

**Workplace Problem Solving Routes for PSAC Members**

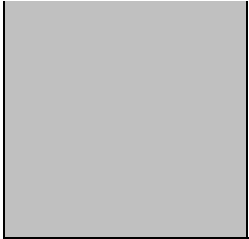
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<b>Problem 1</b>	<p><b>Interpretation or Application of C.A.</b></p> <p><b>Discipline resulting in financial penalty including termination</b></p>	
<b>Jurisdiction</b>	All	
<b>Right</b>	<p>Collective agreement PSLRA</p> <p>Canada Labour Code</p> <p>Provincial- territorial codes</p>	
<b>Method of Resolution</b>	Grievance	ICMS or ADR (alternate dispute resolution)
<b>Process</b>	Adjudication—arbitration	
<b>Notes</b>	Appeal to the Federal Court of Appeal possible only when there is a question of law.	Mediation is not always an appropriate tool when dealing with conflict over interpretation of the collective agreement.

<b>Problem 2</b>	<b>Labour Relations Problems (employer action or inaction) on issues not covered by the collective agreement</b>		
<b>Jurisdiction</b>	All		
<b>Right</b>	PSLRA Provincial Labour Codes (Ontario & Québec)		
<b>Method of Resolution</b>	ICMS — Informal conflict management system (for FPS)  UMC (Union Management Consultation)	Grievance process	Complaint to Provincial Labour Board
<b>Process</b>	ICMS process	Grievance process	
<b>Notes</b>	Members are not limited to grievances on items covered in the collective agreement. They can also grieve employer actions or inactions on other workplace issues but these grievances do not necessarily go to adjudication or arbitration.		

<b>Problem 3</b>	<b>Employer Policy (not covered by the collective agreement)</b>	
<b>Jurisdiction</b>	All	
<b>Right</b>	Related to working conditions that are not covered in the collective agreement	
<b>Method of Resolution</b>	Consultation	Grievance
<b>Process</b>	UMC	Grievance
<b>Notes</b>	For PSLRA Units, union approval and representation is required to file a grievance on these matters. These grievances are not usually referred to adjudication.	

<b>Problem 4</b>	<b>Discrimination (Harassment linked to a prohibited ground)</b>		
<b>Jurisdiction</b>	All jurisdictions		
<b>Right</b>	<ul style="list-style-type: none"> <li>• Human rights legislation</li> <li>• Collective agreement (no discrimination article)</li> <li>• Employer policy (e.g. Duty to Accommodate)</li> </ul>		
<b>Method of Resolution</b>	Mediation	Complaint (with applicable human rights commissions)	Grievance
<b>Process</b>	Mediation	See applicable Human Rights Commission websites for complaint process details.	Grievance Arbitration & Adjudication
<b>Notes</b>		<b>PSLRA Units</b> have the right to file a human rights complaint with the CHCR.	<p>Grievance should be directed against the employer for failure to provide an environment free from harassment &amp; discrimination.</p> <p>Consult the PSAC Policy on Union Representation: Workplace Harassment.</p> <p>Most Human Rights Commissions will put the complaint in abeyance until the grievance process is exhausted.</p>

			<p>There is a higher onus on the duty of fair representation when dealing with a disability involving addictions or mental health.</p>
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<b>Problem 5</b>	<b>Personal or Psychological Harassment/Violence in the Workplace</b>	
<b>Jurisdiction</b>	Canada Labour Code Part II and Part XX of the Canada OSH Regulations)	Québec: Labour legislation
<b>Right</b>	Canada Labour Code and Part XX of the Canada OHS Regulations)	<ul style="list-style-type: none"> <li>• Québec: protection against psychological harassment included in labour standards</li> <li>• Employer Harassment Policy</li> <li>• Collective agreement (if there is provision for personal harassment in the CA)</li> </ul>
<b>Method of Resolution</b>	Complaint to a “competent person” as defined in Part XX of the Canada OHS Regulations	Grievance (related to leave provisions)
<b>Process</b>	<p>Right to refuse unsafe work (under very limited circumstances)</p> <p>Absence of a specific investi— gative process in the workplace is a violation of Part II of the Canada Labour Code and subject to a complaint under section 127.1 of the Code.</p>	<p>Québec: complaint to the Labour Standards Commission</p> <p>Employer investigation of allegation of personal harassment</p>

<b>Notes</b>	Part XX of the Regulations requires employers to develop a violence prevention policy; identify and assess contributing factors to workplace violence; establish controls and prevention measures; establish an investigation process; ensure employee education and have an Occupational Safety and Health Committee (OSH)
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<b>Problem 6</b>	<b>Staffing</b>
<b>Jurisdiction</b>	TB
<b>Right</b>	PSEA
<b>Method of Resolution</b>	Informal Discussions Complaint to PSST (Public Service Staffing Tribunal)
<b>Process</b>	Mediation or PSST tribunal hearing
<b>Notes</b>	Abuse of authority is the only ground on which to challenge staffing under the PSEA  In November 2014, the PSLRB and the PSST (for administrative purposes) were merged into the PSLREB (Public Service Labour Relations and Employment Board).

<b>Problem 7</b>	<b>Staffing</b>	
<b>Jurisdiction</b>	All other	
<b>Right</b>	Employer policy Collective agreement if staffing is negotiated (e.g. Canada Post)	
<b>Method of Resolution</b>	Complaint UMC	Grievance
<b>Process</b>	ICMS or ADR Process	Grievance Process
<b>Notes</b>		

<b>Problem 8</b>	<b>Classification</b>		
<b>Jurisdiction</b>	TBS	Other employers if staffing is negotiated	Employers who have staffing policies
<b>Right</b>	FAA (Financial Administration Act) PSEA	Collective agreement job description article	UMC Mediation
<b>Method of Resolution</b>	Classification grievance		
<b>Process</b>	<ul style="list-style-type: none"> <li>• Update of job description and grievance of not provided</li> <li>• Job evaluation with classification standard</li> <li>• Grievance</li> </ul>		
<b>Notes</b>	Employer has the final decision in classification disputes		

<b>Problem 9</b>	<b>Workforce Adjustment</b>		
<b>Jurisdiction</b>	TB		
<b>Right</b>	<ul style="list-style-type: none"> <li>• Right for Union to be consulted</li> <li>• Rehiring of a non-indeterminate employee during a WFA process</li> </ul>	<ul style="list-style-type: none"> <li>• Employer refusal to offer retraining opportunities</li> <li>• Employer failure to explain why no guarantee of a reasonable job offer</li> <li>• Employer refusal to consider alternations</li> </ul>	<ul style="list-style-type: none"> <li>• Abuse of authority or favoritism in the SERLO (merit assessment process)</li> </ul>
<b>Method of Resolution</b>	UMC Policy Grievance	Individual Grievance	Complaint to the Public Service Staffing Tribunal
<b>Process</b>			
<b>Notes</b>	<p>The PSAC won a policy grievance in April 2013 before the Public Service Labour Relations Board. The decision strengthens the obligations of the employer to establish an effective alternation system.</p> <p>The PSST has been merged with the PSLRB to form the PSLREB (Public Service Labour Relations</p>		

	and Employment Board).	
<b>Problem 10</b>	<b>Work injury</b>	
<b>Jurisdiction</b>	Provincial	
<b>Right</b>	Ontario: WSIB (Workplace Safety and Insurance Board)	Québec: CSST (Commission de la santé et de la sécurité au travail du Québec)
<b>Method of Resolution</b>	Filing a claim	Filing a claim
<b>Process</b>	<ol style="list-style-type: none"> <li>1. Revision by a eligibility adjudicator</li> <li>2. Oral or written submission at appeals resolution officer level</li> <li>3. Appeals tribunal</li> </ol>	<ol style="list-style-type: none"> <li>1. Revision of initial decision</li> <li>2. Administrative review — Commission des lésions professionnelles (CLP)</li> </ol>
<b>Notes</b>	<ul style="list-style-type: none"> <li>• Notice of objection must be in writing</li> <li>• Six (6) month time limit for the 2 levels of appeal</li> </ul>	<ul style="list-style-type: none"> <li>• Written letter to CSST</li> <li>• 30 days to appeal initial decision</li> <li>• 45 days to the CLP</li> </ul>

<b>Problem 11</b>	<b>Return to work</b>
<b>Jurisdiction</b>	All
<b>Right</b>	<ul style="list-style-type: none"> <li>• Federal: GECA (Government Employees Compensation Act)</li> <li>• WSIB or CSST</li> <li>• CHRA</li> <li>• Collective Agreement (under no discrimination article)</li> </ul>
<b>Method of Resolution</b>	<ul style="list-style-type: none"> <li>• May require return to work mediation</li> <li>• Grievance</li> <li>• Complaint</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>• Duty to accommodate process</li> <li>• Return to work committee</li> <li>• Occupational Safety &amp; Health Committee (OSH)</li> <li>• Human Rights related grievance or complaint if accommodation denied</li> </ul>
<b>Notes</b>	

<b>Problem 12</b>	<b>Dental/Travel/Clothing Policy/Allowance and other items covered by the National Joint Council</b>
<b>Jurisdiction</b>	For employers under the NJC (National Joint Council)
<b>Right</b>	Negotiated NJC Policy (these are listed in the collective agreement)
<b>Method of Resolution</b>	NJC grievance procedure
<b>Process</b>	Grievance heard by Departmental NJC Representative or the final level of the NJC Committee for some topics
<b>Notes</b>	This only applies to NJC negotiated policies

## Grievances and Complaints Involving Human Rights

Updated 2014

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The PSAC's human rights policy statement and Constitution clearly outlines that we do not condone discrimination and that we will be vigilant in challenging discrimination in our workplaces.

Human rights are protected in law—through human rights legislation, labour legislation and health and safety legislation to some extent. Human rights laws are quasi-constitutional which means that other laws or agreements that violate human rights laws are invalid.

Collective agreements also protect and promote human rights.

There may also be workplace policies specifically related to human rights issues such as discrimination, harassment or duty to accommodate that deal with the implementation of human rights protections.

More generally, workplace rules, policies, contract language or practices may not appear discriminatory—but may still have a discriminatory impact on an individual or group of individuals. The Supreme Court, in its 1999 Meiorin decision, has set out the requirements for employers and service providers to build conceptions of equality into workplace standards. This places a two prong on the employer:

- 1) A positive obligation on employers to design workplace standards and requirements so that they do not discriminate (i.e., the employer must take proactive action to ensure these standards and requirements are not discriminatory).

- 2) A reactive obligation to address specific discriminatory impact on individuals on a case-by-case basis.

Should a negotiated arrangement or a collective agreement provision have a discriminatory impact, unions have a joint responsibility with the employer to proactively eliminate that discrimination.

However, even if the Union was not involved in negotiating or implementing a discriminatory provision, it must cooperate with the efforts of the employer to accommodate the worker.

There is case law that now sets out that unions need to be vigilant and ensure they provide thorough representation in human rights cases.

If a discriminatory act or practice occurs in the workplace, the grievance route is the route of preference for dealing with these human rights violations. The Union is entitled to and has a duty to ensure that discrimination is addressed.

Stewards and Locals should not wait for human rights complaints and grievances to be filed before eradicating discrimination in their workplaces. Many proactive measures such as human rights training, work culture surveys, employment equity programs, anti-harassment training and measures to create inclusive workplaces can go a long way in ensuring that discriminatory practices do not occur.

Unfortunately workplace discrimination may occur even when the union is vigilant in ensuring that proactive measures have been implemented.

### **WHAT IS A HUMAN RIGHTS VIOLATION?**

In simple terms, a discriminatory act or practice;

- results in a **denial of rights**, e.g., a denial of employment, promotion, etc.;
- which occurs either in **employment** or in the provision of goods, services, facilities or accommodation;
- is based on or motivated by a **prohibited ground** for discrimination.

The manner in which discrimination occurs in the workplace may be subtle.

Stewards should remember that harassment based on a prohibited ground is a form of discrimination as is the refusal to accommodate a worker either related to their disability, family status, religion, ethnicity, etc.

### **PROHIBITED GROUNDS**

Prohibited grounds of discrimination are found in human rights legislation. Anti-discrimination provisions in collective agreements also list prohibited grounds.

The grounds currently listed in the Canadian Human Rights Act include:

- race;
- national or ethnic origin;
- colour;
- religion;
- age;
- sex (including pregnancy and childbirth);
- sexual orientation;
- gender identity and gender expression
- marital status;
- family status;
- disability (including mental conditions, alcohol or drug dependency),

- a pardon for criminal conviction, and;
- genetics characteristics (2017).

It is important to check the specific grounds in the relevant human rights legislation since they vary from jurisdiction to jurisdiction.

The PSAC has supported the inclusion of “Gender Identity” and “Gender Expression” in human rights legislation.

## GRIEVANCES

Most if not all PSAC collective agreements contain an anti-discrimination article. Here are a few examples of these:

### **Table 1 (PA Group)**

*“19.01 There shall be no discrimination, interference, restriction, coercion, harassment, intimidation, or any disciplinary action exercised or practised with respect to an employee by reason of age, race, creed, colour, national or ethnic origin, religious affiliation, sex, sexual orientation, family status, mental or physical disability, membership or activity in the Alliance, marital status or a conviction for which a pardon has been granted.”*

### **The Canadian Museum of Civilization**

*“14.01 The Corporation and the Alliance agree that there shall be no discrimination or harassment exercised in the workplace*

*with respect to an employee by reason of age, marital status, family status, race, creed, colour, national or ethnic origin, political or religious affiliation, sex, sexual orientation, mental or physical disability, membership or activity in the Union or conviction for which a pardon has been granted.”*

### **HUMAN RIGHTS COMPLAINT**

In most jurisdictions, if a member believes he/she has been discriminated against based on one or more of the prohibited grounds, a complaint can be filed with the applicable human rights commission.

It is important to note that **at the federal level**, employees are covered by the Public Service Labour Relations Act (PSLRA) and in addition to the right to file a grievance under the applicable collective agreement, they also have the right to file a human rights complaint with the Canadian Human Rights Commission.

**For other jurisdictions** where it is possible to file a human rights complaint, it may still be useful to do this while filing a human rights grievance in order to protect the timelines under human rights legislation (which may vary across jurisdictions). In most cases, the human rights will place the complaint in abeyance until the human rights grievance has been dealt with. It is also important to note that human rights agencies are very reluctant to deal with a human rights complaint if the issue has already been dealt with through the grievance process. Therefore, it is important to emphasize that the grievance process should be exhausted fully and that in very few circumstances will the human rights agency deal with a human rights complaint that has already been dealt with through the grievance process.

Although arbitrators have the authority to interpret human rights legislation, a human rights complaint provides protection in the event of an error in the grievance process.

### **HUMAN RIGHTS COMMISSIONS**

Yukon Human Rights Commission  
<http://www.yhrc.yk.ca/>

Northwest Territories Human Rights Commission  
<http://www.nwthumanrights.ca>

Nunavut Human Rights Tribunal  
<http://www.nhrt.ca/splash.html>

British Columbia Human Rights  
Tribunal <http://www.bchrt.bc.ca/>

British Columbia's Office of the Human Rights Commissioner  
<https://bchumanrights.ca/>

Alberta Human Rights and Citizenship Commission  
<http://www.albertahumanrights.ab.ca/>

Saskatchewan Human Rights  
Commission  
<http://saskatchewanhumanrights.ca>

Manitoba Human Rights  
Commission  
<http://www.manitobahumanrights.ca/>

Ontario Human Rights Commission / Commission des droits de la personne de l'Ontario

<http://www.ohrc.on.ca/>

Québec. La Commission des droits de la personne et des droits de la jeunesse

English <http://www.cdpcdj.gc.ca/en>

New Brunswick Human Rights

Commission <http://www.gnb.ca/hrc-cdp/index-e.asp>

Nova Scotia Human Rights

Commission

<http://humanrights.gov.ns.ca/>

Prince Edward Island Human Rights

Commission

<http://www.gov.pe.ca/humanrights/>

Newfoundland Human Rights

Commission

<http://www.justice.gov.nl.ca/hrc/>

Canadian Human Rights

Commission <http://www.chrc-ccdp.ca/>

## **EMPLOYER POLICY**

Employers may have human rights related policies that set out the principles and processes which must be undertaken by the employer in order to meet its human rights obligations. Employers are required,

since the Bonnie Robichaud Supreme Court Decision, to have a process to address harassment. Many employers have duty to accommodate policies. These policies usually outline a complaint process for employees who feel the policy has not been respected.

It should be noted that cases of personal harassment which are not linked to a ground of discrimination cannot be adjudicated through the grievance process (unless the collective agreement contains an article on personal harassment) nor can they be the basis of a human rights complaint. Cases of personal harassment can be dealt with via the employer's policy.

### **HEALTH AND SAFETY**

Federal Public Sector Employers are legally required under *Canada Labour Code (CLC) Part II* and *Part XX-Violence Prevention in the Work Place* of the *Canada Occupational Health and Safety Regulations (COHSR)* to provide employees with a safe and healthy work environment free of all types of violence including harassment and bullying.

While there are many definitions of harassment, traditionally, harassment has been defined as:

*"Any improper conduct by an individual that is directed at and offensive to another person or persons in the work place and which the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles or causes personal humiliation or embarrassment, or any act of intimidation or threat. It includes harassment within the meaning of the Canadian Human Rights Act (CHRA)."*

*Part XX* requires Employers to develop and post a Work Place Violence Prevention Policy which sets out specific obligations of the employer which include providing a safe, healthy and violence-free work place, establishing emergency notification procedures to respond to work place violence as well as assisting employees who have been exposed to work place violence.

It is important to note that the remedies for human rights related violations under the grievance process is different from the health and safety process since the purpose of each process is very different. Therefore, it is important to determine which route is the most appropriate under the circumstances. Both can be utilized at the same time.

When using health and safety recourse, it is important that the complaint explicitly state this.

### **DEALING WITH A GRIEVANCE INVOLVING HUMAN RIGHTS**

The person experiencing the discrimination may not articulate her or his experience as discrimination but as an unfair practice or experience.

Stewards should assess whether the situation is related to a discriminatory practice.

In addition, persons who belong to groups protected by human rights legislation may have had to deal with prior situations of exclusion or discrimination in other aspects of their lives. A person experiencing discrimination in the workplace may require support from others, including union representatives, due to the emotional,

physical and psychological impact of the discrimination. Stewards should be familiar with support mechanisms available to the person experience discrimination (i.e. EAP, counselling, advocacy groups, PSAC equity committees etc.).

### **GATHERING EVIDENCE**

The key issue in analyzing a human rights complaint or grievance is the question of **evidence**. It is important to have evidence to establish that the employer's action, policy or practice is discriminatory and linked to a prohibited ground of discrimination. Stewards play an important role in gathering the evidence.

Here are additional tips on gathering human rights related evidence:

- Information or evidence will be required from the person experiencing the discrimination.
- Information or evidence may also be required from witnesses and experts (i.e. medical experts, experts on organizational health or safety).
- Each case will be unique and different evidence may be required but in essence, the evidence should show that: a) the person(s) who is experiencing the discrimination falls within the prohibited grounds; b) the discriminatory practice is linked to the prohibited ground (i.e. a racialized person is denied an employment opportunity due to her or his race) and c) the impact of the discriminatory practice (i.e. person had to take leave of absence due to the discriminatory practice).
- Victims of discrimination or harassment may be isolated in the workplace. This may make it more difficult to find witnesses. Remind witnesses that you are not asking them to decide if harassment/discrimination has taken place. You simply want them to share what they have seen or heard.

- Look for patterns and for differential treatment (a comparison with how others are being treated) and document this evidence.
- It is not necessary to prove intent. In human rights investigations, intent does not affect whether or not an action is deemed discriminatory.
- Ensure members keep track of any leave taken or other benefits used as a direct result of the harassment/discrimination.
  
- Advise the member to alert their health care professional that they are being harassed.
- Determine if medical evidence is necessary and if so, how to best gather it.

### **OTHER USEFUL NOTES:**

- Retaliation against members who file human rights complaints or grievances is a violation of their rights. The sad reality is that members who file human rights related complaints or grievances are often belittled or ostracized. Stewards should be vigilant about challenging and recording these incidents on the case file and forward these details up the line. This could support the union's demand for punitive damages.
- It is a discriminatory practice to refuse to renew a temporary worker or to terminate their contract sooner because they have requested accommodation, are pregnant, have complained about racism, etc.
- In cases of harassment involving allegations against other members, stewards are to guide their interventions according to

the PSAC Policy on Union Representative: Workplace Harassment

**PSAC RESOURCES:**

The PSAC has several publications and documents which may assist you in representing human rights related complaints:

- PSAC Policy on Union Representation: Workplace Harassment
- Duty to Accommodate a PSAC Guide for Local Representatives
- Accommodating Mental Health Disabilities in the Workplace: A Tool for Union Representatives

**PSAC Policy on Union Representation: Workplace Harassment (23A)**

The PSAC believes that every individual has the right to dignity and respect, both within the union and in the workplace.

Harassment based on a prohibited ground of discrimination, as well as personal harassment, are totally inconsistent with the principles of union solidarity, dignity and respect. As such, the PSAC does not condone any form of harassment or discrimination.

This Policy deals with harassment that occurs in the workplace. It is the employer's responsibility to create and maintain a workplace free of harassment. Your Union has a role in making sure the employer meets that important responsibility.

This Policy helps clarify what role the Union can play where a workplace harassment complaint or grievance is filed. There are three basic principles that support this Policy:

(1) the Union's role in providing representation to employees in the context of workplace harassment should be consistent with its condemnation of harassment;

(2) you can request and obtain Union representation unless it is clear that the allegations – on their face – do not meet the definition of harassment that applies to your workplace. Depending on where you work, the definition of harassment can be found either in your collective agreement or in an employer policy; and

(3) if an allegation of harassment has been made against you, the Union can help provide you with information about the process you can expect. If a finding has been made that you did harass someone, and you are subject to corrective measures such as discipline or a deployment to another

position, the Union may provide you with representation where it reasonably believes that the measures taken are too severe or unwarranted in the circumstances.

To help you understand how workplace harassment allegations are usually dealt with, here are some general things to keep in mind:

- it is the employer that is responsible for providing a workplace free from harassment. The employer, therefore, must assess the validity of a complaint, decide whether to investigate it, and, if so, render a decision;
- the definition of harassment that will apply under this Policy will be the definition in either the employer's policy or your collective agreement;
- the process used to investigate allegations of harassment will either be those set out in your collective agreement or, where no such provision exists, those set out in the employer's policy;
- the person alleging harassment, and the person against whom the allegations are made, have a right to be heard. This doesn't mean the investigation process looks like a trial, but you need to be given a reasonable opportunity to put relevant information in front of the employer or investigator and to respond to any evidence or allegations made against you.

In addition to the Union's role in the context of individual complaints or grievances, the PSAC continues to work hard at the negotiating table and in the workplace to hold the employer to its duty to ensure that allegations of harassment are dealt with fairly, transparently and expeditiously. The Union will also continue to work with the employer to support the necessary education and training that is required to raise the

awareness necessary to achieve and maintain the harassment-free workplace that each of you is entitled to work in.

## **The Organizing Model of Grievance Handling**

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*Stewards do more than process grievances. You play an important role in strengthening the union in your workplace. Here are ideas for making the grievance experience a positive one for your Local*

1. What opportunities does this create to educate and involve the member?
2. What is the likely outcome of the grievance? Can mobilizing around the issue resolve the problem?
3. How can the grievor's involvement in the process be maximized?
4. What specifically can the grievor do to:
  - help solve the problem/contribute to a satisfactory outcome?
  - help build the union in the process?
5. Is this an issue requiring confidentiality and discretion? Why/why not?
6. Do we have the grievor's consent to involve others?
7. Who else might be affected by this issue? How do we know/how will we find out? In what ways are they affected or connected to this issue?
8. How important is it to these members?
9. How can they be involved?
10. Who else needs to be involved?
11. Has this been an issue in the past? Who was involved and what was the outcome?

12. What would be the specific goal(s) and/or objective(s)?
13. What actions could be considered? For what purpose?
14. What are the specific educational opportunities this issue creates? (e.g., one-to-one with the grievor, newsletter/bulletin, information session, steward contact system with membership, PSAC seminar/course, joint training with the employer)
15. How can this issue contribute to additional stewards/better trained stewards and what specific activities do we need to consider in order achieving this?
16. Who will do what by when?
17. What follow up is required?
18. How and when will we evaluate the results?

## **Applying the Organizing Model Scenario**

Euphrasia is an administrative assistant working in a busy department. Month end is always a hectic time as reports must be finalized and forwarded by deadline. It is Friday and Euphrasia and her colleague France are in the office alone. The month-end report is due by the end of the day, but it is not finished at quitting time. France leaves, indicating she has to pick up her son from childcare. Euphrasia phones and e-mails her supervisor for approval to work overtime but gets no response. She decides to stay late to finish the report and puts in an overtime claim the Monday following. The claim is denied because Euphrasia did not have prior approval to work the overtime. She contacts you to file a grievance.

As Steward for the area, you have heard talk from others about how stressed staff are working in this department. You suspect some staff are working overtime without pay in order to finish up work on time. On two occasions in past, staff have taken time off for stress-related illness.

Using the 7 “Ws” to Gather Facts... Some Examples

<b>WHO</b>	<ul style="list-style-type: none"> <li>• <b>Who</b> are the grievors (and contact information)?</li> <li>• <b>Who</b> are the protagonists?</li> <li>• <b>Who</b> caused/contributed to the problem?</li> <li>• <b>Who</b> are the supervisors/managers?</li> <li>• <b>Who</b> are the witnesses?</li> <li>• <b>Who</b> will provide signed statements, testify?</li> <li>• <b>Who</b> did the grievor tell?</li> <li>• <b>Who</b> else has this problem, now or in the past?</li> <li>• <b>Who</b> will be affected by the outcome?</li> <li>• <b>Who</b> has information you need?</li> <li>• <b>Who</b> will investigate?</li> <li>• <b>Who</b> will provide representation?</li> <li>• <b>Who</b> will set up the hearing?</li> <li>• <b>Who</b> will be at the hearing?</li> <li>• <b>Who</b> will “hurt” the grievor?</li> <li>• <b>Who</b> will “help” the grievor?</li> <li>• <b>Who</b> do you need to consult with?</li> <li>• <b>Who</b> can you get advice from?</li> <li>• <b>Who</b> will provide representation at next levels?</li> </ul>
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<p><b>WHAT</b></p>	<ul style="list-style-type: none"> <li>• <b>What</b> is the problem, issues to be resolved?</li> <li>• <b>What</b> are the facts?</li> <li>• <b>What</b> is the position of the employer?</li> <li>• <b>What</b> has been said in relation to the problem?</li> <li>• <b>What</b> is the background to this issue?</li> <li>• <b>What</b> were the contributing factors?</li> <li>• <b>What</b> are the consequences of doing nothing?</li> <li>• <b>What</b> meetings, communications have taken place?</li> <li>• <b>What</b> has the grievor done?</li> <li>• <b>What</b> documents does the grievor have?</li> <li>• <b>What</b> evidence is required?</li> <li>• <b>What</b> is needed from the employer?</li> <li>• <b>What</b> collective agreement, policy is relevant?</li> <li>• <b>What</b> union policies are relevant?</li> <li>• <b>What</b> is being violated?</li> <li>• <b>What</b> are the precedents?</li> <li>• <b>What</b> is the past practice of the employer?</li> <li>• <b>What</b> are the mitigating factors?</li> <li>• <b>What</b> is the position of the local, membership?</li> <li>• <b>What</b> will be the impact of the grievance on the grievor, membership, union?</li> <li>• <b>What</b> is the style of the manager hearing the grievance?</li> <li>• <b>What</b> are the options to solve this problem and the consequences of choosing each one?</li> <li>• <b>What</b> can be done to prevent a reoccurrence?</li> <li>• <b>What</b> safeguards can be built in?</li> </ul>
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<b>WHERE</b>	<ul style="list-style-type: none"> <li>• <b>Where</b> exactly did this take place?</li> <li>• <b>Where</b> was the grievor at that time?</li> <li>• <b>Where</b> were others ... supervisor, witnesses?</li> <li>• <b>Where</b> was furniture, vehicles ... distances?</li> <li>• <b>Where</b> does the employee work?</li> <li>• <b>Where</b> can I get corroboration of the grievor's version?</li> <li>• <b>Where</b> are the grievance forms?</li> </ul>
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<b>WHY</b>	<ul style="list-style-type: none"> <li>• <b>Why</b> is this a problem?</li> <li>• <b>Why</b> did the employer take action/not act?</li> <li>• <b>Why</b> did this occur?</li> <li>• <b>Why</b> did this happen to this particular employee?</li> <li>• <b>Why</b> did the grievor do what s/he did?</li> <li>• <b>Why</b> is a grievance necessary?</li> <li>• <b>Why</b> is this being pursued?</li> <li>• <b>Why</b> do people think the grievor is innocent/guilty?</li> <li>• <b>Why</b> are people supporting/not supporting the grievor/grievor's version?</li> </ul>
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<b>WANT</b>	<ul style="list-style-type: none"> <li>• <b>Wants</b> redress in full including ...;</li> <li>• <b>Wants</b> a hearing at each level.</li> <li>• <b>Wants</b> documents removed from files and destroyed.</li> <li>• <b>Wants</b> training for respondent, unit, workplace.</li> <li>• <b>Wants</b> harassment-free environment.</li> <li>• <b>Wants</b> a declaration collective agreement violated.</li> <li>• <b>Wants</b> reinstatement effective date of ... with no loss of pay and benefits.</li> <li>• <b>Wants</b> reinstatement of sick leave credits.</li> <li>• <b>Wants</b> memorandum of understanding outlining commitments and agreements.</li> </ul>
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<b>WHOA</b>	<ul style="list-style-type: none"> <li>• Have I correctly identified the problem?</li> <li>• Have I treated this as an organizing/educational opportunity—how will this contribute to membership education and involvement?</li> <li>• Have I analyzed the case and developed arguments and counterarguments? Am I well prepared for the hearing?</li> <li>• Have I organized the file and completed the PSAC Grievance File Checklist?</li> <li>• Have I obtained all the documents as listed?</li> <li>• Are all the statements signed and witnessed?</li> <li>• Is the Steward Fact sheet completed?</li> <li>• Are all my notes legible, signed and dated?</li> <li>• Are copies of the grievance and transmittal forms legible?</li> <li>• When do I need to forward the complete file to the representative at the next level?</li> </ul>
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# Shop Steward Fact Sheet

The PSAC encourages, when possible, resolving an issue at the source – with the affected parties and as early as possible.

Should an early resolution not be achieved, a complete case file is required in order to facilitate effective representation. Please use this fact sheet to collect information on the issue or problem. This will help you ensure that the grievance process and timeframes have been respected.

## A. THE PARTIES

### 1. Union Representative (Who completed the fact sheet)

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

Work Address: \_\_\_\_\_

\_\_\_\_\_

Phone Home: \_\_\_\_\_ Work: \_\_\_\_\_

Fax:\* \_\_\_\_\_ Email:\* \_\_\_\_\_

Component/DCL: \_\_\_\_\_ Local: \_\_\_\_\_

### 2. Grievor(s)/Complainant(s) (If more than one, attach list with name, address, etc for each)

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

Work Address: \_\_\_\_\_

\_\_\_\_\_

Phone Home: \_\_\_\_\_ Work: \_\_\_\_\_

Fax:\* \_\_\_\_\_ Email:\* \_\_\_\_\_

Bargaining Unit: \_\_\_\_\_ Classification: \_\_\_\_\_

Employer or Department: \_\_\_\_\_ Branch or Section: \_\_\_\_\_

## A. THE PARTIES

### 3. Employer Representative or Immediate Supervisor

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

What is relation to grievor/complainant?: \_\_\_\_\_

## B. FACTS OF THE COMPLAINT OR GRIEVANCE

**Why is this considered to be a complaint or grievance?** Include the article of the collective agreement or section of the legislation, if applicable.

**Details Please.** Please provide details of the complaint or grievance and attach a chronology of events if necessary.

a) **What** occurred?

b) **When** did the act or omission occur (times and dates)?

c) **Where** did it occur (location, department and section)?

d) **Who** is involved (other than witnesses)?

e) **Any related documents** (provide title, source, when received)?

**Want (Corrective action requested)**

This should place the complainant(s) or grievor(s) in the same position in which they would have been, had the incident not occurred. (Do not forget to request that the grievor(s) be made whole).

**If there are human rights related grounds** associated with this complaint or grievance, please ensure you provide details.

**C. WITNESS(ES)**

(If more than one, attach a list with details for each)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email:\* \_\_\_\_\_

Union Witness    Employer Witness   |    Provided Statement   |

Willing to testify:  Yes    No    Unknown

**D. TIME LIMITS**

1. Date of incident: \_\_\_\_\_

2. Deadline for filing grievance/complaint: \_\_\_\_\_

3. Date filed: \_\_\_\_\_

4. Deadline for reply: \_\_\_\_\_

5. Date reply received: \_\_\_\_\_

6. Deadline for transmittal to next level: \_\_\_\_\_

7. Date transmitted to next level: \_\_\_\_\_

## E. EXTENSION OF TIME

Please provide details if extensions were requested/received at any level of the grievance procedure and attach supporting documentation.

## F. COMMUNICATION WITH COMPONENT/DIRECTLY CHARTERED LOCAL (DCL)

**COMPONENT LOCALS** must ensure they provide details regarding replies to grievances and transmittals to their Component.

**DIRECTLY CHARTERED LOCALS (DCLS)** must ensure they provide details regarding replies to grievances and transmittals to their PSAC Regional Office.

## G. GRIEVANCE FILE CHECKLIST

<b>ATTACHMENTS</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
Copy of legible grievance form (retype wording and attach if not legible) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copy of legible transmittal form (level 2) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copy of legible transmittal form (other levels) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agreement(s) to extend time limits .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appropriate referral notice or form (arbitration/adjudication).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employer’s response (level 1).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employer’s response (level 2).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employer’s response (other levels) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outline of arguments presented at all levels of the grievance hearing .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
List of jurisprudence cited at all grievance hearings.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Completed Steward Fact sheet.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copy/summary of any settlement offers.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contact with grievor (dates and brief summary) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copy of all pertinent documents in chronological order (attach a list) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**EXPLANATIONS FOR BOXES CHECKED “NO” OR COMMENTS:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_