

**CITY OF HAMILTON
INTERNAL AUDIT REPORT 2011-10
HUMAN RESOURCES (HR) – GRIEVANCE PROCESSES
FOLLOW UP**

#	OBSERVATION OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN	FOLLOW UP (JANUARY 2014)
1.	<p><u>Grievance Deadlines</u></p> <p>Collective agreements outline timelines and deadlines which govern the grievance process. For instance, grievances must be filed within a specific number of days from the incident date giving rise to the issue for the grievance to be valid. Several deadlines may be associated with a single grievance depending on how far the grievance proceeds through the process.</p> <p>Deadlines were surpassed by both the Unions and City in 12 of 34 (35%) and 15 of 24 (44%) grievances tested, respectively. In several instances, the Union and City both surpassed deadlines for the same grievance. In all cases, no agreed upon extensions were documented in the files.</p>	<p>That Labour Relations staff create union-specific forms for grievance files to monitor deadlines. This information can be used to assess the Section's performance in handling grievances.</p>	<p>Agreed. Effective immediately, timeline extensions agreed to by the parties will be formalized, in writing, with a copy of such agreement to be included in the grievance and/or file.</p>	<p>No longer applicable. Labour Relations (LR) staff are monitoring step 1 CUPE 5167 grievances. However, management disagrees with any further monitoring of deadlines as enforcing formalized extensions in all circumstances will have a negative impact on Labour Relations' relationships with the Unions.</p>

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1.	<p><u>Grievance Deadlines (Cont'd.)</u> Internal Audit could not assess actual timelines in 19 of 34 (56%) grievances tested due to not knowing the incident date or when correspondence was received from the Union as Labour Relations did not stamp or note the receipt date on the correspondence.</p> <p>In instances where the grievance date was noted by Labour Relations, it was the date on which the Union representative signed the grievance form rather than the receipt date. This skews the timeline monitoring.</p> <p>By not accurately monitoring deadlines, the City may incur settlement, legal, mediation and arbitration costs for grievances that should not have been entertained. Also, surpassed deadlines cannot be used as a defense in denying grievances in mediation and arbitration hearings.</p>	<p>That Labour Relations staff record in the grievance file the date on which correspondence is received from Unions.</p>	<p>Agreed. Effective immediately, all grievance forms will be date stamped by Human Resources/Labour Relations (HR/LR) upon receipt. A copy of the date stamped documentation shall be kept in the grievance and/or arbitration file.</p> <p>While it is unlikely that the City would be at risk for incurring legal, mediation or arbitration costs as a result of surpassed timelines, it is agreed that tracking timelines would provide for a more efficient and tighter process.</p>	<p>Not Completed. A review of nine grievances identified five that did not include in the grievance file the date the Grievance Form was received from the Union.</p>

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2.	<p><u>Inadequate Documentation</u> Grievance documentation is not consistent, complete or sufficient in many cases.</p> <p>In 14 of 17 (82%) grievances tested that were heard or settled at the department level, files did not contain the department response, minutes or supporting documentation. Three of ten (30%) settled cases did not document the settlement terms. Three of five (60%) withdrawn grievances tested were not accompanied by a formal written withdrawal from the Union.</p>	<p>That Labour Relations create and distribute a form to all department staff which summarizes required information in regard to grievances settled at the department level. Labour Relations Officers should review and initial these forms before grievances are closed in the database.</p>	<p>Agreed. Effective Sept. 1, 2012, any grievances heard at Step 1 must be formally recorded on a form issued through Labour Relations (LR). Such forms will be developed and distributed to operating departments for completion at the Step 1 Level. The form will require the Manager to provide full details of the matter, including settlement details and associated costs (if any). These forms will be returned to Labour Relations for recording purposes only.</p>	<p>Alternative implemented. A step 1 Grievance Response Form has been created and distributed to CUPE 5167. All grievances tested that were heard or settled at the department level did not have a completed step 1 Grievance Response Form but had other forms of adequate supporting documentation.</p>

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2.	<p><u>Inadequate Documentation</u> Other examples of inadequate documentation were observed in selected files, the more pervasive ones being lack of:</p> <ul style="list-style-type: none"> • Witness and management statements and other evidence to support Labour Relations' position and prove adequate due diligence occurred; • Meeting minutes in the paper file; and • Requests from the Union to escalate the grievance through the process. <p>Lack of monitoring at the department level increases the risk that grievances are not resolved in a consistent manner and unfavorable precedents are set which may result in higher settlement costs. Labour Relations may not identify training opportunities to assist departments in handling complaints and grievances.</p> <p>Documentation must be complete to support the City's defense should the grievance proceed to mediation or arbitration. It provides reference for future grievances and proves the City's compliance with collective agreement provisions.</p>	<p>That Labour Relations determine necessary documentation that is required in a grievance file and communicate this as part of a procedure, guideline or checklist. Staff should then be trained in this regard.</p>	<p>Agreed. Effective Sept. 1, 2012, a "check-list" form will be implemented for all grievance files. This "check-list" will itemize all particulars to be included for proper completion of a grievance file. This form will also include entry of settlement related costs for said grievance and/or arbitration. Once reviewed and completed, the appropriate Labour Relations Officer (LRO) will sign-off on the grievance / arbitration file.</p>	<p>Completed. Labour Relations has implemented a Grievance File Checklist for files at step 2 and above. All files tested contained information outlined on the checklist.</p>

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3.	<p><u>Inaccurate Database Information</u> Grievance information compiled in the Labour Relations Information System (LRIS) database is not accurate.</p> <p>The level (i.e. department, Labour Relations, mediation, arbitration) or status (i.e. active, closed, settled, withdrawn) of grievances reported in LRIS was not accurate for 11 of 34 (32%) grievance files tested.</p> <p>In several instances, legal, mediation and arbitration costs were incorrectly classified as settlement costs, assigned to the wrong grievance file, inaccurately allocated between groups of grievances or not captured in LRIS, at all.</p> <p>LRIS automatically assigns the next sequential grievance number when a grievance is entered in the database. This application control provides assurance that information in the database is complete. Internal Audit discovered one sequential grievance number that was deleted in its entirety from the database. Although Labour Relations staff identified the grievance as a duplicate entry, circumventing application controls increases the risk that grievances in the database are not complete.</p>	<p>That Labour Relations develop a better process for entering and reviewing grievance information in LRIS. For example, Labour Relations Officers may be trained to enter information in LRIS which is reviewed by the Labour Relations Analyst when the grievance file is compiled.</p> <p>That Labour Relations work with PeopleSoft programmers to create a specific grievance category, level or status to capture erroneous or duplicate grievances rather than deleting the entire record from the database.</p>	<p>Agreed, in part. Effective immediately, all grievance files shall be housed in the "corporate" LR office. This will help avoid lag time in recording data into LRIS. Having the LROs enter information into LRIS is not recommended as this process may lead to inaccuracies and inconsistencies that will ultimately have an adverse impact on LR Reporting.</p> <p>Agreed. Effective immediately, a PeopleSoft program has been implemented that flags an "error" in the event there is an entry for the same grievance into LRIS. Consequently, there will no longer be any duplication of entries. As well, there will no longer be a need to delete (inaccurate) entries from the system.</p>	<p>Completed. All grievance files are housed in the "corporate" LR office, avoiding lag time in recording data into LRIS. The level and status of all grievances reviewed were accurately reflected in LRIS.</p> <p>In Progress. Grievance information associated with a particular, assigned grievance can no longer be deleted from LRIS. However, a specific grievance category, level or status has not been created to capture erroneous or duplicate grievances as such, grievance numbers can be reassigned.</p>

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3.	<p><u>Inaccurate Database Information (Cont'd.)</u></p> <p>Currently, information from LRIS is used to compile data reported to the General Issues Committee (GIC) on an annual basis. As a result, data contained within LRIS must be accurate to aid in strategic, operating and budgeting decision-making.</p>			
4.	<p><u>Training Workshop Availability</u></p> <p>The Labour Relations training initiative, <i>Essentials of Managing in a Unionized Workplace</i> was offered to non-unionized managers. This training program consists of the following five workshops:</p> <ul style="list-style-type: none"> • Introduction to Labour Relations (prerequisite for all other workshops); • Grievance Handling; • Investigations; • Performance Management and Progressive Discipline; and • Labour Management Meetings, Relationship Building and Negotiations. <p>Close to two years after the launch, training has yet to be extended to unionized managers.</p>	<p>That Labour Relations develop a realistically achievable action plan to roll out <i>Essentials of Managing in a Unionized Workplace</i> training to all non-union and unionized supervisors and managers. The action plan should outline responsibility for accomplishing tasks, related timelines, performance measures and required resources.</p>	<p>Agreed. Implementation of final module of <i>Essentials of Managing in a Unionized Workplace</i> (Collective Bargaining and Attendance Management) will be introduced by Sept. 30, 2012. Effective Jan. 1, 2013, LR will offer a modified version of the Training Program (geared towards unionized managerial staff within C1041 union group). Overall completion of the secondary training program for all four modules is expected to be finalized by Dec.31, 2015. LR will continue with on-going delivery of the training program for all non-union management employees.</p>	<p>Initiated. The final module of the training initiative has been introduced. Workshops were held and attendance has increased. However, the attendance numbers continue to reflect a low percentage of total non-union management staff participation. The modified training program for unionized supervisors and managers has not yet been delivered.</p> <p>A corporate wide training initiative will be presented to the Senior Management Team in February, 2014 and if endorsed, mandatory attendance can be reinforced.</p>

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4.	<p><u>Training Workshop Availability (Cont'd.)</u></p> <p>Fourteen workshops were held in 2010, consisting of nine introductory and five grievance handling sessions. The number of workshops decreased to one grievance handling and four performance management sessions in 2011. The introductory workshop was not offered in 2011. The investigations and negotiations courses are yet to be provided.</p> <p>There is no indication in Labour Relations' strategic or operational plans of an action plan to roll out training to all staff.</p> <p>Lack of training increases the risks of grievances not being handled correctly, resolved in a consistent manner and setting unfavorable precedents which may result in a higher number of grievances and settlement costs.</p>			

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5.	<p><u>Completeness and Accuracy of Reported Costs</u></p> <p>The <i>Labour Relations Grievance Activity Reporting & Analysis</i> report presented to the GIC on August 9, 2011 reported costs incurred for mediators, arbitrators and legal counsel. However, in Internal Audit's testing, it was noted that grievance settlements paid to the grievor were not included as costs.</p> <p>The Labour Relations (LR) Cost Spreadsheet is used to accumulate legal, mediation and arbitration costs to be reported in the GIC report. Expenses of \$645,167 have been incurred for 2011. Approximately 48% of these costs do not specifically pertain to grievance activity. The more significant unrelated costs include fees associated with the Carpenters' litigation against and collective bargaining with the City and non-union termination fees. Only costs associated directly with grievance activity should be included in the GIC report.</p>	<p>That Labour Relations track all settlement costs in LRIS. This information should be included in the annual grievance activity reported to GIC.</p> <p>That Labour Relations include only costs associated with grievances in their annual GIC report.</p>	<p>Agreed. Once Step 1 forms are introduced by Sept. 1, 2012, all settlement costs will be included in the LRIS database. Such information will also be reported in an annual Grievance Activity Report to the General Issues Committee (GIC). As well, all settlement costs arising from grievances and/or arbitration activity shall be recorded and reported on an annual Grievance Activity Report to GIC.</p> <p>Agreed. All non-grievance and non-union related costs (e.g. legal expenses related to Carpenters' litigation and non-union terminations) will be recorded and reported on separately in an annual report to GIC.</p>	<p>Not practical. It is difficult for Labour Relations to obtain information regarding all settlements paid to the grievor by the department. Given Labour Relations does not have the authority nor the relevant cost information for such reporting, the accuracy and completeness of information cannot be relied upon.</p> <p>Not Completed. Costs reported on the 2012 <i>Labour Relations Grievance Activity Reporting & Analysis</i> report included amounts that do not specifically pertain to grievances (non-union termination costs, collective bargaining fees, etc.).</p>

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5.	<p><u>Completeness and Accuracy of Reported Costs (Cont'd.)</u></p> <p>Internal Audit also identified formula and calculation errors as well as invoices that were not captured in the LR Cost Spreadsheet. Even though these errors would be identified as part of the annual reconciliation with PeopleSoft, the identification and correction of errors is not timely.</p> <p>Cost information must be accurate and complete in order for management and Council to make informed strategic, operating and budgeting decisions throughout the year.</p>	<p>That Labour Relations reconcile grievance-related costs to those reported in PeopleSoft on at least a quarterly basis.</p>	<p>Agreed. However, the effort required to reconcile these two systems will be very time consuming and onerous. Changes are required to methods used in recording these costs in the PeopleSoft system in order to facilitate the reconciliation. Staff will design a system going forward that will reconcile the LRIS with the PeopleSoft system. Anticipated to be implemented by January, 2013.</p>	<p>Not Completed. Even though attempts were made to match PeopleSoft and LRIS records, Labour Relations could not provide evidence of reconciling grievance-related costs to those reported in PeopleSoft on at least a quarterly basis. Since September, 2013, the practice was discontinued due to the responsible staff leaving this section.</p>

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6.	<p><u>Inefficient Use of Resources</u> Legal, mediation and arbitration costs are recorded in both LRIS and the LR Cost Spreadsheet by two different staff members. Information pertaining to the grievance, which is already inputted in LRIS, is manually entered again in the LR Cost Spreadsheet. LRIS has the ability to capture the same invoice details and notes which are manually entered into the LR Cost Spreadsheet.</p> <p>Recording all information in LRIS and building reports to extract this information for reporting and reconciliation purposes will eliminate duplication of effort and make more efficient use of human and technological resources.</p>	<p>That Labour Relations record all legal, mediation and arbitration cost information in LRIS and discontinue use of the LR Cost Spreadsheet.</p> <p>That Labour Relations work with Information Systems to develop an LRIS report to extract grievance and cost information required for reporting and reconciliation purposes.</p>	<p>Agreed. Effective immediately, use of the Excel spreadsheet recording for legal and arbitration expenses will be eliminated. Also see Management Action Plan #5 above.</p> <p>Agreed. Staff will immediately undertake a review of grievance and cost information to be included in the LRIS Report. All previously recorded grievance related costs on Excel spreadsheets will now be incorporated into LRIS.</p>	<p>Not Completed. Labour Relations continues to record cost information in both LRIS and the LR Cost Spreadsheet as back up for the first year of transition to reporting directly from LRIS.</p> <p>In progress. Additional information is being captured in LRIS. However, it has not yet been extracted for reporting and reconciliation purposes.</p>

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7.	<p><u>Goals and Performance Measures</u> Labour Relations' overall objectives are to reduce grievances, improve labour relations and control costs. Labour Relations' strategic and operational plans do not contain a statement of objectives, specific goals, action plans or performance measures.</p> <p>In the <i>Labour Relations Grievance Activity Reporting & Analysis</i> report presented to the GIC on August 9, 2011, Labour Relations committed to working closely with operating departments as well as other human resources areas to determine effective strategies for better managing matters related to promotion, over-time and discipline, some of the major reasons for grievances. Although this goal was not explicitly communicated to staff, Labour Relations Officers provided evidence of activities throughout the year to try managing grievances within specific departments. These initiatives are not formally tracked or monitored. The ability to achieve and report on goals may be difficult if management does not track results.</p>	<p>That Labour Relations create specific strategic and operational goals to guide activities in the department. Goals should be supported by an action plan outlining responsibilities for accomplishing more specific tasks, related timelines, performance measures and required resources.</p> <p>That Labour Relations adopt additional performance measures that assess the effectiveness and efficiency of complaint and grievance handling. Measures that may be considered include:</p> <ul style="list-style-type: none"> • Number of active, withdrawn, settled and closed grievances as a percentage of grievances received; • Number of grievances settled by a department, Labour Relations, mediation and arbitration as a percentage of settled grievances; 	<p>Agreed. Operational specific recommendations and associated action plans from the LR Activity Report shall be included as a standing item on all monthly LR team meetings.</p> <p>Agreed, in part. Performance measures such as average time for closed files, settlement costs, training satisfaction ratings, percentage of training activity, etc. shall be incorporated, effective immediately.</p> <p>However, in many cases, grievances remain "dormant" since there has not been any request for further activity or action by the Union on a file. To draw attention for purposes of reporting settled and closed grievances may be ill advised as it may provoke unnecessary and costly litigation.</p>	<p>Completed. LR team meeting minutes identified operational specific recommendations and action items which were carried forward for review at the next meeting to ensure completion.</p> <p>Completed. Labour Relations has considered and adopted some performance measures that assess the effectiveness and efficiency of grievance handling.</p>

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7.	<p><u>Goals and Performance Measures (cont'd)</u> Goals, performance measures, monitoring and feedback are required to ensure Labour Relations initiatives are constructive and in line with the Corporate Strategic Plan.</p>	<ul style="list-style-type: none"> • Average length of time and legal / settlement costs incurred to settle grievances; • Number and percentage of employees trained in grievance processes; and • Percentage of participants who were satisfied with the quality of training provided. 		