

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

SCRUTINY COMMITTEE

1 NOVEMBER 2021

1. DISPUTE RESOLUTION REPORT – APRIL 2020 TO SEPTEMBER 2021

Report of the Chief Fire Officer

RECOMMENDED

- 1.1 THAT the contents of the Dispute Resolution Report for the two periods are noted by the Scrutiny Committee:
 - 01/04/2020 – 31/03/2021 (period 1)
 - 01/04/2021 – 30/09/2021 (period 2)
- 1.2 THAT the Dispute Resolution Report noted by the Scrutiny Committee is submitted at 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 two periods listed above.

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 from the application of our then current practices but also a full and comprehensive review and stakeholder engagement in relation to

the disciplinary and grievance policies. The revisions and crucial conversations management training is aligned to the Discipline policy which went live from 1 July 2021 and the revision to the grievance policy will go live January 2022, along with mediation people management training. We also considered 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 the monthly HR Joint Working Party meetings (JWP) around the application of the case management policy.

4. **SUMMARY OF CASES**

4.1 **Grievances Period 1 (1 April 2020–31 March 2021)**

20 Grievances for period 1 starts from 1 April 2020 to 31 March 2021.

3 individuals raised more than 1 grievance totalling 6 out of the 20 and there are also 2 collective grievances raised by multiple employees. The second collective grievance being Fire Control.

Whilst there were discussions that took place to look to resolve these matters informally, 18 grievances went to a formal hearing.

Collective grievance 1 was around bullying and harassment, this was formally investigated, and the resolution was communicated to the employees.

Collective grievance 2 was from Fire Control based on CPD payments and the outcome was communicated.

7 of the grievances fell under bullying, harassment and discrimination which went to a hearing with the outcome communicated.

7 of the grievances are work practices/relations, relating to a transfer under recruitment and selection policy.

2 grievances came from the same employee, who was disputing their terms and conditions.

2 grievances were dealt with informally and both were relating to work practices/relationships.

The grievances received were from 17 Grey Book employees including both collective grievances and 3 Green Book employees, 11 male and 7 female employees the Fire Control Collective were made up of multiple employees (gender not known) 1 informal grievance was male and the 2nd being female. 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 to resolve issues informally.

It was identified through policy consultation, SET, Stakeholder engagement, Trade Union feedback and the number of cases that management training was required, we also considered the day-to-day management of people and specifically through the formal investigation process.

Monthly breakdown on all grievance cases will be re-introduced at the HR Joint Working Party with a collaborative engagement meeting chaired by the Trade Unions and the relevant managers.

Grievances Period 2 (1 April 2021–30 September 2021)

6 Grievances starts from the above period, all grievances lodged were independent and ZERO collective grievances.

All 6 grievances resulted in formal hearings

1 grievance related to bullying and harassment

2 grievances related to terms and conditions, i.e. loss of earnings, disparity of green and grey book salaries, (pay/hours etc.)

1 grievance relates to work practices which was part time employee receiving full CPD payment

1 grievance related to organisational change where the employee

disputed why they were placed on redeployment.

1 grievance was submitted by an employee under discrimination which has been investigated.

The grievances received were ALL from Grey Book employees, 1 male and 5 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.

4.2 Disciplinary

Disciplinary Period 1(1 April 2020–31 March 2021)

There were 27 cases in total (18 at gross misconduct and 9 at misconduct) detailed as follows.

Gross Misconduct

8 x **cases were inappropriate behaviour** (all grey book employees, 7 males and 1 female)

- An individual behaved inappropriately towards other employees, the outcome resulted in a 6-month written warning.
- Inappropriate usage of social media case and 2 x employees were dismissed.
- x 3 inappropriate usage of social media case both resulted in a final 18 month written warning.
- Inappropriate usages of social media case resulted in a 6-month written warning.
- Inappropriate usage of social media, employee dismissed.

2 x **cases were a breach of policy and procedure** (both male employees, one was grey book and the other was green book employee)

- Employee had not declared a previous dismissal and inappropriate usage of social media. This resulted in a dismissal.
- Social distancing rules broken within the workplace, and employee had a final written 18 months warning.

1 x case was bringing WMFS into disrepute (grey book male employee)

- Inappropriate behaviour towards an employee which resulted in a development plan.

4 x cases were bullying, harassment and discrimination (all 4 grey book male employees)

- 3 cases were from the inappropriate usage of social media group, all resulted in dismissal.
- Employee was investigated for harassment and resulted in a demotion with a final written 18-month warning.

3 x cases were criminal Conduct (2 male employees, 1 female and all 3 were grey book)

- Employee gave false information, and this resulted in a dismissal
- Drink driving offence resulted in a criminal record and resulted in a formal warning.
- Employee was convicted of domestic abuse and dismissed.

4 x cases were investigated informally and there was no outcome however, these 4 cases then resulted in a collective grievance from a Fire Station (All 4 males and grey book).

Misconduct:

1 x case was inappropriate behaviour (grey book female employee)

- Inappropriate usage of social media and resulted in a 6-month written warning.

4 x cases were bullying, harassment and discrimination (4 male employees grey book)

- 4 employees behaved inappropriately whilst at work, this was managed informally.

1 x case was criminal conduct (grey book male employee)

- An employee drove the Brigade van breaking the speed limit rules. This had an informal outcome with a development plan.

2 x cases were damage to property (2 male grey book employees)

- 2 employees were investigated due to damages of WMFS equipment and this case resulted in no formal action.

1 x case was a breach of policy and procedure (grey book male employee)

- Inappropriate behaviour towards another member of staff and resulted in no formal action.

Disciplinary Period 2 (1 April 2021–30 September 2021)

There were 10 cases in total (6 at gross misconduct and 4 at misconduct) detailed as follows.

Gross Misconduct:

2 x case was inappropriate behaviour (both male and grey book employees)

- An employee who used drugs resulted in a final written 18 months.
- An employee who used drugs, based on the facts of the case, and information that was gathered at the investigation stage, considering all the presentation there were inconsistencies, dishonesty and the loss of trust and therefore the decision was to dismiss the employee from the Service.

1 x case was a breach of policy and procedure (male grey book employee)

- Inappropriate usage of ICT equipment, this case is still in the

investigation stage.

1 x cases where a breach of health and safety policy (both male employee, 1 grey book and the other green book)

- An employee resigned pending a hearing.
- Broken covid rules resulted in a development plan.

1 x case was bringing WMFS into disrepute (male grey book)

- An employee pleaded guilty to domestic abuse at court however, the investigation still in progress.

Misconduct:

1 x case was inappropriate behaviour (female grey book employee)

- A breach of GDPR rules and sharing of information, this was dealt with informally.

2 x cases where there was a breach of policies and procedures (both grey book male employee)

- An employee drove a WMFS vehicle and caused damage to vehicle and property (investigation still in progress).
- Employee breached covid rules, this investigation is still in progress.

1 x case where there was a breach of health and safety policy (male grey book employee)

- An employee accessed a station during covid rules, the outcome was informal.

5. EMPLOYMENT TRIBUNALS

The Service during this reporting period from 1 April 2020 until 30 September 2021 has received 10 Employment Tribunal Claims. However, five employment tribunals are from a large and complex disciplinary case which led to multiple dismissals.

6. DEBRIEFS AND LEARNING OUTCOMES

We have reviewed the policies as part of our normal review cycle and as part of this process we had set up a stakeholder group including Managers, Trade Unions reps, People Support Services and a HR Consult. The policies have been re-aligned to the ACAS Code of Practice on Disciplinary and Grievance and substantial revisions have been made to our policies, toolkits, procedures and practices.

7. TRAINING AND DEVELOPMENT FOR LINE MANAGERS

Following feedback from SET the trade unions and managers through the Disciplinary and Grievance stakeholder group and HR JWP a decision has been taken to provide those involved in people management including Trade Unions, line managers and PSS Business Partners training through external training providers ACAS and ABDCCT (achievement by design Coaching Consulting training). The training that was provided is stated below:

- **Disciplinary Investigations** (78 managers and BPs attended)
- **Disciplinary Commissioning and Appeals** (29 managers and BPs attended this course) (*limited availability with this course*)
- **Crucial Conversations** (68 managers, BPs and Trade Unions officials attended)

In support of the ongoing learning development of our staff we are currently providing 'crucial conversation' training for all line managers. These training sessions provide practical and effective techniques to support managers to carry out difficult conversations confidently and sensitively with staff.

The Service recognises that there are many reasons for holding an internal investigation in the workplace. Investigations are held to clarify and establish the facts of an individual case and to assist in a decision as to whether there are grounds to call a disciplinary hearing or dismiss a member of staff.

The outcomes of attending both sessions were that line managers learnt new techniques, procedures and checklists that help ensure that they are considering all the critical factors and that they undertake the process in a fair and unbiased manner. The ACAS

training has completed for now but will be part of a regular training for our people managers alongside with the crucial conversations training too.

The disciplinary and crucial conversations training sessions were all expert-led and designed to facilitate discussion and interaction which our managers found beneficial and helpful.

8. **POLICIES AND PROCEDURES**

The Disciplinary policy and the Grievance policy are available for all employees on MESH.

Disciplinary Policy and Toolkit:

Following an extensive engagement process, we have made some significant changes to the way we develop and engage on our people policies.

All our policies are consulted with our Trade Unions, however, on considering lessons learnt, information from our debrief process and feedback from managers and trade unions we have identified further areas of improvement.

As an outcome of this feedback, we have revised the new discipline policy, to provide a clear and concise framework to support managers' decision making and application of the process.

The supporting toolkit contains additional supportive information, guidance, and template documents.

The revised policy focusses on the informal process, trying to resolve issues early, sharing advice and guidance through the day-to-day management and in a timely manner. This will help to resolve issues where appropriate and prevent escalation. Our PSS Business Partners will also be meeting with managers to go through the changes to support understanding and the application of the policy.

All employees are made aware that they need to be accountable for their conduct and behaviours and managers need to ensure the expectations on all staff to uphold our core values are upheld.

In support of this we have provided crucial conversations training to all managers with responsibility of managing people to support the early intervention and conversation to prevent the escalation of an issue to formal disciplinary stages. This will also assist in managing in the day-to-day management of staff including the informal stage of the discipline policy should it be required.

Managers will carry out this training as part of their ongoing development and need to book on to People Management training for crucial conversations.

Grievance Policy and toolkit is still in its draft stage of amendments and creation, this will be going through the same process as the disciplinary policy minus the training. This policy and process will be fully supported by the BPs in supporting the managers.

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 0-19 and Review of Case Management Debriefs.

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PHIL LOACH
CHIEF FIRE OFFICER

Appendix 1

Discipline Equality Monitoring

Gender: Male 33 Female 4

Age:

DNS	
20-29	6
30-39	12
40-49	14
50-59	4
60-69	1

Ethnicity: White British
 Black British Afro Caribbean
 Black British
 Mixed White British
 Mixed White Asian
 Indian
 DNS 1

Sexual Orientation: Blank 11
 Heterosexual 21
 Prefer not to say 4
 Bisexual 1

Disability: *Data cannot be accessed through the new Oracle system*

Role:

FF (and equivalent)	25
Supervisory Manager	10
Middle Manager	0
Strategic Manager	0
Pensioner	2

Marital Status: Married 9
 Single 14
 Divorced 1
 Living together 2
 Common Law 1
 No data 10

Grievance Equality Monitoring (*this data is shown for 24 only employees as the remaining 2 are collective grievances with multiple employees*)

Gender: Male 12 Female 12

Age:

20-29	2
30-39	12
40-49	5
50-59	4
60-69	1

Ethnicity:

White British	21
Asian/Asian British	1
Mixed White British	
British Black	1
Mixed Black/White	1

Sexual Orientation:

Heterosexual	22
PNTS	2

Disability: *Data cannot be accessed through the new Oracle system*

Role:

FF (or equivalent)	16
Supervisory Manager	5
Middle Manager	2
Strategic Manager	
Pensioner	1

Marital Status:

Married	10
Single	12
Divorced	1
No data	1