

Procedures for dealing with grievances presented on CCRA policies (Mobility, OSH and Bilingual Bonus Policies)

1. Introduction

The Canada Customs and Revenue Agency (CCRA), the Public Service Alliance of Canada (PSAC) and the Professional Institute of the Public Service of Canada (PIPSC) agreed to the establishment of a redress procedure to review grievances relating to the interpretation and application of CCRA policies replacing the former National Joint Council Directives.

2. Authority

This redress procedure is established pursuant to the Memoranda of Understanding (MOU) signed with the Unions representing CCRA employees; on March 22, 2002 (between the CCRA and PSAC) and on July 22, 2002 (between the CCRA and PIPSC). This redress procedure does not form part of collective agreements between the parties.

The relevant MOU's are found in Appendix "A".

3. Purpose

The purpose of the redress process is to ensure that employees are treated fairly and consistently within the intent of the CCRA policies also listed in Appendix "A".

4. Redress

Grievances are to be processed by using the following steps:

First Level of Management: CCRA representative authorized to deal with grievances at the first level of the grievance procedure as established pursuant to the relevant collective agreements between CCRA and the Unions (article 18 of the PSAC-CCRA Collective Agreement and article 34 of the PIPSC-CCRA Collective Agreement);

Second Level: the Director General, Staff Relations and Compensation Directorate, Human Resources Branch;

Third Level: Joint Union-Management Review Committee consisting of an equal number of representatives from both sides (thereafter called Review Committee);

Final Level: Jointly funded Independent Third Party Review (ITPR).

5. Application

This redress procedure applies to CCRA employees who are members of a bargaining unit represented by PSAC or PIPSC, and are subject to the relevant policies.

An employee may file a grievance under this procedure if he or she has the approval of and is represented by his or her Union at each step of the redress procedure.

Only grievances concerning the policies listed in Appendix "A" may be reviewed under this procedure.

6. Time limits

The employee must present the grievance to the first level no later than the twenty-fifth (25th) day after the date on which the employee is notified orally or in writing, or on which the employee first becomes aware of the action or circumstances giving rise to the grievance.

The time limits for responding to a grievance are:

10 days at the first level
20 days at the second level
30 days at the Review Committee level and,
ITPR (see Appendix "B")

In determining the time within which a reply is to be given, the grievance is deemed to have been presented on the day the Union makes representation at that level. The time limits specified are exclusive of Saturdays, Sundays and designated paid holidays.

If the employee is not satisfied with the reply, he or she may, with the approval of his or her Union representative, submit the grievance to the next level: within ten (10) days after receiving the reply in writing or, if the aggrieved employee does not receive a reply within the prescribed time limit, within ten (10) days after the date by which the authorized level was required to reply.

Time limits may be extended by mutual agreement between the Union and the Employer.

The Employer will provide the appropriate representative of the Union with a copy of the decision at each level of the process at the same time that the decision is conveyed to the employee.

An employee may withdraw a grievance by written notice to his or her immediate supervisor or officer-in-charge, or Union representative.

Where the grievance is not presented to the next higher level within the stipulated time limits, it will be considered to have been abandoned.

7. Procedure

The Union may consult with the Employer representative with respect to a grievance at each level of the grievance process.

First Level

Subject to paragraph 5 above, the employee shall transmit the grievance to his or her immediate supervisor or officer in charge who shall forthwith:

forward the grievance to the CCRA representative authorized to deal with grievances at the first level; and

provide the employee with a receipt stating the date on which it was received by the CCRA representative.

Where the nature of the grievance is such that a decision cannot be given at the first level of the grievance process, the grievance will be transmitted directly to the second level by written agreement between the second level and the Union.

Second Level

Subject to paragraph 5 above, the employee shall transmit the grievance to his or her immediate supervisor or officer in charge who in turn will forward the grievance to the following address:

Director General of Staff Relations and Compensation
Human Resources Branch
200 Laurier Avenue West, 3rd floor
Ottawa, Ontario
K1A 0L5

Third Level

Subject to paragraph 5 above, the employee shall transmit the grievance to his or her immediate supervisor or officer in charge who in turn will forward the grievance to the Director General of Staff Relations and Compensation at the address noted above. The Director General Staff Relations and Compensation is responsible for bringing the grievance to the attention of the Review Committee.

The Review Committee shall consist of an equal number of Union and Management representatives:

Management representatives:
a chairperson with two employer representatives

Union representatives:
for grievances from PSAC members:
a chairperson with two PSAC Union representatives
for grievances from PIPSC members:
a chairperson with two PIPSC Union representatives

Permanent members would include the chairpersons and one representative each from management and union. The third member would be chosen at the discretion of the parties.

Chairperson for the Employer

The chairperson for the employer will chair meetings and ensure that the Review Committee remains within the scope of its agenda.

Alternates

Chairpersons may select an alternate member to serve as replacement for any of their representatives unable to perform their functions.

Additional Participants

Only the members or alternate members shall attend the meeting and be recognized as the official representatives of their organisation. An additional person may be invited by either party as an observer, technical/special advisor or subject-matter expert provided that the parties agree in advance. Guests should speak only on the agenda items for which they are invited, shall not participate in unrelated discussions, or on other agenda items, or remain in attendance during the review of grievances unrelated to the purpose for which they are attending the meeting.

Secretary

A Human Resources representative will act as the Secretary, to ensure smooth functioning of the Committee proceedings.

The chairperson for the Employer will ensure that the decision (grievance reply) is provided in writing to the employee within the prescribed time limits following the review of the grievance.

In the event that the majority of members of the Review Committee cannot agree on a decision, thereby creating an impasse, the chairperson for the Union may refer the grievance to Independent Third Party Review (ITPR) as specified in the CCRA guidelines.

Independent Third Party Review (ITPR)

The procedures for submitting and processing a grievance for an Independent Third Party Review (ITPR), are found in Appendix "B".

8. Costs

To minimize travel related costs, the meetings of the Review Committee and ITPR hearings will take place in Ottawa or at any other place by mutual agreement of the Review Committee Chairpersons.

Each party will be responsible for transportation, accommodation and other expenses of its representatives.

Costs related to the ITPR process, including the hearing itself, shall be divided equally between the CCRA and the Union. Anticipated costs shall be pre-authorized, as much as possible, by both parties.

The Unions shall reimburse the CCRA for their respective share of the costs within 30 days of the receipt of the invoice from CCRA.

9. Amendments to the Procedure for dealing with grievances presented on CCRA policies

Following the first year of operation of these procedures, and every year thereafter, proposed amendments will be reviewed.

A review of the procedures may also take place at any time by mutual agreement of the parties.

10. Appendix

Appendix "A": Memoranda of Understanding between the CCRA and the Unions.

Appendix "B": Guidelines for Submitting and Processing a Grievance for an Independent Third Party Review

11. Enquiries

Initial contacts concerning the application of this procedure should be made to the local/regional Human Resources representatives.

If further assistance is required, the local/regional Human Resources representative will contact the Staff Relations and Compensation Directorate.

Appendix "A"

Memorandum of understanding between the Canada Customs and Revenue Agency and the Public Service Alliance of Canada

The purpose of this Memorandum of Understanding is to confirm an agreement reached by the Employer and the Alliance concerning the CCRA policies replacing the former NJC Directives.

The parties agree that this Memorandum of Understanding will not be part of the collective agreement and provides for the following:

a) Consultation process:

Multilateral Consultation on changes to the CCRA policies which replaced on November 1, 1999 the NJC Directives.

b) Redress process, grievance goes to:

(i) First level of management; if the grievance is unresolved it may be referred to the

(ii) Second level, the Director General, Staff Relations and Compensation; if the grievance is unresolved, it may be referred to a

(iii) Joint PSAC-CCRA Review Committee consisting of an equal number of Union and Management representatives; if impasse at committee level, the grievance may be referred to a

(iv) Jointly funded Independent Third Party Review with binding decision.

c) The following CCRA policies will be subject to this MOU:

- Bilingualism Bonus Policy;
- Commuting Assistance Policy;
- Foreign Service Directives;
- Boiler and Pressure Vessels Policy;
- Occupational Health and Safety Committee Representatives Policy;
- Hazardous Substances Policy;
- Electrical Policy;
- Elevated Work Structures Policy;
- Elevating Devices Policy;
- First-Aid Safety and Health Policy;
- Hazardous Confined Spaces Policy;
- Material Handling Policy;
- Motor Vehicle Operations Policy;
- Noise Control and Hearing Conservation Policy;
- Personal Protective Equipment and Clothing Policy;
- Pesticides Policy;
- Refusal to Work Policy;
- Sanitation Policy;
- Tools and Machinery Policy;

- Use and Occupancy of Buildings Policy;
- Isolated Posts Policy;
- Living Accommodation Charges Policy;
- Relocation Policy;
- Travel Policy;
- Uniforms Policy.

d) The parties agree to consult through the multilateral consultation committee on the following:

(i) on the terms of reference governing the multilateral consultation process for the policies identified in paragraph (c);

(ii) on the terms of reference for the redress process defined in paragraph (b).

The parties agree to establish this committee within 90 days after the date of signing a collective agreement and will endeavor to conclude its work within 3 months following its creation.

This Memorandum of Understanding does not form part of the collective agreement.

Signed at Ottawa, this 22nd day of the month of March, 2002.

The Public Service
Alliance of Canada

The Canada Customs
and Revenue Agency

**Memorandum of understanding
between the
Canada Customs and Revenue Agency
and
the Professional Institute of the Public Service of Canada**

Preamble

The purpose of this Memorandum of Understanding is to confirm an agreement reached by the Employer and the Institute concerning the CCRA policies replacing the former NJC Directives.

Application

The parties agree that this Memorandum of Understanding will not be part of the collective agreement and provides for the following:

a) Consultation process:

Multilateral Consultation on changes to the CCRA policies which replaced on November 1, 1999 the NJC Directives.

b) Redress process, grievance goes to:

(i) First level of management; if the grievance is unresolved it may be referred to the:

(ii) Second level, the Director General, Staff Relations and Compensation; if the grievance is unresolved, it may be referred to a:

(iii) Joint Institute-CCRA Review Committee consisting of an equal number of Union and Management representatives; if impasse at committee level, the grievance may be referred to a:

(iv) Jointly funded Independent Third Party Review with binding decision.

c) The following CCRA policies will be subject to this MOU:

- Bilingualism Bonus Policy;
- Commuting Assistance Policy;
- Foreign Service Directives;
- Boiler and Pressure Vessels Policy;
- Occupational Health and Safety Committee Representatives Policy;
- Hazardous Substances Policy;
- Electrical Policy;
- Elevated Work Structures Policy;
- Elevating Devices Policy;
- First-Aid Safety and Health Policy;
- Hazardous Confined Spaces Policy;
- Material Handling Policy;
- Motor Vehicle Operations Policy;
- Noise Control and Hearing Conservation Policy;
- Personal Protective Equipment and Clothing Policy;
- Pesticides Policy;
- Refusal to Work Policy;
- Sanitation Policy;
- Tools and Machinery Policy;
- Use and Occupancy of Buildings Policy;
- Isolated Posts Policy;
- Living Accommodation Charges Policy;
- Relocation Policy;
- Travel Policy;
- Uniforms Policy.

d) The parties agree to consult through the multilateral consultation committee on the following:

(i) on the terms of reference governing the multilateral consultation process for the policies identified in paragraph (c);

(ii) on the terms of reference for the redress process defined in paragraph (b).

The parties agree to establish this committee within 90 days after the date of signing a collective agreement and will endeavor to conclude its work within 3 months following its creation.

This Memorandum of Understanding does not form part of the collective agreement.

Signed at Ottawa, this 22nd day of the month of July, 2002.

Appendix "B"

Guidelines for submitting and processing a grievance on CCRA policies for an independent third party review (Mobility, OSH and Bilingual Bonus Policies)

Purpose

To describe and establish procedural guidelines for the ITPR process.

Application

These guidelines apply to grievances presented on CCRA policies listed in Appendix "A" of the document entitled *Procedures for dealing with grievances presented on CCRA policies*.

Definition

The parties to these proceedings are the Union chairperson (or representative) and the CCRA chairperson (or representative) of the Review Committee.

Guidelines

Request for ITPR

The time limits specified in the guidelines are exclusive of Saturdays, Sundays and designated paid holidays. Time limits may be extended by mutual written agreement between the parties.

No grievance shall be referred to ITPR until all procedures for presentation of a grievance up to and including the third level (Review Committee) have been complied with.

The Union chairperson will notify the Office of Dispute Management in writing, with a copy to the CCRA chairperson, of an ITPR request within ten (10) days from the date of the decision rendered by the Review Committee in which it was recorded that an impasse has been reached.

A request for ITPR should include the following information:

- Grievance Form
- The name and telephone number of the party's representative
- Language of choice
- The relevant policy

Referral to reviewer

The ODM informs the parties of the name of the Reviewer. To minimize travel related costs, the ITPR process will take place in Ottawa or at any other place by mutual agreement of the Review Committee chairpersons.

The criteria for the selection of a reviewer from the roster include:

- geographic location
- knowledge of the working language
- availability / accessibility
- "next in line" approach

The ODM will seek to assign similar grievances to one reviewer to be processed at the same time.

Initiating the process

After being assigned a case, the Reviewer will be required to contact the parties, together, within seven (7) days to:

- describe his/her role, and to clarify expectations
- clarify the nature of the case
- discuss and establish the review process, e.g. a paper review with teleconference, or an in-person presentation
- reinforce the requirements of the Privacy Act
- provide an opportunity for the representatives from each party to respond or ask questions about the other party's case and for the Reviewer to clarify matters of interest
- discuss the next steps

The Reviewer will confirm to the ODM that the ITPR process has been initiated.

The review process

The Reviewer will:

- review the grievance and reason for impasse
- provide parties with opportunity to present their respective positions and to submit relevant documentation
- have the option of addressing or requesting a response from any person directly involved with the review
- request, or allow the parties to request, internal and/or external subject-matter experts to provide assistance in the review. The party making the request will notify the other party and the Reviewer of its intention to call such subject-matter expert and will share in advance the information that it wishes to present
- give expression to the principles of procedural fairness (i.e. the right to be heard, etc)
- ensure people with disabilities are reasonably accommodated and that the language of choice of the complainant is respected
- review all documents the parties may wish to submit

Reaching a decision

The Reviewer will:

- reach a decision based on the information provided
- decide on the application of the policy being grieved in respect of the grievance only
- render a decision the effect of which would not require the amendments of the CCRA policies listed in Appendix "A" or the CCRA-PSAC/PIPSC collective agreements, or give entitlements that are outside the provisions of these policies or award damages
- comply with the laws and policies governing the Agency and its employees

- issue a final and binding written decision, including rationale, within ten (10) days after the final exchange of information between the parties and the Reviewer. The Reviewer will forward the decision to the ODM, preferably in electronic format, and to the parties and follow up with signed hard copy. The written decision shall include the following: the name(s) and work location of the grievor(s), the nature of issue, the decision taken and corrective measures, the rationale for the decision, and a brief description of the process used

Termination of review

The Union chairperson will have the option of withdrawing an ITPR request at any time during the process before the Reviewer decides the outcome of the grievance. This must be done in writing to the Reviewer, the ODM and the Employer. If this option is exercised, the Union chairperson cannot submit another request for ITPR with respect to the same grievance.

A review can also be terminated at any stage during the review process where the parties reach a settlement or the Employer allows the grievance.

The cost related to the ITPR process shall be divided equally between the CCRA and the Union where the review is terminated as a result of any of the actions described above.

The ODM will appoint immediately a new Reviewer where a conflict of interest, or any other condition, that could adversely impact the impartiality of the Reviewer exists.

Post-review

The appropriate level of management is responsible for taking corrective measures in accordance with decisions taken by the Reviewer (refer to the Agency instrument for sub-delegation).

Where a decision requires any action by or on the part of an employee and/or the Union, such action will be taken.

The ODM will monitor the use of the ITPR process including the implementation of corrective measures.

The Policy Review Committee may examine and inquire into any complaint made to it that a person has failed to give effect to the ITPR decision and take appropriate action to encourage compliance with the decision.

The ODM may wish to make decisions available to various stakeholders on request. The name of the employee(s) and other identifiers such as the work location will be removed when communicating the decision.

<p><i>(Original signed by Nycole Turmel)</i> Nycole Turmel National President Public Service Alliance of Canada</p>	<p><i>(Original signed by Steve Hindle)</i> Steve Hindle President Professional Institute of the Public Service of Canada</p>	<p><i>(Original signed by Dan Tucker)</i> Dan Tucker Assistant Commissioner Human Resources Branch Canada Customs and Revenue Agency</p>
<p>15 September 2003</p>	<p>16 September 2003</p>	<p>18 September 2003</p>

Date:

Date:

Date:

