

EMPLOYMENT còmpass

2022 EDITION

Journal of the
Barbados Employers'
Confederation

THE
FUTURE is
NOW



Barbados Employers'
Confederation



WELCOME MESSAGE

FROM THE MINISTER OF LABOUR ON THE OCCASION OF THE LAUNCH OF THE JOURNAL “EMPLOYMENT COMPASS” THE FUTURE IS NOW

Building a Just Society – Responsibly, Legally, Together

Over two decades ago, as the year 2000 approached, there was, in some quarters, a sense of genuine fear, and in others, a sense of great uncertainty. There was in the minds of most the feeling that something could go wrong. Some felt that everything would go wrong. The future was unsure.

The challenge for organisations was how to prepare for an unknown future. What could businesses and civil society organisations do to prepare for the unknown? What was Governments to do? How could we ensure that airplanes did not drop from the sky and the electronic devices we relied on did not suddenly stop functioning?

Planning and preparing were the elements and substance of most discussions. Could the world prepare for what was thought possible? Could organisations prepare? Could people prepare?

We did prepare. Many documents were printed and filed away. Systems were put in place and redundancy was built into many of those systems. Insurances were paid up.

In a real sense, that future is now. Uncertainty abounds. There is the global issue of deciding how to deal with a pandemic, its current impacts and an uncertain future. Many, unfortunately, did not learn the lessons of planning and preparing.

But there is another element of the future, other than uncertainty, that is with us now. It is the way we live and work, and the environment within which we live and work. I am deliberate in placing “live” before “work”.

We are physically separated but very socially connected. We use electronic and internet-based technology for making purchases, paying bills, pursuing courses of study, staying in touch with friends and relatives, participating in meetings and church services, consulting with physicians and attorneys, renewing driver’s licenses, applying for passports and visas, filing and paying taxes and social security contributions, and many other activities that previously demanded our physical presence. We have made a quantum leap forward. Some would rephrase to say we have been forced to make a quantum leap forward.

These changes in life have changed the world of work. Our homes have been transformed into workplaces and workspaces. All of this is happening at a time when younger people are turning, in larger numbers, to self-employment. There are a number of issues that need to be faced and addressed as a result of our having caught up to the future.

What happens when a person is required to work from home? What are the work times? How is productivity measured? What is expected in terms of the time meetings are set? What is expected in terms of when messages and emails should be responded to? What is the role of the employer as it relates to occupational safety and health of the worker?

“In a real sense, that future is now”

There is the sometimes related challenge of what is known as the casualisation of work. This challenge begs the question: What is the future of work? Further, we ask, what is the difference between genuine self-employment and plain exploitation?

There is the increased tendency of organisations to move workers into relationships that distance the worker from the organisation. This trend has impacts that must be taken into consideration in decision-making. Beside the fact that there is legal precedent for determining who is an employee and who is a self-employed person, there is also the matter of social security implications. Quite often, persons who are moved to self-employed status, from the organisation's perspective, drop out of the social security system. Beside matters like sickness benefits for the worker, this has implications for the allocation of the resources of the country when those persons reach retirement age.

The final issue I will speak to is the contextual issue for small-island developing states like Barbados: Climate change. This is the world's existential threat. Extremes in weather events are more and more frequent, taking

lives and disrupting critical supply chains. Challenges to the supply of potable water are affecting an increasing number of nations and regions. There is the spectre of climate refugees. While we may not be a significant cause of the problem, we need to be part of the solution – for our own sakes.

The issues raised above call for ethical principles to underpin organisational behaviour. There must be integrity in relating to other human beings, specifically our workers. From matters of planning for the future of the organisation, to the expectation of our workers in this new, internet-driven world of life and work, to the relationship the organisation and its management has with workers, to the just transition that is required as organisations and countries focus on solutions to the climate crisis, a caring, ethical approach is required – is absolutely essential – if we are to be successful in building a just, people-centred society.

Hon. Colin E. Jordan, M.P.
Minister of Labour, Social Partnership Relations
and the Third Sector

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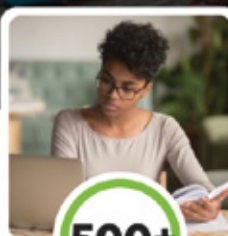
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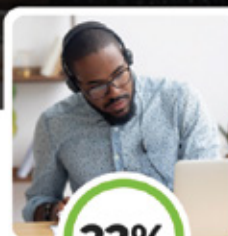
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WELCOME MESSAGE FROM THE EXECUTIVE DIRECTOR

The past two years have been characterized by extraordinary events and our enduring response. The pandemic, a hurricane, ashfall; these events have spurred various changes to our way of life and impacted our employment relations climate. The challenge we now face is not simply to meet the changes that confront us but how to embrace them to “build back better” and create positive outcomes for all parties, with sustainable enterprises, and thereby consistent and sustainable employment.

As Barbados and the rest of the Caribbean becomes more integrated into the global economy, the competitiveness of our products and services becomes even more critical to our collective success. Our various actors -Government, Business and Labour must recognize that the old paradigms, based on societal and economic realities of over 75 years ago, cannot define us in an external environment that has radically changed and is constantly evolving.

Because of the continually shifting worldwide environment in which we trade, we must be open for business when the rest of the world is and on the same platforms they are. While many in our society see this, there is still a reluctance to acknowledge the changes necessary to make major shifts, to embrace the new realities. Autonomous, output/ results-based, and project-oriented tasks and jobs could be increasing, allowing people to shape their own career under less rigid structures within constantly changing teams and networks.

This, together with the emergence and expansion of the

on-demand economy, could mean that the classical employment relationship gives way to a more detached, mutual self-interested culture. In this context, workplace flexibility, both in terms of working time and location, is one of the most salient characteristics of the new world of work. Notably, this must remain balanced with the protection of worker rights and the pursuit of a labour policy which remotes investment and flexibility while preserving a human centered approach to development.

For this fifth edition, we have focused on bringing to life changes in the industrial and employment relations landscape in Barbados. We have once again compiled well written articles, reports, and statistics which we believe will be informative to the busy professional, the student preparing to enter the field, as well as seasoned practitioners and specialists.

Our mandate at the BEC is to serve as a proactive advocate for our members, and it is my hope that the information provided, once again proves to be reader friendly, rouses further national discussion on important matters, and propels employers to consider the practical recommendations and tools offered as we promote excellence in employment.

Sheena Mayers-Granville
Executive Director

ABOUT US

Barbados Employers' Confederation (BEC), founded in 1956, is a membership based private sector organisation that seeks to represent its members on an array of issues. These issues include Industrial Relations, Human Resources Management and Occupational Health and Safety. We also keep our employers abreast of current trends via our publications, open forums and numerous training programmes throughout the year.

OUR MISSION

The BEC promotes and maintains harmony in the employment relationship by being the employers' primary advocates and advisors, assisting in the amicable settlement of disputes as well as facilitating forums which permit social dialogue on employment issues. Our wealth of expertise and research capacity allow us to provide targeted, proactive solutions.

OUR VISION

The BEC will emerge as the membership organization of choice, promoting the viability and success of local and regional businesses through the provision of high quality and professional human resource and industrial relation solutions.

OUR SERVICES

Industrial Relations: The BEC can assist with the good management of your industrial relations through negotiating Collective Agreements, drafting of collective agreements, conducting grievance meetings and much more.

Human Resource Management: Whether you need to update an existing document or prepare a first draft, we can assist with your various HR documents such as Contracts of Employment, Employee Handbooks and Job descriptions.

Training: We are an accredited training provider and an approved NVQ Centre. Our customized, as well as open enrollment sessions on a range of current HR and IR issues are highly respected and can improve the knowledge and quality of your most important asset.

Research: BEC regularly collects comparative salary data, wage settlement information and total compensation data. Therefore, we are able to provide data or alternatively conduct research on request into labour market trends to aid in decision making.

Advocacy: BEC represents the employers' interest on numerous statutory boards and committees, both locally and internationally. This means we are strategically placed to highlight the issues and concerns of employers.

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- Management NVQ Level 2
- Motor Vehicle Operator NVQ Level 2
- Occupational Safety & Health NVQ Level 2
- Human Resources Management NVQ Level 3
- Management CVQ Level 3
- Occupational Safety & Health CVQ Level 3

INTERNATIONALLY ACCREDITED PROGRAMS

- Essentials of Occupational Safety & Health (EOSH)

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- Handling Sexual Harassment Claims
- How to Achieve Career Success
- HR For Entrepreneurs
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- Managing Complex Employee Leave
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- Personal Development Strategies for Professionals
- Planning for the Future: Succession Planning
- Principles of Digital Marketing
- Really Moving the Engagement Bar
- Reengineering Workplace Cultures
- Stepping into Supervision & Management
- Stress Management
- Techniques for Recruitment and Retention
- Understanding HR Metrics and Productivity
- Workforce Reengineering
- Write on Target
- Writing Skills for Managing People

Industrial Relations Workshops

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- Collective Bargaining
- Conducting Discipline
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- Discrimination in Employment
- Handling Grievance Procedures
- How to Chair Disciplinary Meetings and Handle Appeals
- Investigatory meetings vs Disciplinary Meetings
- Labour Law vs. Custom & Practice
- Managing in a Trade Union Environment / Navigating Industrial Relations
- Managing Workplace Harassment
- Review of Employment Rights Tribunal Cases
- Understanding Different Types of Contracts
- Wrongful and Constructive Dismissal Explained

Legislative Workshops

- Discrimination Bill
- Holiday With Pay Act
- Navigating the Employment Rights Act
- Occupational Pension Benefit Act
- Safety and Health at Work Act
- Severance Payment Act
- Understanding the Shops Act

Occupational Safety & Health Workshops

- Accident Investigation & Reporting
- Auditing Safety and Health Procedures
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- Essentials of Safety Management for Business Executives
- Evacuation Procedures
- Facilities Management; Office Environment
- Fire Safety
- First Aid
- Handling On-The-Job Injuries
- Health and Safety Committees
- Manual Handling
- Practical Steps for Safety at Work
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- Risk Assessments
- Safety and Health in the Workplace
- Safety First: First Aid and Fire Safety

C-SUITE WORKSHOPS

- Business Strategy for HR Leaders
- Understanding Gender Difference in the Workplace





THE FUTURE OF WORK IN TOURISM

*Written by
Ms. Francia Jordan - Director, Research and Planning
and Mrs. Kerry Allen- Research Officer
Ministry of Tourism and International Transport*

There are several factors which will affect the future of work in the tourism industry, the largest single employer; employing one in every ten persons globally.

A significant driver which will affect work in the tourism industry is technological change; however other factors such as climate change; sustainability and globalization are also major contributing factors.

While trends shaping the industry have been doing so pre-COVID-19, the pandemic has had such a devastating effect on the industry and indeed on the labour market, that it is believed that there will be an acceleration in transformative changes in the sector as tourism players seek to rethink and reimagine the industry so that it is more sustainable and resilient post COVID-19.

According to the United Nations World Tourism Organization (UNWTO), international tourist arrivals plunged by 74 percent in 2020 over the previous year due to widespread travel restrictions

and a massive drop in demand. The International Labour Organisation (ILO) in its World Employment and Social Outlook Trends 2021 states that in 2020, an estimated 8.8 per cent of total working hours were lost, the equivalent of the hours worked in one year by 255 million full-time workers. The Report states that compared to 2019, total employment fell by 114 million as a result of workers becoming unemployed or dropping out of the labour force. In terms of job losses in the tourism industry, the United Nations World Tourism Organisation (UNWTO) estimates that between 100-120 million direct jobs were put at risk due to the Pandemic.

The transformation of the industry which has become an imperative after COVID-19 will determine the future of work in the tourism industry - who will work; what types work will be done and where the work will take place. Technological advances are being used to improve customer experiences, assist the industry in its service delivery, process management, increase efficiencies and reduce operating costs and help create the necessary resilience in the industry. New investments based on competitiveness advantages and return on investment are replacing the traditional type operations.

The digitization of the industry is expected to significantly increase as businesses accelerate the adoption of cloud computing, the use of big data, blockchain technology and e-commerce following a trend established in previous years. There has also been a significant rise in interest for encryption, non-humanoid robots and artificial intelligence. Technological advancements are significantly affecting how business is or will be conducted in the tourism industry. Some of these advancements include:

- Contactless payments, which can improve the speed of check-ins and check-outs at the airport and various tourism accommodations;

“The factors that will determine the future of work in the tourism industry are already at play in Barbados.”

- Voice Search & Voice Control - hotel rooms can include smart speakers that are compatible with voice control, allowing users to more easily turn devices on and off, or change settings within their rooms;
- Virtual Reality (VR) - through online VR tours, customers can experience hotel interiors, restaurant interiors, outdoor tourist attractions and more, from the comfort of their homes;
- Artificial Intelligence (AI) - AI can assist in personalizing the experience of finding and booking tours and trips;
- Internet of things (IoT) – This can be used to integrate services in a hospitality setting, for example by allowing guests to book activities (a session in the hotel's spa etc.) or request such things as room service via a hub or a smartphone application;
- Augmented reality (AR) – This technology combines real-world experiences and virtual elements. AR smartphone apps can show tourists information about the area they are exploring, such as historical details on landmarks and menus for local restaurants.

The technological advances and the changes that they are bringing about are also demanding that workers be retrained, retooled and upskilled. Human capital development will be enhanced as companies seek to match the functions and jobs which are being created with the existing skills. Persons in the workforce will also have to be continually developing their competencies, both basic and technical to meet the changing demands

of the workforce. This increase in training will overall, lead to a more skilled workforce. While the nature of some jobs will be changed and other jobs will be eliminated, new employment opportunities will also arise because of these advanced technologies, new jobs such as data scientists and Internet of Things Specialists.

Digital innovations are also bringing about new business models in the travel and tourism industry which will continue to change the way that people work and the composition of the workforce. One example of this is the Sharing Economy Model where the Airbnb concept has disrupted the traditional model of hotel accommodation as has the growing emphasis on community and sustainable tourism.

The future of work in the tourism industry will also depend on what the United Nations World Tourism Organisation (UNWTO) refers to as the 'liberation' of the workforce. This liberalization has seen new forms of employment where some employees no longer work full-time jobs for an employer at a physical workplace but have the freedom to choose where they live and work and the amount of hours worked. Work has become disconnected from the workplace and has become independent and flexible. This is being borne out by the large-scale shift to remote working and e-commerce which has led to a surge in work-from-home arrangements and a new marketplace for remote work where persons are opting to work from other countries.

The factors that will determine the future of work in the tourism industry are already at play in Barbados. The transformation needed to rescue the industry from the effects of the pandemic has seen the training and upskilling of the tourism workforce through the National Tourism Initiative and the development of the Barbados Welcome Stamp Programme where persons are coming to live and work from Destination Barbados.



TIP:

AGE OF RETIREMENT

There is no legislated age of retirement in Barbados. There is pensionable age as outlined by the National Insurance Scheme (NIS) which is currently 67.

Ministry of Tourism and International Transport
26/6/2021



A WORD FROM THE IOE



Written by Errol Kiresepi President, International Organisation of Employers (IOE)

The megatrends of the Future of Work: technology, changing demographics, climate change, shortage of skilled labour¹ and globalization (and now COVID-19 pandemic) are today driving much of the international debate around social and labour policies. These profound changes impact the world of work in many ways.

Other than the impact of the pandemic, none of these trends are new, but they are now occurring simultaneously and transforming the world of work and the future of business at a faster rate than before - much faster than we can realistically adapt. Businesses, governments, individuals and communities are obliged to deal with these transformations with utmost urgency, often as a matter of survival.

Various international agencies and regional groupings such as the IOE, OECD, World Bank, World Economic Forum, G20 and the International Labour Organization (ILO), are striving to find practical solutions for government policy makers, businesses and the workforce. The impact of these megatrends can already be felt by companies across all geographical regions, and various studies confirm technology and digital transformation as the number one 'disruptor' of all.

The US Council for International Business/IOE survey in August 2019 found that:

- Most companies surveyed are familiar with Future of Work discussions and have not dismissed it as a passing trend;
- Companies agree on the importance of networking and working with external stakeholders that can help them on their journey;

- Some have not waited for governments to respond – some are already rolling out extensive training programs, learning academies for retail upskilling, hosting digital deep dives, planning sabbatical policies, etc;
- The Human Resources department is seen as the most engaged internal business unit when it comes to addressing Future of Work issues, followed by the Employee Relations units. The same units are involved in collaboration efforts;
- The trends have changed the way businesses strategize and make decisions on human resources (reskilling, managing employee turnover, harnessing talent of an ageing workforce) and the way of using technology to serve clients better.

On this note, it is worth mentioning that the 2019 ILO Centenary Declaration for the Future of Work² which was adopted by ILO constituents (governments, employers and workers) highlights and recognises the important role of **sustainable enterprises as generators of employment and promoters of innovation and decent work**. Sustainable enterprises and the private sector are important drivers of employment. This is a unique achievement as this was the first time a text of this nature in the ILO was included in such an instrumental and historical document. The recurrence of the words 'productive' and 'productivity' throughout the Declaration validates its importance, and directly instructs the ILO Office to promote productivity in all its activities at Headquarters and in the field. Placing productivity at the heart of the ILO is a major breakthrough, given the little attention the subject received in the past.

¹Shortage of skills labour was discovered to be a trend in the 2019 IOE-ILO survey report of 500 companies *Changing Business and Opportunities for Employer and Business Organizations* https://www.ilo.org/actemp/areas-of-work/WCMS_679582/lang-en/index.htm.

IOE-Deloitte Future Skills Assessment report with policy recommendations can also be found here: <https://www.ioe-emp.org/policy-priorities/employment-skills>

Why is productivity so important?

“Productivity isn’t everything, but, in the long run, it is almost everything. A country’s ability to improve its standard of living over time depends almost entirely on its ability to raise its output per worker.”

- Paul Krugman, 2008 Nobel Prize Winner.

Productivity is important because without productivity, there will be no employers. And without employers there cannot be any job creation in the private sector. Businesses would not be able to thrive, grow and innovate. Productivity brings revenue, which in turn pays for the wages and benefits. All of which are important to earn a good living and sustain families. Productivity means businesses are able to compete, especially in a world now where businesses not only compete domestically, they compete internationally. There are no longer limited by the physical borders, and digital technology offers these opportunities which did not exist before. These opportunities also enable entrepreneurs to create more and better jobs.

Productivity not only means it is good for business and families, but it is also good for governments. A thriving private sector contributes to the GDP, it contributes to economic growth and development, and it stimulates trade and attracts foreign direct investments. Most importantly, the private sector creates jobs for the population and reduces the dependency on the state in creating employment.

The IOE together with its members in 150 countries produced important policy guidance and recommendations to navigate through the pandemic crisis and the Future of Work. More information can be found on IOE’s Future of Work website: <https://www.ioe-emp.org/policy-priorities/future-of-work>

Just as the government alone cannot solve society’s biggest problems – businesses also need support and guidance from external stakeholders. The government and companies together, with the help of employer organizations, can come together, collaborate and develop collective solutions by seeking improvements in workforce skills, infrastructure, and the business environment.

The International Organisation of Employers (IOE) is a powerful and balanced voice of business, shaping and driving the global agenda on employment and social policies. With more than 150 employer organisation members in 148 countries, IOE represents the interests of over 50 million companies.

IOE is the sole representative of business in the International Labour Organization, across the UN, G20, and other global forums.

IOE is committed to creating a sustainable economic environment around the world, in collaboration with our members and partners, that promotes free enterprise and is fair and beneficial to both business and society”.

¹S <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/centenary-declaration/lang--en/index.htm>

Dear BEC

What is the BEC's position on employees disclosing their vaccination status and employers mandating testing for COVID-19?

Response:

The below general information is provided; however, we encourage employers to seek specific guidance on their unique circumstances from our labour law and industrial relations professionals.

Discrimination *Employment (Prevention of Discrimination) Act, 2020*

3. (1) For the purposes of this Act, a person discriminates against another person where:

- a) the person, on a ground specified in subsection (2), directly or indirectly, whether intentionally or not, makes a distinction, creates an exclusion or shows a preference, the intent or effect of which is to subject the other person to any disadvantage, restriction or other detriment; or
- b) the person, directly or indirectly, whether intentionally or not, subjects the other person to any disadvantage, restriction or other detriment in the following circumstances:
 - i. a ground specified in subsection (2) applies to the other person;
 - ii. as a consequence of the ground the other person does not comply, or is not able to comply, with a particular requirement of the first mentioned person;
 - iii. the nature of the requirement is such that a substantially higher proportion of persons to whom the ground does not apply complies, or is able to comply, with the requirement; and
 - iv. the requirement is not reasonable in the circumstances.

BEC Advice

Based on the definition in the Act, the following 3 conditions must be present for discrimination to occur:

- a. The ground must be listed in subsection 2 of the Act.
- b. The employer must create a distinction, an exclusion or shown a preference.
- c. The employee must be subject to a disadvantage, restriction or other detriment.

ALL the above must have occurred for discrimination to exist.

BEC CONSULTANCY SERVICES

The Barbados Employers' Confederation (BEC) offers a range of consultancy services to aid and appropriately guide employers in the areas of Industrial Relations, Human Resources, and Occupational Safety and Health.

OUR SERVICES

- COMPANY HANDBOOKS
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Question - Is it discriminatory to ask an employee if they are vaccinated?

CONSIDERATION	RESPONSE
Is the ground listed in subsection 2 of the Act?	NO. Vaccines are not covered under the grounds listed in Subsection 2 of the Act. A medical condition is defined in the Act and in essence refers to an illness, disease or disorder affecting an individual's body or mind e.g., HIV/AIDS or diabetes. A vaccine is does not fall under the definition.
Has the employer created a distinction, an exclusion or shown a preference?	NO. Asking all staff for vaccination status is not creating a distinction.
Has the employee been subject to any disadvantage, restriction, or other detriment?	NO. Simply asking for vaccination status is not disadvantageous.

Given the above, the Employment (Prevention of Discrimination) Act, 2020 is not breached where an employer asks an employee for his/her vaccination status.

Testing for medical condition *Employment (Prevention of Discrimination) Act, 2020*

6. Subject to section 8, an employer shall not require a person to answer questions in relation to, or undergo a test for, a medical condition as a precondition to entering into a contract of employment or as a condition for the continuance of employment.
-
8. (1) A distinction made, exclusion created, or preference shown shall not be taken to be discrimination where the reason for the distinction, exclusion or preference is the existence of a genuine occupational qualification.
- (2) Notwithstanding section 6, a person may be required to answer questions in relation to, or undergo a test for, a medical condition where the result of the test is necessary to determine whether the person satisfies, or continues to satisfy, a genuine occupational qualification.
- (3) For the purposes of this Act, a qualification is a genuine occupational qualification where it is an inherent requirement of a particular position

BEC Advice

Generally, employers should not require tests for medical conditions as a precondition for continued employment. However, based on the organization and the job, medical tests can be seen as genuine occupational qualifications. This should be determined through suitable and proper risk assessments and on the advice of related professionals such as health and safety experts or health professionals.



TIP:

SANITATION OF WORKSPACES

Proper and routine sanitation should be practiced in all organisations. Employees should be reminded of the importance of handwashing, sanitation of workstations and ensure they wear the necessary personal protective equipment suited for their job.

Question - Is it discriminatory to ask an employee if they are vaccinated?

CONSIDERATION	RESPONSE
Is the ground listed in subsection 2 of the Act?	NO. A medical condition is defined in the Act and in essence refers to an illness, disease or disorder affecting an individual's body or mind and COVID-19 falls under this definition.
Has the employer created a distinction, an exclusion or shown a preference?	NO. Where all employees are subject to the same universal testing policy there is no distinction.
Has the employee been subject to any disadvantage, restriction, or other detriment?	NO. We must ask what disadvantage is suffered by persons who need to be tested to ensure they do not have a highly contagious
	YES/NO. This should be determined through a risk assessment considering factors such as:
Does a genuine occupational qualification exist?	<ul style="list-style-type: none"> • Risk of exposure and spreading COVID • Vulnerability customers • Effectiveness of control measures <p>The specifics of the organization and the job will be determining factors.</p>
Given the above, employers must be cautious in this approach as there is potential to breach the Employment (Prevention of Discrimination) Act, 2020. It is important that a proper risk assessment informs any policy implemented.	

Is it a breach to request vaccinated and unvaccinated employees to produce evidence of negative covid-19 results at differing predetermined intervals?

CONSIDERATION	RESPONSE
Is the ground listed in subsection 2 of the Act?	YES. A medical condition is defined in the Act and in essence refers to an illness, disease or disorder affecting an individual's body or mind and COVID-19 falls under this definition.
Has the employer created a distinction, an exclusion or shown a preference?	YES. There is a distinction in treatment based on vaccinated status. N.B. Legitimate distinctions based on factual analysis may be upheld by Courts & Tribunals.
Has the employee been subject to any disadvantage, restriction, or other detriment?	NO. We must ask what disadvantage or detriment is suffered by persons who need to be tested to ensure they do not have a highly contagious disease during a public health crisis. Notably, the differing testing windows should be based on scientific/medical evidence.
	YES/NO. This should be determined through a risk assessment considering factors such as:
Does a genuine occupational qualification exist?	<ul style="list-style-type: none"> • Risk of exposure and spreading COVID • Vulnerability customers • Effectiveness of control measures
Given the above, employers must be cautious in this approach as there is potential to breach the Employment (Prevention of Discrimination) Act, 2020. It is important that any difference in treatment is based on an assessment of risk and on the advice of professionals in relevant fields.	

SAFETY *Safety and Health at Work Act, 2005*

6. (5) It shall be the duty of every occupier to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

9. (1) It shall be the duty of every employee (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work;

BEC Advice

The employer's duty to provide a safe workplace is clear. Additionally, we take the opportunity to highlight that employees also have a responsibility to protect their own health and the health of their co-workers. Additionally, there is a clear connection between vaccination and testing individuals to monitoring the spread of COVID-19 to ensure that it does not proliferate within an organisation.

There is a strong argument that the legislature did not intend to take away absolutely the duty of the employer to do all that is reasonably practicable to provide a safe and healthy workplace and environment when the anti-discrimination legislation was enacted.

It has been opined that Section 6 of the Employment Prevention of Discrimination (EPoD) Act should be limited to circumstances where the questions asked, or testing required do not touch and concern/affect the employers' duty to provide a safe and healthy workplace and environment. It is likely that a Court will interpret that provisions Safety and Health at Work (SHaW) Act will in this instance prevail over the provisions in EPoD Act and the duties set out in section 2 through 9 of SHaW Act will prevail.

Therefore, the BEC recommends that a proper and suitable assessment of risk is conducted and underpins any policy implemented to protect the health and safety in the workplace.

Confidentiality *Employment (Prevention of Discrimination) Act, 2020*

36. 1) An employer who keeps or handles the medical records of an employee shall

- a) ensure that the records are kept and handled confidentially; and
- b) not divulge the contents of the records to any person except with
 - i. the consent of the employee and in accordance with the terms of that consent;
 - ii. in accordance with an order of the Tribunal or a court; or
 - iii. in accordance with an enactment.

(2) An employer who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for one year or both.

BEC Advice

Employers who collect information on the vaccination status of employees, should obtain a signed release statement which specifies when and how that information can be used.

Such information should only be revealed as necessary and within the terms of consent.

This above information is general guidance to employers. We advise employers to seek specific guidance on their unique circumstances from labour law and industrial relations professionals.

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MEDIATION IN EMPLOYMENT

Written by Mr. Dylan Downes - Group Human Resources Manager, PVH Group Inc.

We have all heard the saying that a happy workplace is a productive workplace. Employers cannot afford contention in their midst, especially during these economically challenging times with the advent of COVID-19. In a highly competitive environment, businesses must maintain effective communication in order to foster a harmonious work environment. Too often disgruntled employees and lackadaisical management results in substandard product, poor customer service and losses for the business.

In a situation where there is no process for eliminating conflict other than disciplinary action, resentments build up and productivity plummets. Currently, we are seeing a trend toward solving conflict in the workplace through mediation rather than other more traditional methods of dispute resolution. The mediation process is one in which parties negotiate and resolve their conflict using the help of a skilled neutral third party. Mediation in the workplace can be used for a variety of purposes such as negotiating or re-negotiating contracts, collective bargaining, creating a new business, dismantling an existing business or resolving personnel disputes.

Mediation can be used to resolve both internal and external conflict. More often than not, the source of the conflict stems from parties feeling they are not heard, appreciated, or understood. The mediator is a neutral observer who is not emotionally invested and can get through to the heart of the matter to open up discussions as to how to resolve the dispute. In mediation, the parties are

voluntarily participating in the process and, as a result, fear and anxiety are greatly reduced once the process is executed correctly. The neutral and safe environment that the mediator provides opens the door to effective communication between the parties. The factors that will determine the future of work in the tourism industry are already at play in Barbados. The transformation needed to rescue the industry from the effects of the pandemic has seen the training and upskilling of the tourism workforce through the National Tourism Initiative and the development of the Barbados Welcome Stamp Programme where persons are coming to live and work from Destination Barbados.

Why mediate?

Mediation is beneficial because:

- it allows for early intervention that enables the participants to address issues between them before matters escalate or deteriorate
- it is confidential and private and can be done within a relatively short time frame
- participants have a voice and a safe forum to vent, clear the air and express their perspectives
- past actions are explored, and participants have the opportunity to understand the source of the conflict while learning to manage future interactions



- it is an empowering process in which the participants are given the responsibility for their own outcomes.
- the organisation sends a clear message that it takes the matter seriously and wants to invest in assisting the participants to navigate a way forward or restore their damaged relationships.

When is mediation the right approach to workplace conflict?

Mediation is but one of a range of interventions and approaches available when responding to workplace conflict or managing complaints. For it to be the right approach/ tool, the following factors should be evident:

- the level of conflict is moderate
- there are clearly identified issues that can have tangible resolutions
- the participants are participating on a voluntary basis
- there is no significant disparity in the bargaining power between the participants
- the participants are capable of freely expressing themselves and representing their positions
- the participants agree to confidentiality and accept that it is a private process
- there is a community of interest between the participants, i.e., they are both invested in the matter being resolved
- the organisation is prepared to provide ongoing support to the participants moving forward and agrees to and is willing to facilitate the resolutions reached.

What are the ingredients of a successful mediation?

A mediation is most likely to result in a successful outcome when participants believe that the dispute can be resolved in a fair and concise manner. This can only be achieved if the participants are willing to attempt to resolve it and have an openness to the possibilities of the process. This would entail having the capacity and willingness to listen to the other's perspective and be ready to move beyond the dispute.

When is mediation not necessarily the best option?

There are situations when mediation is not necessarily the best approach to resolve workplace conflict. This is particularly true when:

- the issues raised by the complainant involve serious allegations, which require a more formal response from the organisation such as a workplace investigation which may potentially trigger disciplinary action
- the issue relates to the conduct of others organisational issues, which may be more appropriately addressed by another process, such as a workplace review
- participants see the mediation process as merely "ticking the boxes". Example: where it is a step required by a Code of Discipline process before a more formal process can commence
- participants are disengaged, insensitive and not committed to understanding the other person's perspective
- there would be a risk of further harm to the participants' well-being
- the participants have a deeply personal animosity towards each other
- a participant is using the process to make their case and doesn't understand it's not a determinative process or about convincing the mediator.

When the circumstances are conducive, mediation can be an empowering and transformative process that can assist participants to move forward with more positive working relationships. It can also avoid the time, cost and disruptiveness of more formal processes and lead to greater understanding and collaboration in the future.



TIP:

MAINTAIN A CLEAN WORKPLACE

Aside from the psychological benefits of reduced clutter in the workplace, it's also imperative for physical safety. Hallways, walkways, and exit routes should remain free of clutter and debris to avoid tripping hazards. Also be on the lookout for tangled cords, disorganized tools, and boxes that are stacked unsafely.



ARTIFICIAL INTELLIGENCE AND HUMAN RESOURCES

*Written by Sheena Bradshaw - Labour Management Advisor,
Barbados Employers' Confederation*

Artificial Intelligence (AI) just like the future of work is no longer such a distant reality and it is having a meaningful impact on the way businesses operates and more specifically, the way in which Human Resources practitioners accomplish their duties, in the areas of recruiting and talent acquisition, payroll, reporting and personalizing employee experience. Most persons when considering AI think about how it will displace and automate jobs, but have we considered that if merged with the human resource administrative functions, it can benefit and improve the overall employee experience and streamline the HR workload. The success of any modern organization depends on how efficaciously, it combines people, process and technology, to deliver transformational value at an optimized cost.

AI in HR has transformed HR operations in three profound ways:

- The rise of the conversational interface, where we can talk to systems, ask questions, and interact through chat. This is being supplemented by augmented and virtual reality.
- Integration of machine learning, where software examines people-related data and offers astute recommendations and decisions.
- The development of predictive models, which are systems that can identify patterns and quickly find areas of risk, fraud and other possible performance

How Companies are Integrating AI into HR Functions

Recruitment

Industry giants like SAP, IBM, Amazon and Hilton have added such software to their screening mechanics to redefine their

hiring process. Most HR professionals or persons responsible for recruitment have experienced a deluge of applications for advertised and non-advertised vacancies, that can take an absurd amount of time to review, with invariably only 10% being relevant to the role. With AI, recruiters set specific algorithms to match requirements, thus saving time on shortlisting and improving on time-to-hire ratios. Applicants submit their resumes, answer basic questions and pass preliminary screening tests. Additionally, it helps to reduce the instances of human bias. Persons are prone to making subconscious judgments on details that have nothing to do with the requirements for the job. Artificial intelligence is helping to control this by developing interview questions and other assessment tools that avoid much of this bias from infiltrating the recruitment process.

Technology such as chatbots can assist new employees access information about onboarding, policies, procedures, benefits and other frequently asked questions. As a new employee, you naturally expect to be welcomed to an organization and instructed about your job profile and other important matters and generally, receive an overwhelming amount of information. Imagine, a new employee reaching his desk and finding all new hire information in an app or on his laptop, with all details such as reporting authority, team members and tasks assigned for the first week at work. Using technology in this way can enhance the candidate experience and distinguish your organization from others.

HR Analytics and Retention

While HR technology has made real-time information accessible to practitioners, many still depend on labour-intensive systems to draw insights from information. This task is often delegated to data analysts, which lead to a bottleneck in the process causing delays and decisions continue to be made with obsolete information. AI helps HR teams extract insights from data and deliver recommendations in real time. HR agility is determined by

the pace at which leaders can make sound business decisions. If analysed properly and swiftly, the data also provides information on whether employees are engaged and challenged and if social cohesion will be challenged soon. It is possible to validate the employee experience on a day to day basis and this gives a new element to strategic workforce planning and helps to reduce employee exits. Assessment of performance is another area that can be positively impacted by AI. In most organizations, the monitoring of performance generates large amounts of data and require a specific skill set to ensure metrics are generated. With AI software, leaders can conduct predictive behavioural assessments and track performance. The software makes it easier to create valuable insights out of the data and support managers in making informed decisions about the performance of their teams. Leaders will have the tools at their fingertips to accurately audit performance against business and team objectives and monitor where additional interventions might be needed.

Learning and Development

AI can analyse the data from employee exchanges and use that information to better tailor training sessions to the individual worker. Everyone learns in different ways and has varied skill sets, so allowing employees to learn to the best of their abilities will only improve on-boarding and productivity. While many organizations already utilize some form of e-learning platform that allows employees to improve their skills, these programs are often not organized and implemented in a way that allows employees to get the most out of them. AI tools can solve this problem by organizing and presenting a more targeted learning experience. Incorporating machine learning into interactive learning tests and assessments also provides HR departments with additional data points that help make future decisions regarding employee development.

Allow More “People Time” for HR

AI can free valuable time which the HR team can apply to elevating the employee experience with a proactive approach. Regrettably, this is not possible due to time constraints and work loads. Both new recruits and seasoned employees tend to inundate HR departments with queries related to pay, holiday leave, benefits and other policies. AI offers wide-ranging solutions in the form of previously mentioned chatbots capable of answering basic questions in very little time. By using this self-service platform to perform low value, repetitive tasks, HR teams are free to focus on more complex and time intensive issues that demand their attention.

We tend to think that AI technologies means that persons will be separated from their post, however, jobs will evolve. These technologies are not a replacement for your employees, but it can be implemented in ways that can remove the cumbersomeness of repetitive, low value tasks. AI technologies offers a variety of exciting tools and by automating some processes, HR professionals can dedicate their valuable time to the management more complex and strategic business functions that require extensive human interaction, such as career development and cultivating a more engaged workplace.

“The success of any modern organization depends on how efficaciously, it combines people, process and technology, to deliver transformational value at an optimized cost”



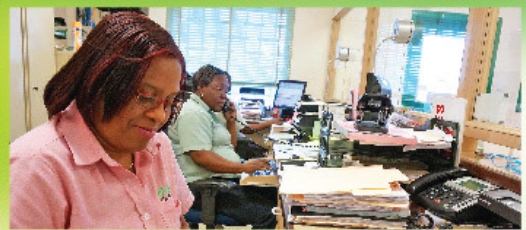
TIP:

REDUNDANCIES AND THE EMPLOYMENT RIGHTS ACT

Where an employer contemplates reducing their workforce by 10% or more it is required that correspondence is sent to the Chief Labour Officer notifying him of this. There must also be six (6) week consultation with the employees and / or their representative(s) before any of the affected employees are made redundant.

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HOW WILL MEGATRENDS SHAPE OUR WORLD?

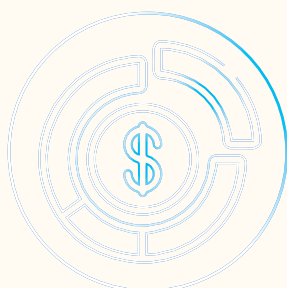
Written by Imani Brathwaite - Research Coordinator, Barbados Employers' Confederation

Megatrends are a powerful force that is changing society and, by implication, the workplace. Power, income, competition, and opportunity are all redistributed in the global economy. Every industry is being impacted by disruptive innovation, unconventional thinking, new business models, and a lack of resources. Organizations must have a clear and compelling purpose and mission to attract and retain employees, customers, and partners for the next ten years. How people respond to the difficulties and opportunities presented by megatrends shapes the universe of the future of work.



The Red World: Driven by Innovation

Regulators are unable to keep up with the rapid evolution of new technologies and business models. Large corporations are being surpassed by a digital world dominated by smaller businesses. Workers and employers, skills and demand, capital and innovators, and customers and providers are all connected through digital platforms. Large enterprises are fragmenting to build their own internal marketplaces and networks to break down the old hierarchy in order to remain competitive. In the Red World, specialization is valued, and careers are formed from individual blocks of talents, experience, and networks rather than being defined by employers or organizations. Employees move frequently and only stay for the life of the project or business; therefore, the most wanted expertise entails the greatest remuneration package.



The Blue World: Driven by Capitalism

Companies regard their size and influence as the best way to defend their profit margins from strong competition from colleagues and aggressive newcomers in the Blue World. Because they develop to such a size and exercise such power, some businesses are stronger than nation-states. Employers secure a core group of great performers by paying big rewards but generally use flexible talent as needed because the workforce is lean and the demand for outstanding talent is high. Skills can therefore be purchased. Workplace performance is pushed to the maximum by a combination of human effort, automation, analytics, and innovation. Workers' performance and well-being are assessed, monitored, and analyzed at every step, and improved utilization of physical and medical improvement techniques and equipment maximizes human effort. There is a new generation of elite super workers on the horizon.



The Green World: Where Companies Care

Corporate responsibility is not only a desirable thing in a green world; it is a commercial need. Companies are promoting a strong ethical and green agenda in reaction to public opinion, increasingly scarce natural resources, and harsher international rules. It is defined by a strong social conscience, environmental responsibility, diversity, human rights, an emphasis on all forms of equality, and the belief that business has considerably greater power than cash. Employees are encouraged to participate in socially useful projects and have family-friendly and flexible work hours.



The Yellow World: Where Humans Come First

Workers and organizations in Yellow World want their job to have more purpose and relevance. Public policy is driven by a strong desire for “fairness” in the allocation of money, resources, and privileges. Working at organizations with strong social and ethical records provides workers with freedom, autonomy, and fulfillment. This is a communal reaction to the fragmentation of the business world. The urge to perform something excellent for the greater good. By providing crowdfunding finance and simple access to global marketplaces, technology aids in the reduction of entry barriers. The Yellow World is an ideal environment for the creation of new worker guilds, which form to protect, support, and link independent workers, as well as the training that is typically supplied by employers.

Although the flow of automation and the impact of robotics and Artificial Intelligence are different in each of PwC’s four work environments, they are all widespread. Automation will undoubtedly result in substantial reclassification and employment rotation. Even throughout the full labor part, some sectors and features are lost, while others are created. Not only does automation change the types of employment accessible, but it also changes the amount and perceived worth of those positions. Machines strengthen their comparative advantage in problem-solving, leadership, EQ (emotional intelligence), empathy, and creativity skills by replacing workers who execute repetitive and systematic jobs. The 2030 Four Worlds of Work report by PwC is intended to assist employers in considering the various scenarios they can create and the best ways to prepare for the future.

Development is shifting, modernization is relentless, interruption is accelerating, expectations are soaring, and societal pressures are rising. Making sense, and making use, of these dramatic forces of change will help you to make better strategic choices, shape markets to your advantage, and create a brighter future.

“ Working at organizations with strong social and ethical records provides workers with freedom, autonomy, and fulfillment.”



TIP:

STATEMENT OF PARTICULARS (CONTRACT)

On the commencement of employment, employees must be given a Statement of Particulars (contract). While there may be a probationary period, the issuance of the contract should be given immediately and not delayed awaiting the outcome of probation.

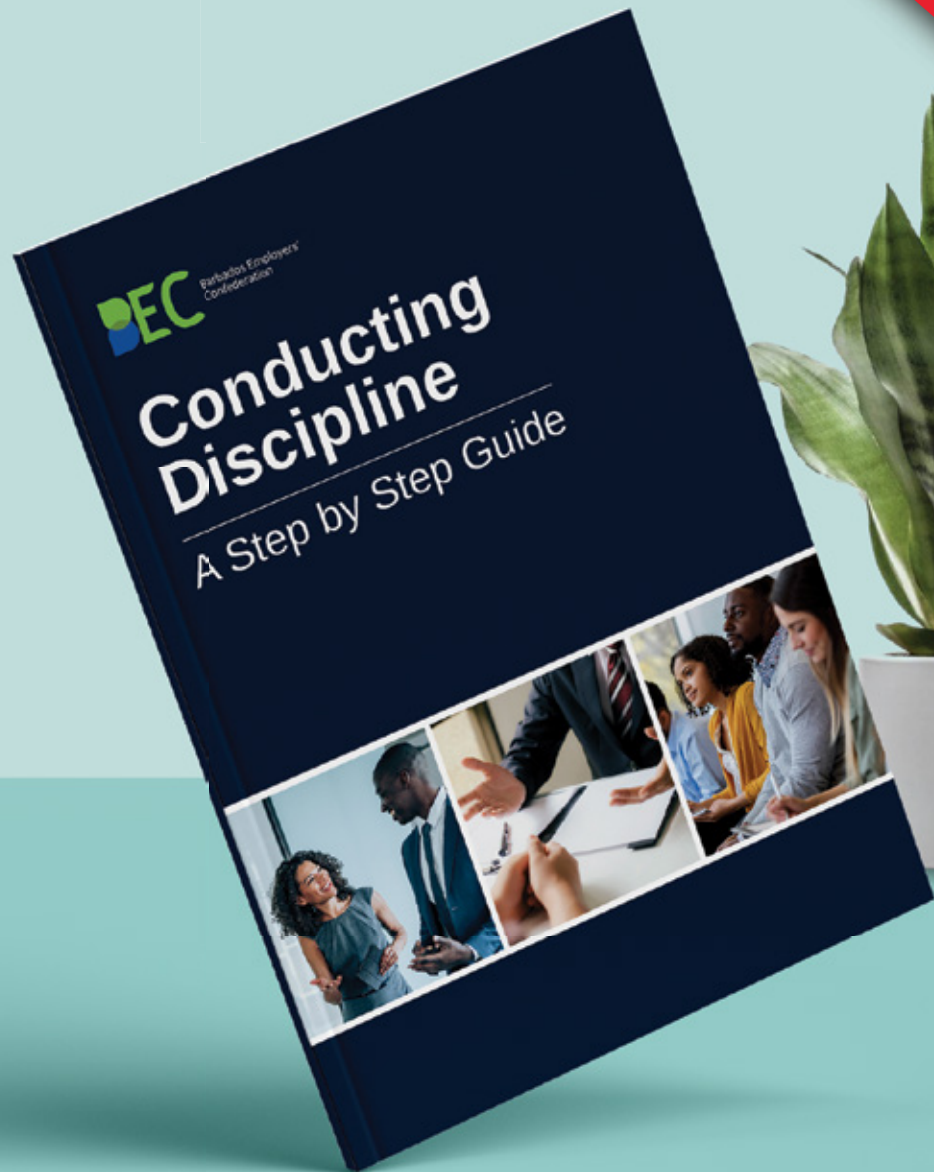
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WORK LIFE BALANCE – MYTH OR NECESSITY

*Written by Shanika Best - Labour Management Advisor,
Barbados Employers' Confederation*

Work life balance has been touted many times over the millenniums, but the lyric increased immensely as we entered the COVID-19 pandemic. Home and work boundaries became even more clouded as work was happening at home.

If ever there was a time for balance it was at that time, but the reality of it seemed impossible! As we move through another chapter, we must ask ourselves in retrospection: What really is work-life balance? Is it a myth or is it a necessity?

First let us look at what we know; research over the years, outlined the following; employees who do not have a work-life balance, burn-out quickly; those with a healthy balance have more motivation and are more productive at work. Having a healthy work-life balance is essential for one's health and well-being. Working over 40 hours a week can be stressful, but it can be even more stressful to try and balance family life with demanding job responsibilities. Having a healthy work-life balance will also give you more time to spend with your family.

We know this information and therefore it starts to shape our thinking, towards work-life balance being a NECESSITY and not a MYTH. However, let us pause for a second to explore the framework that has incited considerations towards work-life balance being a myth.

As technology continues to evolve, there is an increasing need to always be connected where everything must be facilitated in real-time. Even if extraneous; we feel a desire to be “in the know” and to respond instantly. Authors Ryan Holiday and Stephen Hanselman put it in this way, in their publication of ‘The Daily Stoic – 366 Meditations on Wisdom, Perseverance and the Art of Living’ – They described our world as hyperconnected and outlined some of the dangers to one who is trying to live a stoic lifestyle that includes the balance we are considering now. To reiterate Holiday and Hanselman's perspective, this instantaneous mentality is contributing to the blurred lines between all areas of our lives contributing to the myth factor in work-life balance. A good example is a developing trend where, we no longer maintain email etiquette, once before there was a 48-hour window for the addressee to respond, that is now replaced with the “urgent crisis” where everything now is urgent or in crisis mode.

An additional effect in the myth factor of work-life balance is that we choose the “treadmill mentality” and opt not to participate in the balance we are referring to. This underscores an important point in deciding whether work-life balance is a myth or necessity, which is that CHOICE is an essential part of it, but we are not there yet.

Let us circle back, to what we know again; the first as we said is that employees who do not have a work-life balance tend to burn out more quickly but those with a



“some employers, are like that one friend who is forever on their way to the party and arrives only just before it end.”

healthy balance have more motivation and are more productive at work. Consequently, why is it then that we would choose the less promising option. Would we not prefer to be motivated and productive? Avoiding burn-out and contributing to healthy employees? This underscores the necessity of maintaining the health and wellness of our employees.

Many employers are early to the party and have benefited from the motivated and productive phenomenon of employees. You may ask, how? Many employers have implemented policies; allowing and wellness programmes that contribute to productive and motivated employees. The initiatives are limitless and only need selection based on your organisational culture.

However, some employers, are like that one friend who is forever on their way to the party and arrives only just before it ends; and have not found the blend that lends to work-life balance. However, no matter where you fall now on the spectrum, there is still the opportunity to evaluate and improve. Ask yourself, is my culture leaning more on the myth side or necessity side.

The final look at what we know, encapsulates that working over 40 hours a week can be stressful, but having a healthy work-life balance will allow more time with family. While we are short on time and can certainly ventilate this topic more, I wish to hammer home on the point of CHOICE; If we do not choose it, then we will be constantly making excuses to its impossibility? Statistics don't lie: those who rest and recover are more productive, alert, and high functioning in the workplace. What does this mean?

Based on our review here, the supposition is that work-life balance being a myth or necessity can both exist and be true at the same time. On the one hand it can be a myth for anyone who is struggling with the inability to balance and on the other the hand, the facts of necessity exist and are real as well. However, the recommended consensus would be that we choose and strive to continuously maintain the balance. First choosing to balance, refraining from glamorizing a work culture of exhaustion and finally determination to improve, regardless of where you are on the spectrum.



TIP:

INCREASE IN BUSINESS BEFORE LAYOFF OR SHORT TIME HAS EXPIRED

In the event business operations increase before the layoff or short time period has expired, employers can request employees report for work. All employees are expected to comply with this request and report for duty.



FLEXIBILITY FOR THE FUTURE

*Written by Melissa Greene - Labour Management Advisor,
Barbados Employers' Confederation*

As more businesses navigate their business plans and strategies to maintain their offices and work sites, many private-sector organizations intend to continue allowing a significant number of employees to work remotely or have a hybrid environment (remote work and in office) as part of the “new normal”. Though flexible working arrangements had been topic of discussion for a while, most companies were yet to adopt and execute this alternate work arrangement.

[What is a flexible working arrangement?](#)

Flexible work arrangements deviate from the standard working day and week schedule. Employees may choose to work on a different schedule to accommodate personal or family obligations. Employers, on the other hand, may initiate a variety of schedules to meet the needs of their customers.

Remote work is ideal for jobs that require independence, little face-to-face interaction, concentration, a measurable work product, and monitoring based on output rather than time. Both employers and employees must recognize that implementing flexible working hours should be done with caution, as the likelihood of benefiting either party depends on the business context.

[Types of flexible working arrangements](#)

Flextime is a type of alternative schedule that gives a worker greater freedom in choosing his or her own work hours, as well as the opportunity to change work schedules from week to week based on the employee's personal needs. A flextime agreement may require an employee to work a certain number of core hours over a certain period while allowing the employee extra flexibility in their starting and ending times.

The flexitime system is usually considered to be a delicate system, particularly when employed in a large organization, because it has a predisposition to develop into a free for all system. However, the strategy may be beneficial in smaller organizations with an efficient productivity monitoring system. Employers must evaluate their individual company's condition while deciding on the best suited option.

[Compressed work week](#)

A compressed workweek is a scheduling method that allows employees to complete a standard 40-hour workweek in fewer than five days in one week or 10 days in two weeks. Some businesses, for example, operate on a four-day workweek with 10-hour days. Employers and employees put in the same number of hours each week, but employees get three-days off every week. Employees who have childcare or elder care responsibilities, among other things, may benefit from a shorter workweek. However, businesses that fall under the Shops Act must exercise caution with this strategy, since the Act requires overtime after eight hours of labour each day.

[Part-Time](#)

Employees have the option of working less hours than the standard 40-hour work week. These arrangements may be temporary or permanent, depending on the circumstances. It may also be considered in rare cases for employees who have health issues or disabilities. Work hours may be negotiated or chosen to correspond with peak workload hours, depending on the type of business.

For employees, there are typically work-life balance benefits to working fewer hours per day or week; studies repeatedly show that most individuals who work part-

time do so because they want to, not because they are compelled to do.

Part-time employment offers several advantages for companies, particularly in terms of maintaining the skills and expertise of employees who choose or need to reduce their working hours. A noted disadvantage is that supervision may be difficult.

Job Sharing

The practice of having two distinct employees fulfill the responsibilities of one full-time employment is known as job-sharing. Each of the job-sharing partners works part-time, but they are jointly responsible for the obligations of one full-time employee. They usually split the tasks in a way that fits both their requirements and the demands of the company. Part-time schedules are permitted in occupations that would not otherwise be available on a part-time basis. It necessitates a high level of compatibility, communication, and collaboration among job-sharing partners as well as with their supervisor.

Job-sharing agreements, like part-time work, may appeal to students, parents with small children, and individuals nearing retirement, allowing them to combine their professions with other responsibilities. Employers may find the practice beneficial.

Advantages of flexibility working arrangements

Flexible work arrangements can help organizations enhance their recruiting and retention efforts, increase organizational diversity, foster ethical behaviour, and contribute to their social responsibility activities. Employers can save money, enhance employee attendance, productivity, improve the company's culture and boost engagement.

A flexible approach provides company continuity in the event of a natural disaster or epidemic, as well as regulating staff attendance and lowering absenteeism. Employees are also offered a work-life balance, which can increase morale and decrease attrition.

Disadvantages of flexibility working arrangements

While there are definite advantages to flexible work arrangements, there are also possible disadvantage that businesses should consider. The following are some disadvantages:

- Negative impact on customers due to missed collaboration chances
- Employee engagement suffers because of a loss of business culture.
- Not applicable to all workers and jobs.
- Some employees may abuse their flexibility/freedom.
- The management of work schedules could become more difficult.

Conclusion

While the path to COVID-19 recovery is undetermined, one thing is certain: businesses must adapt to the new atmosphere promptly and deliver effective, long-term solutions. Offering flexible work arrangements to employees may be one way to securely return them to the workforce and support your business in regaining momentum while laying the groundwork for a successful and progressive future depending on your working environment and operational requirements. A policy with clear rules may aid in managing expectations and protecting your business from any liabilities; if you require any assistance, please contact the Barbados Employers' Confederation.



TIP:

TERMINATION OF SERVICES / LAYOFF CERTIFICATE

The termination of services certificate commonly referred to as the green paper must be issued to employees within one week of commencing layoffs/ short time so that employees can claim their benefit in a timely manner. A copy should also be submitted to the National Insurance Department. Failure to submit within one week could result in penalties for the employer.

THE FALL OUT OF COVID 19 ON PENSION PLANS IN BARBADOS



*Written by
Ms. Lisa Wade
FFA, FSA,
Eckler, Principal*

Private sector employer sponsored pension plans provide a meaningful contribution to the welfare of Barbadians during their retirement. Participation in these pension plans is spread across the various sectors of the Barbados economy with approximately 30,000 members participating in 259 pension plans.

Pension plans in Barbados have wide diversification of their investment portfolios as they generally invest in mutual funds. The 2020 Financial Stability Report indicates that 55% of assets are invested in foreign mutual funds and 20% of assets are invested in local fixed income instruments. Despite over 60% of pension plans being defined contribution (many of which share the cost equally between the employee and the employer) over 80% of annual pension contributions are made by the sponsoring companies.

The COVID-19 pandemic has had a dramatic impact on the Barbadian economy. The Central Bank of Barbados has estimated that the real economy contracted by as much as 20% at one point during the pandemic. Due to the high level of geographical diversification of the investment portfolios of local pension plans the state of the local economy has had a limited effect on investment valuations. Investment portfolios were

severely impacted in the first quarter of 2020 due to the sharp decline in international equity markets. There was a rebound and those losses were erased by the middle of 2021. It is expected that the international market will continue to see some level of volatility associated with the pandemic but the impact of this has been eclipsed by the economic and geopolitical fallout of the war in Ukraine.

The issue of volatility is especially important to members of defined contribution pension plans as their benefits at retirement will depend upon the value of their pension account when they stop working. Employers could consider providing these employees with some flexibility regarding their retirement date through postponed retirement or allow them to use an income draw down facility. This would enable them to receive a portion of their account balance as a monthly income until investment returns have stabilised.

Layoffs and reduced working hours were implemented by employers as a result of the reduced economic activity and mandatory lockdown periods caused by the pandemic. These measures may result in reduced levels of pension benefits for the affected employees when they eventually retire. This is due to reductions in their credited pensionable service and contributions depending upon how employers decide to treat those periods in their pension plans.

The pandemic has prompted businesses to assess their operations and strategic plans and to make many decisions regarding their futures as they seek to build more resilience into their operations. Pension plans are a tool that employers can use to aid their workforce management as the early retirement provisions of pension plans may help with restructuring efforts. Defined benefit pension plans do provide more flexibility than defined contribution pension plans in this regard as enhanced levels of pension benefits can be provided through defined benefit pension plans on early retirement. Employers who are considering further restructuring should contact their advisers. The National Insurance Scheme (NIS) is the pillar upon which the Barbadian pension system is built. Private sector pension plans provide benefits which are supplemental to those provided by National Insurance. The NIS has been instrumental in providing income replacement for employees who have been laid off or terminated during the pandemic. In March 2021, the NIS advised that the 34,000 people who filed over 50,000 claims up to that stage of the pandemic had received over \$155 million in unemployment benefits.



TIP:

TIME LAPSE IN WRITTEN WARNINGS

Where a period of 12 months or more elapses after a disciplinary warning is given, it shall be treated as expunged from the record of the employee.

The 17th Actuarial Review of the National Insurance Scheme has revealed that the National Insurance Fund, which is responsible for the provision of old age contributory pensions, will be fully depleted between 2034 and 2041. An examination of the financial sustainability of NIS is currently being undertaken and the public has been invited to provide their comments and suggestions during the period of consultation. It is expected the following issues will be considered:

- Diversification of assets away from Government of Barbados debt instruments
- Pensionable age
- Contribution rates
- Level of benefits including the policies regarding the indexation of the insured earnings ceiling and pensions.

Any changes made with respect to pensionable age and level of benefits may necessitate changes to private sector pension plans as they will seek to mitigate the financial impact of NIS parametric reform.

Internationally and regionally, there have been several responses to the economic fallout caused by COVID-19. In some countries, employers have been given moratoriums on deficit financing. The implementation of such a measure should be weighed against the long-term policy objective of ensuring that pension plans remain solvent and can provide the level of benefits promised to employees. Also, employees have been allowed to withdraw a portion of their retirement savings in their pension plans which provides them with access to cash in the short term but will result in a reduced pension at retirement. Although the economy has rebounded significantly since the start of the pandemic, economic activity and employment levels have yet to return to pre-pandemic levels. There should be a discussion regarding whether such measures should be considered and implemented locally.

The removal of tax incentives for pension plan members and legislated changes to the terms and conditions of joining a plan have led to pension plans having fewer members and declining pension savings. If the incentives were reintroduced

and employers could make joining the pension plan a term and condition of employment, more employees would join pension plans and the level of savings in plans would increase, which is important given the current volatility in investment markets and likely reforms to NIS. This will improve the likelihood of financial security during retirement which is important as the pandemic will have a long-term financial impact.

The COVID 19 pandemic has had a significant impact on Barbadian society and its economy. The economic impact has also affected private sector pension plans and their members. Less economic activity led to lay offs and fewer working hours which may have reduced benefits earned in pension plans during that time. Companies may also be experiencing difficulties in making their pension plan contributions especially if they are currently funding a deficit. The increased investment volatility means that members of defined contribution pension plans may need increased flexibility in determining their retirement date. Companies which have defined benefit pension plans may be able to use these pension plans to aid their restructuring efforts. Without a mechanism that allows companies to make joining the pension plan a condition of employment, we will continue to see fewer members and less retirement savings in the plans. It is likely that the NIS will undergo parametric reform and that companies may need to make changes to their pension plans to mitigate the financial impact of such changes.

Private sector pension plans provide a vital role in the provision of retirement benefits to employees. It is important that employers and trustees provide regular information to plan members so that they are aware of the level of benefits that their pension plan is expected to provide when they retire. This will enable them to plan for a financially secure retirement.



ONLINE DISCIPLINE: FAIR OR UNFAIR

Kristin C. A. Turton, LL.B
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2020 saw employers transitioning to remote or virtual working arrangements in record numbers. The risks posed by COVID-19 and the consequent lockdowns initially forced these arrangements on employers. However, the age old saying that necessity is the mother of invention came to the fore as we saw an unprecedented use of online facilities to conduct business. Now, some employers consider them to be more beneficial than the original approach.

This transition has not come without risks. No matter the work environment, employees are required to follow the rules and codes of conduct that are set out by their employers. If they don't, an employer is required to use a fair disciplinary process in accordance with the Employment Rights Act ("the ERA") to address the issue. The usual practice has been for this process to be conducted in person; from the provision of a letter notifying of a disciplinary hearing to the physical meeting. With that tried and tested means being unavailable during lockdowns and "national pauses", employers have been thrust into a state of uncertainty. One proposal has been for the use of online facilities to discipline employees. Yet, questions abound. Does the ERA even permit the use of online facilities? Are employers at risk of fending off legitimate complaints from dismissed employees who claim it is an automatically unfair process? How do employers decide whether it is appropriate?

This article explores these concerns and aims to provide some clarity in the haze of these uncharted times.

Is online discipline automatically unfair?

No!

The primary objective of any disciplinary process is fairness. This is achieved by ensuring that:-

- employees are given a reasonable opportunity to respond to the allegations of misconduct; and
- employers gather all necessary information before disciplining an employee.

If an employer dismisses an employee without following an authorised process, the employee will be able to succeed in a claim against the employer for unfair dismissal.

To this end, the ERA carefully sets out two authorised disciplinary processes:

1. One includes the employer sending the employee a written statement of the "conduct or characteristic of the employee, or other circumstances, which lead him to contemplate taking disciplinary action against the employee", inviting the employee (and a representative if so desired) to a meeting "to discuss the matter" and conducting that meeting within 7 working days of the transmission of the statement.
2. The other process merely contemplates sending a statement to the employee which identifies the misconduct which led to the dismissal, explains the basis for concluding that the employee was guilty of the misconduct and provides the employee with a right to appeal.

In a practical sense, online facilities provide all of the same safeguards as contemplated by the ERA. They are means by which information is communicated in writing on a daily basis at all levels, including every Registration Department in Barbados. Additionally, it cannot be denied that videoconferencing facilities are means by which matters of significance can be "discussed" and decisions

made. Indeed, they are being used by our very own Labour Department to conduct conciliation meetings and by every level of our court system to conduct hearings.

Even though, there have been no Barbadian cases which have had to address this point, it is highly unlikely that an employee will be able to convince any tribunal or court that online facilities are fair enough for a court to use for a trial, but automatically unfair for an employer to use for a “meeting”.

Moreover, our tribunals and courts may be persuaded to accept the view expressed herein because it is consistent with the approach taken in other Commonwealth countries which have similar requirements for their disciplinary process. For example, the Labour Court of South Africa recently affirmed a ruling by an arbitrator that the holding of a disciplinary hearing through Skype was procedurally fair: **MTWU obo Nonyane v Star Express CC (Case no: GPRFBC25323)**.

Additionally, in **Food and Allied Workes Union (FAWU) v South African Breweries (Pty) Ltd (SAB) and another [2020] HIPR 137 (LC)** the Labour Court of South Africa declared that:

1. as a result of the COVID-19 pandemic, a new normal has emerged permitting the use of videoconferencing applications to facilitate employer/employee consultations in a safe and healthy manner;
2. employers do not need to wait until a lockdown is lifted or an in-person meeting can be accommodated to conduct proceedings; and
3. proceeding with retrenchment consultations via a videoconferencing application, especially during a pandemic lockdown, does not render consultations procedurally unfair.

Should employers adopt an online disciplinary process?

Employers must consider all of the circumstances in determining whether an online disciplinary process is preferable. According to the guidance on **Disciplinary and Grievance Procedures during the Coronavirus**

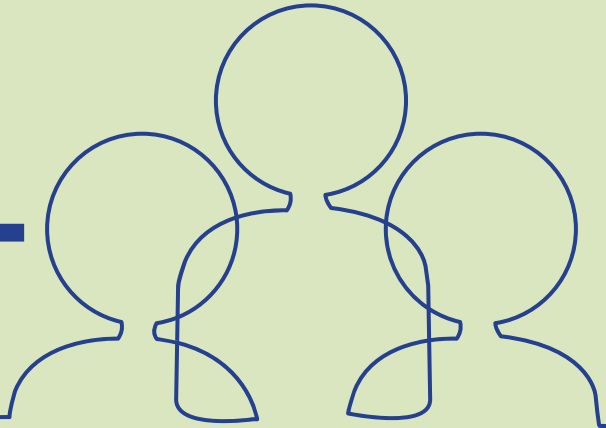
Pandemic issued by the Advisory, Conciliation and Arbitration Service of the United Kingdom “employers should try to find a safe, fair and reasonable way to go ahead with procedures. If this is not possible, they should consider if it might be fair to suspend a procedure.”

Ultimately, employers must be guided by fairness. Sometimes, delaying the process in favour of an in-person meeting may result in an employer missing the opportunity to deal with a matter swiftly and effectively before a situation deteriorates further. Additionally, if there is uncertainty as to when ordinary work arrangements will resume, online disciplinary proceedings may be more appropriate. Conversely, even though an employee is bound by the ERA to make all reasonable efforts to attend the meeting, it may not be fair for an employer to employ an online process if the employer knows the employee, his representative or relevant witnesses do not have the facilities to attend.

A few tips...

- The top five things an employer should note in utilising an online disciplinary process are:
- An employer must comply with all requirements of the ERA and ensure the process is both substantively and procedurally fair.
- the statement and notice of the meeting are best communicated by an email that requires the employee to confirm receipt of the same.
- a secure online platform should be used such as Zoom, Microsoft Teams or Skype.
- the chairperson should advise the employee of how he can confer privately with his representative during the meeting.
- if the employee or his representative expresses any legitimate grounds for the online meeting to be deemed disadvantageous to the employee or if the employer has any doubts about its fairness, the meeting should be postponed until it can be conducted in person.

THE HUMAN ELEMENT



*Danielle Holder
MA, SHRM-SCP
Human Resources Business
Partner- Employee Relations
& Organization Development,
The Barbados Light & Power
Company Ltd.*

1. I started my career in human resource management in 2012. When I started working at the Barbados Advocate in 2009, I expressed early on my desire to pursue further studies and a career in HR. I left the organization in 2011 to pursue a Masters degree in Industrial Relations and Managing Human Resources at the University of Warwick and, upon my return, I was given the opportunity to resume my role as Editorial Executive, with the added responsibility of Assistant Human Resources Manager. There, I worked closely with the manager to become more knowledgeable about the practical side of HR, before moving on the following year.
2. I love to exercise, even on the days when I don't feel like it. Even more than the physical effects, the mental and emotional benefits of regular exercise cannot be overstated, especially given the current state of the world where good health is the most important currency one can possess. Enjoying an easy run on Sunday mornings or pushing through a challenging workout at the end of a tiring work day are the moments that give me the most satisfaction. I also love spending time at the beach – either alone in introspection or with good company; dining out; and travelling abroad.
3. I am most proud of the work that I have been able to do in my current position. When I assumed the role in 2013, it took a huge leap of faith. Here was a company that I had never heard about which had no prior human resources presence or blueprint to follow. It truly was trial by fire with no extinguisher in sight! The early years were equally daunting and exciting; I was forced to quickly become knowledgeable about the operations of multiple businesses across a range of industries and build the HR function from scratch all while striving to meet the expectations of a demanding job and truly develop my professional identity. Years later and despite the many challenges encountered along the way (the prevailing circumstances included), I wouldn't trade the experience for anything and I am grateful for all that I have learned as well as the supportive relationships that have developed along the way.
4. As cliché as it sounds, I deliberately don't use the word "regret". Each of us makes decisions and takes action based on our lived experiences, the opportunities presented to us, the information we have at hand and what matters most to us at the particular point in time. Even if the end result isn't favourable, it doesn't come without at least one lesson to be learned, so there's no point in dwelling on the past when that energy can be better spent applying the wisdom going forward.
5. You would never guess that I am a great-aunt! I have three nephews and one niece. My oldest nephew is 31 years old and has children of his own.
6. I hope to keep discovering new things about myself – new skills, new talents and new interests that can add value on my journey to self-actualization and ultimately be of service to others.



*Diana Douglas MSc.
Group Human
Resources Director
Williams Industries, Inc.*

1. I started my career in human resources in 1995.
2. I love to help people, not just in advancing their careers, but in any way I can.
3. I am most proud of - pride isn't largely important to me, I'm grateful.
4. I regret nothing, I learn from my and others mistakes - it's called experience!
5. You would never guess that I am an Omnivert!
6. I hope to continue being a positive influence in as many ways as possible.

NOTHING SURPRISE ME, I Work in HR!

► It's my right!

An employee requested to work remotely because she is pregnant and did not want to spend any money on maternity outfits.

► Let Sleeping Dogs Lie

During a disciplinary hearing, an Attorney-at-law indicated that he is representing the employee; he is paid to bark, and he intends to bark and instructed the employee not to answer any of the questions.

► Make it a Happy Birthday!

An employee called in stating that he is unable to attend work because it is his birthday, and he will be out drinking with the guys.



TIP:

SAFETY COMMITTEE OR SAFETY DELEGATE?

The Safety & Health at Work Act requires companies with 25 or more employees to have a Committee comprised of management and employees. Where there are less than 25, there should be at least one Work Safety delegate to address safety and health concerns.





INCLUSION, DIVERISTY & DISCIMINATION



*Ms. Brittany Brathwaite
Regional Labour Policy
Advisor, Caribbean Employers'
Confederation*

This is no longer a debate – a diverse and inclusive workforce is essential for business growth. The power of empathy and understanding to bring people together as a unifying whole through the magic of diversity and inclusion, has become invaluable in the most successful companies around the world. In Mkinsey and Company's 2020 study on why diversity matters, it showed that companies in the top quartile of gender, racial and ethnic diversity are more likely to have high financial returns above their national industry medians. With the pervasive utilization of technology in small, medium, and large organizations and expansion therefore becoming feasible for just about everyone, scaling your business needs to be comprehensive and take a guess on what was one of the top three requirements for job seekers 2020 in according to Deloitte's 2020 Millennial Survey i– that's right: Diversity & Inclusion.

The International Labour Organization's C111 Convention should be the starting point for organizations across the world and specifically for those of us in the region, who aim to participate in the global market. But what next? The International Organization of Employers provides concrete steps to follow for the cultivation of a diverse work environment, a plethora of the same, are mirrored by International Diversity organizations such as: Power to Flyi. The salient ones and those which any progressive organization should set as the minimum threshold would be:

Creating and sustaining conscious leadership

Having Senior leaders & Executive's champion mentorship programs which focus on minorities or gender inequalities, further encouraging leaders to "take ownership of diversity and inclusion strategies, encouraging accountability, highlighting the importance of communication, and be willing to take the time to train or learn about biases"i A well-articulated policy is not enough, there needs to be a deep-seated understanding and appreciation for the diversity and inclusion at every level and by extension inculcating it into one's culture.

Consistent reassessment of recruitment and selection processes

Sure, you may be attracting fantastic talent, but is your pool far narrower than you realize based on your processes? When is the last time you assessed how and where you placed job advertisements; will specific demographics view them more than others? Have you connected with strategic partners who provide direct links to minorities? Dependent on your industry there may be several elements and nuances in your strategy which restrict your business' appeal to diverse talent. So, get on it – if not internally feasible engage a practitioner to facilitate a review of your process and it could open a world of new opportunities for your business.

Regional Legislative Protections- Can more be done?

Excluding persons from your work force on the basis of discrimination is not simply ethically, and arguably, morally wrong, but it also plausibly borders on illegal, dependent on your jurisdiction. COVID- 19, vaccinations and a plethora of issues surrounding the pandemic and the general survivability of businesses have captured the minds of Business owners, employers and employees for over a year now. Amidst all that has occurred, Barbados witnessed the proclamation of a critical piece of legislation in December 2020, namely the Employment (Prevention of Discrimination) Act. This Act expressly prevents discrimination in an employment context in over fifteen (15) areas. Including sexual orientation, gender, family responsibility, age and physical features. Persons should not be misled however, by the title of Act, as its breadth provides protection not only to those who may currently be under a business' employ. It also prevents discrimination in recruitment and selection; even where these functions

are executed by recruitment agencies. The crafting of job advertisements, job specifications and recruitment practices all fall within the ambit of the protection extended by the Act.

As alluded to previously, evaluating one's system from recruitment to offboarding would therefore be a good first step towards guaranteeing adherence- at least in glaring areas of Discrimination. This was tremendous feat for Barbados and similar legislative protections can be found in the Labour Codes or standalone anti-discriminatory statutes in Trinidad and Tobago, St. Lucia, Guyana.

Nonetheless, in a comprehensive journaled legislative review Jacqueline Stephenson iposited that there is currently a paucity on employment discrimination within Caribbean territories and specifically as it relates to the effect of applicable legislation. This has a direct correlation on the talent which the region will attract now and in the future as these protections are high on the checklist for those participating in the gig economy. Discrimination is not always bold and loud, neither is it always expressed in our policies. It can be covert and seeps out via our organizational culture, in the biases we promulgate. We therefore collectively, need to hold ourselves accountable and be our brother's keeper, to ensure safe workspaces for everyone.

In an ever-changing world it has become far less about preparing for change uncertainty and complexity in the workforce. We simply need accept that all those complexities now make up the regular work dynamic. I say, support authenticity over conformity, this adds value to the uniqueness of your culture and by extension the drive of your team to strive for excellence. **People thrive where they feel alive – and that's always found in acceptance!**



TIP:

RIGHT TO REPRESENTATION

Before disciplinary action is taken against an employee, employers must first invite them to a meeting allowing them their right to representation as per the Fourth Schedule of the ERA except in instances of summary dismissal.

APPRENTICESHIP AGREEMENTS

Definition

For the Purpose of the Occupational Training Act Cap.42, “apprentice” or “trainee” means a person who enters into a contract of apprenticeship or training in an occupation in respect of which a scheme is in force with an employer for the purpose of receiving occupational training, for a period of not less than 3 years in the case of an apprentice or not more than 4 years in the case of trainee, or such lesser period as the Board determines.

Rate of Wages

An apprentice shall be paid the following percentage of the rate of wages paid to a journeyman (A trained worker with the same skills and in the same profession)

- a) 1st year – Not less than 45%
- b) 2nd year – Not less than 55%
- c) 3rd Year- Not less than 75%

Contribution Rates Schedule

	Employee %	Employer %	Total %
National Insurance	6.75	6.75	13.50
Non-Contributory	2.00	2.00	4.00
Employment Injury	0.00	0.75	0.75
Unemployment	0.75	1.00	1.75
Severance	0	0	0
Training Levy	0.50	0.75	1.25
Catastrophe Fund	0.10	0	0.10
Health Service Contribution	1.00	1.50	2.50
Total	11.10%	12.75%	23.85%

Rights

For the purpose of the Employment Rights Act, 2012-9 “Contract of Employment” means a contract of service or apprenticeship, whether expressed or implied. The factors set out in the First Schedule shall be considered in determining whether a contract of employment exists.

The period of continuous employment of an employee shall begin from and include the first day on which he begins to work for an employer.

FAQs

Are apprentices eligible for Holiday with pay?

Yes. An apprentice who completes a year of employment with the same employer shall be entitled to an annual holiday.

Is the Employment Rights Act applicable to an Apprentice?

Yes. The Employment Rights Act 2012-9 and all of its content is applicable to an apprentice.

Can an apprentice be suspended or terminated under the apprenticeship contract?

If an apprentice commits a fundamental breach of the terms of the contract or any company policy & procedure, the employer can suspend forthwith and write to the Director of the Training institution within three (3) days after the suspension. The Director will commence investigations into the matter in conjunction with the employer to reach a decision.

Are apprentices eligible for severance payments?

Yes. Once an apprentice was continuously employed for 104 weeks or more, at the end of the agreement the apprentice should receive a severance payment in accordance with the Severance Payment Act.

If an employer offers an apprentice a permanent contract on completion of the Apprenticeship Programme, will this be deemed continuous employment?

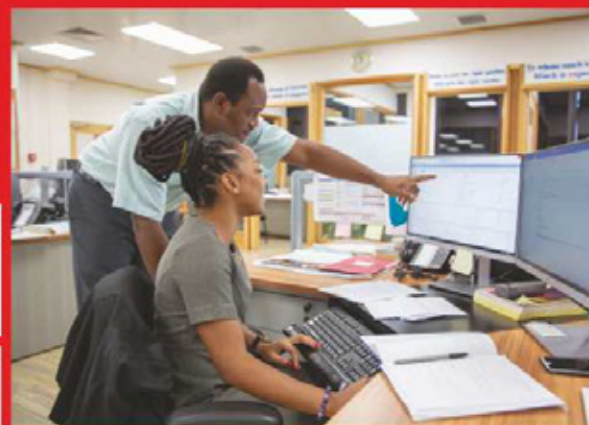
Yes. As per section 3 (5) of the Employment Rights Acts 2012-9; Short-term contracts granted to an employee in succession at intervals of less than forty-two (42) days count for the purpose calculating his period of continuous employment.



POWER OF OUR PEOPLE

Our dedicated and skilled employees at the Barbados Light & Power Company have maintained their focus on working safely on every job, every day, even throughout the COVID-19 pandemic.

We remain committed to providing a safe and reliable electricity service for Barbadians - today and for generations to come. It's Our Story.



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THE FUTURE OF EMPLOYERS' LIABILITY

Written by Mark Prescott VP Insurance Operations, Barbados and the Eastern Caribbean, Sagicor General Insurance Inc.

The current Coronavirus Pandemic continues to evolve and reshape the future of discharging the employer's duty giving rise to new areas of risk in the employers' liability claims market. The impact to businesses can be significant and employers will need to respond robustly to minimize their exposures and to protect their employees.

In Barbados, the duty of an employer or owner is to "secure the safety, health and welfare of persons at work and protecting people other than those at work against risk to their safety and health arising out of workplace activities." This duty is not absolute, and measures should be adopted which are reasonably practicable to reduce risk.

The SHAW (Safety and Health at Work) Act is law relating to and governing the duties of an employer. The Act also looks at the issue of prosecution for offences and regulates the conduct of owners' occupiers and persons generally within the workplace.

What is Employers' Liability?

To facilitate compliance with the law, insurance companies provide coverage known as Employers' Liability. This insurance protects employers from employee-related litigation arising from their negligence and pays legal expenses such as court costs, defense attorney fees and damages involving employees who are injured at work or suffer an occupational illness. Something as simple as a slip and fall on the work floor can lead to a claim under the Employers' Liability insurance policy. Alternatively, unhygienic surroundings can cause asthmatic or inflammatory illness rendering the employer liable.

Employers' Liability is defined by its Limits and Deductibles within each insurance policy and employers may seek increased limits of coverage based on the business' needs. Often sold in combined packages for small and medium sized enterprises it is affordable and in the changed

circumstances due to Covid-19, there is a greater need to cover your staff, especially when working from home.

Who is considered an employee?

Employees under the Employers' Liability policy may be defined as: Any of the following persons whilst working for the insured in connection with the Business

any person under a **contract of service** or apprenticeship

- any self-employed person providing labour only
- any trainee or person undergoing work experience
- any voluntary helper
- any person who is borrowed by or hired to the employer including persons on secondment from overseas countries
- any prospective employee being assessed by the employer as to their suitability for employment

and where the Insured requests, any outworker or home worker when engaged on work on behalf of the Insured. All the above defined employees must be disclosed by the employer to the insurer.

All the above defined employees **must be** disclosed by the employer to the insurer.

Employees Working from home (WFH) and Abroad Temporarily

Home workers are entitled to the same duty of care as those on the employer's premises except where it is excluded by the SHAW Act. The employer must consider adequate assessment of their insurance programs i.e. Employers' Liability to ensure that full definitions of employees and coverage includes home workers and person working remotely.

The insurance can also be extended to cover any injury or disease sustained outside the Geographical Area, i.e. Working Abroad Temporarily, thereby, providing holistic coverage anywhere in connection with the business conducted by the insured. False Arrest or detainment of the Employee and, Court Attendance Costs can also be included in the cover.

What is not covered?

Any liability of the Insured to pay compensation to an employee or to the legal personal representatives or dependents of an employee by virtue of any workmen's compensation law is excluded under this insurance cover.

In some jurisdictions, the solution by insurance companies is to offer Workmen's Compensation as required by law together with Employers' Liability. This provides a hybrid insurance coverage between a "no fault" i.e. compensation for Medical Expenses and Loss of Earnings benefit and "burden of proof" arising from an employer's negligence. Thus, to consider job-related accidents as part of the things "that could go wrong," this type of insurance is economically logical and socially desirable.

Whilst Employers' Liability and Workmen's Compensation both deal with occupational illness, loss of earnings and employer's negligence, some illnesses are not always occupational and not always the fault of the employer.

To address this, employers may offer special compensation benefits under the contract of employment in the form of insurance referred to as Group Health Insurance. This benefit pays out a prescribed amount for medical expenses and offers a quick relief from costly medical bills.

Group Health plans set an annual limit, i.e. a dollar limit on their yearly spend for covered benefits. Many Health Insurers also customize plans and allow employers to choose the amount and type of coverage that is affordable to the plan's members.

An employer who can prove they have applied advice and implemented systems and safety measures as required along with obtaining adequate insurance coverage, should be well-placed to deal with claims brought against them.

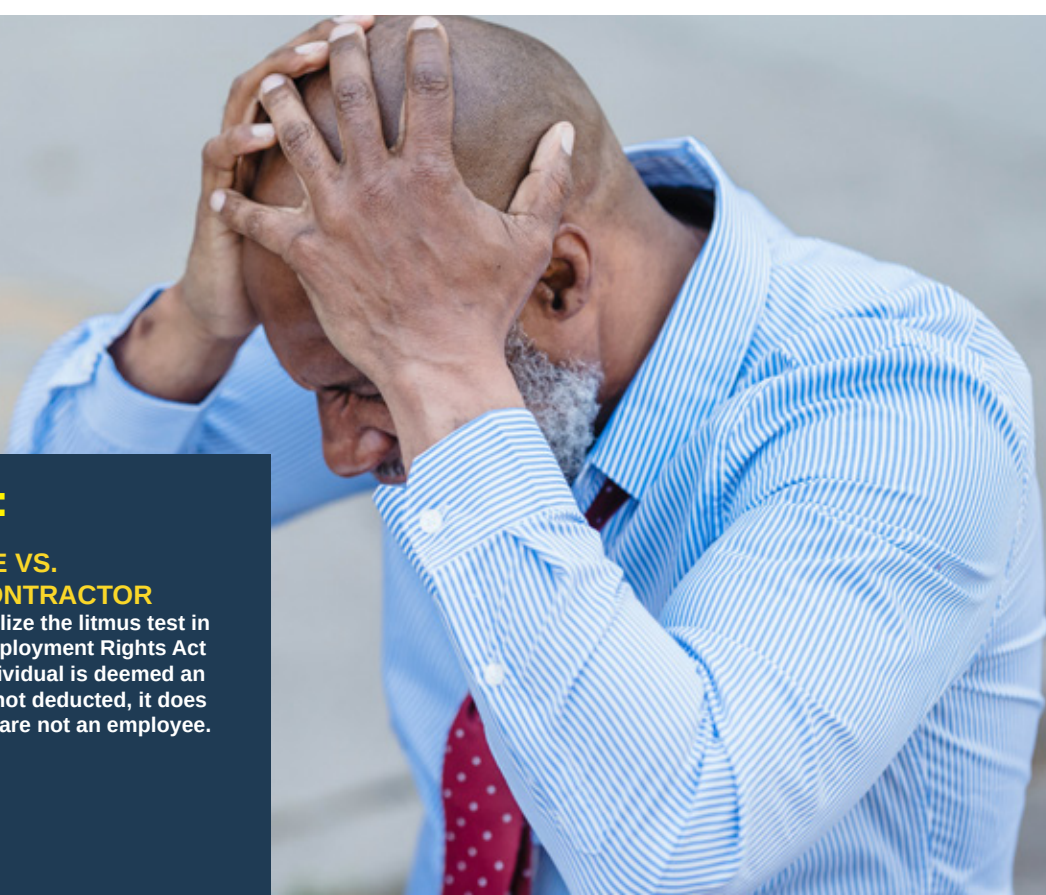
In Barbados, the duty of an employer or owner is to "secure the safety, health and welfare of persons at work"



TIP:

EMPLOYEE VS. INDEPENDENT CONTRACTOR

Employers should always utilize the litmus test in the First Schedule of the Employment Rights Act to determine whether an individual is deemed an employee. If NIS or PAYE is not deducted, it does not automatically mean they are not an employee.



FACTS ON EMPLOYMENT INJURY



How to qualify for injury benefit?

To qualify for an injury benefit, the employee must be incapable of work as a result of an accident arising in the course of employment or must be incapable of work as result of a prescribed disease.

Are employers required to pay wages for the duration of injury?

There is no legal requirement to do so, however if contractually agreed or in a collective agreement then such payments should be made. It is custom practice across the island that on receipt of the NIS cheque the employee makes it payable to the company.

How soon should an injury be reported to management or human resources personnel?

This is governed by your internal policy, however it is recommended that the accident be reported immediately or at least within 24 hours.

After the accident is report what are the next legal steps to be taken?

The Labour Department should be notified of all accidents on the job and once the employee selects Accident/injury or bodily disablement in the course of employment on the Claims For Sickness/Injury Benefit, NIS will send a form to be completed by the company on details of the accident.

If an employer pays all medical expenses for an injury, can the employer make a claim to NIS to be reimbursed? No, however the employee can complete the Employment Injury Benefit Claim for Medical Expenses form and reimburse the company once the refunds are granted.

Does paying for medical expenses make the employer liable for the injury?

No, however it is becoming custom practice across the island that employers are paying for the initial check up as a means of showing interest toward employees and operating in good faith.

What Medical Expense are covered under the NIS Scheme?

Payments are made in respect of:

1. Medical, surgical and hospital treatment, skilled nursing services and the supply of medicines.
2. The supply, fitting, maintenance, repair and renewal of artificial limbs, dentures, spectacles and other apparatus and appliances;
3. The cost of travelling for the purpose of obtaining any of the above

How much are employees refunded for medical expenses?

The amount of fees and charges which may be refunded as medical expenses is determined by the Director of National Insurance. Where it is considered desirable, the National Insurance Board may pay the medical expenses incurred to the medical practitioner or institution from whom or at which the person obtained treatment.



TIP:

TRAIN WORKERS ON PROPER SAFETY PROTOCOLS

Your employees should be trained to safely execute the duties listed in their job description, including proper lifting techniques and how to handle any hazardous materials that are present in the workplace. Each new employee should be properly trained before beginning work, and it's important to provide refresher training periodically.

BARBADOS' EMPLOYMENT RELATIONS GUIDE IS HERE!

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BUSINESS CONTINUITY AND HR MANAGEMENT

Written by Natasha Joseph - MBA, Grad IOSH, IAEM, AMBCI, HSE and Operational Specialist

Maria... Irma... Dorian... Wuhan... What are the first thoughts that come to your mind? What have you done differently since then? Most persons associate this series of names with a crisis. How does Human Resources (HR) Management fit into your Crisis and Business Continuity Plans?

A crisis is defined as an event, situation or decision that results in a total or partial disruption of key business and operational processes. A crisis is hardly ever a totally unpredictable event. If we are proactive in our evaluation of risks, then we will be better prepared. Regardless of their level in the organisation, every employee has a role in the business continuity process. I view effective HR and Safety Management as the connective elements that foster successful collaboration in a safe and healthy environment while achieving the business' goals.

I want to stress... in a crisis, whether natural or man-made, the role of HR Professionals is critical. In a crisis, the impact on people is magnified for the persons directly affected and the responders. Everyone has a role in getting their organisation from "business unusual" back to "business as usual". In a 2019 study by Deloitte, 51% of companies indicated that they did not have plans in place for probable crisis scenarios. Is your company among that 51%?

So, here comes the loaded question... if your organisation is confronted with a crisis at this moment, does your organisation have an effective strategy to increase the likelihood of successfully overcoming it? Too often, no more is expected of HR Professionals than to provide transactional (administrative, record management), or expert (recruitment/training) support.

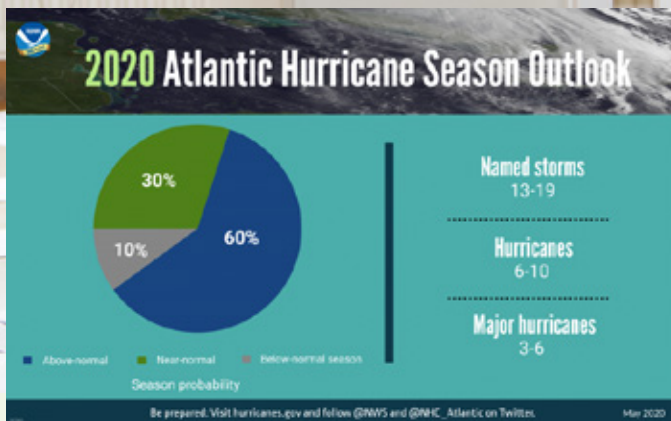
Regrettably, some HR professionals may settle for just being "at the table" when decisions are made. In a crisis, more is required!

Central to an effective emergency or crisis response strategy are people and leadership. The Atlantic Hurricane Season is typically from June 1- November 30. We continue to experience years like this one when weather systems form before this period. The National Oceanic and Atmospheric Administration (NOAA) predicts a relatively active season for 2020. Is your business prepared for the 2020 Hurricane Season and a possible second wave of the COVID-19 pandemic?

Based on my experience, I want to share a few tips for managing HR responsibilities in relation to a crisis.

1. Expand your circle of influence: Counsel and coach leaders throughout the organization. Help them to understand the business case for proactive crisis management and Business Continuity Planning.
2. Ensure your organisation has a plan that clearly and adequately defines the HR as well as other key responsibilities before, during and after an event.
3. Ensure personnel are empowered to translate that plan into decisive action when needed. If you do not have the expertise in-house, hire a competent consultant.
4. When conditions call for immediate action, the responsible parties should "welcome" discomfort. Be assertive, make decisions in a timely and appropriate manner. Own your mandate and lead when it matters most.

“Central to an effective emergency or crisis response strategy are people and leadership. ”



TIP:

HAVE EMERGENCY PROCEDURE IN PLACE

Develop a written safety plan that clearly outlines a procedure for handling and reporting injuries and emergencies, including phone numbers for first responders. Make sure every employee has read the plan as part of their training, and review it with them as part of your periodic training refreshers. Also, make sure to post the plan in an accessible spot, so it's easy to reference.

5. Ensure policies and procedures consider crisis situations
 - a. For businesses with multiple locations, assign operational leaders at each location who will ensure compliance with the crisis plans
 - b. The workforce planning component should also address training needs to ensure staff is competent to fulfill additional duties in the crisis.
 - c. Business Continuity Planning should consider compliance with legal requirements (e.g. Occupational Safety and Health and Employment Law)
6. Have you considered the psychological impact of the event? Does your Employee Assistance Programme address the possible needs of first responders, front line staff and other affected personnel?
7. Finally, and most importantly, communicate; get buy-in from your key stakeholders (including employees, trade union, suppliers and clients/customers)
 - a. Review and test your plans periodically,
 - b. Maintain professional and transparent relationships with emergency management agencies

A successful HR Strategy considers hearts and minds (empathy and logic). This approach allows us to work together harmoniously to achieve the strategic objectives of the business. These ingredients are needed to create a culture of care and resilience in our workplaces.

Our personnel are not just human resources. They are people with lives and families. Planning for business continuity is not only about the business getting back to operation. Planning must also consider and address the vulnerabilities of the personnel. In emergencies or otherwise, if we treat our people as just human resources and not human beings then ... HR is in crisis!!! Remember ... People make the difference real!





