

Unit 1 Australia and the global economy

The changing work environment

‘Choose a job you love, and you will never have to work a day in your life’. For actors like Chris Hemsworth and Anthony Hopkins, working involves using acting skills to portray characters in a film. However, a film is more than its actors. Costume designers, hair and make-up artists, film crew, special effects artists and stunt performers are just a few of the workers that may also be involved.

When choosing a career, you should consider factors such as skill, ability, educational requirements, pay and working conditions. While you are studying, you may work part-time to gain experience and earn extra money. It's important to understand what is expected of you once you enter the workforce and what you can expect from your employer.



chapter 13

13A

How do changes in the workplace affect people?

- 1 In what ways have new technologies changed the work of a teacher, builder and shop assistant?
- 2 Why do you think people today change jobs more often than they did in the past?
- 3 What careers interest you the most and why?

13B

What are the roles and responsibilities of people in the workplace?

- 1 Why might an employee be dismissed from a job? Can you think of any reasons this might be justified?
- 2 Imagine you start a new part-time job. On your first six-hour shift you do not get a break, you have to use the cash register without any prior training, then your boss says he is going to reduce your hourly rate of pay. Is your employer meeting his responsibilities?

Source 1 Just another day at the office for actors Chris Hemsworth and Anthony Hopkins on the set of the blockbuster Hollywood film, *Thor*.

13.1 The world of work is constantly changing

Work has changed dramatically over the last fifty years both in Australia and around the world. In the 1960s, men traditionally went to work full-time in order to support their wives and young families. Women often married at a relatively young age, and it was common for them to leave the workforce in their early 20s to start a family. Today, nearly 60 per cent of the female population in Australia over the age of 15 are either employed or seeking employment. Many of these women now juggle both work and family commitments. Many men are now choosing to stay at home with their young children.

In addition to these changes, there has also been great change in the industries that people work in. In Australia in the 1960s the manufacturing industry employed 26 per cent of all workers. Today, manufacturing employs only 8 per cent. Instead, the service sector is now our largest industry. Examples of large service industries include tourism and hospitality

services, financial and insurance services, education and training services, and healthcare.

Globalisation has also affected the world of work. Some Australian businesses have been unable to compete against countries such as China that pay lower wages and can therefore produce goods more cheaply. Some businesses, however, have thrived, and have been able to employ more people and produce new products for larger consumer markets than those found in Australia.

Australia's ageing population will also affect work in the future. By 2060 it is expected that the number of people in Australia aged 75 or over will increase by 4 million. This represents an increase from about 6.4 to 14.4 per cent of the population. There will also be fewer new workers entering the workforce because of a decline in the number of babies being born each year in Australia. These factors mean that skilled and experienced workers may be much harder to find.

Jobs have changed

Common jobs

1966

- Tradesmen
- Production process workers
- Labourers
- Farmers
- Fishermen
- Timber workers

Today

- Professionals
- Clerical and administrative workers
- Technicians and trades workers

Increased female participation in workforce

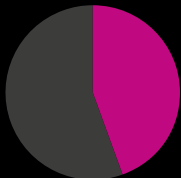
Women in workforce

1983

58.5%

2013

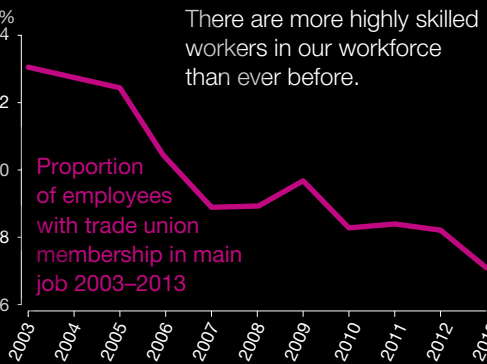
44.5%



The female workforce participation rate has grown from 44.5% in July 1983 to 58.5% in July 2013 according to Australian Bureau of Statistics (ABS) figures.

Fall in union membership

There are more highly skilled workers in our workforce than ever before.



57%

Australians are more educated

The proportion of people aged 15–64 years with a non-school qualification increased from 47% in 2001 to 57% in 2013, according to the ABS.

9%

Expect to retire before 60

Australians expect to retire later

The average age for men who retired less than five years ago was 63.3 years, while the average age of retirement for women was 59.6 years according to a recent ABS study.

The age at which a person can qualify for a pension will increase to 67 by 2023, meaning many Australians will have to work longer.

9%

Employees job hop more frequently than ever before

Nearly one in ten people have changed their job in the previous 12 months, according to the latest ABS statistics.

Technology alters the way we work

- Fewer workers may be required to do the same job.
- New jobs may arise in areas such as Information Technology.
- Global products can be created increasing work opportunities for some people.
- Employees can work remotely.

Globalisation affects the workforce

More people will work overseas to develop their careers in the future, according to Hays recruiting company.

Some Australian businesses will be unable to compete with other low-wage countries, leading to business failure and unemployment.

Globalisation can, however, create new and larger consumer markets, leading to greater employment.

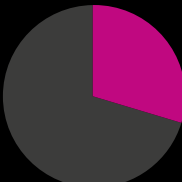
Growth in part-time work

1990–91

22%

2010–11

30%



The proportion of employed people who were working part-time rose from 22% in 1990–91 to 30% in 2010–11. The chart shows the proportion of part-time workers in the workforce was 30% in 2011 according to ABS figures.

Source 1 There have been many changes in the workplace in recent years.

Check your learning 13.1

Remember and understand

- 1 What Australian industry has declined since the 1960s?
- 2 What percentage of the population will be 75 or over in 2060?

Apply and analyse

- 3 Give one example of an occupation in each of the following service industries:
 - a Education and training
 - b Tourism and hospitality
 - c Financial and insurance services
- 4 Circle the following jobs that are no longer required today and explain why this is the case.
 - a Clerical worker
 - b Lamplighter (a person who lights street lamps)
 - c Shopkeeper
 - d Sweeper (a person employed to physically sweep streets and keep them clean)

e Switchboard operator

f Iceman (a person who delivers huge ice blocks to people's homes)

g Garbage collector

h Accountant

i Milkman

j Store elevator operator

- 5 Think of three reasons why female participation in the workforce has increased over the last 50 years.

Evaluate and create

- 6 Explain why globalisation can lead to both increases in employment and increases in unemployment depending on the type of industry.
- 7 Ask your grandparents or an elderly friend how work has changed since their first job. Create a set of questions for your interview, then report your findings back to the class.

13.2 Enterprising skills in the workplace

An **enterprising** individual is one who shows initiative, is prepared to take on a new project, sometimes overcoming significant obstacles, and is also prepared to take risks in order to succeed. Enterprising individuals sometimes start their own business, while others use their enterprising skills to achieve success working for a company or organisation. An employee might, for example, have a new idea to improve a product or

service that really benefits the organisation they work for. Enterprising skills can also be used to promote a social cause and make a difference to the lives of others. For example, Social Enterprise Champion Award winner Luke Terry has led the development of a multi-million dollar commercial laundry that will employ long-term disadvantaged people.

case study

Could you be enterprising?

Morgan Hipworth, a 14-year-old student from Melbourne, has taken the café world by storm with his twist on the simple doughnut. Morgan started out small, supplying his home-made doughnuts to a café in Melbourne, and now supplies up to 500 doughnuts a week. He fits 40 hours of baking a week into his schedule and still has time for school, homework and sport.

Morgan's doughnuts are not your regular doughnuts, though. He bakes the doughnuts at home and 'injects' his own flavours into them. Some even come with a syringe of flavour for consumers to inject into the doughnut themselves! Morgan doesn't skimp on quality either, using the best ingredients, such as real butter.

At the age of seven Morgan was inspired by *Junior Masterchef* and has turned his passion into a growing business. After completing a business degree, Morgan plans to open his own restaurant and café.

Being enterprising encompasses a whole range of skills. Someone, for example, may have a fantastic idea but lack the determination or project management skills to see their idea materialise into a successful product or service. Source 1 lists some of the associated skills that enterprising individuals may possess. Enterprising skills such as these are said to be a more powerful predictor of long-term job success and performance than technical knowledge.

Source 1 An enterprising individual usually has a range of different skills.



Source 2 Morgan Hipworth's doughnut creations are a hit with café customers in Melbourne.

Enterprising skills and examples

- Creativity and innovative skills**
Creating a unique product that solves a problem
- Analytical skills**
Identifying a problem and how it can be solved
- Digital literacy skills**
Using social media effectively
- Financial literacy skills**
Working within a budget
- Project management skills**
Ensuring tasks are completed properly and on time
- Communication skills**
Winning others over with a persuasive argument

case study

Going with the flow?

Father and son team Stuart and Cedar Anderson have created a product beekeepers can use to harvest honey straight from the hive. Their unique product solves the problem of dismantling a bee hive to remove



honey. The product called 'Flow Hive' is gentle on the bees and it reduces the chance of the beekeeper being stung, because the honey flows directly out of the hive.

All business ideas need to be funded, though, so the Andersons turned to **crowdfunding**. Crowdfunding is a practice where money is raised by a large number of people to finance a project or venture. A record \$17.8 million dollars was raised for the 'Flow Hive' via the Internet through a crowd funding site called Indiegogo. 'Flow Hive' is being manufactured in Australia with orders from 148 countries around the world wanting the new product. Success didn't come overnight, though. It took ten years to perfect the product. Cedar says, 'We always dreamed it would be successful one day. But you really don't know.'

Source 3 The successful beekeeping invention 'Flow Hive' developed by Cedar Anderson (pictured) and his father Stuart Anderson used crowdfunding to finance the idea.

'Soft skills' are important too

Machines are now performing many tasks once only undertaken by humans. This is called automation and it has implications for the skills that are going to be in high demand in future. Many business experts are saying that individuals with '**soft skills**' (that machines do not have) will be the most sought after workers. Soft skills are personal skills such as understanding social graces (for example covering your mouth while

coughing), communicating well, managing and leading others and working well in a team. Strategic business analyst Jason Widjaja works for a large company and said that while his technical or '**hard skills**' were good he was 'marked down in terms of adding value to meetings, workshops, interviews and all those areas where you needed to express and articulate your thoughts more clearly'.

Check your learning 13.2

Remember and understand

- 1 How can a person be enterprising in the workplace?
- 2 Why do experts believe 'soft skills' will continue to be in high demand by employers?

Apply and analyse

- 3 Explain why Morgan Hipworth's business is considered to be enterprising.
- 4 Tick which of the following individuals clearly display 'soft skills' in these instances.
 - a Jem always arrives late for work, talks too loudly on the phone and continually uses social media while at work to keep in touch with her friends.
 - b Michael started work at an accountancy firm and seemed to 'fit right in'. He is always courteous and goes out of his way to help others in his team succeed.

- c Raj tends to sit back at meetings and listen. He doesn't want to offer his ideas because he is too afraid they will be considered silly.
- d Jan always attends meetings on time but she talks mostly about her own successes, and when asked, it is clear she delegates to others work that she should be doing herself.
- e Lee is always so positive and is always determined to solve problems using methods most would never think of.

Evaluate and create

- 5 Do you think people can learn some 'soft skills' such as working well with team members, communicating well with others and complying with social rules?

13A rich task

The job market outlook for the future

‘What do you want to be when you grow up?’ It’s a question we are all asked from an early age and many of us change our mind several times before we even begin our first career. Indeed, it is common now for people to have multiple careers in a lifetime instead of just one.



Source 1 The ability to earn a good salary is a factor many consider when choosing a career. The highest paid workers in Australia are surgeons, according to the Australian Taxation Office report 2012–13.

Interest in a chosen field, ability, educational requirements, pay and working conditions are just some of the factors to be considered when choosing a career. Overall employment prospects for your chosen occupation could also be considered. Source 2 shows the occupations that have the brightest employment prospects in the future. As you can see, most of the growth areas are in the **service sector**. You can find employment prospects for most occupations at the Department of Education, Employment and Workplace Relations website.

Source 2 As the population ages, many occupations in the field of healthcare will experience increased demand.

Occupation	5-year employment growth to 2016–17 (%)	Employment levels at 2016–2017 ('000s)
Drillers, miners and shot firers (shot fires position and detonate explosives)	27.7	72.6
Mining engineers	23.5	10.1
Internal medicine specialists	20.5	8.0
Other medical practitioners	20.5	13.2
Registered nurses	20.5	274.8
Aged and disabled carers	20.4	140.6
Other construction/mining labourers	18.0	10.9
Generalist medical practitioners	17.7	61.5
Surgeons	17.1	6.6
Electricians	17.1	162.9
Other building/engineering technicians	16.6	25.2
Nursing support/personal care workers	16.5	95.6
Graphic/web designers, and illustrators	16.0	52.8
Physiotherapists	16.0	19.4
General managers	16.0	59.4
Anaesthetists	16.0	3.4
Social workers	16.0	25.7
Health and welfare services managers	16.0	21.4
Child carers	16.0	133.4
Chief executives/managing directors	16.0	75.6

Source: Department of Education, Employment and Workplace Relations, 2015

skilldrill

Searching for relevant and reliable information online

Have you ever forgotten your keys or wallet? The best approach to finding your lost possession is to ‘refine’ your search, perhaps by thinking where you were when you first lost your keys or wallet and checking there first. It’s the same with searching for information on the Internet. In order to find what you are looking for you need to narrow down your search using keywords. You must also evaluate the reliability and credibility of each website you find.



Use the following steps to find reliable information on the Internet:

- Step 1** Identify key words related to your topic and type these into a search engine such as Google. (Use only these keywords – do not type in whole sentences or questions.)
- Step 2** Add further relevant keywords to refine your search if you cannot find what you want on your first attempts.
- Step 3** Look beyond the first page of results. The best results do not always appear first.

Extend your understanding

Now that you have some basic understanding of the earning potential and likely job prospects for your chosen occupation you may wish to talk to someone in that field.

- 1** Use any contacts you have to arrange a five-minute chat, either on the phone or in person. If you don’t have any contacts, consider writing a letter or email

- Step 4** Assess the reliability of each site by asking yourself:
 - Who is the author or creator? If it is an individual, do they have their credentials listed (e.g. a degree or title)? If it is an organisation, is it a reputable organisation like a government or university department?
 - What is the purpose of the website? Is it trying to inform, persuade or sell?
 - Is the site objective? Is the author’s point of view biased?
 - Is the information accurate? Can the information be verified if you cross-check it with other sources of information?
 - Does the site contain many spelling mistakes or grammatical errors? If so, this may be an indication that the site is not particularly reliable.
 - Is the information current? Can you find evidence of recent updates?

Apply the skill

- 1** Pick an occupation you are interested in and undertake an Internet search about the following:
 - a** projected employment prospects
 - b** qualifications required
 - c** likely earning potential.
- 2** Compile a brief summary of details about the profession you are interested in, based on your web search.

Note: If you are interested in becoming a bricklayer, for example, you may want to search more generally first with your keywords rather than just entering the term ‘bricklayer’ into a search engine.

13.3 Roles and responsibilities of employers and employees

People work for many different reasons. For some, being paid is the primary reason for working. For others, such as people who volunteer, helping others in need might be the most important reason for working. Think about a job you would like to do in the future and rate what you consider to be the most important (1) to the least important (10) factors.

Rating 1–10	Job satisfaction factors
	Interesting work
	Pay and benefits
	Flexible work arrangements (for example, hours spent working, ability to work from home)
	Opportunities for promotion
	People you work with
	Sense of achievement and recognition
	Secure employment
	Helping others through the work you do
	The organisation
	Autonomy (working with little supervision, being able to make decisions)

Source 1 Different factors contribute to job satisfaction for different people.

Whatever work you choose in future, it is important you understand your rights and responsibilities, as well as those of your **employer**. An **employee**, or worker, is a person hired to complete specific tasks in return for monetary payment. An employer is a person or organisation that hires workers to complete specific tasks and in return pays them.

Employer obligations

Employers have specific legal obligations to their workers (see Source 3). In Australia, employers must pay employees the minimum wage – a base rate of pay for ordinary hours worked. Minimum pay and other minimum employment conditions are set out in a legal agreement called a **modern award**. There are 122 of these modern awards, each applicable to a particular industry or occupation.

Many workplaces, however, have what is known as an **enterprise agreement**, which is an agreement about wages and working conditions made directly between employers and employees. Such agreements must be approved by the Fair Work Commission. If a workplace has an enterprise agreement, the modern award does not apply. The process of negotiating an enterprise agreement is sometimes called enterprise bargaining, because each party is arguing their position and what pay and work conditions they want. The employer may gain improvements in work efficiency and the employee might gain better benefits and more flexibility.

When approving the enterprise agreement, the **Fair Work Commission** applies what is known as the ‘better off overall’ test. This means the commission must be satisfied that each employee would be better off overall under the enterprise agreement than if the relevant modern award applied. For example, the minimum pay rate in the enterprise agreement cannot be less than the modern award.

Each enterprise agreement must also not exclude or provide lesser entitlements than the ten national employment standards introduced in 2010. For example, one of the standards is that an employee is entitled to four weeks of annual leave per year. If the enterprise agreement only stated the employee was to be given two weeks of annual leave, the enterprise agreement would not be passed.



Source 2 Under enterprise agreements, employers must not provide lesser entitlements than the national employment standards. For example, all employees are entitled to four weeks of annual leave per year.

Employer responsibilities



- As an employee, I want my employer to:
- provide a safe work environment
 - pay appropriate sick leave
 - provide paid holiday leave
 - pay superannuation so when I retire I have some savings
 - provide sufficient work breaks, such as a lunch break
 - ensure there is no unlawful workplace discrimination.

Source 3 Employees expect their employers to fulfil their legal obligations such as paying the correct wage and providing a safe work environment.

Employee responsibilities



- As an employer, I expect my employee to:
- complete the required hours of work
 - be honest and accurate with money
 - keep certain business information confidential
 - give the required notice before leaving
 - obey workplace rules such as safety and anti-discrimination rules.

Source 4 Employers also expect their employees to fulfil their legal obligations, such as fulfilling their job requirements and completing work.

casestudy

Is it up to the employer to decide your pay?

Maria Doherty, operator of a berry farm in Victoria, was fined \$11 500 in 2012 for underpaying a 20-year-old male shop assistant between December 2006 and June 2009. The employee was paid \$10.79 to \$12.78 an hour but was entitled to almost twice that rate.

According to Fair Work inspectors Doherty said that her employee 'had the mental capacity of a 13-year-old and was not worth \$17 or \$18 an hour'.

Federal Magistrate Riley, who heard the case, said that Doherty 'seems to have been under the

misapprehension that she was able to pay (the employee) as little as she believed his time was worth, rather than the legally required minimums'.

In total, the employee was underpaid \$31 040. The Federal Magistrate ordered that the fine of \$11 500 be given to the employee as some compensation for lost pay. Further legal proceedings were going to be taken but the berry farm has since gone into **liquidation**. Unfortunately, the employee has little chance of recovering the rest of the money he is owed.

Source 5 The employee of a berry farm was entitled to a legally required minimum wage.



Source 6 Employees have a responsibility to keep certain business information confidential.

casestudy

Did these employees behave inappropriately in the workplace?

Video footage of a Pizza Hut employee in West Virginia, USA, urinating into a kitchen sink at work made the news in many parts of the world. It's the type of incident that an employer never wants to hear about. Not only is it against health and safety regulations, it can damage the reputation of a business.

Employees have obligations to their employers to behave appropriately in the workplace. Closer to home in Australia, the former Federal MP Craig Thomson's misuse of his former employer's money gained much media coverage. Thomson was found guilty of 65 fraud charges, relating to the misuse of his work credit card, when he worked at the Health Services Union. Among other things, the work credit card was used to pay for sex services.

A former manager of the Romeo Retail Group, Sonya Bernadette Murphy, was also found guilty of a crime in the workplace. Murphy was sacked when it was discovered she had used false invoices to pay herself \$885 515.29 over a four-year period. Murphy was jailed for 18 months.

Behaving inappropriately in the workplace can also involve sexual harassment of colleagues, bullying, violence and discrimination.



Source 7 In the NSW case *Goldsmith and Spotless Services Limited* [2004] (8 December 2004) an employee was dismissed after she was found to have been sleeping under her desk during a nightshift. Evidence from co-workers indicates it wasn't an isolated occasion. The employee was dismissed.

Check your learning 13.3

Remember and understand

- 1 What are two responsibilities an employer has to an employee?
- 2 What is the difference between an enterprise agreement and a modern award?
- 3 Would an enterprise agreement that offered a lower minimum wage than the modern award be accepted by the Fair Work Commission?

Apply and analyse

- 4 What would happen if we didn't have laws governing the minimum wage an employee must be paid?
- 5 Sam hires Lee as a bookkeeper. Who is the employee and who is the employer?
- 6 What are the advantages of the employer and employee directly negotiating pay and working conditions?

- 7 Give one reason it is important to understand your rights as an employee.
- 8 Source 3 lists some of an employer's legal obligations. Make a list of other things you would like an employer to provide if you were the employee.

Evaluate and create

- 9 Go to the Fair Work Ombudsman website and list at least five of the National Employment Standards. For each, write a sentence stating why you think it might be important to uphold the standard.
- 10 Why is it important that we have laws which protect the rights of workers? With a partner, brainstorm some scenarios where a worker might need to rely on the protection of the law.

13.4 Protecting workers from discrimination in the workplace

Discrimination is the practice of treating a person (or a group of people) differently from another person (or group of people) based on their personal characteristics. Discrimination can take place anywhere, at home, at school, and even in the workplace. For example, a woman who is not given a promotion solely because she is pregnant is being discriminated against. Similarly, a man that is unsuccessful for a job because the hiring manager thinks he's too old is also being discriminated against.

Types of discrimination	Explanation
race	based on a person's race (e.g. Asian, Caucasian, Black, Indian)
colour	based on a person's skin colour (e.g. light-skinned vs. dark-skinned)
sex	based on a person's gender (e.g. male, female, intersex)
sexual preference	based on a person's sexual orientation (e.g. heterosexual, homosexual, bisexual)
age	based on a person's age (e.g. old, young)
physical or mental disability	based on a person's physical or mental disability
marital status	based on a person's marital status (e.g. married, divorced, unmarried, de facto)
family or carer's responsibilities	based on whether a person has family or carer obligations
pregnancy	based on whether a woman is pregnant or not
religion	based on a person's religious beliefs (e.g. Christian, Islam, Jewish, Buddhist)
political opinion	based on a person's political beliefs (e.g. left-wing vs. right-wing)
national extraction or social origin	based on a person's nationality or social class (e.g. their country of origin or class status)

Source 1 Types of workplace discrimination

Discrimination in the workplace

In Australia, the Australian Human Rights Commission – along with number of other state and territory agencies – deals with complaints about discrimination in the workplace. The Fair Work Ombudsman can also investigate workplace discrimination and may initiate legal proceedings. Under Australian law (according to the definition in the Fair Work Act 2009), two conditions must be present for discrimination to occur:

- 1 The person must have been disadvantaged in the workplace due to one or more of the types of discrimination defined in Source 1.

case study

Can employment be terminated when you are 'too old'?

A long-serving waiter at a Thai restaurant in Queensland was told by his employer that his employment would be terminated on his 65th birthday. The former waiter received a letter from the employer which stated that it was the company's policy 'that we do not employ any staff that attain the retirement age, which in your case is 65 years'.

The Fair Work Ombudsman ordered the restaurant operators to pay \$29 150 for breaking the law with regard to age discrimination and not keeping proper employment records. A sum of \$10 000 was also paid to the former employee.



Source 2 It is illegal to discriminate in the workplace on the basis of age

- 2 The discrimination must have resulted in an action being taken that was 'adverse' (i.e. negative) to the person. Adverse actions include:
 - dismissing (i.e. firing) an employee
 - withholding legal entitlements such as pay or leave
 - making changes to the employee's job that disadvantages them
 - treating an employee differently to other employees
 - not hiring a job applicant
 - offering a potential employee the job but with different and unfair terms and conditions compared to other employees.

There are some exceptions to anti-discrimination laws. For example, a 16-year-old would not be able to be employed serving alcohol in a bar until they were 18, because of the law.

Sexual harassment in the workplace

Sexual harassment is sexual behaviour that is unwanted or unwelcome. Such behaviour could be expected to make the recipient feel offended, humiliated, ashamed or embarrassed, or intimidated and frightened. Sexual harassment is unlawful and can take place in the workplace. Examples include staring or leering, making comments or jokes that are suggestive, sending text messages or emails that are of a sexual nature, requesting sex or repeatedly asking for a date when these requests are unwanted. Sexual harassment may also include unwanted physical advances such as deliberately brushing up against someone. A complaint about sexual harassment can be made to the Human Rights Commission.



Source 3 Laura Connors from Tasmania was 15 when she started her first part-time job at a local fast food restaurant. She resigned months after because the restaurant owner repeatedly pinched and squeezed her bottom and had requested she take her top off. The Anti-discrimination Tribunal of Tasmania ordered that \$12 000 be paid to Laura Connors for compensation.

Check your learning 13.4

Remember and understand

- 1 What two conditions must be met to determine that there has been discrimination in the workplace?
- 2 What is the difference between sex discrimination and sexual harassment?

Apply and analyse

- 3 What type of discrimination has taken place in the following situations? The first answer has been done for you.
 - a A job advertisement for a bar attendant states that only females need apply. (Answer: sex discrimination.)
 - b Mia turned 17 and suddenly found many of her shifts were given to younger workers because her employer just couldn't afford to pay Mia the higher wage.
 - c Alice reveals at a job interview that she is due to have a baby in six months' time. The employer states that it is a 'waste of time' even continuing with the interview.
 - d Jeff is married and has two sons. He applies for a position to work in Antarctica for a year. The job advertisement says that those with family should not apply due to the extreme conditions and solitude.
- 4 Explain why the following cases could constitute sexual harassment.
 - a Tomo's manager wolf whistles at her as she enters the building each day. Tomo blushes and averts her gaze.
 - b Liliana repeatedly asks her employee Sam if he would like to join her at her beach house, despite Sam making it clear he is not interested.

Evaluate and create

- 5 Refer to the case study and evaluate the decision to fine the restaurant owners \$29 150 for discriminating against the waiter. You can conduct some extra research on the case by looking up 'Australia's first age discrimination case' for further information.
- 6 Why is it important to have anti-discrimination and sexual harassment laws? Write 2–3 paragraphs outlining your views.

13.5 Protecting workers from bullying and unfair dismissal

If a person believes they have been unfairly dismissed from a job, or that they have been bullied in the workplace, they may be able have the matter referred to the Fair Work Commission.

Bullying in the workplace

Workers who believe they have been bullied may apply to the Fair Work Commission for an order to have the bullying stopped. Health and safety organisations in each state and territory may also deal with complaints about workplace bullying.

Under the *Fair Work Act 2009*, to determine that there has been workplace bullying:

- 1 a person or group of people must have behaved unreasonably to a worker or a group of workers at work.
- 2 the bullying must have occurred repeatedly
- 3 the bullying created a health and safety risk.

There is a difference between workplace bullying and taking reasonable action to manage an employee. For example, reasonable management may entail informing the worker about their unsatisfactory work performance in an appropriate way or setting goals for the worker that will be monitored to ensure they are met.

Unfair dismissal

If you are ever dismissed, remember that Walt Disney was once sacked for not being creative enough! Being dismissed is a traumatic experience, especially if the **dismissal** is unfair. If a person thinks this is the case, they may be able have the matter referred to the Fair Work Commission. For the dismissal to be considered unfair it must be considered to be harsh, unjust or unreasonable. In determining whether the dismissal was harsh, unjust or unreasonable the following questions should be considered (see Source 2).

Unfair dismissal checklist	Yes	No
1 Was there a valid reason for the dismissal? The dismissal might have been related to a person's capacity to do their job, or their conduct and its effect on safety and welfare of other employees.		
2 Was the person notified of the reason for their dismissal?		
3 Was the person given an opportunity to respond to any reason for the dismissal that related to their capacity or conduct?		
4 Did the employer unreasonably refuse to allow the employer to have a support person present to assist at any discussions relating to dismissal?		
5 If the dismissal was related to unsatisfactory performance, had the person been warned about that unsatisfactory performance before the dismissal?		
6 Did the size of the employer's enterprise impact on the procedures followed when dismissing the person?		
7 Did the absence of dedicated human resource management specialists or someone who had expertise in the enterprise have an impact on the procedures followed in dismissing the person?		
8 Are there any other matters that are relevant to this dismissal?		

Source 2 The Fair Work Commission considers these questions to determine whether dismissal was unfair.

Sometimes employers must make what is known as a **summary dismissal**. This means that the employer dismisses the employee without notice or warning because they believe on reasonable grounds that the employee's conduct is sufficiently serious to justify immediate dismissal. Examples of serious misconduct include theft, fraud, violence and not following important health and safety procedures.

A Linfox truck driver was dismissed for making comments about his managers on Facebook. The truck driver had not intended for the comments to be seen by members of the public, and **Fair Work Australia** (now the Fair Work Commission), ordered the dismissal was unfair. In handing down the decision, however,

Fair Work Australia warned that employees should be extremely careful about making comments about managers and colleagues on social media.



Source 3 Employees should be extremely careful about making comments about managers and colleagues on social media.

casestudy

Have you ever been bullied at work?

Teenage waitress Brodie Panlock was bullied so much at work it eventually led her to take her own life in 2006. The four men responsible for bullying Brodie at Café Vamp in Hawthorn, Victoria were convicted and fined a total of \$115 000. The company that runs the café were also convicted and fined \$220 000 for not taking reasonable care for the health and safety of Brodie. The bullying occurred between June 2005 and September 2006 and included Brodie being spat on, having fish oil poured on her and being told she was ugly.

Brodie's case was such a serious case of workplace bullying it resulted in the Victorian Government passing legislation in 2011 to make serious bullying a crime punishable by up to 10 years in jail.



Source 1 Brodie Panlock's death highlighted the human cost of workplace bullying. Bullying also has an economic cost with the Productivity Commission estimating workplace bullying in Australia costs between \$6 billion and \$36 billion annually.

Check your learning 13.5

Remember and understand

- 1 Name two strategies that are considered 'reasonable management' by an employer.
- 2 What three factors determine whether a dismissal is unreasonable or not?

Apply and analyse

- 3 Why must an employer state the reason or reasons for dismissing an employee?
- 4 A manager points out that an employee has made an error and suggests that further training is required. Has workplace bullying taken place?
- 5 Are either of the following reasons for dismissing an employee 'harsh, unjust or unreasonable'?

- a Jan is late for work on one occasion and her employer tells her to pack her bags and go.
- b A customer complains about coffee being too cold. The employee throws the coffee at the customer and says, 'Now you have something to complain about!'.

Evaluate and create

- 6 Do you think it is fair that employers are responsible for the behaviour of their employees at work? Discuss in groups of 2–3, justifying your opinions and giving examples to illustrate your point.

13B rich task

Unfair dismissal

An employer should have a thorough knowledge of unfair dismissal laws before dismissing a worker. As discussed in the previous section, for dismissal to be considered unfair it must be considered to be harsh, unjust or unreasonable.

When dealing with unfair dismissal cases, both the employer and employee are encouraged to find a solution to the matter themselves. Sometimes, however, the Fair Work Commission must make a decision about whether an employee has been unfairly dismissed. The following two cases highlight the complexity involved in many unfair dismissal cases.

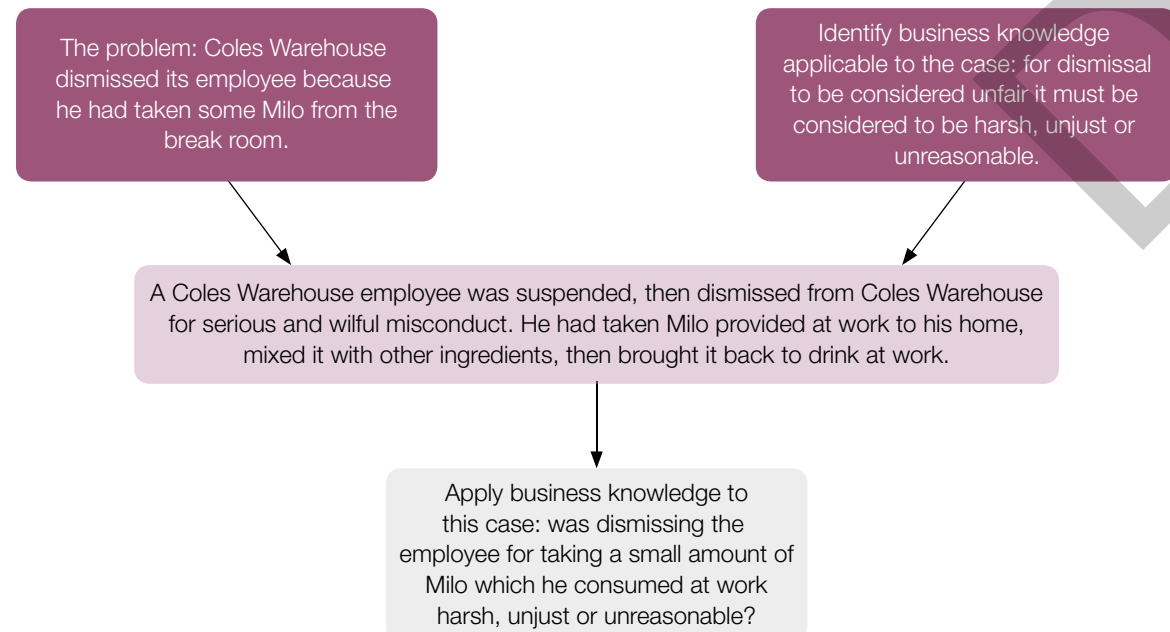
The Milo case

In the case *Homes v Coles Group Limited* [2014] FWC 1013 a Coles employee took some Milo and was dismissed. Coles provided Milo for their staff to drink on a tea break. One employee preferred to drink Milo mixed with his own drinking chocolate, coffee and raw sugar. He would regularly take home some Milo from work in a container to mix it with other ingredients.



Source 2 An employee who took some Milo home in a container was dismissed.

In August 2013, a security officer found Milo in the worker's bag but the worker claimed the Milo was his (supposedly because he was in a state of shock). The employee was first suspended from Coles Warehouse while further investigation took place. After the employee was interviewed about the matter, 11 days later he was dismissed for serious and wilful misconduct because he had taken the Milo and lied about it. The Commission found that the employee was unfairly dismissed. The employee was reinstated and was also paid for the period between the dismissal and reinstatement.



Source 1 This diagram shows how knowledge of unfair dismissal can be applied to the facts in the Milo case.

The swearing case

In the case *RM v SCT Pty Limited T/A Sydney City Toyota* [2013] FWC 1077 a car sales executive working for Sydney City Toyota was summarily dismissed after swearing at a customer. It was the salesman's specific duty to assist government customers in relation to the sale of Toyota cars. The salesman was annoyed that the customer had given the sale to another Toyota car dealership and a couple of months later spoke to the customer about it. Despite initially denying he had sworn at the customer the salesman later conceded in cross-examination that the following conversation had taken place in the reception area:

Salesman: I thought that we were going to get the order for that one.

Customer: I don't know what happened. We got it at Chatswood.

Salesman: Well I guess that means that you wasted my ***** time.

An independent witness stated the salesman's behaviour was 'pretty aggressive'. A day after the incident the car salesman was asked to attend a meeting to discuss allegations about his conduct and its impact on the businesses reputation. He was asked if he would like to bring another person along to the meeting for support and was assured that if he needed more time the meeting could be rescheduled. At the meeting the car salesman was given the opportunity to respond to the allegations. Shortly after the meeting the salesman was given a termination letter which said his conduct 'caused an imminent risk to the reputation and profitability of Sydney City Toyota'.

skilldrill

Applying business knowledge, skills and concepts to new situations

Being able to apply knowledge to solve issues or problems is a skill many employers seek. Knowing the steps involved in applying knowledge to solve issues or problems allows the problem to be solved quickly, and often makes the outcome fairer.

Step 1 Explain the main problem or issue in one sentence.

Step 2 Identify the main facts surrounding the specific issue or problem – this may involve stating clearly what happened, who did what, who said what, and when it happened.

Step 3 State clearly the business knowledge applicable to the general issue or problem. Divorce yourself from the specific problem and think more broadly.

For example, if someone has broken the law, look specifically at what constitutes breaking the law and not whether the law was broken.

Step 4 Turn the general business knowledge you have gained on the issue/problem (in Step 3) into a series of general questions. Going back to our problem of breaking the law, the question might be 'What constitutes breaking the law?' You might need to write the answer down.

Step 5 Refer to the specific issue or problem and ask yourself the same questions you posed in Step 4 but this time answer those questions in relation to the specific issue or problem.

Apply the skill

Read the swearing case, and then determine whether the employee was unfairly dismissed by following the five steps outlined above.

Extend your understanding

Now that you have applied your business knowledge to the offensive swearing case, read the outcome of the case. Enter the name of the case into a search engine:

RM v SCT Pty Limited T/A Sydney City Toyota [2013] FWC 1077]. Compare your decision about the case with the Fair Work Commission's decision.