

# IMPORTANT TOPICS THAT WORKFORCE ADJUSTMENT COMMITTEES SHOULD DISCUSS

## Workforce Adjustment Committees should discuss:

- the terms of reference for the committee
- termination of contractors, temporary agency employees and casual employees to facilitate indeterminate job placement
- demographic breakdown of the workplace
- termination of term employees and the process by which it is done. Term employees should have their contracts terminated with regard to merit and by a process that is transparent and fair.
- the process for assessing merit and the instances where it must be used to ensure fair treatment such as surplus status, qualification for receipt of a reasonable job offer, exemption from relocation, etc.
- re-training opportunities
- the efforts, strategies and results that employers are making to find other jobs for people both within the department/ agency and in cooperation with other departments/agencies
- alternation opportunities
- the timing of affected, surplus and lay-off notices to employees
- any other problems or barriers that arise

## All Workforce Adjustment Committees must include a Terms of Reference

All WFA committees should include a transparent Terms of Reference (ToR). ToRs are extremely important since they make clear to all WFA participants and to the workforce in general what the committee should do and can do.

Each committee's Terms of Reference will depend on the discussion that ensues between the union and the employer, but there are some general considerations that should always be present. These include:

- The goals of the WFA Committee must be clear. Committee goals enable all parties to implement their obligations arising from the WFA and minimize unwanted job loss or relocation.
- Guidelines around consultation practices must be clear. It must be clear how decisions within the WFA committee will be made and how decisions and actions will be communicated to the broader workplace community. Consultation requires that the employer not only listen to the union's point of view but implement its suggestions when it is possible to do so and when it assists transitioning workers. Guidelines should help facilitate an atmosphere of trust and respect.
- The terms of reference should articulate the kinds of topics that the WFA committee will examine: processes for merit assessment, opportunities for re-training, job transitioning, alternation and communication protocols, to name a few.
- Terms of reference should also include the names or positions of those who will be on the committee, the identification of necessary specialists, the timing and location of meetings, the existence of sub-committees and any other logistics considerations that the parties believe is important.

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## Elimination of Contractors and Temporary Employment Agency Staff

The Workforce Adjustment Appendix obliges the employer to review the contracts of contractors, temporary help agency staff and casual employees that currently do bargaining agent work to facilitate indeterminate employment.

In order to ensure that these obligations are met, the union needs to know the scope of contracting out and temporary agency staffing so that it can establish whether or not its existence has a negative impact on indeterminate employment.

If the employer isn't making efforts to terminate contractors and temporary staffing agency personnel, the union needs to know this so that it can take action.

## Demographic Information

The union must be aware of potential placement opportunities in the workplace in order to help members. The employer must provide a complete demographic breakdown of the workplace including anticipated retirements, numbers of term employees, seniority of term employees, equity group breakdown, vacancies, anticipated requirements, training opportunities and any other useful demographic data that will assist in employee transition.

## Treatment of Term Employees

Although it isn't a WFA obligation, the Workforce Adjustment Committee meeting is an excellent place to discuss the fair treatment of term employees and the practices that the employer will use to end term contracts if it must be done to protect indeterminate employment.

Term contracts and term three year rollover suspensions should be ended only if it is required to facilitate the continuous employment of indeterminate employees, not as a surreptitious way to circumvent the requirements of the Treasury Board term policy.

Terms, despite the determinate nature of their employment relationship, must be hired in accordance with transparent meritorious criteria. Therefore transparent merit criteria must also form the basis of their termination. In general, term employees who have preformed successfully and have had their terms renewed on an ongoing basis should have their contracts terminated last.

When the employer suspends time counted towards the three year rollover provision in the term policy, the bargaining agent must be notified in advance and records should be kept that track the employees' time served so that the time can be re-instated and factored into the calculations for time on the job after the workforce adjustment situation is over.

## Process for Assessing Merit

The employer is obligated to use merit to rank employees in a WFA situation.

Reverse order of merit exercises used to be based on relative merit. Since the Public Service Modernization Act came into effect, merit in regards to layoff is based on the same concept of merit that is used for staffing.

A fair process is even more important in the case of layoffs. The loss of promotion as a result of an unfair merit process is very unfortunate. The loss of livelihood because of an unfair merit exercise is devastating.

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The Public Service Commission advises that values of fairness and transparency must be adhered to and has produced guidelines called the “*Guidance Series - Selecting employees for retention or lay-off*”.

The WFA committee provides an opportunity for the union to have input into the merit process. It provides an opportunity to:

- suggest areas where years of service can be used as part of the criteria
- ensure that the merit exercise meets the employers employment equity obligations
- contest the use of unfair or inconsistent personal evaluation reports
- insist on transparent and objective testing mechanisms
- ensure that the evaluation exercise isn't a back door to favouritism
- ensure that the various criteria that are used are transparent.

## **Re-training opportunities**

The WFAA says that the employer must make every effort to retrain affected, surplus and laid-off employees if it can facilitate their redeployment into both existing vacancies and anticipated vacancies. Retraining opportunities can be cross- departmental.

The Workforce Adjustment Committee can help ensure that vacancies are matched with potential training opportunities and that the employer doesn't ignore its internal retraining obligations or its obligation to work with other departments.

Union and employer members on the committee also have a role to play in providing information and guidance to members who wish to take part in retraining opportunities.

## **Cross Departmental cooperation**

Departments have an obligation under the WFAA to establish systems to facilitate redeployment or retraining of their affected employees, surplus employees, and laid-off persons within the department but also in collaboration with the broader public service.

The WFA committee is the appropriate place to question the employer on what they are doing to identify internal positions and the steps that they are taking to work with other departments, and to determine if those efforts are adequate.

If the department can't demonstrate that they are doing enough then the union can press them to do more and eventually address the problem through other avenues.

If a broader joint cross-departmental committee exists as was the case in the mid-nineties when Joint Adjustment Committees were formed, then the WFA committee can feed information to the broader committee and distribute information that arises from it.

## **Alternation opportunities**

All departments or organizations must participate in an alternation process within the department and cross-departmentally. The union can press the employer to create a structure for facilitating alternation opportunities and communicating those opportunities to employees.

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## Timing of Notices

Important notices will be issued over the course of a WFA process: affected letters, surplus letters, guaranteed reasonable job offers, opting decisions, requests for resumes and other personal information, job interviews, just to name a few.

It is important that the union knows when the employer is distributing this information so that it can assist members in making the difficult choices that will be required of them and remind them of important time lines that they must adhere to.