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Some food for thought to take on holiday

Over the years, at this time of the year, when speaking about taking a break from work for a summer holiday, many HR Directors tell me that they take their copies of HR Future with them to do some leisurely reading and some strategic thinking for the year ahead.

It’s easy to say, “That’s just sad,” but that’s the nature of a director’s position – their minds are always on the go, thinking ahead. And so they should.

One put it like this: “I take my copies of HR Future with me to the beach, make myself comfortable under the beach umbrella while my wife lies tanning next to me and the kids play in the water, and then do some reading and reflecting on what I’m going to achieve in the new year. I use the magazine to get some good ideas to take our company’s people into the future.”

For this reason, knowing that there are senior people spending more time with the magazine, I carefully consider what to feature in our December issue, I ask myself the question: what tips, hints, messages or advice do I think will benefit them?

At this time, people typically reflect on the year that’s passed and think, “Gee, it was a tough year and I really pushed myself and neglected my health. I really need to take more care of myself for my own good and that of the family. I would be useless to them if I was incapacitated by a heart attack or stroke.”

To cater for this line of thinking, this issue includes three articles that will help you to focus a little on your wellbeing and hopefully prompt you to see that there really is more to life than work, work, work.

Our Global Masterclass interview focuses on mental health as it applies to business leaders as well as to the people they lead. Maggie Georgopoulos, the author of *Up the Ladder In A Skirt* – a book that has a title that speaks volumes of the discomfort women leaders experience as they climb the corporate ladder – shares very frankly about her own mental health condition and offers tips for leaders to take care of their mental health.

At the back of the magazine, in the “More to life” section, Vanessa Gibb, the People Operations Manager at Native VML, asks if your employees live to work or work to live. Of course, that is a question that will reveal your own approach to work and work/life balance.

Yet a third article on this topic is my regular back page column that asserts that there definitely IS more to life than work. While your job is very important, it is not the only important thing in life. Make a point, at this time, of bringing balance into your life.

Another message I think HR professionals need to hear is that they need to increase their agility to cope with a future that is arriving a lot faster than it used to.

To this end, we feature an article by Prof. Dave Ulrich and Wayne Brockbank that considers past and future perspectives for an HR Business Partner model. This is an in-depth treatment and provides much food for thought.

Another trend regarding the future is that technology and HR are converging. This is not something that HR people will need to face in five years’ time. They need to face it now. This issue is intended to start opening your eyes to different ways of using technology in the practice of HR. Sophorne Chhay’s article in our international section give you six reasons why you should use SMS for HR purposes.

Have you considered that Millennials think email is outdated? Rob Bothma, our regular columnist on technology matters addresses this in an article that looks at WhatsApp as opposed to emails.

Finally, our Cover Story by Matt Haddon on page 8 provides some food for thought regarding leaders and power.

If you’re taking a rest over December and January, spoil yourself and your family. But don’t make it a one-hit-wonder. Continue treating them as important when you return to work again!

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Here are some of the photos from the **HR Future Breakfast** on 10 November. For more photos, go to page 34.
Use your power tools wisely

Leaders need to become highly skilled in how to use their power.

By Matt Haddon

The word “power” has had a dark stigma for many years, and there is much debate as to how that stigma has come about. Many believe that power corrupts even the greatest men. Others believe that allowing others to have power is to lose your own power, while most believe that Eskom is the source of all power!

In the workplace, “power” has been defined as the ability that one person has in order to get another person to perform a specific task or action. It is not an outright ability, but rather a dormant possibility that can be called upon whenever needed. “Power”, by no means, is a resource to be spent playfully. A keen business owner or career driver will know that the abuse of power will most definitely ruin any potential of true leadership as it is impossible to capture the hearts and minds of followers if one leads them purely by negative methods.

Consider these five specific types of power:

Reward power
This type of power is found when person A has the ability to reward person B, if person B performs or completes their tasks accordingly. This source of power is most helpful for young managers who are trying to grasp the concept of delegation and managerial guidance. Many parents use this form of
power by denying a child a toy or treat when they misbehave. It is best to use reward power to reinforce accomplishment and great work.

**Legitimate power**
This type of power is gained by a manager or business owner, specifically because of their position within the business. They are given a position of power, and they are expected to use such power for the benefit of the company and the employees. Many managers struggle with the weight and sense of responsibility of these positions, but it is so important that they allow themselves to grow and make that role, and their management style, their own.

**Coercive power**
Coercive power, or the “power to punish” is a power that is brought about by the denial of a reward or the ability to hand out a punishment to a subordinate or colleague. This source of power can remain dormant for a long time, but failure to follow through with punishments will cause a loss of power, and a drop in your credibility as a leader.

Coercive power should normally be the last resort when it comes to leadership. It should be the final leadership weapon in your arsenal, and it should be used with the intention of development and the prevention of further disciplinary action. This will allow a negative action to bring positive results, and allow the employee to become accountable for their actions. Most labour routes, such as disciplinary action, are seen as extreme and unnecessary in the eyes of employers, but failure to follow these steps will result in a loss of coercive power and a loss of control of your business.

**Expertise power**
Albert Einstein, Alexander Godefry (the inventor of the hairdryer) and Desmond Murray (an amazing international stylist) all had a fantastic knowledge of their work. They studied it, researched it, experimented with it and succeeded at it. And the world admired their knowledge and expertise in their relevant fields.

Expertise power, to me, is the most fantastic source of power because you can take your passion and study it until you are blue in the face, and people will admire and listen to your opinion. As managers and leaders, we have to do our best to study our craft and practice proficiency. You want your colleagues to stare at you in amazement when you are doing the work that you love.

This source of power is limitless because you can learn something new every day, from products to techniques to customer relations to marketing to staff management. If you do your best to learn something new every day, people will take your word and your guidance as golden.

**Referent power**
When we look at leaders, we quickly notice how many of them can simply lead and capture a crowd’s attention by being who they are. The ability to disarm, charm and have a great personality will help you win the hearts of your employees, as well as your clients.

At this point, it is important to note that a charismatic leader is not a walk-over, or a flimsy noodle. Leaders with referent power are hungry for success and achievement, and want to conquer challenges and solve problems with a smile and a spring in their step.

Mental health the hidden ‘disease’

PROFILE

Maggie Georgopoulos is the Managing Director of MAGS Inspires Ltd in Glasgow, United Kingdom. She is a Mechanical Engineer who has worked in Manufacturing, including Automotive, FMCG and Plastics, as well as Oil and Gas and Agriculture, and consulted in countries such as Iraq, Libya, Kazakhstan, Poland, the UK, the US, Australia, Tanzania, South Korea, Japan and China to name a few. Maggie works closely with Women in Leadership and those aspiring to leadership roles, and is a Speaker, Trainer and Coach, and author of the recently published book *Up the Ladder In A Skirt*.

“Mental illness is an equal opportunity illness. *Every one of us is impacted by mental illness. One in five adults* is dealing with this illness, and *many are not seeking help* because the stigma prevents that.”

Margaret Larson
Maggie Georgopoulos speaks to Alan Hosking about “Rung Eight: Mental Health” from her book *Up the Ladder In A Skirt*.

**What prompted your focus on mental health?**

Unfortunately, I have been bullied in two companies I have worked for. Regrettably, this isn’t as uncommon as you might hope. It is also frequently experienced by high-achieving women who are climbing, or could potentially climb, the leadership ladder. Bullying is never a good thing, often leading to depression and anxiety in victims.

The potential for depression and anxiety is multiplied for me as I am bipolar. Bipolar disorder is not curable. Many highly successful people have revealed they are sufferers, often only after they have achieved success. Stephen Fry is one high-profile example. I am no different in admitting to this, but it isn’t always easy to do so. No sufferer should have to lie, but unfortunately if you aren’t a celebrity you may feel it is not a good idea to admit to suffering from it because mental illness is still stigmatised.

**How did your condition manifest in the workplace?**

In one post I held, I broke down one day and ended up crying in front of everyone. I couldn’t stop! This wasn’t the first manifestation of the ‘problem’. Long before I broke down, I was coming to work exhausted because I was waking up in the middle of the night crying. If your work position is affecting your health to this extent, regardless of your personal health background, do something about changing it. My immediate supervisor told me to go home early – it was actually normal knock-off time, but I generally worked on for an average of four hours. I was told to ‘pull myself together and be back at work in the morning’. I had already informed my employers I was seeking medical advice, but had been ignored. This time my extreme trauma had been caused by working unsupported with 20 high-need, traumatised individuals. My repeated requests for support had been ignored.

Eventually, I made the decision to leave, particularly as the role wasn’t in my career plan; even though it was something I used to enjoy doing. The effect on me was huge, although any individual suffering from work-induced anxiety would have had similar symptoms. It triggered a major depressive cycle. These don’t happen often for me, I am what is known as a cyclothymic. This means I have periods of hypomania, periods of normalcy and sometimes mild depression in between. It was depression that originally led me to seek help. I had my first episode at 17, and my next major one aged 32. However, I would be the first to admit I like the hypomanic periods because I get so much done.

**Why is mental health not something to ‘get over’?**

Bipolar disorder is generally seen as a major incurable mental health issue, and sufferers frequently face discrimination. Anxiety and depression are also chronic disorders that don’t simply disappear if you take a tablet or go home early. People with these disorders include teachers, lawyers, doctors, nurses, actors, janitors, CEOs and many, many more professionals. Their mental health problems are no hindrance to succeeding in their roles, or even climbing their career ladder. A general lack of understanding, not only amongst employers but amongst the general public, is the reason why people feel they have to hide their condition.

If you want to succeed, it doesn’t matter if you have an underlying, long-term mental problem, experience depression, anxiety, or both on a short-term basis, or suffer from something that is an inherent part of you, as bipolar disorder is for me, you need to take care of your mental health. It is as important as caring for your physical health. In our effort to become superwomen we often forget this.

**How common are mental health issues in the workplace?**

In the United Kingdom, according to the National Health Service, one in four women will suffer from depression as opposed to one in 10 men. In the UK, 29% of women report a major mental health issue compared to 17% of men. This is thought to be because women will talk about it more freely. Women are twice as likely as men to experience some kind of anxiety disorder. According to the Australian Bureau of Statistics, 22% of women are likely to experience a mental health issue for 12 months or more compared to 17% of men. This is thought to be because women will talk about it more freely. Women are twice as likely as men to experience some kind of anxiety disorder. According to the Australian Bureau of Statistics, 22% of women are likely to experience a mental health issue for 12 months or more compared to 17% of men. In the United States, a study reported in Time Magazine showed 9% of women and 5% of men had experienced depression in the previous 12 months, with 23% of women suffering from an anxiety disorder compared with 14% of men.

A World Health Organization report also shows women are more likely to be affected by mental health issues. The latest statistics, as summarised in a report for the 2013 to 2020 Mental Health Action Plan, are:
• Depressive disorders account for close to 41.9% of disability from neuropsychiatric disorders among women compared to 29.3% among men;

• Leading mental health problems in older adults are depression, organic brain syndromes and dementia – the majority of sufferers are women;

• An estimated 80% of 50 million people affected by violent conflicts, civil wars, disasters and displacement are women and children;

• Lifetime prevalence rate of violence against women ranges from 16% to 50%; and

• At least one in five women suffers rape or attempted rape in their lifetime.

These statistics are alarming, especially when mental health is persistently not taken seriously. There is still a real stigma attached to it, and any history of anxiety or depression is one of the most common barriers to leadership. This is an issue for both men and women.

When you suffer from ‘less curable’ mental health issues it is even harder as you are often forced to hide them. This raises even more issues and puts a strain on your health. Good mental health is important, but it is frequently overlooked.

Why do people feel they have to hide them?

A general perception persists that if you have any type of mental illness you are somehow less capable of working; not just in leadership roles, but in general this is not the case. There are many highly successful people with mental health issues who have successful careers and have been successful leaders. These include Oprah Winfrey, who has an anxiety disorder, JP Morgan, who is bipolar, Robin Williams, who suffered from clinical depression, and Marsha Lineman, who has borderline personality disorder. These are some of the well-known people who have bravely admitted to having mental problems, but there are so many more that prefer to hide their problems.

Whatever anybody may think, those with mental health issues are no more likely to have problems at work than those with physical problems, or none. For example, being a leader with mental issues doesn’t mean they will become a tyrannical leader – that is the realm of psychopaths, not the clinically depressed.

What can leaders do to help?

Whether you are a leader who at some stage may suffer from mental health issues, or one who is lucky enough to be in the 75% of the population who aren’t affected, it is important to create an environment friendly towards those who may be dealing with mental health issues regardless of whether these are short or long term.

One of the biggest workplace problems is stress. This can be caused by working conditions, how people treat you, or even your own perceptions of what you should be doing. Research about the effects of workplace stress conducted by Mind, a UK-based charity, revealed that:

• More than one in five (21%) agreed that they had called in sick to avoid work;

• Fourteen percent agreed that they had resigned and 42% had considered resigning;

• Thirty percent of staff disagreed with the statement, ‘I would feel able to talk openly with my line manager if I was feeling stressed’; and

• Fifty-six percent of employers said they would like to do more to improve staff wellbeing but didn’t feel they had received the right training or guidance.

As a leader you have a responsibility to create an environment where people feel comfortable and are happy to speak to you about their issues. This can be difficult in an environment where so little is understood about mental illness and how it can and does affect our ability to communicate and work.

None of what I have revealed about myself is to suggest I am amazing; rather it is to highlight the need for support and understanding. As a leader with a mental health diagnosis that I deal with on a daily basis, I am more attuned to the need to be open and approachable, which must have communicated itself to others in the way I operate, as I have always been the recipient of my team’s confidences.

Sadly, over the years I have seen far too many leaders who consider the ‘go home and get over’ mantra is appropriate, and so I particularly remember that supervisor who told me to ‘go home, get some sleep, and come back in the morning ready to work’.

How should leaders take care of their mental health?

As both leader and individual you owe it to yourself to look after your greatest asset – your health, both mental and physical. You would go to the doctor if you had the flu or some other physical illness, and, in the same way, you need to make sure you receive the right advice and attention when there are problems with your mental health.

Many people can be cured. Just as we will suffer from a physical complaint at times, many of us will suffer from depression, stress-related illnesses or anxiety, which will be brought on by a particular set of circumstances. Often, once these circumstances are removed, dealt with in some other way or a sufficient amount of time has elapsed since they occurred, we will recover, but this is no reason to
hang in there hoping it will be the case.

When the problem is an inherent part of who you are, it also needs to be looked after. We need to ensure we have counselling if this works, take the pills that reduce the intensity of an anxiety attack, or look at our current situation and find ways to cope with it so we can continue working. This is not about giving up dreams; this is about looking after yourself so you can experience the maximum success possible.

Key steps you can take to ensure your mental health include:

- **Talk about your feelings.** This does not mean talking to all and sundry about them. Talk to people you trust and who will understand your needs, but not necessarily feel the need to ‘fix you’;
- **Keep active.** Whilst this is difficult, particularly when you are crippled with an anxiety attack or in the midst of a depressive episode, it is a good habit to maintain. It really does help your mental health to be active;
- **Ask for help.** If you are feeling overwhelmed in some way, or even if it has not yet reached this stage, it is sensible to ask for help; and
- **Don’t forget to take time for yourself.** Take a break. It could be reading a book or watching your favourite TV show without feeling guilty. It could be a spa day, a short break or holiday or walking in the hills. Whatever it is you do to relax, remember to timetable it into your life, especially when you are busy.

In closing, what three key strategies could help leaders climb the ladder?

- Understand the impact of mental health on the workplace and that it is not something that is a barrier to work;
- Make sure you put strategies in place as a leader to allow others to feel comfortable talking about mental health; and
- Ensure you take care of your own mental health as a leader and an individual as it is as important as your physical health to personal success.
Initiate an HR transformation you can be proud of

Evidence-based HR is a path to a real transformation of the function.

By David Creelman

If you studied science or engineering (back in the day), you probably still find the standard practice of HR a bit odd. As a profession, we are quick to adopt faddish practices because they are new, or sound good, or because someone else is doing them. This is a far cry from the disciplined approach to gathering evidence that you learned in university. The question for you is, can you create a change to bring more rigour into your own HR department? Can you drive a quiet transformation you’d be proud of?

What success would look like

What would that quiet transformation lead to? Here are two vignettes:

- Imagine HR saying, “Yes, we looked at the Amy Cuddy TEDtalk on the benefits of the Wonder Woman power pose; but it seemed a bit too easy, so we did a quick Internet search and found her findings were based on a sample of only 21 people and further research on a larger sample showed no effect. Hence we won’t be training managers in this technique.”

- Imagine HR saying, “We’ve been tracking quality of hire and trying to tease out what parts of the process have the biggest impact. Our measure of quality of hire isn’t that great, in particular we find managers get tired of rating each new hire, nevertheless we’ve found that, when people skip steps in the assessment process, quality of hire does fall. So we track whether those steps are taking place and have educated managers on their importance.”

Fundamentally, an evidence-based HR function would consistently be saying things like, “Let me give you some numbers...”, “On balance, the academic research indicates this...”, “We interviewed a group of randomly selected employees, using as structured
methodology, and this is what the analysis showed.”

What we’re aiming for is not boasting about an algorithm nor presenting a fake certainty that HR knows a foolproof answer; it’s just about creating a more disciplined HR team, a team that you can be proud of.

Why this transformation now has a chance of success

If you are going to head down the path towards creating a more evidence-based HR function, you’ll want to know that you have a reasonable chance of success. The good news is that you have three things going for you:

- **Highly Educated HR and Line Managers:** Many HR professionals and their clients, the line managers, have post-graduate degrees in a quantitative discipline. Yes, you’ll still run into many people who show no interest in data or evidence, but there are more allies to support your transformation than there were in the past;

- **The People Analytics Movement:** People analytics as a movement creates legitimacy for bringing more data into HR decision making. People analytics as a set of techniques makes it easier than ever to gather and analyse data; and

- **The Evidence-based Practices Movement:** Evidence-based practice includes analytics, but is a good deal broader. As managers hear about “Evidence-based Medicine” and “Evidence-based Education” and “Evidence-based Policy” it creates legitimacy for “Evidence-based HR”.

How to do it

If you feel this is a transformation you’d like to lead, you still need to do so within all the normal constraints of running an HR department. Here are some of the things to do:

1. **Hire people with a scientific mindset.** In an ideal world you’d be given the budget to hire a big team of data scientists. In the real world you probably have to make do with existing staff in existing roles. However, when those staff do turn over and there’s a vacancy, bring in a replacement with a scientific mindset. It’s great if you can bring in people with a PhD in I/O psychology, but even someone with an undergrad in biology may well have the right mindset to support your transformation;

2. **Gently raise the bar by asking for data and evidence.** Whenever you are working with your HR team you should be asking, “Can you give me some numbers?” “What data do we have on that?” “Can we dig up any evidence on which option is best?” This may not sound like a dramatic transformation, but it is something that is easy to do that moves HR in the right direction; and

3. **Train people in the processes of evidence-based management.** A lot of people analytics training is aimed at hard-core numbers geeks (“How to do structural equation modelling”). Evidence-based management is much more accessible to the average HR professional. The ideas are pretty simple: let’s make decisions based on the best available evidence. But the simplicity of these ideas doesn’t mean that they don’t represent a substantial shift in how we do HR.

What’s great about making this your legacy

If we look at the field of medicine, which we would have thought was totally based on science, we find it has gradually been transformed by the insistence that decisions be made on the best available evidence. The relatively gentle changes I recommend can accumulate into a sort of revolution – just as we’ve seen in medicine. You’ll start by asking your staff, “Do you have any data?” and after a few years they’ll be coming back with, “We did a cluster analysis of the data and discovered …” or, “We managed to get hold of a systemic review of the past 30 years of research in this area and it’s quite clear we should be …” or, “We really didn’t know, so we ran a little experiment and the evidence revealed …”

So, yes, evidence-based HR is a path to a real transformation of the function. I hope you embrace it.

David Creelman is CEO of Canada-based Creelman Research, www.creelmanresearch.com. He is best known for his insights on people analytics and the “Uber-isation of work and helps HR professionals build their skills in analytics and evidence-based thinking.
Help your business deliver value during these challenging times.

By Prof. Dave Ulrich and Wayne Brockbank

The business partner model has existed for many decades when effective staff support functions, including HR, have contributed to business results. Formalising how HR professionals may create more value as “business partners” has been of increased interest in the last 15 to 20 years. Without a doubt, HR issues have become more relevant to competitive advantage. When competitors can match financial, strategic, and operational initiatives, organisation capabilities become the differentiator that creates sustainable value for customers. As business partners, HR professionals help their organisations define and deliver organisation capabilities that add value to employees and line managers inside the organisation and to customers, investors, and communities outside the organisation. In this essay we want to reflect on what we have learned in the past decades about the relevance of the business partner model and on the challenges that lie ahead.

Looking back: lessons learned

Since we have been instrumental in defining the business partner model and since there continue to be discussions about its evolution, we would like to review seven insights about HR professionals as business partners.

First, the business partner model is not unique to HR; all staff functions are trying to find ways to deliver more value to either top line growth and to bottom line profitability. Information systems, finance, legal, marketing, R and D, and HR are all under scrutiny and pressure to create greater value for their companies. This is especially true of transaction and administrative work that can be standardised, automated, re-engineered or outsourced.

Second, the intent of the business partner model is to help HR professionals to integrate more thoroughly into business processes and to align their day-to-day work with business outcomes. We have talked about focusing more on deliverables (what the business requires to win) than doables (what HR activities occur). We have talked about HR focus moving beyond administrative efficiency to functional excellence to strategic HR to HR outside in. Instead of measuring process (e.g. how many leaders received 40 hours of training), business partners move to measure results (for example, the impact of the training on business performance), then move to how training builds external value with customers and investors. For example, when HR builds better leadership capital, investors have more favourable images of the firm which shows up in market value.

Third, being a business partner may be achieved in many HR job categories. HR professionals generally work in one of four positions in a company.

1. Corporate HR: As business partners, corporate HR professionals define corporate wide initiatives, represent the company to external stakeholders, meet the unique demands of senior (and visible)
leaders, leverage cross unit synergy, and govern the HR function.

2. **Embedded HR**: As business partners, embedded HR professionals work as HR generalists within organisation units (business, function, or geographic). They collaborate with line leaders to help shape the business strategy, conduct organisational diagnoses to determine which capabilities are most critical, design and deliver HR practices to accomplish strategy.

3. **HR specialists**: As business partners, HR specialists work in centers of expertise where they provide insights on HR issues such as staffing, leadership development, rewards, communication, organisation development, benefits, and so forth and they advise business leaders and HR professionals on how to turn insights into impact.

4. **Service centres**: As business partners, HR professionals who work in service centers add value by building or managing technology-based e-HR systems, processing benefit claims and payrolls and answering employee queries. These individuals may work inside or outside the company.

A common oversight is to solely define the embedded HR generalists as business partners, undervaluing the other critical roles of HR professionals.

Fourth, HR professionals as business partners have unique information, insights and recommendations to deliver competitive advantage. In formal and informal business discussions, each staff group brings unique insights to drive business results: finance talks about economic performance with information about revenues, costs, and financial returns; marketing discusses customers with recommendations on targeting key customers, customer response (for example, net promoter score), and customer connection; operations makes recommendations and systems, quality, and supply chain. When HR partners in these strategy discussions, we propose that they provide insight, information and recommendations on:

1. **Talent**: HR professionals are centrally involved in providing the right people with the right skills in the right job at the right time. Talent insights capture future competence as well as commitment and contribution;

2. **Leadership**: HR professionals help prepare not just key individual leaders, but the collection leadership throughout the organisation. They ensure that leaders have the knowledge, skills, and abilities to meet future demands; and

3. **Organisation capabilities**: HR professionals partner with line managers to identify and create organisation capabilities such as speed to market, innovation, leadership, risk, collaboration, information leverage, accountability, and fast change. These capabilities (sometimes called culture, processes, or systems) become the identity and personality of the organisation.

As business partners, HR professionals provide analytics, insights and recommendations on talent, leadership and capability to deliver business results.

Fifth, as talent, leadership and capability issues increase in business relevance, HR professionals may help respond by being both architects and anthropologists. As architects, HR professionals design, blueprint and facilitate investments in talent, leadership and capability. As architects, HR professionals provide analytics, insights and recommendations on talent, leadership and capability to deliver business results.

Sixth, as with almost any change, we have seen an inevitable 20-60-20 pattern for HR professionals...
to fully adopt the business partner opportunities. Twenty percent of HR professionals get it, do it, and act as business partners. Twenty percent will unlikely ever get there for a host of reasons (e.g., personal inability, lack of desire or organisational lack of support) and 60% are learning and moving in the right direction. While we see the HR profession moving in the right direction, some may never make it. Sometimes, critics of HR like to focus on the lingering 20% laggards and claim that HR professionals have not improved. This is as inaccurate as focusing on the 20% innovators and claiming HR has fully arrived. The business partner model is empirically supported and more of the 60% are making positive progress. A decade ago there was a clamour to “get to the table” and to become part of the business. Today, most effective HR professionals are already at the table and they need to be clear about how their insights on talent, leadership and capability will deliver business results.

Seventh, being a business partner requires HR professionals to have new knowledge and skills. In the HR field today, there is confusion about certification and competency. Many, if not most, professions have some type of certification protocol. Attorneys pass a bar exam; psychologists are licensed after passing a standardised exam; “certified” public accountants pass a knowledge exam. In all these cases, these licensing exams determine the extent to which an individual grasps the basic knowledge in the profession. Certification focuses on knowing the basics and meeting the minimum professional standards required to practice. Certification does not mean competence. Many attorneys, psychologists, accountants and others have become certified, but it does not mean that they are competent enough to be effective practitioners. Certification focuses on the past, not the future; on mastering ideas; on joining a profession, not succeeding in the profession. HR certification ensures that HR professionals know the body of knowledge (theory and research) that underlies HR. It does not imply that they are competent to apply the body of knowledge. They could be both incompetent and uncertified; they could be certified, but not competent; not certified but competent; or both certified and competent.

There are efforts to determine the competencies for effective HR professionals. Through the University of Michigan, the RBL Group, and partners throughout the world, we have spent 30 years studying (theory, research and practice) competencies for effective HR professionals. Essential to this long-term study are some underlying assumptions:

1. HR competencies are determined less by self-report and more by how those competencies are perceived by others. Competencies impact both the overall reputation or perception of the HR professional and the performance of the business. Leadership studies moved away from self-report as the way to determine leadership effectiveness over 40 years ago with the advent of 360 measures. Likewise, HR competencies should be assessed not only by the HR professional but by those who observe the HR professional. In addition, these competencies should be seen as predictors of important personal and organisational outcomes. We have found some very important differences between how HR professionals define their competencies and rate themselves versus how those who observe their work do. We have also found very important differences in how HR competencies affect both the perception of HR personal effectiveness and the impact on business results.

2. There are global HR competencies, but they also may vary by geography, level in the organisation, role in the organisation, gender, time in role, etc. To fully determine competencies and their impact, one needs data from multiple sources that are analyzed by various demographic breakdowns.

3. There are exceptional HR professional groups around the world, each working to determine how to help HR professionals be effective. Convinced that partnering with these groups further the profession, we have collaborated with more than 20 HR professional associations from nearly every major global region since 1987 to define both the overall global HR competencies and unique local requirements for effective HR. In an increasingly complex and global world, collaboration should be the norm instead of the imposition of one set of expectations from one country to the rest of the world.

4. HR certifications can be relatively standardised exams determining mastery of the body of knowledge in the field. HR competencies, meanwhile, should be evolving models, since the competencies for HR professionals change as business requirements change. For example, in the last five years, there has been an abundance
of work on HR analytics, scorecards, the Cloud and Big Data. Underlying these HR skill areas are competencies related to sourcing, bundling, interpreting, translating and using information for improved decision making. In our 25 years, we have identified about 125 specific competencies every four to five years that HR professionals should master to be effective. These 125 competencies, representing the “be, know and do” of HR, come from regional partners who survey thought leaders in their region and come to a consensus about what determines effective HR professionals. Every four to five years (now seven rounds of studies), we change about 40 to 50 of these items, based on the input of the consortium of HR professional groups. HR competencies evolve and their study should focus forward based on global requirements.

5. We assert that HR competencies do not exist for their own sake. Rather, HR competencies exist to enhance business performance. A major problem with most competency models is that they ask the question, “What are the competencies of HR professionals?” This is the wrong question. The question should be, “What are the competencies of HR professionals that have the greatest impact on business performance?” Our statistical analysis of our data over the past 30 years has addressed both of these questions in detail. However, our unique and important contribution is our examination of the business performance question.

So, HR business partners insights should be based in knowing the research (certification), but focused on delivering business value (competencies)

The reality is that HR professionals must evolve into being the best thinkers in the company about the human and organisation side of the business. The nature of business is dramatically changing. Changes are occurring in virtually every element of the social, political, and economic environments that impact business. Under such conditions, the human side of the business emerges as a key source of competitive advantage. Therefore, HR specialists in the logic, research, and processes of human and organisation optimisation become central to business success.

Looking forward: challenges ahead

As we look forward, we need clear thinking, effective practices and insightful research. There are many excellent thinkers who continue to examine how HR professionals can deliver value to the business. The business partner model continues to evolve. Many of the critics of the model look at today’s problems through yesterday’s solutions and wonder why they don’t work. This is like trying to run today’s software on yesterday’s computers. Of course, it won’t work.

The HR business partner model in the 1990s has changed in recent years to adapt to today’s business challenges. We are comfortable projecting five trends that will continue to evolve the HR field and how it delivers value to business.

First, over the last thirty years, we have both anecdotally and empirically seen steady progress in the HR field as it has moved toward greater strategic understanding and relevance. We anticipate that this progress will continue. They will continue to increase their knowledge of their companies’ wealth creating activities and of critical external realities such as customer requirements, investor expectations, supplier relations, competitive market structures, domestic and international regulatory issues, globalisation, and the requirements of capital markets. With this foundation in business knowledge, they will bring to strategy discussions their personal visions for the future of the business. We call this focusing HR from the outside/in, not looking at strategy as a mirror which reflects HR practices, but as a window to the outside world. As anthropologists, HR professionals will increasingly be connecting internal HR practices with external business requirements. Instead of focusing on the being the employer of choice, HR will help companies become the employer of choice of employees who are valued by customers and shareholders. Customers can participate in the design, deliver, and participation in training, 360s can become 720s. Performance standards can be set with customer involvement. Investors may examine leadership capital as part of their investment criteria. Culture can be defined less as internal patterns of work (values, beliefs, behaviors, and norms) and more as an identity of the firm in the mind of key customers made real to employees.

Second, companies will continue to require fewer HR professionals to do transactional administrative work. Newly emerging information and communication technologies will continue to be applied to improve the efficiency of HR administrative work such as payroll, benefits administration, entry level staffing and employee record keeping. Some HR activities will be centralised to reduce redundancies, to optimise natural synergies, and to leverage economies of scale. As companies continually grapple with the challenges of focusing on the most important wealth creating activities of the firm, it will undoubtedly be the case some nice-to-have but strategically unnecessary HR activities will be eliminated.

Third, as business partners, HR professionals will increase the trend of being more focused on key external constituents. Our recent research shows that HR departments that focus on external as well as internal stakeholders are more significantly associated with business performance. HR professionals will increasingly focus their work on creating value for external customers and investors.
We also found that HR departments as a whole have more impact on business performance than the competencies of individuals. So, as business partners, HR professionals need to create organisations that are better than the individuals. HR professionals will likewise become more attuned to the requirements of capital markets. The recent burgeoning research in finance and economics on “intangible assets” is emphasising the increasing importance of human capital assets and HR practices that create and sustain those assets. Empirical evidence has clearly shown the investment community is accounting for practices such as succession planning, leadership development, setting and meeting performance targets, corporate culture, and executive compensation as considerations in buy or sell decisions. Companies that are able to create a credible leadership capital are more likely to enjoy price earning ratios above that of their competitors. As business partners, effective HR professionals play a central role in defining, creating, and sustain leadership capital that is valued by investors. 

As HR professionals account for customer and owner requirements in the design and delivery of organisational capability and related HR practices, they will do so with greater awareness of competitors. They will recognise that forward looking and innovative HR practices have relatively little value unless they create greater value than do their dominant competitors.

A final emerging trend in HR's external focus is the role of HR in representing companies to their communities and in accounting for community requirements in their companies’ value proposition. For the first time in our twenty years of empirical research in HR practices, we have found a substantial increase in HR’s role relative to social and political stakeholders from local communities. Concerns over global warming, air and water pollution, local employment regulations, ethical treatment of indigenous populations, endangered species and land utilisation have move up the list of corporate priorities. HR departments are increasingly

![HR Competency Model Diagram](image-url)
given the mandate to work with local communities in addressing these complex, difficult and important issues.

Fourth, as HR professionals become more effective as business partners, they will become more balanced as they approach their work. In the most recent round of our competency research, we found nine competencies. Figure 1 portrays the nine competencies we identified for HR professionals. Three of these competencies were core drivers:

- **Strategic positioner**: Able to position a business to win in its market;
- **Credible activist**: Able to build relationships of trust by having a proactive point of view; and
- **Paradox navigator**: Able to manage tensions inherent in businesses (e.g., be both long and short term, be both top down and bottom up).

We also found three domains of HR competence that are organisation enablers, helping position HR to deliver strategic value:

- **Culture and change champion**: Able to make change happen and manage organisational culture;
- **Human capital curator**: Able to manage the flow of talent by developing people and leaders, driving individual performance, and building technical talent; and
- **Total reward steward**: Able to manage employee wellbeing through financial and non-financial rewards.

We found three other delivery enablers that focused on managing the tactical or foundational elements of HR:

- **Technology and media integrator**: Able to use technology and social media to drive create high-performing organisations;
- **Analytics designer and interpreter**: Able to use analytics to improve decision making; and
- **Compliance manager**: Able to manage the processes related to compliance by following regulatory guidelines.

Each of these HR competencies are important for the performance of HR professionals. To get invited to business discussions, HR professionals need to be credible activists who influence through relationships of trust. To serve customers and investors, HR professionals need to be strategic positioners who understand business context and can think and act from the outside-in. To deliver business value, HR professionals need to be paradox navigators who effectively manage the inherent tensions in the business.

Fifth, as business partners, HR professionals (as in other key functional areas) will be expected to deliver the greatest extent possible to base their activities on solid empirical research. This expectation exists for finance, marketing, R and D, and manufacturing. It is also the case for HR. Good HR has often been based on empirical data, but HR analytics has gained great attention in recent years. The focus on analytics has evolved from HR scorecards to insights to interventions to business impact. As HR focuses on business impact, the analysis are less about HR work and more about its impact on business.

In the future, the HR profession will conduct research that focuses on HR issues that are associated with business results. Research will continue to be done in rigorous and relevant ways. Since best HR practices are emerging from all parts of the world, HR research will increasingly be done on a global scale. Information will be gathered from large numbers of participants from companies of various sizes and industries. Research will focus on the practices and competencies that result in individual and company performance. The reported conclusions will stick close to the empirical data on which they are based. The research will also report what we still have yet to learn as well as what we have learned.

**By way of summary**

Many HR professionals are doing exceptional HR work. From ING in Hong Kong, to ICICI and Tata in India, to ADIA in the United Arab Emirates, to MTN in South Africa, to DHL and BAE Systems in the UK, to Arcos Dorados and América Movil in Latin America, and to Walgreens, Intel, and GE in the United States and in thousands of other companies around the world, HR professionals are making enormous progress towards delivering value as business partners. In the future, the ways in which HR business partners serve as business partners will continue to morph. The bar has been raised on HR and some HR professionals will and others will not make the grade. There are emerging business issues where HR can and will contribute value. The future for HR is filled with both challenges and opportunities. As we look to the future, HR professionals as business partners will continue to deliver value and help businesses manage the enormously difficult and exciting challenges ahead.

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Business Results Group is the exclusive Africa partner of RBL group and HR Capability content.
There are six reasons why SMS can help meet your HR department’s needs.

By Sophorne Chhay

More than 75 percent of all smartphones worldwide are already SMS enabled, and 55 percent of smartphone users say that the first thing they do when they wake up is reach for their phones. Put those two statistics together and you’ll realise one very important thing: if you want to master the complex art of HR, SMS may very well be your super secret sauce. Here’s why:

1. SMS saves time and money
   SMS has a mind-blowingly fantastic open rate of 98 percent, and 90 of those 98 out of 100 texts are read within just three seconds. Compare that to email’s disappointing open rate of just 20 to 30 percent and it’s easy to see which method gets your message across faster. Texting is cheaper, too; what may take a $20/hour employee a half-hour to accomplish via a phone conversation can be taken care of for pennies on the dollar using multitasking text messaging software.

2. SMS allows for real-time conversations
   Apparently, texting is more efficient all around. While the average response time for email is a depressingly slow 2.5 days, texts are turned around in just 90 seconds! That means you can have a real-time conversation with applicants or employees and get (or give) time-sensitive information in situations when in-person or phone conversations just wouldn’t be practical or when having a written record of the exchange might be advantageous.
3 **It's effective with current employees**

The once-traditional office setting is very nearly a thing of the past. More and more employees are working in the field or from home, making it harder than ever to keep everyone in the loop. Trade in water cooler conversations for SMS and text current employees to:

- remind them about holiday closure or mandatory meetings;
- send an invite to the annual employee appreciation dinner; and
- announce a blood drive or fundraising event.

4 **It’s also great for recruiting new employees, too**

When competing for the attention of qualified applicants, your accessibility may just be the tipping point that helps you edge out the "other guys." Use SMS to improve relations with applicants by:

- sending them a print record of the time and date of their upcoming interview;
- thanking them for expressing interest in a job opening;
- letting them know when their application is received;
- offering immediate updates on interview results or background/referral checks; and
- answering important questions quickly.

5 **It’s remarkably convenient**

One of the most fabulous things about text messaging is that it’s made for cross-channel convenience. You can send a text using computer-based SMS software to someone’s mobile device, and one quick click of the embedded link takes them to your mobile app, a website, a specific file and so forth. There are tons of possibilities, and because the recipient doesn’t have to fumble with copying and pasting a URL or searching your website for the FAQ you mentioned, the whole process is ridiculously efficient. By making it easier for recruits or employees to find the information they need, you’re also making it easier for them to give you the information you need in order to do your job. It’s a win-win situation if ever there was one, and all thanks to SMS.

6 **SMS is a continuous conversation**

Everything we’ve learned so far indicates that text reaches people faster, gets a quicker response, and is wonderfully versatile. There is plenty of evidence confirming that reminders are powerful things, and SMS may be the best possible way to remind employees and recruits alike that your HR team is always available. That kind of open dialogue can only benefit everyone involved.

Many experts are already calling 2016 “The Year of Mobile Marketing,” and SMS promises to play a big part in that. By jumping on board and getting comfortable with SMS now, you’ll be primed for dozens, if not hundreds, of creative uses in the future.

**What’s next?**

What do you think of what I’ve covered so far? Will you adopt SMS as your tool for HR communication?

**Sophorn Chhay** is the marketing guy at California-based Trumpia, www.trumpia.com, the most complete SMS software with mass text messaging, smart targeting and automation.
Get the best people through the oil and gas door

Strategies to place the best people into roles that are often business-critical in nature in a turbulent market sector.

By Lindsay Sher

The oil and gas industry faces many challenges. Historically, it has often been difficult to get the best people and to ensure a recruitment strategy that promotes continuous succession of human resources. In recent times, however, the drop in oil price and subsequent job losses have meant that there are more professionals available on the open market. What strategies can companies employ to make sure they get the right people, ride out market turbulence and ensure they protect their interests for the future?

The current availability of people in the oil and gas sector makes the recruitment sector a highly competitive marketplace. Some may even argue that it makes recruitment consultants somewhat redundant themselves, if you only consider their role in recruitment attraction rather than their expertise in talent management. There are a number of important factors that can be pivotal to getting the right people to fill business-critical positions, that don’t just rely on attracting active candidates. The right approach(es) very much depends on the short- and long-term talent goals that the employer is looking for and the impact of the geographical location on the attractiveness of the role and availability of local talent.

Leveraging a broad candidate network

Attracting the right candidate for a position may mean sourcing people that are not actively looking for work. Having networks throughout the oil and gas industry with a strong database of professionals enables recruiters to search beyond those who will naturally apply for an advertised position. Having such a database and network takes years to build up and means a recruitment consultant can probe deeper and further to find the right person by using the adage “good people know other good people”. Having long-term relationships with people in the industry is critical to finding the right people oil and gas companies need to meet their business needs today and into the future.

Direct headhunting

In some instances, the client will come with a very specific set of requirements and maybe even a handful of individuals in mind that they would like to attract. Although generally applied only in more senior positions, direct approach and headhunting is a way of achieving these goals.

Headhunting is a specialist skill. Recruitment consultants that possess the skills to offer this service need experience and in-depth understanding of the industry. The oil and gas industry is quite niche. People within it often know each other and other companies within the sector. To best pitch a position to a targeted candidate, recruitment specialists need to demonstrate their knowledge of the sector’s business network and how the industry works. Although it is a highly skilled process, done properly headhunting can have an excellent success rate and produce an optimum match of person to job role.
Social media platforms that are focused on business needs, such as LinkedIn, are a great way to reach out to a wide selection of professionals. Of course, businesses are free to take this course of action themselves, and the skill level required can be learned. However, the issue comes when an advert receives an overwhelming number of responses which leaves HR departments struggling to see any outstanding candidates for the business. Here again, a recruitment consultant that has experience in identifying key talent indicators such as the chronology of jobs at certain employers, well-respected industry training and experience will offer a real benefit in the speed at matching a candidate to an employer’s role and culture.

Social media channels also offer recruitment consultants ways of expanding their databases. Indeed, a recent campaign we ran on LinkedIn targeted at South African oil and gas professionals brought in some 6,000 new contacts. Having a recruitment consultant advertise a position online expands the potential reach for the client beyond the boundaries of their own website, which often are not career-specific but rather focused on their product or service.

Job portals
As people today are so familiar and comfortable with the online environment, online job sites have revolutionised the recruitment process. They offer a very efficient way of reaching out to candidates. There are a number of specialised oil and gas job portals helping recruiters to fill specific niches, along with geographical ones covering more generalist roles in African and sub-Saharan regions. An employer, rather than having to undertake the advertising themselves, will benefit from the recruitment agency’s ability to place ads in multiple online media, managing the response and shortlisting rather than tying up internal resource with the early stages of verification.

Other and traditional approaches
Having said that the online world has revolutionised approaches to recruitment, we should also consider places where Internet access is still not freely available. This include some areas outside of major cities in sub-Saharan Africa and, to reach people here, recruiters need to revert to more traditional approaches. This means a return to adverts in printed media (newspapers) and even radio advertising. Using these techniques is not common but recruiters need to be flexible in their approach depending on the specific client needs.

Summary
Networking and referrals are one way where a recruiter really adds value, especially for specialist and business critical roles. Another is screening and sifting through hundreds or even thousands of candidates, sparing in-house HR teams from this arduous task and freeing up time and resource for essential in-house work.

At the moment, there are many active job seekers and a scarcity of jobs within the oil and gas industry. However, recruitment consultants are still a vital part of helping to ensure longevity in this market area. Looking away from the most obvious pools of people may give a business the advantage it needs, particularly at this challenging time for the industry. As for the future? The oil price certainly will go up again and it will be the companies that have secured their recruitment strategy during leaner times that will be strongest with key talent acquired during the downturn when the market recovers.

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The drop in oil price and subsequent job losses have meant that there are more professionals available on the open market.
Business leaders, don’t succumb to human trafficking
The very term “human trafficking” sends shivers down the spine of the most hardened and cynical person and most, if not all, people in leadership positions distance themselves, instinctively, from any association with this most terrible form of trade. Whilst the heading may not sit well with some, it could just be that toxic workplaces, whether created, tolerated or supported by leaders with a myriad of perverse excuses, actually appear to be very close to the abhorrent trade in human lives. This is confirmed by the many sad stories of good, commercially-sound and diligent employees who refuse to bow down to abuse, exploitation and other deviant workplace practices and who are then forced to leave and start afresh. This discussion will hopefully remind all of us in leadership positions of the massive responsibility we have to ensure that our domains are detoxified and sanitised in order to harness healthy human capital to achieve responsible business objectives.

In their book, Great by Choice, Jim Collins and Morten Hansen, together with a team of more than twenty researchers, studied companies that rose to greatness – beating their industry indexes by a minimum of ten times over fifteen years – in environments characterised by big forces and rapid shifts that leaders could not predict or control. The research team then contrasted the “10X” (pronounced “ten-exer’s”) to a carefully selected set of comparison companies that failed to achieve greatness in similarly extreme environments.

The study results were full of provocative surprises, such as:

- The best leaders were not more risk taking, more visionary, and more creative than the comparisons; they were more disciplined, more empirical, and more paranoid;
- Innovation by itself turns out not to be the trump card in a chaotic and uncertain world; more important is the ability to scale innovation, to blend creativity with discipline;
- Following the belief that leading in a “fast world” always requires “fast decisions” and “fast action” is a good way to get killed; and
- The great companies changed less in reaction to a radically changing world than the comparison companies.

The “Speed and Outcomes” table summarises what was learnt from the risk analysis.

<table>
<thead>
<tr>
<th>Behaviours that correlate with successful outcomes</th>
<th>Behaviours that correlate with unsuccessful outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hypervigilance, constant worry about changes that</td>
<td>Arrogance; minimisation or ignorance of the potential</td>
</tr>
<tr>
<td>might signal danger; early recognition of threat.</td>
<td>significance of changes; late recognition of threat.</td>
</tr>
<tr>
<td>Adjustment of decision speed to the pace of events,</td>
<td>Failure to adjust decision speed to the pace of events,</td>
</tr>
<tr>
<td>whether fast or slow – “go slow when you can, fast</td>
<td>deciding too slowly or too fast, depending on the</td>
</tr>
<tr>
<td>when you must”.</td>
<td>situation.</td>
</tr>
<tr>
<td>Deliberate, fact-driven decisions; highly disciplined</td>
<td>Reactive, impulsive decisions, lacking fanatical</td>
</tr>
<tr>
<td>thought, no matter how fast.</td>
<td>discipline and strategic rigour.</td>
</tr>
<tr>
<td>Focus on superb execution once decisions are</td>
<td>Compromise in excellence of execution for the sake of</td>
</tr>
<tr>
<td>made; intensity increased as needed to meet time</td>
<td>speed; failure to increase intensity to ensure superb</td>
</tr>
<tr>
<td>demands without compromising excellence.</td>
<td>execution when moving fast.</td>
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</table>

One key question

Regarding the biggest threats and dangers facing your enterprise, how much time before the risk profile changes?

And with employees, irrespective of organisation
structure level, being the resource responsible for implementing, maintaining and developing the decisions made by the leaders concerned, surely one could assert that employees could be manipulated, coerced or instructed, to perform actions in an environment which may not necessarily be healthy. Harder et al. (2014) define a toxic work environment as an environment that negatively impacts the viability of an organisation. They specify: “It is reasonable to conclude that an organisation can be considered toxic if it is ineffective as well as destructive to its employees”, and hold that toxicity arises when employees suffer a breach in psychological contract.2

It would therefore be common cause that it is the leader’s responsibility to detoxify a workplace. There are a plethora of leadership definitions. However, the one by Katie Christy, founder of Activate Your Talent, resonates quite well with this discussion …

“Leadership is the ability to not only understand and utilize your innate talents, but to also effectively leverage the natural strengths of your team to accomplish the mission. There is no one-size fits all approach, answer, key or formula to leadership. Leadership should be the humble, authentic expression of your unique personality in pursuit of bettering whatever environment you are in.”3

Getting back to one of the provocative results by Collins and Hansen, that “Following the belief that leading in a “fast world” always requires “fast decisions” and “fast action” is a good way to get killed” conversely implies that in order to survive, good leaders should not fall prey to this type of behaviour. And while employees are most probably not killed, they could be emotionally or psychologically maimed as they are “traded” for irresponsible business objectives!

The United Nations Office on Drugs and Crime (UNODC)1 “as guardian of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocols thereto, Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines trafficking in persons as:

“…the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

So, considering that leaders should create, drive and support a healthy working environment, and should not threaten by means of the abuse of power to achieve the consent to possible exploitation of servitude, one could be forgiven for thinking that, in its worst form, bad leadership traits displaying “Reactive, impulsive decisions, lacking fanatic discipline and strategic rigour” (see table above) are indeed guilty of a form of human trafficking. As the custodians of people in the workplace, human resources professionals have a massive responsibility to push back and not tolerate the adverse behaviours by “in-bred” heads of departments, organisations and any form of business unit, who see themselves as leaders but who, in fact, are no more than followers of the predecessory survival practices of greed and status.
To be in a position of leading others is one which comes with a lot of responsibility, accountability and, if lived correctly, with a lot of satisfaction, motivation and positively touched lives! With the sound drive to stop the abuse of all people and to improve society wherever we stand, the following saying rings so true:

“In periods where there is no leadership, society stands still. Progress occurs when courageous, skillful leaders seize the opportunity to change things for the better.” President Harry Truman

Come on leaders! There is work to be done, people to be developed and celebrating to be enjoyed when we make a profound difference where we stand.

Leon Steyn, www.leonsteyn.co.za, is the former Group Human Resources Executive of TMS Group Industrial Services. He now provides transformational solutions to assist enterprises and people to become the best they can.

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Remuneration revolution begins

It’s time to join the revolution regarding executive pay.
By Dr Mark Bussin and Daniela Christos

BP shareholders revolted against a nearly $20 million pay package for a CEO who’s laid off around 12,000 workers after leading the company to a record $6.4 billion loss last year.

Millions of people worldwide have fallen for the 40-40-40 scam! The 40-40-40 scam is where you make someone else rich by working 40-plus hours a week for 40 years and then try to retire on 40% of what you couldn’t afford to live off in the first place!

You’ve seen the headlines and most likely borne the brunt of them! Time and time again, greedy executives prove to be the culprits behind exploited labour, downtrodden masses and the colossal upset of almost an entire population. Executive pay has been labelled as “enormous, immoral and outrageous” and it seems that the trodden-on majority are demanding justice at long last. Things are changing in fixed pay, short-term incentives, long-term incentives and performance management. The remuneration revolution has begun.

Performance Management Revolution
Over recent years, debate has formed around performance management and focuses on a single problem: ratings. Are ratings fair? Do they achieve their stated objectives? Some found that ratings show no depth. We assign a number to a person and, in the end, it is a single number. Rather than a single number overview on a person, organisations should go in-depth, understanding the employee in his or her environment and how best to motivate them. Performance management focuses on the past, rather than motivating for the future and should be tossed away with pre-revolution remuneration plans.

And just as this concept starts getting some traction, the November 2016 edition of Harvard Business Review has an article in it saying that we shouldn’t be too quick to throw out Performance Management (PM). Facebook goes into a lot of detail showing why they have retained PM. This forms the platform for very rigorous debate and the revolution may now just have taken a different turn.

Performance-based pay (STI and LTI) revolution
The majority of executive pay is performance based … a pay strategy that might need to be rethought, and here is why:

Bonuses make no difference to someone who earns at the top of the log. A company Chairman commented, “I do not believe, nor have I ever observed, that $100 million motivates people more than $10 million or $1 million.”

John Cryan- British businessman and Chief Executive of Deutsche Bank AG in Frankfurt supports this statement, remarking in a recent interview, “I have no idea why I was offered a contract with a bonus in it because I promise you I will not work any harder or any less hard in any year; in any day because someone is going to pay me more or less.”
Stock options and large bonuses affect the way in which the organisation functions. Why? Firstly, it may cause parts of the organisation to suffer in pursuit of another goal. For example, if pay is determined by number of investors, an executive may withdraw resources from long-term incentives and utilise them for marketing—a more short-term strategy. It may also affect his or her performance as people tend to focus on improving performance scores that are easily measurable, rather than those that aren’t, and therefore may forfeit an important behaviour in pursuit of an easily measured one that will receive reward.

Human nature often dictates that in the presence of temptation, morals and ethics will be compromised as people will do anything to reach a goal. Hence, this is the reason that such a vast amount of executive actions are accompanied by court cases; performance-based pay often leads to fraud.

Incentivised pay, in fact, creates a less than desired effect on innovation and creativity, which are both vital for the organisation to remain in competition. Let us break this down:

- Intrinsic motivation (whereby people are driven to achieve by their own sense of satisfaction) is the key element to innovation and creativity;
- Innovation and creativity flourish via the learning process (developing a specific competence or skill and other such achievements);
- The presence of extrinsic motivation (monetary or physical rewards) has been proven to decrease internal motivation and thus hinders learning; and
- Performance-based pay focuses on extrinsic motivation, leading to the lack of intrinsic motivation which then limits the organisation with regards to its innovation and creativity, and knowledge, skills, competencies and so forth, are thwarted.

In essence, fixing on variable pay hinders the ultimate lifeline of the entire organisation.

**Fixed Pay or Mixed Pay Revolution**

A series of diverse tasks comprise a job. This can cause difficulty when being monitored and rewarded. Some very prominent UK-based researchers believe that fixed pay should replace performance-based pay in order to dissuade the executive from focusing solely on tasks that are easily measured according to performance, and persuade him or her to apportion effort evenly across all the tasks.

However, others argue that fixed pay is simply not enough and a remuneration mix should be put in place. Some organisations have modernised their remuneration approach to portray a balance of fixed salary, incentives of an annual basis, a variable salary component, long-term incentives and other benefits (such as pension).

A remuneration mix looks something like this:

\[
\text{Total target earnings} = \text{Fixed pay} + \text{Variable Pay}
\]

This form of pay should be competitive within the market that the executive resides. Total target remuneration levels should be revisited on a yearly basis so that the organisation can ascertain its competitiveness for positions in the market that are similar in nature. This allows for both retention and recruitment of key talent. How do we loosen this grip on our organisations if everyone is doing this?

**What’s the solution?**

As a metaphor, consider the case of vehicle insurance. Due to the fact that not every aspect of an accident is observable, it is more difficult to determine whether the driver was behaving carelessly or, rather, if the accident was entirely out of his or her control and he or she was therefore not at fault. Insurance thus only covers some of the damage. If the total cost was covered, more reckless behaviour may be demonstrated. This theory should be applied to executive compensation. The more difficult it is to observe the actions or behaviours of executives (such as having earned a colossal increase of investors at the expense of another department), the less one should utilise incentives as reward.

Variable pay is suitable for more stable environments that involve routine tasks and more consistent environments. However, high-risk industries could consider implementing fixed pay to discourage risky behaviour, eliminate fraud, place an emphasis on intrinsic rewards, as well as motivate the right behaviour—a call for executive pay to be revolutionised.

Think carefully about what strategy you want to follow. The remuneration strategy must underpin and drive the organisation strategy. Before ditching performance management, short-term incentives and long-term incentives … think … create a remuneration cocktail to keep up with the revolution!

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Cyber security
today and beyond

Digital transformation is worth nothing without advanced cyber-defence.

By Rory Young

Cyber-crime and digital espionage continue to cause massive financial and reputational destruction to companies. Hardly a week goes by without us hearing on the news that a high-profile global firm has been hit by sophisticated cyber-attacks.

As we hurtle towards the new digital world of ‘total connectivity’ – where people, computers and other devices are constantly connected, sending data, and executing transactions – how will we remain safe from threats?

And as organisations start embracing Cloud, mobility, social, connected devices, and other trends, how will they deal with the rapidly-evolving threat landscape?

We’re all looking to digitise and transform the enterprise, but the side-effect is that a completely new security paradigm is opened up. Stock-standard, traditional IT security approaches (think firewalls, anti-viruses, and desktop security) quickly lose relevance in the new digital era.

Today’s threats are shaping up to look very different, and security is morphing from being simply an IT problem, to a fundamental business concern.

So just what’s driving this new threat landscape? We’ll look at three areas that are defining the nature of cyber-security in 2016 and beyond.

More transactions, faster transactions
Take a moment to think about how many times you dip in and out of secure environments, or execute secure transactions, in just the time that it takes to make a cup of coffee in the morning.

From their smartphone or tablet, one might check emails and text messages, log into one of their company’s systems, make an in-app purchase, check a social network, view their bank account, top-up on prepaid electricity, and order an Uber.

All this, in just a few minutes. For many of us, our daily lives are punctuated with this continual flow of micro-transactions. With the ease of ‘one-tap purchases’ and instant authentication into secure portals, we hardly even notice as we traverse in and out of these various secure digital realms.

As organisations, we have to cater for the ease and accessibility that customers now expect, while remaining absolutely secure. The time we take to process transactions must compress to become almost instant (a concept we refer to as ‘zero distance’) – as we handle increasing volumes of secure digital transactions.

New pathways, new threats
Within new digital ecosystems, companies have to work closely together, forging connections to exchange data and instructions in real-time. To stay relevant, we have to open up pathways into our business for other parties (suppliers, partners, developers and payment providers).

As machine-to-machine communication continues to grow, and morph into the realms of self-
learning artificial intelligence, exciting new opportunities are created.

But on the flip-side, we’re exposing more sensitive information and escalating the risk levels. As data gets handed over between parties, or as transactions get processed, a ‘digital exhaust’ is streamed throughout the ecosystem: the bits and bytes that linger in the ether.

Protecting this data becomes a shared goal for every party in the ecosystem. Every link in the value chain must be tightly secured, and clear rules developed around data ownership, access, and destruction.

Advanced social engineering

Finally, what about you? In just a few short years we seem to have become generally comfortable with sharing massive amounts of personal data with companies. An app asks for permissions. No problem! A website wants to use cookies. OK! A social network gathers personal data gathering to sell targeted ads. Fine by me!

Within the younger, millennial generation, there is a terrifying amount of personal data that lies openly available within online communities and networks. Social networking sites like Facebook, Instagram and Twitter encourage us to record our lives in digital – captured in rich media like videos and photos. Digital imprints are made with every credit card swipe, every app download, every route navigated in maps, every text message.

All this means there is great potential for those with malicious intent.

Modern hackers embark on elaborate step-by-step journeys, scraping together more and more information about an individual, to the point where attacks like targeted phishing and identity theft become possible.

The future of the cyber-threat landscape remains difficult to predict. But as these three notable trends evolve and interrelate with other dimensions of cyber-security, one thing is clear: organisations need to move quickly to catch up.

Rory Young is the Portfolio Manager: Support and Enabling Services at T-Systems South Africa, www.t-systems.co.za.
The November HR Future breakfast, sponsored by Encentivize, was hosted at the Bryanston Country Club. Delegates, which included HR Directors, HR Managers and others in the Talent Management space, gained insights on gamification in the employee recognition and reward space from behavioural specialists Estee Roodt and Amanda Mohr.
Estee Roodt provided a theoretical overview regarding employee recognition.

Amanda Mohr showed guests how to implement an effective recognition strategy using gamification techniques.

Dr Teresa Kruger of Work Dynamics (left) won a free programme from Encentivize. Amanda Mohr (centre) and HR Future Editor Alan Hosking (right) congratulate her on her win.

Be a part of one of our next exciting breakfasts in 2017. Contact monique@hrfuture.net and make a difference in your company.
As we reach the end of the year, we will no doubt all start thinking about our New Year’s resolutions for the upcoming year. This process can be quite invigorating as it can provide us with a sense of hope, anticipation and excitement as we ponder different ways of creating opportunities to change those things in our lives that we are not necessarily happy with.

In essence, the setting of New Year’s resolutions is predominately focused on our personal lives and usually includes a focus on issues such as eating healthier, getting or staying fit, and spending more time with family and friends. The underlying, reoccurring theme is that we all want to change some aspects of our lives to essentially make the next year an improvement on the previous year.

When looking more at our professional lives, that is, that of being HR Professionals, we should also look at a New Year as a catalyst for making changes in the workplace. The main difference here is that any changes we wish to shepherd in, affects a whole bunch of people, and it is not so easy to just give up if it all seems too much like hard work.

But the New Year does create a really good opportunity to relook at what we did in the previous year and what we can do better in the coming year. So HR teams should try to identify several ways in which they can make a positive impact from both a management and an employees’ perspective.

Earlier this year I presented a talk on the impact of managing a multi-generational workforce and, based on the audience participation, this seems to be becoming a bigger and bigger challenge in organisations today. This would not be a bad place to start for an organisation looking to refresh and invigorate their staff in the coming year.

So how do we get to grips with managing multi-generational workforce?

With the possibility of five generations working side by side in the workplace occurring in the near future, organisations need to start ensuring that their policies and procedures are able to accommodate the wide variety of expectations that these different employee groups have.

And it’s HR who will need to lead the way by becoming experts in juggling the complexities of managing a multi-generational workforce, as this is vital in ensuring a high staff morale, as well as being able to attract and retain the best talent the organisation requires to meet its business goals.

Organisations that have a clear focus on educating all of their staff to understand the differences between the different generations, and what makes each one tick, will reap the benefits of having a reduction in their staff turnover statistics.

In essence, there are four main areas that HR will need to focus on when reviewing the way in which the organisation deals with a multi-generational workforce:

- HR needs to review and re-energise the current compensation and benefits policies to accommodate the wide and varied expectations and desires each generation has when it comes to being remunerated and rewarded for their efforts;
- It’s not difficult to understand that each
generation has a preferred way of communicating. Assuming that company information emails are welcome by Millennials is as far off as your executives appreciating formal communications via WhatsApp. What HR needs to do is to expand the way in which the organisation communicates with its staff, incorporating the preferred methods of each of the different generations. A little known fact is that Millennials abhor emails, they see them as an archaic way of communicating, and far prefer a platform that has a real-time format when responses can be given on the go via any of the smart devices they happen to be carrying;

- Millennials and Gen 2020 (the so called i-Generation) need to be understood by the organisation – they represent the future of your organisation. Love them or hate them, they are your future, and by getting to understand them now, will enable you to harness their full potential in the years to come;

- Mentoring is key when working with the younger generations. The “throw them into the deep end” development ideology does not work with the younger generations. It’s a recipe for disaster, as not only are you setting them up for failure, but you will also risk the organisation losing the scarce skills and talent these younger staff members have, as they will no doubt move on to those organisations that have evolved enough to ensure they are able to meet with their expectations; and

- It is also key to understand that Millennials are the most educated generation in history of the workforce. Ignore them at your own peril. However, it was also found that they also have the highest levels of clinical anxiety, stress, and depression than any other generation at the same age. In order for them to succeed they need your help!

In summary, the ability of an organisation to attract and retain millennial talent is becoming vital in assisting them in achieving their goals. To succeed, management’s style and approach will need to naturally appeal to the Millennial generation, to best position the organisation to have their pick of the best young talent available, by being acknowledged by the Millennials, as an employer of choice.

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Corporate Wellness can curb the rise in absenteeism

Absenteeism in the workplace has risen substantially and has had an impact on the economy within the last decade. According to Occupational Care South Africa, on average 15 – 30% of staff could be absent on any given day and one day’s absence can cost a company three days’ worth of salary without active management of absenteeism.

For this reason, companies are taking their employees’ well-being into their own hands by creating wellness programmes that encourage the adoption of a healthy lifestyle culture.

“We all know that prevention is better than cure. We are living in times where employees are facing many challenges; high costs of healthcare; increase in non-communicable diseases and the unstable economy, all of which, negatively affect employees’ health and wellbeing. With this knowledge, organisations are encouraged to put wellness programmes in place, based on the needs of their employees,” says Chris Luyt, Executive Head of Marketing and Distribution at Bestmed.

While many organisations have embraced wellness programmes, they still do not have a proper understanding of the spend required.

“Financial advisors need to stress that appropriate wellness programmes result in increased productivity for employers, because at the end of the day the more engaged, happy and healthy an employee is, the more benefits accrued to organisations,” adds Luyt.

According to Luyt there are no set methods for wellness programmes, but what is crucial are the results. Organisations in collaboration with their employees need to structure programmes based on their needs. This can be done with the help of the healthcare fraternity. “At Bestmed we highlight the importance of preventative healthcare through our wellness programmes that are tailored to suit each individual’s unique needs. These programmes are encompassed in our wellness pillars which are; Be Active, Be Safe, Be Nutri-wise, Be Happy and Be Fin-fit,” adds Luyt.

With the spiralling rate of diseases and absenteeism is on the rise, corporate wellness has become a necessity and a corporate duty for an organisation.

“Employers needs to invest in their employees’ health and with so much innovation that is enabled by technology, occupational health levels should improve,” concludes Luyt.

For more information, visit www.bestmed.co.za.
Applicability of s197 of the LRA in the scenario where two companies merge.

By Dr Brian van Zyl

The Labour Court, in Sanlic House of Locks (Pty) Ltd v Strydom Johannes Theodorus (2014) 25 SALLR 452 (LC), had the opportunity of considering the following important issues:

(a) On what basis is a merged entity entitled to enforce a restraint of trade, that existed prior to the said merger, between an employee and one of the entities that formed the said merged entity?

(b) What is the meaning of a “going concern” with reference to s197 of the LRA?

(c) What is the approach to be adopted to answer the question whether or not a merger between two entities resulted in the transfer of a business as a going concern, envisaged in s197 of the LRA?

(d) Which party bears the onus in the above scenario to prove the applicability of s197 of the LRA?

(e) Does a merger on its own automatically trigger the provisions of s197 of the LRA?

(f) What role does the transfer of possession and control play in determining whether or not s197 of the LRA has been triggered?

(g) What are the relevant factors to be considered in determining whether or not in the scenario of a merger s197 of the LRA has indeed been triggered?

Overview

This is an urgent application in terms of which the applicant seeks to enforce the restraint of trade agreement provided for in the employment contract of the respondent.

The restraint of trade agreement, which the applicant seeks to enforce, applies across the country and extends over a period of two years.

The respondent, in opposing the enforcement of the restraint of trade, contends, firstly, that the urgency is self-created and, secondly, that:

• the applicant does not have locus standi to enforce the restraint of trade clause of the employment contract;

• the restraint of trade is not enforceable because its duration is excessively long and covers the whole country; and

• the applicant has not established a protectable interest.
Pertinent facts of the case

Nature of applicant’s business
The applicant, Sanlic House of Locks (Pty) Ltd (“Sanlic”), is a private company duly registered in terms of the company laws of South Africa and is involved in the business of importing and distributing motor vehicle keys across South Africa.

The market in which the applicant conducts its business is highly competitive and involves, amongst others, Massmart Group, Mica Chain Hardware and Jack’s Paint.

It is common cause that the applicant previously operated under the name of House of Locks (Pty) Ltd (“the House of Locks”).

Merger detail
During February 2012, the House of Locks concluded a merger agreement with another private company known as Sanlic International Pty Ltd. The merger was finalised in September 2012. Thereafter, Sanlic International changed its name and became known as the Sanlic House of Locks (Pty) Ltd (“Sanlic”).

Source of keys prior to merger
It is common cause that, before the two companies merged, the House of Locks distributed a range of blank keys, including key cutting machines manufactured by Errebi, a company based in Italy.

Sanlic International, on the other hand, distributed similar products manufactured by a company known as Silca Line, also based in Italy. The two companies based in Italy were in direct competition with each other.

Source of keys subsequent to merger
Subsequent to the merger agreement, the applicant took a decision to distribute Silca products exclusively and gradually to discontinue the relationship with Errebi.

Respondent’s decision to distribute Errebi products
It is apparent that, upon hearing about the decision to terminate the distribution of the Errebi products, the respondent decided to set up a business that would distribute those products in South Africa.

It is common cause that, prior to the merger, the respondent was employed by the House of Locks as a sales manager.

Dispute regarding restraint of trade
There is, however, a dispute as to whether his employment contract was transferred to Sanlic upon the conclusion of the merger agreement. The provisions of clause 3 of the employment contract deal extensively with, and set out in a detailed manner, the terms and conditions of the restraint of trade.

Resignation by respondent subsequent to merger
It is common cause that the respondent resigned from his contract of employment during January 2014.

Prior to his resignation, he informed the respondent that he intended setting up a business that would take over the distribution of the Errebi products in South Africa.

On 5 January 2014, the applicant, under the letterhead of Sanlic House of Locks, addressed a letter to the respondent reminding him of the restraint of trade agreement and that his plan of distributing the Errebi products would amount to a breach of the restraint of trade agreement.

On 12 February 2014, the applicant charged the respondent with the following misconduct:
"transgression: breach of contract: alternatively intention to compete against the employer."

Findings of the labour court
The respondent raised two preliminary points in his opposition to the urgent application.

The first point related to urgency and the second to locus standi.

Urgency
In relation to urgency, the respondent contended that the urgency pleaded by the applicant was self-created because the applicant knew about his plan at the beginning of January 2014 and did nothing until the end of February 2014.

The respondent, however, contended that, in the present matter, the applicant delayed in instituting the proceedings and, thus, urgency was self-created.

In the circumstances of this matter, the delay occasioned by having to wait for the outcome of the disciplinary hearing, was, in the view of the Labour Court, not unreasonable and it thus made the finding that urgency existed in casu.

Jurisdiction preliminary point
The respondent contended that the applicant lacked locus standi to enforce the provisions of the employment contract because he was not employed by the applicant but by the House of Locks.

The applicant, on the other hand, contended that it took over the employment contract between the respondent and the House of Locks when the two
companies merged.

In this respect, the applicant contended that, subsequent to it and the House of Locks merging, the respondent’s employment contract was transferred to it in terms of s197 of the Labour Relations Act of 1995 (“the LRA”).

The issue that arose from the above was whether the provisions of s197 of the LRA came into operation by virtue of the merger of the two companies.

s197(1) of LRA
Section 197(1) of the LRA defined “business” and “transfer” in the following terms:

"Transfer of contract of employment
(1) In this section and in section 197A
(a) ‘business’ includes the whole or a part of any business, trade, undertaking or service; and
(b) ‘transfer’ means the transfer of a business by one employer (“the old employer”) to another employer (“the new employer”) as a going concern.
(2) If a transfer of a business takes place, unless otherwise agreed in terms of subsection (6) -
(a) the new employer is automatically substituted in the place of the old employer in respect of all contracts of employment in existence immediately before the date of transfer;
(b) all the rights and obligations between the old employer and the employee at the time of the transfer continue in force as if they had been rights and obligations between the new employer and the employee;
(c) anything done before the transfer by or in relation to the old employer, including the dismissal of an employee or the commission of an unfair labour practice or act of unfair discrimination, is considered to have been done by or in relation to the new employer, and
(d) the transfer does not interrupt an employee’s continuity of employment, and an employee’s contract of employment continues with the new employer as if with the old employer."

Going concern concept
In considering the concept “going concern” as envisaged in s197 of the LRA, the constitutional court, in NEHAWU v University of Cape Town (NEHAWU) (2003) 24 ILJ 95 (CC) at paragraph [56], held that:

“The phrase ‘going concern’ is not defined in the LRA. It must therefore be given its ordinary meaning unless the context indicates otherwise. What is transferred must be a business in operation ‘so that the business remains the same but in different hands’. Whether that has occurred is a matter of fact which must be determined objectively in the light of the circumstances of each transaction. In deciding whether a business has been transferred as a going concern, regard must be had to the substance and not the form of the transaction. A number of factors will be relevant to the question whether a transfer of a business as a going concern has occurred, such as the transfer or otherwise of assets both tangible and intangible, whether or not workers are taken over by the new employer, whether customers are transferred and whether or not the same business is being carried on by the new employer. What must be stressed is that this list of factors is not exhaustive and that none of them is decisive individually. They must all be considered in the overall assessment and therefore should not be considered in isolation.”

In this regard, see also Aviation Union of South Africa v SA Airways (Pty) Ltd (2011) 32 ILJ 2861 (CC) at [47], where Jaffa J, in dealing with whether a transfer can be regarded as one envisaged in s197 of the LRA, had the following to say:

“...But whether a transfer as contemplated in s197 has occurred or will occur is a factual question. It must be determined with reference to the objective facts of each case.”

The Labour Appeal Court, in dealing with what constituted transfer of a business as a going concern, in NEHAWU v University of Cape Town and Others (2002) 23 ILJ 306 (LAC) at 338F per Zondo JP, as he then was, stated the following:

“...Accordingly, each transaction must, in my view, be considered on its own merits in the light of all the surrounding circumstances of the transaction before a determination can be made whether they constitute the transfer of a business as a going concern.”

Application of going concern principles to the facts in casu
The question of whether the merger between Sanlic and House of Locks resulted in the transfer of the business as a going concern, as envisaged in s197 of the LRA, had to be determined objectively from the facts as presented by the parties in these proceedings.

It was also those facts that would determine whether Sanlic had locus standi to enforce the restraint as set out in the employment contract.

Onus rests on the applicant to prove applicability of s197 of LRA
It was trite, as stated in Primedia Outdoor Division (Pty) Ltd v Phala NO and Others (JR 157/2011) [2012] ZALCJHB 94 (LC) (31 August 2012) at paragraph [11], that the onus rested on the party...
instituting and prosecuting a claim to show that it had locus standi. Therefore, in the present instance, the onus rested on the applicant to show that it had locus standi to enforce the employment contract concluded between the respondent and the House of Locks.

It was common cause that Sanlic and House of Locks merged.

**Merger per se does not trigger s197 of LRA**

In the view of the Labour Court, the merger on its own did not, on the authority of Ndima and Others, Sithukuza and Others v Waverly Blankets Ltd (1999) 20 ILJ 1563 (LC) at paragraph [66], automatically trigger the provisions of s197 of the LRA.

**Key factor: possession and control of the business**

The authorities that have followed Ndima's decision drew a distinction between "possession and control of business".

In this respect, Sandi AJA, in Long v Prism Holdings [2012] 7 BLLR 672 (LAC) at paragraph [32], had the following to say: "The transfer of possession and control does not trigger the operation of s197 of the LRA."

In Schutte v Powerplus Performance (Pty) Ltd [1999] 2 BLLR (LC), the court held that the proper approach, when dealing with the issue of "whether transfer as a going concern has taken place is to examine substance and not form".

The question of whether the provisions of s197 of the LRA had been triggered entailed an objective assessment of the facts of each case (see Aviation Union of South African v SA Airways (Pty) Ltd [2012] 2 BCLR 117 (CC)).

**Relevant factors to be considered**

The meaning and the factors to be taken into account, when assessing whether “transfer as a going concern” had taken place, were summarised by Tlaletsi JA, in Hydro Colour Inks (Pty) Ltd v CCEPAWU [2011] 7 BLLR 637 (LAC) at paragraph [12], as follows:

1. **(i)** Since the phrase ‘going concern’ is not defined in the Act, it must be given its ordinary meaning unless the context indicates otherwise.
2. **(ii)** What is transferred must be a business in operation so that the business remains the same but in different hands.
3. **(iii)** A determination of whether a business has been transferred as a going concern is a matter of objective determination in the light of the circumstances of each transaction.
4. **(iv)** In deciding whether a business has been transferred as a going concern, regard must be had to the substance and not the form of the transaction.
5. **(v)** There are a number of factors that are relevant in determining whether or not a business has been transferred as going concern, such as, but not limited to: what will happen to the goodwill of the business, stock-in-trade, the premises of the business, contracts with clients or customers, the workforce, the assets of the business, the debts of the business, whether there has been interruption of the operation of the business and if so, the duration thereof, whether same or similar activities are continued after the transfer or not.
6. **(vi)** All the factors referred to above are not exhaustive and none of them is decisive individually.
7. **(vii)** These factors must all be considered in the overall assessment and should therefore not be considered in isolation.”

This is a summary of the principles set out in both the minority judgment of Zondo JP, in National Education Health and Allied Workers Union v University of Cape Town and Others (2002) 23 ILJ 306 (LC) and the constitutional court on appeal in the same matter, National Education Health and Allied Workers Union v University of Cape Town Others (2003) 24 ILJ 95 (CC).

**Applicable case law: Securicor judgment**

The question in this matter was pertinently raised in Securicor (SA) (Pty) Ltd and Another v Lotter and Others [2005] 10 BLLR 1032 (E) at paragraph [7], where Froneman J, in dealing with facts very similar to those of the present, held that:

"In Carapax it was held that ordinarily the restraint of trade is entered into for the benefit of the business itself, as distinct from the personal benefit for the owner of the business. In such a case the benefit of the restraint is incidental to the business, and part of its goodwill. The owner of the business is vested with the contractual right to enforce the restraint and when he sells or disposes of the goodwill of the business the merx of the sale or disposition embraces the contractual right. The transfer of this contractual right takes place by way of cession. The cession consists of an obligatory agreement (to sell or dispose of the right) and an agreement of transfer (the delivery of the business to the new owner). The new owner then becomes entitled to enforce the contractual restraint.

What is comprised in the sale of goodwill is a
business, and whether it includes the right to enforce a restraint, is however, the question of fact: “there is no fixed or invariable rule by which the benefit of an agreement in restraint of trade passes to the purchaser of the goodwill of the business.”

In Securicor, Froneman J relied on the case of Botha and Another v Carapax Shadespots (Pty) Ltd 1992 (1) SA 202 (AD), a case which was decided before the introduction of s197 of the LRA.

The learned judge found that, although the case was decided before the introduction of s197, the principles enunciated therein were apposite to the interpretation of the provisions of s197.

He further found that the principles as set out in that judgment were in line with the decisions in NEHAWU v University of Cape Town and Telkom SA Ltd and Others v Blom and Others (2003) 7 BLLR 638 (SCA).

In answering the question raised in this matter, namely, whether the business of House of Locks was disposed of to Sanlic as a going concern, Froneman J, in Securicor, held that:

“The legal position (consonant with Carapax, NEHAWU and Telkom) is thus that, in order to determine whether the restraint agreement survives the transfer of a business under section 197 of the Labour Relations Act, it needs to be determined as a matter of fact whether the restraint form part of the goodwill of the business and whether that will form part of the business been transferred as a going concern in terms of the section. This is an objective factual enquiry which will depend on the circumstances of each case.

If this factual enquiry establishes that the restraint form part of the transfer of a business, the employee’s obligations under the restraint are owed to the new employer and the new employer is entitled to enforce the restraint against the employee. The content of the right so ceded and the obligations so delegated do not become greater or lesser by virtue of the provisions of s197. What may happen is that, by virtue of the fact that this rights and obligations attached to the transferred business, their exercise and performance will be determined to some extent by the fortunes of the business after its transferred.”

The essential question to answer, prior to considering the merits of this matter, was whether the business of House of Locks was transferred to it as a going concern.

Factors relied upon by applicant to prove the applicability of s197 of the LRA

In this respect, the applicant relied essentially on three points in support of its contention that the merger triggered the provisions of s197 of the LRA and those points were summarised as follows:

- Upon the conclusion of the merger, during September 2012, the House of Locks “was subsumed” by Sanlic;
- The respondent’s employment contract was transferred to the applicant as a result of the merger; and
- The respondent was a member of the executive of the applicant and was intimately involved in the discussion about the merger.

In response to the issue of locus standi, as raised by the respondent in its answering affidavit, the applicant simply denied the averment that the respondent was not employed by it. The respondent contended, in this respect, that the applicant tendered his services and received remuneration from it.

Conclusion reached by the labour court

In the view of the labour court, the evidence tendered by the applicant was insufficient to determine whether, objectively speaking, it could be said that a transfer as a going concern, and particularly as envisaged in s197 of the LRA, had taken place.

Except for stating that there was a merger with the House of Locks, the facts as provided by the applicant were lacking to form a basis for characterising the transaction of the merger as having disposed of the business of the House of Locks as a going concern.

There was, in this respect, no evidence as to whether the assets and liabilities of the House of Locks pooled into those of the applicant.

It followed that the applicant had failed to show that the merger that it relied on triggered the provisions of s197 of the LRA.

In other words, the applicant had failed to show that it had a right to enforce the restraint of trade by virtue of the merger.

In light of the above, the preliminary point raised by the respondent, concerning the locus standi of the applicant to enforce the restraint, was upheld.

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Complexities of dual/multiple citizenship

Make sure you apply for a retention of citizenship before acquiring another citizenship. **By Julian Pokroy**

Previous articles about dual nationality for South African citizens and the complexities that surround this have appeared in *HR Future*.

Prior to giving the actual update on the situation, it is important to note that the South African Constitution enshrines the right to citizenship. Similarly, the South African Citizenship Act number 88 of 1995 also permits a South African citizen to acquire the citizenship of another country.

In defined time spaces, that is, pre 1949, post 1949 but prior to 1988 and post 1988, the Rules have remained essentially the same. To sum it up, there has been no prohibition against a South African citizen obtaining a citizenship of another country provided that the necessary steps are taken by the South African citizen to preserve their South African citizenship status. The main focus of this article is in respect of the post 1988 proclamation of the South African Citizenship Act 88 of 1978 “the Act” as this is where most of the enquiries are received in terms of time frame.

One may ask why this topic is being covered once again and hopefully an explanation will materialise hereunder.

The reason for covering this article stretches somewhat further in that, with the global village being narrowed down in size because of technology and communication, skilled South Africans, and skilled individuals from other countries are migrating across the globe “exporting” their skills wherever needed. Attractive remuneration packages and benefits are generally the carrot dangled in front of them, but the fact of the matter is that South Africa is losing skills in a global skills migration scenario.

The further relevance of this is that when a South African who has migrated to another country reaches the stage where they have permanent residence and now become eligible to apply for the passport of that country, a two edge sword comes into operation. Even where the individual does not acquire the citizenship in this fashion, the Act provides that where citizenship of another country has been applied for by way of a “formal and voluntary act” then this constitutes the relevance for this article. In other words, an individual who applies for an ancestral visa based on their parents’ or grandparents’ prior citizenship and does so by way of the aforesaid “formal and voluntary act” then they too would be exposed to the vagaries of the Act.

The consequences of not taking the step of applying for retention of South African citizenship status prior to acquiring citizenship of another country are drastic.

Section 6 of the Act provides that there would then be an automatic loss of South African citizenship status. Some schools of thought, mine included, believe that this automatic loss is potentially also unconstitutional but, until the question is tackled in the Constitutional Court, it would be impossible to state this with any certainty.

It therefore becomes vitally important and
indeed essential that, when a South African citizen contemplates taking out citizenship of another country, they should first apply for retention of their South African citizenship status in anticipation thereof. Only once that retention certificate is in place should the other citizenship be acquired.

The amount of enquiries that our office receives on a daily basis from South Africans who have been affected by this loss of citizenship status, “innocently” and without realising the consequences of their act, is enormous.

Generally, such person would only find out about their loss of South African citizenship status when applying for a new South African passport as the relevant form requires you to state whether you have acquired citizenship of another country and indeed asks when and how.

All of this is easy to avoid by doing a retention of Citizenship application.

A free assessment of such situation is accessible on our website (www.immigration.org.za) by clicking on the “Free citizenship assessment questionnaire” icon and completing and submitting the questionnaire.

The same process would apply to someone who wishes to acquire a further additional other foreign citizenship, where the process would have to be repeated again for each citizenship acquired.

The vexing question that now begs answering is: what happens to the status of the person who has now recently lost their South African citizenship status?

The answer to that is rather simple in the sense that a South African citizen who was born a South African citizen, that is, not naturalised as a South African citizen, would retain their right to permanent residence in South Africa and ultimately after a passage of time would indeed qualify to apply for a resumption of South African citizenship status if they returned to South Africa, a phenomenon which literally occurs daily, judging by the many enquiries received every single day on this topic.

There are very few specialist attorneys in South Africa dealing with this kind of matter and it is vitally important that, should you or an employee of yours be placed in a situation such as that outlined above, expert advice should be sought. The last place to ask for such advice would be the officials at the counter desk of the Department of Home Affairs or an Embassy or High Commission.

As another aside to the above, it is important also to note that the Act provides that a South African citizen must exit and re-enter South African soil with their South African passport at all times. Indeed it becomes an offence not to do so.

A South African national who has knowingly or unknowingly lost their South African citizenship status will, after their South African passport has expired, not be able to fulfil this statutory requirement.

If they do try and then exit the country on their non-South African passport, then the chances are, and indeed this happens quite often, that they will be prevented from leaving or re-entering the country, if their foreign “other” passport is from a non visa exempt country.

Therefore this is an advisory to anyone who is in the above situation whether it be the reader personally or an employee, to have their status determined formally by a professional and then to take the necessary steps to either obtain a retention of South African citizenship status or, if they qualify, for a resumption of South African citizenship status.

Over the last few years there have been quite a number of South Africans who have left South Africa, ostensibly for so called “greener” pastures, who have been retrenched or become redundant or are simply not happy in their adopted countries, and wish to return to South Africa, who are faced with the situation of having to apply in many instances for a visa to come back to their country of birth or naturalisation.

This matter therefore takes on a larger connotation and interpretation.

Attractive remuneration packages and benefits are generally the carrot dangled in front of them, but the fact of the matter is that **South Africa is losing skills in a global skills migration scenario.**

Julian Pokroy is one of South Africa’s leading immigration and citizenship law specialist Attorneys, www.immigration.org.za, and currently heads the Law Society of South Africa’s Immigration and Refugee Law Specialist Committee and also heads the Immigration, Nationality and Refugee Law Committee of the Law Society of the Northern Provinces.
As a certified Top Employer, Transnet aims to become the leading employer of choice and attract and retain the best talent in the country.

Improving its work culture and environment is integral to Transnet’s goal of becoming a leading employer of choice. Earlier this year, the company introduced its five-year Employee Value Proposition plan, which has six strategic themes, namely:

1. Valuable work;
2. Market enabler;
3. Inspirational leadership;
4. Service excellence;
5. Performance driven; and
6. Value diversity.

Culture

The Transnet Culture Programme and Culture Charter behaviours form a critical link in the company’s endeavours to become a world-class organisation where all employees feel they belong.

Scoring how employees live the behaviours is equally important, as the organisation cannot improve or implement initiatives without having a sense of what employees value or would like to see improved. Transnet has several culture initiatives, which are a result of insights deducted during previous scoring. These initiatives include an anti-bullying campaign.

The company conducted its first Transnet Culture Charter Survey in 2008. It has seen a significant improvement in the number of participants in its annual Transnet Culture Charter Survey. In 2015, it saw the highest Culture Charter scoring participation since the inception in 2008.

Talent management

Talent management is another key component of Transnet’s endeavours to become a leading employer of choice. The company has a rigorous talent management methodology, which is inclusive of talent identification, succession planning and leadership development.

What sets Transnet’s approach apart from that of its counterparts is its High Potential Programme, which accelerates the development of top identified talent. The two-year programme provides participants with tools and expose them to critical projects and initiatives in the business.

Transnet prides itself in that more than 50% of appointments to leadership positions are internal promotions, which were made possible through this process.

Learning and development

In 2016, Transnet invested R880 million of its wage bill on skills development against its plan of R678 million. It recorded 58 967 training initiatives against the target of 40 074.

The company responds to the broader skills development challenges of the country by ensuring that training plans are responsive to the economy’s critical skills requirements, specifically engineering skills and artisans.

Transnet’s Human Capital Strategy responds to both the skills shortages experienced in the economy and the company, through workforce planning and feeder training pipelines.

Workforce planning provides a detailed analysis of business needs and skills requirements and gaps. A stringent engagement process involving line managers ensures accurate identification of the skills that need to be developed. This process is enhanced by collating information from employee development plans.

Feeder training pipelines have been established for critical skills categories, including artisans, technicians, engineers, sector-specific and protection officers. The Youth Development strategy is aligned to the feeder pipelines. The feeder pipelines also provide the focus areas for student financial assistance, internships, learnerships, apprenticeships, sponsorships, career guidance, various graduate programmes, and coaching and mentorships.

Transnet supports its feeder pipeline graduates through its Engineer-in-Training (EIT) and Technician-in-Training (TIT) programmes. In 2016, 23 new EITs joined 352 other engineers in the programme. Seventy-four new TITs joined 413 technicians in a 24-month programme that includes mentoring and coaching.

Transnet also has six schools of excellence, namely, the School of Rail, School of Engineering, Maritime School of Excellence, School of Pipelines, School of Security and School of Leadership.
Do your employees live to work or work to live?

Good managers help their people cope with their workload.

By Vanessa Gibb

Is it just me or are most people struggling to balance work and private time? Is everybody really “too busy”? Are there really “not enough hours in the day”? Or is it simply a question of prioritising?

Work-life balance is an EU policy priority. In France, the state provides in-home childcare for working mothers and even housekeeping for new parents! While the Nordic countries famously offer even more support for dual-earner families. Yet with the realities of our economy, how do we deal with this conflict?

Research into this topic dates back to the 1970s and it was not only executives who were battling with this feeling of overwork. Early research talks about the struggle of working shifts and its impact on family life. The research moves into the eighties where economies again started to boom and corporate America’s high-level execs were burning out. Then came ‘yuppie flu’ and more burn-out; divorce rates soared – many citing work-life imbalance as the reason.

Then came the age of the virtual office and the struggle (as the kids say) got REAL! Many employees battle to switch off devices which keep them connected to the work environment and feel the need to respond to communication as it comes through. On the other side of the coin, many employers expect employees who have virtual offices to be always on, resulting in the concept of office hours disappearing completely. Furthermore working in a global village, needing to be flexible, adaptable, competitive and available at all times, how does one strike the balance?

In past generations, most jobs had working hours. Social lives and work lives could be separate and boundaries were clear. Many factors mean that this is no longer true and work hours are negotiated between individuals, or set as part of company culture. So it comes down to being able to set boundaries and say no when excessive demands are placed on our time, and ideally to set expectations around delivery rather than just time.

Research into handling this conflict from an employer’s point of view has suggested flexible work hours, compressed work weeks (employees work a full week’s time in just four days), working from home, job sharing, family leave programmes, onsite childcare and more. Many enterprises are already offering these benefits, but we need to be realistic about our expectations and boundaries.

A manager should ensure team members can cope with the workload that they have, but we must each ultimately be responsible for our own wellbeing in the office. Setting your own boundaries, and making these known to people who rely on you at work: clients and colleagues, are a great start. For example, you might not work at all on a Saturday, or may limit screen time after 19:00. There may be times when you consider bending these rules, but if expectations are managed, boundaries like this are healthy.

Vanessa Gibb is the People Operations Manager at Native VML, www.native.co.za.

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While your job is important, it’s not who you are.

By Alan Hosking

As the Boomers have moved firmly into the 50 to 70 year age group, even they’re starting to think differently about the way they work. For the past 50 years, they have had a “live to work” mentality which saw them achieve much, develop much and earn much. But they also worked much.

Remember the saying, “If you want something done properly, do it yourself”? That’s a Boomer saying that summed up their attitude to work. Because their parents turfed them out the home as soon as they completed their schooling, they grew up to be capable, competent and committed. They learnt to rely on themselves and, if they couldn’t do something themselves, would find someone who could help them, usually not their parents.

For a number of reasons, this generation did not look to their parents, rely on their parents or hang out with their parents (that was just not cool) once they reached adulthood.

Yet, when it came to raising their own children, they allowed their children to rely on their competence, so much so that their children still consider themselves to be children until the age of 30. Yep, childhood is now said to end officially at the age of 30.

And so Generation Y, the Boomer Babies, is considered to be the highest maintenance workforce the world has ever known. Not for them this “live to work” mentality. They’re much too smart, and spoiled to give their all for their employers. Besides they have been told what happened to their grandparents who were retrenched or put on early retirement just when they were at their most vulnerable, only to see them struggle financially because of that.

So young and old have, for different reasons, a different view of work to those who occupied the workplace in the late 1900s. They feel the old saying, “No-one has been heard to say on their deathbed, ‘I should have spent more time at the office’,” sums up their view of their jobs.

As you reflect on your career activities during this past year, what would you say is your view of your job? Did you approach it like an all-consuming 100 metre sprint or did you take a marathon approach where you paced yourself for distance?

I would be the last person to say you should slacken off at work. I would however advise you to see your job as one aspect of who you are and what you do. It’s interesting to observe that, when I ask people to tell me about themselves, they tell me about their jobs. Sure, they might think that that is what I want to know, but it might also be that they only define themselves in terms of their jobs.

Have a good look at yourself. If you find that you’ve started defining yourself in terms of your job, maybe it’s time to reframe who you are.

What kind of legacy are you planning to leave your children, your community and your country? If you want to leave them a legacy of love and laughter, of a life well lived, I urge you to see your job as a part of you rather than all of you.

To assess how irreplaceable you are, do the water in the bucket test: fill a bucket with water. Stick your hand into the water. Stir the water around. Make big splashes, throw some of the water out of the bucket while all the time keeping your hand in the water. That sums up your contribution at work. Now, to work out how replaceable you are, withdraw your hand from the bucket after all the splashing and stirring. The hole that’s left in the water after you have removed your hand is the hole that will remain in the company after your departure.

Alan Hosking is the Publisher of HR Future magazine, www.hrfuture.net. He helps leaders acquire new leadership skills to lead into the future, and is an age management and self-mastery coach to senior executives. Alan is the author of best seller What nobody tells a new father, available at amazon.com.
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