

BSBWRK520

Manage employee relations

Release 1

Learner guide

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BXWRK520



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Before you begin

This learner guide is based on the unit of competency *BSBWRK520 Manage employee relations*, Release 1. Your trainer or training organisation must give you information about this unit of competency as part of your training program. You can access the unit of competency and assessment requirements at: www.training.gov.au.

How to work through this learner guide

This learner guide contains a number of features that will assist you in your learning. Your trainer will advise which parts of the learner guide you need to read, and which practice tasks and learning checkpoints you need to complete. The features of this learner guide are detailed in the following table.

Feature of the learner guide	How you can use each feature
Learning content	Read each topic in this learner guide. If you come across content that is confusing, make a note and discuss it with your trainer. Your trainer is in the best position to offer assistance. It is very important that you take on some of the responsibility for the learning you will undertake.
Examples and case studies	Examples of completed documents that may be used in a workplace are included in this learner guide. You can use these examples as models to help you complete practice tasks and learning checkpoints. Case studies highlight learning points and provide realistic examples of workplace situations.
Practice tasks	Practice tasks give you the opportunity to put your skills and knowledge into action. Your trainer will tell you which practice tasks to complete.
Video clips	Where QR codes appear, learners can use smartphones and other devices to access video clips relating to the content. For information about how to download a QR reader app or accessing video on your device, please visit our website: www.aspirelr.com.au/help
Summary	Key learning points are provided at the end of each topic.
Learning checkpoints	There is a learning checkpoint at the end of each topic. Your trainer will tell you which learning checkpoints to complete. These checkpoints give you an opportunity to check your progress and apply the skills and knowledge you have learnt.



Foundation skills

As you complete learning using this guide, you will be developing the foundation skills relevant for this unit. Foundation skills are the language, literacy and numeracy (LLN) skills and the employability skills required for participation in modern workplaces and contemporary life.

The following table outlines specific foundation skills noted for your learning in this learner guide.

Foundation skill area	Foundation skill description
Reading	• Interprets, critically analyses and applies appropriate strategies to construct meaning from complex texts
Writing	• Displays knowledge of required structure and layout, employing broad vocabulary, grammatical structure and conventions appropriate to purpose and audience
Oral communication	• Conveys information using language and non-verbal features appropriate to the audience • Employs listening and questioning techniques to clarify and confirm understanding
Numeracy	• Extracts and evaluates the mathematical information embedded in a range of tasks and texts
Navigate the world of work	• Modifies or develops organisational policies to achieve organisational goals and comply with legislative requirements • Keeps up to date on changes to legislation or regulations relevant to own rights and responsibilities and considers implications of these
Interact with others	• Collaborates with others to achieve joint outcomes, playing an active role in facilitating effective group interaction, influencing direction and taking a leadership role on occasion • Actively builds networks that include key people with expert skills and knowledge • Uses a range of strategies to facilitate an acceptable outcome for all parties where conflicts occur
Get the work done	• Sequences and schedules complex activities, monitors implementation and manages relevant communication • Uses analytical techniques to identify issues and generate possible solutions, seeking input from others as required, before making decisions or implementing solutions • Draws on the diverse perspectives of others to gain insights into current practices and opportunities for change

What do you already know?

Use the following table to identify what you may already know. This may assist you to work out what to focus on in your learning.

Topic	Key outcome	Rate your confidence in each section
Topic 1: Develop employee and industrial relations policies and plans	1A Determine long-term employee relations	☐ Confident ☐ Basic understanding ☐ Not confident
	1B Analyse existing employee relations performance	☐ Confident ☐ Basic understanding ☐ Not confident
	1C Evaluate options against cost-benefit, risk and legislation	☐ Confident ☐ Basic understanding ☐ Not confident
	1D Consult management to develop industrial relations policies and plans	☐ Confident ☐ Basic understanding ☐ Not confident
	1E Identify knowledge and skills requirements to implement industrial relations strategies	☐ Confident ☐ Basic understanding ☐ Not confident
Topic 2: Implement employee relations policies and plans	2A Develop an employee relations implementation plan	☐ Confident ☐ Basic understanding ☐ Not confident
	2B Arrange training and development to support the employee relations plan	☐ Confident ☐ Basic understanding ☐ Not confident
	2C Undertake employee relations activities to agree on changes required by the implementation plan	☐ Confident ☐ Basic understanding ☐ Not confident
	2D Document procedures for addressing grievances and conflict	☐ Confident ☐ Basic understanding ☐ Not confident
	2E Communicate key issues about procedures for addressing grievances	☐ Confident ☐ Basic understanding ☐ Not confident
	2F Review employee relations policies and plans	☐ Confident ☐ Basic understanding ☐ Not confident

Topic	Key outcome	Rate your confidence in each section
Topic 3: Manage negotiations to resolve conflict	3A Train individuals in conflict management	☐ Confident ☐ Basic understanding ☐ Not confident
	3B Identify and/or eliminate sources of conflict or grievance	☐ Confident ☐ Basic understanding ☐ Not confident
	3C Clarify issues in dispute	☐ Confident ☐ Basic understanding ☐ Not confident
	3D Obtain expert or specialist advice and/or refer to precedents	☐ Confident ☐ Basic understanding ☐ Not confident
	3E Determine desired negotiation outcomes, negotiation strategy and negotiation time frames	☐ Confident ☐ Basic understanding ☐ Not confident
	3F Advocate the organisation's position in negotiation	☐ Confident ☐ Basic understanding ☐ Not confident
	3G Document and/or certify the agreed outcomes	☐ Confident ☐ Basic understanding ☐ Not confident
	3H Implement agreements	☐ Confident ☐ Basic understanding ☐ Not confident
	3I Take remedial action if the agreement is not followed	☐ Confident ☐ Basic understanding ☐ Not confident

Topic 1

Develop employee and industrial relations policies and plans

‘Employee relations’ refers to the entire relationship that exists between an employer and an employee (and their representatives) in relation to the establishment of conditions of employment. In the past, the term ‘industrial relations’ was used to describe the employment relationship from a legal perspective; however, this has been replaced by the broader term ‘workplace relations’, which incorporates a wider range of employment issues.

The purpose of workplace relations is to ensure a safe, fair, productive and successful workplace for employees, while incorporating flexible and modern workplace arrangements that allow for future change and development. Workplace relations aim to maintain a stable and harmonious workplace, to eliminate industrial conflict, and to provide stability and certainty for all stakeholders within an organisation.

Australia’s decentralised workplace relations system has shifted from industry-wide awards to agreements determined at the enterprise level. Awards now provide only a safety net of minimum terms and conditions of employment, while collective and individual agreements provide opportunities for workers to gain improved pay and work conditions in return for improved performance and productivity.

In this topic you will learn how to:

- 1A Determine long-term employee relations
- 1B Analyse existing employee relations performance
- 1C Evaluate options against cost–benefit, risk and legislation
- 1D Consult management to develop industrial relations policies and plans
- 1E Identify knowledge and skills requirements to implement industrial relations strategies

1A

Determine long-term employee relations

Workplace relations describe a process by which employees' pay and conditions are determined. It involves a level of interaction between managers and workers to achieve a set of employment conditions that will meet the needs of employees, and enable the organisation to achieve its strategic and operational objectives.

Workplace relations professionals should ensure that employment conditions and the process of determining them are consistent with the strategies used by an organisation to achieve business objectives.

Long-term workplace relations objectives vary between organisations and industries, and can be identified by analysing an organisation's strategic and operational plans. Workplace relations objectives should be matched with appropriate workplace relations strategies and policies for implementation in the workplace.



Role of workplace relations professionals

Workplace relations managers and professionals are responsible for assisting organisations to manage their regulatory requirements and adopt best-practice employment principles. Workplace relations professionals must possess the skills and knowledge to provide technical advice, and provide advocacy and representation services in their relevant industry and jurisdiction.

Workplace relations professionals should also know when and how to direct employees to the Fair Work Commission for independent advice on their workplace rights and obligations.

Organisations may engage external workplace relations consultants to provide workplace investigation services, outsource human resource (HR) services, or seek advice on high-risk HR, workplace relations or industrial relations issues.

Workplace relations professionals must have the skills and experience to:

- develop and negotiate Enterprise Agreements and Employment Contracts
- develop HR policies and procedures
- manage redundancies and terminations and workplace conflict
- handle grievances
- receive and deal with claims of unfair dismissal, discrimination or bullying
- interpret and apply the *Fair Work Act 2009*, modern awards and National Employment Standards (NES)
- provide representation in industrial relations matters or workplace relations prosecutions
- manage employee performance management
- participate in mediation and dispute resolution procedures
- ensure compliance with duty of care
- conduct workplace relations audits
- deal with Equal Employment Opportunity (EEO) issues

- liaise and work with trade unions and business associations
- manage workplace relations implementation and contingency planning
- manage workers compensation.

Australia's workplace relations system

Australia's workplace relations system started on 1 July 2009 and was established by the *Fair Work Act 2009* (Cth). It covers the majority of private sector employers and employees in Australia.

Workplace relations laws cover employment issues such as industrial awards, workplace conflict, employment standards and pay equity. These laws also cover hours of work and leave entitlements, and protect workers from discrimination and unfair dismissal.

Australia's workplace relations system has been evolutionary in nature. The system has moved from a predominantly centralised, award-based bargaining system towards decentralised, enterprise workplace agreements.

The Fair Work Ombudsman administers the Acts, and further information is available from its website at: <http://aspirelr.link/fair-work-ombudsman>.

The key elements of Australia's workplace relations framework

- A safety net of minimum terms and conditions of employment
- A system of enterprise-level collective bargaining
- Freedom of association granted to employees to join unions or participate in industrial action
- The provision of individual flexible working arrangements
- Protections against discrimination, unfair dismissal or unlawful termination of employment

Workplace relations stakeholders

The four major stakeholders involved in workplace relations processes are employers, their business associations, employees and trade unions.

The involvement of each workplace relations stakeholder is described below.

Employers

Employers and workplace relations professionals handle all employment issues relevant to an organisation and develop strategies that focus on improving employee satisfaction, motivation and organisational performance.

Workplace relations specialists are employed by large-scale organisations to handle complex legal responsibilities relating to workplace relations and negotiate awards, contracts and agreements at enterprise level.

Employees

Employees have the right to individually or collectively bargain for better working conditions with their employer, through negotiations conducted at the workplace level.

The objective of workplace negotiations is to achieve outcomes that satisfy both the employer and the employee. Typically, an employee will commit to improving productivity in their area of work in exchange for better pay or working conditions provided by the employer.

Trade unions

Trade unions are organisations formed by employees in an industry, trade or occupation to protect and further the rights and interests of employee members. Trade unions represent employee members in their efforts to improve pay and working conditions, and to resolve industrial relations disputes. Union members can vote on policies and issues that ensure a safe, fair and productive workplace.

Workers have the right to choose whether or not to join a trade union and employers cannot discriminate against an employee or treat them differently for being a member of a union.

Examples of trade unions include the following:

- Australian Services Union (ASU): <http://aspirelr.link/asu>
- The Australian Workers' Union (AWU): <http://aspirelr.link/awu>
- Construction, Forestry, Mining and Energy Union (CFMEU): <http://aspirelr.link/cfmeu>

Employer associations

Employer associations represent the interests of employers in a range of industries, assisting them to develop policies and respond to claims service on employers by union members.

Since the decentralisation of workplace relations processes, employer associations have become increasingly responsible for informing members about changes to employment legislation, and providing advice on the compliant negotiation of enterprise agreements.

Examples of peak employer associations include the following bodies who represent the interests of employers in their specific industries:

- The Master Builders Australia: <http://aspirelr.link/master-builders>
- The Australian Retailers Association: <http://aspirelr.link/ara>
- The Australian Mines and Metals Association: <http://aspirelr.link/amma>

Workplace relations entities

There are other key entities in Australia's workplace relations system responsible for administering workplace relations services and resolving workplace relations disputes.

The involvement of each entity is described below.

Fair Work Ombudsman

The Fair Work Ombudsman is an independent statutory office, responsible for promoting harmonious, productive and cooperative workplace relations, and monitoring, investigating and enforcing compliance with Australian workplace laws. The jurisdiction in which the Fair Work Ombudsman operates is set out in the *Fair Work Act 2009* (Cth) and its services are free to all workers and employers in Australia.

The services provided by the Fair Work Ombudsman include:

- the provision of reliable and timely information about Australia's workplace relations system
- education about fair work practices, rights and obligation
- the assessment of complaints or suspected breaches of workplace laws, awards or registered agreements
- litigation to enforce workplace laws
- building strong relationships with industry, trade unions and other stakeholders.

Fair Work Commission

The Fair Work Commission (FWC) is Australia's national workplace relations tribunal. The FWC began operation on 1 July 2009 following the enactment of the *Fair Work Act 2009* (Cth). At its inception, the tribunal assumed the functions of the Australian Industrial Relations Commission and the Australian Industry Registry.

The FWC is an independent body granted with the power to:

- provide a safety net of minimum employment conditions
- facilitate good faith bargaining and the creation of enterprise agreements
- grant remedies for unfair dismissal
- regulate the taking of industrial action
- resolve collective and individual workplace disputes.

Federal Court divisions

The Federal Court of Australia has jurisdiction over all civil and criminal matters arising in the Fair Work jurisdiction, under section 562 of the *Fair Work Act 2009* (Cth). If an individual employee has a Fair Work matter relating to claims of unfair dismissal or termination, dismissal of employment in contravention of a general protection, or a contravention of a general protection, the matter must be first heard by the FWC tribunal before proceedings are heard in the Federal Court or the Federal Circuit Court of Australia.

The practice and procedure for Fair Work proceedings heard in the Federal Court are governed by Division 34.1 of the Federal Court Rules 2011.

Best practice consultation

The Australian Government Fair Work Ombudsman offers an excellent best practice guide to consultation and cooperation in the workplace. To support your learning, you might like to review the guide for a comprehensive discussion on consultation. The site also includes a useful flow chart that can be used as a job aid in the workplace. The information is available at the following website: <http://aspirelr.link/consultation-and-cooperation>.



Strategic and operational plans

Analysing an organisation's strategic and operational plans identifies the goals or outcomes a business seeks to achieve over time. This analysis enables workplace relations professionals to plan and implement workplace relations strategies and policies that accurately reflect the strategic direction of the organisation.

Strategic plans incorporate the mission, vision, values, and long-term objectives of the organisation, and detail the strategies, actions and resources required to achieve business goals. Operational plans contain the finer details for executing and implementing the strategic plan in everyday activities.

An explanation of the differences between strategic and operational plans is described below.

Strategic plan

A strategic plan determines the overall organisational purposes and goals, and identifies the resources needed to achieve them. Strategic plans also identify the skills required by employees to meet organisational objectives.

Strategic plans:

- cover a large span of time that is several years
- are stated in a general manner that is nonspecific and less-detailed
- affect an extensive range of organisational activities, such as financial goals
- are developed by higher-level management to meet broad-based goals
- define the metrics the organisation will use to track and evaluate its overall performance.

Operational plans

The information contained in the strategic plan is used to develop operational plans. Operational plans focus on short-term goals, outlining exactly what needs to be done by each work group or department in the organisation to achieve those goals. Operational plans may also be termed action plans, annual plans, management plans or tactical plans.

Operational plans:

- usually cover one year
- provide finer details on how tasks should be carried out on a day-to-day basis
- have a more restricted scope, such as the operations of a single department
- are developed by middle- and lower-level management to meet short-range objectives.

Analyse strategic and operational plans

To analyse an organisation's strategic and operational plans, workplace relations professionals must consider and interpret the aspects listed below.

Mission statement

The mission statement is the overarching, timeless expression of an organisation's purpose and direction, addressing both what the business aims to achieve and the manner in which it seeks to achieve it. The mission statement declares the reason for an organisation's existence.

Vision statement

The vision statement is a short, succinct statement of an organisation's future and describes what the business aims to look like in five or more years.

Values statement

The values statements describe an organisation's distinctive core beliefs. They are the guiding principles that never change and form part of the organisation's strategic foundation.

SWOT analysis

A SWOT analysis is a summarised view of an organisation's current position, specifically relating to its strengths, weaknesses, opportunities and threats.

Long-term objectives

Long-term business objectives are the measurable targets to be achieved within a certain time frame, usually within three to five years.

Short-term goals

Short-term goals convert an organisation's long-term objectives into specific performance targets spanning across a one- to two-year period.

Action plans

Action plans are specific statements explaining how short-term goals will be achieved. Action plans will be contained in an organisation's operational plans and are usually executed by work teams or individual employees within one to two years.

Scorecard

Depending on the type of organisation, scorecards may be used to report the data analysing specific key performance indicators (KPIs) and measure an organisation's performance against monthly, bi-annual or annual targets.

Financial position

An assessment of an organisation's financial position will be based on historical records and future projections. It can be used to help plan and predict future workplace relations strategies and enables the effective management of workplace relations budget requirements and the organisation's overall financial performance.

Use a PEST framework

PEST is an external analysis framework commonly used in organisational development. This framework identifies Political/legal, Economic, Sociocultural and Technological factors, as outlined below.

A PEST framework can be used to predict the potential workplace relations issues faced by an organisation.



Political/legal

Changes to workplace relations legislation and new workplace health and safety regulations can have a direct and immediate impact on how people work and are managed in the organisation.

- What are the political and regulatory constraints affecting operations or performance?
- What current or pending consumer, corporations and taxation laws will affect the organisation?
- What existing or pending workplace relations laws will affect the management of the workforce?
- Will a new government bring change to legislation?

Sources of information:

- Australian government agency sites, including the Federal Register of Legislation, the Australian Taxation Office, SafeWork Australia and Austrade
- State law societies

Economic

- What is the impact of a change in the Australian and/or US dollar?
- When and how will inflation rates change?
- Will there be an increase in spending power?
- Are we in a recession? At what point are we in the general business cycle?
- What is happening in the global marketplace?

Sources of information:

- Economic, industry and trade publications such as the Australian Financial Review
- Australian Bureau of Statistics (ABS)
- Australian government agency sites, including the Reserve Bank's site
- Banking institutions

Social-cultural

- Is there an anticipated change in the values and beliefs in society?
- What are the demographic shifts in age, education, religion etc.?
- How will demographic trends or shifts affect labour supply?
- What are the cultural groups, and what are their needs and demands?
- What do changes mean for the workforce?

Sources of information:

- Industry studies such as IBISWorld reports
- Australian Bureau of Statistics (ABS)
- Australian government agency sites
- Research papers from universities

Technological

- What is the uptake of social media and e-commerce, and their impact on operations; what skills do people need to keep up?
- What is in the process of development and how will this product affect performance?
- What is the rate of technological change?
- What technology will affect the organisation's processes, and therefore required knowledge and skills?
- How will the trend for electronic delivery of products, such as books, affect roles and responsibilities?

Sources of information:

- Scientific and information technology publications
- Australian government agency sites
- Research papers from universities and conferences

Business strategies

Business strategies are the general, umbrella methods an organisation intends to use to fulfil the objectives set out in its strategic plan.

Business strategies for competitive advantage can be divided into four broad categories, as shown below.

Corporate growth

When an organisation chooses to grow, it can increase the number of products offered and/or its market share. It can do this by expanding operations or through diversification. Growth can be achieved through related diversification, which is when an organisation merges with another in the same industry. Unrelated diversification is when an organisation acquires or merges with an organisation that operates in an industry that has no similarity to the one it currently operates within. For example, a clothing manufacturer may acquire an entertainment company.

Corporate stability

An organisation may pursue a stability strategy to concentrate on utilising existing resources to strengthen its competitive position within its markets. The focus of a stability strategy is to make incremental change to improve performance. These improvements will hopefully lead to competitive advantage. Competitive advantage is what makes an organisation more attractive than its competition to consumers or current and potential customers.

Corporate renewal

To address performance problems as a result of internal issues, an organisation may implement a range of corporate renewal strategies that usually result in significant change to organisational structure, people and processes. A retrenchment strategy is one where an organisation reduces the size of operations to overcome weaknesses and improve cashflow. An organisation may also try to restructure or streamline operations to focus on its primary reason for being in business. A turnaround strategy may be pursued to arrest declining performance, and often involves some form of initial retrenchment, followed by restructuring to ensure effective leadership and achieve operational efficiencies.

Generic competitive

In developing a competitive strategy to increase competitive advantage, managers can select a generic competitive strategy. Leading economist and strategy specialist Michael Porter has identified three generic strategies:

- A cost leadership strategy where organisations compete with others in the industry on the basis of having the lowest cost.
- A differentiation strategy where an organisation offers unique and valued products.
- A focus strategy when an organisation implements a cost or differentiation advantage strategy in an industry segment. The selection of one or a combination of strategies depends on the organisation's strengths and the competition's weaknesses.

Competitive advantage

To support your learning, you might like to watch the Harvard Business Review video in which Michael Porter discusses development of the concept of competitive advantage: 'The five competitive forces that shape strategy' which can be found at: <http://aspirelr.link/competitive-advantage-video>.

In this video, Porter discusses his model for assessing strength within an industry to develop a strategy to achieve competitive advantage over other organisations. The five industry forces are explained here.

The five industry forces

1

Rivalry

Existing organisations within an industry will often be part of an ongoing battle for market share. The goal to be the market leader causes rivalry among competitors in an industry. The greater the number of competitors, the higher the rivalry. This can be seen in the ongoing price wars between major supermarket chains in Australia, often at the expense of the smaller players.

2

New entrants

Profitable industries often attract new entrants. Their goal is to gain market share which, in a defined market, means existing organisations will need to share the current market or are threatened with having it taken from them. This means new entrants may cause your organisation to experience reduced sales and revenue.

3

Buyer power

Buyer bargaining power is the ability of customers to force a reduction in prices.

4

Supplier power

Suppliers can also have bargaining power. This refers to their ability to force an increase in the price of the materials and services.

5

Substitutes

This refers to products or services introduced into the market that may be different but can satisfy the same customer need.

Business objectives

‘Business objectives’ are the outcomes that an organisation sets out to achieve and maintain as the business grows and develops. Business objectives are measured over certain time intervals, using specific variables to report progress.

Workplace relations professionals are responsible for ensuring an organisation meets its strategic and operational objectives by aligning business objectives with appropriate workplace relations strategies and policies.

Examples of common business objectives relating to workplace relations are described here.

Increase profitability

All business aim to maximise profits and seek new ways to improve profitability to achieve this. If employee wages are too high, an organisation's profits may suffer. However, if wages are too low, employee satisfaction and motivation levels may decrease, ultimately decreasing productivity levels. Workplace relations professionals must negotiate wages and conditions to an agreed level that contributes to employee motivation, at a reasonable cost to the employer.

Workplace relations and profitability objectives are closely linked. Improvements to employee productivity has the effect of increasing business profits, so increases in pay conditions are usually negotiated in return for improvements to productivity.

Improve employee satisfaction

Employee satisfaction and motivation have an impact on the way in which employees perform in their roles and the level of service experienced by an organisation's clients. A healthy workplace relations environment that includes equitable, flexible and modern working conditions increases staff morale and improves employee retention.

Improve quality of products and/or services

The provision of quality products and services has a direct impact on improving an organisation's market share.

When employees experience a work environment that is free from conflict and provides fair, safe and inclusive workplace relations policies, they are more willing to contribute to quality assurance activities.

Act ethically

Ethical organisations are open, honest and transparent in their dealings with employees, and this does not go unnoticed. Employees who view their employers as ethical are more likely to accept temporary reductions in pay or working hours in order to protect jobs and reduce costs.

Organisations who are recognised for maintaining ethical conduct, especially during difficult economic times, are better placed to negotiate difficult workplace relations issues.

Maintain social responsibility

Workplace relations laws enable employees to request flexible working arrangements that suit their individual needs. Employers who are willing to negotiate and facilitate flexible employment conditions are able to maintain a positive workplace culture, avoid workplace relations conflict and grievances, and achieve business objectives relating to social responsibility.

Workplace relations objectives

The primary goals of workplace relations are to create and maintain a safe, flexible and productive workplace that improves employee motivation while maintaining clear and enforceable minimum employment standards. A number of workplace relations objectives can help both employers and trade unions attain these goals. Fundamental to workplace relations objectives is a clear understanding of the *Fair Work Act 2009* (Cth) and other legislation and regulations governing employment issues.

Workplace relations objectives must be in harmony with the organisation's overall goals, and workplace relations strategies must support the achievement of workplace relations and HR objectives. Long-term workplace relations objectives usually include specific improvements in the organisation's competitive position, profitability and productivity.

Examples of long-term workplace relations objectives

- Minimising the number of industrial actions and resolving disputes efficiently
- Effective management of grievances, conflict situations and dispute-resolution procedures
- Improving productivity by increasing employee retention and motivation
- Promoting open and honest communication between employees at all levels
- Increasing the flexibility of organisational structures
- Applying policies and procedures in an equitable and fair manner
- Reducing labour costs
- Ensuring compliance with industrial awards and collective or enterprise agreements
- Providing employees with training and development opportunities and decision-making authority where appropriate
- Providing employees with flexible working arrangements
- Securing employee commitment to organisational change or workplace reform

Example: determine long-term employee relations objectives

Caitlin is the HR manager at KNQ Construction. New compliance regulations, organisational restructuring and economic uncertainty have seen some seismic shifts in the building and construction industry over the last 10 years. The organisation has had to negotiate new enterprise agreements with employee trade union representatives to ensure its workers are able to meet tight construction schedules while operating in accordance with work health and safety standards.

Caitlin is responsible for managing all workplace relations matters relevant to the organisation. She analyses the company's strategic and operational plan to determine the organisation's long-term workplace relations objectives. One of KNQ's operational objectives is to eliminate lost time, down time and unproductive work practices that arise through grievances or disputes relating to industrial relations. This is linked to the long-term strategic objective of increasing the organisation's profitability and improving employee job satisfaction.



continued ...

... continued

Caitlin begins developing a number of long-term workplace relations objectives that will support the achievement of KNQ's strategic and operational goals. These include:

- implementing workplace relations policies that comply with state and federal workplace relations legislative instruments, including the *Fair Work Act 2009* (Cth)
- maintaining an open relationship with employees and any elected representatives on a project basis, and with other interested parties as appropriate
- implementing employment practices that ensure equal opportunity and a workplace that is free from discrimination of any kind
- advising all clients of KNQ Constructions during the progress of the work, and within 24 hours of becoming aware, of any workplace relations or work health and safety (WHS) matters that may have an impact on the construction program, the principal contract or project costs
- encouraging all contractors working on construction projects to comply with applicable awards and workplace arrangements, while recognising their right to have their own workplace relations policies and arrangements in place.

Practice task 1

1. Explain how analysing strategic and operational plans helps to determine long-term workplace relations requirements.

2. Explain what is meant by long-term workplace relations objectives. Provide two examples.

1B

Analyse existing employee relations performance

To ensure workplace relations plans, strategies and policies meet their intended objectives, workplace relations performance must be regularly analysed and monitored. This analysis will determine whether an organisation is meeting its strategic and operational workforce objectives, and identify any performance gaps or areas in need of improvement.

Workplace relations performance gaps and deficits should be addressed in an organisation's workplace relations implementation plan, which will describe the strategies and policies used to improve and maintain workplace relations performance.

Identify workplace relations performance gaps

Workplace relations professionals must measure whether workplace relations strategies and policies can produce improvements in the collective bargaining relationship and thereby alter the performance of employees. Workplace relations efforts should directly, or through improvements in workplace relations performance, lead to improvements in the quality of employees' roles, product or service quality, direct-labour efficiency and improve economic performance for the organisation.

Workplace relations performance gaps or deficits exist where outcomes do not meet the objectives identified in an organisation's strategic and operational plans. For example, performance gaps include the differences between actual and desired levels of work productivity, skills, flexibility, absenteeism and turnover.

Examples of performance gaps and their root causes are described below.

Performance gaps or deficits	Causes
Workplace relations performance gaps or deficits may relate to: • employee productivity levels • the level of training and development opportunities • workplace conflict, such as industrial conflict • the occurrence of health and safety incidents • high employee absenteeism rates • the level of employee career progression opportunities • the level of flexible work arrangements • dissatisfaction in the employer–employee relationship.	The root causes of workplace relations performance gaps or deficits may be due to the following reasons: • Union resistance to organisational change • Inadequate training for workplace relations professionals • A lack of commitment to workplace relations objectives • Insufficient communication of workplace relations objectives, strategies or policies to employees • Failure to collect feedback or measure workplace relations performance • Insufficient resources to implement and manage workplace relations strategies • Failure to consult with stakeholders on workplace relations strategy implementation • Failure to incorporate workplace relations strategies with work practices, business objectives or HR strategies

Industrial action

Industrial action is taken by employers or employees to settle a workplace dispute about conditions of employment. Industrial action includes any worker activity that restricts or delays work.

Under workplace relations legislation, industrial action can be legally taken when bargaining for a new registered agreement is unsuccessful. This is known as protected industrial action. For industrial action to be protected by law, existing agreements must have passed nominal expiry dates, parties must have genuinely tried to reach an agreement, and industrial action notice requirements must be met.

Industrial action has a significant impact on workplace relations performance as the downtime causes productivity and profitability levels to decrease. Workplace relations professionals must ensure that identified workplace relations issues are resolved to avoid industrial action and achieve strategic and operational objectives. Workplace relations strategies and policies developed should reduce or minimise the workplace relations performance gaps over the short to medium term (for example, 12 months to five years).

Industrial action may include:

- work bans – where employees decide not to perform certain work activities
- strike actions – a work cessation caused by the mass refusal of employees to work
- go-slow campaigns – where employees deliberately reduce the rate of production
- work-to-rule – where employees do no more than the minimum required by the rules of their contract or job description
- picketing – where workers physically strike outside a workplace
- stop-work meetings – where authorised meetings of employees occur without loss of pay
- lockouts by employers – where employers close worksites or premises and refuse entry to employees to work
- secondary boycotts – where unions put indirect industrial pressure on employers
- no work as directed, no pay – where employers refuse to pay employees if they do not perform the work they have been contracted or directed to do
- stand-downs – the suspension of employees without pay.

Measure workplace relations performance

Developing and implementing a strong workplace relations strategy involves creating an environment that delivers what employees need now and in the future, to be satisfied and productive in their roles. To understand the existing capacity and performance levels of the workforce, organisations will need to set specific targets that measure workplace relations performance.

The performance standards, benchmarks or KPIs used to measure workplace relations performance should be decided on prior to the development of workplace relations strategies and policies to ensure performance standards are objective.

Performance standards should be clearly communicated to all employees, such as in job descriptions, performance management meetings, or other organisational communication strategies. Performance standards should be written in plain English using language and concepts appropriate to cultural differences.

Characteristics of workplace relations performance standards

- Relevant – linked to the organisation's strategic and operational goals
- Clearly defined – easy to understand, collect and action
- Measurable – can be measured objectively and quantitatively
- Acceptable – perceived as fair by all employees
- Comparable – allow for comparisons over specific time intervals and against other organisations
- Unambiguous – indicate improvement or deterioration in workplace relations performance
- Attributable – enable management to influence results by taking action
- Statistically valid – based on a significant number of instances or occurrences
- Timely – represent existing performance
- Cost-effective – balance the costs of collection with their usefulness

Use key performance indicators

Management accountability for workplace relations can be made possible through the use of key performance indicators (KPIs). KPIs are used to measure the effectiveness of an organisation's workplace relations practices.

KPIs used to measure existing workplace relations performance may include:

- statistics on industrial relations conflicts, such as strikes, go-slow actions, stop-work meetings, time lost or the number of grievances lodged
- the level of employee absenteeism
- employee turnover rates over time.

KPIs measure the effectiveness of an organisation's workplace relations strategies and policies, such as levels of absenteeism, employee turnover rates, or time lost through strikes. Workplace relations professionals must be accountable for the effectiveness of workplace relations strategies and policies within an organisation and KPIs assist to monitor and evaluate performance.

Examples of KPIs used to measure workplace relations performance are described below.

Absenteeism

Employees respond to unsatisfactory working conditions or stressful work environments through absenteeism. High levels of employee absenteeism can be detrimental to workplace relations performance and cost a significant amount to the organisation. Absenteeism can be involuntary, such as sick leave, or voluntary, due to a variety of reasons such as an employee's level of job satisfaction, or organisational issues such as conflict, stress or demanding work roles.

Absenteeism KPIs could include:

- the cost of absenteeism over a specified period of time
- percentage of leave usage over a 12 month period
- average number of sick days taken per employee
- average number of leave days taken (other than sick leave) per employee.

Turnover

Turnover is the rate at which employees permanently leave a workforce and are replaced. When employees are dissatisfied in their roles and become progressively absent over time, they may decide to leave their particular workplace. While turnover can incur costs to an organisation through the recruitment and training of replacement workers, it can also provide benefits for the organisation with the addition of new ideas and motivated workers.

Employee turnover KPIs could include:

- employee turnover rate = (number of leavers) ÷ (average headcount) x 100
- voluntary versus involuntary turnover rates
- the percentage attached to specific reasons for employee turnover rates
- employee satisfaction levels.

Culture

Employees must feel good about what they do and the work environment in which they carry out their roles and responsibilities. Organisational culture can be analysed to determine what values employees believe are important to the organisation. Organisational vision, mission and values statements should be read, understood and easily accessible by employees. Workplace relations professionals should ensure this information is communicated to all employees on induction, or via an annual presentation.

KPIs relating to organisational culture could include:

- the attitudinal climate of the union-management relationship, measured by an employee attitude survey
- the number of times organisational values statement is accessed from the intranet in a specific time frame
- individual employee behaviour, measured by the rate of absenteeism
- collectable and actionable post-hire or exit interview data.

Communication

Employees need to know what's going on within an organisation. Workplace relations strategies and policies should provide employees with opportunities to provide feedback on organisational change, and participate in decision-making processes where appropriate. Specific procedures should be in place for dealing with workplace conflict, as well as receiving and handling employee grievances.

KPIs relating to workplace communication could include:

- time taken to respond to employee grievances
- the number of emails sent, calls received, or meetings held relating to workplace relations issues
- employee adherence to workplace communication plans
- the number of responses received from requests for feedback.

Remuneration

Employees should feel valued in their role and paid according to or above industry standards. The provision of remuneration, benefits schemes and flexible employment conditions will have a direct impact on employee motivation and productivity levels. Organisations should assess whether employees are being reasonably compensated in comparison to similar businesses.

KPIs relating to remuneration and benefits could include:

- comparing organisation's remuneration and benefits data with competitor organisations
- the results of the contract administration process, measured by both grievance and discipline rates
- reviewing industry compensation data to identify trends and use as a benchmark
- the number of demands introduced in contract negotiations and the time taken to reach agreements.

Grievances

Employees need to feel satisfied about how their complaints and grievances are handled. Workplace relations strategies and policies should provide a two-way communication process for resolving workplace conflict and handling employee grievances. Workplace relations issues should be solved promptly and achieve an outcome that mutually benefits both the employer and the employee. By doing so, the employer develops a relationship of trust and confidence with its workforce, promoting a positive work environment.

KPIs relating to employee grievances could include:

- the number of employee grievances received in a month
- a decrease in the number of complaints received over a time period
- an increase in the number of workplace relations claims lodged
- a reduction in the time taken to resolve employee grievances.

Safety

Employees should feel physically safe in the workplace. Organisations should identify workplace hazards and promptly eliminate or control any associated risks. Employees should be trained and actively involved in WHS procedures and problem solving techniques.

Workplace relations issues such as safety, performance and return to work claims should be measured and managed like any other activity in an organisation. The workers' compensation costs that an organisation pays will be largely due to its work health and safety (WHS) and injury management performance. Poor WHS performance and injured workers taking extended leave from work directly impact an organisation's productivity, workplace culture and employee motivation levels.

KPIs relating to WHS could include:

- percentage of planned risk assessments completed
- percentage of WHS audits conducted
- percentage of employees with adequate WHS training
- results from surveys measuring employees' perception of management's commitment to WHS.

Conduct performance feedback sessions

Performance feedback sessions are useful for consulting with employees or other managers to solve workplace relations performance gaps or deficits.

When preparing for a discussion, consider whether the workplace relations performance gap has less to do with an individual employee and more to do with some systemic problem within the organisation. For example, if several employees have reported the same issue, it may be worth considering whether management and/or the organisational culture is causing the issue.

Plan the feedback session by considering the most appropriate location to conduct the discussion, the type of performance criteria to be used, what information needs to be collected beforehand, and the process of conducting the feedback session itself. Try to anticipate any disagreements that may arise and prepare a range of possible solutions for discussion.

Prepare a written report at the conclusion of the feedback session to record the discussion and identify any action to be taken.

A process for conducting a workplace relations feedback session is described below.

Conducting workplace relations performance feedback sessions:



1. Identify, assess and analyse the workplace relations performance issue

Organise a meeting with the relevant stakeholders to discuss the workplace relations performance gap, deficit or area of underperformance. Let the people involved know the purpose of the meeting so they can prepare.



2. Meet with the relevant stakeholders to discuss the workplace relations performance issue

Meet with the managers, employees or other relevant representatives in a quiet location away from distractions and interruptions. Define and provide specific examples to ensure that the attendees understand exactly what the issue is, why it is a problem and how it impacts the workplace. Explain the desired outcomes you wish to achieve from the meeting.



3. Jointly devise a solution

Work out and agree on a solution with the person/people involved. When employees are invited to contribute to solving workplace relations performance issues, they are more likely to support the process. Develop a clear action plan to implement the solution and identify performance improvement milestones, time frames and people responsible.



4. Monitor and review workplace relations performance

Monitor workplace relations performance and continue to seek feedback from employees. Determine how workplace relations performance improvements can be sustained.

Conduct a SWOT analysis

Another way that workplace relations professionals can determine long-term workplace relations objectives and measure workplace relations performance is by conducting a SWOT analysis. A SWOT analysis is a structured planning method that can be used to evaluate the strengths, weaknesses, opportunities and threats impacting an organisation. It involves identifying the internal and external factors that may have a positive or negative impact on the achievement of specific workplace relations objectives.

A SWOT analysis assists workplace relations professionals to build on strengths, overcome weaknesses, exploit opportunities and counteract threats. workplace relations professionals can use a SWOT analysis to address employment issues, organisational culture or structure, financial resources and operational efficiency.

The elements of a SWOT analysis are further described below.

Build on strengths

Strengths are factors that enhance an organisation's performance and reputation and contribute to the achievement of workplace relations objectives. Workplace relations professionals should identify an organisation's workplace relations strengths and build on them to maintain a competitive advantage for their business.

Strengths may include:

- high-quality employees
- good working relationships between employer and employees
- good relationship between employer and trade unions
- established reputation of an organisation.

Overcome weaknesses

Weaknesses are factors that reduce an organisation's performance and reputation and are detrimental to achieving workplace relations objectives. workplace relations professionals should identify an organisation's workplace relations weaknesses to minimise or improve them before they become an issue.

Weaknesses may include:

- potential for workplace disputes
- employees' resistance to organisational change
- inadequate employee training and development.

Exploit opportunities

Opportunities are conditions that contribute to achieving a workplace relations objective or improve workplace relations performance. While workplace relations professionals are encouraged to seize opportunities for potential growth or improvement, opportunities should only be seized if the organisation has the capacity and resources to implement them.

Opportunities may be to:

- introduce a Certified Agreement
- train and develop employees
- provide career advancement
- expand the organisation into new markets.

Counteract threats

Threats are conditions that may cause an organisation to decline and damage its workplace relations performance. Threats are external factors that could cause issues for a business, such as changes to the market, a competitor's new product, or new government policy. Workplace relations professionals should identify threats and ways to counteract them to ensure workplace relations objectives can be met.

Threats may include:

- the possibility that an organisation will not be able to maintain high standards of product or service quality
- an organisation not securing important contracts
- employees not using new technology.

Workplace relations performance outcomes

Workplace relations performance standards and KPIs should be used to achieve measurable performance outcomes, such as increased productivity levels, a reduction in absenteeism levels, or the production of better quality products and/or services.

During the workplace relations planning stage, workplace relations professionals must develop strategies to address performance gaps and deficits. For example, to improve employee satisfaction levels, an organisation might introduce flexible working arrangements.

Examples of workplace relations strategies used to achieve performance outcomes are described below.

Flexible work arrangements

To improve employee satisfaction and motivation levels, an organisation might introduce flexible working arrangements such as flexi-time, reduced work hours, work-from-home options or reduced overtime.

Training and development

To develop and improve on the skills of an existing workforce, an organisation might provide training and development opportunities for workers, such as work health and safety, conflict management or communication skills training.

Efficient work processes

To improve the quality of its products, an organisation might examine its product manufacturing process and measure how long it takes employees to complete each step. A target could then be set to reduce the time it takes employees to complete each step of the manufacturing process and improve overall labour efficiency.

Maintain positive employee relations

When employers and their employees work together and are committed to achieving organisational objectives, workplace relations performance standards are more easily attainable. Organisations that promote a consultative workplace culture provide opportunities for employees at all levels of the organisation to contribute to workplace relations decision-making processes.

When employees feel as though their thoughts, opinions and ideas are valued by the organisation, they become more productive and motivated to achieve business goals.

A collaborative and positive working relationship between employers and their employees is critical for meeting workplace relations performance targets and objectives.

Below are some tips for meeting workplace relations objectives.

Tips for meeting workplace relations objectives

Deal with workplace grievances, disputes and conflicts promptly and effectively.

Implement workplace relations strategies and policies in a fair and equitable manner.

Seek employees' agreement on organisational values.

Promote a consultative workplace culture.

Collect and use employee feedback to improve workplace relations strategies and policies.

Example: analyse existing employee relations performance

Holly is the HR manager at Stringent Retail Operations Ltd and is responsible for analysing and measuring workplace relations performance across the organisation. Three years ago, Stringent Retail experienced a sudden increase in new customers. Although the increase brought in additional revenue, the demanding workload began having negative effects on employees.

An employee survey discovered that more than 60 per cent of the workforce reported experiencing moderate to high levels of stress as a direct result of difficulties in trying to achieve a work-life balance. During the past twelve months, Stringent Retail has experienced its highest absenteeism rate with an average of ten sick days taken per employee. This resulted in lost productivity and decreased employee satisfaction levels.

Holly uses the following equations to calculate the number of days absent for employees in a 12 month period for the following reasons:



Total paid and unpaid sick days (all employees) ÷ number of employees in the 12 month period = average number of sick days taken per employee

Total paid/unpaid days for leave for other reasons (all employees) ÷ number of employees in the 12 month period = average number of days taken for leave reasons per employee other than sick leave

Total number of employees that took leave (5–20 days) sick leave ÷ number of employees in the 12 month period = percentage of sick leave usage (5–20 days).

Holly groups the percentage of sick leave usage into categories of 0 days, 1–5 days, 5–20 days and 20+ days. She includes both paid and unpaid sick leave in her results.

Recognising the negative impact on business, Holly sends a survey out to employees asking them to address their workplace relations performance issues. Based on the feedback received, and the employee absenteeism calculations made, Holly introduces a number of policies such as flexi-time, reduced hours and reduced overtime, as part of the organisation's commitment towards a healthier and more balanced workplace.

A recent follow-up survey recorded increased levels of employee satisfaction and engagement and a 25 per cent reduction in the absenteeism rate.

Practice task 2

1. Identify two possible workplace relations performance gaps.

2. Describe how organisational culture can be analysed to measure workplace relations performance. Provide examples of two relevant KPIs.

3. Briefly describe a process for conducting a workplace relations performance feedback session.

1C

Evaluate options against cost–benefit, risk and legislation

When workplace relations professionals understand the specific workplace relations issues of their organisation, they are in a better position to evaluate the service options available, and select workplace relations strategies and policies that support the achievement of organisational objectives.

Workplace relations service options must be evaluated and monitored to ascertain that they are working well and identify whether any actions need to be taken to ensure they are. Evaluating workplace relations options against cost–benefit, risk and legislative requirements assists workplace relations professionals to determine which services are most relevant and needed by an organisation.

Workplace relations service options

There are a range of workplace relations service options that an organisation could implement to ensure harmony, trust, goodwill, fairness, non-discrimination and good work practices within the workplace.

Examples of workplace relations service options are described below.

Advisory services

Internal and external workplace relations professionals can provide advisory services to an organisation that promote good workplace relations practices in the workplace. Workplace relations professionals engage with employers, employees and their representatives to develop workplace relations plans, strategies and policies. They may also review or develop effective workplace procedures in areas such as grievances, discipline, communication, consultation and negotiation.

Additionally, workplace relations professionals can provide advice on how organisations should facilitate dispute resolution procedures between employers and their employees in situations where negotiating arrangements are not available, or where collective bargaining does not take place.

Negotiation services

Most organisations will require specialist workplace relations professionals to assist in the negotiation and drafting of enterprise agreements and employment contracts. This includes assistance with meeting employer obligations to notify employees about their representational rights, freedom of association, good faith bargaining, and the lodgment and registration process with the Fair Work Commission.

Workplace relations professionals may be responsible for reviewing existing agreements and providing a comparison that can be used to assist employers throughout the negotiation process. They may also assist employers to:

- notify employees about their representational rights
- advise employers on how best to negotiate with trade unions
- draft agreements that accurately reflect the intentions of the parties
- ensure negotiation procedures comply with workplace relations legislative requirements
- represent employers in the lodgment and approval process with the Fair Work Commission.

Training services

Workplace relations professionals should provide training and development opportunities to employees covering a variety of aspects of the employment relationships, such as workplace procedures, communications, duty of care, the negotiation process and support in managing organisational change. Training should demonstrate how workplace relations strategies help to achieve organisational objectives.

Managers may also require training on how to interpret and apply emerging trends in employment law, the workplace, and the wider corporate environment.

Training should focus on how to manage the employment relationships to foster a fair, respectful and legally compliant workplace. Training should include current workplace relations legislation and labour conventions that underpin an organisation's employment practices.

Mediation services

Mediation within an organisation is a voluntary, confidential process that enables two or more disputing parties to resolve their workplace relations conflict in a mutually agreeable way with the assistance of a third party: a mediator.

Mediation services can be used to settle disputes such as interpersonal differences, breakdowns in the employer–employee relationship, issues arising from grievances or disciplinary procedures, or workplace relations issues that have not been the subject of a referral to the Fair Work Ombudsman.

If employees are not receiving the right entitlements from their employer, the Fair Work Ombudsman can also help to resolve these issues through independent mediation processes. In cases of serious noncompliance by employers, the Fair Work Ombudsman can investigate possible breaches of workplace relations laws.

Conciliation services

Conciliation is a voluntary process in which the parties to a dispute agree to seek the input of a third party to assist them in resolving their workplace relations issues. Conciliation services involve an independent chairperson who steers the discussions and explores possible solutions in a non-prejudicial manner.

The participation and outcomes achieved in conciliation processes are voluntary. Solutions must be reached by consensus and any negotiations or agreements facilitated between the parties themselves. Conciliation services should be prompt, impartial and effective in handling workplace relations disputes.

Arbitration services

Arbitration is the process of settling disputes by using a third party, the arbitrator, to review and discuss the negotiation positions of the parties to the disagreements. The arbitrator makes recommendations on the terms of settlements. Those terms are binding on both parties who therefore lose control over the settlement of their differences.

The arbitrator is impartial and the role is often undertaken by FWC officials. Arbitration is a means of last resort for reaching a settlement when disputes cannot be resolved in any other way. The process of arbitration must take place at the request of both parties who agree in advance to accept the arbitrator's recommendations.

Compliance assessments

Workplace relations professionals may be required to regularly inspect and monitor organisations to ensure compliance with relevant modern awards and workplace relations legislation. Compliance assessments identify any issues that require action through a workplace relations management plan.

Investigations may involve examining organisational documents and records related to employment issues, conducting interviews with former or current employees, analysing workplace relations performance KPIs, or carrying out health and safety audits. Workplace relations professionals may also be responsible for preparing an organisation for an external audit or investigation.

Enforcement of workplace relations decisions

Where an organisation is ordered to carry out a decision of the Fair Work Commission or other tribunal arising from a workplace relations dispute, the workplace relations professional may be responsible for ensuring the required action is taken.

This may involve the completion of forms to be used in tribunal applications, or specific performance required by the organisation within a specified time frame.

Customer service

Workplace relations professionals may be required to provide advice and assistance to an organisations' customers or clients in relation to workplace relations issues. This may include the provision of information relating to employee rights, equality and workplace relations matters via the telephone, email or workplace relations written publications.

It may also involve liaising with members external to the organisation who are involved in workplace relations disputes. The relevant parties must be informed of the status of the complaint and any dispute referrals.

HR management services

Where existing HR management systems are ineffective, an organisation may experience high staff turnover, industrial disputes, breaches of workplace relations legislation, unfair dismissal claims or other workplace relations grievances. All of these issues will have a negative impact on organisational productivity levels.

Workplace relations professionals may be required to manage an organisation's HR services to ensure systems are implemented effectively and according to legislative requirements.

Cost-benefit analysis

A cost-benefit analysis is used to evaluate how cost-effective a workplace relations service will be financially and the likely success of a particular service option. Consultation is important in selecting the most appropriate workplace relations services for an organisation and is just as important as the cost of delivering the option and the benefits that can be realised.



Cost-benefit analysis is a decision-making technique that looks at the positive and negative outcomes of different alternatives, providing decision-makers with potentially more accurate information on which to base decisions. An organisation will need to undertake a cost-benefit analysis of each available option to determine which will deliver the best outcome for the organisation. A precise analysis depends on accurately identifying, quantifying and including all the benefits and costs of each option.

Cost-benefit analysis involves the following steps.

Identify costs

Analyse the costs involved in workplace relations service implementation. This includes the human resources, equipment, and cost of materials. It may also include use of office space, rent or utilities. The CFO or finance manager must be involved in this step. This maximises efficiencies and ensures accuracy. Remember to include costs incurred in communicating workplace relations service implementation within the organisation.

Identify benefits

Benefits are determined based on their alignment with organisational and workplace relations objectives.

Qualitative and quantitative measures should be used to identify benefits. An organisation's benefits might be evidenced in improved employee satisfaction levels, employee behaviours, reduced absenteeism rates and the impact of these improvements on the organisation's competitive advantage or market reputation. The CFO or finance manager should be consulted to assist with assigning values to these benefits. Benefits are generally forecasts and their accuracy is subject to changing circumstances.

Compare costs and benefits

The total costs of workplace relations service implementation need to be compared with the predicted benefits. Calculate total costs and total benefits for comparison and compare them by dividing the total costs by the benefits. Use the cost-benefit analysis to determine what strategies can be applied to manage the costs and realise the benefits.

Determine break-even point

The cost-benefit analysis findings are used to calculate how long it will take to repay the costs and achieve a break-even point. This is calculated by dividing total costs by the total, quantified benefits.

Non-financial ratios

Non-financial ratios are ratios in which neither figure is expressed in dollar terms. There are various types of non-financial ratios that can be used to evaluate workplace relations service options, such as staff turnover ratio, absenteeism ratio days lost to injury ratio, or business plan KPIs ratio.

Examples of non-financial ratios are described below.

Staff turnover ratio	The following formula can be used to calculate staff turnover ratio: $\text{Staff turnover ratio} = (\text{number of staff who left} \div \text{total number of staff}) \times 100$ A high staff turnover ratio may indicate employee job dissatisfaction. Workplace relations service options should attempt to address issues faced by employees in staying motivated to perform effectively in their roles.
Absenteeism ratio	The absenteeism ratio describes the rate at which particular workers are absent from work, or an organisation's overall rate of absenteeism. Gijs Houtzagers (2003) developed a formula to calculate the total costs of absenteeism, per employee, for a specified period of time. The formula is as follows: $\text{ACE} = (\text{ML} (\text{WH} + \text{EBC}) + \text{S} (\text{RH} + \text{SBC}) + \text{OC}) \div \text{E}$ • ACE – Total costs of absenteeism per employee for a defined period • ML – Total employee hours lost to absenteeism for a defined period, including illness, accidents, compassionate absences and emergencies, but excluding annual leave • WH – Weighted average hourly pay for the various occupational groups in the organisation • EBC – Cost of employee benefits per hour per employee (= 35% of WH) • S – Supervisor hours lost in dealing with absenteeism for the defined period • E – Total employees To get this figure, organisations need to: • estimate the average amount of hours lost per supervisor per day dealing with absenteeism • determine the number of supervisors who have to deal with absenteeism • define the total of working days for the defined period. • Multiply these three figures: • RH = Average hourly pay for supervisors • SBC = Costs of supervisor benefits per hour per supervisor (= 35% of RH) • OC = Estimation of other costs; for example cost of temporary workers, training for temporary workers, loss of production, quality loss, overtime for replacement of absenteeism, costs of external agencies that provide support on absenteeism, and costs of HR dealing with absenteeism

(Source: Department of Employee and Industrial Relations, Queensland 2015)

Risk analysis

When making any major decisions within an organisation, it is good practice to identify the possible risks involved, the likelihood of them occurring and the consequences should they occur. This is called risk analysis. Many large organisations will have risk management strategies in place to help with this process and these should be followed before workplace relations services are implemented.

Here are some aspects of risk management that need to be considered.

What is a risk?

Risk is defined generally as exposure to the threat of danger, harm or loss. In business, risk is the probability of threat and loss that exists within an organisation's operations and environment. Examples of this risk might include loss of revenue, change in demand and changing external environmental factors. Risk is embedded in every aspect of every business and all risks cannot be eliminated or controlled. It is the organisation's ability to manage those risks that is important.

Risk management

Risk management refers to processes for identifying, assessing and prioritising risks so that they can be eliminated, minimised or controlled with minimal impact to the organisation. All new projects, changes and major decisions should undergo risk analysis and risk management planning before implementation.

There are risk management standards that have been set by various bodies, such as the Project Management Institute, the National Institute of Standards and Technology and ISO Standards. These are intended as benchmarks to be used to guide individual implementation. They have been adopted and adapted by many organisations as standard practice and you may find that your own organisation has a very specific risk management procedure, including templates and guidelines to follow.

Risk management planning

Workplace relations professionals may be required to undertake risk management planning before finalising workplace relations service options. Even if it is not a requirement, it is good practice. Failure to do so may result in unplanned risk encounters and their consequences. Already having risk management strategies in place will either prevent the risk from occurring or allow organisations to deal with it in an efficient and cost-effective way when it does occur.

The risk management process

All decision-making in an organisation carries a measure of risk that must be managed if the organisation is to achieve its objectives. An organisation's risk management procedures can ensure that any decision-making process has included consideration of the risks involved and how these risks will be managed.

The risk management process is a continuous cycle, involving the following steps.



Identify risks	• What are the possible risks? • How many risks are there?
Assess risks	• How serious are the risks? • How likely are they to occur? • What are the possible impacts or consequences? That is, what is their risk level? • What priority should be placed on controlling these risks, given the above?
Control the risks	• What strategies can we use to control the risks; that is, accept, transfer, avoid and reduce? • What is involved in this? • How much will it cost? • How long will it take? • What is the desired outcome? • Implementation of control
Review controls	• Did the controls work? • How effective were they? • Could they be improved? • What else can we do?

Identify and analyse risks

The following provides an outline of how risks can be identified and analysed.

Identifying risks

Risks can be identified through brainstorming and consulting with teams, specialists and other managers about likely risk scenarios and issues. The team or group can also review documentation related to previous projects or change initiatives to identify indicators of risk, which may include:

- budget overruns
- impact on workplace relations service delivery and loss of production capability
- loss of key workplace relations staff.

Analysing risks

Workplace relations professionals must determine the likelihood and potential impact of a risk. The likelihood of the risk occurring may be very likely, likely or unlikely. Some organisations may use different words such as 'expected' instead of 'very likely', 'probable' for 'likely' and 'improbable' for 'unlikely'. The consequences of the risk may be major, moderate or minor. Other rating terms commonly used are 'disastrous', 'severe', 'extreme', 'minimal' and 'negligible'.

Evaluate risks

A risk assessment matrix can be used to evaluate a risk, where likelihood and impact is identified, to determine the level of the risk where these intersect on the matrix. High risks become the priorities for treatment, and may require the development of contingency plans. Moderate risks will need attention. Some low-level risks may be seen as a low priority because they can be resolved through routine procedures or practices. Workplace relations professionals must consider the likelihood and impact of any workplace relations service options and use a matrix like the one shown below to estimate the level of risk.

LIKELIHOOD	VERY LIKELY	Acceptable risk Medium	Unacceptable risk High	Unacceptable risk Extreme
	LIKELY	Acceptable risk Low	Acceptable risk Medium	Unacceptable risk High
	UNLIKELY	Acceptable risk Low	Acceptable risk Low	Acceptable risk Medium
IMPACT		MINOR	MODERATE	MAJOR

Treat risks

The objective of the risk management process is to eliminate or avoid the risk where possible.

Here are the five options for managing risks.

Avoid the risk

Options to avoid risk include the following:

- do not become involved in activities that lead to the possibility of the risk eventuating
- outsource risk-related tasks to contractors or specialist providers
- discontinue practices that may realise the risk.

Change the likelihood

The likelihood of risks can be lowered by removing various stimuli or situations likely to materialise the risk. This may be as simple as:

- reducing exposure to the risk environment
- removing or reducing activities that may lead to the risk being triggered
- using inspection controls and quality assurance measures
- ensuring time lines are realistic.

Change the consequences

Contingency plans are a valuable tool for helping reduce the impact or consequence of a risk event and may include:

- establishing measures to control or minimise damage if the risk is realised, such as planning for industrial action
- developing administrative measures, controls, policy or procedures to provide guidance.

Share the risk

If a risk is too high to take on alone (for example, expanding the business into a new industry), partnerships and strategic alliances allow for risks to be shared. Sharing the risk may also commonly involve external investors, such as venture capitalists or insurers and underwriters, and may include insuring against an event occurring.

Retain the risk

Some negative risks may be at an acceptable level when the likelihood and consequences can be adequately managed internally within the organisation. Others may have such a low level as to not warrant any effort. For example, occasional staff absences may not have a huge impact on meeting time lines, so this low-level risk can be accepted.

Review the risk management plan

A risk management plan is a tool used to record in detail all of the steps described in the risk management process. Risk management templates and guides are widely available on the internet and in HR management software. Their purpose and elements are described below.

Plan purpose

An organisation may have its own templates and documentation relating to risk management plans. When completed, it summarises the proposed risk management approach that has been undertaken. It might be used to:

- assist decision-making
- plan at the start of a project
- support overall business and strategic planning
- demonstrate capability when vying for business; for example, tenders and expressions of interest.

Plan elements

The risk management plan may form part of a larger document, such as a business plan, project plan or strategic plan, or it may be a stand-alone document. In some organisations, it may be added to a risk register for future reference. Whatever its form or purpose, a risk management plan should include:

- the process for identifying, analysing, evaluating and controlling risks
- personnel responsible
- costs
- actions to be undertaken
- resources required
- reporting requirements.

Legislative requirements

The options developed for workplace relations service delivery must comply with relevant legislative requirements. There are a number of industrial and legal requirements facing organisations that operate in Australia and workplace relations professionals must be familiar with these to ensure compliance. Compliance benefits organisations by minimising the risk of penalties and loss of income that can occur if the organisation fails to meet its obligations. It is good practice to develop review processes and audit checklists to directly manage the legislation that is related to the nature of a particular business.

Applicable legislation includes:

- employment legislation
- equal employment opportunity (EEO) and anti-discrimination legislation
- privacy legislation
- superannuation legislation
- taxation legislation
- work health and safety legislation
- workers compensation legislation.

Employment legislation

There is a range of employment legislation that affects workplaces across Australia. The Fair Work Ombudsman administers a number of laws and regulations that govern Australian workplaces.

The *Fair Work Act 2009* (Cth) and Fair Work Regulations 2009 are the main legislation dealing with workplace relations. They govern the employer–employee relationship in Australian workplaces, providing a safety net of minimum entitlements through the National Employment Standards, modern awards and national minimum wage orders, enabling flexible working arrangements and fairness at work, and preventing discrimination against workers.

The *Fair Work Act 2009* (Cth) can be accessed at: <http://aspirelr.link/fair-work-act>.

The Fair Work Regulations 2009 can be accessed at: <http://aspirelr.link/fair-work-regulations>.

Employment legislation covers:

- National Employment Standards
- modern awards
- enterprise agreements
- records
- leave entitlements.

National Employment Standards

The national minimum wage and the National Employment Standards (NES) make up the minimum entitlements for employees in Australia. An award, employment contract, enterprise agreement or other registered agreement cannot provide for conditions that are less than the national minimum entitlements.

All employees in the national workplace relations system are covered by the NES irrespective of the award, agreement or contract that applies.

The NES are 10 minimum employment entitlements that must be provided to all employees in Australia. These are described below.

The 10 minimum entitlements of the National Employment Standards

1

Maximum weekly hours

Full-time employees should work a maximum standard working week of 38 hours, plus ‘reasonable’ additional hours.

2

Requests for flexible working arrangements

Employees may request a change in their working arrangements, including changes in hours, patterns or location of work from their employer if they require flexibility due to personal circumstances.

Modern awards and enterprise agreements must include a flexibility term allowing employees and their employer to agree to an Individual Flexibility Arrangements (IFA), which varies the effect of certain terms of the award or enterprise agreement.

3**Parental leave and related entitlements**

An employee who has worked for their employer for at least 12 months is entitled to take maternity or parental leave when a child is born or adopted. Employees are entitled to 12 months unpaid parental leave.

4**Annual leave**

Full-time and part-time employees get four weeks of paid annual leave based on their ordinary hours of work.

5**Personal carers leave and compassionate leave**

An employee can take sick, personal or carer's leave to deal with personal illness, caring responsibilities or family emergencies.

An employee can take compassionate (or bereavement) leave when a member of their immediate family or household dies or suffers a life-threatening illness or injury.

6**Community service leave**

An employee can take community service leave for certain activities such as voluntary emergency management activities or jury duty.

7**Long service leave**

An employee who has worked for the same employer for a long period of time (for example, 7–10 years) is entitled to take an agreed extended amount of leave as a reward for long service.

8**Public holidays**

Public holidays vary depending on the state or territory.

9**Notice of termination and redundancy pay**

Termination of employment may occur for a number of reasons, including redundancy, resignation and dismissal. When the employment relationship ends, employees are entitled to receive any outstanding employment entitlements, such as outstanding wages, payment in lieu of notice, payment for accrued leave and any applicable redundancy payments.

10

The provision of a Fair Work Information Statement

Every employee has the right to receive a copy of the Fair Work Information Statement when they commence employment with an organisation.

(Source: Fair Work Ombudsman, 2015)

Modern awards

Modern awards set out the minimum pay and conditions of employment for specific employees and apply to all employees covered by the national workplace relations system. Awards are industry or occupation-based and apply to all employees who perform work covered by the award.

Managers or employees who earn more than the high income threshold may not be covered by a modern award even if one applies to the specific industry in which they work. However, the NES still apply.

There are numerous awards that cover people working in a range of industries, such as health support services, building and construction or retail operations. A business may be covered by more than one award depending on the roles and responsibilities carried out by employees.

Federal awards are determined by the workplace relations tribunal, whereas state awards are registered with State workplace relations commissions. Modern awards may cover key terms and conditions of employment.

What modern awards may cover:

- minimum pay rates and allowances
- rest breaks
- overtime rates and incentive-based payments
- hours of work and variations to working hours
- type of employment
- leave and flexible working arrangements
- rostering
- notice periods
- penalty rates
- skill-based classifications
- allowances and leave loading
- superannuation
- redundancy arrangements
- dispute resolution periods
- consultation procedures
- annualised wage arrangements.

(Source: Fair Work Ombudsman, 2013)

Workplace agreements

An Australian workplace agreement was a formalised individual agreement negotiated between an employer and an employee meeting only the most minimal Australian Fair Pay and Conditions Standard. In the past, these agreements were used to outline the terms and conditions under which an individual could be employed, and could be entered into with an individual or groups of employees.



Employers could offer a 'take it or leave it' AWA as a condition of employment. AWAs were registered by the employment advocate and did not require a dispute resolution procedure. An AWA could override employment conditions in state or territory laws except in relation to occupational health and safety (now work health and safety), workers' compensation or training arrangements.

AWAs have now been outlawed and no new AWAs can be developed. Existing AWAs will be allowed to run until their expiry date, but they cannot be replaced with updated ones.

Enterprise agreements

On 1 July 2009, the various types of collective and individual workplace agreements that existed under the previous workplace relations system were replaced by enterprise agreements. Enterprise agreements can exist between one or more national workplace relations system employers and their employees, as specified in the agreement.

Enterprise agreements are negotiated by the relevant parties through collective bargaining in good faith, primarily at the workplace level. Once approved by the FWC, an enterprise agreement is enforceable and provides for changes in terms and conditions of employment, applicable to an employee's workplace.

The rate of pay for an employee under an enterprise agreement cannot be less than the modern award that would apply to the employee.

Enterprise agreements are further explained below.

Terms

Enterprise agreements should contain the following terms:

- A nominal expiry date
- Dispute resolution procedures
- Individual flexible working arrangements
- Consultation terms
- Pay rates, penalty rates, overtime and allowances
- Standard hours of work
- Personal and annual leave entitlements
- Deductions from wages for any authorised purpose
- Matters pertaining to employment relationships
- How the agreement will operate

Types

Under the *Fair Work Act 2009* (Cth), enterprise agreements may be either:

- single-enterprise agreements – made between a single employer and workers employed at the time the agreement is made and who will be covered by the agreement
- multi-enterprise agreements – made between two or more employers and workers employed at the time the agreement is made and who will be covered by the agreement
- Greenfields agreements – made in relation to a new enterprise of the employer before any workers are employed.

Formation

The *Fair Work Act 2009* (Cth) provides a framework for employers and employees to negotiate enterprise agreements through bargaining in good faith.

Once approved by the FWC, an enterprise agreement is enforceable and provides for changes in terms and conditions of employment applicable to an employee's workplace.

Employers and employees have the right to be represented by a bargaining representative and must bargain in good faith throughout negotiations. The FWC provides strict rules applicable for taking industrial action.

Bargaining representatives

The *Fair Work Act 2009* (Cth) identifies the following as bargaining representatives:

- An employer covered by the agreement
- A trade union who has a member covered by the agreement
- A trade union entitled to represent one or more employees who will be covered by a Greenfields agreement
- A trade union that has applied to the FWC for a low paid authorisation relating to the agreement
- A person specified in writing as an employer or employee's bargaining representative

Good faith bargaining

Good faith bargaining requires bargaining representatives to:

- attend and participate in meetings at reasonable times
- disclose relevant information promptly
- promptly respond to proposals made by other representatives for the agreement
- genuinely consider proposals made by other representatives and provide reasons for any responses
- not behave in a manner that is capricious, unfair or in a way that undermines freedom of association collective bargaining
- recognise and bargain with other representatives for the agreement.

Workplace tribunal

Before the FWC approves an enterprise agreement, they must be satisfied that the agreement:

- has been made with the genuine agreement of the parties
- passes the better off overall test
- does not include any terms that are unlawful
- covers groups of employees that were chosen fairly
- specifies a nominal expiry date that is no more than four years after the date of approval
- includes a dispute resolution procedure
- includes flexibility and consultation terms.

Bargaining disputes

Bargaining disputes arise for a number of reasons but particularly where one party does not bargain in good faith. If a bargaining dispute exists and it cannot be resolved between the bargaining representatives, one or more of the representatives may apply to the FWC for assistance in resolving the dispute.

The FWC may issue a bargaining order in relation to the proposed agreement that will include:

- actions that the FWC requires to be taken
- actions that are not to be taken
- other matters that the FWC considers necessary to promote fair and efficient bargaining.

Unable to reach agreement

Where parties are unable to reach agreement on the terms and conditions of a proposed enterprise agreement, a bargaining representative can make an application to the FWC for assistance.

The FWC can make a workplace determination, prescribing the terms and conditions for those employees to whom it applies. If there is a serious and sustained contravention of a bargaining order that has significantly undermines the bargaining process, the FWC can make a serious breach declaration.

Employees have the right to initiate industrial action when bargaining for a proposed enterprise agreement. The Fair Work Act prescribes strict rules that govern industrial action, including the rights, responsibilities and obligations of employers, employees and their organisations.

(Source: Fair Work Ombudsman, 2015)

Employment contracts

An employment contract is an agreement between an employer and employee that outlines the terms and conditions of employment that are not covered by an award or enterprise agreement.

Employment contracts can be in writing or verbal. An employment contract cannot provide for less than the legal minimum set out in the NES, awards, enterprise agreements or other applicable registered agreements.

The rule is that employment contracts cannot make employees worse off than their minimum legal entitlements.



Employment contracts may include:

- duties and responsibilities of the employee
- codes of conduct that must be followed
- relevant organisational policies and procedures
- the grounds on which termination can occur without notice
- the period of notice that must be provided when an employee is terminated
- details relating to performance appraisal processes
- remuneration and benefits.

Records

Workplace relations legislation sets out provisions relating to record keeping. To ensure that employees receive their correct wages and entitlements, employers are required to make and keep accurate and complete records for all employees, including hours worked and wages paid; and issue pay slips to each employee.

All employee records must be in a form that is readily accessible by authorised users, be legible and written in plain English, be kept for seven years, not be altered unless for the purposes of correcting errors, and not be false or misleading to the employer's knowledge.

Records are private and confidential and should not be accessed by anyone other than the employee, their employers and relevant payroll staff. Fair Work inspectors, auditors or organisation officials may also access employee records on behalf of employees to determine whether there has been a contravention of relevant workplace relations laws.

Below is some information that should appear in employee records.

Information contained in employee records
• General records, such as the employer's name and ABN, employee's name, commencement date, and type of employment (such as full-time, part-time) • Pay records including the rate of pay, gross and net amounts paid, any deductions and incentive-based payments • Hours of work, including the number of overtime hours worked each day • Leave records, including any leave taken and the balance of the employee's entitlement to leave from time to time • Superannuation contributions, including the amount and date on which contributions were made • Individual flexibility arrangements made in relation to a modern award or enterprise agreement • Guarantee of annual earnings made by an employer under the <i>Fair Work Act 2009</i> (Cth) • Termination records, including how employment has been terminated and the name of the person who terminated employment • Transfer of business records

(Source: Fair Work Ombudsman, 2015)

Unfair dismissal

Unfair dismissal occurs when an employee is dismissed from their job in a harsh, unjust or unreasonable manner. Applications for unfair dismissal must be lodged with Fair Work Australia within 14 days of the unfair dismissal taking effect

A determination as to whether or not dismissals have been unfair are based on:

- the existence of a valid reason for the dismissal
- whether the employee was notified of the reason and provided with an opportunity to respond
- unreasonable refusal to allow the employee to have a support person present
- insufficient warning of the employee's unsatisfactory performance
- the impact on the type of organisation involved
- other matters deemed relevant by Fair Work Australia.

Leave

Employees can take leave for many reasons. Leave entitlements vary according to the particular award, agreement or contract. Annual leave forms part of the NES and applies to all employees covered by the national workplace relations system, regardless of the applicable agreement or contract of employment.

For more information on leave entitlements, visit the Fair Work Ombudsman website at: <http://aspirelr.link/leave-entitlements>.

Workplace relations legislation provides the following leave entitlements for employees. These relate back to the minimum employee entitlements upheld by the National Employment Standards.

Annual leave



- Full-time and part-time employees are entitled to four weeks of paid annual leave based on their ordinary hours of work.
- Annual leave accumulates based on an employee's ordinary hours and enables them to take paid time off from work.
- Annual leave is paid at the employee's base pay rate for all ordinary hours, including extra payments such as overtime rates, penalties, allowances and bonuses.
- An employer can direct an employee to take annual leave in some situations such as during end of year holiday season, and when the employee has accumulated excess annual leave.

Sick and carer's leave



- An employee can take paid sick when they cannot work due to personal illness or injury. This includes stress and pregnancy related illnesses.
- All employees, including casual employees, are entitled to two days unpaid carer's leave.
- An employee is entitled to as much paid sick leave as they have accumulated to recover from an injury or illness.
- When an employee runs out of paid sick leave, they can take unpaid leave if they are not fit for work.

Compassionate leave



- An employee can take compassionate (or bereavement) leave when a member of their immediate family or household dies or suffers a life-threatening illness or injury.
- All employees are entitled to two days compassionate leave per year.
- Employees do not accumulate compassionate leave and it can only be taken as needed.
- Full- and part-time employees are paid at their base rate for the ordinary hours they would have worked during compassionate leave.

Public holidays



- Public holidays vary depending on the state or territory.
- Employees are paid at least their base rate for all hours worked on a public holiday.
- Awards and enterprise agreements may provide entitlements for working public holidays, such as extra pay, an extra day off, minimum shift lengths or substituting a public holiday for another day off.

Maternity and parental leave



- An employee who has worked for their employer for at least 12 months is entitled to take maternity or parental leave when a child is born or adopted.
- Employees are entitled to 12 months unpaid parental leave.
- Employees must give their employer a certain amount of written notice and evidence if it is requested.
- An employee who has taken unpaid parental leave is entitled to return to the job they have before going on leave, even if another person is working in their role as a replacement.

Long service leave



- An employee who has worked for the same employer for a long period of time (e.g. 7–10 years) is entitled to take an agreed extended amount of leave as a reward for long service.
- Most employees' long service leave entitlements come from long service leave laws in each state or territory.
- In some states and territories, long-serving casual employees are eligible for long service leave.
- State and territory long service leave laws do not apply when there are long service leave entitlements in a federal pre-modern award, or a registered agreement that covers an employee.

Community service leave



- An employee can take community service leave for certain activities such as voluntary emergency management activities or jury duty.
- Emergency management bodies include the State Emergency Service (SES), Country Fire Authority (CFA) or the RSPCA in respect of animal rescue during emergencies or natural disasters.
- An employee is entitled to take community service leave while they are engaged in the activity and for reasonable travel and rest time.
- There is no limit on the amount of community service leave an employee can take.



Workers compensation leave

- Employees who have claimed workers compensation are entitled to take leave until they are able to return to safe and sustainable work.
- Workers compensation includes payments to employees to cover their wages while they are not fit for work as well as medical and rehabilitation expenses.
- Workers compensation is governed by individual states and territories.



Leave without pay

- An employee can take leave without pay where other forms of leave are unavailable.
- Leave without pay is granted at the discretion of the employer and will generally not exceed twelve months.
- Leave without pay may include leave to undertake study, settle personal affairs or take extended unpaid sick leave.

Equal opportunity and anti-discrimination

Discrimination is never acceptable behaviour and is against the law. All organisations must promote equality for everyone.

There is federal and state legislation relating to anti-discrimination, harassment and equal employment opportunity in the workplace. All employers are required by these laws to create a workplace free from discrimination and harassment with access to all. It is important that employers and their employees understand their rights and responsibilities under human rights and anti-discrimination law in Australia.

The Australian Human Rights Commission can provide information and advice for workplaces and the Fair Work Ombudsman provides resources about how to prevent discrimination in the workplace.

Relevant legislation can be accessed by following the links at:
<http://aspirelr.link/equal-opportunity-and-diversity>.

Here are five legislative Acts that must be upheld in the workplace.

Age Discrimination Act 2004 (Cth)

This legislation aims to:

- stop discrimination based on age
- protect everyone's legal rights regardless of their age
- help others understand that everyone has the same rights
- remove barriers that stop older people from joining in work activities and being part of society
- remove stereotypes and false beliefs about older people.

Racial Discrimination Act 1975 (Cth)

This legislation aims to:

- promote equality before the law for everyone, regardless of their race, colour or ethnic origin
- make discrimination against people on the basis of their race, colour, descent or national or ethnic origin unlawful.

Sex Discrimination Act 1984 (Cth)

This legislation aims to:

- eliminate discrimination on the grounds of sex, sexual orientation, gender identity, intersex status, marital or relationship status or pregnancy
- prevent sexual harassment in the workplace, in educational institutions and in other areas of public activity
- promote recognition and acceptance within the community of the principle of equality of men and women.

Workplace Gender Equality Act 2012 (Cth)

This legislation aims to:

- promote and improve gender equality in employment and in the workplace
- support employers to remove barriers to the full and equal participation of women in the workforce
- promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters, including in relation to family and caring responsibilities
- foster workplace consultation between employers and employees on issues concerning gender equality
- improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace.

Disability Discrimination Act 1992 (Cth)

This legislation aims to:

- eliminate discrimination on the ground of disability
- ensure that persons with disabilities have the same rights to equality before the law as the rest of the community
- promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.

Privacy legislation

The *Privacy Act 1988* (Cth) is an Australian law that regulates the handling of personal information about individuals, including employees' personal information.

There are 13 Australian Privacy Principles, which are listed below.

- APP 1 – Open and transparent management of personal information
- APP 2 – Anonymity and pseudonymity
- APP 3 – Collection of solicited personal information
- APP 4 – Dealing with unsolicited personal information
- APP 5 – Notification of the collection of personal information
- APP 6 – Use or disclosure of personal information
- APP 7 – Direct marketing
- APP 8 – Cross-border disclosure of personal information
- APP 9 – Adoption, use or disclosure of government related identifiers
- APP 10 – Quality of personal information
- APP 11 – Security of personal information
- APP 12 – Access to personal information
- APP 13 – Correction of personal information

Further information is available at: <http://aspirelr.link/aus-privacy-principles>.

Superannuation

Superannuation is money set aside over an employee's lifetime to provide funds for retirement. Superannuation payments begin when an employee starts work. The employer pays a portion of the employee's salary or wages into a regulated superannuation fund provider. These payments are known as superannuation guarantee (SG) contributions, or concessional contributions.

Superannuation funds invest employees' money in shares, property or managed funds and offer other services, such as life insurance.

Internal workplace relations, HR or payroll staff are responsible for making arrangements for superannuation contributions to be made on behalf of eligible employees under SG laws. Currently the minimum employer contribution is 9.5% of an employee's ordinary time earnings. Organisations can claim a tax deduction for superannuation contributions paid by the due dates.

Further information is available at: <http://aspirelr.link/super>.



Taxation

The Australian Taxation Office (ATO) administers Australia's taxation laws, and applies these laws to all types of organisations. An employer is responsible for deducting tax instalments from employees' wages and paying them to the ATO. HR or finance staff are responsible for issuing employees with group certificates at the end of each financial year.

Managing tax affairs and obligations is an integral part of any business. Tax obligations and entitlements will vary depending on the industry, business and type of work undertaken. Workplace relations, HR or finance professionals should seek advice when selecting the best legal structure for an organisation.

An organisation must consider its obligations relating to the following taxation requirements.

Taxation requirements
• Goods and services tax (GST): a broad-based tax of 10% imposed on most goods and services • Business activity statement (BAS): these must be lodged with the ATO to report and pay your tax • Pay As You Go (PAYG): a system that allows you to pay an expected tax liability in instalments • SG obligations: employers can pay a set minimum level of superannuation for each eligible employee, or pay a charge to the ATO • Fringe benefits tax (FBT): if you provide certain benefits to employees or people associated with employees, your organisation may be liable for FBT • Payroll tax: employees who pay taxable wages must register for payroll tax under certain circumstances

Work health and safety

Work health and safety (WHS) legislation in Australia aims to prevent injury and disease to people in the workplace. State, territory or Commonwealth legislation applies. WHS legislation includes work health and safety Acts, regulations and codes of practice.

There is also a national compliance and enforcement policy to ensure the health and safety of employees and visitors to organisational sites. At the time of publication, the *Work Health and Safety Act 2011* (Cth) applies to all states except Victoria and Western Australia, which each have their own Acts.

Information relating to WHS requirements is available from Safe Work Australia at: <http://aspirelr.link/safe-work-australia>.

There are things that all employers must do under WHS legislation, and these responsibilities are listed below.

The obligations of employers under WHS legislation
• Duties to provide a safe and healthy workplace for all employees and other people attending the workplace • The implementation of safe work systems that do not pose a health risk • The provision of workplace training to ensure employees work in a safe and competent manner • Requirements to take steps to prevent injury, illness and disease • Requirements to consult with employees and their representatives over WHS matters • Provisions for workplace inspectors to visit workplaces, investigate accidents and enforce legislative provisions

Workers compensation

Workers compensation is a form of insurance payment made to eligible employees who have been injured at work or become sick as a result of their work.

All organisations in Australia are legally required to have workers' insurance in place. Workers compensation focuses on prevention and rehabilitation. Compensation can be paid due to a work-related injury, illness, fatality or, in some cases, property or environmental damage.

Legislation in each state and territory requires all Australian employers to take out a workers compensation insurance policy within a specified time frame after employing people. If a policy is not taken out, penalties may apply.

Employer responsibilities relating to workers compensation includes:

- ensuring employees understand and have access to workers compensation systems
- ensuring employees are aware of their rights and responsibilities under workers compensation legislation
- ensuring compliant reporting and record keeping of workplace incidents, accidents, injuries and damage
- providing official claim forms available to all employees
- processing all reports accurately and promptly
- ensuring that the system is managed by qualified personnel.

Keep up to date

It is paramount that workplace relations professionals stay up to date with legislation and workplace regulations. This is done by subscribing to a variety of platforms. The following websites offer access to social media, such as Twitter, as a means to remain aware of changes that the organisation may need to address in the workplace.

To remain aware of legislative change, you might access the following:

- A search of the Australian Government website ABLIS (<http://aspirelr.link/ablis>) provides a detailed description of licenses and legal requirements for business in Australia based on industry.
- The Fair Work Ombudsman (<http://aspirelr.link/fair-work-ombudsman>) and the Fair Work Commission (<http://aspirelr.link/fwc>) provide extensive information on an organisation's obligations under workplace relations legislation, including agreements and pay rates. A news and information section on the Fair Work Ombudsman's website highlights recent changes to legislation.
- The Australian Human Resources Institute's website (<http://aspirelr.link/ahri>) provides information on the impact of changes on HR practice. Consider also some the networking and workshop opportunities provided by the Institute to keep up to date on developments.



Example: evaluate options against cost–benefit, risk and legislation

Consider the workplace relations service delivery within your organisation and/or that provided by your training organisation. To support your learning you might like to visit the following websites to see examples of workplace relations service options.

- Victorian Department of Education and Training:
<http://aspirelr.link/vic-education-hr-web>
- Southern Cross University: <http://aspirelr.link/scu>
- Queensland's Corporate Administration Agency:
<http://aspirelr.link/qld-caa>



Practice task 3

1. Describe two workplace relations service options.

2. How can a cost–benefit analysis be used to evaluate workplace relations service options?

continued ...

... continued

3. Briefly describe the risk management process.

4. Identify and describe the primary legislation governing Australia's workplace relations system.

1D

Consult management to develop industrial relations policies and plans

Workplace relations strategies and policies are an expression of an organisation's ability to develop and implement a workplace relations management plan. A workplace relations management plan is designed to meet the needs of an employer and its employees to encourage industrial harmony, cooperation and increased productivity in the workplace.

Workplace relations professionals must collaborate with an organisation's management team and other relevant professionals to develop and review workplace relations plans, strategies and policies.



Workplace relations plans

Workplace relations and/or HR professionals are responsible for developing and implementing workplace relations management plans that identify and deal with workplace relations issues relevant to an organisation. Workplace relations management plans detail specific actions for occurrences of grievance disputes, employment issues or other unforeseen industrial action that impacts on productivity.

Workplace relations management plans underpin the development workplace relations strategies and policies used to support the achievement of workplace relations objectives. Strategies and policies must be linked to an organisation's operational plan and activities.

To achieve overall business objectives, employers must plan for the engagement of a committed and cooperative workforce and provide them with opportunities for training and professional development.

Workplace relations management plans

The specific areas addressed by the plan; for example, communication

The actions to be taken within that area of the plan; for example, holding weekly staff meetings

The person responsible for completing the action; for example, the HR manager

The time frame required for action to be completed; for example, in two months' time

Evaluation of the action; for example, all actions completed weekly as required

Workplace relations management approach

There are several approaches to planning and managing workplace relations in the workplace. The approach adopted by an organisation should reflect the values of senior management and influence the development of workplace relations strategies and policies as shown here.

Adversarial approach

In an adversarial approach to workplace relations management, an organisation decides what it wants to achieve and employees are expected to cooperate. Employees only exercise power by refusing to cooperate or follow workplace relations policies.

Traditional approach

In a traditional approach to workplace relations management, a successful working relationship exists between the employer and its employees, but the proposal for workplace relations changes by management, and employee responses, are managed and negotiated by elected representatives.

Partnership approach

In a partnership approach to workplace relations management, an organisation retains the right to manage workplace relations, but involves employees in the development and implementation of workplace relations strategies and policies. The partnership approach is based on mutual teamwork, collaboration and common objectives.

Power-sharing approach

In a power-sharing approach to workplace relations management, an organisation involves employees in both day-to-day and strategic decision-making processes. The participation of unions, workplace tribunals and government agencies is accepted by advocates of this approach.

Develop workplace relations management plan

The workplace relations management plan itself should provide employees with an overview of the organisation's plan to improve the efficiency and productivity of work practices. A workplace relations management plan is separate to a workplace relations implementation plan: An implementation plan documents the actions an organisation will take to implement its workplace relations management plans, workplace relations strategies and policies into the workplace.

Workplace relations management plans may contain, but are not limited to, the sections shown here.

Workplace relations management plan contents

1

Administration

This section outlines the organisational structure for workplace relations, including the identification of staff responsible for managing workplace relations, reporting lines, and workplace relations roles and responsibilities.

2

Risk assessment

This section identifies the workplace relations risks present in an organisation. The risk assessment should demonstrate an understanding of the workplace relations environments, lessons from previous workplace relations issues, and organisation-specific issues. The risk assessment should identify any issues that will affect the organisation's ability to comply with workplace relations policies and identify any barriers to meeting workplace relations objectives.

3

Conditions of employment

This section outlines the terms and conditions of employment relevant to individuals, or a group of employees. The workplace relations management plans should make reference to the use of enterprise or other registered agreements, awards or contracts of employment that reinforce the employer's expectation in relation to workplace relations matters. This includes freedom of association, grievance management and unlawful industrial action.

4

Recruitment and selection

This section outlines how an organisation will attract, recruit and retain employees. Depending on the size, scope and location of the organisation, it may need to address issues of skills shortages, outsourcing labour, training and development, and competency assurance. The workplace relations management plan should include details of how prospective employees will be assessed and reference checked by an organisation to ensure they can carry out their roles and responsibilities productively.

5

Induction

This section outlines how an organisation will ensure that employees are provided with a full induction into the organisation. The workplace relations management plans should specify all the requirements of an organisation's induction program, including a tour of the workplace, the provision of workplace documentation and a Fair Work Information Statement, and a work health and safety induction.

6

Labour productivity

This section outlines how an organisation plans to achieve labour productivity and value for money objectives outlined in its strategic and operational plans. The workplace relations management plans should address how the organisation proposes to measure labour productivity, and address workplace relations performance gaps or deficits. The workplace relations management plans should outline key initiatives that promote efficient and industrious work practices. It should also identify consequences for underperformance.

7**Performance standards**

This section outlines how an organisation will analyse and measure labour productivity and workplace relations performance. The workplace relations management plans should identify the performance standards or key performance indicators that are relevant to achieving workplace relations objectives. It should also identify how performance metrics will be collected, reported and referred for further action. The workplace relations management plans should provide for data as to overall labour efficiency, absenteeism rates, staff turnover, lost time, and delays due to industrial action. It should also specify who is responsible for collecting, analysing and reviewing performance metrics.

8**Freedom of association**

This section outlines how an organisation will comply with freedom of association objectives required by workplace relations legislation. The workplace relations management plans should outline how an organisation proposes to grant and notify employees of their right to join, or not join, trade unions, and participate in industrial action. This might include reinforcing the principles and prohibitions in recruitment induction processes, workplace policies or training programs.

9**Right of entry**

This section outlines how an organisation will comply with the right of entry requirements for union representatives. The workplace relations management plan should include an assessment of workplace security and access and a requirement that relevant employees are familiar with the right of entry requirements and procedures provided for under the *Fair Work Act 2009* (Cth) and relevant WHS laws. Union officials entering a workplace or site must hold valid permits.

10**Grievance management**

This section outlines how an organisation will ensure that employee grievances are handled effectively and in accordance with workplace relations legislation and organisational policies. The workplace relations management plans should include mechanisms for monitoring and recording the nature and frequency of grievances among the workforce. It should ensure that employees are provided with choices as to whether or not they are represented in grievance processes.

11**Industrial action**

This section outlines how an organisation will respond to and report unlawful industrial action, including the recovery of any associated costs.

12

Audit and review

This section outlines how an organisation will audit and review its workplace relations management plan. The workplace relations management plan should be reviewed regularly and modified wherever there is opportunity for improved performance.

(Source: Model Workplace Relations Management Plan – Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction, July 2013)

Workplace relations strategies/policies

The objective of workplace relations policies is to maintain good relations with employees and their representatives; develop a cooperative and constructive workplace relations climate; effectively manage work practices; control labour costs; and develop an engaged and committed workforce.

Workplace relations policies act as a guiding frame of reference for how an organisation deals with employment issues, responds to workplace relations claims and resolves workplace relations disputes in accordance with legislative and regulatory requirements.

Workplace relations strategies set out how workplace relations policy aims to be achieved. The intentions expressed by workplace relations strategies may direct an organisation to alter its enterprise agreements, develop new bargaining structures or increase the involvement of employees in workplace relations decision-making.

Workplace relations strategies and policies should reflect an organisation's strategic and operational objectives, be based on best employment practices, comply with national workplace relations laws and regulations, and meet minimum employer obligations.

Workplace relations policies may cover:

- discrimination, bullying and harassment
- terms and conditions of employment
- leave entitlements
- conflict and grievance handling
- collective bargaining
- performance management
- rehabilitation and return-to-work schemes
- equal employment opportunity (EEO)
- award restructuring
- flexible working arrangements
- trade union recognition
- disciplinary procedures
- work health and safety
- training and development.

Develop workplace relations policies

Well-written workplace relations policies should be consistent with the values of an organisation and workplace relations legislation. workplace relations policies should demonstrate that an organisation is operating in an efficient and compliant manner, and ensure uniformity and consistency in decision-making and operational procedures.

Workplace relations policies will be used by an organisation to assess workplace relations performance and clarify the functions and responsibilities of the employer and employees in relation to workplace relations matters.

It is critical to have senior management support when developing workplace relations policies that relate to employee behaviour. The endorsement and modelling of best practice behaviours by management will encourage employees to accept and follow policies correctly.

The steps for developing workplace relations policies are shown below.

Steps for developing workplace relations policies

The following steps help to ensure that workplace relations policies are successfully introduced and implemented in the workplace.



1. Planning and consultation

Workplace relations professionals should involve other employees in the development and implementation of workplace relations policies to promote awareness, understanding, ownership and compliance. Inviting employees to contribute to policy development helps to determine how and when policies might apply.



2. Research and define policy terms

Workplace relations professionals should research what a good workplace relations policy looks like by finding out what other organisations are doing, and using a variety of sources that acknowledge contemporary workplace relations issues. Key terms used in the policy should be defined to ensure employees understand what is meant. Workplace relations policies should describe acceptable and unacceptable types of behaviours in the workplace. It should contain information about what must be done by employees required to follow the policy.



3. Draft policy

Workplace relations policies should be written in plain English and easily understood by all employees. Policies should use language and terms appropriate for cultural differences. Employees must understand how to comply with workplace relations policies and any consequences or implications for noncompliance.



4. Implementation

To be effective, workplace relations policies need to be publicised and communicated to all existing and new employees. Workplace relations policies should be explained during induction or other training sessions and made accessible via the organisation's intranet or in a printed policy manual provided to employees.



5. Compliance

It is essential that workplace relations policies are applied consistently through an organisation. A breach of workplace relations policy should be dealt with promptly and according to the relevant procedures. Any consequences for policy breaches should be reasonable to suit the severity of the breach. A termination or disciplinary policy should identify what an organisation considers to be serious, wilful or gross misconduct in relation to breaches of workplace relations policy.



6. Review

Workplace relations policies should be regularly reviewed to ensure they are compliant with current legislative and regulatory requirements. Employees should be notified whenever workplace relations policies are altered and the changes should be clearly explained and publicised to ensure employees' understanding.

Features of workplace relations strategies and policies

All workplace relations policies should include a workplace relations policy statement that is supported by senior management. Policies should also define responsibilities for workplace relations management and professionals, and identify the legal and other obligations of individuals the policy applies to. Workplace relations policies should include specific procedures that identify potential workplace relations issues and risks and outline performance measures to evaluate, monitor and review workplace relations strategies.

Workplace relations policies should also contain the following features.

Communication

Workplace relations policies should establish clear communication channels and procedures to allow for the free flowing of information between employer and employees. Procedures might include formal monthly staff meetings, company newsletters distributed by email, or ongoing workplace relations policy training and development opportunities.

Participation

Workplace relations policies should provide for the inclusion and participation of all employees in the organisation. Employees should be encouraged to join workplace committees, such as the work health and safety committee, or specialist teams formed to discuss the implementation of workplace relations policy changes directly affecting their area of work.

Training

To ensure an organisation achieves its strategic and workplace relations objectives, it must provide employees with training and development opportunities. Employees should be encouraged to complete training programs and be offered incentives or rewards for doing so.

Planning

Careful planning is required to effectively deal with and manage any workplace relations issues that arise within an organisation. Workplace relations policies should identify who is responsible for workplace relations implementation and contingency planning, and the types of specialists or external sources that can be accessed to provide professional advice. Workplace relations policies should be in place to effectively handle employee grievances and industrial conflict.

Specifications of workplace relations strategies and policies

Workplace relations professionals should ensure that any workplace relations strategies or policies developed cover the following specifications.

Workplace relations strategy/policy specifications		
• Confirmation of managerial support • Required resources • Documentation requirements • Workplace relations compliance measures • Risk assessment • Strategy/policy implementation plan • Dispute resolution procedures • Strategy/policy monitoring and review process	• Specific workplace relations objectives • Timeline for action • Communication plan • Identification of relevant workplace relations issues • Risk treatment plan • Workplace relations performance measures • Cost-benefit analysis techniques, ratios and formulas • Mechanisms for obtaining employee feedback	• Actions to be taken • Responsibilities of relevant personnel • Workplace relations legal and other obligations • Identification of potential workplace relations risks • Measures to eliminate or minimise workplace relations risks • Grievance handling procedures • System to ensure strategy/policy is being implemented • Procedures for taking corrective action

Consultation in the workplace

It is important that an organisation's workplace relations strategies and policies have the commitment of management. Relevant managers might include workplace relations, HR, finance, service or operational managers. Senior management such as the chief executive officer, chief financial officer or members of the board may also be involved.

Organisations that follow best practice, develop and implement effective consultation mechanisms that encourage cooperation and engagement of employees and management in decision-making processes.

The forms and benefits of consultation are shown below.

Benefits of consultation

Working with the management team to develop workplace relations plans, strategies and policies leads to:

- a more productive workplace as a result of greater cooperation and collaboration
- better and more informed decision-making processes
- attraction and retention of a skilled and motivated workforce
- a workplace that is better able to accept organisational change
- minimisation of workplace disputes
- minimisation of workplace relations claims against the employer.

Forms of consultation

Consultation may be carried out in the following ways:

- Establishment of specialist committees including employer and employee representatives
- Regular staff meetings
- Regular performance and training reviews
- Regular written communications circulated throughout an organisation, such as emails, memos or newsletters
- Encouragement of employee feedback on workplace relations decisions

Example: consult management to develop industrial relations policies and plan

An example of a workplace relations policy is provided below.

Tidmine Resources Ltd Workplace relations Policy	
Policy statement	Tidmine Resources strives to continually improve the quality of its productivity, performance and services to enable continued growth in a competitive industry. Our goal is to have open and transparent processes in all aspects of our dealings with employees, suppliers and subcontractors, encompassing all issues pertaining to workplace relations.
Workplace relations objectives	Tidmine Resources aspires to eliminate lost time, down time and unproductive work practices that arise through grievances or disputes pertaining to workplace relations. We are committed to: • compliance with state and federal workplace relations legislation • maintaining an open relationship with our employees and any elected representatives • advising of clients of Tidmine Resources during the progress of the work, • respecting the national freedom of association laws documented in the <i>Fair Work Act 2009</i> (Cth) • employment practices that ensure equal opportunity and are non-discriminatory • encourage all employees to comply with applicable awards and enterprise agreements while recognising their right to have individual flexible working arrangements in place.
Responsibilities	Tidmine Resources has three active directors who all work for the business on a day-to-day basis, involved in all aspects of agreement negotiations at all levels, and generally act as project managers for all contracts. Directors are the first point of contact for all issues pertaining to workplace relations.
Performance measures	Tidmine Resources will track and monitor key performance indicators relating to workplace relations and worker productivity. KPIs may include: • project completion on time and on budget • workplace relations impacts project performance • work productivity in terms of: – income per labour hour total – income per labour hour on net profit – average labour cost per hour.

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Right of entry	Tidmine Resources acknowledges the right of entry to union officials who hold valid entry permits to their business for specific purposes, including: • investigating suspected breaches of the <i>Fair Work Act 2009</i> (Cth) • holding discussions with employees • performing inspections and other functions under WHS laws.
Freedom of association	Tidmine Resources acknowledges that employees have a right to belong or not to belong to any trade union they choose, without it affecting their employment.
Dispute resolution and grievance management	All parties are required to make effort to resolve grievances or disputes with their employees and applicable parties at the appropriate level, in accordance with the procedure outlined in the relevant award or enterprise agreement. All employees should be committed to working towards the elimination of lost time through close consultation and cooperation with those directly affected and through the effective use of the grievance/dispute settlement policy and procedures.
Workplace relations management plan	Where required by legislation, guidelines, or due to the size of a particular project, Tidmine Resources will develop and monitor a workplace relations management plan that identifies workplace relations issues relevant to a specific project and detail specific actions for handling grievance disputes, workplace issues or any other unforeseen action that may impact productivity.

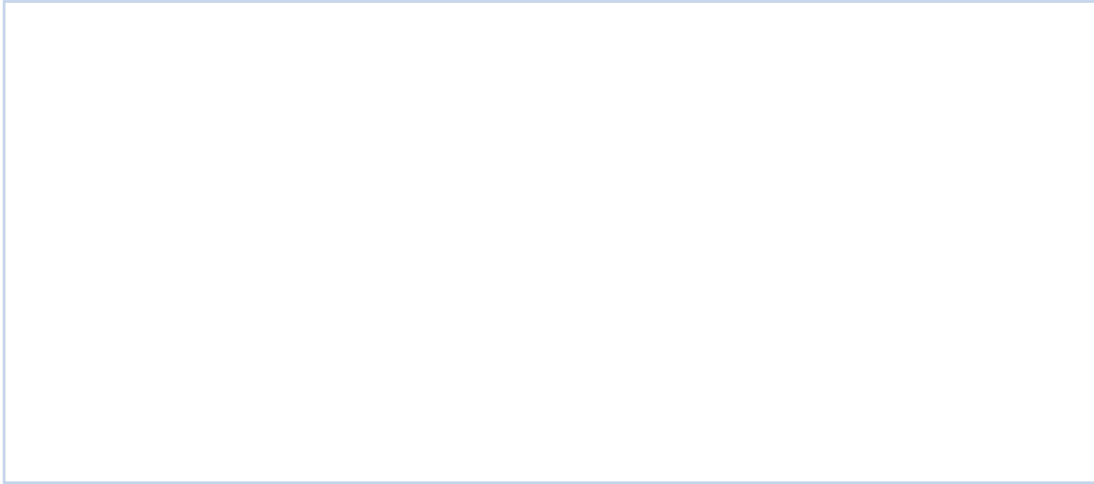
Practice task 4

1. What are workplace relations plans?

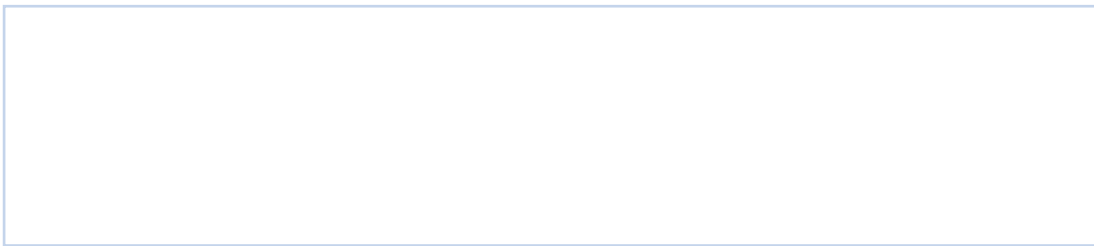
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2. What are workplace relations policies? Provide two examples.



3. Describe the benefits of consulting with managers to develop workplace relations plans and policies.



1E

Identify knowledge and skills requirements to implement industrial relations strategies

Workplace relations managers and professionals must be able to deploy a range of skills supported by knowledge that facilitates the effective implementation of workplace relations plans, strategies and policies in their organisation. Skills in communication, negotiation, problem-solving and conflict management are essential for the effective management of workplace relations matters.

It is equally important that the wider workforce is equipped with the skills and knowledge necessary to interpret and follow workplace relations policies in their roles. HR or workplace relations professionals must provide adequate training and development opportunities for staff to gain an accurate understanding of workplace relations matters relevant to their organisation.



Workplace relations knowledge

Workplace relations managers and professionals must have a comprehensive understanding of relevant workplace relations and other employment legislation, and the ability to interpret and apply that legislation in the workplace.

Workplace relations managers and professionals should have knowledge of:

- modern awards
- enterprise agreements
- contracts of employment
- conditions of employment
- disciplinary procedures
- unfair and unlawful dismissals
- equal employment opportunity and anti-discrimination matters
- privacy laws
- records management
- work health and safety laws and regulations.

Workplace relations management skills

Workplace relations managers and professionals are required to possess a broad range of management and workplace relations skills that enable them to effectively develop and implement workplace relations plans, strategies and policies, resolve workplace relations issues and disputes, train others to develop workplace relations knowledge and skills, and manage organisational change.

A range of skills required by workplace relations managers and professionals is described below.

Business skills

Workplace relations professionals should possess business skills that enable them to plan for and contribute to the achievement of organisational objectives. Workplace relations professionals should understand how to deal with people within their organisation in a way that delivers value to clients and maintains a competitive advantage in the market.

Business skills include:

- interpreting business strategies, plans and objectives
- managing financial resources
- developing budgets
- analysing and interpreting financial records
- developing key performance indicators
- ensuring compliance with relevant legislation, regulations and standards.

Communication skills

Workplace relations professionals should possess well-developed written, oral, communication and presentation skills that enable them to develop workplace relations plans, strategies and policies, present training, write up agreements and communicate workplace relations issues across their organisation. Workplace relations professionals must be able to collect, interpret and communicate information of a complex, technical or sensitive nature in a clear, logical, concise, correct, prompt and culturally appropriate manner.

Communication skills include:

- facilitating two-way communication processes
- active listening
- nonverbal body language
- tailoring communication to a specific audience
- maintaining credibility and integrity
- using structure, grammar and language conventions correctly.

Interpersonal skills

Workplace relations professionals should possess interpersonal skills that enable them to establish and maintain effective workplace relationships with internal and external individuals and groups. Workplace relations professionals must be able to work collaboratively with others to minimise or eliminate workplace conflict and industrial action. Workplace relations professionals should consult with employees, unions, managers and officials before making decisions.

- Interpersonal skills include:
- maintaining positive work relationships
- providing accurate information and advice
- clarifying or resolving issues
- achieving the cooperation of others
- obtaining specialist assistance
- ensuring compliance with legislative and regulatory requirements.

Problem-solving skills

Workplace relations professionals should possess problem-solving skills that enable them to analyse and understand workplace relations issues, diagnose root causes and decide on solutions that solve the particular issue. Workplace relations professionals should know how to gather and record feedback and consult with relevant members of the workforce to reach desirable solutions. Importantly, workplace relations professionals must know how to anticipate potential problems before they escalate, and take preventative action to eliminate or minimise the issue.

Problem-solving skills include:

- gathering and analysing facts
- evaluating alternative courses of action
- innovative decision-making
- creative thinking
- consultation skills
- handling disciplinary problems.

Conflict management skills

Workplace relations professionals should possess conflict management skills that enable them to handle inter-group, interpersonal, and team conflict within their organisation. Workplace relations professionals should make decisions about how conflict can be managed effectively and efficiently to maintain peaceful coexistence, encourage others to compromise and solve relevant workplace relations issues.

Conflict management skills include:

- facilitating dispute resolution and mediation procedures
- counselling
- constructive confrontation
- levelling workplace differences
- reaching preliminary conclusions
- taking remedial action.

Research and analytical skills

Workplace relations professionals should possess research and analytical skills that enable them to make informed decisions about workplace relations matters. It is essential that workplace relations professionals keep up to date with workplace relations legislation and regulations, as well as industry developments that affect workplace relations in their organisation. Workplace relations professionals should know how to analyse organisational policies and procedures, employee feedback, KPIs and findings delivered from relevant research.

Research and analytical skills include:

- systematic gathering of facts, indicators and metrics
- logical reasoning
- critical thinking and evaluation
- conducting research and making recommendations
- developing and justifying original arguments
- making ethical and legal judgments on workplace relations matters.

Learning and development skills

Workplace relations professionals should possess learning and development skills that enable them to enhance the knowledge and skills of employees and to guide line and senior managers on conducting their learning and development activities.

Learning and development skills include:

- coaching and mentoring
- job instruction
- job, role and skills analysis
- training and presentation skills
- skills observation
- competency modelling.

Leadership skills

Workplace relations professionals should possess leadership skills that will enable them to manage organisational change, and develop other leaders within their organisation. Workplace relations professionals should have the ability to persuade others willingly to behave differently. It is the process of getting others to do their best to achieve a desired result.

Leadership skills include:

- defining tasks and objectives
- achieving tasks and objectives
- maintaining effective workplace relationships
- persuading and influencing others to change behaviours
- developing other leaders.

Investigative skills

Workplace relations professionals should possess investigative skills that enable them to research, analyse, verify and reconcile workplace relations issues in their organisation. Workplace relations professionals must be able to collect relevant data from a variety of sources and collate the information in a way that can be easily understood by others.

Investigative skills include:

- determining issues in dispute
- research
- data analysis
- drawing conclusions
- selecting appropriate courses of action
- making effective and timely decisions.

Negotiation skills

In workplace relations, negotiation is the process of coming to terms and conditions of employment and, in doing so, getting the best deal possible. Negotiation involves bargaining, which means reaching the most advantageous position in discussion with another party, through a process of offer and counter-offer.

Negotiation takes place when two parties meet to reach an agreement on a proposition which one party has put to another. For example, in pay negotiation, trade union representatives making a claim will define the target they would like to achieve, the minimum they will accept, and the opening claim they believe is mostly likely to achieve their target. The employer will define the target settlements they would like to achieve, the maximum they are prepared to concede, and the opening offer that will provide them with sufficient room to move to reach their target.

To prepare for and effectively negotiate workplace relations issues, workplace relations professionals should possess particular skills. Negotiation and bargaining skills are shown here.

Analytical ability

The capacity to assess the factors affecting the negotiating positions and strategies of both parties

Empathy

Developing and using emotional intelligence by putting oneself in the other party's shoes

Interpersonal skills

The ability to relate well with other people by responding appropriately, respecting individual or cultural differences, and developing relationships of trust

Communication skills

The ability to convey information and arguments clearly, positively, accurately and logically

Discernment

The ability to see and understand people or situations clearly and intelligently and practice good judgment

Shrewdness

Showing a clever awareness or resourcefulness by not giving away what you really want until you are prepared to concede

Flexible realism

The ability to make realistic and reasonable moves during the bargaining process to reduce the claim or increase the offer

Assertiveness

The ability to remain self-assured, confident and calm throughout negotiations without being aggressive.

Example: identify knowledge and skill requirements to implement industrial relations change

Simon is the workplace relations manager at a large public hospital in the Northern Territory. Simon is responsible for negotiating terms and conditions of employment for the hospital's nursing staff between the hospital and the union representative Australian Nursing and Midwifery Federation (ANMF). A public sector nurses and midwives enterprise agreement is already in place and has been operating for two years since its approval from the FWC. Recently, Simon has received a number of complaints from nursing staff relating to inappropriate and bullying behaviour in the workplace. There have been two claims of sexual harassment by nurses working in the intensive care unit, against a medical staff member. The staff member has since been dismissed. However, the ANMF has contacted the hospital to amend the existing enterprise agreement so that it includes terms relating to the prevention of inappropriate and bullying workplace behaviour.

Simon and the hospital's CEO meet with two representatives from the ANMF to negotiate the agreement variation. Simon remains calm and confident throughout their discussion. He uses language and terms that are easily understood by the other party and reiterates the commitment of the hospital to provide a safe and healthy work environment for its nursing staff. Simon displays empathy for the other party by expressing his concern and zero tolerance policy for workplace bullying. Using his written communication skills, Simon develops terms to be included in the enterprise agreement on approval of the FWC. It is accepted by the other party and reads:



'The parties are committed to achieving and maintaining a safe and healthy work environment, free from inappropriate and bullying behaviour. The CEO acknowledges the commitment to achieve and maintain a safe and healthy work environment and will take all reasonably practicable steps to prevent inappropriate behaviour and bullying in the workplace. The CEO will take all reasonably practicable steps to foster a culture of respect in the workplace, and ensure employees are treated appropriately and are not subject to bullying. An employee who is aggrieved by his or her treatment in employment may seek a review under the Fair Work Act 2009 (Cth).'

Practice task 5

1. List the legislative requirements that workplace relations professionals should know and understand.

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2. List and describe the workplace relations management skills that workplace relations professionals should possess to effectively implement workplace relations plans, strategies and policies.

3. List and describe the negotiation and bargaining skills that should be used by workplace relations professionals during workplace relations negotiations.

Summary

1. Workplace relations involves a level of interaction between managers and workers to achieve a set of employment conditions that will meet the needs of employees and enable the organisation to achieve its strategic and operational objectives.
2. To ensure workplace relations plans, strategies and policies meet their intended objectives, workplace relations performance must be regularly analysed and monitored. This analysis will determine whether an organisation is meeting its strategic and operational workforce objectives, and identify any performance gaps or areas in need of improvement.
3. Workplace relations service options must be evaluated and monitored to ascertain that they are working well and identify whether any actions need to be taken to ensure they are. Evaluating workplace relations options against cost–benefit, risk and legislative requirements assists workplace relations professionals to determine which services are most relevant and needed by an organisation.
4. There are various types of non-financial ratios that can be used to evaluate workplace relations service options, such as staff turnover ratio, absenteeism ratio, days lost to injury ratio, or business plan KPIs ratio.
5. Workplace relations management plans underpin the development workplace relations strategies and policies used to support the achievement of workplace relations objectives. Strategies and policies must be linked to an organisation's operational plan and activities.
6. The objective of workplace relations policies is to maintain good relations with employees and their representatives, develop a cooperative and constructive workplace relations climate, effectively manage work practices, control labour costs and develop an engaged and committed workforce.
7. Workplace relations managers and professionals must be able to deploy a range of skills supported by knowledge that facilitates the effective implementation of workplace relations plans, strategies and policies in their organisation. Skills in communication, negotiation, problem-solving and conflict management are essential for the effective management of workplace relations matters.

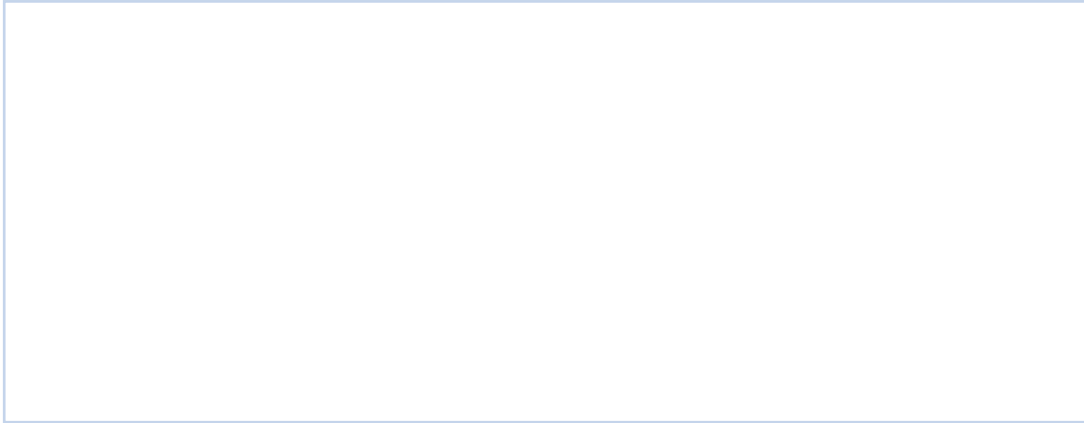
Learning checkpoint 1

Develop employee and industrial relations policies and plans

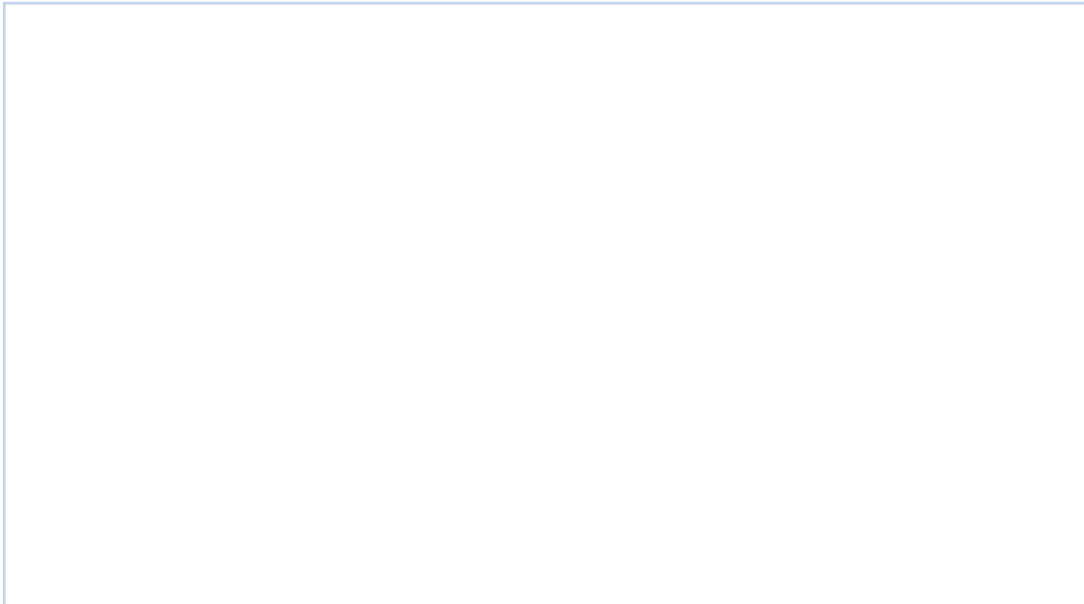
This learning checkpoint allows you to review your skills and knowledge in developing employee and industrial relations policies and plans.

Part A

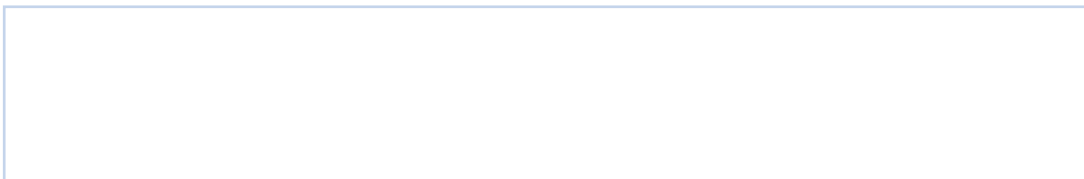
1. Identify and describe two key entities operating in Australia's workplace relations system.



2. Explain the key differences between strategic and operational plans.



3. Describe the characteristics of workplace relations performance standards.



4. Briefly explain how the *Fair Work Act 2009* (Cth) and Fair Work Regulations 2009 govern Australia's workplace relations system.

5. Explain the importance of consulting with the management team to develop workplace relations plans, strategies and policies.

6. Identify and describe the analytical skills required by workplace relations professionals that enable them to make informed decisions about workplace relations matters.

Part B

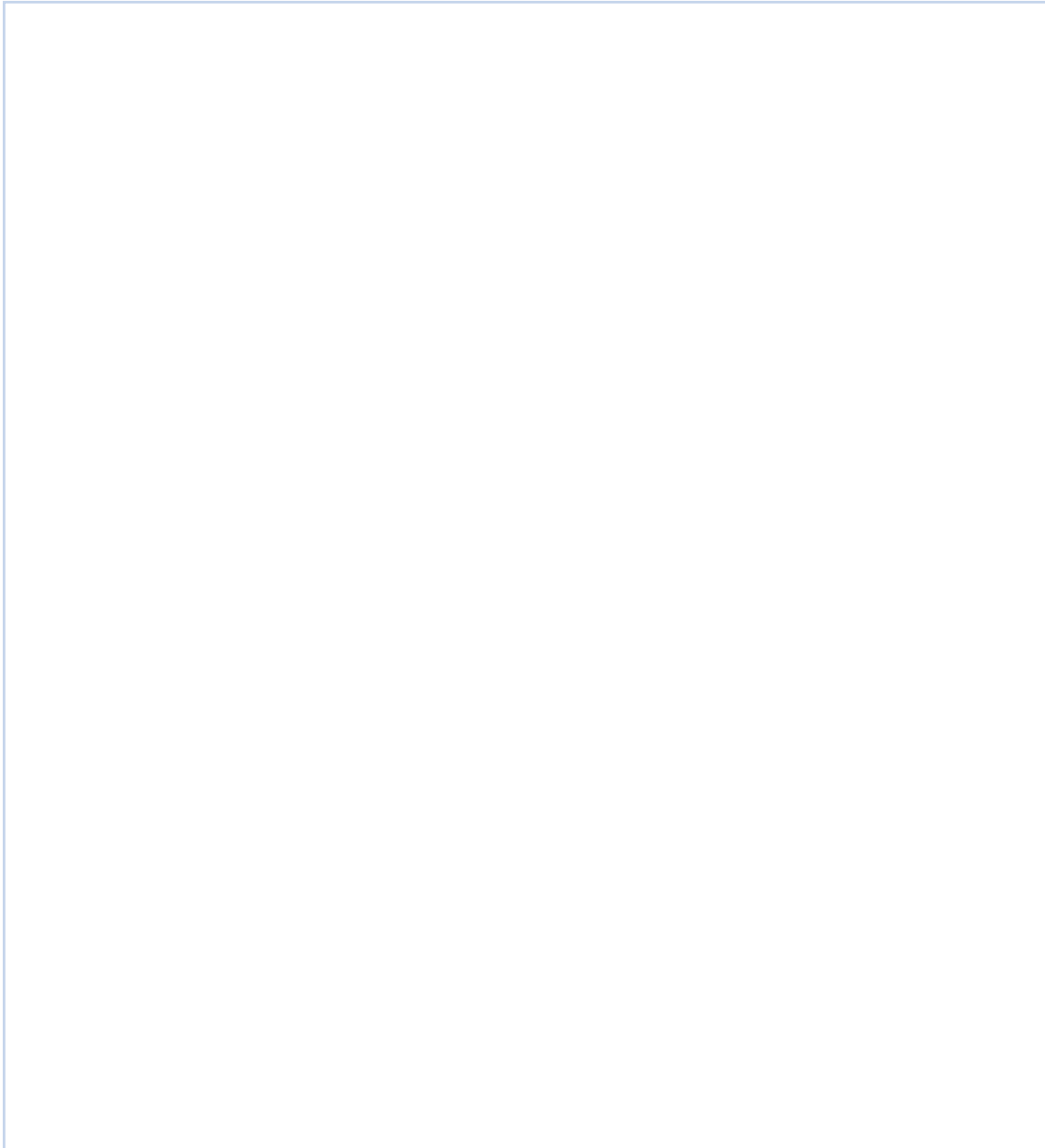
Read the case study, then answer the questions that follow.

Case study

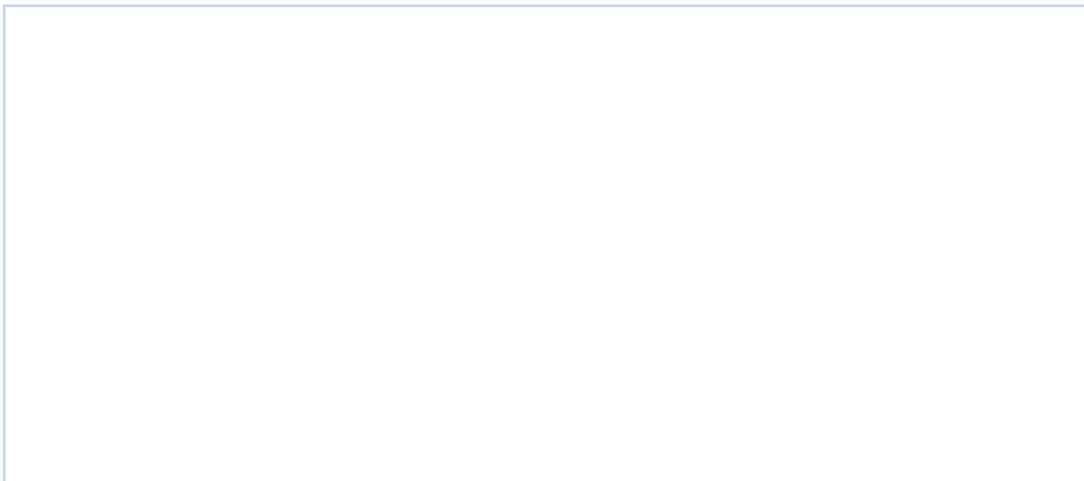
Samantha is the Workplace Relations Manager at an oil and gas company and is responsible for managing and negotiating all workplace relations matters relevant to the organisation. Due to an economic downturn and the closure of three major oil rigs owned by the company, a number of employees have been made redundant. At a recent senior management meeting, the results of an employee attitude survey were discussed and it was identified that a number of employees have taken leave from work due to stress about job security, and exhaustion from heavy workloads. The organisation's strategic plan contains a long-term objective to increase employee motivation and job satisfaction over a five-year period.

The senior management team asks Samantha to develop a workplace relations strategy and policy that supports the achievement of this strategic objective.

1. Describe a formula Samantha could use to measure employee absenteeism levels.



2. Briefly describe a process that Samantha could use to analyse and manage any risks associated with the workplace relations strategy and policy she develops.



3. Describe the workplace relations strategies/policies Samantha could implement to improve employee motivation and job satisfaction levels.

4. What specifications Samantha should include in her workplace relations strategy/policy?

Topic 2

Implement employee relations policies and plans

The ideal workplace relations situation is a positive organisational culture that actively supports the development of its workforce. To successfully implement workplace relations plans, strategies and policies, the management team must have the cooperation and support of employees.

Workplace relations professionals can select from a variety of methods to ensure effective implementation of workplace relations plans, strategies and policies. Such methods include developing an implementation plan that turns strategies into actions in order to accomplish specific objectives. They also cover analysing the risks involved in implementing the strategies, and developing contingency plans to respond to these. Another method is providing employees with opportunities to access training and development programs that support workplace relations plans, strategies and policies.

In this topic you will learn how to:

- 2A Develop an employee relations implementation plan
- 2B Arrange training and development to support the employee relations plan
- 2C Undertake employee relations activities to agree on changes required by the implementation plan
- 2D Document procedures for addressing grievances and conflict
- 2E Communicate key issues about procedures for addressing grievances
- 2F Review employee relations policies and plans

2A

Develop an employee relations implementation plan

After an organisation has identified, developed and agreed to its workplace relations plans, strategies and policies, workplace relations professionals must prepare a plan to put them into practice. An implementation plan can be used to do this.

An implementation plan is a formal management tool used to illustrate, in detail, the critical steps necessary to implement workplace relations strategies and policies, measure a group of strategies and policies, or assist organisations to manage and monitor implementation effectively.

All workplace relations implementation plans should include contingency plans should a breakdown occur in negotiations with employees over proposed changes.



Implementation plans

An implementation plan is used to assist organisations to move workplace relations strategies and policies from development to service provision.

An implementation plan should:

- be clear, accurate and free of jargon
- have SMART objectives; that is, objectives that are specific, measurable, achievable, relevant and have a time frame
- outline expected outcomes
- describe inputs and how they will achieve expected outcomes
- outline decision pathways
- determine a timeline for implementation
- define roles and responsibilities of employees responsible for WR
- train and develop employees responsible for WR
- develop communication protocols.

Best practice guides

While implementation plans will vary between different organisations and industries, the Fair Work Ombudsman offers an excellent range of best practice guides to help employers implement strategies relating to a range of workplace issues. By adopting best practice initiatives, employers and employees can achieve fairer, happier and more productive workplaces. Each guide has a checklist to help achieve best practice.

The information is available at: <http://aspirelr.link/fair-work-best-practice-guides>.

To support your learning, you might like to review the guides for a comprehensive discussion on the topics listed here.

What the Fair Work Ombudsman provides best practice guides on

- Work and family
- The right to request flexible working arrangements
- Consultation and cooperation in the workplace
- Use of individual flexibility arrangements
- Gender pay equity
- Workplace privacy
- Managing underperformance
- Effective dispute resolution
- Improving workplace productivity through bargaining
- Parental leave

Workplace relations implementation plan

Workplace relations implementation plans may contain a number of sections. These are described here.

Contents of a workplace relations implementation plan

1

Plan definition

Implementation plans must describe:

- what the plan will achieve
- why the plan is necessary
- how it will achieve these outcomes.

2

Strategy/policy objectives and performance outcomes

The implementation plan should outline:

- the context of the workplace relations strategies and policies
- the underlying need for the workplace relations strategies/policies
- the legislative and regulatory environment
- any relevant research, information or analysis
- the delivery strategy to achieve proposed objectives
- who will be responsible for the various aspects of the implementation plan.

Objectives should be specific, measurable, achievable, relevant, time-framed and agreed on.

3

Benefits statement

It is important to include a benefits statement to show the benefits that will flow from implementation of the workplace relations strategies and policies. Workplace relations professionals must be able to measure the aspects outlined in the benefits statement.

4

Evaluation methodology

An effective implementation plan should explain the methods that will be used to measure if the plan has achieved its goals. Workplace relations professionals should choose a method that best suits workplace relations objectives and performance measures.

Evaluation methodology should:

- be relevant to and focused on the identified objectives
- be based on objective performance standards or key performance indicators
- include a schedule to show when monitoring and evaluation will take place
- identify who will be responsible for monitoring and evaluation.

5

Governance/key responsibilities

For a strategy to be successful, the implementation plan should outline:

- who is going to manage the various implementation processes
- what they are responsible for
- who they are accountable to
- what rules and procedures for decision-making will apply
- reporting responsibilities.

6

Scope

The implementation plan should identify what activities will be undertaken to deliver the organisation's workplace relations strategies and policies, and the activities that should not be undertaken. Defining the scope of the plan identifies any related activities that are outside the scope of the plan or expertise of workplace relations professionals. Some activities may require completion by external parties or specialist consultants.

7

Implementation schedule

The implementation plan should include a schedule clearly outlining what will happen and when it will occur. The implementation schedule identifies and describes the major phases of work that will be undertaken to achieve the desired outcomes of workplace relations strategy objectives. The schedule documents the sequence of events necessary to implement the workplace relations strategies and policies from concept to delivery.

8

Work breakdown structure

Following on from the implementation schedule, the work breakdown structure (WBS) breaks down major phases of work into smaller activities and identifies the details of each key activity. The WBS lists all the workplace relations measures and services to be delivered. For each measure and service, a list of actions that need to be taken in order to deliver each workplace relations measure or service should be identified and explained.

The resources required for the successful implementation of each workplace relations measure or service should be identified and a timeline provided for the commencement and completion of each key activity.

9

Resources

A comprehensive list of resources necessary for the implementation plan should be included. By reviewing the scope and WBS sections of the plan, workplace relations professionals can pinpoint the resources critical to the successful implementation of workplace relations strategies and policies. Resources could include tools and equipment, workers with specialist skills or knowledge, or the engagement of external consultants. This section should also identify whether resources are available internally, or whether they will be obtained from external sources.

10

Cost plan/budget

The cost plan for the implementation plan is a management tool that allows expenditure to be tracked throughout the phases of work. The cost plan assists workplace relations professionals to control costs and identify early warning over over-expenditure. The cost plan should be comprehensive and include all costs associated with each section of the implementation plan.

11

Risk assessment and management

Risk management is the project of determining the level of risk to and from a proposed workplace relations strategy, policy or measure. Risk assessment techniques must be used to determine the level of risk and then a strategy to reduce the individual risks must be created.

Risk management must be ongoing and identify who is responsible for reviewing risks on a regular basis, and how this will be done. The implementation plan needs to outline this information.

12

Quality management plan

Quality assurance means ensuring the implementation plan is on time and on budget. It also involves monitoring progress against milestones and within budget. Other quality assurance measures related to workplace relations objectives must be described. This section should include who will be responsible for ensuring the quality of particular activities, how quality will be measured and when quality assurance processes will be undertaken.

13

Communication plan

The implementation plan should include appropriate communication methods that will engage all stakeholders. When devising these methods, the purpose of the communication must be considered.

The communication plan should inform employees about:

- the aims of workplace relations strategies and policies
- workplace relations objectives and performance measures
- what is required of employees
- a timeline for implementation of workplace relations strategies and policies
- where they can seek further information
- who they should contact if they have questions
- how they can provide feedback about the implementation plan and its contents
- reporting lines.

Contingency plans

Contingency plans are designed to take account of possible future events or situations that threaten the success of workplace relations strategies, policies and objectives. Threats might include industrial action, workplace disputes or employee grievances. Contingency plans are developed to minimise or eliminate the adverse impacts of potential threats. They include action plans outlining the steps to be taken when something unexpected occurs.

Contingency planning is an integral part of an organisation's risk management plan. Contingency plans should enable immediate, realistic and effective responses to operational failures or changes in the workplace environment.

Contingency plans are essential where workplace relations strategies and policies are being implemented for the first time. Workplace relations professionals should develop flexible, adaptive and specific options that can be applied in response to potential or actual threats to the success of workplace relations implementation plans.

Contingency plans should:

- identify operational inefficiencies
- identify issues relating to the nature of the contingency
- outline the impacts of the contingency
- provide feasible and practical options for responding to contingencies
- identify the financial implications of the responses and related resource restrictions

- define time periods
- include risk management procedures
- be simple and easy to follow.

Contingency planning process

There are four steps to the contingency planning process.

Contingency planning process
1. Identify the possible contingencies that could disrupt workplace operations or threaten the successful implementation of workplace relations strategies and policies.
2. Determine the impact each contingency would have on the organisation and the likelihood of each contingency occurring.
3. Consider the triggers that would specifically cause the organisation to implement a contingency plan.
4. Decide on the actions to be taken and when. Determine who is in charge at each stage of the contingency plan and what type of reporting process they must follow.

Contingency plan development

The contents of each contingency plan will depend on the type of workplace relations strategy or policy it relates to. However, a number of elements will be covered in each plan.

Contingency plans should include particular information, which is listed below.

Information to include in contingency plans
• A definition of the trigger or possible event that will cause the contingency plan to be implemented • A brief description of how the business function should operate while the contingency plan is in effect • Information on the circumstances affecting the implementation of the contingency plan (such as financial implications) • Suggestions on how those circumstances can be fixed or resolved while the contingency plan is in place • A definition of the conditions that allow for the retraction of the contingency plan • Estimates of the costs required to develop, implement, manage and retire the contingency plan • A high level plan summary outlining the tasks to be completed, identifying the responsible parties, estimated time frames and requirements of each task

Example: develop an employee relations implementation plan

An example of a plan for the implementation of a workplace relations strategy/policy relating to flexible working arrangements can be seen in the following table.

Plan title:	Workplace flexibility strategy implementation plan
Plan definition:	To provide a range of leave and flexible working arrangements in order to attract and retain employees; to provide flexibility in meeting business needs; and to assist employees in managing their work and personal responsibilities.
Workplace relations strategy/policy objectives:	To increase productivity levels by improving employee motivation and job satisfaction levels by achieving a work-life balance for all employees. Eligible staff members who have been employed by the organisation for at least 12 months can request the following flexible working options: • Flexible working hours (such as changed start and finish times) • Part-time working arrangements • Reduced working weeks • Seasonal, part-year and annualised employment arrangements • Job sharing • Working from home Employees are eligible to request flexible working arrangements in the following circumstances: • The employee is a parent, or has responsibility for the care of a child who is of school age or younger • The employee is a carer (within the meaning of the <i>Carer Recognition Act 2010</i> (Cth)) • The employee has a disability • The employee is aged 55 or older • The employee is experiencing violence from a member of the employee's family • The employee provides care or support to a member of their immediate family or household who requires care or support because they are experiencing violence from the member's family
Legal environment:	<i>Fair Work Act 2009</i> (Cth), clauses 65–66 <i>Carer Recognition Act 2010</i> (Cth)

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Benefits statement:	It is recommended that the organisation implements a formal flexible working arrangements policy, which will assist the organisation to: • meet legal requirements • increase staff retention, satisfaction and motivation • improve workplace productivity • reduce absenteeism and staff turnover, resulting in lower recruitment and training costs • attract, retain and develop talents • be recognised as an employer of choice • provide smoother transitions for employees between work and parental leave • enable employees to maintain their effectiveness at work by meeting the needs of the work area, while also accommodating other personal responsibilities • provide both women and men access to equal opportunities and outcomes.	
Workplace relations strategy/ policy performance outcomes:	• Improved employee satisfaction levels • Reduction in staff absenteeism levels • Reduction in staff turnover levels	
Evaluation methodology:	• Results from employee attitudes survey • Absenteeism ratio • Employee turnover rate	
Governance/key responsibilities	The Human Resources Manager is responsible for the implementation, communication, monitoring and review of the organisation's flexible working arrangements policy. The human resources (HR) Manager will measure the outcomes of the strategy on a six-monthly basis using the evaluation methodology specified, and report all findings in writing to the senior management team at their request.	
Scope	All activities pertaining to the implementation of the organisation's flexible working arrangements strategy will be conducted internally by the organisation's human resources team. If the activities required for completion are outside the scope or level of authority of internal staff members, the HR Manager has the authority to seek the expert advice or specialist assistance from consultants external to the organisation. The HR Manager must seek approval from the senior management team before agreeing to, and engaging the services of external consultants.	
Implementation schedule		
Phases of work	Milestone date	Responsibility
Develop flexible working arrangements draft policy	3 October 2016	HR Manager

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Seek policy approval and/or amendments from senior management team	10 October 2016	HR Manager and senior management team	
Begin negotiating individual flexible working arrangements for eligible permanent and fixed-term employees	23 October 2016	All relevant line and senior managers	
Document individual flexible working arrangements in the relevant employees' enterprise agreements or contracts of employment	31 December 2016	HR Manager in consultation with line managers	
Monitor and review the operation of flexible working arrangements	30 June 2017	HR Manager, line managers	
Present performance results to senior management team	1 July 2017	HR Manager	
Work breakdown structure for the negotiating of individual flexible working arrangements:			
Key activities	Actions	Milestone date	Responsibility
Plan for negotiation	• Create a set of clear objectives. • Gather relevant information. • Provide information to other party. • Consider other party's point of view.	1 November 2016	HR Manager and line managers
Discuss arrangements with the other party	• Meet with the other party. • Confirm both parties' objectives and feelings. • Listen carefully. • Establish common ground.	10 November–30 December 2016	HR Manager
Propose individual arrangements	• Define individual flexible working arrangements for the other party. • Check the details are correct. • Clarify the other party's understanding.	10 November–30 December 2016	HR Manager

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Negotiate individual arrangements	• Collaborate with the other party and make compromises to achieve objectives. • Generate options. • Reach a solution.	10 November–30 December 2016	HR Manager
Check agreements	• Document and check agreements. • Confirm party's agreement. • Set agreement commencement date.	10 November–30 December 2016	HR Manager
Resource and cost plan			
Objective/phase/activity	Resource	Cost	
Administration of flexible working arrangements policy	Salary of HR Manager over six-month period	\$65,000	
Negotiating individual flexible working arrangements	10 days external consultancy services	\$10,000	
Implementation of 'work from home' arrangements	Wireless technology and equipment	\$30,000	
Acquisition of resources			
All phases of work and activities undertaken for the implementation of flexible working arrangements will be sourced from internal staff members, except if the HR Manager requests the engagement of external consultancy services to assist in employee negotiations.			
Risk assessment			
Risk	Level (high/medium/low)	Management strategy	
Noncompliance with legal obligations and ramifications of introducing flexible working arrangements	High	• Monitor adherence to legislative and regulatory requirements. • Address serious risks of noncompliance. • Provide training to all staff. • Maintain an appropriate level of workers compensation insurance.	

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Quality management plan		
Agreed quality standard	Measure	
Access to quality employment opportunities	Gender equality in access to and utilisation of flexible working arrangements to enable genuine choice for women and men in designing their work and caring arrangements, and in providing greater opportunities for men to choose to be more actively involved in caring	
Access to quality work and promotions	Combination of flexible working arrangements with management and supervisory positions	
Access to work–life balance	Monitoring the impact flexible working arrangements have on the achievement of an individual’s desired work–life balance	
Communication plan		
Stakeholder	Information required	Method
All employees	Flexible working arrangements policy	Intranet (internal)
Line managers	Negotiation skills	On-site workplace training
Senior management	Evaluation of policy implementation	Written report and presentation provided by HR Manager

Practice task 6

1. What is an implementation plan?

2. Describe two characteristics of evaluation methodology contained in an implementation plan.

3. What is a contingency plan?

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4. Identify the items that should be contained in a contingency plan.

2B

Arrange training and development to support the employee relations plan

It is essential that the workplace relations implementation plan provides employees with the opportunity to access training and development that allows them to more easily adapt to the new policies.

The effectiveness of training and development is enhanced when training activities are preceded by comprehensive analysis. This allows workplace relations professionals to demonstrate how training and development contributes to the objectives contained in the workplace relations implementation plan.

Training and support initiatives should be as cost-effective as any other functional activity within the organisation.



Assess training needs

The identification of training needs, and the translation of those needs into training objectives, provides direction and purpose for learning and development activities.

A training needs analysis (TNA) is a process used to assess employee capabilities against required competencies. A successful TNA will establish what is needed, by whom, when and where, to ensure training objectives can be determined.

It is counter-productive to offer training to employees who do not need it, or to offer the wrong kind of support. A TNA will ensure that training resources are used effectively.

A TNA addresses the following questions:

- What training support is needed and why?
- Where is training needed?
- Who needs training?
- How will training be provided?
- How much will training cost?
- What will be the impact on the organisation?

Conduct a training needs analysis

Workplace relations professionals should conduct a training needs analysis (TNA) to measure the knowledge and skills currently held by employees responsible for implementing workplace relations plans, strategies and policies. Learning and development activities should be specifically designed to target any identified knowledge or skills gaps.

The components of a training needs analysis are shown below.

Training needs analysis

1

Determine desired outcomes

Clarify training goals and expected outcomes. Training goals should align with service level and organisational objectives.

2

Link desired outcomes with employee behaviour

- Identify the existing competencies of employees (behaviours, knowledge, skills, abilities and personal characteristics) and link these to desired outcomes.
- Collect information and consult with employees to determine which competencies are critical to achieving desired outcomes.

3

Identify trainable competencies

Assess the critical competencies and determine if they are abilities an employee should possess prior to employment, or abilities that can be learnt on the job.

4

Evaluate competencies and identify performance gaps

- Evaluate existing competencies and identify where there are gaps between existing and desired abilities of employees.
- To evaluate competencies, use performance appraisals, self-assessments, one-on-one interviews, surveys, questionnaires, focus groups or psychometric testing.

5

Prioritise training needs

- Identify the number of employees who require training on the competencies identified.
- Consider the importance of the competencies in achieving service level and organisational objectives.
- Use identified competency needs to determine training priorities.

6

Select training methods

- Select appropriate training methods and learning and development activities according to the needs of the organisation.
- Consider adult learning principles and best practices for training in particular competencies.

7

Determine the costs

- Consider the costs associated with the training methods, to the extent that the methods selected will address performance gaps and meet service-level objectives.
- Costs may include time off for employees to attend training, program development time, training and assessment resources, training evaluation and reporting, travel and logistical expenses, lost productivity from time spent in training.

8

Evaluate training

- Measure how well the learning and development activities met the training and relevant service level objectives.
- Observe employees to identify whether they have retained and applied the information and competencies received.
- Assess whether training improved employee performance, enhanced service delivery and supported service-level and organisational objectives.

Develop a training program

Once training needs and goals have been determined, workplace relations professionals must develop a training program by selecting methods and activities that achieve training and workplace relations objectives.

When planning a training program, there are a range of considerations that must be taken into account.

Consider the following questions when developing a training program.

Questions to ask

- Who is the target audience, what is their level of competence and what type of training best suits their needs?
- What are the costs of training and how will they be met?
- When and where will the training take place?
- What training resources are already available and who will develop training materials if they do not exist?
- How will training be delivered? Who will deliver it?
- What are the learning outcomes and performance criteria that must be met?
- What is the length and duration of the training program? When must outcomes be achieved?
- How will the training be structured to meet the needs of a diverse workforce?
- How will learning be assessed?
- What methods will be used to evaluate the effectiveness of the training program?

Select training methods and activities

The methods and activities used to conduct training and assessment must be suited to the individual differences of the participants. Employees required to undergo training should be consulted during the development of the program to ensure the learning is relevant, appropriate and accessible by all participants.

Examples of training methods and their benefits are described here.

Mentoring

Mentoring is a developmentally oriented relationship between senior and junior employees that involves advising, role-modelling, sharing contacts and giving general support.

Mentoring in the workplace can have long-term benefits as employees become more self-directed and develop strong communication and problem-solving skills. Mentored employees value collaboration and sharing of information.

Coaching

Coaching is on-the-job approach to management development in which the manager is given an opportunity to teach on a one-to-one basis.

Workplace coaching equips employees with the tools, knowledge and opportunities needed to develop themselves as effective and efficient workers.

Shadowing

Work or job shadowing involves an employee following and spending time with a more experienced employee, observing everything they do.

Shadowing enables employees to learn what they are expected to do, and how they are expected to behave, when performing a particular role or delivering a service.

e-learning

E-learning is learning conducted via electronic media, such as the internet, intranet, using CD-ROMs, videos, Smartboards or other available media.

E-learning is increasingly becoming the preferred training method in many organisations for its cost-effective and efficient nature. E-learning modules can be easily personalised and tailored to serve a specific purpose and is less intimidating for employees than instructor-led courses.

Job rotation

Job rotation is the process of moving employees between different tasks to promote experience and variety. Job rotating allows employees to gain new skills and knowledge and produces multi-skilled employees who are able to deliver a range of organisational services.

Classroom learning

Classroom learning is the most traditional method for training and involves a large number of employees attending instructor-led sessions on specific topics.

Classroom learning is beneficial and cost-effective when training a large group of employees with limited access to instructors. Classroom learning may be conducted on-site in the workplace, or at an off-site location, such as a Registered Training Organisation's premises.

Self-paced study

Employees who are capable and motivated may benefit from directing their own learning. Self-paced study involves the distribution of training resources to individuals who go away and learn the content in their own time.

Self-paced study allows individual learning needs and training preferences to be met, but is not suitable for the purposes of developing group competencies.

Peer training

Peer training is a process through which two or more professional colleagues work together to reflect on current work practices to build new skills, share ideas and demonstrate to one another how services and systems work.

Peer training is unique to the individuals engaged in it but generally develops skills in problem solving, teamwork and collaboration.

Action learning

Action learning is based on learning by experience. It uses real problems from the work situation for trainees to solve.

Action learning provides for the immediate transference of skills and knowledge, bringing about a change of behaviour and thinking processes. It also promotes team learning and problem-solving by challenging groups of employees to resolve complex business issues on the spot.

Simulation

Simulation is a training device designed to reproduce a real-world situation in a risk-controlled learning environment.

Simulation includes role-play training activities in which participants assume the roles of specific people in situations, act out the event and then review the implications of their behaviour.

Competency-based training

Competency-based training is a skills approach to employee development. Its focus is on performing specific tasks to a predetermined standard.

Competency-based training establishes a framework for constructive performance assessments by management at scheduled intervals and ensures training programs are cost-effective, goal-oriented and productive.

Document training plans

Workplace relations professionals or learning and development coordinators should develop formal training plans for each employee participating in a workplace relations training program. Written training plans describe the goals and objectives, actionable strategies, milestones, progress measures and assessment outcomes.

Asking employees to read and agree to their individual training plans encourages them to take active ownership for their learning goals and outcomes.

A formal training plan should include the sections shown here.

Training goals

This describes the overall results or capabilities the learner hopes to attain by implementing their training plan.

Example: Become a workplace health and safety officer

Learning objectives

This describes what the learner will be able to do as a result of the learning activities in their training plan.

Example:

- Demonstrate safe work methods.
- Exhibit interpersonal communication skills.
- Understand work health and safety compliance requirements.

Training methods/ activities

This describes what the learner will do in order to achieve their learning objectives.

Example:

- Complete an e-learning course in work health and safety.
- Demonstrate safe work methods using simulation activities.
- Job shadow a work health and safety officer for one day.

Documentation/ evidence of learning

This describes the evidence produced during the learning activities to demonstrate the skills and knowledge required by the training program.

Example:

- Certificate for completion of e-learning course
- Assessor's observation of the learner demonstrating safe work methods
- Documented evidence of completing a work health and safety audit in the workplace

Evaluation

This is an assessment and judgment on quality of evidence in order to conclude whether the learner has achieved their learning objectives or not. Evidence must be valid, sufficient, authentic and current.

- Valid – the assessor is assured the learner has the skills, knowledge and attributes as described in the training program
- Sufficient – the assessor is assured that the quality, quantity and relevance of the assessment evidence enables a judgment to be made of the learner's competency.
- Authentic – the assessor is assured that the evidence presented for assessment is the learner's own work.
- Current – the assessor is assured that the assessment evidence demonstrates current competency. This requires the assessment evidence to be from the present or the very recent past.

Evaluate training program

Training should contribute to the achievement of organisational and specific workplace relations objectives. As a result, workplace relations professionals must include an evaluation phase as part of the learning and development activities within an organisation.

Those who do not undertake an evaluation phase tend to measure training program popularity, which is often a measure of entertainment, not of the transfer of learning.

Workplace relations professionals must show senior management that the money spent on training was worthwhile and that the program helped improve workplace relations performance and productivity levels. If management view the training program as adding measurable value, training will be regarded as essential to organisation's success.

Workplace relations professionals must be able to assess and communicate the benefits of all workplace relations training and development interventions. To evaluate training, it is necessary to compare the intended outcome with measurements of actual achievement and to analyse any variances.

Professor Donald Kirkpatrick (1983) suggested a structure for measuring training effectiveness, which is described below.

Level 1: Reaction

Reactions can be measured during or after learning and development activities. Reactions include the attitudes and opinions of program participants and identify how much they enjoyed the program, its content, the trainer, the training methods used and the facilities in which the training took place. Reaction data can be gathered by having participants complete a questionnaire.

Level 2: Learning

Learning can also be measured at the end of learning and development activities. Special or standardised tests can be used to measure how well the participants have developed a particular skill or acquired a piece of knowledge.

Level 3: Behaviour

The behaviour measurement involves identifying changes in job behaviours, work relationships and other factors (such as HR service delivery) that can be attributed to the learning and development activities. Evidence of employee performance can be collected via direct observation or performance appraisal records.

Level 4: Results

In the first stage, you identify that something is causing a problem, or is not working as well as Results measure how the training program affected organisational objectives. It provides the HR manager or service provider with a cost-benefit analysis of the training effort. s it could be.

Example: arrange training and development to support the employee relations plan

Here is an example of a training program evaluation questionnaire.

Training program evaluation					
1. Program objectives How clear were the training program's learning objectives?	1 Unclear	2	3 Fairly clear	4	5 Very clear
2. Program relevance How relevant was the learning material to your job?	1 Irrelevant	2	3 Somewhat relevant	4	5 Highly relevant
3. Instructional design Were the learning objectives designed to lead from the simple to the more complex?	1 Never	2	3 Usually	4	5 Always
4. Training methods How appropriate were the training methods used?	1 Inappropriate	2	3 Somewhat appropriate	4	5 Highly appropriate

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5. Trainer's knowledge How well did the trainer know the materials?	1 Minimally	2	3 Satisfactorily	4	5 Expertly
6. Trainer's instructional ability Apart from the trainer's knowledge of the subject, how well did they impart understanding?	1 Poor	2	3 Satisfactory	4	5 Excellent
7. Participant interest How much interest did the training program generate?	1 None	2	3 Some	4	5 A great deal
8. Training value What value will this program be to you in your job?	1 Useless	2	3 Somewhat helpful	4	5 Highly valuable
9. Facilities How would you rate the facilities?	1 Unsatisfactory	2	3 Satisfactory	4	5 Excellent
10. Resources How would you rate the training and assessment resources/materials?	1 Useless	2	3 Somewhat helpful	4	5 Highly valuable
11. Overall How would you rate this training program?	1 Unsatisfactory	2	3 Satisfactory	4	5 Excellent
General comments:					
What did you most enjoy about this training program?					
What did you enjoy the least about this training program?					
What suggestions would you make to improve this training program?					

continued ...

Practice task 7

1. What is a training needs analysis?

2. List the different types of training methods.

3. Why is it beneficial to develop formal training plans for training participants?

4. Explain how employee reactions to training programs can be measured.

2C

Undertake employee relations activities to agree on changes required by the implementation plan

Where workplace relations strategies and policies are developed and implemented within an organisation, there may be situations where changes are required by the organisational policies or implementation plan. As a result, workplace relations managers and professionals must undertake a variety of associated workplace relations activities, and consult with a number of representatives and advisory bodies, to reach agreement on the changes.

Associated workplace relations activities

Clarifying terms and conditions of employment of those people affected

Consulting with employee representatives, including unions or elected worker representatives

Ensuring the legality of proposed workplace relations strategies, policies and initiatives

Referring to employer representatives for advice and support

Consultation

Workplace relations professionals are responsible for consulting with employee representatives, employer organisations, government agencies, and external consultants to renegotiate agreements or make necessary changes to workplace relations strategies and policies.

The types of advice and support provided by each group are identified below.

Trade unions

A trade union is an organised association of workers in a trade, group of trades or occupation, formed to protect and further their rights and interests.

Workplace relations professionals may need to consult trade unions to negotiate pay and conditions of employment, safer workplaces, better working hours, flexible working arrangements, leave entitlements or compulsory employer superannuation contributions.

Unions can provide professional advice and assistance with:

- unfair or unlawful dismissal
- discrimination, harassment or workplace bullying
- work-related injuries, accidents or illnesses
- collective bargaining for better pay and working conditions
- legal advice and representation
- dispute resolution
- employee training on workplace relations matters
- participating in industrial action or lobbying activities.

Employer associations

An employers' association is a collective organisation of manufacturers, retailers, or other employers of wage labour seeking to coordinate the behaviour of their member companies during negotiations with trade unions or government bodies.

Workplace relations professionals may need to consult employer associations to seek assistance in an organisation's negotiations with employees and their representatives.

Employer organisations can provide professional advice and assistance with:

- handling workplace conflict and grievances
- representing employer interests at industrial tribunals
- drafting and representation of collective agreements
- interpreting awards
- compliance with relevant employment legislation
- carrying out research on employment issues relevant to a business
- employment issues such as enterprise bargaining, contracts of employment, unfair dismissal, leave entitlements, termination, redundancy, equal opportunity, discrimination and harassment
- recruitment, selection, induction and training of employees.

Government agencies

The Fair Work Ombudsman is an independent statutory agency of the Australian Government that serves as the central point of contact for free advice and information on the national workplace relations system.

Workplace relations professionals may need to consult with the Fair Work Ombudsman to ensure the legality of workplace relations strategies, policies and initiatives being implemented in their organisation.

The Fair Work Ombudsman can provide professional advice and assistance with:

- minimum pay rates from awards, enterprise agreements or other registered agreements
- minimum leave entitlements for employees who come under the NES
- the rights and obligations of employers making staff redundancies
- minimum employee entitlements
- minimum working conditions
- the resolution of workplace issues or disputes
- workplace relations training and development
- workplace relations best practice guides.

External consultants

Where an organisation does not belong to an employer association, it might engage the services of external workplace relations consultants, legal firms or professional bodies for specialist workplace relations advice and assistance.

External workplace relations consultants and other professionals can assist with:

- developing workplace relations strategies to help employers get the best out of their workforce
- developing workplace relations policies that meet current legislative requirements
- providing businesses with comprehensive and cost-effective training courses
- assisting employers to resolve employee disputes in-house
- carrying out workplace investigations
- managing employee records off-site
- providing effective representation in cases where external parties become involved
- providing highly specific or technical advice.

Example: undertake employee relations activities to agree on changes required by the implementation plan

Richard is a marketing employee who made several errors on his last project. Simeon's manager advised him that he would undergo a performance management program to develop his skills. However, whilst on this program, Simeon continued to make errors. As such, Simeon's employer changed his daily duties while he was undergoing further training. Simeon lodges a complaint of workplace discrimination with the company's HR manager, Malcolm. Simeon tells Malcolm that if they cannot resolve the issue in-house, he will lodge a formal complaint with the Fair Work Ombudsman for unlawful discrimination.

Malcolm contacts the company's employer association for advice on handling Simeon's grievance. The employer association representative tells Malcolm that it is not unlawful to alter a person's employment if the reason is not based on one or more of their personal attributes (such as race, sex, age, disability). After conducting a thorough investigation into the matter, Malcolm is satisfied that Simeon's claim is not substantiated. To ensure the fair and equitable resolution of the dispute, Malcolm invites Simeon and a representative of his choice to meet with Malcolm and discuss how the issue can be resolved in a way that satisfies both parties.



Practice task 8

1. Identify two workplace relations activities that workplace relations professionals might undertake to agree on workplace relations policy changes required by the implementation plan.

2. Describe two reasons workplace relations professionals might seek advice or assistance from trade unions representatives.

3. Describe two reasons workplace relations professionals might seek advice or assistance from external workplace relations consultants.

2D

Document procedures for addressing grievances and conflict

A workplace grievance is a real or imagined cause for complaint relating to an employment issue or work conditions. Grievances may be lodged by individual employees, a group of employees or trade union representatives. If not properly addressed, grievances can escalate into disputes, which could lead to industrial or federal court action.

Grievances and disputes may be resolved by procedures provided for in a collective agreement, an employment contract, or by other mechanisms established by an employer. It is essential that workplace relations professionals properly document grievance/dispute resolution procedures to help resolve issues promptly and consistently at the enterprise level.



Grievances

For a real grievance or workplace conflict to occur, there must have been a violation of an employee's rights on the job. Also, it must have been the employer or the employer's representative who has violated these rights, directly or indirectly. Most grievances are real in the sense that there is evidence the employer has violated an employee's rights, but this doesn't mean the employee will also win the case.

A number of common workplace grievances are described below.

Common workplace grievances



Pay and benefits

The most common type of workplace grievances relate to pay and employee benefits. These complaints may involve the amount and qualifications for wage increases, pay equity for comparable work within an organisation, or the cost and coverage of benefit schemes.



Workloads

Another common type of workplace grievance relate to heavy workload. Workers employed by companies going through tough economic times may ask employees to take on more work or responsibility without a pay increase. An employer may also decide not to fill a vacant position and instead assign additional work to existing employees. Such situations lead to employee frustration, workplace stress and job dissatisfaction.



Work conditions

Maintaining a safe and clean environment is crucial to maintaining employee motivation and improving job satisfaction. WHS legislation protects the right of workers to a safe and healthy workplace. Employees who believe their employer is not following the applicable WHS regulations and guidelines may decide to lodge a grievance.



Employee rights and entitlements

Employees may complain when they believe the rights owed to them by their employer are not being protected, or entitlements not being met. If employees are unfairly refused leaves of absence, experience unlawful discrimination, workplace harassment or bullying, or unfair dismissal, they have the right to lodge a formal complaint with the Fair Work Ombudsman.



Job role and responsibilities

Employee grievances may relate to the assignment and placement of workers within an organisation. An employee may consider the transfer, promotion or allocation of work to be improper. If an organisation goes through a period of restructuring, employees may be unhappy with changes to their job roles and/or responsibilities.



Violation of union rights

Employees have the right to freedom of association, allowing them to join, or not to join, a trade union. Employees may complain if their employer fails to give them proper representation during industrial disputes or undermines the activities of the union, the employee's union membership, or the union's documented grievance procedures. Employees may also lodge a grievance if they believe they have been unfairly treated because of their union membership or participation in industrial action.



Disciplinary action

Where an employee is required to undergo disciplinary action, but does not believe the action is warranted as a result of unreasonable rule or penalties without just cause, they may lodge a workplace grievance.



Management practices

Employees may lodge a workplace grievance if they perceive their employer's management or supervisory practices to be unlawful. Examples include instances where there is evidence of abuse of authority, intimidation or coercion, over-supervision, inadequate supervision, discrimination or favouritism.



Policy grievances

Both the employer and employee can file a policy grievance relating to the interpretation or application of a collective agreement or workplace relations policy. If workplace relations agreements, strategies, policies and initiatives are not properly documented or understood, an organisation may risk noncompliance with the relevant workplace relations legislative requirements.

Grievance resolution

Effective grievance resolution can assist employers to maintain good relationships with their employees by dealing with workplace issues at an early stage. Employees are more likely to cooperate and work productively if they know their grievances will be taken seriously by the organisation, and that their right to independent representation will be protected.

A good grievance resolution process will focus on effective resolution at the workplace level, which will help to avoid the costs of resolving claims externally through the FWC or relevant division of the Federal Court.

Grievance resolution procedures must:

- be flexible enough to allow grievances to be managed promptly and appropriately according to individual circumstances
- adopt a common-sense approach with a focus on resolution and fairness
- ensure that all matters are initially assessed to determine that grievance management is the most appropriate pathway for resolution
- ensure that serious matters are not managed as grievances but as disputes and referred appropriately
- ensure that the people responsible for managing grievances have the competencies to do so
- support the early use of facilitation and mediation where appropriate
- identify and protect the rights and responsibilities of all workers
- maintain appropriate confidentiality, documentation and record keeping
- be consistent with relevant employment legislation
- include an evaluation and review process for quality assurance.

Key responsibilities

Workplace relations managers and professionals are responsible for managing an organisation's grievance handling and resolution procedures.

Here are some of their most important responsibilities.

Key responsibilities of workplace relations managers and professionals
• Ensuring employees are aware of the grievance process • Dealing with grievances professionally, sensitively, confidentially and within recommended time frames • Taking all practicable steps to protect employees from victimisation • Keeping aggrieved persons and respondents informed of the progress of the grievance • Recognising and identifying employee issues and concerns and attempt to resolve matters as they arise • Facilitating the resolution of formal grievances with the relevant parties and document the actions undertaken to resolve the grievance

Grievance resolution process

A fair and balanced grievance resolution process is important for the effective operation of any business. The purpose of grievance resolution procedures is to provide a framework in which employment issues can be discussed, decisions can be reviewed, all relevant facts can be gathered and a fair, equitable and reasonable outcome achieved.

The typical process for grievance resolution is outlined below. The person responsible for handling the grievance must record the actual dispute and any action taken at each step of the process.

Grievance resolution process
1. An employee (and/or their representative) meets with their direct manager (and/or their representative) to discuss their workplace grievance.
2. The manager listens carefully to the employee and together they try to resolve the dispute.
3. If the manager and the employee cannot resolve the dispute, or it is outside the manager's scope to deal with the dispute, the matter should be referred to senior management.
4. Senior management listens to the employee's grievance and either resolves the dispute or refers the matter to more senior management.
5. More senior management listens to the employee's grievance and attempts to resolve the dispute. It is either resolved or referred to an independent body.
6. An independent conciliator, arbitrator or mediator, such as the FWC, assists to resolve the dispute.

Right to representation

All employees should be advised of their right to seek advice or support from trade unions, health and safety representatives, colleagues, government agencies, external consultants, legal advisors and other specialists in making their grievance.

The *Fair Work Act 2009* (Cth) requires that a dispute resolution clause in an enterprise agreement must:

- set out a procedure that requires or allows the FWC or some other independent person to settle the dispute
- allow for the representation of employees covered by the agreement when there is a dispute (for example, by another employee or union representative).

The Fair Work Regulations 2009 contain a model dispute resolution clause that can be used to develop a dispute resolution term in an enterprise agreement.

Employers must fully recognise a union for the purposes of collective bargaining when pay and conditions of employment are jointly agreed between an employer and a trade union. Partial recognition occurs when employers restrict trade unions to representing their members on issues arising from employment.



Dispute resolution referrals

Where a workplace issue cannot be resolved through internal grievance resolution procedures, the matter then becomes an industrial dispute about matters pertaining to the employment relationship and alternative dispute resolution (ADR) procedures are sought.

The aim of dispute resolution is to resolve differences between an employer and a trade union. The aim of collective bargaining is to reach agreement, preferably to the satisfaction of both parties. Dispute resolution or conflict management procedures provide for various stages of 'failure to agree' and often include a clause providing for some form of dispute resolution in the event of the procedure being exhausted.

The FWC may settle a dispute via mediation or conciliation, or by making a recommendation or expressing an opinion. Where it is agreed by the parties, the FWC may also deal with the matter by arbitration and make a binding decision regarding the dispute.

The FWC may only deal with disputes if an application has been made to the FWC by a party to the dispute.



Develop grievance resolution procedures

A fair and balanced grievance resolution process is important for the effective operation of any business. The purpose of grievance resolution procedures is to provide a framework in which employment issues can be discussed, decisions can be reviewed, all relevant facts can be gathered and a fair, equitable and reasonable outcome achieved.

A well-developed grievance resolution procedure will:

- ensure proceedings are conducted in a fair, equitable and timely manner, without bias
- provide an amicable method of conflict resolution to reduce industrial action
- provide quick, effective and satisfactory results
- allow appropriate stages so that matters can be resolved in the workplace
- lead to improved workplace communications, relationships and workplace culture
- increase organisational productivity and efficiency levels
- improve employee motivation, satisfaction and wellbeing
- minimise or eliminate the costs and delays of referring a matter to a tribunal or court
- be transparent, made known and easily accessible by all employees
- provide natural justice for employees.

Document grievance resolution procedures

Documented procedures may be paper-based or electronic. The process below briefly describes how grievance resolution procedures should be documented to relevant stakeholders in an organisation.

Documenting grievance resolution procedures
1. Collect and organise the relevant information about the procedures you wish to communicate.
2. Plan the document using a communication plan that assists you to identify the best methods, structure, language and distribution channels to present the information.
3. Draft the document and seek approval from the relevant manager.
4. Proofread and edit the document to ensure information is accurate and up to date.
5. Produce the final copy and prepare for manual or electronic distribution.

An example of a grievance resolution procedure used by James Cook University can be viewed at: <http://aspirelr.link/jcu-grievances-and-complaints-procedure>.

Practice task 9

1. What is a workplace grievance?

2. Describe two examples of workplace grievances.

3. List the characteristics of a well-developed grievance resolution procedure.

4. When would workplace grievances be referred to the Fair Work Commission for resolution?

2E

Communicate key issues about procedures for addressing grievances

For grievance resolution procedures to be implemented in the workplace, workplace relations professionals must communicate and distribute the procedures effectively. By developing a communication plan, workplace relations professionals can ensure the right people receive the right information at the right time.

Grievance resolution procedures must be distributed and easily accessible to all relevant stakeholders. This includes full-time, part-time and casual employees, as well as employees who are on leave, or contractors engaged by the organisation to provide a service over a period of time.



Communications plans

A communications plan will deal with what information an organisation wants to provide to its employees, how it wants to provide it, to whom, and in what time frame. Provision should also be made for employees to provide feedback, ask questions, or express concerns about the information conveyed.

Effective communication generates trust as organisations take the time and effort to clearly explain workplace information to employees.

Workplace relations professionals should carefully plan what, how, when and to whom grievance resolution procedures should be communicated and distributed to stakeholders in their organisation.

The communication plan should inform employees about:

- the purpose of the grievance resolution procedures
- the steps employees must take if they wish to lodge a grievance
- where employees can seek further information about the procedures
- who employees should contact if they have queries or concerns about the procedures
- who is responsible for monitoring, reviewing and updating the procedures
- the alternative dispute resolution procedures available where a grievance cannot be resolved using informal or formal processes
- the legal rights and obligations of employees and employers through the grievance resolution process.

Develop a communications plan

A communications plan should include, but is not limited to, the sections shown here.

Background

Information on why a communications plan has been prepared

Objectives

SMART objectives that follow on from the key issue or information being communicated

Target audience

The relevant stakeholders impacted by the information.

Key messages

Key messages summarise the information to be communicated to the target audience(s). Audiences will be required to understand, follow and act upon key messages.

Key messages will be used consistently throughout the implementation of the communications plan. They should be brief, written in plain English and easily understood by the target audience.

Communication methods

The methods and channels that will be used to communicate and distribute the information

Action plan

The actions that must be taken to implement the communications plan

Evaluation

Indicators to measure the effectiveness of communication activities in achieving objectives

Communication methods

A communication plan should cover the range of methods that will be used to convey the information. To be effective, communication must be clear, easily understood and concise. Relevant information should be presented systematically on a regular and timely basis.

A range of communication methods will be necessary to communicate and distribute grievance resolution procedures. Communication may be verbal or written, direct or indirect.

Grievance resolution procedures may be communicated via:

- access to internal intranet
- coaching or mentoring activities
- team meetings
- newsletters and bulletins
- policies and procedures manuals
- consultative committee meetings
- magazines
- during induction or other workplace training
- face-to-face or video presentations
- memorandums, faxes or emails
- company reports
- noticeboards or on a company's website
- distribution of legislative documents.

Written communication

Face-to-face communication to individuals or groups of employees is both direct and prompt and provides opportunities to gauge the reactions of people who can respond immediately by asking questions. However, where the information is important or complex, face-to-face communication must be supplemented by written material or communications distributed via the intranet.

Written communication is most effective when the information is critical to an organisation's operations. The significance and complexity of grievance resolution procedures requires a detailed and accurate explanation. The audience will be widespread across the organisation.

Written communication may be paper-based or electronic, and includes printed materials, policies or processes, electronic mail, internal memos, faxes, general correspondence, brochures, letters, forms and fact sheets. To be effective, written communication must include the features shown here.

Accuracy

Accuracy: plan, draft and validate the information to be communicated, ensuring that facts, figures and guarantees are accurate and authorised in advance

Clarity

Clarity: write clearly, using short paragraphs and sentences, so that the audience will not be confused by the information

Conciseness

Conciseness: clarify and explain complex subjects using as few words as possible, avoid repetition and leave out unnecessary information

Purpose

Purpose: use a direct and straightforward approach so that the reason for the communication is clear to the audience

Correctness

Correctness: follow the organisation's specific style guidelines for written communications so that it aligns with all other documents presented by the organisation

Plain English

In plain English: avoid using academic, jargon or colloquial language to ensure the information is easily understood by all stakeholders

Courtesy

Courtesy: use polite and respectful language and address specific stakeholders appropriately

Cultural sensitivity

Cultural sensitivity: build rapport by considering the cultural differences of the audiences, using language that is sensitive and respectful towards individual differences

Currency

Up-to-date: due to the changing needs of HR services, communication will need to be updated regularly and redistributed to all stakeholders notifying them of any changes

Format styles

Format appropriately: consider the length, style, tone and flow of information; use a logical structure, correct language conventions and spelling and grammar to give credibility to the information.

Document presentation

The visual presentation of a written document is just as important as the information contained within it. Much like an advertising professional would develop marketing materials to grab the attention and hold the focus of customers, so too must workplace relations documentation be appealing to a specific audience.

Headings should be brief, informative and attract the reader's eye. The font size and type should be carefully selected so that information does not become confusing or overwhelming.

Most organisations will have a particular style guide or template used for communicating workplace relations services and strategies. Workplace relations professionals should be familiar with any such templates and follow the guidelines relating to version control for all organisational documentation.



Relevance

Having documented grievance resolution procedures alone is not enough. If the intent and meaning of the document is not clearly communicated to all relevant stakeholders, the procedures will lose effectiveness.

When developing a communications plan it is important to consider the audience, purpose and contextual factors when making decisions about what to communicate.

Tips for effective communication of grievance resolution procedures

- Make sure written information can be understood by the total population of the workforce.
- Have a sign-off process that provides employees with a reasonable time to read the information.
- Ensure managers are properly trained to understand and explain the information.
- Ensure employees are briefed on the content of the information by their line managers or HR.
- Ensure employees, and all relevant others, are consulted on the content of the information at the time of development, and any updates made.
- Ensure that managers and staff are properly trained in relation to implementing the procedures.
- Ensure there is a regular, ongoing communication of workplace relations strategies, policies and procedures.

Distribution of information

The communications plan should fully inform stakeholders about all aspects relating to grievance resolution to ensure a comprehensive distribution of information is achieved.

The key to gaining acceptance, approval of, and commitment to workplace relations policies and procedures is by making the information easily accessible by stakeholders, and linking the procedures to organisational objectives or performance outcomes.

Grievance resolution information should:

- align with strategic and operation objectives
- link to workplace relations objectives and performance outcomes
- list benefits for stakeholders
- provide details of consultative processes
- describes the desired outcomes
- identify where further information can be sought
- acknowledge the legal rights of stakeholders
- identify feedback mechanisms
- describe the overall aims of procedures
- describe the implications of organisational change
- identify impact on roles and responsibilities
- identify any action to be taken by stakeholders
- provide a timeline for implementation and review
- identify person responsible for answering queries and concerns
- identify the ethical obligations of stakeholders
- include a process for monitoring and review of procedures.

Example: communicate key issues about procedures for addressing grievances

An example of a communications plan can be seen in the following table.

Communications plan: Grievance resolution procedures
Background
This communications plan has been developed to inform employees about organisational grievance resolution procedures, including: • the purpose of the procedures • the steps employees must take if they wish to lodge a grievance • where employees can seek further information • who employees should contact if they have queries or concerns about the procedures • who is responsible for monitoring, reviewing and updating the procedures • procedures for referral to ADR • the legal rights and obligations of all stakeholders.

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Objectives
The objectives of this communications plan are to: • raise awareness of the organisation's grievance resolution procedures • raise awareness of the legal rights and obligations of all stakeholders in resolving workplace conflict • change attitudes in regard to workplace grievances and conflict • promote positive working relationships and a consultative workplace environment • gain the support of stakeholders in implementing grievance resolution procedures • educate stakeholders on workplace grievance resolution.
Target audience
The target audience includes: • all employees across the organisation, including permanent and fixed-term, full-time, part-time and casual workers, and employees who are currently on leave of any kind • specific business units across the organisation • other stakeholders such as suppliers, contractors and clients.
Key messages
As part of the organisation's legal and ethical responsibility to deal with all workplace grievances and disputes, the employer commits to implementing effective, accessible grievance resolution procedures for employees and other workplace participants that conveys the organisation's commitment to: • taking all workplace grievances and complaints seriously • preventing the escalation of grievances and complaints by maintaining positive working relationships • ensuring that grievances and complaints are dealt with consistently and in a timely manner • reducing the likelihood of external agency involvement which can be time-consuming, costly and damaging to the organisation's reputation • alerting the organisation to patterns of unacceptable conduct and highlighting the need for prevention strategies in particular areas • reducing the risk of an employer being held liable under employment or other legislation, including anti-discrimination and EEO • helping to minimise the harm suffered by the individual making the grievance or complaint • reducing the organisation's risk of being held to have treated the alleged respondent unfairly, such as an unfair dismissal claim.
Communication methods
The grievance resolution procedures will be communicated via: • a written policy and procedures document made available via the intranet • induction program • ongoing workplace training • on the company's website.

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Action plan				
Communication method	Activities	Person responsible	Milestone dates	Costs
Launch	Introduce grievance resolution procedures at organisational staff meeting.	HR or workplace relations manager	1 March	
Intranet and Website	- Publish procedures on company intranet. - Public procedures on company website.	IT manager	1 March	
Email	- Email every employee a copy of, or link to the procedures. - Identify where procedures can be found on company intranet.	HR or workplace relations manager	1 March	
Bulletin	Notify external stakeholders of procedures by posting a bulletin on the company website's homepage.	IT manager	3 March	
Induction and training	Include procedures in formal induction program and workplace training activities.	HR or workplace relations Manager	7 March	
Evaluation				
The indicators used to measure the effectiveness of communication activities include: - results received from employee feedback forms, surveys and/or questionnaires - the success of the grievance resolution procedures over time, measured by the number of successful outcomes - managerial feedback sessions - suggestions received contributing to the procedures, via team meetings.				

Practice task 10

1. What is a communications plan?

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2. What methods could be used to communicate grievance resolution procedures?

3. Describe the characteristics of effective written communication.

4. Describe two tips for the effective and relevant communication of grievance resolution procedures.

2F

Review employee relations policies and plans

To review the effectiveness of workplace relations strategies, policies, procedures and services, workplace relations professionals will need to systematically collect and analyse a range of data in areas such as employee skills development, workplace relations performance, employee satisfaction, staff turnover, productivity levels and budget performance. A plan for evaluation and improvement helps ensure a systematic evaluation takes place annually and establishes whether workplace relations initiatives are meeting their intended outcomes.



The results are then used to identify what works well and what needs to be improved. Regular evaluation and review can identify any dissatisfaction with change processes and trigger the need to make improvements. Workplace relations professionals must use the results of staff assessments and other evaluation results to improve the process. If deficiencies are found, a written plan of action should be prepared to document initiatives to improve workplace relations performance in the areas listed. The action plan should be reviewed and approved by the relevant departments and any changes should be trialled, documented and reassessed at a later date.

Review methods

The methods used to review workplace relations strategies, policies and procedures could include:

- formal policy and procedure review process specific to the needs of an organisation
- gathering and analysing employee feedback to gauge employee satisfaction levels with workplace relations services
- scheduling periodic team meetings to facilitate open discussion and provide opportunities for employees to ask questions and raise concerns
- conducting observations of workplace practices to determine whether workplace relations strategies and policies are being carried out correctly
- work health and safety audits.



Formal policy and procedure reviews

Workplace relations strategies, policies and procedures should include a date by which a review should be completed. An organisation might maintain a policy and procedure review schedule to ensure it reviews these documents on a regular basis. Formal policy and procedure review components are shown here.

Formal policy and procedure reviews

A formal policy and procedure review will include the following elements.



What is involved?

The purpose of a formal policy and procedure review is to determine whether:

- the specific objectives of the policy or procedure are being achieved
- any amendments to the policy or procedure are required
- the policy or procedure should continue to apply or be retired
- the policy or procedure is compliant with all current legislation, regulations, standards or codes.



What is considered?

A formal policy and procedure review will involve consideration of:

- internal factors such as organisational change or restructure
- external factors such as the economic environment, legislative developments, changes to government policy or professional accreditation requirements
- any outcomes of compliance monitoring and implementation evaluation conducted by the responsible employee or officer.

Possible outcomes of formal reviews

The results of a formal policy and procedure review process may present a number of possible outcomes. Workplace relations professionals or responsible managers may be required to:

- make no changes or amendments
- make minor amendment to existing policies or procedures that do not affect document content
- make significant amendment to existing policies or procedures requiring approval by management
- retire policies or procedures
- develop new policies or procedures.

Possible outcomes may include the following:

- An outcome of following a policy or procedure is inconsistent with the purpose and intent for which it has been approved.
- A policy or procedure requires employees to take steps that are inconsistent with the purpose and intent for which it has been approved.
- A policy or procedure is inconsistent with another policy or procedure that applies to the work activity.

Employee voice

Employee voice is a concept defined by Boxall and Purcell (2003) as a term used to cover a whole variety of processes and structures that enable and empower employees to contribute to decision-making processes in their workplace. Employee voice is necessary to recognise the collective interests of employees who must work together to resolve their differences without intervention.

Employee voice can be translated into team meetings, performance reviews, or training activities, where two-way communication processes allow employees to influence the delivery and implementation of workplace relations plans, strategies, policies and services.

In *Human resource management at work: people management and development*, Marchington and Wilkinson (2001) suggest that the elements of employee voice could be categorised as representative participation and upward problem solving.

How these concepts relate to workplace relations are further explained below.

Representative participation

Representative participation involves:

- joint consultation – a formal mechanism that enables management to consult employee representatives on workplace relations matters of mutual interest
- collective representation – the role of trade unions and other representatives in collective bargaining and representing the interests of employees, including the operating of grievance resolution procedures
- partnership schemes – systems emphasising the mutual benefits workplace relations offers employees and employers alike, and addressing issues in a collaborative manner rather than through traditional, adversarial relationships.

Upward problem solving

Upward problem-solving involves:

- upward communication – any means through which employees can make representations to workplace relations or senior management about their concerns, either through their representatives, through established consultative committees, grievance procedures, team meetings, or informally
- attitude surveys – seeking and obtaining the opinions of employees through questionnaires or other feedback mechanisms
- suggestion schemes – inviting and encouraging employees to make suggestions to improve workplace relations strategies and policies in return for incentives or benefits
- project teams – asking groups of employees to work together with their line managers to develop new ideas, processes, services or strategies to solve workplace relations issues in the organisation.

Employee feedback

Employee feedback can be gathered and analysed to review the effectiveness of workplace relations plans, strategies and policies. The mechanisms used to collect employee feedback must have several characteristics to be effective.

There are several types of feedback that can be delivered regularly and informally as shown here.

Positive feedback

- This type of feedback reinforces good behaviour by describing how and why certain strategies and policies have resulted in positive workplace relations outcomes. Often, people don't know why they have done a good job. While a 'pat on the back' is appreciated, it does not highlight specific workplace behaviours that should be reinforced. Positive feedback provides this information.
- For example, 'That provision of learning and development activities was excellent. You delivered the training well and the participants told us the materials were easy to read and very thorough! Well done'.

Constructive feedback

- This type of feedback methodically builds on experience that the workplace relations professionals have obtained through the implementation of workplace relations strategies and policies. This is done by providing concrete steps for future improvement that relate to behaviours or skills the workplace relations professionals have demonstrated up to that point. It is not always positive, but positive feedback may be used to capture the attention of the workplace relations professionals prior to giving constructive directions.
- For example, 'You managed to develop an informative induction program, but it wasn't really engaging for the participant. Maybe next time, practise on a work colleague and see how they respond?'

Negative feedback

- Despite the name, negative feedback can be a very positive tool. Negative feedback refers to the content of the feedback and not the means by which it is given. If an organisation fails to meet a KPI used to measure workplace relations performance, then providing feedback to that effect is negative. Negative feedback should always be counteracted by constructive and positive feedback to maintain personal self-worth, value and self-esteem.
- For example, 'Your service failed to achieve the staff turnover rate expected. There may have been some external factors that contributed to this, but there are some underperformance issues we must address as well.'

Destructive feedback

This type of feedback aims to punish the behaviours seen by management as negatively affecting the organisation. It is easy for this type of feedback to become personal and emotive. Destructive feedback reduces the efficacy and value of workplace relations strategies and policies.

For example, 'The services you provided failed to meet any of the objectives outlined in the workplace relations implementation plan. Do you really think we are ever going to get anywhere by using your rubbish services?'

Determine outcomes

One of the fundamental approaches for obtaining feedback is to look at the end result. There should be a very clear understanding of what is expected from the process. Feedback objectives should be quantified and used as a benchmark to measure the success.

Look at the end result by asking the following:

- What exactly do you want to achieve?
- What areas are you seeking feedback from?
- What techniques will you use to obtain feedback (for example, questionnaires, interviews, focus groups)?
- Have these techniques been used before? What were the outcomes?
- What will happen once the information is obtained?
- How will you measure success of improvement?

Gather feedback

Employee satisfaction measurement involves the collection of data that provides information about how satisfied or dissatisfied employees are with a workplace relations strategy, policy or service. The data can be used to understand the reasons for the level of satisfaction that has been recorded.

This information can be collected and analysed in many different ways. The chosen methods will depend on the type of feedback required.

Employee feedback mechanisms include:

- employee attitude surveys or questionnaires
- employee feedback forms
- online workplace relations/HR scorecard surveys
- interviews
- focus groups.

Employee attitude surveys or questionnaires

One of the most objective and economic methods of obtaining feedback on workplace relations service performance is by conducting employee attitude surveys or questionnaires. Attitudes are a major factor in determining how employees feel towards the workplace relations services and activities available to them.

Well planned and administered attitude surveys can provide workplace relations managers and professionals with invaluable insight into employee satisfaction levels with workplace relations strategies, policies and services. They can also be used as a driver for change and to specifically address issues associated with workplace relations service delivery.

Guidelines for conducting employee attitude surveys

- Use repeated surveys to measure trends and changes in direction.
- Consider sampling methods to cut the costs associated with feedback collection.
- Attempt to relate attitude scores with specific workplace relations services.
- Respecting the privacy of employees' wishing to remain anonymous.
- Show employees how attitude scale results have been used to effect workplace relations service improvements.
- Consult with employees and managers to plan the feedback process.
- Verify recommendations for change.
- Report recommendations to management for follow-up activities.

Feedback forms

Feedback may be collected to assess the performance of those who provide workplace relations services using generic client or employee feedback forms. These can be used to collect suggestions for workplace relations service improvement, compliments, complaints, questions or comments.

The challenge with feedback forms is ensuring the client or employee returns the form to the organisation.

Here are some tips.

Tips for using feedback forms

- Develop a well-defined goal for collecting feedback so that respondents can see the results.
- Take immediate decisive action when a respondent's answers to feedback questions require attention.
- Make the feedback form user-friendly by making it short and the questions easy to understand.
- Design relevant questions for feedback forms that will elicit meaningful responses.
- Use scored questions, such as numerical scales, and text questions appropriately.
- Use feedback as independent reviews or testimonials to differentiate from competitor organisations.
- Send feedback requests as soon as possible after a service has been provided.
- Share feedback data with all employees involved in the provision of workplace relations services.
- Identify cost savings and efficiency improvements to workplace relations service delivery.

Workplace relations scorecard surveys

HR/workplace relations scorecard surveys measure the performance of workplace relations service providers in delivering a wide range of services and advice. Workplace relations scorecard surveys determine how well workplace relations are aligned with organisational objectives and identify what the organisation needs to do to enhance employee satisfaction levels and workplace relations performance.

Workplace relations scorecards should include 'hard' measurements, such as employee turnover rates, number of training courses available or employee absenteeism levels. Workplace relations scorecards should also include a range of 'soft' measurement data that can only be gathered by asking employees about their opinions and suggestions on workplace relations plans and initiatives.

Conducting anonymous online workplace relations scorecard surveys is a useful, efficient and cost-effective way of gathering information and insight into the effectiveness of workplace relations strategies, policies and services. The assessment identifies the strengths of workplace relations services and areas in which the organisation needs to make improvements.

The benefits of using workplace relations scorecard surveys

- Reinforces distinction between technical workplace relations (outcomes focused on workplace relations efficiency) and strategic workplace relations (outcomes that achieve organisational objectives)
- Focuses on leading indicators that drive the implementation of the organisation's business objectives
- Assesses the contribution of workplace relations personnel to strategic implementation and bottom line impact
- Promotes flexibility and change

Interviews

Interviews allow workplace relations professionals to obtain employee feedback by directly asking a respondent questions, while clarifying any questions or answers at the same time.

Interviews can be carried out face-to-face, over the telephone or through an online discussion forum. In highly controlled interviews, questions should be designed to elicit short specific responses. In less controlled interviews, questions can be designed to elicit detailed answers and encourage discussion about associated issues.

The person being interviewed must give permission for their answers to be recorded and should be provided with a copy of the interview to confirm their answers are true and correct.



Focus groups

Focus groups can be useful in uncovering information and suggestions that employees may be reluctant to disclose. The focus group interview is loosely structured and designed to encourage free-flowing discussion.

Employee focus groups are confidential and workplace relations management should not be involved. Each focus group is usually made up of 8–12 participants and led by a trained external consultant. Focus group sessions last between one to two hours.

For example, the consultant may introduce a topic to the group, such as ‘What do employees think of the company’s flexible working arrangements policy?’ Participants are asked to give their views and reactions.

A good focus group leader can obtain a thorough understanding of workplace relations service issues and prepare a summary of the group’s comments and suggestions for the workplace relations management team and/or senior management.

The benefits of using focus groups are identified below.

The benefits of using focus groups
Allows for broader and deeper insights into employee views and opinions on workplace relations strategies, policies and services
Allows for interactive research with small groups as opposed to individual survey responses
Requires little to no technology and can be completed in one to two hours, making it a cost-effective feedback option

Manage feedback process

To manage the collection of feedback relating to employee satisfaction with workplace relations service delivery, there are several issues to consider.

Employees responsible for gathering feedback should think about the information they would like to gather and how they are going to do it.

Here are some aspects to consider in managing the client feedback process.

Historical data

Decide whether the information required has been collected and analysed in the past, in order to compare previous information with the latest service performance results. If it has, design a survey or structure interview questions based on the existing information or old surveys so the data can be easily compared.

Number of responses

When surveying employees, workplace relations personnel must decide how many responses are required in order to gather enough meaningful data. Some workers won’t have the time or inclination to participate, so expect to approach more employees than is necessary.

Choosing respondents

Data collected from all feedback methods must be obtained from appropriate sources. Where it is possible to gather feedback from a large number of employees affected by a workplace relations service, it might be appropriate to use population samples to represent the group as a whole. Respondents should be selected based on their ability to provide meaningful information, and the direct impact of workplace relations services on their job performance.

Hard copies

If information is going to be sent out in hard copy, such as with a survey or feedback form, workplace relations personnel should also send a letter or email explaining what it is for. It may also be necessary to offer employees something in return for their opinion and time.

Monitoring feedback

If information is going to be sent out in hard copy, such as with a survey or feedback form, workplace relations personnel should also send a letter or email explaining what it is for. It may also be necessary to offer employees something in return for their opinion and time. If workplace relations personnel plan on monitoring feedback over time (for example, each quarter) it must decide whether to contact a different group of employees every time or whether surveys will be sent out to the same employees over and over again. Depending on what is being measured, this could affect the results.

Formulate questions

Design questions for each specific area of WR. Workplace relations personnel should test whether the questions will provide information needed by giving a sample survey to a colleague for their opinion.

Performance criteria

Workplace relations personnel must decide whether employees are to rate service performance against pre-determined criteria, such as the competence of workplace relations staff, knowledge of legislative requirements, or complaint resolution processes. If so, workplace relations personnel should consider having employees rate workplace relations services on a scale from 1–5 (1 being poor, 5 being excellent). This type of feedback is a good way to monitor service delivery over a period of time against criteria that reflects the key responsibilities of the workplace relations team or specific workplace relations service areas.

General feedback

Workplace relations personnel must decide whether to collect general feedback from employees about workplace relations strategies, policies and services. This involves asking open-ended questions, such as, 'What aspects of our service delivery do you believe we could improve?' or, 'Please comment on how our workplace relations policies compare to other organisations you have worked for'. This type of feedback can be valuable to find out which aspects of workplace relations are below expected standards or to work out where improvements can still be made.

Collection & analysis

Decisions should be made about how results will be captured, recorded and analysed in the early stages of the review process. For instance, it may be necessary to set up a database or spreadsheet that allows results to be compared over time or to write up a report on general feedback that was provided. It should be considered why the information was gathered in the first place and to work out how the data should be best stored for analysis and review purposes.

Motivate clients

Motivating employees to respond to requests for feedback is often difficult, possibly because they do not believe their complaints will be taken seriously. Also, many employees only contact workplace relations if they are upset and have a complaint to make. Some employees will not have the time to complete a feedback form or survey.

Team meetings

Conducting regular team meetings facilitates the discussion of workplace relations strategies and policies between work teams and their managers. Team meetings provide employees with opportunities to express their queries, concerns and recommendations in an open and honest conversational environment.

There are ways to run effective, efficient meetings that leave employees feeling energised and motivated about their work. Here are some useful tips.

Tips for running effective team meetings

- Clearly define the objective – team meetings must have a specific and defined purpose.
- Consider who is invited – team meetings should only involve those employees who really need to be there.
- Adhere to a schedule – distribute an agenda prior to the meeting outlining everything to be covered.
- Arrange follow-up action – the meeting should conclude with a list of actionable steps and identify the people who will complete follow-up actions

Workplace observations

Observation is the action or process of observing something or someone in order to gain information.

Workplace observations are used by managers to gain insights into employee performance. By observing how work tasks are performed by employees, workplace relations professionals and/or line managers are able to determine whether workplace relations strategies and policies are meeting their intended outcomes.



When carrying out workplace observations, the person observing should record what they see using forms or templates provided by the organisation. This data can be used as evidence to review workplace relations policies, procedures and practices.

Work health and safety audits

Work health and safety (WHS) audits provide for a comprehensive review of all aspects of health and safety policies, procedures and practices operating in an organisation.

Audits may be carried out by workplace relations or HR managers, employees, employee representatives, or persons who have been appointed work health and safety officers within an organisation.

The purpose of a WHS audit is to ask questions relating to an organisation's WHS and generate action. The person responsible for the audit should assess the WHS priorities and costs and develop an action plan for approval by senior management.

In carrying out the WHS audit, the person responsible could consider the following questions.

Policies

The following questions should be asked in relation to WHS policies:

- Do WHS policies meet legislative and regulatory requirements?
- Are senior managers committed to WHS?
- How committed are line managers, supervisors and other team leaders to WHS?
- Is there a WHS committee? If not, why?
- How effective is the WHS committee in achieving WHS objectives or implementing policies and procedures?

Procedures

It should be determined how effective WHS procedures:

- support the implementation of WHS policies
- communicate the need for WHS best practices
- provide for systematic risk assessments
- ensure that accidents and incidents are thoroughly investigated
- record data on WHS that is useful for measuring performance and taking action
- ensure that WHS considerations are given proper consideration when developed and implementing workplace relations plans and strategies
- provide WHS training, including as part of an induction program.

Practices

The following questions should be asked in relation to WHS practices:

- To what extent do WHS practices conform to the general requirements of WHS legislation, regulation or relevant codes of practice?
- What risk assessments have been carried out, and what were the findings or actions taken?
- What is the WHS performance of the organisation as shown by KPIs?
- How are accidents or incidents investigated and reported?
- What steps are taken to eliminate or minimise risks?
- What process do employees use to communicate WHS concerns?

Amendments to policies or procedures

If the review process identifies a need to make changes to or amend existing policies and procedures, the following steps should be taken.

Process for amending policies or procedures

1

Liaise with employees and other managers to identify issues associated with the policy or procedure.

2

Ensure the policy or procedure accurately reflects current legislation.

3

Check the procedure or guidelines document to ensure it accurately reflects the policy.

4

Advise management of the intention to change a policy or procedure.

5

Make amendments using tracked changes and update the version control history section of the document.

6

Forward the document to the owner or relevant manager for approval.

7

Produce a draft electronic copy of the policy or procedure showing the changes made.

8

Obtain approval from senior management.

9

Set a future review date and distribute the new policy or procedure to the workforce.

Example: review employee relations policies and plans

Below is an example of a feedback form used to review employee satisfaction levels with workplace relations service delivery. The feedback form is accompanied by an analysis of hypothetical responses.

Employee satisfaction feedback form					
Please circle the number that corresponds with how you feel about our workplace relations service delivery over the past three months. 1 = poor; 5 = excellent					
Any problems or queries I have are resolved quickly.	1	2	3	4	5
Workplace relations personnel have good knowledge of the services they provide.	1	2	3	4	5
Information I have requested on workplace relations services was sent quickly.	1	2	3	4	5
Appointments with workplace relations consultants are useful for performing in my role.	1	2	3	4	5

It is easy to see how data collected from this type of form can be tracked over time. Here is an example of the corresponding record used to keep track of the average responses from all service users each quarter over a 12-month period.

Question	Q1	Q2	Q3	Q4
Any problems or queries I have are resolved quickly.	3	3	4	4
Workplace relations staff have good service and legislative knowledge.	4	4	4	4
Information I have requested on workplace relations services was sent quickly.	2	3	3	4
Employee appointments are useful and helpful to performing effectively in my role.	3	3	3	4

This record shows that a number of trends emerged over the past year. Many were improvements that occurred after new systems and processes were put in place to improve workplace relations services (such as the time it takes to resolve workplace grievances). Using this approach means the effectiveness of workplace relations plans, strategies, policies and initiatives can be reviewed on an ongoing basis.

Practice task 11

1. What is the purpose of a formal policy and procedure review?

2. Explain what is meant by 'employee voice'.

3. What methods are useful for gathering employee feedback?

4. Explain how WHS audits are useful for reviewing workplace relations strategies, policies and procedures.

Summary

1. To successfully implement workplace relations plans, strategies and policies, the management team must have the cooperation and support of employees.
2. An implementation plan is a formal management tool used to illustrate, in detail, the critical steps necessary to implement workplace relations strategies and policies, measure a group of strategies and policies, or assist organisations to manage and monitor implementation effectively.
3. The effectiveness of training and development is enhanced when training activities are preceded by comprehensive analysis. This allows workplace relations professionals to demonstrate how training and development contributes to the objectives contained in the workplace relations implementation plan.
4. Workplace relations professionals are responsible for consulting with employee representatives, employer organisations, government agencies and external consultants to renegotiate agreements or make necessary changes to workplace relations strategies and policies.
5. Grievances and disputes may be resolved by procedures provided for in a collective agreement, an employment contract, or by other mechanisms established by an employer.
6. A communications plan will deal with what information an organisation wants to provide to its employees, how it wants to provide it, to whom, and in what time frame. Provision should also be made for employees to provide feedback, ask questions or express concerns about the information conveyed.
7. The workplace relations policies and procedures review process should centre on gathering and analysing the opinions, queries, suggestions and concerns of employees implementing workplace relations strategies in the organisation.

Learning checkpoint 2

Implement employee relations policies and plans

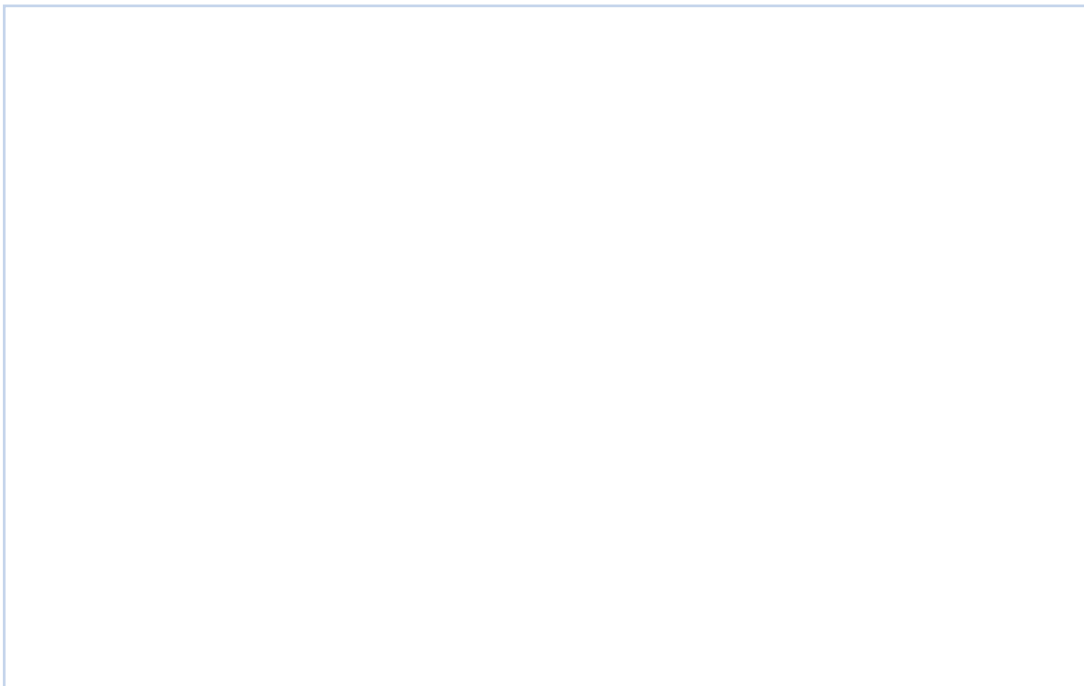
This learning checkpoint allows you to review your skills and knowledge in implementing employee relations policies and plans.

Part A

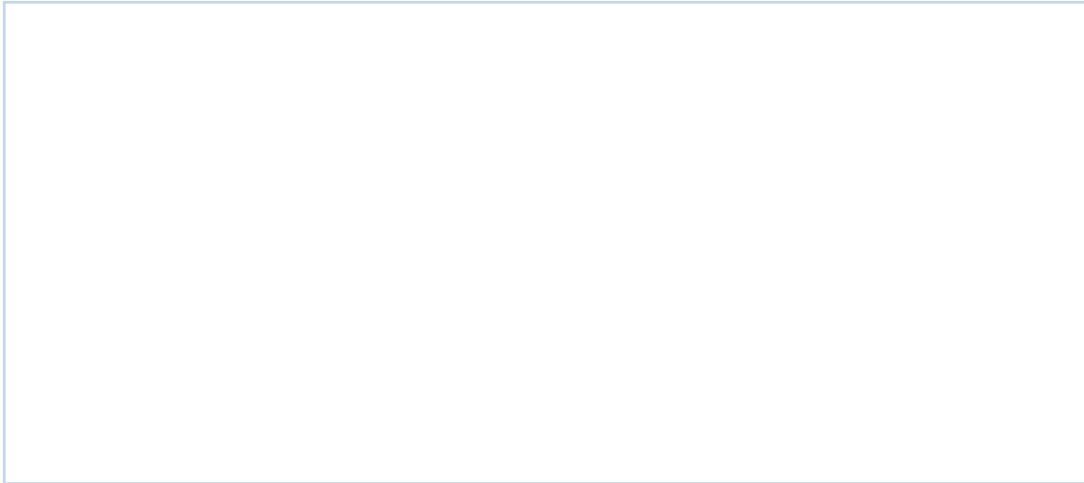
1. Identify the characteristics of an implementation plan.



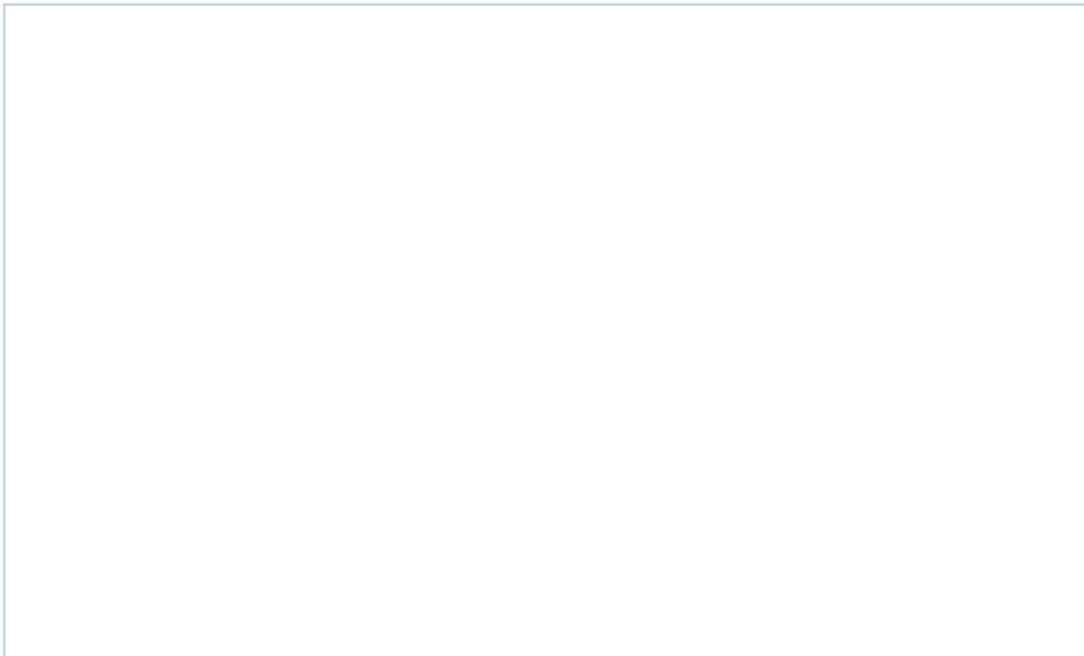
2. Identify the characteristics of a contingency plan.



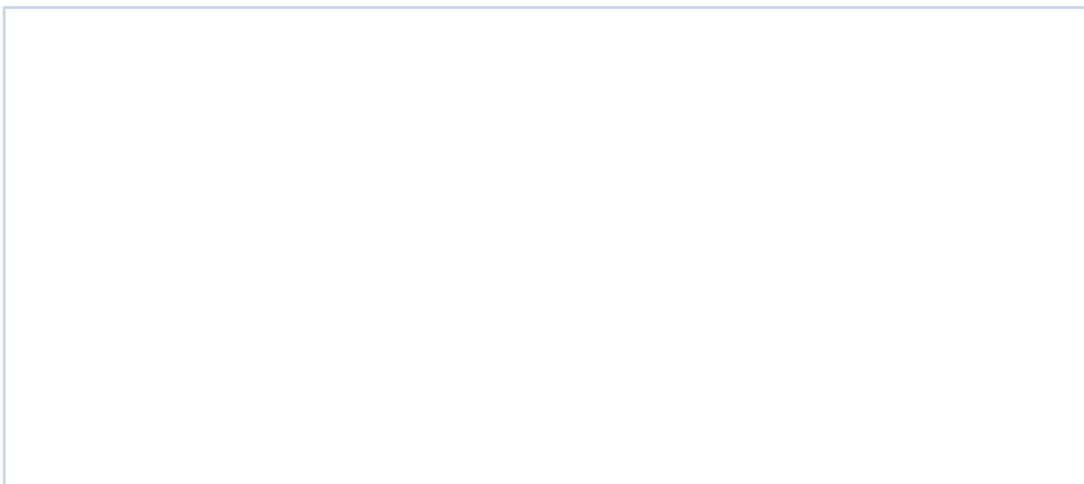
3. Briefly describe a process for conducting a training needs analysis.



4. Identify and describe the sections that should be included in a formal training plan.



5. List the types of advice and support provided by employer associations.



6. Describe the methods that could be used to review workplace relations strategies, policies and procedures.

Part B

Read the case study, then answer the questions that follow.

Case study

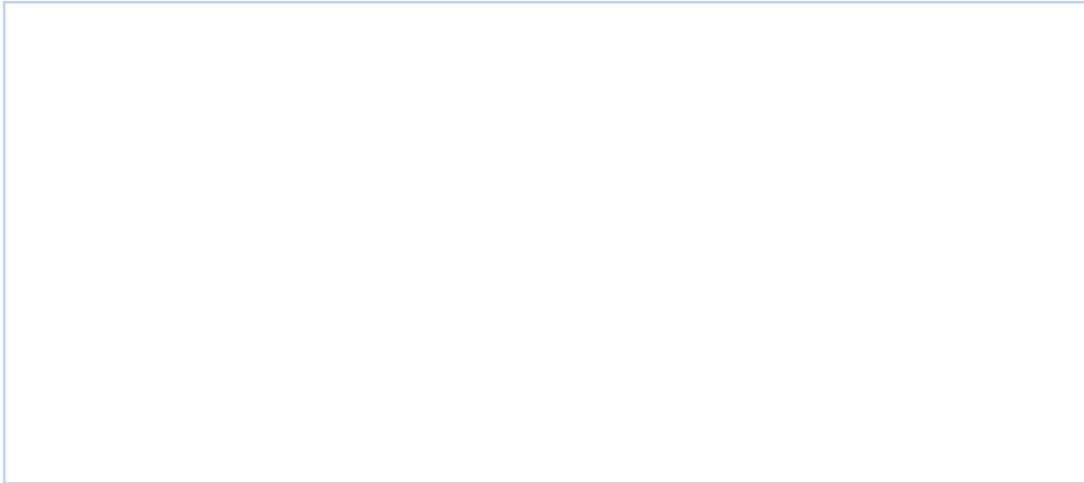
Marnie has recently been employed as the workplace relations manager in a large retail organisation. On her first day, Marnie meets with Michael, the HR manager, to identify and discuss the company's existing workplace relations strategies, policies and procedures. Marnie is surprised to find out that the company does not have formally documented grievance resolution procedures in place. Michael tells Marnie that since the company's inception, the HR team have been using an informal complaints handling process that is 'known' to most staff members, but has never been put in writing.

Marnie tells Michael that it is critical to have properly documented grievance resolution procedures in place to help resolve workplace relations issues promptly and consistently at the enterprise level. Marnie emphasises the risk the company faces of breaching compliance with employment legislation for failing to implement a formal grievance resolution process in the workplace.

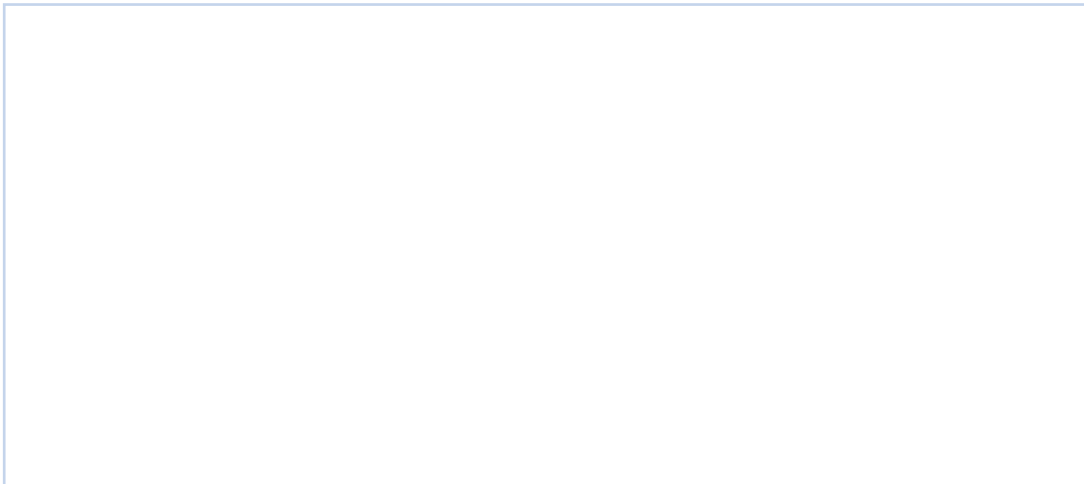
Michael asks Marnie if she could immediately begin documenting formal grievance resolution procedures and develop a plan for communicating the information to the company's stakeholders.

1. Describe Marnie's key responsibilities when developing and documenting grievance resolution procedures.

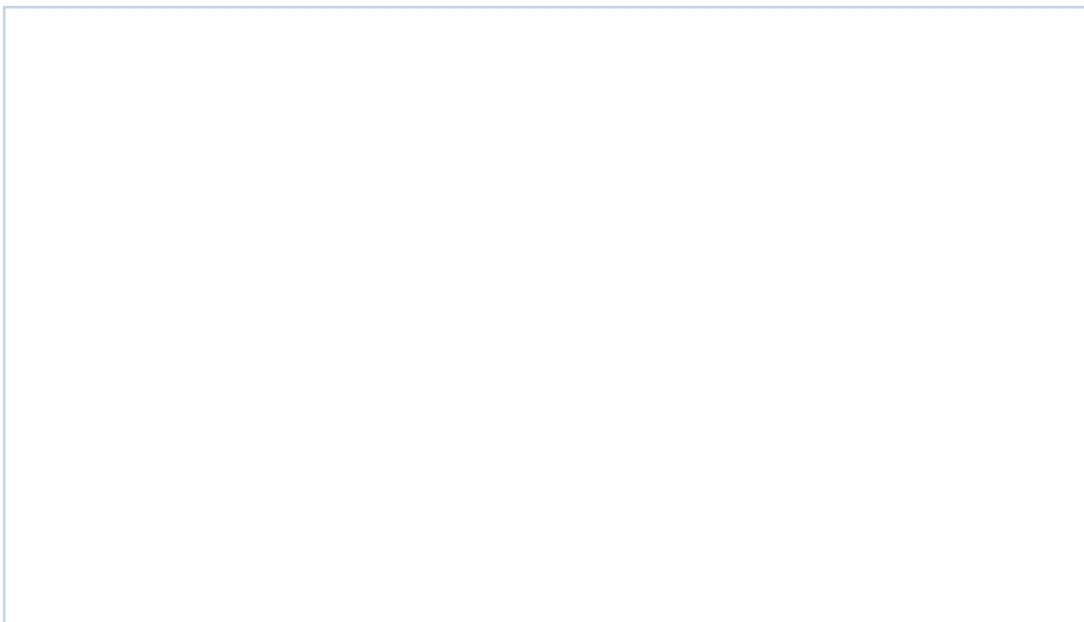
2. Outline a process that Marnie could use to document grievance resolution processes.



3. Identify the information that Marnie should include in her communication plan.



4. List and describe the written communication conventions that Marnie should use when documenting the grievance resolution procedures.



Topic 3

Manage negotiations to resolve conflict

Conflict is inevitable in organisations because they operate by making adjustments and compromises to competitive elements in their structure. Conflict will arise whenever there is change as those impacted by it may challenge or resist it.

All issues relating to workplace relations should be explored. An organisation should train its workforce in conflict-management techniques and procedures to ensure conflict is resolved constructively and creatively. Generating solutions by examining different points of view, and facilitating the objective and rational exchange of information and opinions enables organisations to eliminate sources of workplace conflict, clarify existing workplace relations issues, and determine desired negotiation outcomes that benefits both parties to the disagreement.

Workplace relations professionals must provide or obtain specialist advice to ensure agreed outcomes are documented, implemented and acted upon efficiently.

In this topic you will learn how to:

- 3A Train individuals in conflict management
- 3B Identify and/or eliminate sources of conflict or grievance
- 3C Clarify issues in dispute
- 3D Obtain expert or specialist advice and/or refer to precedents
- 3E Determine desired negotiation outcomes, negotiation strategy and negotiation time frames
- 3F Advocate the organisation's position in negotiation
- 3G Document and/or certify the agreed outcomes
- 3H Implement agreements
- 3I Take remedial action if the agreement is not followed

3A

Train individuals in conflict management

The way an organisation manages conflict between employees, management and their representatives can have a significant impact on an organisation's profits, productivity and employee motivation levels. It is critical that managers are proficient negotiators and/or mediators to ensure they are able to identify and resolve workplace grievances before they escalate into industrial disputes.

All employees, workplace relations professionals and managers should be trained in conflict management techniques and procedures to resolve problems early and avoid major disruptions to business.

Good management practices can help an organisation to avoid unnecessary conflict and deal with inevitable conflict in an effective and professional manner. Conflict management procedures can reduce staff turnover and save an organisation time, money and unnecessary damage.



Conflict

A conflict is a situation where the interests, needs, goals or values of involved parties interfere with one another. Different stakeholders have different priorities. Conflict may involve managers, employees, departments, teams, projects, clients, suppliers or contractors. It may also involve employer or employee representatives working to resolve disputes on behalf of their members.

Conflict should not always be seen as negative. It can provide an opportunity for progress and change if used constructively. The sharing and transferring of ideas, opinions and methods about tasks and projects should be encouraged in the workplace.

The differences between constructive and counterproductive conflict are described below.

Constructive conflict

Conflict is constructive when both parties involved in a disagreement understand and explore the other's perceptions and feelings. It is a process of developing mutual understanding to produce a win-win outcome.

Constructive conflict may lead to:

- increased employee participation in decision-making
- the exchanging of helpful ideas and information
- the provision of alternative choices
- a reduction in employee anxiety, as a result of having their voice heard
- a collaborative work environment
- an increase in employees' self-awareness, understanding and empathy towards one another.

Counter-productive conflict

Conflict becomes counter-productive when it is based on personality clashes, or when it is treated as an unnecessary waste of time and resources to be quickly extinguished without proper consideration to the needs of the parties.

Counter-productive conflict may lead to:

- damaged workplace relationships
- a decrease in employee productivity levels
- a reduction in employee satisfaction and motivation
- increased staff turnover levels
- workplace stress and anxiety
- negative reputation for the workplace.

Conflict management training

The ability of management to negotiate effectively and achieve desired negotiation outcomes is critical to business success. Unresolved conflicts can significantly disrupt business operations and result in costly delays.

Conflict management training provides the essential skills and knowledge necessary for managers and employees to resolve conflict constructively, and in a way that benefits all parties.

Training develops highly effective and ethical negotiation styles, along with practical conflict management skills and tools.

Providing conflict management training has the benefit of:

- preserving and enhancing workplace relationships
- increasing confidence and reducing stress when resolving conflicts
- resolving disputes confidentially
- reducing the costs of resolving conflict
- increasing business profitability
- creating value in negotiations
- achieving optimal negotiation outcomes.

Conflict management techniques

Managers should know how to turn conflict into opportunities for growth, progress and improved organisational performance. There is a range of skills and techniques that can be used to manage workplace conflict in a way that achieves positive outcomes for the parties, and benefits the organisation overall.

Some techniques for managing conflict are listed below.

Conflict management techniques
• Negotiation • Communication • Mediation • Emotional intelligence

Negotiation

Managers can deal with workplace conflict and improve employee satisfaction levels by developing and using negotiation techniques. Negotiation occurs when two parties meet to reach an agreement concerning an issue or proposition, which one party has put to the other.

Effective negotiators collaborate with another party (or parties) to develop an agreement that mutually benefits them both.

Characteristics that effective negotiators should ideally possess are listed below.

Attributes of effective negotiators
• Analytical – able to assess factors that affect their negotiating position and the tactics of both parties • Empathetic – able to understand and feel the other person’s feelings, thoughts and concerns • Interactive – able to relate well with other people • Communicative – able to convey information and arguments clearly, positively and logically • Innovative – able to generate creative options • Flexible – able to make realistic moves during the negotiation process to improve their own bargaining position • Fair – able to recognise the needs of each party to the negotiation and interact in a fair and equitable manner • Honest – able to respond openly and truthfully to people and situations

Personal negotiation styles

The parties involved in negotiations will have their own personal negotiation style that affects the way they communicate or respond to conflict. It is important that the person responsible for managing negotiations understands and can identify the different negotiation styles in order to effectively read the intentions, and respond to the needs, of the other party.

Five personal negotiation styles are described here.

Self-denying

Self-denying people may be difficult to negotiate with as they are withdrawn and restrained in providing information or feedback. They may hide their feelings or keep their ideas to themselves.

Self-exposing

Self-exposing – these people demand attention by being vocal about their ideas and feelings, often interrupting others, using attention-seeking body language, and ignoring the ideas of others.

Self-protecting

Self-protecting people divert attention away from themselves by discussing other people or issues to hide their true feelings and ideas.

Self-bargaining

Self-bargaining people display their true feelings and ideas if the other party shows theirs first. They will only open up once they have been led into negotiation and invited to contribute to the process.

Self-actualising

In the first stage, you identify that something is causing a problem, or is not working as well a Self-actualising people are ideal negotiators because they seek information and feedback from the party. Information and ideas are used constructively to facilitate the negotiation process and to achieve the desired outcomes of both parties. as it could be.

(Reference: Dwyer, J. (2014). 'Communication for Business and the Professions: Strategies and Skills')

Barriers to negotiation

The people responsible for managing negotiations to resolve conflict need to understand, and be trained to deal with, the potential barriers to an effective negotiation process. Workplace relations negotiators should learn to identify signs affecting theirs or the other party's capacity to negotiate effectively, and make reasonable adjustments to ensure the process is fair and equitable.

Barriers to negotiation are identified below.

Confrontation



The parties involved in a negotiation process may sabotage the outcome by characterising the exchange as a confrontation or conflict in itself. The purpose of negotiation should be to promote and facilitate a two-way discussion and ultimately achieve a win-win agreement. An adversarial or uncooperative attitude may prevent the achievement of positive results.

Negative emotion



The negotiation can be stressful and evoke feelings of fear, anger or anxiety in either or both of the parties involved. If one party believes their interests are threatened, they may feel as though they are being taken advantage of, or be intimidated by the other party. A fear of losing and reporting this result back to an employer or manager may also cause a party to enter negotiations with negative feelings from the start.

Limited resources



There may be limited financial, human or material resources to facilitate an effective negotiation process. If the limitations put forward by one party are real, but both parties share a mutual desire to reach a compromise, then the use of collaborative problem-solving will usually result in an agreeable outcome. If limitations are artificial, it may reveal an unwillingness or insincere attempt by a party to reach a mutually beneficial agreement.

Use of power in negotiations

Various types of power can influence the outcome of a negotiation process. Workplace relations managers and professionals should become aware of the way in which they use power. If power is abused, or not used correctly, negotiations may be tense and lead to mistrust, doubt, uncertainty or further conflict.

French and Raven (1959) divided power into five separate and distinct forms. These are described below.

Legitimate power

Legitimate power is derived from a person's position or role with an organisation. A person's level of authority may give them control over resources and power that is recognised by others.

Expertise power

Expertise power refers to a person's ability to influence the behaviour of others based solely on past experience and expertise in a specific area.

Reward power

Reward power exists when a person has the control and authority to provide some type of reward to others as a means of influencing the person to act or behave in a certain way.

Coercive power

Coercive power refers to a person's ability to force another person to follow an order by threatening punishment for noncompliance. Coercive power uses the application of emotional or physical force.

Consultative power

Consultative power is based on the person's capacity to seek information, consider feedback and ideas from others, and work together to make decisions or resolve issues.

Communication

It is essential that managers develop communication skills and techniques needed to articulate their needs and desired outcomes during negotiations. Managers may also need to support employees in developing their own communication skills.

Effective communication techniques to resolve conflict are shown below.

Active listening skills

Use active listening skills and verbal encouragement to show you are listening, and ask questions to clarify information.

Body language

Ensure your body language gives the individual your full attention and is appropriate according to the individual's cultural preferences.

Verbal communication

When speaking, be patient, polite and use suitable industry terminology, avoiding jargon or colloquial language.

Build rapport

Build rapport by showing empathy, interest and understanding in your conversations.

Language differences

Accommodate for language differences by obtaining a translator or using technology to translate business communications.

Group perceptions

When interacting with a person who is part of a group, be aware of your susceptibility to stereotype, as this could lead to false or negative assumptions about the individual.

Negatively biased tendencies

Be aware of negatively biased tendencies you may have and make a conscious effort to learn more about a particular group.

Seek different perspectives

Where appropriate, seek input from people representing diverse groups or perspectives during decision-making processes.

Request feedback

Request feedback as to any potential patterns of preference you may be displaying in your communication technique.

Mediation

Workplace mediation is a form of workplace conflict resolution: a confidential process where an impartial and independent third person facilitates communication between two or more people in dispute. The role of the mediator is to provide a structured process that assists with identifying the issues, developing possible options, and reaching an agreement that satisfies and mutually benefits both parties to the dispute.

The purpose of workplace mediation is to empower people to take responsibility for the issues and the resolution, viewing the conflict in a broader context, and from multiple perspectives. Managers and workplace relations professionals should be trained to mediate workplace conflict while maintaining positive working relationships between the people involved.

Mediation saves an organisation time and money and focuses on improving workplace relationships.

The issues that may be resolved using workplace mediation include:

- interpersonal conflict
- working and communication style differences
- leadership style differences
- management of grievances
- changing work practices
- changing job role and responsibilities
- employment terms and conditions
- employment termination conditions
- allegations of discrimination, bullying or harassment.

Emotional intelligence

Emotional intelligence is widely recognised as the ability of an individual to monitor their own and others' emotions in a social or work environment, to discriminate among the emotions and to use the information to guide their thinking and actions. Developing emotional intelligence allows people to recognise, understand and use the power of emotions to facilitate high levels of teamwork and productivity.

Emotional intelligence underpins the successful function of many other management practices, such as innovation and change, problem-solving, performance management and team development.

Daniel Goleman (2002) developed four dimensions of emotional intelligence and corresponding leadership capabilities that determine a person's personal and social competence: how we manage ourselves and how we manage our relationships. These dimensions are shown here.

Self-awareness	• Emotional self-awareness • Accurate self-assessment • Self-confidence
Self-management	• Emotional self-control • Transparency • Adaptability • Achievement • Initiative • Optimism
Social awareness	• Empathy • Organisational awareness • Service
Relationship management	• Inspiring leadership • Influence • Developing others • Change catalyst • Conflict management • Teamwork and collaboration

Develop emotional intelligence skills

Managers and workplace relations professionals should commit to developing the emotional intelligence skills of themselves and others within the organisation. Emotional intelligence is vital to conflict resolution and the development of effective and successful negotiators.

Emotional intelligence training could take on the following forms.

Coaching
Managers can get the best out of their teams by coaching employees individually and as a group. Managers should aim to understand the individual needs of their team members and introduce processes that encourage progress and foster a collaborative and emotionally intelligent culture. Arranging for someone to coach a team member who is having difficulties handling their emotions or behaviours in the workplace can be effective, time-efficient and a positive experience for both parties. A coach explains how to respond appropriately, provides opportunities for the person to practise their skills, and suggests different ways to resolve difficulties or approach work tasks.

Mentoring

Managers should help employees to gain a deeper understanding of complex emotional states through reflection, adaptation and exploration of new approaches. Managers should offer employees constructive feedback at the conclusion of a dispute resolution process.

Mentors are often used for new employees, for those experiencing problems with communication or interpersonal skills, or in any area that presents particular challenges.

A mentor should provide advice or supervision based on their own experience as well as their expertise. Managers can ask an experienced employee or colleague whether they would like to become a mentor. The mentor should explain to the inexperienced person the approach they take with a particular work difficulty or in dealing with a wide range of people.

Shadowing

Another strategy is to ask the person to 'shadow' a more-experienced and emotionally intelligent employee. This means observing how another employee manages their emotions during negotiations, pursues workplace relationships and tackles work tasks. This approach is effective when learning how to respond appropriately to workplace conflict.

Training

If a manager is not fully equipped to provide training on emotional intelligence themselves, there are now a variety of courses available that build and develop emotional intelligence skills in the workplace.

Formal emotional intelligence training will benefit employees who want to improve their performance and ability to resolve conflict in the workplace. Training usually consists of real-work and simulated exercises that demonstrate to individuals how to:

- recognise the benefits of developing emotional intelligence
- define emotional intelligence competencies and origins
- identify personal strengths and weaknesses
- use emotional intelligence to optimise professional performance and relationships
- build a personal development strategy
- avoid overreacting in emotionally charged situations.

Example: train individuals in conflict management

Joanna is a workplace relations advisor at a large construction services company based in Adelaide. It is Joanna's responsibility to provide advice, assistance and representation in respect to the full spectrum of workplace relations, including industrial relations, equal employment opportunity, work health and safety (WHS) and human resources (HR) issues to company members and a diverse clientele. Joanna is also involved in the preparation and delivery of workplace relations training, seminars and events. Joanna's supervisor, Ronaldo, comes to Joanna and asks her to develop a training program that develops the negotiation skills of the company's area managers. This will enable managers to more effectively manage negotiations to resolve workplace conflict between the company and its employees, as well as assist employees to resolve their interpersonal differences at the workplace level.

Joanna starts developing the training program and comes up with a list of relevant topics. These include the following:

- Understanding the interests, priorities, and goals of negotiating parties
- Maximising opportunity through pre-negotiation preparation
- Knowing how personal biases and cultural differences impact negotiations
- Managing difficult behaviours and challenging relationships
- Improving communication by actively listening and asking questions
- Making offers at the right time, and in the right way
- Transforming competition into cooperation
- Managing teams of negotiators more effectively
- Recognising when to walk away

Based on this summary, Ronaldo is satisfied that Joanna's training program will equip area managers with the knowledge and skills essential for the successful resolution of workplace conflict.



Practice task 12

1. Explain the difference between constructive conflict and counterproductive conflict.

continued ...

... continued

2. What are the attributes of effective negotiators?

3. Describe two effective resolution communication techniques.

3B

Identify and/or eliminate sources of conflict or grievance

Identifying sources of workplace conflict allows issues to be resolved before they escalate and become disruptive to business operations. Identifying the sources of workplace conflict or grievances is the first step in alleviating or eliminating the problem. Early detection is key to maintaining positive working relationships and fostering a productive work environment. Managers should be trained to identify potential workplace issues according to employment legislation and regulations.



Types of conflict

Conflict influences the actions and decisions made in the workplace. Whether the conflict occurs between individual employees, between team members or between organisational departments, managers should treat it as an opportunity for growth and consultation in the workplace.

Workplace conflict can be classified into the following group types.

Interpersonal conflict

Interpersonal conflict refers to a conflict between two individuals. This usually occurs as a result of how people are different from one another. There are various personality types necessary to make an organisation successful. However, personality differences mean incompatible choices and opinions, and it is inevitable that conflict will occur. Managers should develop strategies or adjustments necessary for managing interpersonal conflict before it becomes destructive to workplace relationships.

Intrapersonal conflict

Intrapersonal conflict refers to conflict within an individual. All employees bring their own thoughts, values, principles and emotions to the workplace. This impacts how individuals see themselves, how they think others see them, and their perceived value to the organisation. This type of conflict can be difficult to handle if managers find it hard to identify and interpret the emotions of others. Managers should develop emotional intelligence so they can help individuals adapt, grow and express themselves in a positive and constructive way.

Intragroup conflict

Intragroup conflict occurs between individuals within a team. The misunderstandings and incompatibilities between team members may lead to an intragroup conflict. Interpersonal disagreements, differing views, conflicting ideas or unresolved conflict can negatively affect the achievement of team objectives. Managers should promote a consultative team culture that empowers team members to decide how conflict should be managed, and resolve issues as a group. Managers or workplace relations personnel may need to provide guidance where a team cannot resolve their differences together.

Intergroup conflict

Intergroup conflict occurs when a misunderstanding arises among different teams within an organisation. For example, where the finance department of an organisation comes in conflict with the customer service department. The cause of intergroup conflict is usually due to the varied goals and interests of different groups. Managers should work together to resolve intergroup conflict by focusing on how they can support each other to achieve common strategic or operational objectives.

Sources of conflict

Managers should develop their analytical skills to identify the root causes of workplace conflict before issues become disruptive to work practices or damaging to workplace relationships. Managers should learn to distinguish between opinions and facts to discover the likely source of a problem.

Sources of conflict

- Changes to, or dissatisfaction with, terms or conditions of employment
- Negotiation of new agreements or employment contracts
- Personal differences
- Lack of financial, human or capital resources
- Incompatible goals, values, principles or opinions
- Incidents of discrimination, harassment or bullying
- Unrealistic expectations or workloads
- Unfair or unlawful work practices
- Pay, remuneration or benefits issues
- Issues related to job security
- Issues related to job roles or responsibilities
- Failure to provide clear instructions or accurate information to employees
- Breaching established agreements, awards or contracts
- Health and safety issues

Strategies to alleviate or eliminate conflict

There is a range of strategies that managers can use to alleviate or eliminate conflict in the workplace that is productive. Some of these are described below.

Policies and procedures

The most effective way to alleviate or eliminate workplace conflict is to ensure that policies and procedures comply with legislative and regulatory requirements. This enables organisations to avoid situations where conflict or grievances may arise. Relevant managers should keep up to date with legislative changes and update policies and procedures accordingly. Managers should also ensure that all members of the organisation have read, understood and can access policies and procedures, or undergo relevant training if necessary.

Liaise with unions

Managers should maintain positive, cooperative and collaborative relationships with trade unions, working together to maintain employees' understanding and satisfaction with terms and conditions of employment. Trade union representatives will have access to specialist knowledge and expertise relating to the needs of their members. If managers liaise with unions on a regular basis, they are better equipped to address potential grievances before they escalate into disputes.

Appoint internal officers

An organisation may appoint an internal officer to manage workplace complaints, grievances or conflict. Internal conflict resolution officers may include mediators, counsellors, ombudsman, consultants, change agents or informal managers, given authority to investigate and make recommendations as to how grievances or conflict should be handled. Internal officers can provide managers and employees with assistance and training to resolve differing opinions, difficult behaviours or other work-related concerns. Internal officers should operate independently of management structures to ensure they remain impartial.

Observe work practices

When managers observe the work practices of their team members, they gain meaningful insights about the way employees behave, communicate and carry out work tasks on a day-to-day basis. While observing their team members, managers should ask questions about work practices and listen to employees' explanations to gauge their understanding of their roles and responsibilities. This technique allows managers to quickly identify or witness any potential sources of conflict and promptly eliminate or alleviate them.

Open door policy

An open door policy is a communications policy in which a manager leaves their office door 'open' in order to encourage openness and transparency with employees. By making themselves available to employees who wish to ask questions, raise or express concerns, managers are able to address possible sources of workplace grievances before they arise. Managers must ensure that any promises to take action are carried out so that employees do not lose confidence in the manager's ability to deal with workplace issues.

Consultative committees

Consultative committees may be formed by managers to alleviate or eliminate sources of workplace conflict. Committees should consist of employees, managers and union representatives who make joint decisions about issues impacting employment terms and conditions. Allowing employees and their representatives to contribute to decision-making processes has the potential to minimise workplace conflict by allowing employees to express their concerns and opinions and improving their job satisfaction.

Alleviate workplace stress

Workplace stress refers to the adverse reactions or responses that occur when the demands of a job do not match the resources, needs or abilities of employees. While some level of stress is expected in the workplace, unnecessary or excessive stress has the potential to hinder a person's productivity or ability to perform in their role. Managers should learn to identify and alleviate any potential workplace stressors that could escalate into workplace conflict or disputes. Managers can alleviate workplace stress by using an open and honest communication style, maintaining an open door policy, identifying and addressing negative attitude or behaviours, taking steps to improve work practices, or delegating responsibilities among team members.

Example: identify and/or eliminate, sources of conflict or grievance

Ahmed has just been promoted to project manager in a large oil and gas company. The team Ahmed manages is responsible for planning and executing a high-cost natural gas project in North-Western Australia. Ahmed is in constant communication with his team members and carefully monitors their responsibilities and work tasks to ensure they maintain reasonable workloads. Ahmed maintains an open door policy and encourages his team members to approach him with any potential issues or concerns they may have relating to the project, or to work practices.



To maintain positive working relationships, Ahmed arranges weekly team meetings off-site at a local coffee shop, for team members to debrief and discuss how they can help each other to achieve team goals. Ahmed finds that during these meetings, team members often discuss issues they have identified as being potentially damaging to the team's success.

Working together, Ahmed and his team members develop strategies they could implement to eliminate threats to productivity, before they arise. Team members also discuss and support each other to change or alter work practices accordingly. One of Ahmed's team members, Maria, has suddenly taken extended leave to care for an immediate family who is suffering a severe illness. Ahmed immediately meets with his team members to equally distribute Maria's responsibilities between them, until she returns to work.

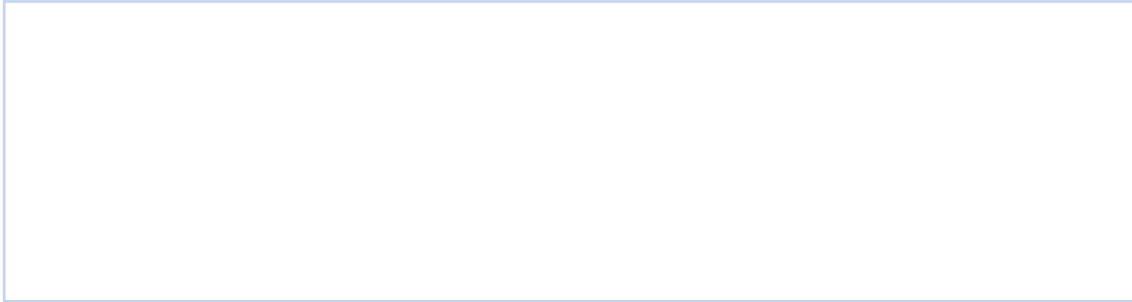
Practice task 13

1. Describe two types of workplace conflict.

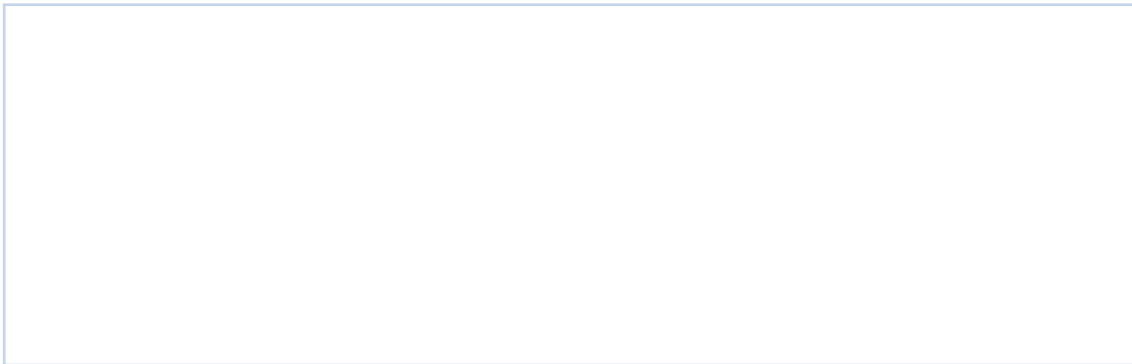
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2. What are the most common sources of conflict relating to workplace relations?



3. Explain how an open door policy is a useful strategy for alleviating or eliminating sources of workplace conflict.



3C

Clarify issues in dispute

Managers and workplace relations professionals must check documentation and other information sources to clarify workplace issues in dispute.

Organisations are required to keep and maintain up-to-date records of grievance or dispute resolution processes and outcomes. Written records must include specific details relating to complaints made, investigations carried out and any resolutions or agreements reached by the parties. This documentation can be used by managers and other responsible personnel to clarify the issue in dispute and take necessary action.



Documentation

Managers can use documents to clarify workplace issues in dispute.

Documentation may include:

- written complaints or grievances lodged by employees
- records of grievance or dispute resolution processes
- records of workplace investigations
- eyewitness statements relating to workplace behaviours
- records from mediation sessions
- work health and safety audits or inspections
- written records of workplace observations
- minutes from meetings
- records of employee performance management reviews
- documented agreements.

Other information sources

Other information sources that managers could use to clarify workplace issues in dispute may include the items listed below.

Other information sources
• Employee or customer feedback • Trade union activities • Advice from employer associations • Workplace relations legislation and regulations • Fair Work Commission and/or Fair Work Ombudsman • Human rights commission • Advice from other government agencies or departments • Similar decisions made in industrial relations tribunals or courts • Advice from lawyers • External workplace relations specialists

Formal workplace investigations

In some situations, inspectors appointed by the Fair Work Ombudsman will investigate possible breaches of workplace laws. Most requests for assistance received by the Fair Work Ombudsman are resolved through voluntary processes such as mediation. The Ombudsman does investigate a small number of requests, and is more likely to investigate if it is decided that the claim is very serious, the issue is widespread or the people affected by the issue are vulnerable.

If an employee or employer disagrees with the outcome or fails to fix an error ordered by the Ombudsman, the investigation may be reviewed, or the matter disputed in court. Employees or employers may also take their own legal action by seeking independent legal advice, or using the small claims court process.

The Fair Work Ombudsman uses the following formal workplace investigation process to carry out workplace investigations.

1. Gather evidence
A Fair Work inspector gathers evidence relating to the request, such as time and wages records, employment contracts and other relevant documents.
2. Evaluation
The Fair Work inspector examines the evidence and workplace laws to make decisions about whether there is sufficient proof to substantiate a breach of a workplace relations law and, if there is, what can be done to fix the issue.
3. Outcomes
The Fair Work inspector decides on the most appropriate outcome to follow the investigation. The outcomes will depend on the available evidence, the contraventions identified (if any), the seriousness and extent of the breach and the cooperation of the people involved.
4. Action is taken
Outcomes of an investigation include no further action; a contravention letter, a letter of caution, compliance or infringement notices, enforceable undertakings, compliance partnership, referral to the small claims court or litigation.

Independent workplace investigations

Organisations dealing with allegations of inappropriate workplace behaviour or other workplace relations related issues can seek the services of expert workplace investigators to carry out independent workplace investigations.

Workplace investigators will deal with informal complaints to significant and complex formal investigations. They should be experienced to deal with complaints at the operational level right through to senior management. Workplace investigators are responsible for liaising with unions involved in representing parties to a complaint and reviewing internally conducted workplace investigations to provide advice or recommendations.

Engaging the services of an independent workplace investigator can help an organisation to ensure its internal workplace investigations are sound and will stand up to external testing. The outcomes of all investigations should be provided in a comprehensive report that includes making findings as to whether workplace grievances or complaints are substantiated.

Workplace investigations must be:

- objective – not influenced by the feelings or opinions of the person carrying out the investigation and only considering and representing the facts
- impartial – fair, just and equitable, without bias
- transparent – using a process that is capable of being monitored, controlled and managed by decision makers
- legal – carried out in compliance with relevant legislation and regulations.

Example: clarify issues in disputes

Donovan is the operations manager at a company providing roof plumbing services to corporate and government clients. Donovan is responsible for liaising with Stephen, an external workplace relations consultant engaged by the business, to draft, negotiate and implement enterprise agreements for the company's employees and contractors.

Donovan receives a complaint from a union representative on behalf of a group of apprentice plumbers, claiming that the company does not provide sufficient personal protective equipment (PPE) for workers carrying out high-risk roof plumbing activities. It is a requirement of businesses and employers who are directing work that involves risk to a person's health and safety, to provide adequate PPE to workers at the workplace, unless already provided by another entity. It is also an offence to charge a worker for their own PPE.

Donovan contacts an organisation providing independent workplace investigations to inspect the company's off- and on-site work health and safety practices and make a decision on whether the existing PPE is sufficient for the work being carried out. To support the investigation, Donovan gathers the following documentation: a written record of the workers' complaint; documented policies and procedures for work health and safety and the provision of PPE; statements provided by site supervisors on the provision of PPE; and a copy of the most recent WHS audit carried out by the company's WHS officer.



Practice task 14

Read the case study, then answer the questions that follow.

Case study

Susan is the HR manager at a large health insurance company. It is Susan's responsibility to investigate and respond to all employee complaints and grievances relating to work conditions and workplace behaviours. Susan receives a written complaint from one of her team members, Dennis, who claims that the organisation is failing to meet its obligation to provide a safe and healthy environment for its workers. Dennis claims that he has been subject to emotional manipulation by his supervisor, who has been threatening to deny requests for annual leave as a result of poor work performance or low employee productivity levels. The Christmas season is fast approaching and Dennis is feeling stressed. He has been trying to meet the demands of his workload, to ensure he can take two weeks paid annual leave to spend time with his family. As a result, Dennis is suffering from severe stress and anxiety and has a doctor's referral to see a psychologist. Dennis claims that his supervisor has no right to withhold employee entitlements owed to him according to his employment contract and the National Employment Standards.

1. What could Susan do to clarify the issue in dispute?

2. What should Susan do to organise an independent workplace investigation into the issue?

3D

Obtain expert or specialist advice and/or refer to precedents

There may be situations where managers need to obtain expert or specialist advice about workplace relations issues, complaints, grievances, conflict management, negotiation processes, legal presentations, or other matters relating to employment. Managers may also need to refer to earlier events or actions that provide examples of how similar circumstances were dealt with in the past.



Advisors

Workplace relations specialists offer a wide range of workplace relations services to assist organisations to manage their regulatory requirements and adopt best-practice employment principles. Workplace relations specialists should be carefully selected by an organisation to ensure they are suitable for the organisation's context and workplace relations requirements. Workplace relations specialists should have extensive experience in providing technical advice, as well as skills in advocacy and representation services across a broad range of industry sectors and jurisdictions.

Workplace relations specialists may be employed or contracted by private organisations, employer associations, government agencies or trade unions to provide advice or negotiate desired workplace relations outcomes on behalf of the party they represent.

Source

External workplace relations specialists can be sourced from:

- employer associations
- professional associations
- HR service directories
- an approved listed of providers used by an organisation
- advertisements
- the internet
- telephone directories
- word-of-mouth referrals
- specialist workplace relations management consultancy firms
- professional journals or publications
- seminars, conferences or networking events
- other organisations.

Services

Workplace relations specialists can support their clients in the following areas:

- Enterprise agreements
- Employment contracts
- HR policies and procedures
- Representation in industrial relations matters
- Claims of unfair dismissal, discrimination, harassment, bullying and adverse action
- Interpretation and application of workplace relations legislation, modern awards and NES
- Development and negotiation of enterprise agreements and grievance handling
- Mergers and acquisitions
- Redundancies
- Compliance audits
- Workplace investigations
- Mediation

Expert or specialist advice

An organisation might seek the expert or specialist advice of workplace relations professionals for a number of reasons.

Expert or specialist advice may include:

- interpretation of state or federal awards
- interpretation of state or federal workplace relations legislation
- checking compliance of workplace relations strategies and policies with legislative requirements
- providing information on changes to employment law
- providing information on the operation and procedures of industrial courts and tribunals
- advice and representation before industrial courts and tribunals
- unfair and unlawful dismissal risk management
- drafting enterprise agreements and contracts of employment
- developing and implementing workplace relations plans, policies and procedures
- providing due diligence investigations and reports
- managing workplace relations performance
- facilitating a mediation process
- conducting negotiations with trade unions
- monitoring health and safety practices.

Precedents

In common law legal systems, a precedent is a principle or rule established in a previous legal case, that is persuasive or binding for a court or tribunal when deciding subsequent cases with similar facts or issues.

Managers or workplace relations specialists can subscribe to online databases that provide access to materials on employment law forms and precedents, and general legal research, to assist them in making decisions about workplace relations matters.



Precedents do not necessarily have to be legal in nature to impact workplace relations decision-making in an organisation. Records of grievance or dispute resolution procedures, tribunal hearings, or mediation sessions may influence how managers or workplace relations specialists respond to similar workplace relations matters in the future.

Organisations will often consult sound policy arguments and reasons, in favour of broad or narrow approaches to resolving workplace relations conflict.

Access legal advice

There are a range of organisations and websites that managers can access to determine whether or not professional legal advice should be sought. For new users of the legal system, information sources provide advice on how to engage the services of a lawyer to take, or respond to, legal action.

The law society or institute in each state or territory is good starting point for finding a lawyer or other accredited specialist suitable to an organisation's legal issue and/or location. Using a lawyer referral service will usually entitle you to an initial inquiry with a lawyer that is free of charge. Managers can use this interview to determine with the lawyer the nature of the legal issue, discuss the available options and request an estimate of costs to proceed with the matter.



If a lawyer is requested to undertake any legal work on an employer's behalf, such as drafting agreements and contracts, managing negotiations or resolving workplace conflict, the lawyer's normal fees will apply. Managers should make sure they discuss costs before any work is completed on the organisation's behalf.

Example: obtain expert or specialist advice and/or refer to precedents

Simeon is the services manager at a community services organisation providing 15 group homes in Adelaide for people with a disability. The group homes are high quality, community-based, shared accommodation and utilise principles of person-centred active support – an approach of support that enables people with a disability to fully participate in life.

Simeon receives a complaint from one of his team members, Ralph. Ralph claims that one of his work colleagues, Claude, has been bullying him in the workplace. Ralph claims that when he goes to sit down at his desk, Claude pulls away his chair, causing Ralph to fall on the floor. Ralph finds the behaviour embarrassing and the last time Claude did this, Ralph received a bruise on his leg. Ralph has asked Claude to stop, but Claude continues doing it because he gets a laugh out of nearby witnesses.



Simeon is new to his role and does not have the required skills and knowledge to deal with the situation himself. Simeon contacts Claire, the HR manager, and asks her to advise him on the best way to handle Ralph's complaint. Claire directs Simeon to the organisation's procedures for grievance handling that promotes a consultative conflict management technique. Simeon arranges a meeting between Ralph, Claude, Claire and himself to discuss and resolve the grievance. Claire advises Ralph and Claude that they have the right to bring a representative or support person along with them to the meeting. In the hopes that the grievance resolution process is successful, Claire advises Ralph on how he can monitor Claude's behaviour in a way that is fair and equitable, to ensure his workplace behaviour is ethical and adheres to the organisation's policies and procedures.

Practice task 15

1. Identify two services that workplace relations specialists can provide to their clients.

2. What are precedents and how do they affect workplace relations decision-making?

3E

Determine desired negotiation outcomes, negotiation strategy and negotiation time frames

Negotiation is a process where two or more parties with different interests and goals discuss issues to find a mutually acceptable solution. Effective negotiations contribute significantly to business success as they help to build better relationships, deliver lasting, quality solutions, and help managers to avoid future problems and conflicts.

Negotiating requires elements of give and take. Managers should aim to create a courteous and constructive interaction that is a win-win for both parties. A successful negotiation is where a party makes concessions that mean little to them, while offering something to the other party that means a lot to them. A manager's approach to negotiation should foster goodwill, regardless of the differences in party interests.

Before entering into negotiations, managers and workplace relations professionals should determine their desired outcomes, negotiation strategy and time frames with the aim of leaving each party satisfied and ready to do business with each other again.

Negotiation strategies

Understanding the other party's interests and tactics is integral to good negotiating. Selecting a strategy that best responds to their interests and tactics will help managers and workplace relations professionals to achieve the best outcomes.

Negotiation strategies should be matched to the situation. The strategy selected will depend on who managers are negotiating with and the type of relationship they have with them. For example, identifying the level of cooperation and common interests that exist between the parties, and how each party will behave during the negotiation will also depend on what is being negotiated, and the time frame and setting in which negotiations are taking place.

Negotiation strategies

1

Problem-solving – win-win

Win-win strategies result in situations where both parties are satisfied with the settlement negotiated.

Each party commits to examining and discussing issues closely when entering into long-term agreements that warrant careful examination.

2

Contending – win-lose

Win-lose strategies result in situations in which one party is satisfied and one is dissatisfied. It focuses on the resolution of one party's issue to the exclusion of others, until one side is defeated.

It involved persuading your negotiating party to concede to your outcome if you are bargaining in one-off negotiations over major 'wins'

3

Yielding – lose-win

Lose-win strategies result in situations in which one party is dissatisfied and the other is satisfied. One party withdraws or makes a number of concessions while the other party wins.

Conceding a point that is not vital to you but is important to the other party is valuable in ongoing negotiations.

4

Compromising – lose-lose

Lose-lose strategies result in situations where the objectives of both parties are too rigid, or when both parties are unable to compromise, problem-solve, or are unaware of the opportunity to do so.

Both parties forgoing their idea outcomes, settling for an outcome that is moderately satisfying to each participant.

5

Inaction

Buying time to think about the proposal, gathering more information or deciding on next tactics.

Negotiation approaches

As well as selecting a strategy, managers and workplace relations professionals should consider how they will approach the issue being negotiated. There are three key approaches to negotiations: hard, soft and principled negotiation. Many experts consider the third option – principled – to be best practice.

Negotiation approaches are described below.

The hard approach

The hard approach involves contending by using extremely competitive bargaining techniques.

The soft approach

The soft approach involved yielding, where one party tries hard to meet the interests of the other party and forgoes their own interests.

Principled negotiation

Principled negotiation focuses on achieving a lasting, win-win outcome by separating the people from the issue, focusing on interests not positions, generating a variety of options before settling on an agreement, and basing the agreement on objective criteria.

Negotiation process

Every time managers or workplace relations professionals negotiate, they have to make choices that affect whether a successful outcome will be achieved for their organisation. To get the best outcomes, managers need to understand the steps involved in the negotiation process.

While many negotiations are straightforward, there will be some that are challenging. Success will depend on careful planning and preparation. Negotiations should always be approached with a clear set of strategies, messages and tactics that guide the manager from planning to closing.

Plan

No amount of planning or preparation is too much when approaching complex or high-risk negotiations. Plan your approach to the subject under negotiation, your tone and communication style.

In approaching the subject of negotiations:

- clearly set your objectives in your own mind, including your minimum acceptable outcome, anticipated outcome and ideal outcome
- determine what you will do if the negotiation fails
- determine your needs, the needs of the other party, and the reasons behind them
- list, rank and value your issues and then consider the concessions you might make
- analyse the other party and assess their objectives and the information they require
- research the market and consult with colleagues, supervisors and managers
- rehearse the negotiation
- write an agenda that includes discussion topics, participants, location and a schedule.

Decide on your communication style and familiarise yourself with successful negotiation strategies. Use a calm, confident tone and a set of considered responses and strategies to the tactics you anticipate the other party using.

Discuss

Your intention is to establish common ground before moving into areas of difference.

In engaging with the other party during the negotiation:

- introduce yourself and articulate the agenda
- demonstrate calm confidence
- remember your objectives and confirm the objectives and feelings of the other party
- use active listening skills to identify areas of agreement and aim to build rapport with the other party
- discuss concepts and ideas.

Propose

Specifically define the issues you wish to resolve. Link issues to the other party's objectives and focus on interests rather than positions.

Give and take by:

- proposing your first offer and listening to the proposals made by the other party (do not accept the first offer unless it satisfies your interests)
- checking your understanding of the other party's proposal
- paraphrasing the other party's suggestions to summarise the content, ideas and feelings being communicated.

Negotiate

Begin by asking for what you want, but accept that your objectives might have to be modified. Aim to collaborate with the other party in order to produce a solution that satisfies both parties.

Negotiate by:

- considering concessions, then making and seeking concessions
- suggesting alternative proposals and listening to offered suggestions
- summarise points throughout the discussion to confirm understanding
- take the time to agree on what you have negotiated so far.

Close

Take a moment to revisit your objectives for the negotiation. Once you feel you are approaching an outcome that is acceptable to you:

- look for closing signals, such as fading counter-arguments, tired body language from the other party, or negotiating positions converging
- articulate agreements and concessions already made
- make closing statements
- put agreements in writing as soon as possible
- follow up promptly on any commitments you have made.

Unsuccessful negotiations

Even with the best planning and preparation, managers may not always be able to negotiate a successful outcome. Managers should plan for what to do if negotiations fail. If time and resources are allocated to planning alternative solutions, unnecessary stress and poor business outcomes can be avoided.

Having an alternative plan in place will reduce internal pressures, minimise chances of accepting an offer that is not in the organisation's best interests, and set realistic goals and expectations.

If negotiation does not work or fails to reach an agreement that satisfies both parties, managers should explore their options under the organisation's grievance or dispute resolution procedures. Alternatively, managers could consider third-party mediation to establish a constructive environment for negotiation that requires both parties to discuss, propose and resolve issues fairly and objectively.



Example: determine desired negotiation outcomes, strategy and time frames

Rebecca is the HR manager at a large furniture and home furnishings store. It is her responsibility to negotiate pay and conditions of employment for full-time and part-time employees. Conflict has erupted in the workplace as a result of excessive workload causing stress on workers. Senior management asks Rebecca to adopt a proactive negotiation approach and develop negotiation objectives to deal with elevated work levels. Elevated work levels occur where anticipation in company planning of annual peaks in production, such as holidays, or rise in customer demand due to the release of new products, is critical. Rebecca must prepare employees for the rise in workload by offering overtime or staggering shifts to help deal with employee stress. If the workload situation is not dealt with in advance, then conflict negotiations become a matter of finding solutions to ease the extra work burden felt by employees. Additional employee breaks or bringing in part-time temporary staff may help to solve the workplace conflict.



Practice task 16

1. Explain what is meant by a 'win-win' negotiation strategy.

continued ...

... continued

2. Explain what is meant by a principled approach to negotiation.

3. Why is it important to carefully plan and prepare for negotiations?

3F

Advocate the organisation's position in negotiation

Advocacy is the process of supporting a case or proposal by speaking or acting for, or on behalf of, another. Organisational advocates are responsible for promoting an organisation's position during negotiations to obtain agreement by the other party.

Managers and workplace relations professionals are required to advocate for the organisation they work for by being persuasive on the organisation's behalf. Organisations can access advocates externally by engaging the services of workplace relations specialists employed by legal or consultancy firms.

Organisational advocates are responsible for participating in workplace relations negotiations, and representing an organisation where industrial disputes arise.



Effective advocates

An effective advocate is one who can influence a key decision-maker. Successful advocates will persuade others to support the causes they support, or interests they promote.

Effective organisational advocates require the ability to:

- determine evidence that is relevant and admissible
- prepare and plan for a hearing or meeting
- gather evidence by interviewing witnesses
- present a case using persuasive opening and closing statements
- understand, use and interpret advocacy techniques
- predict an opponent's case and rebut their arguments
- examine and re-examine information and witnesses
- ask non-leading questions
- use excellent oral communication skills
- operate within the authority, jurisdiction and legal requirements of the relevant tribunal.

Effective advocacy

For advocacy to be successful, organisational advocates must present themselves, and behave in a way that is persuasive to decision-makers. For the advocate to be successful, they must carefully plan and prepare for negotiations or hearings by developing a comprehensive understanding of the procedures and conventions of tribunal hearings, and all matters relating to industrial and workplace relations law.

Advocates must ensure they:

- are dressed in appropriate attire when appearing before a tribunal
- communicate respect by using manners and being courteous and polite at all times
- behave in an ethical manner by presenting solutions that are fair and equitable
- remain objective by carefully considering the accuracy and honesty of their argument
- be organised and prepared by presenting a case that is ordered, understandable and progresses in a logical manner
- understand the procedures and conventions of tribunal hearings
- have knowledge of industrial and workplace relations law and regulations.

Example: advocate the organisation's position in negotiation

To support your learning, you might like to read this Parliamentary Library article in which Jaan Murphy discusses how the Fair Work Commission clarifies the differences between a support person and an advocate in discussions relating to a dismissal: 'Fair Work Commission clarifies differences between a support person and advocate' which can be found at:
<http://aspirelr.link/support-person-vs-advocates>.

Practice task 17

1. What are organisational advocates responsible for?

2. Describe two abilities required by an effective organisational advocate.

3G

Document and/or certify the agreed outcomes

After a resolution or agreement has been reached, the final decisions should be recorded in writing and signed by the relevant parties. This ensures that all employees involved in the agreement, or directly impacted by it, understand their responsibilities and obligations for compliance. All relevant employees should be provided with a copy of a documented agreement.

Sometimes negotiation or dispute resolution processes will lead to the development of certified agreements or result in changes to existing certified agreements. These are collective employment agreements that specify the pay and conditions of employment for a group of employees. Certified agreements are legally binding and can cover a single workplace or be made to cover a group of associated employers working in a specific industry or occupation.

Certified agreements may be negotiated between an employer and their employees, or the employer and trade unions representing the interests of its members to be covered by the agreement. Certified agreements will apply to employees commencing work after the agreement is made.



Agreement approval

Once negotiations and collective bargaining are complete and a draft agreement has been documented, certain steps must be taken to make sure the agreement is valid.

Pre-approval steps to be taken by employers

The employer must make sure that the terms of the agreement, and the effect of those terms, are explained to employees. Explanations must be provided in an appropriate manner using language that is appropriate for individual or cultural differences.

Employees must endorse the agreement by voting for it.

The agreement is made when:

- single-enterprise agreement – a majority of the employees of the employer, or each employer, who cast a valid vote endorses the agreement
- multi-enterprise agreement – a majority of the employees of at least one of the employers who cast a valid vote endorses the agreement
- Greenfields agreements – it has been signed by each employer and each relevant employee organisation that the agreement covers.

Agreements should not include any unlawful content.

Apply to the FWC for approval

Once an agreement is made, a bargaining representative for the agreement must apply to the FWC for approval of the agreement using specific forms that can be found on the FWC website, and within specific time frames set by the FWC.

The application must be accompanied by a signed copy of the agreement, and any declarations required by the FWC rules or regulations.

Applications can be lodged by email, fax, express post, in person or electronically.

What the FWC considers

To approve an agreement, the FWC must be satisfied that:

- the agreement has been genuinely made
- the agreement passes the better off overall test (BOOT) making sure that employees are better off than they would have been otherwise
- the agreement does not include any unlawful terms
- the group of employees covered by the agreement was fairly chosen
- the agreement specifies a nominal expiry date
- the agreement provides a dispute resolution procedure
- the agreement includes a flexibility clause and a consultation clause.

Approval with undertakings

The FWC may approve an agreement that does not meet the requirements in the *Fair Work Act 2009* (Cth) if it is satisfied that a written undertaking meets the concern.

The FWC will only accept a written undertaking from an employer after seeking the views of each bargaining representative and, if satisfied that the impact of accepting the undertaking is not likely to cause financial detriment to any employee, or result in substantial changes to the agreement.

Source: Fair Work Commission, www.fwc.gov.au/awards-and-agreements/agreements/approval-process

Example: document and/or certify the agreed outcomes

The Fair Work Commission website provides a useful tool for finding federal agreements lodged with the FWC, Fair Work Australia, the Australian Industrial Relations Commission and the Workplace Authority.

To support your learning, visit the FWC website at: <http://aspirelr.link/awards-and-agreements>, and search for approved enterprise agreements or enterprise agreement decisions relevant to your workplace or industry, and in your relevant jurisdiction.

Practice task 18

1. What is a certified agreement?

2. Describe two requirements the Fair Work Commission must be satisfied of to approve an agreement.

3H Implement agreements

After negotiation and dispute resolution processes have taken place, workplace relations agreements will be made and implemented within an organisation. For example, an employment contract might be varied by agreement to increase pay, reduce work hours or make changes to working conditions.

Under the *Fair Work Act 2009* (Cth), agreements continue to operate after their nominal expiry date until they are replaced or terminated by application to the FWC. Agreements made under previous legislation continue to have effect as agreement-based transitional instruments.



Implement workplace relations agreements

Managers and workplace relations professionals can use a number of tools to implement agreements in the workplace. The tools selected should be communicated to all employees responsible. Training should be provided if new systems, procedures or plans are being used. These are described below.

Procedures

Procedures should outline an established process for implementing changes to modern awards, enterprise agreements or employment contracts in the workplace.

Workplace relations implementation plan

Agreements can be executed by inclusion in an organisation's workplace relations implementation plan. This allows managers and workplace relations professionals to identify how the changes impact workplace relations strategies and policies and contribute to the achievement of workplace relations objectives.

Action plans

An action plan could be used to identify the steps required by an organisation to implement a workplace relations agreement. To develop an action plan, managers and workplace relations professionals should break down a larger task into a series of smaller, manageable activities. Action plans should also identify the person/s responsible for each activity, a time frame for completion, and the resources required for carrying out each task. Action plans should be regularly monitored and evaluated to ensure implementation processes are achieving desired outcomes and meeting legislative requirements.

Schedules

Schedules may be used by managers and workplace relations professionals to determine how much time they have to implement workplace relations agreements and record the activities that need to be carried out. Tasks are prioritised and sequenced in a logical order for completion.

Flow charts

A flow chart is a useful tool for visually demonstrating how workplace relations agreements should be implemented in the workplace. Each step in the implementation process is summarised into boxes or circles and linked with arrows to identify the order in which tasks should be completed. There are a number of computer applications and programs that managers and workplace relations professionals can use to develop flow charts.

Example: implement agreements

This example illustrates an action plan used to implement an agreement relating to workplace diversity.

Plan title	Workplace diversity action plan
Aim:	To create a workplace that encourages and supports equity and fairness and eliminates all forms of discrimination, harassment and bullying.
Objectives:	The objective of this agreement is to integrate workplace diversity principles into the performance management process.
Legal environment:	• <i>Sex Discrimination Act 1984 (Cth)</i> • <i>Disability Discrimination and Other Human Rights Legislation Amendment Act 2009 (Cth)</i> • <i>Age Discrimination Act 2004 (Cth)</i> • <i>Human Rights and Equal Opportunity Commission Act 1986 (Cth)</i> • <i>Work Health and Safety Act 2011 (Cth)</i> • <i>Fair Work Act 2009 (Cth)</i>
Manager:	John Smith

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Action plan			
Action	Person responsible	Milestone date	Resources required
Adjust performance management processes to include workplace diversity principles.	John	30 June	Nil
Document new process.	John	3 July	Nil
Seek process approval from senior management.	John	6 July	Nil
Publish new process on company intranet.	Cameron	7 July	Nil
Negotiate variations to enterprise agreements to adjust performance management terms and conditions.	John and line managers	10 July – 10 August	TBA
Conduct training on new performance management process at an off-site facility.	John	15 August	\$1,200
Review process implementation.	John	15 December	Nil
Report to senior management.	John	20 December	Nil

Practice task 19

1. How are action plans used to implement workplace relations agreements?

2. Under the *Fair Work Act 2009*, how long do agreements operate for?

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Take remedial action if the agreement is not followed

A remedy is the end result of the dispute resolution process at the Fair Work Commission. The remedies available to the Commission when dealing with applications are determined by the *Fair Work Act 2009* (Cth).

There are a number of legal remedies available to employers and employees when agreements, awards, legislative obligations or contracts are breached. Remedial action may also be taken when there is a breakdown in negotiations about agreements or other propositions relating to workplace relations matters.



For example, an enterprise agreement may be breached when an employer fails to provide employees with individual flexible working arrangements. As a result, the affected employees have the right to bring an action against the employer for breach of agreement.

Where an employer breaches an agreement, award or contract, it may lead to the employer being fined. As well as imposing pecuniary penalties, a court can grant injunctions to prevent, stop or remedy the effects of a breach of agreement. If further breaches occur, the FWC might arbitrate the employer's enterprise agreement.

Workplace relations tribunal hearings

The FWC works with parties to resolve workplace issues by offering dispute resolution services, information about workplace laws, and tools to help employers and employees follow the laws.

The parties to a dispute may seek assistance through the Fair Work Commission (workplace relations tribunal), which acts as conciliators, mediators or arbitrators to resolve disputes and assist the parties to overcome breakdowns in negotiations.

Mediation

Mediation is a fast, confidential and free way to help employees and employers find solutions to disputes about workplace issues. An experienced mediator appointed by the FWC will work with both parties to come to an agreement to resolve the dispute during a scheduled telephone conference call. Mediation is a voluntary process. If either party does not agree to attend mediation, the parties will be advised of alternative options. This is usually a referral to take legal action in the small claims court.

Conciliation

In conciliation, each party can negotiate in an informal manner and explore the possibility of reaching an agreed settlement. Any outcome is possible provided both parties agree to it. In a hearing, the outcomes are limited and strictly controlled by law. The parties are under no obligation to reach a settlement during conciliation if they don't want to. It is the right of the parties to maintain their position and proceed to a hearing.

Arbitration

An arbitration hearing is a proceeding before the workplace relations tribunal (FWC) that allows the parties to present their evidence and submissions in relation to a matter. Hearings are more formal than conferences and are generally on the record. Where a term in an award, an enterprise agreement or a contract of employment or other written agreement refers a dispute to an independent person, the person may, where agreed to by the parties, deal with the dispute via arbitration and make a binding decision about the dispute.

Remedies for unfair dismissal

Remedies are determined by the *Fair Work Act 2009* (Cth). There are various remedies available to the workplace relations tribunal when dealing with disputes. The remedies for claims of unfair dismissal can be reinstatement and compensation.

For parties who opt to participate in conciliation, the settlements may include reinstatement, monetary settlements, a statement of service, payment of owed entitlements, an apology and/or a non-disparagement agreement where neither party can spread negative opinions about the other.

If disputes are not resolved at conciliation, the case will proceed to a conference or workplace relations tribunal hearing. If the FWC member hearing the case considers all these facts and is satisfied that the individual was unfairly dismissed, they may order reinstatement with the continuity of service and lost remuneration, or where reinstatement is inappropriate, the payment of compensation for lost wages.

In hearing the application, the Commission member must take into account:

- whether or not there was a valid reason for the dismissal relating to the individual's capacity or conduct
- whether or not the individual was notified of that reason
- whether or not the individual was given an opportunity to respond to that reason
- any unreasonable refusal by the employer to allow the individual a support person present to assist at any discussion relating to the dismissal
- if the dismissal related to unsatisfactory performance, whether or not the individual was warned before being dismissed
- the degree to which the size of the employer's organisation would be likely to affect the procedures followed for dismissal

- the degree to which the absence of dedicated HR management or expertise affected the procedures
- any other matters that the FWC considers relevant.

Source: Fair Work Commission, www.fwc.gov.au/at-the-commission/remedies

Practice task 20

Read the case study, then answer the questions that follow.

Case study

Rita is the owner of a small electrician business that has secured a number of lucrative contracts with commercial clients in Melbourne's CBD. The company's employees consist of four full-time electricians, who work under a staggered hours scheme so that the business can operate between 6.00 am and 6.00 pm Monday to Friday. One of Rita's clients contacts her to discuss the service provided by one of her employees, Martin. The client tells Rita that he has called Martin a number of times to carry out electrician services to the building before workers start arriving at 8:30 am. On three occasions, Martin has promised to arrive by 7.00 am to complete the job, but hasn't turned up until after 9.00 am. When asked why he didn't arrive earlier, Martin apologises and says he accidentally slept in.

Rita is flat out managing the demanding requests of her clients and the busy work schedule. She is sick of Martin making excuses and not showing up when he is required. Rita phones Martin on his mobile and tells him not to show up for work the next day, without providing him with a reason. Martin asks if she is firing him and she says yes. A week later, Rita receives a notice from the Fair Work Commission in Melbourne, requesting her appearance at a conciliation process to respond to an application lodged by Martin, for unfair dismissal.

1. Do you think the Fair Work Commission will find that Martin has been unfairly dismissed? Why or why not?

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2. What remedies could Martin seek if his application for unfair dismissal is successful?

Summary

1. Generating solutions by examining different points of view and facilitating the objective and rational exchange of information and opinions enables organisations to eliminate sources of workplace conflict, clarify existing workplace relations issues and determine desired negotiation outcomes that benefit both parties of the disagreement.
2. All employees, workplace relations professionals and managers should be trained in conflict management techniques and procedures to resolve problems early and avoid major disruptions to business.
3. Workplace relations professionals must provide or obtain specialist advice to ensure agreed outcomes are documented, implemented and acted upon efficiently.
4. Effective negotiations contribute significantly to business success as they help to build better relationships, deliver lasting, quality solutions and help managers to avoid future problems and conflicts.
5. Advocacy is the process of supporting a case or proposal by speaking or acting for or on behalf of another. Organisational advocates are responsible for promoting an organisation's position during negotiations to obtain agreement by the other party.
6. Certified agreements are legally binding and can cover a single workplace or be made to cover a group of associated employers working in a specific industry or occupation.
7. After negotiation and dispute resolution processes have taken place, workplace relations agreements will be made and implemented within an organisation.
8. Remedies are determined by the *Fair Work Act 2009* (Cth). There are various remedies available to the workplace relations tribunal when dealing with disputes, such as reinstatement and compensation.

Learning checkpoint 3 Manage negotiations to resolve conflict

This learning checkpoint allows you to review your skills and knowledge in managing negotiations to resolve conflict.

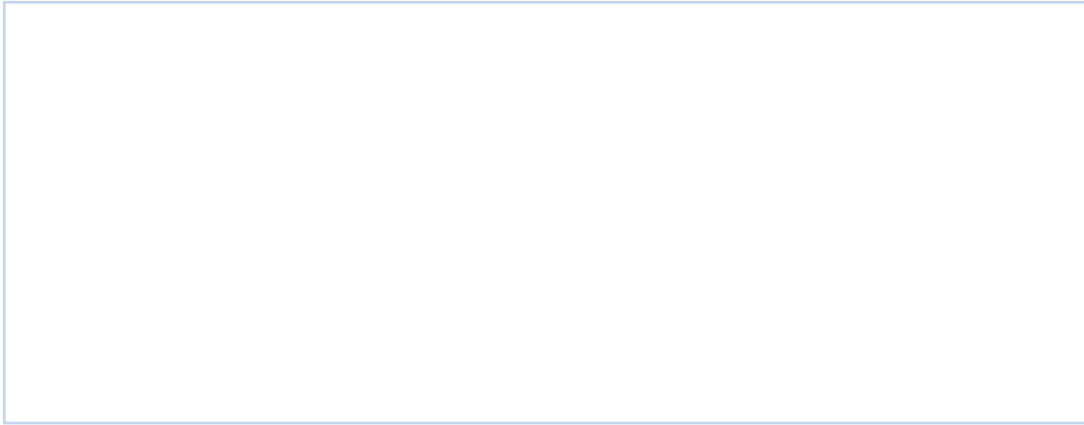
Part A

1. Describe the benefits of conflict management training.

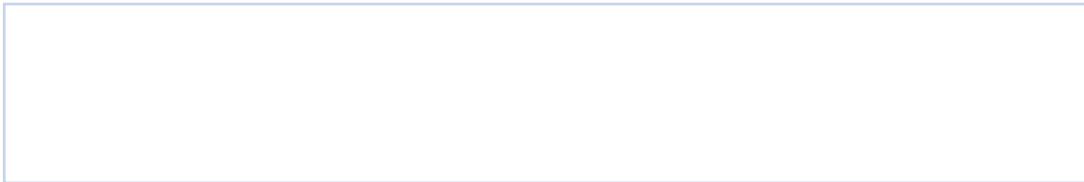
2. Identify and describe two strategies for alleviating or eliminating sources of workplace conflict.

3. What types of documentation could managers check to clarify workplace issues in dispute?

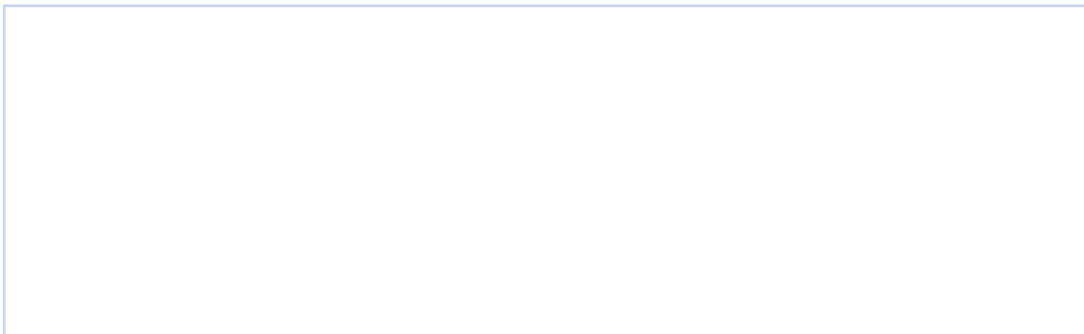
4. What types of advice could be sought from workplace relations experts or specialists?



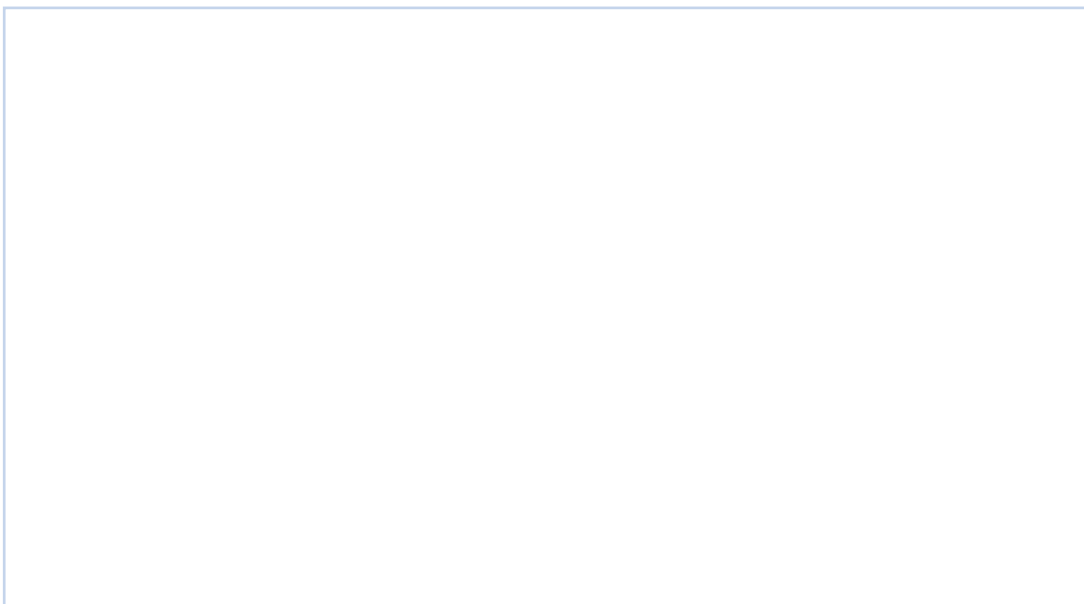
5. Identify two characteristics of effective organisational advocates.



6. Explain why agreed workplace relations outcomes must be documented.



7. Identify and describe the strategies for implementing workplace relations agreements.



8. What is a remedy and how is one determined in workplace relations matters?

Part B

Read the case study, then answer the questions that follow.

Case study

Hannah is the workplace relations manager at a large dairy farm company in rural New South Wales. Hannah is responsible for negotiating, documenting and maintaining the relevant awards, enterprise agreements and employment contracts that apply to workers employed by the company. Senior management advise Hannah that the company has been contacted by the NSW Dairy Farm Workers Union (NDFWU) to negotiate terms for increased wages. The company's existing enterprise agreements pay worker's wages that are equivalent to the pay rate in the relevant award. The NDFWU has requested a minimum wage increase of \$20 per week for its members. Hannah begins preparing for the first negotiation meeting, which will take place in one week's time. Senior management has advised Hannah that there are limited financial resources available to increase wages and that she should negotiate for a lesser weekly increase of \$10.

1. What outcomes might Hannah hope to achieve as a result of the negotiation process?

2. What negotiation strategy could Hannah use to achieve her desired outcomes?

3. What negotiation approach should Hannah adopt in order to achieve her desired outcomes?

4. What action could Hannah take if negotiations are unsuccessful?