

## EMPLOYEES' CONSULTATIVE FORUM: 4<sup>th</sup> July 2012

### UNISON REPORT ON FAIRNESS AND CONSISTENCY IN DIGNITY AT WORK COMPLAINTS- NATURAL JUSTICE A BASIC FUNDAMENTAL RIGHT

#### SUMMARY AND DECISION REQUESTED

UNISON is alarmed at the perverse decisions and outcomes when our members have utilised Harrow Council's Dignity at Work (grievance) procedure. Some decisions are contradictory and without evidence to corroborate the judgement/s made. We therefore call on ECF to authorise a review of all Dignity at Work outcomes over the last two years to seek assurance that our members and its staff have been treated in a fair and consistent manner and that all decisions can be corroborated and verified with evidence in accordance with the rights of natural justice.

#### CHRONOLOGY

| DATE       | ACTION             | OUTCOME  |
|------------|--------------------|--|
| April 2012 | ECF Agenda Item 10 | Senior HR Officer found nothing untoward or perverse with a cited Dignity at Work outcome. |

#### REPORT

The Council's Fair Treatment Suite (encompassing the Dignity at Work, Conduct and Capability Procedures) aim's to treat all employees fairly and consistently should they be subject to formal proceedings or where situations in the workplace require an employee to lodge a complaint formally. The Dignity at Work procedure (grievance procedure) is underpinned by commitments to equality and diversity and should be in compliance with ACAS guidance and its best practice principles. ECF members will note that this procedure can deal with very difficult and sensitive issues such as discrimination (e.g. race) and bullying and harassment.

On every occasion an employee or one of our member's uses the Dignity at Work Procedure there is an obligation on the employer's part to act in accordance with the rules of natural justice and to investigate the aggrieved employee's grievance without bias or prejudice and to act in good faith. UNISON consider the right's of our members to obtain redress to any grievance in any workplace in Harrow a basic and fundamental human right.

It has been well documented over the past several years that UNISON has been greatly concerned with the application of the Dignity at Work procedure since the non-contractual suite was unilaterally imposed by the previous Council Administration in 2008 & 2009. We have highlighted the inconsistencies in application of the procedure in relation to the overly long and protracted time it takes certain departments to deal with our members grievances (some 7-9 months). At ECF in April 2012 the Council provided a table for the reasons behind each of the delays which we believe have been aided and facilitated by the fact that the

timescales governing the procedure are now non-contractual thus removing any liability should timescales not be adhered to by management.

At this meeting UNISON also raised a rather disturbing occurrence which we firmly believe is negatively impacting our member's rights to natural justice. We have become increasingly alarmed with management recommendations in attempting to resolve our member's complaints. ECF was informed that management decisions in deciding whether to uphold an employee's complaint are uncorroborated, without evidence and also, applying the most apt legal term in describing some of these decisions, 'perverse'.

Following April's ECF meeting the HR Divisional Director analysed the outcome of one grievance in question and found nothing untoward which suggested that an incorrect and unfair recommendation had been made. UNISON disagreed with this assessment and our position on this matter has been further compounded by the latest decisions which unfortunately reveal perverse judgments which we believe identify 'less than satisfactory processes' and have eroded our members rights to natural justice.

UNISON refers to two recent Dignity at Work complaints. The first within Corporate Finance witnessed the failure of the senior officer hearing the complaint to acknowledge the blatant disregard of the Council's Code of Conduct in the adherence to Corporate Governance procedures. The second, a race discrimination case in the Community, Health & Wellbeing Directorate (Housing), witnessed the senior officer not upholding the complaint on appeal but acknowledging that a 'lessons learned exercise' had to be undertaken in a review. This we believe is contradictory because if lessons had to be learnt then it is quite clearly obvious that a wrong has occurred to the aggrieved in question.

We are finding that all too often a protectionist culture pervades which appears to paste over previous indiscretions and errors on management's part to the detriment of our members rights to fairness and consistency. Given the seriousness of this latter case, a fair and balanced decision would prevent possible legal claims against the employer without the need for employees to seek legal redress outside the Council's internal procedures. We do not wish to chastise those publically accountable senior officers or reprimand them but if mistakes have been made then it is right and proper that previous decisions are reviewed and the managers in question are reminded of their responsibilities as purveyors of natural justice to uphold this basic right in all workplaces in Harrow. We therefore call on ECF to authorise a review of all Dignity at Work outcomes over the last two years to seek assurance that our members and staff of Harrow Council have been treated fairly, consistently and that all decisions can be corroborated and verified with evidence in accordance with the rights of natural justice.

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