

YEU Shop Steward Handbook



October 2016

A Message from the President

So you want to be a shop steward?

Shop Stewards are the cornerstones of any Labour organization. You are the advocate in your workplace for your co-workers; you are the conduit to YEU and you make us aware of what's going on in the workplace.

The Urban Dictionary describes a shop steward as "An officer in a union, whose job it is to enforce a union contract, in addition to his regular job, with no extra pay. Viewed by the employer as a "socialist puke", by lazy co-workers as a company sellout, and by everyone else as insane."

Still interested? As ridiculous as I think the definition is, there is some truth to it. At times it can be a thankless task—you may feel you've just been tattooed with a bullseye for all to see. The truth is that as a shop steward you will be having difficult conversations with employers and co-workers. The upside is you have the resources of YEU and PSAC to assist you. Whether it is training, representation advice, research or just a general question, we are here help.

Thanks for your dedication and interest; Shop Stewards definitely make workplaces better. There is a lot to learn, but there is also plenty of training available to you. We hope you enjoy growing into your new role.



Steve Geick
President, Yukon Employees' Union

Preface

This Handbook is a written supplement to the other forms of training you'll get as a YEU Shop Steward. Use it to get familiar with the role and its responsibilities, to remind yourself of material that you may have learned a while ago but haven't refreshed in a while, and to find answers to specific questions that arise from your day-to-day shop steward work. Please keep a few things in mind:

- The Handbook is not a replacement for reading your Collective Agreement; your Agreement is the primary document you'll want to be familiar with.
- The Handbook is not a replacement for in-person training sessions, including our monthly Round Tables. It is important for all Stewards to make some time to collaborate, share experiences, and learn from one another.
- The Handbook is not a replacement for experience. By shadowing other Stewards and then beginning to represent members on your own you will acquire skills and confidence that no book could provide.
- The Handbook is organized into relatively independent modules, and these can be read in any order that interests you.
- The information is general enough to apply to all YEU Locals. You may need to get more specific information about your own place of work (e.g. internal policies and administrative directives) from a supervisor.

Most importantly, please remember that you are never on your own as a YEU Shop Steward; connect frequently with your Chief Steward and the other Stewards in your Local and don't be shy about reaching out to YEU staff for support.

Questions, comments, and suggestions for revisions to this Handbook can be sent to:

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Table of Contents

| | | |
|-------|--|----|
| A. | Unions and Stewards | 1 |
| i. | Introduction | 1 |
| ii. | Understanding your place in the union | 1 |
| iii. | The duties and responsibilities of a Shop Steward | 4 |
| iv. | Is it for me? | 6 |
| v. | The benefits of being a Shop Steward | 8 |
| vi. | Conclusion | 9 |
| B. | Understanding your Collective Agreement | 11 |
| i. | Introduction | 11 |
| ii. | The Collective Agreement and where it comes from | 11 |
| iii. | Navigating your CA | 12 |
| iv. | Guidelines for interpretation | 14 |
| v. | Beyond the CA | 17 |
| vi. | Conclusion | 18 |
| C. | Representing the Union | 19 |
| i. | Introduction | 19 |
| ii. | Maintaining a visible union presence in the workplace | 19 |
| iii. | Monitoring workplace practices and policies | 21 |
| iv. | Responding to opposition | 22 |
| v. | Organizing your workplace | 23 |
| vi. | Conclusion | 25 |
| D. | Representing Members 1: Fact Finding and Discipline Meetings | 27 |
| i. | Introduction | 27 |
| ii. | Understanding progressive discipline | 27 |
| iii. | Attending discipline meetings | 29 |
| iv. | Is it discipline? | 32 |
| v. | Professional conduct at meetings | 34 |
| vi. | Last Chance Agreements | 35 |
| vii. | Discipline and the Duty to Accommodate | 35 |
| viii. | Grieving discipline | 36 |
| ix. | Conclusion | 37 |

| | | |
|------|--|----|
| E. | Representing Members 2: Processing Complaints and Grievances | 39 |
| i. | Introduction | 39 |
| ii. | Grievances: an overview | 39 |
| | 1. What is a grievance? | 39 |
| | 2. Ownership of the grievance | 41 |
| | 3. Resources: the Steward's Binder | 42 |
| iii. | The Role of a Steward in Processing Grievances | 43 |
| iv. | Legal issues and other advisor-led grievances | 54 |
| v. | Problem solving without a grievance | 59 |
| vi. | The Duty of Fair Representation | 60 |
| vii. | Conclusion | 61 |
| F. | Additional Resources | 63 |
| i. | Websites and Printed Material | 63 |
| ii. | Common Grievances and Who Leads Them | 65 |
| iii. | Efficient Note Taking | 67 |
| iv. | Case Management and Avoiding Burnout | 69 |
| v. | Glossary of Labour Terms | 71 |

Unions and Stewards

Introduction

This section will explain what a Shop Steward is, including the Steward's place in the union, their main duties and responsibilities, and some of the challenges and rewards that come with the position. It begins by describing the structure of your Local, the Yukon Employees' Union, and our 'parent' union the Public Service Alliance of Canada.

Understanding Your Place in the Union

Unions are organized into groups of workers who typically share either a single employer or a single workplace. This group is known as a 'Local', and is referred to with a numbered code. For example, workers at the Yukon College are Local Y011, the employees with the Yukon Hospital Corporation are Local Y025, and both municipal and territorial government workers in Dawson City, even though they have different employers, are grouped together in the 'Klondike Collective' – Local Y043. See a current list of all the Locals with Yukon Employees' Union on our website. A Local is the basic unit of organization within a union, and it is the group you will be working most closely with as a Local Shop Steward.

At each workplace there is a division between the management staff and the 'bargaining unit' employees. In smaller operations the management might consist of a single CEO or business owner, but more often there is a hierarchy of Executive Directors, Divisional Directors, Managers, Human Resource Specialists, and sometimes Supervisors, all of whom represent the employer's interests in the workplace (i.e. they are in charge of hiring and firing, directing staff to perform various tasks, disciplining employees, etc.). These positions are not a part of the union – they are not covered by a collective agreement, they do not pay union dues, and they do not participate in union activities.¹ The bargaining unit usually consists

¹ Importantly, some of the first-level supervisory positions in large workplaces ARE included in the union. Although their job descriptions include directing and supervising other staff members, they

of all non-management employees in the workplace.² Their wages, benefits, and working conditions are negotiated by union members and guaranteed in a written contract between the union and the employer known as a 'Collective Agreement' (CA). All members of the bargaining unit pay union dues and have the right to representation from the union. However, only those who have signed a membership card can run for a union office or vote in union elections. This is important because unions are democratic at all levels; signing a membership card gives you the opportunity to play a part in the overall direction and activities of the union. Members of the bargaining unit who have not signed a membership card are known as "Rands."³ While Rands benefit from the activities of the union, they don't get a vote in setting the union's direction. All of the union members in the bargaining unit make up the Local.

Each Local has an internal organization. At an Annual General Meeting the members elect an Executive Board usually consisting of a President, Vice-President, Secretary, Treasurer, and Chief Shop Steward. Larger Locals may have a 2nd Vice President or an Assistant Chief Shop Steward, as well as several Directors. The Local has a set of bylaws governing these executive positions and regulating such things as elections and discipline. The Local will typically also have its own budget, though all major expenses such as maintaining a strike fund, hiring a negotiator, and contracting mediation and/or arbitration, are covered not by the Local but by the larger union it is a part of.

When it is first formed, the members in a Local elect a bargaining team to represent the collective interests of the bargaining unit. This team works with a trained

join together with the employees they supervise in negotiating working conditions with the employer. Sometimes the division between bargaining unit staff and management staff is not obvious, but if you are curious about where the divide lies in your own workplace you can usually find it by looking at the back of your collective agreement. Any positions listed in a wage grid are part of the Bargaining Unit.

² Some positions require access to information that would compromise their membership in the union, and so they are not in the bargaining unit either. These are known as 'exclusions' or 'excluded positions'.

³ After Justice Ivan Rand, who in 1954 settled an arbitration dispute by ruling that all bargaining unit employees would have dues 'checked off' of their pay regardless of whether they chose to become active members of the union representing them. For more on the "Rand Formula" see <http://psac-ncr.com/union-dues-rand-formula>.

negotiator from the larger union to settle the terms of a CA with the employer. Your CA is a contract laying out the terms of employment for all bargaining unit members, and it typically lasts 2-4 years before being renegotiated through another round of bargaining with the employer. While a CA is in effect, the union agrees not to organize a strike or work stoppage, and the employer agrees not to lock out employees. Instead, the CA lays out a grievance process for resolving disputes. Should the employer and the union reach an impasse over a dispute, the matter can be settled by a neutral arbitrator who hears both sides and renders a binding decision.

Very few Locals are able to generate all the support they need to adequately function on their own, and so there is a need for Locals to group together. The Yukon Employees' Union (YEU) has the largest collection of Locals in the territory. As of early 2016 YEU is comprised of 26 Locals with a combined total of over 5000 members, but these numbers change as some Locals merge and new workplaces are organized. Other unions operating in the Yukon include the Canadian Union of Postal Workers (CUPW), the Yukon Teacher's Association, and the United Association of Plumbers and Pipefitters, to name a few. For the same reason that individual Locals find more effectiveness by banding together under YEU, the Yukon Employees' Union is a 'component' of a larger, national union known as the Public Service Alliance of Canada (PSAC). It is PSAC that maintains a strike fund to pay workers in Locals that need to go on strike, that employs professional negotiators to work with Local bargaining teams, and that pays for arbitration when a CA is breached and the grievance process is unable to resolve the issue. PSAC also offers training and other benefits to all its members. Details can be found on their website. Like the Locals, Both YEU and PSAC (at the regional and national levels) have their own organizational structure with elected executive members. Volunteers do almost all of the work at the Local level and are also involved with the YEU and PSAC executive boards. In addition, YEU and PSAC have full time paid staff to manage union affairs.

If you are reading this, chances are that you are an employee at one of the unionized workplaces in the Yukon, and a member of one of the Locals. Your Local is a part of YEU, which is a component of PSAC. So, while you belong to a particular Local under YEU, the union that you belong to is PSAC.

Understanding this organizational structure is important to your role as a Shop Steward because you must always remember that a Steward is an agent, or a representative, of the union within a Local. In your activities as a Steward, you are acting not just on behalf of your fellow co-workers in the immediate workplace, but on behalf of the regional YEU, and of the national PSAC. This means that you have the backing and support of a powerful organization (PSAC has over 170,000 members), but it also means that your conduct as a Shop Steward reflects back on the entire union. This responsibility shouldn't be a deterrent, but it does mean that the union has an interest in training and preparing you for your activities as a Steward.

The Duties and Responsibilities of a Shop Steward

A. Why do we need Stewards?

Having active Shop Stewards in the workplace is incredibly important to the overall health of the union, for at least two reasons. First, organizing a workplace is not an activity that can be done once and then left in place. Workplaces are fluid, with employees coming and going. Even when the workforce is relatively stable, people do not naturally continue to think about and participate in union activities without regular reminders. Stewards do some of this ongoing organizing work, even if it is simply by publicly identifying themselves as a union representative to their co-workers. With an identifiable Steward, members have a visible presence of the union at their workplace, they know that there is someone to talk to about workplace conflicts or complaints about working conditions, and there is a 'go-to' person for general union-related questions. Without a Steward in the workplace, it becomes easy to forget about the union's presence altogether, or to think of the union as some 'other' group of people.

The second reason that Stewards are so important is that CAs do not simply enforce themselves. After a long round of bargaining and hard negotiations, when a contract is finally ratified, the temptation is to relax and assume that the employer will always follow the CA. While it would be nice if that were the case, it often is not. When there is an active Shop Steward in the workplace who makes it his/her job to know the details of the CA and keep co-workers informed about their rights,

violations of that CA will be noticed quickly and resolved through the proper channels. With no Shop Steward present there is often no one in the workplace who knows the contents of the CA well enough to recognize when some of the provisions are not being met, or who knows what to do about it when it is discovered.

B. What do Stewards do?

The full role and responsibilities of the Shop Steward position will be developed throughout this Handbook, and a very brief overview can be gained from a Getting Started Guide available online and at the Union Hall. For now, keep in mind that Shop Stewards are primarily *representatives* in the Local, and this in two senses.

First, Shop Stewards are representatives of the union they belong to; in our case, of PSAC. They are sometimes referred to as the “face of the union” in the workplace. Often, a Shop Steward is the first point of contact that general members have with the union, and sometimes they are the only one. This representational role involves activities like:

- **Explaining the basic organization and activities of the union.** Most of our members understand that they are part of a unionized workforce, but many of them have a pretty vague notion of what that really means. As a Local Shop Steward you may have members asking you to explain why the union matters, or what the union does for them, or how the union can help with workplace issues. You’ll want to have at least initial answers to questions such as these.
- **Encouraging Rands to sign a membership card.** Many Rand members are Rands simply because no one has explained the union to them and asked them to sign a card. As a representative of the union, a Steward should have a stock of membership cards handy and should encourage Rands to sign up.
- **Treating all members impartially and fairly.** The union has an obligation to fairly represent all of its members. This means that as a representative of the union, a Steward must be willing to set aside personal biases and treat all of his/her co-workers equally.

Second, Shop Stewards are representatives of their co-workers. When a member has a conflict or other issue in the workplace, a Steward's job is to represent that member's interests in looking for a solution to the problem. Representing members involves things like:

- When a member is called in to a disciplinary meeting with management, a Shop Steward will be present to take notes and ensure the process is followed fairly.
- When a member is treated in a way that breaches the CA, employer policy, established past practice, or labour legislation, a Shop Steward will work with the member and with YEU staff to present a grievance (a formal complaint) to the employer.
- Sometime members have workplace conflicts not with management, but with other members. In this type of case each of the two members is typically represented by a different Shop Steward (or other union representative).

These representative roles are the primary functions of a Shop Steward, but when time and interest permit there are several related ways that Shop Stewards can contribute to the union, including maintaining a union bulletin board in the workplace or working with a bargaining team to keep members updated on important issues.

Is This for Me?

Not everyone is cut out to be a Shop Steward. While we will never discourage your willingness to help, there may be a better role for you to play. The reality is that in order to succeed as a Steward, you will need to exemplify certain characteristics. Some of the qualities of a good Shop Steward:

- **You are generally looked up to and trusted by your colleagues.** This can be a difficult thing to be honest about, but if your co-workers will not feel comfortable approaching you for help with workplace issues, you will find it very difficult to be effective. There may come a time when collective

action is required (e.g. a supervisor has begun denying vacation requests without reason or explanation and you want everyone affected to sign a group grievance); in such a case will your co-workers follow your lead?

- **You have a genuine desire to make a positive difference.** Serving as a Shop Steward will require that you volunteer some of your time,⁴ often to resolve issues that won't affect your own working conditions in any way. Often your hard work will not be recognized or appreciated by those involved. You may need to assist a co-worker that you do not like very much. You might even be blamed or verbally abused when, despite your best efforts, things do not go the grievant's way. The work can be very rewarding, but you'll need to be the sort of person that can take satisfaction in championing a good cause, even when no one seems to notice.
- **You are committed to learning.** A Shop Steward needs to know the CA, the general grievance process, and the basics of how the union operates, but there is also much more that will strengthen you in your role. This includes principles of conflict resolution, economics, politics, and case law. The union offers training in a variety of formats but if you aren't interested in learning more, then you'll find it difficult to be an effective Steward.
- **You are able to keep a cool head under pressure.** There is a process in place to resolve workplace conflicts, and a Steward's job is to follow that process professionally. At times you may be targeted by folks with a grudge against the union, blamed by an upset co-worker who expected you to meet his unreasonable demands, or even intentionally provoked by management to test if you can be intimidated. You'll want to be able to manage your emotions and use them wisely in the face of these pressures.

⁴ Although not as much as you might fear. All CA's include a provision guaranteeing the ability of a union representative to attend meetings with management and investigate urgent issues during work time. This does not mean you can leave your job at any time—the approval of your supervisor must be requested first. However, permission from your supervisor cannot be unreasonably withheld. If you think it is being unreasonably withheld, ask your Local president or Chief Steward to investigate. Also check your own CA under "Union Representatives" or "Union Leave" for details.

- **You are truthful.** Sometimes members get upset over a perceived injustice that in fact lies within the rights of management, and other times a CA fails to rule out practices that really are unfair. In cases such as these, a Steward needs to be able to clearly explain what the union can and cannot do to help, even when the news is disappointing. A Steward also needs to be truthful about his/her own limitations. Difficult cases can involve a lot of emotion and investment and a Steward needs to avoid burning out. Sometimes you will need to decline a request for help (by referring it to another Steward or to YEU Intake).

Benefits of Being a Shop Steward

As you explore whether the Shop Steward role is for you, don't forget to consider the benefits that come along with the position:

- **Respect.** The Shop Steward position is an honourable one, taken on voluntarily out of a desire to help one's co-workers. When it is done well, you will have the appreciation of those you work with, of the other activists and executive members of your Local, of the staff at YEU, and even of the supervisors and management staff you interact with.
- **Confidence.** In most of your interactions with your employer and its representatives, you are expected to take a deferential attitude. In contrast, when you engage management in your official role as a Shop Steward, with the backing of the union behind you, you stand on equal footing and interact as peers. This can be very empowering.
- **A Break from the Work Routine.** Stewards are entitled to represent members at meetings and to processes complaints and grievances on paid work time. Stewards also get leave for training purposes and are compensated for loss of salary and expenses.
- **Personal Development and Transferable Skills.** Your training and experiences as a Steward result in skills in conflict resolution, negotiation, critical thinking, and defending contractual obligations. These skills are

useful in any number of areas of your day-to-day life (they will make you a better parent, for example!), and they make very valuable additions to your resume. Being a Steward also provides opportunity to learn about labour relations, law, politics, and economics, among other things.

- **Camaraderie.** Nothing brings people together like a shared purpose. As a Steward, you will have many opportunities to network with other folks who share your workplace concerns, and who can be counted on as allies.

Conclusion

This section of the Shop Steward's Handbook explained the organizational structure of your union, and where Stewards fit into that picture. It should also have given you enough information to begin exploring whether you'd be a good fit for the position.

Understanding your Collective Agreement

Introduction

The Collective Agreement (CA) is the single most important document for a Shop Steward. This is because the CA lays out the employment conditions agreed to by both the union and the employer, and a major part of your role will be ensuring that the agreement is honoured. Understanding the language in your CA is a skill that you will be developing for at least as long as you are a Shop Steward, but some tips and principles will get you off to a strong start.

The Collective Agreement: what it is and where it comes from

A CA is a legal contract binding an employer and the collective bargaining unit (as represented by the union or “Bargaining Agent”) to certain terms and conditions of employment. Since the CA is a contract between one employer and one bargaining unit, each of the Locals with YEU has their own.⁵ The majority of the CA spells out the rights that employees are entitled to, but there is usually also a section on Management Rights, which may be more or less detailed.⁶ From the general topics covered to the precise words that are chosen, the entire CA is negotiated between representatives of the employer and representatives of the union, with trained negotiators on each side. The contract is established for a set period of time, often 3 or 4 years but occasionally 1, 2 or 5 (the duration of the contract is an item open for negotiation). Several months prior to its expiry, notice is given by either the union or the employer to the other party to commence bargaining for a revised CA. During bargaining every item in the CA is up for re-negotiation, but issues are prioritized by bargaining teams for both sides.

⁵ When distinct Locals share the same employer they may be covered under the same CA.

⁶ A minimal “management rights” clause does not mean that Managers do not have as many rights as employees. It merely means that they don’t need to be spelled out in detail in the CA. An example is clause 8.01 from PSAC’s CA with the Yukon Government: “Except to the extent provided herein, this Agreement in no way restricts the authority of those charged with managerial responsibilities in the Public Service.”

This is important to a Shop Steward for a few reasons. First, just because the wording of a particular clause is agreed to by both the union and the employer, does not always mean that they have the same thing in mind. Many grievances stem from a clause that seems to say one thing pretty clearly from your perspective as a union representative, but that is interpreted very differently by management. It is helpful in these cases to keep in mind that the disagreement might go all the way back to the original negotiation; it may be that there never was consensus on how the matter would be treated. Second, Stewards sometimes get complaints from members about treatment that seems unfair, but that is not specifically addressed in the CA. There are often still ways that the union can try to resolve the issue, but in cases like this the Steward wants to keep some notes for the next bargaining team; it may be something that can be negotiated into the next CA. Finally, it is important for Stewards to be aware that CA's are subject to change periodically. A Steward needs to pay attention to the bargaining process and to spend some time getting familiar with the changes in a new contract.

Navigating your Agreement

CA's are usually very well organized, making it easy to find what you are looking for. Distinct issues are divided into numbered "Articles", and these Articles are listed at the front of your CA in an Index, or Table of Contents. Some of the headings, like "Vacation Leave", will be pretty self-explanatory but others, like "Premium Pay", might not be familiar. As a first step to understanding your CA better, read the unfamiliar sections, until you are confident that you understand all the main article headings in the Index.

Next, ensure that the numbering system is a help rather than a hindrance. Main articles get whole numbers, and sub-articles dealing with the same topic are numbered with either with a decimal point, or with an indented number or letter, or with parenthetical numbers (and sometimes with a mix of these features). If Article 6 outlines Seniority Rights, for example, then Article 6.03 (22) (b) might be one of several clarifications to a clause detailing what happens to a seasonal employee's seniority status when s/he is laid off.

Within the first few articles you will often find definitions of terms or general purpose statements that will apply to the rest of the document. It is important to read these sections carefully. A word like “allowance” is familiar enough to everyone from common usage, but it may get a special, technical definition in a CA. In common usage a “day of rest” is just any day that you rest on, but a CA might define the term as “a day other than a holiday on which an employee is not ordinarily required to perform the duties of his/her position other than by reason of his/her being on leave of absence.” Once you know *which* terms get special definition in your CA, you can always refer back to that section to remind yourself how they are being used. If you skip over this section in the first place, however, you may never realize that a clause in the CA uses a particular phrase in its technical sense rather than its common usage.

It is worth drawing attention to a few technical definitions. Some CA’s include something equivalent to the following article.⁷

“‘May’ shall be regarded as permissive, ‘Shall’ and ‘Will’ as imperative, and ‘Should’ as informative only.”

Understanding the difference between these terms is essential to understanding the rights and obligations imposed by the CA. When a clause specifies something that an employee (or the employer) **may** do, it means only that the relevant party has permission to do it; it does not say that it must be done. A clause stating that “Part-time Night Care Attendants may be scheduled to work weekends and statutory holidays” establishes that the employer has the right to schedule these employees on weekends or holidays, but it does not establish that the employer ever *has* to do this. ‘Shall’, and ‘Will’, on the other hand, are *imperative*, meaning that these words are used to indicate something that must be done. A clause stating that “Regular and seasonal employees **shall** be paid bi-weekly” establishes an obligation on the employer to pay these employees once every two weeks. Finally, “should” establishes neither permission nor obligation. It is informative only, meaning that it might suggest the preferred way of doing something, but cannot lead to discipline or a grievance if it isn’t followed.

⁷ Clause 2.01 (19) in the CA between PSAC and the Yukon Government, expiring Dec.31, 2015):

Second, conditional language (often in the form of “if... then...”) can be notoriously difficult to interpret properly. Many of the provisions set down in your CA are conditional in nature, meaning that they only apply if the right conditions are met. For example, your CA might state that “The employer will respond to vacation requests within three weeks, but only if the request is made before the deadline.” With that wording, the clause says nothing at all about cases in which your vacation request falls after the deadline; unless there is another sub-article addressing it the union would not be able to pursue a grievance if the employer took four weeks to respond to a late vacation request. Conditional clauses are most often expressed in this familiar form: “If so-and-so occurs, then the employer must do such-and-such.” Be aware, however, that conditional clauses can also be expressed with “when” (e.g. “When a deadline falls on a weekend or holiday, the next business day shall be considered the deadline”), or with “only” (e.g. “Subject only to satisfactory conduct, the salary of a regular employee shall be increased by 4% on the employee’s anniversary date.”). When you read such clauses in your CA, pay careful attention to *what* is being allowed for or promised, and the *conditions* that have to be satisfied in order for that promise to be in effect.

Guidelines for Reading your CA

You will grow more comfortable reading your CA with time and practice, but the following guidelines should provide some direction:

A. Look for Rights and Obligations

Almost all the articles in your CA establish either a *right* (something that someone is entitled to), or an *obligation* (something that someone must do). Because of this, you should ask questions like these about them:⁸

- What rights/obligations does the clause establish?
- Who ‘owns’ the right/obligation? To whom does it apply?

⁸ This list is adapted from PSAC’s ‘Getting to know your collective agreement’ (<http://psac-ncr.com/getting-know-your-collective-agreement>)

- Are there any conditions that have to be met in order for the right/obligation to be established? If so, what are they?
- When the conditions are met, what exactly must/may be done, and who must/may do it?

Here is an example of the process in practice:

“All permanent full time employees who have completed two or more years of continuous service shall be entitled to receive a Yukon Bonus travel benefit in the amount of \$2900.00 and be entitled to the Yukon Bonus each subsequent year of continuous service thereafter.”⁹

What rights/obligations does the clause establish?: It establishes the right to receive a Yukon Bonus once every year

Who ‘owns’ the right/obligation (i.e. who does it apply to)?: It is a right of employees (implying an obligation on the employer to pay the Bonus).

Are there any conditions that have to be met in order for the right/obligation to be established? Yes.

If so, what are they?: The employee must be full-time, and must have completed two or more years of continuous service (part-time employees get a pro-rated bonus, but that is detailed in the next clause)

When the conditions are met, what exactly must/may be done, and who must/may do it? The Employer must pay the employee \$2900.00 after the initial 2 year period, and then every year after that.

B. Read individual clauses within the context of the Agreement as a whole

Usually, single clauses are specific instances of a more general policy. For instance, Article 28 might explain sick leave provisions, using 37 sub-clauses clarifying specific cases or qualifying general claims in various ways. If the only thing you read is clause 28.15 (a), then you risk missing important contextual information

⁹ Clause 16.01 from the CA between PSAC and the City of Whitehorse, ending August 2017.

explained in related clauses. On the basis of this partial information you may be led to believe that you can win a grievance, when in fact the rest of the Article makes clear that the issue you are dealing with is permitted by the CA. Always consider the broader context.

C. Rely on common sense, past practice, and industry standards to interpret vague or ambiguous language

No CA is able to cover every eventuality, or say something about every possible situation that might arise (and if one attempted to, the resulting contract would fill a bookcase rather than just a small drawer). Instead, many things are left *vague* in the CA. For example, some CA's include an exact timeframe in which the employer must respond to annual vacation requests. In other CA's this requirement is left open: "The employer will respond to such application for annual leave in a timely manner."¹⁰ What counts as a "timely manner"? How many days have to go by with no response to a leave request before the employer has violated its obligation? You can look in as many dictionaries as you like, but you will not find a precise number of days counting as "timely manner" in this case. Vague language like this can be frustrating, but it also gives everyone involved some flexibility. Three things to consider in cases like this are:

- Is there an established past practice? Has the employer always aimed to respond within two weeks before, but has now taken over four weeks?
- Do other CA's establish a common standard? Just because something is left vague in your CA does not mean that it is left vague for everybody. A review of other CA's might reveal that employers are generally required to respond to leave requests within 2-4 weeks, for example. Your employer is not obligated to follow anything in a different CA, of course, but doing this can give you support for claiming that 6 weeks is outside the bounds of "timely".
- The word "reasonable" is used often in CA's and it is always at least somewhat vague. When a Shop Steward requests leave to represent a

¹⁰ Clause 11.05 (c) from the Agreement between the City of Whitehorse and PSAC Local Y023, ending August 2017.

member, for example, this request cannot be “unreasonably denied”. What counts as ‘reasonable’ from the union’s perspective may not match up with what counts as ‘reasonable’ from management’s perspective, but common sense is often a good guide. When such leave is denied, ask for the reasons for the decision and consider what a neutral third party might think of those reasons.

D. Consider management’s perspective

There would be far fewer grievances if management and the union always looked at every provision in the CA in the same way. Grievances occur, and escalate to higher levels, because there is room for interpretation in many matters. When reading your CA with an eye to understanding all the rights and obligations it establishes, be careful to consider how your understanding might be different if you were an employer’s agent instead of an agent for the union. This does not mean you need to agree with management’s perspective, but reading the CA in this way will help you to understand where potential disagreements might lie.

E. Get input from your team

Shop Stewards are always one member of a bigger team. As you work through your CA, highlight parts you are not sure about or keep notes to record questions that occur to you. Your Chief Shop Steward or Local President may have experience with some of the same issues that you find unclear, and might be able to clarify some things. Your Union Advisor has special training and access to a host of past cases that will shed light on how your CA has been understood in the past. You may even be able to talk to members of the bargaining team who negotiated your CA, to ask what the intentions were behind the way something is worded. Involving your teammates clarifies issues for us all.

Beyond the CA

The CA regulates most of your employment conditions, but it is not the only relevant document. Your employer may have policy statements or administrative directives

on matters that are not included in the CA, for example rules about the use and care of Personal Protective Equipment. Legislation such as the Yukon Employment Standards Act and the Yukon Human Rights Act provide baseline conditions that all employers must follow, regardless of whether they are included in the CA.¹¹ The Yukon Government has a Respectful Workplace Office with policies on fair and non-discriminatory workplace practices. There are also Occupational Health and Safety (OH&S) policies that must be followed. While you don't need to be an expert on all these matters, it is important to keep in mind that the CA doesn't cover everything; an employer practice might not violate any articles of the CA, but still run contrary to the applicable legislation. Also keep in mind the order of authority. A CA cannot legitimately establish standards below what the employment standards legislation allows for, nor can a union and an employer agree to establish practices that discriminate against protected minorities (for example). Legislation comes before your CA. Similarly, employer policies cannot legitimately violate terms in the CA; an employer cannot issue a directive forbidding employees from using their Special Leave, for example, when the CA grants them this right. The CA comes before employer policies (and questionable policies can be challenged by the union).

Conclusion

The better you understand your CA, the more effective you will be as a Steward. Not only will you be able to appeal to the appropriate sections when processing a grievance or attending a meeting, you will also be better equipped to evaluate the daily working conditions in your workplace. You may find yourself noticing unfair employer practices that otherwise would have flown under your radar. As you get more and more familiar with your CA, make a point of sharing what you know with your co-workers and asking for assistance with items you aren't sure about.

¹¹ In fact, an important Supreme Court of Canada case in 2003 found that arbitrators have the right (and obligation) to apply Human Rights and Employment Standards legislation in interpreting a CA. This means, in effect, that these pieces of legislation are implicitly included in every employment agreement even if they aren't explicitly mentioned. Reference: *Parry Sound (District) Social Services Administration Board v. O.P.S.E.U., Local 324*, [2003] 2 S.C.R. 157, 2003 SCC 42

Representing the Union

Introduction

Every union relies on the collective strength of its members for its basic functioning. Without the ability to present a united front, most workers simply have very little bargaining power to negotiate with management. In fact, without the support of the general membership, unions cannot even organize themselves to the point of electing leaders or agreeing on bargaining demands. At the same time, unionized workplaces do not simply organize themselves. Most union members will not become involved in union activities without being actively invited or engaged by a union representative. There is a pressing need, then, for representatives to be actively promoting the union in our workplaces.

Engaging our members (“building solidarity” to use the traditional term) is not a job that falls to a Shop Steward alone, but is something that every active member must take a part in. Still, it is a part of a Shop Steward’s role to be one of the active representatives of the union in the workplace. As a Shop Steward, your co-workers will naturally turn to you when they have questions about the union, and this presents a great opportunity to build some support. In this section we will consider some ways that Shop Stewards can promote the union in the workplace, keeping in mind that most of these responsibilities are ones that you’ll share with other members, including your elected Local executive board

Maintaining a Visible Union Presence in the Workplace

Each workplace should have visible reminders of the union’s presence. These reminders demonstrate that the union is active in their own workplace, and also provide an invitation to become more involved. As a Shop Steward, there are a few things you might consider doing to contribute:

- **Identify yourself:** First, you want to clearly identify yourself as a Shop Steward to your co-workers. You cannot be an effective Steward if no one in your workplace knows that you are serving in that capacity! Post a notice on your bulletin board, making sure that your co-workers are able to contact you with questions or concerns. Consider adding a photo if you are in a large workplace. While posting a notice is a good invitation for folks to come to you when they have issues, you should also look for more active ways to introduce yourself. For this, nothing is as effective as a face to face conversation. Make a point of regularly touching base with each of the people you work with to ensure that they know that you are able to assist with workplace issues. The best approach is to just be upfront about it: “As the Local Shop Steward I like to keep in touch with everyone about working conditions and union matters. How is work going for you? Do you have any questions about the union or what it does for you?” It is particularly important for you to introduce yourself to new employees, keeping in mind that this might be their first experience in a unionized workplace and they might have no idea what a ‘Shop Steward’ is.
- **Wear Union Swag:** Another simple thing you can do is to make a point of using ‘Union Swag’. Drink your coffee from a mug with the YEU logo, use YEU pens, and wear a YEU toque to and from work. Doing this demonstrates that you are a union supporter and can provide opportunity for your co-workers to ask about the union.
- **Establish a relationship with management:** Consider informing your supervisor that you have been sworn in as a Shop Steward. In larger organizations like the Yukon Government and the City of Whitehorse, your immediate supervisor is likely a union member as well and will (hopefully!) be supportive. In these cases, you might also introduce yourself to the first non-bargaining-unit manager. You will likely be requesting leave for union business from your supervisors and may be presenting grievances to them in the future. Introducing yourself up front can show that you are interested in maintaining a good working relationship.
- **Maintain the Bulletin Board:** In addition to making your position known to the people you work with there is a need for building general union

support. One way that unions keep in contact with members is with a Union Bulletin Board. Check the details in your own CA, but in most cases the employer is required to provide a bulletin board dedicated to union materials in each work area. This board should be clearly identified, should be free from non-union materials, and should be regularly updated with notices about bargaining concerns, the union's perspective on current issues, and posters reminding members about union activity. The bulletin board is easy to ignore when it gets cluttered with material or never gets updates, so it is important to regularly clean it up and cycle fresh posters. Maintaining the board doesn't need to be your job. Someone else in your Local might already be doing it, but if not it is a great job for you to delegate to someone; ask one of your co-workers if they would take charge of it.

- **Union Orientation for New Employees:** New employees should be scheduled for an introduction to the union along with their initial training and orientation (check your CA for details). This is often conducted by a member of the Local executive board, but if you notice it being missed altogether you should ask your President or Chief Steward about it, and consider volunteering to perform this orientation yourself. New employees should get a basic overview of what the union is and what it does, and get an opportunity to sign a membership card. A supply of membership cards is included in your Steward's Binder, and more are always available from the Union Hall.
- **Word of Mouth:** Finally, make a point of informing your co-workers about union activities and achievements through casual conversations. When you assist a member by winning a grievance, let others know about it and celebrate with you (so long as you have the member's permission!).

Monitoring Workplace Practices and Policies

Shop Stewards are the eyes and ears of the union in the workplace. Part of representing the union is monitoring working conditions and employer policies to ensure conformity to the CA. While all of our members are entitled to a copy of the CA, very few of them read it until or unless they feel that they have been treated

unfairly. This can lead to situations in which terms of the CA are violated without anyone noticing. Stewards should be performing a 'watchdog' function, monitoring employer practices and carefully considering new rules or policies. As before, this is not a job that falls to the Steward alone; you should be enlisting the help of as many members in your workplace as you can by encouraging them to read their CA, to talk to you about parts that are unclear, and to make sure it is being followed.

Working conditions can change frequently with changes in supervisors and with new policies coming down from upper management. Be prepared to be extra vigilant when a new supervisor is hired, and get into the habit of reading new policies, directives, and guidelines carefully to ensure that they are in line with the provisions the union has already negotiated.

Responding to Opposition

This may come as a surprise, but not everyone is a fan of unions. Once you identify yourself as a Shop Steward, you should be prepared for some folks to be less than enthusiastic. Here are some things to keep in mind:

- You are not expected to have an answer to every challenge, nor are you expected to always respond to someone with a gripe against the union. Engaging with someone just looking to start an argument is almost never productive. Often your best response is to refer the person to someone else: "I'm not really sure what I think about that, but why don't you give some folks at the Union Hall a chance to respond to your issues?"
- Often, discontentment with the union stems from misplaced expectations. Perhaps a member who has been paying dues for a long time wants to drive the new work truck instead of the old one he keeps being assigned to, and expects the union to make it happen. Remind such folks that the union fights to protect the interests we all share in common, but not always individual preferences. Even if the union were able to affect decisions such as work truck assignments, it could put one member into the new truck only by removing another member from it. That just isn't the sort of thing anyone should expect from the union.

- It is helpful to distinguish between “in principle” objections to unionization, and “in practice” objections. When you get down to it, very few employees really think that we should all just trust employers to set fair working conditions and be thankful for what they choose to offer us. Unions exist in order to give working people an opportunity to bring their concerns to the table and negotiate fairly with employers. It is hard to give a thumbs-down to that! So, most objections are not against the very idea of unionizing (i.e. they aren’t an objection to unions, in principle). Instead, most objections are directed at some way that unions operate. Someone may not like the way that dues are collected, for example. The first thing to say about these objections is always the same: It is YOUR union. If you don’t like some way that the union operates, and if you can think of a better way to do it, then as a voting union member you have as much opportunity as anyone else to make changes. Instead of just allowing these folks to complain, challenge them to do something about the things they don’t like, such as attending meetings called by the Local or nominating themselves for a position on the executive.

There are many reasons that someone might be opposed to the union, and they are often worth addressing head-on instead of sweeping under the carpet. Keep a notebook for issues that members ask about or challenge you on, and plan to share them with other Stewards in our network. By collaborating with others we will shape our own opinions, and also be better prepared to respond to union negativity.

Organizing your Workplace

When unionists talk about “organizing a workplace”, they are usually referring to a previously non-union workplace becoming unionized for the first time. A “Union Organizer” is someone working for a union, whose job is to create new Locals by enabling a group of non-union employees to join the union. Unfortunately, this gives the impression that ‘organizing’ is a one-time event occurring at the creation of a new Local, and that the organization put into place when a Local is created will naturally continue on indefinitely. These impressions are misleading. Once a workplace becomes organized there is always a need for it to stay actively organized, and this does not just happen on its own. A Shop Steward has a closer

connection to the members in his/her own workplace than any union staff or executive member, and is therefore uniquely positioned to keep those members connected. A few ways that a Steward can take part in keeping their workplace organized:

- Keep an updated list of employees in your workplace, the departments they work in, and the supervisors they report to. This can help the union identify areas that need more visible union presence. For example, if a group of the employees you work with rarely spend time in the room containing the Union Bulletin Board, there may be better ways to communicate with them. It will also help us identify members to talk to about specific working conditions. For example, if one member complains about the way a new supervisor is processing leave requests, it will sometimes be useful to know the other members reporting to that supervisor, to see if they are being treated the same way.
- Identify natural leaders in the workplace. In any group of humans there are some folks that others look up to, whose opinions seem to be widely respected, and who would be followed if they decide that something needs to be done. Those are the people that could potentially make strong union advocates. You don't need to attempt to recruit them for union activities if you aren't comfortable doing so, but if you can identify them as natural leaders or potential recruits and make a note of it, then other union members will know who to approach
- Make sure you know the members of your Local executive board, and facilitate communication between them and the members in your workplace. You can keep the officers aware of issues in your workplace, and keep your co-workers aware of Local meetings, AGMs, and activities.
- When your CA is due to expire, the members will elect a bargaining team who will request input ('bargaining proposals') from everyone else. This is a very important opportunity for everyone to evaluate their working conditions and propose improvements. As a Shop Steward, you can make a point of communicating to your co-workers that this is their chance to address things not covered by the current agreement. Bargaining teams always have to prioritize items for bargaining, and will require input from

the membership on the relative importance of the various proposals.
Encourage your co-workers to participate in surveys and questionnaires.

- A Steward can also act as a liaison between the members in your workplace and the staff with YEU and PSAC by distributing printed materials from the union, inviting members to participate in training courses, and keeping on top of social and political issues the union is involved with locally, territorially, and nationally.

Conclusion

Assisting individual co-workers with workplace issues is an intimidating enough task on its own, and adding to it the role of representing the union likely seems overwhelming and unrealistic. Keep in mind that you are one member of a large team, and no one expects you to take charge of everything described in this section. The information is given only as a guide for you to help out where you can, and for everyone to better recognize when more support is needed to keep the Local strong.

Representing Members 1: Attending Disciplinary Meetings

Introduction

In addition to acting as a representative of the union in the workplace, Shop Stewards act as representatives of their fellow co-workers. You will do this for members attending disciplinary meetings and for members wishing to resolve issues with their working conditions. This section will focus on representing members at disciplinary meetings. Representing Members 2 will detail the processing of member complaints.

Understanding Progressive Discipline

Managers use a wide range of 'performance management tools' to ensure that employees are meeting expectations on the job. These include providing a clear statement of duties for each position, setting up personalized work plans with specific goals and areas for improvement, giving periodic informal feedback, and conducting annual performance reviews. When an employee is underperforming at some task, a manager may assign additional training, issue a 'letter of expectation'¹² indicating the specific standards that the employee is expected to meet, or withhold a performance increment to the employee's salary.¹³ Although you should be available to provide information and general support, a Shop Steward is not directly involved in any of these performance management activities. For example, a member concerned about an upcoming performance evaluation might talk to a Shop

¹² In some cases a document labeled a "letter of expectation" is in fact disciplinary in nature. The difference will be explained later in this section.

¹³ Under "Pay" or "Pay Administration", most collective agreements provide for written advance notice if an employer plans to withhold an annual performance increment, as well as details for reviewing the decision. If these provisions are not followed, the matter can be grieved. However, employees are not entitled to union representation at performance review meetings, even if an increment is withheld – this falls within Management Rights, and is not considered a disciplinary measure.

Steward to get more information about the normal process, but a Steward would not represent the member at such a meeting.

Employee discipline is separate from performance management. It is regulated in the Collective Agreement (CA), and includes the involvement of a union representative (usually a Shop Steward). Discipline is an action by the employer intended to correct or deter an infraction against one of the employer's rules, policies, or expectations (and not just to punish). Examples include a written warning added to the employee's personnel file after she used a Company vehicle for personal purposes, or dismissing an employee after a serious violation of a safety standard.

Discipline is almost always "progressive", meaning that penalties increase in severity for repeated offences, and are proportional to the seriousness of the offense. Some CAs make specific mention of the steps of discipline typically taken, while others leave it to the discretion of management. The following list is representative of the process, though the steps taken in your workplace might vary considerably from it:

- i. Verbal warning (including a note added to the employee's personnel file)
- ii. Written warning
- iii. Written reprimand
- iv. Suspension without pay
- v. Demotion
- vi. A "last chance agreement"
- vii. Dismissal

It is important to note that a record is kept of every stage of a formal discipline process. So, even though the first step might be a 'verbal warning' with nothing in writing given to the employee, a written record of the warning must be kept in the employee's file if it is to be used as a reason for more severe discipline in the future. It is also important to note that even if your employer does not have a policy on progressive discipline, arbitrators expect there to be a progression in employee discipline. A decision to dismiss an employee for showing up late could be overturned (and the employee reinstated with back pay) without evidence that other attempts to correct the behaviour were used first.

Attending Disciplinary Meetings

At every stage in the formal discipline process an employee has a right to union representation, ensuring that the process is kept transparent and fair. When called upon for this, a Steward is not expected to present a full defense of the member as a lawyer might at a criminal proceeding. However, the Steward is expected to protect the rights of the member and ensure that the process followed is fair. A Steward should:

- **Keep members informed of their right to representation.** Some CAs place a duty upon the employer to inform employees of their right to union representation before conducting a disciplinary hearing, but you shouldn't count on that. Spread the word, and ensure that your co-workers know they can call on you if the need arises.
- **Make contact with YEU Intake.** Every time you are asked by a member to attend a disciplinary meeting, contact Intake to open a file. YEU will keep record of the incident and ensure that you have all the support you need.
- **Meet privately with the member prior to the meeting.** The employee will likely be nervous and may be quite upset. Take this time to clarify some expectations, both about how the meeting is likely to go, and about what you can and cannot do to help. Tell the member that your role is to ensure the process is fair and in line with the CA, but do not make promises about reducing or eliminating discipline. Encourage the member to be calm and cooperative during the meeting; if procedure is broken or the contract violated by the disciplinary measures, it can be grieved later.
- **Represent the member's interest during the meeting.** At all times, remember that you are acting on the member's behalf, ensuring that s/he is treated fairly. Among other things, this means that you do not offer information to management that may become grounds for additional discipline. You do not 'take management's side' by overtly agreeing with them or by criticizing the employee. You do insist on proper procedure, for example by objecting if a manager's attitude becomes hostile. Your job is not to get a guilty co-worker off the hook, but to uphold a process that respects everyone's rights.

- **Know the discipline policy and the provisions in your CA.** If your employer has a written policy available, you should read and understand it. Keep a bookmark in the “Discipline” article of your CA so you can refresh the provisions in your mind before a discipline meeting.
- **Ensure that the provisions are followed.** Every CA has its own wording and may have a more or less detailed section on discipline. Some common themes are:

1. **Just cause** – Employers can take disciplinary action only for just cause, meaning that it cannot be arbitrary or unfair. A common resource for determining just cause is a set of questions used by Carroll Daugherty, an arbitrator in 1966:

- Was the employee forewarned of the consequences of his or her actions?
- Are the employer's rules reasonably related to business efficiency and performance the employer might reasonably expect from the employee?
- Was an effort made before discipline or discharge to determine whether the employee was guilty as charged?
- Was the investigation conducted fairly and objectively?
- Did the employer obtain substantial evidence of the employee's guilt?
- Were the rules applied fairly and without discrimination?
- Was the degree of discipline reasonably related to the seriousness of the employee's offense and the employee's past record?

If the answer to any of these questions is “no”, then there may be grounds to object to the discipline.

2. **‘Sunset’ clause** – a ‘sunset’ clause gives an expiration date on disciplinary reports in an employee’s personnel file, provided that there is a clean record for a certain period of time. For example, it may state

that “Any notice of disciplinary action placed on the employee's file shall not be introduced by the employer as evidence after one (1) year has elapsed, provided that no further disciplinary action has been recorded during this period of time.” This means that after one year with a clean record, harsher discipline for an offense cannot be assigned on the basis of the past misconduct. When an Employer produces a document from the employee’s file related to past discipline, ensure that it is allowable under the sunset clause (if there is one in your CA).

3. **Employee’s access to personnel file** – Your contract may grant employees access to the contents of their own personnel file. It may also prohibit the use of documents the employee was not made aware of at the time of filing. If an employer produces a document reporting some past misconduct and uses it to impose harsher discipline, ensure that the document is something the employee knows about. If not, and if the use of such documents is ruled out in your Agreement, a Steward should object to its use in determining discipline.
 4. **Excessive discipline** – Your CA may make reference to a progression of disciplinary measures, or may state that “The Employer will use the least serious form of disciplinary action which will likely stop or deter further disciplinary infractions by the employee.” In any case, if the discipline imposed seems excessive to you or to the employee, ask your Union Advisor to investigate after the meeting.
- **Take notes.** Sometimes a Steward needs to intervene in a disciplinary meeting to ‘police’ the contract, in one of the ways mentioned above. More often, however, the Steward’s main role is to observe and take notes. Keep a record of who attends the meeting and keep notes on what is said. Request copies of any documents used. Submit your notes to your Union Advisor after the meeting for a second opinion of the proceedings and result. Your notes are important union documents and should not be copied or shared with anyone else, or stored in an unsecure location. Respect their confidentiality! Some tips on taking notes efficiently are including in the Additional Resources section of this Handbook.

- **Meet with the member privately after the meeting.** You should take a few minutes to clarify the results of the meeting with the member and to answer any questions they may have.
- **Follow-up with your Union Advisor.** Your meeting notes should be delivered to the Union Hall for filing. Discuss the meeting with your Advisor to get another perspective on the details and if needed, follow up again with the member.

Is it Discipline?

As stated above, disciplinary measures in a unionized workplace allow for union involvement, typically with a Shop Steward representing members at disciplinary hearings. One way an employer might try to avoid union involvement is by disguising discipline in something that looks more innocent, such as a “letter of expectation” or an investigative meeting.¹⁴

The intent behind a genuine letter of expectation (LOE) is to clarify the standards an employee is to meet and provide examples of unacceptable or inappropriate behaviour. It may identify specific areas in which the employee is expected to improve and may direct the employee to further training or mentorship resources, but its intent is informative rather than corrective. What it should not contain is language that can reasonably be interpreted as a formal warning, such as “if this behaviour continues, it may lead to further discipline.” An LOE will be kept in the employee’s personnel file and might be used at a later disciplinary meeting for the purpose of establishing that the employee was made aware of the expected standards (in order to establish “just cause” – see II.f.1 above). However, since it does *not* count as discipline itself, it cannot be used to show that some behaviour is a repeated offense meriting a harsher penalty. A well-written LOE will identify specific ways the employee can improve (for example by offering a particular training course) and include a time frame for expected improvement or follow-up.

¹⁴ This is not always an intentional attempt to sidestep the union; a well-meaning manager may just not be clear on what counts as discipline and what does not.

Two complications to be aware of: First, very often an LOE will explicitly state that it is “not disciplinary in nature”. If the tone, wording, and intent of the letter are disciplinary despite this claim, then it should be treated as a written warning or letter of reprimand (and should only be presented to an employee with union representation available). It can be grieved if it does not follow standard disciplinary procedures. Second, since they are not supposed to be disciplinary, LOE’s may not be subject to the sunset clause. This means that it could remain in an employee’s file indefinitely. This is one reason to encourage members to ask a union representative to look over any LOE.

A ‘fact-finding’ or ‘investigatory’ meeting is an investigation the employer conducts to determine whether there was any offense meriting discipline. An employee should never be disciplined without such an investigation, including the opportunity to explain oneself and respond to any charges. Sometimes a fact finding meeting is called because the employer is unclear about what exactly happened, and other times it is just to offer the employee an opportunity to share his/her own perspective. Sometimes one employee is asked to attend a meeting because the employer suspects that she witnessed events involving another employee under investigation. The investigation is not disciplinary itself, but it *is* the sort of meeting that could lead to discipline. This is often an employee’s only chance to give his own account of the events under investigation, and the way he responds to questions will immediately affect whether discipline is issued at a follow up meeting. Because of this, it is actually *more* important that the employee have union representation at a fact-finding meeting than at a follow up meeting where the employer’s decision to discipline is announced. In fact, when an employer refuses an employee their right to union representation when investigating circumstances leading to discipline, none of the information gained from that investigation can be used to impose discipline. A well informed member would request the presence of a Shop Steward before participating in any sort of investigation like this, and part of your job as a Steward is to ensure that the members you work with are well informed. A good practice is to encourage all members to ask management if the meeting could lead to discipline, and to request a Shop Steward if so.

If a manager refuses the request for a Shop Steward and conducts an investigation leading to discipline anyway, that action can be grieved. As with other issues, the rule is to ‘work now, grieve later’, meaning that an employee in that situation should

stay at the meeting and comply with the employer's directions, then seek to correct it afterwards.

Professional Conduct at Meetings

Disciplinary meetings can become very emotional and heated. A Steward should strive to remain calm and collected, and to encourage the same attitude from the member. Sometimes a meeting has been called because the employer already has compelling evidence of wrong-doing. In those cases the best response from the employee might be an admission, an apology, and a promise that it won't happen again. In other cases when the employee hasn't done anything wrong, you'll ensure that s/he gets a fair chance to explain the situation and answer the questions raised by management. Having done that, you will receive the manager's decision, and then grieve the disciplinary action after the meeting.

Remember that as the union's representative, you have a duty to give fair representation to every member of the bargaining unit. This means that you may be asked to represent an employee you have personal issues with, or one that you know has committed more or worse offenses than management is aware of, or even an anti-union member who always criticizes your union involvement. Remember that it is management's job to conduct a full investigation and not your job as the Steward to offer any information that could make things worse for the employee. You are there to protect the employee's right to fair treatment. When you feel that you are unable to represent a member fairly, ask another steward (or your Chief Shop Steward) to take the case.

Along with this, be careful not to interact with management representatives about the issue when the member is not present. While you should strive to maintain a good working relationship with the supervisors and managers you'll deal with, you do not want to be so friendly that you raise suspicions among your co-workers about whose side you are really on. Meet with the member before and after the meeting, but don't meet privately with management representatives.

Last Chance Agreements

A “Last Chance Agreement” is sometimes offered by an employer as a final alternative to dismissal, usually as part of the employer’s duty to accommodate a disability.¹ The agreement will specify that the employee can be immediately dismissed for a future offense, and limits the union’s ability to grieve this decision. For example, it might contain wording like this:

The parties agree that in the event of a breach of this agreement, an arbitrator's jurisdiction shall be limited only to making a finding of fact (a finding that something did or did not happen). Should a finding of fact be made, the arbitrator shall have no authority to modify or vary the discipline imposed by the employer.

This means that the union might try to establish that the offense did not take place (or that the employer has insufficient evidence of it), but cannot argue that dismissal is too strict a penalty.

A Last Chance Agreement is an important legal document (it is not simply a matter of a supervisor or manager verbally informing an employee that “this is your last chance.”), and it requires the consent of the union to be binding. In all cases, therefore, it should be forwarded to the Union Hall before being presented to a member. As a Steward you should never have to deal with this, but the important thing to keep in mind is that a Last Chance Agreement *should never be signed on the spot*. Ensure that the member discusses it with a Union Advisor first.

Discipline and the Duty to Accommodate

One important concern in some discipline cases is the possibility of a disability, an illness, or a change in personal situation (e.g. family status) contributing to the alleged misconduct. An employee with a strong work history who starts showing a pattern of lateness or absenteeism may be dealing with an issue the employer is

¹ Find more on the Duty to Accommodate on pg. 57, and in the resources listed on pg. 63. Importantly, a Last Chance Agreement cannot be used to circumvent the duty to accommodate. That is, even if everyone involved consents to the terms, the agreement may not be considered legally binding if it can be shown that the employer has not made sufficient efforts to accommodate the employee’s disability.

legally obligated to accommodate. A member may be reluctant to share this information with you or with the employer, but it is important that they understand their rights. More on the Duty to Accommodate is included in the section on processing complaints and grievances, and a link to even more information is included in Additional Resources.

Grieving Disciplinary Cases

When proper procedure is not followed, just cause is not established, disciplinary measures are not progressive, or a disability is a factor in the misconduct an employer's actions can be grieved. Grievances about the initial stages of progressive discipline, including written warnings and reprimands, are processed the same way as other individual grievances. The details on filing these will be covered in the section on processing complaints and grievances.

Disciplinary measures involving a suspension, a Last Chance Agreement, or a dismissal are significantly more serious and are not managed by a Shop Steward. Instead, when there is merit to object to a suspension or a dismissal a Union Advisor will process the complaint, usually accessing the final level of the grievance procedure immediately, or using a separate appeal process. If you attend a fact finding meeting or a follow up to such a meeting in which the member is given a letter of suspension or dismissal, direct the member to your union advisor for follow up and review.

Finally, keep two things in mind:

- The general rule to “work now, grieve later” applies to discipline cases. Reassure the employee prior to the meeting that the CA provides for a fair process, and that if that process is violated there are actions we can take to remedy it. A fact finding meeting should provide an opportunity for the member to offer and explain his/her own account of events, but it is not a good place to get into an argument if s/he does not agree with the employer's actions.

- The Union's only official record of what occurs during the meeting is in the notes that you take. It is vital that you record accurate information, and get copies of any documents produced to justify the employer's decision.

Conclusion

Representing a co-worker at a disciplinary meeting involves a lot of responsibility, but remember that the responsibility is shared by us all. A Shop Steward is one member of a team; as long as your notes record what was said and decided at the meeting, other members of your team are able to help you ensure that the process was fair.

Representing Members 2: Processing Complaints and Grievances

Introduction

Shop Stewards are much more than ‘complaint officers’, but hearing, assessing, and processing complaints from the membership are core activities. A unionized workplace has a Collective Agreement (CA) defining the terms and conditions of employment and an established process for resolving conflicts once that agreement is made. Since individual employees suffer from a power imbalance favoring the employer, it is crucial to the functioning of the union that employees get support from an official representative of the union when they have questions and want to file a complaint about their working conditions. A Shop Steward functions as that representative, at least at the initial stages of the process. In this section we will start by considering what a grievance is and the sorts of complaints that can and cannot be grieved. Then we will work through the nuts and bolts of investigating, filing, and processing grievances.

Grievances: an Overview

A. What is a Grievance?

A grievance is a written complaint about an alleged violation of the employment conditions in a unionized workplace. In principle, a grievance could be filed by either of the parties involved (the union or the employer), but in practice it is almost always the union that files a grievance against the employer. Most often, a grievance is a complaint that some act or practice of the employer has violated the CA, but occasionally a grievance can also be filed about matters the CA does not specifically address. The grievance process is just the set of steps that need to be taken to formally present the complaint and find a fair resolution, along with deadlines for each step. It is important to note that while members might complain about the employer in all sorts of ways, not all complaints count as a grievance. A complaint

does not become a grievance until it is put in writing and formally presented, after a union representative endorses the grievance form by signing it.

The term 'grievance' has a negative stigma that needs to be addressed. Many members feel that filing a formal complaint against one's employer and calling it a 'grievance' is equivalent to bringing a lawsuit against your neighbour; they would rather just put up with the employer's practice than make things confrontational by involving the union and presenting a grievance. There is something right and something wrong about this attitude. On the one hand, a grievance is not the right tool for every complaint. Often an issue is based on a simple misunderstanding and can be resolved through an informal talk with a supervisor. In fact, most grievance procedures recognize this and either require or recommend an informal 'complaint' or 'pre-grievance meeting' before a formal grievance is filed. On the other hand, it is a mistake to assume that involving the union needs to make things confrontational. Filing a grievance is just a means of holding the employer to established timelines (so that the issue does not get swept under the rug) and gaining the support of the union to ensure that it is dealt with fairly. Furthermore, the initial stages(s) of the process are intended to enable joint problem-solving between you, the member, and the employer's representative. They do not involve arguments, threats, or negotiations. Finally, remember (and remind your members) that the grievance process is developed and agreed to by *both* parties to the CA; the employer has already established it as the proper method for resolving workplace conflicts.

Two guiding principles shape the grievance process, and it is helpful to keep these in mind before we look at the details. First, the process is progressive; it begins with a problem-solving meeting between those most immediately involved (usually the affected member with a Shop Steward and a supervisor or first level manager). This initial meeting should be held relatively quickly (within days or weeks of the complaint rather than months), and should be focused on finding a solution to the issue together. If a satisfactory solution is not found, the grievance escalates to second level involving a higher level of management (and sometimes escalates another time after that, involving a Director or Executive Officer, and a Union Advisor in place of a Shop Steward). The second principle is that there are backup resources when the employer and the union are not able to come to an agreement on their own. Some grievances go to mediation, where a neutral third party attempts to get both sides to compromise or agree on a solution. Others go to arbitration, where a third party hears both sides of the dispute and then renders a

legally binding decision. When the two principles work together, the majority of conflicts are resolved relatively quickly and efficiently (at the lower levels), and none are stalled indefinitely when agreement cannot be reached.

A. Ownership of the Grievance

A CA is a contract between the employer and the union (the collection of all bargaining unit employees) and NOT a contract between the employer and any individual employee. This means that when some part of the agreement is broken it is an offense against the entire union, even if it happens to affect only one employee. Grievances are normally 'owned' or 'carried' by the union rather than by the individual grievant.¹ In other words, individual employees don't file grievances; the union files a grievance on behalf of the individual and sometimes on behalf of a group of individuals or on its own behalf – these are known as *individual*, *group*, and *policy* grievances.

This distinction matters because the union needs to be convinced that a complaint has merit before filing it as a grievance. In some cases a member feels that s/he has been mistreated by the employer and wants to file a grievance, but the union is unable to endorse it, perhaps because the matter is plainly within a manager's rights, or because it concerns an issue that the CA simply doesn't address. In these cases the union can refuse to file a grievance. It must do so in accordance with its Duty of Fair Representation (more on this later), and when this does happen a union representative will always do his/her best to explain the reasons for the refusal to the member. As a Shop Steward, be aware that some of the complaints that members discuss with you might be of this nature. With experience you will become better at assessing complaints to separate those that can be grieved from those that cannot.

It also matters because sometimes a member will recognize that his/her rights have been violated, but will refuse to file a grievance. The member's position might be that the issue is none of the union's business, but this isn't quite accurate. The union

¹ In rare cases a collective agreement allows a member to access the initial stages of the grievance process without the support of the union. In these cases the member 'owns' the grievance. Even in these cases, however, the grievance requires support from the union before it can go to arbitration.

has an agreement with the employer, and it always has an interest when the agreement is broken, even when the only affected member does not wish to complain about it. This is a difficult situation. On the one hand, the union respects the privacy and wishes of its members, and will not file a grievance on behalf of a member when the member has not requested it. On the other hand, ignoring a violation of the contract sets a dangerous precedent. It can give the employer grounds to argue that the union accepts a questionable practice, since it knew about it but did not file a grievance. As a Steward, if a member ever confides in you that s/he has been treated in a way that violates the CA, encourage that member to resolve it rather than ignore it, not only for his/her own sake but also for the sake of others that may be affected by similar practices in the future. If the member refuses, discuss the issue with your Chief Steward or Union Advisor; in some cases there may be the option to file a policy grievance without naming any affected members.

C. Resources for Processing Grievances – Steward’s Binder

YEU has several resources available to help you investigate and assess complaints. They are included in the Steward’s Binder given to new Stewards when they are sworn in at the Hall, and are also accessible online:

- **Shop Steward Fact Sheet** will help you organize an interview when you first meet with a member wishing to discuss a complaint. If you use it to gather all the crucial information you can forward it to Intake when you need to open a case.
- **Grievance Tracking Chart** will help you stay on top of timelines. A grievance must be filed within a certain deadline after the event giving rise to the complaint, and there are strict deadlines for a response from management.
- **Grievance Presentation Form** is the document that is filled out once you are ready to file a grievance. A copy is delivered to the appropriate employer representative (typically a supervisor at the initial level), and copies are kept by the Steward and by YEU.

The Role of a Steward in Processing Grievances

If you have identified yourself as a Shop Steward in your workplace, a co-worker who runs into an issue will likely approach you first. When a member calls the union hall first, we contact all Stewards in your Local to ask who is available to lead it. In both cases, your first task is to decide if you are able to make the time to help. For more on this, see the tips on managing your caseload and avoiding burnout, included in “Additional Resources”. When you accept a case, you will lead it until it is resolved or until it escalates to a level where your Union Advisor takes over the lead.

A few general things to keep in mind with every case you work on:

- Encourage members to follow the “work now, grieve later” rule. When a member doesn’t like a decision by a manager, it is almost always best to comply with the decision while a grievance is pending. An important exception is when an employee is asked to do work s/he reasonably considers hazardous or illegal.
- Keep in mind that throughout your involvement you have access to a lot of support from your Local executives, your Chief Shop Steward, your fellow Stewards, and union staff. Don’t hesitate to ask questions or make a call just to bounce ideas off of someone else.
- You have a duty to respect the privacy of members that approach you. Ensure that members understand that in your Shop Steward role you are a representative of the union, and that you may need to share information with union staff and/or your Chief Steward. Assure the member that the union will not approach the employer on the member’s behalf until (or unless) the member asks us to.
- Not every interaction with a member is an official ‘case’. A member may just want someone to vent to. A member may approach you for general advice about something in the CA or about how to deal with a particular manager. Helping in these ways is all a normal part of being a union representative in the workplace. An official ‘case’ is when a member wants the union to represent his/her interests in some particular matter. It often

involves having a Steward or other representative speak to management on the member's behalf. Cases are kept on file and tracked by union staff. You'll need to use your judgment to distinguish between cases and other interactions. What follows in this chapter focuses only on official cases.

Every case is a little different, but the following summary of the steps involved will give you a better idea of what to expect:

Steps to Filing a Grievance

1. The initial contact

You should plan to take at least 15 -20 minutes to discuss the issue with the member and gather all the information you'll need. If a member approaches you at work, you may not be able to do this right away in a private setting without interruptions, so you should schedule a meeting for a later time. However, get some information as soon as possible. Record the member's current contact information; often the information in YEU's database needs to be updated. Make sure you don't risk missing a deadline by meeting at a later time; if the member wants to complain about something that happened a couple of weeks ago, you may need to take action very soon. Finally, check the language in your CA under "Union Representatives" or "Time off for Union Business" and be sure you know your own rights about dealing with union business on work time.

2. Assessing the complaint:

Your goal when you meet with a member for the first time is to gather enough information about the issue for the union to decide what to do with it. Sometimes it is an issue you will assist with, and sometimes it is something to be brought directly to a Union Advisor (see "Common Grievances and Who Leads Them" in the Additional Resources section). Other times, the complaint is not the sort of issue that can be grieved. Most complaints fall into one of the following categories:

- **Non-grievable** – either because it is within management's rights, or because it isn't even work related. Note that even when a complaint is not

the sort of thing that can be grieved, you may still be able to offer assistance or direct the member to other resources. See “Problem Solving without a Grievance” later in this section.

Examples:

- A change in shift, given with sufficient notice, for a position without established hours of work.
 - A work assignment that the member doesn’t like, but that falls within his/her job description
 - Most minor personal conflicts (“Cindy hums as she works and it drives me bonkers!”)
- **CA violation** – some practice or action that contravenes one or more provision in the CA. In most of these cases, a Shop Steward takes the lead through the first level or two of the grievance process. Sometimes the issue will fall into a ‘gray area’ which may or may not violate the CA, depending on how it is interpreted. As long as the union’s interpretation is a reasonable one, these are considered grievable.

Examples:

- An unreasonable denial of a vacation request (e.g. one made with plenty of advance notice, for a time when no one else is off on leave).
 - Refusal to pay overtime for hours worked on an employee’s day of rest.
 - A manager doing work normally done by bargaining unit members, when members are available to take the shift.
- **Other unfair practices** – An unfair practice that is not addressed in the CA might still be grieved if it violates one of the employer’s own policies or breaks an established past practice.

Examples:

- Employees in a particular unit have always had a 30 minute lunch break, but now the employer wants them to take a 1 hour break at lunch and work 30 minutes longer in the day. The CA doesn’t specify how long a lunch break must be.
- Although the CA doesn’t address it, the employer has always provided a cleaning service for staff uniforms, and has a

written policy on how to use the service. Now they are asking some employees to pay to clean their own uniforms.

- An employee with no record of past discipline is issued a letter of reprimand for behaviour that could have been corrected with less serious measures.

- **Violation of employment, health and safety, or human rights**

legislation - There may be avenues other than a grievance to deal with these matters, but grievances can be filed when an employer's actions are prohibited in legislation, even if the CA doesn't address it. These cases are led by a Union Advisor, but it is important for Shop Stewards to be aware of them.

Examples:

- An employer ignores racist or sexist jokes being told in the lunchroom by a group of employees (Under the Yukon Human Rights Act, an employer has a duty to provide a harassment-free workplace).
- A worker's concerns about the safety of a poorly-maintained piece of equipment are dismissed out of hand by the employer.
- The employer refuses to find a suitable accommodation for an employee with a disability.

- **Competition and Classification Appeals** – A CA may or may not include a description of the process for hiring into new positions or for classifying (and re-classifying) existing ones, but these are issues that the union has an interest in and can file grievances over. These cases are led by a Union Advisor

Examples:

- An employee is consistently asked to perform tasks that are not in his/her job description.
- An employee is consistently assigned tasks below his/her level of expertise or competence.
- An open position is filled by directly appointing an external candidate before assessing the qualifications of an interested internal employee.

When you meet to hear a member's complaint, listen carefully, repeat back to the member the concern as you understand it, and be sure to record the basic facts of the situation (what happened, when did it happen, who was involved, etc.).

At the end of your investigation meeting, tell the member that you will consult with union staff about the case and then get back to him/her.

3. Call the Union Hall

Remember that you don't need to contact union staff about every interaction you have with a member, but whenever a member is seeking union representation you do need to call in. Intake staff will gather details about the case from you (including current contact information for the member), discuss your assessment of the case, check the system for related cases, and put you in contact with your Union Advisor who will work with you to resolve it. The normal process is for you to consult with the Intake Advisor to open a new case, and then contact your Union Advisor directly to discuss the case as it develops.

4. Informal Resolution

The most preferable way to resolve almost every issue is through an informal chat with those most immediately involved. When this works to everyone's satisfaction it settles the issue quickly, with a minimum of expense and emotional turmoil. It does not always work and that is why there is also a more formal procedure in place. A few points to consider:

- Your CA might include an informal meeting as a step in the grievance procedure, or it might state that resolving workplace issues informally is "suggested" or "encouraged". Whether it is required or not it is almost always a good idea for the member to bring the complaint to a supervisor to try to resolve it before filing paperwork.
- If an informal complaint is required in your CA, then usually the member is also permitted to bring a Shop Steward. Be aware that your presence automatically sets a more serious tone at the meeting and, depending on the circumstances, this may not be desirable. Use your judgment and

explain to the member the costs and benefits of your involvement at this stage in the process.

- Whether or not you attend, the meeting should be kept simple and to the point: “Here is what happened, this is why we don’t like it, and here is how we are hoping you can resolve it.” If the supervisor seems unwilling or unable to deal with the issue, don’t spend too much time or energy trying to change his/her mind. If s/he offers a compromised solution to the problem, consider carefully whether the compromise is a better option than what you might expect to get from filing a grievance. Also be sure that it is consistent with the CA; you cannot make side deals affecting only one member. Ask for time to consult with the member and with your support team before agreeing to anything.
- The point of a meeting at this stage is to ensure that the complaint is not based on a simple misunderstanding, and to offer an opportunity for a quick fix. If it becomes apparent that the issue won’t be resolved easily, end the meeting and plan to file a grievance. This does not need to be a hostile thing; filing a grievance is simply an alternate way to seek a resolution to a problem. The meeting can end with friendly handshakes along with the clear message that “we still aren’t satisfied and we plan to file a grievance.”

5. Drafting a grievance form

The grievance forms used by YEU have space for only one or two sentences. This is intentional; the grievance form is not the place to write out arguments and all the related issues. When you present a grievance you want to state as clearly and simply as you can what action or inaction you are complaining about and (sometimes¹⁷) what you want done about it. The context, supporting arguments, and related issues might come up in a later meeting.

The best way to get familiar with grievance language is to look at a number of examples:

¹⁷ For members with the Yukon Government, Levels One and Two grievances do not require that you include your desired resolution. It is enough to state the issue on the grievance form and then assist the member in working out a solution during the meeting.

- “Selena Miranda was unjustly passed over for overtime work on or about April 21, 2016, in violation of Article 3.01 and all other relevant articles of the Collective Agreement. We ask that she be paid 4 hours at the overtime rate and be made whole.”
- “I grieve that my vacation leave request was denied after the three week period of consent, in violation of Article 23.05 and any other relevant articles.”
- “I grieve that the Employer has failed to increase my leave accruals after 5 years of service, contrary to Article 20.02 of the Collective Agreement (and any other related articles). My anniversary date is March 31, 2008, and so I was entitled to an increase on March 31, 2013.”
- “I grieve the letter of reprimand issued to me on December 12, 2013. The employer’s reasons are insufficient and the discipline is unwarranted. This is in contravention of Article 27.01 of the Collective Agreement as the employer did not establish ‘just cause’. I further grieve that I was not provided the opportunity to have union representation at the time this discipline was rendered, which violates the union rights afforded me in Article 27.04. This grievance is not limited and may include other articles of the Collective Agreement.”

While it is important to cite the specific article(s) of the CA that a member is complaining about, mentioning only that article can keep us from appealing to other parts of the CA. This is why grievances should always include a claim that it “may include other articles of the Collective Agreement” or make reference to “any other related article”. The language used is important, especially if a case escalates to the final stages of the process. As a Steward you will draft grievance forms (consult with your Chief Steward if you’d like input when writing your draft), and then have this reviewed by your Union Advisor. The advisor will add a grievance number once the form is ready to submit; this number should be added to all notes and forms related to that case.

When you are ready to present a grievance form, it is important to bring two copies to the appropriate supervisor; one for the supervisor to keep and another to be signed and kept by you. This signed copy is proof of the date the employer received the grievance, ensuring that it will be dealt with within the time limits in your contract. If hand-delivering the form is not possible it can be scanned and emailed, but this should be followed up with a phone call requesting written confirmation of the date it was received.

6. Attending the Grievance Meeting

Representing your co-worker at a meeting with management can be an intimidating thing at first. As you mentally prepare for the meeting, remind yourself that in your capacity as a Shop Steward you are an equal and deserve to be treated as such. Also remind yourself that as a representative of the union you have the collective strength of all your co-workers behind you. This is not license to be rude, smug, or disrespectful, but it does set a distinctly different tone to the meeting than one in which you meet with management as an employee.

Check your rights as a union representative under your contract, and schedule the meeting on work time whenever possible.

It is crucial that you understand the purpose of the meeting at this stage. A first level grievance meeting usually involves only an immediate supervisor, and a second level meeting might involve a manager at the next level in the hierarchy. In both cases, the intent of the meeting is to problem-solve. You and the member want to present the issue, explain why you see it as a breach of the CA or unfair in other ways, and make suggestions about how to resolve it. Your role is to support and coach your co-worker, but keep in mind that it remains a meeting between the supervisor and the employee. It should not turn into a meeting between yourself and the supervisor. You will also listen carefully to the employer's response and record notes on what is said (you can also ask the member to keep some notes). If the supervisor's position strikes you as unreasonable you should be comfortable telling him/her so and explaining why.

Although you should have something to say in support of the member's position, you are not expected to bring forward well-prepared arguments or to call witnesses

supporting your case. That sort of work might be done by a Union Advisor or a lawyer at a later stage in the grievance process. You are there as an advocate for the member and as a representative of the union but not as a lawyer at a criminal proceeding. A first-stage grievance meeting is more formal than a pre-grievance chat with the supervisor, but it is still focused on finding a solution to a problem together.

Some of the ways you might be involved are:

- **Summarizing the issue.** When you write a grievance form you don't add context or explanation, so this is your chance to describe what happened and explain why it seems unfair. You should take note of any disagreement about the basic facts, such as when a vacation request was made, or what attempts were made to contact the member to offer an overtime shift. You are not expected to bring documents or witnesses to establish these facts (that might be done at a later stage by a Union Advisor), but it will be important information to pass along
- **Explaining the union's position on the relevant CA article(s).** If you have cited a specific article when writing the grievance, take some time to explain how you understand the article and why you think it was breached. Management might have a different interpretation of the relevant article, and it will be their job to explain it.
- **Correcting mistakes, or pointing out unfair treatment.** A supervisor might defend her actions by stating that it is just the way they have always done things. Point out that it still breaches the collective agreement and that you are now looking for a change. Or the supervisor might claim that she does not have to assign overtime on the basis of seniority. If the CA says otherwise, point out the mistake.
- **Asking for clarification.** A good general practice, and one that is especially important in grievance meetings, is to repeat back to the supervisor any important statements s/he makes, asking if you've understood it correctly. For example, you might say, "It sounds like your position is that employees must use vacation leave instead of special leave to attend a medical appointment. Is that correct?"

- **Keeping discussion focused.** Don't allow things to get sidetracked. You've grieved one specific action and are looking for a way to correct it. There may be numerous related issues, and there may be a history of bad relations between the member and the supervisor. These can very easily lead the direction of the discussion away from the issue you are meeting about. You may need to interrupt and say something like "That might be an issue that needs to be discussed another time. Right now we are trying to resolve ____."
- **Record notes.** Just as with discipline meetings, your written record of what takes place at the meeting is usually the only information the union gets about it. Your notes can become very important if the grievance escalates to a higher level. Review "Taking Effective Notes" in the Additional Resources section.
- **Summarizing outcomes at the end.** It is often helpful to give a brief summary of where things lie at the end of the meeting. "Just to clarify, we all agree that ____ happened, and in response you have agreed to do ____."
- **Private consultation with member.** You may get some information from a supervisor during the meeting that you were not expecting. For example the member may have told you that the supervisor changed his shift without the proper amount of notice, but the supervisor might have evidence that proper notice *was* given. Other times the supervisor might offer a compromise you weren't expecting, and you might not be sure if it is acceptable to the member. Be prepared to ask for a short private meeting with the member to consult before continuing in situations like these. Also meet privately with the member after the meeting to review the results and discuss whether further action is necessary.

Your own conduct at grievance meetings should be 'friendly professionalism without being a pushover.' You are there to demand that the terms of employment agreed to in the CA are respected, and to see that unfair treatment of your co-workers is remedied; and not simply to present a request to a superior and then go along with whatever s/he decides. At the same time, you risk losing credibility and embarrassing yourself, the member, and the union if you take a belligerent attitude

and refuse to offer the same respect you expect from management. Stay calm and controlled and remind yourself that there are backup measures in place if you meet an unreasonable supervisor and make no progress. Don't allow your frustration to make things worse. Unlike meetings that the employer has called, you and the member have requested this meeting and you can end it if it becomes apparent that it is going nowhere.

7. Follow up with your team

Take some time to reflect on the meeting and consider discussing it with your Chief Steward or mentor (if you have one) to get another perspective. You also need to update your Union Advisor by email or over the phone, and should submit any official notes taken during the meeting. Some things your advisor will want to know:

- **General tone of the meeting:** did it remain professional and respectful?
- **Resolutions:** What (if anything) did management agree to? If they acknowledged a breach of the CA, how do they plan to make it right?
- **Member's satisfaction:** Is the member happy with the way things turned out or does s/he want further action? Just as with the initial filing of the grievance it is the union, and not the individual member, that decides when to transmit a grievance to a higher level. Sometimes a member with unreasonable expectations needs to be counseled to accept what is offered and close the grievance.
- **Management's reasoning:** Perhaps the most important information to pass along are the reasons offered by management when they deny a grievance. Did they offer a different interpretation of the relevant articles of the CA? Was there a disagreement about the facts of the case? Did they present any documented evidence supporting their claims?

Together with your advisor and the member, the union will determine if the grievance can be closed or if it should be transmitted to a higher level. Depending on the grievance procedure in your own CA, you might repeat steps 6 and 7 with a higher-level manager, or your advisor might take over lead of the case and meet

with a Board of Directors, an Executive Director, or a senior level manager. If you attend a meeting at a second stage, you will have an opportunity to discuss the case with another employer representative who isn't as close to the situation. This person will likely be less personally involved and might see the issue more objectively. Come to this meeting with the same attitude as at the first meeting and explain why the union is not satisfied with the decision made at the first level.

Legal Issues and other Advisor-Led Cases

Shop Stewards lead most grievances through the initial stages of the grievance process. Often a grievance is resolved at these initial stages, but any one of them could end up being led by a Union Advisor at the final stages or at arbitration. In addition, some of the issues that arise in a workplace are led immediately by Advisors rather than Stewards, usually due to important legal considerations, matters requiring special technical knowledge, or policy issues that involve more than just an individual member. For an overview of the most common issues and who takes the lead on them, see the chart in "Additional Resources".

While you don't need to be able to lead the cases that go to an Advisor, it will help if you know enough about them to recognize them when they occur. Links to more information on each of these is available in "Additional Resources". Here is just enough about them for you to know what to look for.

A. Discrimination

The Yukon Human Rights Act prohibits "unfavorable treatment" on the basis of any of the following prohibited grounds:

- ancestry, including colour and race;
- national origin;
- ethnic or linguistic background or origin;
- religion or creed, or religious belief, religious association, or religious activity;
- age;
- sex, including pregnancy, and pregnancy related conditions;

- sexual orientation;
- physical or mental disability;
- criminal charges or criminal record;
- political belief, political association, or political activity;
- marital or family status;
- source of income;
- actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed above
- gender identity and gender expression (these are included in federal human rights legislation, and are expected to be added to Yukon's Human Rights Act when it is next amended)

This general prohibition is supplemented with some exceptions. It is not illegal, for example, for you to give preferential treatment to your own children, or for a religious organization to refuse to hire someone who does not share their religious beliefs. Nor is it illegal for employers to discriminate on the basis of the above categories when there is a reasonable requirement for doing so (for example, giving preference to members of an under-represented ethnic group when making hiring decisions). Some examples of workplace practices that *do* violate human rights are:

- Refusing to offer a job to the highest ranked candidate on the grounds that she is pregnant (and will likely want maternity leave soon).
- Forcing someone to retire at a specific age (when being under that age is not a *bona fide* occupational requirement).
- Withholding a pay increase on the basis of union involvement.
- Not offering overtime work to an employee because s/he has children at home.

Since practices like these are breaches of legislation governing employment, and not just breaches of the contract between the union and the employer, they are led by Union Advisors with more in-depth knowledge of the legal issues.

B. Harassment and Bullying

The terms “harassment” and “bullying” get somewhat different legal definitions in different jurisdictions, but most of us have a pretty good sense of when personal relations become inappropriate. Both are forms of behaviour that one ‘reasonably

ought to have known' would be unwelcome. Harassment and bullying can be discriminatory (when they are based on one of the prohibited grounds mentioned above), but they don't need to be; one person might start bullying another out of a clash in personalities. The Canadian Centre for Occupational Health and Safety has a good list of examples.¹⁸ There are three things in particular that Stewards should be aware of.

- Because they are responsible for the work environment, employers have an obligation to provide a workplace that is safe for all workers and free from discriminatory treatment. Many employers have internal anti-bullying policies or units like the Respectful Workplace Office in the Yukon Government that are responsible for preventing bullying and harassment and addressing it when it does occur. In addition, many CAs are beginning to address bullying in the workplace and include clauses specifying the employer's responsibilities. Harassment complaints can be filed against an employer even when it is not the employer who is doing the harassing.
- Not all interpersonal conflicts amount to bullying or harassment. These are terms that should be used very carefully (since they have legal implications). Often, personal conflict in the workplace needs to be addressed with training or counselling and not by grieving against the employer.
- Very often harassment or bullying come out of friction in a relationship that develops over time, rather than just being a single event. One of the most important things for your members to do if they are feeling abused in the workplace is to keep a written record of every interaction they feel is abusive, including the date, time, location, and people involved. This record might be used to show that there is a pattern of behaviour amounting to bullying or harassment.

¹⁸ <https://www.ccohs.ca/oshanswers/psychosocial/bullying.html>

Harassment cases can become very complicated and might involve one member complaining about another, which is why they are best dealt with by Advisors rather than Stewards.

C. The Duty to Accommodate

Along with the prohibition against discrimination comes an obligation for the employer to accommodate various needs of employees. An employer might be obligated to provide time and space for an employee to pray in the middle of a shift, or to provide flexible hours to accommodate an employee's needs for child care. Importantly, an employer is obligated to accommodate people with physical or mental disabilities, and to do so "to the point of undue hardship." This can mean providing specialized equipment for someone who uses a wheelchair or an ergonomic chair for someone with chronic back pain. It might also mean relocating an employee to a different work area, modifying their daily tasks, or being flexible with work hours. How far the employer needs to go to accommodate its employees can be a tricky matter that depends on the size of the organization and the resources the accommodation requires. Cases involving accommodation also involve sensitive private information. For these reasons they are led by a Union Advisor, but a Shop Steward can be a powerful force for creating a friendly workplace supportive of those who need different arrangements.

D. Occupational Health and Safety

Every employer has a duty, under the Yukon Occupational Health and Safety Act, to ensure a safe working environment for its employees, including workplace machinery, equipment, and procedures. An employer must establish safe operating procedures, regularly inspect equipment, and offer adequate supervision, instruction, and training. Depending on the size of the operation and the nature of the work, an employer may also be obligated to establish a Health and Safety committee made up of employer and employee representatives. For their own part, employees have a duty under the Act to comply with the employer's safety policies (including the use of personal protective equipment like hard hats, steel-toed boots, and latex gloves), report any potentially unsafe working conditions to their

supervisor, and report any accidents or injuries that occur in connection with their work.

An employee also has the right to refuse work that s/he has reason to believe is hazardous. When work is refused on these grounds it is immediately reported to a supervisor and investigated in the presence of a health and safety representative. “Undue hazard” is open to conflicting interpretations, and so cases involving a refusal of unsafe work are handled by a Union Advisor.

While Stewards do not typically process grievances related to Health and Safety legislation, it is an important part of their function to keep members informed of their rights and to encourage everyone in the workforce to identify potential hazards before they become dangerous. Often, safety regulations are perceived as onerous to workers (e.g. “do I really need to inspect my work truck *every* shift?”), but they are in place for the worker’s own benefit and protection. A Steward should support these policies and set the example for others.

E. Group & Policy Grievances

One thing to investigate during your initial meeting with a member bringing forward a complaint is whether the same issue is affecting others in the workplace. If one member’s vacation request was unfairly denied, for example, it may be due to a policy the supervisor is following and it may turn out that several other members have had similar denials without bringing them to the union. *A group grievance* is a grievance filed on behalf of more than one member when they have all been subject to the same unfair treatment. Often these require more support from the union and are led by a Union Advisor instead of a Steward.

A policy grievance is one filed by the union against the employer, but not on behalf of any particular member or group of members. It is a complaint against some general policy or proposed policy that conflicts with the CA, or with legislation. As an example, an employer might circulate a new policy about blackout periods for vacation time (e.g. no vacation requests will be approved for the month of June). If this blackout period cannot be reasonably established as an operational requirement, the union might file a policy grievance *even if no vacation requests have yet been denied*. Since policy grievances do not involve the representation of a

member (they are disputes directly between the union and the employer), they are filed and led by Union Advisors instead of Stewards.

F. Competition and Classification Appeals

The details differ in each CA, but generally the union has an interest in how employers hire into new or vacant positions, and how they classify positions into a pay grid. A competition appeal can be made when an employee is not fairly considered for an internal job posting, and a classification grievance is sometimes filed when a written job description does not accurately describe all the functions of a position. Both sorts of complaints generally require that a trained representative compare the candidate's resume against the job posting, or an employee's qualifications and actual job duties against a job description. YEU Union Advisors investigate complaints about unfair competition on a job posting, and personnel from PSAC's national office handle classification issues.

Problem Solving Without a Grievance

One of the most frustrating experiences you are likely to face as a Steward is when a member has what strikes you as a legitimate complaint, but one for which there are no grounds to file a grievance. For example the employee might be under an "averaging arrangement" allowing the employer to vary the hours of work so long as they work out to an average of 8 hours/day and 40 hours/week. When an employer abuses an arrangement like this to avoid paying overtime it could result in unreasonable variations in the employee's shift that are just unfair; yet it might be permitted by the wording of the arrangement in the CA. Some tips for dealing with situations such as these:

- Take time to carefully explain why the case is not grievable. The news will still be disappointing but it is important that the member understand why a grievance is unlikely to succeed.
- Suggest other resources for dealing with the issue. Remember that a grievance is just one tool. You may be able to work something out through an informal talk with a supervisor.

- For personal issues, many employers offer an Employee Assistance Program with professional (and anonymous) counseling services. Larger organizations like the Yukon Government have established a Respectful Workplace Office to help with interpersonal conflicts in the workplace, and a Disability Management Unit to assist with accommodating disabled employees. Your Union Advisor will have more information about resources like these when a complaint cannot be grieved.
- Involve the member in the next round of bargaining. Just because the current CA allows the employer to act in some unfair manner, future CA's do not need to. The issue might be worth submitting as a bargaining proposal to the next bargaining committee. If accepted, the union can attempt to negotiate a new provision or to close loopholes in existing ones.

Duty of Fair Representation

The union has a duty to fairly represent every member of the bargaining unit. This means that it cannot act arbitrarily (e.g. refusing to process a grievance without giving any reason, or giving more resources to one case than another very similar one), discriminatorily (e.g. treating a member unfavorably on the basis of race, or sex, or even union support), or in bad faith (e.g. making a side deal with management to drop one grievance in order to win another one). For a Shop Steward, this duty means that you cannot play favorites in the workplace. You need to be able to represent a co-worker you do not get along with just as well as a co-worker you have a good social relationship with. There are many ways that this objectivity can get compromised. If you develop a social relationship with a supervisor, for example, you need to be honest about your ability to support a member who wants to grieve some action of that supervisor. If you have a co-worker who never seems to pull his weight, you need to be honest about whether you can fairly represent him/her at a disciplinary meeting. When you feel that your objectivity is compromised and you are unable to give a member fair representation for any reason, you can always ask another member of your team (your Chief Steward or YEU's Intake Advisor) to find another Steward.

Be aware that the *appearance* of bias can be almost as problematic as *actual* bias. Even if you feel that you can represent a member fairly and objectively, refer the case to someone else if you have reason to think that others might perceive it as biased. A member who knows that you have a social relationship with the supervisor he wants to complain about might accept that you can give fair representation; but if the grievance doesn't go the member's way, they might blame your relationship with the supervisor. Avoid taking cases when you are biased, and also cases where you might appear to be biased.

Conclusion

The information in this section of the Handbook covers the grievance process in general, but every member complaint comes with its own context and set of related issues. The only real way to get comfortable processing grievances is through practice. New YEU Stewards will have opportunities to shadow more experienced ones, and every Steward always has access to several other members of a team for information and general support.

Additional Resources

Websites and Printed Material

- A. All YEU collective agreements are hosted online at www.yeu.ca/locals
- B. The YEU website contains information about all our upcoming events, including all the training sessions for Shop Stewards: www.yeu.ca
- C. The PSAC website is full of information on all topics relevant to Shop Stewards. Of particular relevance are their online training modules: www.psaunion.ca
- D. BCGEU publishes many useful articles in their publication *Steward Updates*: <http://bcgeu.ca/stewards>
- E. An excellent and comprehensive general guide to being a Shop Steward is David Prosten's *The Union Steward's Complete Guide* (Annapolis: Union Communication Services, Inc. ISBN: 978-0965948623). Copies are available to borrow from YEU.
- F. All relevant legislation in the Yukon (e.g. the Employment Standards Act, the Human Rights Act, the Public Service Act etc.) can be downloaded from <http://www.gov.yk.ca/legislation/>
- G. The Canada Labour Code can be viewed or downloaded at: <http://laws-lois.justice.gc.ca/eng/acts/l-2/>
- H. PSAC's Guide to the Duty to Accommodate: <http://psaunion.ca/what-duty-accommodate>
- I. PSAC's Guide to Violence and Bullying Prevention: <http://psaunion.ca/violence-and-bullying-prevention>
- J. PSAC's Guide to the Right to Refuse Unsafe Work: <http://psaunion.ca/right-refuse-dangerous-work>

Common Grievances and Who Leads Them

Shop Steward

- Leave request (vacation, special, sick, LWOP) denied
- Overtime allocated unevenly
- Overtime, Acting Pay, Shift Premium, or other payments are withheld
- Inappropriate or excessive discipline (when it does not involve suspension or dismissal)
- Increase or decrease in workload
- Change in shift without adequate notice
- Failure to provide a current statement of duties
- Failure to complete annual review, Personal Performance Plan
- Manager performing bargaining unit work
- Unfair scheduling, call-ins for casuals or auxiliaries

Union Advisor

- All 3rd level, and some 2nd level grievances (depending on how many levels there are)
- Inappropriate or excessive discipline involving suspension or dismissal
- Serious personal conflicts involving harassment or bullying
- Discrimination on the basis of a prohibited ground.
- Failure to accommodate a disability
- Assigning unsafe work or otherwise violating OH&S standards
- Appealing an unsuccessful job competition
- Policy grievances, and most grievances involving a group of members

PSAC Officers

- Classification appeals

Efficient Note Taking

Shop Stewards are often the sole representative of the union at meetings between members and management, but they always have a team behind them for support along the way. Good communication between team members is essential, especially when a case is not resolved at the initial stages and must be led by an advisor or lawyer at arbitration. You'll never know when a case is going to escalate that far, so you need to treat each one as though it will. The most important way to share information is through written notes from the meetings you attend. Some things to consider:

- Your notes are the union's written record of what took place at the meeting, and not simply a personal set of reminders to yourself. They will be used by your Union Advisor to review the progression of the case, and they may end up as important evidence presented by a union lawyer to an arbitrator if the grievance process doesn't resolve the issue.
- Be sure to include data about the time, location, and participants at the meeting. Number your pages if you use more than one, and keep them organized
- Use common abbreviations (such as initials for speakers instead of full names) but avoid abbreviations that won't be obvious to someone else. Include a key explaining what your abbreviations mean.
- You cannot write down every word said, so you need to give priority to what is most important. At a fact-finding meeting, make note of any evidence of misconduct the employer presents, or any questions they ask of the member. Record the main points of the member's responses. At a grievance meeting, record the employer's interpretation of the relevant parts of the CA, or their justification for the issue grieved. Record any decisions made.
- You cannot take an audio recording without the consent of everyone involved, and that is likely to be denied (and it is an awkward thing to ask for anyway). You can, however, bring a laptop or tablet to type notes if it is

easier. You can also type your handwritten notes after the meeting. If you do, however, don't include anything new and be sure to include your original handwritten notes with them (either by stapling them or by scanning and attaching them). The reason for this is that your immediate first-hand account of what took place at the meeting is stronger evidence than your recollection after the fact. You can also include some additional comments about the meeting on a separate document, but don't mix it up with the notes taken during the meeting.

- Your notes should be an objective account of the facts, and must not contain any subjective interpretations that might not be agreed to by everyone involved. Avoid personal opinions and commentary.
- Use quotation marks to record important statements verbatim. Do this for anything that strikes you as out of line, or crucial to a disagreement about interpretation.
- Within reason, ask for additional time to finish recording something in your notes before proceeding with the meeting. You can also ask that something be repeated if you recognize that it is important to record in writing.
- Keep your notes secure. Notes should never be shared with management, or even with the member you are representing. Don't store them on an employer's computer or in your locker at work. You will keep them until your work on the case is finished, and then you will turn them over to your Union Advisor to be included with all the other documents related to the case. Don't keep personal copies.

Case Management and Avoiding Burnout

Unions are far more effective when a lot of people contribute a little bit each, than when a few people contribute an awful lot each. Depending on how active the other members of your Local are, you may be asked to assist with more or fewer cases than you are able to at any given time. One of the most important skills you need to be an effective Shop Steward is good management of your time and resources. You are far more valuable to the union if you can assist with one case a month over the next two years, than if you help with a dozen cases in the first month and then hang up your hat because the job is too demanding. A few things to consider about managing your caseload:

- Between requests for assistance from the Union Hall, and requests from immediate co-workers who approach you directly, you may get more requests to help than you can reasonably accept. This means that you need to be able to say 'no'. You need not worry about getting a disappointing frown from union staff when you decline a request for help; we understand and respect your time and will find another Steward to assist. When you need to tell a co-worker that you are unable to assist, attempt to find another Steward or contact your Chief Shop Steward first.
- For the most part (and at least for newer Stewards), limit yourself to one or two active cases at a time. A case that you expect to be resolved easily at an informal meeting with the supervisor can surprise you by becoming more complicated. If you've agreed to work on another case in the meantime you may find that you've taken on too much. With experience you will become a better judge of what you can handle.
- Many members may view you as "the" union representative, and expect you to be available at any time. Help them to understand that you are only one member of a team and that there are other resources available when you are too busy to assist.
- For many of us, it is far too easy to become emotionally invested in a case. This is not a bad thing in itself, but it is important to understand that it can add layers of stress that affect you even when you are not working on the case. Strive to maintain an appropriate emotional distance; you assist your

co-workers with *their* problems, but they do not need to become *your* problems.

- Set boundaries and stick to them. Some co-workers will see you as a general help-line and will spend an inappropriate amount of time discussing all sorts of problems with you – if you let them. Without being rude or dismissive you can inform such members that you can help only with work-related problems, and insist that conversations stay on task.
- If you do find that your caseload is manageable and you have more time to give, that time might be better spent trying to build general union support or recruiting more folks to help out with a little of their time than it would be by taking on extra cases yourself. Remember that unions draw their strength from involving more of their membership, and not by having a few individuals doing the bulk of the work.

Glossary of Labour Terms

Available online at: <http://prairies.psac.com/stewards-dictionary>

ADJUDICATION: Process for settling grievances by a third party when they arise out of the interpretation or application of a collective agreement or arbitral award, or out of disciplinary action resulting in financial loss or penalty (i.e., discharge, suspension). Normally used for Public Service units covered by the Public Service Staff Relations Act. See Arbitration.

AGREEMENT, COLLECTIVE: A contract ('Collective Agreement' and 'Contract' are used interchangeably) between the union acting as the bargaining agent and the employer, covering wages, hours of work, working conditions, benefits, rights of workers and union, and procedures to be followed in settling disputes and grievances.

APPEAL: Procedure for seeking redress from Public Service Commission against: appointments to a job made by closed competition or job appointments made without competition. Applies only to Public Service units covered by the Public Service Employment Act.

ARBITRATION: A method of settling negotiating disputes through the intervention of a third party whose decision is final and binding. Such a third party can be either a single arbitrator, or a board consisting of a chairman and one or more representatives. *Voluntary Arbitration* is that agreed to by the parties without statutory compulsion. *Compulsory Arbitration* is that imposed by law. Governments sometimes impose it to avoid a strike or to end one. Arbitration (same as adjudication) terminology is used in the Canada Labour Code, Part I, the Northwest Territories Ordinances, and most Provincial Labour Codes and Acts.

BARGAINING AGENT: Union designated by a labour relations board or similar government agency e.g. Public Service Staff Relations Board as the exclusive representative of all employees in a bargaining unit for the purpose of collective bargaining.

BARGAINING UNIT: Group of workers in a craft, department, plant, firm, industry or occupation, determined by a labour relations board or similar body as appropriate for representation by a union for purpose of collective bargaining.

BASE RATE: The lowest rate of pay, expressed in hourly terms, for the lowest paid qualified worker classification in the bargaining unit. Not to be confused with Basic Rate, which is the straight-time rate of pay per hour, job or unit, excluding premiums, incentive bonuses, etc.

BENEFITS: Non-Wage benefits, such as paid vacations, pensions, health and welfare provisions, life insurance, the cost of which is borne in whole or in part by the employer.

BLUE-COLLAR WORKERS: Production and maintenance workers as contrasted to office and professional personnel.

CANADIAN LABOUR CONGRESS (CLC): Canada's national labour body representing organized labour in the country.

CERTIFICATION: Official designation of a labour relations board or similar government agency of a union as sole and exclusive bargaining agent, following proof of majority support among employees in a bargaining unit.

CHECK-OFF: A clause in a collective agreement authorizing an employer to deduct union dues and sometimes other assessments and transmit these funds to the union. See Rands.

CLASSIFICATION PLAN: A job evaluation method based on a comparison of jobs against money.

CLOSED SHOP: A provision in a collective agreement whereby all employees in a bargaining unit must be union members in good standing before being hired and new employees hired through the union. See union security.

COALITIONS: An organized group of different organizations who come together for a common purpose and/or to carry out a joint campaign.

COLLECTIVE AGREEMENT: See Agreement.

COLLECTIVE BARGAINING: Method of determining wages, hours and other conditions of employment through direct negotiations between the union and the employer. Normally the result of collective bargaining is a written contract which covers all the employees in the bargaining unit, both union members and non-members.

COMPANY UNION: A one-company group of employees, frequently organized or inspired by management and usually dominated by the employer.

CONCILIATION AND MEDIATION: A process which attempts to resolve labour disputes by compromise or voluntary agreement. Pertinent legislation applies when negotiations reach an impasse. Either party can request the assistance of a mediator, a conciliator, or the establishment of a conciliation board. The mediator, conciliator or conciliation board does not bring in a binding award and the parties are free to accept or to reject the recommendation.

CONFEDERATION OF NATIONAL TRADE UNIONS (CNTU): A Quebec-based central labour body.

CONTRACT: See Agreement.

CONTRACTING OUT: Practice of employer having work performed by an outside contractor and not by regular employees in the union. Not to be confused with subcontracting, which is the practice of a contractor delegating part of his work to a subcontractor.

CONTRACT PROPOSALS: Proposed changes to the collective agreement put forward by the union or the employer and subject to collective bargaining.

COST-OF-LIVING ALLOWANCE: Periodic pay increase based on changes in the Consumer Price Index.

DUES: Periodic payments by union members for the financial support of their union .

FEDERATION OF LABOUR: A Federation, chartered by the Canadian Labour Congress, grouping local unions and labour councils in a given province.

EMPLOYMENT EQUITY: A comprehensive program designed to overcome discrimination in employment experienced by members of equity groups. The goal is to give equity groups access to all jobs, re-evaluate traditional jobs and improve equity groups' overall economic situation. An employment equity plan is designed to eliminate barriers that create discriminatory practices and denies access to all jobs to members of a designated group and to address past discriminatory practices.

GRIEVANCE: A written complaint against management by one or more employees or a union concerning an alleged breach of the collective agreement or an alleged injustice. Procedure for the handling of grievances is usually defined in the collective agreement. The last step of the procedure is usually arbitration/adjudication.

HOMEWORKING: work performed in the home instead of a normal place of work such as offices and factories. It can include piece work.

INJUNCTION: A court order restraining an employer or union from committing or engaging in certain acts.

INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU): An International trade union body, formed in 1949, composed of a large number of national central labour bodies such as the Canadian Labour Congress.

INTERNATIONAL LABOUR ORGANIZATION (ILO): Tripartite world body representative of labour, management and government and is an agency of the United Nations. It disseminates labour information and sets minimum international labour standards called "conventions", offered to member nations for adoption. Its headquarters are in Geneva, Switzerland.

INTERNATIONAL UNION: A union which has members in both Canada and the United States.

JOB EVALUATION PLAN: A measurement tool that is used to evaluate work and establish relativity among positions. The reason for doing this is to be able to assign a rate of pay to a given job. In order to be in accordance with Human Rights legislation, a job evaluation plan should be gender neutral and include factors of skill, effort, responsibility and working conditions.

JOB SECURITY: A provision in a collective agreement protecting a worker's job, as in the introduction of new methods or machines.

JURISDICTIONAL DISPUTE: A dispute between two or more unions as to which one shall represent a group of employees in collective bargaining or as to whose members shall perform a certain kind of work.

LABOUR COUNCIL: Organization composed of locals of CLC-affiliated unions in a given community or district.

LABOUR RELATIONS BOARD: A board established under provincial or federal labour relations legislation to administer labour law, including certification of trade unions as bargaining agents, investigation of unfair labour practices and other functions prescribed under the legislation.

LAYOFFS: Temporary, prolonged or final separation from employment as a result of lack of work.

LOCAL (UNION): Also known as lodge or branch. The basic unit of union organization. Trade unions are usually divided into a number of Locals for the purposes of local administration. These Locals have their own constitution and elect their own officers; they are usually responsible for the negotiation and day-to-day administration of collective agreements covering their members.

LOCK-OUT: A phase of a labour dispute in which management refuses work to employees or closes its establishment in order to force settlement on its terms.

MEDIATION: See Conciliation and Mediation.

ORGANIZING: A plan to organize unorganized workers to form part of a union.

ORGANIZING MODEL: The organizing model is an approach to running the local that puts membership involvement at the centre of each union activity.

OVERTIME: Hours worked in excess of a regular number of hours fixed by statute or union contract.

OVERTIME RATE: Higher rate of pay for overtime hours worked. See Overtime.

NATIONAL UNION: A union whose membership is confined to Canada only.

PAY EQUITY: Pay equity incorporates the principle of equal pay for work of equal value which is the requirement to pay males and females within the same organization the same salary for work that is judged to be of equal value. A methodology is used which identifies wage gaps and the female salary is raised to the male salaries to achieve the goal of pay equity.

PICKETING: Patrolling near employer's place of business by union members to publicize the existence of a labour dispute, hurt the employer's productivity, persuade workers to join a strike or join the union and discourage customers from buying or using employer's goods or services.

PREMIUM PAY: A wage rate higher than straight time, payable for overtime work, work on holidays or scheduled days off, or for work under extraordinary conditions such as dangerous, dirty or unpleasant work.

PRIVATIZATION: This is the transfer of publicly owned resources and services from government ownership to private ownership e.g. roads, utilities, airports, national parks. In many cases, government still regulates the standards for service operation and maintenance of resources.

RAIDING: An attempt by one union to induce members of another union to defect and join its ranks.

RAND FORMULA: Also called Agency Shop. A Union security clause in a collective agreement stating that the employer agrees to deduct an amount equal to the union dues from all members of the bargaining unit, whether or not they are members of the union for the duration of the collective agreement. The Rand Formula is based on the principle that those who benefit from a collective agreement should contribute dues even when they are not members of the union. See Check-Off.

RE-OPENER CLAUSE: A provision calling for re-opening a collective agreement at a specified time prior to its expiration for bargaining on stated subjects such as a wage increase, pension, health and welfare.

SENIORITY: Term used to designate an employee's status relative to other employees, as in determining order of lay-off, promotion, recall, transfer, vacations etc. Depending on the provisions of the collective agreement, seniority can be based on length of service alone or on additional factors such as ability or union duties.

SHIFT: The stated daily working period for a group of employees, e.g. 8 a.m. to 4 p.m., 4 p.m. to midnight, midnight to 8 a.m. See Split Shift.

SHIFT DIFFERENTIAL: Added pay for work performed at other than regular daytime hours.

SHOP STEWARD: A Union official who represents a specific group of members and the union in union duties, grievance matters, and other employment conditions. Stewards are usually part of the work force they represent.

SLOWDOWN: A deliberate lessening of work effort without an actual strike, in order to force concessions from the employer. A variation of this is a work-to-rule strike - a concerted slowdown in which workers, tongue in cheek, simply obey all laws and rules applying to their work.

SPLIT SHIFT: Division of an employee's daily working time into two or more working periods, to meet peak needs.

STRIKE: A cessation of work or a refusal to work or to continue work by employees in combination or in accordance with a common understanding for the purpose of compelling an employer to agree to terms or conditions of employment. Usually the last stage of collective bargaining when all other means have failed. Except in special cases, strikes are legal when a collective agreement is not in force. A Rotating Strike is a strike organized in such a way that only part of the employees stop work at any given time, each group taking its turn. A Sympathy Strike is a strike by workers not directly involved in a labour dispute - an attempt to show labour solidarity and bring pressure on an employer in a labour dispute. A Wildcat Strike is a strike violating the collective agreement and not authorized by the union.

STRIKEBREAKER / REPLACEMENT WORKER / SCAB: A person who continues to work or who accepts employment to replace workers who are on strike. By filling their jobs, they weaken or break the strike.

STRIKE VOTE: Vote conducted among members of a union to determine whether or not to go on strike.

TECHNOLOGICAL CHANGE: Technical changes in operational machinery or office equipment, new production techniques, change of work processes such as homeworking/teleworking and outside normal work locations. Technological changes often are applied to extract more productivity from workers without an increase in either pay or workforce.

TOTAL QUALITY MANAGEMENT (TQM): TQM is a complete re-organizing of the work process and the workplace by application of principles of “teamwork” and work “teams” that are supposed to involve the worker and give them greater control in their work. It involves “teams” of workers monitoring and controlling each other in their work process, production and application of agreement or employer policies. It results in a scaling down of the workforce and increase of low morale. Some researchers have described TQM as “management by stress.”

TRADE UNION: Workers organized into a voluntary association, or union, to further their mutual interests with respect to wages, hours, working conditions and other matters of interest to the workers.

UNION LABEL/BUG: A tag, imprint or design affixed to a product to show it was made by union labour.

UNION SHOP: A place of work where every worker covered by the collective agreement must become and remain a member of the union. New workers need not be union members to be hired, but must join after a certain number of days. See Union Security, Modified Union Shop.

WHITE COLLAR WORKERS: Term applied to workers in offices and other non-production phases of industry.

WORKFORCE ADJUSTMENT: This is a process that is used to deal with a workforce whose jobs are abolished or otherwise disappear. Federal public service employees are governed by a Workforce Adjustment Directive arrived at through the National Joint Council.

WORK-TO-RULE: See Slowdown.

WORKING CONDITIONS: Conditions pertaining to the workers' job environment, such as hours of work, safety, paid holidays and vacations, rest periods, free clothing or uniforms, possibilities of advancement, etc. Many of these are included in the collective agreement and subject to collective bargaining.