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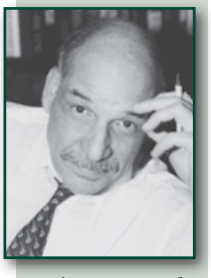

Brian W. Pascal

President

President's Message

Communicating to Succeed

The top of the list of key skills for hiring managers

I recently read an article in which corporate recruiters were asked to rank the key skills that they were looking for when it came to hiring young managers. Not surprisingly, they said that communication skills and the ability to communicate clearly in particular were at the top of the list. They ranked them above technological knowledge, leadership acumen and the ability to work as a member of a team. When it came to ranking communication skills versus managerial ability, there was no contest. The recruiters favoured applicants with good communication skills by a margin of two to one.

What does this say to me? First, the level of communication skills amongst recent graduates must be very low. Secondly, those who can communicate have a clear and obvious value in the marketplace. Last but not least, we should all be looking at ways to improve our skills in this important area of work and business.

The reason for the dimming of our collective communication lights is pretty simple. We have moved away from teaching our children how to speak or write for public consumption. They may have more knowledge than ever and certainly know much more than we ever did. But they have no capacity to tell anyone else about it, except in wordy and inarticulate blog posts or miniature summaries in text or Twitter portions.

This is particularly problematic when our young brainiacs leave school and enter the workforce because the rest of us don't have time to slow down and listen to their questions. We don't really understand the code that they have developed to speak to each other while in high school or college. Many come into the working world without any ability to have an adult level conversation that doesn't take place through a keyboard or Internet connection. They also have zero experience in making public presentations, even the limited variety that is required of junior employees in a team or group setting.

So how do we shift this paradigm and get the pendulum swinging back towards creating workers with good communication skills? In the short term, this is going to be tough because you can train people in many areas, but training in public speaking and better writing is hard to do in the hectic workplace. I guess it will mean patience on our part and finding employees who are willing to undertake this challenge. For many younger employees, it may mean going back to take on additional training if they want that great job or they want to get ahead.

In the longer term, we will need to talk to the teachers and educators so that learning communication skills becomes more of a priority at every level of the education system. Until we do that, we will continue to have a communication shortage, or at least a shortage of qualified candidates to move into mid-level and senior positions in our organizations.

And remember, as former Chrysler CEO Lee Iacocca used to say "You can have brilliant ideas, but if you can't get them across, your ideas won't get you anywhere."

"Your hard work has paid off, Harold. I've decided to give you a $3 an hour raise. But it cost $4 an hour to process it. So we'll be deducting $1 an hour from your pay."

inside this issue:

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Sexual Harassment in the Workplace

Good lessons to learn from bad behaviour

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Feature

Sexual harassment in the workplace became national news when the CBC terminated the employment of its "star" radio host Jian Ghomeshi. Unfortunately, Ghomeshi was far from the last episode of sexual harassment to make national headlines this year. Since Ghomeshi, a Hydro One employee was terminated for sexually harassing a reporter on live television at a soccer match, a businessman made sexual comments to a female comedian hired to perform at a trade event at a country club, military cadets catcalled a speaker from the Ontario Coalition of Rape Crisis Centres and retired Supreme Court of Canada Justice Marie Deschamps issued a scathing report on sexual misconduct and harassment in the Canadian Armed Forces.

These high profile events highlight the need for human resource professionals, managers and in-house counsel to ensure that their workplaces have appropriate mechanisms and policies in place to deal with inappropriate sexual conduct.

The CBC commissioned a workplace investigation and report following the Ghomeshi scandal (CBC Workplace Investigation Regarding Jian Ghomeshi, April 13, 2015). The report identified several weak systems and procedures within the CBC and also missed opportunities to investigate. A number of recommendations were made in the report and while many of these were specifically tailored for the CBC, there are at least three recommendations that all employers can benefit from in reviewing their own workplace policies and procedures.

Review and Clarify Policies

The policies in place at CBC were reviewed and recommendations were made to clarify them. Changes were suggested to the existing Anti-Discrimination and Harassment Policy so that the policy would include definitions of "workplace" and "poisoned work environment", provide guidelines of consensual relationships at work and outline what managers are required to do when in receipt of information that suggests the policy was breached. It should also provide clear guidelines for when the CBC would launch an investigation under the policy in the absence of a formal complaint.

The CBC also did not have a stand-alone Respect at Work Policy. The Collective Agreement contained a broad Respect at Work article that was not expanded upon. A separate policy was recommended with expanded definitions and clarity that would offer protection to all CBC employees, including those not represented by a trade union.

Training

The report highlighted that while CBC employees received training on sexual harassment, the training was "off the shelf" and not geared to individual issues that may arise with particular groups of employees and managers. It was recommended that all employees be trained on CBC's updated policies and that the training be customized. Employees and managers responsible for administering policies require a heightened level of training. Managers must also be trained on how to receive and respond to concerns and complaints. The report also recommended specific training for all employees on what to do if they observe inappropriate workplace behaviour but are not themselves the target.

Workplace Investigations

Improvements were suggested to CBC's process for conducting workplace investigations, particularly surrounding training and record keeping. Not all employees responsible for workplace investigations had been trained. Staff conducting and supervising investigations should be trained in the investigation process and retrained regularly when changes are made. Training on investigations should focus on the dynamics of workplace sexual harassment and also on how to prepare a report. Proper record keeping of past investigations should also be kept.

Ontario Legislative Changes on Harassment and Sexual Harassment

In the wake of the Ghomeshi scandal, the Ontario Government publically addressed the issue of harassment and sexual harassment and proclaimed that it would take policy and legislative steps to combat the problem. In March 2015, the province published a report titled "It's Never Okay: An Action Plan to Stop Sexual Violence and Harassment." The Action Plan outlines the dangers of sexual harassment in the workplace and outlines several areas in which the provincial government intends to combat the problem. The main legislative changes proposed are amendments to the *Occupational Health and Safety Act*.

The details of the legislative amendments are not yet finalized. However, the Action Plan outlines

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Kyle MacIsaac
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Feature

Environmental Sensitivities in the Workplace

How far is far enough in an employer's effort to accommodate?

In recent years, environmental sensitivities have increasingly become subject to accommodation requests and human rights complaints. Employers are required to adhere to ever increasing demands of employees seeking to have their environmental sensitivities accommodated in the workplace.

A Human Rights Tribunal recently considered whether an employer's efforts in accommodating an employee's environmental sensitivities were sufficient in the circumstances.

In *Andruski v Coquitlam School District and another*, 2015 BCHRT 74, the employee, a teacher, had suffered from a severe allergy to scents and dust. In her complaint, the employee alleged that the employer had failed to accommodate her physical disability by: a) not providing a scent-free work environment; b) not enforcing a scent-free work environment; and c) subjecting her to psychological harassment.

By August 2010, an accommodation plan agreed to by all parties was put in place. The employer took the following steps to accommodate the employee's environmental sensitivities:

1. Removed the carpet from the employee's classroom replacing it with linoleum;
2. Authorized the purchase of new computer equipment;
3. Replaced all of the soap dispensers in the school with unscented foam soap;
4. Advised the Vice-Principal on how to accommodate her disability;
5. Communicated with the union about resolving her scent issues as they arose; and
6. Communicated with staff and parents about being scent-free.

Any time the employee filed a report about various staff wearing scents, the employer took remedial action such as improving signage, speaking with scented staff members and reminding parents about sending students scent-free through monthly newsletters.

The Tribunal accepted, without any medical evidence (and "for the purpose of argument"), that *prima facie* discrimination is proven because the employee was in a protected group and had an adverse impact of not being able to work. Then, the Tribunal shifted the burden to the employer to justify their conduct, including that all reasonable and practical steps were taken to accommodate the employee's disability.

The Tribunal determined that the steps the employer took constituted sufficient accommodation efforts. The Tribunal noted the following: 1) the employee was obligated to cooperate with the employer in arriving at a reasonable accommodation; 2) the process of reaching an accommodation or working within it once agreed cannot itself constitute adverse impact; 3) the impact of the accommodation on others is a key consideration; and 4) the applicant has an obligation to accept reasonable accommodation.

Employers may see an increase in the coming years of employees seeking accommodation of their environmental sensitivities.

The above decision highlights the extent to which an employer may need to modify the workplace to accommodate environmental sensitivities of an employee. Of

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Lauren Evans

President, LEI Consulting

Harassment: The Biological Wiring Clampdown

The urgent need for more discussion

The biological wiring concept was recently introduced into the short discussion on harassment in the workplace and was amply covered by the media, which played up the "outrage" at the statement.

In our ultra polite, conflict-avoidance, Canadian culture way, we quickly vilified the utterer of the heretical idea, stomped around a bit, effectively quashing any useful discussion that might have helped advance anti-harassment in the workplace.

The Canadian way has many wonderful things about it. However, my work related to employment equity, anti-harassment and mental health in the workplace is genuinely challenged by this very Canadian approach to discussion around issues that are "uncomfortable". While we Canadians are typically so worried about offending or creating conflict, we default to what we perceive to be the polite thing and say nothing. Saying nothing may feel safe, but it can also have the effect of thwarting progress. There is nothing like the rousing exchange of ideas following conflict or even outrage to get people thinking and opening up their minds to different ideas.

During my training sessions to managers and employees on how to approach and offer support to a colleague/friend they suspect might have undiagnosed depression, anxiety or some other type of mental health problem, the question always comes up. Someone asks 'Excuse me, but I have to ask - before we talk about how to do it, are you sure we *should* do it? What if they are offended? What if we invade their privacy?' Are you sure?

Yes, I am sure. It is not only okay, it is best to talk and ask questions and explore issues, if you are well-intended, well-meaning and sincere. This can help open minds and might even open the right doors for those needing direction.

I am glad I had not given that advice to the utterer of the biological wiring statement. Personally, I believe it should have been okay for him to say what he said. However, if I were to ask him about it today, I think if he had to do it again he would shove all those words back in his mouth.

What a missed opportunity! Here was a senior person in a position of power who was thinking about harassment and trying to figure it out. This was a golden opportunity for the rest of us to pick at that thread of his idea and to engage in discussion about harassment. We could possibly use the idea to our advantage and leverage it to put pressure on the system. If it is biological wiring, then maybe we need to look at *more* than putting in place policies and grievance processes. Maybe we need to figure out how to be more watchful. Let's get tougher! Instead, because the statement was not nuanced, was too bold, too direct and too un-Canadian, we shut down the discussion altogether.

Another unfortunate effect of how this saga played out is that it validated the reluctance of managers and employees to talk about issues of culture, race, gender, physical disability, etc. in any quasi public forum. When it comes to employment equity and diversity, unless you are absolutely sure about which words to use and how to phrase things in a perfectly politically correct way, the feeling is that perhaps it is best to say nothing at all. In my work with executives around issues of employment equity, I must go to great lengths to create safe forums where they can ask what are actually mundane and routine questions. Otherwise, if they call someone who is non-white using a word that is inappropriate (are they coloured, visible minorities, black or of African descent?), it will become a big deal. So, here is the conundrum – our Canadian politeness gets in the way. Even if we want to learn more in our day-to-day, we don't ask the questions. We become muzzled.

So consider this. I do believe that when most people read about men harassing women, they imagine big, ugly brutes from tormented backgrounds who should never have been in the workplace in the first place. From my work over the last 30 years in all types of organizations, I can share that many of the men who are accused of harassing women and even those men who have been found guilty of harassing women are generally nice, intelligent, caring men. Many have healthy relationships with other women in their lives. So what gives? I don't know if there is an element of biological wiring, group mentality, societal influence or power shift when men harass women. But shouldn't we talk about it to help us figure out how

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Feature

Tom Ross,
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Employee Aggression in the Workplace

Immediate discipline or termination may not work

Dealing with aggressive or threatening behaviour in the workplace is challenging. Information regarding an employee who threatens a co-worker or client can prompt a knee-jerk reaction to discipline or terminate an employee.

It is important that employers deal with workplace aggression in a systematic method to protect their interests in maintaining a safe workspace while not violating employee rights by jumping to conclusions.

Employer Obligations in Respect to Aggressive Behaviour

Workplace aggression can take many forms. Aggressive, violent or threatening behaviour in the course of employment has always been recognized by courts and arbitrators as being incompatible with an employer's legitimate interest in maintaining a safe and productive workspace.

Moreover, employers have statutory and common law duties to keep the workplace safe and free from violence, abuse and harassment.

At common law, an employer has a duty to protect its workforce from threats and violence as part of its implied contractual duty to provide a healthy and safe working environment.

Under statute, Ontario has specifically addressed workplace violence through amendments to Occupational Health and Safety legislation. While other provincial legislatures and Parliament have not made similar amendments, all Occupational Health and Safety Legislation across Canada contains broad language requiring employers to protect the health and safety of workers as far as is reasonably practicable. Therefore, all employers in Canada are under an obligation to identify and address risks (such as violence or potential violence), which are typically managed through workplace policies and monitoring.

The Employer's Response: Investigation and Discipline

Risks of Acting Prematurely

Employers are often tempted to immediately discipline or terminate employees who are accused of engaging in workplace aggression. This course of action is generally inadvisable. The first risk to an employer is that it will proceed with insufficient information - the employer loses the opportunity to gain evidence and a full appreciation for what has happened. Further, it deprives itself of the opportunity to act on the best information and to set itself up for success if the matter is litigated.

The second risk in failing to properly investigate prior to disciplining an employee is that the employer can expose itself to additional damages.

Interim Risk Prevention

The recommendation to complete an investigation prior to disciplining an employee does not preclude interim measures to protect an employer's interests and those of its employees. Employer obligations to protect the health and safety of their employees should not be jeopardized while an investigation is in progress. The employer must therefore act immediately to eliminate or minimalize the possibility of continued aggression during the investigation.

This might mean suspending an employee pending investigation (with the possibility of later compensation if the employee was blameless). It might mean requiring the employee to work in a different department, on a different shift or from home.

Investigation

An employer should always conduct a thorough and well-documented investigation of the entire incident. This will often include considering events leading up to the actual aggressive act and the historical relationship of those involved.

Once it has been determined that the aggressive behaviour occurred, the employer will need to assess what the discipline should be. In assessing what disciplinary action is justified, courts and tribunals typically consider the following:

1. The identity of the target of the aggression
2. Whether the aggressive action was a momentary flare up or pre-meditated
3. The seriousness of the aggressive behaviour
4. The presence or absence of provocation
5. The employee's discipline record
6. The employee's length of service
7. The economic conditions brought about by the discharge

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Feature

Feature

Employee Aggression in the Workplace

... concluded

8. The presence or absence of an apology

There have been many cases where employees who engaged in physical altercations or made serious threats have had their terminations overturned because the employer failed to properly balance all of the factors when assessing the appropriate level of discipline.

The need for an employer to balance the seriousness of the aggressive behaviour against the employee's other attributes is a critical factor. An employer policy can assist in justifying discipline, but will not be determinative of the outcome.

In all cases of dismissal, the ultimate question to be asked is whether the employment relationship is so damaged that it is beyond redemption. Where the likelihood of recurring behaviour is minimal and the employee has shown real remorse, discipline short of termination is usually warranted. On the other hand, where an employee shows no remorse and poses a real threat for reoffending, trust may be lost and termination may be warranted.

Conclusion

When dealing with an instance of workplace aggression, employers must ensure that they fully understand all the facts and circumstances before disciplining an employee. Interim measures which remove the aggressor from the target are often important to ensure that the aggressor does not pose a risk while the investigation is ongoing. However, employers should be reticent to jump feet first into termination or discipline without knowing all the facts. When in doubt, proper advice is a good place to start.

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Calculating Reasonable Notice Periods: No More "Rule of Thumb"

New developments and more factors to be considered

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Feature

Wrongfully dismissed employees are entitled to reasonable notice of the termination of their employment, or pay in lieu thereof, which is intended to allow reasonable time for employees to find comparable employment. In the past, there was a common misconception that wrongfully dismissed employees were entitled to a reasonable notice period of roughly one (1) month per year of service. Canada's courts have, in no uncertain terms, held that this "rule of thumb" approach is incorrect and fails to take into account the unique factors relevant to each case.

The determination of a period of reasonable notice requires consideration of a variety of factors. The leading case for this proposition is *Bardal v. Globe and Mail Ltd.* (1960), 24 D.L.R. (2d) 140 (Ont. H.C.), which held that reasonable notice is dependent upon the facts of each case, with reference to the character of the employment, length of service, age at termination and availability of similar employment, taking into account the experience, training and qualifications of the employee (the "Bardal factors").

The Bardal factors are not exhaustive and recent judicial decisions continue to demonstrate that courts will consider a seemingly endless number of factors to justify longer notice periods for employees.

High Income: In *McCarthy v. Motion Industries (Canada) Inc.*, 2013 ONSC 1581, aff'd 2015 ONCA 224, the plaintiff was a 46-year-old salesman with fourteen (14) years' service at the time of termination. He had historically sold hydraulic parts, but eventually was instrumental in expanding his employer's business such that it began to produce and sell drill rigs. Although he had made well under $100,000.00 earlier in his career, once he began to sell drill rigs, his income grew exponentially to the point that he was making nearly $1,000,000.00 shortly before the termination of his employment.

The trial judge held that the plaintiff was entitled to a sixteen (16) month notice period, and the Court of Appeal upheld the same. This is higher than the notice period that a typical production salesman with similar age and service would be awarded. In this case, it was awarded because the plaintiff had earned such a high income with the employer, so it would be particularly difficult for him to find a comparable position with another employer, especially given that he had only a secondary school education.

Purchasing Shares in Employer Company: In *Rodgers v. CEVA Freight Canada Corp.*, 2014 ONSC 6583, a 57-year-old senior executive was dismissed after three (3) years' employment, and was awarded a fourteen (14) month notice period at trial. The factor that the Court weighed most heavily in awarding such a long notice period was that the employer insisted the plaintiff purchase roughly $100,000.00 of shares in the company, as the employer wanted its senior executives to have "skin in the game". The plaintiff borrowed money in order to meet this requirement. Following the termination of his employment, the employer advised the plaintiff that the shares were worthless. The Court held that the requirement to purchase shares at the commencement of employment implied to the plaintiff that he could expect an exceptional level of job security, and therefore awarded the long notice period

Family Status: In *Partridge v. Botony Dental Corporation*, 2015 ONSC 343, the Court awarded the plaintiff, a 36-year-old office manager in a dental office who had seven (7) years' service, a twelve (12) month notice period. The Court also awarded general damages because the Court concluded that the termination was motivated by the plaintiff's recent maternity leave. In justifying the high notice period award, the Court expressly stated that it accepted evidence that the plaintiff's family relied on her income and therefore experienced financial strain following the termination of her employment. It therefore appears that the Court took the plaintiff's family status into account in awarding a long notice period, presumably because it was more difficult for the plaintiff to find a new position when she was also responsible for caring for her young children.

Time of Year of Termination: In *Fraser v. Canerector Inc.*, 2015 ONSC 2138, the Court created yet another novel factor to be considered in extending the reasonable notice period. The plaintiff had his notice period extended by fifty percent (50%) as a result of the time of year that his employment was terminated.

The plaintiff was a 46-year-old senior executive with thirty-four

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George Raine

President, Montana Consulting Group

Rethinking Attendance Management

How the language of absenteeism shapes thought

A client recently asked an attendance question. A difficult employee had asked for a day off. When told she couldn't be spared, the employee said "I'll just take a sick day then." Her manager said that she couldn't use a sick day unless she was sick. That would be abuse of sick leave. So the employee said, "Fine. I won't be in but don't pay me. No one's abusing sick leave now so you can't touch me."

Linguists speak of linguistic relativity – the idea (and it is a debatable point) that language shapes thought. In the business of managing attendance, the language of "sick days" twists the way we think.

The language we use to discuss absenteeism generally describes how we'll pay people for not working. Here are some examples: she took a day of sick leave; he is off on Long Term Disability; he wants a day off-is it vacation or short term disability?

Using such "pay" language colours the way we think about attendance. Your benefit plan is insurance, not blanket entitlement. "Pay" language clouds our logic. So let's rethink attendance by going back to basics

The four questions

Instead of asking just one question (How many sick days do they have?"), we should be asking the following four questions when someone is off.

Did they notify us properly?

By what right are they not at work?

Should I believe what they tell me?

Do I have to pay them?

Did they notify us properly?

Employers can make rules. Even in a unionized workplace, the employer can make any rule it needs to, provided that:

1. It is not inconsistent with law or an express term of the collective agreement; and

2. It is reasonable, meaning that is not arbitrary, discriminatory or made in bad faith.

We need to define proper notification of absence and make a rule insisting on it. Failure to notify properly can be dealt with progressively as an attendance-related violation, the same as missing work.

A good notice rule is your second line of defence. Good people won't mind following it, but your "lesser lights" will mess it up.

One example was the case of Stelco Inc. (Stelwire -- Parkdale Works) and USWA Local 5328, 9 L.A.C. (4th) 129 – a termination case I defended at arbitration back in 1990. The grievor claimed his termination for absenteeism was a violation of the Ontario Human Rights Code because he claimed that his absences were all due to his drug addiction.

A strong notice rule made winning the case easy. The grievor could not prove that he was disabled from picking up the phone to call in sick. Therefore the Code was irrelevant.

In upholding the dismissal, Arbitrator Gail Brent said:

If he was medically incapable of notifying the company of absences, then he cannot be blamed for his failure. However, his evidence did not suggest such a state, and there was no medical evidence to the effect that he was so incapacitated during all of the times in question. The onus is on the grievor to establish such an incapacity if he is relying on it as a reason for his inability to meet his [notice] obligation...

By what right are they not at work?

The basic employment bargain is simple- you pay and the employee works. But if working requires showing up AT work, then the duty to show up is part of the deal.

We can imply some limitations on the duty to show up. The case law on this subject says that employees have a duty to report to work unless there is a need to be absent that is significant enough that to a reasonable person, it outweighs the duty to report.

Okay, we'd prefer a laundry list of good reasons to be off, but that's as close as we can get. Ask yourself this question: would a reasonable person, one who took both job and family seriously, feel it necessary to stay home under these circumstances? You have to judge this and judge it reasonably.

Statutory rights may pre-empt judgement. Governments love to pass "leave" laws that grant days off for specified reasons. The "emergency leave" provisions of Ontario's Employment Standards Act are an example.

Such statutes limit management's ability to judge whether an absence is really needed, but only when the statute applies.

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Feature

Murray Janewski

President, ACT One International Corp.

What Makes a Team Work?

Look at building trust

Vince Lombardi once said "Individual commitment to a group effort – that is what makes a team work, a company work, a society work, a civilization work." With that much at stake, why would "teamwork" get such a bad rap?

Back in the mid-80's, "Teamwork" was in vogue and every training company and consultant scrambled to put together programs that would capture this niche market. When I reflect on a few courses that I attended, they were really just a focus on better communication. Although extremely important, these courses failed to address the real underlying behaviours to develop a truly cohesive team. I see three key problems:

There is no focus on collective results. The individual commitment is to the individual, not the team. Examples: the salesperson who steals accounts and hoards information for himself or the hockey star who is more concerned with how many goals he scores than how many wins the team has.

"Groupthink" drags the team down because there is no healthy conflict. Under experimental conditions, psychologist Solomon Asch showed that 70% of the time, people will cave in to group pressure, even when the group is clearly wrong.

Authoritarian leadership is still prevalent in the workplace today. Milton Rokeach, another notable psychologist, said that people who like hierarchies seem to be comfortable giving orders and are authoritarian personalities. And those same people who like giving orders they also like taking orders. They seem to thrive on hierarchy. They also tend to be closed-minded to new ideas and problem solving. Open-minded personalities like to seek new solutions. Given that many organizations promote authoritarian personalities to leadership positions, there's a built-in obstacle to effective teamwork.

Patrick Lencioni says in his best-selling book, "The Five Dysfunctions of a Team," that the single most untapped competitive advantage is simply teamwork. Communication is the under pinning to the five behaviours that are required, but to master each of the behaviours, you need to know what they are and really work on them.

As a partner with Wiley & Sons, I worked with Lencioni to develop a program entitled "The Five Behaviours of a Cohesive Team." A cohesive team needs to master the five behaviours of building trust, mastering conflict, achieving commitment, embracing accountability and focusing on results. These can be applied to any team, be it at work, in sports or even the family unit. I remember playing football in high school and getting pummeled every week. We were in the wrong division, but I had the time of my life and so did every guy on the team. There was a huge amount of predictable trust – everyone knew their role and we had each other's backs both on and off the field. The camaraderie was outstanding and we had fun. Even though we did not win on the scoreboard, we set other goals and achieved them.

When it comes to teams in the workplace, this same level of predictable trust is paramount to achieve great things. You have to be able to predict and trust what each other is going to do in so many ways to be able to count on each other. This only comes from observing consistent behaviours over time.

There is more to consider. Vulnerability based trust takes a team or even a family to much higher levels of greatness. It is only when every single team player is willing to own up to his or her mistakes, shortcomings and weaknesses without fear of reprisal that a team becomes truly cohesive. That is when great things happen because the team goes to work to overcome the weaknesses together.

I experienced this recently as a parent. When having a meaningful discussion with my son of 30 years, he said "These are the conversations I love, Dad—when we can open up and truly express our struggles and concerns." If I could turn back the clock, I would start that kind of dialogue with my children when they were toddlers, instead of trying to be the strong and macho dad that had no faults.

Once you have vulnerability based trust, the other behaviours will follow, namely engaging in healthy conflict, being committed to decisions, holding one another accountable and focusing on collective results. When these behaviours are embraced, every member of the team becomes a leader.

Here is a quote from James Kouzes: "You either lead by example, or you don't lead at all.

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Murray Janewski will be presenting on:

The Work of Leaders: Connect to real-world demands

at IPM's Edmonton April 28, 2016 Conference.

For details, go to www.workplace.ca (click on events).

Feature

Jacqueline Throop-Robinson

CEO, Spark Engagement

Aspire to Something

Instill a sense of purpose

When we aspire to something, we have a strong desire, even a longing, to bring into being a goal that is meaningful to us. Meaning is the cornerstone of passion.

To light a fire in the hearts and minds of your team, you need to instill in them a sense of purpose. It's impossible to be fired up as individuals or as a team without a deep sense of why it all matters. As a leader, it starts with you. Begin by aspiring to greatness yourself.

What are aspirations? Why should you care about them? Let's look into the term and its roots. According to Merriam-Webster.com, to aspire means "to seek to attain or accomplish a particular goal; ascend, soar." Looking at the origins of *aspire* and *aspiration* reconnects us to their true nature. The verb *aspire* comes from the Middle French *aspirer and* from the Latin *aspirare* (which means, literally, to "breathe upon") and *spirare,* "to breathe."

When we connect the roots of the word *aspire* to our modern definition of aspiration, the importance of purpose-filled goals to help us lead inspired lives becomes crystal clear. Breathing enables life; breath itself is life-giving. As newborns, the first thing we must do to survive is to breathe.

Aspirations give us a sense of purpose and inspire us to take action in service of them. They are the starting point for motivation.

Human beings are designed to create and through the act of creating, to lead purposeful lives. When we get in touch with our true aspirations and desires and conceive goals based on these, we tap directly into our life force and breathe more energy into it. Through the act of realizing goals that represent our purpose and aspirations, we fully engage in life—we become players rather than spectators in our own existence. When we aspire, we are "breath-fully" alive!

To attain a true sense of fulfillment at work, it is essential to see how our personal aspirations align with what we do—that is to say, your personal aspirations and your role at work must be congruent. If your current work does not support your long-term aspirations, you will lack a sense of purposeful direction and therefore passion for what you are doing.

Here are two real-life examples to show what living one's purpose looks like.

Fatima is a learning and development professional. Fatima strives to create more diversified workplaces. She seeks opportunities to support this goal through all of her assignments and over time, she has seen results. She helped a women's network blossom, she facilitates powerful conversations about race and gender issues within leadership workshops and she lobbies executives advocating for a workforce that reflects local demographics. Every day, she works toward the goal of diversity in the workplace. Her actions are modest or bold. Small or large, Fatima takes a daily step forward and in the process experiences huge personal fulfillment in her life.

Roland wants to ensure people in his community feel supported through their work relationships. Employees at Roland's insurance company know the company will "be there" for them. He nurtures a culture that encourages colleagues to treat each other as family. For example, whenever an employee goes through a personally difficult time, he offers comfort and support. I have known him to attend a funeral wake and sit with the family evening after evening. He has entertained the children of his overseas executives to make sure they felt connected to the community. He is a member of the community first and a CEO second.

How can you make sure you are living an aspirational life? How do you know if you're "aligned to your purpose?" The first step is to check in with yourself and take stock of where you are vis-à-vis where you want to be. Your purpose need not be grandiose; it can be modest. Meaning is not about magnitude. Small can be significant; big can be irrelevant. Don't think size. Think: "Does it matter?"

When you as a leader feel grounded in a true sense of purpose, you are in turn able to support your team members to achieve that to which they aspire. In fact, helping your team members realize their goals in life is one of the most important aspects of your leadership role. When you are clear about your own aspirations, you will be better able to help your employees connect with their own.

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Feature

Feature

Sexual Harassment in the Workplace

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an intent to amend the *Act* to include a definition of sexual harassment, set out explicit requirements for employers to investigate and address harassment complaints and include an obligation for employers to make every reasonable effort to protect workers from harassment in the workplace.

The Action Plan also promises to create a new "Code of Practice" for employers under the *Act* that will outline the steps that employers can take to comply with the law and to publish educational materials to assist employees and employers with dealing with harassment.

Every employer should keep a close eye out for these coming changes which are anticipated in fall 2015. Updates on the legislative amendments and publication of educational materials can be found on Ontario's website: http://www.ontario.ca/itsneverokay.

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Feature

Environmental Sensitivities in the Workplace

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course, each workplace will be different and the extent to which an employer must modify working conditions will vary depending on the specific facts of each case. However, employers must be diligent in ensuring that they undertake a thorough analysis of the working conditions of their employee with environmental sensitivities and make those changes necessary to accommodate the employee, up to the point of undue hardship.

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Feature

Harassment: The Biological Wiring Clampdown

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to deal with it? What about those cases where women harass men? Don't we owe it to ourselves to acknowledge and discuss this phenomenon as well?

We can all agree that harassment is a complicated dynamic issue and there are all kinds of things to talk about, so let's talk. Instead of saying "biological wiring—interesting thought, we should be looking at what the research says," we collectively said "How dare you? What's wrong with you?" I guess we Canadians are not quite so polite after all.

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Feature

Rethinking Attendance Management

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For example, an Ontario employee could claim a statutory right to an "E day" to skip work for a child's school play. You can't argue that it's unnecessary. It's a right. But once the employee has used up their "E days," your right to use reasonable judgement is back in play.

When is "sick" too sick to work?

Simply being sick shouldn't automatically justify an absence. Most people can argue that they have some degree of sickness any day of the year. Instead, illness should justify an absence where there is a medical need to be absent from all available work. A medical need to be absent exists where:

- The employee is truly disabled from the work [e.g. flu accompanied by nausea]; or
- Complete absence is needed to permit recovery [e.g. bed rest is prescribed]; or
- The employee has a serious contagious or infectious condition [e.g. measles].

Note the reference to "all available work." Ask yourself this question: If I have the right to assign an employee to alternate duties, and the employee has no medical restriction that prevents him from doing that work, by what right is he not at work?

Employees can't opt out of work they can do just because it's not what they usually do.

We will examine the other questions in the next issue of IPM Associations Newsletter. This should already give you some reasons to rethink attendance in your organization.

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Feature

Calculating Reasonable Notice Periods

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(34) months' service with the employer when his employment was terminated on June 10, 2014. The motions judge awarded a reasonable notice period of four and one-half (4.5) months, and the decision expressly stated that the plaintiff would have been awarded a three (3) month notice period but for the time of year of the termination. The motions judge held that it is particularly difficult for senior executives to obtain new positions during the summer months because key decision-makers of potential employers often take vacations in the summer and hiring decisions are therefore likely to be delayed. Interestingly, the plaintiff in Fraser was able to obtain a comparable high-level position after only ten (10) weeks and commenced such employment on August 25, 2014, so the summer clearly did not drastically impact the plaintiff's actual job search.

The ever-expanding list of factors taken into account by courts in calculating notice periods creates significant uncertainty for employers in pre-determining employees' entitlements on termination. The use of contractual termination clauses appears to be the best (perhaps only) means to eliminate this uncertainty - assuming one ensures it is enforceable. We will discuss contractual termination clauses in our next article.

Hendrik Nieuwland is a partner and Stephanie Brown is an associate with the employment litigation firm Shields O'Donnell MacKillop LLP of Toronto.

Feature

What Makes a Team Work?

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When leaders do what they say they are going to do, it is a better indicator of profitability than any customer satisfaction scores."

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