

JOINT CONSULTATIVE PANEL

4 NOVEMBER 2019

1330 HOURS

Attendance:

Councillors Brackenridge, Cooper, Edwards (Chair), Jenkins, Miller

Steve Price-Hunt – Fire Brigades Union

Sasha Hitchens – Fire Brigades Union

Maurice Carter – UNISON

Karen Gowreesunker, Clerk to the Authority

Satinder Sahota – Monitoring Officer

Wendy Browning-Sampson – People Support Manager

Helen Sherlock – People Support Manager

1. Apologies

Apologies were received from Julie Felton.

2. Declarations of Interest

No declarations of interest were received.

3. Minutes of Joint Consultative Panel – 30 September 2019

Steve Price Hunt, Fire Brigades Union, requested that the minutes be amended and requested that the third paragraph on page 8 be removed. The sentence stated:

“10% of the workforce had been disciplined under a gross misconduct charge and 60% had been part of a discipline”

This sentence would be replaced with:

“Under the current reporting period of 6.5 years, if the trend continued employees working a forty year career would be 53% likely to be investigated under disciplinary regulations and the figure would be even higher for grey book staff”.

4. Case Management Costings

The Joint Consultative Panel had requested a report setting out the summary of costs associated with Discipline and Grievance Case Management for the period 1 January 2018 and 31 August 2019. The report had been requested in April 2019.

Helen Sherlock stated that the report focused on all live cases between the reporting period and as this information was not normally recorded, the hours and costs had been found retrospectively and a number of assumptions had been made. The staff in People Support Services had checked through the cases individually.

There had been a total of 23 discipline cases and 13 grievance cases. One single significant investigation involved 21 individuals and if added to the total would increase the number to 43 individual cases. There had been 13 grievances, 12 investigations at misconduct level and 31 cases at gross misconduct level. There was a higher percentage of gross misconduct cases overall, however a proportion of the figure could be attributed to the one significant investigation.

This was a rare case and during the investigations another case had been commissioned and the subsequent investigation resulted in a total of 4 misconduct cases and 17 gross misconduct cases.

The reason recorded for these cases was a ‘Breach of Policy/Procedures/Contract’.

Investigating Officers assigned to this case accrued 138 hours TOIL during this investigation. The total number of hours invested by all officers involved in any of the processes was approximately 4,883 hours.

The number of hours invested in the remaining 37 cases was approximately 1,141 hours.

This is reported in number of hours allocated to case management rather than cost of the investigation.

Of the 14 gross misconduct cases, the reason was recorded as a 'Breach of Policy/Procedures/Contract' for 6 of the cases. 5 were recorded under 'inappropriate behaviour' with the remaining cases recorded under Breach of Health and Safety, Bullying/Harassment/Discrimination and Misuse of Alcohol/Drugs.

Of the 8 misconduct cases 2 were recorded under Breach of Policy/Procedures/contract and the remaining 2 cases were recorded under 'Inappropriate Behaviour'.

Also within this time 13 grievances were managed and most (7 of the 13) were recorded under bullying/harassment/discrimination, 3 cases were recorded as 'work practices' and the remaining cases were recorded under 'Terms of Conditions of Employment'.

Another cost to be associated with case management is sickness absence. It has been assumed that sickness was attributed to the investigation. 739 duty had been lost to sickness during this period, including both green and grey book staff. of the 30 recorded cases the majority were recorded under reasons that sit under the mental health umbrella.

It had been difficult to ascertain if a Voluntary Additional Shifts (VAS) had been used as a direct result to cover sickness due to a grievance/disciplinary case or whether planned resilience officer were utilised.

The cases resulted in a total of 8 suspensions being sanctioned for operational personnel, linked to the one significant investigation. These individuals have been paid during the investigation process. The total hours and costs of the cases were provided with one very large case being an extraordinary event.

The decision of suspending employees is taken very seriously and the report demonstrated a much higher suspension level than in other reporting periods. Outside of the large case, only one other employee was suspended.

There had been a requirement for external legal services and advice at cost of approximately £10,000.

It had not been possible to calculate the cost of the 5 compulsory transfers, but there would have potentially be a small cost if any additional mileage was claimed.

Support from the Occupational Health Team has been provided and managed through existing budgetary arrangements.

Case management does incur a cost and it is imperative that the cases are dealt with and investigated thoroughly. The number of cases had been spiked by one very large case, however, it had been deemed necessary to investigate this case and the potential risk it posed for the Service.

Steve Price-Hunt thanked Helen Sherlock for the presentation and wished to circulate the Fire Brigades Union Response to the Case Management Costings.

The Clerk to the Authority stated that the document should have been received prior to the meeting and circulated with the Agenda, providing the members of the Panel with the time to read the document. The report could not be considered as a formal part of the meeting as it had no status.

The Chair stated that the report could not be received as it has not been sent out with the agenda papers.

Councillor Kerry Jenkins, stated that she was new to the Joint Consultative Panel and suggested that the Union had a response to the report and this was not a separate report, but a response to his report and felt that it should be captured in the minutes and heard by the meeting.

The Chair stated that this works similarly at the Council meetings and forms the discussion however he was keen for reports to come to the meeting.

If there was a disagreement at JCC a report would be forwarded to the JCP.

Wendy Browning-Sampson stated that reports to this meeting from the Joint Consultative Committee should come as joint reports if

there was a Failure to agree or Failure to consult. This would take the form of a:

Top Sheet

Appendix 1 – Union

Appendix 2 – Management

Each representative would then present their reports.

This approach had been agreed through the Employer Relations Framework.

The Agenda for Meetings is agreed between the Chair and ACO Sarah Warnes.

Steve Price-Hunt that he had worked all weekend on the document. It was custom and practice for all parties to agree the report but this was a complicated subject. He had tried to condense it for ease of understanding.

In response to the FBU response, Helen Sherlock, stated at the disputed figure of £194 per shift was an average of a day and night shift and had been received from the Finance Team.

The data for sickness had been obtained from HRMS and Workforce planning

333 days through sickness

487 grievance

95 for discipline

Total number of days lost through discipline for all staff not just Green Book.

It was noted that each shift is dynamically managed and the data is not collated and the figures had been assumed as they are not available shift by shift.

One dismissal had been made around the large case.

Helen Sherlock confirmed that the information had been provided by the Workforce Planning Team but the raw data was available to share if required.

Sarah Warnes, stated that the figures provided by the Finance and Workforce Planning Teams had been used to provide the evidence base.

Officers had looked at the approach to the discipline and grievance and the lessons learnt from the Joint Working Party. The last from the JCP had been welcomed and examined the balance between the number of misconduct and gross misconducts.

It was noted that the Core Values and Behaviours all have a part to play and managers should ensure that staff behave appropriately and it was now envisaged that the Service would move forward and discuss how progress can be made from the lessons learned.

Steve Price-Hunt did not agree with the figures quoted and did not think that National Insurance was included. He suggested that the figure differed from those used for budget and agreed by the Authority.

It was accepted that the very large case was an isolated incident, but that the FBU had been raising causes about the excessive use of disciplinary regulations and was not surprised that 53% of the workforce were at risk of being investigated.

Steve Price-Hunt also queried the number of Voluntary Additional Shifts, he felt the report only identified when VAS was used. As there are not enough firefighters on stations and everyday overtime is used to provide resilience and there is an inevitable cost and suggested a figure of £350,000 and not £118,000.

Finally, the FBU were still concerned by the excessive nature of disciplinary cases and the figures historically with a percentage of three quarters gross misconduct to misconduct. However, he stated that there were shoots of things changing in this area.

He suggested that the Fire Authority speak to Workforce Planning and Accountancy Team to confirm the cost incurred for every day of absence as he believed the figure to be nearer £200.

The Chair stated that the figures and costs could be discussed at length and the circumstances around each time, but would never be completely bottomed out but wanted to look to the future and move forward.

Disciplinary cases had been raised by lot of people and were a feature of the Cultural Review Report and there was a clear recommendation for Disciplinary Procedures to be reviewed.

This was currently out to consultation with focus groups and an Action Plan would be prepared. The Joint Consultative Panel should have an opinion on this and it was considered that a review of disciplinary procedures should be included in the action plan.

It was felt that the disciplinary procedures should be compared to other Fire Services and Metropolitan Brigades

Springing from the Action Plan, it was felt that there would be a clear evidence base and agreement could be reached. If the JCP make a recommendation for the Cultural Review this would be reached during the forthcoming calendar year.

Councillor Brackenridge agreed that strong discipline was required and there was also a need to protect the workforce from bullying. He felt that a changing workforce brings its challenges, but he was keen to move forward. He also had some questions from the report some were covered by the Fire Brigade Union.

The Action Plan from the Stakeholder meeting would prove useful as a way forward.

The Fire Brigades Unions agreed that it would be good for an external company to look at the Services' processes and to validate them as it would be provide a sound basis for the future going forward as the subject of Gross Misconduct, Misconduct and Disciplinary Procedures had been discussed by the JCP for years.

Steve Price-Hunt stated that he thought this seemed reasonable as nothing had changed in the six and a half years since the figures had started to be reported. He was pleased with the reduction in Gross Misconducts and for the first time there was a 50/50 split with misconducts. However, he genuinely believed that other Metropolitan Fire Services were not spending as much tax payers money on disciplinary cases and wanted to move forward. He was concerned that none of the recent gross misconduct cases had led to dismissal and had taken over a 12 month period to resolve and felt that this was not acceptable. However, he welcomed the review.

Cllr Brackenridge said there were statements in the Cultural Review regarding disciplinary cases and the figures were important but more important were the human costs and impacts on people and the organisation.

It had been recognised that the policies would be looked at and it was recommended that this could be put into the Action Plan of the Cultural Review Stakeholder Review.

The Cultural Review Steering Group would be set up to monitor implementation of the Action Plan and it hoped that this would give confidence to staff.

Maurice Carter supported the FBU point of view and stated that tax payers money is being used on disciplinary cases and this was a large amount and the Cultural Review provides an indication of the strength of feeling. He felt that many people were suffering from management misuse of policies, which affect the health of his members, but felt that the Cultural Review should help to bring sickness levels down

Cllr Miller expressed concern about the time it takes for disciplinary cases and suggested that this needed to speed up. He also felt the cost to the Authority was too high and personal cost to staff through worry and stress. He recommended that Officers look into this.

Sarah Warnes stated that the stakeholders would be looking at behaviours in the workplace and would be happy to move forward to the Action Plan.

The Chair requested that the Stakeholder Group seriously consider an independent review of disciplinary cases within the Action Plan of the Cultural Review.