

# WinckworthSherwood

## Workforce Conference 2021

### Key Takeaways

Our 2021 Workforce Conference brought together external experts and our specialist employment team at Winckworth Sherwood to discuss the attraction and retention of talent in the new world of work. The conference provided insight into the key issues facing HR Professionals and leaders in a post-COVID world. We have pulled together our key takeaways from our conference, which we hope you will find interesting and useful:

#### MORNING SESSIONS:

##### PANEL DISCUSSION: The recruitment, engagement, development and retention of staff

Panel:

- Chair - Louise Lawrence, Partner, Winckworth Sherwood
- Jacqueline Davies, NHS Director of Leadership, Lifelong Learning & Talent and Managing Director, NHS Leadership Academy
- Jordan James Barry, Chief People Officer, Motor Insurers' Bureau
- Claire Pointing, Executive Coach and Organisational Consultant, DML Consulting
- Luc Salmon, Partner, Michael Page Executive

##### Trends in Recruitment

Luc identified a number of trends including that:

- There are far more vacancies than good candidates to fill them which has created a "war for talent".
- The focus has shifted to what the employer can offer the candidate rather than vice versa.
- The best candidates receive multiple offers and so employers must act quickly to secure the best talent.
- There has been increased instances of speculative interviewing owing to the convenience of remote interviewing.

##### Attracting and Retaining Talent

Luc identified that, after salary, flexible working is the most important consideration for candidates, as well as an increasing trend of employers offering opportunities for upskilling.

Jordan noted that the pandemic had led to a reset in the "employee deal". The focus in his organisation is on having a culture where employees decide how, where and when they work. Candidates are increasingly interested in leadership culture – younger generations want their line manager to support them beyond developing their technical skills.

Jacqueline acknowledged that flexibility is important but also identified other factors that are crucial to attracting and retaining talent:

- **Focusing on the "work itself"** – steps need to be taken to reduce the volume of administrative and boring work, allowing employees to focus on their core role. Employers should consider the advancement of technology and what can be digitised so that staff are carrying out work that has purpose and the "work works for people".
- **Training and development** - Staff are increasingly looking to take control of their own development through participation in training and development schemes. They want to attain accreditation in return for their commitment to training. Older employees also report that they are highly motivated by teaching younger employees and there is a real benefit for employers and employees in implementing internal mentoring schemes.
- **Diversity and inclusion** - This has to be integral throughout the organisation.

Jordan agreed that coaching and mentoring should be a major focus and that many candidates ask him about his organisation's mentoring offer. His managers are now trained to be coaches and mentors.

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#### Effective Blended Teamworking

Claire noted that many of her clients were seeking to return to more traditional ways of working, fearing a loss of control. This fear is driven by a tendency to conflate flexibility with freedom. Managers therefore need to be trained in how to clearly delineate the boundaries of flexible working and show “conscious leadership”.

Claire identified several essential ingredients for effective blended working:

- Collaboratively agree the parameters of working together. Staff should, for example, agree core hours during which everyone will be available to meet and collaborate.
- Consistency around communication. Managers should not rely on informal communication around the office in order to manage employees - this will exclude those working remotely.
- Managers should allocate remote and office-based workers to the same projects to create a “location agnostic” workplace.
- Team connection and purpose. Employees feeling connected and that their work has a purpose is key to creating a thriving team.
- Sustainable working. Remote working creates an imperative for clearly demarcating work and home life.

She recommended that a team charter is agreed. The panel also emphasised the importance of training managers to be able to manage their teams remotely.

#### Acknowledging the Dark Side

Jaqueline noted that absence levels have been rising since the onset of the pandemic, and that stress and anxiety had overtaken physical illness as the primary reasons for absence.

These issues need to be addressed by effective management, and are linked to fundamental questions around trust, control and freedom. Jordan agreed and explained that in his organisation managers are clear that they are there to “inspire people” and their managerial capabilities are connected to their reward structure. Claire emphasised the need for managers to be empathetic.

#### Creating a Thriving Culture

The panel discussed that the key to creating a good working culture is to:

1. Focus on the behaviours that you want to encourage, tailored at the team level, rather than imposing a “one size fits all” list of values. Make it mandatory for staff to demonstrate the required behaviours.
2. Train managers on what drives performance and engagement – for example, encouraging managers to focus on supporting employees in relation to issues like mental health before focussing on performance.
3. Link demonstration of leadership skills to incentives.
4. Encourage bottom up engagement around culture and values; reinforce messaging through regular and routine engagement between management and staff.
5. Focus on diversity and inclusion. The pandemic and other events has thrown the issue of diversity into sharp focus. There is a vital need for managers to create spaces where members of the BAME community can openly share their experiences and concerns with a view to creating a more inclusive workplace.

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#### SESSION A: Contracts of Employment

Andrea London, Partner, and Aleksandra Traczyk, Solicitor, Winckworth Sherwood

*This session covered what has to be included by law in contracts of employment together with best practice considerations. In addition, it considered how to change terms and conditions such as place of work and benefits clauses to reflect new ways of working, and also how to protect your business with restrictive covenants.*

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- Update your template contracts of employment to include the new particulars required since 6 April 2020.
- Post-COVID updates: consider whether to include short-time working and lay off and emergency measures clauses or update your place of work and benefits clauses.
- Privacy notices: make post-Brexit updates and consider whether the data you collect or how you process it has changed post-COVID (e.g. collecting data about vaccination status).
- Changing terms and conditions – can you amend using a contractual term; if not seek the employee’s agreement to the change. If agreement cannot be obtained consider dismissal and re-engagement or unilateral imposition.
- How to protect your business by way of the use of restrictive covenants, best practice and pitfalls. Consider other types of “restraint” – confidentiality, garden leave, financial incentivisation and bonus clawbacks.

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#### SESSION B: Employment Status

Blair Adams, *Partner* and Danielle Crawford, *Senior Associate*, Winckworth Sherwood

*This session provided a guide to current issues that arise when engaging self-employed individuals. The key areas of focus were: the latest developments in the employment status tests e.g. the Uber case and others; a review of the approach taken in recent tax cases; and analysing the factors involved in recruiting via intermediaries – IR35 and the off-payroll rules.*

- No single factor is determinative – look at the relationship in the round.
- You cannot rely solely on what the contract says.
- There are different tests and Tribunal tracks when determining tax status.
- Control and personal service are key factors to consider for both employment and tax status determinations.
- An on-payroll arrangement may be the least risky approach for tax purposes.

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#### AFTERNOON SESSION:

##### Legal issues in the workplace as a consequence of the pandemic and remote/flexible working

Bettina Bender, *Partner*, Andrew Yule, *Partner* and Daniel Parker, *Associate*, Winckworth Sherwood

- Despite the desire for certainty, keep vaccination policies measured and flexible to deal with individual circumstances and the changing context.
- Reassess both policies and practices regarding remote working to minimise legal, compliance and employment risks.
- When dealing with flexible & hybrid working, distinguish between what arrangements are contractually agreed and what may be a matter of policy, so subject to change.
- Sanity check decisions taken in respect of flexible working: can you justify the outcome?; Are there any unintended consequences?
- The Pandemic and the various lockdowns have caused a fundamental shift in the workplace.
- Employers have been required to address new ways of managing risks, including the increased risks to the health of their employees.
- ‘Hybrid Working’, based on flexible working principles, has been introduced in the wake of the Pandemic.
- For many there is likely to be a permanent change in the way they work post Covid-19.

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Thank you to all our presenters and if you are interested in watching any of the recorded sessions or accessing other supporting materials, please go to our event resources hub here: <https://wslaw.co.uk/ws-events/wfc-2021/>

We do hope you will be able to join us next year at our annual Workforce Conference on **Thursday 3rd November 2022**.