

WEST DUNBARTONSHIRE COUNCIL

Report by Head of Human Resources and Organisational Development

Joint Consultative Forum – 22 September 2011

Subject: Discipline & Grievance Information

1. Purpose

- 1.1** To provide the Joint Consultative Forum (JCF) with information on disciplinary and grievance matters dealt with at Departmental and Appeal Committee level during Quarter 1 (2011/12), covering the period 1 April 2011 to 30 June 2011.

2. Background

- 2.1** Discipline and grievance figures are reported on a quarterly basis to the JCF. The quarterly reports identify the number of disciplinary meetings held, action taken and timescales. The report also provides number of grievances lodged within departments, reasons, outcomes and timescales.
- 2.2** Employees have a right to appeal against any disciplinary sanction, or grievance outcome. The report provides details of number of cases which are submitted to appeal level and the final outcome.
- 2.3** The Appendices to the report provide a full departmental breakdown of all discipline and grievances matters during the quarter with the key points being summarised within Section 3 of the report.

3. Summary of Discipline and Grievances during 1 April 2011 – 30 June 2011 (Quarter 1)

Disciplinary Hearings

- 3.1** 11 disciplinary hearings were held during Quarter 1 (2011/12). There is a range of possible disciplinary sanctions and the outcomes during the quarter are outlined in Appendix 1.
- 3.2** No employee was dismissed during the period as a result of a disciplinary hearing. Dismissals on the grounds of ill-health or capability are not included in this report, and work is still ongoing on the development of a new reporting framework which will enable all dismissals to be reported.

Stage 1 - Grievances Lodged During Quarter

- 3.3** In line with our Grievance Procedure an employee can submit a Stage 1 grievance which will be considered by the Line Manager or Service Manager. A total of 6 new grievances were lodged during the quarter and the majority of issues relate to bullying, harassment or victimisation.

Stage 1 - Grievance Hearings Held During Quarter

- 3.4** During the quarter a total of 4 grievance hearings were held at the 1st formal stage. This resulted in 1 grievance being resolved informally, 1 grievance being upheld, 1 grievance adjourned pending further investigation and 1 grievance was not upheld. Further information is contained within Appendix 2.

Stage 2 - Grievances Lodged During Quarter

- 3.5** Where an employee is unsatisfied with the outcome at Stage 1 they can progress their grievance to Stage 2 which will be considered by a Service Manager or Head of Service as appropriate. During Quarter 1 a total of 5 new grievances were lodged. 4 of these grievances were raised within HEEDs and 1 within Educational Services.

Stage 2 - Grievance Hearings Held During Quarter

- 3.6** During the quarter a total of 7 grievance hearings were held at the 2nd formal stage all within HEEDs. This resulted in 1 not upheld, 5 being partially upheld and 1 being upheld. Further information is contained within Appendix 3.

Comparison

- 3.7** The total grievances lodged at the 2nd stage during Quarter 1 (2010/11) compared to the same quarter the previous year (2010/11) is detailed below. It can be seen that in both years the majority of grievances were raised within HEEDs.

Department	2010/2011			2011/12			Variance
	Apr	May	Jun	Apr	May	Jun	
Chief Executives	0	0	0	0	0	0	0
HEEDs	1	5	0	2	1	1	-2
CHCP	0	0	0	0	0	0	0
Educational Services	0	0	0	0	0	1	+1
Corporate Services	0	0	1	0	0	0	-1

- 3.8** There is a reduction from 7 grievances lodged in 2011/11 to 6 grievances lodged in 2011/12.

Timescales

- 3.9** In line with set standards grievance hearings should normally be heard within 5 working days unless there are exceptional circumstances and both parties are aware of the reason for the delay. Timescales for grievance hearings are monitored and none of the 5 grievance hearings held at stage 2 during the quarter were held within the set timescales. Reasons for delay are outlined in Appendix 3, and have been reported to the relevant Departmental Director for information.

Dignity at Work / Bullying and Harassment

- 3.10** Complaints raised through the Dignity at Work Policy should be reported to HR&OD for monitoring purposes. The Case Management team within HR&OD facilitates the process for allocating a trained Investigator or Mediator to assist the process as required. During Quarter 1 (2011/12) there was one new dignity at work complaint notified to HR&OD.
- 3.11** Table 8 below outlines new case information for quarter 1 and new cases carried over from Quarter 4 (2010/11).

Department	Date Referred	Support Requested	Report Passed to Manager	Update on Case
HEED	13 May 2011	Investigation	Pending	Pending
CHCP	22 October 2010	Investigation	28 April 2011	Ongoing

Stage 3 - Appeal Committee – Appeals Held

- 3.12** Legal Services aim to schedule 2 Appeals Committee Hearings per month to consider appeals, with additional hearings as required. 6 Appeals were scheduled to be held during the quarter but were cancelled as noted below.

Month	Date Scheduled	Outcome	Comment
April	21 Apr 2011	Cancelled	Key management witness unavailable
	28 Apr 2011	Postponed	Pending Mediation
May	12 May 2011	Cancelled	Trade union rep unavailable
	19 May 2011	Cancelled	Trade union rep unavailable
June	9 June 2011	Cancelled	Trade union rep unavailable
	16 June 2011	Cancelled	Clerk unavailable

- 3.13** As at 30th June 2011, 14 grievance appeals and 2 dismissal appeals remain outstanding at Stage 3, as outlined in Appendix 4. One grievance appeal was withdrawn during the quarter.
- 3.14** A review of the outstanding appeals shows that 6 grievance appeals have been outstanding for longer than 12 months, with the longest being outstanding since 11 June 2009. This highlights that there are still significant delays at the stage 3 appeals stage. An exercise is currently ongoing within HR to assess whether there is scope for some of these to be resolved through further discussions between management and the employee. The outcome will be reported back to next JCF.

4. People Implications

- 4.1** The number of disciplinary hearings and grievances submitted can impact on both the Council's image as a good employer, and the morale of employees. It is critical that the processes for the management of grievance and discipline are adhered to and that every effort is made to meet agreed timescales in order to avoid unnecessary delay to the resolution of issues which impact on the management of employees and service delivery.

5. Financial Implications

- 5.1** At present there is no mechanism for measuring financial implications. Factors such as time spent on investigations; attending hearings and potential Employment Tribunal claims have an indirect financial impact on the Council.

6. Risk Analysis

- 6.1** Without robust grievance and disciplinary procedures there is a risk to the Council of general unrest and disputes within the Council, and employees submitting claims to employment tribunals for failure to comply with best practice in line with the ACAS Code of Practice and our own procedures.

7. Equalities, Health & Humans Rights Impact Assessment (EIA)

- 7.1** A screening of the report method has been carried out and no significant negative impact has been identified.

8. Strategic Assessment

- 8.1** The effective management of discipline and grievance matters supports the Council's strategic priority to ensure effective service delivery to provide fit for purpose services. Compliance with timescales improves early resolution of disciplinary and grievance matters which directly impact upon employee morale and service delivery.

9. Conclusions & Recommendations

- 9.1** The Council is committed to continuous improvement of the arrangements it has in place for hearing and resolving disciplinary and grievance matters. A number of steps have been taken to address issues and whilst improvement has been made in relation to timescales for Stage 1 and Stage 2 hearings there are still significant delays at Stage 3.
- 9.2** Forum members are asked to note the contents of this report and that JCF will be advised of the outcome of the exercise to resolve some of the outstanding Stage 3 grievances through discussions with management and employees.

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Appendices: Appendices 1-4

Background Papers: Not applicable

Wards Affected: Not applicable

Departmental Breakdown of Disciplinary Hearings and Outcome
Quarter 1 (20011/12) - 1 April 2011 to 30 June 2011

Outcome	Educational Services	Chief Executives	Corporate Services	CHCP	Housing Environmental Economic Development Services	Total
Disciplinary Hearings Totals	1	0	0	2	7	11
Outcome Breakdown:						
Employee did not attend - rescheduled	0	0	0	0	0	1
Resignation prior to hearing	0	0	0	0	0	0
No Action	0	0	0	1	0	1
Demotion	0	0	0	0	0	0
Oral Warning	1	0	0	0	2	3
Referral Agency	0	0	0	0	0	0
Written Warning	0	0	0	1	4	5
Final Written	0	0	0	0	1	1
Dismissal with notice	0	0	0	0	0	0
Dismissal without notice	0	0	0	0	0	0
Disciplinary Appeals Submitted	Educational Services	Chief Executives	Corporate Services	CHCP	Housing Environmental Economic Development Services	Total
Departmental Level	0	0	0	0	0	0
Appeals Committee	0	0	0	0	0	0

Stage 1 - Departmental Breakdown of Grievances Lodged and Grievance Hearings Held

Quarter 1 (2011/12) - 1 April 2011 to 30 June 2011

Stage 1 Grievances Lodged during quarter (6)

Department	Date Lodged	Date Of stage 1 Meeting	Union	Grievance Issue
Chief Executive	07/04/2011	13/07/2011	UNISON	Bullying/Restructure
CHCP	27/06/2011	02/08/2011	UNISON	Bullying/Harassment
	16/06/2011	29/06/2011	UNISON	Language of letter
HEEDS	13/05/2011	18/05/2011	GMB	Bullying/Victimisation
	12/04/2011	19/05/2011	UNITE	Conditions of Pay
	28/06/2011	20/07/2011	GMB	Bullying/Harassment

Stage 1 Grievance Meetings held during quarter (4)

Department	Date Lodged	Date Of stage 1 Meeting	Union	Grievance Issue	Outcome
CHCP	31/01/2011	11/05/2011	N/A	Contractual	Resolved informally
	16/06/2011	29/06/2011	UNISON	Language of letter	Upheld
HEEDS	13/05/2011	18/05/2011	GMB	Bullying/Victimisation	Not Upheld
	12/04/2011	19/05/2011	UNITE	Conditions of Pay	Adjourned -Pending investigation

Stage 2 - Departmental Breakdown of Grievances Lodged and Grievance Hearings Held

Quarter 1 (2011/12) - 1 April 2011 to 30 June 2011

Stage 2 Grievances Lodged during quarter (5)

Department	Date Lodged	Date Of stage 2 Meeting	Union	Grievance Issue
Educational Services	30/06/2011	16/08/2011	EIS	Restructure/Redeployment
HEEDS	15/04/2011	31/05/2011	UNISON	Central Evaluation Outcome
	12/04/2011	31/05/2011	UNISON	Central Evaluation Outcome
	16/05/2011	16/06/2011	GMB	Training & Development Issue
	02/06/2011	11/07/2011	GMB	Bullying/Victimisation

Stage 2 Grievance Meetings Held during quarter (6)

Department	Date Lodged	Date Of stage 2 Meeting	Union	Grievance Issue	Outcome	No. of working days	Reason for Delay in meeting established timescales
HEEDS	03/03/2011	31/05/2011	UNISON	Central Evaluation Outcome	Partially Upheld	64	Grievance issue common to all appellants. Heard by single manager as a 'group' grievance. Difficulties with scheduling dates to accommodate all appellants and during holiday periods.
	15/04/2011	31/05/2011	UNISON	Central Evaluation Outcome	Partially Upheld	33	
	15/03/2011	31/05/2011	UNISON	Central Evaluation Outcome	Partially Upheld	55	
	12/04/2011	31/05/2011	UNISON	Central Evaluation Outcome	Partially Upheld	36	
	03/03/2011	31/05/2011	UNISON	Central Evaluation Outcome	Partially Upheld	64	
	16/05/2011	16/06/2011	GMB	Training & Development Issue	Upheld	24	Employee cancelled due to Jury Duty.
	12/03/2011	05/04/2011	UNITE	Conditions of	Not Upheld	17	Departmental delay in

				Service/Pay			availability.
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Appendix 4

Stage 3 – Appeals Submitted – Current Position as at 9th August 2011

Department	Date Appeal Lodged	Date of Appeal Hearing	Appeal Issue and comments	Resolution Sought
CHCP	11 Jun 09	TBA	Conditions of service / pay / contractual issue. Employee on a different spinal column point from colleagues at implementation of single status and feels he had suffered a detriment.	Appellant wants payment of compensation to make up the difference in payment which lasted one and a half months
HEEDS	24 Aug 09	TBA	Pay/Conditions Management decision to restrict weekends off for staff to 8 per year in addition to their rota'ed weekends off, as annual Leave	Employees wish to have unrestricted access to take annual leave at weekends.
HEEDS	24 Aug 09	TBA	Pay/Conditions Employees work a 3 week rolling rota with a 'short week' and 'long week' which has been in place for several years. Employees claiming they should receive overtime payments for hours worked during the long week.	Overtime payments for the week employees exceed 37 hours.
HEEDS	22 Oct 10	TBA	Payment for accepting new terms and conditions of employment Payment withheld because employee did not sign and return acceptance of new contract of employment which had clear guidance on return date.	Payment of realignment payment
CHCP	11 Jan 10	On hold pending mediation	Contractual Issue The assertion of the appellants is that had they known that the night duty 1/3 enhancement was to be payable then they would have applied for (or should have been given) the positions/accepted such contracts on those terms. Both appellants stated that the posts should have been	That jobs are advertised in future and that financial recompense is given

			advertised, though management asserts that these were advertised.	
HEEDS	18 Jan 10	TBA	<p>Conditions of Service/Pay The appellant had submitted 4 separate special leave applications to accompany her son to hospital appointments.</p> <p>The appellant was paid of the first 2 visits as a good will gesture but not the second 2.</p> <p>The line manager granted the applications on the basis that they were unpaid as the son was over 16 years of age, this being a condition of special leave as set out in part 4.2 Special Leave Policy.</p> <p>The appellant and her trade union rep are of the opinion that the leave should have been paid because her son was 'disabled'. Management rejects this argument on the basis that they do not accept the appellant's son was disabled.</p>	Employee wishes to progress her case to Council as she believes the decision taken is unfair to term time workers.
CHCP	27 May 10	TBA	<p>Recruitment / Redeployment Post not advertised, employee had been covering the post for 8 months and feels he was denied the opportunity of competitive interview.</p>	Assurance that the recruitment and selection policy and procedure will be applied as it should in future.
HEEDS	12 May 10	TBA	<p>Conditions of Service/Pay Employee on a different spinal column point from colleagues at implementation of single status and feels he had suffered a detriment.</p>	Wished to be on same spinal column point as his peer group
HEEDS	28 June 10		<p>Re alignment payment Payment withheld because employee did not sign and return his new SS contract of employment in line with the guidance issued to employees at the time; the appellant refused return his contract of employment because it contained errors</p>	Payment of realignment payment
Corporate Services	5th Aug 10	12 May 2011* To be	<p>Recruitment / Redeployment Partly upheld at stage 2;</p>	Employee seeks rectification of situation.

		reconvened as TU rep unavailable	Appellant argued that a grade 7 job was not advertised in the correct way. This part of the complaint was upheld. Appellant remains aggrieved as she believes she was disadvantaged by the actions taken.	
Corporate Services	24 Nov 10	TBA	Refused Career Break. Employee request for 1 year career break was refused.	Employee wished decision reversed
HEED	10 January 2011	TBA	Conditions of Service/Pay Appellant maintains that he should receive payment for rest periods.	Payment for rest period.
CHCP	8 March 2011	TBA	Dignity at Work Appeal against outcome of dignity at work complaint which was not upheld.	Appeal to be upheld
Education	10 March 2011	Resolved	Dignity at Work Appeal against outcome of dignity at work complaint which was not upheld. This was subsequently resolved and appeal withdrawn on 27 April.	
HEED	18 May 2011	TBA	Conditions of Service/Pay Annual leave pay adjustment for additional hours	Payment or annual leave entitlement for additional hours worked.

Dismissal Appeals

CHCP	02 April 2011		Gross Misconduct Employee was dismissed for gross misconduct; whilst under the influence of alcohol, he interacted inappropriately with vulnerable service users	Reinstatement
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HEED	06 January 2011	11 Aug 2011	Attendance Issues Dismissed for absence record and timekeeping	Reinstatement
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