CHAPTER 4
Human resource management — managing employees and workplace relations

4.1 Overview

4.1.1 Why it is important

1-Stop is an Australian Information and Communications Technology company that produces solutions for businesses operating in the freight and logistics area. In particular, it supplies shipping and port operators with IT products that allow for improved efficiency in the movement of cargo and containers. The company has twice been recognised in the Australian Business Awards as an Employer of Choice, most recently in 2017. The company employs 77 people from a variety of different countries, and most of them have a high level of IT expertise. Because of ongoing change in the IT industry, employees are constantly in need of upgrading skills and undergoing training and professional development. The company encourages its employees to continually improve skills by offering both leave and financial support to those employees wishing to engage in further training. When employees and management discuss performance targets each year, training and performance management of the employee is a central part of those discussions. Improving and upgrading employee skills is an essential part of achieving the business objectives of remaining at the cutting edge of the freight and logistics support industry.

When you learn about the management of employees in this chapter, you will be studying how businesses train employees, manage the performance of employees and manage termination, as well as gaining an overview of workplace relations.

TRAINING AND RETAINING STAFF AT acQuire TECHNOLOGY SOLUTIONS

Perth-based acQuire Technology Solutions is an employee-owned company that provides a geoscientific information management system to companies operating in the mining and resources industry. It takes great pride in its processes of training staff and retaining them, with staff turnover a relatively low 4 per cent. It either hires geologists and trains them in the IT aspects of the business, or hires technologists with a background in IT, and then trains them in geology. Employees have their career path with the company planned three to five years in advance. Individual career needs and future succession planning are at the centre of these plans, and annual reviews help identify the next steps to be taken in each individual’s career path. All employees have access to a training levy to help fund any professional or personal development that is seen to be appropriate in benefiting both the employee and the company.
Employees are encouraged to contribute suggestions for improvement and innovation through a computerised system known as ‘Novedad’ (Spanish for ‘new ideas’). All ideas are assigned to an action officer, who has the responsibility for evaluating them and making recommendations to management. Novedad also provides a forum for other employees to have input into any new suggestions, often allowing for additional ideas to refine and improve the original concept. The company also makes use of a job satisfaction calculator to measure the level of employee satisfaction with their current role, and balance this with their anticipated career path. In completing this calculator, employees allocate 100 points across five employment categories, in terms of current position compared to their ideal job. Scores are discussed with mentors who work with the employee to take action where necessary.

The company has in place a number of strategies to support maximum use of employee skills, and to reinforce the strong desire to retain valued staff. Flexible working hours allow staff to come and go as they please. There are no time clocks as employees are trusted to put in the necessary time to complete their assigned duties. Staff are also able to work from home if they have a reliable internet connection. Profit sharing also forms part of the company’s commitment to retaining staff, with eligible employees able to access shares in the company after three years of service.

4.1.2 What you will learn

Key knowledge

Use each of the points below from the VCE Business Management Study Design as a heading in your summary notes.

- Training options including on-the-job and off-the-job training, and the advantages and disadvantages of each
- An overview of the dispute resolution process including grievance procedures, mediation and arbitration
- Awards and agreements as methods of determining wages and conditions of work
- Performance management strategies to achieve both business and employee objectives, including management by objectives, appraisals, self-evaluation and employee observation
- The roles of participants in the workplace including human resource managers, employees, employer associations, unions, and the Fair Work Commission
- Termination management including retirement, redundancy, resignation and dismissal, entitlement and transition issues

Key skills

These are the skills you need to demonstrate. Can you demonstrate these skills?

- Define, describe and apply relevant business management concepts and terms
- Research and analyse case studies and contemporary examples of management related to managing staff in a business
- Interpret, discuss and evaluate business information and ideas
- Apply knowledge about managing employees to practical and/or simulated business situations
• Examine and apply the key principles of the theories of motivation
• Compare and evaluate strategies used for motivation and training when managing a business
• Propose and justify strategies to manage employees effectively


4.2 BACKGROUND KNOWLEDGE Overview of the employment cycle

BACKGROUND INFORMATION The employment of staff involves a three-stage cycle, consisting of the establishment phase, the maintenance phase and the termination phase.

4.2.1 The employment cycle

The employment cycle refers to the relationship between a business and its employees, from the initial decision to hire a new employee, until the time that employee eventually leaves the business. The three phases of the employment cycle are summarised in the diagram below. In Unit 3 we will look in detail at the training and performance management aspects of the maintenance phase, and at the termination phase.

The three phases of the employment cycle

1. Establishment phase
   • Staff planning in line with business strategy
   • Job analysis and job design
   • Recruitment
   • Selection
   • Employment arrangements and remuneration

2. Maintenance phase
   • Induction
   • Training and development
   • Performance management

3. Termination phase
   • Termination management — voluntary and involuntary
   • Entitlement and transition issues

The establishment phase

The establishment phase involves the planning of staffing needs, the recruitment and selection of staff, and the determination of employment arrangements and remuneration. These were covered in detail in Unit 2 of the Business Management course.

Planning

The staff planning process begins with the identification of staffing needs. This may involve increasing the number of employees who carry out existing functions within the business, or identifying new tasks that need
to be performed, and the particular skills that will be needed to perform those tasks. In either case a process of job analysis is carried out. This usually consists of two parts:

1. Job description: the duties, tasks and responsibilities associated with the job.
2. Job specification: the qualifications, skills and experience that an employee would need to have to carry out the job.

Recruitment
Recruitment is the process of attracting suitable applicants to the position, using advertisements, employment agencies and word of mouth. A business may choose to recruit externally, which involves bringing in a new employee from outside the business. Alternatively, it may choose to recruit internally, which usually involves transferring an existing employee into a new position, or promoting an existing employee into a position of greater responsibility.

Selection
This is the process by which the most suitable applicant is chosen to fill the position. It can involve all or any of the following:

- requiring applicants to provide detailed information on an application form
- carrying out interviews
- various forms of testing, including aptitude testing and psychological testing
- examining references and other background checks.

The applicants will then be ranked, with the highest ranked applicant offered the position. If that person does not accept the offer, the next highest ranked applicant can be approached.

Employment arrangements and remuneration
Employment arrangements can include ongoing permanent employment, casual employment or fixed-term employment for a designated period of time. Remuneration refers to the payments made to the employee. Most industries are governed by Awards, which establish a minimum set of wages and conditions for employees. Employers may choose to pay above this minimum and, as outlined in chapter 3, they may also build in a variety of additional financial incentives for employees.

The maintenance phase
This phase covers the period of time during which the employee actually works for the business. It involves induction, training and development, and performance management.

Induction
This is a process of acquainting the new employee with the business — its history, structures, objectives, culture, policies and practices. It also involves ensuring that the new employee has full knowledge of the tasks and responsibilities associated with their new job. If the new employee is to become a new member of an established team, it is important that the employee be given opportunities and time to get to know other members of that team. One or more existing team members may take on the responsibility of mentoring the new employee. This aspect of the maintenance phase was covered in Unit 2.
Training
On various occasions in the employee’s time with a business, new processes may be introduced, or the employee’s duties may otherwise change. Preparing employees for these changes will usually involve some training, to provide them with any new skills they may need. Staff training is covered in more detail in subtopic 4.3.

Performance management
All businesses seek to achieve their objectives by improving productivity, and getting the best value from employees. It is important to monitor the performance of all employees, and find ways of improving that performance over time. We have already seen how employee motivation can be a powerful driver of improved performance. Performance management strategies are dealt with in subtopic 4.5.

The termination phase
All employees will eventually leave the business. This phase involves managing the termination of the employment relationships and dealing with entitlement and transition issues. Subtopics 4.7 and 4.8 cover these issues in more detail.

Managing termination
The employment relationship may end voluntarily, when an employee retires at the end of their working life, or resigns, often to take up a position elsewhere. Departures of this nature will be managed differently from involuntary departure, such as when a position becomes redundant and the person in that job can no longer be retained; or in the case of dismissal, usually as a result of unsatisfactory job performance or unsatisfactory behaviour.

Entitlement and transition issues
An employee leaving a business may be entitled to the payment of outstanding benefits, such as accumulated annual leave, or long service leave. It is important that accurate records are kept to allow these benefits to be calculated and paid. In some cases of involuntary termination of employment, counselling and support for affected employees may be appropriate. This may include the provision of assistance to the departing employee to help them transition to a new job elsewhere.

4.2 Activities
TEST your understanding
1. Name the three phases of the employment cycle.
2. Explain the difference between a job description and a job specification.
3. Identify three possible methods of selecting the most suitable applicant to fill an employment position.
4. Explain why it is important to carry out an induction program with new employees.

APPLY your understanding
5. Peter has completed a degree in marketing and has gained employment with a real estate agency to manage their advertising, both through their website and through a section in the local newspaper.
   (a) Describe an induction process that may help Peter settle into his new position.
   (b) Following his induction, what additional training might be useful for Peter, and for his employer?
   (c) Explain how a process of performance management could benefit both Peter and the real estate business.
5. Why might an employer need to manage a voluntary termination of employment differently from an involuntary termination? Make a list of the issues that might arise with each type of termination.
4.3 Training options

**KEY CONCEPTS**
- Giving a person the right knowledge and skills to perform their job effectively is what training is all about.
- Training options include on-the-job and off-the-job training, which both have advantages and disadvantages.

4.3.1 An introduction to training

Training is aimed at improving employees’ skills and abilities — they are necessary for both personal and business growth. New employees may need training, depending on their level of experience, education and expertise. Existing employees also need training and development to continually upgrade their skills. Training is teaching staff to perform their job more productively. In addition, good quality training can also target a broader range of skills such as decision-making, planning and communicating. Employees receiving such training can be developed to take on leadership roles within the business. It is interesting to note that many employees expect their business to provide them with opportunities to grow and learn and ultimately improve their employability. Training benefits both the employee and the employer. These benefits are listed in the table below.

Importantly, a well-organised and well-presented training program develops and maintains a business’s sustainable competitive advantage. Ongoing training for all employees is becoming critical due to rapid technological change and global competition — so critical that many businesses now promote the concept of a learning organisation. A learning organisation is aware of its actions and its environment and tries to improve its understanding of the relationship between the two. All employees are involved in developing knowledge and insights that allow the business to continually grow and improve.

<table>
<thead>
<tr>
<th>Benefits of training</th>
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<tbody>
<tr>
<td><strong>Benefits for employees</strong></td>
</tr>
<tr>
<td>Opportunity for promotion and self-improvement</td>
</tr>
<tr>
<td>Improved job satisfaction through better job performance</td>
</tr>
<tr>
<td>A challenge — the chance to learn new things</td>
</tr>
<tr>
<td>Adaptability — greater ability to adapt to and cope with changes</td>
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Life is a continual learning curve — once you’ve finished VCE, you might go to university or start full-time work. In any case you will receive training to help you gain knowledge and learn skills to work productively.
Technology creates the need for ongoing training

It is the task of the human resource manager to plan for the effective introduction of new technology. Training needs must be identified well in advance of any proposed technological implementation. This will ensure change happens at a pace consistent with the capabilities and expectations of the workforce. It also means human resource managers must constantly consider the skills required by the workforce in the future. The existing workforce must be trained and, if very rapid technological change demands it, retrained within a short time. While training of employees is often expensive, it cannot be ignored. Untrained employees will often resist new technology or not use it effectively.

Most major hospitals are integrating advanced technology into their operations and thus have required training for all employees.

DID YOU KNOW?
The Australian Government Department of Education and Training operates a program known as Australian Apprenticeships Ambassadors. The Ambassadors are all people who have successfully completed an apprenticeship, and many are available to speak about their experiences at functions or events, all promoting the advantages of job training. They include young people from a huge variety of trades, as well as high profile names such as AFL legend Kevin Sheedy, who originally trained as a plumber; Scott Cam, presenter of *The Block* on TV and a trained carpenter; and celebrity chef Neil Perry.

4.3.2 Training options

Employers have a number of different options available to them. Generally these fit into two categories: on-the-job training and off-the-job training.

**On-the-job training**

On-the-job training occurs when employees need to learn a specific set of skills to perform particular tasks in the workplace. This training usually occurs within the working environment, and uses the equipment, machinery and documents that are present in that workplace. It may occur while the employee is performing their regular duties, or it may occur at their regular workstation. Training may be provided by an experienced co-worker, or by a leader or manager with particular or specific expertise. Managers and leaders can ensure that the culture and strategies of the business are passed on to employees. Sometimes external providers are brought in to the business to provide training. This can apply when new equipment is being introduced, and the supplier of the equipment runs training sessions for employees who will be using the equipment. It can also apply when a business makes use of new software.
Advantages and disadvantages of on-the-job training

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
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<tbody>
<tr>
<td>It is the most cost-effective alternative, as no travel expenses or other costs are incurred.</td>
<td>The quality of the trainer may vary — not everyone has the ability to teach others.</td>
</tr>
<tr>
<td>Employees are often actually working while training, so are more productive.</td>
<td>Bad habits of older staff may be passed on to younger employees.</td>
</tr>
<tr>
<td>Trainees use the actual equipment that is required to do the job.</td>
<td>The learning environment may be noisy, with distractions from other work activities.</td>
</tr>
<tr>
<td>Employees are in a familiar environment, with colleagues they are used to working with.</td>
<td>If real tools and equipment are used, it may disrupt production.</td>
</tr>
<tr>
<td>Immediate feedback from more experienced colleagues is available.</td>
<td>The trainer may have to leave their own duties to carry out the training.</td>
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Off-the-job training

The conduct of training away from the workplace is known as **off-the-job training**. It usually involves sending individuals or groups of employees to a particular specialised training institution. This may be a university or TAFE college, where employees can gain a recognised qualification that will assist them in performing more effectively and efficiently at work. It may be a specialist provider, with particular knowledge relevant to an industry, type of equipment or product. For example, the Institute of Chartered Accountants offers special courses in a range of financial issues for employees in the finance industry.

Advantages and disadvantages of off-the-job training

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Availability of a wider range of skills and qualifications than those in the workplace</td>
<td>May be too theoretical without access to workplace tools or equipment</td>
</tr>
<tr>
<td>Outside experts and specialists can provide broader experiences.</td>
<td>More expensive, with fees charged, travel costs, etc.</td>
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<tr>
<td>Usually more structured and organised, with clear assessment processes</td>
<td>Lost working time while the employee is absent from the workplace</td>
</tr>
<tr>
<td>Can provide a formally recognised qualification for employees</td>
<td>Employees with an externally recognised qualification may be tempted to leave to find a better job.</td>
</tr>
<tr>
<td>Can be more intense without workplace distractions for both trainer and trainee</td>
<td>May not relate directly to the exact skills required in the workplace</td>
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EXAM TIPS

- The outcome for **Unit 3, Area of Study 2** states that you need to ‘analyse and evaluate strategies related to the management of employees’. This suggests that you should know the advantages/strengths and disadvantages/limitations of on-the-job and off-the-job training. The task word ‘analyse’ will require you to identify the main features of each training option and then most likely how they relate to a situation in a business. The task word ‘evaluate’ generally requires you to consider both sides of something, and then provide an overall conclusion or judgement related to which argument is the more persuasive and why.

- The key skills for **Unit 3, Area of Study 2** state that you need to ‘compare and evaluate strategies used for … training when managing a business’. This suggests that as well as knowing the advantages/strengths and disadvantages/limitations of each training option (and being able to then provide an overall conclusion or judgement related to which argument is the more persuasive and why), you should also be able to comment on the similarities and differences between each strategy.
4.3.3 Training to develop employees

Development refers to the process of providing employees with better knowledge and skills as they gain more experience in their position in the business. A key role of training is to develop the skills that will allow employees to take on greater responsibilities in the future. In the early stages of an employee’s career, the focus may be on gaining qualifications. As they move from one employment area to another, younger employees focus on experiencing a variety of roles to determine their interests and talents. Later, developing specialist or managerial competencies may become important as employees move into senior positions.

Programs aimed specifically at training effective managers may focus on the use of:

- **job rotation** — the employee experiences many different aspects of a business. For example, a manager may move from one section of the business to another, taking with them their management skills and applying them to a different situation.
- **mentoring** — a mentor acts a bit like a coach, supporting the employee as they learn. The employee is able to gain from the experience and skills of another person in the business.
- **formal business training** — this may be done through programs such as the Masters of Business Administration (MBA).

Closely related to developing staff is the concept of succession planning. Succession planning is ensuring that there are managers in the business who can step into senior management positions, if for some reason a vacancy occurs.

DID YOU KNOW?

Training at the communications company Motorola is high on the agenda. Every Motorola employee must complete at least 40 hours of training a year.

4.3 Activities

TEST your understanding

1. Explain the purpose of training within a business.
2. Outline how training and development can benefit both the employee and the employer.
3. Outline why advances in technology create a need for the ongoing training of employees within a business.
APPLY your understanding

4. What are the benefits to a business of promoting a ‘learning organisation’ concept?
5. Use the Succession planning weblink in the Resources tab to define succession planning and state why many businesses undertake succession planning.

EXAM practice

6. Distinguish between on-the-job and off-the-job training. (3 marks)
7. Virginia has purchased new IT equipment to track the receipt, processing and despatch of orders for her online fashion business. She needs to train her employees to use this system.
   (a) Discuss the use of on-the-job-training to achieve this. (2 marks)
   (b) Discuss the use of off-the-job training in this case. (2 marks)
   (c) Which method would you recommend, on-the-job or off-the-job training, in this situation? Provide a reason for your answer. (3 marks)

Resources

- Weblink: Succession planning 1
- Weblink: Succession planning 2

4.4 APPLY YOUR SKILLS Comparing and evaluating training strategies

PRACTISE YOUR SKILLS
- Define, describe and apply relevant business management concepts and terms
- Research and analyse case studies and contemporary examples of management related to managing staff in a business
- Interpret, discuss and evaluate business information and ideas
- Apply knowledge about managing employees to practical and/or simulated business situations
- Compare and evaluate strategies used for motivation and training when managing a business
- Propose and justify strategies to manage employees effectively

TIME OFF FOR THE BUSINESS OWNER

Many small-to-medium business owners find that the running of the business is so dependent on their day-to-day presence, that they can barely afford to be out of the office, let alone take time off for a holiday. Hector Henriquez runs a signage business called Visual Graphics, and he faced this problem as his business began to grow. He would find himself working for up to 15 hours per day, and unable to take any time off. His solution to the problem has included the following:
- Hiring multiskilled staff who can be trained to fulfil a number of different roles. By having an overlap of skills, the business does not grind to a halt when any particular employee is absent.
- Sharing knowledge, skills and experience among staff so that no-one has a monopoly on any particular skill or role within the business.
- Engaging staff who he has faith in and who he can trust to complete work without having to be constantly supervised.
• Producing instruction manuals that comprehensively cover all procedures operating within the business. This provides an important reference for all employees to complete tasks that might otherwise be unfamiliar to them.

As a result of this strategy, Hector has been able to take time away from the business, confident that everything continues to run without him.

Business owners such as Hector Henriquez often find that their business is growing and they need to implement a training strategy in order to be able to take time off from running the business.

**TRAINING TO IMPROVE STAFF RETENTION**

Leah Calnan joined the staff of Metro Property Management in 2000, and now owns the company. As the sole director, she employs a staff of 25 who manage and lease properties across metropolitan Melbourne. The real estate industry is notorious for high staff turnover, so Leah has used a variety of staff training and development strategies to retain a high percentage of her staff for much longer periods than the industry average. The key is staff training, particularly implementing a training program that allows employees to know what to expect each week, and to be able to regularly review their strengths and weaknesses. Much of the direction in staff training comes from the staff themselves, with employees contributing ideas at weekly and monthly staff meetings. Leah also believes in being very open with her team and ensuring they all know what is happening in the business. Adopting good ideas from across the industry and implementing good practice she sees operating in other businesses has also been key to maintaining a dynamic staff training environment.
FROM SECURITY GUARD TO CHEF

The Marriott Resort in Surfers Paradise employs over 350 workers during the peak season, with a number of these workers now reaching mature age. With a number of highly-skilled employees approaching retirement, the Marriott had to think about retaining valuable skills while ensuring career paths for some younger employees. One example was the impending retirement of the head teppanyaki chef. It was important not to lose the skills and experience of this chef, so a retraining program was put in place. A mature-aged former security guard was given the opportunity to train as a teppanyaki chef. He completed that training and was able to be assigned to that role before the head chef retired. A number of younger trainees were also taken on to train as teppanyaki chefs. The newly trained former security guard was able to step into a senior role as teppanyaki chef and the head chef was able to gradually reduce his hours in preparation for retirement without the Marriott losing all of that valuable skill and experience.

4.4 Activities

TEST your skills

1. Define the term ‘training’.
2. Describe one training strategy implemented by Hector Henriquez to assist him in being able to take time off from running his business.
3. Other than the opportunity for Hector to take time off from his business, what other benefits does Visual Graphics gain from the employment and training strategies utilised?
4. Explain why staff training and development was such a high priority for Leah Calnan at Metro Property Management.
5. Identify two strategies used by Leah Calnan to help her retain staff within her business.
6. What strategy did the Marriott use to deal with the impending retirement of its head teppanyaki chef?

APPLY your skills

7. The task word (sometimes referred to as command word or instructional word) ‘compare’ generally requires you to comment on the similarities and differences between two things. Compare on-the-job and off-the-job training.
8. The task word ‘propose’ generally requires you to put forward an idea, argument or suggestion for consideration or action. This involves writing a little more than simply just identifying or suggesting something. The task word ‘justify’ requires you to show how the statement or statements that you have made are correct, or to provide evidence to support your argument. Propose and justify two training options that Leah Calnan could use to help her retain staff at Metro Property Management.
9. The task word ‘evaluate’ generally requires you to consider both sides of something, and then provide an overall conclusion or judgement related to which argument is the more persuasive and why. Evaluate the use of on-the-job or off-the-job training for managing employees at the Marriott in Surfers Paradise.
10. Visual Graphics, Metro Property Management and the Marriott Resort in Surfers Paradise all used staff training to achieve different purposes. Identify and explain two issues that each of these businesses has in common in relation to their use of staff training.
4.5 Performance management strategies

**KEY CONCEPT** Just as a business will attempt to measure and evaluate the degree to which it is achieving its strategic objectives, it will also attempt to measure how well the performance of its employees is contributing to the achievement of those objectives.

4.5.1 Performance management

Performance management aims to improve both business and individual employee performance by relating the business’s performance objectives to the employee’s performance objectives. A business can utilise a number of different strategies to measure and evaluate the contribution each employee makes to achieving those objectives. These include performance appraisals, management by objectives, self-evaluation by employees and broader employee observation.

**Performance appraisal**

Performance appraisal is the formal assessment of how well an employee is performing their role in the business over a set period of time. It involves a number of purposes:

1. to provide feedback from management to employees regarding work performance
2. to act as a measurement against which promotion and pay rises can be determined
3. to help the business monitor its employee performance
4. to identify employees’ training and development needs
5. to identify new objectives for employees and put a plan in place to improve future performance
6. to review employee objectives in line with the business’s objectives.

Performance appraisal typically occurs at frequent intervals, such as every 12 months, every 6 months or every quarter. The performance appraisal process is usually set out in advance and normally matches the corporate culture of the business. It will often include an initial meeting, the arrangement of regular reviews, discussion between the manager and employee, determination of measurements or standards of performance, and agreement on plans for future development and improved performance including any benefits that may be attached. A performance appraisal can be formal or informal. Although many managers are uncomfortable with the idea of evaluating employees, effective performance appraisal is a crucial function of good management.

**DID YOU KNOW?**

The recruitment firm Hudson found that 42 per cent of Australian employers did not have a way of monitoring staff performance.
EXAM TIP
The outcome for Unit 3, Area of Study 2 states that you need to ‘analyse and evaluate strategies related to the management of employees’. This suggests that you should know the advantages/strengths and disadvantages/limitations of performance management strategies, including management by objectives, appraisals, self-evaluation and employee observation. The task word ‘analyse’ will require you to identify the main features of each performance management strategy and then most likely how they relate to a situation in a business. The task word ‘evaluate’ generally requires you to consider both sides of something, and then provide an overall conclusion or judgement related to which argument is the more persuasive and why.

4.5.2 Common methods of appraisal
Following are some of the commonly used techniques for carrying out appraisals.

• **Essay method**. A manager keeps a journal on each employee being appraised. Notes may be restricted to specific aspects of job performance, such as customer service, sales, personal presentation and cash register use.

• **Critical incident method**. This is similar to the essay method except that the manager records only exceptionally good or bad aspects of work performance.

• **Comparison method**. Each employee is ranked according to a list of predetermined performance criteria. This method often incorporates statistical values as a means of measurement. For example, a rating scale of 1 to 5 may be employed (1 being poor and 5 being excellent). This scale may be used to assess knowledge, speed, accuracy, communication, interpersonal skills, oral and written skills, personal presentation and administration techniques.

No matter which appraisal technique is used, the results should be discussed with the employee as soon as possible. The manager should explain both the positive and the negative aspects of an employee’s performance, encourage the employee to continue with his or her positive behaviour, and let the employee know what to do to be recognised as a more productive employee in the future. The manager will also be able to identify training needs for the employee so that he or she can improve in areas that may be lacking. Without this performance feedback, performance appraisals are a pointless exercise.

Performance appraisal facilitates communication and allows positive relationships to develop between management and employees. Feedback can help employees to improve their performance. However, the performance appraisal process can be time consuming, particularly if the cycle becomes shorter (such as monthly or weekly). Performance appraisal can be stressful for both managers and employees.
REGULAR FEEDBACK EQUALS SUCCESSFUL PERFORMANCE APPRAISAL

While the end of the financial year provides businesses with an opportunity to do a ‘stocktake’ on their financial performance, equally important, but often overlooked, are regular reviews of the team’s performance.

It is often said employees are the most important asset. If this is accepted, it would also stand to reason that people leaders would also review the performance of their employees.

Performance reviews [or appraisals] are a key aspect of keeping your team engaged and ‘buying in’ to what the business is trying to achieve. However, for some — both people leaders and employees — performance appraisals can be seen as a tiresome and difficult process, but it need not be.

When both parties know what is expected of them, a performance review should not contain any nasty surprises. However, lack of clear expectations is often where problems begin.

Most employees have a strong work ethic and want to do well . . . Notwithstanding, feedback from peers and people leaders is an important gauge for what an employee is doing well and what areas need development.

It is important to remember that feedback should not happen only at the end of the year in the form of an official performance appraisal. Feedback should happen regularly to ensure all parties are on the same page and any issues can be addressed quickly.

. . . this four step process of performance management has traditionally worked well for setting employees up to achieve the best possible results.

**Step 1.** Ensure expectations are clear, for no other reason than employees are typically more productive when they know what is expected of them and when. These expectations may be set on a weekly basis but also typically cover a longer term, say half yearly or yearly. Some employers fall into the trap of assuming that their staff know what is expected of them. As a people leader, it is your responsibility to be clear.

**Step 2.** Assess performance regularly. Some people leaders complete an annual performance review and think their job as a people leader is done. Of course, an annual performance review is important to discuss what has been achieved over the year, but performance should be assessed on a regular basis to make sure projects are on track, milestones are being met and any queries resolved. A monthly catch up is a good starting point, to review . . . not only what is being achieved, but also . . . how it is being achieved.

**Step 3.** Provide feedback on a regular basis. Ideally, you should not need a formal catch up to provide feedback, but it is imperative that feedback is provided when performance is assessed. Feedback should include recognition of the effort, improvements and achievements throughout the past month, quarter or year, which is an excellent motivator for many employees. This is also the time to provide constructive feedback for development areas. Providing constructive feedback to highlight and bridge performance gaps, if delivered in the right way, can be equally motivating, as most employees want to continually improve their knowledge and skills.

**Step 4.** Continuous development will keep employees engaged and will ultimately result in increased productivity. Development planning looks not only at what the employee needs to do to complete their current role, but also helps to up-skill them for their next role. Development means different things to different people, but typically encompasses learning new skills on the job, mentoring, new responsibilities or stretch targets and formal courses.

Management by objectives

One method of giving clear purpose to the process of performance appraisal is management by objectives. This concept was first popularised by Professor Peter Drucker of New York University in 1954, in his book *The Practice of Management*. It is a process by which management and employees agree on a set of goals for each employee, with these individual goals all contributing to the objectives of the business as a whole. Included in the process are the means of measuring progress towards the achievement of these goals, as well as performance appraisals when goals have been achieved. Each employee should be aware of the objectives of the business, as well as their own responsibilities in achieving those objectives. The process can be summarised as shown in the diagram at right.

When employees have involvement in setting goals and choosing the course of action to be followed to achieve those goals, they are more likely to work productively and fulfill their responsibilities. The use of management by objectives means that both manager and employee know what is expected of them, reducing ambiguity and confusion in relation to roles. Management by objectives can highlight the area/s where an employee has training needs, which can lead to career development. It can also improve communication and result in employees being more aware of a business’s objectives. However, management by objectives can be a costly and time-consuming process. The meetings and reports required can add to the responsibilities and burden of both management and employees. Management by objectives is not always useful for all types of employees.

Employee self-evaluation

Self-evaluation assumes that employees are able to assess their contribution to the business, their own strengths and weaknesses, and how they can improve their performance. This strategy involves employees carrying out a process of self-assessment, based on a set of agreed criteria. Employees would normally be expected to honestly ask themselves questions such as:

- What are my strengths?
- What are my weaknesses, and what can I do overcome them, or reduce their impact on my work performance?
- What could I have done better during the period under review?
- What initiatives can I take to become a better employee in the future?

Self-evaluation should also take into account an employee’s career aspirations. He or she should be prepared to:

- examine their current role in the business
- consider how that role may change
- identify how greater responsibility and leadership could be taken on in the future.
Employee self-evaluation can also highlight the need for training, and allows employees to request training opportunities to assist them to improve work performance and productivity. Employees undertaking the self-evaluation process should be encouraged to keep documentary evidence of their achievements, as this helps provide a factual and measurable basis for that evaluation.

However, employees can often overstate their own performance when completing a self-evaluation, and management may need to take some responsibility for monitoring performance, documenting any weaknesses or strengths, and making efforts to correct poor performance. Some employees may feel ill-equipped to undertake a self-assessment.

**Employee observation**

Employee observation is used by managers to gain insights into the performance of employees. Often it is useful to seek a variety of opinions on the performance of employees. The aim is to get feedback from a variety of different parties in order to arrive at a more comprehensive picture of past and current performance. One common approach to utilising employee observation of performance is known as ‘360-degree feedback’. This is commonly used to evaluate the performance of managers and supervisors, but, depending on the corporate culture of a business, could be used with all employees. Feedback can be sought from subordinates, colleagues and superiors. For example, a diverse group of people who work with an employee might complete confidential evaluations of the employee’s performance. Other stakeholders including customers and suppliers may be involved in the 360-degree process. The idea is to identify strengths and weaknesses, and the broad range of observations from a variety of different sources can provide a comprehensive picture of employee performance. This process is very useful in evaluating skills such as leadership, teamwork and interpersonal abilities. It is not always as valuable in assessing technical skills, or the achievement of objectives, as these may not always be fully understood by every participant in the process. Further, employee observation will need to be applied in businesses with a high degree of trust. The process could be damaging if any one of the participants has a personal vendetta against the employee. The process can also be expensive and time consuming.

### 4.5 Activities

**TEST your understanding**

1. Distinguish between performance management and performance appraisal.
2. Read the ‘Regular feedback equals successful performance appraisal’ case study. What are the benefits of a regular informal catch up with employees?
3. How does the author of ‘Regular feedback equals successful performance appraisal’ believe performance appraisals can contribute to ongoing employee development?
4. Briefly outline two different methods of conducting a performance appraisal.
5. Describe each of the key steps in the process of management by objectives.
6. What are the two main advantages of employee self-evaluation?
7. Outline the process used in 360-degree feedback.

**APPLY your understanding**
8. Have you been asked to appraise your own learning or performance? Research how self-appraisal could be used as a part of a performance appraisal process.
9. Survey five people, asking them to respond to the following statements. Collate the results as a class and write a paragraph about what the survey has revealed about performance management.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>When appraising work, everyone should be given the same score.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>If the business as a whole has not made a profit, no employee should receive a bonus.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Poor performers should be sifted out and sacked.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Pay increases should be linked to good individual performance.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>A good rating in a performance review is more likely to reveal excellent self-promotion skills than anything else.</td>
<td></td>
</tr>
</tbody>
</table>

**EXAM practice**
10. Define the term ‘performance appraisal’. (3 marks)
11. Fatima is keen to introduce a staff performance management process into her restaurant. Explain how each of the following might operate in her workplace.
   (a) Employee self-evaluation (3 marks)
   (b) Management by objectives (3 marks)

### 4.6 EXTEND YOUR KNOWLEDGE Getting value from performance management

**KEY CONCEPT** Traditionally businesses have carried out performance appraisal as an annual process, with rewards such as pay rises determined by the annual performance review carried out by a manager or supervisor. In recent times, the major annual review has fallen out of favour, with greater emphasis on frequent and informal feedback.

**GOODBYE ANNUAL PERFORMANCE REVIEW?**
The annual performance review, by which employees are assessed against a number of performance indicators, may well have outlived it usefulness. A number of problems have been identified by psychologists and other researchers. These include the following:
Annual performance reviews have often been reduced to little more than a tick-the-box exercise.

- The review has often become little more than a tick-the-box exercise in many companies. In attempting to streamline and simplify the process, the original reason for having reviews has been lost.
- Employees will often react negatively to a low rating in their review and this can become a demotivating factor. This has often meant that managers have given higher ratings to avoid conflict, so the review becomes meaningless.
- Companies are often large social organisations where interpersonal relations are important. The supervisor or manager may also be a friend to some and not so close to others, and so a review may be influenced more by personal relationships than by an accurate assessment of an employee’s skills or value the business.

Researchers have suggested that a more informal, less structured and continuous form of appraisal and feedback may be more appropriate. It is important that the work environment be non-threatening, with open communication among employees and between employees and management. Continuous feedback in a less formal environment is likely to have a bigger impact on employee performance than an annual review that is either feared by staff or dismissed as a waste of time. It is also important that the employees themselves continuously reflect on their own position within the organisation, and their own career development. Informal interaction among themselves, as well as with managers and supervisors, can assist with this.

DELOITTE GETS RID OF ANNUAL REVIEWS

Multinational accounting and business consulting firm Deloitte has scrapped annual performance reviews for its 6000 Australian staff, following a similar move for 10 000 of its US employees. The move has been led by Deloitte Australia’s head of people and performance, Alec Bashinsky, who recently likened annual reviews to a drive-by shooting. ‘You never know when you’re going to get hit!’ he commented. Like many in human resource management, and with expertise in the psychology of large organisations, Bashinsky believes the annual review is not just pointless, but can be a demotivating experience.

Deloitte is moving to a less formal, continuous appraisal and feedback approach. Employees will be given ongoing feedback, and coaching and mentoring where appropriate, with a view to promoting ongoing staff engagement and development. The starting point is a weekly 10-minute check-in with the manager or supervisor. This will often be initiated by the employee, who may have just finished a particular task or project and seeks to have a chat about it. Employees have embraced the new system enthusiastically, as the regular check-in provides immediate feedback, which is usually positive.

Bashinsky has pointed out that approximately 97 per cent of Deloitte employees are good at their job, with only 2 to 3 per cent underperforming. The old system was set up to identify those 2 or 3 per cent, and yet everyone was subjected to it. The new Deloitte process centres around weekly and monthly check-ins, quarterly surveys of 10 questions the manager sends out to employees, and regular talent reviews. There are no forms to fill in and the key factor is the continuous interaction between supervisor and employee.
### 4.6 Activities

**TEST your understanding**

1. Identify and explain two problems that have arisen with the use of annual reviews as a method of performance management.
2. What type of approach is considered to be preferable to annual reviews of employees?
3. Why did the head of people and performance at Deloitte describe annual reviews as being like a ‘drive-by shooting’?
4. In addition to weekly ‘check-ins’, what other strategies has Deloitte put in place as part of its performance management strategy?

**EXTEND your understanding**

5. Why might a ‘tick-the-box’ activity have little value in appraising employee performance?
6. One of the issues identified as a problem with annual reviews is an unwillingness of some managers to rate some employees poorly for fear of demotivating them. Is this a real problem, or should managers be brutally honest with their employees? Discuss this issue in small groups and formulate arguments for and against the ‘brutal honesty’ approach.
7. The weekly ‘check-in’ at Deloitte can be initiated by the employee rather than the employer. Why is this a positive approach, and what benefits can both the employer and employee gain from such an approach? Discuss these issues in small groups and report your findings to the rest of the class.
8. In terms of your own experience at school, what have you valued most: immediate feedback from a teacher, or the end of term or mid-year report? Discuss in small groups which you believe has the greater motivating (or demotivating) effect on your performance. Are the classroom and workplace similar or completely different when it comes to performance feedback?

### 4.7 Termination management: retirement, resignation and redundancy

**KEY CONCEPT** The final stage in the employment cycle is the ‘termination stage’, in which workers leave the workplace on a voluntary or involuntary basis. This stage needs to be handled carefully and sensitively by the human resource manager.

#### 4.7.1 Termination of employment and how it is managed

Gone are the days when a person would commence their full-time working life at the age of 16 or 17, work for approximately 45 years, and then retire. Work patterns and business operations have undergone radical change over the past two decades and this has dramatically altered the movement of people into and out of jobs. Due to increased international competition and changing work cultures and practices, many businesses — large, medium and small — have been forced to restructure. As a result, there has been a marked increase in the number of voluntary and involuntary redundancies being offered.

**Termination** of employment is when an employee leaves a particular workplace, ending the employment relationship. Termination of employment is usually managed by the human resource manager, who must ensure that the employee is treated both fairly and within the law.

There are many reasons why employees leave a business. However, it is possible to classify the different types of termination into two broad categories: voluntary and involuntary (shown in the following figure).
Retirement

Retirement is when an employee voluntarily leaves the workplace and the workforce. In Australia there is no mandatory age at which employees must retire. Until the mid 1980s, it was common for men to retire when they reached 65 years of age and women when they reached 60 years of age. A recent trend is for people to retire ‘early’ — that is, in their mid to late 50s. Many people now choose a gradual transition to retirement, often reducing their working days over a period of years. Some people retire as a result of losing their job and not being able to find new work.

The choice to retire normally depends on whether an employee can afford to. A person thinking about retirement will need to consider whether they have repaid their mortgage, amassed enough superannuation and if their retirement savings will fund their intended lifestyle. The way businesses have approached employee retirement has also changed. Today, many businesses provide advice and assistance to employees to help them prepare for retirement.

Resignation

Resignation, or ‘quitting’, is a voluntary ending of the employment relationship. People resign for a variety of reasons, including:

- the offer of a promotion with another business
- to start their own business
- boredom with their present job
- a change of lifestyle.

Usually, the employee needs to give the employer sufficient notice of his or her intention to resign. The length of notice varies from job to job, ranging from a few hours, for example, for casual employees to a month for some professionals. An employee’s award, employment contract or agreement will set out how much notice (if any) they have to give when they resign.

Whenever a business wants to downsize — that is, decrease the size of its operation — it will not fill vacancies that have come about due to retirements and resignations. This allows the size of the workforce to reduce through natural attrition (the gradual reduction of a workforce by employees leaving and not being replaced).
Redundancy — voluntary and involuntary

**Redundancy** occurs when the job a person does is no longer necessary, usually due to technological changes, restructuring or a merger or acquisition. Unless the existing employee can be redeployed (given another job or retrained for another job), he or she will be retrenched — this means the employee will lose their job and will not be offered another.

Redundancy can be either voluntary or involuntary. Voluntary redundancy occurs when employees are informed of the situation and given the opportunity to nominate themselves for voluntary redundancy. Involuntary redundancy occurs when an employee is asked to leave the business against his or her will because their job no longer exists. In this case, the employee is not at fault in any way; the decision to make the employee redundant is purely based on the ongoing needs of the business.

The human resource manager must be aware of the rights of an employee in relation to redundancy and retrenchment, and must follow correct procedures and the law. These procedures might include providing necessary information to the employee being made redundant or retrenched, a consultation process, time off leading up to the final day when the employee leaves, and organising redundancy pay (sometimes referred to as severance pay). The amount of redundancy pay will usually depend on how long the employee has been continuously employed in that workplace. Other entitlements, such as payment for accrued annual leave or long-service leave, may also be owing to the employee when they leave the business.

Ethical employers also take responsibility for assisting departing employees in finding new employment, particularly if the employee is leaving as a result of redundancy or retrenchment. Providing references and recommendations to other employers in the same industry can be of assistance to departing employees. Those being made redundant can also be given paid time off work to attend interviews with potential new employers.

**4.7 Activities**

**TEST your understanding**

1. Explain the difference between voluntary and involuntary termination of employment, and give an example of each.
2. In what ways has the process of retirement changed in recent years?
3. Outline two reasons why a person may decide to resign from their current employment.
4. How can a business use the resignation or retirement of employees as a means of downsizing its workforce?
5. Explain what redundancy is.

APPLY your understanding
6. Rather than retire completely from work, many people now transition to retirement by gradually reducing their hours and working part-time before giving up work completely. Outline two advantages for a business and two advantages for the employee of allowing such a process to occur.
7. Following the introduction of new equipment, Ace Engineering Pty Ltd has found that it only needs to retain four of its team of eight machine operators, so four positions are now redundant. Outline a process that the management could follow that would be fair to all affected employees.

EXAM practice
8. Define the term 'redundancy'. (1 mark)
9. Distinguish between retirement and resignation. (4 marks)

4.8 Termination management: dismissal, entitlement and transition issues

**KEY CONCEPT** A common form of involuntary termination is dismissal. This needs to be handled carefully as employees have a number of legal entitlements that need to be observed. Termination management involves a number of entitlement and transition issues.

4.8.1 Dismissal
There will be occasions when the behaviour of an employee is unacceptable and it then becomes necessary for a business to terminate the employment contract of that employee. This is called dismissal. The most serious form of dismissal is summary dismissal — when an employee commits a serious breach of their employment contract. For example, an employee who is drunk at work or is found to have engaged in criminal activity may be summarily dismissed. If an employee is given a summary dismissal, no notice is required. Another form of dismissal is referred to as dismissal on notice, when an employee is not performing the job satisfactorily. Poor performance may be identified during an appraisal or performance process. The amount of notice (or payment given in lieu of notice) will vary depending on a number of factors, such as whether the employee is governed by a particular Award or contract, the age of the employee and how long they have worked for the employer on a continuous basis. Selecting staff for dismissal can be risky and requires awareness of legislation and industrial agreements to avoid litigation and industrial action.

Unfair dismissal occurs when an employer dismisses an employee for discriminatory reasons. This is an issue that both employers and human resource managers need to be aware of. Some examples of discrimination under Commonwealth workplace relations laws include dismissal because of:

- absence from work due to illness or injury
- either belonging or not belonging to a trade union
- race, colour, sex, sexual preference, age, disability, marital status, family responsibilities, pregnancy, religion, political opinions held, or nationality.

An employee who believes they have been unfairly dismissed may lodge an unfair dismissal claim with an industrial tribunal, such as the Fair Work Commission.
More businesses are recognising that managers need to be trained to handle dismissals in a way that:
• takes account of the legal and financial implications
• minimises the trauma for both parties
• does not have adverse effects on the morale of the remaining staff.

DID YOU KNOW?
• An employment contract is legally binding. Therefore, employers must terminate the contract in a legally compliant manner. Gone are the days when a boss can simply shout: ‘You’re fired!’ on a whim.
• Many colloquialisms are used to describe involuntary termination: ‘given the bullet’, ‘shown the front door’, ‘fired’, ‘booted out’, ‘told to pick up my pay and go’, ‘no longer required’ and ‘given an offer I couldn’t refuse’. They all have one feature in common: the business requests that the employee leaves the business.

An inappropriate dismissal technique

4.8.2 Entitlement issues
At the time of leaving the business, whether through retirement, resignation, redundancy or dismissal, the employee will have a number of rights to certain benefits (or entitlements). In general, these entitlements are required by law. **Entitlement issues** can include any wages or salary owing, as well as leave entitlements such as accrued annual leave and long-service leave. These leave entitlements will usually be paid out at the employee’s normal rate of pay. In the case of an employee being made redundant, a redundancy payment may also be included in that employee’s entitlements. This will usually be calculated on a pro rata basis, determined by the number of years of service. Allowing four weeks of pay for every year of service is an example of this. Further, employees who have been made redundant or dismissed must be given notice of their termination.

4.8.3 Transition issues
When an employee leaves the business, whether through retirement, resignation, redundancy or dismissal, managers must consider the issues that relate to the process that the employee will go through in changing from one job to another, or from one set of circumstances to another. These issues or considerations are referred to as **transition issues**. As mentioned in subtopic 4.7, an employer will often provide advice and support to the employee leaving the business. It is important to note that the advice and support provided to employees arising as transition issues are generally offered above and beyond the requirements of the law. Businesses that decide to provide such services choose to do so to assist their employees to move forward in a positive manner. In this way, the business is acting responsibly.
In the case of retirement, the transition issues that may be considered involve a gradual reduction in days worked over a period of time to allow the employee to make a smooth transition to retirement. The transition may also involve counselling and support on issues such as superannuation and government pension entitlements. Advice and assistance regarding income planning and future lifestyle choices might be provided. When an employee has been made redundant, the employer may provide assistance in the form of help with writing job applications for other positions, the provision of references for potential employers, as well as time off to attend job interviews. Employees who have been made redundant, or those who have been dismissed, may also require exit interviews or counselling before they leave the workplace.

Many responsible businesses ensure that employees are provided with outplacement services — assistance given to employees who are exiting the business (voluntarily or involuntarily). An external organisation will typically provide the outplacement services, paid for by the business. Outplacement services may be completed one-to-one or in groups depending on the needs of the business and/or employees. The services will usually consist of helping employees to transition to a new job or career, and may include:

- job interview training
- career coaching
- assistance with improving resumes
- career counselling.

EXAM TIP
The key skills for **Unit 3, Area of Study 2** state that you need to ‘propose and justify strategies to manage employees effectively’. The task word ‘propose’ suggests that you should put forward a termination management strategy (retirement, redundancy, resignation, dismissal, an entitlement issue or a transition issue) for consideration or action when asked. This involves writing a little more than simply just identifying or suggesting the strategy. You should be able to define the termination management strategy as well as explain a little about it. The task word ‘justify’ requires you to show how the termination management strategy you have selected is the best choice or to provide evidence to support your argument.

4.8 Activities
TEST your understanding
1. Which of the following scenarios would be most likely to lead to summary dismissal?
   (a) John bribes another employee not to tell his manager that he had been accessing pornographic websites during office hours.
   (b) Peter arrives for work drunk. He has just been out to see a client, driving a company car. It is the third time this week he has arrived in such a condition.
   (c) Jane is just not very good at her job. She frequently makes mistakes and does not have the knowledge or skills to perform the job satisfactorily.
2. In which situations would a dismissal be considered unfair?
3. Explain the entitlements that may be owed to an employee who has been made redundant. How can a business assist that employee to find alternative employment?
4.9 Workplace relations: participants in the internal environment

**KEY CONCEPT** The key workplace relations participants in the internal environment of a business are the employer and the employees. Human resource managers form the key link between these two groups.

4.9.1 Workplace relations
Workplace relations refers to the 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 business to achieve its strategic, tactical and operational objectives. It encompasses the total relationship between employers (and their representatives) and employees (and their representatives) in regard to the establishment of conditions of employment such as levels of pay, working hours, duties, responsibilities and entitlements. Workplace relations also involves the resolution of disputes between employers and employees. It is understood that legitimate differences may exist in workplaces, but the aim is to reduce conflict through effective procedures and relationships.

**DID YOU KNOW?**
The proportion of employees who are trade union members has dropped to around 16 per cent according to Australian Bureau of Statistics figures. Over 38 per cent of government employees are members of a union, while only 10 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.
4.9.2 Employers
In a small or medium business, workplace relations issues are among the many responsibilities that will be handled by the business owner as the employer. With a larger business employing greater numbers, responsibility for workplace relations matters will often become the responsibility of a human resource manager and an entire human resources department. Employers and human resource managers handle workplace relations issues on a daily basis, including their involvement in developing programs that focus on improving business performance. Many large businesses will employ one or more workplace relations specialists within their human resource management departments. Such specialists are particularly valuable as the legal responsibilities of business in relation to workplace relations matters have become more complex.

4.9.3 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 in 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?
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.

4.9.4 Human resource managers
The role of human resource managers in the workplace 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, vision and objectives, and dominant management style of the business. 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 business adopts ethical and socially responsible management practices will also have an impact on the way these agreements are negotiated and implemented.

The role of the human resource manager in the workplace

Negotiating employment agreements
The role of negotiating workplace agreements with employees and their representatives will often fall to the human resource manager and specialist workplace relations managers within the HR department. In order to carry out this task, the relevant managers need to be aware of all legal issues, Awards, and National Employment Standards (see subtopic 4.11), so that any negotiated agreement satisfies all of these requirements. They will need to keep in mind the overall objectives of the business, to ensure that any agreement is consistent with those objectives. Strong interpersonal skills are necessary to achieve an outcome that is fair and reasonable to all parties.
Training other managers and supervisors

Other managers and supervisors need to be fully informed of the details of any agreement to ensure that processes for achieving productivity improvements are put into operation. Monitoring processes with appropriate key performance indicators (KPIs) is necessary to track the success of changes in work practices. Production managers, operations managers and supervisors 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. This is discussed in detail in subtopic 4.13.

4.9 Activities

TEST your understanding

1. Why would a business 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. Outline the role of human resource managers in the workplace.
4. What would be the benefits of providing a business’s financial reports to employee representatives during the negotiation process?
5. What role will a human resource manager have in:
   (a) the negotiation of an employment agreement
   (b) the implementation 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.
4.10 Workplace relations: participants in the external environment

**KEY CONCEPT** In dealing with workplace relations issues, businesses have to be aware of the influence of external organisations that can affect decisions made at the business level.

External organisations within both the operating and macro environments can have an impact on workplace relations decisions within a business.

### 4.10.1 Participants in the operating environment

**Trade unions**

Trade unions that have members employed by a business will have a direct stake in the employee relations processes of that business. 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. Another role is to work with management to help resolve workplace issues, acting as an advocate for employees. Unions will also investigate suspected breaches of workplace laws, discrimination laws or workplace safety laws.

Historically, the centralised industrial relations system in Australia gave unions a powerful role in employee relations. Working conditions were often determined for entire industries, rather than for individual businesses, 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 2017, the proportion of employees who were union members had declined to 15.6 per cent of the total workforce. This figure is boosted by the fact that 38.5 per cent of government employees are union members while only 10.1 per cent of private-sector employees belong to a union. The typical image many of the public may have of unionists is that of militant construction workers, but in fact only 9.4 per cent of construction workers...
are members of the CFMEU. Data from the Australian Bureau of Statistics suggests that more union members identify as having ‘managerial’ or ‘professional’ occupations than all the trade and technical workers, sales workers, machinery operators or drivers, and labourers combined.

**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.

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.

**DID YOU KNOW?**

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

### 4.10.2 Participants 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 employer and employer organisations.

**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 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.

DID YOU KNOW?
The peak trade union body is the Australian Council of Trade Unions (ACTU). Some of the larger unions include:
- Australian Services Union (ASU), which includes a wide field of employees such as airline staff; service technicians; call centre staff; transport, social and community service workers; and local government workers
- Australian Workers’ Union (AWU), which includes workers in many fields such as agriculture, building construction, engineering, the gas industry, the metal industry, oil refineries and security companies
- Australian Manufacturing Workers Union (AMWU)
- Construction, Forestry, Mining and Energy Union (CFMEU)
- Finance Sector Union (FSU)
- Maritime Union of Australia (MUA)
- Transport Workers Union (TWU)
- Community and Public Sector Union (CPSU).
4.10.3 Governments and government organisations

Governments have five key roles in employee relations processes:

1. **Legislator.** State and federal parliaments pass laws that provide the legal framework for employee relations. The Commonwealth *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 next page).

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.

**The Fair Work Commission**

Governments over the years have also 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 the Fair Work Commission (FWC). The *Fair Work Commission* is Australia’s national workplace tribunal that has the power to carry out a range of functions under the *Fair Work Act*. The FWC is responsible for making and varying awards in the national workplace relations system. It approves agreements reached between employers and employees at the enterprise level, ensuring all parties comply with those agreements. The FWC can also:

- help parties to resolve workplace disputes when no agreement can be reached through conciliation, mediation and arbitration
- deal with applications in relation to unfair dismissal
- administer the regulation of industrial action
- review and set a minimum wage level for the lowest paid workers through its Minimum Wages Panel (MWP).

More information about the role and functions of the FWC can be found in subtopics 4.11, 4.12 and 4.13.

The FWC does not investigate claims involving underpayment of wages and entitlements. It also does not act for one party against another. The Fair Work Ombudsman carries out investigations and provides advice about underpayment of wages and entitlements. 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 Jobs and Small Business. This department:
• represents the government in national wage cases before the Minimum Wages Panel of the Fair Work Commission, 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.

4.10 Activities
TEST your understanding
1. Why were employer associations originally created?
2. What functions are performed by the peak employer and employee organisations?
3. List and briefly explain the five key roles played by government in employee relations.
4. What is the role of the Fair Work Commission in the employee relations system?

APPLY your understanding
5. 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?

EXAM practice
6. Explain the role of trade unions in workplace relations. (2 marks)
7. A major participant in workplace relations is the Fair Work Commission.
   (a) Describe what the Fair Work Commission is. (2 marks)
   (b) Explain the role of the Fair Work Commission in workplace relations. (2 marks)
4.11 Awards and agreements

**KEY CONCEPT** In the past, employment conditions were determined by sets of rules known as Awards. 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.

4.11.1 Industry-wide Awards

Historically most employees in Australia have had their wages and working conditions set by Awards. These were usually established by industrial tribunals following submissions from unions and employer organisations. Since the early 1990s, there has been greater emphasis on collective bargaining between employers and employees, leading to the growth in agreements between the employers and employees within a particular enterprise. The significance of industry-wide Awards today is that they provide a set of minimum employment standards for employees working within an industry. In most cases, however, the process of enterprise bargaining has provided the opportunity for employees to gain employment conditions that improve on these minimum standards. In practical terms, this means that Awards still apply in businesses that have developed an agreement at enterprise level, to the extent that they are the test of the agreement made — an agreement cannot provide conditions that would make employees worse off than an Award. However, an Award would still apply to any businesses in the same industry that have not developed such an agreement.

**Award modernisation**

Under the Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 a process was set in place to modernise all Awards, removing inconsistencies and amalgamating overlapping Awards that previously covered different parts of an industry. In carrying out this process, a consultation structure was set up to gain assistance and input from relevant unions and employer associations. The process commenced in April 2008. By the end of 2009, the Fair Work Commission 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 the 10 National Employment Standards to provide the safety net of basic employment conditions for all employees. The table below 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 the Fair Work Commission every four years, a process that occurred in 2014, and again in 2018. 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 business.

<table>
<thead>
<tr>
<th>Matters covered by Awards and collective agreements</th>
<th>The 10 National Employment Standards</th>
<th>The 10 matters that can be included in modern Awards</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximum weekly hours of regular work</td>
<td>1. Minimum wages, including disability and training wages</td>
<td></td>
</tr>
<tr>
<td>2. The right to request flexible work arrangements</td>
<td>2. Types of employment, such as full time, part time, outworker</td>
<td></td>
</tr>
</tbody>
</table>

(Continued)
### The 10 National Employment Standards vs. The 10 matters that can be included in modern Awards

<table>
<thead>
<tr>
<th>National Employment Standards</th>
<th>matters included in modern Awards</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Parental leave and related entitlements</td>
<td>3. Arrangements for the hours during which work is performed</td>
</tr>
<tr>
<td>4. Annual leave</td>
<td>4. Overtime rates where applicable</td>
</tr>
<tr>
<td>5. Personal, carers and compassionate leave</td>
<td>5. Penalty rates</td>
</tr>
<tr>
<td>6. Community service leave</td>
<td>6. Annualised wages and salaries</td>
</tr>
<tr>
<td>7. Long-service leave</td>
<td>7. Allowances</td>
</tr>
<tr>
<td>8. Public holidays</td>
<td>8. Details of leave, leave loadings etc.</td>
</tr>
<tr>
<td>10. Provision of a Fair Work Information Statement, which details the rights and entitlements of employees, and how to seek advice and assistance if required</td>
<td>10. Procedures for consultation, representation and dispute settlement</td>
</tr>
</tbody>
</table>

**Source:** Information derived from a Department of Employment fact sheet; and ‘Current and emerging issues for the Australian Industrial Relations Commission’, speech by Justice Guidice, AIRC President, at the Australian Mines and Metals Association National Conference, 2 April 2008.

### DID YOU KNOW?

Modern Awards are new and streamlined and created to replace thousands of existing ones. The new Awards apply to many employees and employers in the national workplace relations system. For example, the security industry will see a reduction from 10 Security Awards to just one National Security Award.

### 4.11.2 Collective and individual agreements

The workplace relations structure now in place in Australia has agreements as the means of determining the wages and conditions of most employees. Even though many employees will sign an individual employment contract when they commence work with a new employer, the terms and conditions of the contract will generally be based on the enterprise agreement that has previously been negotiated. If no enterprise agreement exists, the relevant Award may still be applicable. There have been recent cases in Australia where employers have been prosecuted for attempting to pay below Award wages, and imposing long working hours without paying suitable penalty rates.

### DID YOU KNOW?

If an employer refuses to bargain with its employees, an employee representative can ask the Fair Work Commission 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. The Fair Work Commission can issue good faith bargaining orders, which specify the bargaining requirements that both sides must follow.

### Enterprise agreements

An enterprise agreement is a collective agreement made in a workplace 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.
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 the Fair Work Commission 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. The Fair Work Commission 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
• no unlawful content is included in the agreement, such as provisions that might contradict equal employment opportunity legislation.

Individual contracts
In many cases it is common practice for an employee to sign a common law individual employment contract with an employer. While this may be seen as an individual agreement between the two parties, it is still governed by the terms of the Fair Work Act. All individual employment contracts must comply with the relevant Award, and must be consistent with the 10 National Employment Standards. Such contracts may provide conditions that are better than the relevant Award, but cannot exclude any Award condition,
or reduce the relevant conditions or benefits. The only cases in which a common law employment contract can exclude relevant Award conditions is when the employee is guaranteed an income that is above the high income threshold. This threshold is indexed each year on 1 July, and at 1 July 2018 was set at $145,400. 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, which renders the Award not applicable to them. These types of employment contracts can be enforced through the courts in the same way as any other legally binding contract between two parties.

When two parties negotiate they should bargain in good faith. This means they are to meet regularly, and discuss issues honestly and with a willingness to reach an agreement. Where an employer refuses to bargain, and the Fair Work Commission determines, via a ballot or petition, that there is majority employee support for pursuing an enterprise agreement, the Fair Work Commission can force the employer to bargain collectively with the relevant employees.

Can your Employer Refuse to Bargain?

FAIR WORK COMMISSION CUTS PENALTY RATES

In February 2017, the Fair Work Commission brought down a finding that began a process of cutting penalty rates for some employees working on Sundays and public holidays. Workers employed under the Retail, Hospitality, Restaurant, Fast food and Pharmacy Awards would be affected. The changes came into effect on 1 July 2017, although in many cases the reductions in penalty rates were to be phased in over a three-year period.

Full-time and permanent part-time workers saw their penalty rates for public holidays reduced from 250 per cent to 225 per cent, effective from 1 July. Casual employees saw a reduction to 250 per cent for public holidays, which includes the casual loading.

Sunday penalty rate changes are being phased in between 2017 and 1 July 2020 under each of the above Awards. The intention is that these will be the same as Saturday penalty rates by 2020. In the Retail and Pharmacy Awards, Sunday penalty rates were cut from 200 per cent to 195 per cent on 1 July 2017, 180 per cent on 1 July 2018, 165 per cent on 1 July 2019 and 150 per cent on 1 July 2020. Saturday penalty rates under these Awards remain at 150 per cent. Sunday penalty rates under the other four Awards considered were to be reduced by similar amounts to bring them into line with Saturday penalty rates by 2020.

Political reaction to the Fair Work Commission decision was varied, with then Prime Minister Malcolm Turnbull declaring that, ‘We think it was the right decision and we believe it would do the industry good’. The Leader of the Opposition, Bill Shorten, took an opposing view, saying, ‘This is an appalling decision and comes at a time when wages are falling in real terms’. ACTU secretary Sally McManus said any pay cut would be devastating for families.
4.11 Activities

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. List and explain the key elements that must be included in an enterprise agreement.
5. Explain the meaning of the term ‘bargaining in good faith’.
6. What requirements must be satisfied before the Fair Work Commission will approve an enterprise agreement?
7. Explain what an individual common law employment contract is.
8. Explain the special provisions that apply to employees earning over $145,400 per year.

APPLY your understanding
10. Use the Fair Work Commission weblink in the Resources tab 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.
   (a) What features does this document contain that are the same as the relevant Award?
   (b) Identify those provisions, if any, that improve on the basic conditions allowed for in the Award.

EXAM practice
12. Distinguish between Awards and agreements as methods of determining wages and conditions of work. (4 marks)
13. Jacinta has just been successful in her application for a top managerial role in a major accounting firm. Her salary is $150,000 per year plus bonuses for excellent performance.
   (a) Explain the type of agreement that Jacinta is likely to be employed under. (2 marks)
   (b) Compare awards and agreements as methods of determining wages and conditions of work. (4 marks)

4.12 BACKGROUND KNOWLEDGE Disputes in workplace relations

BACKGROUND INFORMATION Even with the most positive employee relations environment, disputes between employers and employees can still occur. These disputes can be expressed as industrial action on the part of either the employers or the employees.

4.12.1 Workplace disputes
Workplace disputes occur as a result of disagreements 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:

- **Picket lines.** Also called blockades, picket lines 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.

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

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

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

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 past 35 years or so, as can be seen in the following figure, largely due to the trend towards enterprise bargaining.

*Source: J. Stanford, Historical Data on the Decline in Australian Industrial Disputes (The Australia Institute, January, 2018)*
4.12.2 Causes of disputes

The major causes of industrial disputes 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 Green Bans — bans imposed by trade unions on any development that is considered harmful to the environment or an area of historical significance.

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.

4.12.3 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 business involved in the dispute, the Fair Work Commission 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, the Fair Work Commission 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.
DID YOU KNOW?
A union wishing to conduct a secret ballot for protected industrial action must first apply to the Fair Work Commission. This application will normally be dealt with within two working days. The Fair Work Commission 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.

BLOCKADE OF MELBOURNE WHARF BY MARITIME UNION
In early December 2017, the Maritime Union of Australia (MUA) imposed a picket line on Webb Dock in Melbourne, blocking the entry and exit of shipping containers. The dispute between the union and the Victorian International Container Terminal (VICT) had arisen when it was discovered that 22 dock workers did not have a Maritime Security Identification Card, which allows workers to enter secure areas. The company chose to terminate the employment of one of these workers. He was a casual employee who was an active member of the union, and who had made complaints to the Fair Work Ombudsman about bullying in the workplace. The union claimed that this worker was being singled out because of his union activism, and because he had made complaints against the employer. None of the other 21 employees had been treated in this way.

VICT claimed that the employee in question had a criminal record and so could not be issued with a Maritime Security Identification Card, although his criminal offences were some 20 years beforehand, and he had held the relevant security identification card previously. The picket line lasted over two weeks, until the company agreed that the worker would be reinstated. He was paid by the company but did not return to work until the outcome of a court case that was finalised in 2018.

4.12 Activities
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 the Fair Work Commission could take to deal with unprotected industrial action.
7. Read the ‘Blockade of Melbourne wharf by Maritime Union’ case study. Many members of other unions came to support the MUA picket. Why do you think this occurred?
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 that 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?

4.13 Dispute resolution

KEY CONCEPT A number of different approaches are available to resolve industrial disputes when they arise. The successful resolution of conflict will often depend on the styles and skills of managers, particularly human resource managers.

All enterprise agreements must contain dispute resolution procedures to gain the approval of the Fair Work Commission. 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.

4.13.1 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.

4.13.2 Grievance procedures

Grievance procedures are a formalised set of steps that can involve management, local union representatives and/or external advisers. Since the introduction of enterprise bargaining, most businesses 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 typical formalised grievance procedure

1. Employee and/or representative present complaint to supervisor
   - Dissatisfaction? → Resolved?
2. Complaint is handled by middle management in meeting with employee and/or representative
   - Dissatisfaction? → Resolved?
3. Meeting of employee and/or representative with top management representative and/or grievance committee
   - Dissatisfaction? → Resolved?
4. Matter referred to external conciliation or arbitration by parties involved

**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.

**4.13.3 Mediation**

Mediation is a more formal method of dispute resolution, in that it involves the assistance of a third party. The third party helps 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 upon 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.
4.13.4 Dispute resolution at the Fair Work Commission
The Fair Work Commission 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 the Fair Work Commission, 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 the Fair Work Commission may be voluntary or compulsory.

In some circumstances, a dispute may be referred to the Fair Work Commission for arbitration by a tribunal member. Arbitration at the Fair Work Commission 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 the Fair Work Commission 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 the Fair Work Commission conducts the hearing and, at its conclusion, makes a decision that is legally binding on all parties.

4.13.5 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.
4.13 Activities

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 the Fair Work Commission.

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 Commission 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 Commission 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.

EXAM practice
5. Distinguish between mediation and arbitration. (4 marks)
6. Ellen believes she has been overlooked for a promotion because of her gender, particularly as she has higher qualifications and more experience than the man who received the promotion. She wants to have the matter resolved through a grievance procedure.
   (a) Explain the term 'grievance procedure'. (2 marks)
   (b) Outline a process that could be implemented by the human resource manager to attempt to resolve Ellen's grievance. (4 marks)

4.14 APPLY YOUR SKILLS Dispute resolution and methods of determining wages and conditions of work

PRACTISE YOUR SKILLS
- Define, describe and apply relevant business management concepts and terms
- Research and analyse case studies and contemporary examples of management related to managing staff in a business
- Interpret, discuss and evaluate business information and ideas
- Apply knowledge about managing employees to practical and/or simulated business situations
- Propose and justify strategies to manage employees effectively
4.14.1 Dispute resolution and grievance procedures

WORKPLACE DISPUTES: 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 employees who constantly tore their clothing on the old wooden furniture in the office. This issue finally came to a head when an employee suffered from a splinter in their knee. The frustrated employee went to their 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 human resource managers are recommended to approach grievances in the first instance at the workplace level in the following ways:

- 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.

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.
**DID YOU KNOW?**

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.

### 4.14.1 Activities

**TEST your skills**

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

**APPLY your skills**

6. 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 co-worker 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.

7. Choose one of the scenarios from question 6 and conduct a role play demonstrating the appropriate way workplace level grievances should be handled.

### 4.14.2 Methods of determining wages and conditions of work

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: enterprise agreements and individual contracts.
EMPLOYMENT CONTRACTS FOR BUSINESS MANAGEMENT STUDENTS

Imagine that your Business Management class has the opportunity to negotiate a set of working conditions for the students in your class.

Enterprise agreement

All the students in your Business Management class need to meet with a representative of the school to negotiate 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.

Remember that an 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.

Your class will need to decide if you will meet with the representative of the school as a group, or if you will choose a group of students to represent the students. If the class does decide that a group will represent the students, this group will become ‘the union’.

Your class can also need to decide who will represent the school — this could be your teacher or a group of students.

The final step is for the school representative (or group of representatives) to meet with the students (or ‘the union’) and negotiate the enterprise agreement.

Someone will need to record the details of the enterprise agreement.

Common law individual contract

Now the school and you, after a period of negotiation, will come to an agreement about your conditions of work for this subject. The conditions agreed on will apply only to you. The new contract will do away with the classroom conditions agreed to in the 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 will have entered into a common law individual contract.

Remember, a common law individual (employment) contract covers employees who are not under any Award or 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.

Again, your class can decide on who will represent the school — this could be your teacher or a group of students. Each individual student then needs to meet with the representative of the school to negotiate a contract. This could occur outside the classroom in private.

The final step is for the school representative (or group of representatives) to meet with each individual student and negotiate separate common law individual contracts. (Note that individual students in the school representative group should also negotiate contracts. They may need to come out of the group, and meet individually with remaining students in the group to negotiate their contract.)

You will need to record the details of your common law individual contract.

4.14.2 Activities

TEST your skills

1. Define the term ‘common law individual contract’.
2. Describe what an enterprise agreement is.
3. Outline how the enterprise agreement was negotiated in your classroom.
4. What was the outcome of the enterprise agreement (what conditions were in the agreement)?
5. Outline how the common law individual contracts were negotiated in your classroom.
6. What was the outcome of your individual contract?
7. Compare the conditions of the enterprise agreement to the conditions of your individual contract. Which has the better conditions? Why do you think that this is the case?
8. Compare the conditions of the enterprise agreement to the conditions of the individual contracts negotiated by other students in your class. Which has the better conditions? Why do you think that this is the case?

APPLY your skills
9. In your opinion, which method of determining wages and conditions of work produces better outcomes for employees — enterprise agreements or common law individual contracts? Explain your response.
10. In your opinion, which method of determining wages and conditions of work produces better outcomes for businesses — enterprise agreements or common law individual contracts? Explain your response.
11. The task word (sometimes referred to as command word or instructional word) ‘propose’ generally requires you to put forward an idea, argument or suggestion for consideration or action. This involves writing a little more than simply just identifying or suggesting something. The task word ‘justify’ requires you to show how the statement or statements that you have made are correct or to provide evidence to support your argument.
Imagine now that legislation has just been introduced allowing students to be paid for the work they complete at school. Propose and justify a method of determining wages and conditions of work that your school could use to manage students (employees) effectively.

4.15 EXTEND YOUR KNOWLEDGE Dispute resolution and enterprise agreements

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.

4.15.1 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 on the right. 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.

4.15 Activities

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 works 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 co-workers 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 Mark’s employer feels that no work is being done in return for the wage that is being paid.
6. In what way can each of the 10 steps 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?

4.16 Review

4.16.1 Summary

Training options
• Training involves learning how to do a job more effectively. The aim is to increase the person’s knowledge and skills.
• On-the-job training occurs when employees learn a specific set of skills to perform particular tasks in the workplace.
• Off-the-job training occurs when employees learn a specific set of skills to perform particular tasks away from the workplace.
• Training can be used to prepare and develop employees to take on more responsibility in the future.

Performance management
• Performance management focuses on improving both business and individual performance through relating business performance objectives to individual employee performance objectives.
• An appraisal refers to the formal assessment of how efficiently and effectively an employee is performing their role in the business.
• Management by objectives is a process by which management and employees agree on a set of goals for each employee, with these individual goals all contributing to the objectives of the business as a whole.
• Self-evaluation involves employees carrying out a process of self-assessment, based on a set of agreed criteria.
• Employee observation involves gathering feedback on past and current performance from a range of stakeholders including management, other employees and customers.

Termination management
• Termination refers to when an employee leaves a particular workplace, ending the employment relationship. An employee may leave the business voluntarily through resignation, retirement or accepting redundancy. Sometimes an employee will be forced to leave the business because they have been made redundant or have been dismissed.
• Entitlement issues are the rights to benefits that employees have when leaving the workplace, either on a voluntary or an involuntary basis.
• Transition issues relate to the process or a period of changing from one job to another or from one set of circumstances to another.

The roles of participants in the workplace
• Employers and employees are major stakeholders in employee relations processes.
• 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 the Fair Work Commission. Implementation of employment agreements may involve regular monitoring, training of fellow managers and other employees, and dealing with any disputes that may arise.
• Unions, employer organisations, peak bodies and government are all key stakeholders that strongly influence the relationship between employers and employees.
• The Fair Work Commission is a body set up by government to deal with the resolution of industrial disputes. It creates awards for different industries and determines and maintains minimum wages, it approves agreements and ensures that all parties comply with those agreements, and helps to resolve a range of collective and/or individual workplace disputes through conciliation, mediation and/or arbitration.

Awards and 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.

Dispute resolution
• 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.
• For industrial action to be protected, a number of legal requirements must be met prior to the action occurring.
• A variety of avenues are available for the resolution of disputes in the workplace.
• The successful resolution of conflict will often depend on the management styles and skills of management, particularly human resource managers.
• A typical dispute resolution process includes grievance procedures, mediation and arbitration.
4.16.2 Key terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
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<tbody>
<tr>
<td>Arbitration</td>
<td>a process that occurs when a ‘judge’ (such as a commissioner of the Fair Work Commission) hears both arguments in a dispute in a more formal court-like setting and determines the outcome</td>
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<tr>
<td>Award</td>
<td>a legally binding agreement that sets out minimum wages and conditions for whole industries or occupations</td>
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<tr>
<td>Collective bargaining</td>
<td>determining the terms and conditions of employment through direct negotiation between unions and employers</td>
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<tr>
<td>Common law individual (employment) contract</td>
<td>covers those employees who are not under any Award or collective/enterprise agreements</td>
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<tr>
<td>Conciliation</td>
<td>a process that occurs when a third party participates in the resolution of a dispute and attempts to resolve the differences through discussion</td>
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<tr>
<td>Development</td>
<td>the process of preparing employees to take on more responsibilities in the future, acquiring better knowledge and skills, gaining more experience</td>
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<tr>
<td>Dismissal</td>
<td>occurs when the behaviour of an employee is unacceptable and a business terminates their employment</td>
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<tr>
<td>Disputes</td>
<td>a result of disagreements or dissatisfaction between individuals and/or groups</td>
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<tr>
<td>Employee observation</td>
<td>a strategy where a variety of opinions on the performance of employees is sought with the aim of arriving at a more comprehensive picture of past and current performance</td>
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<tr>
<td>Employer associations</td>
<td>organisations that represent and assist employer groups</td>
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<tr>
<td>Enterprise agreement</td>
<td>an agreement on pay and conditions of work made at the workplace level and negotiated between groups of employees (or represented by their union) and employers</td>
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<tr>
<td>Entitlement issues</td>
<td>the rights to benefits that employees have when leaving the workplace, either on a voluntary or an involuntary basis</td>
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<tr>
<td>Fair Work Commission</td>
<td>Australia’s national workplace tribunal that has a number of responsibilities under the Fair Work Act</td>
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<tr>
<td>Grievance procedure</td>
<td>provides an orderly system whereby the employee and employer can resolve matters relating to complaints about wages, hours, working conditions or disciplinary action</td>
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<tr>
<td>Lockout</td>
<td>occurs when employers close the workplace for a period of time as a means of applying pressure to employees during a period of industrial conflict</td>
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<tr>
<td>Log of claims</td>
<td>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</td>
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<tr>
<td>Management by objectives</td>
<td>a process by which management and employees agree on a set of goals for each employee, with these goals all contributing to the objectives of the business as a whole</td>
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<tr>
<td>Mediation</td>
<td>the confidential discussion of issues in a non-threatening environment, in the presence of a neutral, objective third party. Many businesses now specify mediation as a first step in their dispute resolution or grievance procedures</td>
</tr>
<tr>
<td>Negotiation</td>
<td>a method of resolving disputes whereby discussions between the parties result in a compromise and a formal or informal agreement about a dispute</td>
</tr>
<tr>
<td>Off-the-job training</td>
<td>occurs when employees learn skills in a location away from the workplace. It usually involves sending individuals or groups of employees to a particular specialised training institution (such as a university or TAFE college)</td>
</tr>
<tr>
<td>On-the-job training</td>
<td>occurs when employees learn a specific set of skills to perform particular tasks within the workplace. This training usually occurs in the working environment, and uses the equipment, machinery and documents that are present in that workplace</td>
</tr>
<tr>
<td>Penalty rates</td>
<td>additional wages paid to employees who work outside of normal working hours</td>
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<tr>
<td>Performance appraisal</td>
<td>the formal assessment of how efficiently and effectively an employee is performing their role in the business</td>
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<tr>
<td>Performance management</td>
<td>a focus on improving both business and individual performance through relating business performance objectives to individual employee performance objectives</td>
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<tr>
<td>Protected industrial action</td>
<td>action taken by either party to a dispute that has been approved by the Fair Work Commission</td>
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<tr>
<td>Redundancy</td>
<td>occurs when a person’s job no longer exists, usually due to technological changes, a business restructure or a merger or acquisition</td>
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<tr>
<td>Remuneration</td>
<td>payments made to the employee for work or a service performed</td>
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<tr>
<td>Resignation</td>
<td>the voluntary ending of employment by the employee ‘quitting’ their job</td>
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<tr>
<td>Retirement</td>
<td>occurs when an employee decides to give up full-time or part-time work and no longer be part of the labour force</td>
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</table>
self-evaluation a process whereby employees carry out a process of self-assessment, based on a set of agreed criteria
strike occurs when employees withdraw their labour for a period of time in pursuit of improvements in their employment conditions
termination the ending of the employment of an employee
trade unions organisations formed by employees in an industry, trade or occupation to represent them in efforts to improve wages and the working conditions of their members
training the process of teaching staff how to do their job more efficiently and effectively by boosting their knowledge and skills
transition issues the process or a period of changing from one job to another or from one set of circumstances to another
unfair dismissal when an employee is dismissed because the employer has discriminated against them in some way, such as firing someone because she is pregnant

4.16.3 Review questions

TEST your understanding

1. Name the three stages of the employment cycle.
2. Distinguish between on-the-job and off-the-job training.
3. Explain the advantages and disadvantages of on-the-job training.
4. Explain the advantages and disadvantages of off-the-job training.
5. Define the following terms.
   (a) Management by objectives
   (b) Appraisals
   (c) Self-evaluation
   (d) Employee observation
6. Outline one entitlement issue and one transition issue related to retirement.
7. Outline one entitlement issue and one transition issue related to redundancy.
8. Explain the difference between resignation and dismissal.
9. Explain the role of the following participants in the workplace.
   (a) Human resource managers
   (b) Employees
   (c) Employer associations
   (d) Unions
   (e) The Fair Work Commission
10. Distinguish between Awards and agreements.
11. Explain how the Award modernisation process has changed the nature of industry-wide Awards.
12. Give three examples of additional matters that can be included in workplace agreements.
13. Under what circumstances might the Fair Work Commission not approve an enterprise agreement?
14. List and explain the key steps that should be followed by a human resource manager in the negotiation of an enterprise agreement.
15. Outline the matters that must be considered by a human resource manager in implementing an enterprise agreement.
16. Describe a step-by-step process that a human resource manager could use to resolve a dispute.
APPLY your understanding

17. A performance appraisal of a worker indicates a lack of computer competency. What should the business do about this?

18. Compare ‘voluntary’ and ‘involuntary’ departures in terms of:
   • how difficult each is for the business to manage
   • effects on the business
   • effects on the staff leaving
   • effects on the staff remaining.

19. Read the following hypothetical case study and explain in one paragraph why Natasha’s termination was handled inappropriately.

Natasha had been employed by Top Line Printers Ltd for 12 years. During this time, she had worked at a number of different jobs in the factory. In her last position as a clerk, she received a very poor assessment from her supervisor. He complained about her performance and warned her that if it did not improve she might be dismissed.

Prior to her job as a clerk, she worked in the graphic design section of the business. Because she is a creative person, she enjoyed this work and received many favourable comments from her customers. However, for economic reasons, the graphic design section was closed and all the employees were given other jobs within the company. Natasha was given the clerk’s job in the personnel records section.

One Friday afternoon, she was called in to her supervisor’s office. She was told that another supervisor had complained to him about her poor performance and that her services were no longer required. Natasha was not aware of any other complaint about her. She had never been given any written advice that her service was unsatisfactory. However, the supervisor’s decision was final. She was dismissed.

20. Read the Timboon Fine Ice Cream case study below and answer the questions that follow.

SUPPORTING STAFF IN A REGIONAL BUSINESS

Timboon Fine Ice Cream was established in 1999 by Tim Marwood and his wife Caroline Simmons. Tim came from a dairy farming family and used the family farm as a base for his business. Tim recognised that the quality of service he wished to offer his customers had to be reflected in the quality of his staff. The business employs a core staff of between 15 and 20, with diversity a key feature. The mixture of ages, cultural backgrounds and skills means that staff are constantly learning from each other. As the business has expanded, existing staff have taken on new roles, allowing for new staff to begin by taking on less complex tasks. Being based in a regional community, where locals all know each other, the business fosters a family-oriented culture, where staff feel valued and included. Tim and Caroline take a genuinely personal interest in their staff members and spend social time with them away from the workplace.

(a) Describe the key features of the workplace environment at Timboon Fine Ice Cream.
(b) Propose and justify an appropriate training option for Timboon Fine Ice Cream.
(c) Analyse the use of a performance management strategy within Tim and Caroline’s business.
EXAM practice

21. Define the term ‘employer association’. (1 mark)
22. Evaluate either on-the-job training or off-the-job training as an option for effectively managing employees. (5 marks)
23. Compare on-the-job training to off-the-job training. (4 marks)
24. Describe the relationship between performance management and training. (4 marks)
25. Identify and explain two roles of the Fair Work Commission in workplace relations in Australia. (5 marks)
26. Using examples, distinguish between grievance procedures and arbitration. (4 marks)
27. Propose and justify one performance management strategy for managing employees effectively. (4 marks)

Digital doc: Missing word glossary quiz
Digital doc: Crossword

sit past VCAA exam

4.16.4 School-assessed coursework

OUTCOME 2
Analyze and evaluate strategies related to the management of employees.

ASSESSMENT task — structured questions
Time allowed: 65 minutes
Marks allocated: 40 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.)

1. Define the term ‘retirement’. (1 mark)
2. Distinguish between the following terms. (4 marks)
   (a) ‘Dismissal’ and ‘redundancy’
   (b) ‘Performance management’ and ‘appraisal’
3. Discuss the use of on-the-job training or off-the-job training. (4 marks)
4. Explain how management by objectives can be used to achieve both business and employee objectives. (3 marks)
5. Besides management by objectives, propose and justify a performance management strategy for managing employees effectively. (4 marks)
6. Dana’s children’s party business is struggling financially. She realises that she must terminate a number of her employees in order for the business to survive. Analyse one termination management strategy that Dana could implement to effectively manage her business and employees. (4 marks)

Read the following case study, then answer questions 7–12.

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.

7. Which type of industrial dispute is occurring at Supa Dupa Foods? (1 mark)
8. Outline two matters, other than those mentioned above in the Supa Dupa Foods dispute, that are permitted to be included in an enterprise agreement. (4 marks)
9. What steps must the union take to ensure that any strike action taken by the workers at Supa Dupa Foods is protected action? (3 marks)
10. Identify and explain two possible means of resolving the dispute that have not yet been used by the parties. (4 marks)
11. 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)
12. Using examples, describe a suitable dispute resolution process for Supa Dupa Foods. (5 marks)