

**By:** Director of Personnel & Development  
**To:** Personnel Committee - 11 September 2008  
**Subject:** Joint Review of Harassment & Grievance Cases 2008  
**Classification:** Unrestricted

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**SUMMARY:** This report replicates that presented to Corporate Consultative Committee earlier this year detailing the outcome of a joint review between unions and Personnel & Development on the treatment of new harassment and grievance cases presented between January and June 2008.

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## **1. Background**

A joint review of new cases raised between January and June 2008 was conducted in response to concerns raised by UNISON and GMB about the way they understood KCC was handling claims of harassment and grievances. The purposes of the review was to examine the triggers for these cases, the use of mediation, the outcomes and other factors outlined in the terms of reference (attached).

## **2. The Review Panel**

The review panel comprised UNISON and GMB representatives, Policy Manager (Corporate Employee Relations) and the Schools Personnel Services Manager.

## **3. Scope of the Review**

The original intention was to review a sample of 25 cases in all over the defined period (10 grievance, 15 harassment). In fact the panel considered all harassment and grievance cases that arose which amounted to 45 (17 harassment 28 grievance) in total.

The information collected on cases was supplied by Personnel Teams across KCC included the Schools' Personnel Service and included both cases in which the individual was support by a union and those involving unrepresented people.

## **4. Methodology**

The panel met 3 times over the period and undertook a paper review of all cases including, on occasion, access to detailed background documentation. At the last meeting, due to a notable increase in cases

between meeting supplied by the Personnel Team supporting Communities, Environment & Regeneration and Chief Executives, a Senior Personnel Officer was present to provide additional details.

## **5. Findings**

### **5.1 Triggers**

The initiating factor in cases varied considerably. Examples for grievance include:

- Content of employment reference
- Issues relating to facilities time for trade union duties
- Occupational Health referral, advice and management action resulting
- Inclusion on transfer list
- Exclusion from redundancy consultation
- Treatment during restructuring
- Extension of probation following sickness
- Claim for back pay relating to secondment

#### **Examples for Harassment & Bullying include:**

- OH referral and/or the management of sickness absence
- A breakdown in relationships between colleagues
- 1 instance of a sexual harassment allegation
- 1 instance of a racial harassment allegation
- Managerial approach/style

### **5.2 Duration of Cases**

In the main cases were managed within a reasonable timeframe reflecting the ideal turnaround within procedures whenever possible. There were generally good reasons for delays including, for example, an extended investigation due to the number of witnesses and complexity of a harassment case.

### **5.3 Extent of involvement of Trade Unions/Workplace Representatives**

The employee was represented in 9 of the cases that had progressed to investigation or hearing. It should be noted that some cases are on-going and have not yet reached this point.

### **5.4 Mediation**

Mediation appeared to be offered as part of attempts to resolve relationship breakdown where it was deemed appropriate in the circumstances.

## 5.5 Grievances

The panel noted that grievances appeared at different stages of the procedure and was able to view the management response to those upheld. Outcomes varied according to the context of the grievance and included taking an individual off the 'transfer list' for a TUPE transfer, the implementation of flexible working for an individual, the offer of alternative work and a reference letter being adjusted.

## 5.6 Outcomes

The outcomes of those cases that have been concluded or resolved for each directorate during the period varied considerably.

### CFE

<b>Grievance</b>	<ul style="list-style-type: none"> <li>• Not upheld although management practice improved as a result</li> <li>• 2 Upheld in part</li> </ul>
<b>Harassment/Bullying</b>	Harasser dismissed

### Communities, Environment & Regeneration & Chief Executive's Directorates

<b>Grievance</b>	<ul style="list-style-type: none"> <li>• 4 Not upheld</li> <li>• Resignation</li> <li>• 3 Upheld</li> <li>• Informal resolution (pre hearing)</li> </ul>
<b>Harassment</b>	<ul style="list-style-type: none"> <li>• Withdrawn</li> <li>• 2 mutual termination</li> </ul>

### KASS

<b>Grievance</b>	<ul style="list-style-type: none"> <li>• 4 Not upheld</li> <li>• 2 Upheld</li> </ul>
<b>Harassment</b>	<ul style="list-style-type: none"> <li>• 2 No case to answer found following investigation</li> </ul>

## 6. Summary

Overall the Panel were satisfied that the basis of complaints from staff was varied and did not exclusively originate from management action. Whilst there was no discernable trend to the triggers, it was noted that in the cases covered by the Personnel Team supporting Communities, Environment & Regeneration and Chief Executives, there was a high

number of cases that had arisen directly resulting from managers attempting to better manage attendance. It was also notable that several people objected to OH referrals or action resulting from those referrals.

There was no significant evidence to substantiate previously expressed views that managers were consistently failing to respond to staff complaints. The diverse nature of the harassment cases made it difficult to draw meaningful conclusions about the way the council responds to specific types of harassment complaint.

The outcomes of the resolved cases indicate that when there is merit in the criticisms levelled at KCC managers or processes adjustments are made whenever practicable to redress the situation.

Two harassment cases have resulted in disciplinary hearings (one heard, one to be heard) and in the first case the harasser has been dismissed. There have been no complaints during the period relating to the outcome of a harassment investigation.

The use of mediation when appropriate, evidence of varied 'resolutions' and the maintenance of momentum in managing cases indicated KCC managers, with P&D support are handling staff complaints well.

**7. Personnel Committee is asked to note**

The findings of the review which were shared with Corporate Consultative Committee (CCF) in June 08.

CCF proposed the review of harassment and grievance cases continue and be reported on an annual basis to CCF and the Committee.

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