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Mr David Earnshaw

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Date 1st October 2010

Appeal against grievance outcome

Dear Mr Bairstow

I am writing to inform you that I would like to appeal the decisions of Mr Damian Fisher not to uphold my grievance in his feedback/outcome letters dated 6th May 2010 and 16th September 2010.

The Basis of my appeal is as follows.

Time Factor

Due to the disproportionate time taken (30th November 2009 and 16th September 2010) I believe management have been reluctant to address my complaints promptly. This point was raised with you in my letter dated 26th April 2010 and accompanying notification of grievance. I also believe due to this lengthy process coupled with changes made to the investigating personnel there was confusion as to who investigated raising the question of fairness.

Standard of Fairness

I'd previously raised concerns personally as regards to the criterion of proof or evidence being put forward. I first voiced my concern during 18th May 2010 meeting, and again via an email to Mr Fisher dated 14th June 2010 - However I note Mr Fisher accepts in point 8 of his outcome letter dated 16th September 2010 that my perception was that management were bullying me.

For this reason I believe there is enough cause of probability for my ex-employers to have acted.

Suspension

I believe the reason not to uphold my complaint regarding suspension is based solely the evidence put forward by Mr Turner (feedback letter 6th May 2010) However I don't believe adequate consideration was given as to whether Mr Turners cause for suspension was a universally enforced policy or procedure imposed throughout the workforce. That said if Mr Turner's interpretation was not obligatory then was there reason to believe I'd been singled out as an individual and therefore treated differently to that of other Bradford Council employees.

As no evidence suggests other Bradford Council employees in similar circumstances have been suspended I would for that reason have to question if management considered other options open to them before making the judgment to suspend, and if not why not?

I would also note that the decision to suspend was taken on the 28th July 2009 this being prior to any formal complaint being made by Mr Hooper and prior to the instigation of any police involvement in which Mr Hooper has named Mr Kazimier Iskauskas as being the manager referred to in the West Yorkshire Police Log dated 28th July 2009. I also note Mr Iskauskas is also the manager who denies breaking confidentiality rules by discussing with Mr Peter Hey confidential matters, while appearing as a hostile witness during my disciplinary hearing on the 29th September 2010 a clear bias involvement

Given the above I believe management have also failed to follow Bradford Councils own Disciplinary Procedure covering the issue of suspension in section 7 and specifically 7:10

7.3 All reasonable alternatives to suspension such as relocation to a different place of work or re-allocation of duties must be considered, prior to the decision to suspend.

7.4 Every effort must be made to avoid lengthy periods of suspension.

7.10 The suspension will be reviewed after 2 months and on a monthly basis thereafter by the nominated officer. The suspended employee will have an opportunity to make written representations at each review if he or she wishes to do so and will be informed of the outcome of each review.

At no time during the 14 months of my suspension did management inform or given me the opportunity to make any written representation on my own behalf at those reviews.

Terms of Reference and instructing investigating officer

Although Mr Fisher partially uphold this complaint I believe some significant points had been over looked, and here I'm referring to Mr Goodall having prior knowledge of injuries suffered and police involvement suggesting Mr Whyte liaises with the police **before** Mr Hooper had made his official police statement.

The above is overview of my some of my concerns however I will know only concentrate on the feedback letter dated 16th September 2010 from Mr Fisher.

Complaint 1 Poor Relationship

Again Mr Fisher makes note of my perceptions and recognises that there were problems with management at Stockbridge Depot, but as I haven't had sight of any evidence or signed statements I'm unable to make comment, but would suggest if I was the only one experiencing problems then yet again an indication I was being singled out and being dealt with differently.

Complaint 2 Reasonable when dealing with Trade Union actives

I take issue with the conclusion made in this section as I've never demanded any release nevertheless evidence in the Union Log would suggest that refusal to release was common practise. However I would also add that in the past senior personnel, and my regional officer have had to interject on my behalf to secure my attendance at meetings including OJC level 1 and IR Framework.

With regards to the use of the porta-cabin this was no more than what was offered to all stewards of all Trade Unions with the exceptions that I was restricted to using this facility only before or after my working day.

I also take issue with the notion that I was allowed day release for college, and other union trade union courses. The simple truth is that since 2007 I'd been refused any and all release to attend any and all trade union course or allowed to further my education, and due to managements refusal to release I was also reduced to taking holidays whenever I needed to attend University or seminars. It should also be noted that I was also refused admittance onto an employer funded ILM course by Mr Whyte again an indication I believe of being treated differently to that of other employees.

Complaint 3 Mr Iskauskas

I have already referred to Mr Iskauskas and his dependence on the defence of denial an indication that Mr Iskauskas believes he's being protected from accountability as I've already stated.

Complaint 4&6 Hospital Appointment Carpal Tunnel Syndrome

Management insistence they only requested I change my appointment and didn't refuse my attendance is simply not true. Management were aware 3rd July 2009 Hospital administration had requested my attendance if at all possible, and it was only at management's insistence that I contact them again and cancel my appointment as I wasn't being released. I duly contacted them again, and rearranged the date resulting in my emailing Mr Simon Mountain regarding my concerns

With regards to managements assertion that they wasn't aware of my CTS until July 09 is also simply not true, and with regards to my reporting my diagnosed CTS to management the evidence is clear unambiguous, and has already been submitted to or is available to management.

That said I would however make the point that when I first visited occupational health on the 29th July 2009 I conveyed to them my concern at that time that I felt managements referral on this occasion was not one of concern for my wellbeing, but one of capability and dismissal. I also made them aware of the times and dates of medical treatment I'd received thus far as a result of my condition.

Occupational health duly consulted with my GP who I believe agreed with my overview of the situation.

This is the time line

I requested time off to attend **Airedale Hospital** at 2:30 Thurs **15th January 2009** for a Nerve conduction test (management agreed so were aware)

16th January 2009 I informed my line manager that the NCT had indicated CTS.

23rd Feb 2009 GP inform me CTS was diagnosed and the prognosis would be in all likelihood surgery on both wrists however I would need to under go a series of injections first.

24th February 2009 I relayed this information to Management

9:40am Wednesday 4th March 2009 I requested time off to attend a doctor's appointment regarding medical treatment for my CTS (management agreed so were aware)

All other treatments were arranged in my own time - **Monday 27th April 2009** and **Monday 18th May 2009**

However I should also draw attention to the **18th May 2009** as this appointment was the reason I gave for not wanting to attend a manual handling course on that date (management agreed so were aware) These issues were also discussed via emails between Mr Simon Mountain, Mr C Goodall, and myself over the period 6th-8th July 2009

Nonetheless the evidence would suggest management were made aware of my CTS on several occasions between January 2009 and July 2009 and although they chose not to act on this information. I also feel aggrieved that management now argue that because I didn't break time from my employment at that time that somehow this absolves them from any duty of care towards my wellbeing.

In conclusion

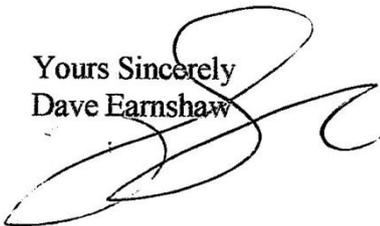
I am mindful that Bradford Council as my former employer is unable to openly acknowledge the presence of bullies or bullying within their workforce for fear of allegations of vicarious liability.

I do however don't believe my former employers best defence against bullies and bullying within the workplace is simply to deny a problem exists whereby management are not to be held accountable for their own action. I write this to formally state that I believe there is a culture of intimidation and bullying within the Stockbridge Depot Keighley.

Therefore I'm of the opinion that Bradford Councils policy of denial will only serves to encourage those who do bully to have a false sense of employer protection.

Can I thank you in advance for taking the time and trouble to read this letter.

Yours Sincerely
Dave Earnshaw

A handwritten signature in black ink, appearing to be 'Dave Earnshaw', written over the typed name.

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