

## **Student Zone: HR-related Skill Development: Handling Grievances Chapter 11**

The grievance process is an integral part of administering the collective agreement, a grievance being a formal dispute between an employee (or the union) and management involving the interpretation, application or alleged violation of the collective agreement. The union files most grievances and, once they have been filed with the HR department, management should seek to resolve them fairly and quickly. Handling a grievance is a key skill for managers in a unionized (and non-unionized, if there is a grievance process in place) workplace. This case study has been devised to help students develop formal grievance investigation and interviewing skills.

### **Objectives**

This learning activity will show you how to conduct a grievance interview more effectively and so help to avoid costly grievance arbitration procedures.

### **Procedure Note**

The class is divided into groups. Each group has (1) a manager (conducting the grievance interview), (2) two shop stewards (3) team leader (the complainant), and (4) two observers of the interview. The last role is important for the analysis and feedback aspects of the role-playing session.

There are three steps to the exercise:

Step 1: shop steward interviews complainant, the team leader, to gather all the evidence.

Step 2: conduct grievance interview.

Step 3: analyse and give feedback on 'manager's' grievance interviewing skills.

The grievance has arisen from a disciplinary incident that we presented in Chapter 11. Both the manager and the shop stewards have copies of Articles 25 [**Exhibit 1**]; 26 [**Exhibit 2**]; and 27 [**Exhibit 4**] from the company's collective agreement. The two observers have a copy of an evaluation sheet [**Exhibit 3**].

### **Analysis and feedback following disciplinary interview:**

1. Observers complete *interview observation sheet*, Exhibit 3, and give feedback.
2. Tutor then opens discussion either: (a) by question to manager 'How far do you think you achieved your objectives?' or (b) with one or two (no more) points the observers believed to be important. If (a) adopted, then follow with (b) and finally allow the union representative to make his/her comments.

## **GRIEVANCE INTERVIEWING EXERCISE**

## MANAGER'S BRIEF

Last week you held a disciplinary meeting with one of your team leaders, Robert McKenna,<sup>1</sup> which resulted in a written warning for sleeping on the job. The security officer's letter that led to the disciplinary interview is attached.

When you arrived for work this morning the shop steward representing Robert McKenna's department had requested an urgent meeting with you, pursuant to Article 27: Procedure for settling disputes. Meet the Shop steward and decide what action to take.

Dear Ms/Mr Friedman,

I was doing my rounds last night as usual when I noticed a light in your office above the machine shop. It was 3:40 am and the machine shop night shift was working normally. I entered by the stores side door and went first to the team leader's office at the end of the machine shop.

The office was unattended and the light was on. I asked the operator who was working on the machine nearest to the office (Jeff Miles) where the team leader was. He said he thought he was trying to find the duty electrician, as there was some trouble with the wiring on that machine. I went upstairs to your office and through the window in the door I saw your new team leader asleep sitting at your desk with his head resting on his arms. I knocked on the door but he failed to wake up. I aroused him and he apologized and left almost immediately.

I remained behind to write this report for you. The reason for letting you know about this is because I found him asleep earlier this week, in his own office on that occasion. As he is a new employee, I didn't want to report him that time, but I think he has deserved it on this occasion.

Signed: Lorne Barnsley,  
Security Officer

Note: Lorne Barnsley is a fair man and has been with the company for over ten years. When you spoke to him last week he confirmed everything he said in the written note and said that he had also recorded the information in the incident book, which he was obliged to complete at the end of every shift.

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<sup>1</sup> All names in the case are fictitious

## **GRIEVANCE INTERVIEWING EXERCISE**

### **TEAM LEADER'S BRIEF**

You are Robert McKenna and have recently been appointed to team leader. You are still on probation as regards this position, but expect that in six weeks' time your appointment will be confirmed permanently. This appointment has come at the right time for you, what with your partner recently giving birth to twins and buying a house, you need all the money you can earn.

To date, you have found the team leader's job both interesting and a challenge and believe that you are fulfilling your duties competently. However, it does involve shift work and you find it difficult to adjust to this. In particular, the night shift is a problem since you find it difficult to sleep during the day, your new family keeps you awake in the afternoons and your house is adjacent to a busy road.

Last week you were found asleep on duty on two occasions and as a result were given a written warning from your manager, Ms/Mr Friedman. Given your personal circumstances and your previous good behaviour, you believe that a written warning is too harsh. You are extremely annoyed with the manager and you complain to your shop steward.

## **GRIEVANCE INTERVIEWING EXERCISE**

### **SHOP STEWARD'S BRIEF**

You are the shop steward in the machine shop. Interview one of your members, Robert McKenna, who has a complaint against the manager. After consulting the grievance and disciplinary procedures, prepare a grievance case to present to the manager. Your objective is to ensure that your member's rights are safeguarded.

## **GRIEVANCE INTERVIEWING EXERCISE**

### **OBSERVER'S BRIEF**

#### **Observers' Role**

The observers need to listen for specific instances that have a positive or negative effect on the interview - including the appropriate/inappropriate use of questions/statements, for example open, closed, probing questions. You are helping to evaluate the HR-related skills of the student role-playing the 'manager'. Check for appropriateness of style adopted and his/her effect upon rapport. Observe the degree of *flexibility* in his/her approach to the interview - does he/she set out with rigid objectives, does he/she seek to listen and collect information? Finally, be alert to participants who hear what they want or expect to hear rather than what is actually said.

#### **Analysis and feedback following disciplinary interview:**

Observers complete interview observation sheet, **Exhibit 3**, and give feedback.

## **DISCIPLINARY INTERVIEWING EXERCISE**

### **EXHIBIT 1: ARTICLE 25 – COMPANY’S DISCIPLINARY PROCEDURE**

#### **25.1 Introduction**

The following procedure is designed to give fair treatment to an employee who has either committed an offence or misconduct himself/herself on a specific occasion or has continually failed to meet the company's required standards of attendance, timekeeping, conduct or performance. This procedure does not affect the right of the company to summarily dismiss an employee in the case of gross misconduct.

#### **25.2 Disciplinary procedure**

(a) First warning

An employee who fails to meet required standards will, in the first instance, receive a warning from his/her supervisor.

(b) Second warning

If an employee for the second time fails to meet required standards s/he will receive a written warning from his/her supervisor in the presence of the shop steward.

(c) Third warning

If the employee continues to give cause for dissatisfaction, a second written warning will be given by the production manager in the presence of the supervisor and the shop steward and will be considered as a final warning.

#### **25.3 Disciplinary action**

If the employee's performance or behaviour continues to be unsatisfactory, s/he may be suspended for up to three days or dismissed. Such action will be notified to the employee in the presence of his/her shop steward. In cases of dismissal the length of notice will be in accordance with the Employment Act.

#### **25.4 Appeal**

An appeal against either suspension or dismissal may be made to the chief executive officer, whose decision shall be final.

## **DISCIPLINARY INTERVIEWING EXERCISE**

### **EXHIBIT 2: ARTICLE 26 – CAUSES FOR DISCIPLINARY ACTION**

#### **(a) Neglect of duty**

It is recognized by both management and the union that a mutual problem exists on the question of neglect of duty and the union undertakes to do everything possible to see that its members live up to the spirit and intent of the agreement.

#### **(b) Definition of gambling and work premises**

- i Definition of gambling will be in accordance with local factory rules.
- ii Work premises are defined as the actual factory area and are not to include the town site.

#### **(c) Fighting at work premises**

#### **(d) Notification of union standing committee by employer**

Wherever practical, management will notify the union committee of its intention to discipline or discharge an employee. Under certain well-recognized circumstances where no premeditation is involved, it is permissible for the company to discharge an employee immediately without recourse to the standing committee. The employee still has the right to present his/her case to the standing committee for consideration and, if deemed proper, the standing committee may follow the usual grievance procedure.

## GRIEVANCE INTERVIEWING EXERCISE

### EXHIBIT 3: INTERVIEW OBSERVATION SHEET

Make notes on this sheet of the *strong points* and the *weak points* you observed with regard to the way the manager handled the interview with the team leader. These notes will help you give constructive feedback and suggestions on how the disciplinary interview might have been improved.

	<b>STRONG POINTS</b>	<b>WEAK POINTS</b>
<p><b>PREPARATION</b> Prepared and cognizant of case and grievance procedure</p>		
<p><b>INTERVIEW SKILLS</b> Questioning skills Listening skills Summarizing and recording</p>		
<p><b>PERSONAL MANNER</b> Put the parties at ease Allow emotion to vent itself Avoid passing judgement</p>		
<p><b>ASSESSING THE FACTS</b> Obtain all relevant information Check accuracy of information Consult relevant documents Consult relevant others</p>		
<p><b>PLAN OF ACTION</b> Establish cause(s) of problem Identify short- and long-term objectives Cognizant of costs/benefits of options Identify common ground Introduce and pursue key commitments Decide 'best solution' Explain best solution</p>		

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## **GRIEVANCE INTERVIEWING EXERCISE**

### **EXHIBIT 4: ARTICLE 27 – PROCEDURE FOR SETTLING DISPUTES**

- 27.01 The parties agree that it is desirable that any complaints or grievances should be adjusted as quickly as possible. Employees are therefore urged to try to settle their complaints with their supervisor as soon after they originate as possible.
- 27.02 The company is willing to meet any of its employees, or their representatives, for the purpose of discussing grievances or complaints with the object of reaching a satisfactory solution.
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- 27.03 Should a dispute arise between the Company and any employee regarding the application, operation, interpretation or alleged violation of this Agreement, an earnest effort shall be made to settle the dispute in the following manner:

#### **Step One**

- 27.04 Within ten (10) days after the alleged grievance has arisen, or within ten (10) days from the time the employee should reasonably have known of the occurrence of the event, the employee and his/her steward may present the grievance in writing to his/her manager. Failing settlement to the employee's satisfaction within three (3) days, the employee may process the grievance to Step 2.

#### **Step Two**

- 27.05 Within five (5) days from the time settlement could have been made in the previous step, the employee, accompanied by his/her steward, and a member of the grievance committee, may present the grievance in writing to his/her department manager. The department manager shall reply in writing within five (5) days of the presentation of this grievance under Step 2. Failing a satisfactory settlement or reply at this stage, the employee may process the grievance to Step 3.

### **Step Three**

- 27.06 Within five (5) days from the time settlement could have been made within the time limits of Step 2, the employee, accompanied by his/her steward, chief steward, grievance chairperson and/or union president or designates thereof, may take the matter up with the operations manager. Prior to the submission to the operations manager there shall be a written statement outlining the nature of the grievance, the remedy sought and the section or sections of the agreement, which are alleged to have been violated. Failing satisfactory settlement or reply within five (5) days the matter may be referred to arbitration within thirty (30) calendar days from the date settlement could have been made in Step Three (3).
- 27.07 Where Step 3 has been exhausted and the matter has been referred to arbitration, the local union president or his/her designate and the company representative may without prejudice attempt to resolve the matter. This may include the calling of witnesses.
- 27.08 In determining the time within which any step is to be taken under the foregoing provisions of this article, Saturdays, Sundays and recognized holidays shall be excluded. Any and all time limits fixed by this article may be extended by mutual agreement between the company and the union.
- 27.09 Any agreement between the company and the union shall be final and binding upon the company, the union and the employee(s) concerned.
- 27.10 Answers shall be given in writing to the union on a first, second, and third stage grievance and shall be sent to the grievor, the union steward involved and the chief shop steward.
- 27.11 If it is necessary for a steward or other employee(s) to take time off during working hours in connection with a grievance, he/she must notify his/her supervisor and they must arrange a mutually satisfactory time. Time off shall not be unreasonably withheld.

### **ARTICLE 28 - ARBITRATION**

- 28.01 Either party must within thirty (30) calendar days upon the completion of Step 3 of the grievance procedure outlined in Article 27, notify the other party in writing of its desire to submit to arbitration an unsettled grievance relating to the application, operation, interpretation or alleged violation of this agreement.