

# White Paper Conference

WELCOME TO CLARITY

## November 2020

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## The Question

- Is there a creative way of going beyond a performance plan, when faced by employees who aren't quite good enough; they aren't bad, but others don't value them, and you know you can hire better?
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## **An answer to reflect our times**

- Covid-19
  - Remote working for some
  - Added pressures on managers and employees
  - Greater challenges in assessing performance
  - Greater challenges in managing performance
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## The “typical” Performance Plan

- Goals and Objectives set by management with little real employee input
  - Employee has an annual appraisal with perhaps a half yearly review
  - The plan measures past work against objectives
  - “Not quite good enough employees” may not be on the manager’s radar in the intervening period –there may be more to worry about
  - Nothing much happens by way of measuring progress/ providing support in the intervening period
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## The underlying Question

- Is your current performance process fit for purpose in a world of change where there is going to be an ongoing impact on many workplace practices?
  - 2/3<sup>rd</sup> of companies were already re-thinking their performance models pre-Covid (PWC)
  - 78% of employees say performance is not measured in a motivating way (McKinsey)
  - 75% of employees see appraisals as unfair (CEB)
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## Two suggested Answers

- **Answer One** – the Employment Lawyer advising an employer about a current problem where you are bound by the existing process
  - Not a creative response!
  - **Answer Two** – more strategic – not addressing a current problem – considering suggested changes to a performance management system for future use (if you have not already done so)
  - You could examine what lessons are to be learned to improve related processes such as recruitment, promotion and other policies – not covered here
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## **Answer One –Addressing an existing issue**

- If some employees (especially longer servers) are “not bad” but “not quite good enough” or “valued”, ensure you have fully explored whether there may be any underlying reason(s) affecting the individual which could help point to a possible resolution
  - Especially at a time when Covid-19 has created additional factors that may need to be considered
  - And there may be no/less frequent direct contact due to remote working/intervening changes in management etc.
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## **Some underlying reasons that might help explain the performance**

- Worries about job security/money/family
  - Medical conditions – (undisclosed) mental health issues
  - The Sandwich Generation
  - Unconscious bias
  - Bullying and harassment
  - Promotion beyond the level of their competence
  - Maternity returners who are denied opportunities
  - A continuous improvement programme where the required training has not kept pace with needs
  - Incompetent Managers
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# In an individual case-What is the Employer's Objective?



- Exit Management ?
- Retention and improvement?
- Something else ?



# Exit Management?

- Has employee been continuously employed for at least 1 year and 51 weeks for unfair dismissal purposes ?
  - Could the employee bring an employment claim not requiring a qualifying period of service ?– e.g. discrimination/ whistleblowing/ health and safety?
  - Is there any contractual disciplinary/performance management process you need to follow ?
  - If “no” you may still want to follow a short termination (not an extended performance management) process in case issues emerge and/or for employee relations purposes
  - Reason for dismissal?
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## Exit Management?

- If employee can bring a Tribunal claim
  - Consider commercial settlement ?
  - Public sector -unlikely- consents required
  - Cost of going through a PIP may vary-depends on employer and process—between 3 (minority) and 9/12 months
  - Protected Conversation only protects against unfair dismissal claims –not discrimination claims etc.
  - If existing “genuine dispute” potential for a “without prejudice” discussion
  - Settlement Agreement
  - Matter of cost, risk, agreement and potential impact on others
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## Exit Management?

- The additional implications of Covid-19
  - Could redundancy be a genuine reason subject to following appropriate procedures?
  - Public sector employers—unlikely scope unless partly publicly funded
  - Private sector employers- need to consider if prospect of furlough (assuming employee qualified) could increase risk of unfair dismissal claim
  - Would the progress in finding a vaccine and as yet unclear roll-out timetable impact your decision for the need for genuine redundancies?
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# Exit Management?

- If employees made redundant during furlough
- Employer cannot claim for any days on or after 1 December 2020 during which the employee is serving contractual or statutory notice



# Is Furlough or Flexible Furlough a short term option ?

- Could assist private or partly publicly funded employers
  - Coronavirus Job Retention Scheme extended to 31 March 2021
  - You can furlough employees –in compliance with the rules- by giving the “poorer” performer (s) no/fewer hours compared to the “better” performer subject to a written agreement
  - Consider giving furloughed employees training to try to upskill to the required standard (if that is the issue) in existing role or proposed agreed modified role
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## Is Furlough or Flexible Furlough a short term option?

- Training during furlough permissible provided the employee does not provide services to, or generate revenue for the organisation
  - Not an option if you do not intend retain –subject to any Government rule changes
  - You can allow employees to work for another employer (by amending their contract if required) that might encourage them to leave?
  - Not a solution in itself
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# Agile working –the new norm for some

- Could the underlying reason(s) for an employee's poor performance be assisted by permanent or more frequent flexible/agile working?
  - For example a previously good employee now struggling because they are part of the Sandwich Generation
  - Refusals of such requests now hard to justify in some sectors if it has become the norm during lockdown
  - Alternatively if the agile working may appear to have contributed to the poor performance during enforced restrictions that would need to be considered
  - The remote working employee's performance may be harder to assess/manage under your current system
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## Play to your employee's strengths?

- Gallup - employees who use their strengths every single day are six times more likely to be engaged
  - They are driven by purpose and managers who actively promote their development.
  - Could you move employee to another role with consent built around their strengths and interests?
  - “Job crafting” may not appeal to some employers and may be difficult in current economic climate
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## The disabled employee

- An employer may be obliged to offer another role to an employee with a disability as a reasonable adjustment under the Equality Act - even if they are not the best candidate
  - or if the job was required you could create a role if suitable for the employee
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## **Answer Two –The longer term strategic approach**

- An opportune time to review
  - “Continuous Performance Management”
  - Traditionally too much focus on employer objective setting and measuring outcomes at the end with too little focus on taking action in the middle
  - Only having a half yearly/annual review will for many not solve the problems
  - Rather to drive good performance there is a need to support and empower employees to achieve their objectives through regular structured training/coaching conversations on an ongoing basis .
  - Shorter time frame adjustable goals (depending on sector)
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# Continuous Performance Management

- If external forces make it difficult to deliver the objective (e.g. Covid-19) it may be possible to reshape the objective
  - Key to success? -Weekly or bi-weekly 1-1s –remotely if required
  - May work for some sectors but not all
  - Specific goals set in a genuine 2 way process
  - The manager's role to set the context for the objective agreeing process
  - In objective setting what does the individual feel they can contribute to the role?
  - In essence where do they fit?
  - All relevant issues aired
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# Continuous Performance Management

- Regular check-ins reduce the risk of Objectives not being achieved
  - If managers don't follow the process it is a failure to notice/care/intervene to help and support
  - If a manager notices someone is struggling that is an opportunity to help. A coaching conversation
  - A more agile/supportive/ purposeful way of delivering performance
  - Giving regular feedback enables employees to understand what matters most to their leaders
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# Continuous Performance Management

- Consistent approach applied to all
  - Cannot be argued that only the “ under the radar mediocre” performer is being targeted
  - In that way there can be no surprises
  - Undermanaged, underperforming employees would not slip through the probationary period
  - Management may require to devote more time to their team but (1) the benefits should outweigh the time (2) that is their job and (3) it should help build trust
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## Appraisals?

- Scrapped by many large employers e.g. GE ,Deloitte
  - There is an annual “sweep up” check in .
  - Employer /employee look back and acknowledge what has been achieved but no overall number /rating given
  - A year’s work distilled to a single figure is not motivating unless you get the top mark
  - So for the “not bad “ employee who “isn’t quite good enough” they will either improve through support or it should become clear that some form of action may need to be taken. There should be no surprises
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## Change how you performance manage- Challenges

- Needs senior leadership level buy commitment
  - Crucially also at line manager level
  - Employees /trade unions may question the new process
  - Develop a culture where line managers don't see performance management as a discreet HR-owned process which is separate to their "day job"
  - Limiting factors may be managers' desire and ability
  - Managers need to make the time and be adequately trained to understand their role in supporting/coaching
  - The manager's own objectives should reflect what they need to deliver
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# What does great performance management look like?



Employees whose managers hold regular check-ins are **3x more engaged** and **21% more productive** (Gallup)



Adobe's voluntary **turnover has decreased by 30%** since introducing check-ins



Over 50% of companies where objectives are reviewed monthly in **top quartile of financial performance** compared to 24% for yearly objective



**90%** of redesigned processes are leveraging simplicity and driving conversation. (Deloitte)



Frequent feedback studies show that it can **increase performance by up to 39%**



**79%** of employees feel more **valued and engaged** with regular feedback and conversations (Cargill)

**There has been a huge amount of academic and practical research done which has established a clear set of best-practice themes and principles which leading business are deploying to modernise their performance management processes**

## Answer –Part Two- A New Process?

- A continuous performance management process rather than a traditional performance plan might help drive up performance of those who “aren’t quite good enough”
  - The research suggests that it will help some but not all
  - The employees might feel more supported/valued /engaged and for some their performance may improve
  - Managers who engage and see positive results from their support may begin to value those who do improve
  - The manager’s own performance should be positively recognised if their support is seen to improve others - a key test of good management
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