### Unit Outline

**School of Management**  
**College of Business**

**Unit Name:** Negotiation Bargaining and Advocacy  
**Unit Number:** 200613  
**Teaching Period:** SPRING  
**Year:** 2009

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**First point of contact for this unit is:**  
Name: Meg Smith  
Phone: (02) 9685 9561  
Email: meg.smith@uws.edu.au

### Section A: General Information

<table>
<thead>
<tr>
<th>Unit Weighting (credit points)</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level</td>
<td>300</td>
</tr>
<tr>
<td>Pre-requisites</td>
<td>200300 Managing People At Work</td>
</tr>
<tr>
<td>Co-requisites</td>
<td>NIL</td>
</tr>
<tr>
<td>Units not to be counted for credit with</td>
<td>NIL</td>
</tr>
<tr>
<td>Assumed Knowledge</td>
<td>NIL</td>
</tr>
</tbody>
</table>
| Contact Details | Unit Co-ordinator: Meg Smith  
Telephone: (02) 9685 9561  
Email: meg.smith@uws.edu.au  
Office Location: Building ED.Ground Room, 93 Parramatta Campus  
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Email: management@uws.edu.au  
Office Location: Building ED Ground Room 95 |
<table>
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<tbody>
<tr>
<td>Student Consultation</td>
<td>Unit Coordinator available by appointment via email/ vUWS.</td>
</tr>
</tbody>
</table>
This unit will be taught by way of 2 hour lecture and 1 hour tutorial. |
| Essential Equipment and/or Resources | Nil |
| Occupational Health and Safety | No Exceptional Requirements  
Students must be aware that they are required to abide by the University’s Codes on Occupational Health and Safety. |
| Criminal Record Checks | N/A |
| Immunisation Requirements | N/A |
| Changes and Improvements to the Unit as a Result of Student Feedback | The University values student feedback in order to improve the quality of its educational programs. As a result of student feedback, the following changes and improvements to this unit have recently been made:  
- a reduction in the number of themes to be addressed in the on-line negotiation critique;  
- formal scheduling of interviews for the negotiation groups in Weeks 7 and 8.  
For more information, students can visit [http://www.uws.edu.au/opq/planning_and_quality/surveys#3](http://www.uws.edu.au/opq/planning_and_quality/surveys#3) |
### Unit Details

#### Unit Description
Negotiation, bargaining and advocacy are central activities in the industrial relations process. The effective industrial relations practitioner requires knowledge of the theoretical perspectives in negotiation together with an ability to critique the relevance and application of these perspectives. The importance of strategy and judgement in negotiation is highlighted and students are given the opportunity to develop their skills through negotiation exercises. An important theme in the unit is the assessment of the contextual and regulatory factors that shape negotiation, bargaining and advocacy practice. This aspect draws on contemporary debates in these spheres most notably concerning the Australian context.

#### Objectives
This unit builds on the introduction to employment relations theory and practice provided in the first year of undergraduate study. Through its focus on negotiation, bargaining and advocacy, the purpose of the unit is to further develop the critical analysis skills required to progress to a successful completion of undergraduate study.

1. Develop negotiation, bargaining and advocacy skills in both workplace and institutional settings
2. Appreciate, analyse and utilise different schemes of relevant information in the development of negotiation, bargaining and advocacy skills
3. Incorporate, develop and apply multidisciplinary perspectives to facilitate the analysis of negotiation, bargaining and advocacy
4. Apply knowledge through intellectual inquiry in negotiation, bargaining and advocacy contexts
5. Deploy the professional application of knowledge and practice in the context of completing stakeholder perspectives and an evolving industrial landscape for negotiation bargaining and advocacy.

#### Outcomes
At the end of the unit students will be able to:

1. Critically assess the key theoretical debates in negotiation and bargaining and utilise these debates to analyse negotiation practice;
2. Demonstrate the practical skills necessary to participate in negotiation and bargaining;
3. Critique advocacy practice and the processes of third-party dispute intervention;
4. Assess how contemporary legislative and political contexts affect the processes of negotiation, bargaining and advocacy;
5. Produce well written and argued material in response to assessment tasks set for the unit.

#### Content
- Approaches to the Study of Conflict,
- Models of Negotiation and Bargaining,
- Power in Negotiation and Bargaining,
- Ethics in Negotiation and Bargaining,
- Models of Third Party Dispute Intervention,
- Approaches to Advocacy

#### Student Workload
For a 10 credit point unit, students are expected to spend 10 hours per week. If class time totals 3 hours per week, then they would be expected to work for 7 hours out of class.

#### Online Learning
All students should access vUWS and check their student email account on a weekly basis.

vUWS is designed as a supplement to lectures and does not replace face to face teaching such as lectures and tutorials.


#### Texts
**Required Texts**

There is a book of readings for this unit that can be purchased from the UWS Connect Bookshop on campus. The required readings for each week, in addition to tutorial materials, are drawn from the book of readings.
## Section C: Assessment Details

<table>
<thead>
<tr>
<th>Assessment Details</th>
<th>Assessment Type</th>
<th>Length / Duration</th>
<th>Due Date</th>
<th>Value %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>On-line negotiation</td>
<td>2, 500 words</td>
<td>2 October 2009</td>
<td>50%</td>
</tr>
<tr>
<td>2</td>
<td>Final Examination</td>
<td>3 hours + 10 minutes reading time</td>
<td>Formal Examination Period</td>
<td>50%</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>TOTAL</td>
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</tbody>
</table>

Final marks and grades are subject to confirmation by the relevant School and College Committee in line with University policy requirements.

### Assessment Requirements

All items of assessment are to be submitted. In addition to achieving a minimum of 50 marks, students must achieve a mark of 45 per cent or greater in the final examination in order to pass the unit (that is a mark of 22.5/50 or better in the final examination).

### Attendance and Assessment

(Clause 26 -UWS Assessment Policy- Interim)

It is the student's responsibility to attend classes and maintain their studies. If a student chooses not to attend classes they should be aware that no additional resources will be made available.

### Formal Examinations

The exam will be held during the exam period following the end of semester. It will count for 50 per cent of the total mark for this unit.

The exam will be a closed book exam.

Students will be required to answer three questions and there will be a requirement for answers to be in an essay style format. One compulsory question in the exam will draw on analysis of third-party dispute resolution and advocacy in a case before Fair Work Australia. The case details will be posted on vUWS. Students will not be permitted to take a copy of their transcript to the exam. However, students should anticipate that the question will draw on the lines of analysis that will be explored in Weeks 11-13. In these weeks lectures and tutorials will focus on the case that forms the basis of the compulsory question in the exam. An exam briefing will be conducted in the final lecture for this unit.

### Assignment Cover Sheet

Hard copy assignments must be accompanied by a signed Assignment Cover Sheet that can be downloaded from the vUWS site for this unit.

### Submission of Assessment Tasks

Please note that due to the nature of the assessment task in this unit there is no submission available by way of vUWS.

Campbelltown students are to submit assignments by placing them in the unit's assignment box in the foyer of Building 11 before 6.00 pm.

Parramatta students are to submit assignments by placing them in the unit's assignment box in the foyer of Building ED before 6.00 pm.

An after-hours assignment submission box is available on the outside of each building. This box will be cleared each morning and assignments found in the box will be treated as having a submission date of the day the box is cleared.

Students must retain a copy of all work submitted.

### Referencing


### Resubmission

Resubmission is not allowed.
### Late Submission
A student who submits a late assessment without approval for an extension will be penalised by 10% per day up to 10 days, i.e. marks equal to 10% of the assignment’s weight will be deducted as a ‘flat rate’ from the mark awarded. For example, for an assignment that has a possible highest mark of 50, the student’s awarded mark will have 5 marks deducted for each late day. Saturday and Sunday each count as one day. Assessments will not be accepted after the marked assessment task has been returned to students who submitted the task on time.

### Extension of Due Date for Submission of Assessment Task
Students may apply for a “Request for Extension” and lodge the form to their Unit Co-ordinator or nominated School of Management Administration staff member.

Requests for Extension form must be lodged no later than 3 working days prior to the due date of the assessment task. After that, a Special Consideration form must be completed.

Special consideration forms must be lodged at the Student Centre.

Students should notify the University when they have suffered misadventure, or have extenuating circumstances which means they have:

- been prevented from meeting an assessment deadline;
- performed below their usual standard during an assessment, including formal examinations;
- been unable to attend a compulsory component of their course;
- been unable to attend a formal (end-of-session) examination.

The University has specific criteria, requirements (eg supporting documentation) and set deadlines for applying for ‘special consideration and students are strongly encouraged to read the relevant sections of the Assessment and Examinations Policy refer [http://www.uws.edu.au/policies](http://www.uws.edu.au/policies) and in particular the sections relating to: Matters Affecting Assessment and Inability to Attend an Examination.

There may be instances where a student believes that their final grade in a unit does not correctly reflect their performance against the criteria. Students may choose to informally discuss their concern with the academic responsible for the unit. Where the informal approach is not appropriate, or the student wishes to take the matter further, this section provides a process for a more formal application for a Review of Grade. A grade cannot be reviewed where the grade awarded is the outcome of a determination under the Academic Misconduct Policy or the Non-academic Misconduct Policy found at [http://policies.uws.edu.au/view.current.php?id=00022#min11](http://policies.uws.edu.au/view.current.php?id=00022#min11).

### Return of Assessment Material
Assignments will be returned during class time.

Details relating to uncollected assignments will be posted on vUWS. Any unclaimed work will be held for a period of one month after the end of the session, and then destroyed.
Section D: Important Information, Policies and Procedures for Students

This information is to be read and applied in conjunction with each unit outline of your course.

The “Current Students” page of the UWS web site http://www.uws.edu.au/students contains many important links, including:

- Student Administration http://www.uws.edu.au/currentstudents/current_students
- Student Support Services http://www.uws.edu.au/students/ods: This site is a useful resource for students and a hub for coordinating developments to improve your university experience.
- e-learning http://www.uws.edu.au/students/onlinesupport: This is your entry to all aspect of e-learning at UWS
- Students with a disability should visit: http://currentstudents.uws.edu.au/students/ods/disabilityservice

Course and unit rules http://www.uws.edu.au/students/stuadmin/enrolments/enrolmentrequirements: This site provides information on pre-requisites, co-requisites and other matters concerning how your course is structured.

Policies http://www.uws.edu.au/policies/masterlist.php: This site includes the full details of policies that apply to you as a UWS student.

Important Policies Affecting Students
- Assessment and Examinations Policy
- Assessment Practice – Fundamental Code
- Academic Misconduct Policy (see extract of the policy below under the heading "What is Academic Misconduct?")
- Non-academic Misconduct Policy
- Enrolment Policy (includes a section on the UWS Student Email Account)
- Special Consideration Policy

What is Academic Misconduct?
Academic Misconduct may involve one or more of the following:

Plagiarism
Plagiarism involves submitting or presenting work in a unit as if it were the student's own work done expressly for that particular unit when, in fact, it was not. Most commonly, plagiarism exists when:

- parts of the work are taken from another source without reference to the original author; or
- the work submitted or presented was done, in whole or in part, by an individual other than the one submitting or presenting the work;
- the whole work, such as an essay, is copied from another source such as a website or another student's essay.

Acts of plagiarism may occur deliberately or inadvertently

- Inadvertent plagiarism occurs through inappropriate application or use of material without reference to the original source or author. In these instances, it should be clear that the student did not have the intention to deceive. The University views inadvertent plagiarism as an opportunity to educate students about the appropriate academic conventions in their field of study.
- Deliberate plagiarism occurs when a student, using material from another source and presenting it as his or her own, has the intention to deceive. The University views a deliberate act of plagiarism as a serious breach of academic standards of behaviour for which severe penalties will be imposed.

Collusion
Collusion includes inciting, assisting, facilitating, concealing or being involved in plagiarism, cheating or other academic misconduct with others.

Cheating
Cheating includes, but is not limited to:

- dishonest or attempted dishonest conduct during an examination, such as speaking to other candidates or otherwise communicating with them;
- bringing into the examination room any textbook, notebook, memorandum, other written material or mechanical or electronic device (including mobile phones), or any other item, not authorised by the examiner;
- writing an examination or part of it, or consulting any person or materials outside the confines of the examination room, without permission to do so;
- leaving answer papers exposed to view, or persistent attempts to read other students’ examination papers; or
- cheating in take-home examinations, which includes, but is not limited to:
  - making available notes, papers or answers in connection with the examination (in whatever form) to others without the permission of the relevant lecturer;
  - receiving answers, notes or papers in connection with the examination (in whatever form) from another student, or another source, without the permission of the relevant lecturer; and
  - unauthorised collaboration with another person or student in the formulation of an assessable component of work.

For the full definition of academic misconduct and the consequences of such behaviour, students are advised to read the Academic Misconduct policy in its entirety, refer to: http://policies.uws.edu.au/view.current.php?id=00051
### Theme One: Introduction, approaches to the study of conflict

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>27/07/2009</td>
<td>Unit overview. Aims, structure and philosophy of the unit. Explanation of items of assessment. Areas of focus within the unit. Major approaches to the study of conflict are identified.</td>
</tr>
</tbody>
</table>

### Theme Two: Models of negotiation and bargaining, power dynamics, ethical considerations

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/08/2009</td>
<td>The evolution and critique of Walton and McKersie’s model of labour negotiations. The alternative approaches of Fells and Putnam. The concept of interest based bargaining.</td>
</tr>
<tr>
<td>31/08/2009</td>
<td>Ethics in negotiation. Determinants of ethical considerations, defining the ethical questions facing negotiators.</td>
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### Theme Three: Models of third party intervention, approaches to advocacy

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
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<tbody>
<tr>
<td>05/10/2009</td>
<td>Models of third party intervention: conciliation, arbitration, mediation.</td>
</tr>
<tr>
<td>12/10/2009</td>
<td>Nature of the adversarial system in industrial tribunals; distinguishing characteristics of the AIRC; establishing issues of law, fact and principle; tests of the onus of proof; tribunal procedure (Part One).</td>
</tr>
<tr>
<td>19/10/2009</td>
<td>Nature of the adversarial system in industrial tribunals; distinguishing characteristics of the AIRC; establishing issues of law, fact and principle; tests of the onus of proof; tribunal procedure (Part Two).</td>
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#### Theme Three: Models of third party intervention, approaches to advocacy

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
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<tbody>
<tr>
<td>26/10/2009</td>
<td><em>Unit review and examination briefing.</em></td>
</tr>
<tr>
<td>02/11/2009</td>
<td>STUVAC</td>
</tr>
<tr>
<td>1</td>
<td>27/07/2009</td>
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<tr>
<td>---</td>
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</tr>
<tr>
<td><strong>Unit Introduction, Organisation of On-Line Negotiation Groups</strong></td>
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</tbody>
</table>

In this week’s lecture the unit, including its assessment program, will be introduced and outlined. In the lecture we will spend some time outlining the nature of the literature in this area of scholarship. The literature on negotiation and bargaining, and also that of third party dispute resolution falls within the wider study of conflict. We will also discuss the difference between descriptive and normative models in this literature. Key theories and models have stood the test of time, and have continued to serve as reference points for the literature that has followed.

In the tutorial there will be clarification of the on-line negotiation exercise and the organisation of on-line negotiation groups.

**Readings/Resources (Lecture)**

**Further Readings**

Week 2 Objectives

- Introduce models of negotiation and bargaining.
- Identify the primacy of Walton and McKersie’s behavioural theory of labour negotiations.
- Identify distributive and integrative tactics in negotiation.
- Identify attitudinal structuring and intra-organisational bargaining.

In this week’s lecture, we examine Walton and McKersie’s groundbreaking behavioural theory of labour negotiations. Published in 1965, this theory remains pivotal to the analysis of negotiation. Their work was essentially focused on collective bargaining and industrial relations, although it was also applied to other key areas of negotiations of that time, in the case of the United States – civil rights. The theory comprises four sub-processes: distributive bargaining; integrative bargaining; attitudinal structuring and intra-organisational bargaining. Each of these sub-processes is outlined in the lecture, as well as the associated tactics which were viewed by Walton & McKersie as clearly distinguishable.

In the tutorial, there will be a video presentation where discussion will focus on distinguishing distributive from integrative negotiation behaviours and tactics, and identifying definitive stages within the negotiations.

Tutorial Exercise

Tutorial discussion in Week 2 will flow from a video presentation. Discussion questions will include:

- Do the negotiations captured by the video demonstrate a particular type of negotiation tactic?
- Was there evidence of particular stages in the negotiations?
- What were the critical points in the negotiations?

Readings/Resources (Lecture)

Basic Reading

Further Readings
The Evolution and Critique of Walton & McKersie’s Paradigm

Week 3 Objectives

- Trace the evolution of Walton and McKersie’s model of labour negotiations
- Introduce the work of Walton, Cutcher-Gershenfeld and McKersie
- Introduce the concept of interest based bargaining.

In this week’s lecture we examine Walton & McKersie’s reflections on their Behavioral Theory of Labor Negotiations. Our focus includes one of the dilemmas arising from this model – the interaction between distributive and integrative bargaining and tactics. Walton & McKersie termed this combination mixed-motive bargaining. Their original work was arguably uncertain about the likely success of mixed motive bargaining, particularly if distributive bargaining tactics were used to open the negotiations. Their latter work is more accommodating of mixed bargaining but as a concept it is less developed than their four sub-processes. Other authors, prominently Fells, suggest that mixed bargaining as a concept characterises most workplace bargaining; the parties use distributive and integrative bargaining to reach agreement. In the lecture we profile the work of Ray Fells, and also that of Linda Putnam.

In the tutorial our focus turns to preparing for the on-line negotiation exercise. Utilising a checklist of negotiations we work through what resources and what preparations students should undertake, both prior to, and during their negotiations.

Tutorial Exercise

In this week’s tutorials students will work through a checklist of negotiation preparation and participation. This material will be posted on the vUWS site for Week 3. Our tasks in the tutorial will be to:

- Identify the key components of negotiation preparation
- Identify different negotiation contexts and scenarios
- Assess particular contexts for the deployment of particular negotiation tactics.

Readings/Resources (Lecture)

Basic Reading


Further Readings


The Relationship between Walton and McKersie’s Behavioural Theory of Labour Negotiations, and Walton, Cutcher-Gershenfeld and McKersie’s Theory of Change in Labour Management.

Week 4 Objectives

- Clarify the concept of interest-based bargaining
- Identify the relationship between Walton and McKersie’s behavioural theory of labour negotiations, and Walton, Cutcher-Gershenfeld and McKersie’s Theory of Change in Labour Management.
- Identify the emerging literature on alternative mediums of negotiation – on line negotiation.

We begin this week’s lecture by clarifying the concept of interest based bargaining. Interest-based bargaining is prominent in the work of Fisher and Ury’s pivotal *Getting to Yes: Negotiating an Agreement Without Giving In*. A number of theorists see clear linkages between integrative and interest based bargaining, although there is not unanimity on this issue. Having clarified interest-based bargaining we look to the relationship between Walton and McKersie’s behavioural theory of labour negotiations, and Walton, Cutcher-Gershenfeld and McKersie’s Theory of Change in Labour Management. The latter theory is not viewed as a comprehensive theory of labour negotiations, rather it is viewed as a model for how strategic change is introduced by management. Nevertheless there are clear linkages between these theories.

We then turn to an emerging area in the literature – the impact of the medium of negotiation – for example, whether negotiations be face to face, or on-line, and if the latter synchronous, or asynchronous. This has particular application given the format of the negotiation exercise within this unit. The work of Thompson and Nadler is important here in bringing together the available research, but Lipsky and Avgar also provide interesting insights and conveniently use Walton and McKersie’s model to examine on-line dispute resolution.

In the tutorial we examine material that will assist students in the on-line negotiation exercise. Our focus is on provisions and clauses in enterprise agreements. The clauses are included in the Book of Readings and are directly relevant to the areas (wages, performance, hours of work on a Saturday) to be negotiated as part of the on-line negotiation exercise. We examine clauses from different agreements so that we can see how a single issue can generate very different outcomes across workplaces. The objective of the exercise is to:

- examine the way in which provisions are expressed;
- examine the manner in which provisions can be differentiated;
- discuss the factors that may have contributed to this differentiation.

Tutorial Exercise

In examining provisions across different enterprise agreements we will use a worksheet to organise our data and in doing so address the following questions:

- Identify the grounds (Dimensions) on which the different clauses can be differentiated
- What advantages might accrue to either party from the manner in which the clause is expressed?
- How might this clause be improved from the perspective of management?
- What do you suspect might have been some of the points of contention in the negotiations that led to this clause?

In Week 4 we will concentrate on wages and performance-related clauses.

Readings/Resources (Lecture)

**Basic Reading**


**Further Readings**


Power Dynamics and Negotiations

Week 5 Objectives

- Introduce the theme of power dynamics and negotiations
- Identify concepts of total, absolute and relative power
- Contrast the work of Chamberlain and Kuhn and Bacharach and Lawler.

In this week’s lecture we examine contrasting approaches to the study of power in negotiations. One of the criticisms of Walton and McKersie’s behavioural theory was that it paid too little direction to the role of power. In reply Walton and McKersie would argue that power was implicit in their four sub-processes. Other theorists address the issue of power more directly but in different ways. We address two prominent approaches in the lecture, that of Bacharach and Lawler, and that of Chamberlain and Kuhn. Bacharach and Lawler’s approach is situated within dependency theory; for these theorists we can understand the leverage of power by understanding the degree to which parties have a stake in the bargaining relationship. Chamberlain and Kuhn approach the issue differently – and exclusively through the concept of bargaining power. The bargaining power of one party can not be measured in absolute terms; it is always relative to that held by the other party(ies).

Tutorial Exercise
In this week’s tutorial we continue to examine the enterprise agreement that formed the focus of tutorials in Week 4. This week we focus on hours of work clauses, including those providing for working on a Saturday.

Readings/Resources (Lecture)

Basic Reading

Further Readings
**Week 6 Objectives**

- Introduce the theme of ethics in negotiation
- Explain the methodology that underpins the literature in this area
- Identify the determinants of ethical considerations that shape the ethical questions facing negotiators'

In this week's lecture we examine ethical questions that arise in negotiations. For example is there a degree of deception involved when one party unilaterally refuses a claim, or claims that it cannot be afforded, or countenanced by its members? Do parties engage in bluffing when putting forward ambit claims? To engage in this issue we utilise the questionnaire that researchers utilise to assess how negotiators rank or respond to particular tactics in negotiation. The available research indicates that negotiators are more comfortable with certain tactics (for example traditional competitive bargaining tactics) than they are others (forms of misrepresentation). To understand why these choices are made we examine the dimensions and motivators of ethical conduct. This extents far beyond matters of honesty and truth telling, and includes social mores, and approaches to justice and fairness. This area of study includes also models of utilitarianism.

**Tutorial Exercise**

This week’s tutorial provides an opportunity to assess and review the thematic issues raised in the lecture material in weeks 2-6. This discussion will assist your final preparations for your individual critique and exam preparation. Discussion questions will include:

- How do Walton and McKersie characterise the relationship between the sub-processes in their behavioural theory of labour negotiations, specifically between distributive and integrative bargaining?
- What are the criticisms that have been levelled at the Walton and McKersie model of negotiations?
- Have Walton and McKersie modified their views in any way?
- In what ways can the work of Fells (various works), Putnam (1990) be distinguished from that of Walton and McKersie (1965)?

**Readings/Resources (Lecture)**

**Basic Reading**


**Further Readings**


**Working Towards an Agreement**

There is no lecture or face to face tutorial this week to provide students with additional time to work on their on-line negotiation exercise.

Students may wish to review the material on negotiation preparation and presentation that we discussed in the Week 3 tutorial.

To ensure that all negotiation groups are ‘on track’ a 15 minute appointment will be scheduled during the lecture/tutorial time. This appointment will be held with your lecturer or tutor. Your appointment will either be scheduled in Week 7 or Week 8.

**Readings/Resources (To support Week 7 Lecture on vUWS)**


**Finalising An Agreement**

There is no lecture or face to face tutorial this week to provide students with additional time to work on their on-line negotiation exercise.

To ensure that all negotiation groups are ‘on track’ a 15 minute appointment will be scheduled during the lecture/tutorial time. This appointment will be held with your lecturer or tutor. Your appointment will either be scheduled in Week 7 or Week 8.

**INTRA-SEMESTER BREAK**

21/09/2009
Week 10 Objectives

- Assess the impact of the social and political context on the framework for negotiation
- Identify those factors that shape the tendency of negotiators to competitive or cooperative behaviours
- Assess the mechanisms through which unresolved negotiation matters proceed to third party dispute resolution.

This week’s lecture provides a bridge between our focus on negotiation and bargaining, and our forthcoming focus on advocacy. This arises because Australian labour law has encompassed third party dispute resolution. Depending on the regulation of the day there has been opportunities, where negotiations fail, for the parties to approach a third party for assistance. The nature of this intervention is shaped by the regulation – a context reviewed in this week’s lecture. We also examine whether regulation shapes competitive, or collaborative forms of negotiation. Additionally regulation may shape the ability of both parties to exercise leverage during negotiation. This may arise, for example, through the regulation of industrial action.

Tutorial Exercise

This week’s tutorial provides an opportunity to assess the contextual factors that shape negotiation. We will do so by using the Boeing dispute that features in the essential reading for Week 10. Discussion questions will include:

- Identify those factors that have shaped the negotiation context since 1991.
- Have these factors impacted the style of negotiations? If so in what way?
- How might these factors influence the type of matters that are brought to industrial tribunals and the range of actions open to industrial tribunals?

Readings/Resources (Lecture)

Basic Reading

Further Readings
Week 11 Objectives

- Introduce dominant paradigms in models of third party intervention: conciliation, arbitration, mediation
- Clarify the concept of third party intervention and introduce the diversity in means of intervention
- Assess the engagement of tribunals and advocates in conciliation and arbitration in Australia.

In this week’s lecture we examine the available theoretical literature that concerns third-party intervention. This includes interventions such as mediation, and arbitration. The literature includes schema which distinguishes these forms of involvement; this can turn on whether the intervention includes decision making, or determinations (as is the case in arbitration), or bringing the parties together in ways designed to encourage the parties to resolve their differences (mediation). Conciliation which is a prominent practice in Australian labour law is not addressed prominently in the theoretical literature. For some writers it is subsumed within the models of mediation; for others it is more distinct given that it may act as a prelude to arbitration.

Tutorial Exercise

In the tutorial, through video and DVD presentations, we engage with some visual cues on advocacy practice, and the context in which industrial advocacy is most often practiced in Australia; industrial and administrative tribunals.

Discussion questions will include:

- What are the differences between conciliation and arbitration?
- Are their distinctive features about tribunal, as opposed to court practice
- What is the key role of the advocate in industrial and employment law?

Readings/Resources (Lecture)

Basic Reading

Further Reading
Week 12 Objectives

- Explore the nature of the adversarial system in industrial tribunals
- Identify the distinguishing characteristics of Fair Work Australia and tribunal procedure
- Establish the importance of issues of law, fact and principle in advocacy
- Outline tests of the onus of proof; tribunal procedure
- In the specified case identify the key regulatory provisions and issues
- In the specified case assess the task faced by the advocates for the respective parties, in addition to the task faced by the tribunal

The Week 12 and 13 lectures examine the constitutional basis of industrial legislation, a foundation which provides key boundaries to the scope of industrial legislation, and that of industrial tribunals. This examination occurs at a time when the applicable federal legislation- the Fair Work Act 2009 (Cth) is in its infancy*. In this context we examine the role of the advocate. In what way does the advocate seek to address issues of law, issues of principle, and issues of fact? Is there an onus of proof? To illustrate these themes we will focus on a specific case. This case will be made available to students by way of vUWS and it will be the case that will form the basis of a compulsory exam question. Students should bring a copy of the transcript of the case, and the decision to the lecture.

Tutorial Exercise

In this week’s tutorial students will begin the analysis of the specified case that will be the subject of the exam question on third party dispute intervention. A summary of the case will be posted on vUWS. Students should bring a copy of the transcript for the case, and the summary.

*The available literature is still responding to this change and as emerges it will be made available to students through vUWS.

Readings/Resources (Lecture and tutorial)

Basic Reading:
Transcript and reported decision from selected case. This will be made available on vUWS.

Further Readings:

Hemsley, G. (1992) Tribunal Advocacy, University of South Australia.
### Week 13 Objectives

Please see Week 12

This week lecture is a continuation of the lecture commenced in Week 12. Students should continue to bring a copy of the transcript of the specified case to the lecture.

#### Tutorial Exercise

In this week’s tutorials we will continue to work through the specified case that will be the subject of the exam question on third party dispute intervention.

The particular lines of analysis that will be explored are as follows.

- Write a short summary of what this case concerns.
- What was the impact of the relevant legislative provisions on the manner in which the proceedings were conducted and the scope of action available to the parties?
- How did these provisions influence the scope of the decision that was available to the Commission?

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### 14 26/10/2009

Unit review and examination preparation.

There are no tutorials this week
The Book of Readings includes materials to support lecture and tutorial participation.


Extracts from Workplace Agreements for Study in Tutorials in Weeks 4 and 5

The following monographs have been placed on Open Reserve at the Parramatta and Campbelltown libraries.


Assessment 1: On-line Negotiation Critique

[I would like to acknowledge the work of Ray Fells, University of Western Australia who has previously conducted an exercise similar to that detailed below involving students from the University of Western Australia and the University of Wisconsin. Ray kindly consented to this material being used and amended - Meg Smith.]

Introduction

The purpose of this assessment is to provide students with the opportunity to gain experience in conducting negotiations. The Internet, via a bulletin board facility on vUWS, will be the primary vehicle for these negotiations, although negotiations within the team can also be held face to face. The assessment component is a written critique of your negotiations, NOT the quality of the agreement that you reach.

The actual context of the negotiation concerns negotiations between management and a union in a manufacturing setting. Management and the union are seeking a new federal workplace agreement. Negotiations are underway and the objective of the current negotiation is to reach agreement on three provisions that still require resolution. The one factor that will be contra-jurisdiction concerns the need to reach agreement. In the federal jurisdiction there is no definitive requirement that parties reach an agreement when engaged in negotiations although there is a requirement to bargain in good faith. For the purposes of this assessment there is a requirement that an agreement be reached by the specified date. Clearly, each party must get the best possible agreement.

Management and union negotiation groups will be established and matched in Week One tutorials. There will be a maximum of three - four students in each management negotiation group and each union negotiation group. There is no requirement for members of a negotiating group to be drawn from the same tutorial although it may be more practical for students if this is the case. Once the groups are established, details will be provided of the appropriate vUWS infrastructure for each set of management-union negotiations. Details concerning the use of vUWS will be posted onto the website for this unit. There are no specific roles within each management or union group but if you wish, you may decide what roles you want your negotiating team to have: for example, human resource manager, union state secretary, union organiser.

Background information is provided in this unit outline and specific management and union briefing notes will be provided to the management and union negotiating groups. In developing an exercise such as this it is not possible to cover every eventuality but it should not be necessary to add or make up further background or contextual material. Remember that the main object of this exercise is to experience negotiation, particularly, on-line negotiation so creating further contextual information to gain an advantage might serve to destabilise the process and so defeat its purpose as an assessment exercise.

Students are encouraged to research the issues that require resolution in this negotiation and to bring to the negotiations the results of this research. This may include, for example, clauses from other workplace agreements. These can be accessed through the agreements tab on the Fair Work Australia site [www.fwa.gov.au/]

Timing of the exercise

You can start to negotiate as soon as the appropriate VUWS infrastructure has been established and following the organisation of negotiating groups. Ideally each management and each union negotiation group should meet to discuss their tactics and their approach to the unresolved industrial issues that require agreement (see background information which follows). In your group you will need to consider your approach to the unresolved issues and also your strategies towards the other negotiating group (ie., ‘the other side’). There should also be an agreed protocol within the negotiating groups for the distribution of information within the group. There are no rules as to who opens the negotiations. It may be either the management or union side that approaches ‘the other side’ with a claim, or a proposal.

You must complete your negotiation in time to submit your individual critique and supporting documentation by Week 10 (specifically 2 October 2009).

This exercise is designed so that individual students should not spend in excess of 35 hours on conducting research for the negotiation, internal group negotiations and negotiations with your opposing negotiation group. This maximum time limit does not include the research and writing of the individual critique. Your tutor is happy to discuss your progress.
The Negotiation Exercise: Context

The negotiation is based on a retail banking workplace (Community Bank Pty Ltd) which has a number of banking operations throughout New South Wales (NSW). The company has been in operation for 15 years, and although it does not rival the major banks it is become more firmly established in the banking services market. The agreement will cover all if its NSW workplaces. Community Bank Pty Ltd is generally viewed as being a ‘good employer’ but at the same time is aware of the pressures of the market place.

The company has historically paid in excess of the award rate and will continue to pay rates in excess of the Australian Fair Pay and Conditions Standard and the successor to that standard (the modernised award rate) as determined by the Australian Industrial Relations Commission/Fair Work Australia. Its rates of pay need to be sufficiently attractive to ensure the retention of employees but in these negotiations the employer is also seeking to ensure that any wage increases contained in the agreement involve commitments concerning performance and productivity.

There is one major union involved (Banking Union of Australia) which represents all the employees, with the exception of the managers. This union is one of the larger unions in the state and represents a wide range of finance sector workers. It has enough resources (financial and organisational) to ‘take on’ an employer but has the reputation for adopting a pragmatic stance and in any event the advent of WorkChoices has recast elements of union strategy. Although elements of WorkChoices are a thing of the past times have changed. The employer has a respect for this union, seeing it as fairly representing its members’ interests in a constructive manner and in any event the employer is aware of the provisions of the Fair Work Act which concern bargaining in good faith (s. 228).

This agreement to be negotiated is an enterprise agreement (s. 172). It is not a greenfields agreement. There is an option for the union to take protected industrial action (s. 409) although there are a number of substantial impediments to the taking of industrial action including the requirement for a ballot. There is not a history of individual agreements at the workplace and in any event negotiating AWAs is now precluded by federal legislation. The company has had agreements with the union for the last fifteen years, and its preferred strategy is to continue that relationship. Moving towards negotiating with bargaining representatives, other than the union, is not on the company’s agenda. There will be no attempts by either party to introduce unlawful content (s.194) into the enterprise agreement and so compromise the lodging of the agreement with Fair Work Australia. Both parties are also aware that Fair Work Australia will not approve the agreement if it does not meet the ‘better off overall test’ (see s.186, s.187).

For its part, the union recognises the company’s commitment and values it; this company is used by the union as an example of what can be achieved through developing constructive management-union relationships. However, both management and union negotiators know that the best bargaining position is to bargain from a position of strength and ensure that the needs of their respective constituencies are met.

There are about 600 full-time permanent employees to be covered by the agreement. Women comprise seventy five per cent of the workforce. Somewhat unusually there are no permanent part-time employees and the company’s use of casual employment is low. There are no plans to contract out work. Union membership is close on 50 per cent. There are employees in different roles (customer service officers, loans officers, major accounts officers)

The key points about banking services are as one would expect – there are peaks and troughs in the working week and throughout the month. Employees work, on average, two hours overtime though actual overtime worked varies between individuals.

The Background to these Negotiations

- The last agreement was concluded 2 years ago, the main element being an annual 4% increase in wage rates over two years. It has been agreed that the new agreement will be a three year agreement.
- Inflation has been around 2.0 % and is expected to continue at that level.
- Productivity improvements in the company have been around 2%;
- The company is relatively profitable but there is strong competition in the market place.

The current negotiations to renew the agreement have been going on for a couple of months; they have been generally proceeding at a reasonable rate. Although neither side has shown any signs of ‘rolling over’, agreements have been reached on a wide range of issues – the taking of annual leave, meal breaks, expectations concerning overtime, casual employment and training and development. Only three provisions are left to be resolved. For the purposes of this assessment the provisions to be negotiated revolve around important issues of principle and it should be possible to negotiate and reach agreement without delving too much into the intricacies of banking services. Thus participants should not have to ‘make up’ lots of so-called facts in order to reach an agreement. Both parties feel the need to ‘wrap this one up’ and finalise an agreement.
The Provisions to be Negotiated

There are three provisions still to be resolved.

1. **Wage increase.** It will be necessary to agree upon the basis for a general increase in wages, as well as the size of the increase, during the life of the agreement. This will include issues such as whether any part of any wage increase is linked to performance.

2. **Performance Appraisal.** It will be necessary to agree on a performance appraisal clause. The company has a performance management system which has been used to develop employees’ careers. However, this system has not been used to determine employee access to wage increases in the past. Depending on the outcome of the negotiations on wages, this may be explicitly linked to the wage increases (or a proportion of the wage increases) available to employees over the course of the agreement.

3. **Saturday operations.** The company has not previously opened for business on Saturday but has advised the union that it will be so from June 2010. It will be necessary to agree:
   - whether Saturday work will be considered ‘ordinary hours of work’. At present, the ordinary hours of work are defined as ‘the ordinary hours of work may be worked between 7.00am to 9.00pm Monday to Friday. Full-time employees are required to work 76 hours per fortnight;
   - if Saturday work is to be ordinary hours of work, will a penalty apply and if so what is its quantum;
   - if the work is in addition to ordinary hours (i.e. overtime) what overtime penalties apply? The general overtime provisions indicate time and a half for the first two hours, then double time thereafter;
   - whether all employees are able to be rostered on Saturdays, and if not, which employees will be..
Assessment Requirements

Each individual student is required to submit:-

- A 2,500 word critique which analyses the negotiation against the discussion statement. This assessment will examine students’ ability to analyse and evaluate a set of negotiations against prevailing negotiation theory. This critique should not describe the negotiations as this will be evident in the log of your negotiations on vUWS which will effectively provide a complete record of the negotiations. The cover sheet for the critique should clearly identify the individual student’s negotiation group.

Each negotiation group is required to submit:-

- A copy of the agreement on the three provisions that require resolution in this set of negotiations that has been reached between your negotiation group and your rival negotiation group. The cover sheet for this material should clearly identify the students’ negotiation group;

- A printout of the negotiations conducted through vUWS, copies of additional emails between the negotiating groups, records of any meetings, discussions or copies of any documentation which was part of your process of reaching agreement. Copies of emails within the negotiation group should also be tabled. There is no need for this material to be specially bound. It should be logically arranged (by type and chronologically) and appended to your agreement. Meetings that are not held on-line should be documented. The cover sheet for this material should clearly identify the students’ negotiation group.

Preliminary Requirements

Individual critiques will not be assessed unless the Unit Coordinator is satisfied that the following preliminary requirements have been met:

- The student’s negotiation group has bargained in ‘good faith’. Important to this consideration is whether the negotiation group has consistently engaged in the on-line negotiation, has responded routinely to communication from their rival negotiation group, and has put forward their own proposals in reply;

- All appropriate documentation has been submitted by the student and his/her negotiation group.
What is required in this assessment – Guidance on the Critique

1. In the individual critique you are required to respond to the following discussion statement.

Discussion Statement

Walton & McKersie’s *Behavioural Theory of Labor Negotiations* is the dominant model in its field. Using the evidence of the on-line negotiations, in which you were involved, examine the utility of Walton & McKersie’s model with specific reference to the concept of mixed-motive bargaining.

In addressing the question students should contemplate also the more recent writings of Walton and McKersie, and the available critiques. Examples of the critiques include those developed by Fells (1986) (1998), Putnam (1992) and Kochan and Lipsky (2003).

2. A useful way of approaching the exercise is to place yourself in the position of being an analyst of the negotiations, rather than a participant. You are analysing the negotiations much in the way analysts in the literature assess negotiations they have observed (see Fells and Skeffington, 1998). As per an essay, the language should be that of the third person – thus there should be no instances of, ‘We assessed’ or ‘We approached management’. This should be expressed as, for example, ‘On the issue of hours the union attempted to reposition the demands of management’.

3. Assess the negotiations as a whole, not from the point of view of the party you represented the negotiations.

4. The most effective way to refer specifically to a component of your negotiations is to refer to a vUWS message is to refer to the date and time of the message.

5. In addressing the discussion statement a useful approach is to:

   • present a concise account of the prevailing theories and/or questions posed by the literature, for example when discussing the concept of mixed motive bargaining, (as a starting sentence), *The literature is divided as to whether negotiations involve a mixture of distributive and integrative behaviours*. In this area the theory of Walton and McKersie and its interpretation is challenged by the work of Fells (1986) and Putnam (1990).

   • present your analysis of your set of negotiations in this particular area, for example (as a starting sentence), *The negotiations under review exhibited a mixture of distributive and integrative behaviours in a way that was consistent with the model proposed by Fells (1986).*

   • support your analysis with reference to the literature and to your negotiations. If you are referring to your negotiations it should be in support of your analysis, for example (as a starting sentence), *This mixture of behaviours was evident in the range of tactics utilised through the negotiation, particularly over the wages and hours provisions. In the negotiation of two provisions the initial demands of the parties gave way to …… [see msgs 8/8/2009, 12.09pm, 14.10pm; 19/8/2009, 8.30am, 10.30am] This evidence challenges the work of Walton and McKersie as to the relationship between distributive and integrative bargaining. The evidence more closely aligns with the work of Fells.*

6. The structure, as suggested above, assists resolution of the following questions:

   What does the literature contribute in this area?
   Does this set of negotiations lend support (full or partial) to the literature? Why?

7. The style of writing in a critique is very similar to that of an essay. In this assessment you will submit a written essay style response to the discussion statement. Your answer should contain an introduction, main body and conclusion.

8. The object of the assessment is to analyse the negotiation process. The agreement reached between the parties will not be assessed.

9. This unit outline includes a section on Frequently Asked Questions concerning this assessment.

10. The written critique will be assessed against the criteria contained in the marking guide that is attached to this unit outline. Please note that the criteria includes a requirement for a minimum of eight references that are relevant to the topic. Lecture notes do not count as a reference. Students are not restricted to references listed in the unit outline.
11. On-line negotiation critiques will be assessed against the following criteria:
   • quality of research;
   • knowledge of/application of themes and concepts identified in the discussion statements;
   • level/relevance of analysis, reference to on-line negotiation;
   • quality of argument and discussion;
   • communication of ideas through the organisation, structure and logic of argument;
   • clarity of expression; and,
   • citation/referencing.

   The marking guide relevant to the essay is contained in this unit outline.

14. This assessment is aimed at assisting students achieve the following learning outcomes:-
   • Critically assess the key theoretical debates in negotiation and bargaining and utilise these debates to analyse negotiation practice
   • Demonstrate the practical skills necessary to participate in negotiation and bargaining
   • Produce well written and argued material in response to assessment tasks set for the unit.
Final Examination

Due Date: Exam Period following end of semester
Value: 50%
Format: Students will be required to answer three questions and there will be a requirement for answers to be in an essay style format.

1. In answering examination questions are required to address the following criteria:
   - understands the topic under examination;
   - able to demonstrate critical analysis skills;
   - able to construct and sustained line of argument; and,
   - able to use sound grammar and spelling.

   The marking guide relevant to the exam is contained in this unit outline.

2. This assessment is aimed at assisting students achieve the following learning outcomes:-
   - Critically assess the key theoretical debates in negotiation and bargaining and utilise these debates to analyse negotiation practice
   - Critique advocacy practice and the processes of third-party dispute intervention
   - Assess how contemporary legislative and political contexts affect the processes of negotiation, bargaining and advocacy
   - Produce well written and argued material in response to assessment tasks set for the unit.

ON-LINE NEGOTIATION: FREQUENTLY ASKED QUESTIONS

WHAT DO I HAND UP?

- A 2,500 word critique which analyses the negotiation against the discussion statement.

WHAT DOES MY GROUP HAND UP

- A copy of the agreement on the three provisions that require resolution in this set of negotiations that has been reached between your negotiation group and your rival negotiation group;
- A printout of the negotiations conducted through vUWS, copies of additional emails between the negotiating groups, records of any meetings, discussions or copies of any documentation which was part of your process of reaching agreement.

WHAT AM I ASSESSED ON?

Your answers to the discussion statement.

IS THE 2,500 WORD CRITIQUE AN INDIVIDUAL PIECE OF WORK?

Yes

AM I ASSESSED ON NEGOTIATING SKILL?

No but note the components of the preliminary requirements.

WHAT THE PRELIMINARY REQUIREMENTS?

These are requirements that you need to meet in order for your individual critique to be assessed. They are:

- Your negotiation group has bargained in ‘good faith’. Important to this consideration is whether the negotiation group has consistently engaged in the on-line negotiation, has responded routinely to communication from their rival negotiation group, and has put forward their own proposals in reply;
- You and your negotiation group have submitted all appropriate documentation.
WHAT STYLE OF WRITING IS REQUIRED IN ANSWERING THE DISCUSSION STATEMENT?

As noted in the unit outline the style of writing in a critique is essay like in nature. One distinction in this assessment is that you have very immediate primary evidence to analyse – your on-line negotiation exercise.

You also assess secondary material, namely the theoretical literature concerning negotiation and bargaining.

In answering the discussion statement place yourself in the position of being an analyst of the negotiations, rather than a participant. You are analysing the negotiations much in the way analysts in the literature assess negotiations they have observed (see Fells and Skeffington, 1998). As per an essay, the language should be that of the third person – thus there should be no instances of, ‘We assessed’ or ‘We approached management’. This should be expressed as, for example, ‘On the issue of hours the union attempted to reposition the demands of management’.

Assess the negotiations as a whole, not from the point of view of the party you represented the negotiations.

DO I INCLUDE AN INTRODUCTION AND CONCLUSION?

Yes. Your answer to the discussion statement should contain an introduction, main body and conclusion.

An introduction to the discussion statement should fulfil the requirements of an introduction to an essay. It should:

- introduce the issue at hand, for example Walton & McKersie’s Behavioural Theory of Labor Negotiations;
- indicate what the following piece of work sets out to do, in this assess the application of the theory to your on-line negotiations;
- indicate how this is going to be done, in this case utilise the evidence from the on-line negotiations and the literature.

WHAT MATERIAL SHOULD BE CANVASSED IN THE MAIN BODY OF MY ANSWER TO EACH DISCUSSION STATEMENT?

- present a concise account of the prevailing theories and/or questions posed by the literature, for example when discussing the concept of mixed bargaining, (as a starting sentence), The literature is divided as to whether negotiations involve a mixture of distributive and integrative behaviours. In this area the theory of Walton and McKersie and its interpretation is challenged by the work of Fells (1986) and Putnam (1990).

- present your analysis of your set of negotiations in this particular area, for example (as a starting sentence), The negotiations under review exhibited a mixture of distributive and integrative behaviours…

- support your analysis with reference to the literature and to your negotiations. If you are referring to your negotiations it should be in support of your analysis, for example (as a starting sentence), This mixture of behaviours was evident in the range of tactics utilised through the negotiation, particularly over the wages and paid maternity leave provisions. In the negotiation of two provisions the initial demands of the parties gave way to …[see msgs 6/8/2008, 12.09pm, 14.10pm; 19/8/2008, 8.30am, 10.30am]. This evidence challenges the work of Walton and McKersie as to the relationship between distributive and integrative bargaining. The evidence more closely aligns with the work of Fells ….

WHAT IS THE BEST WAY TO REFER TO THE ON-LINE NEGOTIATIONS?

The most effective way to refer specifically to a component of your negotiations is to refer to the vUWS message or messages. To do so refer to the date and time of the message

DO I SUBMIT A REFERENCE LIST?

Yes

DOES EACH ARTICLE OR CHAPTER IN THE BOOK OF READINGS COUNT AS A SEPARATE REFERENCE?

Yes

MOST COMMON MISTAKES IN THIS FORM OF ASSESSMENT

- Describing rather than analysing the negotiations
- Failing to address the discussion statement
- Little in the way of supportive reference to the on-line negotiation.
- Lack of structure and coherence in answers
<table>
<thead>
<tr>
<th>Criteria: The outcome shows:</th>
<th>Fail = Unsatisfactory performance-</th>
<th>Pass = Just Satisfactory performance</th>
<th>Credit= Good quality showing more than satisfactory performance</th>
<th>Distinction= Superior quality demonstrating independent thinking</th>
<th>High Distinction= Outstanding quality showing creativity and originality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality of Research</td>
<td>Research based only on a few or irrelevant secondary sources.</td>
<td>Research based on few but relevant secondary sources mostly emphasising a single perspective. Meets minimum criteria of eight references.</td>
<td>Research based on adequate number of relevant secondary sources representing all perspectives in general terms.</td>
<td>Research based on important secondary sources representing all perspectives. Research is well beyond minimum requirements.</td>
<td>Research based on important secondary sources representing all perspectives. Research is significantly beyond minimum requirements.</td>
</tr>
<tr>
<td>Theory, analysis and critical interpretation</td>
<td>Lack of understanding of themes/concepts from readings or just mentioning the terms without showing understanding.</td>
<td>Use of terms shows some comprehension but only a generalist understanding.</td>
<td>Using implicitly the themes/concepts, with a good understanding of them.</td>
<td>Discussing the themes/concepts and using them for the analysis of the issues.</td>
<td>Excellent integration of literature through a discussion of the value and limitation of themes/concepts that are key to the analysis.</td>
</tr>
<tr>
<td>Level/Relevance of analysis, Reference to on-line negotiation</td>
<td>Analysis mostly absent; emphasis is on descriptive writing. Evident analysis is poorly related to the statement. Little or no reference to on-line negotiation.</td>
<td>Identifying different perspectives; describing them adequately but not relating them. There is limited reference to the on-line negotiation and the analysis is only generally related to the statement but with key omissions.</td>
<td>Identifying different perspectives; discussing them and identifying the differences between them. There is consistent reference to the on-line negotiation and the analysis is well related to the statement.</td>
<td>Discussing different perspectives critically integrating the relations between them and extracting implications from differences and similarities. The is insightful reference to the on-line negotiation and the analysis is acutely directed to the statement.</td>
<td>Discussing different perspectives, critically integrating the relations between them and extracting implications from differences and similarities, inferring patterns, nuances and contradictions. There is insightful reference to the on-line negotiation. Following from this the analysis is acutely directed to the question, leading to a consistent level of in-depth understanding.</td>
</tr>
<tr>
<td>Quality of discussion/argument</td>
<td>No discussion or argument.</td>
<td>Poor use of argument, unconvincing explanations to substantiate points discussed.</td>
<td>Minimal but convincing use of argument to substantiate the points under discussion.</td>
<td>Relevant and convincing use of arguments to substantiate the points under discussion.</td>
<td>Relevant convincing use of arguments to substantiate points, integrating different perspectives</td>
</tr>
<tr>
<td>Structure/Presentation</td>
<td>Incomprehensible, poorly structured; fragmented ideas; disconnected paragraphs that do not follow a clear argument.</td>
<td>Relatively coherent argument, manages to communicate the ideas but difficult to understand links between paragraphs.</td>
<td>There is a clear structure with coherence in the presentation of ideas producing a satisfactory and comprehensive argument.</td>
<td>There is a clear structure with coherent presentation of ideas and comprehensive, well sustained argument.</td>
<td>A sustained, coherent and logical argument. Able to synthesise and integrate complex ideas.</td>
</tr>
<tr>
<td>Communication of ideas through the organisation, structure and logic of argument</td>
<td>Incomprehensible due to poor written language competence or careless writing</td>
<td>Satisfactory but with difficulties in communicating ideas due to careless writing and lack of proof-reading</td>
<td>Some language mistakes but good communication of ideas, basically well written.</td>
<td>Very well written with few minor mistakes due to distractions</td>
<td>Excellent writing which demonstrates careful revision to avoid minor mistakes</td>
</tr>
<tr>
<td>Clarity of expression (sound sentence structure, grammar and spelling)</td>
<td>Poor level of referencing throughout essay. Reference list is provided but is incomplete and inaccurate.</td>
<td>Adequate level of referencing but with some omissions and errors. Reference list is provided but contains some errors.</td>
<td>Competent level of referencing with few omissions and errors. Reference list is provided that is complete and largely accurate.</td>
<td>Comprehensive referencing throughout essay. Reference list is complete and highly accurate.</td>
<td>High level of comprehensive referencing throughout essay. Reference list is complete and highly accurate.</td>
</tr>
<tr>
<td>Citation, Referencing</td>
<td>Word limit is not complied with.</td>
<td>Word limit is complied with.</td>
<td>Word limit is complied with.</td>
<td>Word limit is complied with.</td>
<td>Word limit is complied with.</td>
</tr>
<tr>
<td>Mark range out of 50</td>
<td>0-24.5</td>
<td>25-32.0</td>
<td>32.5-37.0</td>
<td>37.5-42.0</td>
<td>42.5-50</td>
</tr>
<tr>
<td>CRITERIA</td>
<td>E</td>
<td>F</td>
<td>S</td>
<td>G</td>
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</tr>
<tr>
<td>Understands the topic under examination.</td>
<td>Little or no understanding of the topic under examination. Misinterprets statements.</td>
<td>Demonstrates a basic understanding of the topic under examination.</td>
<td>A good understanding of the topic under examination.</td>
<td>A sound understanding of the topic under examination.</td>
<td>A sound, understanding of the topic under examination, showing reasoning, self-confidence and cognitive maturity.</td>
</tr>
<tr>
<td>Able to demonstrate critical analysis skills</td>
<td>Regurgitates information from lectures and readings. Fails to identify relevant counter-arguments. Exhibits close-mindedness to reason.</td>
<td>Superficially evaluates alternative points of view. A tendency to hold on to views based on preconceptions.</td>
<td>Able to identify relevant and contrasting arguments. Offers some analysis.</td>
<td>Accurately interprets evidence and statements. Offers analyses and evaluation of obvious alternative points of view.</td>
<td>Accurately interprets evidence and statements. Critically analyses and evaluates major alternative points of view.</td>
</tr>
<tr>
<td>Able to construct a coherent and sustained line of argument</td>
<td>Disjointed, unfocused, poorly structured argument. Disconnected paragraphs; no clear line of argument.</td>
<td>Basic line of argument is apparent, but a great deal of improvement is needed to create coherence.</td>
<td>Organisation of ideas relatively clear, but some work still needed.</td>
<td>Able to construct a coherent line of argument right through.</td>
<td>Able to construct a coherent line of argument right through, and to effectively synthesise and integrate abstract ideas.</td>
</tr>
<tr>
<td>Able to use sound grammar and spelling</td>
<td>Unintelligible expression; unacceptable number of spelling and grammatical errors. Very hard to understand.</td>
<td>Poor grammar; many spelling errors.</td>
<td>Relatively good grammar and spelling, but still some distracting errors</td>
<td>Good grammar and spelling; very few errors.</td>
<td>Sound grammar and spelling. Elegant writing style.</td>
</tr>
<tr>
<td>Mark range out of 50</td>
<td>(0-22)</td>
<td>(22-32)</td>
<td>32.5-37.0</td>
<td>37.5-42</td>
<td>42.5-50</td>
</tr>
</tbody>
</table>

Based on a model by Dr Sue Armstrong, School of Law, UWS and Facione’s “Holistic Thinking” Scoring Rubric.
## Assignment Cover Sheet

**School of Management**

**College of Business**

<table>
<thead>
<tr>
<th><strong>Student Name</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Student Number</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Unit Name and Number</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Tutorial Group</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Tutorial Day and Time</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Lecturer/Tutor</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Negotiation Group</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Title of Assignment</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Length</strong></td>
<td></td>
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<tr>
<td><strong>Due Date</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Date Submitted</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Campus Enrolment</strong></td>
<td></td>
</tr>
</tbody>
</table>

**DECLARATION**

I hold a copy of this assignment that I can produce if the original is lost or damaged.

I hereby certify that no part of this assignment/product has been copied from any other student's work or from any other source except where due acknowledgement is made in the assignment. No part of this assignment/product has been written/produced for me by another person except where such collaboration has been authorised by the subject lecturer/tutor concerned.

**Signature:** ………………………………………………………………………. 

**Note:** An examiner or lecturer/tutor has the right not to mark this assignment if the above declaration has not been signed.