reporting Period 1st January 2015 to 30th June 2015

Section A: WMFS Formal Grievance & Appeal Cases

Grievance Description	Total no. Grievances	No. Grievances Resolved	No. Grievances Rejected	No. Grievances Appealed	No. Appealed Grievances Upheld	No. Appealed Grievances Rejected	No. Grievances leading to ET claim
No. of Grievances raised by Grey Book employees	1 raised	1	0	1	0	1	0
No. of Grievances raised by Green Book employees	2 raised	2	2	0	0	0	0

Further details (including E&D information)

- The subject nature of the 3 grievances included:
Organisational Change x 2
Bullying and Harassment x 1

Reporting Period 1 January 2015 to 30 June 2015

Section B: Investigation Activity

Description	Total no. Investigations	Investigation result was no formal action	Outcome not yet confirmed	Formal disciplinary hearing
No. of Investigations into Grey Book employees	4	0	3	1
No. of Investigations into Green Book employees	0	0	0	0
No. of investigations into allegations of bullying/harassment	0	0	0	0
Total	4	0	3	1

Further details

- There have been 4 disciplinary investigations which have commenced during the reporting period of January 2015–June 2015.
- There are 3 investigations ongoing (outcome of investigation outstanding) as at 30 June 2015.

Reporting Period 1 January 2015 to 30 June 2015

Section C: Discipline Hearings & Appeal Cases

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

Further details

Two Grey Book Employees were dismissed at a gross misconduct hearing within the reporting period. One employee was then reinstated on appeal during the same reporting period and issued with a Final Written Warning.

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

Grievance X 3 Discipline X 4	SEX			DISABILITY					RACE				
	M	F	TG		YES	NO	PTNS	NS	WB	BBC	WIr	BBr	PBTS
	2	1	0		0	2	0	1	1	1	0	0	1
	4	0	0		0	4	0	0	4	0	0	0	0

Table 1.1 Key for table 1**Sex**

F – Female

M – Male

TG – Transgender

Disability

PTNS – Preferred not to say

NS – Not stated

Race

WB – White British

Wh-BI Car – White and Black Caribbean

WIr – White Irish

BBC – Black/British Caribbean

BBr – Black British

Table 2 summaries 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	NOT STATED	HETERO SEXUAL	20-29	30-39	40-49	50-59
Grievance X 3	1	1	1	1	2	0	1	1	1
Discipline X 4	2	2	0	1	3	1	1	2	0

Table 2.1 Key for table 2
Religion and Belief:

NS – Not stated;
CHRN – Christian
NO REL – No religion
SIKH – Sikh

Table 3 summarises the data into 3 protected characteristics: Married/Civil Partnership, Pregnancy/Maternity and Gender Re-assignment. A key to the abbreviations in at table 3.1.

Table 3

	MARRIED/ CIVIL PARTNERSHIP					PREGNANCY/ MATERNITY	GENDER RE- ASSIGNMENT
	MARRIED	SINGLE	DIVORCED	LIVING SEPARATELY	PREFER NOT TO SAY		
Grievance X 3	1	1	1	0	0	NONE	NONE
Discipline X 4	3	1	0	0	0	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

**WEST MIDLANDS FIRE AND RESCUE AUTHORITY
SCRUTINY COMMITTEE WORK PROGRAMME 2015/16**

Date of Meeting	Item	Responsible Officer	Completed
2015			
17 August 2015	Analysis of Progress of Corporate Performance against The Plan for Quarter 1 2015/2016 (including performance indicators; strategic objectives; corporate risk and programmes and projects)	Director of Service Delivery	
	Update on the progress of the Partnerships Review	Chair Of Scrutiny Committee	
	Review of Human Resources Policies (People Support Services) that relate to positive action strategies	Area Commander, Strategic Enabler for People	
	Consideration of Work Programme	Director of Service Delivery	

Agenda Item 5

Date of Meeting	Item	Responsible Officer	Completed
October 2015	Review working group (if required)		
12 October 2015	Progress on the Partnerships Review Dispute Resolution Monitoring	Chair Of Scrutiny Committee People Support Services	
16 November 2015	Consideration of Scoping Document for Review of XXXXX Analysis of Progress of Corporate Performance against The Plan for Quarter 2 2015/2016 (including performance indicators; human resources indicators strategic objectives; corporate risk and programmes and projects) Progress on implementation of the Equality Objectives 2012-2015 Public Sector Equality Duty and the Equality Act (2010) Diversity, Inclusion, Cohesion & Equality Quarterly Update – Quarters 1 & 2 2015/16	Director of Service Delivery Director of Service Delivery Strategic Enabler DICE Strategic Enabler DICE Strategic Enabler DICE	

[ILO: UNCLASSIFIED]
October 2015

Agenda Item 5

December 2015	Review Working Group (if required)		
2016			
Date of Meeting	Item	Responsible Officer	Completed
January 2016	Review Working Group		
15 February 2016 (after Authority meeting)	Analysis of Progress of Corporate Performance against The Plan for Quarter 3 2015/2016 (including performance indicators; strategic objectives; corporate risk and programmes and projects)	Director of Service Delivery	
February 2016	Review Working Group (if required)		
9 March 2016	Review Working Group (if required)		
21 March 2016	Dispute Resolution Monitoring Report	People Support Services	
	Consideration of the Annual Report of the Scrutiny Committee	Chair of Scrutiny	

Agenda Item 5

Date of Meeting	Item	Responsible Officer	Completed
28 April 2016	Review Working Group		
6 June, 2016	Analysis of Progress of Corporate Performance against The Plan for Quarter 4 2015/2016 (including performance indicators; human resources indicators strategic objectives; corporate risk and programmes and projects) Diversity, Inclusion, Cohesion & Equality Quarterly Update – Quarters 3 & 4 2015/16 Annual Report of the Scrutiny Committee	Director of Service Delivery Strategic Enabler DICE Chair of Scrutiny	

To report as appropriate:

- Review of data sharing practices (a working group to be established upon the completion of the Partnerships Review, as resolved at meeting on 16th February 2015)