

# The Grievance Process and Grievance Handling

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# A Grievance

*“It is a complaint, usually by workers against management, relating to a breach or violation of the collective agreement, the common law and legislation as they pertain to labour-management relations, or the established workplace customs and practices”.*

**(Sealy, Ulric; ILO 2002)**

# Definition # 2

Is any difference between the employer and the employee or employees, or between the union and the employer as to any matter involving the interpretation or application of the collective agreement, employer-made rules, or any matter directly affecting the employee or employees in respect of wages, hours of work and working conditions.

# Grievance simplified

- Either you have a problem with your employer, or your employer has a problem with you

# Conditions of a Grievance

1. The cause of the complaint must be due to a specific act or omission by the employer or the employer's agent.
2. The complaint must relate to matters involved in labour management relations

# Causes of Grievances

- Poor or miscommunication within depts.
- Interpersonal difficulties/breakdowns
- Ignorance of rules and regulations by Management, Supervisors and Employees
- Environmental problems in the workplace (poor maintenance and sick buildings)
- Imposed changes in the department/ Unilateral departmental changes
- Unclear lines of authority
- Departmental Supersessions

# Causes of Grievances

- Unfair treatment of the employee (e.g. being overlooked for promotion)
- Problems with agreed pay-rates and paydays
- Breakdowns in relationships with colleagues
- Health and safety issues
- Dangerous work and faulty equipment

# Grievance Handling

- Grievance Handling is governed by the grievance handling procedure, and is usually set out in the Collective Agreement. (Statutory Boards)
- In the Public Service the grievance handling procedure is agreed to by the NUPW and the Government (Chief Establishments Officer). ( see attached copy of the circular dated 16<sup>th</sup> June, 1972)



# Characteristics of a Grievance Procedure

- Must be written
- Must specify to whom it applies
- Provide for matters to be dealt with quickly and have timelines attached
- Indicate the disciplinary action that may be taken
- Specify the levels of management which have the authority to take disciplinary action.

# Characteristics of a Grievance Procedure

- Provide for individuals to be informed of the complaints against them and be given an opportunity to have their case heard before a decision is made.
- Gives the individual the right to be accompanied by a union representative, a lawyer or a friend of their choice.
- Except for gross misconduct, no employee is dismissed for a first breach of discipline.
- Provide for a right of appeal and specify the procedure to follow.

# Standard Grievance Procedure

1. The worker raises the issue with the shop steward/delegate, and they discuss it with the immediate supervisor.
2. Failing a settlement at (1) the shop steward/delegate takes up the issue with the departmental head/manager or Human resources Manager.
3. Failing a settlement at (2) the shop steward takes up the matter with the top management.
4. Failing a settlement at (3) an official from the union arranges a meeting with the management of the company to discuss the matter.
5. Failing a settlement at (4) the parties will subject the dispute to conciliation, mediation or arbitration as the industrial relations system permits.

# Grievance Handling in the Workplace

- What section of the Collective Agreement has been violated?
- What regulations have been ignored or unfairly applied?
- What customary practices have been overlooked?
- What principle of human dignity has been violated?

# Effectively Handling a Grievance

- Gathering statements/reports about grievance
- Thoroughly investigating the reports and information from all the parties involved
- (Research) Examine all related files, contracts of service, attendance/pay/performance reports
- Have an open-mind and be objective and balanced in evaluations

# Effectively Handling a Grievance

- Industrial action should only be used as a last resort, negotiation should be fully exhausted
- All practitioners must have confidence and faith in the grievance procedure
- Follow the grievance procedure

# PRINCIPLES OF NATURAL JUSTICE AND DUE PROCESS

- Collective agreements are expected to provide explicitly for 'just cause' for the disciplining of an employee
- This constitutes a limitation on management's rights to discipline
- An employee should be allowed due process and natural justice his / her defence
- Management must undertake a reasonable enquiry or investigation before assessing punishment
- The worker who is in alleged breach is entitled to a hearing before any action is taken

# CONCLUSION

Best approach to Grievance Handling is founded on following:

- **Procedure**
- **Due Process**
- **No decision taken before the hearing is completed**
- **The right to appeal**
- **Punishment to accord with stipulations of the collective agreement.**