

Chapter 1 - Strategic Human Resource Management (HRM)

HRM - Management of people in organizations. The goal is to maximize employee's contributions in order to achieve optimal productivity and effectiveness (while attaining individual & societal objectives)

→ ODUEMR: Obtaining, Developing, Utilizing, Evaluating, Maintaining and Retaining the appropriate # of employees to accomplish the organization's objectives

Strategic HRM – The linking of HRM with strategic goals and objectives in order to improve business performance

Who's responsible for HRM? Owners/managers in smaller org (such as Trendy's case), more complex in large org

→ Many organizations view HR as a competitive advantage; need highly trained/committed employees

HRM activities include:

- Analyzing jobs
- Planning labour needs
- Selecting employees
- Orientation and training
- Managing compensation
- Communicating to employees
- Maintaining employee commitment
- Maintain harmonious employee/employer relations

HRM affects bottom line:

- Historically HRM only admin roles, today strategic HR have positive effect on bottom line
- During industrial rev late 1800s, ppl were viewed as machines – focus on operational efficiency through work simplification and performance-based pay
- Early 20th Hawthorne Studies showed effect of social environment ≥ physical environment → HR movement
- Focus on concern for people (and production)..
- 1930s increase in unionizing activities..

Environmental influences on HRM

INTERNAL

1. Organizational Culture - core values and beliefs shared by members of the organization. Communicates what organization "believes in" and "stands for"
2. Organizational Climate – Atmosphere that exists in the organization and its impact on employees.
 - Major factor influencing climate: Leadership style, HR policies and practices, communication
3. New Management Practices
 - Shift from traditional bureaucratic structures to flatter organizations → leading to:
 - Empowerment: Providing workers with the skills and authority to make decisions that would traditionally be made by managers
4. Organizational structure

EXTERNAL

5. Labour Market Issues: Economic conditions affect supply and demand, which has a dramatic impact on the labour force.
 6. Social Factors: Demographic trends & increased workforce diversity
 7. Technology: Advancement in technology meant elimination of many blue collar jobs especially through the development of HR information systems
 8. Government: HR must follow laws set up in multiple jurisdictions
 9. Globalization: Extending into new markets abroad increases competition within the industry
- “Staff” human resources management: - set policies and standards

- advise line managers on workplace issues
- ensure compliance
- authority is derived from specialized knowledge

“Line” managers:

- implement policies
- determine who to hire
- performance evaluation, exercise discipline
- direction and control of employees

Interests & Objectives of employees/employers in the employment relationship:

Employees:

- Fair wage and income security
- Job security
- Fair promotion procedures
- Reasonable work hours and benefits
- Participation and control
- Health and safety protections
- Training and development opportunities

Employers:

- Cost containment – reduce benefit and wage costs
- Flexibility of the workforce
- Maximize employee productivity
- Maximize efficiency of operations
- Maintain and improve quality of product/service
- Attract investment
- Minimize third party (eg. Legislative) intervention

Key employment trends affecting HRM:

- shift from manufacturing to service (~75% of jobs in CAN is in service)
- most service sector jobs demand knowledge workers

“knowledge worker” (why is this type of worker so critical to the success of businesses in Canada?)

- a worker who transforms info into a product or service whose responsibilities include planning, problem solving, and decision making
- many experts believe that the distinguishing characteristic of companies today and tomorrow is this growing emphasis on human capital
- jobs today in all sectors demand a level of expertise far beyond that required of most workers 20 or 30 years ago, which means that human capital is quickly replacing machines as the basis for most firms’ success

How can HRM practices contribute to an organizational effort to gain a sustained competitive advantage?

- 1) Providing employment security, improve employee trust
- 2) Strategic hiring practices
 - Recruitment: generating a large applicant pool
 - Selection based on critical skills and knowledge
 - Emphasize the skills and knowledge that are difficult to train
- 3) Utilization of self-managed teams and Decentralization
 - with more responsibility, there is higher motivation and greater productivity increases
 - costs lowered as management overhead is reduced
- 4) Winning compensation strategies/ comparatively high compensation contingent on organizational performance
 - Competitive pay package → attraction, retention, and motivation
 - high compensation (higher than market/competitors)
 - pay for performance
- 5) Extensive Training
 - improve employee skill and knowledge
 - productivity gain
- 6) Reduction of status differences between managers and line workers
 - Methods:
 - Symbolically – use of language, physical environment
 - Substantive means – reducing wage inequality
- 7) Sharing Information
 - sharing key information such as financial performance, business plans, etc.

Chapter 2 - Putting People First

There is a strong link between investing in employees and stock market performance. Companies placing workers at the core of their strategies, produce higher long term returns to their shareholders.

→ Essentially people work harder because of the increased involvement and commitment from having more control and say in their work.

- Employees work smarter because they are encouraged to build skills
- Employees are more responsible due to empowerment

SEVEN practices of successful Organizations

1. **Employment Security**

- Builds commitment and productivity

2. **Selective Hiring**

- Select employees based on specific skills or values

3. **Self-Managed Teams and Decentralization**

- Increased responsibility in employees initiates more effort
- Removal of hierarchy saves on labour costs

4. **High Compensation**

- Improves performance on the job
- Many forms including: Profit sharing, gain sharing, stock ownership

5. **Extensive Training**

- Source of competitive advantage
- Rely on employee skill to identify and solve problems

6. **Reduction of Status Differences**

- Creates equality across all levels

7. **Sharing Information**

- Conveys to employees that they are trusted
- Share information such as financial statements, business strategy

When can an employer dismiss a worker:

1. Where economic factors make it unprofitable to retain the employee
2. Where the employee commits misconduct or otherwise performs her duties unsatisfactorily
3. Where economic and performance factors combine as the grounds for dismissal

Organizational culture:

Refers to the core values, beliefs and assumptions that are widely shared by members of an organization

Chapter 3 - The Legal Environment

14 Jurisdictions in Canada (10 provinces, 3 territorial, 1 federal)

The Constitution Act of 1867 gives each of the provinces and territories the power to legislate in relation to employment law for all those who are not employed by the fed gov or not employed in fed regulated industries

Various “legal authorities” affecting the employment relationship:

- Employment Standards
- Human Rights
- Workers’ Compensation, Occupational Health & Safety Acts
- Charter of Rights and Freedom
- Labour Relations of Law
- Collective Bargaining Agreement

10% of the Canadian workforce is under **federal jurisdiction**

- Examples include: Federal government & crown corporations, airlines, chartered banks, national railways, armed forces, telecommunications, and Canada Post

90% of the Canadian workforce **NOT under Federal jurisdiction**

- They are under either provincial or territorial
- Ex: manufacturing, retail, schools, hospitals

Employment Standards Legislation/Act *(present in every Canadian jurisdiction)*

- Covers all employers and employees in Canada
- Laws in every jurisdiction
- Establishing minimum employee entitlements
 - Entitlements include: min/equal wages, vacations, holiday pay, leave of absence
- Set limit on the number of hours permitted to work per week and per day, leaves of absence
- Restrictions on the employment of children, limit on annual paid vacations
- Complaints go to the Employment Standards Tribunal

The underlying public policy objectives of each of the legal authorities?

- Fair minimum standards
 - Wages, hours, holidays, parental leave, dismissal
- Fair Employment Practices:
 - No discrimination – race, gender, age, disability, political beliefs, etc.
- Protection from occupational injury and illness
- Freedom of association, individual rights and freedom
- Right to collective bargaining, regulation of union-management relations
- Bilateral determination of working conditions

Differentiate between employment standards legislation, and the impact of the common law on the employment relationship.

- Protective employment legislation: focuses on employees’ safety + security now that society views employees as the more vulnerable in employment relationship
- Common law: shows balance between protecting employee + not hindering performance of company by restricting management
- Freedom of Contract – enforces employer’s unilateral ability to make decisions on contract
- → potential psychological + economic detriment to employees

Only circumstance under human rights legislation that an employer would be permitted to discriminate:

- Employer may dismiss worker for three reasons:
 - 1) Where economic factors make it unprofitable to retain him/her
 - 2) Where employee commits misconduct or otherwise performs his/her duties unsatisfactorily
 - 3) Where economic + performance factors combine as grounds for dismissal

“Equal Pay For Equal Work” states that an employer cannot pay male and female employees different wages if they are performing jobs of equal value based on the same skill, effort, responsibility, and working conditions

- Pay differences based on merit or productivity are allowed

Human Rights Code

- Prohibits both intentional and unintentional discrimination on specific grounds such as (*protected groups*):
 - **age, race, religion, sex, disability, marital status, pregnancy, national/ethnic origin, language**
- Prohibits sexual harassment
- Exemption only for *bona fide occupational requirements*
 - **BFOR**: Discrimination is allowed if a justifiable reason is present for business necessity.
 - Eg. Only *female* actors are needed for role in a play
- Complaints go to Human Rights Tribunal

Assigning drug test to all workers may be a violation against Human Rights Act

Harassment:

- Unwelcome behavior, actions/activities that used to be considered innocent flirtation (if person makes clear that behavior is unwelcome)
- Employer also responsible to deal with harassment by clients/customers once reported

Glass Ceiling: Invisible barrier caused by attitudinal or organization bias. It limits advancement opportunities especially for women

Employment equity – Identification and elimination of systemic barriers so that everyone in the workplace has equal opportunities. *Promotes equality for four groups:*

- | | |
|----------------|-----------------------------|
| 1. Women | 3. Visible Minorities |
| 2. Aboriginals | 4. People with Disabilities |

Pay Equity: “equal pay for work of equal value” - focuses on mechanisms *to redress the historical imbalance in pay btw male-dominated and female-dominated job classes* resulting from the undervaluing of work traditionally performed by women.. mostly applied to govt/public sector.. equal pay for work of equal value

Benefits of employment equity:

- Makes good business sense. Employees should reflect the customers of the business or organization
- Higher employee morale, flexible work schedule or job sharing, improved image in the community

How to act as an employer:

- Understand employee rights & employer obligations under various employment laws
- Avoid discriminatory language, job postings, interview questions
- Treat employees with respect & dignity
- Ensure that payroll actions comply with Employment Standards Act & the Human Rights Code
- Ensure fair treatment & respect for employees, investigate before taking adverse actions
- Do not damage reputation as employer by abruptly terminating or altering employees’ schedules

Chapter 4 – Unions

A **union** is an organization of employees that has the objective of improving the compensation and working conditions of all employees

Fact: There are roughly 4.3 million union members in Canada, first established early 1800s
Highest 'union density' in Newfoundland, lowest in Alberta.. high in utilities and public admin

Prior to collective bargaining rights being established in legislation, many employers opposed unionization by their employees and unions relied on recognition strikes to force employers to negotiate.

Union organization process:

1. Collect support from employees (in the form of signatures)
2. Apply for certification
3. Certification vote

Opposition of unionization reduces the likelihood of union-management cooperation.

Union Density: The percentage of non-agricultural workers who are union members. This indicates the potential union members who have actually joined the union. About 30% in Canada, has fallen slightly in recent years (even more so in U.S. – currently at 12%)

Types of unions

Craft: – Members of a trade or occupation. Eg. Electrician or airline pilot

Industrial: – Different types of workers in a firm including skilled and unskilled. Eg. Canadian Auto Workers (CAW)

Union Objectives

1. Improving terms and conditions of work
2. Protecting against arbitrary management action - Challenge management rules
3. Providing conflict resolution and employee input - Provide alternative to quitting
4. Pursuing social and economic change - Prevention of privatization

Union Structure

- Local union – association of employees with its own officers, constitution, and bylaws
- All union members belong to a local and most locals belong to a national or international union
- Parent national/international union provides support in contract negotiation and administration
- There are over 16,000 locals in Canada.. drastic decline in union density in US recent years (12% today)
- Locals obtain funds through union dues, which are a specified percentage of employees earnings to be potentially be used in case of a strike

Functions of a local union

- | | | |
|--|-----------------------------|-------------------------------|
| 1. Negotiations of the collective bargaining agreement (CBA) | 3. Collection of union dues | 6. Political action |
| 2. Administration of the CBA | 4. Education of its members | 7. Operation of a firing hall |
| | 5. Community service | 8. Organizing workers |

Local union is the fundamental unit of union structure, is attached to specific plant/employer/area and provides day-to-day representation & grievances

National union is composed of several locals and provides support to locals in CB (contract negotiation, grievances), provides education and training for union members, strike assistance, organize workers

Issues important to unions:

- Labour relations legislation that governs the right to organize, contract negotiation and administration
 - Canadian legislation provides for certification process that is more favorable to unions
- Social issues like health care system

Largest union in Canada: CUPE

In an organizing drive: unfair labour practice by mgmt: participate in the organizing drive, promise to ↑ wage for those who do not sign union cards, refuse to hire person bcz he/she suspected of being union supporter

Chapter 5 - Collective Bargaining Rights

Representation vote: A secret ballot vote to determine if employees want a union to represent them.

Employees have the right to terminate the bargaining rights of their union or replace the union that represents them with another.

Why do employees join a union?

INTERNAL FACTORS

1. Compensation – Improved wages and benefits
2. Fairness & Equity – compensation relatively equal to co-workers and managers
3. Job Security – Concerned about termination and layoffs
4. Working Conditions – Greater notice of scheduled hours, fairer distribution of shifts, improved h&s
5. Workload – able to reduce or counteract increases in workload
6. Voice in Policy Making – Employees are able to address their concerns

EXTERNAL FACTORS

7. Attitudes – Employees raised with parents who have positive views of unions are more likely to join. Influenced through family and media
8. Economic Factors – Due to inflation, employees may perceive unions to protect real income. In a recession, unemployment may prompt job security

Why do employees NOT join a union?

- Union Dues
- Political and Social Activities of union
- Strikes
- Loyalty to Employer – Supporting a union may harm careers
- Conflict – Creates uncomfortable workplace
- Flexibility – Collective agreement is seen as inflexible

When a union is **certified (in CB agreement)** the employer has an obligation to negotiation with the union to attempt to reach a collective agreement. Certification establishes the **union as the exclusive bargaining agent** for all employees in the bargaining unit and changes in the terms of employment must be negotiated with the union.

Certification Process *(regulated by labour relations legislation)*

1. Union files application
2. Employer is notified
3. Employer is allowed to reply or challenge the action
4. Labour relations board determines the appropriate bargaining unit
5. Board determines sufficient support for certification on the basis of membership cards or holding a vote
6. A hearing is then held by the board

For a union to be certified, it must meet requirements:

1. Be a trade union
2. The application is timely
3. The group of employees specified is an appropriate bargaining unit
4. Union has adequate support of employees in the bargaining unit

In some jurisdictions serious unfair labour practices by the employer could lead to the certification of the union without a vote.

Factors that constitute “community of interest”: similarity in skills/duties/working conditions of employees, structure of employer, integration of employees involved, location and proximity of employees

Determination of union support in BC is held by a representation vote through secret ballots.

- The minimum required is 45% in favour of the union.

Generally a union does not lose its bargaining rights because the employer sells the business.

- The purchaser is bound by any collective agreement

Position not covered under CA in BC if position is exercising management capacity (power to hire, fire etc) or if working in a confidential labour relations/employee relations capacity

Chapter 6 – Recruiting and Selecting Employees

Human Resource Planning (HRP): The process an organization uses to ensure it has the right number and right kinds of people to succeed / meet its goals

Employee performance determines co' performance and labour costs make up large % of overhead

Key steps in the HRP process:

- a) forecasting future human resources needs (demand)
- b) forecasting availability of internal + external candidates (supply)
- c) planning + implementing HR programs into balance supply + demand
- d) monitoring + evaluating results

HR planning: variety of qualitative & quantitative methods to forecast labour demand / supply and take actions

Quantitative approaches:

- **Trend analysis** – study of firm's past employment levels over a period of years to predict future needs
- **Ratio analysis** – forecasting technique for determining future staff needs by using ratios between some casual factor (such as sales volume) + number of employees needed
- **Scatter plot** – graphical method – used to help identify the relationship between two variables
- **Regression analysis** – involves use of mathematical formula to project future demands based on established relationship between organization's employment level (dependent variable) + some measurable factor output (independent factor)

Qualitative approaches:

- **Nominal group technique** – involves a group of experts meeting face to face; steps include independent idea generation, clarification + open discussion, and private assessment
- **Delphi technique** – judgmental forecasting method used to arrive at group decisions, typically involving outside experts as well as organizational employees; ideas are exchange w/o face-to-face interaction and feedback is provided + used to fine-tune independent judgments until consensus is reached
 - (i) Advantages: involvement of key-decision makers, future focus, permits group to critically evaluate
wider range of views
 - (ii) Drawbacks: judgments may not efficiently use objective data, time + costs involved, potential difficulty in integrating diverse opinions

What are the key features of a job applicant's background & experience that should be evaluated?

- a) Education
- b) Experience
 - (i) **Industry experience** – specific knowledge about industry
 - (ii) **Functional experience** – knowledge + skills pertaining to particular tasks
 - (iii) **Company experience** – experience gained from moving around within company (culture)
 - (iv) **Level of responsibility** – especially decision-making responsibility

PLANNING AND IMPLEMENTING HR PROGRAMS TO BALANCE SUPPLY AND DEMAND

Three possible scenarios:

II. Labour supply exceeds demand (surplus)

1. **hiring freeze** – common initial response to employee surplus; openings are filled by reassigning current employees, + no outsiders are hired
2. **downsizing** –
 - **attrition** – normal separation of employees from organization due to resignation, retirement or death
 - **buyout and early retirement programs** – strategies used to accelerate attrition, which involve offering attractive buyout (early leave) packages or opportunity to retire on full pension, w/ attractive benefits package
 - **job sharing** – involves dividing duties of a single position between two or more employees
 - **reduced workweek** – layoff-avoidance involving employees working fewer hours + receiving less pay
 - **layoff** – temporary withdrawal of employment to workers for economic/business reasons
 - **termination** – encompasses permanent separation from organization for any reason
3. **severance pay** – lump-sum payment that is given to employees who are being permanently separated
4. **survivor sickness** – range of negative emotions experienced by employees remaining after major restructuring initiative, which can include feelings of betrayal/violation, guilt + detachment

III. Labour demand exceeds supply (shortage)

1. Hiring temp. employees
2. Outsourcing
3. Scheduling overtime
4. **Transfers** – movement of employees from one job to another that is relatively equal in pay, responsibility, and/or organizational level
5. **Promotion** – movement of employee from one job to another that is higher in pay, responsibility, and/or organizational level, usually based on merit, seniority, or combo of both

IV. Expected demand matches supply

The hiring process requires 3 steps:

1. **Recruitment** – Process of generating a pool of qualified applicants for a particular job
2. **Selection** – Process of making the “hire” or “no hire” decision regarding each applicant
3. **Socialization** – Orientating new employees to the organization and making sure they are familiar with company policies and procedures

Hiring process challenges:

1. Determining which characteristics are most important to performance
2. Measuring these characteristics
3. Evaluating applicants’ motivation
4. Deciding who should make hiring decisions

Hire externally when: need “new blood” or organization & team renewal, or if want knowledge of competing organizations or specific skills beyond immediate job.

Job Analyses should be conducted to ensure proper fit btw hires and their jobs, and to avoid legal problems

Legal issues in staffing: human rights code provisions, f.ex. employment equity requirements (see ch. 3)

Explain the connection between recruitment & selection and organizational performance:

- **Recruitment** – process of searching for and attracting adequate number of qualified candidates, from whom organizations may select the most appropriate to staff its job requirement
- Constrains on recruitment process
 - o Organizational policies and plans, job specifications, inducement of competitors, environmental factors (leading economic indicators, want-ads index, actual activity vs. predicted activity)
- Purpose of recruitment is to:
 - o Ensure that adequate pool is generated at min. possible cost
 - o Eliminate poorly qualified candidates → improving success rate of selection process
 - o Find and attract individuals who are suited to organization's unique culture and climate
 - o Help firm to meet its employment equity goals by attracting diverse applicant pool

Recruitment – should be targeted to those applicants who have the basic qualifications for the job

- Internal postings – allow current employees to hear first
- Referrals – Current employees likely to refer someone who is similar to themselves, no room for change
- Print advertisements – targeted to a large pool of applicants
- Internet advertising – low cost, can be more dynamic, and faster results
- University Recruiting – Employers hold sessions to make contacts
- Former employees – Seasonal and temporary workers already have the knowledge of how the company work and familiar with policy and procedure

Selection Tools

- Letters of Recommendation – Focus on character traits
- Application Forms – To determine if candidate satisfies min. job specification
- Ability Tests – Measures ability to do well on the job
- Personality Tests – Assesses traits of the candidate
- Interviews – Structured & Unstructured)
- Other – Assessment centers, drug tests, honesty tests, reference checks

Selection process:

Reliability: the degree of dependability, consistency and stability of the measures used

Validity: the accuracy with which a predictor measures what it is supposed to measure

Unstructured interviews are considered less reliable bcz they lack reliability and are used in only 17% of Can firms

Common employer failings in recruitment/selection process:

- **Snap judgments** – occurs during first few minutes of interview or even before interview begins, based on candidates' test scores or resume data; one might pass up good candidates because of this
- **Halo effect** – initial impression distorts interviewer's rating of candidate
- **Influence of nonverbal behaviour** – rating based on gestures – looks; bad when tied to cultural background
- **Telegraphing** – anxious to hire → help applicants to respond correctly to their questions by telegraphing expected answer

Chapter 7 - Strategic Reward Plans

Direct Financial Payments – money (bases: increments of time vs. performance)

Indirect Financial Payments – benefits

What are the **4 basic considerations** in determining pay rates?

- **Legal requirements** – employment labour standards (min wage, max hrs, overtime..)
- **Union influences** – decided through collective bargaining
- **Compensation policies of employer** – salary increase/decrease, promotion/demotion, leaves, and holiday
- **Internal/external equity** – external equity compared with competitors and internal equity which must be equal to others in the organization

5 Basic steps in establishing pay rates:

1. Determining the worth of the job within the organization through a job evaluation (*use benchmark jobs*)
2. Grouping similar jobs into pay grades (*comprises jobs of approx. equal value*)
3. Conducting salary survey of what other employers are paying for comparable jobs (*prevailing rates*)
4. Pricing each pay grade by using wage curves (*value vs. average wage paid, use regression line*)
5. Fine-tuning pay rates (*broandbanding: reduce # of salary grades into few wide "bands" of jobs/wage levels*)

Basically: Establish comp policy → perform job analysis → conduct wage surveys → ensure internal equity

Job evaluation: The formal and systematic comparison of jobson within co' to determine the worth of one job relative to another and eventually results in a job hierarchy.
Purpose of compensable factors in process: skill, effort, responsibility & working conditions and compensable factors are used to help compare jobs in the evaluation process

Incentive Plans – pay for performance:

- **Variable Pay** - **bonuses, merit pay** (*individual performance*), **profit-sharing, stock options, gain sharing** (common effort for company productivity objective, share cost-saving gains.. Agency problems!)
Agency problems w/ profit sharing: if profits are low → low incentives.. reinforces trends

Operations Employees

- **Piece-work** – Based on number of items processed per day, directly tied to production
- **Team/Group Incentives** – production standard is set, group is paid incentives if they exceed the production goal

Manager and Executives

- **Annual bonus** – motivation for short term performance
- **Capital Accumulation Plans** – long term
- **Stock Options** – the right to purchase a stated number of shares

Salespeople

- **Salary** – fixed income
 - predictable expense
 - easier for employer to change sales territories, to reassign sales people and to create loyalty
- **Commission** – Variable income based on performance
 - makes it easier to attract high performers
 - sales costs proportionate to sales and the plan is easy to understand and compute
 - can create large variances btw high/low performers → inequity, may lead ppl to neglect hard-to-sell items, dedicated customers and non-selling activities
- **Combination plan – salary and commission combined**

Chapter 8 - Employee Benefits

Legally Required Benefits

- **Employment Insurance (EI)** - weekly income benefits to those unable to work through no own fault
- **CPP** - retirement income, survivor/death benefits and disability benefits
- **Worker's Compensation** - income & medical benefits of victims of work related accidents or illnesses
- **Provincial Health Care Plan** - basic medical services
- **Leaves of Absence** - situations involving illness, maternity and bereavement
- **Vacations & Holidays**
- **Pay on Termination of Employment**

Voluntary Benefits

- **Pay for time not worked**
 - additional vacation, holiday, sick pay
- **Insurance Benefits**
- **Retirement Benefits**
- **Subsidized Child Care or Eldercare**
- **Educational Subsidies**
- **Gym Membership**
- **Counseling Services**

Benefits to attract & retain young workers:

- Employee discounts
- Flexible hours
- Bonuses
- Free products

Flexible Benefit Programs – Employees create individualized benefit packages, employer limits total cost

Chapter 14 – Occupational Health & Safety

The purpose of health and safety legislation

= to maintain hazard-free work environment and to enhance health + safety of workers

Laws fall into three categories:

1. general health + safety rules
2. rules for specific industries (eg. mining)
3. rules related to specific hazards (eg. asbestos)

Workers Compensation Act: Addresses major workplace health & safety issues for workers that fall under BC jurisdiction

Major rights and responsibilities of employers/employees

- **Protect the health & safety of workers** by minimizing work-related accidents and illnesses
- **Employers** must take every reasonable precaution to ensure the h&s of their workers, “due diligence”
- **Employees** have right to know about workplace safety hazards, to participate in occupational h&s processes and to refuse to work if they have reasonable cause to believe that the work can be dangerous

3 Basic causes of accidents

- **Chance occurrences**
 - Beyond mgmts control
- **Unsafe conditions**
 - Improperly guarded/defected equipment
 - Hazardous procedures around machines
 - Unsafe storage, improper ventilation
- **Unsafe acts on the part of employees**
 - Working at unsafe speeds, or distracting workers
 - Removing/adjusting/disconnecting safety devices
 - Using unsafe procedures or unsafe equipment

6 major employee health issues at work

- **Alcoholism**
- **Drug abuse**
- **Stress**
- **Depression**
- **Burnout**
- **Repetitive strain injuries**

three other work-related factors:

- *job itself:* certain jobs are inherently more dangerous than others
- *work schedule:* accident rate increases quickly as number of hours worked increases → fatigue; accidents occur more often during night shifts
- *psychological climate:* workers who work under stress, or who consider their jobs to be threatened or insecure, have more accidents than those who do not

What are some elements of workplace “wellness” programs and what do they seek to do?

- three elements in healthy workplace: physical environment, social environment, + health practices
- employee wellness programs take proactive approach to all of these areas of employee well-being
- should achieve measurable outcomes related to increased levels of employee health
- often include stress management, nutrition + weight management, smoking cessation programs, heart health, physical fitness programs, and workstation wellness through ergonomics

Responsibilities in regard to health and safety:

I. supervisor:

- most jurisdictions impose personal duty on supervisors to ensure that workers comply w/ occupational health + safety regulations
- specific obligation to advise + instruct workers about safety
- aim to instill in workers desire to work safely → enforce safety rules

II. employer:

- taking every reasonable precaution to ensure health + safety of workers → “due diligence”
- specific duties include filing government accident reports, maintaining records, posting safety notices + legislative info

III. employee:

- three basic rights under joint responsibility model:
 - i. right to know about workplace safety hazards
 - ii. right to participate in occupational health + safety process
 - iii. right to refuse unsafe work if they have “reasonable cause” to believe that work is dangerous
- also have responsibilities which include taking reasonable care to protect own health + safety and, in most cases, that of coworkers

What can be done to reduce the incidence of injuries in the workplace?

- reducing unsafe conditions:
 - safety engineers should design jobs to remove or reduce physical hazards
 - brief checklist can be used to identify + remove potential hazards
- reducing unsafe acts:
 - screening out accident-prone people or people who are not physically fit for job requirements by using appropriate tests + by asking legally-sanctioned questions
 - training + educating employees in such areas as safe work practices + procedures and WHMIS
 - building awareness + providing positive reinforcement; eg. safety posters, charts or graphs showing improved safety rate, praise, etc.
 - providing top management commitment

How are a company's health and safety premiums affected by accidents in the workplace?

- employer's workers' compensation premiums are proportional to firm's workers' compensation experience rate → the more workers' compensation claims a firm has, the more the firm will pay in premiums

Is there a business case for investing in protecting worker health and safety?

- according to Association of Workers' Compensation Boards of Canada, in 2000 there were 882 deaths + 392,502 injuries resulting from accidents at work
- figures do not include minor injuries that do not involve time lost from work beyond day of accident
- two-thirds of employed Canadian adults believed that they were being exposed to some sort of occupational health hazard

Chapter 9 – Performance Appraisal

Why it is important to effectively manage performance and conduct appraisal:

Because performance appraisals provide:

- Information on which to base salary or promotion decisions
- An opportunity to review and discuss work-related behavior
- An opportunity to facilitate career planning

Appraisers:

- The line manager usually does the appraisal and provides feedback
- HR provides policy making/advisory and monitoring support
- Can also incl peers, rating committees, employees, customers (or combination ins 360-degree process)

The 3 major steps in conducting performance appraisals:

1. Defining performance expectations
 - conduct job analysis to determine characteristics required for successful performance
 - to ensure that job duties and standards of performance are clear to all
2. Appraising performance
 - (rating employee, comparing its actual performance w/ the standards of performance that have been set)
3. Providing constructive feedback
 - based on the appraisal results (and development plans)

The 4 methods commonly used for performance appraisals:

- The graphic rating scale:
- BARS:
- MBO:
- Critical incident method:

Appraisal method	Adv:	Disadv:
The graphic rating scale	<ul style="list-style-type: none"> - Simple to use - Provides quantitative rating for each employee 	<ul style="list-style-type: none"> - Standards may be unclear & low reliability - Prone to all sources of error - Accommodates personal bias
BARS	<ul style="list-style-type: none"> - Provides behavioral anchors & more reliable - More objective than graphic.. - Avoids constant error and central tendency 	<ul style="list-style-type: none"> - Difficult to develop/ maintain - Need to tailor for each job
MBO	<ul style="list-style-type: none"> - Tied to jointly agreed-upon perf. Objectives - Accommodated performance and development purposes 	<ul style="list-style-type: none"> - Time consuming - Difficult to compare among employees
Critical incident method	<ul style="list-style-type: none"> - Help pinpoint areas for improvement - Stress critical aspects of the job 	<ul style="list-style-type: none"> - Difficult to rank employees - Inadequate sampling and deficiency

Coaching is an important element of the performance appraisal system because

- Employees can set standards & goals for themselves to better the work environment & the company

Purpose of the performance appraisal interview:

- supervisor + employee review appraisal and make plans to remedy deficiencies + reinforce strengths
- critical element in performance management; how feedback is given to employee can determine whether or not performance will improve or decline
- purpose is to see if the following are valid:
 - performance is satisfactory; employee is promotable
 - performance is unsatisfactory; employee is NOT promotable
 - performance is unsatisfactory, but correctable and take action based on the stated to improve organization

Key elements of an effective type of performance interview

- a) *Be direct and specific.*
 - talk in terms of objective work-related behaviours
 - use examples (absences, tardiness, quality records, etc)
- b) *Focus on job-related behaviours.*
 - compare person's performance to a standard, not to that of other people
- c) *Encourage the person to talk.*
 - stop + listen to what person is saying; asked open-ended questions
- d) *Develop an action plan.*
 - make sure that person leaves knowing specifically what he/she's doing right / wrong
 - give specific examples, make sure that the person understands, + get agreement before he/she leaves on how things will be improved, and by when
 - if performance improvement is indicated, develop action plan showing steps + expected results

Major problems inhibiting effective performance appraisals, and how they can be minimized:

- Unclear standards
- Rater errors:
 - Halo effect
 - Central tendency
 - Leniency or strictness
 - Appraisal bias
 - The recency effect
 - Similar-to-me bias

→ 3 key ways of minimizing these problems:

- 1) Raters being aware and familiar with rater errors
- 2) Training supervisors to eliminate and avoid errors
- 3) Ensuring that the completed appraisals are reviewed by the supervisor's immediate boss and/or the HD dept

Unclear standards:

- Performance standards may be irrelevant, subjective, or unrealistic
- Problems w/ method used to actually appraise performance or problems caused by person who does appraisal; eg. lenient supervisor
- Problems may arise during feedback session: communicating effectively or turning session into an argument
- Failure to use appraisals in HR decision making + career development
- rater errors:

Rater errors:

- **Halo effect:** excelling in one area causes supervisor to overrate performance on other traits
- **Central tendency:** tendency to rate all employees in middle of scale (ie. avoiding highs + lows)
- **Strictness/leniency:** supervisor has tendency to rate all employees either high or low
- **Appraisal bias:** tendency to allow individual differences such as age, race, + sex to affect appraisal ratings that these employees receive
- **Recency effect:** rating error that occurs when ratings are based on employee's most recent performance rather than performance throughout appraisal period
- **Similar-to-me bias:** tendency to give higher performance ratings to employees who are perceived to be similar to rater in some way

Ethical and legal issues that need to be considered regarding performance appraisals – managers should:

- Ensure that performance standards are provided to raters and ratees
- Train supervisors and managers to use the rating instrument properly
- Use multiple appraisers
- Allow appraisers regular contact with the employee being evaluated
- Include an appeal mechanism
- Provide corrective guidance to assist poor performers

The Collective Agreement (Ch. 12)

Collective Agreement – The terms and conditions agreed upon by both employees and union. Must include mandatory terms (required by legislation) and voluntary terms (parties agree to include them but are not required by legislation).

The importance of collective agreements:

- Affects numerous HR functions:
 - o Recruiting, selection, compensation, employee relations
- Measures should be taken to ensure compliance w/ the agreement and avoid unnecessary disputes w/ the union
- Managers who are involved in HR functions that might be affected by a collective agreement should receive training relative to the impact of the agreement

The collective agreement terms that labour relations legislation requires:

- Altho must contain some terms, nothing prevents employers/unions from attempting to incorporate innovative terms

The significance of terms commonly found in a collective agreement:

- Human rights, employment standards and labour relations legislation affect the content of collective agreements
- Organizations may need labour relations specialists, or access to outside experts, who are familiar w/ the legislation that applies to their workplace

Describe the most common terms or provisions in collective agreement

- wage + benefits provision – affect employer's compensation costs
- seniority provision – impose constraints on layoffs + promotions
- union security provisions – require membership + payment of employee dues
- decertification/raid protection – union protected during most of contract term
- grievance + arbitration process – could lead to review + reversal of management decisions (eg. termination of employee)

Explain the difference between mandatory and voluntary terms.

mandatory terms – provisions that must be included because they are required by legislation:

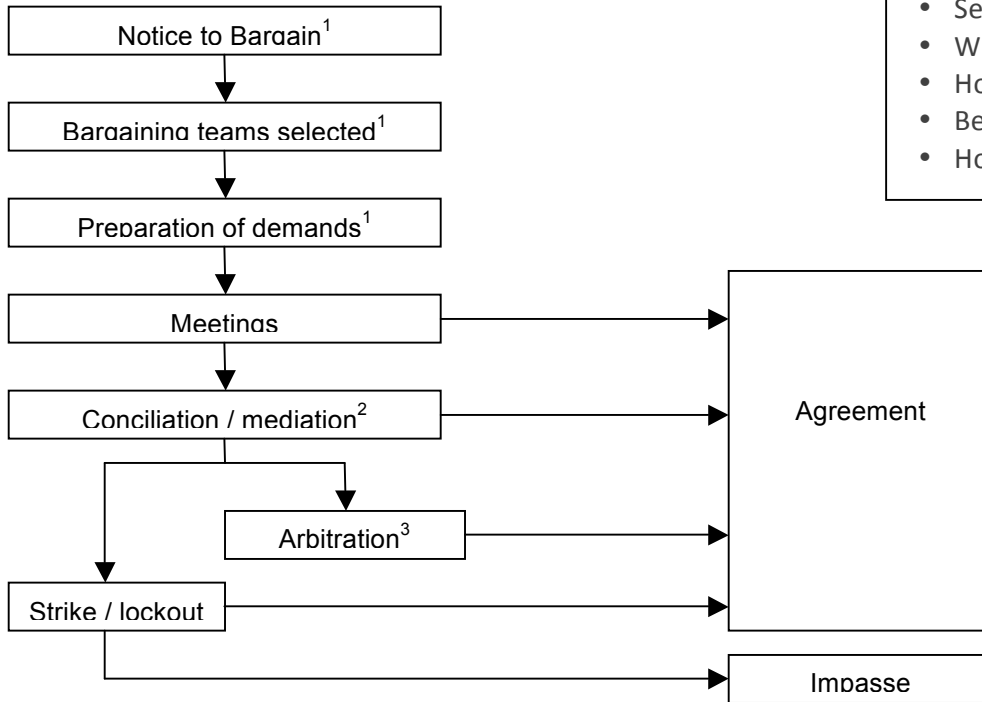
- o prohibition against strike + lockouts during term of collective agreement
- o provision for arbitration of disputes relating to administration of agreement
- o minimum term of one year

voluntary terms – provisions that parties agree to include but are not required by legislation

Collective bargaining – The negotiation process between employees and union to come up with a collective agreement

Collective Agreement Terms – page 355 Figure 12.1

Collective bargaining process:



- Most important in terms of bargaining simulation:**
- Duration or term of agreement
 - Seniority
 - Wages
 - Holidays
 - Benefits
 - Hours of work and scheduling

Notes

1. The notice to bargain, selection of bargaining teams, and preparation of demands might occur in a different order.
2. Conciliation is a prerequisite for a strike or lockout in most jurisdictions.
3. For some public sector employees arbitration must be used instead of a strike or lockout.

The key steps of the process:

- *notice to bargain:*
 - o union or employer gives notice to the other
 - o notice triggers statutory freeze: employer cannot change compensation or working conditions while negotiations go on
 - o freeze could end w/ strike or lockout
- *bargaining teams selected:*
 - o union or employer assemble teams
 - o **duty to bargain in good faith** – both unions + employer must make reasonable efforts to reach agreement
 - o employer’s bargaining team
 - may include labour relations staff persons or consultant, operations managers, financial resource person, specialized experts, + execs (bad)
 - o union bargaining team:
 - constitution or bylaws may affect composition of union bargaining team
 - documents may outline who or how to choose members
 - national or international union could provide representative to join
 - o both teams require individuals who will maintain solidarity + confidentiality

The preferences of unions and employers for various collective agreement terms:

- Some terms may be unique to a firm or industry (altho common features for agreement)
- Organizations should not attempt to copy the terms found in other collective agreements unless they determine how those terms have been interpreted and ensure that the terms will assist them to achieve their objectives

Explain the role of the management rights clause in the collective agreement.

- **management rights** – management retains authority to manage organization, except as otherwise provided in collective agreement
- **reserved or residual rights** – employer has all rights to manage organization except as expressly restricted by collective agreement
- management rights article may be only term protecting or benefiting employer; see FIGURE 7-6

Explain the purpose of the union security clause in a collective agreement to a union, and the implications of the provisions to the employer.

- **union security** – deals w/ issues of union membership as requirement for employment + deduction of union dues from employee's pay (check-off)
- **check-off** – deduction of union dues from employees' pay by employer + remittance of the dues to union

The effect a collective agreement could have on human resource management:

- Collective agreements and arbitration decisions interpreting agreements are ever-evolving
- Employers should monitor developments so they are prepared to deal w/ union proposals and make proposals of their own regarding the content of an agreement

Union Security – union membership is a requirement of employment and is determined in the following ways:

(See page 366 figure 12.6)

- Union shop
- Closed shop
- Modified Union Shop
- Rand/Agency Shop
- Open Shop

Seniority principle – Priority goes to the employee who has been employed the longest

- Most senior employee is NOT the same as oldest employee

Bumping – The replacement of an employee with a more senior one, common among Ministries.

* Look to page 387 figure 12.10 for Employer and Union Preferences for the Collective Agreement. Will help with bargaining simulation.

Negotiation of the Collective Agreement (Ch. 13)

Terms that **MUST** be included in a collective bargaining Agreement (CBA)

- Prohibition against strikes and lockouts
- Minimum one-year contract
- Cannot bargain outside of Employment Standards Act
 - Minimum wage must be met, must not exceed limit on working hours
- Holidays, Holiday Pay
- Vacations
- Cannot discriminate
- Leave of Absence, whether maternity, parental, or bereavement
- Payment of union dues
- Health and Safety regulations

* Very few unions settle for the minimum requirements laid out by legislation

Bargaining Structure – Number of unions, employers, and establishments involved in contract negotiations

Possible structures include:

- Single employer, single establishment, single union
- Single employer, multiple establishments, single union

Duty to bargain in good faith is imposed by legislation that requires both the union and management to make reasonable efforts to reach an agreement

- Does not guarantee an agreement will be reached

Resistance Point – The negotiating party's bottom line. For the union, it is the lowest offer they will accept and for management, it is the highest offer they are willing to negotiate.

Target Point – The result that satisfies all parties

Initial Offer – The party's first demand in the negotiations

Take a look at Contract Zone **Page 411 figure 13.5** it will help clarify things

What are the sub-processes in negotiations?

Notes:

1. Distributive bargaining (also referred to as positional bargaining)

- Limited resources are divided between parties
- Focus is based on the positions of each party
- Example: when wages are determined, if the employees receive higher wages they gain financially and management loses. This is known win-lose bargaining.

2. Integrative Bargaining (also known as mutual gains bargaining)

- Positive way to go about bargaining
- Focuses on the interests of each party
- Win-win, meaning there are gains for both sides
- Example: employees want to see a reduction in workplace accidents. Management agrees because not only is safety important but also reduces financial cost for workers compensation. Therefore, both parties are happy

3. Attitudinal Structuring

- Refers to the relationship between union and management and what they do to change their relationship
- Trust vs. no trust
- Cooperative vs. hostile
- The relationship is important because it may determine the probability that both parties will reach an agreement
- Ideally, a positive relationship should exist between management and the union, so administration if the agreement will be made easier

4. Intraorganizational Bargaining

- Does not involve bargaining between union and management like the 3 examples above
- Intra-organizational involves negotiations within a party to form a consensus about a specific issue
- All members of that particular party whether is be union members or management members are all in agreement with one another

* For the bargaining simulation, the strategy is to find the resistance point of the opposing team and what factors or incentives can be used to influence that point

The determinants and significance of bargaining structure

- Bargaining structure is a significant variable affecting negotiations
- Employers can join associations to avoid whipsawing by unions
- Unions that are involved in centralized bargaining may have to ensure that the interests of all employees are being addressed

The sub-processes of negotiation

- The relationship btw the employer and the union can affect negotiations
- The parties may wish to improve their relationship to facilitate contract negotiations and the administration of the agreement

The importance of the union-management relationship

- Union and employer negotiators need to be concerned w/ the relationship btw themselves and their constituents
- Union representatives should take steps to ensure that bargaining unit members perceive that the bargaining team has achieved the best deal possible

Practices and procedures in traditional adversarial bargaining

- Unions and employers must ensure that they comply w/ the legislative obligation to bargain in good faith
- Senior management must ensure that the employer bargaining team is provided w/ the information that it requires

The implications of labour relations legislation for negotiation

Strategy and tactics used in positional or distributive bargaining

The principles of interest-based bargaining

- Unions and employers could consider interest-based bargaining as an alternative to traditional adversarial bargaining. To use interest-based bargaining the parties must invest time and money in training

Fair Treatment & discipline in the workplace (Ch. 10)

It is important not to forget about the **7 best practices of successful organizations** from chapter 2 → lead to more motivated employees

Communication to employees is key for a business to be successful. However, it may **not** always be beneficial to share ALL information if it is thought to be damaging.

Examples include:

- During a merger or acquisition, the company will leave out the details about it being hostile and confrontational to secure present and future shareholders
- A company does not want to share information about a new product until it has been patented. The information could leak and reach competition.
- A company does not want to let on to financial difficulty. If suppliers find out then they will stop supplying and the company will then go bankrupt

Techniques used for building multidirectional communication systems in organizations:

- Co's can help ensure effective employee relations by implementing downward and upward communication processes, creating a two-way communication mechanism
- Example of downward communication methods: co magazines, newsletters, memos, info booklets/pamphlets, flyers, employee bulletins
- Examples of upward communication methods: Suggestion programs, employee opinion surveys and focus groups/small group meetings

What an employer can do to ensure a fair and just disciplinary process:

- Based on 3 foundations:
 - 1) *rules and regulations* – inform employees ahead of time as to what is / is not acceptable behaviour
 - 2) *system of progressive penalties* – severity of penalty is usually a function of type of offense + number of times offense has occurred
 - 3) *appeals process* – ensures that discipline meted out fairly + equitably and that employees have right to due process
- six general components:
 - (a) Take a counseling approach to the problem.
 - (b) Exhibit a positive nonverbal demeanour, not angry or anxious.
 - (c) Provide the employee with some control over the disciplinary process and outcome.
 - (d) Provide a clear explanation of the problem behaviour.
 - (e) Ensure that the discussion occurs in private.
 - (f) Ensure that the discipline is not arbitrary; that is, it is consistent with other similar situations.
- Employer may impose following discipline on employee guilty of misconduct depending on its seriousness:
 - (a) written warning
 - (b) suspension (time off w/o pay)
 - (c) demotion
 - (d) dismissal
- Employers cannot:
 - impose fines unless collective agreement provides for them
 - penalize employees by reducing or eliminating seniority

○ impose discipline twice for same

misconduct

Except for serious misconduct, employers are expected to apply **progressive discipline**, meaning they should impose lesser penalty for first offense + apply more severe penalties only if there is further misconduct:

verbal warning → written warning → suspension → subsequent longer suspensions → discharge .

Wrongful dismissal vs constructive dismissal

Wrongful dismissal

- When employee is dismissed w/o just cause (such as incompetence, dishonesty, insubordination, fighting, persistent absence, lateness)
- Employer must provide the employee reasonable notice (could vary from 2 weeks – 2 years or more depending on the employee's length of service)

Constructive dismissal

- When the employer makes unilateral changes in the employment contract that are unacceptable to the employee, although the employee has not been formally terminated

Explain the relationship between wrongful dismissal and bad faith conduct.

- wrongful dismissal – employee dismissal that does not comply w/ law or does not comply w/ written or implied contractual agreement (ie. just cause is not present)
- in 1997, Supreme Court of Canada ruled that “bad faith conduct” on part of employer in dismissing employee is new factor to be considered in determining period of reasonable notice
- at minimum, employers are required to be candid, reasonable, honest, + forthright w/ employees in course of dismissal, and should refrain from engaging in conduct that is unfair or in bad faith (eg. being untruthful, misleading, or unduly insensitive)

Explain the potential impact on business results of not managing employees in a fair manner.

- grievances + discontent will stem from perceived unfairness
- high risk of employee suing company for unfair treatments (eg. wrongful dismissal or no just cause)

What advice would you give to a non-union company concerning this question: “Should we establish a complaints process for our employees?”

- grievance procedure helps to ensure that every employee's grievance is heard + treated fairly
- also helps to ensure that unionized firms do not hold monopoly on such fair treatment → competitive advantage

Compare and contrast how an employee can respond to discipline in the union vs. the non-union sector.

- in non-union sector, if misconduct is not proven, or court does not view it as severe enough to amount to just cause, employer will have to give reasonable notice to end employment relationship
- only remedy available to non-union employee is award of damages as compensation for reasonable notice he/she should have been provided
- when unionized employee has been disciplined or discharged, he/she may file grievance, and arbitrator may order penalty imposed by employer to be reduced (ie. suspension is reduced or rescinded, or employee is reinstated)

Potential negatives to CEO's visiting the workplace

- Employees give suggestions thinking that they will be heard and acknowledge, but when the CEO or company does not implement these suggestions many negative feelings result from the employee
- The current trend is to remove all suggestion boxes from the workplace

Employee satisfaction surveys

- Cover questions or statements under the following headings: *Personal connection, organizational connection, empowerment, growth and development, team pride*
- Wording is very important → do not want survey to be biased
- High satisfaction is a problem because it leads to low employee turnover, which means the company is stagnant and no new creativity is allowed in
- Companies should not ask a question on the survey unless they have the intention of changing it, given the results (For example, "Are you satisfied with your current compensation?")

Privacy commissioner states "**employees have a fundamental right to privacy in the workplace**"

- However; Internet, email and phone conversations are **not considered private while using company equipment**
- Many employees have their email and internet usage tracked

Why would an employer want to investigate an employee's computer or email?

- To ensure the employee is being productive
- To view what sites they are visiting → no obscenity or pornography
- For security issues, to make sure employee is not emailing the competition
- To investigate claims about harassment
- For workplace confidentiality, make sure computers and email both have a password

Important HR considerations in adjusting to downsizing, layoffs, acquisitions and mergers

- Must ensure that employees who lose their jobs are treated fairly and in accordance w/ the law
- Survivors must either be reassured that further downsizing is not planned or be told honestly to expect more downsizing in the future
- Dept managers must be trained to communicate 1-on-1 to employees in a human manner
- Fair terminations procedures must be followed
- Emotional support services should be made available to all concerned
- Alternatives to layoffs, such as voluntary reduction in pay/voluntary time off/use of contingent employees should be considered first

Alternatives to laying off employees:

- *voluntary reduction in pay plan*: all employees agree to reductions in pay in order to keep everyone working
- arrange to have all / most of employees accumulate vacation time + concentrate vacations during slow periods
- employees can agree to take *voluntary time off* → reduces employer's payroll + avoid need for layoff
- use of *contingent employees* → first group to be laid off in case of layoffs

Strategies firms can use to assist employees in adjusting to retirement

- Most important one: preretirement-counseling
- Assistance in dealing w/ issues like lifestyle goals, financial planning, health concerns

What is the significance of the Wm. Scott case in regard to discipline?

When arbitration reviews decision of management involving discipline (including discharge) of employee, three questions must be posed:

1. Has the employee given just and reasonable cause for some form of discipline by the employer?
2. If so, was the employer's decision to dismiss the employee an excessive response in all of the circumstances of the case?
3. If the arbitrator does consider discharge excessive, what alternative measure should be substituted as just and equitable?

Administration of the Collective Agreement (Ch.11)

Collective agreement

- union becomes exclusive bargaining agent for employees, who are no longer able to enter into individual contracts of employment w/ employer
- duty to bargain in good faith – to honestly attempt to reach collective agreement

Collective agreements should:

- Be written in clear unambiguous language to avoid the possibility of grievances
- Be specific with regards to time limits during the grievance procedure

The union's duty of fair representation (and how the employer could be affected)

- The union has a duty to fairly represent all employees in the bargaining unit.
- Employers should be prepared for the possibility that a Labour Relations Board might order an employer to proceed to arbitration even tho union failed to refer a grievance to arbitration within time limits provided.

Grievance – a complaint made by the union

- Involves the violation of the collective agreement
- The procedure to be followed is a series of steps that try and resolve the dispute

Three types of grievances

4. Individual
5. Group
6. Policy

Source of grievances:

- Wrongful discipline or discharge of employee
- Managers have not read the collective agreement making them unaware of the terms of agreement

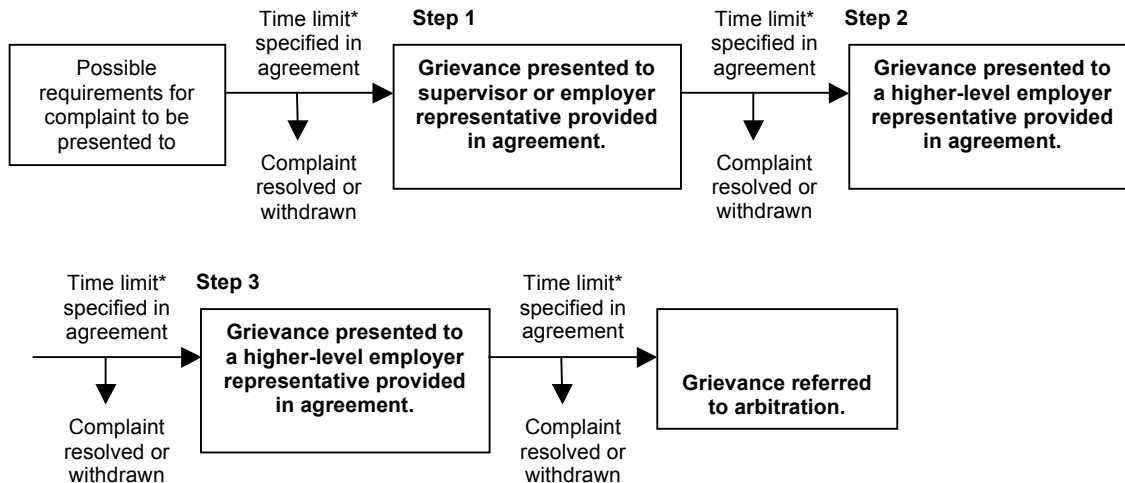
To avoid grievances, managers must be properly trained and fully aware and abide by the terms in the collective agreement (*Unions must represent all employees who file grievances whether they agree with the complaint or not*)

The significance and functions of the grievance and arbitration process:

- In unionized workplaces the employer's authority to manage will be affected by the collective agreement.
- Policies and rules established by the employer may be subject to review at arbitration and may be overturned.
- The discharge of employees may also be challenged and an arbitrator may reinstate employees.
- The procedure used to promote/layoff/recall employees may be reviewed at arbitration and the employer's decision may be overturned.

The formal and informal steps of the grievance procedure:

- Employers should ensure that managers who might be affected by the grievance procedure receive the training they need to properly represent the organization.
- Training should cover the procedural aspects of handling grievances, replying to grievances and the settlement of disputes.



*The collective agreement provides a time limit for each step in the grievance process and replies from the employer.

Arbitration – Process to resolve grievances *(important process in unionized workplaces)*

- Final step in the grievance process
- Additional financial costs for both the employer and the union

Rights arbitration – refers to resolution of dispute relating to administration of collective agreement

Interest arbitration – refers to determination of terms of collective agreement

The procedural and legal aspects of the arbitration process

- Employers will likely have to engage the services of a law firm to deal w/ any grievances taken to arbitration
- In consultation w/ legal advisers employer determine whether to proceed w/ an arbitration (potentially costly) or attempt to settle
 - Prolongs time for a resolution
 - Either party will not go for arbitration if they believe there is a possibility they might lose

WHY the grievance/arbitration process is effective at resolving workplace disputes:

- necessary b/c many sources of conflict between parties during term
- disagreements regarding meaning of contract terms
- ambiguous terms in contract

Problems with grievance arbitration and alternatives

- Delay
- Expense
 - Alternatives: expedited arbitration and grievance meditation to ↓ costs and improve the union-mgmt relationship

What are the similarities and differences between a grievance and arbitration?

Similarities

- **Grievances** and **arbitration** are mandatory in the collective agreement
- Disputes can be settled without the interruption of work
- Provides communication between employer and union members

Differences

- **Grievance** is a written complaint with four stages spelled out in the collective agreement
- **Arbitration** is the resolution of the complaint after it has gone through the four stages in the grievance procedure. The end result involves a subjective third party negotiating an agreement between the two parties and resolving the issue

Possible limitations on the exercise of management rights: The management rights article

- Important term of the collective agreement
- Employer can rely on it to hire employees and make other operational decisions
- Important that managers avoid an stopped argument being raised by the union
 - Managers should be cautious regarding stmnts or conduct that could establish a practice which is different from the terms of the agreement

The implications of human rights legislation for the administration of the collective agreement

- Human rights legislation affects the administration of the collective agreement and in exceptional cases might even require the employer and union to vary from its terms.
- In the course of accommodating employees, the employer must examine possibilities that would allow the employee to be accommodated within the terms of the agreement.
- If an employee cannot be accommodated w/o a variation from the agreement, a contract provision may have to be suspended or waived, if this would not impose an undue hardship.
- Employers should consider consulting w/ the union to establish an accommodation policy and protocol.

NHL Lockout Case

Players Strategy → Did not believe the league had suffered a loss of \$300 million in the previous season. They did not want to agree to a salary cap

League Strategy → Wanted a 5% salary rollback and a salary cap for approximately 50% of league revenues
Once the agreement expired, a lockout began that involved the loss of the 04-05 season in addition to losing respect from the fans. An agreement was finally reached in July 2005 that resulted in losses for everyone.

* In Lyz' slides EE refers to employee and ER refers to employer

When is a dispute allowed to go to an arbitrator?

- Allowed to go to arbitration only if there is a breach of a term in the collective agreement, or violation of employment legislation, otherwise, it is denied

Culpable behaviour

- describes actions that are blameworthy or have occurred through intentional actions of employees (w/in conscious control)
- providing the employer to discipline with just cause.
 - Ex: Absenteeism due to employee's laziness

Non-Culpable behaviour

- Unacceptable behavior from point of view of employer
- but involves no fault of the employee.
 - Ex: Absenteeism due to employee's chronic illness or incompetence in skill

The disciplinary measures that are available to the employer:

- The employer can use discipline and discharge to correct behavior or remove employees who refuse to comply w/ workplace rules.

When disciplining an employee, an employer CANNOT:

- Fine the employee *unless* written in the collective agreement
- Reduce employee's seniority, but they can be demoted
- Discipline the an employee twice for the same behaviour (once a decision has been made, the punishment cannot be added to)

How seniority might affect the placement, layoff and recall of employees

- The seniority provisions in a collective agreement can have major implications for employers regarding promotions/layoffs/recall of employees.
- Employers should confirm that any procedures established comply w/ the collective agreement and are fairly administered to avoid a possible challenge at arbitration.
- Employers should ensure that they are properly using instruments such as testing and carefully constructed interviews to select the most qualified individuals and avoid decisions being overturned at arbitration.

When is videotaping accepted as evidence that an employee is guilty of misconduct?

1. It must be reasonable for the employer to have ordered the video taping
2. Surveillance must be conducted as a reasonable approach

Example: Employer videotaping an employee who filed a false injury claim. The videotape would show the employee walking around, possibly lifting heavy boxes like nothing was wrong.

Employee Involvement

High-involvement workplaces have following characteristics:

- they have conception of employee as assets of firm rather than merely as interchangeable factors of production
- they use combo of personnel practice, including job + workflow redesign and innovative compensation practices
- they tend to believe that interaction of employees on teams leads to better problem solving + enhanced performance
- they try to reduce or eliminate close supervision
- they have willingness to provide training to enhance skills + knowledge of workers

Objectives of high involvement:

- improve productivity + quality
- increase employee contribution
- improve attitudes + relationships

Explain the motivation for firm adoption of employee involvement programs.

- moral or ethical reasons: those affected by decision should be involved in it
- improve quality: workers know the way
- external shocks: loss of profits, loss of markets, and financial crises caused by recessions, deregulation, etc.
- reduce conflict
- crisis in labour-management relationship (adversarial relationships) → improve relations
- crises specific to workplace
- EI has won acceptance among leading-edge firms
- firm anticipate problems they are likely to face in future → be prepared

Describe some examples of employee involvement plans. (refer to EXHIBIT 6.2)

- special project teams
- quality circles
- gender/ethnic/sex identity groups
- employee-management advisory committees
- unions

There are many types of employee involvement programs. Which do you think are the most effective and why?

- *direct employee involvement* – self-managed teams, quality circles, sharing of info
- *training and enhancing experience* – training, teamwork, job rotation, tuition reimbursement
- *flexible work organization* – job rotation, job sharing, telecommuting, flexible work hours
- *low cost recognition items* – casual dress days, wellness programs, staff parties
- *variable pay* – profit sharing, pay for skill, employee stock options, bonuses linked to comp. performance, performance evaluation systems

What are several possible scenarios for the future direction of union-management relations in Canada?

- latest managerial trend is to establish benchmarks + measures → part of larger movement that promotes measurement of a host of indicators of firm performance, of which productivity + efficiency are subsets
- conventional benchmarks are used to monitor labour-management relationship: rate of absenteeism, worker quit rates + turnover, grievance filing rates, etc.

What effect does an EI program have on productivity and satisfaction?

- direct measurable results are mixed, especially in regard to productivity
- employee satisfaction increases
- improves attraction + retention

How do unions respond to EI programs?

- many unions fear EI → weaken collective bargaining + union
- introduction of EI requires drastic change in traditional labour-management relationship
- impediments to introduction of EI in unionized workplaces:
 - history of adversarial relations between labour + management – exercise caution, if not plain mistrust, in dealing w/ other side → requires prior relationship building
 - unequal knowledge of + expertise in EI matters on part of labour and management
- key decision for unionized firms is extent or scope of union involvement in EI initiation, implementation, + evaluation

➤ extent of involvement in EI initiation (5 levels):

i. <i>unilateral management decision making</i>	= management makes all decisions	▫ no role for union
ii. <i>managerial information sharing</i>	= management informs union of its plans + actions and union may have right to request info	▫ does not allow for any direct input into decision making, but it does provide additional resources to union to represent its interests through traditional channels
iii. <i>consultation</i>	= management provides info + solicits union input w/ no promise of acting on input	
iv. <i>decision making by consensus</i>	= both sides make decisions jointly but agree to rule only by consensus	▫ legal authority remains w/ management, but formal authority is delegated to joint forum ▫ no dispute resolution mechanism; in event of dispute that cannot be resolved, authority reverts to traditional owner (ie. management)
v. <i>joint governance</i>	= decisions are made jointly by both sides	▫ dispute resolution procedure is used in event that two sides cannot agree

➤ scope of involvement

- in vast majority of cases, unions are brought into picture only at implementation stage → dysfunctional dynamic between parties
- frequently put into position of either agreeing to package designed unilaterally by management experts, or rejecting it completely

Discuss the legal constraints on EI programs:

Nonunion workers (Canadian approach):

- all nonunion forms of employee representation are lawful → no ban or limitation, so long as company is not setting up nonunion system for purpose of thwarting workers' statutory right to choose to be represented by union
- no overt recognition in Canadian public policy of nonunion employee representation + participation systems
- EI is not protected, nor is it banned or interfered with by any laws

EI plans + unions:

- Canadian laws grant exclusive bargaining rights to unions that achieve certification
- employer cannot implement initiative "in manner which disregards union's statutory bargaining rights"
- employers cannot use consultative programs to "subvert, circumvent, or replace union in its legitimate role as exclusive bargaining agent"