BUSINESS MANAGEMENT UNIT 3

Unit 3, Outcome 2 assessment task: case study and structured questions

**QUESTIONS**

Read the following case study and answer the questions below.

Glencore Australia employs approximately 15 600 people in its mining and agriculture departments. It has 24 mines across three states and the Northern Territory and its coal is used in steelmaking. Glencore’s steel is exported to countries including Asia, North Africa, Europe and South America.

Almost nine months ago Glencore banned union members from its Oaky mine in Queensland, resulting in a lockout for 190 workers. This lockout is likely to continue as attempts to end the labour dispute with the Construction, Forestry, Mining and Energy Union (CFMEU) have failed. The dispute is over wages, working conditions and Glencore’s hiring practices.

While the lockout continues, the mine is being operated by non-union staff and contractors who started work in June 2017. A spokesperson for Glencore said that the employment of these people had not adversely affected production.

Over this time little progress has been made in determining a new enterprise work agreement between Glencore and the CFMEU. In fact, there has been little progress since the last agreement expired in mid–2015. This is despite the fact that as at November 2017 both parties had met on 23 occasions to try to resolve the dispute. In addition, even the involvement of the Fair Work Commission as mediator did little to bring the parties closer together; however, the Commission is still acting as mediator. A spokesperson for the CFMEU said that the union is determined to fight Glencore until its requests are met.

At the negotiating table, Glencore is proposing to increase wage rates, making the average annual salary approximately $180 000 over the duration of a new enterprise bargaining agreement. On the other hand, the CMFEU has offered some concessions to its demands regarding workplace representation and the resolution of workplace disputes.

References: *Our operations*, Glencore Australia, <http://www.glencore.com.au/en/who-we-are/glencore-in-australia/Pages/our-operations.aspx>, and *Glencore extends lockout at Australia coal mine as talks stall again*, Financial Review, 8 November 2017, <http://www.afr.com/news/glencore-extends-lockout-at-australia-coal-mine-as-talks-stall-again-20171108-gzhj09>

Question 4 (3 marks)

a. Describe the role of a human resource manager. 1 mark

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b. Provide **two** examples of how a human resource manager at Glencore could assist in resolving this dispute. 2 marks

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Question 5 (3 marks)

a. Outline **two** key roles of the Fair Work Commission, other than conducting mediation.

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b. Suggest **one** reason why mediation has not yet been successful at Glencore. 1 mark

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Question 7 (4 marks)

Distinguish between the processes of mediation and arbitration in resolving workplace disputes.

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Question 7 (2 marks)

List and explain 2 industrial actions (other than Strike) the Union could take during their negotiation period with Parmalat.

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Question 10 (8 marks)

Evaluate the effectiveness of using awards and agreements as methods of determining wages and conditions at Glencore.

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Suggested answers

Question 4 (3 marks)

a. **Describe the role of a human resource manager. 1 mark**

 Human resource managers play a vital role in managing workplace relations. They help maintain a harmonious workplace where employees want to work. They are involved in managing payrolls, managing workplace issues and assisting in workplace disputes, as well as being an intermediary between unions and senior management.

 *Marking guide:*

***1 mark*** *for providing the key characteristics and features of human resource manager’s role*

**b. Provide *two* examples of how a human resource manager at Glencore could assist in resolving this dispute. 2 marks**

 The Construction, Mining, Forestry and Energy Union (CMFEU) is in dispute with Glencore over several matters including working conditions and its hiring practices. A human resource manager might be able to take direct action or provide advice to relevant managers to help resolve the dispute. For example, human resource managers could directly conduct a review of the existing recruiting and selection procedures to identify points of contention and suggest possible solutions. Also, as this lockout is at a mine where safety is very important, the occupational health and safety guidelines could be reviewed to determine if the best possible practices are being proposed and carried out (working conditions).

 *Marking guide:*

***1 mark*** *for providing an example that is linked to the case study (x two = 2 marks)*

Question 5 (3 marks)

**a. Outline *two* key roles of the Fair Work Commission, other than conducting mediation.**

 **2 marks**

 The Fair Work Commission (FWC) is Australia’s national workplace relations tribunal. The Commission is an independent body that operates under the *Fair Work Act 2009*. One specific role is to create and maintain minimum wages for different industries and occupations. Another role is to provide support for the determination of enterprise agreements to ensure that they are fair.

 *Marking guide*:

***1 mark*** *for indicating the main features of each role (x two = 2 marks)*

**b. Suggest *one* reason why mediation has not yet been successful at Glencore.**

 **1 mark**

 Mediation involves an independent person from the FWC helping the disputing parties arrive at that their own agreement or outcome. At Glencore it is possible that while both parties have made some concessions, neither is willing to match each other’s remaining requests. Added to this, the parties’ steadfast attitudes in preserving their main claims, has made reaching an agreed outcome through mediation difficult. It appears there is limited willingness to negotiate.

 *Marking guide*:

***1 mark*** *for providing a reason that is relevant to the case study*

Question 7 (4 marks)

**Distinguish between the processes of mediation and arbitration in resolving workplace disputes.**

Workplace relations in Australia have become more decentralised. This means greater power lies with individual employers and their employees, represented by trade unions, to negotiate agreements using enterprise bargaining. There are significant differences between the processes and outcomes of mediation and arbitration.

If a workplace dispute cannot be resolved within a workplace, a party can apply to the FWC to begin a process of mediation. This is where the employer and employee/or trade union meet to discuss their differences with an impartial mediator, who may be either appointed by the FWC or chosen jointly by negotiating parties. The mediator does not offer advice to either party but does assist in supporting the parties in reaching their own agreement.

If the mediation process fails, then arbitration is the next step with the FWC assuming the role of independent umpire. The arbitration processes are similar to those in a court case. The presiding Commissioner will listen to each party make their case and will make a legally binding order as to how it must be resolved.

*Marking guide:*

***2 marks*** *for describing the processes and purposes of mediation and arbitration*

***2 marks*** *for noting the difference between the two processes and outcomes*

Question 10 (8 marks)

**Evaluate the effectiveness of using awards and agreements as methods of determining wages and conditions at Glencore.**

Since 2009, with the enactment of the *Fair Work Act*, the workplace relations system is heavily influenced by the federal government and the processes of establishing wages and conditions are set out in this Act. Each of the three fair work institutions established through this Act work side-by-side to achieve the optimal employee–employer relationship.

Two of the three ways of determining the wages and conditions of an employee are through an award and an enterprise bargaining agreement. An award is legally binding and is reviewed every four years. These awards are industry specific but not business specific. Awards are legally enforceable and provide a safety net for employees but they have little flexibility for them. The awards cover conditions such as minimum wages, holidays and working conditions.

The other way of determining wages and conditions is through an enterprise agreement, which is negotiated between the employees (often through union representation) and the employer. The agreement is negotiated and involves coming to an agreement between the parties about their respective demands. These agreements enable flexibility for employees to negotiate their workplace wages and conditions but it can be difficult to achieve mutually beneficial outcomes if there is an imbalance of power in the negotiations. Sometimes this arises when there is an oversupply of the employees’ skills, meaning that the employees are not in a strong bargaining position. However, if the employees skills are in short supply this is advantageous for the employee who is in a strong bargaining position.

At Glencore, wages and conditions are determined via an enterprise agreement, the most recent one expiring in 2015. To date, limited progress has been made in striking a new agreement. For an agreement to be successful it needs to be ratified by the majority of the employees and this has not happened at Glencore as there is still a lockout. Once an agreement is ratified it must then be registered and approved by the FWC.

Given the length of the lockout and Glencore’s ability to continue its business with contractors and non-union labour, it could be suggested that the likelihood of reaching a new enterprise agreement is minimal. This might indicate that there is an imbalance of power as Glencore is able to continue its core business using non-union members. This restricts the bargaining power of these employees. However, if Glencore chose the award approach, there is a possibility that some of the wages and conditions currently enjoyed by the non-lockout employees could be lost and the business might have difficulty attracting potential employees.

Despite the length of the workplace dispute, both parties are still willing to involve the FWC as mediator, which provides opportunities for an agreement to be tailored to satisfy each party’s needs.

*Marking guide*:

***2 marks*** *for describing the characteristics and features of awards and agreements*

***6 marks*** *for providing the strengths and weaknesses of both systems and providing an opinion*