

## INTERNAL PSAC WORKFORCE ADJUSTMENT GRIEVANCE PROCESS

It is expected that most departments and agencies will try to meet their obligations under the Collective Agreement and the Workforce Adjustment Appendix. There are many past examples of situations in which the union and management have shown that by working together they could minimize unwanted job loss in workforce adjustment situations and reduce or limit unnecessary workplace conflict (i.e. grievances and other legal actions). It is anticipated that most departments will welcome the opportunity to work with their unions as closely as possible to achieve the best outcome for everyone. PSAC Components are urged to strongly insist that Employers meet those obligations.

In particular Departments and Agencies must:

- engage Consult the union either through Union Management Committees, standing workforce adjustment committees or other joint processes as soon as possible about upcoming Workforce Adjustment situations.
- declare employees affected when they know they are affected. An “Affected” Employee is an indeterminate employee who has been informed in writing that his or her services may no longer be required because of a workforce adjustment situation. This notice must not be withheld unreasonably when it is clear that employees are clearly in affected status.
- offer appropriate retraining opportunities for affected and surplus employees where it will assist in their continued employment.
- proactively work within the department or agency and with other departments and agencies to identify alternate job opportunities for affected and surplus employees
- provide a guarantee of a reasonable job offer or clearly show in writing that after having done everything in its power to predict alternate employment why a guaranteed reasonable job offer isn’t possible.

Having said this, there may be some departments and agencies that refuse to meet their obligations with respect to the Collective Agreement and to their employees.

When the employer refuses to meet its obligations and union members of Workforce Adjustment Committees have extended all reasonable efforts to convince the Employer to comply, the Union and in some cases individual union members should be prepared to take grievance action.

Although the Workforce Adjustment Appendix contains powerful and clear Employer obligations towards the union and affected employees, the process for ensuring that those obligations are met is notn’t always clearly spelled out. Good precedents must be created.

For this reason it is absolutely essential that the facts and wording of the grievance be as robust as possible.

Grievance action should be discouraged if the issue being grieved is being dealt with satisfactorily at the Workforce Adjustment Committee. Components should confirm in writing that time-limits for filing a grievance are suspended during

---

For this reason it is absolutely essential that the facts and wording of the grievance be as robust comprehensive as possible.

Grievance action should be discouraged if the issue being grieved is being dealt with satisfactorily at the Workforce Adjustment Committee. Unnecessary grievances use our limited resources and contribute to the backlog of grievances that we are collectively trying to address. Components should confirm in writing that time-limits for filing a grievance are suspended during such discussion and that the union reserves the right to file a grievance if the issue is not resolved at the Committee. Components are strongly encouraged to use the following protocols when considering policy grievance action.

All potential workforce adjustment policy grievance action should be forwarded to the Work Reorganization office with as many of the underlying facts as possible. The Work Reorganization Officer will work with a designated G&A officer the Representation section to make the determination about whether the grievance should be a policy grievance or an individual grievance.

The recommended process for doing this is as follows:

1. Each Component should designate one Labour Relations Officer or other qualified staff person should who will strive to assemble the best facts possible by working with their members and other LROs from their Component.
2. Should it be required the Work Reorganization Officer will facilitate the gathering of additional information that might be important through the PSAC regional structure.
3. This info should be in memo format like their request for referrals sent to Representation.
4. The Work Reorganization officer would then work directly with the designated person to advise and assist them in gathering information and making sure the facts are clear.
5. Once the information is finalized, the Work Reorganization Officer will meet with the Representation section to analyse the facts and determine whether clarification or additional information is needed and how to proceed.

The PSAC will assume responsibility and ownership of all Workforce Adjustment Policy Grievances.

The Work Reorganization Office should be kept informed of individual grievances in order to determine whether there are any systemic issues that need to be broadly addressed.

The Work Reorganization office and Grievance and Adjudication officer the Representation section have made an initial review of the kinds of problems we believe will be encountered and have prepared model grievance language that we believe should be utilized in the event that the situations we have anticipated arise.

Please find attached wording for some individual grievances. The articles referred to are based on the PA collective agreement. Please alert us as soon as possible if you are aware of a situation in which members want to grieve or if your Component believes that a Policy Grievance may be warranted.

We thank-you for your cooperation in this important matter.

# Workforce Adjustment – Individual Grievances

## 1. Employer refusal to offer re-training opportunities

**Type of Grievance:** Individual Grievance

**Related Provisions:**

- 1.1.5 *Departments or organizations shall establish systems to facilitate redeployment or retraining of their affected employees, surplus employees, and laid-off persons.*
- 4.1.1 *To facilitate the redeployment of affected employees, surplus employees and laid-off persons, departments or organizations shall make every reasonable effort to retrain such persons for:  
(a) existing vacancies;  
or  
(b) anticipated vacancies identified by management.*
- 4.1.3 *When a retraining opportunity has been identified, the deputy head of the home department or organization shall approve up to two (2) years of retraining.*

**Grievance Wording:** The employer has breached article 1.1.5, 4.1.1, 4.1.3 of the WFAA and other related articles of the collective agreement by failing to make every reasonable effort to retrain me.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order that the employer identify, approve and provide suitable retraining opportunities for me. That I be made whole.

## 2. Employer has not made any effort in finding job opportunities

**Type of Grievance:** Individual and Policy Grievance

**Related Provisions:**

- 1.1.1 *Since indeterminate employees who are affected by workforce adjustment situations are not themselves responsible for such situations, it is the responsibility of departments or organizations to ensure that they are treated equitably and, whenever possible, given every reasonable opportunity to continue their careers as public service employees.*
- 1.1.4 *Departments or organizations shall, as the home department or organization, cooperate with the PSC and appointing departments or organizations in joint efforts to redeploy departmental or organizational surplus employees and laid-off persons.*
- 1.1.5 *Departments or organizations shall establish systems to facilitate redeployment or retraining of their affected employees, surplus employees, and laid-off persons.*

## Individual Grievance

**Grievance Wording:** The employer has breached article 1.1.1, 1.1.4., 1.1.5 of the WFAA and other related articles of the collective agreement by failing to provide every reasonable opportunity for me to continue a career as a public service employee.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order the employer to cooperate with other departments to establish systems to facilitate redeployment. Order that a reasonable job offer be provided to me. That I be made whole.

### 3. Employer fails to provide reasons in writing to why they were unable to provide a guarantee of a reasonable job offer after employee has requested reasons be provided.

**Type of Grievance:** Individual

#### Related Provisions:

*6.1.1 Deputy heads will be expected to provide a guarantee of a reasonable job offer for those affected employees for whom they know or can predict that employment will be available. A deputy head who cannot provide such a guarantee shall provide his or her reasons in writing, if so requested by the employee. Employees in receipt of this guarantee will not have access to the choice of options below.*

**Grievance Wording:** The employer has breached article 6.1.1 of the WFAA and other related articles of the collective agreement by refusing to provide written reasons to why I was not provided a guarantee of a reasonable job offer.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order the employer to provide written reasons immediately. That I be made whole.

### 4. Employer refusal to consider alternation opportunities

**Type of Grievance:** Individual

#### Related Provisions:

*6.2.1 All departments or organizations must participate in the alternation process.*

*6.2.4 An indeterminate employee wishing to leave the Core Public Administration may express an interest in alternating with an opting employee. Management will decide, however, whether a proposed alternation is likely to result in retention of the skills required to meet the ongoing needs of the position and the Core Public Administration.*

**Grievance Wording:** The employer has breached article 6.2 of the WFAA and other related articles of the collective agreement by refusing to consider alternation opportunities.

**Correction Action:** Declare that the employer has breached the collective agreement. Order the employer to participate in the alternation process. Order the employer to approve the alternation opportunity. That I be made whole.

---

# WORKFORCE ADJUSTMENT GRIEVANCE WORDING

## (PA Collective Agreement expires 2014)

### 1. Lack of consultation before WFA situation occurs

**Type of Grievance:** Policy Grievance

**Related Provisions: (Joint Consultation)**

*21.03 Upon request of either party, the parties to this Agreement shall consult meaningfully at the appropriate level about contemplated changes in conditions of employment or working conditions not governed by this Agreement.*

**Grievance Wording:** The employer has breached article [...] and related articles of the collective agreement by failing to consult meaningfully with the union.

**Corrective Action:** Declare that the employer has breached article [...] of the collective agreement. Order that the employer meet with the PSAC on an ongoing basis and consult meaningfully with respect to any contemplated WFA situation. Such other relief as the PSAC may request and the Board may grant.

### 2. Employer refusal to declare a WFA situation and lack of information/consultation during WFA situation

**Type of Grievance:** Policy Grievance

**Related Provisions:**

*1.1.11 Departments or organizations shall advise and consult with the Alliance representatives as completely as possible regarding any workforce adjustment situation as soon as possible after the decision has been made and throughout the process and will make available to the Alliance the name and work location of affected employees.*

**Grievance Wording:** The employer has breached article 1.1.11 of the WFAA and other related articles of the collective agreement.

**Corrective Action:** Declaration that the employer has breached the WFAA. Order that the employer cease and desist from its ongoing violation of the collective agreement. Order that the employer cease all activity related to the positions in question until meaningful consultation with PSAC has occurred. Order that the employer meet with PSAC representatives forthwith. Order the employer to provide to the PSAC forthwith any and all information relating to the WFA situation and its impact on employees, including the names and work locations of affected employees. Order the employer to meet with PSAC representatives on an ongoing basis with respect to the WFA situation. Such other relief as the PSAC may request and the Board may grant.

### 3. Employer refusal to offer re-training opportunities

**Type of Grievance:** Individual Grievance

**Related Provisions:**

- 1.1.5 *Departments or organizations shall establish systems to facilitate redeployment or retraining of their affected employees, surplus employees, and laid-off persons.*
- 4.1.1 *To facilitate the redeployment of affected employees, surplus employees and laid-off persons, departments or organizations shall make every reasonable effort to retrain such persons for:*
  - (a) *existing vacancies;*
  - or*
  - (b) *anticipated vacancies identified by management.*
- 4.1.3 *When a retraining opportunity has been identified, the deputy head of the home department or organization shall approve up to two (2) years of retraining.*

**Grievance Wording:** The employer has breached article 1.1.5, 4.1.1, 4.1.3. of the WFAA and other related articles of the collective agreement by failing to make every reasonable effort to retrain me.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order that the employer identify, approve and provide suitable retraining opportunities for me. That I be made whole.

### 4. Employer has not made any effort in finding job opportunities

**Type of Grievance:** Individual and Policy Grievance

**Related Provisions:**

- 1.1.1 *Since indeterminate employees who are affected by workforce adjustment situations are not themselves responsible for such situations, it is the responsibility of departments or organizations to ensure that they are treated equitably and, whenever possible, given every reasonable opportunity to continue their careers as public service employees.*
- 1.1.4 *Departments or organizations shall, as the home department or organization, cooperate with the PSC and appointing departments or organizations in joint efforts to redeploy departmental or organizational surplus employees and laid-off persons.*
- 1.1.5 *Departments or organizations shall establish systems to facilitate redeployment or retraining of their affected employees, surplus employees, and laid-off persons.*

## ***Policy Grievance***

**Grievance Wording:** The employer has breached article 1.1.1, 1.1.4., 1.1.5 of the WFAA and other related articles of the collective agreement by failing to provide every reasonable opportunity to continue a career as a public service employee.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order the employer to cooperate with other departments to establish systems to facilitate redeployment. Order that a reasonable job offer be provided to affected employees, surplus employees, and laid-off persons. Such other relief as the PSAC may request and the Board may grant.

## ***Individual Grievance***

**Grievance Wording:** The employer has breached article 1.1.1, 1.1.4., 1.1.5 of the WFAA and other related articles of the collective agreement by failing to provide every reasonable opportunity for me to continue a career as a public service employee.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order the employer to cooperate with other departments to establish systems to facilitate redeployment. Order that a reasonable job offer be provided to me. That I be made whole.

## **5. Employer fails to provide reasons in writing to why they were unable to provide a guarantee of a reasonable job offer after employee has requested reasons be provided.**

**Type of Grievance:** Individual

### **Related Provisions:**

*6.1.1 Deputy heads will be expected to provide a guarantee of a reasonable job offer for those affected employees for whom they know or can predict that employment will be available. A deputy head who cannot provide such a guarantee shall provide his or her reasons in writing, if so requested by the employee. Employees in receipt of this guarantee will not have access to the choice of options below.*

**Grievance Wording:** The employer has breached article 6.1.1 of the WFAA and other related articles of the collective agreement by refusing to provide written reasons to why I was not provided a guarantee of a reasonable job offer.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order the employer to provide written reasons immediately. That I be made whole.

## 6. Employer refusal to consider alternation opportunities

**Type of Grievance:** Individual

**Related Provisions:**

6.2.1 *All departments or organizations must participate in the alternation process.*

6.2.4 *An indeterminate employee wishing to leave the Core Public Administration may express an interest in alternating with an opting employee. Management will decide, however, whether a proposed alternation is likely to result in retention of the skills required to meet the ongoing needs of the position and the Core Public Administration.*

**Grievance Wording:** The employer has breached article 6.2 of the WFAA and other related articles of the collective agreement by refusing to consider alternation opportunities.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order the employer to participate in the alternation process. Order the employer to approve the alternation opportunity. That I be made whole.

## 7. Re-engagement of non-indeterminate employees during a WFA situation where position could be saved

**Type of Grievance:** Policy Grievance

**Related provisions:**

1.1.27 *Departments or organizations shall review the use of private temporary agency personnel, consultants, contractors, employees appointed for a specified period (terms) and all other non-indeterminate employees. Where practicable, departments or organizations shall refrain from re-engaging such temporary agency personnel, consultants or contractors or renewing the employment of such employees referred to above where this will facilitate the appointment of surplus employees or laid-off persons.*

**Grievance Wording:** The employer has breached article 1.1.27 of the WFAA and related articles of the collective agreement by re-engaging non-indeterminate employees.

**Corrective Action:** Declare that the employer has breached the collective agreement. Order that the employer immediately refrain from re-engaging non-indeterminate employees. Order that the employer provide reasonable job offers for surplus employees and laid-off persons impacted by this violation of WFAA. Such other relief as the PSAC may request and the Board may grant.