9.4 HSC topic 4: Employment Relations

20% of indicative time
The focus of this topic is to understand the nature of effective employment relations and their importance to business operation and society.

Outcomes

The student: H2.1 describes and analyses business functions and operations and their impact on business success H2.2 evaluates processes and operations in global business H3.2 evaluates the effectiveness of management in the organisation and operations of business and its responsiveness to change H3.3 analyses the impact of management decision-making on stakeholders H4.1 critically analyses the social and ethical responsibilities of management H4.2 evaluates management strategies in response to internal and external factors H5.1 selects, organises and evaluates information and sources for usefulness and reliability H5.2 plans and conducts an investigation into business to present the findings in an appropriate business format H5.3 communicates business information, ideas and issues, using relevant business terminology and concepts in appropriate forms H5.4 applies mathematical concepts appropriately in business situations

Content

Students learn to:
use existing business case studies to investigate and communicate ideas and issues related to employment relations. The focus of these case studies will be to:

- analyse how conflict and change are managed in a business
- prepare and justify possible ways of resolving conflicts in the selected business organisations.
Students learn about:

the nature of employment relations

• stakeholders in the employment relations process — employers, employees, employer associations, unions, government organisations

• managing the employment relations function

– line management and specialist

key influences on employment relations

• social influences — changing work patterns, population shifts

• legal influences — overview of major employment legislation

• new organisational behavioural influences — flat management and team structures

• economic influences — economic cycle, globalisation

effective employment relations

• role of employment relations

• communications systems — grievance procedures, worker participation, team briefings

• rewards — financial, non-financial

• training and development — induction

• flexible working conditions — family-friendly programs

• measures of effectiveness — levels of staff turnover, absenteeism, disputation, quality, benchmarking

legal framework of employment

• the employment contract — common law (rights and obligations of employers and employees), statutes, awards, agreements

• types of employment contract — casual/part-time/flexible, permanent, casual
industrial conflict

- definition and causes — wage demands, working conditions, management policy, political goals and social issues
- perspectives on conflict — unitary, pluralist, radical
- types of industrial action – overt — lockouts, pickets, strikes, bans, work-to-rule
- — covert — absenteeism, sabotage, turnover, exclusion from decision-making in business
- roles of stakeholders in resolving disputes
- dispute resolution processes — conciliation, arbitration, grievance procedures, negotiation, mediation, common law action, business/division closure
- costs and benefits of industrial conflict
  - financial, personal, social, political, international ethical and legal aspects
- issues in the workplace
- working conditions
- Occupational Health and Safety (OH&S)
- workers’ compensation — state and/or federal agencies and common law redress
- anti-discrimination
- Equal Employment Opportunities (EEO)
- unfair dismissal.

The nature of employment relations:

Employment relations refer to the total relationship between employee and employer.

Stakeholders in the Employment Relations Process:

Employers:

Employers’ responsibilities are increasing, as recent legislation today encourages them to negotiate agreements and resolve disputes at an individual employee level.

Employees:

Employees today are on average more highly educated than in the past. They become bored more quickly and demand more challenging, interesting work.
Trade Unions:

Are organisations formed by employees in an industry, trade or occupation to represent them in efforts to improve wage and the working conditions of their members.

Employer Associations:

Are essentially counters to trade unions. They protect employers in the making of awards and other industrial issues and disputes.

Governments and Government Organisations:

Their key roles are as follows:

- Legislator: Our elected representatives pass laws in parliaments which provide the legal framework for industrial relations.
- Federal and State governments are employers of almost one third of Australian workers, such as nurses and police officers.
- Responsible economic manager.
- Administrator of government policies on industrial relations.

Managing Employment Relations Function:

The scope of the employment relations function depends on not only the size but also the nature of the business, the level of industrial action and involvement of unions in the industry or business. In larger enterprises, line managers are also increasingly trained in general employment relations issues, including legal compliance in such areas as OHS, equal employment opportunity and workplace resolution of conflict.

Most specialist managers are responsible for:

- Recruitment and selection
- Induction and training
- Separation
- Managing the implementation of equal employment opportunity and affirmative legal action legalisation.

Key influences on Employment Relations:

Social Influences:

- Changing work Patterns:

Many people today have periods as full time employees followed by periods of casual, part time or contract work. Many changes appear to be driven by business' need to reduce costs and improve productivity. Some changes include:
• The rapid growth of concentrating or outsourcing.

• A preference of many businesses is to have a smaller permanent workforce and casual employees as a flexible workforce to meet demand at peak times.

• Flexible working hours

- Population Shifts:

There is increased female participation in the workforce and early retirement from full time work is popular today.

- Changing Attitudes

The workforce today is well educated and employees increasingly want challenging work, greater responsibility and anatomy.

Legal Influences: Major employment legislation:

Changing community and worker expectations on social justice (equal employment opportunity, anti discrimination) have become an influence to ER. We have also moved further away from a centralised wage determination system to a decentralised wage determination system influencing ER as ER managers/employers must now spend time negotiating wages.

New Organisational Behavioural Influences:

With the possible issue of diminishment of promotional opportunities ER managers have developed the following motivational strategies for staff:

• Job enrichment: involves increasing the breath of the tasks in job.
• Job rotation: involves moving staff from one task to another over a period of time.
• Job enrichment: involves increasing the responsibilities of a staff member.

Economic Influences:

During times of increased economic growth goods and services are demanded more and there for the demand for labour increases. Structural change in the economy has led to rapid growth in the employment sector.

Globalisation has increased the level of international competition. In such an environment, there is an increased need to attract and retain motivated and effective staff, and make continuous improvements in productivity, costs, innovation, and quality and customer service. Training in the management of multicultural workforces with differing approaches to power, authority and the role of groups/ individuals is increasing with the globalisation of business.
Other influences:

Technological change – is a major source of improvements in productivity, communication and competition between firms. It is causing the nature of production and services to change, resulting in the need for ongoing training programs.

Competitors – If supply of labour is limited it can lead to poaching problems. Retention of staff is improved through good management of the employment relationships, and not just financial incentives.

Effective Employment Relations:

The role of Employment Relations:

Employees are often the only point of difference between some firms. Most organisations that are successful in the long term maintain a balance between concern for success and regard for their employees. Better work and employment relationships begin with an understanding of how people interact. Human relations covers all types of interaction among people: conflicts, cooperative efforts and interpersonal and group relationships. The employment relations function aims to manage the relationship between employer and employee effectively in order to develop competent, flexible, productive employees committed to the organisation.

Aspects of HR Management:

- Human resource planning- involves setting out what needs to be achieved through analysing internal and external factors.
- Recruitment, selection and placement
- Training and development
- Rewards Management
- Conflict resolution and management of industrial agreements
- Legal compliance – OHS and Social Justice.
- Separation

Communication Systems:

Grievance procedures:

Are formal procedures that an employer and employees have agreed to use to deal with issues or conflict in the workplace. Examples use a letter of reprimand or a letter of praise.

Worker Participation:

Firms will benefit from creating meaningful, interesting roles for employees allowing them a sense of responsibility. Joint consultative committees provide management with employee views on a range of issues and company trends.
Team Briefings:

Quality circles involve employees meeting voluntarily on a regular basis to discuss, analyse and resolve specific problems.

Semi – autonomous teams/ self managing work teams is where a group of employees assume a high level of responsibility for a job.

Rewards:

Rewards can either be intrinsic or extrinsic.

Intrinsic rewards are those rewards gained by doing the actual job itself such a sense of achievement or satisfaction.

Extrinsic rewards are those give or provided outside the job itself. They may be monetary or non monetary for example incentive payments or flexible work schedules.

Training and Development:

Induction training is a foundation for all employment relations with that employee. It is done to introduce the employee with the job, co workers, the organisation and its culture.

Training programs are planned and are an integral part of the business strategy. The steps involved are:

• Step 1: access the needs of, the individual, the job and the business.
• Step 2: Determine the objective of the training program for the organisation, job and individual.
• Step 3: Consider internal and external influences.
• Step 4: Determine the content of training programs.
• Step 5: Evaluate the training program.

Effective development plans ensure that all experiences and talented staff are retained.
Flexible Working Hours:

Social changes have led to an increased need for flexible working hours.

The first area is the need for flexible remuneration agreements which allow employees to be more motivated and to become linked financially to the business’ success. Possible strategies are profit sharing and productivity sharing.

The second is the need for flexible working hours and part time work which allows employee groups for example students and mothers to work part time. Family friendly programs which include job sharing, flexible working hours/ conditions, family leave, planning for spouses/ children within overseas career postings and assistance with child care or provision of child care facilities are vitally important as social changes have taken place leading to often a mother and father working.

Measures of effectiveness:

Employment Relations Audits:

This audit can be performed in a number of ways:

- Performance of one division of the firm itself against another is benchmarked to determine areas of weaknesses.
- An outside consultant conducts research to analyse problems and suggest solutions.
- Key performance indicators are evaluated by management.
- A legal compliance analysis may be undertaken to determine areas of variance from laws and company

Measures of effectiveness include:

- Levels of staff turnover
- Absenteeism
- Disputation
- Quality
- Benchmarking
Legal Framework of Employment:

The Employment Contract:

An employment contract is a legally binding, formal agreement between employers and employees. A contract is valid if:

- The parties involved intend to create a legal relationship.
- One party offers and another accepts the offer.
- Both parties obtain a benefit.
- Both parties have the capacity to contract; for example they are old enough to make the contract.
- Consent in genuine and are not pressured.
- The offer does not contravene any public interest.

The employment contract is governed by common law, statues and awards.

Common Law:

The common law is law developed by courts and tribunals. Unlike statutes, it is not made by parliament; it is made by prior judge’s decision. Under common law both employers and employees have basic obligations in any employment relationship.

Employer Responsibilities include the following:

- Providing work – Employers are not allowed to stand down employees is there is no work.
- Payment of income and expenses – Employers are required to pay the income stipulated in the award, enterprise agreement or contract.
- Meeting requirements of industrial legislation – which includes, providing a workplace and work practices which are free of discrimination and ensuring that employees are protected against unfair dismissal.
- Duty of care – Under OHS legislation employers must take reasonable care of employees by: providing a safe work system without risks to health, providing and maintaining premises that do not unreasonably expose an employee to risk of injury, providing resources and information necessary to ensure the health and safety and protecting workers against risks arising out of their work activities.

All employees are obliged to observe the following:

- Obey lawful and reasonable commands made by the employer.
- Use care and skill in the performance of their work activities – that is they must not behave in a negligent manner.
- Act in good faith and in the interests of the employer.
Statutes:

Are laws passed in state and federal parliament, for example laws relating to employment conditions, wage and salary determination and dispute resolution.

The statutory framework in Australia today:

Fair Work 2009 (NSW)-

The act reflects a government trying to incorporate principles of workplace fairness with principles designed to consolidate workplace flexibility, productivity and efficiency. To the satisfaction of unions fair work Australia replaces work choices. The role of fair work Australia will be the power to vary awards, make minimum wages, approve agreements, determine unfair dismissal claims and make orders on ‘good faith’ bargaining and industrial action. Fair work Australia provides a wage based ‘safety net’ for employees.

Awards:
Are a means of a centralised wage determination system and are often replaced by enterprise agreements which are agreements between an individual firm and its employees.

Agreements:
Enterprise agreements are made between the employer and employees and often better conditions are reached through the use of enterprise agreements.

Types of Employment Contract:

Casual Employment:
Are employees that are employed in irregular, uncertain conditions and are not entitled to sick leave or holiday leave. Many employers prefer casual staff, as it reduces recruitment and dismissal costs and other on costs. Casual employees however are entitled to casual loading.

Part Time Employment:
Part time employees have an employment contract but work less than 35 hours a week. Part time employees do have access to employment entitlements offered to full time employees.

Flexible Employment Conditions:
Flexible working hours are a common feature of enterprise agreements and individual contracts, as they allow firms to operate shifts at more intensive levels during peak seasons. The flexibility offered by job sharing involves two employees voluntarily sharing one permanent full time job. This arrangement has been very popular with women returning to the workforce after having children.
Permanent Contracts:

- Regular or continuing employees:

Regular or continuing employees can be full time or part time. They can expect that they have a continuing contract of employment and are required to work a specified number of hours per week.

- Fixed term employees:

Are employed on a contract for a specific period. They may be employed to replace staff absent for a period of time or on a project basis.

Issues Arising from the growth of part time and casual work:
For many casual employment reflects a lack of full time employment, rather than a long term preference for casual work. Casuals often find it difficult to access full time or permanent jobs, particularly if they miss out on training and development opportunities available to full time staff. Many exist on low or uncertain incomes, and are unable to obtain credit to purchase cars or homes.

Industrial Conflict:

Definition and Causes of Industrial Conflict:
Conflict refers to disputes, disagreements or dissatisfaction between individuals or groups. Possible causes of industrial disputes:

- Managerial Policy- is the single most common cause of disputes, disputes may arise from award restructuring, terms and conditions of employment, enterprise bargaining, production limits of quotas, promotion, discipline, personal disagreements and changing work practices.
- Wage Demands- For example a demand for greater output of employees.
- Working conditions- Conditions can include leave pensions, compensation, hours of work and physical working conditions.
- Political goals or social issues- This has become more uncommon as laws have been placed to prevent industrial discrimination.

Overall and mainly due to the decentralisation of the wage determination system industrial disputes are minimising.

Perspectives on Conflict:

Unitary: is a team based approach to conflict and all employees opinions are considered.
Pluralist approach: Recognises the active roles played by unions and works towards a resolution that suits all.
Radical Perspective: Is an ‘us versus them’ approach and recognises conflict as inevitable.

Types of Industrial Action:

There are two types of Industrial action:

Overt: are those industrial conflicts seen by the public.
Covert: Are those industrial conflicts not seen by the public.

Overt Operations:

- Lockouts: occurs when employers close the entrance to the workplace and refuse admission to employees.
- Pickets: Are protests that take place outside the workplace generally associated with a strike.
- Strikes: Refer to situations in which workers withdraw their labour. They are the most overt form of industrial action and aim to attract publicity and support for the employees’ case.
- Work bans: is a refusal to work overtime, handle a product, piece of equipment, process or even a refusal to work with particular individuals. Boycotts are a type of ban in which employees refuse to carry out part of their duties. A secondary boycott occurs when employees of firm X lace a ban on conduction business with firm Y.
- Work to Rule: Workers refuse to perform any duties additional to the work they normally are required to perform.

Covert Operations:

- Absenteeism: high levels of absenteeism or lateness may indicate that workers are dissatisfied or that there is conflict within a workplace.
- Sabotage: It may involve employees taking action to harm or destroy the image of the firm.
- Turnover: is the resignation of employees linked with dissatisfaction with the workplace.
- Exclusion from decision making in the business: includes not inviting employees to meetings etc. Is often used when an employee has spoken out against the business that may practice unethically or illegally.

Roles of stakeholders in resolving disputes:

- Employers and managers: use grievance procedures and negotiate agreements with employees to resolve disputes.
- Employees: use grievance procedures and negotiate agreements with employers, with or without unions on a collective or individual basis.
- Trade unions: represents employees in disputes from the shop floor to the national level.
Employer associations: Provide information and support to employers, assist in negotiations with unions and represent employers in tribunals.

Dispute resolution procedures:

- **Grievance procedures**: are useful in reducing the risk of an issue rapidly becoming a serious dispute. Since the introduction of enterprise bargaining and the unfair dismissal legislation introduced in the industrial relation reform act 1993.
- **Negotiation**: is a method of resolving disputes when discussion between the parties result in compromise and a formal or informal agreement about the dispute.
- **Conciliation**: A conciliation commissioner hears both arguments and helps a decision be made. The parties involved may object to a particular commissioner and ask that another be appointed.
- **Arbitration**: Done when conciliation fails, a judge or a panel of judges hear both arguments in a dispute in a more formal court like setting. An order is then handed down which is legally binding.
- **Mediation**: is a confidential discussion of issues in a non threatening environment.
- **Common law action**: is open to any party involved or affected by industrial action.
- **Business division/ closure**: may be a resolution or outcome of a dispute. Some firms outsource role believing that it will reduce dispute levels.

Benefits and costs of industrial dispute:

**Financial:**

- **Benefits**: increases empowerment of all parties who own an agreement. Empowerment can lead to increased productivity, fewer disputes and reduced absenteeism and labour turnover.
- **Costs**: Lost production and sales and firms reputation may be damaged. Some firms may reallocate or close.

**Personal:**

- **Benefits**: Conflict helps worker to gain management's attention on major issues that may have caused dissatisfaction and stress for a long time. Better work relationships may result from a clearer understanding of work problems.
- **Costs**: Stress can be created through intensification of work and changes due to restructuring of the workplace. Rumours or threats of downsizing cause fear, insecurity and lowering staff morale.

**Social:**

- **Benefits**: Introduction of multiskilling, new training opportunities and career paths benefit individuals and society. OHS problems may be reduced.
- Costs: community bitterness may be directed at unions, employees or employers in industries where disputes affect the general public. Verbal and physical abuse can occur.

Political:

- Benefits: Governments can change their policies in response to workplace conflict. Disputes can draw public attention to the need to protect worker entitlements
- Costs: Frequent and disruptive conflict has an impact on government or opposition policies, particularly at election times. Bitterness between unions and governments can lead to political conflict. Extended disputes can affect economic growth.

International:

- Benefits: Changes to work practices following conflict can improve a business’s international competitiveness.
- Costs: Loss of export income and markets can occur after periods of disruption. The nation’s reputation for stability may be lost and overseas customers or investors may turn elsewhere.

**Ethical and Legal Aspects of Employment Relations Issues:**

**Ethical and responsible behaviour:**

Ethical business practices are those that are socially responsible, morally right, honourable and fair.

**Working conditions:**

An ethical employer can be expected to achieve safe and fair working conditions that improve the welfare of employees. This is achieved through:

- Compliance with social justice and industrial legislation.
- Providing a safe and healthy working environment, safe working practices and equipment, appropriate supervision and training in safety and health.
- Offering flexible working hours and conditions that promote a balance between work and life.
- Establishing a code of practice to show customers, employees and suppliers the organisation’s commitment to equity and ethical business practices.
Occupational health and Safety (OHS):

OHS law covers employees, employers and the self employed. The following are required:

- Employers must ensure the health and safety and welfare at work of all employees by providing a safe system of work.
- All employers must take out workers compensation insurance.
- Employers must take steps to ensure that people on site who are not employees are not exposed to risks arising from work being undertaken.
- Employees are required to take reasonable care for the health and safety of others, to cooperate with employers and comply with OHS requirements.
- Employees who engage in bullying or interfering with machinery are breaching their duties and could be fined.
- Health and safety committees must be established at workplaces with more than 20 employees or if requested by a majority of employees.
- Work cover inspectors may inspect the workplace, collect information and issue improvement and prohibition notices.
- Work cover must be notified in the event of death or serious injury.

Workers Compensation:

Provides a range of benefits to an employee suffering from an injury or disease related to their work. It is also provided to families of injured employees when injury/ disease was caused by or related to work. All employers must:

- Take out a policy with a licensed insurer.
- Keep time and wage records, a register of injuries and complete accident forms.
- Notify insurers of injuries within 48 hours.
- Pass on compensation to the person entitled as soon as possible.

Work cover which is run by the NSW government develops policies in each of these areas and supervises the workplace to ensure these policies are carried out. The federal government (ASCC) coordinates national efforts to prevent workplace death, injury and disease, improve workplace compensation agreements and improve the rehabilitation of injured workers.
When injured workers forgo their rights to workers compensation to pursue a negligence claim against their employer in the common law courts they are taking a certain risk. Compensation is less certain that gained in statute law. However the benefit is that if won the payout could be larger than that of statute law.

**Anti Discrimination:**

Discrimination occurs when a policy or a practice disadvantages a person because of a personal characteristic that is irrelevant to the performance of work. Employers must:

- Comply with legislation
- Audit all policies and practices to ensure they do not discriminate.

Under discrimination laws it is illegal to discriminate on the grounds of a person’s:

- Sex, colour or age.
- Physical or mental disability
- Religious faith or political opinion.
- Social origin
- Marital status or pregnancy or potential pregnancy.

Strategies are increasingly used by business including:

- Committing to a business free from discrimination through use of a core of conduct.
- Making all policies and procedures clearly documented and accessible.
- Training managers and staff how to not discriminate and to accommodate various groups, etc.

**Equal Employment Opportunities:**

EEO refer to equitable policies and practices in recruitment, selection, training and promotion. Private sector employers with more than 100 staff are obligated to develop an affirmative action program which refers to measures taken to eliminate direct and indirect discrimination. The report must:

- Establish the workplace profile and analyse the issues in the specific workplace
- Report on the actions taken by the employer to address priority issues
- Describe action plans for the following period and evaluate strategies used.
The equal opportunity for women in the workplace agency recommends that businesses focus on six areas to improve equity within their organisation: recruitment, promotion and separation, access to all occupations and areas, equitable total remuneration, training and career development, work and life balance, sexual harassment and working relationships.

Unfair Dismissal:

Unfair dismissal is when worker has been dismissed or threatened with dismissal from their job and the worker believes that this action is unjust. Unfair dismissal is supported by the industrial relations act. The NSW industrial relations commission may determine whether:

- There was a reason for the dismissal
- There was an opportunity for the employee to justify or explain why they should be reinstated or compensated
- There was notification of unsatisfactory performance by the employee

The fair work act resolved the act of unfair dismissal. This is a state and federal legislation.