CHAPTER 4

Human resource management — managing employees and workplace relations

WHY IT IS IMPORTANT
Images such as that opposite have been used as part of the recruitment drive for the Australian navy. The young woman in the image is seen to be making use of skills she has acquired through high quality training. All Defence Force recruitment material stresses the significance of training, recognising that young people don’t just want a job, they want to gain skills, and they want a career path that provides a variety of opportunities. A significant task for managers in achieving the aims of a business is retaining and therefore keeping good employees. In this chapter, you will learn about how employees are ‘maintained’ in the workplace. Training and development of employees is essential to ensure the employee is able to carry out the required tasks, and improve chances of job satisfaction. Ongoing feedback on work performance can assist both the employer and employee to achieve their objectives. Termination of employment is the final phase of any employment arrangement; it must also be managed to ensure employees are treated fairly and within the law.

WHAT YOU WILL LEARN

Key knowledge
Use each of the points below from the Business Management study design as a heading in your summary notes.

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

Key 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.

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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 The employment cycle

**KEY CONCEPT** The employment of staff involves a three-stage cycle, consisting of the establishment phase, the maintenance phase and the termination phase.

An introduction to the employment cycle

The employment cycle involves a business determining its employment needs in line with its business strategy. Once employment needs are established, it's time to hire staff. Once staff are employed, steps need to be taken to ensure employees are satisfied and productive. The final phase of the cycle is managing what happens when employees leave the business. These three phases of the employment cycle are summarised in the following diagram.

**Phases of the employment cycle**

We will now look at these three phases in more detail.

**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:

- **Job description**: the duties, tasks and responsibilities associated with the job.
- **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*, that establish a minimum set of wages and conditions for employees. Employers may choose to pay above this minimum, and as we have seen in the previous chapter, 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.
4.1 The employment cycle

Training and development
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. Many businesses also recognise the value of developing and expanding the skill base of employees by giving them access to additional education and training opportunities.

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. Businesses will employ a variety of methods to evaluate both business and individual employee performance.

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.

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.

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.

6. 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.
4.2 Training and development of employees

**KEY CONCEPTS** Giving a person the right knowledge and skills to perform their job effectively is what training is all about. Development focuses on preparing the employee to take on responsibilities within the business in the future and often requires training.

**An introduction to training and development**

Training and development are aimed at improving employees’ skills and abilities — they are necessary for both personal and business growth. New employees may need some training and development, depending on their level of experience. Existing employees also need training and development to continually upgrade their skills. **Training** is teaching staff to perform their job more productively. **Development** is the process of preparing employees to take on more responsibilities in the future through acquiring better knowledge and skills and gaining more experience in a particular area. Developing staff often involves training. 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**

The aim of training is to seek long-term change in employees’ skills, knowledge, attitudes and behaviour in order to improve work performance in the business. However, many businesses do not spend enough on staff training. This is unfortunate because training and development benefit both the employee and the employer. These benefits are listed in the table on the next page.

<table>
<thead>
<tr>
<th>Training</th>
<th>Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve work performance</td>
<td>Prepare for future responsibilities</td>
</tr>
<tr>
<td>Boost knowledge and skills</td>
<td>Gain more experience in a particular area</td>
</tr>
</tbody>
</table>

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

**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.

Life is a continual learning curve and it doesn’t just stop when you’ve finished VCE. You may go to university or you might start full-time work. In any case you will receive training to help you gain knowledge and learn skills to work productively.
4.2 Training and development of employees

A learning organisation monitors and interprets its environment, seeking to improve its understanding of the interrelationship between its actions and its environment.

**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.

**Benefits of training**

<table>
<thead>
<tr>
<th>Benefits for employees</th>
<th>Benefits for the business</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opportunity for promotion and self-improvement</td>
<td>Higher productivity through better job performance and more efficient use of human resources</td>
</tr>
<tr>
<td>Improved job satisfaction through better job performance</td>
<td>Goals and objectives more effectively met</td>
</tr>
<tr>
<td>A challenge — the chance to learn new things</td>
<td>Reduced costs due to less labour turnover and absenteeism, and fewer errors and accidents</td>
</tr>
<tr>
<td>Adaptability — greater ability to adapt to and cope with changes</td>
<td>A more capable, ‘mobile’ workforce</td>
</tr>
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</table>

**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.

**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.

Most major hospitals are integrating advanced technology into their operations and thus have required training for all employees.
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, at their regular workstation, or it may occur in a special setting, such as a training room or conference room. 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>
</tr>
</thead>
<tbody>
<tr>
<td>The most cost-effective alternative, as no travel expenses or other costs</td>
<td>Quality of the trainer may vary — not everyone has the ability to teach others</td>
</tr>
<tr>
<td>are incurred</td>
<td></td>
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<tr>
<td>Employees are often actually working while training, so are more</td>
<td>Bad habits of older staff may be passed on to younger employees</td>
</tr>
<tr>
<td>productive</td>
<td></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</td>
</tr>
<tr>
<td></td>
<td>activities</td>
</tr>
<tr>
<td>Employees are in a familiar environment, with colleagues they are used</td>
<td>If real tools and equipment are used, it may disrupt production</td>
</tr>
<tr>
<td>to working with</td>
<td></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</td>
<td>May be too theoretical without access to workplace tools or equipment</td>
</tr>
<tr>
<td>the workplace</td>
<td></td>
</tr>
<tr>
<td>Outside experts and specialists can provide broader experiences</td>
<td>More expensive, with fees charged, travel costs, etc.</td>
</tr>
<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</td>
</tr>
<tr>
<td></td>
<td>leave to find a better job</td>
</tr>
<tr>
<td>Can be more intense without workplace distractions for both trainer and</td>
<td>May not relate directly to the exact skills required in the workplace</td>
</tr>
<tr>
<td>trainee</td>
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</table>
Development

How an employee is developed in a business will depend on the business’s needs as well as the employee’s career stage. 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 developing 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.

**Succession planning** focuses on preparing employees with potential to take on key management positions within the business in the future, should the need arise.

A mentor will pass on knowledge and skills to an employee, with the expectation that one day the employee will be ready to fulfil a more senior role.

**TEST your understanding**

1. Distinguish between the terms ‘training’ and ‘development’.
2. Outline how training and development can benefit both the employee and the employer.
3. Distinguish between on-the-job training and off-the-job training.

**APPLY your understanding**

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

**eBookplus**

Weblink Succession planning
4.3 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.

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 involves five main objectives:
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 selection
4. to identify employees’ training and development needs
5. to identify new objectives and put a plan in place to improve future performance.

If most employees continually perform below expectations, the business’s recruitment and selection process may need to be changed, or extra training and development may be required. Although many managers are uncomfortable with the idea of evaluating employees, effective performance appraisal is a crucial function of good management.

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.

Performance management is about improving business and individual performance. If individuals are performing well, chances are the organisation should perform well too.

Performance management focuses on improving both business and individual performance through relating business performance objectives to individual employee performance objectives.

Performance appraisal is the formal assessment of how efficiently and effectively an employee is performing their role in the business.

DID YOU KNOW?
The recruitment firm Hudson found that 42 per cent of Australian employers did not have a way of monitoring staff performance.
4.3 Performance management strategies

A monthly catch up is a good starting point to review not only what is being achieved, but also how it is being achieved.

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.


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 characteristics. 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. Without performance feedback, performance appraisals are a pointless exercise.

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 follows:

As we have already seen in chapter 3, the process of goal-setting can be a powerful means of motivating employees. Objectives also use the concept of setting SMART goals, that is, the development of goals that are Specific, Measurable, Attainable, Relevant and Time-bound. Ultimately, performance appraisal is focused on the results and the degree to which objectives have been achieved, and using the SMART criteria will more readily allow this to occur.

Employee self-evaluation

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, and
- 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.

**Employee observation**

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, by seeking input from their subordinates, fellow supervisors and superiors. A diverse group of between eight and twelve fellow employees complete confidential and anonymous evaluation forms, and the employee under review can also complete a self-evaluation. The idea is to identify strengths and weaknesses, and the broad range of observations from a variety of different employees 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.

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**TEST your understanding**

1. Distinguish between performance management and performance appraisal.
2. Read ‘Regular feedback equals successful performance appraisal’. 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. Explain what is meant by SMART goals?
7. What are the two main advantages of employee self-evaluation?
8. Outline the process used in 360 degree feedback.

**APPLY your understanding**

9. 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.

10. 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 appraisal.

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

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, 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 separation into two broad categories: voluntary and involuntary (shown in the following figure).

Types of separation

- **Voluntary**
  - Retirement
  - Resignation

- **Involuntary**
  - Retrenchment
  - Dismissal

Termination — voluntary and involuntary

Retirement

**Retirement** is when an employee voluntarily leaves the workplace and the workforce. Until the mid-1980s, it was common for men to retire once they reached 65 years of age and women when they reached 60 years of age. Since changes to legislation in the 1990s, there has been no ‘official’ retirement age. People now can choose when they would like to retire. A recent trend is for people to retire ‘early’ — that is, in their mid- to late 50s. 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.
4.4 Termination of employment: retirement, resignation and redundancy

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 casual employees to a month for some professionals.

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.

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 retrained for another job, he or she will be made redundant.

Redundancy can be either voluntary or involuntary. Voluntary redundancy occurs when the business wishes to reduce either the size or the nature of its workforce, and decides how many employees should be ‘let go’. 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. 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.

Retrenchment is sometimes called redundancy, but there is a subtle difference between the two terms. Redundancy occurs due to the permanent elimination of some jobs, because business or technological change has removed the need for those particular skills. Retrenchment is employee termination due to lack of sufficient...
work to keep the employee fully occupied. Retrenchment is a cyclical phenomenon tied closely to the level of economic activity. The end result of both retrenchment and redundancy is that the employee is out of a job.

The HR manager must be aware of the rights of an employee in relation to redundancy and retrenchment, and must follow the correct procedures. 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 find new employment, particularly if that 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.

**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. What is the difference between redundancy and retrenchment?

**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.
4.5 Termination of employment: dismissal, entitlement and transition issues

KEY CONCEPT A common form of involuntary termination is dismissal. This needs to be handled carefully as employees may have a number of legal entitlements that need to be observed.

**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.

**Entitlement and transition issues**

The legal rights of employees and obligations of employers need to be followed rigorously when employees are dismissed, especially if the dismissal is due to poor work performance. Employers are now expected to warn employees if their work performance is not satisfactory, and to provide training opportunities to help them improve. The Fair Work Act includes provisions to protect employees from unfair dismissal, and provides a means by which employees who believe they have been unfairly dismissed can take legal action against the employer. Employees must be given proper notice and employers must comply with procedures established in law. To avoid misunderstandings, written warnings and/or notice is preferable. Written confirmation of resignation is also preferable to verbal statements made in the ‘heat of the moment’. This way, a lengthy unfair dismissal case can be avoided.

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

- **Gender**
- **Race**
- **Religion**
- **Age**
- **Marital status**
- **Disability**
- **Medical condition**
- **Genetic makeup**
- **Sexual orientation**

**Unfair dismissal** occurs when an employer dismisses an employee because the employer has discriminated against them in some way, such as firing someone because she is pregnant.
• 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.

**Unfairly dismissed for rescuing a kitten**

In August 2012, the Fair Work Commission found that a cleaner who found a kitten at her work and gave it to a friend was unfairly dismissed for doing so. Judith Montague was working as a cleaner at student accommodation in Carlton when she found a kitten that Melbourne City Council workers had been attempting to rescue from a drain. She had been led to believe that she would be allowed to keep the kitten if it escaped. However, when it was discovered she had taken the kitten, council workers were upset she had done so, which resulted in her employer dismissing her.

The Fair Work Commissioner pointed out that Ms Montague’s employer had failed to follow the Small Business Fair Dismissal Code by not issuing a warning before dismissing her. He found the dismissal to be ‘harsh, unjust and unreasonable’ and ordered the employer to pay $3940 to Ms Montague.

The employer had offered Ms Montague two weeks pay in lieu of notice, and had later increased it to five weeks pay. Ms Montague pointed out that she had barely worked since the dismissal, and had few prospects of gaining new employment.

**DID YOU KNOW?**

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 leave the business.

**Ms Montague’s employer had failed to follow the Small Business Fair Dismissal Code by not issuing a warning before dismissing her.**

**TEST your understanding**

1 Which of the following scenarios would most likely lead to summary dismissal?
   (a) John bribed another employee not to tell his manager that he had been accessing pornographic websites during office hours.
   (b) Peter arrives for work totally 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 Why was the dismissal of the cleaner in the case study above considered to be ‘harsh, unjust and unreasonable’? What compensation was she awarded?

**APPLY your understanding**

4 Termination management is about managing the final phase of the employment cycle, when the employee leaves. Give a general outline of the issues an HR manager must be aware of when dismissing an employee.

5 In August 2008, workers at SPC Ardmona in the Goulburn Valley were informed that 60 retrenchments were to occur, because the strong Australian dollar had meant a drop in exports, and there was a fruit shortage due to the drought. The company employed 450 workers in three plants in the region.

   (a) Explain what Nigel Garrard meant when he said that initially redundancies would be voluntary.
   (b) Predict the possible impact on staff who volunteer for redundancy and those who remain.

6 Use the Termination of employment weblink in your eBookPLUS to summarise the latest employee rights and rules that apply to termination of employment.

**Weblink**

Termination of employment

**eBookplus**
4.6 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.

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

**Employers**
Employers and human resource managers handle employee 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 employee relations specialists within their human resource management departments. Such specialists are particularly valuable as the legal responsibilities of business in relation to employee relations matters have become more complex. This is because we have moved away from a centralised system where most workers in a particular industry would be given the same working conditions under what was known as an 'Award'. We now have a more decentralised system where negotiation can occur at enterprise level.

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

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

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

The manner in which the role of the human resource manager will be performed is determined by the corporate culture, strategic vision and objectives, and dominant management style of the 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.

**Negotiating employment agreements**

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

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

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

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

4. **Keep an open mind.** Employee representatives who are keen to gain improvements in wages and conditions may have worthwhile proposals on productivity improvements. Union officials often have experience in negotiating similar agreements in other workplaces, and may be able to offer examples of good practice.

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**DID YOU KNOW?**

Hazelwood Power Station management in the Latrobe Valley adopted a policy of ‘openness and honesty’ with staff and unions. They have an open email system that any employee can use to address questions directly to the CEO.
5 *Keep the big picture in mind.* Consistency with the business’s vision, strategic objectives and financial performance is vital. Specific objectives such as the expansion into new markets or introduction of new technology need to be incorporated into any changes in work practices, and rewarded accordingly.

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

7 *Lodge the agreement.* Human resource managers need to be aware of the lodgement and approval requirements of the Fair Work Commission.

### Training other managers and supervisors

Other managers and supervisors need to be fully informed of the details of the agreement to ensure that processes for achieving productivity improvements are put into operation. Monitoring processes with appropriate performance indicators (PIs) is necessary to track the success of changes in work practices. 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 (see section 4.10 ‘Resolution of disputes’).

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

### APPLY your understanding

8. Hannelore Wuth is the human resource manager for Delite Cakes and Pastries, which has a factory supplying supermarkets throughout Victoria. The current employment agreement with employees is due to expire in three months. Hannelore is new to the company and was not involved in negotiating the current agreement.

   (a) Identify and explain the key issues Hannelore needs to be aware of before she begins the process of negotiating a new agreement.

   (b) What are the three most important issues that she needs to keep in mind during the negotiation process?
External organisations within both the operating and macro environments can have an impact on workplace relations decisions within a business.

**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. 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 2014, only 18 per cent of full-time employees and 15 per cent of part-time employees were trade union members.

**Employer associations**

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

**Trade unions** are 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.

**Employer associations** are organisations that represent and assist employer groups.

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

**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 union 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.

**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.
Governments have five key roles in employee relations processes:

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

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

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

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

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

### The Fair Work Commission

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

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

### 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?
4.8 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.

**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 enterprise agreements between the employers and employees within a particular enterprise. In practical terms, this means that Awards no longer apply in businesses that have developed an agreement at enterprise level. However, the Award would still apply to any businesses in the same industry that have not developed such an agreement. The significance of industry-wide Awards today is that they provide a set of minimum employment standards for employees working within an industry. 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.

**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 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.

<table>
<thead>
<tr>
<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>
</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>
</tr>
</tbody>
</table>

(continued)
Collective and individual agreements

The workplace relations structure now in place in Australia has collective agreements as the means of determining the wage 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.

Collective agreements

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

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

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

Penalty rates are additional wages paid to employees who work outside of normal working hours.

**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.

<table>
<thead>
<tr>
<th>Matters covered by Awards and collective agreements (continued)</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>3 Parental leave and related entitlements</td>
<td>3 Arrangements for the hours during which work is performed</td>
<td></td>
</tr>
<tr>
<td>4 Annual leave</td>
<td>4 Overtime rates where applicable</td>
<td></td>
</tr>
<tr>
<td>5 Personal, carers and compassionate leave</td>
<td>5 Penalty rates</td>
<td></td>
</tr>
<tr>
<td>6 Community service leave</td>
<td>6 Annualised wages and salaries</td>
<td></td>
</tr>
<tr>
<td>7 Long-service leave</td>
<td>7 Allowances</td>
<td></td>
</tr>
<tr>
<td>8 Public holidays</td>
<td>8 Details of leave, leave loadings etc.</td>
<td></td>
</tr>
<tr>
<td>9 Notice of termination and redundancy pay</td>
<td>9 Superannuation arrangements</td>
<td></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>
<td></td>
</tr>
</tbody>
</table>

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

**Collective/enterprise agreement**

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

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

**Common law individual contract**

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

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

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**TEST your understanding**

1. Explain the role of industry-wide Awards in the current employee relations environment.
2. What is the purpose of the Award modernisation process?
3. What mechanism is in place to ensure that Awards remain relevant into the future?
4. List and explain the key elements that must be included in collective agreements.
5. Explain the meaning of the term ‘bargaining in good faith’.
6. What requirements must be satisfied before the Fair Work Commission will approve a collective agreement?
7. In what ways do individual common law employment contracts differ from AWAs?
8. Explain the special provisions that apply to employees earning over $138 900 per year.

**APPLY your understanding**

9. Use the Fair Work Commission weblink in your eBookPLUS to find the modern Award relevant to the retail or hospitality industry, or any other industry in which you or your classmates have part-time employment. List and briefly explain the key matters that are covered by this Award.

10. Obtain a copy of either an enterprise agreement that applies to an employer in one of the industries mentioned in question 9, or an individual common law contract as provided by your own or a classmate’s employer, and compare it with the relevant Award.
   - What features does this document contain that are the same as the relevant Award?
   - Identify those provisions, if any, that improve on the basic conditions allowed for in the Award.
4.9 Disputes in workplace relations

**KEY CONCEPT** Even with the most positive employee relations environment, conflict between employers and employees can still occur. This conflict can be expressed as industrial action on the part of either the employers or the employees.

**Conflict** refers to disputes, disagreements or dissatisfaction between individuals and/or groups.

A **strike** occurs when employees withdraw their labour for a period of time in pursuit of improvements in their employment conditions.

A **lockout** 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.

**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.

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

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

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

Other forms of industrial action include:

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

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

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

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

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

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

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

Protected and unprotected action

Commonwealth employee relations legislation distinguishes between protected and unprotected industrial action. Protected industrial action refers to action taken by either party to a dispute that has been approved by the Fair Work Commission.

Unprotected industrial action refers to action that has not been approved by the Fair Work Commission.
Paramedics in dispute over pay and conditions

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

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

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

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) krvw 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 case study above. What management skills would have been needed to solve the dispute that arose at Ambulance Victoria?

APPLY your understanding

8. Jules works for Empire Engineering. His union is currently negotiating a new enterprise agreement with the employer, but negotiations are not going well. The union wants to arrange for the employees to take industrial action in the near future.
   (a) What type of action might the employees take?
   (b) What might they hope to achieve by taking this action?
   (c) What has to happen for this action to be ‘protected’?
   (d) Three other businesses which rely on Empire Engineering for supplies are concerned that industrial action at that company will affect their businesses. What can they do to address the problem?
All enterprise agreements must contain dispute resolution procedures to gain the approval of 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.

**Negotiation**

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

**Mediation**

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

A mediator can assist the parties to resolve a dispute in the workplace.
Grievance procedures

Grievance procedures are a formalised set of steps which 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 grievance procedure provides an orderly system whereby the employee and employer can resolve matters relating to complaints about wages, hours, working conditions or disciplinary action.

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

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.
Common law action

Legal action before the courts is open to any party involved in or affected by industrial action. Parties may make direct claims for damages caused by the parties taking the action, or for breach of contract resulting from such action. Legal action arising from employee relations issues is usually heard in the Fair Work Division of the Federal Court. If the industrial action is protected during a bargaining period, the parties taking the action cannot be sued through the courts. Taking legal action would be considered a ‘last resort’, when all other avenues have been exhausted. Any business seeking to operate under a consultative or participative management style would tend to avoid this method of resolving conflict as it is likely to prolong hostility and mistrust in the workplace.

TEST your understanding

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

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

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

Research has shown that a manager’s skill in averting the escalation of such disputes is critical.

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

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

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

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.

TEST your understanding

1. Why is the manager’s skill in resolving disputes at the workplace level crucial in avoiding the escalation of an industrial dispute?

2. Explain why a manager who adopts an autocratic management style may find it difficult to resolve disputes at the workplace level.

3. Explain the steps a manager should take when confronted with an employee grievance in the first instance at the workplace level.

APPLY your understanding

4. Read the following scenarios and identify in each case:

(a) Jennifer told her manager that the new procedure for ensuring the customer received product within 24 hours meant that she consistently had to miss lunch. Her manager said that it was a cost-effective way of losing weight and laughed it off.

(b) Tran told his manager that he wanted to talk to him because he thought the equipment he was using was dangerous. Tran’s manager said he was more than happy to talk about it, but that it would have to wait at least three weeks because he was so busy. He also added that it has never been a problem in the past.

(c) Tough cost cutting at the firm meant that John had to pay for his own tea and coffee. John thought that this was ridiculous and spoke to his manager. John’s manager informed him that it was just ‘tough luck’, and that he couldn’t do anything about it because it was a decision made by head office.

(d) Geoff wants to talk to his manager about a coworker who constantly has personal telephone conversations and will not lower her voice. Geoff’s manager said: ‘You’re a big boy, I’m sure you can handle it yourself.’

(e) Trina wanted to ask her manager for a pay rise. She felt that she had worked very hard, and it was time that her manager acknowledged her efforts. Trina’s manager organised a time to meet and discuss the issue. He listened to everything Trina had to say, and then exploded, saying that Trina was lucky to get the pay she got and should be thankful she has a job in the current economic climate.

5. Choose one of the scenarios from question 4 and conduct a role play demonstrating the appropriate way workplace level grievances should be handled.
**EXTEND YOUR KNOWLEDGE**  
**Management skills in employee relations**

**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.

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**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.

TEST your understanding

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

2. Define ‘negotiation’.

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

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

EXTEND your understanding

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

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

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

7. Why is a win–win attitude important for negotiation in today’s workplace?
**SUMMARY**

The establishment phase of the employment cycle — human resource planning, job analysis and job design
- The three phases of the employment cycle are establishment, maintenance and termination.
- A business strategy will dictate what human resources are needed to ensure business objectives are met.
- Job analysis involves defining what duties must be performed as well as factors such as the time that will be required to complete the job and working conditions required.
- A job description outlines the duties involved in performing a particular job and a job specification focuses on who is needed to do the job in terms of their knowledge, skills and qualifications.

The maintenance phase of the employment cycle — training and development
- Training involves learning how to do a job more effectively. The aim is to increase the person’s knowledge and skills.
- Development focuses on preparing the employee to take on more responsibility in the future and can involve training.

The maintenance phase of the employment cycle — performance management
- Performance management is about managing the performance of individual employees and the business as a whole to ensure objectives are met. It involves good job design and hiring the right people to perform well for the business, as well as performance appraisal (monitoring the performance of the employee).

The termination phase of the employment cycle
- Termination of employment is the final phase of the employment cycle. 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.

Workplace relations: participants in the internal environment
- Employers and employees are the 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.

Workplace relations: participants in the external environment
- 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

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.
Disputes in workplace relations

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

Resolution of disputes

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

REVIEW QUESTIONS

TEST your understanding

1. Name the three stages of the employment cycle.
2. A performance appraisal of a worker indicates a lack of computer competency. What should the business do about this?
3. How would becoming a training organisation save the business money?
4. Group the various stakeholders in employee relations according to whether they are part of the internal, operating or macro environment of a business.
5. Explain how the Award modernisation process has changed the nature of industry-wide Awards.
7. Give three examples of additional matters that can be included in workplace agreements.
8. Under what circumstances might the Fair Work Commission not approve an enterprise agreement?
9. List and explain the key steps that should be followed by a human resource manager in the negotiation of an enterprise agreement.
10. Outline the matters that must be considered by a human resource manager in implementing an enterprise agreement.
11. Explain the difference between protected industrial action and unprotected industrial action.

APPLY your understanding

12. Compare ‘voluntary’ and ‘involuntary’ departures in terms of:

   - how difficult each is for the business to manage
   - effects on the company
   - effects on the staff leaving
   - effects on the staff remaining.

13. 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.
14 Read the Gippsland Water case study and answer the questions that follow.

**Gippsland Water**

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


Gippsland Water employees benefit from a partnership between management, employees and unions.

(a) Describe the key features of the workplace relations environment at Gippsland Water.
(b) Describe the relationship that exists between three different stakeholders at Gippsland Water.
(c) Identify the sources of conflict and potential dispute at Gippsland Water.
(d) Which methods of conflict resolution would you expect to be most commonly used at Gippsland Water? Justify your choice.

**School-assessed coursework**

**OUTCOME 2**

- Define, describe and apply relevant business management concepts and terms
- Apply knowledge about managing employees to practical and/or simulated business situations
ASSESSMENT task — structured questions

Time allowed: 50 minutes
Marks allocated: 32 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 Explain the link between ‘performance appraisal’ and ‘training and development’ of staff. 2 marks
2 What are three possible outcomes of a performance appraisal? 3 marks
3 Distinguish between the following terms:
   (a) Dismissal and retrenchment
   (b) Performance management and performance appraisal. 4 marks
4 List two examples of ‘on-the-job’ training and two examples of ‘off-the-job’ training.
   On-the-job: 4 marks
   Off-the-job: 4 marks

Read the case study and answer the questions that follow.

Impending strike action

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

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

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

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

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

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

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

5 Which type of industrial dispute is occurring at Supa Dupa Foods? 1 mark
6 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
7 What must the union do to ensure that any strike action taken by the workers at Supa Dupa Foods is protected action? 3 marks
8 Identify and explain two possible means of resolving the dispute that have not yet been used by the parties. 4 marks
9 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
10 Assuming a level of trust could be established, identify and explain a step-by-step process the human resource manager could use to negotiate a new enterprise agreement. 4 marks