

## GRIEVANCES

### What is a grievance?

The term *grievance* refers to a written statement made according to the grievance procedure included in your collective agreement. It deals with any dispute concerning the interpretation, the application, the administration or the alleged violation of any clause of the collective agreement.

### The purpose of the grievance procedure

- The grievance procedure is at the heart of the collective agreement. It allows the union steward to draw up a grievance on behalf of the members. It is recognition by the employer that members have the right to be heard by management.
- The procedure can have two to five steps. At each step, representatives of the union and the employer meet. Make sure you know the time limits for each step of the procedure.
- When a case is settled through a grievance, it can serve as a precedent, or a model on which the merits of similar cases will be assessed in the future. Precedents are usually very important because they establish how the union and the employer will interpret the collective agreement from then on. Or a grievance can be settled on a "without prejudice" basis.

### The Grievance Investigation

As a Steward, your role and responsibility is to gather the facts from the member who has a complaint. The steward must listen closely to the member who comes with a problem. Get all the facts. Make sure you give the member enough time to give you all the relevant information.

- **Take notes. Ask questions.**
- **Use the grievance investigation form.**

At times, a member takes it for granted that you know his or her work well and forgets to tell you important details. To avoid this, follow the five W's method.

- **Who is involved?**

Name of member or group of members.

The employee's number, classification, work station, etc.

- **What is involved?**

Unpaid hours? A violation of seniority rights? Discrimination? Overtime?

- **When did it happen?**

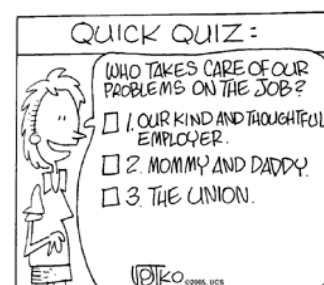
The required information includes the official date of the grievance, the date of the incident that led to the grievance, the date of the submission of the grievance and the employer's response. Make note of all the important dates related to the incident.

- **Where did it happen?**

Describe as clearly as possible the case history and where it took place. Indicate the shop, the machine, the purpose, the plant, etc. Are there any witnesses?

- **Why did it happen?**

The fundamental reason for the grievance. This question is the key to the grievance, so it must be clearly expressed.



## The investigation form

Whenever you collect information, use the required investigation form. Why?

- You can forget things.
- When facts are laid out in black and white, it is easier to determine the merits of the case.
- When the grievance is completed, you have a file that can be used as a precedent for similar grievances in the future.
- The investigation form can be used by the negotiating committee when the time comes to renew the collective agreement.
- The difference between winning and losing a grievance can depend on the thoroughness of the information you have collected. When you write your report, remember that others will have to refer to it. Notes may be referred to in an arbitration.
- The investigation form can always be used as proof to the members of the work you and the union have done for them.

## Is the grievance well-founded?

It is best to have a thorough discussion with the member before determining whether the grievance is well founded. If in doubt, consult other stewards or union executive members as well as other union leaders. They can help you make a decision.

Do not proceed with grievances that are not well founded. A member may believe he or she has a grievance because of a misunderstanding of the collective agreement. Personality conflicts or a misreading of the collective agreement are not legitimate grievances.

Agreeing to lodge this type of grievance may mislead the member and undermine your credibility with the employer. If you are sure that there isn't a valid grievance, tell the member, explain why and show him or her the section of the collective agreement that supports your argument. Be firm but be tactful in order to keep the member's trust.

If you are unsure there is a grievance

and the time limits are ending, file the grievance – you can always withdraw it at a later date.

## The wording of the grievance

Once you have determined that you are dealing with a legitimate grievance, make sure to word it properly. Here are the steps to follow:

- Obtain the appropriate grievance form.
- Include all the details required on the form.
- Define the nature of the grievance, use the least number of words possible and ask for the help of your chief steward if necessary.
- State clearly the expected outcome. If a financial statement is involved, do not forget to claim interest.
- Date the document and have the employee sign it. Do not forget to sign it yourself.
- Submit it to management within the required time limits.

## Should the member attend the grievance hearing?

Always take the member with you, except in special circumstances, e.g. if a member threatens to physically attack the supervisor.

If you go to see management alone, the member may believe that the grievance was not presented properly and could end up blaming you unjustly. Together, you can present a better-prepared and more detailed case. Before meeting with the employer, the member should be warned that the steward will talk on his or her behalf. The member should only respond to questions that are asked by the steward. If during the grievance meeting you need to speak with the member, ask for a break.

Discourage members from presenting grievances on their own. A member who is not familiar with the collective agreement could be easily influenced and decide to drop the grievance or accept a settlement that would weaken the collective agreement.

## IN SUMMARY

- To best analyze the facts, talk

less and listen carefully. Communication is a two way street.

- Let the employer make their own case.
- Do not let anyone side-track you. Stick to the question in dispute.
- Avoid tit-for-tat bargaining on grievances.
- Avoid personality conflicts. Do not provoke or ridicule the employer.
- Do not lose your temper. Create a climate of mutual respect and avoid making threats.
- Do not get involved in discussions of personal issues.
- Consult other stewards or union representatives.
- Keep the member informed about the outcome of the grievance.

## INVESTIGATING GRIEVANCES

### A Practical How-To Guide

A member - or members come to you. They're mad. Really mad. "It's unfair...it's a violation of the contract...it's illegal...and it's not right!" You think to yourself, "yeah, this is terrible. I'd better do something." But what do you do next?

If your answer is "demand an explanation from management," you may want to think again. Sure, some problems are obvious grievances, but most of the time you'll need to know a lot more about what's going on. Jumping to conclusions based on false, faulty, or inadequate information will only undermine your credibility, and the union's.

Know the issues thoroughly. . . It's the only way to handle grievances well.



### **Investigate First:**

Remember, a member who's upset, angry, and frustrated may not always give you an accurate picture of what happened. A disgruntled member may sometimes exaggerate and leave out important details. It's up to you to investigate, look at the facts, and then decide on a strategy for dealing with the problem.

The first step in your investigation is to conduct effective interviews. Get the information you need from an upset member after they've calmed down, either by taking them aside and talking for awhile, or by meeting with them later.

Here are some time-tested tips for getting the most information. Make sure you're relaxed — and take your time. Listening is the key, so control your feelings and concentrate on hearing what the member says. Write down important facts, including who, what, when, where, how, why, and the names of any witnesses.

Encourage the member to "get it all out" (both facts and feelings). Ask questions that can't be answered yes-or-no when you don't understand something or when you need to clear something up, such as: "Why do you think this happened?" Or, "Give me an example."

Once in awhile, repeat back to the worker what you've heard them say. This checks your accuracy and often brings out overlooked facts.

Avoid making judgments during the interview. Form your opinion later, after you've gathered the facts. Avoid making promises about the actions you will take. Assure the worker that you will investigate and let them know when you'll get back to them. Make sure you do!

If you don't know the answer to a question, don't guess.

Promise the member you'll find out and get back to them (and do it!).

### **A Full Investigation:**

Interview everyone connected to the problem in the same manner. Talk to other workers, any witnesses, other

stewards, even foremen and supervisors. Never depend on a single version of what happened, if you can avoid it. And remember, interviews are one way of getting at the facts, but they're not the only way.

Check documents and records that could help you decide what happened and what should be done. They include:

- Past grievances, steward's notes, and arbitration decisions;
- The contract and supplemental agreements;
- Employer policies and work rules, and,
- Information that you may need from the boss

When you've gathered all the facts, then it's time to put your case together (if there is one), and determine what strategy (big plan) and tactics (smaller moves) that can be used to solve it.

### **Other Sources for getting Information:**

Having good and complete information is vital in fighting grievances. But where and how do we get it?

First we should look to ourselves. An informed steward not only knows the contract, but the past practices of the department. A wealth of knowledge exists among the members as well. And of course the local union should keep records. But sometimes that still isn't enough to be properly prepared.

Help can come from an unexpected source—the employer! It's not because they want to provide information. The union is entitled to it under the Labour Relations Code.

The steward may request information:

- Before a grievance is filed to see if the contract may have been violated.
- At or between any step of the grievance procedure.
- After the final step to prepare for or consider a possible arbitration case.

It's best to be specific about what we want and, unless the information is immediately available, to put the request in writing.

Remember, the information must bear some relevance to the actual or potential grievance. The union is not allowed to use requests merely to conduct a "fishing expedition" through company records. Nevertheless all sorts of company documents data and factual information are fair game. There have even been cases where the boss has "thrown in the towel" on a grievance rather than go to the trouble of digging up the information requested.

### **Some Examples of Information the Union May Request**

- Accident records
- Attendance records
- Bargaining notes
- Company memos
- Contracts
- Correspondence
- Disciplinary records
- Equipment specifications
- Job evaluations
- Health and safety studies
- Inspection records
- Insurance policies
- Interview notes
- Job assignment records
- Job descriptions
- Material safety data sheets
- Names of witnesses
- "Notes to file"(i.e. database source)
- Payroll records
- Performance reviews
- Personnel files
- Photographs
- Reports and studies
- Salary records
- Security Guard records
- Seniority lists
- Supervisor's notes
- Time study records
- Training manuals

\*Courtesy of CEP newsletter

For a copy of the  
"Grievance Investigation  
Form", contact your  
National Representative.

# The Disgruntled Steward

My members are so-o-o-o dumb! I just can't believe it. They don't know what's in the contract. They let the boss get away with everything. They don't want to do anything. I just about give up on 'em – the whole bunch.

As a steward, did you every say this? Unfortunately, as workers and workplaces change, it's becoming more common for a steward to become frustrated and angry – not just at the boss but at the members as well.

## Look in the Mirror

A good steward sees the problem. A great steward knows how to find a solution. In this case, a steward who is angry at the membership can start solving the problem by – yes, looking in a mirror. The old expression that “you begin changing the world by changing yourself” is never truer than for a discouraged union steward.

Approaching a member (and the employer) with a chip on your shoulder is guaranteed to get a bad response. Negativism is an infection that can seriously harm a steward's effectiveness and will quickly drag down the union. Take a deep breath and resolve to approach each member in a positive way. You will be surprised – or not – that a positive approach brings a positive response.

There are also changes you can make to move your membership forward, especially if there is a critical event like contract negotiations coming up.

One change is the assumption that all of the members either know, or should know, the union contract and should know that if there is a problem, they should call for a steward. In most cases, workers coming into a workplace bring no union background or skills with them. As union membership continues to decline across Canada and the US, young workers are less and less likely to come from union families, where dinner table conversation may have

included discussions about union issues.

Workers coming from non-union workplaces usually believe, mentally and emotionally, that the boss is all powerful and cannot be challenged without great risk. Having a union changes this workplace power dramatically. Now, an individual worker has a group to help out, and the existence of the union contract means that the boss's hands are tied in all kinds of ways, from pay rates to disciplinary action. A steward has to understand that members are not “stupid”. They are just products of a different system. It's almost as if they speak a different language, one that the steward needs to understand.

## The Steward's Responsibility

If a steward complains about the members' ignorance of large sections of the contract, for example, then the steward needs to take responsibility for teaching them. Offer lunchtime meetings to cover an article each week, or even every day if your members are interested. Select a key clause, like the recognition clause, overtime pay or the grievance procedure, and quickly explain it to your members. Give examples of recent grievances or issues that relied on the particular clause. If you give the short presentation in the lunch room or at an outside eating area in nice weather, you will be happily surprised at the number of members who not only pay attention but will offer points of discussion. You may also find other members may be interested in becoming a union steward too.

If your Union is approaching negotiations, our members' interests will hit an all-time high. Take advantage of the surge by developing activities to involve each of them, and by consistently giving them accurate information about the negotiations.

Employers will usually flood the workplace with negative “information” about the new contract, so the steward has to be aggressive and thorough.

A really sharp steward will recruit some long term/experienced members to help out, always understanding that the steward's role in building a union is based on getting other members to do something anything, really – positive for the local. At all times, it's both a matter of principle and a practical help to develop some “deputies” – solid union members who will help out a steward by understanding both the importance of the union and key issues as they come up. A steward who tries to do everything, and to be everywhere, is doomed to fail; as you often say to your kids, I only have two hands. The same limits apply to a union steward. So be proactive – get a group together, spread out over whatever shifts and work areas you have to cover, and let them help you carry the load.

An aware,  
informed  
membership  
makes the  
steward's job  
easier and the  
union stronger.

## A Change in Thinking

Getting help reflects a change in the steward's thinking – from complaining about what the members won't do, to figuring out what each of them will do, and planning accordingly. It's always helpful to check with individual members and get to know them – their personalities, strengths and concerns. The one-on-one contact will not only tighten up the union but a steward will quickly appreciate how good it feels to be positive.

The steward will also be surprised at how smart the members suddenly become and how willing they are to begin standing up for themselves and our union. As the union grows stronger, more grievances will be won and the membership – coming full circle – will be pleasantly surprised at how much smarter their steward has become.

