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## IN THIS ISSUE

*The cover of this year's HR Law issue of HR Professional discusses the evolution of workplace human rights in the last 25 years. Janice Rubin and Titus Totan of Rubin Thomlinson LLP dive into the most notable human rights cases and how they've shaped the current employment law landscape. Read the extended cover feature, which starts on page 22.*

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## JANICE RUBIN

Janice Rubin is co-founder and co-managing partner of Rubin Thomlinson LLP. She is recognized as one of Canada's leading employment lawyers and regularly appears on the Best Lawyers and Leading Practitioners lists in Canada. While recognized for her depth of expertise in all areas of employment law, Rubin is considered a leading authority in the area of workplace harassment and workplace investigations. In 2015, she received the Employment Lawyer of the Year Award as part of the National HR Awards. Rubin Thomlinson LLP was most recently recognized as one of Canada's top employment law boutiques by *Canadian Lawyer* magazine. Read the article that Rubin co-wrote about the evolution of workplace human rights, starting on page 22.



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## SUSANNE BALPATAKY

Susanne Balpataky is a partner at Speigel Nichols Fox LLP and has practised at the firm since her call to the bar in 1991. She is an experienced employment lawyer and commercial litigator who has expertise in employment litigation for both employers and employees. She has been able to put to good use her prior experience working at the Ontario Human Rights Commission in acting for employer respondents in several human rights complaints. Balpataky has appeared as lead counsel on matters before the Ontario Superior Court of Justice (including the Commercial List, Bankruptcy Court and Estates Court), the Ontario Divisional Court and the Ontario Court of Appeal. Read the article she wrote about the impact of medical marijuana on the workplace, starting on page 35.



## AVRA DAVIDOFF, M.C., R. PSYCH

Avra Davidoff is a workplace psychologist and associate at Canada Career Counselling and the Leadership Success Group. She currently practises in the areas of career development, leadership development and diversity. Davidoff holds a master's degree in counselling psychology, with a career counselling specialization, from the Graduate Centre for Applied Psychology at Athabasca University. Read the article she co-wrote, which explores how Canadian employers can do better when it comes to maternity leave transitions, starting on page 37.



## LAURA HAMBLEY, PH.D., R. PSYCH

Dr. Laura Hambley founded Canada Career Counselling and has worked in the field of career development since 2001. She holds a master's degree in applied psychology and a Ph.D. in industrial/organizational psychology from the University of Calgary. As an adjunct professor of psychology, Hambley regularly contributes to research in career development. Read the article she co-wrote, which explores how Canadian employers can do better when it comes to maternity leave transitions, starting on page 37.



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# Workplace Human Rights

This is my third October issue of *HR Professional*, and once again it stands out as one of my favourites of the year. As I'm sure many readers know, the October issue always focuses on HR law as a theme.

The cover feature of this year's HR law issue ties into one of the themes of the upcoming Human Resources Professionals Association (HRPA)'s HR Law Conference: The evolution of human rights in the workplace. Janice Rubin and Titus Totan of Rubin Thomlinson LLP wrote about 10 Canadian human rights cases that have greatly impacted the field of workplace human rights over the last 25 years. Read their article on page 22. If you haven't already, look into attending HRPA's 25th annual HR Law Conference on Oct. 20 at the St. Andrews Club and Conference Centre in Toronto; the conference is also available as a webcast. For more information, visit <http://bit.ly/2bjLLWY>. I hope to see you there!

This issue also addresses other topics that HR professionals will find interesting in regards to HR law: you'll learn more about the policies and procedures you might need concerning medical marijuana in the workplace, and another article discusses how far employers need to go to accommodate family status.

I hope that you enjoy and learn from this issue of *HR Professional*. As always, I look forward to your thoughts and feedback.

Happy reading,



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By Brenda Clark, CHRE

# Human Resources, Human Rights

**T**his issue's cover story is all about the evolution of human rights in the workplace – and we've certainly come a long way in that respect.

The days when workplace discrimination, reprisals and harassment had no legal recourse are – for the most part – behind us. But HR has a pivotal role to play in ensuring that human rights legislation is a living, breathing part of an organization's culture, instead of simply a set of words that carry little to no weight in actual workplace practices.

Writing good policies, communicating them effectively and enforcing them successfully are difficult

enough. But weaving awareness of and respect for human rights into the fabric of workplace culture can be a challenging task.

It's a task that can't be accomplished by just anyone – it requires a level of expertise, knowledge and competence that is above and beyond the HR requirements of the past.

This ain't your grandmother's HR – and that's where self-regulation and enhanced designations come in.

Since the passage of the *Registered Human Resources Professionals Act 2013*, the Human Resources Professionals Association (HRPA) has

**REQUIRING HR PROFESSIONALS TO HAVE A THOROUGH KNOWLEDGE AND UNDERSTANDING OF EMPLOYMENT LAW IS NOT JUST SOMETHING THAT'S NICE TO HAVE – IT'S MISSION-CRITICAL FOR ANY ORGANIZATION THAT WANTS TO SUCCEED AND THRIVE IN TODAY'S EVER-SHIFTING BUSINESS LANDSCAPE.**

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# HOW TO DEAL WITH DIFFICULT PEOPLE

## DON'T BLAME UNLESS YOU NEED TO

Determine whether your primary goal in exploring the past is to lay blame and punishment or to develop understanding and improve the situation in the future. If your goal is to develop understanding, it is important to try to put aside the need to be "right". Instead, focus your energies, and those of the other person, on identifying all of the factors that contributed to the present situation.

## DON'T CONFUSE JUDGMENTS FOR FEELINGS

We often think we are sharing our feelings when we are sharing judgments. Saying to someone that they are selfish is not a feeling, it is a judgment. The feeling is that you are being overlooked or under appreciated.

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- Bruno Cervini, HR, Halton Regional Police, Oakville

*"Lots of opportunities to test drive strategies. All of the instructors were great. Real life examples were effective and funny."*

- Valerie DeSouza, HR, VDS Consulting Services, Ajax



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established itself as a Tier 1 regulator in Ontario. With the introduction of a new competency framework and three new tiered designations in 2014, it introduced more rigorous professional standards as well as updated the knowledge requirements for certified HR professionals in areas such as – you guessed it – employment law.

Requiring HR professionals to have a thorough knowledge and understanding of employment law is not just something that's nice to have – it's mission-critical for any organization that wants to succeed and thrive in today's ever-shifting business landscape.

And a thorough knowledge of the ins and outs of employment law not only protects employers from legal risk, human rights tribunal complaints, lawsuits and potential reputational backlash, it also protects employees, contractors, clients, customers – really, anyone the employer has dealings with – from discrimination and human rights abuses.

In essence, HRPAs status as a regulatory body and its enhanced competency model isn't only about protection of the public in the general sense – it also serves specifically to help protect human rights in the workplace.

Many employment lawyers will attest that a well-written employment agreement can help guard against all manners of legal ills; prevention is the best cure, as it were. And an HR professional with a strong, grounded understanding of employment law and the protected grounds under the *Human Rights Code* is the best cure of all when it comes to protecting human rights in the workplace.

Requiring HR professionals to undergo rigorous study of employment law means that there's no longer an excuse for gender discrimination, age discrimination, exclusion on the basis of race, ethnicity or sexual orientation, sexual harassment or discrimination based on disability. HR professionals are the first line of defense for protecting diverse groups from mistreatment and, at the end of the day, for safeguarding human rights at work. And what could be more important than that? ■

*Brenda Clark, CHRE, is the chair of the Human Resources Professionals Association.*

# UPFRONT

## MANY COMPANIES MISSING OUT ON THE BENEFITS OF JOB ROTATION

In the quest to develop and retain staff, finance executives recognize the value of allowing employees to move into roles in different areas of the company. Chief financial officers (CFOs) in a Robert Half Management Resources survey said the benefits of job rotation include giving staff broader exposure to the business, gaining fresh perspectives and enhancing recruitment and retention, professional development and succession planning.

However, many organizations have yet to put role rotation into practice. The majority of respondents, 53 per cent, said they do not promote these opportunities to their teams.

“Role rotation is a professional and business development opportunity that most companies do not take advantage of,” said David King, Canadian president of Robert Half Management Resources. “It is an effective way for employees to access new skills and expertise for future advancement within the company, while opening the business to fresh insight and perspective through collaboration.”

Allowing staff to experience different areas of the business can also serve as a useful means of attracting top employees for new positions.

“Driven professionals want to be a part of an environment that promotes career growth and advancement; role rotation offers them the chance to challenge and evolve their current skills, while preparing them for future leadership positions,” said King.

Robert Half Management Resources highlights who executives can talk to about whether role rotation is right for their team:

- **Employees:** Do staff members want the ability to move among different business units? A “yes” means employers should look more closely at offering these opportunities – and find out which rotational roles interest workers.
- **Line managers:** Solicit recommendations from your department’s supervisors about potential job rotation

candidates. Explain to managers the benefits of bringing in individuals from other parts of the business, and ask about the skills they would look for in these arrangements.

- **Consultants:** Consulting and project professionals offer an external perspective and have observed what has worked at other firms. Tap into their insights about how your organization could benefit from this type of program and best practices for implementation.
- **Network contacts:** If your peers outside the company have overseen rotational opportunities, ask them about dos and don’ts, benefits and drawbacks.

## THE BEST RESUMÉS GET BACK TO THE BASICS

Is it time to ditch the old-fashioned resumé? Not yet, suggests new research from staffing firm The Creative Group. Nearly eight in 10 advertising and marketing executives interviewed said they would rather receive traditional CVs in Word or PDF format from candidates applying for creative roles at their company. This was also the top response among a majority (70 per cent) of hiring managers in a similar study conducted three years ago.

Significantly fewer executives today favoured online profiles (14 per cent) and video or infographic resumés (three per cent each) as their format of choice.

“With only a few moments to capture a hiring manager’s attention, it’s tempting to develop a resumé with a creative format and style. However, professionals need to be sure they aren’t sacrificing clarity in the process,” said Deborah Bottineau, senior regional manager of The Creative Group. “While a visually unique resumé may be a great way to initially pique an employer’s interest, successful resumés must, above all else, be easy to read, concise and clearly demonstrate what makes the candidate an ideal fit for the position.”

The Creative Group shares five resumé mistakes creative job seekers should avoid:

- **Overdesigning it.** While it’s fine to incorporate elements of your personal brand into your resumé, refrain from excessive embellishments, such as too many charts and colours, which can be distracting.
- **Ignoring the user experience.** The best resumés feature simple fonts, standard margins, section headings and bullet points to highlight key attributes and help employers navigate through the information.
- **Focusing on job responsibilities versus results.** Hiring managers are far more interested in the impact you made than the tasks you handled. Whenever possible, quantify your contributions to the bottom line.
- **Including too many extras.** Listing hobbies and interests on your CV is fine if they’re related to your career goals and the position in question; if they’re not, leave them out. In the same vein, ditch the objective statement and business jargon.



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- **Failing to keep it fresh.** Even if you're not actively looking for a new job, it's wise to keep your application materials current. Review your resumé at least once a year to ensure it features your most recent accomplishments and skills.

**FLEXIBLE WORKING CAN BRING ABOUT A STARTLINGLY WIDE ARRAY OF BENEFITS.**

**THREE IN FIVE CANADIANS WOULD TURN DOWN A JOB WITHOUT FLEXIBILITY**

The latest research by Regus, a global workplace provider, reveals that flexibility is a key value for Canadian workers, with three in five reporting they would turn down a job where flexibility was not offered at all. In addition, 39 per cent report they would have stayed longer in a previous job had flexible working been an option, highlighting what an important hiring and retention tool flexible working has become.

Almost 40,000 business people were interviewed globally, and they reveal that flexible working can bring about a startlingly wide array of benefits. Specifically, working closer to home helps workers feel more rested and lead healthier lifestyles, as it reduces stressful commutes or allows them to cycle or walk to work. Perhaps more importantly, the ability to work closer to home also means that workers can spend more time with family and friends.

Key Canadian findings include:

- Flexible workers are seen as having more spare time by 79 per cent of Canadian workers, as they can choose their work location and workload

- Four in five respondents say flexible workers are better able to juggle personal and professional demands
- Sixty-six per cent say that flexible workers are more mindful and are better able to assess their levels of wellbeing
- Not only do business people think that flexible workers are more rested as they cut down grueling commutes, but also believe they are healthier for it and in a better position to hit the gym more often
- Flexible working is seen as helping people spend more time with family and friends, so it is not surprising that when considering two similar positions, nearly all Canadians would pick a job that offers flexibility
- Sixty-one per cent go as far as to say they would turn down a job where flexibility was ruled out entirely

“Flexibility, and specifically the ability to choose to work from a location closer to home, is becoming ever more important to helping modern workers find a balance between their hectic work lives and their physical and emotional demands,” said Wayne Berger, VP of Regus Canada. “Businesses wanting to attract and retain

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# news

highly skilled and valuable workers cannot afford to ignore how important providing good work-life balance has become.”

## CANADIAN COMPANIES ARE CONFUSED BY REMOTE WORKING

Companies in Canada need to go beyond providing remote access to email in order to address the need for greater workplace productivity and meet employee demands for improved work-life balance. According to *Enabling the Remote Workforce in Canada*, a recent survey of IT decision-makers by Citrix Canada, a concerning disparity exists between how companies define a mobility strategy and what tools employees actually need to do their jobs and be productive remotely.

More than eight in 10 IT decision-makers report having employees who work remotely. Yet, the same number admit their companies' definition of enterprise mobility is giving employees the basic ability of sending and receiving emails from a mobile device. Further, two-thirds describe their organizations' concept of enterprise mobility as providing employees with mobile devices.

Michael Murphy, country manager for Citrix Canada, believes this misunderstanding to be a major barrier in creating a successful workplace mobility strategy.

“The biggest problem we’re seeing is companies not creating a mobile environment conducive to working collaboratively remotely,” said Murphy. “Providing mobility means more than simply

enabling access to email. It’s about minimizing restrictions so people can do their jobs successfully outside of the office. This includes giving employees secure access to essential applications and data from anywhere, providing a seamless user experience and allowing for collaboration.”

**MORE AND MORE, EMPLOYEES WANT THE OPTION OF WORKING REMOTELY.**

More than two in five IT decision-makers admit to not having a comprehensive enterprise mobility strategy in place for their companies.

“When a company only partially supports a remote workplace environment, there is a higher likelihood it will fail,” said Murphy.

However, of those who do have a mobility strategy in place, an overwhelming majority say it is integral to the competitiveness of their business.

More and more, employees want the option of working remotely. In a separate survey of Canadian working professionals commissioned by Citrix, 75 per cent of employees say all employers should offer the ability to work remotely while the overwhelming majority (96 per cent) want jobs that provide good work-life balance.

Continued on page 16

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Creative offices often provide areas for brainstorming and impromptu meetings

Other interesting findings include:

- Nearly half of employees would make a trade-off in perks, hours or pay at their current job to work outside of the traditional office setting
- Two in 10 employees would take a new job opportunity if they were offered the ability to work remotely for two days a week while 18 per cent would work longer hours for the chance to work away from the traditional office setting
- Working professionals cite saving money on travel to work (59 per cent), more balance in life (55 per cent) and more time to spend with family (45 per cent) as the top benefits employees would value the most from having greater mobility at work.

## EXECS AND WORKERS DIFFER ON IDEAL WORK ENVIRONMENT FOR CREATIVITY

What kind of office setting sparks the most creativity? According to research by staffing firm The Creative Group, managers and employees don't see eye to eye. When asked what the ideal work environment is for on-the-job innovation, the top response among advertising and marketing executives was an open-concept space. Employees, however, seem to prefer more alone time, with a private office being the most popular option.

"Highly effective workplaces reflect the type of work being done, as well as the work styles of [the people who] occupy them," said Deborah Bottineau, senior regional manager of The Creative Group. "Office managers should be cognizant of employees' preferences and try to find an office design that caters to both the needs of the business and their staff. Being accommodating and flexible with layout options can result in happier, more productive and creative employees."

The Creative Group offers four ideas for creating a more stimulating work environment:

1. **Construct creativity zones.** Designate a few areas in the office for brainstorming and impromptu meetings. Stock each space with industry publications and an easel pad to jot down ideas.
2. **Offer private sanctuaries.** While open floor plans can increase collaboration among employees, some projects require greater focus and concentration. Provide stations where individuals can work in solitude without distraction.
3. **Build a mood board.** Encourage team members to post content they find intriguing to a common wall where others can draw inspiration. Also invite staff to take photos of anything they might want to reference for future projects.
4. **Think outside the office.** Hold team meetings in a nearby park, courtyard or café. A change of scenery is sometimes all it takes to spark the imagination. ■

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# Bill 132 – Fresh Amendments to the *Occupational Health and Safety Act*

ANOTHER STEP INTO THE NEW FRONTIER OF HEALTH AND SAFETY IN THE WORKPLACE

By Jason Beeho

The *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment)*, 2016 – otherwise known as Bill 132 – came into force on Sept. 8, 2016 and introduced amendments to a number of statutes, including the Ontario *Occupational Health and Safety Act* (OHSA).

In that regard, Bill 132 builds on the Bill 168 amendments to OHSA, which in 2010 explicitly recognized workplace violence and harassment as occupational health and safety issues.

Pursuant to Bill 132, OHSA's definition of "workplace harassment" has been updated to expressly include "sexual harassment," which is now itself defined under OHSA as follows:

"(a) engaging in a course of vexatious comment or conduct against a worker in

a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome."

Together with this new definition, a number of new obligations have also arrived for employers, including the following:

- **A more stringent requirement to provide an effective complaint mechanism that will not directly or indirectly discourage workers from bringing issues forward.**

In particular, employers are required to update their anti-harassment policies and procedures to "include measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser," and to "set out how information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law."



# legal words

■ A requirement to conduct a mandatory investigation “that is appropriate in the circumstances” in response to any and all incidents and complaints of workplace harassment.

This does not mean that each and every complaint will warrant a complicated and costly investigation by a third party investigator; however, it does place the onus on employers to take all issues and complaints seriously, and to invoke proper process.

Many employers are already equipped to meet those obligations; however, to the extent that many others are not, it’s very important that they take steps to arrange appropriate training for members of their HR teams. Essentially, Bill 132 demands that employers be equipped to evaluate complaints, to determine the appropriate scope of enquiry in the circumstances and to conduct competent and objective investigations.

Adding to that urgency is the fact that, under the Bill 132 amendments, Ministry of Labour inspectors now have the power to order – on a case by case basis – that an employer retain a third party investigator at its own expense. In other words, if the Ministry is concerned that an employer cannot or will not conduct an effective investigation, the matter will be taken out of the employer’s hands. Likewise, if an employer is found to have conducted a sloppy or otherwise unsatisfactory investigation, an inspector might order that an independent investigator “possessing such knowledge, experience or qualifications as are specified by the inspector” be called in for a “re-do.”

■ A requirement to advise both the complainant and the alleged harasser (unless he is not one of the employer’s workers) of the results of the investigation, as well as the discipline or corrective action that is being administered to the alleged harasser.

Although the obligation to disclose the results of an investigation will, in many cases, be consistent with employers’ pre-existing protocols, the requirement for transparency regarding corrective action almost certainly represents a significant change for most employers. That change, coupled with the fact that an employee will be in a position to complain to the Ministry of Labour about any harassment investigation that is (or allegedly is) non-compliant with the Bill 132 amendments, now places added pressure on employers to “get it right” when assigning consequences for harassing behaviour.

■ A requirement that employers consult with their workplace joint health and safety committees (or health and safety representatives, as the case may be in smaller workplaces) in revising their policies and procedures to include the new definitions and to reflect the new obligations.

Hand-in-glove with the obligation to update policies and procedures is a further requirement to provide all workers with corresponding training regarding the updates.

## CONTINUING THE TREND

Bill 132 represents an important continuation of the changes to OHS that were ushered in by Bill 168. Moreover, it is also a significant new development in what is

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emerging as the “next frontier” of occupational health and safety – namely, an approach to occupational health and safety that goes far beyond the traditional concepts of hardhats, machine-guarding and reducing threats to life and limb by industrial equipment, and which engages the overall wellness and safety of workers from a physical, psychological and emotional perspective.

We have seen a steady advancement of this trend since Bill 168 became law in 2010. For example:

- In 2013, the Canadian Standards Association (CSA) issued a National Standard on Psychological Health and Safety in the Workplace. Although that Standard is non-binding and adherence to it is voluntary, the fact that it was issued by a leading safety authority carries considerable weight.
- Significantly, the Standard contemplates very broad and ambitious concepts (including that of the “psychologically healthy and safe workplace,” which is defined as “a workplace that promotes workers’ psychological wellbeing and actively works to prevent harm to worker psychological health including in negligent, reckless or intentional ways”); additionally, as it encourages employers to consider “psychological job demands” and “work/life balance,” the Standard directly challenges the conventional perspective on occupational health and safety.
- In late 2014, the Ontario Ministry of Labour released the report from its “Roundtable on Traumatic Mental Stress,” which, as described by the Ministry, was an initiative that “brought together representatives from police, nursing, fire services, emergency medical services and transit services to discuss how to promote awareness and share best practices across sectors on work-related traumatic mental stress, which includes post-traumatic stress disorder.”

Pursuant to recommendations set out in that report, the Ministry convened a day-long Summit on Work-Related Mental Stress in March 2015, which drew participation and input from stakeholders in a range of sectors; further to that dialogue, the legislature introduced the *Supporting Ontario’s First Responders Act (Posttraumatic Stress*

*Disorder)*, 2016 which came into force in April 2016, and has the effect of making WSIB benefits more accessible to first responders – i.e., by way of amending the *Workplace Safety and Insurance Act, 1997* to create a presumption that PTSD suffered by first responders is work-related.


Clearly, occupational health and safety is no longer just about preventing physical injury, and compliance is now an exercise that

obliges employers to consider their workers’ health and safety from multiple angles.

In that regard, Bill 132 – and the new obligations that come with it – represents the most recent step in the evolution of occupational health and safety. No doubt, there are more steps to come. ■

*Jason Beeho is a partner at Levitt LLP and a member of the HR Professional editorial advisory board.*

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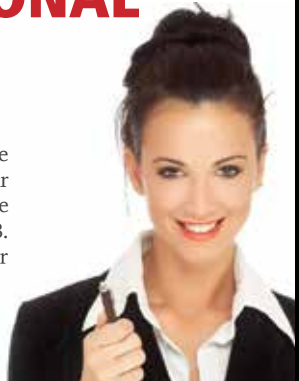
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# The Evolution of Workplace Human Rights

## A PRACTITIONER'S GUIDE TO THE TOP 10 DEVELOPMENTS IN WORKPLACE HUMAN RIGHTS OVER THE LAST 25 YEARS

By Janice Rubin and Titus Totan

It is no small feat to identify the most notable developments in workplace human rights over the last 25 years – there are so many cases that could be discussed. To narrow down this subjective list, we focused on the areas of the law that we deal with every day in our practice as employment lawyers. Ours is not a particularly academic list – although there is likely some overlap. Which cases, which concepts, which statutory changes from the last 25 years do we turn to over and over again?

Here is our top 10 list:

### 1. Rethinking the Bona Fide Occupational Requirement

*British Columbia (Public Service Employee Relations Commission) v. B.C.G.E.U.* [1999] 3 SCR 3 (“*Meiorin*”)

Human rights statutes throughout Canada recognize that bona fide occupational requirements (“BFOR”) are not discriminatory. However, the determination as to what constitutes a BFOR fundamentally shifted in the *Meiorin* decision, in which a universal fitness standard for firefighters was challenged as having an adverse effect on women. In finding the standard to be unjustified, the Supreme Court developed a test that has become the accepted approach to the BFOR analysis:

- Is the standard rationally connected to the performance of the job?
- Was the standard adopted in an honest belief that it is necessary to the fulfilment of a legitimate work-related purpose?
- Is the standard reasonably necessary to the accomplishment of that work-related purpose?

Since the decision in *Meiorin*, where a standard is *prima facie* discriminatory, an employer may justify it only if individual employee differences have been accommodated to the point of undue hardship. *Meiorin* was a game changer. This benchmark case can be referred to when talking about the process requirements of assessing accommodation needs of employees.

### 2. The Competing Rights Assessment

*R. v. S. (N.)*, 2012 SCC 72

The Canada of 2016 has a greater number of identifiable equity seeking groups. Inevitably, this results in competing rights. What does an employer do when accommodating one employee





**{ BOTTOM LINE: TREATING EMPLOYEES  
EQUALLY DOES NOT NECESSARILY  
MEAN TREATING THEM THE SAME. }**

## cover feature

means impacting the rights of another? These can be challenging issues to sort out, but there is now a framework to help guide the process.

In *R. v. S. (N.)*, the Supreme Court weighed in on the issue and set out a legal framework for assessing competing rights. The case involved the conflict between a woman's religious freedom to wear a niqab while testifying about a criminal matter, with the rights of the accused to a fair trial. The court endorsed an approach that balances the extent of the competing rights:

- Is there an interference with two legitimate rights?
- Is there a way to accommodate both rights and avoid the conflict?
- Do the salutary effects of the interference with one of the rights outweigh the deleterious effects of it?

Although the decision was rendered in relation to protections prescribed by the *Charter of Rights and Freedoms* (the "Charter"), the court's framework arguably provides a broader guideline on reconciling competing claims to most human rights protections. We look at it whenever we have a matter in which employees' human rights protections appear to conflict.

### 3. Recognizing Substantive Equality

*Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143 ("Andrews")

What does equality mean in Canada? In 2016, we often forget that following the advent of the *Charter*, there was

widespread disagreement over the extent of the section 15 equality protections. Some legal decision-makers interpreted the language formally and restrictively, equating the protection with the prevalent maxim that persons who are "similarly situated ought to be similarly treated."

In *Andrews*, the Supreme Court went further and adopted a contextual analysis. The case involved a lawyer who was denied admission to the British Columbia bar because he lacked Canadian citizenship. The court endorsed a substantive approach to equality, which recognizes that universal laws may nevertheless be discriminatory to certain individuals, depending on differences in personal characteristics and situations. Specifically, the court held that consideration must be given to the content of the law, its purpose and its impact upon those to whom it applies, as well as those excluded from its application.

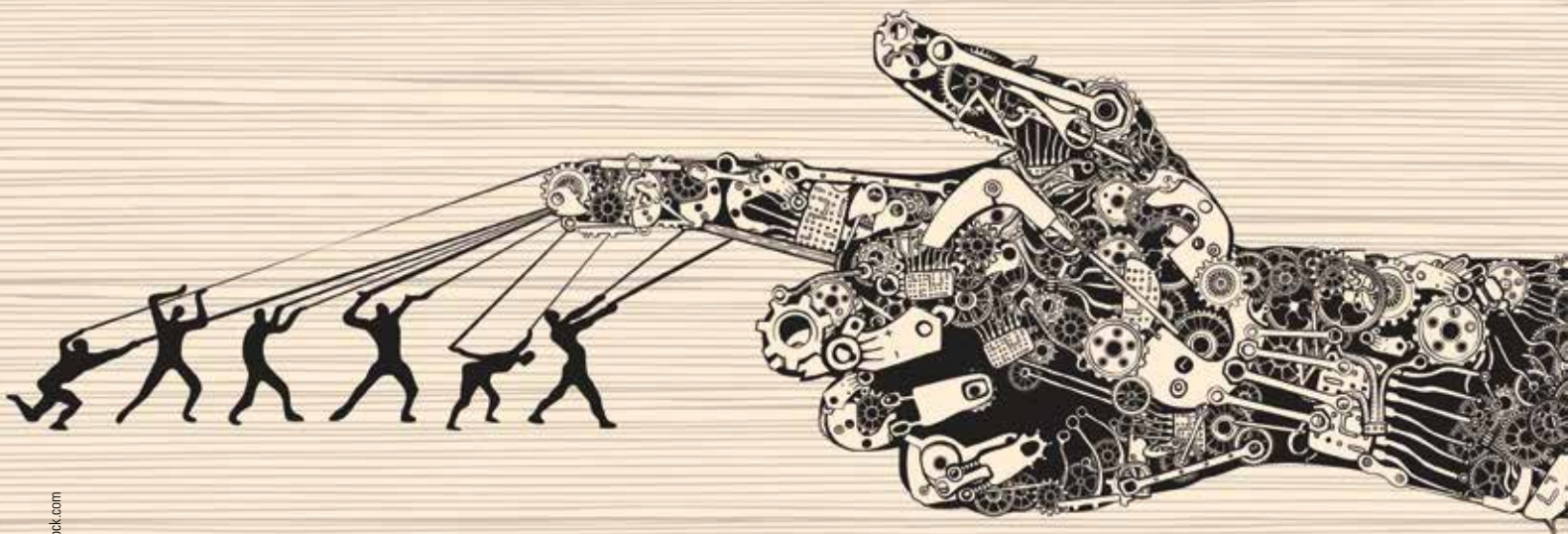
Bottom line: treating employees equally does not necessarily mean treating them the same. The approach in *Andrews* is so well entrenched in workplace norms and values, not to mention the human rights case law, that it is hard to imagine there was a time when we approached assessing equality rights differently.

### 4. Sexual Harassment as Sex Discrimination

*Janzen v. Platy Enterprises Ltd.*, [1989] 1 SCR 1252 ("Janzen")

Human rights statutes throughout Canada have long prohibited discrimination in employment on the basis of sex. Since the early 1980s, human rights adjudicators began expanding the protection

**WHAT DOES AN EMPLOYER DO WHEN ACCOMMODATING ONE EMPLOYEE MEANS IMPACTING THE RIGHTS OF ANOTHER? THESE CAN BE CHALLENGING ISSUES TO SORT OUT, BUT THERE IS NOW A FRAMEWORK TO HELP GUIDE THE PROCESS.**



to include acts of sexual harassment. However, some Canadian courts continued to question the nexus between sexual harassment and sex discrimination in employment until the Supreme Court's decision in *Janzen*.

In that case, two waitresses were sexually harassed by a cook, and brought complaints that the conduct constituted discrimination on the basis of sex. In overturning the decision of the Manitoba Court of Appeal, the Supreme Court unanimously ruled that sexual harassment is a form of sex discrimination. In recognition of its impact as both an abuse of economic and sexual power in the workplace, the Supreme Court broadly defined sexual harassment as "unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences."

Think of everything that has come from this case – from increased vigilance on the part of employers to prevent sexual harassment and to respond to it appropriately, to the growth of workplace investigations and Bill 132 in Ontario and Bill 23 in B.C. Justice Deschamps' report on sexual harassment in the military and Sheila Fraser's current inquiry into the handling of sexual harassment complaints and investigations at the RCMP are all part of the legacy of this case. The list could go on and on.

## 5. Recognizing LGBT Rights

*Vriend v. Alberta*, [1998] 1 SCR 493 ("*Vriend*")

The LGBT community has historically been excluded from rights-conferring legislation. It was not until the 1970s and '80s that provincial human rights statutes began to recognize sexual orientation as a protected ground. The province of Alberta was one jurisdiction that lagged behind that development, until the Supreme Court's decision in *Vriend*.

In that case, an employee was fired as a result of his admitted homosexuality, but was unable to file a discrimination complaint because "sexual orientation" was not a protected ground under the provincial legislation. The employee commenced a lawsuit, alleging that the omission was inconsistent with the equality guarantees of the *Charter*. In agreeing with the employee, the court effectively ruled that discriminating against or excluding individuals on the basis of sexual orientation is inconsistent with the *Charter*. The decision is viewed as one of the fundamental triggers for the increased recognition of LGBT rights in the 21st century.

## 6. Accommodating Religious Freedom

*Grant v. Canada (Attorney General)*, 125 DLR (4th) 556 (Fed. C. A.) ("*Grant*")

In a complex and diverse society, accommodating religious freedoms is no easy task. In fact, attempts to challenge multicultural policies under the guise of "reverse discrimination" have made their way through the Canadian legal system. *Grant* was one such prominent case in which a uniform policy of the RCMP, which allowed Sikhs to wear turbans, was challenged as unconstitutional on the grounds that:

- It compelled individuals to acknowledge the religious traditions of Sikh officers; and
- It favoured the religious preferences of Sikhs over those of other groups.



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In finding that the policy was one which actually encouraged religious freedom, the Federal Court of Appeal judicially stamped recognition of the multicultural nature of Canada. In that respect, the court held that religious protections for one group do not denote a disregard for other groups, nor do they compel other individuals to participate in, adopt or share the associated religious practices.

## 7. Defining Family Status

*Johnstone v. Canada (Border Services Agency)*, 2014 FCA 110 (“*Johnstone*”)

The inclusion of “family status” in human rights statutes as a protected ground is a recognition of the nature of modern Canadian families, as well as the competing obligations they often face. However, the scope of the “family status” protection has been a source of discord amongst adjudicators. In *Johnstone*, the Federal Court of Appeal adopted a broad interpretation of the concept, which has since become one of the leading authorities on the analysis.

In *Johnstone*, an employer denied a mother’s request for a modified work schedule that would permit making adequate arrangements for the care of her child. In finding that the mother had been discriminated against on the basis of family status, the court effectively determined that the concept applies not only to the status of being a family member, but also to the associated legal obligations.

We have only just begun to feel the effects of *Johnstone* and expect that it will have a broad application – in fact, the principles set forth therein have already been equally applied to eldercare. Think about that in the context of a country that has an aging population soon to be the largest cohort of older persons in Canada’s history.

## 8. Abolishing Mandatory Retirement throughout Canada

For many years, human rights statutes throughout Canada did not prohibit age discrimination in employment against persons older than a prescribed threshold. Based on that exemption, some employers developed mandatory retirement policies, which arbitrarily ended the employment of employees at the age of 65.

In the last 25 years, provincial legislatures began repealing those exemptions. That nationwide movement culminated in 2012, with amendments to the age provisions of the *Canadian Human Rights Act*. As a result, Canadian employers are now required to establish that any differential treatment on the basis of age is either justified as a BFOR, or permitted by a prescribed exemption in the applicable legislation. These changes, coupled with the aging workforce, have meant that who we think is too old to work has dramatically shifted.

## 9. Statutory Accessibility Standards for Persons with Disabilities

Although human rights statutes across Canada have long prohibited discrimination on the basis of disability, few jurisdictions have passed extensive legislation that imposes proactive accessibility obligations on employers in relation to persons with disabilities.

In 2005, the province of Ontario enacted the *Accessibility for Ontarians with Disabilities Act* (AODA), and became the first Canadian jurisdiction to introduce a comprehensive statutory scheme that seeks to develop, implement and enforce accessibility standards.

The legislation imposes various obligations on certain employers in Ontario, including:

- Notifying employees and job applicants about the availability of accommodation;
- Providing employees with accessible communication supports and formats; and
- Documenting individual accommodation plans for employees with disabilities.

Other Canadian jurisdictions have recently begun to follow Ontario’s lead and develop similar accessibility standards. In fact, the province of Manitoba recently enacted its own legislative scheme, the *Accessibility for Manitobans Act*. While the implementation of AODA has not been without its challenges, it nevertheless is a signal of a very different way of thinking about disability.

## 10. The Statutory Duty to Investigate Workplace Harassment and Discrimination

It is one thing for an employee to have human rights protection, but it is quite another to mandate employers with a legal obligation to deal with breaches of these protections. This is how we see the development of the legal obligation to conduct workplace investigations into allegations of workplace harassment and discrimination. The legal obligation has its roots in human rights case law, where some human rights adjudicators (but not all) determined that an employer was obliged to investigate complaints as part of its obligation to provide employees with a workplace free from harassment and discrimination. There has also been movement in employment law cases, where an employer’s failure to investigate has typically triggered awarding of bad faith damages, or has grounded an independently actionable tort.

As a result, there is now a body of case law on workplace investigation. It deals with the circumstances under which an investigation should be conducted, and the procedural content of the employer’s obligation to conduct one, among other things. This simply did not exist 25 years ago.

On Sept. 8, 2016, Ontario’s Bill 132 amended the *Occupational Health and Safety Act* (OHSA), and imposed upon employers a statutory duty to investigate complaints of workplace harassment. In the absence of a satisfactory investigation, Ministry of Labour inspectors may order an investigation be completed by a third party, at the employer’s expense. This is the first statutory provision of its kind in the country. ■

*Janice Rubin is co-founder and co-managing partner of Rubin Thomlinson LLP. Titus Totan is an associate lawyer at Rubin Thomlinson LLP.*

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Jordan Rodney is the founder of Rodney Employment Law with over 20 years of experience in the area of Employment Law and Human Resources. Jordan provides expert legal advice for all workplace matters, including but not limited to, employee and labour relations, employment standards, agreements, wrongful dismissal claims, workplace investigations, training, and human rights issues. Jordan practices in a strategic and practical manner, providing solutions to clients that are efficient and cost effective.

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Laura Williams is the principal of Williams HR Law, which provides employment and labour law services to employers. The firm delivers proactive, practical, customized and sustainable legal solutions to help clients manage HR law risks in the workplace.

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# All in the Family (Status)

## HOW FAR DO EMPLOYERS HAVE TO GO TO ACCOMMODATE FAMILY STATUS?

By Lorenzo Lisi

Over the past few years, there has been a lot of time and ink devoted to understanding the scope of “family status” protection under federal and provincial human rights legislation. As a result, Canadian employers are often left scratching their heads when faced with a “family/childcare” accommodation request in the workplace.

### THE STATE OF THE LAW

You may recall that there had been (and still is) an attempt to clarify what would constitute discrimination on the basis of family status when it came to childcare obligations. One approach, set out by the British Columbia Court of Appeal, determined that in order to trigger the obligation of an employer to accommodate, an

employee had to demonstrate a “serious interference with a substantial parental or other family duty.”

The 2015 Federal Court of Appeal decisions in *Canada (Attorney General) v. Johnstone* and *Canadian National Railway v. Seeley* held that a “serious interference” standard was too high a threshold and would undermine the protection against discrimination provided by legislation as it related to family status issues. Instead, the Federal Court of Appeal reframed the debate and asked whether or not the employment rule interfered with an employee’s ability to fulfill their substantial parental obligations in any way.

The take-away for employers from the debate is twofold: first, it confirms that at law, “family status” includes not only the status of being a parent, but also the parental obligations that flow from

# accommodation

that status; and second, that the review of whether or not the obligation to accommodate is triggered, may include an assessment of the following factors:

- **Parental obligation:** The employee must be the parent or responsible for the child's care
- **Legal obligation:** The employee's childcare obligation must engage his/her legal responsibilities to the child, rather than being merely a personal family choice
- **Reasonable efforts:** The employee must show that he/she has made reasonable efforts to meet the childcare obligations through alternative solutions, and that no such alternative solution is reasonably accessible
- **Real interference:** The "offending" workplace rule interferes in a manner that is more than trivial or insubstantial with the fulfillment of the childcare obligation

The test has not been considered by the Supreme Court of Canada, but it clearly signals a much more purposive approach to "family status," one which provides a greater level of protection for employees with childcare obligations and further, which can be extended to include "elder care" responsibilities.

**REMEMBER THAT EMPLOYERS ARE ENTITLED TO ASK FOR INFORMATION CONCERNING A SPECIFIC ACCOMMODATION REQUEST IN ORDER TO MAKE AN INFORMED DECISION.**

Given that the obligation to accommodate, or at least inquire into possible accommodation, may exist even where the child or eldercare arrangements are only "difficult" or "impractical," how can employers know how far they have to go in accommodating what were formerly family "lifestyle choices"?

In *SMS Equipment v. CEP, Local 707*, the Alberta Court of Queen's Bench upheld an arbitrator's decision that SMS discriminated against an employee on the basis of family status by refusing to accommodate the employee's childcare responsibilities.

The employee was a single mother of two children and worked night and day shifts as a welder for SMS. She requested daytime shifts because she had no extended family to assist her with childcare. The requirement of working night shifts meant she not only had to pay for a third party caregiver to look after her children during the night, but she then had to either pay a caregiver to watch them during the day (so she could sleep), or had to watch them herself, which gave her very little time for sleep.

SMS could not prove that the accommodation (steady days) would cause undue hardship, particularly given that another employee was willing to trade off and work straight nights. The Alberta Human Rights Tribunal held that SMS failed to accommodate the employee and set out the following test in establishing

discrimination based on family status under the *Alberta Human Rights Act*: (i) the employee has a characteristic that is protected from discrimination (in this case, family status); (ii) the employee experienced an adverse impact; and (iii) the employee demonstrated that the protected characteristic was a factor in the adverse impact.

In *Miraka v. ACD Wholesale Meats Ltd.*, the Ontario Human Rights Tribunal held that the decision to terminate an employee for "unreliability" (after missing three consecutive days of work) was related to the employee's obligation to his childcare and therefore contrary to the Ontario *Human Rights Code*.

The employee was a driver for a wholesale meat distributor. His job required him to come to work early in the morning to prepare the deliveries for the day, except for Mondays when he didn't have to report in until later in the morning. On Monday, June 11, 2012, he told the office manager that he would have to stay at home the next day (June 12) and take care of his children (one and four years of age) due to the illness of his wife, who normally cared for them. Specifically, he said that due to his wife's anxiety, he was afraid to leave the children alone with her because they would be essentially "unattended" and, further, that they lived on the seventh floor of an apartment with a balcony.

On June 13, 2012, he was scheduled to start work around 5:00 a.m., yet didn't call in until around 11:00 a.m. At that point, he told the employer that he could not attend work for the same reason; that is, his wife was still ill and he had to stay home again to take care of his children.

On June 14, 2012, he returned to work but injured himself and had to leave. The employer testified that the decision to terminate was due to unreliability, although there was an issue of alleged discrimination on the basis of disability given his injury on the 14th.

The Tribunal found that the termination was discriminatory, that the employee's absences on all three dates were at least a significant part of the reason the decision to terminate and that it would be unreasonable to leave the children alone with their mother (i.e., the children would have been placed at risk) which would engage his legal responsibility under the *Johnstone* test.

Perhaps more troubling for employers is that the Tribunal stated that it was "not convinced that the requirement to demonstrate reasonable efforts to make alternative childcare arrangements applies in cases like this, where there is only an infrequent, sporadic or unexpected need to miss work to take care of one's children."

The employer's argument that the employee was obliged to find alternate childcare on short notice was rejected and found to be inconsistent with the legal obligation to care for his children.

As to the issue of why the employee couldn't give proper notice of his inability to attend work prior to his shift on the 13th, the Tribunal appears to have accepted the evidence that he was so tired from the night before that he was not "thinking clearly."

There is likely some sympathy for the frustration of an employer where an absence cannot be filled because of late notice. There is also the added concern that even temporary accommodation requests can trigger the obligation to accommodate, despite having a clear adverse effect on the employer's business. The decisions did make one thing clear: there does not have to be a "serious interference with a substantial parental or other family duty." If the employee's request for accommodation triggers the legal obligation

GIVEN THAT THE OBLIGATION TO ACCOMMODATE, OR AT LEAST INQUIRE INTO POSSIBLE ACCOMMODATION, MAY EXIST EVEN WHERE THE CHILD OR ELDER CARE ARRANGEMENTS ARE ONLY “DIFFICULT” OR “IMPRACTICAL,” HOW CAN EMPLOYERS KNOW HOW FAR THEY HAVE TO GO IN ACCOMMODATING WHAT WERE FORMERLY FAMILY “LIFESTYLE CHOICES”?



to care for a child or elder, then a failure to accommodate (subject to proving undue hardship) will lead to a finding of discrimination.

## PRACTICALLY SPEAKING

Given the law, employers should expect a lot more requests for accommodation due to family obligations. So what is an employer to do?

The first step for employers should be to review and, if necessary, update their policies and procedures concerning accommodation in order to treat each request fairly and independently. Each accommodation request comes with its own set of facts and history and while employers may sometimes be hard-wired to reject requests that seem trivial, being both compassionate and creative and avoiding a “one size fits all” approach to accommodation may be far more effective.

Remember that employers are entitled to ask for information concerning a specific accommodation request in order to make an informed decision. For example, what are the specific needs of the child or elder care, and has the employee sought out alternatives to deal with them? And what is the duration of the requested accommodation?

In addition, employees are not entitled to “perfect” accommodation, but one that (based on the information) is reasonable in

the circumstances. Open-ended requests without the support by appropriate and necessary information need not necessarily be accommodated and employees cannot “cherry pick” the job/shift or accommodation they prefer.

Further, the duty to accommodate is a multi-party inquiry that involves not only the company, but the employee as well (and if unionized, the union). A failure to participate in their accommodation may impact the employee’s right to that accommodation.

And finally, the need to document and follow up on the accommodation once implemented is critical. Often times, employees are left in accommodated roles as a result of neglect or because they are “out of sight, out of mind.” Employers must be vigilant in following up and reviewing the accommodation and, if necessary, modifying or even eliminating the need for the accommodation if the circumstances have fundamentally changed.

Life is becoming more complicated for employers and employees alike. The hope is that in the long run, with practice, patience and creativity, both sides will be successful in integrating the need for family status accommodation in a manner which addresses the employee’s concerns as well as the employer’s operational needs. ■

*Lorenzo Lisi is the practice group leader of Aird & Berlis LLP’s labour and employment group.*



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# Stirring the Pot

## MEDICAL MARIJUANA IN THE WORKPLACE

By Susanne Balpataky

The use of medical marijuana continues to rise across the country and employers must increasingly find ways to deal with this new reality. Until June 2015, the only legal method of consuming medical marijuana was to smoke it. However, in the Supreme Court of Canada decision of *R v. Smith*, 2015 SCC 34, the court held that a medical access regime that only permits access to dried marijuana unjustifiably violates the guarantee of life, liberty and security of the person contrary to s. 7 of the *Canadian Charter of Rights and Freedoms*. Users of medical marijuana may now ingest the drug in a variety of ways. Despite the controversy surrounding its use, employers should treat medical marijuana like any other prescription medication.

A prescription for marijuana does not entitle an employee to unfettered use in the workplace. Employees have never had the right to work while being knowingly impaired or unable to perform the duties of their job because of powerful pain medication they are using, for example. That has not changed.

Section 5(1) of the Ontario *Human Rights Code*, however, provides an individual with the right to equal treatment with respect to their employment without discrimination because of disability. Medical marijuana may be prescribed for a variety of conditions such as chronic pain, arthritis, cancer and multiple sclerosis, all of which fall within the definition of “disability” contained in the *Code* and engage an employer’s duty to accommodate to the point of undue hardship. Which begs the question: what constitutes undue hardship?

Answering this question requires a consideration of three factors:

1. The cost of accommodation
2. Any outside funding available to subsidize the cost of accommodation
3. Any health and safety concerns with respect to accommodation

The third factor will likely be the most relevant when dealing with medical marijuana use on the job. In certain safety-sensitive environments, an employer will still be justified in enforcing a



**A PRESCRIPTION FOR MARIJUANA DOES NOT ENTITLE AN EMPLOYEE TO UNFETTERED USE IN THE WORKPLACE. EMPLOYEES HAVE NEVER HAD THE RIGHT TO WORK WHILE BEING KNOWINGLY IMPAIRED OR UNABLE TO PERFORM THE DUTIES OF THEIR JOB.**

zero-tolerance policy for drug use, including marijuana. A heavy equipment operator, even one with debilitating back pain, for example, will almost certainly be prohibited by her employer from using prescribed medical cannabis on the job. The use would likely (i) impair her ability to perform her job and (ii) pose a safety risk to the other employees on site. However, except in this type of safety-sensitive environment, a blanket zero-tolerance policy for marijuana use and possession is no longer enforceable.

It is important to note that employers must be proactive in ascertaining whether accommodation of an employee is required on grounds of disability. The duty to accommodate, however, is a joint responsibility and an employee has an obligation to inform the employer of the need for accommodation. It is further incumbent on an employee to cooperate in providing adequate information to substantiate the employee's limitations and the impact of his disability on his ability to perform the essential duties of his position. The employee's refusal to cooperate in the accommodation process will be taken into account when assessing whether an employer has met its duty to accommodate.

When faced with an employee who asserts the right to use marijuana for medical reasons, an employer, as part of the accommodation process, can and should request medical documentation detailing whether the medical marijuana use affects the employee's ability to carry out his assigned duties. If that documentation reveals a significant impairment of the employee's ability to safely

perform his duties, the employer would not be required to accommodate the employee's medical use of marijuana. In the heavy machine operator example, accommodating the use would cause the employer undue hardship in light of the safety concerns involved. The employer's obligation to accommodate, however, is not then at an end. The employer would likely be obligated to consider reassigning the employee to different duties that do not engage safety concerns, or, alternatively, allow the employee to take a leave of absence.

Use of medical marijuana in the workplace also engages the employer's responsibilities under the *Occupational Health and Safety Act*. Employers have an obligation to "take every precaution reasonable in the circumstances for the protection of a worker." In addition to accommodating an employee with a disability, the employer must also have regard to the safety of other workers, for example from second-hand smoke caused by an employee who seeks to smoke medical marijuana in the workplace.

In light of the broadening impact of medical marijuana use in the workplace, employers should review their current drug and alcohol policies to address the legitimate use of medical marijuana in the workplace and establish well-defined parameters for that use. ■

*Susanne Balpataky is a partner at Spiegel Nichols Fox LLP and has practised at the firm since her call to the bar in 1991.*





# Baby AND BACK

## CAN CANADIAN EMPLOYERS DO BETTER WHEN IT COMES TO MATERNITY LEAVE CAREER TRANSITIONS?

By Avra Davidoff, M.C., R. Psych and Dr. Laura Hambley, Ph.D., R. Psych

**W**hile economists have long suggested that Canada will experience serious labour shortages in the near future, the bigger risk to Canadian employers and the economy is a skills mismatch, whereby the skills and talents of the labour pool do not meet labour market demands. Although a single solution does not exist to address this problem in its entirety, part of the answer resides in attracting and using Canada's existing labour market as effectively as possible, and this includes working mothers.

Leveraging the skills and talents of working mothers is important for a host of reasons. Women make up approximately 50 per cent of Canada's labour force and account for 58 per cent of post-secondary graduates, according to Statistics Canada. Of the working women who do become mothers, 90 per cent will take a maternity leave, with 44 weeks being the average length of leave.

The employment rate for working mothers has increased steadily over the last three decades, and 73 per cent of mothers report working in either a part-time or full-time capacity. When viewed as a whole, mothers (including biological, adoptive and stepmothers) account for 9.8 million members of Canada's current 35.7-million member population. Clearly, working mothers are a significant component of the labour force. By recognizing and leveraging the opportunities this group presents, employers can retain talent, enhance productivity and decrease turnover.

But are organizations effectively managing, engaging and retaining women before, during and after maternity leaves? Recent research by Canada Career Counselling, funded by the Canadian Education Research Institute for Counselling (CERIC), found a startling disconnect between how well employers think they are doing and what working mothers perceive. Specifically, over

**OVER 38 PER CENT OF THE WOMEN WHO PARTICIPATED IN THE STUDY FELT THAT MATERNITY LEAVE HAD A NEGATIVE IMPACT ON PROMOTIONAL AND CAREER DEVELOPMENT OPPORTUNITIES, YET EMPLOYERS WERE LESS FORTHCOMING IN RECOGNIZING THIS IMPACT.**



You can access a free webinar, *Making It Work! How to effectively Manage Maternity Leave Career Transitions: An Employer's Guide*, by visiting <https://vimeo.com/170993415>.

38 per cent of the women who participated in the study felt that maternity leave had a negative impact on promotional and career development opportunities, yet employers were less forthcoming in recognizing this impact.

The following is a snapshot of a few leading and promising practices from the research and subsequent publication *Making It Work! How to Effectively Manage Maternity Leave Career Transitions: An Employers' Guide*. Employers can incorporate these strategies into their HR processes, if they are not doing so already, to better engage and retain women through maternity leaves:

- **Establish and enact a communication plan:** In collaborating with your employee, determine whether, and how often, you will communicate with her while she is away on maternity leave. Set clear guidelines about what will be discussed and when, and how communication will be maintained (e.g., telephone, email, text, mail or in person).
- **Develop a return-to-work plan:** Ensure that HR representatives and managers work collaboratively with the employee to develop a return-to-work plan covering important topics such as the date of return, reintegration actions and roles and responsibilities, as well as her work schedule and career options upon returning.
- **Conduct a return-to-work interview:** It is important to recognize that an employee who is coming back to work from maternity leave is likely returning to work under new circumstances. But do not make assumptions. Having an open dialogue about changes in roles and responsibilities will allow both parties to communicate effectively and share aspirations and career plans.
- **Implement a re-onboarding process:** Managers, coworkers and/or clients may assume that because a new mother is a returning employee, she will be able to pick up where she left off; however, employees need to be re-integrated into their work roles and into the social environment of the office, which takes conscious thought and focused attention.

- **Discuss flexible work arrangements:** These options afford new mothers the opportunity to effectively manage their work and family lives. As an employer, consider what flexible arrangements you might be able to offer and how these can benefit both your employee and your organization. WORKshift Canada, a non-profit organization supporting flexible work in Canadian organizations, is an excellent starting point ([www.workshiftcanada.com](http://www.workshiftcanada.com)).
- **Make use of mentors or a buddy system:** Pair those about to go on, or newly returned from, maternity leave with someone in a similar role who has already been through the maternity leave process. This person can offer advice and support and facilitate a smooth transition back to the workplace.
- **Consider comeback coaching:** Every working mother experiences the return-to-work transition uniquely and could benefit from extra support from an objective and supportive third party. Comeback coaching provides career transition support to mothers returning to employment after maternity leave or a more extended period of raising a family. Coaching can begin in the weeks prior to the projected date of return, and can continue into the first few months after the actual return, or as the particular situation determines. This strategy sends a clear message to the new mother that she is a valued employee and that you are willing to invest in her development and support her reintegration into the workplace.

Remember that a mother on maternity leave is still an employee. Employees on maternity leave are still essential members of the organization, and still part of the team. Depending on your organization and the specifics of the situation, there are likely several ways to keep your employee informed and engaged during maternity leaves. ■

*Avra Davidoff is a workplace psychologist and Associate at Canada Career Counselling and the Leadership Success Group. Dr. Laura Hambley founded Canada Career Counselling and has worked in the field of career development since 2001.*



# The Softer Side of Leadership

SOFT SKILLS ARE CRITICAL ELEMENTS THAT ANYONE CAN MASTER

By Kelly Brown

In many cases, people fall into leadership, rather than being born with an inherent ability to lead. They find themselves in leadership positions and then either sink or swim. Many people end up figuring out how to swim – yet, even then, only a few become really good swimmers. What makes them different from the rest is that they’ve learned to lead not only with their heads, but also with their hearts.

In business, people sometimes think that leadership comes from mastering the hard skills – a deep understanding of facts, strategy and results. But that’s only partly true. Good leaders know they also need to master the soft skills: connecting with people and inspiring them so the team can achieve great things together.

Good leaders are also purposeful and mindful about how they are going to lead. They recognize that leadership is revealed in every interaction they have with others, whether in meetings, in the

**THE MORE LEADERS DEMONSTRATE THAT THEY'RE CARING, CONNECTED AND CURIOUS, THE EASIER IT BECOMES FOR TEAM MEMBERS TO SPEAK UP ABOUT THINGS THAT MATTER TO THEM.**



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cafeteria or even in the parking lot and outside office hours. They approach every day asking themselves the same question: how am I going to be today?

Answering that question involves three key elements: caring and connecting; getting curious about the business and its people; and communicating with courage.

## CARING AND CONNECTING

A good leader loves people, or at least cares for them. It's not enough to just present facts and figures or explain goals to your team and expect them to follow you; you also need to connect with them on a personal level. If you genuinely care about your people, they will feel it and be prepared to do almost anything to help you and the team.

Good leaders know that truly caring about people means listening – really listening – and giving your employees' ideas full consideration, even if you can't do everything they want.

## CULTURE OF CURIOSITY

Albert Einstein often said that he was neither clever nor especially gifted, just passionately curious. Curiosity is an important trait of every good business leader – curiosity about the business and its people.

Being curious means being willing to ask questions, even if you think that doing so might make you look dumb. In many cases, asking a question provides valuable information to others who may not be on the same page, or who were afraid to ask that same question. Being curious can help your team get to a better solution.

## COMMUNICATE WITH COURAGE

MolsonCoors has a policy of “straight talk” – a common language that gives people licence to say what they mean to further their team goals. But straight talk is not a licence to be mean or rude; it has to be constructive and come from a place of good faith. Yet even though people are encouraged to use straight talk, it's surprising how difficult it is for some people to speak up.

Good leaders understand that straight talk benefits everyone because it makes the business, and the people who work in the business, better. And the more leaders demonstrate that they're caring, connected and curious, the easier it becomes for team members to speak up about things that matter to them.

The most effective way to speak up isn't to just raise a concern, but to advocate for what you think would make things better. Have the courage to say “I want” something specific done. You'll be amazed at how much more you can accomplish when you state clearly and with conviction what you want.

So while people are not necessarily born to lead, almost anyone can become a good leader. It all starts by answering that question – how am I going to be today? – and then using your head and your heart to connect with and inspire your team. ■

*Kelly Brown is the chief people, legal and corporate affairs officer at MolsonCoors.*

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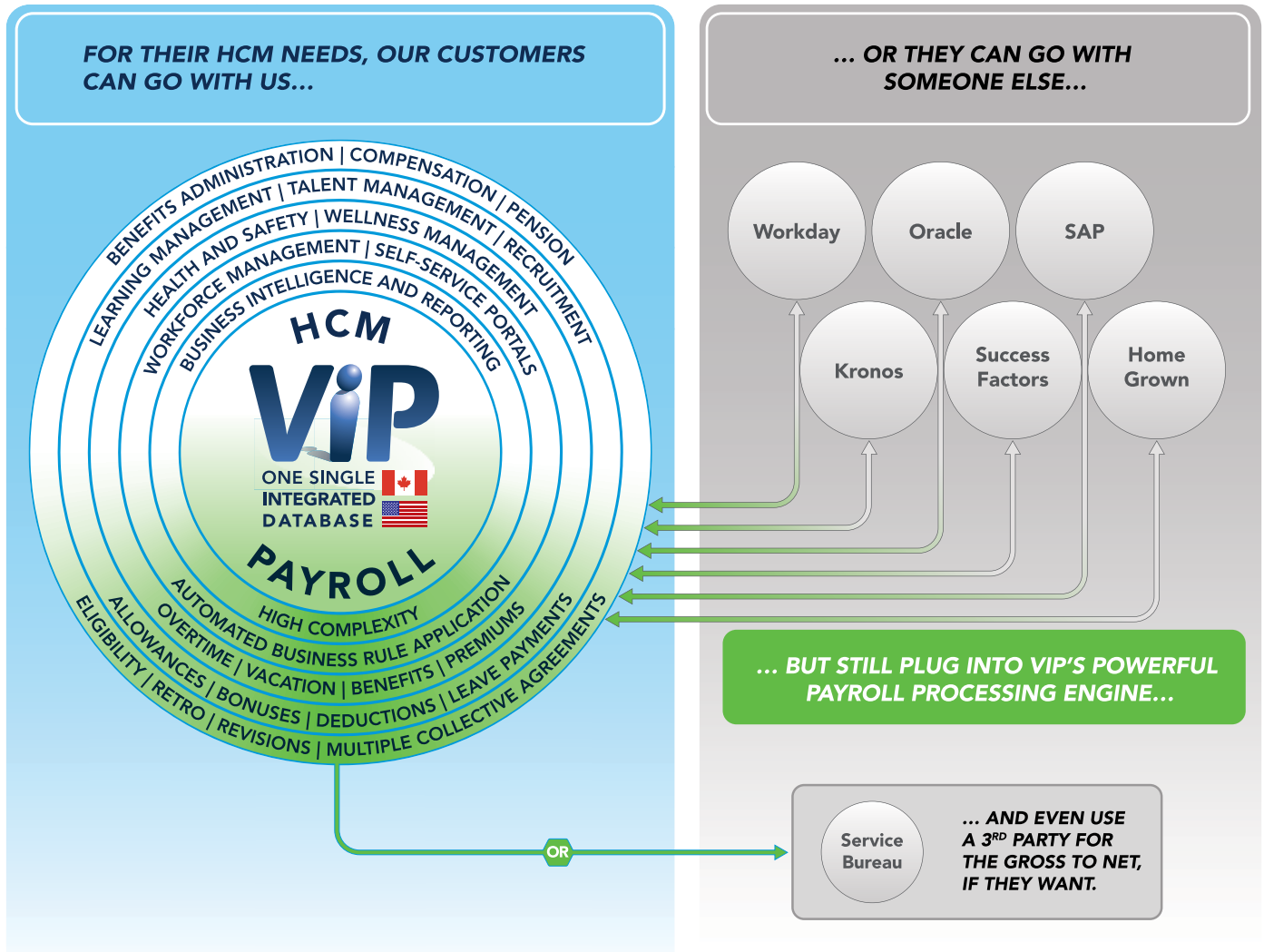
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# Promoting a Culture of Health and Safety

## THE ROLE OF HUMAN RESOURCES IN INTEGRATION, CULTURAL ALIGNMENT

By Kim Takata

**N**o one understands the nuances of an organization to the extent that the HR department does. HR has the opportunity to partner with and influence many internal teams because they understand how roles, policies and procedures, business requirements, culture and structure all support the strategic priorities of the organization.

With an aging workforce, constant legislative changes and new hazards emerging daily – including fatigue, mental health, violence and harassment and post-traumatic stress disorder – the role of HR continues to shift and expand. While HR leaders may not necessarily know the ins and outs of health and safety (H&S) from a technical perspective, they are expected to respond appropriately to H&S issues and

challenges as they arise. Recognizing the importance of this is critical in promoting and sustaining an effective internal responsibility system (IRS).

### ROLES AND RESPONSIBILITIES

For smaller organizations, HR is often responsible for H&S, making it easier to address, promote and identify issues. However, in larger organizations, HR will often work in tandem with a dedicated H&S manager or department. These separate roles can become siloed, and perhaps even compete for resources; yet, when integrated, these allied forces can create a positive impact across the organization.

How can an organization integrate the roles and responsibilities of both HR and H&S departments to provide innovative solutions for workers? How can H&S

leaders work optimally in partnership with employers, employees and unions to mitigate operational losses, occupational health issues, accidents and injuries?

### ENSURING ALIGNMENT AND INTEGRATION WITH ALL EMPLOYEES

Since H&S has long been viewed as the responsibility of everyone in an organization, HR can play a key role in bringing alignment and facilitating conversations. HR can work alongside the H&S manager to support that role, and/or be part of a joint H&S committee. Both roles can work together to develop policies and advocate for H&S while at the same time overseeing communications and reporting. Alignment where there is overlap will also assist with a more engaged workforce – it's

# health & safety



**WHILE HR LEADERS MAY NOT NECESSARILY KNOW THE INS AND OUTS OF HEALTH AND SAFETY FROM A TECHNICAL PERSPECTIVE, THEY ARE EXPECTED TO RESPOND ACCORDINGLY TO HEALTH AND SAFETY ISSUES AND CHALLENGES AS THEY ARISE.**

important for HR to play a key role in representing workers, providing support for safety concerns, coaching and providing additional H&S training.

## PREVENTING AND MANAGING EMERGING WORKPLACE HEALTH AND SAFETY ISSUES

Recently, issues like workplace mental health, workplace violence as well as responding appropriately to aggressive behaviours are becoming major concerns for Canadian employers. The effects of all are costly to both the worker and organization. Organizations are asking: what needs to happen in the workplace to successfully implement a program? Where do you start to garner support and inspire and unite workers in an attempt to bring about meaningful change?

The first step is laying the foundation for success in the area of physical

and psychological occupational H&S. Identifying the risks, controlling the hazards and ensuring workplaces have the necessary tools to meet legislative requirements are all part of aligning with the work environment as well as the culture and system within an organization. To help workplaces embrace a participatory approach to H&S, it is important to allow people to come together to discuss the cause or problem and work collaboratively to devise strategies or methods for action.

There are many different approaches that can be applied in the workplace. For example, a tiered approach requires the assignment of a “change team” to identify and analyze relevant issues and propose, implement or monitor potential solutions. Training and education is then part of the implementation process and will help build capacity to tackle the issues.

## WHY A SAFETY CULTURE?

Implementing a culture of H&S ultimately means increased work satisfaction combined with decreased absenteeism and overtime. This means increased productivity and quality of service.

The roadmap to success also requires an effective H&S management system at the top, which includes the following pillars:

- Leadership and commitment
- Hazard identification and risk assessment
- Risk management and control
- Evaluation and corrective action
- Strategic review and continual improvement

Once established, workplaces can begin to fill gaps between knowledge and evidence available across various sectors by providing optimal solutions for managing these types of issues in the workplace.

The responsibility for a safe and healthy workplace falls on every person in the workplace to the degree they have the authority and ability to exercise it. Through a participatory approach, workplace parties become actively involved in the recognition, assessment and control of workplace issues. This approach usually begins as a grassroots movement that integrates H&S into all aspects of work. Once it is embedded into the core of business operations, the participatory approach becomes the norm, creating a greater sense of community and an opportunity to shift organizational safety culture. ■

*Kim Takata is manager, Human Resources and Employee Relations at the Public Services Health & Safety Association.*

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# HR CAREER PATHS:

## Doug Brown, BSc.



### EMPLOYEE ENGAGEMENT

By Kristy Rydz

**A**fter 25 years in both sales and operations management for the food and chemical industries, Doug Brown knew he could help businesses build better teams and avoid some of the frustrations in the workplace.

The result was Engaged2Perform, the southwestern Ontario-based employee engagement solutions company that Brown founded 11 years ago. With clients across North America in sectors such as oil, food, insurance, health care and more, he and his team provide resources and tools to companies that ensure they are in tune with the needs and attitudes of their employees.

While he began by building employee recognition programs, Brown soon realized that those systems were only one aspect of what it takes to inspire people to strive higher.

"Although [it's] an important component, there are just so many more factors and issues that influence employees and their ability to deliver their best performance on a day-to-day basis. So, we began to explore what tools and services can support business in really achieving that," said Brown, who holds an honours bachelor degree in food science with a minor in business from the University of Guelph.

With more than a decade of experience, he told *HR Professional* about how emotions drive workplace engagement each day and discussed the importance of research in his field.

**In your current position, what are your main areas of responsibility?**

**Doug Brown:** There are two areas where I focus my time – one is externally, by which I mean clients, and the other is internally. Much of my external work is understanding needs – what clients are seeking to achieve with their goals, what strategies make sense for them and marry with those objectives, along with things like coaching support and leadership development. I put a lot of time into understanding how different sectors and industries are impacted by engagement, what's affecting them, how it's influencing the bottom line and what human capital challenges they're facing. Internally, it's more focused on how I can improve, align and position our tools and services to support clients in their engagement and performance needs while making sure they're achieving their expectations in working with us.



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# career paths



**“EVERYONE SHOULD BE ENTITLED TO WORK IN A CAREER THEY ENJOY, THAT THEY CAN TAKE PRIDE IN AND THAT HAS MEANING FOR THEM.”**

– DOUG BROWN

## What does a typical day at work for you look like?

**DB:** My staff and I read a ton of articles that may impact people and the day-to-day management of businesses. We work with data assessment and analytics from a client focus with the web-based tools and platforms used for data collection that help us understand the issues and challenges they face. We then work to interpret that information and provide feedback through reports and recommendations. As well, our company and clients often participate in research projects with our strategic partners that aim to help people understand the trends in people management and human capital challenges.

## What do you love about your job?

**DB:** Everyone should be entitled to work in a career they enjoy, that they can take pride in and that has meaning for them. It can't just be about a paycheck or working for the weekend, so to speak. If I can bring some enjoyment, pride and meaning to employees in the workplace, it's very gratifying and rewarding. I really enjoy hearing stories from clients where they've seen positive results from tools we provide and that they've had a positive experience in improving their businesses through use of our strategies – that really makes it worthwhile to do the work that we do.

## What are some of the challenges you experience on a day-to-day basis?

**DB:** To help clients and prospects understand what engagement means and how it impacts performance and their business. I think many organizations still struggle with getting a bigger impact from their work on engagement; studies show that there is clearly significant room for improvement in engagement levels but also that [it] fluctuates and is dynamic and ongoing. It impacts businesses in many different ways and at many different levels. I think that while engagement surveys provide important information, they don't tap into the individual levels and, after all, it is individuals who make a private decision to engage and perform really well or not. I believe many organizations don't put enough attention to supporting engagement at the individual level.

Another is helping clients understand that emotions, both positive and negative, are at the core of engagement. Both have a significant influence on things like motivation, determination and performance.

## What skills do you possess that make you a great fit for your position?

**DB:** I do extensive research in our field, which involves dialogue with motivational experts, reviewing the findings of human capital firms' studies and conducting employee interviews to better understand needs. That, plus the commitment to make a difference in supporting business organizations to increase and sustain engagement is what makes my company successful. I consider myself people oriented; I enjoy learning about client challenges and figuring out which solutions can make a difference for them.

## What are your ultimate career goals?

**DB:** As we continue to grow, I want our company to play a key role in helping other companies understand engagement, but there's a lot of work to be done in this field. A big part of that is in research and we're really involved in two exciting projects that are currently underway.

One is with Wayne Clancy at Mindsuite Metrics, called Humanizing Performance. This is a global research study, which is all about looking at how people treat one another in the workplace and how that impacts performance. This is not research in the traditional sense but will engage participants in dialogue so they are providing suggestions on solving the problems they have identified.

The other project is with Jacob Schneid at The Momentum Group and focuses on the roles that managers play in engagement. Partnering with a local community college, we're working with managers from the private and public sectors to improve leadership skills using an employee-manager engagement tool that we provide as an opportunity to learn through practical experience.

Being involved in projects like these and utilizing the excellent tools we offer, I think we're on the right path for continuous growth in helping businesses achieve more in their pursuit of improving engagement. ■



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## MEET THE HR INFLUENCERS:



# Mila Lucio, MBA, CHRE, GPHR

## OPTIMIZING POTENTIAL

By Kristy Rydz

**W**ith over 25 years of HR leadership experience in the fast-paced and high-growth automotive industry, Mila Lucio was captivated by the idea of working toward a bold goal as the chief human resources officer at Green Shield Canada, the country's only not-for-profit health and dental benefit provider.

"Our mission is to create innovative solutions that improve access to better health. To be able to deliver on that kind of mission – while exceeding customer expectations with best-in-class service and sustaining a successful business model through which we give back to our communities – provided a much more fulfilling and rewarding outcome at the end of the day, which was what really sold me," said Lucio.

Utilizing her master's degree in business administration, Lucio originally fell into the HR profession after spending a few short months as an operations administrator at Union Gas, before applying for an HR opening within the company.

"Once I started working, I realized this beautiful marriage between my passion for understanding human nature and my results-focused orientation, and how those two come together in the field of human resources," said Lucio.

Almost three decades later and in her new role for just over year, she told *HR Professional* about why she values employees who are coachable and how self-awareness is crucial to being a good leader.

### What was your first HR job?

**Mila Lucio:** I was a coordinator of salary administration at Union Gas. It was heavily numbers-based and desk-oriented, so I have to say I didn't really love that role. But it did make me realize the types of things that I do enjoy and how I can leverage my love of understanding people to help them achieve best outcomes.

### Tell me about your current job. What are your main areas of responsibility?

**ML:** In a nutshell, my role is to optimize potential. I like that vision I've established for my team because it's about optimizing the potential of the organization and our people. As a result, on a daily basis, I'm ultimately responsible for anything to do with talent management and succession planning, overall performance optimization and the linkages to total rewards design and overall workforce planning. As a member of the executive group, I am also responsible for establishing and delivering on the corporate-wide strategy for the organization, working with our board on HR-related items and acting as an executive coach on people-related issues.



**“BE OPEN TO LEARNING AND COACHING, BECAUSE ONE OF THE STRONGEST INDICATORS OF SOMEONE’S FUTURE POTENTIAL IS THEIR COACHABILITY. GO ABOVE AND BEYOND IN EVERY ROLE THAT YOU HOLD, NO MATTER WHAT IT IS, TO LET OTHERS IMAGINE YOU IN FUTURE ROLES.”**

– MILA LUCIO

### What do you love about your job?

**ML:** Being able to positively impact the desired outcomes of the organization. I love being able to do that through my years of learning as a business leader and putting strategies and systems in place to make things happen in our company. I feel personally fulfilled watching people grow and develop and reach their own individual potential, while at the same time achieving the goals of the organization. I also love being able to intentionally impact culture, because culture is a critical element of any organization’s ability to achieve strategic outcomes.

### What are the challenges you experience in your job?

**ML:** There are those common challenges that every HR person faces, combined with the unique challenges associated with being a social enterprise. Ultimately, my challenges are related to delivering on our grand mission, while nurturing innovation and balancing our culture with our financial

sustainability. My challenge is supporting the organization to make all of that happen by positively impacting people, systems and processes and optimizing talent.

### What’s key to leading HR during a difficult time for a client organization?

**ML:** Having an intimate understanding of what’s important to the business, and knowing the imperatives that the organization needs to deliver on. Being creative and flexible in brainstorming solutions – thinking outside the box and not having a pre-defined notion of what the appropriate outcome should be based on history. Facilitating difficult discussions to ensure all stakeholders’ interests are met in the best way possible is critical to being able to move the organization forward. Being compassionate and understanding of the challenges people face, and providing them with support, while still appropriately holding them accountable for their deliverables.

### What skills are important for success in HR?

**ML:** Everything stems from self-awareness. In my experience, that’s the key differentiator between people who are really high achieving and those who will go far from a leadership perspective. Having an individual understanding of one’s strengths and growth edge allows people to figure out how to show up as the best version of themselves in the workplace. This is especially critical for HR people because they also have to role model this for others. Apart from the table stakes of technical expertise, self-awareness is foundational to all of our other successes.

### What tips do you have for new grads or those in entry-level HR jobs who want to move up the ladder?

**ML:** Understand what your business and mission is all about, so you know how to best contribute and add value in your role. Be open to learning and coaching, because

# IN A NUTSHELL:

**First job:** Waitressing

**Childhood ambition:** To be a psychologist

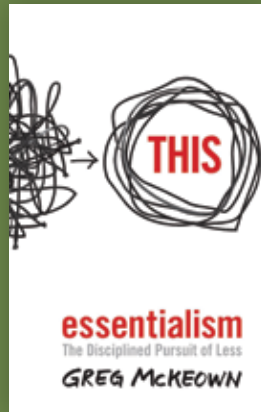
**Best boss and why:** They challenged me to deliver at my highest potential, in a way that was real and true to myself. They also empowered me to deliver on what I thought was important to the overall good of the organization and placed importance on the wisdom and guidance I had to offer.

**Current source of inspiration:** The employees of Green Shield Canada. As a newcomer to the organization, I've been so inspired by how committed they are to giving back to the community and how dedicated they are to our mission.

**Best piece of advice ever received:** Be an authentic leader. People will admire and respect you most for this.

**Favourite music:** I like all types. I choose my music depending on my mood and how loud I want it to be.

**Last book read:** *Essentialism: The Disciplined Pursuit of Less* by Greg McKeown



one of the strongest indicators of someone's future potential is their coachability. Go above and beyond in every role that you hold, no matter what it is, to let others imagine you in future roles.

**The HR field has been evolving. What changes excite you the most?**

**ML:** I'm really excited about the strides that the Human Resources Professionals Association (HRPA) has made having HR recognized as a profession, through the new competency framework and related designations. It establishes us on a level showing competency and credibility, similar to other credible professions. The other aspect I really love about our field is that it's evolved from a transactional role to a strategic business partner, integral in the key decision-making that allows the organization to deliver on its strategy – that part is really exciting to me as a senior HR practitioner.

**What's the future of HR?**

**ML:** The notion of HR providing value to the organization as a key business partner, which is really about removing

the transactional stuff to the degree possible, and delivering as a strategic problem solver. Our ability to quantify our decision-making and leverage the use of analytics to drive key decisions will become more important and critical.

As the world and industries become more competitive, the key differentiating factor will remain our people. We will, therefore, need to have a better understanding of the jobs of tomorrow and how we can develop employee knowledge and skills to be able to deliver on the expectations associated with those new roles that, in some cases, don't even exist yet. We will have to factor in the different motivations and needs of our growing millennial population. And how does all of that translate into future employment models, further challenging the whole concept of flex hours and part-time versus full-time roles? We may find ourselves partnering more with our school systems to understand and influence the degrees and diplomas being taught so we can have graduates with the skills we need coming out of the post-secondary school system. Our future is exciting! ■

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# OFF THE SHELF

By Alyson Nyiri, CHRL



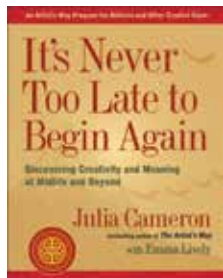
## CAREER DEVELOPMENT: A HUMAN RESOURCE DEVELOPMENT PERSPECTIVE

By Kimberly McDonald and Linda Hite  
Routledge, 2016

Developing employees across the organization is probably on your radar. And for good reason: to demonstrate a return on your investment. Mentorship programs, continuous learning cultures, coaching, job rotations and recognition programs serve to train and retain talent. To achieve sustained competitive advantage, organizations must build a sustained employee development platform. *Career Development* provides resources and examples as to how to do that.

### Point of interest

McDonald and Hite argue that the recession of 2008 smashed the psychological contract that implicitly existed between employer and employee – a mutual exchange of good work performance for job security. With the breach of this contract, organization-based, mutually beneficial career development evaporated and has yet to be fully recovered within HR development.



## IT'S NEVER TOO LATE TO BEGIN AGAIN: DISCOVERING CREATIVITY AND MEANING AT MIDLIFE AND BEYOND

By Julia Cameron  
Penguin Random House, 2016

Previously, at age 65, our employer notified us that it was time to clear our belongings and retire from the organization. Today, we determine when we'll retire, based largely on economic need, health or personal drive and career interest. Retirement seems to frighten some and excite others. Cameron offers a 12-week process designed to help retirement become an opportunity to pursue personal projects, revisit dreams and explore the future. *It's Never Too Late* is intended for those transitioning into the “second act of life” – shifting from one life to one yet to be created.

### Point of interest

Though the decision of when to retire rests with the employee, employers can still play a role in helping workers make a successful transition from employment to retirement. Offering resources and tools to employees at midlife to foster creativity and meaning can encourage an employee to adopt a leadership role, design new projects or mentor a younger colleague.



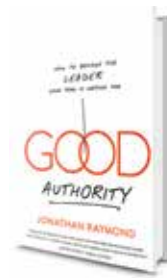
## WHY SHOULD ANYONE WORK HERE? WHAT IT TAKES TO CREATE AN AUTHENTIC ORGANIZATION

By Rob Goffee and Gareth Jones  
Harvard Business Review Press, 2016

Capitalism is reinventing itself. The financial crisis of 2008 revealed our inability to control global financial capitalism. Organizations must rediscover their moral purpose. In this book, organizations are challenged to build better workplaces as a means for responding to the new challenges of capitalism, building productivity and unleashing creativity. Goffee and Jones outline a fresh approach to developing a workplace culture based on authenticity, individual development and limiting bureaucracy. Some organizations fail to realize that high performance rises when individuals throughout feel they can grow through their work.

### Point of interest

An authentic organization is a place where individuals can be their best selves. Differences are validated throughout the system. Conformity is actively dismantled and replaced with self-determination and accountability.



## GOOD AUTHORITY: HOW TO BECOME THE LEADER YOUR TEAM IS WAITING FOR

By Jonathan Raymond  
Idea Press, 2016

How do we get people to own their work? How do we improve employee engagement? In *Good Authority*, Raymond offers fresh insight into these often asked leadership questions. Many leaders have not realized their own underlying and limiting assumption: they all start with the needs of the business and put the needs of individuals second. Employees, though, are discontent with the status quo. Creative compensation packages, catered lunches, game rooms and mindfulness practices were launched to bolster employee engagement. But still the numbers haven't budged. The solution is to turn the equation around and realize that for employees to engage, they need to have managers who are willingly engaging with them.

### Point of interest

The inability of people to feel their impact on others is the cause of cultural dysfunction. Raymond urges managers to recognize their impact on their team and to help people see their impacts on each other. ■

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# More Choice at Work is Good for Your Health

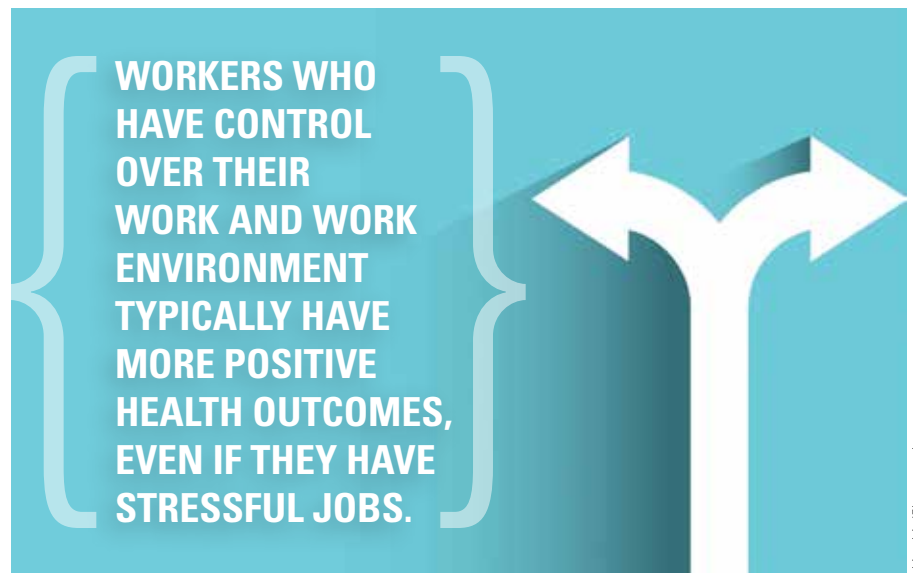
## THE BENEFITS OF CONTROLLING YOUR ENVIRONMENT

By Leigh Stringer

Most of us inherently know that having “choice” at work is a good thing and that it helps us to be more productive, more creative, more engaged and healthier. When we don’t have control over aspects of our work, we become stressed, we may feel trapped and our performance suffers. But is there any proof that this is true? Turns out, there is.

Robert Karasek, an industrial engineer and sociologist, and Tores Theorell, a specialist in industrial medicine, have been studying stress and jobs for a long time. Their epidemiological studies over decades have carefully measured the stress level of hundreds of jobs and the impact of those jobs on the productivity and health of workers (particularly in regards to heart disease). They created a model that organizes each job they studied using two factors: i) the levels of “psychological demands” of the job; and ii) the “decision latitude” or control of the worker to manage how he or she could deal with psychological demands. The results of their studies show that those workers with the greatest risk for illness are those with high psychological demands and low decision latitude. In other words, if you have a stressful job that does not provide much choice in how you are able to manage stress, you are more likely to suffer mentally and physically. Workers who have control over their work and work environment typically have more positive health outcomes, even if they have stressful jobs.

Karasek and Theorell describe ideal jobs as ones that, beyond material rewards, give workers influence over the selection of work routines and have routine demands mixed with new learning challenges. So, regardless of our profession or position, some choice as to where, when and how



we work can greatly impact creativity, engagement, health and the bottom line.

What can HR professionals do to support more individual choice? Try building more flexibility into how, when and where employees work. For example:

- **Change where work happens.**

Many people can work effectively and efficiently at home, in a satellite office, a co-working facility, a park or a coffee shop. Working this way requires good mobile technology and the right protocols to pull off (so everyone knows how to communicate), but it can be an incredibly empowering and healthy strategy.

- **Adopt flexible work schedules.**

Flexible work schedules are an alternative to the traditional 9-to-5, 40-hour work week. They allow employees to vary arrival and/or departure times and include programs like job sharing or a compressed workweek.

- **Adjust the work environment.**

It may be too difficult for your

organization to allow certain employees to choose where and when they work, but helping them change the way they carry out their workday might be a strategy to help them cope with stress and the daily grind. Even if the company does not provide adjustable desks, it may be possible for employees to change position or location in their workplace so that they can work while standing, like working a table in the break room or attending a “stand up” or walking meeting. Making small adjustments, like moving or adding a monitor, turning on a task light, orienting furniture or organizing the work being done can make a major difference in how employees feel about the health of their workplace. ■

*Leigh Stringer is author of The Healthy Workplace: How to Improve the Well-Being of Your Employees – and Boost Your Company’s Bottom Line.*

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