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**TERMINATION AND DISCIPLINE
PROCEDURES**

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&

DISPUTES PROCEDURES

Ray Dempsey

&

WORK EVALUATION

John Crittall

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**SPEECHES PRESENTED
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TERMINATION AND DISCIPLINE PROCEDURES

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A. TERMINATION OF EMPLOYMENT

This first part of the paper will deal with the general principles applicable to the termination of employment at the instigation of an employer. The second part focuses on disciplinary procedures, with particular reference to non-profit organisations.

Termination of employment may expose the employer to liability if it is either:-

- * **wrongful** at common law; or
- * **unfair** (or **unlawful**) pursuant to either the state or federal industrial relations legislation.

The fundamental distinction between the two lies in the fact that '**wrongful dismissal**' (ie wrongful termination at common law) is based in the employer's breach of a contractual condition (whether express or implied) that the contract will only be terminated by the giving of reasonable notice. As a result the maximum damages award payable on a wrongful dismissal claim is calculated by reference to the wages and benefits payable during the notice period. '**Unfair dismissal**', on the other hand, means a dismissal in breach of the terms of the workplace relations legislation and the remedy available to the dismissed employee will be that which is prescribed under the legislation. At present both the Federal and Queensland acts provide for reinstatement as the primary remedy or monetary compensation as an alternate remedy where reinstatement is shown to be inappropriate.

A claim for damages for wrongful dismissal is pursued in the civil courts and a claim for reinstatement or compensation following an unfair dismissal is pursued before either the Australian Industrial Relations Commission, the Federal Court or the Queensland Industrial Relations Commission.

The only time limitation on a claim for wrongful dismissal is the statutory limitation on contractual actions, ie six years. On the other hand both state and federal unfair dismissal claims must be commenced within 21 days after the employee's dismissal.

1. WRONGFUL DISMISSAL

Wrongful Dismissal means a dismissal which occurs in breach of the terms of an employment contract.

Put simply, the measure of damages for wrongful dismissal is the amount that the employee would have earned had the dismissal occurred according to the provisions of the contract.

The starting point in quantifying any claim is therefore to determine the amount the employee would have earned had the employment continued according to the contract. If the contract was for a fixed term, for example 2 years, then the employee would be entitled to his/her salary for the balance of the term.

Where the contract is terminable on notice the employee will be entitled to the salary he or she would have earned during the notice period.

Where the contract does not specify a particular period of notice or where the Court is not satisfied that the specified period is appropriate, the Court will determine what period of notice would be reasonable in the circumstances.

In assessing reasonable notice, only two things are certain. One - the assessment is to be made on the basis of the facts at the time at which the notice is given, not at the time at which the contract is made. Two - decided cases are of little real guidance as the Courts have stressed that each case must necessarily depend upon its own facts. Nevertheless, factors which the Court will take into account include:-

- * The high grade of appointment
- * The importance of the position
- * The size of the salary
- * The nature of the employment
- * The length of service of the employee
- * The professional standing of the employee
- * The employee's age
- * The employee's qualifications and experience
- * The employee's prospective pension or other rights
- * The employee's prospects of gaining alternative employment

Clearly such a list is of limited assistance although to quote one leading text:-

"Obviously, if one has an "important" or "high grade" appointment carrying a large salary and occupied by a long serving employee with but a few years to serve until retirement, a generous period of notice will be required, perhaps 9 or 12 months,

even more in occasional cases".

Having said that, the longest period, ordered by the Queensland Supreme Court to date is 6 months.

The law relating to damages for pecuniary loss (other than loss of basic earnings) in cases of wrongful dismissal is not well developed as such cases are almost invariably settled. However, it does appear that employees are not entitled to be compensated for loss of fringe benefits unless these form part of the employee's conditions of employment.

A dismissed employee will however be entitled to compensation for loss of contractual benefits including, for example, loss of a company car and loss of superannuation. The damages recoverable in respect of loss of superannuation benefits is limited to the difference between the employee's actual payout and the payout which he/she would otherwise have received had the appropriate notice been given.

As is the case in any damages claim a dismissed employee is under a duty to mitigate his/her loss by seeking suitable alternative employment. However an employee is only obliged to accept a job reasonably comparable in terms of responsibility and reward with that from which he or she has been dismissed.

A discount is also usually allowed for the fact that a settlement sum is received in a lump sum rather than over a period. This discount for accelerated receipt is a matter for negotiation but a deduction of 7% is not unusual.

[Post Script - Recent English authorities suggest that a wrongfully dismissed employee may be entitled to damages for non-pecuniary losses such as injury to reputation. These cases represent a dramatic reversal of the common law. It remains to be seen whether they will be followed in Australia.]

2. UNFAIR OR UNLAWFUL DISMISSAL

2.1 Jurisdiction

Commonwealth and Queensland legislation makes termination of employment at the instigation of an employer open to scrutiny by an industrial relations commission in certain circumstances. The relevant Queensland Act is the Workplace Relations Act 1997 which we will refer to as the Queensland Act. The relevant Commonwealth Act is the Workplace Relations Act 1996 which we will refer to as the Federal Act.

Generally speaking the provisions of the Queensland Act dealing with termination of employment mirror the provisions in the Federal Act. As a result, this paper will only refer to specific state or federal legislation where it is necessary to highlight a discrepancy between the two.

The Federal Act applies to federal award employees and to Commonwealth public sector employees. The Queensland Act applies to all other employees in Queensland subject to the various exemptions referred to below.

Under the legislation a dismissal may be reviewed by the relevant industrial relations commission if it is either unfair (ie. harsh, unjust or unreasonable) or unlawful (ie. based on a particular proscribed reason).

2.2 Exemptions

2.2.1 General Exemptions

Both State and Federal Acts exclude the following employees from claiming either unfair or unlawful dismissal:

- (a) casual employees provided they are not long term casual employees (a long term casual employee is defined as a casual employee who has been engaged on a regular and systematic basis for a period of at least 1 year);
- (b) an employee engaged for a specific period or task;
- (c) an employee serving a probation period provided:
 - (i) the period was determined before the employment commenced; and
 - (ii) the period is for 3 months or less, or is for a longer period that is reasonable having regard to the nature and circumstances of the employment;
- (d) the employee is not an award employee and the employee's annual remuneration immediately before the dismissal is more than \$64,000.00 (Qld) or \$66,100.00 (Commonwealth).

2.2.2 Small Business Exemption

In addition to the above exclusions, small business employers in Queensland are excluded from the unfair dismissal provisions (but not unlawful dismissal). The exclusion operates in the following way:

- the employer must have employed no more than 15 employees* at the time of the dismissal; and
- the dismissed employee must have commenced employment after 1 July 1997; and
- the dismissed employee must have been employed for less than 1 year.

*In calculating the number of employees of the business, the Commission will include any casual employees employed on a regular and systematic basis.

2.3 Unfair Dismissal

A dismissal is unfair if it is harsh, unjust or unreasonable.

In deciding whether a dismissal is harsh, unjust or unreasonable, the Commission must consider:

- (a) whether the employee was notified of the reason for dismissal; and
- (b) whether the dismissal related to:
 - (i) the operational requirements of the employer's undertaking, establishment or service; or

- (ii) the employee's conduct, capacity or performance.
- (c) if the dismissal relates to the employee's conduct, capacity or performance:
 - (i) whether the employee had been warned about the conduct, capacity or performance; or
 - (ii) whether the employee was given an opportunity to respond to the allegation about the conduct, capacity or performance; and
- (d) any other matters the Commission considers relevant.

The onus is on the employee to prove the dismissal was harsh, unjust or unreasonable.

Unlike the previous unfair dismissal laws, the above matters are not absolute requirements. Rather, the legislation is based on a premise of "a fair go all round". The new approach to procedural fairness is underscored in the explanatory memorandum to the Federal Act as follows:

"Affording employees procedural fairness in relation to a termination will be relevant in establishing whether or not a termination is harsh, unjust or unreasonable. However, as procedural fairness is to be only 1 factor to be considered along with other relevant factors, the intention is that undue weight will not be given to procedural defects in a termination"

2.4 Unlawful Dismissal

A dismissal is unlawful if it is for any of the following "invalid reasons":

- (a) Temporary absence from work because of illness or injury.

[An absence from work because of illness or injury is temporary if:

- (i) the employee gives the employer a medical certificate within 24 hours after the start of the absence or such longer period as is reasonable in the circumstances; or
- (ii) the employee complies with any relevant award or industrial agreement regarding notifying the employer of an absence from work and substantiating the reason for the absence. However, an absence from work because of illness or injury is not temporary if it extends for more than 3 months (or for a total of 3 months within a 1 year period) unless the employee is on paid sick leave for the duration of the absence or absences.]

Note: This section does not apply to injuries for which workers' compensation is payable. It is an offence to dismiss an employee on workers' compensation within 3 months after the commencement of the absence.

- (b) Seeking office as, or acting or having acted in the capacity of an employees' representative;
- (c) Membership of a union or participation in union activities;
- (d) Non-membership of a union;
- (e) Whistleblowing;

- (f) Refusing to negotiate for, make, sign, extend, amend or terminate a QWA or an AWA;
- (g) Family responsibilities;
- (h) Absence from work during parental leave;
- (i) The fact that the employee refuses to comply with a direction from the employer regarding the way in which the employee's wages are to be spent;
- (j) Discrimination that would contravene the Anti-Discrimination Act 1991.

The onus is on the employer to prove the dismissal was not for an invalid reason.

2.5 Remedies and Sanctions

2.5.1 Reinstatement

If the Industrial Relations Commission is satisfied an employer unfairly or unlawfully dismissed an employee it may order:

- (a) the employee be reinstated, on conditions at least as favourable as the conditions on which the employee was employed immediately before dismissal.

If the Commission orders the employee be reinstated, it may also:

- (a) make an order it considers necessary to maintain the continuity of the employee's employment; and
- (b) order the employer to pay the employee the remuneration lost by the employee because of the dismissal after taking into account any employment benefits or wages received by the employee since the dismissal.

2.5.2 Compensation

If the Commission considers reinstatement would be inappropriate then the Commission may order the employer to pay the employee an amount of compensation which must be not more than the remuneration the employer would have been liable to pay the employee for the 6 months immediately after the dismissal, paid at the rate the employee received immediately before the dismissal.

2.5.3 Penalty

In the case of an unlawful dismissal for an invalid reason the Commission may order the employer to pay the employee an amount of not more than \$10,125.00 in addition to any compensation or reinstatement order.

2.5.4 Relevant circumstances

The Commission must not make an order for compensation or reinstatement unless, considering all the circumstances of the matter, it is satisfied the remedy ordered is appropriate. Such relevant circumstances are specifically expressed to include:

- a. the viability of the employer's undertaking, establishment or service; and
- b. the length of the employee's employment with the employer.

2.6 Costs

The industrial commission may order a party to pay costs incurred by another party if satisfied the party:

- (a) made the application frivolously, vexatiously, or without reasonable cause; or
- (b) caused costs to be incurred by the other party because of an unreasonable act or omission connected with the conduct of the application.

In recent years, the Queensland Industrial Relations Commission has increasingly demonstrated that it is prepared to make cost orders against parties who unreasonably refuse to settle matters before they proceed for formal hearing.

3. NOTICE OF DISMISSAL

3.1 Notice or payment in lieu

An employer may dismiss an employee only if the employee has been given the requisite period of notice or payment in lieu.

The minimum period of notice prescribed by the legislation is:

- (a) if the employee's continuous service is:

(i) not more than 1 year	1 week
(ii) more than 1 year but not more than 3 years	2 weeks
(iii) more than 3 years but not more than 5 years	3 weeks
(iv) more than 5 years	4 weeks
- (b) increased by 1 week if the employee:
 - (i) is over 45 years old;
 - (ii) has completed at least 2 years of continuous service with the employer.

Note: The above scale is only a statutory minimum. Employers should also consider (and comply with) any relevant award or employment contract which provides for a longer period of notice.

3.2 Serious misconduct

An employer may only summarily dismiss an employee if the employee engages in misconduct of a type that would make it unreasonable to require the employer to continue the employment during the notice period. Such misconduct is expressly defined to include:

- (a) theft;
- (b) assault;
- (c) fraud;

- (d) the employee being intoxicated at work;
- (e) conduct by the employee that causes imminent and serious risk to:
 - (i) a person's health or safety; or
 - (ii) the reputation, viability or profitability of the employer's business;
- (f) wilful or deliberate behaviour by the employee that is inconsistent with the continuation of the employment contract;
- (g) the employee refusing to carry out a lawful and reasonable instruction that is consistent with the employment contract.

B. DISCIPLINE PROCEDURES

1. Valid Reason

Clearly misconduct may constitute a valid reason for dismissing an employee. However, there are many different types of misconduct and many different circumstances in which misconduct may occur. As a result, there have been many cases where employees have been found to have been unfairly dismissed notwithstanding the fact that they did exhibit some form of unacceptable behaviour or conduct.

Before thinking about dismissing an employee for misconduct a diligent employer would give careful consideration to all of the relevant circumstances including:

- the seriousness of the conduct (some assistance may be gleaned from the definition of misconduct referred to in the legislation which is outlined in paragraph 3.2 above);
- the employee's length of service and previous service record;
- whether the employee was aware that their conduct was unacceptable;
- whether the conduct took place during work hours or after hours;
- whether the employee was solely responsible for the conduct and, if not, whether all other participants are being treated in the same way as the employee being dismissed;
- whether the employer or any senior person within the employer's organisation has ever condoned or participated in similar conduct;
- the existence of any extenuating circumstances, for example, problems at home or harassment by fellow employees;
- whether the employee has demonstrated a willingness to improve his/her conduct.

The above list is not exhaustive. Neither should any single matter be considered as more important than any other. Often an assessment of the appropriateness of a dismissal based on misconduct will involve consideration of a number of these factors. As a result, it may be that a particular act of misconduct might justify dismissal in one case but not another.

2. Procedural Fairness

Even if the employer does have a valid reason for dismissing an employee, the dismissal may still be deemed unfair if the dismissal is carried out in a way that is harsh, unjust or unreasonable.

Section 220 of the Queensland Act sets out certain matters which must be considered by the Industrial Relations Commission in deciding whether a dismissal was harsh, unjust or unreasonable. In particular, that section provides that in relation to a dismissal based on the employee's conduct, the Commission should consider:

- (h) whether the employee had been warned about the conduct, capacity or performance; or
- (i) whether the employee was given an opportunity to respond to the allegation about the conduct, capacity or performance.

A similar list is to be found in section 170 CG(3) of the Federal Act.

These sections no longer constitute an absolute code of conduct required of an employer. Nevertheless, they are generally recognised as minimum standards of fair procedure and a failure to comply with them will usually result in the dismissal being deemed unfair.

Furthermore, the list of factors in section 220 and section 170 CG is not exhaustive. Having regard to relevant decisions of both State and Federal Commissions, we recommend the following list of "must do's" for employers seeking to dismiss an employee on the grounds of misconduct:

- publish important rules/policies to all employees in language they can understand and be able to prove that you have done so;
- counsel recalcitrant employees and be able to prove you have done so;
- unless the misconduct amounts to gross misconduct, provide the employee with a final written warning which makes it clear that further breaches will result in termination of their employment;
- no matter how serious the conduct, always provide the employee with an opportunity to respond to the allegations before proceeding to dismiss;
- ensure that you are able to prove that the employee was provided with an opportunity to respond to the allegations (e.g. put the allegations in writing or enlist the aid of an independent witness or a recording device);
- unless the conduct constitutes serious misconduct, ensure that the employee receives appropriate notice of termination or payment in lieu.

3. Special Issues for Non-Profit Organisations

Our experience acting for non-profit organisations has taught us that in addition to the matters referred to above, the following matters often cause particular trouble for non-profit organisations:

- demarcation of roles and responsibilities between staff and management committee;
- bad (or non-existent) communication between staff and management committee;
- divisions within management committee which may be exploited by staff members;
- management committee refusing to deal with hard issues, e.g. performance counselling, until the last minute.

CASE STUDY NUMBER ONE**Alan LeGale -v- Gold Coast Institute of TAFF****Relevant Facts**

- Applicant charged with "wilful and obscene exposure" at Byron Bay.
- Applicant chose to plead guilty to the charge and so did not present his case to the Magistrate.
- Incorrect newspaper report of the circumstances.
- Applicant bathing in a semi-nude state on a recognised nude bathing beach with wife.
- Applicant has a penile implant which causes some spontaneous enlargement of the penis.
- Employer chose to rely on evidence presented before the Magistrate rather than applicant's explanation.

Relevant Issues***Valid reason***

1. The Commissioner held that nude bathing with a spouse on a commonly recognised nude bathing beach did not constitute misconduct such as to warrant dismissal.
2. If the facts had been as misrepresented in the newspaper report (i.e. that Mr LeGale was a sexual pervert who jumped out of the bushes to expose himself to females) then the applicant's actions would not satisfy a standard of behaviour generally expected of teachers and the dismissal would have been upheld.
3. The Commissioner did not accept the recorded conviction as sufficient evidence of an offence which would justify dismissal. Rather, he examined wider material which was subsequently made available to determine for himself whether the actions on the days involved were such as to warrant dismissal.

Fair procedure

4. The applicant was interviewed by the Acting Director for the Institute who happened to be a woman. He was embarrassed about the circumstances and requested a male staff member to investigate the matter. This request was denied.

CASE STUDY NUMBER TWO

Gaye Phillips -v- North Caloundra Surf Rescue Supporter's Club Inc.

Relevant Facts

- The applicant was employed as an administrator of the North Caloundra Surf Life Saving Club.
- After approximately 3 years of service, the applicant took maternity leave.
- Just before she was due to return from maternity leave the applicant was dismissed on the grounds that the club had restructured and the position she had previously occupied no longer existed.
- During the hearing representatives of the club conceded that they were not satisfied with the applicant's performance and that they "needed a greater degree of professional person running the show" (SIC).

Relevant Issues

Authority to dismiss

1. The applicant was interviewed by the club's president, secretary and treasurer. The club tried to argue that these three gentlemen were not authorised to dismiss the applicant. The Commissioner had no difficulty finding that the president, secretary and treasurer were purporting to act on behalf of the club and that, in the circumstances, their actions were effective to terminate her employment.

Valid reason

2. The Commissioner held that even though the respondent's view of the applicant's performance was not the sole or dominate reason for her dismissal, the respondent was still obliged to allow the applicant a reasonable opportunity to defend against the allegations. He had not done so.

Fair procedure

3. There are two reasons for giving an employee an opportunity to respond to the allegations. The first is to give the opportunity to demonstrate that allegations have no foundation in fact. A second purpose is that an employee with whom an allegation has been raised may be able to persuade the employer that, while the allegation is of substance, there are factors that should persuade the employer, not to terminate the employment. There may be extenuating personal circumstances or there may be undertakings given about future conduct.
4. The dismissal was also harsh, unjust or unreasonable because, on the evidence, the respondents had decided in July that the applicant would not be able to return to her previous position but it made no effort to notify her of that fact until she returned to work in October. The applicant was thereby denied an opportunity to seek alternative employment. She was also caused to wean her baby in circumstances in which she may not have otherwise have done so.

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DISPUTES PROCEDURES

Ray Dempsey

Given that the thrust of Industrial Relations policy is to shift from the macro to the micro level there is a very real need for every employer to have in place a dispute or grievance procedure that is understood by everyone from the most senior to the junior at the workplace.

Community and nonprofit organisations are no exception.

There are good reasons why community and nonprofit organisations need these procedures.

There is no intention to offend however many organisations of this nature are lacking in the skills that are essential for employees to be effective, efficient and have a knowledge of employment law.

Disputes of Grievance procedures are a series of steps.

DISPUTES PROCEDURE

- X Employees to immediate supervisor;
- X Employee and helper to senior management;
- X Employee and union, legal or other assistance to more senior management;
- X Involvement of Industrial Commission

WHY HAVE DISPUTES OF GRIEVANCE PROCEDURE?

- X Improves employer, employee relations;
- X Encourages meaningful dialogue;
- X Resolves differences;
- X Has potential to improve productivity.

When an employee has a complaint or grievance it is essential that they feel they can make the complaint free from recriminations.

If an employee has a complaint and does not have an avenue for the matter being dealt with they simply bottle up a bad feeling to an extent where they might bitterly resent the employer and become unproductive or destructive.

These procedures should be used to improve employer/employee relations, by encouraging meaningful dialogue you have the opportunity to resolve differences and at the same time working towards an atmosphere where productivity will be improved.

USE OF GRIEVANCE PROCEDURE

- X Mainly used by employees;
- X Why don't employers use:
 1. Employers think its only employees who complain;
 2. In nonprofit and charitable organisations employees need to use grievance procedures more than employees;
 3. NPOC employers are caring but hard;
 4. They don't believe normal employment law and rules apply.

BUT THEY DO

As the law applies to you as much as anyone there is a need to protect the hard earned dollars to be used for the purpose of which they were granted or donated.

A grievance or disputes procedure should be used to PREVENT disputes because once the dispute moves into an area that is beyond your control and influence it can be extremely costly.

Remember: PREVENTION IS BETTER THAN CURE

WORK EVALUATION

John Crittall

WORK EVALUATION

- This person is depriving a village somewhere of its idiot
- This person is as deep as a car park puddle
- This person is as thick as the sole of their shoe with an IQ matching its size

There are many misconceptions concerning the use and abuse of work appraisals systems. Most of the difficulties are caused by failure to identify the specific purpose of the appraisal process or to indeed mesh the multiple purposes into one appraisal process. The fact remains that there are many potential purposes for using an appraisal process and confusion and difficulties are created when the type of process clashes or is out of sync with the outcomes expected from the process selected. Choosing the appropriate process that marries the expectations of management and staff is critical to this process.

POTENTIAL BENEFITS

- IMPROVED PERFORMANCE
- GREATER COMMITMENT TO ORGANISATION
- IMPROVED STAFF/MANAGEMENT COMMUNICATION
- ENHANCED RESPONSIVENESS TO PROBLEMS/ISSUES/CONCERNS
- OBJECTIVE BASIS FOR RENUMERATION
- EFFICIENT TRAINING AND DEVELOPMENT

As you can from the slide above, there are multiple reasons for implementing a work evaluation process. The potential benefits for management and staff require further investigation. The rationales as outlined above use the work evaluation process to elicit a range of responses from management and staff. The positive outcomes associated with communication and feedback is justification alone. Staff should be able to expect regular feedback from management. The feedback needs to be presented in a form that can be heard and used for the mutual benefit of the staff member and the organisation.

Whilst I support all of the reasons listed above in theory, the mismatch of objectives outlined above are clearly found in a work evaluation process that somehow meshes the last two dot points on the slide. Using the evaluation process for remuneration purposes completely cuts across the purpose for training and development. Attempting to achieve these two outcomes from the one process is fundamentally fraught with contradictions and difficulties. The specific issue of remuneration will be discussed more fully at a later part of this paper.

- LESS ADHOC REACTIVE FIRE-FIGHTING
- OBJECTIVE CRITERIA FOR ASSESSMENT
- MORE 'EQUITABLE' TREATMENT OF STAFF
- MORE STRATEGIC FOCUS ON FUTURE NEEDS
- BETTER PLANNING OF FUTURE NEEDS
- IMPROVED STAFF MOTIVATION AND FEEDBACK
- GREATER CLARITY OF WORK EXPECTATIONS

This slide continues to highlight the potential benefits of an effective work evaluation process. Staff are far more willing to be assessed in a non-punitive fashion providing the process has 'objective' fairness and mutuality attached to it. Random and uninformed or irrelevant criteria that are not specifically addressed to the staff members particular duties are less likely to attract the same level of support to a process that has been targeted to the needs of the staff member and the organisation.

A good work evaluation process should also allow for equity and consistency in the actual implementation of the process itself. Minimising personality issues and maximising 'objective' criteria should be paramount in the deliberations of an appropriate process. Staff are entitled to know the basis of the evaluation and the criteria upon which the evaluation will be based. Such criteria must not be secretive but transparent and relevant to the work that the staff member has undertaken. Personal bias will be impossible to eliminate completely, but every effort should be made to minimise these forms of bias.

MULTIPLE APPROACHES

- TRAIT BASED APPRAISALS
- BEHAVIOR BASED APPRAISALS
- RESULTS BASED APPRAISALS
- MULTIPLE MEASUREMENTS
- B.A.R.S.
- M.B.O.
- WORK STANDARDS APPROACH

The slide above identifies a number of various types and approaches to the evaluation of work performance process. The trait based approach seeks to identify personality traits that link in with performance outcomes. This approach has little validity. The behaviour based approaches are similarly restricted in their approach because of the difficulties in assessing behaviour. Personal bias and favouritism based on an individual's perception of a value system create havoc with this approach. Results based approaches only seem to work when outcomes are easily measurable and subject to very few variables. Behaviourally anchored rating scales (BARS) suffer from the same measurement problems identified previously. Management By objectives (MBO) is a softer approach that tends to work better within service providers rather than product makers. The work standards approach looks at identifying benchmark achievements levels and assessing performance on how well those standards have been reached.

CRITIQUE OF PA PROCESS

- SEARCH FOR OBJECTIVITY/RELIABILITY/VALIDITY
- RATING ERRORS – LENIENCY/SEVERITY/CENTRAL TENDENCY/HALO
- MISMATCH BETWEEN OBJECTIVE TO BE ACHIEVED AND APPRAISAL PROCESS SELECTED
- WHAT IS PRODUCTIVITY?
- CAN YOU REALLY MEASURE PERFORMANCE?

Each process has its own strengths and weaknesses that need to be considered within the particular cultural context of its own organisation. The difficulty with most forms of appraisal systems is the specific application and weighting of criteria as applied to the individuals performance. Rating errors are particularly common and are not easily overcome. The likelihood of establishing measurable objective performance indicators in the community sector appear extremely remote. How do you measure performance? What is productivity? How are quality issues addressed? What benchmarks are reasonable to expect? How do you distinguish between the labour and capital input? What outcomes are measurable and acceptable to the organisation? The answer to these questions impact strongly on the type of appraisal system used.

MAKING THE LINK

- MATCHING ORGS GOALS TO EMPLOYEE GOALS
- ORGANISATIONAL CULTURE
- ORGANISATIONAL LANGUAGE/STYLE
- CLARITY OF OBJECTIVES
- DESIGNING APPROPRIATE PROCESS
- STAFF PARTICIPATION AND INVOLVEMENT
- MODIFICATION OF EXPECTATIONS
- PROCESS MAY BE AS IMPORTANT AS PRODUCT

Given all of the difficulties outlined above, I believe that service organisations where outputs are not easily measured or consistent should tend toward the MBO (Management by Objectives) approach that enables staff to discuss their own future goals and achievements within the philosophy of the organisation. The purpose of using the MBO method easily fits within the desire for a training and development approach as opposed to a punitive point scoring approach. The subjective indicators are nullified to the extent that this process is not particularly concerned with them.

The system that I am proposing enables the staff a significant input into the whole process. They critique their own performance within reasonable parameters and jointly discuss the assessment that has also been made by the supervisor. An interview within the presence of a third party (maybe the supervisors supervisor) allows for greater objectivity and clarity in relations to future training and resources required to bring the staff members performance to the next level. The mutuality of this process should allay most of the fears regarding this potentially divisive process.

CONCLUSION

- PEOPLE CONTRIBUTE IN DIFFERENT WAYS
- OBJECTIVE CRITERIA IMPERFECT
- THE NEW WORKER DEMANDS FEEDBACK
- EARLY INTERVENTION IS BEST
- COMMUNICATION IS STILL MOST IMPORTANT MANAGEMENT TASK
- PERFORMANCE AND PRODUCTIVITY MUST BE SEEN IN TERMS OF CONTINUOUS IMPROVEMENT AND THE FUNDAMENTAL BELIEF IN THE PROGRESS OF HUMAN BEINGS

The purpose of this short paper has been to briefly identify the pitfalls surrounding the whole performance appraisal process. There are many issues that need to be addressed and the actual process of implementation is just as important if not more important than the outcomes itself. The model proposed is an attempt to improve feedback and focus on the future of individuals work performance. All staff want to contribute and deserve consideration along the way. Work performance issues are extremely complex and require sensitivity and commitment so that all parties feel respected. Treating people carefully throughout this entire process becomes the challenge for management and staff alike.

Work Evaluation

The purpose of the work evaluation process is to provide an opportunity for reflection on your work activities over the last twelve month period. It is intended to cover the highlights of your work, any issues which prevent you from achieving targets, gaps in your skill-base that need to be addressed and the identification of your strengths and weaknesses. This process is not linked to your remuneration or wage level in any way. The aim of the assessment is both for the evaluation and development of the individual as well as provide a forum for the individual to comment on any management issues which currently operate.

Generally a work evaluation assessment is used:-

- a) to strengthen the relationship between employee and employer by bringing them together to discuss progress. The aim is to give an opportunity to provide feedback on performance.
- b) as a means of obtaining feedback from employees about possible improvements management can make to improve overall performance;
- c) to provide means to identify training and employee development needs;
- d) to assist the matching of employees with suitable jobs in order to achieve overall outcomes;
- e) as a means of recording performance levels, e.g. applying early intervention strategies before they become to serious;
- f) as a means of assisting and encouraging employees to take their own initiatives to improve job performance;
- g) to identify and remove any obstacles to good job performance.

GENERAL PROCESS TO BE FOLLOWED BY THE EMPLOYEE

1. Consider your performance in the past period and respond to the questions in Section 1 and Section 2.
2. Please return your completed sections byto your team leader/supervisor who will complete Section 3 prior to the performance assessment.
3. An interview time will be arranged with the Manager and the team leader/supervisor to discuss the evaluation. Section 4 will be discussed and completed pending the outcomes from the interview.
4. Section 5 will be completed by the Appraiser and then returned to you for your final comments so that any additional information or comment can be noted.

If you have any queries please do not hesitate to talk to your supervisor about the documentation or process prior to the formal assessment. It is essential that you think about issues which you wish to raise during the discussions and make notes of possible future goals and targets which might be appropriate for the coming period.

PRIVATE & CONFIDENTIAL

SURNAME: _____ GIVEN NAMES: _____

DATE JOINED: _____

POSITION HELD: _____

LEVEL: _____ DATE OF LAST REVIEW: _____

CURRENT REVIEW DATE: _____

SECTION 1

(To be completed by the appraisee)

1. I have reviewed my position description and believe it is

- correct, or
- needs to be changed in accordance with the development in the duties of my position.

It is suggested that the following changes need to be reflected in my position description:

2. I have achieved the following work goals, tasks, projects, etc over the last twelve month period.

(i) _____

(ii) _____

(iii) _____

(iv) _____

(v) _____

Below is to be completed by your team leader/supervisor appraiser based on your comments regarding goals achievement. Your appraiser will provide her/his assessment of your achievement of goals below during the past twelve month period prior to or during the interview.

(i) _____

(ii) _____

(iii) _____

(iv) _____

(v) _____

(The above comments from both parties are to be discussed during the interview).

3. The strengths I have displayed during the past twelve (12) months are:

4. Over the past twelve months I have identified the following areas of my work or specific tasks that require improvement:

5. I have undertaken the following training/development in the past period.

6. I wish to undertake the following training in the next twelve months:

7. I have set the following goals/targets/projects for the next twelve month period:

- a. _____

- b. _____

- c. _____

- d. _____

- e. _____

8. I believe that I could take the following actions to help improve my present performance:

9. I believe management could take the following actions to help improve my performance:

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SECTION 2

(to be completed by the Appraiser and to be discussed at the interview)

There are 24 modules. The Appraiser should select approximately 10 modules that are relevant to the work of the Appraiser.

SKILLS/ACTIONS REVIEW

Self-appraisal scale:

1. Unacceptable/unsatisfactory.
2. Performance not really acceptable, only just “get by”.
3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

Job knowledge and Technical Competence	1	2	3	4	5	6
• Demonstrates understanding of job requirements						
• Has the technical knowledge to get the job done.						
• Accuracy of work						

Oral and Written Communication	1	2	3	4	5	6
• Presents written communication in a clear, concise manner.						
• Verbal communication is effective in informal interaction as well as group presentations.						
• Ability to communicate with all levels of company representatives.						

Interpersonal Skills	1	2	3	4	5	6
• Deals effectively with others regardless of level						
• Develops rapport with people in own and other groups.						
• Listens to others						

Self-appraisal scale:

1. Unacceptable/unsatisfactory.
2. Performance not really acceptable, only just “get by”.
3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

• Responds in a pleasant manner						
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Innovation and Initiative	1	2	3	4	5	6
• Actively seeks ways to contribute						
• Initiates recommendations to improve situations/results.						
• Resourceful, generates innovative solutions to problems.						
• Looks for methods of efficiency.						
• Carries out work with limited supervision.						

Planning and Organisation	1	2	3	4	5	6
• Systematically structures and plans work						
• Maintains follow-up on all tasks						

Time Management	1	2	3	4	5	6
• Sets priorities						
• Allocates time appropriately						
• Meets deadlines						
• Responds quickly to requests						

Teamwork and responsibility	1	2	3	4	5	6
• Develops and maintains effective work relationships within the team						

Self-appraisal scale:

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2. Performance not really acceptable, only just “get by”.
3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

• Able to work within a team environment.						
• Accepts responsibility for work done						

Leadership	1	2	3	4	5	6
• Provides direction, sustains team effort and encourages maximum individual performance						
• Good role model						
• Professional approach to staff selection						

Staff Management	1	2	3	4	5	6
• Manages by communicating goals and business plans						
• Delegates effectively						
• Motivates by coaching, counselling and reinforcement						
• Monitors results on a continuous basis to ensure objectives are met						
• Plans and monitors the effectiveness of staff training						

Interpersonal Management/Communication	1	2	3	4	5	6
• Uses appropriate interpersonal skills to motivate and guide						
• Is available to staff and provides feedback in an objective and empathetic manner						
• Promotes regular, frequent contact with employees						
Listens well and shares information						

Self-appraisal scale:

1. Unacceptable/unsatisfactory.
2. Performance not really acceptable, only just “get by”.
3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

Conceptual Ability	1	2	3	4	5	6
• Generates new ideas continually						
• Problem solves without supervision						
• Applies new concepts and solutions						
• Applies and interprets current policy accurately						

Occupational Health & Safety	1	2	3	4	5	6
• Knowledge, application and understanding of basic safety principles						
• Works in a safe manner						
• Protects safety of everyone						
• Frequently improves procedures to enhance safety						
• Frequently improves working environment for all						

Organisation and Control	1	2	3	4	5	6
• Prioritises and allocates						
• Directs and manages colleagues						
• Initiates action to ensure relevant outcomes						
• Ensures targets are achieved						

Business and Financial	1	2	3	4	5	6

Self-appraisal scale:

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3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

• Understanding and application of budgeting and financial principles						
• Applies basic business concepts						
• Sound application of financial controls						
• Constant monitoring of financial performance						

Negotiating	1	2	3	4	5	6
• Resolves conflict effectively						
• Presents arguments persuasively but in a non-threatening manner						
• Develops mutually acceptable solutions						
• Manages conflicting views effectively						

Customer Operations & Sales	1	2	3	4	5	6
• Exhibits mature, flexible approach to customer needs						
• Utilises opportunities to promote interests of Uniting Church						
• Identifies specific customer needs and satisfies them						
• Creates sales opportunities						
• Manages “difficult” customer complains and issues						

Decision Making and Problem Solving	1	2	3	4	5	6
• Analyses complicated issues in a clear way						

Self-appraisal scale:

1. Unacceptable/unsatisfactory.
2. Performance not really acceptable, only just “get by”.
3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

• Provides foresight in anticipating future issues						
• Acts quickly on issues						
• Refers issues that require attention immediately						
• Develops systems to prevent re-occurrence of issue						

Determination to Achieve	1	2	3	4	5	6
• Displays energy and commitment to achieve results						
• Completes tasks efficiently						
• Develops processes to overcome obstacles						
• Is enthusiastic in tackling new issues and resolving them						
• Focuses on acceptable outcomes						

Adaptability	1	2	3	4	5	6
• Copes with changing circumstances easily						
• Adopts flexible approaches to new circumstances						
• Open to different methods of completing task						
• Grasps new issues and approaches easily						
• Willing to learn and apply new techniques						

Computing	1	2	3	4	5	6

Self-appraisal scale:

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3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

• Utilises a range of specified software						
• Use of computing to improve organisational performance						
• Application of software to new projects and tasks						
• Problem solving through the use of computer software						

Keyboard	1	2	3	4	5	6
• Knowledge and application of keyboard functions						
• Presents timely, accurate and relevant work output						
• Quality format and layout with a broad range of applications						
• Productive application of skills to provide effective work output						

Ability to cope with pressure	1	2	3	4	5	6
• Provision of quality and timely work during peak times						
• Maintain consistently high output standards						
• Prioritisation of tasks within periods of multiple demands						
• Coping strategies that manage demands from different parties.						

Speed and Accuracy	1	2	3	4	5	6
• Maintains output within work deadlines.						
• Completes tasks within time and resource constraints						

Self-appraisal scale:

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2. Performance not really acceptable, only just “get by”.
3. Fairly satisfactory performance but needs improvement in some respects.
4. Satisfactory performance which is expected of a staff member at this level who has had the relevant experience.
5. Performance which is constantly better than normally expected.
6. Outstanding or exceptional performance of a standard rarely achieved by others.

• Balances quantity demands with quality expectations						
• Work output schedules are constantly met and often exceeded.						

Numerical Ability	1	2	3	4	5	6
• Maintains accuracy and detail in performing calculations						
• Identifies causes of errors and rectifies them						
• Applies strong analytical skills to complex numerical material						
• Consistent application of accurate calculations						

SECTION 3
(to be completed by the Appraiser)

10. I agree
 disagree
with the strengths which have been listed.

Comments:

11. I agree
 disagree
with the areas of improvement have been listed.

Comments:

SECTION 4
(to be completed during the interview)

12. The following targets which were discussed have been set for the coming period.

1. _____

2. _____

Indicators

3. _____

Indicators

4. _____

Indicators

5. _____

Indicators

13. The following training and development will endeavour to be undertaken during the next period.

14. The following general comments are agreed (if any)

SECTION 5

(to be completed after interview)

15. Employer's Comments:

Date: _____ Signature: _____

16. Employee's Comments:

Date: _____ Signature: _____