



Employee Engagement – A lifetime of opportunity

**An analysis of the employee engagement experiences of
AMMA members using the *Four Quadrant Model of
Employee Relations and Organisational Effectiveness***

AMMA

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AMMA acknowledges Geoff McGill for his work in developing the ***Four Quadrant Model of Employee Relations and Organisational Effectiveness*** and the research he conducted to inform this paper

About AMMA

AMMA is the national employer association for the mining, hydrocarbons and associated processing and service industries. It is the sole national employer association representing the employee relations and human resource management interests of Australia's onshore and offshore resources sector and associated industries.

AMMA member companies operate in the following industry categories:

- Exploration for minerals and hydrocarbons
- Metalliferous mining, refining and smelting
- Non-metallic mining and processing
- Coal mining
- Hydrocarbons production (liquid and gaseous)
- Associated services such as:
 - Construction and maintenance
 - Diving
 - Transport
 - Support and Seismic vessels
 - General aviation (helicopters)
 - Catering
 - Bulk handling of shipping cargo

Underpinning all of AMMA's activities is the fundamental belief in direct, cooperative and mutually rewarding employment relationships. AMMA believes that such relationships at the enterprise level are the best way to achieve efficient and productive workplaces.

1 Executive Summary

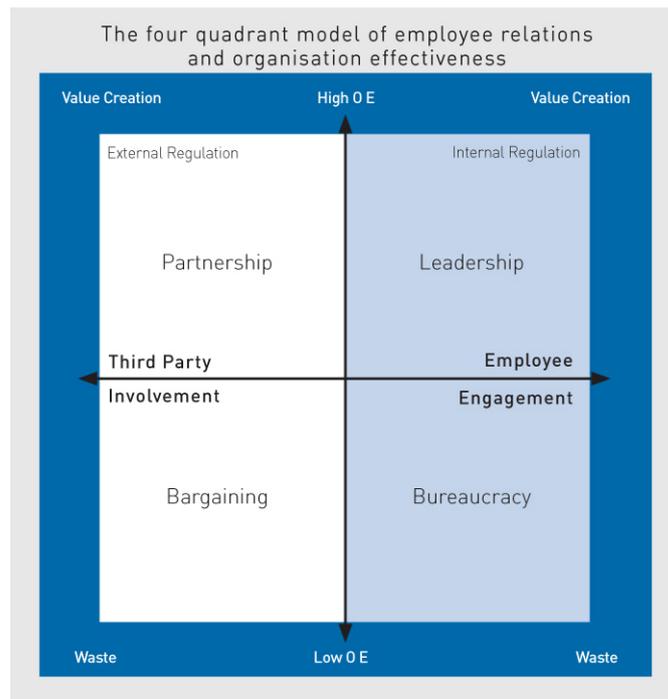
The presence of unrelenting international competition requires the Australian resources sector to continually optimise its productivity and efficiency. This is made possible by a combination of industrial relations reform and managerial practice and leadership, each of which can contribute to the level of employee engagement within the workplace.

Since the release of *AMMA – The Way Ahead* in 1988, AMMA has contributed strongly to the national debate on further reforms to industrial relations regulation on behalf of the resources sector. That paper advocated a move to enterprise bargaining and was followed by a comprehensive report, *Beyond Enterprise Bargaining*, in 1999, which sought to make the case for genuine self regulation in employee relations.

The *Beyond Enterprise Bargaining* report proposed that a model of internal regulation be introduced that would 'actively promote effective management leadership, systems and human resources practices to ensure Australian enterprises are well placed to meet the challenges of operating in a competitive global environment.' This report contained the AMMA Employee Relations Charter, which set out the principles and values which high performance workplaces were encouraged to strive to achieve in order to successfully internally regulate their employee relations arrangements. The components of AMMA's internal regulation model were detailed in discussion paper titled *-A Model of Internal Regulation of Workplace Relation of Workplace Employee Relations*.

The use of the AMMA Employee Relations Charter was supported by the discussion papers findings that strategic choices within the workplace are made within a defined model of work organisation and work regulation. This model comprised four quadrants and was underpinned by the assumption that it will be the quality of the systems of the organisation that determine the extent to which the employee be engaged with the workplace and thus willingly give their best efforts at work.

This report reviews the experiences of AMMA members against the *Four Quadrant Model of Employee Relations and Organisation Effectiveness* in order to assess the impact of employee engagement on workplace performance. The model has been refined to take account of the role of third parties:



The two columns in the figure reflect the key aspects of the model:

- **Internal Regulation:** In the right hand column there is a low level of third party involvement and increasing employee engagement. When the internal leadership and systems capability of the organisation is well developed, the organisation will operate within the 'leadership quadrant'. Internal regulation that is wasteful and bureaucratic due to poorly designed systems that are not aligned with business needs will cause the organisation to operate within the 'bureaucracy quadrant'. This will occur regardless of the support and engagement of employees.
- **External Regulation:** In the left column, companies with a high level of third party involvement in their employee relations (i.e. unions and tribunals) will operate within the 'bargaining quadrant'. Where the work of the business is contracted out to varying degrees through commercial contracts with service providers; or where there is union management cooperation, the organisation will operate within the 'partnership quadrant'.

The case studies contained in this report illustrate the practical operation of the *Four Model Quadrant of Employee Relations and Organisation Effectiveness* and reveal that it remains a useful framework for understanding the interaction between internal and external factors in the industrial relations environment and how employee engagement and productivity can be increased in that context. The key findings in the report on the practical application of each quadrant to particular AMMA members are detailed below:

The bargaining quadrant: Southern Copper, a metal smelter, operated within the bargaining quadrant with significant third party union intervention. It was facing increasing pressure to improve its performance but union officials continued to

exercise a veto over necessary changes. Without the necessary capital to support improvements in environmental and operating performance and a thirty day strike by employees, the plant was closed.

This was compared to the experience of Bell Bay, also a metal smelter. Bell Bay's future was in question and it was facing pressure to improve operating costs. Through a process of continual communication and consultation directly with their award employees it was able to implement individual common law contracts (AWAs were not available at this time), which were formalised with the acceptance of an Enterprise Flexibility Agreement. This is represented in the Model as a shift from the bargaining quadrant to the leadership quadrant, resulting in significant improvements in its performance.

This case study showed that within the bargaining quadrant, unless some mutual interest is identified between the company and employee representatives, employee relations can be characterised by unproductive processes and industrial conflict. This is especially the case when market pressures require an increased rate of performance improvement. But where there is recognition that the business is at risk or there is a shift in the power and interest equation of the relationship, the improvement process can start to occur.

The partnership quadrant: Fluor Australia Pty Ltd established a commercial partnership with one of its key large clients to undertake shut down maintenance. Because of the close integration of both their activities and the risk of disruption to the scheduled maintenance, the client had to be satisfied with Fluor's industrial relations arrangements. This was achieved by extensive collaboration between Fluor and the client to arrive at an arrangement in respect to their safety, employment and performance management systems that was based on mutual interests.

As with the commercial partnership, longer lasting arrangements can also occur between unions and management where mutual interest is identified. ExxonMobil's experience in moving from the bargaining quadrant to the partnership quadrant is illustrative of effective cooperation between management and union delegates. Recognising that ExxonMobil was operating poorly and nearing closure, a process of change was agreed to and a relationship of trust was built between management, union delegates and employees.

However, while cooperative arrangements can be formed with unions, cases of sustained union/management cooperation are rare. As the ExxonMobil case study shows, longer lasting arrangements may be more likely where the recognition of mutual interest is supported by management and a relatively local union leadership.

The leadership quadrant: Hamersley Iron Pty Ltd and Argyle Diamonds Pty Ltd have operated within the leadership quadrant for some time. Each undertook a process similar to Bell Bay to move from the bargaining quadrant to the leadership quadrant and experienced improvements in performance.

Within this quadrant it is easier to observe the initial gains in productivity arising from the direct engagement with employees than to be able to place a value on the dynamic efficiency that flows from the changes to the quality of workplace relations

and the culture of the organisation. The gains in dynamic efficiency may be more important in the longer term.

However, a high level of employee engagement is difficult to achieve and maintain. A key factor is to reduce the level of reliance on third parties (such as unions or tribunals) in order to ensure that leadership within the organisation is not delegated externally and to continuously balance the commercial, technical and social aspects of the business. This must be reflected in the performance management systems of the organisation.

The bureaucracy quadrant: Both Argyle Diamonds Pty Ltd and Hamersley Iron Pty Ltd faced organisational memory loss due to leadership turnover. Loss of corporate memory makes it difficult to maintain the leadership capability required to remain within the leadership quadrant and sustain a high level of employee engagement.

A decline in the effectiveness of key people systems and in the direct interaction between front line staff and managers resulted in a move into the bureaucracy quadrant. The experiences of these two companies show that it can be easy to take the direct work relationship for granted, especially when production is being maximised and many of the leaders involved in the establishment of individual work arrangements have moved on from the workplace. Where this occurs, the organisation can move from the leadership quadrant to the bureaucracy quadrant.

Where the direct relationship has been in place for some time but the organisation slips into the bureaucracy quadrant, the risk of the union reasserting a role is increased. The erosion of the effectiveness of key human resource systems is always occurring however early warnings of this can be obtained through regular interaction between team leaders and team members, and good control and audit of human resource systems.

Overall the analysis of member company experience bears out the definition of employee engagement proposed in the report:

Engaged employees willingly work to the best of their capability in the interests of the organisation and are encouraged to do so through the leadership, structure and systems of the organisation.

The report also considers the operation of the *Workplace Relations Act 1996*, particularly in light of the 2006 reforms. The 2006 reforms further develop the direct relationships between employers and employees by facilitating the removal of a mandated role for unions in agreement making and limiting disruptive behaviour. A non-mandated union role increases the ability and likelihood of the organisation to operate within the leadership quadrant, or indeed, the partnership quadrant, leading to greater organisational effectiveness.

The analysis in this report demonstrates that it is the substance of the relationship not the legal form of the agreement governing it that determines whether people are engaged and productive. Whilst a higher level of employee engagement is more achievable under Australian Workplace Agreements, improvements in business performance have been achieved under both individual and collective employment

arrangement. It follows then that sound legislative policy should not favour one form of agreement over another.

Continued access to the entire range of agreement making options and third party access to workforce are some of the key 2007 Federal election issues and will change significantly if there is a change of Government.

The Australian Labor Party is committed to abolishing AWAs, thus removing a key arrangement utilised by many AMMA member companies that facilitates improved employee engagement. The proposed transitional arrangements announced in August 2007 do not provide long term access to the flexible individual industrial arrangements introduced in 1996. Access to non-union collective agreements will be severely curtailed. The existence of a single union member will introduce the union dynamic into the workplace.

Workplace Relations legislation that removes easy access to statutory individual employment arrangements and encourages a non-representative union presence in the workplace, (particularly in workplaces where union presence is not supported by the employer or employee(s)) will not facilitate the type of relationship required to improve employee engagement.

The adoption of a bi-partisan industrial relations approach to agreement making including access to both statutory individual and collective agreements would do much to mitigate the impact of the swings in the industrial relations pendulum across the political cycle and the attendant transaction costs and waste that continual legislative change generates.

The uncertainty and cost imposed by the significant workplace relations policy pendulum swings imposed on companies currently in the process of making large scale and long term investments cannot be underestimated.

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2 Introduction

AMMA has played an important leadership role in shaping the public policy debate on employee relations and labour market reform in Australia over the last twenty years. Critical to this role has been the research and analysis of issues based on the actual experience of member companies, which has positioned AMMA ahead of current thinking. Publications such as *AMMA: The Way Ahead*¹ and *Beyond Enterprise Bargaining*² and advocated proposals for legislative reform including the capacity for high performance workplaces to regulate internally.

AMMA considers that that internal regulation of employment arrangements will promote effective management, leadership, systems and human resources practices that will ensure Australian enterprises are well positioned to meet the challenges of operating in a competitive global environment.

This report contends that improving and maintaining organisational effectiveness is dependent on the level of employee engagement in the workplace. A high level of employee engagement can be achieved through the leadership, structure and systems. If an organisation actively commits to employee engagement as a means of lifting its business performance, it cannot delegate the work involved to a third party. Whilst it is the substance of the relationship that determines whether employees are engaged and the organisation is effective, access to the complete range of statutory agreement making options including individual and collective will assist the engagement process.

The review of workplace changes presented through case studies and other material in this report shows how the development of a capability for the internal regulation of employee relations has been a very successful way of increasing employee engagement and organisational effectiveness.

The report will then review AMMA's *Employee Relations Charter* (the Charter), which is put forward as a statement of organisational values and behaviours associated with high levels of employee engagement and review the role of AMMA's model of internal regulation as a way of implementing and sustaining the successful internal regulation of the employment relationship.

¹ AMMA (1992) *AMMA: The Way Ahead*, AMMA. www.amma.org.au/publications site accessed 14 March 2007.

² AMMA (1999) *Beyond Enterprise Bargaining: the Case for Ongoing Reform of Workplace Relations in Australia* http://www.amma.org.au/publications/beb_report.pdf site accessed 23 February 2007.

3 Methodology

The preparation of this report involved conducting thirty interviews with members of the AMMA Board Reference Group (BRG)³, the AMMA Board of Directors⁴ and other AMMA member company representatives. Each of the companies selected represented a different area of the resources sector.

The interviews were supplemented by a review of extensive material on company policy and practice provided by participating AMMA member companies and a review of relevant industrial instruments.

The purpose of the interviews was to:

1. Identify the processes followed and the outcomes that member companies' experienced when they introduced workplace change (for example, the introduction of different working arrangements involving individual contracts of employment).
2. Determine how member experiences aligned with the *Four Quadrant Model of Employee Relations and Organisation Effectiveness* set out in the *Beyond Enterprise Bargaining Report*. This also involved a consideration of the industrial arrangements in place in each participating members' workplace.
3. Assess the extent to which the principles, values and behaviours advocated in the Charter have been applied in practice by members and whether any changes to the Charter are required.

During the course of conducting interviews with AMMA member companies, a number of specific questions of interest also emerged and which are addressed in this paper:

- How have some companies been able to get productivity improvements in the context of unionised collective bargaining?
- What are the key factors to be addressed in building employee engagement?
- How is employee engagement and business effectiveness sustained by companies over the longer term?

While the workplace changes reviewed in this report predate the introduction of the 2006 and subsequent amendments to the Workplace Relations Act, the study has also been informed by member experiences during the first year of the new legislative environment.

³ The AMMA Board Reference Group comprises senior workplace relations personnel from each area of the resources sector.

⁴ The AMMA board is comprised of managing directors' executives from a range of resources sector employers drawn from the collective AMMA membership. The list of Board Directors can be found at http://www.amma.org.au/home/about/about_board.html

4 What is employee engagement – meaning and impact

The term ‘employee engagement’ is widely used by human resource practitioners, consultants and academics. Set out below are a number of definitions in current use.

- Institute of Employment Studies, UK.
‘Engagement’ is a positive attitude held by employees towards the organisation and its values.⁵ An engaged employee is aware of business context and works with colleagues to improve performance within the job for the benefit of the organisation.⁶
- Gallup Organisation, USA
The engaged employee is someone who is 100 percent psychologically committed to their role.⁷ They thrill to the challenge of their work everyday.⁸ They are in a role that uses their talents, they know the scope of their job, and they are always looking for new and different ways of achieving the outcomes of their role.⁹
- International Survey Research, (ISR)
Employee engagement is ‘the bond or attachment to the organisation, support of its strategy and values, and level of motivation to work hard toward its success.’¹⁰

A notable feature of these definitions is in fact their lack of precision or definition! What does psychological commitment mean? Is it the same as a positive attitude? Would you want to be ‘100 percent psychologically committed’? Are you allowed to have a life of your own outside work? Furthermore the demands placed upon the organisation on the quality of its leadership systems and the structure and design of roles in order to achieve or maintain the desired engagement is not explicitly expressed.

The various definitions suggest a number of objectives organisations are trying to achieve by seeking to engage their employees, the most predominant being the encouragement of the discretionary effort of the employee to achieve and exceed the outcomes expected of the role and to find better ways of working. Each of the definitions listed above appear to indicate that an increase in employee engagement supports improved productivity, continuous improvement, better staff retention and a commitment to the organisation’s success.

⁵ Robinson, Perryman and Hayday, *IES Report*, 408. The IES is an independent centre for research and consultancy on human resource issues established in 1969. Its main office is at Sussex University.

⁶ Ibid.

⁷ Gallup Organization, *Building a Stronger Workplace: Managers Workbook*, 1992-1998, 15. The Gallup Organization has been involved with survey based social research for over 70 years. Its world HQ is in Washington DC.

⁸ Ibid

⁹ Ibid.

¹⁰ ISR, *Alignment Drives Turnaround at Guild*, ISR.

http://www.isrinsight.com/pdf/insight/Alignment_Guild.pdf site accessed 4 April 2007.

A number of conditions must be in place in order to secure employee engagement. In order to achieve employee engagement

1. there must be a strong emphasis on the role and the challenges it provides;
2. each employee must have a good understanding of their role and their place in the business;
3. the company must try to align the requirements of the role and the skills of the individual; and
4. each employee must be informed about the business context and changes to it which affect their work and the organisation.

These conditions involve the structure of the organisation, the design of roles within that structure and the capability required of employees to understand and perform the work of the role. It also requires the creation of a workplace environment by the leadership of the organisation where employees feel their work is valued and that they will be developed in current and future roles in the organisation.

In order to give a sense of the actions required to establish these conditions in the workplace, the following definition of employee engagement is used throughout the report:

Engaged employees willingly work to the best of their capability in the interests of the organisation and are encouraged to do so through the leadership, structure and systems of the organisation.

In this definition, the work of the leaders of the organisation is made explicit. The scope of work is substantial, consistent with the challenge of giving real effect to the idea of employee engagement.

Despite the lack of a definitional consensus on 'employee engagement' there is an extensive body of research providing evidence of the link between increased employee engagement and improved business outcomes.

The link between employee engagement, increased employee performance and improved business outcomes has been researched by the Gallup Organisation. Over a decade ago, the Gallup Organisation reviewed its database of more than one million employee and manager interviews to 'identify the elements most important in sustaining workplace excellence.'¹¹ Twelve key elements were identified in the Gallup Q12 employee climate survey, which was first published in the Gallup Organisation's book titled *First, Break all the Rules* in 1999.¹² The Q12 explores a number of questions about the quality of systems and leadership, especially team leadership, experienced by team members at every level in the business.

The Gallup research revealed a link between teams in the top quartile of engagement scores based on the Q12 survey and better employee performance; this in turn resulted in significantly better business outcomes than for teams in the

¹¹ John Thackray, *12 Elements of Great Managing, The Gallup Management Journal*, The Gallup Organization, Princeton, NJ. <http://gmj.gallup.com/content/default.aspx?ci=811> site accessed 14 March 2007.

¹² Ibid.

lowest quartile.¹³ The most recent 2006 *Meta Analysis*¹⁴ study by the Gallup Organisation¹⁵ involved 681,000 employees, 23,910 business units in 125 organisations across 37 industries. The study identified that teams within a business unit with a high level of engagement performed better than those with a low level of engagement: 12 percent more for customer satisfaction, 62 percent more for safety and 12 percent more for profitability.

Gallup also looked at labour turnover, distinguishing between companies in industries with typically higher turnover or lower turnover. Companies with high employee engagement levels experienced reduced turnover (a 51 percent improvement) and improved employee retention (an improvement of 31 percent).

In 2003 a separate study conducted by Ulrich and Smallwood questioned why two companies in the same industry with similar earnings could have vastly different market values.¹⁶ Ulrich and Smallwood also found a correlation between employee engagement and customer satisfaction, identifying that for every one percent increase in employee engagement, customer satisfaction increased by .05 percent.¹⁷

Research of the effect of employee engagement on business outcomes has been undertaken by International Survey Research (ISR). The results of a survey of over 664,000 employees conducted by ISR, showed that in one year, companies with high employee engagement levels improved their operating income by 19.2 percent while companies with low employee engagement levels declined by 32.7 percent.¹⁸ Companies with high levels of employee engagement also 'demonstrated a 27.8 percent improvement in earnings per share (EPS), while companies with low employee engagement reported an 11.2 percent decline in EPS over the same period.'¹⁹

The literature on employee engagement also highlights the increasing importance of intangible factors in determining the market value of companies.²⁰ Factors such as the quality of leadership, the quality of team work and the learning and knowledge sharing systems in the company, (sometimes referred to as the social capital of the organisation), are estimated in some studies to account for up to 50 percent of its market value, particularly in direct customer service organisations.²¹

¹³ Ibid.

¹⁴ A Meta Analysis is a statistical integration of data accumulated across many different studies designed to ensure greater credibility in statistical analysis.

¹⁵ Above n12.

¹⁶ Ulrich D and Smallwood M. (2003) *Why the Bottom Line Isn't! How to Build Value through People and Organizations*. New Jersey, John Wiley and Sons.

¹⁷ Ibid.

²² International Survey Research (2006), Engaged Employees Help Boost the Bottom Line, HRSM Conference, Washington DC, 1. <http://www.isrinsight.com/pdf/media/2006engagement.pdf> site accessed 3 April 2007.

¹⁹ Ibid.

²⁰ See, for example, above n21.

²¹ Ibid.

5 The Four Quadrant Model

In order to assess the experiences of AMMA member companies the *Four Quadrant Model of Employee Relations and Organisation Effectiveness* has been developed.

These quadrants are detailed in figure 1 below:

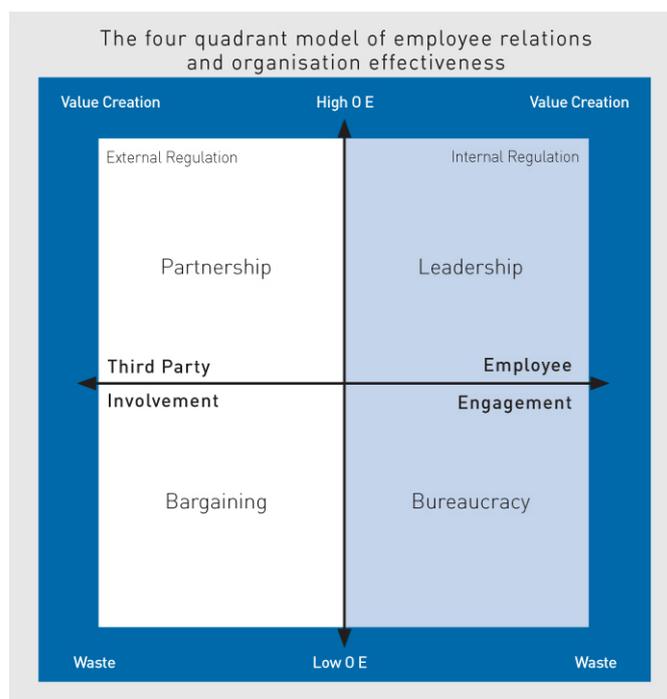


Figure 1: The four quadrant model of employee relations and organisation effectiveness.

The more precise definition of employee engagement now applied in the model helps to highlight that increased employee engagement means decreased dependence on third parties. This is reflected on the horizontal axis of the model. The vertical axis reflects increasing organisational effectiveness.

This model has been developed on the basis that improving organisational effectiveness over time leads to improved profitability and increased market share. Positive business outcomes can be achieved in both upper quadrants, including where there is an involvement of third parties in the business. The key factor determining whether the role of the third party adds to or detracts from organisational effectiveness is whether the relationship is adversarial or based on mutual interests.

While the model provides a framework for the analysis of employee relations arrangements within a company, work arrangements are not static and may shift across the model's quadrants over time. This acknowledges that any large organisation will have a particular history and culture, even within its individual operating units. When applied to the model it means that it would not be unusual for different parts of the one organisation to fall within different quadrants of the model at the same time.

The model is intended to give an insight into the affect on employee engagement when a company transitions from the bargaining quadrant to the leadership quadrant. However it does not automatically follow that it is necessary for the company's experiences associated with implementing workplace change to be in the upper quadrants to achieve high growth and productivity. Quite possibly, a company in the bargaining quadrant may experience high growth and productivity. The model does imply, however, that if a company is able to transition from the lower quadrants through mutual partnerships with third parties or direct employment relationships, its organisational effectiveness will improve compared to its previous performance.

5.1 External Regulation: Partnership and Bargaining

The two left hand quadrants are described as externally regulated. As a business moves further to the left hand side of the quadrant third parties have greater involvement in employee relations and rules controlling the organisation and execution of work. In the Australian context, operating within the left hand quadrants involves the regulation of employment relations through awards determined by statutory tribunals and also through collective agreements negotiated with trade unions or reached through formalised and externally conducted conciliation and arbitration procedures.

Whether a company's experience falls within either the partnership or bargaining quadrants on the left hand side of the model will depend on whether the 'third party' relations are adversarial or more focussed on mutual interest. This means that the business can move along the vertical axis and experience excellent to very poor organisational outcomes depending on the nature of its relationship with the third party. It is worth noting that the third party in this model is not necessarily always a trade union but can also be another organisation or individual under commercial contract for services.

5.2 Internal Regulation: Leadership and Bureaucracy

The two right hand quadrants are described as internally regulated. The further a workplace moves to the right hand side of the quadrant, the more an employee becomes engaged and their work becomes aligned with the needs of the business. Operating within the right hand quadrants involves direct relationships between the team leader (e.g. a supervisor) and the team member. This is facilitated by a range of internal employment arrangements that offer flexibility, ranging from individual agreements to employee collective agreements, where third party involvement is minimal to non-existent.²²

Whether the company's experience falls within either the leadership or bureaucracy quadrants on the right hand side depends on the nature of the direct relationship

²² Common law contracts on their own do not provide a suitable framework due to their inability to override provisions of Awards or WorkChoices transitional arrangements such as Notional Agreements Preserving State Awards and Preserved State Agreements.

between the employees and the company management. The leadership quadrant reflects a situation where the leadership of the organisation, through the integration of business and human resource management systems, has created an environment which supports employee engagement.

Internal regulation can also be associated with the bureaucracy quadrant due to the poor alignment of internal business systems with the external commercial environment, creating a slow and unresponsive organisation. The external legislative environment can also add to the burden of process and regulation. It should be noted that no organisation is entirely free of external controls (e.g. minimum safety net standards). The business outcomes for an organisation can therefore range from being highly effective to very poor as a result of the operation of these externalities and/or the poor design and operation of internal systems.

6 The Practical Operation of the *Four Quadrant Model of Employee Relations and Organisation Effectiveness*

The pathway to a more engaged and productive workplace is not easy. There are many challenges and pitfalls along the way. The main findings with respect to AMMA member company experiences as they fit within the *Four Model Quadrant of Employee Relations and Organisation Effectiveness* are detailed below.

6.1 The bargaining quadrant

Long term improvements in industrial stability and productivity within the bargaining quadrant have been made across many sectors, including the coal industry. This may occur where there is consistency in human resource strategy by the centralisation of the human resource function, as was the experience at Alinta, Newcrest, Zinifex and Rio Tinto Coal. It can also be achieved where the union is satisfied to limit its involvement to being a signatory to a collective agreement, particularly with respect to remote sites.

However it is important to recognise that the experience is not uniform across the industry. The influence of the unions in coal remains stronger in New South Wales than in Queensland and as a result, progress varies between member companies.

Where trust is established between management and employees or management and unions, the workplace will shift to either the partnership or leadership quadrant. It is where this happens that significant improvements in organisational effectiveness can rapidly occur.

The case study in Box 1.1 documents the experiences of two metal smelters operating within the bargaining quadrant as they introduce workplace change to improve operating performance.²³

²³ The facts were ascertained from the following sources: Mr Karl Stewart, Managing Director of Comalco Smelting 1988-1996; *Comalco Aluminium (Bell Bay) Enterprise Flexibility Agreement*, AIRC Dec 549/96 M Print N1679; *AMWU v Comalco Aluminium (Bell Bay) Limited*, AIRC, Print Dec.1994 L7449; JT Ludeke, (1996) *The Line in the Sand – The long road to staff employment at Comalco*, Wilkinson Books; Macdonald I, Burke C, Stewart K. (2006) *Systems Leadership Theory: Creating Positive Organisations*, Hampshire. Gower Publishing Company; Barclays de Zoette Wedd Limited, *Analysts Report*, Barclays, 30 November 1994.

Box 1.1 - A Tale of Two Smelters

Background

The greatest challenge facing primary metal smelters is to be cash positive at the bottom of the metal price cycle. Changes in technology occur infrequently and involve huge capital outlays. Process efficiency, product quality and safety can be significantly influenced by attention to detail by employees. As technology ages, the difficulty of maintaining and improving the position on the cost curve intensifies. Continuous improvement is necessary for survival.

Comalco Aluminium (Bell Bay) Limited (Bell Bay) and Southern Copper Limited operated sites within the CRA/Rio Tinto group. Southern Copper ceased operations in 1995.

Both smelters had been marginal operations for a number of years and were faced with costs and operating issues in respect to old technology. Each had an unacceptable safety performance, needed to address environmental performance and improve product quality and process stability.

Each smelter had a history of episodic enterprise bargaining with multiple union agreements and extensive tribunal involvement.

Initiatives were introduced to significantly reduce or eliminate overtime through a move from time based to task based work (via annualised salaries). Voluntary redundancy schemes were offered to reduce employee numbers. Leadership at each site was committed to improving smelter performance and the culture of the organisation.

However, there are clear differences between the two smelters, with Bell Bay being a dominant employer in a semi rural environment, compared to Southern Copper's position as a non-dominant employer in a heavily industrialised region.

While Bell Bay could do little to change its 1950s technology, Southern Copper invested over \$150 million in new technology. However, despite this, the poor environmental performance at Southern Copper continued and required substantial investment to meet its environmental licence requirements. Schools, homes and other private and public infrastructure had become established in near vicinity to Southern Copper's operations.

Employee Relations Approach: Bell Bay

In late 1994 nearly 95 percent of employees accepted offers of staff employment in the form of an individual common law contract of employment. Note: AWAs were not available until 1996. This contract operated outside the Bell Bay Award and reflected a move to the leadership quadrant.

The acceptance of individual employment arrangements was the culmination of years of efforts to build leadership capability and employee engagement. The transformation started as early as 1987 with concerted efforts to improve safety systems and occupational health and safety. This included the use of tree-trunk safety investigations and the compulsory use of respirators when working on potlines. The latter policy was successfully introduced despite union opposition.

Values based leadership development programs were conducted for line managers across the smelter starting in 1988. Poorly performing managers and superintendents were removed from their roles and inappropriate behaviour at the workplace was strictly dealt with. All these actions signalled a real change in leadership behaviour which laid the foundations for changing the culture of the organisation.

Key systems changes were made such as the introduction of individual performance appraisals for award employees and the elimination of overtime in a number of areas through an overtime incentive system. This involved moving from a time based pay system to one where compensation for any extra work was factored into the salary thus eliminating the incentive to generate overtime and encouraging employees to complete tasks in normal hours and avoid rework.

The company adopted the practice of communicating and consulting directly with award employees rather than relying on union delegates. Closed shop arrangements and union fee deductions were also terminated. Tribunal proceedings were successful in reducing multiple union coverage at the site. The General Manager, managers and superintendents went to great lengths to ensure employees and their families understood what was involved in the offer and acceptance of individual employment arrangements.

All these initiatives helped pave the way for the acceptance of individual employment contracts by the overwhelming majority of employees.

The company attempted to formalise these employment arrangements by entering into an Enterprise Flexibility Agreement that contained an 'opt out' clause to enable common law contracts of employment to be offered to employees without contravening the award. It attempted to do this under the *Industrial Relations Act 1988* (Cth), but it attracted significant opposition from the trade union movement. Their opposition was initially successful with the AIRC declaring that

the establishment of conditions of employment at an enterprise level through a system of individual contracts between a company and each of its employees is one at variance with our system of industrial relations.

It was not until some 21 months later, in 1996, that the AIRC certified the agreement which underpinned the offers of common law contracts of employment at Bell Bay.

The negotiations for the Enterprise Flexibility Agreement were conducted at a time when the future of the Bell Bay Smelter was in question due to the failure to negotiate a new power agreement with the Tasmanian authorities, in addition to cyclically low metal prices. This was influential in the company's decision to offer common law contracts of employment, as it believed that such arrangements could provide significant benefits in terms of the productivity of the smelter.

Employee Relations Approach: Southern Copper

Southern Copper faced similar pressures to improve its performance but with some important differences in the industrial relations context. It continued to work in the bargaining quadrant through the established delegate and union structure and the traditional industrial relations framework.

Initial progress was made with many entrenched restrictive work practices neutralised through a trial of annualised salaries which dramatically reduced overtime. Workforce reductions through the offer of voluntary redundancy received only limited take up. The key external union official fundamentally opposed any reduction, alleging work would be intensified for remaining employees.

The union official, with the support of local delegates, continued to exercise a veto over necessary changes to work practices, many of which would have created new precedents. The union sought to slow the rate of change in a region which had been undergoing significant structural adjustment and workforce reductions.

Outcomes Achieved: Bell Bay

Bell Bay made a successful transition from the bargaining quadrant to the leadership quadrant with the introduction of individual employment arrangements. With this came significant rapid improvements in the smelter's performance, which was achieved without any change in technology, especially where individual operators could give close attention to detail

In particular, shortly after individual employment arrangements were accepted, off specification metal fell from as high as 28 percent to as low as 7 percent; the lost time injury frequency fell by about 60 percent; and overtime ceased to be necessary. Between 1990 and 2000, absenteeism levels halved, current efficiency (a key performance indicator for energy intensive aluminium smelters) increased 1.5 percent; workforce declined from 1500 to 500 employees and tonnes per annum increased from 122,000 to 150,000.

Outcomes Achieved: Southern Copper

The benefits of increased capacity from the investment in new technology were slow to be realised and costs remained above that which was planned. Southern Copper remained within the bargaining quadrant, as although a collective agreement was eventually reached, it was not certified because of the company's inability to attract additional capital to support necessary improvements in environmental and operating performance. Further changes to work practice and voluntary redundancies were required. A 30 day strike ensued and only ended after the closure of the plant was announced.

The plant was put into care and maintenance and subsequently sold. Attempts to restart the facility have proved unsuccessful.

The case study in Box 1.1 highlights the importance of building effective relationships between management and employees or management and unions if organisations want to move out of the bargaining quadrant. However, it is too simplistic to suggest that employee relations factors alone explain the differences in outcome between these two smelters. Shareholders at Southern Copper had already invested heavily in an upgrade and more was required. The pace of operational improvement and cultural change was very slow. However, it does illustrate that if conditions of trust and employee engagement can be established, rapid improvement in performance can occur. Bell Bay is an example of a successful move from the bargaining quadrant into the leadership quadrant.

Progress is possible under bargaining based arrangements but it is difficult to force the pace of change. It can be difficult to escape adversarial relations when there is a history of mutual distrust and the changes required may be perceived to be prejudicial to the wider interests of the union in the relevant labour market.

In Bell Bay's case, its willingness and ability to test the boundaries of the system were rewarded by the commitment shown by its employees and its stance vindicated by the eventual certification of its Enterprise Flexibility Agreement. The experience of Bell Bay and other companies in the resources sector became a potent argument for further reform of the federal industrial relations system.

In commenting on the Bell Bay experience, Oscar Groeneveld, Rio Tinto Aluminium Chief Executive observed:

We urgently needed to improve safety and change entrenched work patterns. The goal was to build an organisation that would survive regardless of how low metal prices went.

To do this, we relied on leaders who could build trust. We needed employees who were aligned with the objectives and goals we set and shareholders who supported a successful team. Bell Bay attracted over a hundred million dollars of new investment and improved output by 50 per cent and productivity by 80 per cent in the following decade. It is no coincidence that environmental and safety performance also improved, dramatically. Bell Bay is now "best in class" for its scale of technology in the Global Aluminium Industry. The Bell Bay Team is one which has confidence and pride in its achievements and a secure future.²⁴

While achieving this outcome over the longer term, from time to time the Bell Bay leadership struggled to balance the operating, commercial and people elements within the business. It was evident that there had been some diminution in employee engagement when a proposal to extend salary sacrifice and cashing out of annual leave to all staff did not attract the level of support the leadership had anticipated. Similar examples of the difficulties of sustaining employee engagement over the long haul are provided in Box 1.5.

6.2 The Partnership Quadrant: Commercial Partnerships

This section does not discuss industrial agreement arrangements but rather commercial partnership arrangements between a contractor and client with a shared goal to achieve common commercial objectives. Some employers (such as Hamersley Iron) have expressed a preference for a model where contractors do not have a role in the performance of core business functions. Others that have contracted out certain core functions have experienced a significant cost advantage in some instances (such as Flour-Hazelwood, Rio Tinto Aluminium Yarwun, Argyle Diamonds, Zinifex-Century and various coal operations).

However, regardless of the type of work contracted out, the decision to contract out in the first place is a strategic one. The decision could be driven by concerns about production combined with problematic industrial relations and an inability to achieve cultural change. But once done it is important to consider the interaction of the client's human resource systems with the contractor's.

²⁴ Oscar Groeneveld, Presentation at AMMA National Conference 16-17 March 2006, Launceston Tasmania, p6

The form of the engagement and the employment systems deployed by the contractor should be determined considering the intended substance and duration of the proposed client/contractor relationship. Often, in order to avoid conflicts between the parties with regard to their internal industrial arrangements, some contractors have sought alternative employment relationships to union collective agreements.

A number of AMMA members operating in this quadrant (e.g. Theiss, Roche and Fluor Australia) have core skills in project management and the capacity for rapid mobilisation and demobilisation of resources required for the project. The project has a definite completion point and after any commissioning phase, any ownership and accountability of the contractor passes to the owner operator.

The case study in Box 1.2 documents the experience of Fluor Australia Pty Ltd, a large project management and maintenance service provider, which had formed a commercial partnership with a key client.

Box 1.2 - Fluor Australia Partnership

Prior to construction of a minerals processing facility a study was conducted on the maintenance arrangements that were to apply. Regular planned maintenance was critical to a successful operation and was a key cost factor to be controlled if the business plan for the new facility was to be achieved. Ad hoc maintenance activity was anticipated especially during the commissioning phase.

Highly specialised shutdown maintenance was also required on a periodic basis and was outsourced to a third party contractor because of the episodic and specialised nature of the work. A key factor in the choice of contractor involved a judgment of its capacity to complete shut down maintenance on time and within budget. The employee relations arrangements are the contractor's concern but the client must be satisfied that no disruptions or difficulties particularly in respect to its plan to utilise individual contracts for operating employees. A high level of collaboration was required to manage the relationship between the two parties.

It was decided that the maintenance work would be provided most efficiently and reliably by establishing an alliance with an experienced company specialising in the field – Fluor Australia Pty Ltd. However, because Fluor's maintenance contractors were to be working side by side with the client's operating employees and at times taking direct instructions from the client's supervisors, the safety, employment and performance management systems of both organisations had to be closely aligned.

Subsequently, it was determined that the operating and contracting employees ought to wear the same uniforms distinguished only by the logo of their respective companies.

Similarly, performance management systems were to operate with input from front line supervisors from both organisations. Maintenance employees were also engaged on individual contracts. Non core work was assigned to recognised specialist contractors with the most competitive tender.

This case study points to the strategic issues facing an organisation when determining to contract out work in order to achieve its operating objectives. For significant activities that are core to the business, an alliance is created through which the activities of the client and the major service provider (Fluor Australia) are closely integrated. Once established, the relationship is difficult to dismantle. For non core activities the most important considerations are cost and reliability and the competitive tendering process can be expected to recur every few years. External business entities are involved and the detail and sophistication of the contractual relationship depends on the scale and complexity of the work and expected duration of the relationship.

Essential to the effectiveness of the arrangement is the creation of a commercial partnership based on mutual interests. The organisational purpose of the third party contractor is to provide a commercially viable and mutually rewarding service to the client organisation. As in any relationship, whether trust is established depends on the past and current behaviours of the parties. Where mutual interests are neglected and erode, adversarial relations can emerge and contractual differences can become the subject of extensive and costly litigation in the commercial courts.

In this particular case, the relationship with the third party was one of partnership, and the company was able to experience high levels of organisational effectiveness by operating in the partnership quadrant.

6.3 Partnership Quadrant: Union Partnerships

Sustained and successful cases of union and management partnership are rare. This is particularly the case due to the union's purpose being to protect the interests of its members, who are scattered among a number of different companies within and across different industries. The Union's interests are not usually aligned with the interests of a particular company.

Where partnership does occur, it is usually motivated by threat of closure or further loss of market share. It is at this time that the interests of the particular business and employees come to the fore.

Union partnerships result when there is an agreed decision making and problem solving process. The performance of key leadership functions by union representatives is an important part of the partnership. However, it is critical to ongoing cooperation that local union delegates manage external union influence in the interests of local operations and that both the union representatives and management have a good understanding of the history of the workplace's employee relations.

The case study in Box 1.3 documents ExxonMobil's experiences in implementing change where a relationship existed with a third party union.

Box 1.3 - Building Mutual Interest through Union Employee Representatives

As a long established refinery, ExxonMobil Altona had experienced poor operating performance and conflict-ridden industrial relationship over many years. The refinery's performance was the poorest in Australian based on industry benchmarks. Employee morale was very low, safety was poor, absenteeism was high, nobody enjoyed working at the plant and the future looked bleak.

The local management and the local union delegates recognised that change was essential to prevent the closure of the plant. The delegates understood change was going to occur with or without their participation.

The site management team and the local delegates decided to sit down together over approximately six weeks. This process produced a blueprint for change. Major changes were agreed to and reflected in an initial collective agreement. Changes previously agreed to were consolidated and built on in a collective agreement two years later which had the following key features:

- an annualised salary system;
- 12 hour shifts;
- zone team leaders with full accountability for all people and manning issues, emergency procedures, production, maintenance and community issues and incidents on the back shift;
- zone team leaders are covered by the agreement and replace management shift supervisor positions;
- skill development and cross skilling arrangements remove demarcations and increase functional flexibility.

The staff salary methodology removed the annual bargaining cycle, with agreement and salaried staff rates usually increasing by the same amount with the same target quartile position in the relevant market. This meant that trade off bargaining could be eliminated by a continuous improvement process where the local delegates and zone team leaders engage workplace teams in process improvement and job redesign. This continuous improvement process operated without a link to any scheduled collective agreement negotiations.

In addition, overtime was reduced to almost nothing with the introduction of the annual salary, the number of operator positions were halved over the next decade, no industrial disputes occurred or were threatened and safety performance improved.

As a result of these changes, the site moved to first or second on the industry benchmark performance ladder, with the last two years being the most profitable to date. The new international owners were satisfied the plant warranted additional investment to meet new environmental standards.

During this time, the local union delegates remained supportive and worked to manage any outside union role.

This case study shows that the original threat of closure and the ongoing risk of same (especially with changes in ownership), kept the mutual interests of the parties to the fore. The adversarial relations of the past were replaced with a partnership based on mutual interest and cooperation.

While continuing to operate in an externally regulated environment, the workplace moved from the bargaining quadrant to the partnership quadrant. Delegates played a key role in communications with employees while the local management worked to maintain their authority. Some delegates in particular were recognised as understanding the views on the shop floor better than anyone else. An agreed process of change management was put into place, based on a mutual recognition by both parties of the ability to problem solve through input and improvement ideas from the floor. Only agreed changes could be introduced.

Trust between the parties has become well established over the years but must be reaffirmed with every change in senior management leadership that occurs on site. Unlike the experience of Southern Copper discussed in Box 1.1, the role of external union officials was not great and they did not oppose the attempted workplace changes. However, it must be noted that the independence of the union as an institution was critical to the credibility of the delegates. External union officials were very occasionally called upon to help on particular issues. Of course, the possibility always remains that some issue will emerge where the different organisational purposes of the company and the union will lead to dispute and industrial conflict.

This can be compared to the experience of the Saturn Motor Corporation, a General Motors operation in the USA. The Saturn Motor Corporation (a manufacturer of compact cars from 1990) also experienced a culture of mutual interest with the United Auto Workers (UAW) with support from the International United Workers President. An agreement was entered into where annual salaries were adjusted periodically based on the general state of the economy, inflation and the competitive position of Saturn.

Local UAW positions were also established at each level in the Saturn decision making hierarchy and both parties were committed to a consensus decision making process. However in the mid 1990s the local United Auto Workers representatives came under criticism as being too accommodating to management and some key leadership changes occurred in the local union and the International United Worker President retired.

Around the same time, a decision was made to produce the next compacts at a different plant, where the management and the union were unlikely to replicate the relationship developed at Saturn Motor Corporation. This caused the relationship to deteriorate somewhat as the employees threatened strike action in response to the decision. In the meantime, the penetration of foreign owned car manufactures and imports continues to rise and the higher labour costs, especially health care costs, entrenched by collective agreements cast uncertainty over the fortunes of General Motors.

By contrast, at ExxonMobil-Altona the driving force has been the local delegates and local management. The initiative here did not come from corporate or union headquarters. This is both strength and a weakness. The risk of external interference is reduced but dependence on particular individuals is increased. Sustained improvement has been essential but it cannot guarantee that a change of policy or the withdrawal of support by the parent organisation, whether corporate or

union will not precipitate the demise of the partnership arrangements supporting employee engagement.

6.4 The Leadership Quadrant

Many of the companies operating within this quadrant have been through a lengthy period of transition, moving away from heavy reliance on bargaining to a position of internal leadership.

A clear vision and commitment to a long term strategy has been important in sustaining the change process as was the experience of Western Mining Corporation, Hamersley Iron, Rio Tinto Aluminium and Newmont. Importantly, the demands on the time of leaders to implement these changes on the ground should not be underestimated, nor too, the importance of maintaining robust technical and commercial systems (e.g. Rio Tinto Aluminium smelting operations).

A consistent factor observed in AMMA member companies that have reached and maintained a position in the leadership quadrant while implementing workplace change, is the attention paid to the design and operation of a Performance Management Systems. This term is used to refer to the practices and procedures in place to ensure that each employee is clear on:

- The work expected in the role;
- How the role fits in to the wider purpose of the business;
- How they are performing in the role;
- How they can improve their work performance.

In ExxonMobil, Newmont, Newcrest, Rio Tinto and Western Mining Corporation, the establishment of project management systems has created and improved workplace culture, within and across business units. This in turn has supported increased employee engagement.

The case study in Box 1.4 documents the experience of Hamersley Iron Pty Ltd and Argyle Diamonds Pty Ltd, which have been operating in the leadership quadrant for some time. The movement from the bargaining to the leadership quadrant and the subsequent performance improvements were very similar to Bell Bay discussed in Box 1.1.

Box 1.4 - Achieving employee engagement through effective leadership

Hamersley Iron Ore Pty Ltd and Argyle Diamonds were traditionally covered by the Western Australian State industrial relations system. Their employees were covered by individual workplace agreements under the *Workplace Agreements Act 1993* (WA).

Hamersley Iron was successful in establishing direct staff employment arrangements despite union opposition and extensive proceedings in industrial tribunals. On the ground, support was secured for the changed work relations through the development of the company's leadership and systems capability at its various operating sites. Increased remuneration arrangements were compensated for by significant improvements in employee engagement, productivity and flexibility. These changes have remained a source of competitive advantage.

Argyle Diamonds followed a different pathway. Its individual common law contracts are underpinned by a collective agreement. This has formed the basis for improved employee engagement at this business.

The case study illustrates that simply introducing new industrial instruments into the workplace, such as individual workplace agreements, will not of itself successfully increase employee engagement. The transition from the bargaining quadrant to the leadership quadrant involves many changes including:

- Strengthening merit as the principle on which the organisation is based and eliminating seniority and time in role as a basis of progression;
- Establishing clear managerial authorities for people management (selection, task assignment, review recognition and reward and initiation of removal from role);
- Improving safety performance;
- Introducing a suite of performance management systems;
- Reviewing organisational structure and the business model, including the opportunities for outsourcing;
- Building leadership capability to engage directly with employees;
- Confronting poor leadership;
- Rationalising multiple union coverage;
- Building internal fair treatment systems to resolve individual concerns without recourse to third parties.

6.5 The Bureaucracy Quadrant

Many member companies interviewed conceded that at some stage, one or more of their systems shaping employee engagement have slipped into the bureaucracy quadrant and ceased adding value to the business. Fortunately, the underlying business model of these companies has been sound and steps have been taken to redesign the systems involved to align more closely with the needs of the business.

The case study in Box 1.5 follows the experiences of Hamersley Iron and Argyle Diamonds documented in 1.4.

Box 1.5 - The Challenge of Sustaining Effective Leadership

Hamersley Iron Pty Ltd and Argyle Diamonds Pty Ltd had successfully implemented individual employment arrangements and experienced increased organisational performance.

However, over time, staff turnover resulted in changes in leadership in both organisations at corporate and operational levels, which was accompanied by a loss of institutional memory. Very strong business performance at Hamersley and the need to significantly reduce costs to extend the life of the mine at Argyle Diamonds drove a very strong operational focus in both companies.

In this context the effectiveness of a number of key people systems started to decline, as did the extent of direct interaction and communication between front line staff and managers at all levels. First line supervisors were focused very much on output, in some cases at the expense of their managerial development and training on people skills.

In addition, as a response to the major changes in the federal workplace relations legislative environment, employee support via workplace ballots to establish new industrial arrangements to underpin the individual agreements was sought. The employees had little understanding of, or interest in, a non union collective agreement under the federal *Workplace Relations Act 1996* (Cth) that was offered for employee approval. This was accompanied by feelings that the leadership of the organisation had not been communicating well and not sharing enough information with them. The rejection of the company's proposals by a substantial majority of employees indicated the management team had been unable to explain the reasons for the changes sought and had lost touch with the issues that concerned the majority of the workforce.

In terms of the model, both organisations had slipped into the bureaucracy quadrant and a critical review of leadership behaviours was required to return to the leadership quadrant. At Hamersley, for example, a review of key employee relations systems, such as performance management and remuneration was undertaken. Amendments to these systems were made with substantial input from the employees affected.

Direct communications with staff were also increased and additional training in front line supervision skills was given high priority in both companies. The effective implementation and application of the performance management system have become key indicators of leadership performance. These initiatives have helped improve direct relations with their employees. Constant and consistent attention to leadership development and systems supported the desired leadership behaviour, putting the organisations in a better position to manage any future changes in leadership roles.

This case study shows that ongoing attention to key people management systems such as performance management, communications, consultation and leadership coaching and development is essential to maintaining employee engagement. It is very easy for a failure in these key systems result in a move to into the bureaucracy quadrant.

If early warning signals that employee engagement is waning are missed, an opportunity to rectify the situation may only arise if the company is given a “wake up call” such as from the unexpected results of a workplace ballot.

7 Implications for Employee Relations Strategy – Analysis of the Nature of the Relationships in each Quadrant

Thus far this paper has looked at the impact of employee relations and workplace change on employee engagement and the consequential impact on organisational effectiveness using the *Four Model Quadrant of Employee Relations and Organisation Effectiveness*. Our discussion now turns to the underlying relationships in each quadrant of the model to draw out the implications for employee relations strategy for employers.

In each quadrant of the model the nature of the relationship between the employee and the organisation shifts as the individuals' experience of work changes in response to the systems and leadership behaviour which characterise that quadrant. The experience of work influences the behaviour of employees and the level of engagement with the organisation or the extent of reliance on third parties.

The types of relationships that exist in each quadrant are illustrated in figure 2 below:

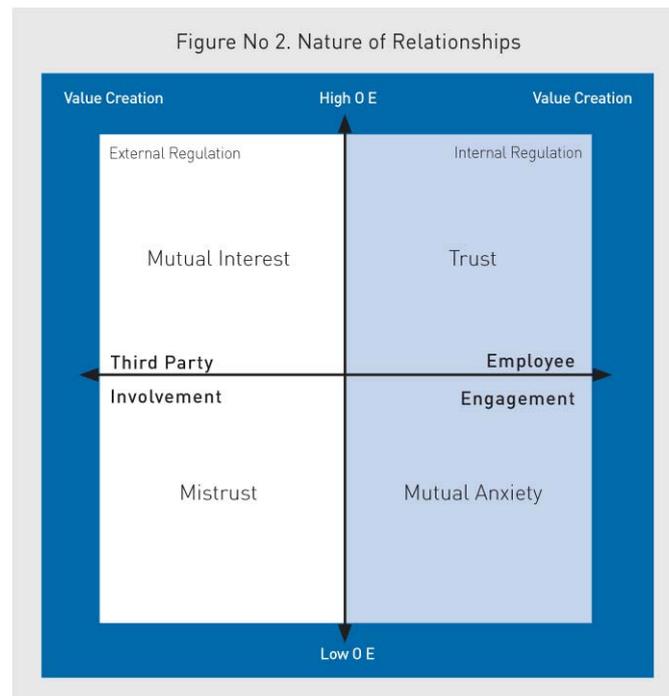


Figure 2: Nature of Relationships

7.1 The Leadership Quadrant: Trust and Employee Engagement

The Concise Oxford Dictionary defines trust as a 'firm belief in the honesty, veracity, justice and strength of a person or thing'. In a work context the definition tells us that trust is bound up with the personal integrity, behaviour and values of individuals, especially the leaders of the organisation.

Mayer defines trust as 'the willingness of a party to be vulnerable to the actions of another party based on the expectation that the other will perform a particular action important to the trustor, irrespective of the ability to monitor or control that party'.²⁵

The notion of vulnerability is interesting in a work context. It is difficult to reconcile the behaviours associated with employee engagement with people who *feel* vulnerable. For instance, it could be argued that the essence of a successful work organisation is its ability to operate systems which allow people who are otherwise unrelated to come together and interact to achieve its goals and to continue to do so over time. The legal framework and the policies and systems of the organisation, if well designed, can help to create a sufficiently predictable and safe environment in which people unfamiliar with the organisation and its employees are prepared to work. The systems of the organisation, including standard operating procedures, also define the work requirements and practices that employees must follow in order for the entity to achieve its organisational purpose.

Thus the vulnerability or unpredictability for the individual in joining and engaging with the organisation is reduced to an acceptable level. Technical, commercial and people systems and procedures give sufficient assurance that the employee's interests and objectives will be observed in the work relationship.

If systems are poorly designed and managerial behaviour is unpredictable, the sense of vulnerability will be much greater and the level of trust is likely to be low. In these circumstances an employee or prospective employee might be expected to look to other sources to reduce their sense of vulnerability by, for instance, joining a union.

From the discussion of these definitions we can identify some key elements that must be present in a trust environment:

- Honesty and truthfulness;
- Capability and competence;
- Reliance on a person or thing; and
- An element of vulnerability.

It is also apparent that the extent of vulnerability is directly related to the predictability of the behaviour of the person, system or thing on which reliance is placed.

If, as it has been argued, trust involves the acceptance of an element of vulnerability, the leadership and systems of the organisation will have an important role to play in building trust by minimising the sense of vulnerability and unpredictability in the relationship. This in turn brings us back to our definition of employee engagement:

Engaged employees willingly work to the best of their capability in the interests of the organisation and are encouraged to do so through the leadership, structure and systems of the organisation.

²⁵ Roger C Meyer, James H Davies, David Schoorman, 'An Integrative Model of Organisational Trust', *The Academy of Management Review*, Vol 20(3) July 1995, 712.

It is in this context that use of statutory individual workplace agreements must be viewed if the significant gains in productivity that many AMMA members have achieved from their introduction at the workplace are to be understood.

It will be recalled that the turn around in plant performance of the Bell Bay Smelter (Box 1.1) was the outcome several years work changing the culture of the workplace and earning the trust of employees. A similar process of changing workplace culture has been found in other AMMA member companies. What this means is that the introduction of AWAs in the workplace has been just one element in a wider process of change to achieve increased organisational effectiveness.

A good example of this comes from the smelters operated by Zinifex in Sydney and Melbourne. At both sites, each of which were culturally diverse, careful attention was paid to the social process involved in making the offer of an AWA to its employees. The site manager was heavily and personally involved in the communication process. Increases in productivity of 20 percent per annum have been consistently maintained at these operations since the introduction of AWAs. This has occurred without any change in technology.

It is difficult to escape the conclusion that these improvements result from increased employee engagement, achieved by earning the confidence and trust of employees. These gains in productivity are also consistent with the increases in productivity achieved at Hamersley Iron, Bell Bay and BHP Iron Ore following the introduction of individual employment arrangements.²⁶

Over the longer term increased employee engagement helps to explain the dynamic efficiencies that have been achieved in many workplaces. These dynamic efficiencies are evident in faster adjustment to changes in operating conditions, smoother introduction of new technology and work methods and better equipment availability. The increased speed of decision making and the implementation of change have been facilitated by the removal of demarcations and the potential union veto of changes to work practices. The elimination of these non value-adding processes creates more time for management to focus on overall business improvement and the maintenance of a predictable and safe work environment within which employee engagement can be sustained.

The clear implication for an employee relations strategy that wishes to position the business in the leadership quadrant is that it is the substance of the relationship not its legal form which will determine whether employees are engaged and productive.

Other experiences of sustained improvements supported by the introduction of individual contracts are found at the Kwinana Nickel Refinery (KNR) and the Kalgoorlie Nickel Smelter (KNS) owned by Western Mining Corporation. In 1995, both facilities introduced Western Australian individual workplace agreements²⁷ which were accepted by almost 100 percent of employees. This was an outcome of

²⁶ Macdonald I, Burke C, Stewart K. (2006) *Systems Leadership Theory: Creating Positive Organisations*, Hampshire. Gower Publishing Company, 248-258; See also Ludeke JT. (1996) *A Line in the Sand*, Sydney. Allen and Unwin; Hunt G, (2003) *Challenges and Benefits from Establishing and Developing Direct and Productive Workplace Relations*, Speech presented to the AMMA National Conference, Melbourne, 2003.

²⁷ These were state individual agreements available under the *Workplace Agreements Act 1993* (WA).

a centrally driven strategy to lift leadership capability and build employee engagement through direct working relations.

Between 1996 and 1998, productivity (measured in tonnes per FTE) more than doubled at the two facilities. Again, the introduction of individual workplace agreements was only one significant factor in the increased production. Improvements in technology and the upgrade of facilities were also important factors sustaining the increases in productivity over the next ten years. There were also notable improvements in dynamic efficiency with increased utilisation of facilities and shorter turnarounds in planned maintenance and upgrades (e.g. KNS rebuild of furnace hearth ahead of schedule in 1999 and installation of mist precipitators ahead of schedule in 2002; KNR increased plant availability and utilisation due to better planned maintenance 1996 and a 25 percent increase in nickel production due to improvements in process performance and plant availability).

In Western Mining Corporation changes to the performance management system was a key element in the employee relations strategy for changing workplace behaviour. The quality of the performance management system and the quality of the leadership work within these systems will largely determine the level of employee engagement in the organisation.

In many companies the consistent application of the performance management system has been part of the strategy to build a common culture across geographically disperse operating business units. This has occurred at Newmont, ExxonMobil, Newcrest, Rio Tinto and Western Mining Corporation. This can involve a central design applicable to each operating business unit and the monitoring of the performance management system throughout the entire organisation, including its application to operator and trade roles (Newmont and Newcrest are moving in this direction).

In other companies with large operating business units, group wide principles apply, but each business unit's human resources group designs and monitors the performance management system applicable to their unit, including its application to operator and trades roles (e.g. Rio Tinto). A common feature in the design of the performance management system is a balance in the emphasis on outcomes and behaviours when assessing individual performance, including the behaviour of the team leader in giving effect to the performance management system (e.g. Rio Tinto Aluminium, Hamersley Iron, Newmont, and Newcrest).

At sites where the direct working relationships have matured over a number of years, the opportunities offered by increased dynamic efficiency have been leveraged by the introduction of continuous improvement methodologies (e.g. Rio Tinto Aluminium-Boyne Smelter). Feedback from consultants specialising in process improvement techniques such as Six Sigma indicates that the rate of improvement using these methods is significantly faster than when applied in traditional bargaining environments (i.e. the manufacturing sector).²⁸

²⁸ Six Sigma is a method for the measurement and management of the performance of a process or product through the reduction of variation.

Another common feature of employee engagement that is recognised by employers is a strong emphasis on values based leadership. This is evident not only in the formal statements of company vision, values and codes of behaviour but in the actual practice of these values through the leadership and systems of the organisation. In this respect the AMMA Charter is being put into practice. The practical application of the Charter by AMMA member companies is discussed in more detail later in this report.

7.2 The Bureaucracy Quadrant: Mutual Anxiety

No organisation would, by strategic choice, wish to operate in this quadrant. However, if the direct workplace relationship is taken for granted, key human resource systems will erode. If the performance management system is not properly designed and maintained, a slippage from the leadership quadrant may occur. If, despite best efforts of all involved the business cannot be turned around, sentiment will shift from trust to hope and then to mutual anxiety.

The increased unpredictability of the environment may show up through greater process variation or declining safety performance. Confidence in the leadership will erode and employees may once again look to third parties to protect their interests. Of course, the competitiveness of the business cannot be sustained if the business model is wrong, even when employees are fully engaged and committed.

The strategic issue is how to pick up the early warning signals that employee engagement is eroding. This highlights the importance having internal systems in place to provide appropriate feedback on the quality of the leadership and to provide for good control and regular auditing of human resources systems, particularly the performance management system.

The experience of the companies discussed in box 1.4 and 1.5 and other AMMA member companies is an important reminder that the leadership of the organisation requires the simultaneous management of the commercial, technical and people dimensions of the business

Constant efforts on the part of management to increase production cannot be sustained without attention to the supporting technical and people systems. Reducing costs through increasing the span of control of line managers inevitably runs the risk of reducing the extent and quality of interaction between team leader and team member. The decline in the quality of the relationship will be exacerbated by cutbacks on leadership development and human resource support in the design and operation of key people systems. There is always a risk that over time the direct working relationship with employees will be taken for granted. The executive leadership of the organisation carries the accountability to maintain the institutional memory of the value of direct work relations with employees.

A project management system which recognises and rewards leadership behaviour that promotes employee engagement is also a practical symbol of the value the organisation places on its relationship with its employees. Frontline leaders will be encouraged to be alert to early warning signals if they understand that they will be

assessed by the quality of feedback they provide up and down the organisation on the issues of concern employees. Leading indicators of employee engagement must also be gathered by human resource support roles through the control and audit of human resource systems.

7.3 The Partnership Quadrant: Mutual Interest

The analysis of partnership arrangements reviewed in this report suggests the impetus for entering into them stems from two main sources. First, from a consideration of the business model that will best suit the operation. This may lead to a decision to outsource certain aspects of the work on commercial terms to a third party. Second, from the need to escape a pattern of adversarial employee relations that is threatening the future of the business. This may lead to the establishment of partnership arrangements with the local union. The effectiveness of either form of partnership depends on the recognition and maintenance of the mutual interest in the relationship.

7.3.1 The Commercial Partnership and Mutual Interest

As the case study in Box 1.2 demonstrates, the contracted supply of core functions requires close integration of fundamental employee management systems between the two parties. This is critical if the employee relations strategy of the host organisation is to move to a position in the internally regulated leadership quadrant. Alliance partnerships based on mutual interest as described in the case study are becoming increasingly common (e.g. Yarwun, Zinifex -Century and ExxonMobil-Altona). Once established, such relationships are difficult to end.

Where the function performed by the contractor is episodic or relates to an important but non-core function, close commercial supervision is necessary but the same degree of integration is not required. This is because there is a higher likelihood that the supplier of services will change from time to time. Unlike a relationship with a union, each contractual review starts from the premise that the relationship can be severed, even where there is a long established alliance. The business outcomes and the profitability of the partnership are key considerations in the assessment of mutual interests of the two separate business entities. Consequently, employees of both the contractor and client can coexist on site but with different human resource systems and forms of employment.

One exception to this relates to the owner operator's safety obligations, where a sufficient degree of harmony between the parties' systems is necessary in order to ensure basic compliance with safety standards. This can function as an impetus to align other elements of the human resource systems and methods of employment. Indeed, over time, especially when there is continuity of contractual relations and shared facilities, cultures can begin to overlap and merge with support from explicit policies of equal status (e.g. Rio Tinto Aluminium-Boyne Smelter and Yarwun). That being said, there are also benefits to be gained from different employment relationships coexisting. The effect of such difference often results in the perception that the client can offer more secure employment and so has available to it a pool of

labour from within the contractors' workforce on which it can draw its own employees.

In the resources sector, employers have also used independent contractors either directly or through labour hire firms. This form of engagement has increased significantly over the last ten years. It is likely, that the frequent downsizing in Australian companies has been a factor increasing the supply of this form of labour. However, the willingness of individuals to take up this form of work is also related to the higher degree of autonomy and discretion they can exercise compared to conventional employment. If this is a pathway to increasing their productivity and engagement and thus, organisational effectiveness it is something to be supported.

7.3.2 Union Partnership and Mutual Interest

The study has identified that often the improved employee relations and business outcomes have occurred as a result of major threats to job security. This is because concerns in relations to job security has motivated the union to enter into agreements which significantly varied from past practice. Where there is a threat to job security, it appears that mutual interests can be identified.

Agreements that vary significantly from past experience include those that have moved the adjustment of wages away from the bargaining process. At ExxonMobil-Altona for example, a market survey methodology has been adopted which is intended to take wages out of contention. Productivity bargaining has also been displaced through the emphasis on continuous improvement.

Whether implicit or explicit, the right to strike or lockout remains. Whilst that right has not been exercised with respect to ExxonMobil-Altona, it became an issue in the case of Saturn when strike action was threatened due to the announcement of a decision to source the next generation of the Saturn compact from a different plant.

The findings also indicate that to operate within this model, the decision making processes of the company require a high level of input from union representatives. Agreement is essential to implement changes to working arrangements on site, but this process can be time consuming and may contribute to a loss of dynamic efficiency. However, there is evidence in the case of Saturn that the implementation of agreed change is much faster (e.g. the time for production to get back to the volume prior to the launch of a new model).²⁹

It is critical to the credibility of the arrangements that exist at the workplace that the union and management have a frank recognition of the differences in their purposes. They are called upon to make a judgment as to whether the relationship is sufficiently valued and whether mutual interests are strong enough to justify the surrender of authority one to the other. In addition, with the departure of management leaders and local union delegates with the attendant loss of corporate history and memory, there is an increasing risk that costs of a return to adversarial relations will be underestimated. The organisation never fully escapes the bargaining

²⁹ Rubenstein SA; Kochan TA. (2001) *Learning from Saturn*. New York, Cornell University Press

quadrant and some doubt will persist as to the sustainability of the relationship without resort to bargaining power.

7.4 The Bargaining Quadrant: Mistrust

Since its inception the system of industrial regulation in Australia has been based on the assumption that the individual employee is vulnerable to the economic power that can be exercised by the employer. The continued existence of union at the workplace rests on a belief by employees that the employer cannot be trusted to treat them fairly. Mistrust at the workplace sustains the union movement and underpins the collective bargaining process.

For organisations that have not secured the confidence and trust of employees to move beyond a bargaining model, employee relations strategy typically focuses on the management of the risks of industrial action and the role of third parties at the workplace.

The 2006 amendments to the *Workplace Relations Act 1996* have increased the accountability of the union leadership at the workplace. This is done by mandating secret ballots prior to the taking of protected industrial action³⁰ and increasing the consequences associated with the taking of unprotected industrial action.

These legislative amendments impact on the exercise of bargaining power and therefore any company engaging in the bargaining process must have a clear understanding of the appropriate and strategic use of the legislation.³¹ The experiences of AMMA member companies that have made productivity gains within the bargaining process demonstrate that a preparedness to use the legal options available is an essential part of any employee relations strategy.

There are other aspects of the legislation impacting on the role of unions, including rights of entry, dispute resolution, allowable award matters and changes in the agreement approval processes. Again, clarity and consistency on the role of the union in the workplace is important. However, this is not an issue that can be unilaterally determined by management. If the company strategy is to build employee engagement (as defined), then it must build the direct relationship between team leaders and team members. Companies must be careful to avoid practices which effectively delegate leadership authorities to third parties (communications, task assignment, reward, recognition and review, selection and removal from role etc).

At its extreme the bargaining quadrant is dominated by mistrust which can be so entrenched it paralyses the organisation. This was the experience of Southern Copper which is documented in Box 1.1. However, the review of workplace change in many member companies has shown that it is possible to earn the trust of employees, build employee engagement and reduce reliance on third parties by both employees and the employer. The case study in Box 1.5 also shows that where

³⁰ *Workplace Relations Act 1996* (Cth) Part 9 Division 4.

³¹ For example, companies should be aware of the action that can be taken in response to unprotected action and the limitations on the content of agreements such as prohibited content.

there is a loss of confidence in the capability of the leadership, it can be expected that employee engagement will reduce and employees will seek the involvement of a third party (a union, industrial commission or court, lawyers or government agency) to protect their interests. In this context, actions which may be perceived as undermining the representative role of the union can be counterproductive.

For organisations that wish to build direct employee engagement, the legislation has changed very little: union membership (freedom of association) is a matter for the individual employee. The responsibility lies with the organisation to reduce the need, whether real or perceived, for union protection of employees from unfair treatment by the company.

But for employers regularly engaged in the bargaining, the changes to the process of collective bargaining are of particular relevance. In particular, concern was expressed about the difficulties in project construction in Victoria as evidenced by the poor industrial disputation record in this industry in that state (e.g. Roche - Hamilton). In addition to this, several examples of industrial disputation in Western Australia and its contribution to time and cost overruns were identified in the interviews (e.g. Rio Tinto-Hi Smelt, Perth Tunnel, and Newcrest-Telfer). The legislative reforms which impose additional procedural requirements to undertake industrial action have gone some way to address these concerns.

If there is going to be success in achieving better business outcomes within this quadrant, clarity, consistency and predictability from the leaders of the business and those dealing with unions and the AIRC are required. The business imperatives for change must be clearly enunciated and the expected changes in workplace practices clearly explained.

These business outcomes are often only achieved in the bargaining quadrant where there is a threat of closure of the business, or the threat to the union by the company of the use of individual employment arrangements. Ironically, these factors perpetuate conditions of mistrust at the workplace.

8 Overall Business Outcomes

The totality of the behaviours and relationships that developed and changed over time within the AMMA member companies that participated in the study are illustrated in each quadrant in the figure below. The business outcomes at the extremes of each quadrant are made explicit: value creation and growth in market share in the top quadrants and potential market exit in the lower quadrants. The figure illustrates in particular:

- In the two left hand quadrants, the transition from an adversarial to cooperative relationship occurs as mutual interest grows. The experiences documented in Box 1.2 and 1.3 shows that mutual trust based on a partnership can increase organisational effectiveness.
- In the two right hand quadrants, the slippage from leadership to bureaucracy and the disintegration of internal systems occurs when confidence is lost in the leadership. The case study in Box 1.5 shows the need to attend to the behaviour and systems supporting direct employment relationships which, if unattended, can lead to unpredicted results which may impact adversely on the business.

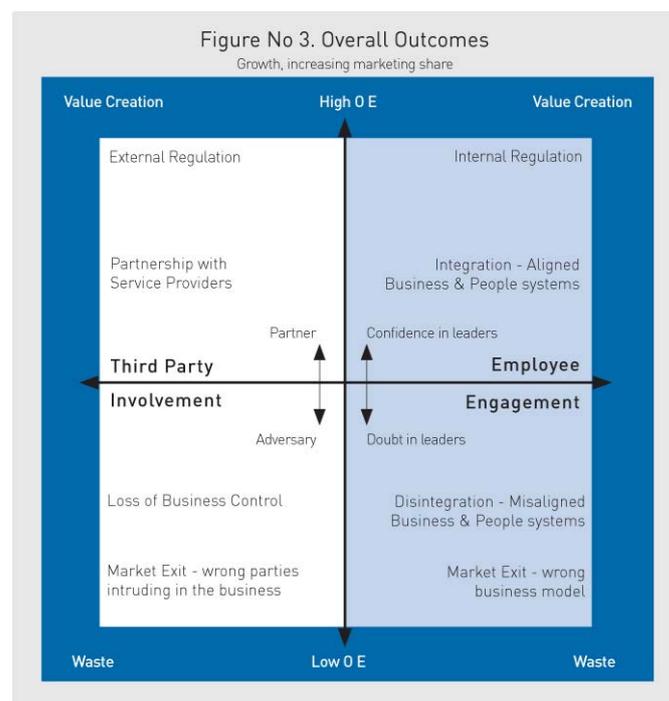


Figure 3: Overall Outcomes

The improvements in employee engagement, productivity and business performance, particularly for the larger organisations, have been significant. The effort involved to attain a position in the leadership quadrant has been justified. There has been much more than a change in the legal form of the employment relationship within those organisations with high levels of employee engagement.

However, if the changes required are not understood by the business leaders and the change in work relations lack real substance, then any productivity gains are unlikely to be sustained. If commitment from the top falters or the corporate memory fades with the turnover of leaders, the value of direct employment relationships may be taken for granted. The pressure to maximise production when prices are high can easily result in communication, feedback and performance reviews being overlooked. Leadership training on the importance of internal systems and the coaching in social process skills becomes a lower priority than quickly increasing production.

In this climate it is very easy for key systems (both people and commercial) to slip to a position in the bureaucracy quadrant. If no corrective action is taken, this can lead to the disintegration of the business, a loss in confidence in the leadership and, depending on prices and the level of competition, market exit.

9 Achieving Employee Engagement under the *Workplace Relations Act 1996*

There is plenty of evidence to suggest that improved business outcomes can be achieved through increased employee engagement, although experience shows that achieving and sustaining those gains is not easy. As was observed by Greg Gailey, the CEO of Zinifex at the AMMA Annual Conference in 2006, 'government can provide the legislative framework for workplace relations but it can't determine the character of those relationships.'³²

The 2006 amendments are intended to help companies achieve better business outcomes and give employees more choice about the type of arrangements they work within. The new workplace environment created by the *Workplace Relations Act 1996* is now explored using the four sector model.

9.1 Australian Workplace Agreements

If a company's purpose in offering AWAs is to build a more engaged and productive workforce, the social process of offer and acceptance is crucial. This is because the legal form of the contract of employment is not the sole determinant of employee engagement, although it may facilitate the creation of an environment where employee engagement can occur. This means that utmost attention to the quality of the process and the existence of systems to support the expected behavioural changes is required. Without this the company will remain in the process dominant quadrants.

The quality of the process will be reflected in the careful preparation and effective leadership by line management when offering AWAs to ensure as large an acceptance of AWAs as possible. If this does not occur, the existence of multiple forms of legal engagement may create division in the workforce. Additionally, good administrative support systems are required for the management of AWAs, a process more laborious than the application of a single collective agreement.

If the emphasis on 'people issues' is not appreciated and valued by the organisation as a whole, even the most well designed and implemented systems involving individual contractual arrangements can slip down into the bureaucracy quadrant. This risk increases over time with the turnover of managers who understood and championed the initial changes.

9.2 Collective Agreements with Unions

The changes relating to collective union agreements and protected industrial action, secret ballots and faster access to remedies in the Federal Court will help to further

³² Greg Gailey, CEO Zinifex, speech presented to the AMMA National Conference, *The Bygone and the Brand New: The changing face of employee relations*, 16-17 March 2006 – Launceston Tasmania.

reduce industrial disputation.³³ The costs and productivity losses that occur from industrial disputation while more apparent, are only part of the loss occurring from adversarial relations at the workplace. A workplace with an adversarial culture will result in higher process costs and the need for greater industrial relations and human resources infrastructure.

The building and construction sector has a poor industrial history. The Building Industry Taskforce found that within that sector, the rule of law had been replaced by the 'law of the jungle'.³⁴ However, with the prohibition on industrial action during the life of an agreement under the *Workplace Relations Act 1996* and the enforcement provisions contained in the *Building and Construction Improvement Act 2005*, there appears to have been an immediate positive effect on disputation levels.

In 2004 lost time in the construction industry averaged 29.7 days lost per thousand employees.³⁵ In 2005 this figure fell slightly to 22.35 days.³⁶ In March 2006 the lost time fell by 84 percent to 3.5 days per thousand employees.³⁷ In September 2006 this figure had fallen to 1.6 days per thousand employees.³⁸ This has also been supported by the secondary boycott provisions that were reintroduced to the *Trade Practices Act 1974* in 1996.³⁹

However, despite these historically low disputation levels, the adversarial mentality within industrial relations is still persisting. The CFMEU has indicated that in the absence of the restrictions under the *Workplace Relations Act 1996* and the removal of the Australian Building and Construction Industry Commission it would return to its prior program of industrial militancy.⁴⁰ It is interesting to note that in the AWA dominated non-coal mining sector there was no industrial action recorded in the June 2007 quarter, compare this to the CFMEU collective agreement dominated coal sector which experienced 67.1 days lost per 1000 employees in the same period.⁴¹

In combination with the *Workplace Relations Act 1996*, the *Building and Construction Improvement Act 2005* and the National Construction Code (as administered by the Australian Building and Construction Commission) have introduced a level of discipline and industrial stability which had been lacking in the industry. Ironically, discipline and consistency are the very characteristics that have

³³ In 'other mining' industrial disputation in the March quarter is only 0.2 days per thousand employees: [Australian Bureau of Statistics, Industrial Disputes, Australia, Cat No 6321.0.55.001, March quarter 2007 Released 7 June 2007.](#)

³⁴ Interim Building Taskforce, *Upholding the Law – One Year On: Findings of the Interim Building Industry Taskforce*, March 2004 and Interim Building Taskforce, *Upholding the Law – Findings of the Building Industry Taskforce*, September 2005.

³⁵ Australian Bureau of Statistics No. 6321.0.55.001 - Industrial Disputes, Australia , < www.abs.gov.au > 23 February 2007, Jun 2006

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Sections 45D and 45E. The impact of the secondary boycott provisions contained in the Trade Practices Act on industrial disputes can be found in an examination of the 1998 Waterfront Dispute where despite the battle between the MUA and Patrick Stevedores Australian Ports continued to operate in contrast to previous disputes between the MUA and waterfront employers.

⁴⁰ Australian Government, Business Group Confirms: Workers would take industrial action if penalties did not apply, *Media Release*, 30 January 2007.

⁴¹ Australian Bureau of Statistics No. 6321.0.55.001 - Industrial Disputes, Australia , July 2007 < www.abs.gov.au 14 September 2007 >

been shown by many AMMA members operating successfully in the industry and which have been an important source of competitive advantage. For this advantage to be maintained, members will need to consider how employee engagement can be built directly with their core and peripheral labour force. This will be especially important given the chronic shortages of skilled labour.

Improved business outcomes can also be created by promoting the mutual interests of union members and the company (e.g. equity participation and gain sharing schemes). However, the ability to affect change will be more difficult in operations covered by more than one union, each of which will have different organisational purposes.

A business model based on union and management cooperation recognises a role for the union in communication, consultation, dispute resolution and in the design of key people systems. In the past, the union role was mandated but this is no longer so under the *Workplace Relations Act 1996*. In the current system, the union, through the strength of its membership, may still maintain a role in the workplace, but without the memberships' mandate, the company leaders would effectively be ceding authority to the union leadership.

Without the mandated role of unions in the workplace, it can be expected that many companies will seek to assert authority in areas of employee relations where unions and tribunals previously played a major role. Their challenge will be to reach the top right leadership quadrant.

9.3 Employee Collective Agreements

These agreements will be much easier to obtain than those available under the pre-reform *Workplace Relations Act 1996*. Some employers may perceive them as more administratively convenient than multiple AWAs. The question for the company is how this form of agreement will advance employee engagement and move the business out of the process dominant quadrants.

Some critical issues to be solved are:

- What if the agreement gets a bare majority?
- How do you engage the capability of someone who voted against the agreement? In the past the employee's displeasure may have been directed at the union, now it is more likely to be directed at the company.
- What can be done to reduce the likelihood of industrial action occurring upon expiry of the agreement when protected industrial action can be taken? (By contrast AWAs with expiry dates occurring at staggered intervals reduce the likelihood of an organised industrial action occurring).

Any ballot process carries some risk that it will entrench opposing views or become the vehicle for a protest about other issues which management has allegedly ignored. It is also an opportunity for leaders to widely interact with employees and

better understand the perspective from the shop floor. Leaders must take that opportunity and continue to build their understanding of how employees see things during the operation of the agreement. A solitary effort running up to a vote will not build engagement and trust.

9.4 Employer Greenfield Agreements

Subject to minimum safety net requirements, member companies in this situation have a clean sheet of paper. Experience of member companies suggests that this presents an opportunity to build a business model that may be very different from previously established arrangements. This could involve innovative approaches to outsourcing or a form of individual employment arrangements and labour cost structures which do not have to follow traditional standards.

If the business model is flawed, experience suggests employee engagement will not of itself be sufficient. However, under the *Workplace Relations Act 1996* there is much greater capacity to adjust to adverse business conditions. The process to be followed in response to these changes in trading conditions can of course be a feature of the agreement.

10 The Case for Internal Regulation

10.1 The Employee Relations Charter and Model for Internal Regulation

Along with its *Beyond Enterprise Bargaining Report* in 1999, AMMA released an Employee Relations Charter (see Appendix A). The Charter is a statement of standards for managerial leadership, behaviour and systems that AMMA believes are necessary to support and maintain a system of internal regulation. The preamble to the Charter states that an essential feature of the self regulated enterprise would be:

“a commitment to honesty, fairness and accountability in the way the organisation and its people work with each other”.

The Board of AMMA, which comprises most of the leading mining and resources companies operating in Australia and the international community, has endorsed this Charter.

Following the release of the Charter and after extensive consultation with AMMA members, AMMA developed a model of internal regulation which was publicly released in its 2000 discussion paper *A Model for Internal Regulation of Workplace Employee Relations*.⁴² The Charter serves as a vision towards which organisations wishing to move to the internal regulation model should strive.

The intention of the internal regulation model is to build on the current workplace relations framework. Where organisations and their employees have attained a high level of trust through their systems and methods of management they can choose to work directly with each other under the internal regulation model. It is not designed to replace any options currently available under the *Workplace Relations Act 1996* but rather will facilitate the effective operation of common law contracts with underpinning core minimum protections.

The key features of the model are as follows (these are discussed in more detail within AMMA's 2000 Discussion Paper):

- Sixty six percent of employees must vote in favour of internal regulation. A two thirds majority will act as an added safeguard for employees in the acknowledgement that it represents a fundamental change to the regulation of their workplace. The most significant and rapid improvements in operating performance and productivity have occurred when the acceptance rate of individual employment arrangements has been in excess of 90 percent. The 66 percent majority proposed is therefore a minimum which companies should aim to exceed by as much as possible.
- Procedures to ensure the ballot was free and informed must be prescribed;

⁴² AMMA *A Model of Internal Regulation of Workplace Employee Relations (February 2000)*
<http://www.amma.org.au/publications/Model%20of%20Internal%20regulation%20-%20Discussion%20Paper%20-%20%20Feb2000%20edited%20version.pdf> site accessed 12 March 2007.

- The agreement will not have any fixed term of operation and will continue indefinitely or until a 50 percent plus one majority votes in favour of a return to the previous regulatory arrangements.
- Minimum standards set by the appropriate authority must always be met or exceeded; and
- Employees must have access to a fair treatment procedure for complaints and grievance to resolve an individual problem.

The Australian Chamber of Commerce and Industry adopted AMMA's internal regulation proposal in 2002⁴³ and advocated for a mechanism to allow opting out arrangements for 'best practise workplaces'.⁴⁴ Whilst the Federal Government's initial response to the AMMA proposal was encouraging, the 2006 reforms did not implement the model of internal regulation proposed by AMMA.

Nevertheless, the model for internal regulation may still be achievable. Discussions with member companies have clearly indicated that the Charter underpinning the internal regulation model still represents a statement of standards they strongly support. Many member companies have adopted Codes of Practice or similar statements of policy that align with the Charter, (e.g. Alinta, BHP Billiton, Rio Tinto, Newmont, Newcrest, Thiess, Fluor, Zinifex, and Western Mining Corporation). The list does not purport to be complete and many operating business units within these companies have developed similar statements of values and behaviours specific to their circumstances.

It is pleasing to note that these statements are not mere rhetoric, as there are many examples where they have been given practical effect. Examples include the improvements in safety performance; the competitive levels of pay and conditions; the internal systems supporting fair treatment, equal opportunity and freedom from discrimination; the practices supporting the sharing of information about business performance; the environment and community engagement. As such, AMMA members participating in this report have expressed continued support for the option of internal regulation.

10.2 Opportunities for internal regulation under the *Workplace Relations Act 1996*

The amendments to the *Workplace Relations Act 1996* commenced on 27 March 2006. An enormous amount of money and effort has been expended in support of and opposition to it. There is no doubt that the legislation constitutes a fundamental alteration in the legal basis underpinning the regulation industrial and workplace relations in Australia.

Corporations now have a significant capacity to deal directly with their employees as a collective group and/or individually, without any mandated role for unions or

⁴³ Australian Chamber of Commerce and Industry, *Modern Workplace: Modern Future: A Blueprint for the Australian Workplace Relations System 2002-2010* <http://www.acci.asn.au/WRBluePrintMain.htm> site accessed 23 February 2007

⁴⁴ *Ibid* 57.

industrial tribunals in the setting of wages or conditions. The reduced complexity in agreement making and processing introduced by the 2006 amendments greatly enhances the capacity of an enterprise to establish an agreement that incorporates current pay conditions and the statutory minimum standards, protected from awards. This will enable organisations to operate within the leadership quadrant and develop high levels of trust to facilitate a shift towards AMMA's Model of Internal Regulation.

It is acknowledged however that the 2006 amendments, while increasing the ability to deal directly with employees, have also increased the scope of regulation (e.g. the Australian Fair Pay and Conditions Standard will apply to traditionally award free employees) and will phase out enterprise flexibility agreements. This would have the effect of dragging many organisations down into the bureaucracy quadrant. The positive side to this is that it presents a strong case for companies with the necessary standing and capability to step outside the conventional regulatory system in the manner discussed in 10.1 above.

Implicit in the new legislation are assumptions about workplace power and trust. These assumptions are seen as contentious by some, and have formed the basis of the opposing views presented in the media. The ACTU position is based on an assumed inherent inequality of power between employer and employee which requires the involvement of a third party (unions and/or tribunals) to balance the relationship. Employees are asked: do you trust your employer enough to run that risk?

The section on employee engagement in this report discussed the practical steps that member companies have taken to earn the trust of their employees and reduce reliance on safety net arrangements administered by third parties. This has taken place both prior to and after the commencement of the 2006 amendments. In many instances, the practical steps taken in building employee engagement have been an expression of the principles and values adopted at the highest levels of the organisation and thus indicate their sustainability.

Overall, there appears to be considerable merit in AMMA persisting with its efforts to establish a system of internal regulation for those organisations which have the integrity and leadership capacity to do so. Although the Charter was released in 1999, the economic imperatives to create better and more productive workplaces remain - so too does the ability and willingness of member companies to grasp the opportunity.

11 CONCLUSION

The experiences of AMMA member companies when implementing workplace change demonstrate that a relationship based on mutual interest or trust can assist a company to achieve a high performance workplace.

In order for mutual interest or trust to be present in a workplace, there must be either strong leadership and integration directly between the employer and employees or a partnership between the employer and a third party or. In the absence of mutual interest or trust the employees will not be willing to work to the best of their capability.

It is the substance of the relationship not the legal form of the agreement governing it that determines whether people are engaged and productive. However, while it is possible for improvements in business performance to be achieved under a collective employment arrangement, a partnership is dependent on a number of precursors being present:

- mutual interest must be identified;
- external union agendas must not impinge on discussions in the workplace;
- unions must be willing to work with the employer; and
- the employees must trust both the employer and the union.

This study shows that the *Four Model Quadrant of Employee Relations and Organisation Effectiveness* remains a useful framework for understanding the interaction between internal and external factors in the industrial relations environment and how employee engagement and productivity can be increased in that context. It also supports AMMA's continued promotion of its *Model of Internal Regulation* as a means of achieving high levels of employee engagement and organisational effectiveness.

The industrial relations environment has changed markedly since the commencement of the 2006 amendments. Those amendments represent the most significant change in the legal basis for the industrial regulation of workplace relations in Australia since federation and allows for a wider range of options to be selected on how to respond to the challenges and opportunities ahead.

Despite the potential change in the direction of industrial relations policy employers should continue to improve their level of employee engagement in order to further improve their business.

The following conclusions are supported by this study:

While the 1996 amendments provided access to individual employment arrangements that supported improved employee engagement, the building of productive direct relationships remains the responsibility of the organisation leaders.

For companies facing chronic shortages of skilled labour (which is especially the case in the resources sector) the attraction and retention of labour are critical issues. The research and evidence set out in this report suggest that the level of employee engagement strongly influences an employer's capacity to attract and retain employees.

The challenge for member companies is how to maintain or reduce real labour costs. The experience of members studied in this report suggests that the dynamic efficiencies associated with a high level of employee engagement assist will assist in the reduction of real labour costs as a result of the acceleration of the decision making at all levels of the organisation.

The current industrial relations legislative environment provides a solid grounding on which to build employee engagement and improve organisational effectiveness. It recognises that a broad range of agreement making options available to all parties will provide the basis on which employee engagement can occur – it is the first step to achieving high levels of employee engagement. Companies operating under individual arrangements must also provide good leadership in order to achieve a high performance workplace. Similarly, collective arrangements must be supplemented by the existence of mutual interest between all parties.

Continued access to the range of agreement making options and third party access to workforce are some of the key 2007 federal election themes and will change significantly if there is a change of Government.

The Australian Labor Party is committed to abolishing AWAs, thus removing a key arrangement utilised by many AMMA member companies that facilitates improved employee engagement. The transitional arrangements do not provide long term access to the flexible individual industrial arrangements introduced in 1996. Access to non-union collective agreements will be severely curtailed. The existence of a single union member will introduce the union dynamic into the workplace.

Legislation that removes easy access to statutory individual employment arrangements encourages a non-representative union presence in the workplace, (particularly in workplaces where union presence is not supported by either the employer or employee) will not facilitate the type of relationship required to improve employee engagement. It places too much reliance on the existence of the elements required to achieve a partnership. Where these elements are not present, the parties will slide into an adversarial relationship where mistrust will prosper. The ability of a company to engage its employees will be low.

The common adoption of a legislative policy espousing both individual and collective agreements by political parties in Australia would do much to mitigate the swings in the industrial relations pendulum across the political cycle and the attendant transaction costs and waste that continual legislative change generates.

The uncertainty and cost that further significant legislative change will impose on companies currently in the process of making large scale and long term investments cannot be underestimated.

Appendix A: AMMA Employee Relations Charter

Subject to maintaining appropriate minimum conditions of work and protections for individuals, employers and employees should be able to choose to operate in an environment of internal regulation as opposed to external regulation. This choice is a decision for them and should be subject only to the employer being able to demonstrate, with the free and informed support of its employees, the necessary commitment to a set of core principles.

These core principles are summarised as follows:

- i. The right of all employees to:
 - work in an environment where effective standards of health and safety are in place;
 - join or not join a union with appropriate representational rights;
 - be free from workplace harassment and unlawful discrimination; and
 - have access to appropriate means for internal review of individual concerns or complaints without fear of retribution.
- ii. Remuneration and conditions of employment that are fair have regard for community and industry standards and allow scope for recognition and reward of individual, team or organisational performance.
- iii. Establishing a clear understanding of the requirements of an employee's role and providing accurate and timely information to the employees about how they are performing in that role.
- iv. Encouraging a shared understanding of business direction and performance through open communication between the employer and employees.
- v. The obligation of all employees to:
 - work safely;
 - act with integrity and honesty;
 - perform their duties effectively; and
 - act in accordance with the lawful and reasonable directions of the employer.

Legislation must enable genuine choice to employers and employees as to what form of employment regulation is used at the workplace.

The legislative framework should provide for a full range of options for employers and employees including awards and statutorily recognised collective and individual agreements and must not favour one form of arrangement over another. The process of negotiation of an agreement and an agreement once entered into by the employer and employees should not be subject to outside interference which is unwanted by the direct parties.

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