



WORKING PAPER SERIES

Workplace Justice and the Design of Dispute
Resolution Clauses

Bernadine Van Gramberg

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Abstract

Since decentralisation of bargaining occurred in the Australian industrial relations system, dispute resolution clauses have been installed as a mandatory inclusion in awards and agreements. This article examines the development of workplace dispute resolution in Australia and argues that workplaces have an opportunity to develop dispute resolution clauses which specifically meet the workplace justice targets of procedural, distributive and interactional fairness. Four internal dispute resolution techniques are examined: the open-door policy, peer review, internal ombudsman and the consultative committee. It is argued that customised dispute resolution clauses together with the requisite training, can deliver workplace justice and cut the costs of dispute resolution.

Keywords: *alternative dispute resolution, workplace justice, conflict, participation, decentralisation, peer review*

The move towards the decentralisation of Australian industrial relations was largely prompted by the persistence of criticisms that the entrenched use of the formal tribunal system inhibited the development of a decision making relationship between employers and employees. Brown (1986:130) in referring to Australia argued that 'by definition, employee participation in decision making, or even industrial democracy if you will, is a decentralist concept. The development and application of schemes of employee participation in this country have been painfully slow'. Some years later, the BCA-sponsored report by Hilmer, McLaughlin, MacFarlane and Rose (1991) found evidence that despite the presence of the Australian Industrial Relations Commission (AIRC), by 1990 workplace level conflict resolution was already a growing feature of Australian workplaces to resolve individual grievances and negotiate local conditions. The report strongly advocated a formal shift to workplace-level bargaining. Other proponents of decentralised dispute resolution emphasised the gains to be made from a better understanding of each party's true position under workplace dispute resolution and claimed genuine attitudinal change towards resolving conflict would result (Niland, 1978; Romeyn, 1994).

The earliest formal step towards decentralisation of wage determination occurred in 1987 when the Australian Industrial Relations Commission (AIRC), acting in response to the growing demand for a workplace-focused system of industrial relations regulation introduced a two-tiered system of wage setting in which the second tier increase was dependent upon workers and employers agreeing to changed work practices to enhance productivity, efficiency and remove restrictive work practices. A further round of decentralised wage fixing occurred under the 1989 Structural Efficiency Principle, and again in the 1991 Enterprise Bargaining Principle decisions. The new enterprise-level wages bargaining system allowed employers and employees (whether union members or not) to negotiate at the workplace for terms and conditions of employment, provided these did not undercut the provisions in the existing award. This was accompanied by an acceptance by the AIRC itself that primary responsibility for dispute resolution lay also with the parties:

The primary thrust of the principles of recent years has been the continuing application of the structural efficiency principle, the encouragement of improved

efficiency and productivity and the devolution of prime responsibility for dispute outcomes to the immediate parties involved (AIRC, 1993:17-18).

In 1994 the federal Labor government amended the *Industrial Relations Act 1988* to include provisions for the making of workplace agreements as the principal method of wage determination, with arbitration relegated to a process of last resort. However, the AIRC was given a broad role in ensuring equity in enterprise agreements and an obligation to maintaining awards as secure, relevant and consistent. In this sense, Australian decentralisation was said to be ‘managed’ centrally (Buchanan and Callus, 1993).

The Workplace Relations Act 1996 (the WRA) followed on from the general theme of de-collectivising Australian labour law and re-regulating industrial relations to the level of the workplace¹. A feature of the new legislation was the decreased reliance on the AIRC in preventing and settling industrial disputes. The objects, inter alia, of the WRA provided for:

ensuring that the primary responsibility for determining matters affecting the relations between employers and employees rests with the employer and employees at the workplace or enterprise level (section 3(b) WRA)

The Emergence of Workplace Dispute Resolution in Australia

The process of decentralisation has led to an increased focus on industrial relations negotiations at the workplace. Agreements are increasingly negotiated at the workplace rather than at head office level. Buchanan, Van Barneveld, O’Loughlan and Pragnell (1997) reported that 60 percent of agreements were negotiated at workplace level in 1995 compared with only 22 percent in 1994.

Workplace-level bargaining has been linked to an increased level of workplace disputation that is generally associated with the negotiation phase of agreement². This ‘reflects the fact that industrial action is a sub-set of bargaining activities and, by its very nature is most likely to occur in workplaces or industries where bargaining of some sort is occurring’ (Department of Industrial Relations, 1995:85). In recognition of the inevitability of grievances arising out of bargaining, industrial relations legislation since 1988 has required certification of agreements be contingent on the inclusion of a grievance procedure³. The current provision of the Workplace Relations Act is 170LT(8) which sets out the following terms:

- (8) The agreement must include procedures for preventing and settling disputes between:
 - (a) the employer; and

¹ These provisions include the scope for non union bargaining, the provision for freedom of association and the constraints on the right to strike.

² This action refers to low level disputation such as placing bans and holding stop-work meetings. In general, strikes have been decreasing over time in Australia. See Department of Industrial Relations Annual Reports 1995 and 1996.

³ Section 115(8) of the Industrial Relations Act 1988, and later, Section 170MC(c) of the Industrial Relations Reform Act 1993.

- (b) the employees whose employment will be subject to the agreement;
about matters arising under the agreement.

The provision is mandatory and together with section 170LT(1) of the Act requires the AIRC not to certify the agreement unless it is satisfied that the terms of s.170LT(8) of the Act are met. Importantly, grievance procedures remove the ability of parties to refer disputes to the AIRC in the first instance, necessitating at least an attempt at resolution at the workplace-level: 'increasingly, Australian Management is going to start dealing with conflict at the workplace, and not...moving it on to the Industrial Relations Commission' (Tidwell, 1997:6).

Reflecting the increase in workplace dispute resolution, the number of disputes reaching the AIRC have been declining over time. Bain, Crawford and Mortimer (1996:312) reported that the total workload statistics of the AIRC between 1982/83 to 1986/87 show the rate of 'amicable' settlements dropped from 58.2 percent of the tribunal's workload to 22.7 percent. Since 1987 these have demonstrated a steady downward trend. The decreasing reliance on the AIRC for resolving workplace disputes has been linked with the concomitant establishment of 'consultative committees, grievance procedures, enterprise bargaining and enterprise agreements at the workplace level has shifted the focus almost exclusively to negotiation' (Bain et al, 1996:311). The movement towards workplace level dispute resolution was also noted by Emery (1996:30) who observed that 'Conflicts still abound at the plant level but the striking thing about the social climate is that the traditional antagonists accept a new responsibility for sitting down together to search for win-win solutions'.

The trend towards establishing dispute resolution mechanisms in Australian workplaces can be observed in Figure 1 which shows that between 1990 and 1995 there was a significant increase in the use of specialist industrial relations (IR) managers, joint consultative committees and formal grievance procedures. The change in utilisation of these various consultative mechanisms and specialist staff has likely contributed to the decrease in conflict notified to the AIRC over the past decade.

Figure 1: Changes in dispute resolving mechanisms between 1990 and 1995

	1990	1995
Specialist IR manager	34	46
Joint consultative committee	14	33
Disciplinary procedure	73	92
Grievance procedure	49	71
Formal monitoring	42	46
Training of Supervisors in IR	39	72
OH&S Committee	41	43
EE0/AAPolicy	58	67

Source: Compiled from Morehead, A., Steele, M., Alexander, M., Stephen, K and Duffin, L. 1997. *Changes at Work The 1995 Australian Workplace Industrial Relations Survey*. Longman: Sydney. Figure 1 shows the changes in workplaces with 20 or more employees.

Given that there has been so much written on the benefits of workplace consultation (for example Davis and Lansbury, 1996; Palmer and McGraw, 1996), it is surprising that few dispute resolution procedures actually provide for consultation within their operation. The dispute resolution clauses from 1000 federally registered enterprise agreements were examined by the author (Van Gramberg, 2001 PhD thesis, unpublished) to determine the extent of utilisation of participative mechanisms such as consultative committees, disputes committees and bargaining units. It was found that committee structures appeared in only 20 per cent of these formal procedures. Instead, most organisations ratify their enterprise agreements utilising standard hierarchical type processes (see 'Dispute resolution procedures' below). Further, the use of other internal mechanisms of dealing with disputes, such as an internal ombudsman or specialist contact officer was virtually non-existent. This means that the majority of organisations in Australia, may not be optimising their own internal capacity to resolve workplace disputes. This article aims to explore three consultative mechanisms: peer review, internal ombudsman and voluntary voice systems which operate to resolve workplace disputes internally according to the principles of workplace justice and in a cost effective manner.

Dispute Resolution Procedures

Dispute resolution procedures are formal written procedures for resolving disputes arising in the workplace. Generally, they involve unions, employees and managers at an enterprise level. Now a requisite component of enterprise agreements and awards, the AIRC must consider the workability of a dispute resolution procedure when ratifying the agreement. Those agreements with inadequate, unworkable or unclear procedures are generally set aside. In order to constitute workability, the AIRC must take into account whether the procedure has allowed the parties to encourage consultation and negotiation at a variety of levels of the organisation and provide an avenue for final determination.

Generally, a dispute resolution procedure consists of a series of stages or steps which are utilised if no resolution at the previous stage occurs. Commencing with the parties to the dispute, the procedure refers the matter to the immediate supervisor for consultation. Many disputes are resolved at this early stage. However, if the matter is not resolved, most dispute resolution procedures allow for the matter to progress to senior levels of the organisation and generally involve the union and employer association. While it could be argued that disputes are best resolved between the parties directly involved in the matter and at the lowest level of management, often the disputants are those most emotionally involved in the matter and may not be sufficiently objective to reach resolution. By bringing in more senior players, the process gains not only more objective and perhaps experienced personnel but also allows matters to be dealt with at a corporate or policy level if necessary (McDermott and Berkeley, 1996). In general, almost all unresolved grievances would then proceed to the AIRC or other state industrial tribunal, or in the case of an AWA, to an agreed mediator (Workplace Relations Act, 1996 Regulations, Schedule 9, subregulation 30ZI (2)).

Dispute Resolution Procedures and Workplace Justice

Well executed dispute resolution procedures help to deliver workplace justice and in turn have been reported to exert several beneficial effects on employee relations within the firm. They have been found to decrease employee turn-over and enhance firm performance by signalling problem areas to management for action and monitoring (Lewin and Mitchell, 1992). A dispute

resolution procedure which is perceived by employees to be fair is likely to be used and regarded as effective (Peterson and Lewin, 2000). This kind of procedure results in greater employee perception of fair treatment and enhances job satisfaction (McCabe, 1988). In turn, procedural fairness in the workplace has been linked to the efficient functioning of organisational structures and to positive employee attitudes towards their supervisors and managers (Schmitt and Dorfel, 1999).

Tyler's (1988) work in procedural fairness explored some of these interrelationships. He found that where managers were primarily oriented on tasks or outcomes and focussed on the short term achievement of these goals, they made decisions that had less to do with fairness and more to do with practical goal attainment. In contrast, he found that relationship-focussed managers appeared to take a longer-term view over matters in their department and made decisions which were based on concerns for social harmony and which emphasised fairness. This is clearly a modern management dilemma. For instance, Barrett (1999) argued that the key discipline on management is to maintain the share price and dividend levels, and that under these economic imperatives it is difficult to envisage a willingness to make the long term commitment to, and investment in workplace justice. Nevertheless, an argument for workplace justice can be made not simply on ethical grounds, but also on the grounds that if workplace justice creates a more committed and productive workforce, it represents good economic management.

Rawls' (1971) principles of justice encompass fairness, equal liberty, equality of opportunity and the difference or needs principle which holds that only social and economic differences which are to the benefit of the least advantaged are permissible. These principles applied to the workplace ensure that corporate goals do not override individual liberties or human needs (Esquith, 1997). Rawls' principles have been incorporated into research into justice in the workplace and three main types of justice have been described: procedural, distributive justice and interactional. While procedural justice focuses on the means or process, distributive justice focuses on the fairness of the ends or outcomes and interactional on the manner of treatment of grievants (Tremblay, Sire and Balkin, 2000).

Procedural Justice

Procedural justice, or due process is a requirement not only of the formal legal process but also of the workplace. There are three accepted 'rules' of procedural justice which are considered as rights in situations where an employee is charged with having transgressed some rule. In assessing whether an employee has been afforded those rights by an organisation, courts and tribunals will look at a number of factors. First, the person charged must have an opportunity to be presented with, in writing and in sufficient detail, the charges against him or her and the proposed penalty (McDermott and Berkeley, 1996). The fact that the charge must be detailed and documented gives rise to the requirement to conduct some form of investigation into the matter and to obtain sufficient evidence to make the charge (Miller, 1996). The second rule is the right to present a defence. This may be in writing or in person. Generally, for this to occur a hearing is arranged and the employee concerned is given a suitable time to attend. Most procedures allow the employee to bring a representative. This is an important feature of procedural fairness. The representative may be someone who has helped the employee to prepare his or her defence, an interpreter or someone trusted to act as witness and support. It is arguable in terms of balancing the power in the employment relationship that employees be

given an opportunity to be accompanied by a person of their choice (Heckscher, 1994). Thirdly, due process requires that the hearing be conducted before an impartial person or panel. For hearings within the workplace conducted by supervisors, senior managers and panels, this requirement gives rise to an important training need in terms of understanding the role of fairness and ethics. Poorly constituted panels and biased managerial decisions may fall foul of later tribunal or court proceedings. Fourthly, the impartial person or panel must provide reasons for the decision (Jameson, 1999). The decision should be provided to the employee in writing and should provide a clear rational explanation for the outcome of the dispute. Finally, the employee should be given a right of appeal if dissatisfied as with the decision of the hearing. In general, dispute resolution clauses in Australian enterprise agreements provide access to the AIRC. Those which do not provide access to an industrial tribunal run the risk of parties turning to litigation to resolve the matter. These steps should be conducted in a time-efficient manner in order to provide justice to the disputants and also to avoid creating the impression that management is not interested in doing anything about the matter; thus risking the possibility that the disputants will turn elsewhere for resolution.

Distributive Justice

Distributive justice refers to the fairness of the outcome of the dispute. Tyler's (1984) study of US criminal justice defendants showed that distributive justice was strongly related to defendant perception of fairness of verdict (the outcome) and that procedural justice was strongly related to satisfaction with legal institutions (the court system). Thus distributive justice is a stronger predictor of the acceptance of the outcome and procedural justice is a stronger predictor of faith in the institution providing the decision. In the workplace, employee confidence in management appears to be based more on the perceived justice of the processes used to make decisions than on the results. In other words, employees who have been treated fairly in the dispute resolution procedure have been found to accept even adverse outcomes. For instance, employees have shown to be so concerned about interpersonal comparisons between their own outcome and that of others that they will often prefer outcomes which reduce their's and other's in order to avoid inequalities (Loewenstein et al, 1989).

Social exchange theory contributes further to an understanding of distributional fairness. The theory explains that in a social exchange relationship, individuals develop a series of mutual, though not necessarily simultaneous, reciprocal obligations (Masterson, Lewis, Goldman and Taylor, 2000). Employees develop two such relationships at work; one with the supervisor and one with the organisation. The quality of these relationships may affect an employee's justice judgements on his or her work attitudes and behaviour. High quality relationships with supervisors lead employees to behave as good organisational citizens. This in turn heightens their perception of organisational support and establishes the relationship between an organisation and its employee resulting in the employee devoting greater effort toward the organisation.

Interactional Justice

Interactional justice amounts to the fairness of treatment by decision makers. In 1988, Bies and Moad added interpersonal treatment to the concept of workplace justice as they found it represented an essential component of procedural justice. Specifically, they found that being treated in a respectful, dignified manner directly affected how disputants behave and think

about the person carrying out the treatment. Similarly, Tyler (1991:23) noted the importance of the 'interpersonal context created by dealing with third parties'. He stated that disputants placed great weight on being treated with politeness and courtesy and have respect shown for their rights. He explained that people's reactions to the dispute handling process are couched in terms of how they felt they were treated. Employees have been shown to be more supportive of decisions and decision makers when they perceive procedures to be fair (Masterson et al, 2000).

Model Dispute resolution procedures

Given the above discussion, Figure 2 contains a checklist of attributes a model dispute resolution procedure should contain.

Figure 2: Attributes of a model Dispute resolution procedure

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| <ul style="list-style-type: none"> • Commitment to workplace justice • Direct participation by the disputants • An opportunity to explore internal dispute resolution options through dialogue between the parties • Opportunity for settlement at a number of levels • Time limits on each stage to keep the process moving • An investigation process • Procedural, interactional and distributive justice • Confidentiality • Access to formal rights-based dispute resolution (referral to the AIRC or other industrial tribunal) • Feedback mechanisms to allow for revisions to the process as needs change |
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Participative Dispute Resolution Systems

Whilst dispute resolution procedures often rely on negotiation, there are a range of dispute resolution processes, often referred to as alternative dispute resolution (ADR), which may be used in the workplace. Unlike third party models of ADR, the processes discussed below utilise internal staff to simultaneously maximise the chance of resolving the matter in-house and minimise the costs associated with consultants or tribunals. Four dispute resolution techniques are considered: the open-door policy, a peer review panel, an internal ombudsman and the consultative committee. Though not an exhaustive list of workplace dispute resolution mechanisms, the following discussion provides an indication of the flexibility and diversity of techniques which can be implemented.

Open-Door Policy

The open-door technique is often used as the first step in the workplace dispute resolution procedure and is a popular management method of grievance resolution involving a manager making himself or herself available at any time for an employee who wishes to raise an issue. While providing a powerful symbolic gesture of access to management, the open door policy has also been criticised in many companies as simply proffering 'lip service'. It has also been argued that the open door policy might be more effective for white collar employees who are more accustomed to dealing with management than blue collar, or lower level workers

(McCabe, 1997). The open door policy is essentially an informal, unstructured and ad-hoc form of dispute resolution. As such it has been described as inappropriate for a number of workplace disputes. For instance, this method may make the employee raising the complaint highly visible to his or her co-workers and this could act as a disincentive to raise sensitive matters such as sex discrimination claims. The method has also been criticised as potentially leading to employees feeling reluctant to confront their supervisor on their own (McDermott & Berkeley, 1996). In particular, employees have reported reluctance to raise claims due to a fear of reprisal, especially if using the open door policy to bypass their own supervisor (McCabe, 1997). Often the desired outcome of a dispute is a neutral opinion and most employee disputants would probably not want the third party to be a person with whom they are familiar such as a supervisor or manager (Jameson, 1999).

Problems also arise when the manager is implicated in the employee's grievance. To avoid this, some organisations offer employees a 'hot line' to speak anonymously to an internally employed adviser, or other senior manager who listens to the problem, provides advice and can undertake a mediation role if required. Despite the limitations of the open door policy, it is argued here that with training in the role of grievance handling, and in particular, in the concepts of workplace justice, the open door policy, along with a strategy of 'management by walking about' is an effective mechanism for drawing out employee grievances before they become major issues. The open door policy is flexible enough to deal with a wide range of disputes from interpersonal conflicts and disagreements (interest disputes) to more formal, rights-based disputes. Further, performed well, the open door policy should contribute to an employee's sense of being afforded interactional justice which has been linked with employee loyalty, job satisfaction and satisfaction with the outcome of the dispute (Bies & Moad, 1988; Tyler, 1984, 1988, 1991).

Peer Review

Peer review was first documented by a US personnel administrator, Harvey Caras (1986) who, while employed by General Electric's Appliance Park-East facility in Columbia, Maryland, developed the technique as part of a strategy to maintain the plant's non-union status. Peer review may be requested if an employee has been unable to resolve a grievance with his or her supervisor. Generally, application to peer review is through the issuing of a written grievance. Consisting of a panel of fellow employees or peers and management representatives, the panel listens to the arguments and evidence presented by the employee and by the other disputant, often a management representative. Panel members may ask questions and clarify any matters necessary before a binding decision is issued through the process of secret ballot on a course of action to resolve the problem. Panel members are required to maintain the confidentiality of the process and must receive specific training in their role. Generally, such panels are constructed giving employee representatives a majority over management representatives, commonly with a ratio of three to two, in an effort to balance the power inequality in the employment relationship and to ensure a fairer hearing for the employee (Williams and Kleiner, 1996). There are many variations on how members are selected for their role on the panel. Employee members may be selected by ballot and managerial members may be appointed by executive management. In some cases, employees may exercise a veto over the inclusion of a particular manager and in others, the employee grievant may choose at least one of the managers on the panel (McCabe, 1997).

Panels often have a restricted role in determining dispute outcomes. For instance, McDermott and Berkeley (1996) report that in the US, they are often limited to hearing matters of appeals against disciplinary action, work assignments, transfers, performance evaluations and promotions. Similarly, Jameson (1999) reported that peer review in the US was generally restricted to matters involving alleged violations of company policy or unwarranted disciplinary action. Despite the limitations on peer review panels in terms of the matters before them, they remain a powerful alternative to litigation in the US, particularly as most peer review policies require the parties to agree to abide by the decision of the panel. In this way, peer review decisions are considered final and binding. Further, peer review systems have received accolades from a number of researchers claiming that the system is participative (Coombe, 1984) and builds an open and trusting atmosphere (Reibstein, 1986).

Internal Ombudsman

The use of ombudsmen is common across a number of industries such as telecommunications and insurance. Based on a Swedish concept, internal ombudsmen have developed in organisations as diverse as universities, municipal councils and larger corporations in the US (McDermott and Berkeley, 1996). An internal ombudsman is responsible for the explanation of company policies and procedures, provision of advice on alternative courses of action, investigation of claims, referral to appropriate contacts and to arrange meetings and sometimes to mediate the dispute. The internal ombudsman is particularly suited to instances where disputes are complex or involve a number of parties and the facts around the matter are contested. Investigation by the internal ombudsman consists of a fact-finding exercise where the investigator is given access to documentation and may interview personnel relevant to the claim. The internal ombudsman often handles both staff and customer concerns which cannot be resolved by senior management. Several Australian suburban councils utilise this model (see for instance City of Whyalla, 2001). Because the internal ombudsman operates through a complaints and investigation process, the model is suitable for both 'rights' and 'interests' disputes which arise in the workplace. Generally, employee committees or unions are not involved in this type of dispute handling process. The internal ombudsman complaints system must be operated independently of the person or body responsible for the original decision, if the system is to have the confidence and support of complainants. McDermott and Berkely (1996: 51) argued that while true neutrality and independence is difficult to achieve, the position should be sufficiently senior as opposed to 'an individual who will need the support and approval of administrators to achieve promotion or tenure in the future'. Research on the uptake of dispute resolution procedures by employees has shown that employees offered a company ombudsman are more likely to raise their issue than those who are limited to contacting a supervisor or going over a supervisor's head (McCabe, 1997).

Consultative Committees

The use of consultative committees in workplace dispute resolution is also known as a voluntary voice system of dispute processing and includes both collective bargaining and non-union grievance systems. The best known example of voluntary voice is the US system of collective bargaining which is the term given to the process of bargaining (negotiating) between unionised employees and their management. The voluntary nature of this process is located in the employees capacity to choose whether they are to be represented by a union.

Formal dispute resolution procedures in such a system allow employees to file complaints or challenge management decisions over matters covered by the collective agreement. Often the matter is referred to a formal bargaining committee which consists of union and management representatives. In this sense, the dispute resolution procedure can be said to continue the process of collective negotiations (Peterson & Lewin, 2000).

Typically, the disputes referred to the bargaining committee arise through the application, implementation and interpretation of the enterprise agreement. The logic behind utilising the bargaining committee to resolve company disputes is that these members are most likely to be familiar with the terms of the agreement, their interpretation and intent. In this sense, bargaining committees are best placed to deal with 'rights' disputes arising from the agreement. Research on the uptake of dispute resolution procedures by employees has shown that employees offered a company ombudsman are more likely to raise their issue than those who are limited to contacting a supervisor or going over a supervisor's head (McCabe, 1997). Rather than to refer matters to the entire bargaining unit, some firms choose to appoint a smaller number of members to a special disputes board. In Australia, bargaining committees are utilised in dispute resolution procedures predominantly in the building, construction and electrical contracting industries (Van Gramberg, 2001, PhD thesis, unpublished).

One variation of the use of the bargaining or consultative committee described by Mesch and Dalton (1992) is the fact-finding committee. Comprising a union and a management representative (neither of whom is a party to the dispute), the fact-finding committee has three objectives. First, it aims to encourage open dispute resolution processes through the elucidation of pertinent facts. Parties to the dispute are asked to provide to the fact-finding team all facts and evidence relevant to their case. The team then conducts an investigation to verify and identify the reasons for the dispute. In order to prevent fact concealment being used as a tactic by the disputants in the hope of revealing the concealed evidence in later stages of the dispute resolution procedure, a rule forbidding the introduction of new facts after the fact-finding stage effectively stymies such an approach. Secondly, in order to encourage resolution at the lowest levels of the dispute resolution procedure, the fact-finding team is empowered to resolve the dispute once their investigation is complete. Thirdly, the ability to resolve the matter at this early stage satisfies the final objective of the fact-finding committee, namely the timely resolution of the matter.

Conclusions

With wages and conditions now set at the workplace through enterprise agreements and other negotiated arrangements such as AWAs and individual contracts, dispute resolution procedures have found themselves part of the industrial relations landscape of the workplace. Fewer conflicts now reach the AIRC than ever before as a result of more effective mechanisms to resolve workplace conflict. Nevertheless, there is still scope for Australian companies to explore low cost, participative mechanisms to resolve disputes in-house. This paper has argued that workplaces can reduce their exposure to the AIRC and to other expensive alternatives of litigation and private mediators by considering the role of internal mechanisms of dispute resolution and the principles of workplace justice.

There is no single grievance resolution system which will suit all firms. The designing of a grievance system should be a participative and tailored exercise driven by senior management and involving a number of employees from the various layers of the organisation. Importantly, the scope of the grievance system should be identified so that there are adequate mechanisms for dealing with 'rights' and 'interest' type disputes. Training is imperative to maintain the integrity of the system as is the thorough documentation of all steps in the dispute resolution procedure to ensure consistency of application.

Offering grievance systems which promote procedural, distributive and interactive fairness not only assists in the maintenance and demonstration of workplace justice, it builds employee participation and their confidence in both the organisation and in their management. Apart from good business practice, affording employees' workplace justice also represents sound business ethics and social responsibility.

Bibliography

- AIRC 1993, *Review of Wage Fixing Principles*, 25 October, Print K9700.
- Bain, L., Crawford, L., & Mortimer, D. 1996, Is Advocacy an Industrial Dinosaur? In Mortimer, Leece & Morris eds *Workplace Reform and Enterprise Bargaining Issues Cases Trends*, Melbourne: Harcourt Brace.
- Barrett, E. 1999, Justice in the Workplace? Normative Ethics and the Critique of Human Resource Management *Personnel Review*, vol. 28, no.4, pp 307-318.
- Bies, R.J. & Moag, J.S. 1988, Interactional Justice: Communication Criteria of Fairness *Research on Negotiation in Organisations*, vol. 1, no.1, pp43-55.
- Brown, W. J. 1986, Compulsory Arbitration - Use, Abuse and Avoidance - Current Trends, in Compulsory Arbitration - The Australian Way? *Paper presented at the 1986 National Convention of the Industrial Relations Society of Australia*.
- Buchanan, J., van Barneveld, K., O'Loughlan, T., & Pragnell, B. 1997, Wages Policy and Wage Determination in 1996 *Journal of Industrial Relations*, vol. 39, no.1, pp 96 – 120.
- Buchanan, J. & Callus, R. 1993, Efficiency and Equity at Work: The Need for Labour Market Regulation in Australia *Journal of Industrial Relations*, vol. 35, no.4, pp515-37.
- Caras, H. 1986, *Peer Grievance Review*, Englewood Cliffs: Prentice-Hall Information Services.
- City of Whyalla, 2001, Customer Complaints Handling Process <http://www.whyalla.sa.gov.au/council/policies/complaints.htm>
- Coombe, J. D. 1984, Peer Review: The Emerging Successful Application *Employee Relations Law Journal*, vol. 9, no.4, pp 659-671.
- Davis, E.M. & Lansbury, R.D. 1996, *Managing Together : Consultation and Participation in the Workplace*, Melbourne : Longman.
- Department of Industrial Relations 1996, *Enterprise Bargaining in Australia 1995 - A Summary*, Canberra: AGPS, p. 85.
- Emery, F. 1996, Some Observations on Workplace Reform: The Australian Experience in Mortimer, Leece and Morris eds *Reform and Enterprise Bargaining Issues Cases Trends*, Melbourne: Harcourt Brace, p.30.
- Esquith, S. 1997, John Rawls and the Recent History of Public Administration *Journal of Management History*, vol. 3, no.4, pp 328-341.

- Hechscher, C. 1994, Beyond Contract Bargaining: Partnerships, Persuasion and Power *Social Policy*, vol. 25, no. 2, pp 18-26.
- Hilmer, F. G., McLaughlin, P. A., MacFarlane, D. K., & Rose, J. 1991, *Avoiding Industrial Action A Better Way of Working*, Sydney: Allen and Unwin.
- Jameson, J.K. 1999, Toward a Comprehensive Model for the Assessment and Management of Intraorganizational Conflict: Developing the Framework *International Journal of Conflict Management*, vol. 10,no.3, pp268-294.
- Leventhal, G.S. 1980, What Should be Done with Equity Theory? New Approaches to the Study of Fairness in Social Relationships in KJ Gergen, M.S. Greenberg and R.H. Willis (eds) *Social exchange*, New York: Plenum, pp. 27-55.
- Lewin, D. & Mitchell, D.J.B. 1992, Systems of Employee Voice: Theoretical and Empirical Perspectives *California Management Review*, vol. 34, no. 3, pp 95-111.
- Masterson, S.S., Lewis, K., Goldman, B.M. & Taylor, M.S. 2000, Integrating Justice and Social Exchange: The Differing Effects of Fair Procedures and Treatment on Work Relationships *Sociology of Management Journal* vol. 43, no.4, pp738-48.
- Mesch, D.J., & Dalton, D.R. 1992, Unexpected Consequences of Improving Workplace Justice: A Six-Year Time Series Assessment *Academy of Management Journal*, vol. 35, no.5, pp 1099-1114.
- McCabe, D.M. 1997, Alternative dispute Resolution and Employee Voice in Nonunion Employment: An Ethical Analysis of Organizational Due Process Procedures and Mechanisms – The Case of the United States *Journal of Business Ethics*, vol. 16, no.3, pp 349-356.
- McDermott, E.P., and Berkeley, A.E. 1996, *Alternative Dispute Resolution in the Workplace. Concepts and Techniques for Human Resource Executives and Their Counsel*, CT: Quorum Books.
- Miller, P. 1996, Strategy and the Ethical Management of Human Resources *Human Resource Management Journal*, vol. 6, no. 1, pp.5-18.
- Morehead, A., Steele, M., Alexander, M., Stephen, K & Duffin, L. 1997, *Changes at Work The 1995 Australian Workplace Industrial Relations Survey*, Sydney: Longman, p.91.
- Niland, J. 1978, *Collective Bargaining and Compulsory Arbitration in Australia*, Kensington: New South Wales University Press.
- Palmer, I. and McGraw, P. 1996, 'A New Era for Joint Consultation? Human Resources Manager's Perceptions of JCCs and Enterprise Bargaining' in Mortimer, D., Leece, P. & Morris, R. (eds) *Workplace Reform and Enterprise Bargaining: Issues, Cases, Trends* Sydney: Harcourt Brace.
- Peterson, R.B., & Lewin, D. 2000, Research on Unionized Grievance Procedures: Management Issues and Recommendations *Human Resource Management*, vol. 39, no. 4, pp 395-406.
- Rawls, J. A. 1971, *A Theory of Justice*, Cambridge: Harvard University Press.
- Reibstein, L. 1986, More Firms use Peer Review Panel to Resolve Employee's Grievances *The Wall Street Journal*, 3 December, section 2:29.
- Romeyn, J. 1994, *The Law, Arbitration and Bargaining*. Industrial Relations Research Monograph Number 5, Canberra: AGPS.
- Schmitt, M. & Dorfel, M. 1999, Procedural injustice at work, justice sensitivity, job satisfaction and psychosomatic well-being *European Journal of Social Psychology*, vol. 29 pp 443-453.

- Tidwell, A. 1997, *The Law Report Transcript* ABC Radio National, 20 May, <http://abc.net.au/rn/talks/8.30/lawrpt/1stories/Ir970520htm>.
- Tremblay, M., Sire, B. and Balkin, D.B. 2000, The role of Organisational Justice in Pay and Employee Benefit Satisfaction and its Effects on Work Attitudes *Group and Organisational Management*, vol. 25, no.3, pp 269-290.
- Tyler, T. 1991, Procedure or Result: What do Disputants want from Legal Authorities? in Mackie, K.J (ed) *A Handbook of Dispute Resolution ADR in Action*, Mackie, K.J. (ed) London: Routledge Press.
- Tyler, T. 1988, What is Procedural Justice? Criteria used by Citizens to assess the Fairness of Legal Procedures *Law and Society Review*, vol. 22, no.2, pp 301-355.
- Tyler, T. 1984, The Role of Perceived Injustice in Defendant's Evaluations of their Courtroom Experience *Law and Society Review*, vol. 18, no.1, pp 51-74.
- Van Gramberg, B. 2001, *The Growth and Nature of Alternative Dispute Resolution in Australian Workplaces*, PhD Thesis, unpublished.
- Williams, G. W. & Kleiner, B. H. 1996, Peer Review: Its Time has Come *Team Performance Management: An International Journal*, vol. 2, no. 4, pp 21-26.