

INFORMATION REPORT

TO:	Mayor and Members of Council (General Issues Committee)
COMMITTEE DATE:	April 21, 2021
SUBJECT/REPORT NO:	Labour Relations Activity Report & Analysis (2016 – 2020) (HUR21004) (City Wide)
WARD(S) AFFECTED:	City Wide
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COUNCIL DIRECTION

To provide Council with an overview of the City's labour relations activities for the period 2016-2020.

INFORMATION

This Report focuses on a five (5) year historical review of the data for period of 2016 to 2020 and reviews the general labour relations activities across unions and departments. The Report is intended to provide Council and other City stakeholders with an understanding of the state of labour relations as well as insight into indicators that may require a modified approach to managing labour relations service delivery.

Demographic Overview

The following Chart provides an overview of unionized headcount by department along with the number grievances filed respectively:

Chart 1 - 2020 Union Headcount by Department and Number of Grievances

Department	2020 Headcount	Unionized Headcount	% of Union Employee within Dept.	% of Union Employee within COH	Number of Grievances*	% of Overall Grievances
City Housing Hamilton	200	110	55.00%	1.34%	4	1.06%
City Manager's Office	144	12	8.33%	0.15%	2	0.53%
Corporate Services	507	285	56.21%	3.48%	11	2.92%
Healthy & Safe Communities	4202	3452	82.15%	42.19%	146	38.73%
Planning & Economic Development	866	468	54.04%	5.72%	27	7.16%
Public Works	2264	2074	91.61%	25.35%	183	48.54%
City Wide Policy Grievances	n/a	n/a	n/a	n/a	4	1.06%
Total	8183	6401	N/A	78.22%	377	100.00%

Not surprisingly, the largest number of grievances filed occurred in the two largest departments – Public Work and Healthy and Safe Communities. Further analysis of this is provided in the Grievances section (Chart 3 - Grievance by Department).

The following chart informs the analysis further by providing bargaining unit breakdown relative to headcount and grievance activity.

Chart 2 – 2020 Union Headcount by Bargaining Unit and Number of Grievances

Union Group	Headcount	% of Union Employees within COH	Number of Grievances	% of Overall Grievances submitted by Union	Grievance Rate per 100 Unionized Employees
ATU 107	799	12.48%	29	7.69%	3.63
CUPE 1041	331	5.17%	38	10.08%	11.48
CUPE 5167 Inside/Outside	3172	49.55%	229	60.74%	7.22
CUPE 5167 Lodges	674	10.53%	35	9.28%	5.19
GHVFFA 911	197	3.08%	0	0.00%	0.00
HOWEA	47	0.73%	5	1.33%	10.64
HPFFA 288	543	8.48%	16	4.24%	2.95
IUOE	8	0.12%	0	0.00%	0.00
ONA 50 Lodges	52	0.81%	4	1.06%	7.69
ONA 50 Public Health	209	3.27%	3	0.80%	1.44
OPSEU 256	369	5.76%	18	4.77%	4.88
Total	6401	100.00%	377	100.00%	5.89

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Chart 2, above, unremarkably shows that the CUPE 5167 (Inside/Outside) the City's largest bargaining unit, submitted the largest number of grievances. It should be noted that the grievance submission rate per 100 employees is lower than other bargaining units much smaller in size.

Grievance Activity (Overall)

The 2016-2020 Report identifies general stability in the overall level of grievance activity and state of labour relations across the City.

As noted in Graph 1 and Chart 3 below, the total number of grievances in 2020 remained fairly static at 377, compared to the 380 submitted in 2019 and the lowest level of grievance activity during the historical period of this Report (2016-2020). The total grievances for 2020 fell roughly 9% below the 5-year average of (N=415).

Graph 1 – Total Grievance Activity 2016 - 2020

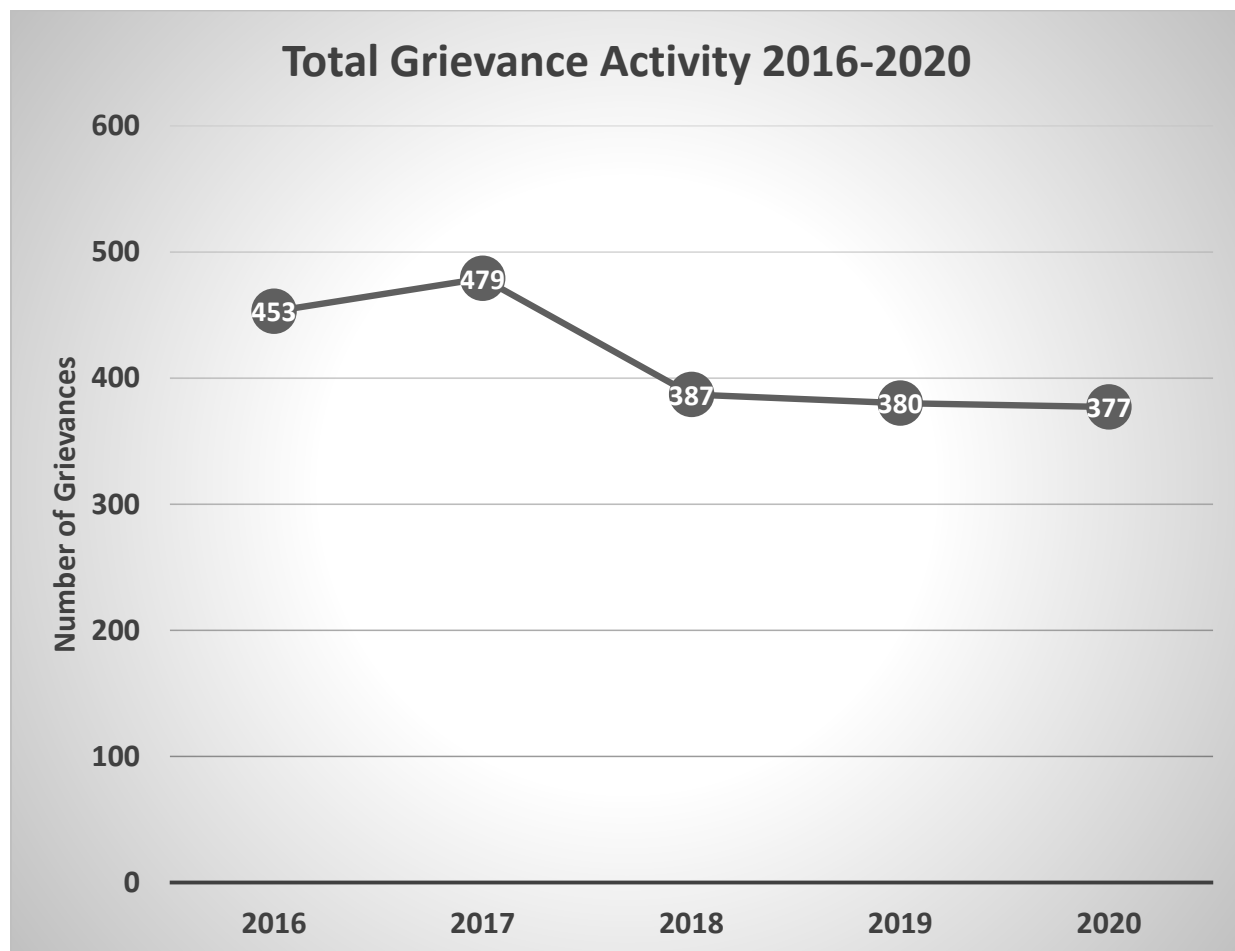


Chart 3 – Grievances Filed, Resolved, and Outstanding 2016 - 2020

Year	Number of Grievances Filed	Total Number of Grievances Resolved	Number of Active Grievances
2016	453	371	82
2017	479	364	115
2018	387	311	76
2019	380	254	126
2020	377	147	230
Total	2076	1442	634

While the total number of grievances filed can be one general indicator of the state of labour relations, it is not often reflective of the labour-management relationship. More analysis is always necessary, and caution should be given to drawing any conclusions in relation to the data presented in this report. What is clear on the overall grievance volume, is that the submission rate has dropped and that is always a good sign. In terms of the number of grievances resolved, these numbers represent mediated settlements along with those withdrawn by the unions. In 2020, COVID-19 interfered with the regular union-management processes such as grievance meetings and cancelled mediation proceedings. Further, this would also be reflected in the higher level of active grievances identified in 2020 resulting from the Impact COVID had on both mediation and arbitration processes.

Grievance Activity by Bargaining Unit

In addition to the overall rate of grievances showing favourable stability, so too are several of the bargaining unit 2020 grievances when compared by historical trends. Graph 2 and Chart 4 show the level of grievances and compares them with those of the four years preceding. Of the eleven (11) reportable bargaining units within the City, five (5) show a significant reduction in grievance submission, four (4) of which also marking a 2020 level lower than 2016.

It should be noted that there was very little grievance activity for OPSEU 256 in 2020, this is associated with a high volume of Union requests to cancel and reschedule grievance meetings, bargaining dates and arbitration hearings. The decrease in grievances filed for OPSEU 256 can also be connected to the positive working relationship between HPS management and OPSEU 256 executives. They often meet and discuss before grievances are filed which can have a positive impact on grievance activity. This is also the case with the 36% grievance decrease for the ATU 107 group, where the parties worked to settle some contentious grievances prior to sending them through the arbitration process.

Graph 2 – Total Grievances Filed by Bargaining Unit 2020 (Rounded)

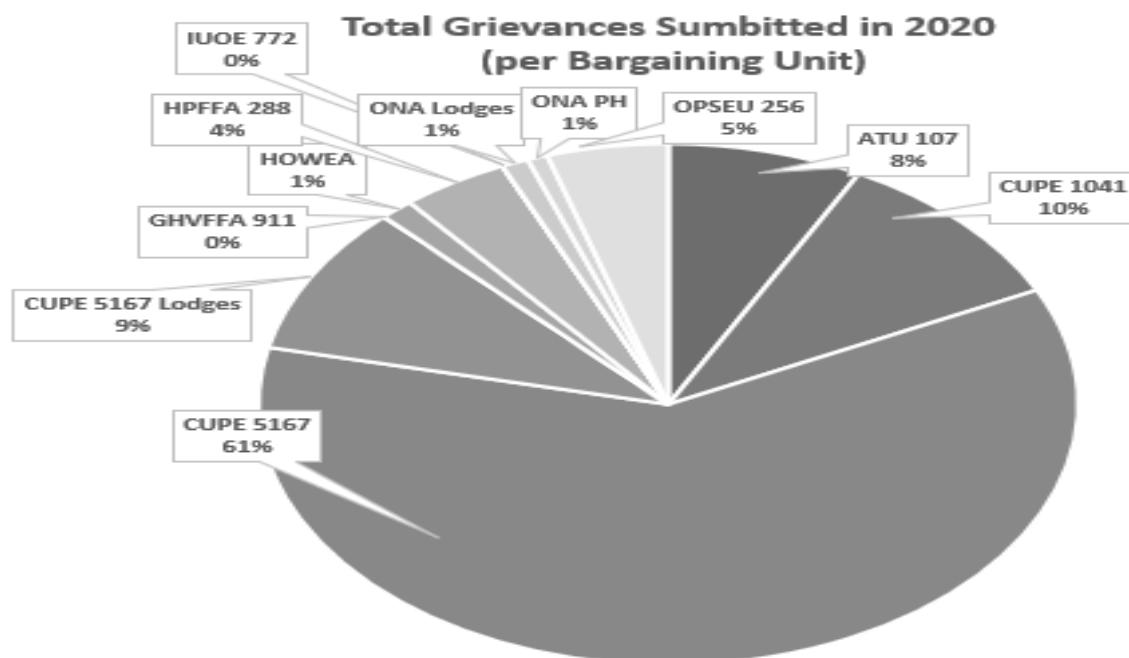


Chart 4 – Total Grievances Filed by Bargaining Unit 2016 – 2020

Bargaining Unit	2016	2017	2018	2019	2020	2019/2020 Percentage Change
ATU 107	30	50	13	46	29	-37%
CUPE 1041	35	62	28	31	38	23%
CUPE 5167	284	211	214	192	229	19%
CUPE 5167 Lodges	9	18	20	50	35	-30%
GHVFFA 911	11	6	1	0	0	0%
HOWEA	14	9	26	15	5	-67%
HPFFA 288	19	29	15	9	16	78%
IUOE 772	0	0	0	0	0	0%
ONALodges	5	10	4	7	4	-43%
ONAPH	3	2	3	2	3	50%
OPSEU 256	43	82	63	28	18	-36%
Total	453	479	387	380	377	-1%

Grievance Activity by Department

Another indication of the state of labour-management relations outside of the overall picture, is to drill down to the various City departments (Chart 5). Again, the grievance activity provides a strong favourable outlook with comparisons showing either stability or improvement in most departments over 2019, and a general experience from the 2016 activity as well. Some of the issues in areas where numbers have risen will be identified the next section.

Chart 5 - Grievance Activity by Department 2016 – 2020

Department	2016	2017	2018	2019	2020
City Housing Hamilton	4	8	3	11	4
City Manager's Office	2	0	4	0	2
City-Wide	8	5	9	3	4
Corporate Services	9	16	9	18	11
Healthy & Safe Communities	148	210	145	146	146
Planning & Ec. Dev.	17	32	29	27	27
Public Works	265	208	188	175	183
Total	453	479	387	380	377

Grievance Activity by Type

The issues most grieved at the City continues to be discipline, Income Protection Plan and return to work initiatives, hours of work and recruitment related grievances. Moreover, there has been a notable increase in the number of harassment and discrimination related grievances which have been found to be largely filed in response to performance management issues and changing expectations within the departments rather than those considered to be bona fide cases that have been managed through Human Rights. Graph 3 and Chart 6 illustrate disputes by type or grievance category.

Graph 3 – Grievances Filed by Category 2019 and 2020

Description of grievance categories can be found in Appendix “A” to Report HUR21004

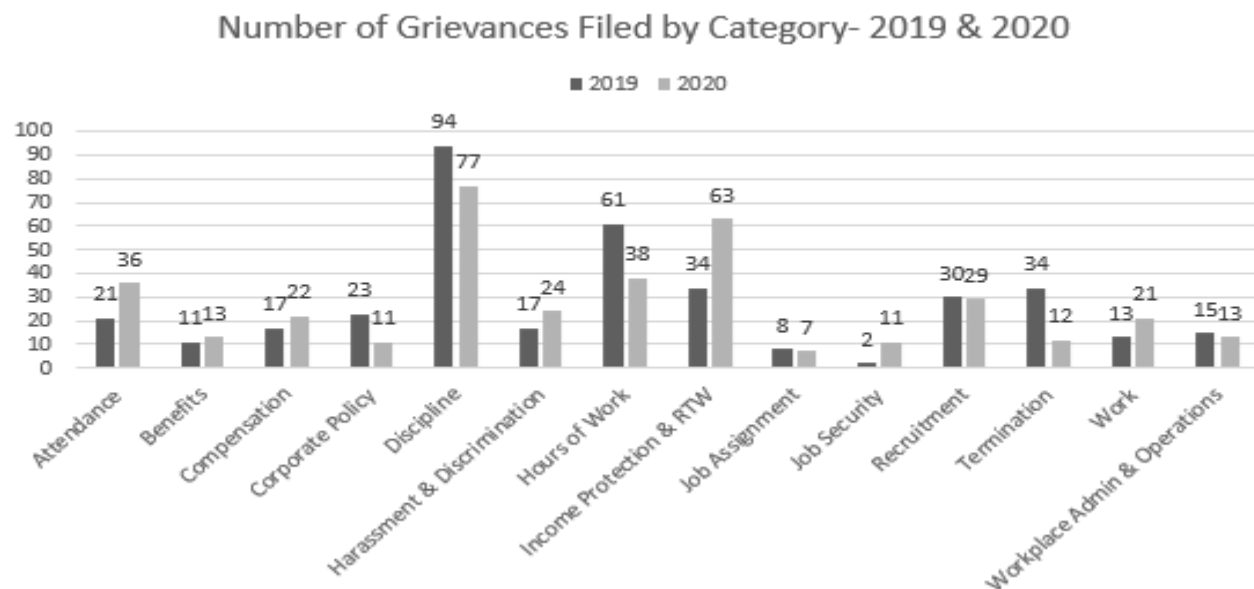


Chart 6 – Grievances Filed by Grievance Category 2019 and 2020

Grievance Category	Number of Grievances (2019)	Number of Grievances (2020)	% change from 2019 - 2020
Attendance	21	36	71%
Benefits	11	13	18%
Compensation	17	22	29%
Corporate Policy	23	11	-52%
Discipline	94	77	-18%
Harassment & Discrimination	17	24	41%
Hours of Work	61	38	-38%
Income Protection & RTW	34	63	85%
Job Assignment	8	7	-13%
Job Security	2	11	450%
Recruitment	30	29	-3%
Termination	34	12	-65%
Work	13	21	62%
Workplace Admin & Operations	15	13	-13%
TOTAL	380	377	-1%

In terms of grievance category activity, there are only a few areas where it can be identified as unusual, or spike activity. Other categories remain fairly static. There is often a surge after new collective agreement is negotiated where unforeseen issues arise and meaning has to be given to new language, or an employee fails to comply with the new terms. As noted previously, the City's largest and most diverse bargaining unit, CUPE 5167 Inside/Outside, which represents approximately 51% of the City's unionized workforce, generated 229 grievances. This was a 19% increase from the 192 grievances filed in 2019. The increase in grievance activity for CUPE 5167 can primarily be attributed to the multiple IPP and RTW related grievances that were filed in 2020. IPP and RTW grievances were the second highest category in 2020 with a notable increase of 85% above 2019. This increase can be largely attributed to the then-newly implemented IPP language in the collective agreements covering this period. Despite the fact that the parties negotiated collective agreement language that requires a doctor's note on or before the fourth day of absence, some employees do not comply with this new language. Grievances were filed as they went unpaid as a result of not providing the note. Self-isolation absences due to COVID-19 and absence coding disputes also contributed to this increase. However, the City's decision to pay employees when they are required to isolate by Public Health related to COVID-19 has assisted in decreasing the number of potential disputes. Without these leaves with pay, the grievance activity would have been higher in this category.

In 2020, there was an increase in job security grievances. There were 11 grievances as a result of employees exercising their right to bump. This can be attributed to the Ontario Works ending of employment services. This resulted in a mass layoff of approximately 35 employees and labour relations completed 62 layoffs in 2020. The resulting bumping effect produced grievances based on testing, timelines and the screening.

The surge in attendance grievances in 2020 are a result of disputes around denial of vacation requests. This was largely caused by COVID-19 and illness related requests for both approval or cancellation that led to a denial respectively.

Labour Relations Legal Costs – 2019 and 2020

The following chart provides a summary of legal costs for 2020 in comparison to 2019.

	Mediator Fees	Arbitrator Fees	Legal Fees	Total LR Fees
2020 Totals	\$31,010	\$45,552	\$573,043	\$649,605
2019 Totals	\$37,481	\$83,945	\$521,472	\$642,898
Difference	-\$6,471	- \$38,393	\$51,572	\$6,707
Percentage Changes	-17.3%	-45.7%	9.9%	1.0%

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As identified, there was a 37% decrease in mediation and arbitration related costs for the 2020 reporting period. However, this decrease is predominately due to the COVID-19 related delays and the absence of mediation and arbitration hearing dates in 2020. Most 2020 hearing dates were rescheduled to 2021 which will result in an increase in fees for 2021 and 2022 depending on the state of COVID rescheduling.

COVID-19 Related Impacts

Beyond virtual collective bargaining, all stakeholders continue to work well together to resolve pandemic related issues in a collaborative and efficient manner. During March, April and May 2020 many meetings were cancelled or rescheduled while we adjusted to a virtual work environment and assisted in communicating and negotiating COVID-19 protocols with the union groups. Labour Relations has also transitioned to virtual usage for LR meetings such as consultations, labour management, fact finding, investigations, discipline, layoff and bumping, termination, grievance handling, mediations and arbitrations during the pandemic.

Attendance related grievances became one of the top 5 grieved categories in 2020 with an increase of 71%. The City experienced a significant decrease in termination grievance activity at 65%, which is primarily attributed to the effects of the pandemic, the transition to a work from home environment and a large number of part-time staff that were on leaves as a result of lack of work. When we have large portions of the workplace working from home, being paid to stay home or otherwise reduced workload, there is less potential for interpersonal conflict which can be an indicator as to why there is a reduction in the number of grievances in this category. In addition, there was a 55% decrease of overtime grievances in 2020 suggesting greater management diligence in the allocation and assignment of overtime hours within City operations.

Collective Bargaining

The start of our collective bargaining cycle began in 2019, in accordance with Council's collective bargaining mandate. In 2019, six (6) collective agreements were ratified which included negotiations with the City's larger unions (CUPE Local 5167 and ATU Local 107). On March 20, 2020, the CUPE 1041 collective agreement was ratified, also within Council's collective bargaining mandate. These agreements included administrative and operational efficiencies as well as benefit cost containments.

In early 2020, the GHVFFA 911 Collective Bargaining commenced and notice to bargain was provided by OPSEU 256 and HOWEA. Soon after, the impact of COVID-19 and the work from home requirements delayed the start of bargaining. Notwithstanding these delays, the parties were able to successfully continue to negotiate the GHVFFA 911 Collective Agreement remotely in October 2020, which eventually led to the ratification of the collective agreement in January, 2021. Despite the challenges resulting from the COVID-19 pandemic, virtual negotiations continue to be underway

with CUPE 5167 Lodges and HOWEA, with the OPSEU collective bargaining process scheduled to commence in April, 2021.

Non-Union Related Activity

In 2020, the non-union related activity also declined with the significant reduction in consultation with outside legal counsel as well as the decline in issues relating to non-union employees. Notwithstanding, non-union related legal fees increased by 37% in 2020, which was due to an increase in non-union employee relations matters.

The Labour Relations Activity Report continues to provide valuable insight with a view to delivering contextual data and trend analysis within the City's labour relations environment. This year's report continues to highlight positive labour relations activity with stability and, in many cases, continued improvements in varying grievance activity categories. Through improved dialogue and training, as well as a demonstrated willingness from all stakeholders to work in a collaborative and efficient manner, labour relations continues to achieve positive indicators of success on a City-wide basis.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report HUR21004 - Additional Data
Appendix "B" to Report HUR21004 - Infographic