

Mr David Earnshaw



Tel 07 [redacted]  
Date 26 April 2010

Mr Ian Bairstow  
Strategic Director  
Department of Environment and Neighbourhood  
6<sup>th</sup> Floor Jacob's Well  
Bradford  
West Yorkshire  
BD1 5RW

**RE:- Workplace Grievance 30<sup>th</sup> November 2009**

Dear Mr Bairstow.

I refer to your letter dated 4<sup>th</sup> December 2009 in which you acknowledge receipt of my ongoing grievance dated 30<sup>th</sup> November 2009

Your letter also asserts that despite the seriousness of my complaint there is no reason to postpone any disciplinary action being taken, a decision I believe to be erroneous since I will argue that the outcome of my grievance will have a direct impact on my defence, and is therefore tied into any disciplinary action. I will further argue that I don't believe a fair decision would be reached until my grievance is resolved.

I also note Angela Brown will assist Dawn Priestley (23<sup>rd</sup> December 2009) as HR Officer dealing with my grievance, while also having involvement with Brian Whyte (29<sup>th</sup> July 2009) and the workplace investigation.

However with that said I feel 5 months has been more than ample time for management to bring to a close my grievance. I'm also mindful that any time delay in concluding my complaint will limit my ability to seek redress elsewhere.

Therefore please find attached to this letter a modify grievance which I hereby resubmit with the following additional evidence and information from this date 26<sup>th</sup> April 2009

Management became personally involved and failed to act in a judicious manner  
Conflict of interest when dealing with HR assistance  
Harassment in the course of my sickness absent  
Managers acted with intent when instigating police involvement.  
Management have shown bias in their critical thinking skills  
Management have been selective in the evidence they have supplied for the purpose of disciplinary action.

I look forward to resolving this issue in a civilised and speedy manner.

Regards  
Dave Earnshaw

Signed .....

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**Mr Ian Bairstow**  
**Strategic Director**  
**Department of Environment and Neighbourhood**  
**6<sup>th</sup> Floor Jacob's Well**  
**Bradford**  
**West Yorkshire**  
**BD1 5RW**

*Mr David Earnshaw*



*Tel* [Redacted]

*Dated 26<sup>th</sup> April 2010*

Dear Mr Bairstow.

## **Notification of Grievance - 26<sup>th</sup> April 2010**

I am writing to put into words a concern at the disproportionate amount of time being taken to concluding my submitted employee grievance (dated 30<sup>th</sup> November 2009) I also have a worry that the 5 month delay in resolving these issues are not in my best interest, and restrict my opportunity to apply for redress elsewhere.

Notwithstanding my previous grievance I hereby raise a further grievance with you from this date 26<sup>th</sup> April 2010 in which additional information and evidence is included to support my claim.

### **My grievance's can best be summarised as:-**

- 1 Trade Union Victimisation
- 2 Bullying and Harassment

### **Trade Union Victimisation**

#### **The bases of my grievance is as follows.**

That management acted unreasonably on 29<sup>th</sup> July 2009 when dealing with the issue surrounding my suspension insofar that I was treated less favourably than other employees. This double standard has become even more apparent during my suspension as I now understand a similar ruckus to that of my own has also occurred within my workplace. I also understand that on this occasion no disciplinary action was taken against the individuals involved. I am also aware that management didn't instigate police involvement as in my case.

I would also argue that prior to my suspension on the morning 29<sup>th</sup> July 2009 management had already met with Mr Hooper suggesting he also reports his allegation to the police thereby offering him their personal opinion as to what his next course of action should be. Nevertheless because of the personal and bias opinion offered to Mr Hooper I would argue that any further workplace investigation from that point onwards should be undertaken by an independent and impartial person.

I continue to question the unfairness shown against me by management on this issue by arguing suspension for all those involved would have been a more logical and fair course of action, a point my full time union officer raised several days later when relating his concern of collusion.

However evidence of collusion has become apparent and is contained within a West Yorkshire Police Log which records Tom Hooper stating at 18:22:23 on 28/07/09 "Caller has reported this at his work and they have suggested he reports it to the police as well" thereby implying approval for collusion between potential witnesses, and management, and in so doing instilling I believe an unfair culture of rumour and innuendo against my good character within the workplace. I've also secured a witness statement in which a manager is named in what can only be described as divulging private and confidential information to others before any disciplinary or legal action which I believe to be a serious breach of confidence.

I am also of the opinion that due to the stipulations set out in my ongoing suspension I'm at an unfair disadvantage regarding any disciplinary action being taken against me considering I'm isolated, and all hostile witnesses including management have had the opportunity to conspire together over many months, and astonishingly while Keighley, Bingley or Bradford Magistrate courts found no reason to implement restrictions upon me, I find it somewhat perplexing that my employer continues to find reason for suspension given Bradford Magistrates readily acknowledged that the complaint before them "had an element of a school yard squabble" which was reflected in their decision not to punish.

I believe management have intentionally acted with prejudice against me, and by their own actions have treated me differently to that of other employees. Their judgment has been based exclusively on my Trade Union activities, resulting also in an unprecedented attack upon my Trade Union contrary to the Trade Union and Labour Relations (consolidation) Act 1992.

I would also point out that Mr C Goodall in his 'Management Investigation' letter dated 29<sup>th</sup> July 2009 specifically instructed Mr Brian Whyte under item 4 of the terms of reference to investigate solely on the basis of my Trade Union membership/activity.

The above is not an exhaustive list of trade union victimisation I have experienced during my employment with Bradford City Council as there are many recorded instances since 2006 which I have recorded including refusal to facilitate release time for Corporate, TUPE, and Health and Safety meetings which my employer is obliged to assist in.

### **Bullying and Harassment**

After years of unwarranted, but well documented condemnation from both Mr Goodall and Mr Whyte I now find myself the victim of what can only be described as an orchestrated witch hunt against my good character. I would also argue that evidence collated recently would suggest that management have attempted to manipulate both evidence, and individuals in an attempt to orchestrate a situation whereby I am set up to fail by deliberately undermining my ability not only as a trade union representative, but also as an employee by means of ridicule and constant criticism since 2006 and more importantly throughout 2009.

Even so I'm distressed that after more than twelve loyal and problem free years with Bradford Council, management have now had to resort to seeking personal opinions from inapt third parties to facilitate their desire to take disciplinary action. I will refrain from criticising the standard of professionalism shown, but will state I don't believe I've been treated in a fair or reasonable manner.

I also believe the workplace investigation against me has been biased, and the investigating officer became personally involved.

I'm also of a mind that not only has the investigation against me been a foregone conclusion, but it failed to establish all relevant facts before a decision for disciplinary action was taken, and given that no evidence in the resulting disciplinary pack is offered after August 09 it could be argued that my suspension had been unnecessarily protracted. I also note irregularities surrounding the disciplinary pack put forward by Mr Whyte namely the numbering of the evidence statement from witnesses whereby my statement is numbered 16 in the final documentation, but is clearly marked 1.24 on the original statement indicating there is possibly four unprofessed witness statements giving rise to the possibility of Mr Whyte being selective as to the evidence to be considered. Confirmation I believe of management's selective approach towards analyzing evidence.

It is also noticeable that open ended questions have been asked of all witnesses, with the exception of my own interview whereby I was restricted to answering selective closed questioning which I found to be unreasonable on the grounds I was refused the right to communicate my own version of events, but was simply offered the opportunity to agree or disagree with the proposal being put forward. Indeed during my own interview on the 25<sup>th</sup> August 2009 I was explicitly instructed (Q10) to restrict my evidence to the narrowest of timelines, namely from Mr Manley's arrival on site to Mr Hooper's allegation. In addition to his preconceived notion Mr Whyte's demeanour was patronising, and odious in the extreme, and as an example Mr Whyte refused a short adjournment in proceedings for consultations between Mr Ray Jones and myself, and only after some debate and objections being raised did Mr Whyte agree to our request, but not before trying to implement conditions on granting our request.

It's also evident that my previously exemplary work record and good character is now being held up to unjustified scrutiny against unfounded accusations a trait well associated with bully's and bullying.

However given that no evidence is available after my interview I would have to conclude that either the investigation came to an end at that point meaning any unresolved issues raised during my interview were simply disregarded or further investigation had continued, but that evidence has been omitted from the final documentation. Either way this practise I believe is unprincipled indicating an obvious attempt to manipulate evidence rather than investigate and collate all relevant facts.

I'm also of a mind that before any disciplinary action is taken an employer must first carry out an unbiased and fair investigation (Acas code of accepted practise) so that an educated decision can be taken as to what further action may be deemed necessary, and management can't simply invite a third party (police) to investigate, and rely on that outcome as reason to bring about disciplinary action. I would also add that unlike Mr Whyte's investigation all relevant accounts must be taken into consideration [Taylor V Parsons Peebles [1981] IRLR 119, EAT.] including the nature and circumstances, the status of the employees the length of service [Ealing LBC V Goodwin (1979) EAT 121/79] and the nature of any provocation.

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I've also expressed a concern with occupational health regarding management's attitude towards my physical and mental wellbeing. My overriding concern is management belief that Occupational Health is part of their disciplinary process, and to be used as a tool to threaten capability against employees. This practise became evident to me via an email sent to me by Mr Goodall.

I offer following as an example.

- 1) I informed management that after undergoing a nerve conduction test I'd been diagnosed with suffering with carpal tunnel syndrome in January 2009.
- 2) Between January 09 and May 09 I received medical treatment for my condition without interruption to my employment.
- 3) In July 09 I'd received an hospital appointment with regards to my condition which management refused to allow me to attend (for whatever reason)
- 4) At managements request I changed my hospital appointment dates however I also challenge their actions not to allow my release, and duly registered my disappointment by email to them.
- 5) Only after I challenged managements' actions in July 09 was there a management concern regarding my attitude and wellbeing, and as a direct result of my email to Simon Mountain, Mr Goodall responded by making unfounded accusation against my good character accusing me of being someone of an obstructive nature, and being anti management which I found to be totally unwarranted as he's never offered any evidence to support these claims.
- 6) It was only after managements refusal to allow my hospital appointment in July 09 that I was referred to the occupational health and wellbeing unit ( 29<sup>th</sup> July 09 to gather my medical history) which seems somewhat strange considering management now had a concern about my wellbeing, but refused medical treatment to aid my recovery serving only to prolonging my suffering?

I now understand that cleansing management have recently written to the occupational health department complaining as to their unhelpful nature while dealing with my referrals?

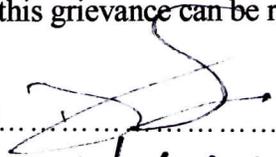
During my suspension I reached a period of illness brought on I believe by management treatment of me over many years, which also had a considerable impact upon my family life a point which has been documented by Occupational Health. Furthermore while I readily accept that there's an element of stress surrounding any type of investigation evidence would indicates that bullying and harassment continued in the form of a unannounced home visit during my sickness absence. I'm also aware that an attempt was made exclude me from receiving an outcome letter from my first 'welfare meeting' in January 2010 only to uncover at a later date that comments had been attributed to me in that document to which I did not agree?

I would draw your attention to The Protection of Harassment Act 1997 s1 states that a person must not pursue a course of conduct which he/she knows or a reasonable person would know amounts to harassment of another person (PHA 1997 s1(1) and(2)

I wish to be represented by my Trade Union Fulltime Regional office Mr Ray Jones. Please ensure that the meeting is set for a time at which both my representative and I are available to attend.

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I hope this grievance can be resolved promptly.

Signed.....

Dated.....26/04/2010