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To: Personnel Committee

Date: 18 May 2011

Subject: Disciplinary and Grievance Activity

Classification: Unrestricted

SUMMARY: This report updates Personnel Committee on discipline and grievance activity for the last 6 months of 2010/11, including details of appeals.

1. Introduction

1.1 This update is provided as the 6 monthly report agreed when significant changes to the disciplinary process were made in 2004. Whilst statistical in nature, Employee Relations activity represents a significant proportion of time for many HR professional, and has immediate impact on service managers who value the support in this area. This report covers Employee Relations activity (excluding in schools) from October 2010 to March 2011, together with an indication of change from the previous 6 month update.

2. Activity for October 2010 to March 2011 – Additional Cases

2.1 In this period an additional 229 cases have been initiated. The nature and complexity of activity varies considerably depending upon the circumstances of each individual case. This represents a decrease in overall numbers from the previous 6 month period, although it should be noted that the previous 6 month data was unusually high. This figure only represents newly initiated formal cases and the overall “caseload” for the HR division is considerably higher.

2.2 As the Government consider the latest consultation on ways to reduce the vast numbers of Employment Tribunal applications (approximately 200,000 in the last year), as an organisation we have seen very few. However there have been more internal appeals, suggesting employees are increasingly prepared to exercise their ability to challenge decisions by the County Council but not go as far as a Tribunal. It is reasonable to assume that this will in part be due to the robustness of our procedures and decisions made by KCC managers and our appeals process.

2.3 The HR division continues to develop its network of those colleagues involved in this specific area of activity, sharing best practice and increasingly levels of knowledge and experience. The current HR restructure proposal will further enhance this with all advisers coming under single management. One of the aims of this greater coordination is an increasing confidence to support and advise managers on the basis of risk management principles consistently. This is not to compromise the organisation’s responsibilities and duties under employment law, but that circumstances and resolutions are as critical as the process.

- 2.4 The summary below shows cases initiated over the 6 month period, with the previously 6 months from 2010 equivalent figure in brackets:

ADDITIONS

Type of Cases	2010/11	2010
Disciplinary	88	(87)
Capability - Poor Performance	26	(49)
Capability - Ill Health	64	(164)
Capability – Other	5	(6)
Grievance	21	(36)
Harassment	7	(11)
ET	3	(4)
Appeals	15	(10)
Total	229	(367)

- 2.5 Overall discipline, including capability, represents 80% of all ER activity. It is encouraging and positive that the numbers of grievances has reduced, particularly in the current climate of change, which typically sees this increase. In previous years a number of grievance and harassment complaints have been attributable to the better management of attendance.

3. Activity for October 2010 to March 2011 – Cases Resolved

- 3.1 The following summary shows the cases that have been resolved in the last 6 months. This will not correspond to cases from the previous summary as there is a “rolling effect” for such activity and many of the resolved cases will have been initiated before October 2010.

RESOLVED

Type of Cases	2010/11	2010
Disciplinary	53	(95)
Capability - Poor Performance	18	(27)
Capability - Ill Health	86	(133)
Capability - Other	5	(12)
Grievance	24	(32)
Harassment	3	(17)
ET	3	(6)
Appeals	12	(18)
Total	204	(340)

- 3.2 There has been a corresponding decrease in the number of cases concluded as with additions for the same 6 month period, though we have maintained the balance of resolving the same number as initiated. Most of the appeals are for either redundancy or lower levels of the disciplinary process, only 2 of which were against dismissal and are detailed in the next section of the report.

4. Senior Officer Appeals

4.1 There have been only 5 Senior Officer appeals resolved in the 6 month period to March 2011. The summary below outlines where the cases originated, the time between the original decision the Senior Officer appeal panel and the outcomes.

Directorate	No of Appeals	Time from decision to Appeal	Outcome(s)
KASS	2	43 days 44 days	2 x Dismissals upheld
Chief Execs	0		
CFE	1	41 days	Dismissal upheld
Communities	1	116	Appeal against downgrading unsuccessful
EHW	1	54	Dismissal overturned
TOTAL	5		4 x upheld 1 x overturned

4.2 Of the 5 it should be noted only 1 was related to conduct, the other cases were concerned with some aspects of health, performance or attendance and in one case the unsustainability of the employment relationship. Although, small in numbers, the nature and outcomes of these cases reflects an increasingly robust approach to managing performance. Only one of the 5 cases was overturned and replaced with an alternative sanction. The time taken to arrange appeal hearings can be affected by a number reasons including delays by the appellant, with one exception, over the Christmas period, most appeals are taking place within 2 months of the decision to dismiss, downgrade or transfer.

4.3 The new Directorate configuration will make like for like comparisons difficult in the future, though overall activity levels will be evident. Those supporting such activities will also be brought under single management from June 2011 which is anticipated to improve the consistency of support and outcomes to this area of HR practice.

5. Recommendations

5.1 That the Personnel Committee notes the six monthly report of employee relations activity and that of recent appeals hearings.

5.2 Personnel Committee determine whether it is timely to review the content and timing of such reports.

Background documents: None

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