



**Report to:** Professional Standards Committee

**Agenda item:** 6

**Date:** 25 July 2012

**Subject:** Employment Tribunal and Grievance (Dispute Resolution) Update

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**For:** Information

**1. PURPOSE OF PAPER**

1.1 This paper is presented to update the Professional Standards Committee on the latest position in respect of Employment Tribunal (ET) and Grievance (Dispute Resolution) cases.

**2 EMPLOYMENT TRIBUNALS**

2.1 From 1 April 2011 to 31 March 2012 there were 18 ET claims submitted. This compares with 21 submitted during the 12 month period April 2010 to March 2011.

2.2 The table below shows the current Employment Tribunal status for this quarter to 30 June 2012 and as requested shows the previous quarter for comparison purposes.

<b>ET STATUS</b>	<b>This quarter</b>	<b>Last quarter</b>
No. of Live ET's (at end of quarter)	9	11
No. of New ET's (during quarter)	2	3
No. of Closed ET's (during quarter)	4	2
No. of Live ET Appeals (at end of quarter)	1	0
No. of New ET Appeals (during quarter)	1	0
No. of Closed ET Appeals (during quarter)	0	0

2.3 The table below shows the claim reasons for the 9 current live employment tribunals

N.B. This total will not equal the total number of ET's as some individuals have more than one reason for claim.

<b>REASON FOR CLAIM</b>	<b>NUMBER</b>
Sex (including pay) discrimination	5
Disability discrimination	0
Sexual orientation discrimination	0
Race discrimination	4
Religion or belief discrimination	0
Age discrimination	4
Unfair dismissal (including constructive dismissal)	3
Whistleblowing	1
Other payments owed	0
Other complaints	4

2.4. In the period since 1 April 2012 we have proceeded to two ET hearings.

The first case of race discrimination which was scheduled for a 10 day hearing was withdrawn by the claimant on the first day. Although this had involved lengthy preparation, it was a good outcome as we had robustly resisted requests for settlement.

Early in May we successfully defended an age discrimination case and were unusually awarded costs. This is the case that is now at EAT. We are not yet sighted on the grounds of Appeal. A three day sex and sexual orientation discrimination claim due to be heard in June 2012 was also withdrawn at late notice when we put the claimant on a costs warning.

2.5 No further cases are listed for hearing during the Olympic period, although we will continue to prepare for three hearings listed for September and October 2012.

### 3 GRIEVANCES

3.1 The last paper presented full year reporting. This paper looks at the first quarter in 2012/13.

For the period 1 April 2011 to 31 March 2012, 106 grievances were recorded.

At the end of this quarter (April 2012 to June 2012) 15 were finalized, 1 was derecorded, and 18 are live, this being a slight increase on the conclusion of the last quarter where 15 were live.

#### 3.2 Grievance Analysis

3.2.1 Analysis has been undertaken on the grievances recorded for the period April 2012 to 30 June 2012.

**Importantly, the small time period and small numbers of some of the datasets, reduces the statistical significance. Additionally, this may affect the validity of some of the observations and conclusions.**

(Actual case numbers are shown in brackets next to percentages)

3.2.2 In addition where Areas are referred to, these relate to the Area where the aggrieved works. It does not always reflect the Area where grievance management has taken place as often, especially at appeal (Stage 3), grievances will be allocated off Area for resolution to ensure independence.

#### 3.3 Stage of Resolution

The following table shows the stages at which the 15 grievances were finalised.

	Stage One	Stage Two	Stage Three
<b>FHQ</b>	100.0% (2)	0.0%	0.0%
<b>London North Area</b>	0.0%	100.0% (2)	0.0%
<b>London South Area</b>	0.0%	100.0% (1)	0.0%
<b>London Underground Area</b>	25.0% (1)	25.0% (1)	50.0% (2)
<b>North West Area</b>	100.0% (1)	0.0%	0.0%
<b>Western Area</b>	60.0% (3)	20.0% (1)	20% (1)
<b>Average</b>	46.7% (7)	33.3% (5)	20.0% (3)



- The majority of cases (46.7%) were resolved at stage one. This is an improvement from the last report in which only 24.2% were resolved at stage one.
- There has been a very slight increase in cases advancing to stage 3 from 17.6% (on previous report), up to 20% for the most recent quarter.
- FHQ have resolved 100% (2 cases) at stage one. This is an improvement on the last report, where only 26.3% of cases were resolved at stage one.
- London underground has the highest proportion of cases advancing to stage three (50%). This is an increase from the previous report (23.1%), although statistically is only 2 cases.
- FHQ, NW (one case only) and WW areas are all higher than the average in terms of cases resolved at stage one.
- FHQ and NW have no grievances advancing beyond stage one.

### 3.4 Average Time to Resolve

**It should be noted that grievances are sometimes allocated off Area for resolution.**

The following table shows the time taken to resolve each of the 16 grievances finalised this period.

	<40days	40-70days	>70 days
<b>FHQ</b>	100.0% (2)	0.0%	0.0%
<b>London North Area</b>	0.0%	50.0% (1)	50.0% (1)
<b>London South Area</b>	0.0%	100.0% (1)	0.0%
<b>London Underground Area</b>	40.0% (2)	0.0%	60.0% (3)
<b>North West Area</b>	0.0%	100.0% (1)	0.0%
<b>Western Area</b>	60.0% (3)	0.0%	40.0% (2)
<b>Grand Total</b>	43.8% (7)	18.8% (3)	37.5% (6)

By comparison with last year there is a similar trend

<b>2011/2012</b>	<b>&lt;40 days</b>	<b>40-70days</b>	<b>&gt;70 days</b>
<b>Grand Total</b>	42.9% (39)	15.4% (14)	41.8% (38)

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- Just over two fifths of grievances (43.8%) are resolved within 40 days, with a slightly lower proportion (37.5%) taking more than 70 days.
  - FHQ resolved 100% of grievances (2 cases) within 40 days.
  - Aside from FHQ, Western Area had the highest percentage of cases (60%) resolved within 40 days, compared to 23.1% in previous report.
  - London Underground has the highest percentage (60%) of cases that take more than 70 days to resolve, compared with 46.2% in previous report.
  - LN has previously had the highest proportion of cases which took more than 70 days to resolve (66.7% in the most recent and 67% in the one prior to that, compared to 50% in this report).
  - Two grievances were resolved within a day (one at HQ and one at LU), though one case took as long as 211 days (LU) and another 270 days (WW) to be resolved.
  - The actual numbers of grievances are too small to merit looking at the average number of days taken to resolve a case, as in some cases the average may only relate to one case.

### 3.5 **Grievances by Area Compared to Staff Levels (Finalised and Live)**

3.5.1 The table below shows the grievances per 100 employees, utilising both the 'finalised' and the 'live' data. The live data only includes what area (HQ, LN etc.) the grievance comes from, and not specifically where from (Police Staff, PCSO etc.). Hence why there is only a total figure and not a breakdown.



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<b>Grievances per 100 Employees</b>	<b>Total (Finalised &amp; Live Grievances)</b>
<b>FHQ</b>	0.62
<b>London North Area</b>	0.45
<b>London South Area</b>	1.02
<b>London Underground Area</b>	0.59
<b>North East Area</b>	0.51
<b>North West Area</b>	0.26
<b>Scotland Area</b>	0.74
<b>Western Area</b>	1.74
<b>Total</b>	0.70

- On average, there were 0.70 grievances per 100 employees. This is not comparable to previous data as this figure only relates to grievances for this quarter (therefore will be significantly lower).
- WW area has highest overall level of grievances (1.74). This has also been the case in the last two reports.
- LS has the second highest grievance rate (1.02).
- In the previous report, NE had the second highest grievance rate. They now fall well below the average.
- NW has the lowest grievance rate per 100 employees at 0.26.

3.5.2 An action from the last PSC meeting was for BTP to provide further information on comparative grievance data with other forces to help understand the context. The last paper showed that we appeared to have far more grievances per 100 officers than some other Forces.

We contacted a small scale sample of Forces in an attempt to explore the methods by which other Forces define and record grievances, together with establishing process differences in comparison to the one currently adopted by BTP. Forces sampled for the purpose of this research include: Hertfordshire, West Mercia, Sussex, South Yorkshire and South Wales, Gloucestershire and Kent.

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In order to explore the patterns and processes that shape these Forces in respect of disputes resolution, research undertaken was based on a series of semi-structured questions, followed up by short telephone interviews for clarity where necessary.

All forces surveyed advised official, annually published grievance figures to exclude complaints resolved through informal process together with those resolved through mediation. All grievances formally logged at stage 1 are included as part of the overall figures for the qualifying year.

In respect of West Mercia constabulary, whereas it was thought that mediation together with resolution through informal process were 'likely; to be the result of low numbers of complaint actually recorded [although no statistics are available in support of this], it was perceived that effective employee representation, underpinned by high-trust relations between line managers, employee representatives and HR personnel appear to be essential in minimising complaint submissions.

Further, the use of union committees to screen grievances has resulted in a tendency to discourage the filing of grievances.

The majority of respondents [with the exception of Hertfordshire] placed significant emphasis on the importance of informal processes in resolving grievances. While it was acknowledged that certain matters have to be dealt with through procedure, informal resolution was seen as crucial.

The findings underline the importance of the informal processes in resolving disputes. Most respondents believed that it was preferable to deal with grievance matters informally, wherever practicable.

Finally, findings support arguments that recognised unions, police federation together with established support groups play a key role in both managing and moderating complaint outcomes. Hence representatives are seen as being central to informal

processes of dispute resolution, before, during and after the onset of formal procedure. They act as an early warning system, a channel of communication and even as an additional support mechanism in trying to ensure that unacceptable behaviours are corrected. However, this is seen to be crucially dependent on the nature of the relationship between union representatives, operational management and HR personnel. Informal processes were predicated on trust where time was taken to invest in these relationships, informal processes were effective in minimising grievances. But where relationships were kept at arms length, formality and inflexibility hampered successful and mutual dispute resolution.

Essentially, West Mercia constabulary identified lower complaint numbers as a result of effective union management and consultation on a whole variety of workplace issues on an open and on-going basis.

Hertfordshire were identified as being more in favour of following formal procedure as opposed to informal resolution and/or mediation, often determined by the perceived complexity of complaints.

These findings have helped shape the proposed Resolution SOP that the Strategic Command team considered in July. This needs further amendments and will be finalized and consulted on over the Olympic period with a view of relaunching in September with the new Values. As previously advised the emphasis will be on encouraging speedy local and informal resolution in the majority of cases.

### 3.6 Grievances by Category (Finalised and Live)

Data in table below is based on a total of 34 (16 finalised and 18 live) grievances.

	<b>Bullying &amp; Harassment</b>	<b>Discrimination</b>	<b>No Grounds</b>	<b>Pay, Conditions, Contract</b>
<b>HQ</b>	42.9% (3)	42.9% (3)	0.0%	14.3% (1)





<b>London North Area</b>	66.7% (2)	0.0%	0.0%	33.3% (1)
<b>London South Area</b>	50.0% (3)	16.7% (1)	0.0%	33.3% (2)
<b>London Underground Area</b>	16.7% (1)	33.3% (2)	16.7% (1)	33.3% (2)
<b>North East Area</b>	0.0%	50.0% (1)	0.0%	50.0% (1)
<b>North West Area</b>	0.0%	0.0%	100.0% (1)	0.0%
<b>Scotland Area</b>	100.0% (2)	0.0%	0.0%	0.0%
<b>Western Area</b>	28.6% (2)	0.0%	14.3% (1)	57.1% (4)
<b>Total</b>	38.2% (13)	20.6% (7)	8.8% (3)	32.4% (11)

- The highest proportion of grievances (38.2%) falls under the 'Bullying & Harassment' category. This is an increase from the last report (33.7%).
- Conversely, 'Pay, Conditions, Contract' related grievances have dropped from 38.2% (previous report) to 32.4% in this quarter.
- In the previous report, LU had the single highest proportion of grievances (69.2% under 'Pay, Conditions, Contract'). This has fallen to 33.3% in this quarter. WW area has a higher proportion (57.1%) of grievances raised under 'Pay, Conditions, Contract' category than average (32.4%).
- NW have no grievances in either the 'Bullying & Harassment' category or the 'Discrimination' category.

#### **4 DIVERSITY ISSUES**

##### **Grievances by Gender and Ethnicity**

- For both the following tables, the total numbers of grievances have been included in order to put into context the percentages.
- 'Finalised' data has been used for both gender and ethnicity as the 'live' data has no breakdown of these.

##### Ethnicity

- In each of the four categories in the below table, there was also a relatively small number of individuals whose ethnic description was 'Not Stated'. They have been included in the total headcount and so may slightly affect the validity of results.



Grievances	Proportion BME	Proportion of grievances raised by BME staff	Total Number of Grievances
<b>Community Support Officers</b>	14.5%	100.0% (1)	1
<b>Other Police Staff</b>	18.1%	100.0% (1)	1
<b>Police Officer</b>	6.9%	14.3% (2)	14
<b>Special Constables</b>	10.9%	0.0%	0
<b>Total</b>	10.9%	25.0% (4)	16

- Of note, 4 out of 16 (25%) of grievances were raised by BME staff. This is disproportionate to the total percentage of BME staff within the force (10.9%). This is consistent with the last report in which 15.09% of all grievances were raised by BME staff, compared to 11% employees who were BME.
- BME Police Officers raised 14.3% of grievances compared to the overall BME Police Officer proportion of only 6.9%.  
SAME, the BME support group, have not raised concern of any particular nature or theme, but we will continue to monitor this and review grievance cases to assess potential issues. As yet there are none evident.
- PCSO's and Police Staff each only had one grievance for the quarter. These were both raised by BME staff. It cannot be established if this is of any significance as only one instance.

Gender

Employee Type	Proportion Female	Proportion of grievances raised by Females	Total Number of Grievances
Community Support Officers	22.4%	0.0%	1
Other Police Staff	52.5%	100.0% (1)	1
Police Officer	15.9%	21.4% (3)	14
Special Constables	12.5%	0.0%	0
<b>Total</b>	26.7%	25.0% (4)	16

- It was observed that 4 out of 16 grievances (25%) were raised by females. This is not disproportionate to the total number of staff within the force who are female. This compares with 23.58% in the previous report.
- 21.4% of grievances raised by police officers were raised by females. This is slightly higher than the proportion of all officers who are female (15.9%). This is consistent with the findings of the last two reports.
- In keeping with the last two reports, 100% of grievances raised by PCSO's are raised by males. This is disproportionate to the proportion of male PCSO's (77.6%), but under reporting of grievances from female PCSO's is not considered a concern.

## 5 RECOMMENDATIONS

- 5.1 It is recommended the Committee note the content of this report, and raise any issues for further research/future reports.