

## GUIDELINES for Processing INDIVIDUAL GRIEVANCES

### Introduction to a new process

*This document explains why the changes were needed, when and how to use the new procedure, and what will happen afterward.*

The new Collective Agreement between the Yukon government and its employees is effective between January 1, 2003 and December 31, 2006. This agreement completely changed the way a “grievance” – a complaint by an employee – is handled. But the new agreement didn’t just change the steps both sides must follow; it changed whole idea about what a grievance means, as well as the tone and purpose of the meetings needed to deal with these complaints.

### A brief history of grievance procedures

#### *elsewhere in Canada*

In most other provinces and territories in Canada, the way governments – and their employees with grievances – work to resolve disagreements has changed. Those changes made the process everyone followed much easier, faster and less confrontational. The new collective agreement between the Yukon government and its workers used the lessons learned in the other parts of Canada to help create this improved procedure.

#### *why the old procedure wasn't working*

*Under the old rules, there were many problems that seemed to be built into the system.*

- The procedure was stiff and formal – in effect each meeting was a hearing. Every step in the old procedure required written documentation, section numbers, and a careful paper trail.
- Each time a grievance moved to a higher decision level, the hearing relied on what happened at the lower level.
- At each point, the employer gave a “decision”. If the employee disagreed, an “appeal” had to be filed. It was like a mini-trial.
- What happened in one case was sometimes used to decide a new case, regardless of the personal aspects of the case.
- The procedure was very long and drawn-out. Delays were common. All final decisions rested with the Public Service Commissioner, which created problems with scheduling.
- Hearings were confrontational by nature.

#### *both sides agreed the problems had to be fixed*

Both the union and the employer recognized that a new approach was needed. This joint buy-in made it much easier to create a new procedure. In fact, the sections of the collective agreement containing this new procedure were approved during pre-bargaining, before the negotiation process even started.

Both sides tried to anticipate the likelihood of future conflicts, and create a way to deal with them if they occur. Putting a practical and simple method in place to respond to conflicts makes it much less likely that tensions will poison the workplace environment.

## Key points about the new grievance procedure

### *meanings and definitions*

A “**grievance**” is a written complaint. It can be about how the employer is using the collective agreement. An employee may also disagree with the employer about what the agreement means, and file a grievance about that. As well, a grievance can be used if the employee thinks that the terms and conditions of their job have changed unfairly, or are not being honoured.

The new grievance procedure cannot be activated verbally, but requires a written submission. An **Issue Information/Grievance Form** is available from the Shop Steward, the YEU office, or the employer. While a grievance will be accepted if it is not submitted on this form, use of the form will speed the process and ensure all requirements are met.

A “**grievance**” is *not* a tool for dealing with suspensions, dismissals, or competition appeals. Nor should this particular process be used to file harassment or discrimination grievances. All these issues are properly addressed through separate processes, with the assistance of a Service Officer or other designated union representative.

Grievances are also not the right tool for day-to-day discussions and the occasional disagreements that can occur between employees and their supervisors. In fact, one of the basic ideas behind the new procedure is problem solving, something that can most often be achieved by fair and open discussion in the workplace.

The “**grievance procedure**” is the agreed way a complaint can be heard. It is nothing more than a standardized set of steps to follow when someone has a complaint or a problem.

## *progressive steps*

*There are two basic principles behind most grievance procedures.*

The first principle is the idea of progressive levels or steps through which a complaint can pass. Under the new procedure, attempts to resolve a grievance begin with a first step where a complaint can be heard quickly and informally by the people *immediately involved*.

Many grievances can be resolved quickly by sharing information, correcting a misunderstanding, or by simply agreeing to a solution. In this case the new grievance procedure saves time, money, and maybe most importantly, the relationship between the parties. Having the issue handled by those immediately involved has an added benefit – the employee and the supervisor know more about the problem at hand than do people at higher levels. If the first problem-solving level fails, the issue can be advanced to successively higher levels.

The second principle is to ensure that another procedure – adjudication by an independent third party – is normally available if the complaint can't be resolved at any of the internal grievance levels.

*Why the new procedure is an improvement*

The new Collective Agreement fixed a major problem with the old grievance procedure – response time. The new, strict time frames are quite an improvement over the old process. Most people with experience in the old process know that grievances could drag on for months, or even years.

Part of the reason for the delays was the formality of the procedure, which meant that the people involved sometimes had to be more concerned with doing everything “by the book”, than with simply finding a solution that works for everyone. Furthermore, at the final level, a hearing depended on the availability of the Public Service Commissioner. Now grievances *must* be dealt with in a timely fashion.

## *Types of grievances*

*The Collective Agreement allows for three kinds of grievances.*

- 1. Individual Grievances*
- 2. Group Grievances*
- 3. Policy Grievances*

A union-employee of the Yukon government has the right to submit an “**individual grievance**” – one that is about that employee's own situation. These grievances are filed to the employee's supervisor.

A “**group grievance**” can be filed when more than one employee has been affected in the same way by a decision of management. All the employees in a group grievance must want a similar solution, or “redress”. In this case, the names of all employees who are part of the grievance are attached. One example might be the cancellation of vacation leave for everyone in the group. Group Grievances are filed directly to Level 2 (the first level of management).

A “**policy grievance**” involves how the Collective Agreement is interpreted, and matters that affect the union as a whole. These grievances are only filed by the Union (not an individual member), and are filed directly to the Public Service Commissioner.

# The New Grievance Procedure

## Individual Grievances

### *the basic idea*

*The new Collective Agreement completely changes how grievances are resolved. As we review this new method, it's important to keep several things in mind.*

- The idea is to **solve the problem**. The purpose isn't to win an argument, prove a point, or punish anyone.
- Whatever solution a worker and the employer find, the solution only affects that specific situation. No one else can point to that case to stop or delay a future grievance, or to say that a decision has already been made.
- All the facts of the case **must be shared** between all the people involved. This is true at each level. Since the goal is to fix the problem as quickly as possible, and at the lowest level, there's no point in holding any information back to use later on.
- The **time limits** at each step in the process are important, and can only be changed or extended if both the worker and the employer agree, or when something unavoidable made it impossible for one or both to meet the time limit. Be sure to keep the time limits in mind throughout the process.
- The employer cannot, for any reason, prevent an employee from submitting a grievance.
- If the employee is still not satisfied with the resolution of the grievance after all steps are complete, the matter may be referred to **adjudication** with the approval of the Union.
- Both the Union and the employer have *Grievance Administrators* who "track" the grievance through the system at each level, and keeps records. This tracking includes recording critical dates and the result of the process.

### *filing an Individual Grievance*

*A fact sheet and a convenient wallet card that explain the process are available from the shop steward, YEU office, or the Public Service Commission.*

When an employee feels that filing a grievance may be the appropriate way to find a resolution to a workplace problem, the shop steward should be approached for advice. The shop steward has copies of **Issue Presentation/Grievance Forms** and will contact the YEU office for a grievance file number.

This form provides a convenient means of recording the grievance in a simple and self-explanatory format acceptable to both the Union and the employer. It also contains a number needed to keep track of the grievance (this number is obtained from the YEU office) as it moves through the system. Although a written grievance presented by letter is equally valid, both the Union and the employer strongly recommend use of the grievance form.

*the three levels, what happens and when*

Level 1

(a meeting between the employee and the supervisor)

*Response time – the first level meeting must be held within 20 working days after the employer has received notification of the grievance.*

At the first level after the grievance has been submitted, the employee meets with the supervisor to try to work out a solution. Employees can and should ask a **shop steward** to join in on this meeting. If a Shop Steward is not immediately available, the employee should call the union office to arrange for another representative to attend.

The **supervisor** may consult, if necessary, with the department Human Resource office.

The best place to solve the problem that caused a grievance to be submitted is here at the first level. Employees should be prepared to explain the issue clearly, and to offer suggestions about how to fix the problem. The goal is to find a solution quickly, fairly, and without unnecessary delay. Here all the facts are explained and viewpoints shared.

Shop stewards play an important role in this new process. They provide the on-site union representation, support and procedural guidance. They can also help keep the meeting focused, particularly when tensions or strong feelings interfere with the discussion.

Both the employee and supervisor are expected to try to solve the grievance in a cooperative and straightforward manner. With this in mind, meetings at the first level are very informal. *No written records need to be kept.* If the grievance can be resolved at this level, the matter ends. More than one meeting can be held if both the employee and supervisor agree.

While this first level meeting is informal, the time frames for the meeting and any referrals to the next level are strict. The first level problem-solving meeting *must be held within 20 working days* after the employer received the grievance. If a reasonable solution can't be found, the grievance *must be forwarded within 5 working days* to management for a second level meeting.

Level 2

(a meeting between the employee and the supervisor's manager)

A second problem-solving meeting will be held if the grievance cannot be solved at the first level. In this case, the manager attends for the employer. As before, the employee can and should be represented by the Shop Steward.

The Level 2 manager is considered the first non-bargaining person (either manager or confidential exclusion) above the Level 1 supervisor. The Manager may consult, if necessary, with the departmental Human Resource office.

Second level meetings are also informal. The idea is to cooperate and find a way to resolve the problem. While no formal written records are kept, it is wise to write down the terms of any agreement reached, so everyone understands and no one will forget.

If no agreement is reached, both parties should write down the facts presented so that they will be available at the final grievance level.

Unless both the employee and manager agree otherwise, the meeting at Level Two must be held *within 10 working days* after the grievance has been referred from Level One. If the matter is not successfully resolved, it must be referred to Level Three *within 5 working days*.

Final Level  
(a meeting between the employee  
and the deputy minister)

A third and final meeting may be needed, this time between the employee and the deputy minister (*in the past this level would have been referred to the Public Service Commissioner*). The employee can and should have a designated union representative attend. Advice on representation is available from the Yukon Employees' Union office.

The deputy may consult with the departmental Human Resource office or the Staff Relations Branch, Public Service Commission and they may be asked to attend the Final Level meeting.

A Final Level meeting must be held *no more than 10 days* after the grievance was referred from Level Two. Meetings at this level are more formal, and a written record will be maintained.

In this case, the deputy will make the decision on the grievance.

This decision will be provided *in writing, with the reasons* outlined. This written decision and explanation is *required within 10 days*. If the employee is not satisfied with the deputy minister's decision, the union can be requested by the employee to refer the matter to adjudication. There are strict timelines involved with such referrals, so this request should be made immediately upon receiving the decision and explanation.