WHY IT IS IMPORTANT
For 200 years, Australia Post has provided an essential service in mail delivery throughout Australia. It has around 31,000 employees, representing 140 nationalities. In December 2013, the organisation won a coveted Australian Human Resources Institute (AHRI) Award for Workplace Relations. The award recognised Australia Post’s first back-to-back enterprise agreement, which provided fair and sustainable wages for its employees, while incorporating workplace flexibilities necessary to allow for future change and development. The award also identified Australia Post’s ability to maintain a stable and harmonious workplace, to avoid unnecessary industrial conflict, and to provide stability and certainty for all stakeholders in the business. Previous workplace agreements had been characterised by dispute and conflict within the organisation, but more recently Australia Post had been able to employ a strategy based on high levels of stakeholder engagement and transparency. This allowed the negotiation process to result in a mutually beneficial agreement.

WHAT YOU WILL LEARN
KEY KNOWLEDGE
Use each of the points below from the Business Management study design as a heading in your summary notes.

Relationship to business objectives and business strategy
The similarities and differences between centralised and decentralised approaches
Industry-wide Awards, collective agreements within an individual organisation and individual contracts
Management styles and skills in employee relations, including their application to the resolution of conflict
The role of human resource managers in employee relations under a decentralised approach

KEY SKILLS
These are the skills you need to demonstrate. Can you demonstrate these skills?
• accurately use relevant management terms
• research related aspects of human resource management using print and online sources
• analyse business literature, information and data
• evaluate key aspects of human resource management theory
• apply human resource management knowledge and concepts to practical and/or simulated situations
• evaluate different practices and processes for managing human resources
Interns at risk of exploitation

When Colleen Chen commenced work as an intern at an arts publishing company, she was asked to sign a contract stating that she would be unpaid for her 12-week placement. The contract also specified that she would not be covered by workplace insurance, and that all her creative work would remain the property of the company.

Internships have become quite common in Australia over the last 20 years, particularly in the media, creative arts, banking and legal industries. For many young graduates it is a chance to get a foot in the door and gain valuable experience, but it also has its pitfalls. Some graduates in the arts and publishing industry have reported that they felt exploited, as work that they produced was often published under another writer’s name. Lack of any genuine on-the-job training and being expected to pick up mundane tasks left over by permanent staff were also common practices. Industry statistics indicate that only about 13 per cent of all internships actually lead to paid employment.

In response to what she saw as issues of exploitation in industries offering unpaid or underpaid internships, Colleen Chen co-founded Interns Australia in 2013. This was established as a support and advocacy organisation for interns and students undertaking work placements. As Chen has pointed out, interns have very little legal support and no real bargaining power to improve their situation and avoid exploitation.

Internships continue to be a grey area under Australian employee relations law. In 2013, the Fair Work Ombudsman prepared a report called Experience or Exploitation?, examining internships in Australia. It found that young people and newly arrived migrants were particularly at risk under this type of arrangement. There can be a significant difference between having the opportunity to learn new skills and simply being exploited as free labour.

...only about 13 per cent of all internships actually lead to paid employment.
6.1 Relationship to business objectives and business strategy

**KEY CONCEPT** Employee relations involves a level of interaction between employers and employees, or their representatives, to achieve a set of working conditions that will meet the needs of employees as well as allowing the organisation to achieve its strategic, tactical and operational objectives.

Employee relations refers to the total relationship between an employer (and their representatives) and the employee (and their representatives) in regard to the establishment of conditions of employment.

An employer, for legal purposes:
- exercises control over employees
- has responsibility for payment of wages
- holds the power to dismiss employees.

An employee is a worker under an employer’s control. Control may involve:
- the location of the workplace
- the way in which the work is performed
- the degree of supervision involved.

These criteria are critical in determining legal disputes over the employment contract.

Both management and employees benefit when working conditions are linked to strategic objectives.

Employee relations refers to the total relationship between an employer (and their representatives) and the employee (and their representatives) in regard to the establishment of conditions of employment. In the past, the term ‘industrial relations’ has been used to describe this relationship; however, this has largely been replaced by the broader term ‘workplace relations’. Although the two areas are similar, industrial relations usually refers to the resolution of conflict between employers and employees, while employee relations is an approach that incorporates all the issues in the employer–employee relationship in the workplace, including recruitment, equal opportunity, training and development, and organisational structure.

From the employee relations perspective, an employee is an asset rather than a cost, and open communication and goal orientation are encouraged. It is accepted that legitimate differences exist in workplaces, but the aim is to reduce conflict through effective procedures and relationships.

Organisations are continually examining ways to improve competitiveness and profitability. Central to these objectives is the effectiveness and efficiency of employees. A business seeking to improve performance will use its employee relations processes to:
- encourage an effective workforce as a way of adding value to all areas of its organisational performance
- focus on using specific strategies to retain, reward and motivate effective and skilled employees.

**Linking employee relations to business objectives and strategy**

Employee relations is not only concerned with employees pay and conditions, but the process by which those conditions of employment are determined. As we have seen, business objectives are those goals or outcomes the business seeks to achieve over time. It makes sense to ensure that employment conditions and the process of determining them are consistent with the strategies used to achieve business objectives. We can investigate how this might be done by examining some typical financial and non-financial business objectives and matching them with appropriate employee relations approaches.

**Profit and profitability.** All businesses aim to maximise profits and improve profitability as a means of achieving this. Wages that are too high are a cost to the business and can reduce profits, but wages that are too low can reduce employee motivation. Those negotiating wages and conditions on behalf of any business need to be aware of finding the right level to contribute to employee motivation, while not excessively increasing costs. For this reason, most increases in wages tend to be tied to improvements in productivity. Since productivity improvements usually lead to increased profitability, relating wages to productivity can create a strong link between employee relations processes and business objectives.

**Customer and staff satisfaction.** Customer satisfaction is a clear indication of business performance and is often related to the way customers are treated by staff. In
turn, staff satisfaction can influence the way in which staff relate to customers. A healthy workplace relations environment is likely to lead to greater staff satisfaction, and so influence the satisfaction of customers. Staff satisfaction also helps maintain the willingness of employees to remain with the business, reducing the costs associated with staff turnover.

_Improving product quality._ A healthy, relatively conflict-free workplace can contribute to the willingness of employees to participate in quality improvement activities. For example, the implementation of total quality management (TQM), quality circles or continuous improvement in the operations of the business requires a commitment from employees. Conducting employee relations in a positive and inclusive manner can contribute to the business objective of improving product quality. Quality products and customer satisfaction can assist in the objective of improving market share.

_Acting ethically._ An ethical business will be open and honest with its employees, and the employees will recognise this. There have been occasions when a business facing difficult market conditions has asked its employees to take a temporary pay cut or reduction in working hours to protect jobs and help cut costs. Unless the employees genuinely accept that the management act ethically in all other aspects of the business they are unlikely to treat such requests favourably. The business objective of being recognised as an ethical organisation can assist in the negotiation of difficult employee relations issues.

_Social responsibility._ Workplace relations legislation gives employees the right to request flexible working arrangements, particularly if they are needed by those with family responsibilities. Being willing to negotiate such working arrangements can assist any business that has social responsibility as one of its objectives. Recognition of the family responsibilities of its employees is an important indicator of a strong culture of social responsibility within any organisation.

**TEST your understanding**

1. What is the difference between ‘industrial relations’ and ‘employee relations’?
2. In what ways can employee relations processes be used to improve business performance?
3. Why is it appropriate to link increases in wages with improvements in productivity?
4. Explain how a business that acts ethically, and is seen by its employees to do so, can have greater success in its employee relations.

**APPLY your understanding**

5. Tasty Tins Ltd is a producer of canned food. Management has decided to introduce a new range of canned convenience meals, aiming at 20 per cent market share within the next four years. An existing workplace agreement with the employees is due to expire at the end of the year, and a new agreement needs to be negotiated.

Identify and explain two employee relations issues that the management of Tasty Tins Ltd might need to address if they are to achieve their market share objective.
6.2 Stakeholders in the employee relations process

KEY CONCEPT While employers and employees are the major stakeholders in the employee relations processes of an organisation, a number of other stakeholders in both the macro and operating environments can strongly influence their relationship.

Stakeholders in the organisation

Employers and employees are the main stakeholders in any organisation’s employee relations processes.

Employers

Employers and human resource managers handle employee relations issues on a daily basis, including their involvement in developing programs that focus on improving organisational performance. Many large-scale organisations (LSOs) will employ one or more employee relations specialists within their human resource management departments. Such specialists are particularly valuable as the legal responsibilities of business in relation to employee relations matters have become more complex. This is because we have moved away from a centralised system where most workers in a particular industry would be given the same working conditions under what was known as an ‘award’. We now have a more decentralised system where negotiation can occur at enterprise level.

Employees

Employees today are, on average, more highly educated than in the past. They demand more challenging, interesting work, greater involvement in decision-making processes and autonomy at their workplace. The increasing practice of negotiating employment agreements at the workplace level means that employees will be more closely engaged in the process of developing new or changed agreements. This may happen if they are required to negotiate individual employment conditions directly with the employer. Alternatively, they may be called on to vote to approve a new agreement that has been negotiated on behalf of all employees in that workplace by a representative organisation, such as a union (a collective agreement). In either case, employers are likely to want improved productivity, or the achievement of specified objectives, in return for improved wages or conditions, so the process may involve employees having to modify existing work practices to achieve those objectives.

DID YOU KNOW?
The proportion of employees who are trade union members has remained steady at around 18 per cent for a number of years according to Australian Bureau of Statistics figures. Over 43 per cent of government employees are members of a union, while only 13 per cent of private sector employees are union members. Over two-thirds of union members have been members for more than five years, while only 11 per cent had been union members for less than 12 months.

Negotiating agreements at the workplace level where workers collectively bargain for better working conditions with their employer is one way of improving working conditions, and can mean that both the employer and employee ‘win’. Often employees negotiate to improve productivity in some way in order to get better working conditions.
ER — the new landscape

The move from a predominantly centralised, award-based bargaining system towards decentralised, enterprise workplace agreements has had mixed effects on employees. Where employees’ skills are in demand, or where they are represented by strong trade unions, employees are generally achieving excellent wage and non-wage benefits.

Many employees in less secure bargaining situations were, in recent years, under pressure to accept agreements that resulted in a reduction in their pay and working conditions. Employers, who were under pressure to reduce costs, saw such agreements as a strategy to improve flexibility and competitiveness in global markets. When the survival of a business is threatened, even hard-line trade unions have to face the option of wage concessions to keep their members in work and, in some cases, to keep their jobs from going offshore. For many employees today, agreements involve significant trade-offs in working hours and conditions.

Stakeholders in the operating environment

Trade unions

Trade unions that have members employed by an organisation will have a direct stake in the employee relations processes of that organisation. They will often be called to represent their members in the development of new or changed employee agreements, with the aim of getting the best possible deal for the employees. Historically, the centralised industrial relations system in Australia (discussed on page 216) gave unions a powerful role in employee relations. Working conditions were often determined for entire industries, rather than for individual organisations, and this provided unions with an official bargaining position in the making of industrial agreements. Through test cases, unions won major improvements in terms and conditions of employment. These established key principles that flowed on to other workers.

Union membership, as a proportion of the total workforce, has been falling in recent years. In 1986, 46 per cent of employees were union members. By 2014, only 18 per cent of full-time employees and 15 per cent of part-time employees were trade union members.

Employer associations

Employer associations were originally created by employers in response to employee membership of unions, to represent employers in the making of Awards through the centralised employee relations system. Just as unions originally represented employees in particular trades or industries, employer organisations represented employers in those industries. Organisations such as the Master Builders Association, the Australian Retailers Association and the Australian Mines and Metals Association represent the interests of employers in those industries. Over the years they have assisted employers in formulating policies and processing logs of claims served on their members by unions.

DID YOU KNOW?

Employer associations are more likely to be involved in unionised workplaces, and in mining, manufacturing, wholesaling, health and community services sectors.

Employer associations are organisations that represent and assist employer groups.

A log of claims is a list of demands made by workers (often through their union) against their employers. These demands cover specific wages and conditions. Employers may also serve a counter-log of claims on the union.
Since the late 1980s, legislative changes decentralising employee relations processes have placed greater emphasis on the negotiation of working conditions at the individual workplace level. Employer associations have taken on the responsibility of keeping their members informed of the implications of these legislative changes, and assisting their members to negotiate workplace agreements that are consistent with the legislation.

Stakeholders in the macro environment

Employers and employees, and their unions and employer associations, will be influenced by government policies and legislation as well as the policies and activities of peak employee and employer organisations.

The union movement sometimes conducts campaigns on issues that affect its members.

Peak union bodies

Most unions are also affiliated with state bodies such as the Victorian Trades Hall Council, and federal bodies such as the Australian Council of Trade Unions (ACTU). The ACTU formulates and coordinates national union policies, and represents the union movement in courts and tribunals and in dealings with government and other organisations. The ACTU often assists in the settlement of disputes, particularly those involving large companies, or those in which a dispute in one business is likely to have an impact on other related businesses. It also campaigns politically on behalf of unions and their members.

The union movement sometimes conducts campaigns on issues that affect its members.

Peak employer bodies

Most employer organisations are affiliated with peak bodies such as the Victorian Employers Chamber of Commerce and Industry (VECCI) and the Australian Chamber of Commerce and Industry (ACCI). These bodies perform a similar role for employers to that performed for unions by the peak union organisations at the state and federal level.
Governments and government organisations

Governments have five key roles in employee relations processes:

1. **Legislator.** State and federal parliaments pass laws which provide the legal framework for employee relations. The federal *Fair Work Act 2009* is the major legislation governing the operation of employee relations in Australia.

2. **Employer.** Federal and state governments employ almost one-third of Australian workers, as teachers, nurses, clerks, police officers, postal workers, transport workers and in other roles.

3. **Economic manager.** Governments are concerned to ensure that wages costs do not lead to inflationary pressure in the economy.

4. **Administrator of government policies on employee relations.** Governments implement legislation by publishing information and guidelines, and providing advice to employers, employees and their representatives (see the ‘Did you know?’ feature on the right).

5. **Representative of Australia in the international arena.** Australia is a foundation member of the International Labour Organization and has been represented on its governing body.

In addition, governments over the years have set up various bodies to deal with the resolution of industrial disputes, and to act as an independent umpire in setting minimum wages and employment standards. The current body is known as Fair Work Australia. It approves agreements reached at the enterprise level, ensuring all parties comply with those agreements; it resolves disputes between an employer and the employees when no agreement can be reached. Fair Work Australia also sets a minimum wage level for the lowest paid workers through its Minimum Wages Panel (MWP).

The Office of the Fair Work Ombudsman promotes compliance with the legislation through education, information and assistance. It also appoints Fair Work Inspectors to monitor compliance with the legislation and take enforcement action through the courts if necessary.

**DID YOU KNOW?**

The federal department responsible for industrial relations is currently the Department of Education, Employment and Workplace Relations. This department:

- represents the government in national wage cases before the Minimum Wages Panel of Fair Work Australia, and in other cases before the Fair Work Division of the Federal Court
- conducts research and disseminates information
- provides advice
- promotes good industrial relations practices
- investigates breaches of Awards and certified agreements.

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**TEST your understanding**

1. Why would an organisation use the services of employee relations specialists within its human resource management department?

2. Identify and explain two ways in which employees might be directly involved in the employee relations processes at their workplace.

3. Read the case study ‘ER — the new landscape’. Explain how global competition may affect the demand for better working conditions from employees and their unions.

4. Why were employer associations originally created?

5. What functions are performed by the peak employer and employee organisations?

6. List and briefly explain the five key roles played by government in employee relations.

7. What is the role of Fair Work Australia in the employee relations system?

**APPLY your understanding**

8. Amalgamated Printing and Containers (APC) Ltd is a printing company that produces cardboard packaging and containers for a number of different manufacturers. The current employment agreement is due to expire in six months, and the company now needs to enter negotiations to develop a new agreement with its employees. Most of the employees are members of the Australian Manufacturing Workers Union, and members are prepared to strike to gain improvements in their working conditions. Other companies that rely on APC Ltd to provide their packaging would be seriously affected by any such action.

   (a) Outline the role each of the following could have in the development of the new agreement:
   - Australian Manufacturing Workers Union
   - Printing Industries Association of Australia (employer organisation).

   (b) Under what circumstances might either a peak union body or a peak employer body become involved in the process?
6.3 Historical background to employee relations in Australia

KEY CONCEPT Employee relations in Australia has, over the last 100 years, moved from a highly centralised system to a more decentralised approach. This has occurred through changes to the law, moving the determination of employment conditions away from centralised tribunals and into the individual enterprise.

Establishment of the centralised system

At the time of Federation in 1901, the Australian Constitution contained a clause giving the Commonwealth Government power to make laws to prevent industrial disputes that might spread beyond the boundaries of one state. This was a response to disputes such as the maritime strike of 1890 and the shearer’s strike of 1894, both of which affected workers and employers across Victoria, New South Wales and Queensland. Trade unions had been very active in the Australian colonies prior to Federation, and had won significant victories in improving working conditions.

The Commonwealth Parliament passed the Conciliation and Arbitration Act 1904, which established the Commonwealth Court of Conciliation and Arbitration as a tribunal to resolve industrial disputes. State parliaments also established tribunals to deal with disputes occurring within state boundaries. In 1907, in the Harvester Case, the Conciliation and Arbitration Court established the concept of a basic minimum wage for a full-time male worker with a dependent wife and two children.

In 1956, the Conciliation and Arbitration Court was restructured as the Conciliation and Arbitration Commission, with a separate Commonwealth Industrial Court. Throughout most of the twentieth century, the determination of wages and working conditions was decided by these tribunals in conjunction with employer organisations and unions. Centralised tribunals decided Awards, which often covered all workplaces in a particular industry, irrespective of the size of the individual business, the level of efficiency of the workplace or the ability of the employer to pay.

Breakdown of the centralised system

In the 1950s and 1960s, economic prosperity encouraged many unions to seek wage increases above Award level through collective bargaining. Increasing inflation through the early 1970s saw many unions seeking wage increases to maintain the value of their wages, which in turn led to increases in costs for many businesses. These businesses often raised prices to cover the cost of the wage increases, fuelling further inflation. From 1975 until 1981, the Arbitration Commission set out to slow down inflationary wage increases through wage indexation.

An early union victory came in the battle for the eight-hour working day in 1856.

After a wages ‘pause’ under the Fraser Liberal Government in 1982, the Hawke Labor Government came to power in 1983, promising social and industrial reform. A ‘social contract’, called the Accord, was developed between the Labor government and the ACTU. Under the Accord, unions agreed to restrain wage demands in return for a number of social reforms from the government, such as the introduction of Medicare. Despite the relative success of the Accord, it became increasingly obvious that wage increases should be linked to improvements in productivity within individual organisations, and that this could be achieved through enterprise bargaining.

The Industrial Relations Act 1988 changed the structure of the Conciliation and Arbitration Commission, and renamed it the Australian Industrial Relations Commission (AIRC). The Industrial Relations Reform Act 1993 aimed to increase enterprise bargaining in the workplace through the introduction of two streams of enterprise agreements. The two streams were enterprise flexibility agreements (which were non-union agreements) and certified agreements (which were made with unions). Both types of agreement had to be certified by the AIRC. Certification required that the agreement pass a ‘no disadvantage test’, which protected basic conditions such as annual leave, sick leave and long-service leave. Neither could breach anti-discrimination provisions, and both were required to include conflict resolution procedures and a consultative process for workplace change.


The Howard Liberal Government came to office in 1996 believing that existing workplace reforms did not go far enough. It scrapped the Accord and, in its Workplace Relations Act, proposed major changes to further decentralise the system.

Workplace Relations Act 1996

This Act set out to further decentralise the process of setting wages and employment conditions. It introduced a new form of individual employment contract called an Australian Workplace Agreement (AWA), and established the Office of the Employment Advocate to manage the registration of AWAs. A ‘no disadvantage’ test was introduced to ensure that employees could not be worse off under an agreement than they would be under the previous Award. Awards were to be simplified to contain only 20 allowable matters; they became a basic safety net, containing only minimum conditions. The powers of unions to participate in the process of negotiating agreements were restricted. The process of employees claiming unfair dismissal was amended in an attempt to balance the rights of both employees and employers.

Workplace Relations (Work Choices) Amendment Act 2005

The Howard Government returned at the 2004 election as the first federal government to have a Senate majority for over 20 years. This meant the government was able to introduce changes that had previously been blocked in the Senate. The Work Choices legislation set out to make AWAs the preferred method of employment arrangement by allowing employers to introduce them at any time to override collective agreements. It also abolished the ‘no disadvantage’ test by which registered individual and collective agreements were approved, and replaced it with...
five minimum standards. Unfair dismissal protections for workers in firms with less than 101 workers were also abolished. Union powers were further reduced, effectively restricting the role of unions in the process of negotiating enterprise agreements, and the functions of the AIRC were reduced, limiting the ability of that body to resolve disputes.

**Rudd/Gillard governments: 2007–13**

The Australian Labor Party and the union movement, through the ACTU, campaigned against the Work Choices legislation throughout 2006 and 2007. This campaign was successful, with the election of the Rudd Labor Government in November 2007. In March 2008 the Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 came into effect, preventing the making of any new AWAs, reintroducing the ‘no disadvantage’ test for all employment agreements, and enabling the AIRC to begin a process of modernising Awards. This Act was succeeded by the Fair Work Act 2009. In 2010, the Labor Government was re-elected with Julia Gillard as Prime Minister. Gillard had, in her previous role as Workplace Relations Minister, played a critical role in designing the Fair Work Act 2009. This Act made a number of changes to the employee relations landscape. Collective bargaining at the enterprise level, rather than individual contracts, was restored as the major method of determining wages and employment conditions. Many of the restrictions on union activity were removed, although limits on strike action were retained. A new body called Fair Work Australia replaced the AIRC and a number of other bodies. A safety net of 10 minimum conditions must be included in all enterprise agreements, and unfair dismissal provisions have been restored for employees working in small business.

The Abbott Liberal–National Coalition Government, elected in September 2013, has undertaken to review the operation of the Fair Work Act, with the possibility of making some changes after the 2016 federal election.

**TEST your understanding**

1. Why did the Commonwealth Parliament pass the Conciliation and Arbitration Act in 1904?
2. What principle was established by the Harvester Case in 1907?
3. Explain why the industrial relations system that operated in Australia until the early 1990s could be described as a centralised system.
4. Why did the Conciliation and Arbitration Commission introduce wage indexation in the 1970s?
5. Briefly outline the role of the Accord.
6. What was the aim of the Industrial Relations Reform Act of 1993?
7. Describe the two different types of enterprise agreement introduced in 1993 by the Industrial Relations Reform Act.
8. Explain the key changes introduced by the Howard Government in 1996.
9. What changes were introduced in the 2005 Work Choices legislation?
10. Identify those features of the Work Choices legislation that would have led to the union movement campaigning against it.
11. Explain the key changes introduced by the Rudd Government in 2008 and 2009.

**APPLY your understanding**

12. Examine the key features of
   • the Industrial Relations Reform Act 1993
   • the Workplace Relations Act 1996
   • the Work Choices legislation of 2005
   • the Rudd/Gillard governments’ changes since 2008.

Divide the class into six groups. Each group should carry out the following tasks, and report back to the rest of the class.

- Group 1 is to list the benefits of each of the above pieces of legislation for employers.
- Group 2 is to list the benefits of each of the above pieces of legislation for employees.
- Group 3 is to list the disadvantages of each piece of legislation for the union movement.
- Group 4 is to list the disadvantages of each piece of legislation for employers.
- Group 5 is to list the disadvantages of each piece of legislation for employees.
- Group 6 is to list the disadvantages of each piece of legislation for the union movement.

13. Using the information gathered in question 12, debate the following statement: ‘Changes to the employee relations system since 1993 have only benefitted employers, and made employees worse off’.
6.4 The similarities and differences between centralised and decentralised approaches

**KEY CONCEPT** A centralised system of employee relations is one in which central tribunals decide the wages and employment conditions of all employees. A decentralised system is one in which direct negotiations occur between an individual employer and either individual employees, groups of employees or the representatives of those employees.

**The centralised system**

Under a centralised system, governments and their tribunals control the process of wage determination. The centralised system was in place in Australia from 1904 until the early 1990s. Under the system, all wages and employment conditions were formalised in Awards. Initially, Awards were determined for particular occupations, such as those for plumbers, shop assistants or cleaners. Later, they were grouped together into industrial Awards covering all employees in a particular industry, such as the hospitality industry or the automotive industry. An Award was determined as a result of unions and employer organisations presenting submissions to the Conciliation and Arbitration Commission. Where possible, agreement between the parties was reached through a process of conciliation. When agreement could not be reached, a process of arbitration would result in the commission making a ruling which was legally binding on all parties.

Conciliation occurs when a third party participates in the resolution of a dispute and attempts to help resolve the differences through discussion.

Arbitration occurs when a “judge” (such as a commissioner of Fair Work Australia) or a panel of “judges” hears both arguments in a dispute in a more formal court-like setting and determines the outcome.

The AIRC, now called Fair Work Australia, has operated under both the centralised and decentralised systems. Formal hearings where both sides argue their case before a tribunal member still feature in the current system, but the focus is generally on dispute resolution through informal means such as conciliation.

Under current legislation, the major area of employee relations that is still completely centralised is the determination of the minimum wage. Each year the Minimum Wages Panel of Fair Work Australia determines the minimum wage for all full-time
permanent adult employees not covered by Awards, as well as a minimum casual wage, a minimum junior wage, a minimum training wage and a minimum wage for workers with disabilities. In making its decision, the MWP considers submissions from peak employer organisations, peak union bodies and the government.

Fair Work Australia also provides bargaining assistance for workers in low-paid industries, such as child care, aged care and community services. This is a new feature of the Fair Work system. It is designed to help workers who have missed out on the benefits of enterprise bargaining in the past.

The advantages and disadvantages of a centralised system are summarised in the following table.

<table>
<thead>
<tr>
<th>Advantages of the centralised system</th>
<th>Disadvantages of the centralised system</th>
</tr>
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<tbody>
<tr>
<td>1 Centralised wage fixing provides a degree of comparative wage justice and equality for workers employed by different employers.</td>
<td>1 The system is less flexible. For example, the same wages and conditions would be applied to a large organisation in a capital city and a small business in a country town.</td>
</tr>
<tr>
<td>2 Governments have greater control over wage outcomes through policies such as wage indexation, and so can maintain better management of the economy.</td>
<td>2 A centralised system does not provide enough opportunities for individual businesses to provide improvements in employment conditions in return for productivity gains.</td>
</tr>
<tr>
<td>3 Industrial disputes within individual businesses can be reduced because Awards can cover entire industries.</td>
<td>3 Large unions are favoured because they have the money and resources to mount expensive legal cases before industrial tribunals.</td>
</tr>
<tr>
<td>4 Stability and predictability are enhanced because one set of rules and procedures applies to all industries and organisations.</td>
<td>4 There is less incentive for a participative approach to management, because decisions on wages and conditions are not made within the organisation.</td>
</tr>
</tbody>
</table>

Towards decentralisation

A decentralised system exists when employees are able to negotiate agreements with employers in individual workplaces. Economics was the driving force for the change to a more decentralised system in the late 1980s. The Keating Labor Government considered that centralised wage determination reduced the flexibility of businesses to adapt in an extremely competitive international environment.

Enterprise bargaining represents a more decentralised system. It allows businesses to change workplace practices to suit workplace needs and to link productivity improvements to wage increases, and it empowers the parties to resolve disputes themselves. Decentralisation of the employee relations system has been a major political issue in Australia in recent years. The trade union movement and the Australian Labor Party supports a collective approach, with an Award structure remaining in force as a safety net. Some employer organisations and the Liberal Party of Australia favour an individual approach, with the removal of Awards and minimal safety net provisions. The nature of decentralisation of the employee relations system changes with the party in government.

The advantages and disadvantages of a decentralised system are summarised in the following table.

DID YOU KNOW?

In 1970, female average weekly earnings (AWEs) were only 70 per cent of male average weekly earnings. This rose to 81 per cent by 1984, and then 85 per cent by 1991. The narrowing of the gap between male and female AWEs during the era of decentralised employee relations remained at around 85 per cent. By August 2010, the gap had widened slightly to 83 per cent: female AWEs were $1116.20 and male AWEs were $1343.00. More needs to be done to close the gap between male and female AWEs.
A more decentralised system of employee relations means that employers and employees negotiate on a local level through collective or individual agreements. This also means that wages and work conditions are determined through a bargaining process at the enterprise (workplace) level.

### Advantages of a decentralised system

- **1.** There is flexibility to introduce employment conditions that take into account the individual characteristics of each workplace.
- **2.** Greater communication between employers and employees can improve staff motivation through the development of a greater cooperative spirit.
- **3.** Greater effort and contribution to productivity improvements by employees can be rewarded.

### Disadvantages of a decentralised system

- **1.** There is likely to be a greater inequality between the wages of skilled and unskilled workers, as unskilled workers have less bargaining power.
- **2.** Government has less control over wages, making management of the economy more difficult.
- **3.** With less involvement of centralised tribunals, industrial disputes could drag on for longer periods.

### TEST your understanding

**1.** List and explain the key features of a centralised employee relations system.

**2.** What is the key principle behind the concept of decentralised employee relations?

**3.** Why has the issue of decentralisation of the employee relations system been such a controversial political issue in recent years in Australia?

**4.** What is the role of the Minimum Wages Panel?

### APPLY your understanding

**5.** In pairs or small groups, discuss the following statement: ‘In a decentralised system, employees no longer need the assistance of unions’.

   Compare your views with those of the rest of the class.

**6.** Would you prefer a decentralised or centralised employee relations system if you were:

   (a) an employee?
   (b) an employer?

   Give reasons for your answer.
6.5 Industry-wide Awards, collective agreements and individual agreements

**Key Concept** The decentralisation of employee relations has resulted in a shift from industry-wide Awards to agreements determined at the enterprise level. Awards now provide only a safety net of minimum conditions, while collective and individual agreements provide the opportunity for employees to gain improved pay and conditions in return for improvements in productivity.

**Industry-wide Awards**

While Commonwealth legislation of 1993, 1996 and 2005 set out to establish enterprise bargaining as the replacement for centralised Awards, none of this legislation abolished any of the Awards in existence. Instead, the legislation allowed for Awards to be superseded as new enterprise agreements were negotiated. In practical terms, this means that Awards no longer apply in businesses that have developed an agreement at enterprise level. However, the Award would still apply to any businesses in the same industry that have not developed such an agreement. The significance of industry-wide Awards today is that they provide a set of minimum employment standards for employees working within an industry. Although, in most cases, the process of enterprise bargaining has provided the opportunity for employees to gain employment conditions that improve on these minimum standards.

**Award modernisation**

Under the Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 a process was set in place for the AIRC to modernise all Awards, removing inconsistencies and amalgamating overlapping Awards that previously covered different parts of an industry. In carrying out this process, the AIRC has set up a consultation structure to gain assistance and input from relevant unions and employer associations. The process commenced in April 2008. By the end of 2009, the AIRC (now FWA) had reviewed more than 1500 Awards, and created 122 industry and occupation Awards. These Awards came into effect on 1 January 2010, but most of the Awards include transitional provisions to phase in changes in wages, loadings and penalties over a five-year period. The aim of the process was to reduce the number of Awards to cover just over 100 industries.

**What do Awards include?**

Modern Awards combine with 10 National Employment Standards to provide the safety net of basic employment conditions for all employees. The table opposite summarises the National Employment Standards and the matters included in modern Awards.

All modern Awards that came into effect on 1 January 2010 are to be reviewed by Fair Work Australia every four years, starting in 2014. The National Employment Standards and modern Awards provide minimum working conditions for all employees. Enterprise bargaining allows employees to negotiate better pay and conditions over and above the Award, particularly when linked to changes in work practices that can deliver improvements in productivity within the organisation.
Matters covered by Awards and collective agreements

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Collective and individual agreements

The Work Choices legislation of the Howard Government promoted Australian Workplace Agreements (AWAs) as the major form of workplace arrangement between employer and employees. You will recall that AWAs were written agreements on terms and conditions of employment between an employer and an employee. The Fair Work legislation of the Rudd/Gillard Governments aims to make collective agreements the major method of determining employment conditions in the workplace. The Rudd Government considered that AWAs severely disadvantaged employees and so they have been abolished, although it is still possible for employees to be employed under an individual common law employment contract.

Collective agreements

A collective agreement, otherwise known as an enterprise agreement, may be made between an employer and a union, acting on behalf of its employees, or between the employer and a group representing the majority of its employees. In addition to the 10 National Employment Standards, enterprise agreements must include the following:

- a nominal expiry date, usually two or three years after the commencement of the agreement
- procedures for settling any disputes that might arise in the implementation of the agreement, including the right of employees to be represented in the dispute settlement procedure
- terms that allow for individual flexibility, so that arrangements can be made between the employer and individual employees
- provisions for consultation with employees on major workplace change.

DID YOU KNOW?

If an employer refuses to bargain with its employees, an employee representative can ask Fair Work Australia to determine if there is majority employee support for negotiating an enterprise agreement. If so, the employer will be required to bargain collectively with its employees. Fair Work Australia can issue good faith bargaining orders which specify the bargaining requirements that both sides must follow.
There is an expectation that parties should enter negotiations in good faith. This means that both employer and employee representatives should:

- attend and participate in meetings at reasonable times
- disclose relevant information (other than confidential or commercially sensitive information) to the other party to the negotiations in a timely manner
- provide responses to proposals made by other bargaining representatives in a timely manner
- give genuine consideration to the proposals of other bargaining representatives and provide reasons if these proposals are not accepted
- not engage in unfair conduct that undermines freedom of association or collective bargaining.

Good faith bargaining does not mean that either side should be forced into signing an agreement where they do not agree to the terms. Good faith bargaining is primarily about the process and conduct of negotiations, not about forcing either side to make particular offers, or accept offers made by the other side.

Once the parties to an enterprise agreement have concluded their negotiations, the agreement needs to be submitted to Fair Work Australia for approval before it can commence operation. The agreement must be signed by the employer and the bargaining representatives acting on behalf of employees, to certify that the agreement has been entered into voluntarily by both sides. Fair Work Australia will examine the detail of the agreement to ensure that:

- there is genuine evidence that both the employer and employees agree to the terms of the agreement
- a majority of employees has been consulted, either by the relevant union or any other group or individual representing the employees in negotiations
- employees will be better off overall by entering into the agreement than simply being covered by the relevant Award
- the agreement is consistent with the National Employment Standards
- there is no unlawful content included in the agreement, such as provisions that might contradict equal employment opportunity legislation.

**Individual agreements**

It has not been legally possible to create new AWAs since March 2008, although some of those created before that date have been allowed to continue if agreed to by both employees and employer. The only form of individual agreement still permitted is the individual common law employment contract. These have been in existence for decades as a contractual relationship between employer and employee. They differ from AWAs in that they must conform to existing Awards, or if they pay wages above the Award, this must not be in exchange for any reduction in other conditions. AWAs allowed employers to reduce both wages and working conditions to below those that previously applied under the centralised Award system. The only cases in which a common law employment contract can exclude relevant Award conditions is when the employee is guaranteed an income of greater than $133,000. As Awards are seen to have less relevance to employees earning high salaries, an employee earning above this figure can enter an individual agreement with their employer for an Award not to apply to them.

Common law employment contracts are enforceable through the courts in the same way as any other legal contract between two parties.
Employment contracts for Business Management students

When a job applicant accepts an offer from an employer, a contract is established between the two parties. An employment contract is a legally binding, formal agreement between an employer and an employee. Let us examine two different types of employment contracts: collective/enterprise agreements and individual contracts.

**Collective/enterprise agreement**

Imagine all the students in your Business Management class sitting down with your teacher and negotiating a set of working conditions for your class. Apart from the essential conditions, such as completing all the work and respecting each other’s opinions, you might negotiate a homework-free month in return for one extra assessment task. You have just entered into a collective/enterprise agreement.

A **collective/enterprise agreement** is a negotiated agreement between an employer and a union or a group of employees. The agreement deals with the pay and conditions of people employed in that workplace or enterprise.

**Common law individual contract**

Now imagine if your Business Management teacher and you, after a period of negotiation, came to an agreement about your conditions of work for this subject. These conditions would apply only to you. The new contract would do away with the classroom conditions agreed to in the collective/enterprise agreement. For example, the new agreement may offer you a ‘classroom (employment) package’ that includes more homework in return for the right to attend only two Business Management lessons each week. You have just entered into a common law individual contract.

A **common law individual (employment) contract** covers employees who are not under any award or collective/enterprise agreements. They are most common among professional and managerial employees. Such contracts are signed individually and are secret; that is, not open to public scrutiny.

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**TEST your understanding**

1. Explain the role of industry-wide Awards in the current employee relations environment.
2. What is the purpose of the Award modernisation process?
3. What mechanism is in place to ensure that Awards remain relevant into the future?
4. Why did the Rudd Government abolish AWAs?
5. List and explain the key elements that must be included in collective agreements.
6. Explain the meaning of the term ‘bargaining in good faith’.
7. What requirements must be satisfied before Fair Work Australia will approve a collective agreement?
8. In what ways do individual common law employment contracts differ from AWAs?
9. Explain the special provisions that apply to employees earning over $133 000 per year.

**APPLY your understanding**

10. Use the Fair Work Australia weblink in your eBookPLUS to find the modern Award relevant to the retail or hospitality industry, or any other industry in which you or your classmates have part-time employment. List and briefly explain the key matters that are covered by this Award.
11. Obtain a copy of either an enterprise agreement that applies to an employer in one of the industries mentioned in question 10, or an individual common law contract as provided by your own or a classmate’s employer, and compare it with the relevant Award.
   - What features does this document contain that are the same as the relevant Award?
   - Identify those provisions, if any, that improve on the basic conditions allowed for in the Award.
KEY CONCEPT In a decentralised employee relations environment, human resource managers are required to negotiate and implement employment agreements, train fellow managers to put such agreements into practice, and deal with any disputes that may arise. Utilising a responsive and cooperative approach is likely to achieve greatest success in the performance of the human resource manager’s role.

The role of human resource managers in a decentralised employee relations environment includes:

- negotiating employment agreements with employees and their representatives
- training other managers and supervisors to facilitate the implementation of agreements within their areas of responsibility
- ensuring the implementation of all key terms of agreements
- dealing with disputes and conflict that may arise during the life of an agreement.

The manner in which the role of the human resource manager will be performed is determined by the corporate culture, strategic vision and objectives, and dominant management style of the organisation. The degree to which employees are valued by management, the level of employee participation in decision making and the importance of using non-monetary motivational approaches will all influence the manner in which the human resource manager approaches the development of enterprise agreements. The degree to which the organisation adopts ethical and socially responsible management practices will also have an impact on the way these agreements are negotiated and implemented.

Negotiating employment agreements

The following process can be used by human resource managers seeking to achieve the best possible outcome in terms of employee commitment, genuine productivity improvements, and flexibility for both employer and employee:

1. Be aware of all relevant Awards and legal requirements. Modernised Awards and the National Employment Standards provide the legally enforceable safety net, and the context in which an agreement can be negotiated. A human resource manager must be aware of the details of all these requirements.

2. Ensure all relevant information is available to employee representatives. An immediate level of trust can be established with employee representatives if details of strategic planning and relevant financial reports are tabled in negotiations. A cooperative approach will support this atmosphere of trust.

3. Consult widely. If productivity gains are to be part of the bargaining process, human resource managers need to consult with production managers, operations managers and supervisors to determine feasible changes to work practices. Consultation with employer organisations or other human resource professionals in similar organisations can provide information on how to overcome potential problems.

4. Keep an open mind. Employee representatives who are keen to gain improvements in wages and conditions may have worthwhile proposals on productivity improvements. Union officials often have experience in negotiating similar agreements in other workplaces, and may be able to offer examples of good practice.
Keep the big picture in mind. Consistency with the organisation’s vision, strategic objectives and financial performance is vital. Specific objectives such as the expansion into new markets or introduction of new technology need to be incorporated into any changes in work practices, and rewarded accordingly.

Exercise care with the wording of the agreement. Ensure that everyone understands all implications, that ambiguous language is avoided, and that legal requirements such as the dates of operation and dispute resolution procedures are included.

Lodge the agreement. Human resource managers need to be aware of the lodging and approval requirements of Fair Work Australia.

Training other managers and supervisors

Other managers and supervisors need to be fully informed of the details of the agreement to ensure that processes for achieving productivity improvements are put into operation. Monitoring processes with appropriate performance indicators (PIs) is necessary to track the success of changes in work practices. It will be production managers, operations managers and supervisors who will be responsible for day-to-day implementation of these aspects of the agreement.

Implementing agreements

Changes to wages, hours of work, leave entitlements and flexibility arrangements will be handled by human resource managers. They also have responsibility for preparing and distributing the legally required Fair Work Information Statement. Assisting other managers in preparing performance indicators to measure productivity improvements and seeking regular feedback on the operation of the agreement are other parts of the human resource manager’s role.

Dealing with disputes and conflict

Human resource managers are central to managing the resolution of disputes that may arise under an enterprise agreement (see section 6.9 ‘Resolution of conflict’).

TEST your understanding

1. Give examples of the legal requirements that a human resources manager must be familiar with before commencing enterprise agreement negotiations.
2. What would be the benefits of providing an organisation’s financial reports to employee representatives during the negotiation process?
3. Describe two possible sources of information from outside the organisation that could assist in the development of an employment agreement.
4. What role will a production manager have in:
   (a) the negotiation of an employment agreement?
   (b) the implementation of an employment agreement?
5. In what ways will management be able to determine the success of an employment agreement?

APPLY your understanding

6. Hannelore Wuth is the human resource manager for Delite Cakes and Pastries, which has a factory supplying supermarkets throughout Victoria. The current employment agreement with employees is due to expire in three months. Hannelore is new to the company and was not involved in negotiating the current agreement.
   (a) Identify and explain the key issues Hannelore needs to be aware of before she begins the process of negotiating a new agreement.
   (b) What are the three most important issues that she needs to keep in mind during the negotiation process?
**6.7 Management styles and skills in employee relations**

**KEY CONCEPT** Successful employee relations depend on both the management style and management skills of all managers and supervisors in an organisation.

### Management styles in employee relations

Management styles can range from autocratic to persuasive, consultative or participative, and through to laissez-faire. Usually, either the participative or consultative styles of management result in positive employee relations. These styles encourage employee involvement in the decision-making process, allow for negotiations to precede any final decision, develop harmonious, positive working relationships so the organisation’s objectives can be more easily achieved; and, importantly, encourage employee innovation. On the other hand, managers who use only an authoritarian or autocratic style of management are likely to find that employee relations becomes a source of conflict and suspicion between employees and management. In an era when talented employees can be hard to find and employers wish to attract, engage and retain skilled and motivated employees, the reputation or ‘brand’ of an organisation is crucial.

### Management skills in employee relations

Positive working relationships will be enhanced by a consultative or participative management style, so management skills that support such a style are important in contributing to a positive employee relations culture. Managers who demonstrate some or all of the following will play a part in the development of such a culture:

- **Communication skills**: good communication helps to build trust, support positive negotiations and helps with the timely resolution of disputes.
- **Delegation skills**: a willingness to entrust responsibility to employees helps build a positive attitude towards the organisation.
- **Teamwork skills**: establishing and supporting teams and responding positively to team activity contributes to the level of engagement of employees.
- **Problem-solving skills**: the ability to analyse and interpret the sources of problems helps avoid a tendency to blame individuals or groups for those problems. Unnecessary conflict can be avoided through the application of good problem-solving skills. The HR leader of the year, Susan Ferrier, believes good problem-solving skills and analysis skills are important (see case study on p. 229).

### Benefits of effective employee relations

Current research demonstrates that organisations with a responsive, cooperative system for managing employee relations experience:

- superior overall organisational performance (in sales, growth, market share and customer satisfaction)
- success in international markets
- fewer industrial disputes
- higher productivity
- more effective enterprise agreements
- fewer workplace accidents
- lower staff turnover and absenteeism.

*Good people skills certainly help in employee relations. Not many CEOs get the chance to work alongside their employees and really learn the difficulties that their employees face every day. In the television series ‘Undercover Boss’, Don Meij, CEO of Dominoes Pizza, went undercover to experience the job of a pizza maker and delivery man. Since the show aired, Domino’s has been inundated with job applications, because viewers liked Domino’s fun loving culture.*
HR leaders must be adaptable, clear and relevant, says HR leader of the year

As organisational ‘borders’ become increasingly blurred, HR leaders will need to become more adaptable and able to deal with issues on a ‘case-by-case basis’, says AHRI HR leader of the year and Allens Arthur Robinson people and development director, Susan Ferrier.

‘Issues are interrelated, and you can’t just deal with one issue without thinking about the [wider] impact,’ she says. Mental health, for example, ‘increasingly permeates organisational borders’.

‘As an HR professional, you might be dealing with a mental health issue that might not necessarily be related to the workplace,’ she says.

However, if it is evident in the workplace, it needs to be managed ‘in the workplace and potentially outside the workplace’.

Be relevant; be seen as relevant

‘Perhaps the biggest challenge that a lot of HR professionals face is being relevant for the business,’ she says.

The challenge is ongoing because HR personnel tend to be viewed as ‘policemen’ or ‘nice people’ instead of as ‘enablers’.

‘You need to be relevant before you can be seen as relevant,’ Ferrier says.

‘You really need to understand what makes the business tick. You really need to understand the financials and the non-financials. You really need to spend time building your commercial awareness, and you need to be able to speak in the same language as the business — not use HR fluffy jargon,’ she says.

‘I think a lot of people think that HR is just about being nice to people, but it’s not. It is about that, but it’s actually not just about being nice; it’s about being honest and real with people’.

‘As an HR person, if you’re going to make a contribution to people, you’re going to need to do that via really strong analysis and diagnosis, and then crafting of options, and careful consideration of the pros and cons of options, and then really influential recommendations’.

‘All of that takes deep technical expertise — it’s not just a hunch or a whim,’ Ferrier says.

Source: Extracts from 2010, ‘HR leaders must be adaptable, clear and relevant, says HR leader of the year’, HR Daily.

TEST your understanding

1 How can different management styles affect employee relations within a large-scale organisation?

2 Identify three management skills that can play a part in developing a positive employee relations environment, and explain how each skill can contribute to that environment.

3 In what ways can an organisation benefit from maintaining a cooperative employee relations culture?

APPLY your understanding

4 Jim was the HR manager of a large city accounting firm. He had recently advertised several new positions for IT specialists to assist with improvements to the organisation’s computer systems, and was very disappointed at the number and quality of applicants for the positions. In discussions with a friend from another accounting firm, he raised the problem.

‘I’m not surprised,’ his friend said, ‘your firm’s reputation in the industry is terrible. Nobody wants to work for an organisation where the top partners run everything and nobody else gets a say.’

Jim realised that he would have to try and convince top management that they needed to change their management style.

In a short essay of no more than 750 words, prepare an argument Jim could present to his employers to convince them of the need to establish a more consultative and cooperative workplace.

5 Refer to the case study above. According to Susan Ferrier, what is the most important job HR managers must do if they are to contribute effectively to an organisation?
**Key Concept** Even with the most positive employee relations environment, conflict between employers and employees can still occur. This conflict can be expressed as industrial action on the part of either the employers or the employees.

**Conflict** in the workplace most often refers to a dispute between the employer and employees. The Australian Bureau of Statistics defines an industrial dispute as a withdrawal from work by a group of employees, or refusal by an employer or number of employers to permit some or all of their members to work. Each withdrawal or refusal is made to enforce a demand, resist a demand or express a grievance. Withdrawal of labour by employees is known as **strike** action, while refusal by employers to allow employees to work is known as a **lockout**.

Other forms of industrial action include:

1. **Picket lines**. Picket lines (also called blockades) are protests that take place outside the workplace, generally associated with a strike. Unionists stop the delivery of goods and try to stop the entry of non-union labour into the workplace.

2. **Work bans**. A ban is a refusal to work overtime, handle a product, piece of equipment, process, or even a refusal to work with particular individuals.

3. **Work-to-rule**. In this action, employees refuse to perform any duties that are additional to the work they normally are required to perform.

4. **Absenteeism, vandalism and sabotage**. These concealed (covert), unofficial expressions of conflict may be even more costly to organisations than open (overt) official industrial disputes.

**DID YOU KNOW?**

A union wishing to conduct a secret ballot for protected industrial action must first apply to Fair Work Australia. This application will normally be dealt with within two working days. Fair Work Australia must be satisfied that the union or employees seeking the ballot have made genuine attempts to negotiate with the employer. The order for a ballot will include details of the types of employees who are to be balloted, the timetable for the ballot and the questions to be put. In most cases a postal ballot is conducted by the Australian Electoral Commission. A ballot is successful if at least 50 per cent of those eligible to vote actually voted, and more than 50 per cent voted in favour of the action.

‘Sickies’, or ‘mental health days’, are part of the Australian workplace culture. A recent survey by Gallup found that the main reason people take a ‘sickie’ is because they are unhappy with the style used by their manager. Employees who are unhappy at work, or do not feel adequately rewarded or appreciated use the ‘sickie’ as a form of hidden revenge.

The Australian Bureau of Statistics publishes statistics on industrial disputation in Australia. The number of working days lost through industrial disputation has decreased over the last 20 years or so, as can be seen in the following figure, largely due to the trend towards enterprise bargaining.
Causes of conflict

The major causes of industrial conflict recognised by the Australian Bureau of Statistics are:

1. Disputes relating to negotiation of awards and collective/enterprise agreements. These issues include disputes about:
   - remuneration, which includes matters such as wages, allowances, entitlements and superannuation
   - employment conditions, such as working hours, leave, benefits, and other general employment conditions
   - other agreement related matters, such as job security and other causes relating to the process of enterprise bargaining negotiation.

2. Disputes relating to outside awards and collective/enterprise agreements. These issues include disputes about:
   - health and safety that relate to physical working conditions, including safety matters, and workers’ compensation provisions, protective clothing and equipment, and employee amenities
   - job security issues, such as retrenchment of employees, downsizing, restructuring, use of contractors, and outsourcing
   - managerial policy issues, such as discrimination, Award restructuring, terms and conditions of employment, promotion, discipline, personal disagreements and changing work practices. Because of the increasing emphasis on enterprise bargaining, managerial policy is the most common cause of disputes. The overwhelming number of disputes relate to the negotiation and implementation of employment conditions, and the attitude of management during that process.
   - union issues dealing with matters that relate to employer approaches to the union, inter-union and intra-union disputes (demarcation disputes), sympathy stoppages in support of employees in another industry, and recognition of union activities
   - other non agreement related matters, including political or social protests, such as the Green Bans: bans imposed by trade unions on any development that is considered harmful to the environment or an area of historical significance.

Protected and unprotected action

Commonwealth employee relations legislation distinguishes between protected and unprotected industrial action. Protected industrial action is considered to be a legitimate tactic in pursuit of claims in a new enterprise agreement and will usually occur during the process of negotiating that new agreement. For strike action on the part of employees to be protected, the union involved must conduct a secret ballot of members, the majority must vote in favour of the action, and the employer must be informed of the proposed action at least three working days in advance.

If the action by either party is considered to threaten the wider economy, or other businesses which have a commercial relationship with the organisation

**Did you know?**

Staff turnover costs Australian businesses $100 billion a year in lost productivity and training and recruitment costs, according to research. Staff turnover is currently running at 18 per cent overall and at 40 per cent for workers in their twenties. According to Exit Info, which interviews employees about to leave their jobs, one in five cite poor management as the main reason behind their resignations.

**Green Bans** are bans imposed by trade unions on any development that is considered harmful to the environment or an area of historical significance.

Protected industrial action refers to action taken by either party to a dispute that has been approved by Fair Work Australia.
involved in the dispute, Fair Work Australia can order the end of the action, and set up a conciliation process to resolve the dispute. If the conciliation fails to resolve the dispute, Fair Work Australia can determine a solution through a process of arbitration.

Industrial action that takes place before the expiry date of the previous agreement is considered to be unprotected industrial action; therefore, unlawful. Strike action taken without a proper warning is also unprotected. Either party taking unprotected action may be subject to legal action before the Fair Work Division of the Federal Court, which can order the payment of compensation or impose fines.

Unprotected industrial action refers to action that has not been approved by Fair Work Australia.

### Paramedics in dispute over pay and conditions

In March 2014, Victorian paramedics working in Victoria’s ambulance service voted to increase work bans and to hold a series of stop-work meetings across the state as part of a pay dispute with the state government. The bans have been approved by Fair Work Australia as protected industrial action. This new industrial activity was expected to include paramedics allowing journalists to ride in ambulances with them, to report first-hand on the pressures of their work. Their campaign has included wearing special campaign T-shirts while attending to emergencies and displaying campaign messages on ambulances.

Negotiations over a new enterprise agreement for paramedics had been underway since August 2012 between the ambulance employees union and the state government and Ambulance Victoria. The union was demanding a pay rise of 30 per cent over three years. An offer of 12 per cent over three years had been made in November 2013, but this was rejected by the union. The offer came with a number of conditions, including cutting back on working conditions that the paramedics believed would reduce safety and their work effectiveness.

Steve McGhie, state secretary of the union expressed his concern at the unwillingness of the employers to negotiate seriously with the union over pay and conditions. He said that his members wanted to send a strong message on the issue.

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### TEST your understanding

1. Differentiate between a strike and a lockout.
2. Unscramble the following terms, and then use each of them in a sentence to explain their meaning.
   (a) tpikce enil
   (b) krwo snab
3. Outline the main causes of industrial conflict.
4. Explain why industrial disputes over ‘managerial policy’ are the most common in Australia when compared to the other causes of industrial conflict.
5. Under what circumstances will industrial action be ‘protected’ under current legislation?
6. Describe the steps that Fair Work Australia could take to deal with unprotected industrial action.
7. Read the case study above. What management skills would have been needed to solve the dispute that arose at Ambulance Victoria?

### APPLY your understanding

8. Jules works for Empire Engineering. His union is currently negotiating a new enterprise agreement with the employer, but negotiations are not going well. The union wants to arrange for the employees to take industrial action in the near future.
   (a) What type of action might the employees take?
   (b) What might they hope to achieve by taking this action?
   (c) What has to happen for this action to be ‘protected’?
   (d) Three other businesses which rely on Empire Engineering for supplies are concerned that industrial action at that company will affect their businesses. What can they do to address the problem?
All enterprise agreements must contain dispute resolution procedures to gain the approval of Fair Work Australia. If the relationship between the employer and the employees and their representatives is likely to be hostile, these procedures are likely to be very formal, with strict procedural rules and clearly defined roles for the employer, employees, unions, employer organisations and any third parties that may be brought in to assist with the resolution. Where the workplace relationship is positive, through a consultative or participative culture, disputes can often be resolved informally through discussions between the local employee representatives and human resource management without any involvement of external third parties. In the case of an autocratic management style, more formalised dispute resolution methods are likely to be preferred.

**Negotiation**

Negotiation is the least formal method of dispute resolution, in that it involves direct discussions between the parties, without the involvement of external third parties. This method is likely to be most effective when the employer utilises a consultative or participative management style, and possesses the interpersonal and communication skills to be able to negotiate a suitable compromise solution.

**Mediation**

Mediation is a more formal method of dispute resolution, in that it involves the assistance of a third party. The third party assists the parties in dispute to work towards their own agreement, but will usually not offer suggestions or solutions, preferring to allow the parties to develop the agreement in their own terms. The third party may either be independent and agreed on by key parties in a dispute, or a representative from a business, tribunal or government agency, such as the Human Rights and Equal Opportunity Commission.
6.9 Resolution of conflict

Grievance procedures

A grievance procedure provides an orderly system whereby the employee and employer can resolve matters relating to complaints about wages, hours, working conditions or disciplinary action.

**DID YOU KNOW?**

Around 84 per cent of workplaces with over 20 employees have formal grievance procedures, and these procedures are used all or most of the time.

**DID YOU KNOW?**

The main difference between conciliation and arbitration is that in conciliation you own the solution whereas in arbitration the solution is imposed on you. Both sides will be more committed to the success of a conciliated result, while an arbitrated solution is more likely to have a winner and a loser, resulting in dissatisfaction on one side.

**Dispute resolution at Fair Work Australia**

Fair Work Australia is the national independent workplace relations tribunal and can help parties resolve workplace disputes in a variety of ways, particularly through conciliation, mediation and, in some cases, arbitration. In a conciliation at Fair Work Australia, a tribunal member (or a member of staff trained as a conciliator for unfair dismissal matters) brings both sides together, either in person or over the phone, and attempts to help them reach an agreement. This may include assisting to clarify the issues, asking the parties to continue negotiations and report back, or developing strategies to resolve the dispute. Mediation is a similar process, but the tribunal member may take a less proactive role than they would in conciliation. Depending on the type of workplace dispute, conciliation and mediation at Fair Work Australia may be voluntary or compulsory.

In some circumstances, a dispute may be referred to Fair Work Australia for arbitration by a tribunal member. Arbitration at Fair Work Australia involves a tribunal member considering the arguments of each side and, unlike conciliation or mediation, making a decision that resolves the dispute. Examples of when Fair Work Australia may arbitrate a dispute include where it is authorised to do so under an enterprise agreement or where an employee has been unfairly dismissed. An arbitration is similar to a court hearing, with each side presenting their case, calling and cross-examining witnesses and, sometimes, being represented by a lawyer or advocate. A member of Fair Work Australia conducts the hearing and, at its conclusion, makes a decision that is legally binding on all parties.

**A typical formalised grievance procedure**

Employee and/or representative present complaint to supervisor

Dissatisfaction? Resolved?

Complaint is handled by middle management in meeting with employee and/or representative

Dissatisfaction? Resolved?

Meeting of employee and/or representative with top management representative and/or grievance committee

Dissatisfaction? Resolved?

Matter referred to external conciliation or arbitration by parties involved

Grievance procedures are a formalised set of steps which can involve management, local union representatives and/or external advisors. Since the introduction of enterprise bargaining, most organisations have established a formal process by which issues can be handled. Around 70 per cent of managers are involved in grievance handling and cite the most common issues as being personality conflicts, allowances/pay and discipline.
A HR Manager must have a thorough understanding of workplace laws and procedures. Fair Work Australia (FWA) is the national workplace relations tribunal. Dispute resolution is one of FWA’s functions.

**Common law action**

Legal action before the courts is open to any party involved in or affected by industrial action. Parties may make direct claims for damages caused by the parties taking the action, or for breach of contract resulting from such action. Legal action arising from employee relations issues is usually heard in the Fair Work Division of the Federal Court. If the industrial action is protected during a bargaining period, the parties taking the action cannot be sued through the courts. Taking legal action would be considered a ‘last resort’, when all other avenues have been exhausted.

Any business seeking to operate under a consultative or participative management style would tend to avoid this method of resolving conflict, as it is likely to prolong hostility and mistrust in the workplace.

**TEST your understanding**

1. Explain the differences between negotiation, mediation and conciliation as alternative means of resolving industrial conflict.
2. Why do around 84 per cent of workplaces with more than 20 employees have established grievance procedures?
3. Explain the conciliation and arbitration procedures utilised by Fair Work Australia.

**APPLY your understanding**

4. Identify the term used to describe the way in which the following disputes have been resolved:
   (a) A third party is called in to assist the employer and employee to work towards a mutually beneficial solution themselves.
   (b) A Fair Work Australia tribunal member orders Sener Sofas to reinstate 12 workers who were sacked last month.
   (c) Millar Machines finally reaches agreement with the union after regular meetings with a Fair Work Australia tribunal member and the union. The tribunal member actively works with all parties, helping them to reach a solution.
   (d) Lafitani is fed up with his workmates playing practical jokes on him. He complains to Rhonda Pok, his supervisor, who records the complaint and, because it is serious, takes it to the company’s group specially established to help deal with such problems.
APPLY YOUR SKILLS: Workplace-level grievances

PRACTISE YOUR SKILLS

- apply human resource management knowledge and concepts to practical and/or simulated situations
- evaluate different practices and processes for managing human resources.

Workplace conflict — how to extinguish the flame and avoid a fire

When an employee has a grievance it means they have a complaint about a situation in the workplace they perceive as unfair. It may be a situation where the employee feels they are working in an unsafe environment. For example, an employee grievance was soon referred to the union when management ignored the complaints made by female employees who constantly tore their stockings on the old wooden furniture in the office. This issue finally came to a head when an employee suffered from a splinter under her kneecap. The frustrated employee went to her union and that was the catalyst for management to agree to purchase new furniture.

Research has shown that a manager’s skill in averting the escalation of such workplace disputes is critical. According to a senior human resource management executive at ANZ, encouraging communication and listening to staff is one way to avert potential problems in the workplace. He says: ‘What we have done quite consciously is to build better communications with our staff — direct relationships face to face with our staff for matters that affect them in the workplace and there is no substitute for that’. Supervisors and HR managers are recommended to approach grievances in the first instance at the workplace level in the following way:

- Treat the grievance seriously and in private.
- Listen to what the employee is saying.
- Establish exactly what the problem is.
- Identify the source or sources of dissatisfaction.
- Remain calm. Lost tempers and accusations can only escalate bad feeling.

• Research has shown that a manager’s skill in averting the escalation of such disputes is critical.
Dealing with bullying in the workplace is one conflict that needs to be handled carefully. Bullying may take the form of yelling, offensive language, excluding or isolating employees, giving employees impossible tasks to perform or assigning them meaningless tasks. A 2010 Productivity Commission report found the total cost of bullying and harassment to be about $14.8 billion a year. In 2010, a case of bullying in the workplace was decided in the Magistrates’ Court against the owner of Cafe Vamp in Hawthorn. The owner pleaded guilty to failing to provide and maintain a safe working environment, and the company was fined $220,000. In this case, bullying resulted in a waitress committing suicide. Managers have a legal and a moral obligation to ensure that bullying is appropriately dealt with in the workplace. Education about bullying is one step in the right direction, and ensuring that proper grievance procedures are in place to handle bullying complaints when they occur can help avert a crisis.

After the manager has heard the grievance, some time should be set aside for establishing the facts. This could mean visiting the workplace to see firsthand what the problem is and talking to witnesses that the employee has identified. Lengthy delays in responding to the employee grievance should be avoided and a decision, once made, must be communicated. The reason behind the decision should be clearly articulated. It is considered unhelpful to just pass off the decision by saying to the employee that it is ‘management policy’.

The procedure described is based on the concept of natural justice, which means that employees must be given a fair hearing and that decisions should be made without bias.

**TEST your understanding**

1. Why is the manager’s skill in resolving disputes at the workplace level crucial in avoiding the escalation of an industrial dispute?
2. Explain why a manager who adopts an autocratic management style may find it difficult to resolve disputes at the workplace level.
3. Explain the steps a manager should take when confronted with an employee grievance in the first instance at the workplace level.

**APPLY your understanding**

4. Read the following scenarios and identify in each case:
   (i) why the dispute was not resolved adequately
   (ii) what skills the manager lacked.
   A. Jennifer told her manager that the new procedure for ensuring the customer received product within 24 hours meant that she consistently had to miss lunch. Her manager said that it was a cost-effective way of losing weight and laughed it off.
   B. Tran told his manager that he wanted to talk to him because he thought the equipment he was using was dangerous. Tran’s manager said he was more than happy to talk about it, but that it would have to wait at least three weeks because he was so busy. He also added that it has never been a problem in the past.
   C. Tough cost cutting at the firm meant that John had to pay for his own tea and coffee. John thought that this was ridiculous and spoke to his manager. John’s manager informed him that it was just ‘tough luck’, and that he couldn’t do anything about it because it was a decision made by head office.
   D. Geoff wants to talk to his manager about a coworker who constantly has personal telephone conversations and will not lower her voice. Geoff’s manager said: “You’re a big boy, I’m sure you can handle it yourself.”
   E. Trina wanted to ask her manager for a pay rise. She felt that she had worked very hard, and it was time that her manager acknowledged her efforts. Trina’s manager organised a time to meet and discuss the issue. He listened to everything Trina had to say, and then exploded, saying that Trina was lucky to get the pay she got and should be thankful she has a job in the current economic climate.

5. Choose one of the scenarios from question 4 and conduct a role play demonstrating the appropriate way workplace level grievances should be handled.
**KEY CONCEPT** Learning to negotiate effectively is a skill that all managers should aim to refine, especially now that working conditions and pay are increasingly being negotiated at the enterprise or workplace level.

### The importance of negotiation in employee relations

If you have ever convinced someone to give you what you want, even though they may not have wanted to, you will have used your negotiation skills. Negotiation is a process where one party (such as a union), asks for something (for example, change to work hours) from another party (such as a manager). With the move towards a more decentralised employee relations system, the human resource manager and other managers increasingly have to negotiate with their employees. The employer and employee may negotiate on a range of issues, some of which might include:

- benefits
- date when employment is to commence
- compliance with HR policies, such as equal employment opportunity policies
- hours of work
- standards of performance
- termination procedures
- overtime
- pay
- probationary periods.

### The negotiation process

Effective managers will understand that negotiation is a process, such as the one shown in the figure below. The negotiator must understand not only what they want to achieve but how they want to achieve it.

#### Effective negotiators

Research suggests that the skills required to be an effective negotiator include:

- **Communication** — listening and asking questions, providing information and demonstrating empathy.
- **Preparation** — knowing that negotiation is a process and preparing and anticipating how a meeting might proceed puts the negotiator in a strong position.
- **Problem solving** — creatively looking for the most effective ways to solve problems. In today’s economic climate, some creative solutions are being negotiated to find deals that are right for both the employer and employee (such as the one in the following article).

Research has also found that the following attributes are important when negotiating:

- **Trustworthiness** — the negotiator must try to build trust and maintain goodwill towards the person or persons they are negotiating with.
- **Adaptability and flexibility** — a willingness to listen to the opinions and ideas of others, change previously held views, and look for new approaches and solutions to help reach agreement.
Preparing for enterprise agreement negotiations

A successful enterprise agreement is like a well-constructed building. It is essential to lay firm foundations before the bargaining process begins. The following steps provide a useful guide:

1. Be aware of when the current agreement expires, so that you allow an adequate period of time to prepare for a new round of negotiations. Remember that you may need to consult with other stakeholders and model a variety of different proposals during the negotiation process.

2. Ensure that you have a clear grasp of the strategic plan for the business over the period of the next agreement and beyond.

3. Use the strategic plan as a measuring stick for any proposed inclusions in the agreement. Your agreement must be consistent with your plan, or flexible enough to allow for future change.

4. How well do you understand the priorities of your employees? A successful negotiation will recognise the issues of greatest importance to them.

5. The financial implications of all proposed inclusions need to be tested against budget expectations to ensure they are feasible.

6. All stakeholders need to be fully aware of the process and comfortable with the business strategy.

7. A strategy that clearly separates the non-negotiable items from the negotiable items is essential.

8. All those involved in the process should be well-versed in the legislative requirements, and have the necessary negotiating skills.

9. Communication is fundamental at all stages to maximise employee confidence in both the process and the final outcomes.

10. Bargaining should be seen as part of an ongoing employee engagement process. At the conclusion of negotiations seek feedback from all participants to determine their successes and lessons for the future. Ensure all details of the final agreement are thoroughly communicated to all stakeholders. Setting clear priorities, thorough planning and maintaining clear lines of communication are the keys to a successful bargaining process.

Preparations for the negotiation process should start long before the expiry date of the current agreement.

• Communication is fundamental at all stages . . .

TEST your understanding

1 Why is being able to negotiate even more important considering we have moved to a more decentralised employee relations system?

2 Define 'negotiation'.

3 To be an effective negotiator, what skills are important?

4 Give four examples of the types of things that may be negotiated between an employer and an employee.

EXTEND your understanding

5 Read the following scenario. Role play the negotiations that take place between management and the union regarding Mark’s work. Remember to prepare well for your negotiation and know your objectives, strategies and tactics.

Mark worked for a large supermarket chain, packing shelves. In the past, he could always be relied on to turn up to work on time and put in a good day’s work. However, over the last two months he has had a lot of time off. His coworkers have had to make up the work that he has not completed and there have been several occasions when Mark has lost concentration on the job and has said that he feels ill and needs to go home. It’s getting to a point where the other workers are fed up and their employer feels he is paying a wage but no work is being done in return.

6 In what way can each of the 10 tips above contribute to a win-win for both parties in a negotiation process?

7 Why is a win–win attitude important for negotiation in today’s workplace?
CHAPTER 6 review

Summary

Relationship to business objectives and business strategy
- Employee relations deals with all the aspects of the relationship between employers and employees.
- Employee effectiveness can be enhanced by ensuring that employment agreements are linked closely to the organisation’s strategic objectives.
- Changes in work practices and retraining of staff may be necessary inclusions in an employment agreement linked to achievement of business objectives and strategy.

Stakeholders in the employee relations process
- Employers and employees are the major stakeholders in employee relations processes.
- Unions, employer organisations, peak bodies and government are all key stakeholders that strongly influence the relationship between employers and employees.

Historical background to employee relations in Australia
- Throughout most of the last 100 years, Australia has had a highly centralised employee relations system.
- Legislative changes over the last 20 years have led to decentralisation of employee relations, although the nature and extent of this decentralisation has been the subject of considerable political debate.

Decentralised and centralised approaches
- A centralised system of employee relations is one in which central tribunals decide the wages and employment conditions of all employees.
- A decentralised system is one in which direct negotiations occur between an individual employer and either individual employees, groups of employees or the representatives of those employees.

Industry-wide Awards, collective agreements and individual agreements
- Modernised Awards now provide only a safety net of minimum conditions.
- Collective agreements are now the key instruments for employees to gain improved pay and conditions in return for improvements in productivity.
- Individual agreements apply in only a minority of workplace situations, and must conform to Award standards.

Role of HR managers under a decentralised approach
- As human resource managers negotiate employment agreements, they need to be aware of relevant Awards, ensure that all parties are kept informed, check that a completed agreement meets legislative requirements, and arrange lodgement with Fair Work Australia.
- Implementation of employment agreements may involve regular monitoring, training of fellow managers and other employees, and dealing with any disputes that may arise.

Management styles and skills in employee relations
- Using a responsive and cooperative approach is likely to achieve greatest success in the performance of the human resource manager’s role.
- Successful employee relations depends on both the management style, and management skills of all managers and supervisors in an organisation.

Conflict in employee relations
- Even with the most positive employee relations environment, conflict between employers and employees can still occur, leading to industrial action by either employees or employers.
- Decentralisation of employee relations has led to a general decrease in the number of days lost to industrial disputation in Australia.
- For industrial action to be protected, a number of legal requirements must be met prior to the action occurring.

Resolution of conflict
- There are a variety of avenues available for the resolution of conflict in the workplace.
- The successful resolution of conflict will often depend on the management styles and skills of management, particularly human resource managers.
Review questions

TEST your understanding

1. Outline a step-by-step process for ensuring employee relations processes are linked to business objectives and strategy.
2. Group the various stakeholders in employee relations according to whether they are part of the internal, operating or macro environment of an organisation.
3. Explain how federal government legislation since 1993 has transformed the employee relations system from a highly centralised to a more decentralised system.
4. Compare and contrast the centralised and decentralised systems of workplace relations.
5. Outline the major advantages and disadvantages of both the centralised and decentralised employee relations systems.
6. Explain how the Award modernisation process has changed the nature of industry-wide Awards.
7. List and explain the 10 National Employment Standards.
8. Give three examples of additional matters that can be included in workplace agreements.
9. Under what circumstances might Fair Work Australia not approve an enterprise agreement?
10. List and explain the key steps that should be followed by a human resource manager in the negotiation of an enterprise agreement.
11. Outline the matters that must be considered by a human resource manager in implementing an enterprise agreement.
12. Compare and contrast the impact on employee relations of an autocratic management style, a consultative management style and a participative management style.
13. Explain the difference between protected industrial action and unprotected industrial action.
14. In what ways can management style influence the methods selected to resolve industrial conflict?

APPLY your understanding

15. Read the Gippsland Water case study and answer the questions that follow.

Gippsland Water

In the mid-1990s five small water authorities were amalgamated to create Gippsland Water. It was not a very happy marriage. There was very little communication between management and staff, and any decision was greeted with suspicion. When he took over as CEO in 1997, John Mitchell saw an urgent need for change. Staff turnover was running at 43 per cent — a sure sign of an unhealthy organisation. Within 18 months, the turnover had dropped to 1.7 per cent. A five-year strategic plan was developed with input from a cross-section of employees; there was better teamwork and opportunities for training, and new lines of communication across all levels of the organisation. Management, employees and the unions established an ongoing commitment to productivity improvement, with a genuine partnership approach in the negotiation of enterprise agreements.


(a) What evidence is there that Gippsland Water has linked its employee relations objectives to its business strategy?
(b) Describe the relationship that exists between three different stakeholders at Gippsland Water.
(c) Identify two advantages of a decentralised employee relations system that have worked to the advantage of both employees and management at Gippsland Water.
(d) Which methods of conflict resolution would you expect to be most commonly used at Gippsland Water? Justify your choice.
Exam questions

**Question 1**
(VCAA Business Management exam 2010, question 6)

Allen's Advertising Agency has recently employed six graduates. After six months, three of the graduates have resigned due to low job satisfaction.

d. The Human Resource Manager needs to employ three new graduates. Discuss the selection processes that could be used to ensure that the new staff meet the needs of the organisation.

5 marks

**Question 2**
(VCAA Business Management exam 2006, question 4)

**NURSING STAFF CLAIM WAGES SITUATION TERMINAL**
*Newton Morning Express* — 20 October 2006

Nursing staff at Newton Hospital are upset that their pay and conditions of employment have fallen considerably behind their colleagues at other hospitals and also the international benchmark. They are concerned that the vision of the hospital, to provide quality service, will be undermined if this situation is not corrected. The nurses are considering industrial action to persuade management to improve their pay and working conditions. Currently, the nurses are under the Victorian Nursing Award. They have requested that management negotiate an enterprise agreement, with equal representation of management and employees in the enterprise bargaining process. However, HR Management has informed the employees that they will retain the Award system and that, in fact, their pay and conditions are well above the national average.

a. Compare and contrast the decentralised and centralised systems of workplace relations.

4 marks

c. Identify and explain an appropriate management style that could be used in implementing enterprise bargaining within this workplace.

3 marks

School-assessed coursework

**OUTCOME 1**
*Analyze and evaluate practices and processes related to human resource management.*

**ASSESSMENT** task — structured questions

- **Time allowed:** 50 minutes
- **Marks allocated:** 20 marks (the marks for each question are indicated at the end of each question)
- **Conditions:** closed book (no notes or textbooks may be used when completing this task)
Read the case study and answer the questions that follow.

**Impending strike action**

Members of the Manufacturing Workers Union employed at Supa Dupa Foods Ltd yesterday voted to take strike action, if they have received no response to their log of claims for a new enterprise agreement by the end of the work week.

A union spokesman claimed that although an offer had been received from the company in June, company representatives had not been prepared to enter into negotiations to develop a new agreement, and the current agreement was due to expire at the end of this month.

‘The company’s offer is completely unacceptable to our members employed at the Dandenong factory,’ the spokesman said. ‘They have only offered a 2 per cent pay rise for each of the next three years, and have not responded to our superannuation claims.’

The union spokesman went on to claim that the workforce had achieved productivity gains of over 6 per cent per year over the last two years, and that the company had made record profits over the last three years.

It is understood that the union is seeking a 5 per cent pay rise per year over the next three years and an increase of employer contributions to the employees’ superannuation from 9 per cent to 12 per cent.

Mr James Moore, HR Manager for Supa Dupa Foods, described the union’s claim as excessive. He claimed that the company could not afford to meet the union demands.

Spokespeople for both Coles and Woolworths last night expressed concern at the possible impact of the proposed industrial action on the supply of a variety of food lines to their supermarkets.

1. Which type of industrial dispute is occurring at Supa Dupa Foods? 1 mark
2. Outline two matters, other than those mentioned above in the Supa Dupa Foods dispute, that are permitted to be included in an enterprise agreement. 2 marks
3. What must the union do to ensure that any strike action taken by the workers at Supa Dupa Foods is protected action? 2 marks
4. Identify and explain two possible means of resolving the dispute that have not yet been used by the parties. 2 marks
5. Describe two advantages of a decentralised industrial relations system, and give examples. 3 marks
6. Describe two disadvantages of a decentralised industrial relations system that are particularly relevant to this dispute and explain why each of these disadvantages is relevant in this case. 3 marks
7. If the parties cannot reach agreement, name the organisation that could become involved, and explain the processes that organisation could use to arrive at a resolution. 3 marks
8. Assuming a level of trust could be established, identify and explain a step-by-step process the human resource manager could use to negotiate a new enterprise agreement. 4 marks