

# The 21<sup>st</sup> Century Workplace Challenges and Opportunities



& Bird & Bird  
& **HR** Magazine  
Conferences

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# What's the Story?

"Evidence suggests that technological change provides a better explanation than globalization for the industrial decline and deteriorating labour market prospects."



World Economic Forum -  
The Global Risks Report – 2017

# What's the Story?

"Technological change is shifting the distribution from labour to capital. 80% of the decline in labour's share of national income between 1999 and 2007 was the result of the impact of technology."

(OECD 2012)



# What's the Story?

- Foxconn three-year plan to fully automate factories with hopes for 30% automation by 2020.
- Already developed 40,000 "Foxbots".
- In Kunshan alone 60,000 workers no longer needed.
- Three phases:
  - Work which is dangerous/workers unwilling to do;
  - Streamlining production efficiency;
  - Entirely automated factories.



# What's the Story?

- 45% of activities people are paid to perform can be automated by current technologies.
- Activities consuming >20% of a CEO's working time could be automated using current technologies (Analysing reports and data, preparing staffing assignments and renewing status, reports).



(McKinsey 2015 )

# What's the Story?

"50% of companies have devised a strategy to address workforce digitisation but fewer than 25% have deployed it."

(Economic Intelligence Unit – August 2015)



# What's the Story?

"We'll make robots too. It's a big thing. Right now we don't make robots. We don't make anything. But we're going to, I mean, look robotics is becoming very big and we're going to do that."

President Trump  
Reported in New York Times 23.11.16



# What trends can we pick up from this?

- While in some industries robots and automation will replace workers entirely, in most cases, elements of roles will be eliminated or altered not the role itself.
- There is an ever increasing need for flexible, fit-for-purpose staffing arrangements.





# What trends can we pick up from this? (cont'd)

- Individuals no longer have one consistent job with consistent elements on a medium to long term basis.
- Critical to engage flexible, talented, individuals and provide on-going training and development to survive.



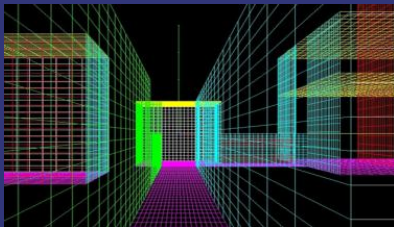
# What trends can we pick up from this? (cont'd)

- All roles and levels will be subject to scrutiny and evolution even at the most senior end.
- Businesses will continue to increase their use of non-traditional staffing patterns including short-term engagements, contracts, crowd-sourced labour platforms.
- Benefits and other traditional engagement tools will have to adapt to work for individuals dipping in and out.



# What trends can we pick up from this? (cont'd)

- Social media will not be *"something employees do when they should be working"* but *"the means by which individuals connect and conduct business within and outside of their primary organisations."*
- Work will no longer be a 'place' to go but a virtual environment but containing individuals with the same needs for connections and engagement.



# What are the HR legal issues we need to consider?

- Sorting out staffing arrangements into a legal framework is essential. The law comes back to simplistic concepts of individual contracts and statutory add-ons. Don't let the flexible agenda distract from the need for legal clarity.
- The 'Ubersation' employment status debate is the beginning of ever-evolving relationships which need to be put into the prevailing legal climate and the law moves slowly!



# What are the HR legal issues we need to consider?

(cont'd)

- Flexibility brings savings but also costs in labour law terms. Changing structures, altering roles, moving people about, all have traditional labour law implications and risks. Know them up front and factor them into the costs analysis.
- Employers cannot rely on out-sourcing responsibility. If systems cause harm the starting point for employees and other staff is the organisation that employed or engaged them. The fact liability may ultimately sit elsewhere does not prevent the business being in the firing line and reputations are fragile.



# What are the HR legal issues we need to consider? (cont'd)

- The less control the business has over the actions of others engaged on its behalf the more difficult it is to control risks.
- Discriminating conduct, bullying behaviour etc. may be perpetuated or suffered at the business' cost. (Think *Tay* the Microsoft Chatbox turned racist)



# Legal Risk Mitigation

- It may be boring but appropriate contracts and policies need to be in place and structured for maximum flexibility
- *e.g. rights to change roles, clear guidance on acceptable and unacceptable behaviour and sanctions and not just for traditional employment relationships.*



# Legal Risk Mitigation (cont'd)



- Documents and policies are Step 1 but without continual living endorsement by training and within the daily business of the organisation they will be of limited impact.
- HR legal needs to accept risks and get better at quantifying these not just in crude payment or litigation risk terms but in terms of the opportunity cost of not doing certain things and the real risks of certain action.



# Legal Risk Mitigation (cont'd)

- The dangers from within an organisation are often totally underestimated. Security breaches are most usually caused by the action or failure of someone inside the company.
- 2016 Cyber Security Intelligence Index 60% of all attacks carried out by insiders, 75% malicious and 25% inadvertent.



# Legal Risk Mitigation (cont'd)

- Workplace privacy even harder to police with the vast amounts of data being collected and moved across national boundaries.
- Protecting trade secrets, intellectual property and simple confidential information is hard enough when everyone sits in one place but achieving this in our virtual workplace is in a different league of complexity.





# Thank you & Bird & Bird

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