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OUR COMMUNITY WEBINAR MANAGING TERMINATION & REDUDANCY

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WELCOME



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Workforce Management - Terminations

- Culture & Change
- Performance Improvement & Termination

Payroll, Compliance & Reporting

- JobKeeper & JobKeeper 2.0
- NES & Award / EBA Considerations
- Genuine Redundancy

Questions

UNIQUE ALIGNMENT ACROSS ALL STAKEHOLDERS NEVER SEEN BEFORE

WHO WANTS
CHANGE??



DECEMBER 2019

WHO WANTS
TO BE THE CHANGE?



JANUARY 2020

WHO WANTS
TO BE THE CHANGE?



APRIL 2020

UNIONS

SUPPLIERS

CUSTOMERS

COMMUNITY

FINANCIERS

GOVERNMENT

EMPLOYEES

SHAREHOLDERS

DON'T WASTE A GOOD CRISIS WHY TRANSITION IF YOU COULD TRANSFORM?

Boards need to be clear and aligned with the executive on what culture, capabilities & skills are required by the organisation to be successful.

Trends impacting organisations as a result of COVID-19.

- 1 Remote working and the future of work
- 2 How customers are being serviced and changes in what they value
- 3 How organisations create value for their customers, technology, service delivery models and the products themselves

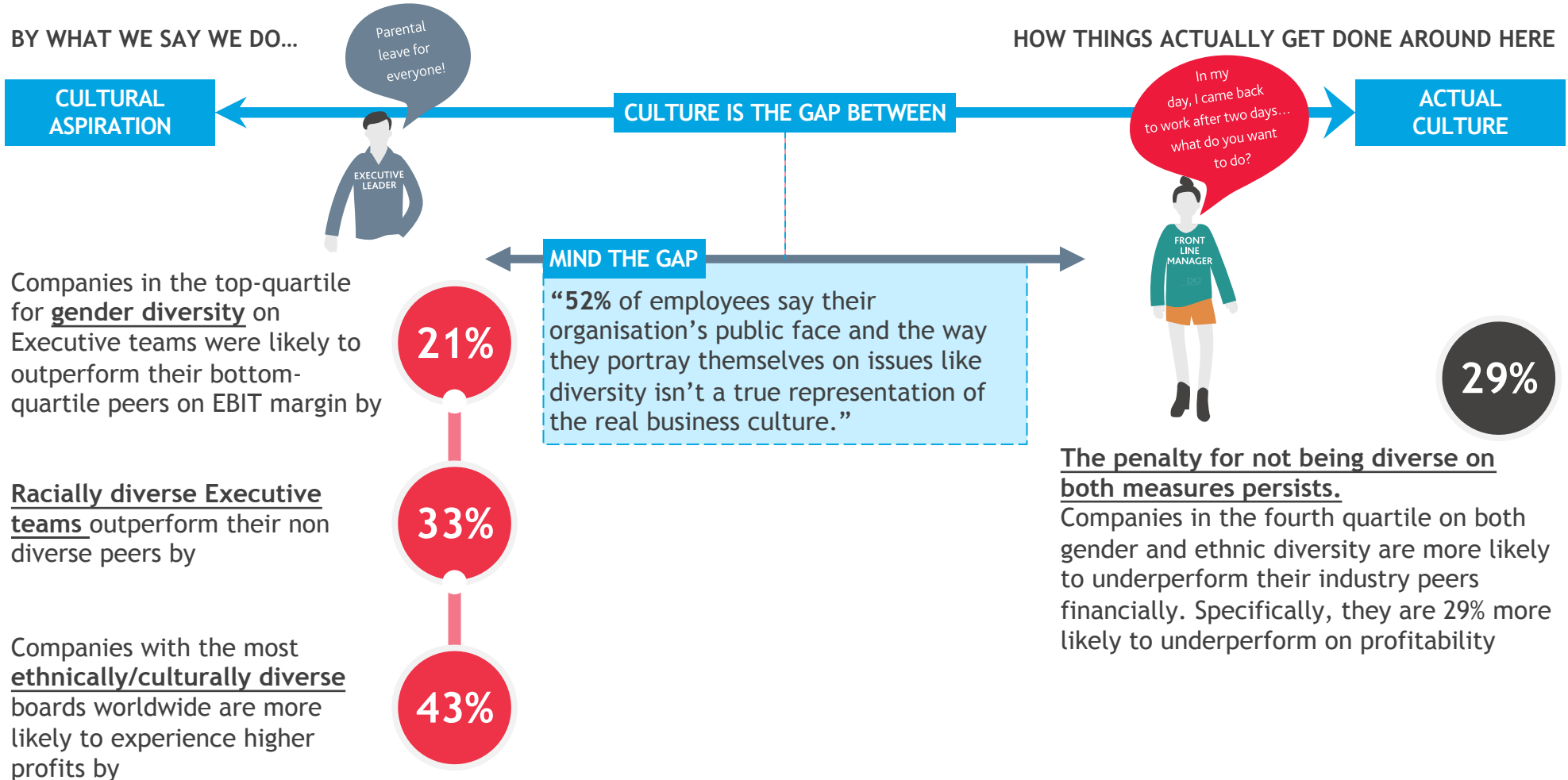
- ❖ Do you know how your organisational culture is changing?
- ❖ Is it changing the way you need it to?
- ❖ Will these changes (good or bad) stay post COVID-19?
- ❖ Are you clear on the capabilities and skills required by your workforce?

CULTURE DRIVES PERFORMANCE

Cut this back

DON'T JUST TICK THE BOX

EXAMPLE: Consider a topical strategic imperative for many organisations at the moment, Diversity and Inclusion. This is how we measure D&I culture - the smaller the gap the better your performance!



ORGANISATIONAL CULTURE DASHBOARD

As a member of your organisations' board, how do you know where to really look to **build organisational resilience**, to **develop the culture required**, and to **identify the workforce that will help deliver your strategic objectives**, post COVID-19?

Example of how a board is tracking its organisational culture and prioritising executive focus.



WORKFORCE MANAGEMENT - TERMINATIONS

Performance Improvement Plan

- A strong and well managed Performance Improvement Plan (PIP) is a critical part of the process.
- A opportunity for clear communication and expectation setting.
- Clarifies role requirements and areas where role improvement.
- Sets a time-frame for performance re-review
- Must set out possible outcomes
- Must allow the employee to have their say
- Feedback
 - Consider sources
 - Consider the validity of those sources

Consider who should run the process:

- Manager?
- Senior Leader?
- HR?
- Independent?

Is there a health / mental health consideration?

Have you considered the transition plan?

<https://hbr.org/2016/02/a-step-by-step-guide-to-firing-someone>

Performance Improvement Plan Template

Performance Improvement Plan

Note: This template is provided as an example. Districts or professional groups may choose other preferred templates. A Performance Appraisal and Development Plan should have been completed prior to a Performance Improvement Program in most circumstances.

Participants:

Employee Name		Position	
Manager/Supervisor's Name		Position	
Senior Manager's Name		Position	
Work Area:			

Review Period:

- Performance Improvement Period: ____/____/____ To ____/____/____
- Performance will be reviewed on ____/____/____
- Review will be documented in a performance improvement report completed by senior supervisor.
- Final performance improvement review will be conducted on ____/____/____

Employee Responsibilities	Manager/ Supervisor Responsibilities	Senior Manager Responsibilities
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JobKeeper Stimulus - Workforce Considerations

- Part Social Welfare Program, part business subsidy - delivered via tax system
- Applicable to full, part-time or 12 month casual employees
 - Employed 1 March 2020 - even if stood down
- Purpose to keep employees connected to businesses and allow business to continue to pay employees, until economic conditions improve
- Further announcements Made 21 July - JobKeeper2.0
 - Extended support
 - Reduced and two tapered payment amounts
 - Declined turn-over re-testing October and January
- Will this impact a decision to terminate or make redundant an employee at this time?
- Can you terminate someone who is on JobKeeper?
- <https://coronavirus.fairwork.gov.au/>

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NES & Award / EBA Considerations

The National Employment Standards (NES) set our rules and considerations associated with terminations and redundancies, and apply to all employees covered by the national workforce relations system, regardless of award, agreement or contract.

Covers such matters as minimum entitlements, notice periods & payments in lieu of notice.

Employers must give a minimum amount of notice or pay (at full rate) the employee instead of giving notice. Payment must include incentives and bonuses, loadings and allowances etc.

Period of continuous service	Minimum notice period
1 year or less	1 week
More than 1 year - 3 years	2 weeks
More than 3 years - 5 years	3 weeks
More than 5 years	4 weeks

* With an additional 1 week for employees over 45

* There are a number of circumstances where the above does not apply. EG casuals, fixed term contracts coming to their conclusion, serious misconduct etc.

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NES & Award / EBA Considerations

Redundancy:

Generally where the employer no-longer needs a job to be performed by anybody.

Can happen as a result of:

- New Technology
- Slowdown or Downturn
- Closing down
- Relocation or Restructure

Redundancy payments are typically based on period of continuous service with the employer - this time calculated at base rate only.

Period of continuous service	Redundancy pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks

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NES & Award / EBA Considerations

Reduction in Redundancy Payments:

- It is possible to apply to the FWC to have the amount of redundancy payable reduced where:
 - The employer finds other acceptable employment for the employee, or
 - The employer is unable to afford the full redundancy amount
- Employees who don't qualify for redundancy pay:
 - Continuous Service of less than 12 months
 - "Temporary" employees
 - Serious Misconduct
 - Apprentices
 - Small Business Employees (fewer than 15 employees)

Note: The above may be overridden by an Award or an EBA.

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NES & Award / EBA Considerations

Award & EBA Modifications:

- Generally follow NES but need to be reviewed, considered and followed.

For example:

- 1) A number of awards specify that a terminated employee must be given a paid day off to seek other employment during the notice period.
- 2) Often provides a process for payment where an employee is transferred to new duties which attract a lower pay rate, as a result of redundancy of the original role.

Other financial considerations:

- Leave? - has it accrued properly? How much needs to be paid out?
- Superannuation? - Is super due on termination and redundancy payments?

Fair Entitlement Guarantee (FEG)

- May provide support to employers where the employee goes into liquidation

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Tax & Payroll Considerations

Employee Termination Payments (ETPs) are specifically treated under tax legislation.

Can sometimes be complex as a result of the different treatment of different categories of “lump sum” payment.

ETP's include:

- Gratuity or golden handshake
- Genuine Redundancy Payments - over the tax free limit
- Severance Payments
- Payments in Lieu of Termination
- Unused RDOs and Sick Leave

ETP's don't include:

- Accrued Leave
- Genuine Redundancy Payments - below the tax free limit
- Salary, wages, bonus payments, incentives
- Restraint of trade payments
- Share Scheme Payments

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Tax & Payroll Considerations

Genuine Redundancy - Tax Considerations:

- *Certain* payments are tax free up to a limit based on complete years of service.
- Relevant where the job is being abolished - no-longer exists - and there is no plan to re-employ.
 - Tax free up to a limit
 - Concessional tax treatment up to caps
 - Taxable at marginal rate thereafter

The tax-free limit is:

Base amount + (service amount x years of service)

2020-21 base amount: \$10,989

2020-21 service amount: \$5,496

Non-genuine redundancies include:

Retirement
Leaving voluntarily
termination or dismissal

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Tax & Payroll Considerations

Additional Information:

Employee Terminations receive concessional treated up to limits or “caps”. Currently \$205,000*

Table A: Withholding rates for ETPs				
Income component derived by your employee in the income year	Age of person at the end of the income year that the payment is received	Component subject to PAYG withholding	Rate of withholding	Cap to apply
Life benefit ETP – taxable component Payment is because of: •early retirement scheme •genuine redundancy •invalidity •compensation for personal injury, unfair dismissal, harassment or discrimination.	Under preservation age	Up to the ETP cap amount	32%	ETP cap
	Preservation age or over	Up to the ETP cap amount	17%	ETP cap
	All ages	Amount above the ETP cap amount	47%	ETP cap
Life benefit ETP – taxable component Payment is: •a ‘golden handshake’ •non-genuine redundancy payment •severance pay •a gratuity •in lieu of notice •for unused sick leave •for unused rostered days off.	Under preservation age	Up to the relevant cap amount	32%	Smallest of ETP cap and whole-of-income cap
	Preservation age or over	Up to the relevant cap amount	17%	Smallest of ETP cap and whole-of-income cap
	All ages	Amount above the relevant cap amount	47%	Smallest of ETP cap and whole-of-income cap
Death benefit ETP paid to non-dependants – taxable component	All ages	Up to the ETP cap amount	32%	ETP cap
		Amount above the ETP cap amount	47%	ETP cap
Death benefit ETP paid to dependants – taxable component	All ages	Up to the ETP cap amount	Nil	ETP cap
		Amount above the ETP cap amount	47%	ETP cap
Death benefit ETP paid to a trustee of a deceased estate	-	-	Nil	-




Q&A



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