

# **McPhail 1e *Employment Relations***

## **Instructor's Manual for University**

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# Chapter 1 – Introduction to employment relations

## Introduction and overview

This chapter defines what is meant by the key terms employment relations (ER), industrial relations (IR), employee relations and human resource management (HRM). The distinct characteristics of the employment relationship are identified and explained.

It outlines the main actors in the employment relationship, including the state and government agencies, employees and trade unions and employers and employer associations. It discusses how employment relations can be analysed from a number of different theoretical perspectives (unitarism, pluralism, radicalism and corporatism), which have their origins in the ideologies underpinning industrial relations, employee relations and HRM.

## Additional activities

Watch the clip at [https://www.youtube.com/watch?v=f\\_YcOKCiq0w](https://www.youtube.com/watch?v=f_YcOKCiq0w).

Consider this clip in tandem with the case study. Imagine that Brodie is still working at Café Vamp but that the workplace is working on addressing the bullying. Consider the following questions:

- a. What steps should the manager take to deal with the situation?
- b. Where is the workplace negligible?
- c. How might the process differ if Brodie was a member of a union?

## Discussion questions

1. **Discuss the importance of employment relations and outline three of the characteristics of the employment relationship.**

The employment relationship is multifaceted and continuous. The employment relationship is not a simple, straight-forward transaction but is complex and involves many dimensions, including economic (unemployment, wages and availability of labour), social (values, diversity and equity), cultural (teamwork, power–distance, work–life balance, ageing workforce), legal (workplace health and safety, legislation) and psychological (emotions and personality).

It involves mutual responsibilities for both employees and the employer to carry out their duties and responsibilities. It includes tangible – i.e. pay, company car and conditions of employment – and intangible elements such as more motivational aspects such as a sense of satisfaction and self-fulfilment.

The employment relationship is indeterminate and incomplete and as the relationship evolves, new terms and conditions of employment are often generated. The relationship also recognises the importance of cooperation and conflict and is about balancing of power between the employee and the employer.

**2. Identify each of the actors in the employment relationship. Discuss the importance of the interrelationships between these actors.**

The direct actors are the employer and the employee but the employee may be represented by a trade union and the employer may join an employer association. The state establishes rules and regulations which govern the operation of the employment relationship and other third parties such as tribunals and courts may be involved in enforcing these rules and regulation.

It is important for the employer and employee to recognise how the relationship operates at the workplace at any given time.

**3. Compare and contrast the advantages and disadvantages of the unitarist and pluralist perspectives of employment relations.**

The unitarist perspective perceives the organisation as an integrated and harmonious system where all members share the same objectives and interests. Trade unions are deemed as unnecessary and conflict is perceived as disruptive. The unitarist approach is often characterised by flexible working practices, effective communication, good relationships, teamwork, employee participation and positive conditions of employment. Furthermore, policies and practices are designed to enhance motivation and engage employees. A major strength of the unitarist perspective is that it integrates employer and employee interests with those of stakeholders.

However, a major weakness of this perspective is that it fails to recognise power inequalities that exist between employers and employees which generate diverse kinds of conflicts. Furthermore, conflict is considered to be negative and any positive outcomes associated with conflict, such as being able to generate positive change, are not considered.

The pluralist perspective perceived the organisation as a divergent group with varying goals and interests. This approach sees conflicts of interest and disagreements between managers and workers over the distribution of profits as normal and inevitable. Trade unions are deemed as legitimate representatives of employees.

Conflict is dealt with by collective bargaining and is viewed as a necessary means that could foster positive change. Conflict is managed effectively to aid in understand underlying tensions, so they can be identified and properly addressed. The pluralist perspective makes use of conflict management strategies to engage groups that are in conflict so resolutions can be discussed and implemented. However, it assumes a balance of power between the parties also.

**4. Critically analyse the statement: 'Industrial relations and human resource management are often termed as distinct, but complementary'.**

Industrial relations is essentially the external regulatory framework provided by the state and third parties that governs the internal HR processes, practices and policies for managing the employment relationship. This means that they are essentially distinct but are also complementary in their operations.

## 5. Why can employment relations be seen to encompass industrial relations, employee relations and HRM?

Employment relations is the all-encompassing term for these three related professional (and academic) disciplines and draws all three together under the one umbrella of how employees are managed and how control and power are shared between the employer and employees. From an industrial relations perspective, power may be granted to employees by collective action through trade unions; however, changes to the regulatory framework and policies supporting trade unionism in many Western countries has been disbanded, meaning that trade union power and that of their members has declined with little evidence that it will be returned. From an HRM perspective, the power that employees perceive management to hold over rewards and punishment can influence how employees behave. Legitimate power is when managers are perceived by employees to hold authority over them and that managers have the right to exercise this power because they are 'managers'. HRM focuses on management efforts to control the employment relationship. From an employee relations perspective, control may be gained by management in the same way as from the HRM perspective. The added dimension from an employee relations perspective may be that of information and how management chooses to share information with employees to enable employees to have a direct voice and to be actively involved in decision-making at the workplace i.e. consensus is built between management and employees.

## Solutions to end-of-chapter case study

### Human Resource Management and Industrial Relations Interacting at the Workplace = Employment Relations: Managing Bullying Successfully

#### 1. How does bullying differ from harassment or discrimination?

Bullying, defined by WorkSafe Victoria as “persistent and repeated negative behaviour directed at an employee that creates a risk to health and safety” while harassment or discrimination may be a one-off incident with a long-lasting negative effect.

#### 2. Why is there an important role for HR professionals in eliminating and preventing bullying?

HR professionals must make sure policies relating to aspects of safety, health and well-being and employee assistance programs, and harassment and discrimination are legally compliant and up to date as this will ensure that negative behaviours such as bullying are signposted to employees and managers as unacceptable behaviour. These policies must be communicated to everyone within the organisation as well as being available to everyone electronically or in hard copy. Appropriate training must be designed, implemented and reviewed. Staffing strategies and performance appraisals must be designed in accordance with existing policies and legislation.

#### 3. Why might trade unions be involved in policies and training to do with bullying?

Trade unions may contribute to policy development and training to identify and prevent bullying behaviours at the workplace. For example, the Australian Nursing and Midwifery

Federation (ANMF) runs training programs for Australian nurses and health professionals geared at removing bullying from the nursing profession. Of course, trade union officials can find themselves in the invidious position of having to represent both a bullied employee and the bully in a grievance procedure to resolve the issue if both parties are union members. If union delegates are involved in the policy development and the training this allows them to better represent their members. Trade union delegates also become aware of their own behaviour and may moderate this accordingly to eliminate bullying tendencies.

#### **4. Why should an organisation eliminate bullying from its culture?**

Organisations should eliminate bullying in order to prevent lost productivity through employee performance declining, to avoid facing increasing risks of litigation, and to avoid facing increasing costs associated with absenteeism and turnover.

#### **5. How can the various HR functions contribute to removing workplace bullying?**

HR professionals must make sure policies relating to aspects of safety, health and well-being and employee assistance programs, and harassment and discrimination are legally compliant and up to date as this will ensure that negative behaviours such as bullying are signposted to employees and managers as unacceptable behaviour. Mentoring through performance development and appraisals can be utilised and built into key performance indicators for employees and managers.

HR professionals should avoid the intervention of external tribunals which leads to unnecessary costs for an organisation through litigation, poor publicity and higher costs associate with staffing and turnover by addressing workplace bullying by pursuing a range of strategies to eliminate it from the workplace. The principle of "No Tolerance" is important to be built into an organisation's culture.

#### **6. Identify the most important steps an HR professional can take in eliminating workplace bullying.**

1. Creating a zero tolerance policy.
2. Implementing procedures for efficiently and effectively investigating and addressing workplace bullying, including the role of trade union representation if the workplace is unionised.
3. Providing regular mandatory workplace bullying training, starting with induction but being tied into performance management also.
4. Holding bullies accountable for their actions and focusing on how to change their behaviour through counselling and employee assistance programs, and if these fail, removing the bully from the organisation.
5. Providing a range of support to bullied employees, including access to their trade union representative if they have one, counselling, and training (e.g. on confidence building, communication and negotiation techniques).

6. Being empathetic, listen, and acting on behalf of the bullied employee.
7. Leading by example and not bullying others.
8. Committing to creating a bully-free organisation with a culture of teamwork and 'looking out for each other'.
9. Raising awareness about workplace bullying through newsletters, other forms of electronic communication such as blogs, and anti-bullying events.
10. Empowering everyone at the workplace to stand up to bullies and say "No!" to workplace bullying.

## **Selected solutions to chapter case studies and insight boxes**

### **Case study:**

#### **Hungry Jack's tells its staff whoppers**

- 1. Why is the employment relationship different from other types of contracts found in the business world?**

It is about the sale of human labour, skills, knowledge, experience and time (which could be spent doing things other than work). Therefore it is not a simple commercial transaction as people are not inanimate objects (like a car or an apple) and have financial, physical and emotional needs and demands outside of the workplace.

The employment relationship is multifaceted and continuous. The employment relationship is not a simple, straight-forward transaction such as buying an apple or a laptop. Instead, the relationship involves people who come from different backgrounds, have different personalities and different needs.

- 2. List the 'parties' to the employment relationship involved in this case. What role has each party played in this case?**

Employees: Bradley Pinkerton, Matthew Manson. Both young and inexperienced workers unaware of their employment rights who were exploited by their employer: Mr Boro Chadevski's company which held the Hungry Jack's franchise in Miranda but failed to pay his employees their superannuation and other entitlements and also failed to provide promised training (training and the qualification would have increased their wages). These were the parties directly involved in the employment relationship.

Other parties that became involved when the franchise closed and the employment relationship ended included the State Training Services which is ensuring an alternative training organisation contacts Mr Pinkerton. And [then] federal

Workplace Relations Minister Bill Shorten has asked the Fair Work Ombudsman to investigate his case. The ombudsman can pursue Mr Chadevski for any unpaid entitlements.

- 3. Who is responsible for the unpaid super, leave and undelivered training?**

It is likely that the Fair Work Ombudsman will find that Hungry Jack's is responsible for overseeing the behaviour of the franchisee in more than just quality and standardisation of customer service and food items; therefore Hungry Jack's may well be liable for the unpaid superannuation and entitlements and for the training.

### **Insight into:**

#### **Shorter shifts for students: Flexibility, common sense or exploitation?**

**1. Why is the employment relationship different from other types of contracts found in the business world?**

It is about the sale of human labour, skills, knowledge, experience and time (which could be spent doing things other than work). Therefore it is not a simple commercial transaction as people are not just commodities or inanimate objects (like a car or an apple) and have financial, physical and emotional needs and demands outside of the workplace. Also, a person is the only resource which does not need something else to be able create a product – the product being a thought or a solution to a problem.

**2. List the 'parties' to the employment relationship involved in this case. What role has each party played in this case?**

Six youths who worked their after-school jobs were the employees and the Victorian hardware store at which they worked was the employer. The employer – Charlie Duynhoven of the Terang and District Co-operative – had to terminate their employment when the award changed from a two hour shift to a three hour shift preventing the school students from working the required minimum hours after school.

Other parties influencing the employment relationship included the employer association, the National Retail Association (NRA) which applied to Fair Work Australia (FWA) for a reduction in shift hours for full time school students; FWA vice-president Graeme Watson who granted the NRA's application for shorter hours; then ALP Prime Minister Kevin Rudd who expressed satisfaction with an initial FWA decision upholding the three-hour minimum and Workplace Relations Minister, Julia Gillard, who argued that the three-hour shift minimum was not unreasonable; and after the ruling, a spokesman for Workplace Relations Minister Chris Evans said the ruling reflected 'careful consideration by the independent umpire, taking into account the need to promote youth employment and social inclusion'. Opposition Workplace Relations Spokesman Eric Abetz applauded the decision. Australian Council Trade Unions (ACTU) secretary Jeff Lawrence said that 'unions will work to ensure this decision does not impact on the jobs or incomes of adult workers in this industry' and is confined only to after-school jobs. The Australian Chamber of Commerce and Industry (ACCI) also supported the decision.

**3. Do you think that the reduction in minimum shift hours 'opens the gateway to exploitation' of young workers? Why/why not? Explain with reference to power in the employment relationship.**

Young people can be presumed to have less power in the employment relationship than more experienced and older workers and are therefore more open to exploitation from their

employers, including in terms of shifts and even pay. However, the reduction in minimum shift hours enables young workers to have some paid employment – gaining money and employment skills and experience.

## Additional resources

- Godard, J 2005, *Industrial Relations, the Economy, and Society*, 3rd edn. Captus Press, Concord, Ontario.
- Beer, M, Lawrence, PR, Quinn Mills, D and Walton, RE 1984, *Managing Human Assets: The Groundbreaking Harvard Business School Program*. Free Press, New York.
- Fombrun, CJ, Tichy, NM and Devanna, MA 1984, *Strategic Human Resource Management*. John Wiley & Sons, New York.
- Guest, DE 1987, 'Human Resource Management and Industrial Relations', *Journal of Management Studies*, vol. 24, no. 5, pp. 503–21.

## Weblinks

Victorian WorkCover Authority, formerly WorkSafe Victoria, is responsible for helping avoid workplace injuries, enforcing WHS laws, providing workplace injury insurance, helping with return to work and managing the compensation scheme.

<http://www.vwa.vic.gov.au>

Fair Work Commission is Australia's national workplace relations tribunal and is responsible for regulating minimum wages, employment conditions and other workplace functions.

<https://www.fwc.gov.au>

# Chapter 2 – The changing nature of work and employment

## Introduction and overview

This chapter identifies the environmental drivers of changes to work and employment in Australia and globally through factor such as computing power, technology and network growth; diversification of values that lead to consumer and public pressure for change; and economic political systems and labour market changes.

It describes the contemporary changes to work and employment and how these affect the organisation of work and employment; for example, 'post-industrialised development' and new forms of work arrangements shifts the focus onto emotional labour and emotional intelligence associated with the emerging service industries rather than the hard or technical skills of manufacturing. Accompanying this shift is a push towards advanced work systems or high performance work systems (HPWS) in industrialised countries. Many jobs, usually regarded as semi-skilled and skilled, can be done from anywhere due to advances in computing, networks and technology. There has also been an increase in the number of unskilled or low skilled jobs, usually done by women, employed at home on piece-work rates. These changes have implications for the employment relationship in its traditional or standard form which also mean that the standard contract of employment legalising the employment relationship has also been affected, particularly with an increase in many forms of non-standard employment. This in turn gives rise to different types of employment categories and employment contracts which requires the differentiation between employees and contractors.

## Additional activities

The Baby Boomer generation is starting to leave the workforce and Gen Z is starting to enter it. Within the next 20 years, Baby Boomers will have almost entirely retired. How do you think workplace relations will change once the Baby Boomers are replaced by Gen Z workers? What strengths will be lost and which will be gained?

## Discussion questions

- 1. How has technology transformed the way work is conducted? How has the manufacturing sector worldwide been changed?**

Improvements in hardware computing power and free software quality are driving changes in a range of industries. The reality of supercomputers and cloud computing interfaces allows the transmitting of large data sets, such as a CAD (computer-aided design) program that will allow something conceptualised in one geographic location to be made elsewhere in the world (Collis 2013). This in turn will allow increased efficiencies, more superior products, reduced energy costs, replacement conventional smelting and casting in traditional manufacturing with 3-D printing and, ultimately, new industries. The Internet has extended regular working hours for employees and managers, and has resulted in an increase in working hours and employees experiencing a work-life imbalance, which is also

associated with increased stress and health problems. There are new technology-driven jobs that can be done anywhere and jobs that are tightly controlled by technology (e.g. call centres).

Robotics in manufacturing are becoming increasingly accessible to even small businesses so that they are able to utilise this technology to reduce labour costs and speed up processes. The trend is towards mobile robots, intelligent autonomous systems, autonomous agents, micro-, meso- and nano-scale automation and assembly, flexible manufacturing systems, micro-machining, and semi- and fully-automated fabrication techniques, although these can be used in industries other than manufacturing.

**2. What are the advantages and disadvantages of social media when used in the employment context?**

Organisations need to alter recruitment strategies by using Facebook, LinkedIn, Instagram and microblogging sites such as twitter to target the younger generations. The advantage is a wider labour pool. However, potential employees and managers need to be aware of how they utilise these communication channels as the so called '60 seconds of fame' can become permanent on the Internet because weblogs – used for writing short essays and thoughts – and microblogging – which is about posting updates, ideas, thoughts or simply quick notifications – do not just disappear. Further, the implications of Facebook, weblogging and microblogging need to be considered as many employers and professions have restrictions on what employees can publicly say about them and the type of images that can be distributed using their employees, uniforms, logos and worksites. This is a disadvantage for wrong-doing employees and for their organisations.

**3. Which employment sectors have been most affected by increased use of technology?**

All employment sectors, either by increasing market share, reducing costs and promoting growth in employment, or be reducing the numbers of traditional jobs as a result of plant closures for cost reasons.

**4. Which jobs are most sought after in the new global marketplace and why? Is there a danger that some countries will experience a 'brain drain' where their workers seek work elsewhere from their home country?**

In India, for example, the services sector is predicted to show continued strong growth with a growing demand for professionals arising from the growth within the healthcare and life sciences sector, while the broadening of the industrial base is constrained by the short supply of high skilled workers, leading to strategic hiring by companies and a greater shift to contract labour as highly skilled workers take advantage of market demand and higher wages. Those employees who have the transportable skills and can geographically relocate will do so and this can cause the 'brain drain' effect.

**5. What are some strategies used by governments and employers to address skill shortages?**

A short-term strategy for addressing the skills shortage is the use of temporary visas for migrant workers by organisations and which is promoted by the current Federal Coalition Government.

Another strategy to counter skill shortages in remote locations used by the resources sector in Australia for a number of years, and more recently by the health and human services sector, is that of FIFO and DIDO.

An alternative strategy for mining companies has been to train and upskill workers from the local Indigenous communities, but this is longer-term strategy and requires considerable training investment.

**6. What are some of the implications of these strategies?**

Temporary visas merely delays an actual solution for the problem and also results in a two-tiered labour market whereby domestic workers are paid more highly and treated differently from migrant workers.

The FIFO and DIDO strategy gives rise to an employee disconnection from the workplace and does not build a cohesive organisational culture.

**7. Which two age groups are most likely to experience unemployment in the current working environment and why?**

The young workers with none or little employment experience and incomplete educational qualifications (15–19 years) make up 18.2% of all unemployed. The next group is 20–24, those employees who may be completing their tertiary or post-secondary qualifications and seeking employment that is flexible around their study commitments or which offers them an entry into the first step of their future career. Around the world, the International Labour Organization estimates that 75 million young people are unemployed.

**8. What challenges do employers and managers face in dealing with generational differences in the workplace?**

Challenges for managers and employees include understanding how work is done differently by different generations and maximising the performance of each generation while also understanding customer/client needs and interactions from different generations. Failure to acknowledge and adjust for generational differences and values can negatively affect employee productivity, innovation and corporate citizenship, resulting in increased employee turnover and reduced retention. Organisations must therefore educate and develop employees and managers to effectively and productively utilise this generational diversity. Inter-generational learning and mentoring is an opportunity because the inter-generational workforce is common to nearly all countries. Perhaps the biggest challenge is the ageing workforce and how organisations will replace the lost skills and knowledge of the Baby Boomers as they retire, but before that negative stereotypes of and bias and prejudice against older workers must be overcome.

**9. Underemployment can affect people in a similar way to unemployment. Discuss.**

Unemployment combined with underemployment result in a loss of productive capacity in the labour market, the loss of national income, the loss of individual income and buying power, and an increase in the likelihood of social exclusion for the individual which may subsequently cause stress and health issues as well.

**10. Independent contractors experience a different type of flexibility to the standard employment relationship. Who benefits most from these flexible arrangements?**

Independent contractors have increased flexibility regarding how to do their work and the hours worked. They can also decide whether to sub-contract some of the work to another contractor. For the employer/organisation, there is the numeric flexibility of hiring the contractor only when they are needed and there is the financial flexibility as the contractor is responsible for their own insurance, superannuation, and entitlements.

## **Solutions to end-of-chapter case study**

### **Case study:**

#### **Telehealth – New ways of providing health care**

**1. How does the adoption of telehealth reflect the changing nature of work and employment in general?**

There is a reliance on a range of forms of technology, including, but not restricted to videoconferencing, Internet and telephone, as an alternative to face-to-face consultations which reduces the service cost to the patient but requires an additional skill set from the practitioner. It increases the flexibility of delivery of the service and advice to the patient.

**2. What challenges does the introduction of telehealth pose for health professionals?**

The medical profession is ageing like most other professions and some of the stereotypes about older workers seem to be holding true in that the learning styles of the older professionals do not lend themselves to the acquisition of skills nor the confidence in using new technology – even setting up a videoconference is too difficult, let alone undertaking a webinar.

The AMA (2013) warns both doctors and patients to be aware of security and privacy issues when utilising telehealth, as much of the information collected through the video is both sensitive and private. There is also a risk in the breakdown of the doctor–patient relationship when relying on telehealth consultations.

**3. What are the benefits of using technology to enable remote diagnosis of patients' conditions?**

Telehealth technology brings relatively cost-effective and timely first class health care to remote regions and provides the basis for effective aged care across the nation. In remote regions, it is even possible for medical specialists to utilise telehealth to treat patients who

they never meet and to engage in videoconferences with GPs which also reduces the costs of health care provision for patients and government.

**4. What concerns do you see arising from telehealth from the patient's perspective?**

A limit with telehealth may arise from the patient's side because they may not have access to the necessary technology and the skills to use it. The broadband roll out across Australia is supposed to promote nation-wide Internet access, providing members of the public can afford it. This is doubtful when it comes to remote Indigenous communities where statistics show that health care is most needed as lifespans for Indigenous people are significantly lower than for others. The financial cost for equipment and electricity for older patients may also be an issue. Patients need to be aware of security and privacy issues when utilising telehealth, as much of the information collected through the video is both sensitive and private. There is also a risk in the breakdown of the doctor-patient relationship when relying on telehealth consultations.

**5. Are there specific skills that will need to be included in medical training as a result of telehealth initiatives?**

Training and presentations on how to utilise the technology needed to be practical and clear, rather than relying on technical aspects. Telehealth will necessitate some additional emphasis on technological skills, although undergraduate students already use a laptop for downloading printed materials, videos and tutorials, and accessing medical information while postgraduates use self-test applications for some areas of specialisation and simulators for teaching practical skills such as intubation for anaesthetists and endoscopy for surgeons. Medical training will have to include a greater focus on the best use of technology and circumventing technical problems.

## **Selected solutions to chapter case studies and insight boxes**

### **Insight into:**

#### **Long working hours: Intern worked to death in the hope of a job?**

**1. How does this example of long hours for Millennials compare with the scenario presented in the opening vignette?**

In the Vignette, many Millennial or Generation Y employees (born 1977–1995) are not convinced that excessive work demands are worth the sacrifices to their personal lives. From the perspective of these Millennial employees and managers, productivity should not be measured by the number of hours worked at the office but by the output of the work performed, wherever it may be performed. Further, if the work can be performed with a shorter working week, Millennials are prepared to forgo salary to achieve a reduction in working hours: they work to live, rather than living to work. In the case study example, there is a culture of long working hours and presenteeism at the workplace, especially for interns and young people in the financial services industry, where Millennials are working 100 hours/week as an intern with correspondingly high remuneration packages. This is the opposite of what is portrayed in the vignette.

2. **Should working hours be capped at a maximum number given that research appears to have found a definite relationship between long working hours and ill health? If so, what should be the maximum hours worked per week?**

Workers and interns in the banking sector tend to opt out of the European Working Time Directive, introduced in 1996 and which limits employees to a maximum 48-hour week but this Directive should be enforced upon employees in the sector.

There is an argument that the nature of competition for limited internships and subsequent jobs drives the culture of long working hours and that young people will work the hours for the long-term job; however, the British Chartered Institute of Personnel and Development (CIPD), which produces guidelines for HR professionals, said there was urgent need for a change of culture in the financial services industry regarding working hours and conditions.

3. **Do individuals, young employees and interns need to take more control over their working hours and refuse to work such hours?**

Yes, but they are powerless currently because of the company's ability to encourage them to opt out of the Directive and because of the culture of the sector. If young employees and interns actually understood their rights and the health implications, they may be encouraged to stand up for their rights and take control of their working hours, as was indicated in the research in the opening vignette.

## Case study:

### Sham contracting: A not so Happy Cabby

1. **Why does Happy Cabby misrepresent its employees as contractors?**

It was a means of cutting labour costs as Happy Cabby underpaid the drivers a total of \$26 000 between January and November 2011 by not paying superannuation contributions and leave entitlements.

2. **What evidence is there in this case study that the employees were clearly not contractors?**

The correct classification for the workers in this case was clearly as employees for reasons including that Happy Cabby owned the buses they drove, had a high degree of control over their work and determined how much they would be paid.

3. **What role did the Fair Work Ombudsman play in the Happy Cabby case?**

After complaints by employees, the Fair Work Ombudsman sent letter of caution in January 2011 in which the company was given an opportunity to voluntarily rectify its workplace arrangements under the Passenger Vehicle Transportation Award 2010 with regard to paying its employees at the appropriate rate. In April 2011, the Fair Work Ombudsman selected Happy Cabby for auditing as part of a national compliance campaign on sham contracting. Finally, the company was penalised \$238 920 and the sole director was fined \$47 784. The company's fine was for breaches of s357 of the *Fair Work Act* for misrepresenting employment contracts as independent contractor arrangements and s45