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Is Reskilling Right for You?

The new buzzword - what's it all about?

Sharlene Rollins
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Perspective

Reskilling or upskilling is the new term for retraining. It could be improving current abilities and learning new skills to advance the role that you are presently in or learning a new set of skills for a new career in another industry sector. For example, you could be studying accounting to work in finance or developing more soft skills to work in HR. Reskilling is a key word these days due to a number of factors, ranging from rapid changes in technology to automation and artificial intelligence. The world of work keeps changing. Where do your skills align in relation to the new reality that is emerging?

Who needs to think about reskilling?

New technologies, changes in demographics, an aging population and the COVID pandemic are reshaping most workplaces. Not that long ago, only a handful of people worked from home. Today, most office workers, even managers, spend at least part of their time working remotely. In 2020, the World Economic Forum's *Future of Jobs 2020 Report* said that "80% of companies surveyed are speeding up the automation of work processes while 50% are accelerating the automation of jobs".

They predicted that "50% of employees will need reskilling before 2025" and that "85 million jobs could be displaced while 97 million new jobs could emerge because of changing technologies and trends." We are not immune from those trends in Canada. A poll by the Conference Board of Canada in 2021 found that "64% of managers already use automation-enabling technologies and 30% are planning to, for a total of 94% of those polled."

What's happening in Canada and the world

The Conference Board of Canada identified 92 occupations that will likely be displaced by automation, leaving workers to reskill. They identified accommodation and food services, manufacturing, retail, construction and health care as sectors that would be most affected. Overall, about 1 in 5 employees in Canada will be impacted in the years to come.

Where are the jobs of the future? That's the question everyone is asking and there are few answers. We do have some predictions about the skills that will be needed on an ongoing basis. According to the World Economic Forum in 2025, these are the skills that will be most in demand:

- Analytical thinking and innovation
- Active learning and learning strategies
- Complex problem solving
- Critical thinking and analysis
- Creativity, originality and initiative
- Leadership and social influence
- Technology use, monitoring and control
- Technology design and programming
- Resilience, stress tolerance and flexibility
- Reasoning, problem solving and ideation

Are you a good candidate for reskilling?

Take a look at the above list. How many of these skills do you already have? How many will you need to pick up to remain relevant to your organization? Where is your employer heading in the next few years? Not only do you need the necessary tech skills, but do you have the capacity and willingness to learn new technology? Those who don't may get left behind.

The good news is that if you are willing, your organization likely wants to keep you. They also want to grow for the future and need you to do the same. If you can learn on the job or online, manage your own time and can work independently, you can make reskilling work. When you are ready, approach your boss and get approval to do your research and put together your own reskilling plan.

Methods of reskilling

The other good news is that there is still time to reskill and that there are multiple methods to accomplish it. These range from on the job learning to e-learning programs that are available now in just about every subject. Many industries and their respective professional organizations also offer upgrading and reskilling programs. If it's soft skills that you're missing, then coaching or mentoring may work.

You might need to develop your own skills inventory that takes stock of what you have accumulated to date and what you may need in the future. Then, develop an action plan and a training plan and get funding approval from your organization if available. Don't get left behind in the reskilling revolution.

Sharlene Rollins is Manager, Administration for IPM [Institute of Professional Management].

Nathaly Pascal
RPR, CMP, RPT
President

President's Message

Qualities of a Great Manager

Do you have what it takes?

What makes a great manager? That's a good question because there are not just one, two or even three qualities that make up what a person needs to be a great manager. Here's what I find to be a few of the basics.

You may have a million great ideas, but if you can't communicate them to individuals and teams in a way that they understand, you will likely fail as a manager. As much of a manager's job involves giving direction, getting feedback and sharing information, good communication skills are absolutely essential for any manager. Active listening is also important because it allows you to better listen to the ideas, opinions and feedback of your workforce.

Managers at every level of the organization must be able to motivate themselves. This is crucial because there will be times when you feel all alone, when the buck lands directly on your desk and you have to be able to respond properly. This doesn't mean that you always have to have a sunny or happy disposition. Sometimes, the issues you are dealing with will be very heavy. You must be able to push through the hard times to get to the other side.

Where are you going? That's what your team members want to know. Are you leading them to greater success and how do you plan on getting there? Every great manager has a vision of what they wish to achieve. You don't have to have all of the answers right now. In fact, it may be even better if your team can help develop the plan to get there with you. That way, they feel some ownership and a real connection to your vision.

The biggest challenge of all for any manager is getting your employees to follow you. As noted above, your team needs to be connected to your vision and committed to your plan to achieve it. How do you motivate them to come with you? Many ways will work and good managers try them all. They can include tangible benefits which are dependent on your budget. Always remember that your employees will be more motivated if you treat them with fairness and respect. Also, there is no budget required for fairness and respect.

Don't forget to give them recognition - words of praise and encouragement. This quality is truly priceless and will help you succeed in every aspect of your life.

Remember, great managers are not born. They are made.

Nathaly Pascal is President of IPM [Institute of Professional Management].

INSIDE THIS ISSUE

"I've fired the entire company except you, Jerkins. You'll have more work without pay, but you do have job security."

Termination Clauses in Ontario Take Another (new) Hit

Don't contravene ESA

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Introduction

The power imbalance between employer and employee has often been a factor taken into consideration by courts when interpreting employment contracts. *Dufault v The Corporation of the Township of Ignace,* 2024 ONSC 1029 ("Dufault"), is no exception. In that case, the Ontario Superior Court of Justice held that the termination clause in the employment contract was unenforceable because it contravened several ESA minimum standards, most notably for the use of "at any time" and "sole discretion".

Background

Ms. Dufault was employed as a Youth Engagement Coordinator when she was terminated without cause after 15 months of employment with The Corporation of the Township of Ignace ("the Township"). At the time of her termination, Ms. Dufault's salary was $75,000 as well as employee benefits and participation in a pension plan.

On or about November 24, 2022, Ms. Dufault signed an agreement with the Township where it was agreed that Ms. Dufault's employment would continue for a fixed duration ending on December 31, 2024. On January 26, 2023, Ms. Dufault was terminated on a without cause basis effective immediately. The Township paid Ms. Dufault's two weeks' termination pay and continued her benefits for two weeks.

Ms. Dufault moved for summary judgment for wrongful dismissal and damages in the amount of 101 weeks' base salary and benefits, less the damages already paid. Ms. Dufault argued that the termination clause in her employment contract was illegal and unenforceable.

The Decision

The judge concluded that the termination clause in the employment contract was not enforceable. The judge noted that appellate jurisprudence on employment contract interpretation had demanded increasingly stricter standards for employers to comply with the *Employment Standards Act* ("ESA"). The judge restated the law in employment contract, i.e., an employer is not allowed to contract out of, or waive, an employment standard when drafting the contract. To determine the enforceability of a termination clause, a court must therefore examine and evaluate the wording of the employment contract when it is entered into; the employer's conduct upon termination being irrelevant. Based on this approach, the judge concluded that the termination provisions in the contract contravened the ESA in several aspects.

First, in line with the infamous *Waksdale v Swegon North America Inc.*, 2020 ONCA 291 decision from the Court of Appeal, the judge found that Ms. Dufault's contract mistakenly referred to the common law concept of "just cause" dismissal, rather than the higher test found in the ESA, where the conduct must be serious and intentional. Indeed, under the ESA, an employee will be refused notice of termination or termination pay only if it is guilty of "wilful misconduct, disobedience or wilful neglect of duty that is not trivial and has not been condoned by the employer". Therefore, the judge found that in that case, the language used in the employment contract conflated grounds for dismissal under the ESA with the common law standard and had the effect of wrongly extending the criteria for dismissal without notice to conduct not provided for in the ESA.

Second, the judge found that the "without cause" provisions in the contract contravened ESA minimum standards by disallowing Ms. Dufault from all "regular wages" she was entitled to. The termination clause only referred to Ms. Dufault's base salary without any mention of her entitlement to vacation pay, sick days and unpaid overtime hours.

Third and perhaps most notably, the judge found that the contract misstated the ESA when it gave the employer "sole discretion" to terminate the employee's employment "at any time".

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Termination Clauses in Ontario Take Another (new) Hit

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The judge noted that the ESA provided for situations where an employer is prohibited from terminating an employee, such as on the conclusion of an employee's leave or in reprisal for attempting to exercise a right under the ESA. As such, the judge stated that an employer's right to dismiss was not absolute, which meant that the use of such language was a contravention of the ESA and also rendered the clause void.

The judge ultimately awarded damages for the duration of the fixed-term contract with costs.

Takeaways for Employers

Employers should be aware that employment contracts are heavily scrutinized to favour employees, unlike standard commercial agreements. Therefore, caution and care should be exercised when drafting such contracts in order to ensure compliance with all ESA minimum standards.

That said, the analysis in Dufault as it relates to the use of "sole discretion" and "at any time" is not one that has garnered much traction in Ontario to date. However, we understand that it is likely that this decision will be appealed, so there may be more to come on this particular issue should the Court of Appeal weigh in.

Notwithstanding the possibility of an appeal, Dufault again demonstrates that the courts are also regularly evolving in their reasons to hold a termination clause as unenforceable. It is therefore important for employers to regularly update the termination language in their employment agreements, in consultation with experienced employment counsel.

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The Times are Definitely Changing

Is the legal standard for "just cause" catching up to an evolving social context?

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Feature

As many employers know, the threshold to terminate an employee for "just cause" is very high. This is because terminating for just cause allows the employer to end the employment relationship without reasonable notice or pay in lieu thereof – it is the capital punishment of discipline.

Termination of an employee for just cause is even more difficult where it concerns an employee with an otherwise pristine disciplinary record. So how egregious must that employee's (mis)conduct be to meet this threshold? Has this threshold changed, as society's values have changed over time?

In the Board of Reference (the "Board") Decision in ***Edwards v Pembina Hills School Division*** issued on October 19, 2023, the school division terminated the teacher's employment for just cause due to an isolated incident of the teacher "coerc[ing] the [minor student]…by placing her hands on him", "moving his body and straddling him," and proceeding to "bounce and grind on his lap" (the "Incident"). The school division further noted the student had special education needs and an Individual Program Plan, authored by that same teacher, that required keeping physical distance from the student to avoid causing him to feel threatened. The teacher appealed the school division's decision to terminate her employment to a Board of Reference in accordance with the *Education Act*, arguing that such termination was unreasonable and that a lesser form of discipline should have been imposed. The teacher otherwise had a clean disciplinary record.

There was no question that the teacher's actions constituted misconduct. However, to establish "just cause," the misconduct must be sufficiently serious. On this point, the teacher cited the 1986 decision of ***Hogan v Commissioner of the Northwest Territories***, 1986 CanLII 6578 [*Hogan*], where a Board of Reference found that a teacher twisting the arm of a student, patting a student on the bum for the purpose of "teasing her" rather than for "sexual gratification", and singling her out for "special attention", did not constitute just cause.

The teacher's argument was that the Incident was not so serious as to justify dismissal without notice as her physical touching of the student, like in *Hogan*, was not motivated by sexual intent.

The Board invited the parties to make submissions on ***City of Calgary v CUPE Local 37***, 2019 ABCA 388 [*Calgary*], in which the Court of Appeal overturned a judicial review decision upholding an arbitral award that substituted a lengthy suspension for termination as discipline for squeezing a colleague's breast without consent. The Court of Appeal adopted an updated definition of sexual harassment, which incorporated gender-based harassment and acknowledged the evolving legal landscape. Regarding the importance of social context, the Court stated:

Social context informs the application of arbitral precedent. Arbitrators must consider whether time and changing social values reveal precedents to be based on faulty assumptions about acceptable sexual conduct in the workplace.

Accordingly, reliance on precedent that is incongruent with modern society's views of acceptable conduct in the workplace would render a decision unreasonable. The Court further held that harassment with a physical component constitutes a form of sexual assault and is among the most serious forms of workplace misconduct.

In the wake of the Court of Appeal's decision, the Board refused to rely on Hogan as suggested by the teacher. Notably, the Board stated that *Hogan* inappropriately focused on whether the complainant felt the conduct was "serious" rather than considering the context in which the misconduct occurred. Instead, the Board concluded that the Incident was properly characterized as sexual assault, or at minimum, a "very serious sexual harassment" and would therefore attract the most significant form of discipline: termination. Termination is especially proportional in this context as teachers are subject to a high standard of conduct, given their position of trust and authority over vulnerable children. Ultimately, the Board was satisfied that just cause existed for the teacher's termination.

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Building Self-Esteem and Confidence

Monika Jensen
Ph.D

Principal
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Feature

We can always use a boost in our confidence and self-esteem. Ways to become more confident and think more positively include taking courses, practicing and speaking to others with whom you feel comfortable. Confidence comes from well-being, accepting your self-esteem and belief in your ability, skills and experience.

So how do you do that? Here are some tips for building self-esteem that can help:

- Become aware of your thoughts and beliefs. Once you have learned which situations affect your self-esteem, notice how you think about them.
- Challenge any negative thinking and pay attention to the troubling conditions.
- Adjust your thoughts and beliefs.
- Reflect and close down that monkey chatter.
- Accept your thoughts.
- Take steps to feel better about yourself.

As you build your self-confidence, look at what you have already achieved. Thinking that you have not attained anything may cause you to lose confidence. Everyone has strengths and capabilities; which ones are yours? Think about these and set some goals to focus on the positive, doing things you enjoy and trying something new and different, like asserting yourself or spending time supporting people.

We talk about self-esteem. What is it? Self-esteem is the opinion you have about yourself and your abilities. Factors like confidence, identity and sense of belonging can influence it. Self-esteem can be high, low or somewhere in between.

When you have low self-esteem, you are not confident in your abilities, personality or the value you bring to others. Low self-esteem might be caused by not feeling a sense of security, doubts about your gender, sexuality or body, and feeling like you do not belong with your family, friends or colleagues.

On the contrary, having good self-esteem means having positive beliefs about your abilities and your place in the world. It can be caused by confidence in your ability to create change and withstand challenges, confidence and pride in your identity and a feeling like you belong in your family, work or group of friends.

Your self-esteem comprises four attitudes about yourself: your confidence, sense of identity, sense of belonging and being self-assured in your abilities.

Self-confidence is all about your sense of security in yourself and your life. You can only branch out and grow if you feel secure that your needs are being met. Having your needs met means you have things like a place to live, physical health and stable finances.

Your sense of identity is essential to your self-esteem because it is your knowledge about yourself. This can include your confidence in your body, your gender, your sexuality, your job, your beliefs, your culture or anything else about yourself. It's helpful to be confident in these things because they can help you understand what you need and what you want in life.

Belonging is all about feeling welcome and an active part of where we are in life, whether in your school, workplace, family or other groups you are a part of. Sometimes, if you do not feel like belonging in one group, like your workplace, you can find your sense of belonging in another, like your family or friends.

Feeling confident in your ability to control what happens to you is essential. If you're confident in what you can do, you can handle significant challenges and make the changes you need to respond to them. However, being confident in your abilities is about more than just succeeding. It's about learning from your mistakes and being resilient in the face of failure.

Self-esteem is important because it supports everything you do, from everyday chores and activities to long-term goals. While everyone occasionally doubts themselves, low self-esteem can leave you feeling insecure, lacking motivation, unable to respond to challenges in your life, anxious or depressed, with negative thoughts and feelings about your body image.

Learning to recognize the situations which affect your self-esteem is essential. Identify the scenarios that boost self-esteem or diminish it and learn how to handle them. For example, if you have researched an issue thoroughly and have a good

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grasp on how to solve the problem, have the courage to stand by your convictions. As long as you've done your homework, you can assert yourself and remain confident. There will always be those individuals who will disagree, argue or try to bully you. Do not let your self-esteem or confidence diminish in these situations.

Believe in yourself and your place in the world. This will help you succeed for the rest of your life! Go ahead, be your fabulous self!

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With societal expectations regarding appropriate workplace behaviour clearly shifting, employers have sometimes been faced with a double standard. Namely, employers carry OH&S statutory obligations to prevent and address workplace misconduct of this nature. Further, this type of misconduct is now widely considered intolerable by today's society. Despite this, the burden on an employer to establish just cause seemingly remains high. In result, employers have been left holding the bag, paying out severance to offending employees. While this recent case law has not lowered the standard for just cause per se, it is good news for employers that arguably signals the times may in fact be changing.

Where an employer becomes aware that an employee has engaged in misconduct and/or is considering the termination of an employee for just cause, they are highly encouraged to seek legal advice to assess whether the employee's misconduct warrants summary dismissal in the context of the modern workplace.

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Changes to Compensation: 15 Business Days to Acquiesce? Not so Fast!

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Feature

Employers should not assume employee's silence is always sufficient for implied consent.

With economic and technological conditions changing rapidly in today's market, employers often have to make changes to their employee's terms of employment to adapt to such changes. The risk for employers is that unilateral changes to terms of employment can potentially trigger constructive dismissal, resulting in the employer owing termination notice to the employee. However, if the employee does not object to the changes within a reasonable time, a claim for constructive dismissal may be defeated. A recent Alberta Court of Appeal decision suggests that objections to such changes need to be made known to the employer within 15 business days; however, more recent decisions disagree with such a bright-line test.

Unilateral Changes and Constructive Dismissal

In *Kosteckyj v Paramount Resources Ltd,* 2022 ABCA 230, the Alberta Court of Appeal summarized the current state of the law regarding constructive dismissal. There are two situations where constructive dismissal will result. The first is where the employer fails to substantially discharge an essential obligation in the employment contract to the detriment of the employee, and the employee, within a reasonable time declines to accept the new terms of employment. The second is where the employer treats an employee in a disrespectful manner and makes the employment relationship intolerable.

The *Kosteckyj* decision focuses on the first situation, and outlined the test for whether constructive dismissal has occurred, being: (1) whether an express or implied term of the employment contract had been breached, (2) whether the breach substantially altered an essential term of the contract, and (3) whether a reasonable person in the employee's situation would feel that an essential term of their employment contract had been substantially changed.

In *Kosteckyj*, the employee's base salary was reduced by 10%, their bonus was delayed or cancelled, the employer RRSP contributions of 6% of their salary was suspended, and access to seminars or training were stopped. Justice Wakeling on behalf of the Court of Appeal agreed with the trial judge that the reduction in compensation in the range of 16% to 20% constituted substantial changes to the essential obligations the employer had in the employment agreement. However, Justice Wakeling did not agree that the employee did not accept or acquiesce to the new terms of employment.

Consent and Acquiescence

The law states that if the employee either consented or acquiesced to the change by not making their objections known, the change would not be unilateral and constructive dismissal would not be established. In *Kosteckyj*, Justice Wakeling found that it would be a rare case that a reasonable period would exceed fifteen business days for an employee to make an informed decision regarding the change and object, and having such a bright-line test would be useful for both employers and employees, because it provides for certainty to both parties.

Justices Pentelechuk and Ho concurred in the result, and agreed that the employee's decision to keep working for 25 days strongly suggested that she acquiesced to the realities of her employment situation. However, they hesitated in accepting a specific time period for objections that would apply generally to all employees.

Appropriate Period for Consideration Determined by Reasonableness Standard

In a more recent decision, *Rooney v GSL Chevrolet Cadillac Ltd,* 2022 ABKB 813, one of the reasons for the employee's claim for constructive dismissal was the reduction in the employee's compensation by more than 31%. The change was explained in clear terms to the employee on March 22, 2010, but the employee did not assert

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Learning to Shut Down: Email

It's the new law of the land

Members Quarterly Staff Writer

Feature

Q| Wouldn't you like to just shut off the world for the weekend? Turn off your laptop? Put your phone on 'Do Not Disturb' mode?

Now you can across Europe and thanks to the Right to Disconnect legislation, you can do it in Ontario as well. Most experts expect similar laws and regulations coming soon across Canada.

They appear to have a more, shall we say, relaxed approach to the intrusion of electronics into the bedrooms and the weekends of the nation.

It started on the continent

The Europeans appear to have a stricter approach to the intrusion of electronics into the bedrooms and the weekends of the nation. In Germany, Volkswagen, the automobile manufacturer, has programmed its email servers to stop delivering email to their employees 30 minutes after work and to begin sending them again 30 minutes before the start of a new workday. There are no emails sent out from the servers on weekends at all. It's not only Germany that has implemented some type of approach designed to disengage employees completely from the workplace once the formal workday is done.

In France, which has long been known for its overly generous vacation leave allotments, they have passed a law that gives employees the 'right to disconnect' from their phones and emails after working hours. This law is applicable to every French organization with more than 50 employees. All of them have to draw up a formal charter that sets out the normal hours when their staff are supposed to send or answer emails. If they require employees to answer outside of this time period, they must pay them an overtime supplement.

Ontario is leading the way in Canada

As part of a package to improve workers' rights, the Ontario government's right to disconnect law gives employees the right to detach from work activity outside of work hours. It applies to all companies with employees of 25 people or more. Those employers are required to have a written policy on disconnecting from work in place for all employees. They are also required to provide a copy of this policy to all employees. According to the legislation, "disconnecting from work" is pretty broad. It means not engaging in work-related communications, including emails, telephone calls, video calls or sending or reviewing other messages, to be free from the performance of work.

Why they're doing it

It is not surprising that the Europeans moved first in this direction because they have a different approach to work than many North Americans or Asians. The Germans, for example, have the reputation of being strong and focused workers with an intense desire to get things done. However, this is melded with the idea that you also need to take time off for self-care and relaxation and to come back to work ready and refreshed for the next challenge. No one would doubt the German success in all aspects of business and productivity.

There are also legal frameworks and moral codes in France and other continental European countries that make generous vacation time mandated by law and viewed as a necessary and fundamental aspect of life. Not only do they have lots of vacation time, but all employees, from executives to clerks, are expected to take it all in the year that it is earned. Canadians appear to be catching up as the Ontario legislation demonstrates.

We still have work to do here

In Canada and across North America, the rise of the business email-friendly Blackberry meant that many of us were cracking away at our phones at all hours of the day and well into the night. One study by a major software company in the US estimated that 83 percent of professional workers said that they regularly checked emails after work. Two-thirds had taken their smartphone or laptop on vacation. More than 50 percent reported that they send emails while having dinner with their family and friends. What is wrong with us? We do not have the legal or societal frameworks to help us slow down. We also have an innate drive to try and add one more piece to the great puzzle we are

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Changes to Compensation: 15 Business Days to Acquiesce? Not so Fast!

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constructive dismissal until May 6, 2010. In response to Justice Wakeling's 15-business day rule, the Court in *Rooney* agreed that this rule may be appropriate for employees who are professionals with the means to be informed of and have the ability to assert their rights, but such a bright-line rule for all employees is inappropriate given varying degrees of sophistication and agency of employees. The Court preferred determining acquiescence by considering all the relevant circumstances of the case and on a reasonableness standard.

The Court ultimately found in *Rooney* that the changes to compensation (in addition to arguments regarding unpaid suspensions) constituted a substantial change to the essential obligations the employer had in the employment agreement and that the employee did not acquiesce on the basis that the changes to the employee's terms of employment were not clearly explained to him until March 22, 2010 and the financial impact of the changes remained unclear until the employee received their pay statement in mid-April, particularly when monthly variations in the employee's compensation was common prior to 2010. As a result, constructive dismissal was established.

Key Takeaways

If an employer plans to make changes to an employee's terms of employment, particularly when those changes are significant and/or involve changes to compensation, employers should not assume that an employee's silence is always sufficient for acquiescence or implied consent to defeat a constructive dismissal claim. Employers should consider these two recent Alberta cases, particularly the *Rooney* decision which cautioned against a bright-line rule. Employers are recommended to seek legal advice on how best to manage such changes, especially when the changes will be company-wide, and when it is unclear whether employees will object to such changes.

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Learning to Shut Down: Email...

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creating. Some people refer to this as allowing technology to help us implement a positive view we already have of ourselves. It also allows us to not just produce in this crazy modern marketplace, but to be able to prove that we are working and producing, should anyone ask. Others call it by its more appropriate name, an addiction to technology and working.

The times we check our emails are changing

More and more companies on this side of the Atlantic are trying to change the culture in their workplaces when it comes to the use of email after regular working hours. In fact, one study showed that about one in four major North American corporations have created rules similar to the Volkswagen model on email, including both formal and informal policies and directives to employees. What they are finding is that the overall productivity is not dropping as some feared, but is actually increasing.

That is because employees are more relaxed when they come back to work and thereby more effective and productive during normal business hours. They are also less stressed and that means they make better and more thoughtful decisions. In addition, they don't get sick as often which is a direct benefit to their employer with reduced costs of absenteeism, less money being paid out in company health benefits and fewer employees on both short and long-term disability plans. It is difficult for employees and employers to break their addiction to working around the clock, but it does appear that times are changing in this area. Vive la difference!

Members Quarterly Staff Writer

Investigation Tools You Need to Increase Workplace Efficiency

Streamline your compliance and risk management

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Feature

Employment law compliance can feel like a never-ending effort for HR teams, and it's even worse if you feel like your organization is falling behind or experiencing an increase in compliance breaches. How do some companies make compliance investigations look so easy? What benefits do they receive from their efforts?

Here are three specific tools and processes that leading HR and compliance teams use to drive workplace efficiency and success.

Best-in-class speak-up tools

First, effective HR compliance programs have a robust whistleblowing process. This should include at least one reporting mechanism (e.g., hotline, webform, dedicated email address) that is easy for employees to use. A hotline provides:

- **Anonymity and Confidentiality:** Employees can report concerns without fear of retaliation, as their identities are protected. This fosters a safe environment for reporting sensitive issues.
- **Accessibility:** Hotlines are always open, so reporters can speak up whenever it is most convenient for them. They also offer service in multiple languages and with accommodation for hearing and vision-impaired reporters to ensure every caller can voice their concerns.
- **Real-time Reporting:** You'll receive and can act on hotline reports right away, so reporters don't have to wait and issues don't have time to escalate.

With a proper intake process, you can decrease resolution time, reduce organizational risk and empower employees. When complaints don't fall through the cracks, you're less likely to be hit with non-compliance penalties or lawsuits.

Incident triage that's clear and consistent

When you think about your investigative process for workplace incidents, you might go straight from receiving an employee hotline report to investigating it. However, not all incidents warrant investigations and those that do shouldn't all be addressed in the same manner.

But how do you know you're triaging reports effectively? How do you determine threat levels? What's the best way to investigate incidents of different threat levels?

Key triage factors that organizations who are successfully compliant include:

- A consistent and documented triage tree, judging the incident on, for example, a scale of 1 to 5, where a level 1 has no financial or reputational impact on the organization and a level 5 places the company into crisis management mode.
- A triage committee and a clear decision-making hierarchy including your HR lead, compliance officer, lawyer or other subject matter expert. Together, they should assess the incident and how it could affect your organization in relation to various risks. After that, executives and/or the board should be the ultimate decision-makers on how to address the incident.
- Knowing when and how to work with an external investigator. Large caseloads or simple issues that involve senior leadership, multiple departments, business units, offices or even countries will likely require outside investigators, subject matter experts and legal counsel. When working with third-party investigators:
- Document the reason that you're using a third party in case you get asked questions later.
    - Communicate to key individuals involved (employees, stakeholders, etc.) who will be conducting the investigation and ask for their cooperation.
    - Provide the third-party investigator with information about the situation. Also ensure you provide them with knowledge of the company and the organization's investigation process. They might need information about policies, procedures, etc. in order to ethically conduct the internal investigation.

continued next page...

Investigation Tools You Need to Increase Workplace Efficiency - concluded from page 12

Purpose-built case management (hint: it's not your HRIS or ticketing system!)

Ticketing systems for HR, IT and administrative support are often used to manage compliance investigations. However, they were never built to manage complex misconduct investigations, fraud cases or compliance breaches. One of the benefits of a purpose-built case management system is configurability. To streamline your team's workflow, you need to be able to fine-tune many aspects of the application to reflect your organization's specific needs.

Workplace investigations involve sensitive, highly confidential information. A secure, web-based platform will keep all data safely in one place, minimizing the risk of security breaches. System admins can grant access to various parties on a case-by-case basis, keeping data out of unauthorized hands and helping prevent conflicts of interest.

Finally, integrated tools promote efficiency and effectiveness. Successful compliance investigation tools are most efficient when they are closely coordinated between multiple departments and stakeholders. The same is true for coordination between HR, compliance, legal and risk management tools – they need to seamlessly integrate so that workflows are smooth and complete. This avoids data silos and gives users the power of full-view data relevant to investigations.

HR compliance is tough, so having tools and processes in place makes your job easier and can help drive business success. When you streamline your compliance and risk management, you can spend more time on value-adding actions that protect employees and your organization.

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