

**WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

**SCRUTINY COMMITTEE**

**21 MARCH 2016**

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<sup>st</sup> July 2015 to 31<sup>st</sup> December 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<sup>st</sup> July 2015 to 31<sup>st</sup> December 2015.

3. **BACKGROUND**

3.1 This report provides a summary of the number, type and outcome of disciplinary and grievance cases, the details of 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<sup>st</sup> July 2015 to 31<sup>st</sup> December 2015.
- 4.1.2 A total of 8 grievances were lodged during the reporting period, 6 by Grey Book employees 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 31<sup>st</sup> December 2015.
- 4.1.4 The total number of formal grievances has increased by 5 compared to 3 in the last reporting period 1<sup>st</sup> January 2015 to 30<sup>th</sup> June 2015.
- 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<sup>st</sup> July 2015 to 31<sup>st</sup> December 2015.
- 4.2.2 There were 4 investigations commenced in this reporting period, all of which were undertaken at Gross Misconduct level. As at the 31<sup>st</sup> December 2015, one had been resolved with no formal action being taken and 3 investigations were still ongoing.
- 4.2.3 Of the 4 disciplinary investigations, all concerned Grey Book employees. 3 of the employees who were subject to investigations were male and 1 female.
- 4.2.4 There were 2 disciplinary hearings in this period concerning Grey Book employees
  - both disciplinary hearings related to an investigation that

commenced in the previous reporting period.

- 4.2.5 Both hearings were managed as gross misconduct resulting in one Final Written Warning being issued and one Written Warning. Of these hearing decisions there were no appeals raised.
- 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.
- 4.2.8 A summary of previous reports can be found at Appendix 3.

#### 4.3 **Employment Tribunal Activity**

At the close of the reporting period 31<sup>st</sup> December 2015 there is one outstanding claim against WMFS lodged with the Employment Tribunals Service in November 2015.

#### 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. The Business Partner Team 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 working on a revised 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.
- 4.4.4 From 1<sup>st</sup> 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.
- 4.4.5 Below are the local performance indicators that People Support Services have been reporting on. By recording this level of detail on the case management we have been able to monitor the progression of cases through the relevant processes. The data sets have been too small to provide averages for the period 1<sup>st</sup> January 2015 to 31<sup>st</sup> December 2015 but some of the key outcomes are that we are starting to both record and see issues being dealt with at an informal stage of the process where appropriate and also we are seeing a more timely approach to the completion of investigations, reports and appeal.

As a team we have taken a more proactive approach to supporting this process and work closely with the Trade Union/Representative Bodies across all areas. The reasons for any delays in the process are now only around where the employee is absent from work or where there is a police investigation ongoing.

<b>Discipline</b>
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

<b>Grievance</b>	
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	

- 4.4.6 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.
- 4.4.7 In preparing this report, the views of the Trade Unions/Representative Bodies were sought 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.
- 4.4.8 During meetings with the Trade Unions/Representative Bodies the following issues have previously been raised for consideration and action.
- 4.4.9 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). We have conducted a number of debriefs in this reporting period and the Trade Unions/Representative Bodies have both attended and contributed. This approach has provided valuable learning opportunities for the Service. A revised approach has been developed by People Support Services and this forms part of the structured debrief and this will ensure that all relevant learning outcomes can be shared.

4.4.10 Given previous concerns from the Trade Unions/Representative Bodies there has been recognition by all of the Trade Unions/Representative Bodies that there has continued to be a reduction in formal discipline cases in this reporting period from previous reporting periods; this will be continually monitored and discussed by all parties on a regular basis at the Joint Working Party.

4.4.11 The People Support Services Team regularly meet with the Trade Unions/Representative Bodies and will continue to discuss any concerns at the Joint Working Party which will ensure that regular updates are available for members of the Joint Consultative Panel. As the number of Grievances has increased in this period a review of the Grievances will be undertaken for this period to ensure we capture all of the learning to manage any future Grievances appropriately.

4.4.12 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 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.

4.5.4 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 Failures to Consult or Agree that have been identified to present to the JCP during this reporting period.

The Service currently has an ongoing Trade Dispute with the FBU relating to an element of the Staffing Project. Whilst the details of this dispute are not being included in this report as it was received outside of the current reporting period, the Trade Dispute is currently being managed through the Service's internal processes and may be presented to a Joint Consultative Panel at a future date.

#### 4.7 **Collective Grievances**

There were no collective grievances submitted in this reporting period.

#### 4.8 **Failure to Consult/Agree**

We currently have one failure to agree on a specific issue relating to the Staffing Project which has resulted in a Trade Dispute with the FBU, this is being managed as detailed above. Alongside this 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 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.



**BACKGROUND PAPERS**

Disciplinary Standing Order 2/1, Grievance Standing Order 2/2  
Previous JCP reports '01' to '10'

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

PHIL LOACH  
CHIEF FIRE OFFICER

## **APPENDIX 1**

### **Report No.**

*Reporting Period 1st July 2015 to 31st December 2015*

### **Section A: WMFS Formal Grievance & Appeal Cases**

<b>Grievance Description</b>	<b>Total no. Grievances</b>	<b>No. Grievances Resolved</b>	<b>No. Grievances Rejected</b>	<b>No. Grievances Appealed</b>	<b>No. Appealed Grievances Upheld</b>	<b>No. Appealed Grievances Rejected</b>	<b>No. Grievances leading to ET claim</b>
No. of Grievances raised by <b>Grey Book</b> employees	<b>6 raised</b> <b><u>(1 still ongoing)</u></b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>
No. of Grievances raised by <b>Green Book</b> employees	<b>2 raised</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### **Further details (including E&D information)**

- The subject nature of the 8 grievances included:

Organisational Change x 1  
Bullying and Harassment x 4  
Working Practises/Processes x 2  
At Resignation x1

*Reporting Period 1st July 2015 to 31st December 2015*

## **Section B: Investigation Activity**

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

### **Further details**

- There have been 4 disciplinary investigations which have commenced during this reporting period.
- There are 3 investigations ongoing (outcome of investigation outstanding) as at 31<sup>st</sup> December 2015.

*Reporting Period 1st July 2015 to 31st December 2015*

### **Section C: Discipline Hearings & Appeal Cases**

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

**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**

	SEX			DISABILITY					RACE					
	M	F	TG		YES	NO	PNTS	NS	WB	BBC	WIr	BBR	Wh-BL Car	PNTS
<b>Grievance X 8</b>	5	3	0		1	5	0	2	8	0	0	0	0	0
<b>Discipline X 4</b>	3	1	0		0	4	0	0	4	0	0	0	0	0

**Table 1.1 Key for table 1****Sex**

F – Female

**Disability**

PNTS – Preferred not to say

**Race**

WB – White British

BBC – Black/British

Caribbean

WIr – White Irish

BBR- Black British

Wh-BL Car – White and

Black Carribean

M – Male

NS – Not stated

TG – Transgender

Table 2 summarises 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	GAY/ LESBIAN	HETERO SEXUAL	20- 29	30- 39	40- 49	50- 59
<b>Grievance X 8</b>	6	2	0	1	7	1	2	4	1
<b>Discipline X 4</b>	2	2	0	0	4	0	2	1	1

**Table 2.1 Key for table 2**  
**Religion and Belief:**

NS – Not stated  
 CHRN – Christian  
 NO REL – No religion  
 SIKH – Sikh  
 MUSLIM - Muslim

Table 3 summarises the data into 3 protected characteristics: Married/Civil Partnership, Pregnancy/Maternity and Gender Re-assignment.

**Table 3**

	<b>MARRIED/ CIVIL PARTNERSHIP</b>					<b>PREGNANCY/ MATERNITY</b>	<b>GENDER RE- ASSIGNMENT</b>
	MARRIED	SINGLE	DIVORCED	LIVING Together	PREFER NOT TO SAY		
<b>Grievance X 8</b>	3	3	1	1	0	NONE	NONE
<b>Discipline X 4</b>	2	1	0	1	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
11	Mar 16	8	2	4	1	1	4	4	0	0	2	0	1	1	0