



Member Forum

Leadership in Uncertain Times



Leadership in Uncertain Times

- ❖ Current economic realities
- ❖ Leading through change
- ❖ Be brave – look at all possibilities
- ❖ Reducing staff numbers



Business Reality in 2009

- Worldwide economy struggling with ongoing financial crises and market economies slipping into recession
- Large job losses across all industries, including the resources industry
- Change has been rapid
- Change has effected some more than others

Business Reality in 2009

Early 2008 Rapidly expanding and profitable business

2009 Contracting business focused on debt minimisation, cost reduction and improving market confidence

Leaders have had to change strategic direction quickly and decisively



Why this is different?

- Quick and intense
- Global – China, India now part of global economy
- Effects entire workforce
- Generation Y – may never have experienced difficult times
- Difficult for Australia to control
- Turnover of older workforce not happening – superannuation effects

“If anything good can come out of the global financial crisis, it’s that these times will really set good companies and good leaders apart.

Leaders will emerge who might not have been noticed otherwise. Businesses will start to make decisions about who cuts it, versus others who were great leaders during the up times but who are not so good during the hard times. “

**Alan Cransberg, Managing Director, Alcoa of Australia
address to Australian Institute of Management Business
Leaders Breakfast, March 10, 2009**



Leading Employees in 2009

- Provide optimism and have a clear strategic direction
- Now is the time to engage and communicate with employees – be open and candid!!!
- Consistent leadership, not just when there is a downturn



Leading Employees in 2009

- Focus on the employees left within your organisation – make sure people don't burn out;
 - ❑ Be careful that “survivor syndrome” does not turn into resentment
 - ❑ Now is the time to nurture the talent within your company
 - ❑ Focus on doing more with less



- Maintain company values – they will outlast market fluctuations

Be Brave!!!!

The Human Resources Function

“If ever there was a time for the HR function to provide its strategic value and contribute to organisational performance and growth, it has arrived”

IBM Global Business Services (2008) *Unlocking the DNA of the Adaptable Workforce*
– *the Global Human Capital study 2008*

The Human Resources Function

- HR should assist management with focusing on the long term
 - ✓ Consistent communication across all areas (internal and external)
 - ✓ Protecting and developing talent
 - ✓ Identifying “stress”
 - ✓ Process for change
 - ✓ Understand the market and what this means for your business – understand the language
 - ✓ Ensure understanding of labour productivity and real costs



Be Creative Don't Just Focus on Downsizing

- Salary freezes, and in some cases even salary cuts
- All staff moving to a 4 day week for a defined period
- Lay off rotation with employees – short period of leave without pay
- Employees taking all accrued leave (including pro rata)
- Part time work
- Dramatically changing rosters and hours worked to meet customer requirements
- Improving employee productivity

ANY OTHER IDEAS?



Redundancies – The Difficult Decision



- Leaders need to think clearly about the immediate and long term business model
- Redundancies may not always be the best long term option
- Reality for many businesses however is that employee numbers have to be reduced

AMMA Redundancy Survey

- Conducted in January and all AMMA members invited to participate
- Mix of resource and contracting companies
 - 22% had less than 100 employees
 - 48% had between 100 and 1000 employees
 - 30% had more than 1000 employees



AMMA Redundancy Survey

- 55% of respondents said they were likely to reduce employee numbers over the next 12 months

a further

- 21% responded “maybe” when asked if they were likely to reduce employee numbers



Redundancy Survey

- Human Resources staff were involved in most parts of the redundancy process
- Deciding who should be made redundant
 - 77% looked at the role within the organisation
 - 56% looked at performance/efficiency
 - 17% looked at length of service
 - 29% looked at absence/disciplinary record



Redundancy Survey

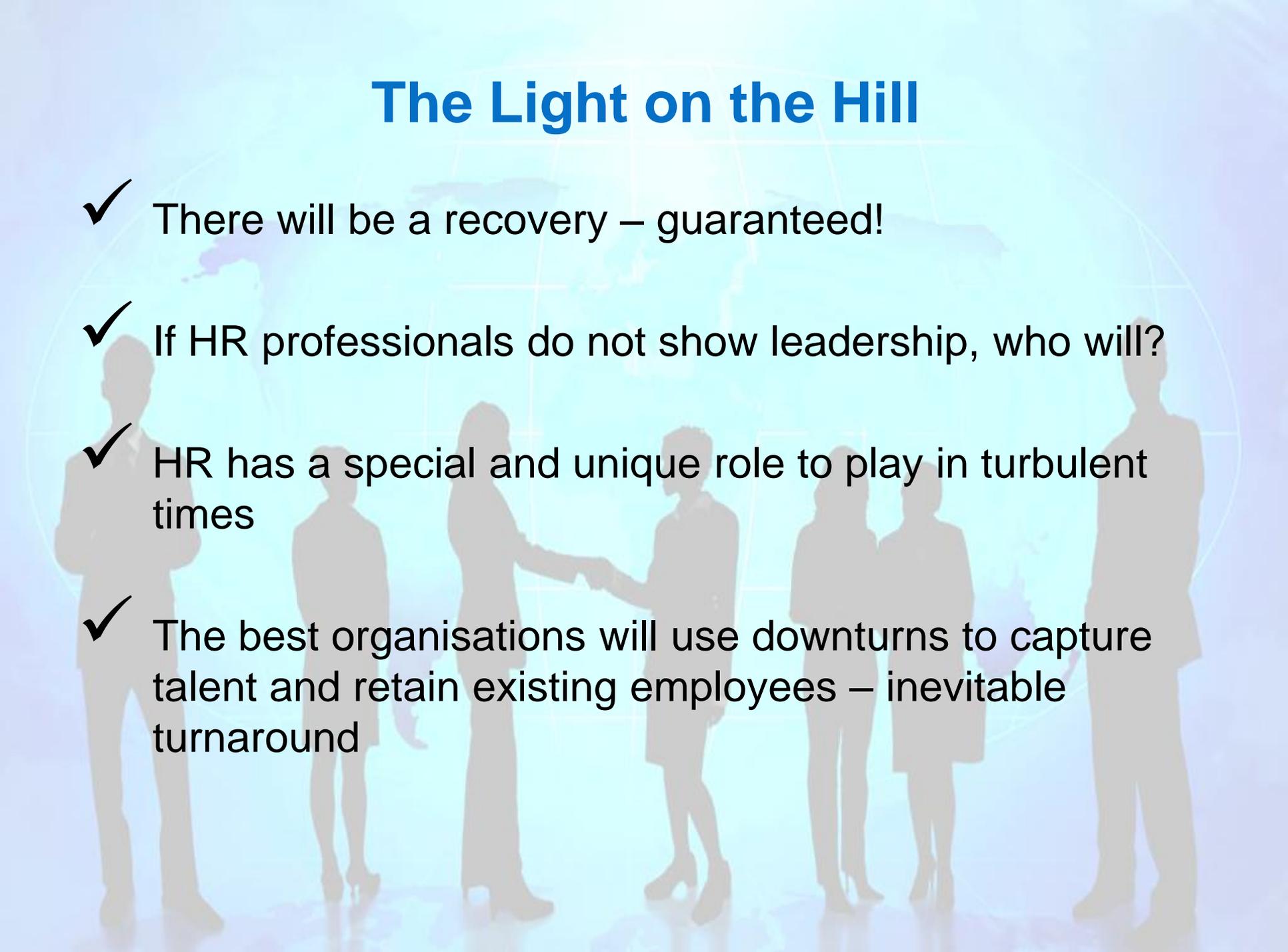
- Assistance offered to employees being made redundant
 - 78% offered some form of counseling
 - 79% offered access to specialist outplacement agency/consultancy
 - 37% offered professional financial support
 - 24% provided the opportunity to retain company supplied equipment



Redundancy Survey

- The Amount of Redundancy Pay
 - 46% paid the minimum statutory requirement
 - 27% paid employees greater than the minimum standard
 - 21% paid substantially higher than the minimum standard

The Light on the Hill

- ✓ There will be a recovery – guaranteed!
 - ✓ If HR professionals do not show leadership, who will?
 - ✓ HR has a special and unique role to play in turbulent times
 - ✓ The best organisations will use downturns to capture talent and retain existing employees – inevitable turnaround
- 
- The background of the slide features a light blue and green world map. In the foreground, there are several dark silhouettes of business professionals. Two individuals in the center are shaking hands, while others stand around them, some with their arms crossed. The overall scene suggests a professional meeting or agreement.

Fair Work Bill Update



The Fair Work Bill

- Will replace the *Workplace Relations Act*
- Will commence 1 July 2009 (except NES and modern awards)
- Transitional legislation to come



Risks posed by the Fair Work Bill

- Union turf wars
- Invasion of privacy – access to non-member records
- Protracted negotiations for agreements
- Imposition of arbitrated outcomes
- Negative impact on productivity and employment
- Increased risk of industrial disputation



AMMA Recommendations

- More than 30 recommendations including:
 - Restricting union access to non-member records
 - Allowing greenfields agreements to be made with one or more unions
 - Limiting the application of workplace determinations
 - Remove union default representation rules
- 60 constructive media hits between mid January and February to secure change
- Multiple meetings between AMMA and key senators, government and opposition



Passage of the Bill through the Senate

- Government needs Senate support to pass Fair Work Bill
- If opposed by the Opposition, the government will need support of:
 - Senator Fielding; and
 - Senator Xenophon; and
 - Greens
- Opposition can team up with two independents to move amendments



Interesting Titbit

The government refused to accept minor amendments by the Senate over its Safe Work Australia legislation. It was set aside in December after the government refused to agree to amendments put forward by Coalition, Greens and Independent Senators. A second refusal of the Safe Work Australia legislation will trigger a double dissolution.



Whose Side is Who On?

GREENS

- Unrestricted content for bargaining
- Individual flexibility agreements not a condition of employment, lodged with FWA and be publicly available
- No small business unfair dismissal exclusion
- Enable redundancies to be prohibited where FWA considers executives are being excessively remunerated
- Broad power for FWA to arbitrate disputes



Whose Side is Who On?

- Senator Xenophon has reservations about:
 - giving unions access to non-member records
 - union entry for discussions where there are no members
 - compulsory arbitration
 - Definition of small business as 15 employees
- Senator Fielding (Family First):
 - Restrict union entry to small business workplaces
 - No union access to non-member records except by written consent or order of FWA
 - 72 hours notice to enter the workplace
 - Small business increased from 15 to 20 employees



Whose Side is Who On?

COALITION

- No automatic union access to non-member records
- Employee vote for union entry for discussion purposes (non-unionised workplaces)
- Arbitration of agreements only by consent
- Remove union notification for greenfields agreement
- Maintain existing transfer of business law
- Change definition of small business to 25 employees



Government Amendments

- Right of entry
 - Will restrict union access to non-member records
 - Imposes limitations on use of records
- Request flexible work arrangements
 - Enterprise agreement can include dispute provision
- Greenfields agreements
 - FWA to be satisfied union represents majority of employees and it is in public interest to approve the agreement
 - No requirement to notify any other unions



Government Amendments cont'd

- Better off overall test
 - FWA can consider and assess classes of employees, rather than circumstances of each individual
- Bargaining and enterprise agreements
 - Can revoke appointment of bargaining representative
 - Allow existing national LSL scheme in agreements to continue
 - Clearer test for suspending industrial action causing harm
 - Stand down arrangements can be more beneficial

Government Amendments cont'd

- Transfer of business
 - Enhance capacity of FWA to modify operation of transferring instrument (not operate at all or enable 'better fit')
- Information and education
 - New subjects for the Fair Work Information Statement
 - Enable Fair Work Ombudsman to produce guidance material
- Unfair dismissal
 - Increase period to make claim from 7 to 14 days

Labor Failure to Address Key Issues

- AMMA key concerns not addressed:
 - Cashing out leave to accommodate even time rosters (but revised award modernisation request may resolve this issue)
 - Ability to average hours over more than 26 weeks
- DPM Gillard meeting with AMMA to discuss concerns re award flexibility



Transitional and Consequential Legislation



Key Elements Include...

- No reduction in pay when moving to modern award
- Rules for treatment of existing agreements
- Application of the NES and minimum wage apply to ALL employees from 1 January 2010
- Process to enable FWA to make union representation orders



The Process...

- Two separate Bills to Parliament
 - March 2009: transitional provisions, consequential amendments to other legislation
 - 25 May 2009: remaining consequential amendments to all other legislation and to deal with any State referrals of power
- Bill has been subject to technical review by COIL – AMMA Director, Workplace Policy Christopher Platt attended



Award Modernisation

Your Update



Mining Industry Award

- Released on 19 December 2008
- Most flexible of all modern awards BUT
 - Maximum average is 26 weeks
 - No annual leave cash out provision – lobbying to include provision in respect to taking annual leave in accordance with revised award modernisation request to overcome issue
 - 12 ordinary hour shifts only on majority approval
- AMMA concerns raised in Fair Work Bill submission and directly to government



Next Stages

- AMMA lodged submission on Stage 3 industries:
 - Oil and gas industry (draft HISNA) based on MISNA seeking:
 - 26 week averaging plus capacity to agree to 52
 - Flexibility for 12 ordinary hours per day
 - Confining LAHA to those performing remote work
 - Flexible arrangements for remote work rosters
 - Maritime Industry (prepared by Operations Director Tony Caccamo)
 - Maintenance of the current division of award coverage between offshore and ocean-going and the exclusion of dredging, tugs;
 - Retention of roster and leave arrangements notwithstanding the NES
 - Retention of the aggregate wage and current relativities.
- Expect exposure draft by 22nd May / final award by 4th September



Important Considerations for Employers

- Review your contracts of employment and workplace policies to ensure compliance with NES – commencing 1 January 2010
- Find out how Award Modernisation will impact on your business – modern awards commence 1 January 2010
- Consider whether you need to make an agreement prior to commencement of Fair Work Act 1 July 2009 or extend an existing pre-reform collective agreement
- Treat your employees well and resolve issues promptly



Flexible Working Arrangements

directions in Equal Employment Opportunity

Your Update



What is Meant by Flexible Working Arrangements?

- Flexibility in working hours, locations of work or the way in which work is performed
- Where flexible work arrangements are requested, this is usually based on a need to accommodate work/life balance such as an employee's carer responsibilities
- Research demonstrates that flexible working arrangements are highly valued by employees and are an excellent means of attracting, engaging and retaining personnel

What are Flexible Working Arrangements?

- Arrangements which are tailored to the needs of an individual employee and organisation and may include:
 - working part time or in a job-share basis in roles which may have previously only been performed in a full time capacity
 - Working varied hours from the usual pattern - eg starting and finishing earlier or later, working the same number of hours over less days
 - Variation in the usual location at which work is performed - eg working from home instead of from the office base

Legislative Directions on Flexible Working Arrangements

- Workplace relations and equal employment opportunity legislation has generally been slow in keeping up with the pace of change in modern working arrangements
- Fair Work Bill NES (from 1 Jan 2010)
 - Right to request flexible working arrangements
- State EEO Legislation
 - Generally more broadly dealt with under anti-discrimination provisions
 - A denial of a request for flexible working arrangements may be dealt with as a claim for direct or indirect discrimination on the grounds of an employee's sex, parental or carer status

Legislative Directions on Flexible Working Arrangements - the Way Forward

Equal Opportunity Amendment (Family Responsibilities) Act 2008 (Vic) – amends Equal Opportunity Act (Vic)

- Provides further protection for working parents and carers from discrimination when balancing work and family
- Employees may apply for flexible working arrangements - requests must be seriously considered
- Grievances or complaints regarding requests can be referred to the Victorian Human Rights and Equal Opportunity Commission
- Applies to employees, persons offered employment, contractors and partners in professional firms

Equal Opportunity Act (Vic) - Implications

- An employer is required to consider all relevant facts and circumstances in determining whether he or she should agree to flexible work arrangements for an employee with parental or carer responsibilities
- A request for flexible work arrangements should be seriously considered
- A request for flexible work arrangements should only be refused where it is reasonable in all the circumstances
- Grievances regarding requests for flexible working arrangements can be referred to the Victorian Human Rights and Equal Opportunity Commission

Reviewing Your Workplace Practices

- If you are based in Victoria, the current legislative provisions operate as of 1 September 2008 - are you complying?
- Recognising that this is a developing area in workplace relations and EEO law, consider what actions may be required at your workplace
- Consider the range of flexible work arrangements that may help employees to balance their parental or carer responsibilities and how these may be able to be accommodated within the workplace

Dealing with Requests for Flexible Work Arrangements

- Review current organisational policies and practices to ensure that these are consistent with current legislation and best practice
- Consider each request on its merits, taking into account the relevant business circumstances, as well as the personal circumstances of the employee making the request
- Consider ways in which an employee's request may be able to be accommodated

Guidelines for Employers

- There is no obligation to automatically agree
- Consider requests based on their individual merits
- Consider the request and any other options that might be suitable to the organisation when considering whether it is reasonable. Options include:
 - Changing hours of work, break times, rosters or timing of meetings
 - Changing the need for work travel and the need for overnight stays
 - Extending unpaid leave where leave entitlements have been exhausted
 - Allowing an employee to make up time taken for parental or carer responsibilities without loss of pay

Guidelines for Employers

- Factors to consider when assessing the impact of a request include:
 - The nature of the employee's work and parental or carer responsibilities
 - The workload of other employees
 - Genuine occupational requirements of the job
 - Impact on customer service
 - Cost impacts – eg penalty rates or overtime, the provision of additional equipment such as a laptop
 - The consequences for the employee of refusing the request

Guidelines for Employers

- Consider a trial period of the proposed flexible work arrangement and schedule regular meetings with the employee to assess how the new arrangement is working
- Be considerate and fair in responding to requests. Act on requests in a timely manner and limit your requests for personal information to that which is required for making a decision
- Ensure that information received from employees is stored securely and kept confidential

Refusing a Request

- When refusing a request ensure that the request has been carefully considered and that a refusal is based on sound business grounds
- It is good practice to communicate the reasons for the refusal in writing, together with any alternative options which the employer may be able to accommodate
- Employers should be mindful that complaints can be made to the Victorian Equal Opportunity and Human Rights Commission where an individual believes that a request for changed work arrangements has been unreasonably refused
- In other jurisdictions, a complaint of direct or indirect discrimination may result based on grounds of an employees sex, parental or carer status

Further Information?

- For further information please contact your local AMMA consultant

- VIC – Tony Bradford (03) 9614 4777
- WA – Dayle Carnachan (08) 6218 0700
- QLD – Katrina de Lange (07) 3210 0313
- TAS – Bill FitzGerald (03) 6270 2256
- SA – Alice Trethewey (08) 8212 0585
- NSW – Kylie Johanson (02) 9211 3566

Education, Employment and Training Division

UPDATE



AMMA Education, Training & Employment



- Who are we and what do we do?
- New products on offer from E, T & E
- Productivity Places Program Update



AMMA Education, Training & Employment



- The role of the Education & Training team is to develop, deliver and implement training and solutions for the needs of our members
- This can include:
 - Customised In-house training courses;
 - EEO, Discipline, Recruitment and Leadership courses; and
 - Other courses as required, such as Navigating the New Workplace Relations system



New Products

- Conflict Management Training
- Negotiation Skills Training
- Certificate IV and Diploma of Human Resources
- Certificate IV in Project Management
- Certificate IV and Diploma of Training and Assessment
- Coming Soon – How to run an effective investigation



Productivity Places Program



- What is the PPP?
 - The Program is part of the Australian Government's Skilling Australia for the future initiative
 - AMMA has several qualifications which can be delivered under the banner of the PPP, check with AMMA Education, Training & Employment for further details



Productivity Places Program



- Register your interest in the program by submitting an enrolment form
- These can be found on www.amma.org.au and by clicking on the link 'Education and Training'.



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