

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

SCRUTINY COMMITTEE

3 SEPTEMBER 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 January 2019 to 30 June 2019 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.
- 1.3 THAT the Scrutiny Committee note the proposed change in reporting dates for future reports to be 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 January 2019 to 31 June 2019.

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.

3.3 Discussions frequently take place at Joint Consultative Committee and monthly Joint Working Party meetings around the application of case management policy.

- 3.4 It is proposed that there is a change in reporting dates for future reports that are aligned to the dates for other performance management data. This would be a change to April to September and the October to March for future reports.

4. **SUMMARY OF CASES**

Grievances

5 grievances were received during this reporting period.

5 of the grievances related to working practices.

Whilst there were discussions that took place to look to resolve these matters informally, 4 of these grievances went to a formal hearing.

- A grievance submitted around the substantiation of role was resolved in the informal stage, grievance was not upheld.
- A grievance submitted by an employee around the application of the attendance management policy was resolved in the first formal meeting and elements of the grievance were upheld. There was no appeal.
- A grievance was submitted around the reversion of a temporary promotion this grievance was not upheld and the employee appealed. The grievance outcome was upheld at the appeal stage.
- There is a current grievance that is subject to appeal relating to the cancellation of a period of leave. The outcome of this appeal will be included in the next reporting period.

There were two outstanding grievances from the previous reporting period and both of these were concluded in the first formal meeting and there were no appeals submitted.

The Service is not in receipt of any Employment Tribunals that are related to the grievances above.

The grievances received were from Grey Book employees, 3 male and 2 female employees. Following analysis of the equality data there has been no impact on any specific group. Please refer to Appendix 1 which has a full breakdown of the equality data for each case.

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

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

Disciplinary

There were 10 cases (5 at gross misconduct and 5 at misconduct) detailed as follows:

- 2 of the gross misconduct cases were investigations into allegations of sexual harassment, 1 case is still ongoing and 1 case resulted in a final written warning and a compulsory transfer. There was no appeal received.
- 1 gross misconduct investigation was relating to the failure of a 'with cause' test in the workplace relating to alcohol. A 'with cause' test is where an external company are brought in where there is a cause to believe that the employee has attended work under the influence of drugs or alcohol. This resulted in a final written warning. There was no appeal received.
- 1 gross misconduct investigation is ongoing and relating to inappropriate behaviours towards colleagues, this is at the investigation stage.
- 1 gross misconduct investigation related to the inappropriate use of Fire Service property and breach of procedures. This resulted in a final written warning. There was no appeal

received.

- 1 of the misconduct investigations relates to an appliance that was made unavailable, following an investigation a decision was taken to manage this case through local performance management.
- 1 of the misconduct investigations related to a period of AWOL where a person was absent from work without leave, this went to a hearing. This resulted in a final written warning. There was no appeal received.
- 1 of the misconduct was relating to the breach of the staffing guidelines and organisational policy. This resulted in a 12-month written warning. There was no appeal received.
- 2 of the misconduct investigations are still in the investigation stage and relate to a breach of the organisational policy and procedures relating to working time and the other case relates to persistent lateness.

Debriefs are being and feed into the Service's debrief process through organisational intelligence which looks to identify trends and also informs change to policy and practice.

7 of the disciplinary cases involved male employees and 3 related to female employees, 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 on any issues and to help resolve at the earlier stages

which will stop them developing into disciplinary or grievances.

5. **EMPLOYMENT TRIBUNALS**

The Service during this reporting period has received no Employment Tribunal Claims.

The Service is currently managing 2 Employment Tribunals from the previous reporting periods.

6. **DEBRIEFS AND LEARNING OUTCOMES**

Following the analysis of trends from the debriefs from this period and outcomes of previous debriefs, there has been an agreement with management and Trade Unions to hold a Joint Working Party to specifically look at the amendments and enhancements that have been identified.

The outcomes of the debriefs have not to date identified areas where a change to the policy is required, but there are a number of areas where the guidance/toolkits provided to managers need to be enhanced. Specific examples of areas for shared development in the above Joint Working Party with the Trade Unions include:

- 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
- a process for determining where there is a case that falls outside of business as usual and more resources are required for all key stakeholders.

It is proposed that the first meeting will be held in September 2019.

7. **POLICIES AND PROCEDURES**

The Disciplinary policy and the Grievance policy are available for all employees on MESH. Trade unions and stakeholders have been fully involved when making any changes to this policy.

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.

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 Policy 2/1

Grievance Policy 2/2

Previous JCP reports Dispute Resolution Reports 0-18 and Review of Case Management Debriefs.

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PHIL LOACH
CHIEF FIRE OFFICER

Appendix 1**Discipline Equality Monitoring**

Gender:	Male 7	Female 3
Age:	30-39	2
	40-49	6
	50-59	2
Ethnicity:	White British	7
	Black British	2
	Mixed White and Black Caribbean	1
Sexual Orientation:	Heterosexual	8
	Prefer not to say	2
	Gay/Lesbian	0
Disability:	Prefer not to say	1
	No	9

Grievance Equality Monitoring

Gender:	Male 3	Female 2
Age:	30-39	0
	40-49	4
	50-59	1
Ethnicity:	White British	5
Sexual Orientation	Heterosexual	4
	Gay/Lesbian	1
Disability:	No	5

<u>Dispute Resolution Summary</u>														
		Types of Grievance					Level				Outcomes			
Date of Report	No of Grievances	Work Practice	Bullying/ Harassment	Org Change	Other	No of Discipline Investigations	Gross Misconduct	Misconduct	Other	No of Discipline Hearings	Dismissal	Final Written Warning	Written Warning	No Formal
Apr-13	17	2	4	6	5	12	8	1	3	4	2	2	0	0
Sep-13	7	2	2	3	0	8	5	2	1	8	5	1	0	1
Apr-14	7	0	0	6	1	15	14	1	0	4	1	2	1	0
Sep-14	13	0	9	4	0	21	20	1	0	9	2	5	2	0
Mar 15	8	0	3	5	0	13	13	0	0	15	4	4	3	4
Oct 15	3	0	1	2	0	4	4	0	0	2	2	0	0	0
Mar 16	8	2	4	1	1	4	4	0	0	2	0	1	1	0
Aug 16	11	7	3	1	0	30	22	8	0	8	1	1	2	16
Mar 17	4	0	3	1	0	9	8	1	0	7	4	1	2	2
Sept 17	2	1	0	1	0	13	13	0	0	3	0	0	2	1

Mar 18	6	4	2	0	0	8	7	1	0	5	1	0	4	0
Oct 18	5	5	0	0	0	14	11	3	0	9	2	6	1	0
Aug 19	5	5	0	0	0	10	5	5	0	4	0	4	0	0