



## TOPIC 3

### Labour relations

Employees interact daily with their managers and colleagues. This interaction may be positive or negative, and is commonly referred to as labour relations. The promotion of positive labour relations is essential to create an organisation that is successful in the current business environment. HR managers play an active role in promoting positive labour relations by developing and implementing fair labour relations policies and practices in the organisation.

#### TOPIC AIM

The aim of this topic is to familiarise you with the basic principles and practices that ensure positive and equitable labour relations in the organisation.

#### LEARNING OUTCOME FOR TOPIC 3

After completing this topic, you should be able to discuss the basic equitable labour relations principles and practices in organisations (**Workbook 06**).

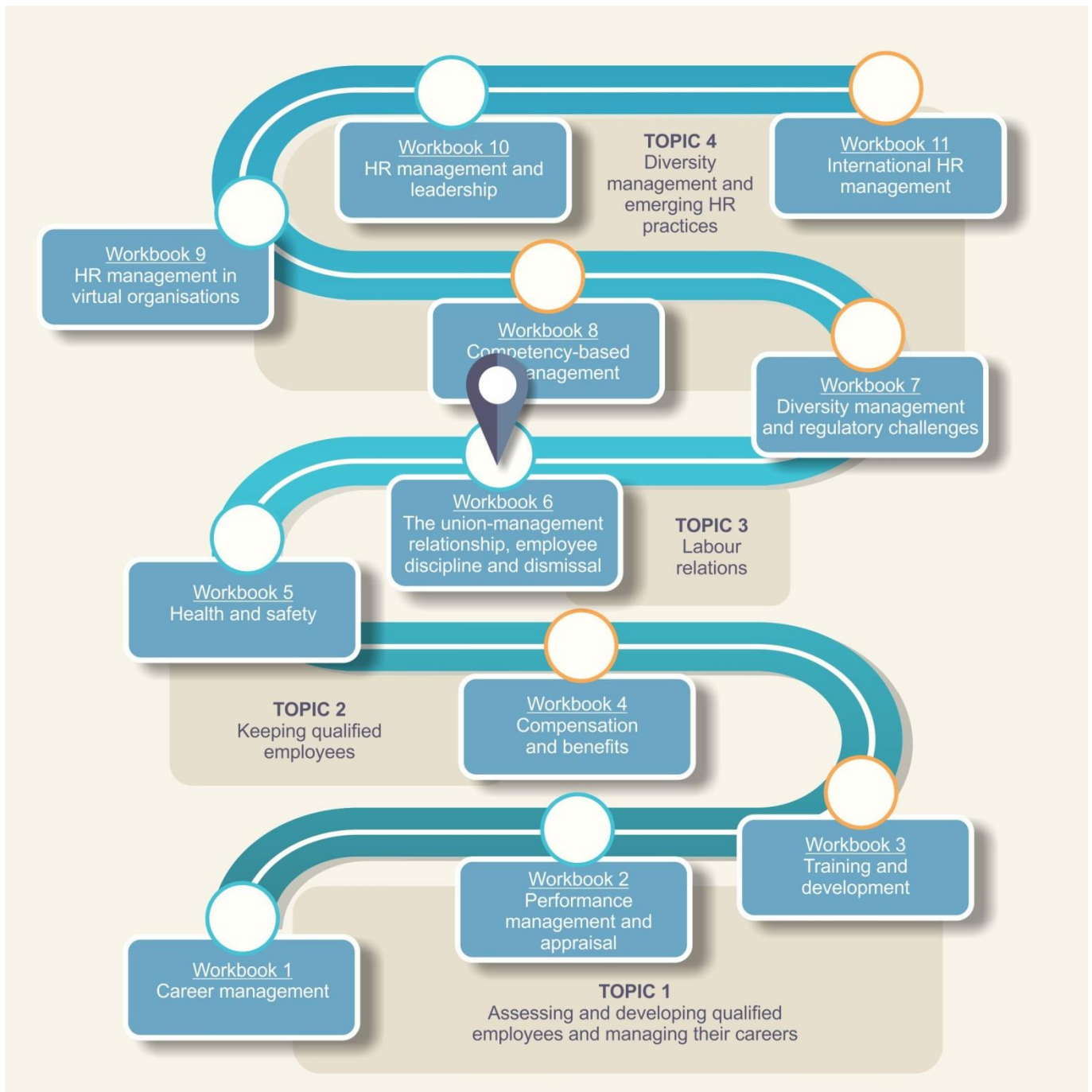
# WORKBOOK 06

## The union–management relationship, employee discipline and dismissal

Contents		Pages
6.1	Learning outcomes	89
6.2	Key concepts	89
6.3	Summary	91
6.4	Self-assessment	91



Have a look at the mind map to see where you are in the process of working through the study material.



## 6.1 LEARNING OUTCOMES



**Read** through the outcomes before you continue. This will give you an overall picture of what we will discuss in this workbook.

After studying this workbook, you should be able to

- describe what a union is and explain why employees join unions
- identify the basic elements of the Labour Relations Act 66 of 1995
- discuss the role and objectives of the National Economic Development and Labour Council (NEDLAC)

- describe the typical collective bargaining process
- recognise the various sources of poor performance through the illustration and discussion of an unsatisfactory performance model
- explain good and poor ways to discipline employees
- illustrate a model of positive discipline and describe the procedures for ensuring that discipline achieves its goals
- identify the procedures for carrying out the dismissal decision humanely, tactfully and according to law

## 6.2 KEY CONCEPTS



A number of key concepts are listed at the end of chapter 13 of your prescribed book. Please read through them before you continue. Then you will be familiar with the different concepts that we will refer to in this workbook.

Some of the important key concepts in this workbook are:

- Union
- Collective bargaining
- Mediation
- Disciplinary action
- Collective agreement
- Workplace forums

Now read this paragraph:

You are no doubt aware of the (sometimes unwelcome) presence of trade unions in most organisations. Trade unions exist for the benefit of the employees to give a collective "voice" to their grievances and demands. How exactly does this work in a real organisation?



**Read** chapter 13 in the prescribed book.



### Activity 6.1

Read the following paragraphs and then answer the questions:

Shanon McDonald is the HR manager of a medium-sized company which manufactures and sells various health products. She listened to most of the employees' complaints and promised that they would be attended to as soon as possible. After this message was given to the employees, their unhappy emotions seemed to subside and things continued as usual. Top management even suggested that Shanon appoint an HR officer to take over some of her duties so that she could take things a bit easier in the last few years before her retirement. This she subsequently did. This gave Shanon a lot of free time to ensure that all the company's employees remained happy and satisfied and that all their HR-related problems were solved. Whenever an "uncomfortable" situation arose where employees felt dissatisfied with their superiors, other employees or the organisation, Shanon was quick to pick this up and invariably managed to keep everyone's emotions under control by acting within her authority as the HR manager, and by controlling the company's staff with an iron hand. Indeed, Shanon was extremely proud of the fact that her word was law in HR management issues.

Last week, for example, Shanon dismissed Simon Shabalala (a supervisor in the factory) for drinking on the job. Shanon was quick to assure everyone that she had suspected for some time that Simon was an alcoholic who could not be rehabilitated – she had just never been able to catch him drinking on the job! Shanon was sure that Simon's dismissal reinforced her authority in HR issues and that the employees all respected her for this. That was the situation until yesterday. Out of the blue, all the employees decided to go on strike and collectively handed a memorandum to top management demanding a huge wage increase, the reinstatement of Simon Shabalala and the immediate resignation of Shanon McDonald.

- a. What do you think Shanon McDonald did wrong in managing labour relations?
- b. Do you think Shanon handled the problem with Simon Shabalala correctly? Give reasons for your answer.
- c. If you were Shanon McDonald's HR officer and had been given the authority to handle all labour relations and disciplinary-related problems, what would you have done in these situations?



### Feedback

You will probably agree that when employees feel that they are badly treated, they perform poorly or need personal assistance, the organisational goals will not be achieved unless these constraining factors are taken care of. These issues all impact directly on labour relations. The HR manager is the person responsible for ensuring that labour relations are healthy and contribute to optimal organisational goal achievement.

But who exactly is involved in labour relations in the organisational context? The parties involved can be divided into three main groups: the employee, the employer and the state. Employers and employees are the two main role players, and the state plays a secondary role. If employees and employers are to have a say in labour-related matters, they have to act collectively (see "Collective bargaining" in the prescribed book for a more detailed discussion). Thus employees are represented by trade unions (e.g. NUMSA) and employers by employers' organisations (e.g. NAFCOC). The state influences, and to a certain extent controls, this collective action between employees and employers by means of labour legislation (e.g. the Labour Relations Act). See "Unions", "Employers' organisations", "International Labour Organisation (ILO)", "The Labour Relations Act, no. 66 of 1995" and "Building blocks of the Act" in the prescribed book in this regard. Figure 13.2 in the prescribed book, for example, clearly shows the framework for labour relations in South Africa. A person such as Shanon McDonald should also be aware of the role of a body such as NEDLAC (see "The role of NEDLAC" and figure 13.4 in the prescribed book).

Shanon McDonald obviously made a huge mistake in assuming that she alone had a say in how labour matters should be resolved – no wonder the employees demanded her immediate resignation! Another matter that Shanon might have handled incorrectly was the dismissal of Simon Shabalala. Let's explore the aspect of discipline in more detail.

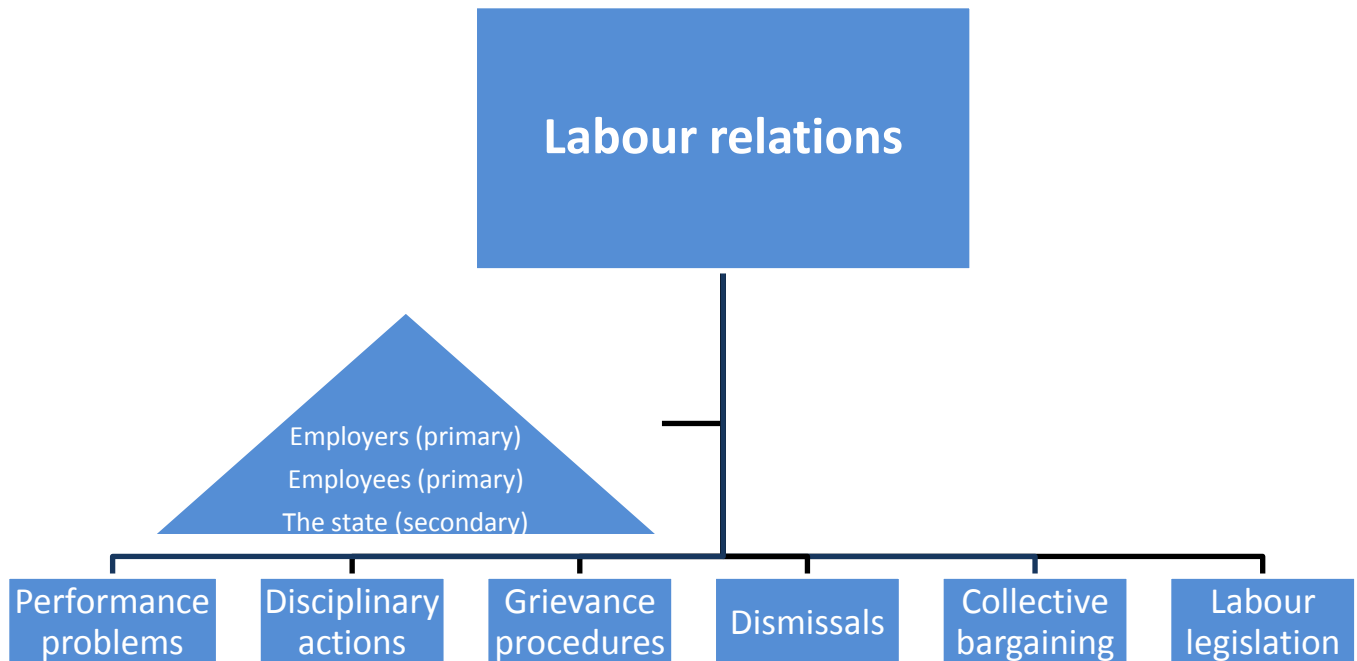
If you look at "Performance problems" of chapter 9 in the prescribed book, you will see that certain action needs to be taken to solve performance problems. Obviously, Shanon did not even try to identify the cause of Simon's drinking behaviour before simply dismissing him – there was no proof of a performance problem, only an alcohol abuse problem! Shanon made the mistake of assuming that Simon was not doing his job properly because of his alcohol problem. Only once the cause of a performance problem has been identified can the HR manager decide as to how the employee involved should be disciplined, if at all. Perhaps the person needs counselling or training, and it is important to ensure that the correct action is taken in view of the company's disciplinary code and the problem at hand.

You will also see in "Discipline" in the prescribed book that there is an incorrect way of imposing discipline (which sounds very much like what Shanon did). Shanon should rather have used preventive and positive discipline. You will probably also agree that Shanon should have made sure that she knew what the implications of the Labour Relations Act were regarding dismissal (see "Dismissal and the law") before taking such drastic action as she did in the case of Simon Shabalala. If Shanon had really wanted

to be a good HR manager, she would also have been aware of other important issues that were impacting on the management of human resources.

### 6.3 SUMMARY

Review this diagram. It serves as a summary of what labour relations entail.



Sound labour relations (and thus good relationships between people) are essential if South Africa is to be globally competitive. Employers and employees (or their representative organisations) are the major players in this relationship, but it is governed by the legislative environment created by the state. Poor relations between employers and employees will lead to loss of productivity and costly organisational conflict, for instance industrial action. The HR manager should strive to develop and implement practices and procedures that will lead to sound labour relations.

### 6.4 SELF-ASSESSMENT



The self-assessment questions consist of multiple-choice and written questions. To access the multiple-choice questions, visit the self-assessment workbook 06 tab on [Additional Resources](#) and begin your assessment.

#### Question 1

You are the HR officer in a small clothing factory that is not unionised. The employees have organised a meeting to discuss the fact that, in their opinion, their rights according to labour law are being disregarded by the owner of the factory. They have asked you to come and explain to them what their options are regarding trade unions and industrial action. Draw up a document in which you provide them with information on trade unions and industrial action, as well as the related procedures and agreements that are required.

**Question 2**

You have to convince the owner of the clothing factory that it is necessary to draw up a formal grievance procedure. He believes this will give employees "ideas above their station" and lead to labour unrest. Draw up a document in which you supply reasons for establishing a grievance procedure as well as suggestions for the steps a grievance procedure should contain.

**Question 3**

The clothing factory has no formal disciplinary procedure. Every manager applies rules and regulations as they see fit and this has led to many complaints and grievances. You know that implementing a formal disciplinary policy and procedure would solve most of the problems, because many of the complaints and grievances are about unfair treatment by managers. The owner is positive about the disciplinary procedure, because he believes that he can legally get rid of all the negative employees and then appoints people who would be thankful for having a job instead of complaining about every little thing. Explain to the owner the purpose of discipline and the steps in the progressive approach to discipline.

**Question 4**

Explain to the owner of the clothing factory when and how employees may be legally dismissed.

**Question 5**

The owner of the clothing factory is unsure about the legislative framework that governs employment relations in his organisation. Clarify this for him in detail.

**Question 1**

You can find the answer to this question in the section which deals with unions in the prescribed book.

Start your answer by providing information on what a trade union is, the type of union that the employees can form or join (trade union), the benefits that membership of a trade union will provide for employees and the types of agreements (closed shop and agency shop agreements) that can be concluded between a representative trade union and an employer or employers' organisation regarding union membership and fees in the organisation. You can also provide information on the registration of trade unions, their obligations and their rights in the workplace. Lastly, include detail about the structure of a trade union and the functions of a trade union representative (shop steward).

**Question 2**

The answer to this question is in "Collective bargaining" in the prescribed book.

Start this answer by defining the concept of grievance and differentiating between a grievance and a gripe. Explain that employment contracts govern employment relations, but that disputes may arise. An agreed-upon grievance procedure supplies employees with a formal method of airing disputes and problems with management. The steps in grievance procedures may differ from one organisation to another, but they usually contain four steps. Describe and discuss these steps.

**Question 3**

Find the answer to this question in "Collective bargaining" in the prescribed book.

The primary objective of discipline is to motivate employees to comply with the company's performance standards, rules and regulations. It also serves as a vehicle to create and maintain trust between



employees and managers. Discipline that is improperly administered can influence employee morale and behaviour. Progressive discipline follows two rules: the sanction or penalty must fit the offence (you don't fire an employee for taking a pencil) and when an employee persists in behaviour that requires discipline, a series of increasingly serious penalties are used (e.g. a verbal warning, then a written warning, then a final written warning). The main aim of discipline is to solve an employee's problems, not to punish him/her. This is why corrective counselling forms part of the disciplinary procedure. Discuss this in more detail.

The steps in the disciplinary procedure may differ from one organisation to another, but usually include the following, depending on the nature of the misconduct:

- verbal warning
- written warning
- suspension
- dismissal

#### **Question 4**

The answer to this question is in "Disciplinary dismissal" in the prescribed book.

Explain why disciplinary dismissals normally occur, the concept of automatically unfair dismissals and other unfair dismissals. A dismissal is only fair (and thus legal) if it is substantively and procedurally fair. Explain these concepts. The only fair reasons for dismissal are misconduct, incapacity and operational reasons. Explain these three reasons for dismissal and describe the steps employers should follow in each instance to ensure procedural fairness.

#### **Question 5**

You can find the answer to this question in the sections entitled "The Labour Relations Act, no. 66 of 1995" and "Building blocks of the Act" in the prescribed book.

Briefly discuss the reasons for the LRA, its aims and who is covered by the LRA. Then give details on what the LRA means for workers and – especially in this case – for employers. Also note that certain amendments were made to the LRA in the Labour Relations Amendment Act 12 of 2002. Then provide information on the building blocks of the LRA, specifically referring to the promotion of collective bargaining and worker participation, collective agreements, bargaining councils, statutory councils and workplace forums.



#### **REFLECTION ACTIVITY**

Reflect on your learning while working through this unit. Complete the following self-assessment checklist to determine your understanding of this unit and whether you have mastered the learning outcomes:

Learning outcomes	Yes	No
Can I describe what a union is and explain why employees join unions?		
Can I identify the basic elements of the Labour Relations Act 66 of 1995?		
Can I discuss the role and objectives of the National Economic Development and Labour Council (NEDLAC)?		
Can I describe the typical collective bargaining process?		
Can I recognise the various sources of poor performance through the illustration and discussion		



of an unsatisfactory performance model?		
Am I able to explain good and poor ways to discipline employees?		
Can I illustrate a model of positive discipline and describe the procedures for ensuring that discipline achieves its goals?		
Can I identify the procedures for carrying out the dismissal decision humanely, tactfully and according to law?		



### GUIDELINES FOR COMPLETING THE REFLECTION ACTIVITY

- If you answered yes to all of the questions in the checklist, you are now ready to move on to the next workbook.
- If you answered no to any of the questions in the checklist, work through the specific sections again.

It is very important that you achieve all the learning outcomes of this module, as they guide your learning process in this module.



### CARRY ON

Now that you have successfully completed Workbook 06 and all the activities, you can go on to Workbook 07.

This means that you have completed the only workbook in topic 3.

### SUMMARY OF TOPIC 3

Labour relations or employee relations are important for organisational competitiveness. Regardless of whether you are self-employed, an employee, a private or public organisation, good relationships between people in the workplace are critical to sound labour relations. Unions are associations of workers and have a major impact on organisations' management. The relationship between management and labour needs to be managed in order to prevent costly and stressful organisational conflict. Therefore, labour legislation provides a number of ground rules regarding the relationship between organised labour and management.

### BIBLIOGRAPHY

Wärnich, S, Botha, J & Grobler, PA. 2006. *Human resource management: study guide for MNH202C*. Pretoria: University of South Africa.

Wärnich, S, Carrell, MR, Elbert, NF & Hatfield, RD. 2015. *Human resource management in South Africa*. 5th edition. London: Cengage Learning.