

## Understanding the Grievance Procedure

Over the years trade unions have followed the practice of resolving disputes in the workplace by engaging the traditional grievance procedure. The use of this procedure is designed as a means of addressing a grievance/complaint which an employee(s) has with the employer in the workplace. This may stem from the way an employee(s) has been treated or relate to the action(s) the employer is contemplating.

It is advisable that the grievance procedures are included in the collective bargaining agreement. The grievance procedure is meant to be a transparent process. Following on from transparency, there is the matter of ensuring the protection of the employee against any form of reprisal from the employer, the right to confidentiality in the hearing of the matter, and the right of appeal against the decision taken. The bottom line is that the grievance procedure should allow for a clear and transparent framework which provides for and ensures that all employees are treated fairly and without prejudice. In exercising the grievance procedure, the intention should be always be that of ensuring that the grievance matter is heard in a timely manner.

It is the right of the complainant/employee to be accompanied by a colleague, friend, shop steward/trade union official, to any scheduled meeting at which the grievance matter is being heard. There is nothing wrong if the employee chooses to be represented by an Attorney-at-Law, as this remains part of the individual's constitutional right. In the case of the latter, it would be a matter of courtesy for the employee to inform the employer of the intention to be represented by legal counsel. Although this is an option available to each individual, it is necessary to weigh the cost implications in the hiring of an Attorney-at-Law.

The grievance procedure is meant to be a non-legal intervention. It therefore is the responsibility of the employer to have the grievance procedure, as agreed upon with the trade union body, set out in the Employee Hand Book. A copy of the Hand Book ought to be made available to each employee.

It is the responsibility of the employer to initiate the grievance procedure. In so doing, there are five steps in the procedure which are to be observed. The first step is 'informal action'. This is where an attempt is made by the supervisor or manager to have the complaint addressed and resolved without having to move to the stage of a formal hearing.

One of the important steps in the exercise of the grievance procedure is that of completing an investigation. This ought not to be taken lightly by the employer. Where the employee is being represented by a trade union, the gathering of information is equally important to the defence to be made on behalf of the member/employee. Should the matter require a formal hearing, the employer should undertake to invite the employee to a formal meeting, with the individual retaining the right to have a

representative present and witnesses, if necessary. The employer should carry out an investigation into the matter, as the decision made on the matter should be based on factual evidence. There is a need for keeping an accurate record of the meeting, and also for the employer to communicate the decision of the meeting in writing, to the employee. It is to be recognized that the employee reserves the right to appeal the decision taken at the meeting. The grounds for the appeal should be set out in writing. For the purpose of fairness, the appeal hearing should not be heard by the Manager or his designate who conducted the initial hearing.

In the organization, it is best that grievance matters are handled by the Human Resources Manager. This would allow the manager to be open to hear an appeal if lodged. Now withstanding the fact that the employee has the right to appeal, this does not prevent both parties from agreeing in good faith, to attempt to resolve the conflict or disagreement through mediation. What must be stressed is the fact that the employee loses no time or pay, for time spent in attending a grievance hearing.