

# **WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

## **SCRUTINY COMMITTEE**

**27 MARCH 2017**

### **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 2016 to 31<sup>st</sup> December 2016 are noted.
- 1.2 THAT the dispute resolution report is submitted to the Joint Consultative Panel

1st January 2015 to 30th June 2015 are noted.

### **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 2016 to 31<sup>st</sup> December 2016.

### **3. BACKGROUND**

- 3.1 This report provides a summary of the number, type and outcome of disciplinary, grievance, debriefs, collective grievances and any reported failure to agree or consult.
- 3.2 The report also provides a summary of lessons learned, raised issues 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 Party.

## 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 2016 to 31<sup>st</sup> December 2016.
- 4.1.2 A total of 4 grievances were lodged during the reporting period, 3 by Grey Book employees and 1 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 2016.
- 4.1.4 The total number of formal grievances has decreased by 7 compared to 11 in the last reporting period 1<sup>st</sup> January 2016 to 30<sup>th</sup> July 2016.
- 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 2016 to 31<sup>st</sup> December 2016.
- 4.2.2 There have been 9 cases under discipline.
- 8 cases were investigated under Gross Misconduct
  - 1 case was investigated under Misconduct
  - Out of the 8 Gross Misconduct investigations 7 went to a formal hearing and 1 investigation resulted in no formal action, so therefore did not go to hearing.
  - The 1 case that was investigated under Misconduct did go to a hearing however the outcome was no formal action.

- All investigation hearings from July 2016–December 2016 have fully concluded.

4.2.3 Of the 9 discipline investigations, all 9 concerned Grey Book employees and all 9 were male.

4.2.4 Analysis of the data by protected characteristics can be found in Appendix 2 of the report.

4.2.5 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 2016 there are two outstanding claims against WMFS lodged with the Employment Tribunals Service, these are ongoing from the previous reporting which was 1<sup>st</sup> January 2016–30<sup>th</sup> June 2016, these have been discussed in the previous JCP report January 2016 – June 2016.

### 4.4 **Lessons Learned**

4.4.1 Debriefs are taking place after every case

4.4.2 The Disciplinary Procedure and Grievance Procedure is now embedded within the Service. The Business Partner Team are spending more of their time on stations and within 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 shared with the Trade Unions/ Representative Bodies. The Trade Unions/Representative Bodies have welcomed this approach to ensure consistency within the process.

4.4.4 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.

- 4.4.5 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.
- 4.4.6 We can confirm that Trade Unions/Representative Bodies are invited to attend all debriefs for which we use a debrief framework. The Service welcomes Trade Union/ Representative bodies' feedback at all debrief sessions. This approach has provided valuable learning opportunities for the Service. This approach has been developed by People Support Services and forms part of the structured debrief to ensure all relevant learning outcomes can be shared.
- 4.4.7 Given previous concerns from the Trade Unions/ Representative Bodies, there has been recognition by all of the Trade Unions/Representative Bodies that there has been a reduction in formal discipline cases.
- 4.4.8 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 and disciplinaries has increased in this period, a review of this will be undertaken for this period to ensure we capture all of the learning to manage any future grievances and disciplinaries appropriately.
- 4.4.9 There have been no other/new areas raised by the Trade Unions/Representative Bodies.

#### 4.5 **Grievance and Discipline Training Updates**

- 4.5.1 People Support Services are currently reviewing both Grievance and Discipline standing orders, regular conversations are taking place with the Trade Unions.

We will continue to support and share best practice with People Managers in assisting with Investigations, Hearings Appeals through to Employment Tribunals. Debriefs will take place after every case, constructive feedback will be given and this is a good opportunity to discuss any lessons learnt.

4.5.2 Grievance and discipline data is shared at every Joint Working Party

#### 4.6 **Dispute Resolution**

There has been one failure to consult submitted during this reporting period. The relevant Trade Union Representative body are in dialogue with the organisation to reach a satisfactory resolution.

#### 4.7 **Collective Grievances**

There were no collective grievances submitted in this reporting period.

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

There has been one failure to consult complaint lodged within this reporting period.

### 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 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

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

PHIL LOACH  
CHIEF FIRE OFFICER

**Report No.**

*Reporting Period 1st July 2016 to 31<sup>st</sup> December 2016*

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

| <b>Grievance Description</b>                            | <b>Total no. Grievances</b> | <b>No. Grievances Upheld</b> | <b>No. Grievances Not Upheld</b> | <b>No. Grievances Appealed</b> | <b>No. Appealed Grievances Upheld</b> | <b>No. Appealed Grievances Not upheld</b> | <b>No. Grievances leading to ET claim</b> |
|---|-----------------------------|------------------------------|----------------------------------|--------------------------------|---------------------------------------|---|---|
| No. of Grievances raised by <b>Grey Book</b> employees  | <b>3 raised</b>             | <b>2</b>                     | <b>1</b>                         | <b>1</b>                       | <b>0</b>                              | <b>1</b>                                  | <b>0</b>                                  |
| No. of Grievances raised by <b>Green Book</b> employees | <b>1 raised</b>             | <b>0</b>                     | <b>1</b>                         | <b>1</b>                       | <b>0</b>                              | <b>1</b>                                  | <b>0</b>                                  |

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

The subject nature of the 4 grievances included:

Organisational Change x 1  
Bullying and Harassment x 3  
Working Practices/Processes x 0  
At Resignation x 0

*Reporting Period 1st July 2016 to 31<sup>st</sup> December 2016*

## **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> | <b>Resigned during and after investigation</b> |
|---|---------------------------------|--|----------------------------------|------------------------------------|--|
| No. of Investigations into <b>Grey Book</b> employees         | <b>9</b>                        | <b>2</b>   | <b>0</b>                         | <b>7</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>                           | <b>0</b>                                       |
| No. of investigations into allegations of bullying/harassment | <b>1</b>                        | <b>1</b>   | <b>0</b>                         | <b>0</b>                           | <b>0</b>                                       |
| <b>Total</b>  | <b>9</b>                        | <b>2</b>   | <b>0</b>                         | <b>7</b>                           | <b>0</b>                                       |

### **Further details**

- There have been 9 disciplinary investigations which have commenced during this reporting period.
- All investigations were Grey Book employees
- All investigations were resolved within this reporting period
- 1 investigation was related to bullying & harassment
- 2 investigations resulted in no formal action

Ref. AU/SCR/2017/11303175



*Reporting Period 1st July 2016 to 31<sup>st</sup> December 2016*

### **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> | <b>Employment Tribunal Cases</b> |
|-------------------------------|------------------------|---|--|---------------------------------|----------------------------------|------------------------------|---------------------------------|----------------------------------|
| No. of misconduct cases       | 1                      | 1                                       | 0  | 0                               | 0                                | 0                            | 0                               | 0                                |
| No. of gross misconduct cases | 7                      | 0                                       | 1  | 2                               | 4                                | 3                            | 0                               | 0                                |
| <b>Totals</b>                 | <b>8</b>               | <b>1</b>                                | <b>1</b>                                 | <b>2</b>                        | <b>4</b>                         | <b>3</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<br/>X 4</b>  | 4   | 0 | 0  |            | 0   | 4  | 0    | 0  | 2    | 2   | 0   | 0   | 0         | 0    |
| <b>Discipline<br/>X 9</b> | 9   | 0 | 0  |            | 1   | 5  | 0    | 3  | 9    | 0   | 0   | 0   | 0         | 0    |

**Table 1.1 Key for table 1**

### **Sex**

F – Female

M – Male

TG – Transgender

### **Disability**

PNTS – Preferred not to say

NS – Not stated

### **Race**

WB – White British  
BBC – Black/British  
Caribbean

WIr – White Irish  
BBR- Black British  
Wh-BL Car – White and  
Black Caribbean

**Table 2**

|                           | RELIGION AND BELIEF |      |        |        |       | SEXUAL ORIENTATION |                  |      | AGE   |       |           |           |     |
|---------------------------|---------------------|------|--------|--------|-------|--------------------|------------------|------|-------|-------|-----------|-----------|-----|
|                           | NS                  | CHRN | MUSLIM | NO REL | OTHER | GAY/<br>LESBIAN    | HETERO<br>SEXUAL | PNTS | 20-29 | 30-39 | 40-<br>49 | 50-<br>59 | 60+ |
| <b>Grievance<br/>X 4</b>  | 2                   | 1    | 0      | 1      | 0     | 0                  | 2                | 2    | 0     | 0     | 3         | 0         | 1   |
| <b>Discipline<br/>X 9</b> | 5                   | 2    | 0      | 2      | 0     | 0                  | 5                | 4    | 1     | 1     | 7         | 0         | 0   |

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

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

Table 3

|                           | MARRIED/<br>CIVIL PARTNERSHIP |        |          |                    |                         | PREGNANCY/<br>MATERNITY | GENDER<br>RE-<br>ASSIGNMENT |
|---------------------------|-------------------------------|--------|----------|--------------------|-------------------------|-------------------------|-----------------------------|
|                           | MARRIED                       | SINGLE | DIVORCED | LIVING<br>Together | PREFER<br>NOT TO<br>SAY | NONE                    | NONE                        |
| <b>Grievance<br/>X 4</b>  | 3                             | 1      | 0        | 0                  | 0                       | NONE                    | NONE                        |
| <b>Discipline<br/>X 9</b> | 4                             | 3      | 0        | 2                  | 0                       | NONE                    | NONE                        |

**APPENDIX 3**

| <b>Dispute Resolution Summary</b> |                       |                         |                           |                             |                   |              |  |                          |                    |              |                                  |                  |                              |                        |                  |
|-----------------------------------|-----------------------|-------------------------|---------------------------|-----------------------------|-------------------|--------------|--|--------------------------|--------------------|--------------|----------------------------------|------------------|------------------------------|------------------------|------------------|
|                                   |                       |                         | <b>Types of Grievance</b> |                             |                   |              |  | <b>Level</b>             |                    |              |                                  | <b>Outcomes</b>  |                              |                        |                  |
| <b>Report No.</b>                 | <b>Date of Report</b> | <b>No of Grievances</b> | <b>Work Practice</b>      | <b>Bullying/ Harassment</b> | <b>Org Change</b> | <b>Other</b> | <b>No of Discipline Investigations</b> | <b>Gross Mis-conduct</b> | <b>Mis-conduct</b> | <b>Other</b> | <b>No of Discipline Hearings</b> | <b>Dismissal</b> | <b>Final Written Warning</b> | <b>Written Warning</b> | <b>No Formal</b> |
| 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                |
| 12                                | Aug 16                | 11                      | 7                         | 3                           | 1                 | 0            | 30                                     | 22                       | 8                  | 0            | 8                                | 1                | 1                            | 2                      | 16               |
| 13                                | Mar 17                | 4                       | 0                         | 3                           | 1                 | 0            | 9                                      | 8                        | 1                  | 0            | 7                                | 4                | 1                            | 2                      | 2                |