



TRUMAN HOYLE
Lawyers

Negotiating Workplace Agreements

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How Did We Get Where We Are?

- Consider previous agreement – what worked and what didn't?
- If no previous agreement, what issues need to be resolved to bring about effective change?
- Senior Management desire to effect change.
- Culture – does our culture align itself to a cooperative approach to Employment Relations?
- What are our key objectives for negotiating an agreement?

Ideas and Options

Negotiation Strategy - union issues

- Trade-offs delivering real productivity unlikely.
- Remember union motivation - Ideology, industry (not company) terms and conditions, union membership. Not based on commercial negotiations. Union always thinking about next company up the road and effect of deal on other companies. Company and own employees concerned primarily with own site.
- Communicating directly with employees on factual situation, including shock tactics, may be necessary to limit extent of industrial action/limit “no vote”.
- Union focus on certain industries (such as auto industry) because most vulnerable to industrial action due to just in time supply. Need organisation with customers to allow build up of stock to withstand periods of industrial action.

Ideas and Options (*Cont'd*)

Negotiation Strategy - employee issues

- Takes time to win hearts and minds of employees in face of union allegiance/fear. Scare tactics used over a period of time that Work Choices will leave workers exposed.
- Identify what employees want other than wage rises and hourly decreases, e.g. work/life balance issues; flexibility re working hours; job sharing; genuine involvement and consultation; skills for them to bargain on their own; training regarding process to educate them to avoid union reliance; additional pay for achieving KPI's; paid maternity leave, etc.
- Focus on converting the easier to convert, rather than the harder to convert.
- Deal with any language issues by having interpreters and lock into any non-English speaking background groups who may have own internal strength to resist union influence.
- Identify pressure points within organisation/areas of employee vulnerability (e.g. threats of a long term industrial action by employees can lead to closing down organisation and not being picked up by new employer).

Ideas and Options (*Cont'd*)

EBA Negotiations

Employer claims

- Devise a list of employer claims to present to the Unions.
- Proposing a list of claims will send a clear message that the company is serious about reaching a genuine agreement.
- Will restore power to the company, by the process not just being reliant upon the Union's demands.

Core Issues

- Business needs vs. employee desires.
- The “hope, expect, accept” dichotomy.
- Employee experience & expectation
 - History;
 - Elsewhere / friends;
 - Monetary desires.
- “Corporate money printing press”.
- Consequences of company saying no to demands?
- Will company say no – or accede to demands?

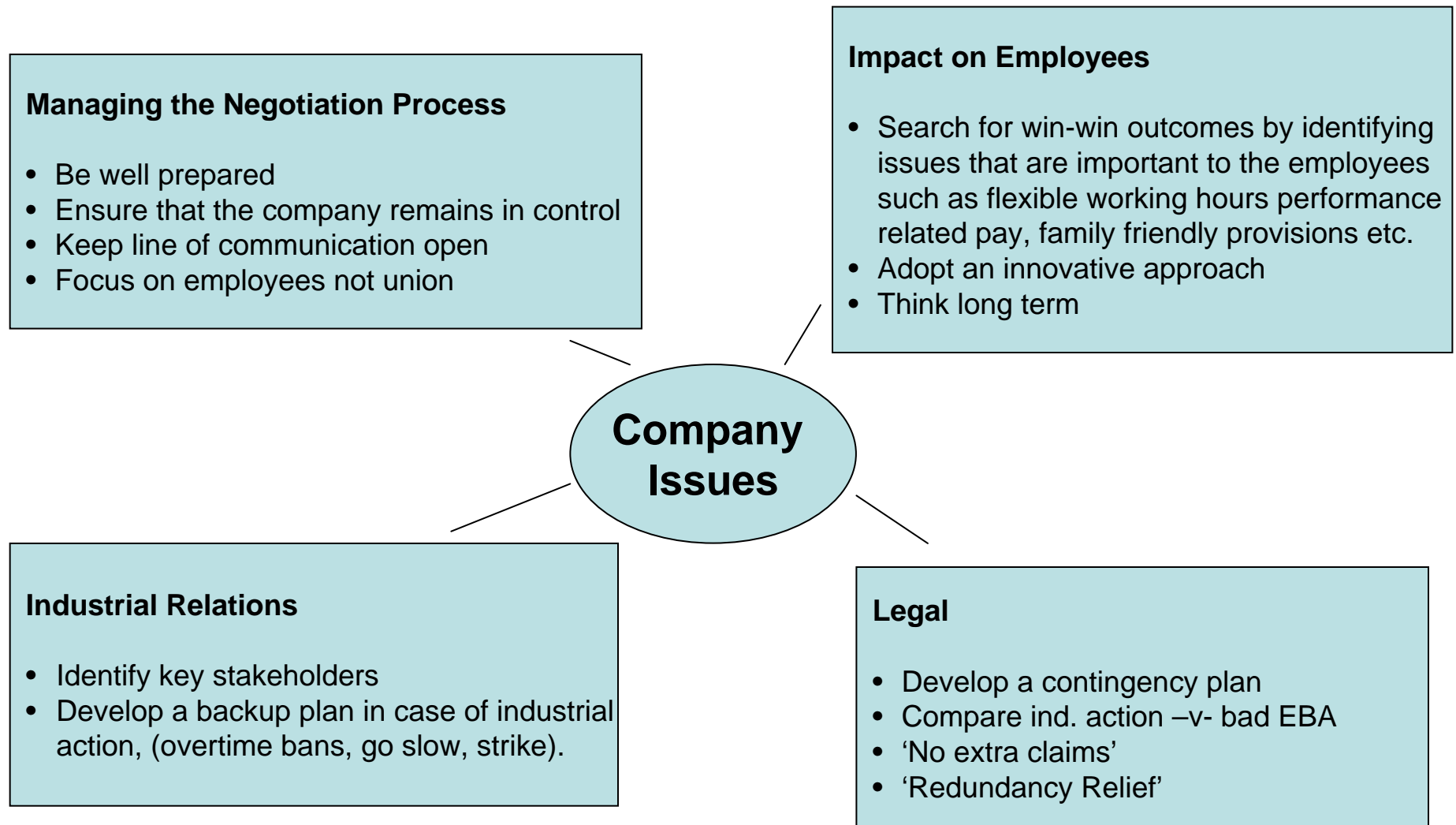
Core Fact

- The extent to which a company can refuse unreasonable union/employee claims, is directly linked to its ability to withstand industrial action.
- Unlikely to fund cost of any increases.
- Unlikely to be matched by productivity gains – measurement is difficult.

Planning for Industrial Action

- Response to industrial action during bargaining period can be legal or non-legal and can be in the Commission or the Court.
- (a) Non-Court Responses
 - No work [is directed] no pay.
 - No pay during strike and outsource work to the extent possible.
 - Private mediation.
- (b) Commission/Court Responses
 - Conciliation referral to the AIRC, s.176L.
 - s.107(G)(1) Suspension and termination of bargaining period – industrial action not protected.
 - Injunctive relief s.111.

Summary of Company Issues



Opinion / Strategy

General Comments for Discussion

- Focus on employees, not union.
- Keep communicating information and idea that the success of the EBA process ultimately depends upon the ongoing profitability and competitiveness of the businesses – this may involve the company being prepared to keep employees informed of the economic position of the business.
- Being aware of the value employee consultation – employee involvement and consultation should be treated as a long term commitment by management. Dilute union power over time.
- Communication strategy – important to have a refined strategy with employees union officials and delegates.
- Do not abandon direct communication with employees during EBA negotiation phase.
- Keep employees updated! Notices/updates.
- Small group meetings for employees – to identify the “hot issues” for employees.
- Determine whether the company is prepared to withstand action in order to obtain an outcome different from a bad agreement.
- Assess impact of other suppliers (up/downstream) being on strike.
- Note: Don’t assume you are certain of Union bottom line being same as employees.

Issues & Tasks

- a) Likely claims by:
 - i. Union – (may be more than 1 Union on site)
 - ii. Employee

- b) Company Response
- c) Company Claims
- d) Contingency Planning
 - i. Customer Supply
 - ii. Timing
 - iii. Legal

- e) Communication Strategy
 - i. Unions
 - ii. Employees
 - iii. Stakeholders

- f) Representation at bargaining

Time Frame

Crucial Issues to Manage

- Development of contingency plans (**now and ongoing**)
- Development of effective communication strategy (?)
- Prepare guidelines for negotiations
- Implementation of communication and bargaining strategy
 - Briefing sessions with employees (?)
 - Informal meetings with delegates (?)
- Monitor developments in similar business (**ongoing**)
- Full consideration of income protection issue and alternatives (**now and ongoing**)
- Negotiation (**conclusion?**)
- Team to assess response – content and manner (**now and ongoing**)

Contingency Planning

- Business must have stock build up plans in place.
- Target is (?) months supply of product by (?) 2007.
- Matters to consider:
 - Use of overtime, Christmas work, use of contract labour
 - Focus on critical components
 - Transfer of production to other sites (?)
 - Liaising with customers eg. Payment for build up stock, arrangements for storage of product
 - Built up stock to be retained for express purpose of resisting union action
- Contingency planning is fundamental to Company's overall response and must be regarded as urgent priority.



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