

Inside

2

Retaining the best talent
Gender equality

3

Age discrimination
Just in time events

4

Passing it on
Consult GEE and HPMA
research results

5

A recklessly good read
What makes elite
sporting performers tick?

6

Disciplinary
investigations
Wealth of good practice

7

Employment law news

8

South West branch
conference
In the news

9

Tolerance

10

Ask the experts

11

Northern Ireland
branch conference

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Boom and bust in the NHS

As many of you will have heard in the past week, the Government's handling of workforce planning in the NHS was condemned as a 'disastrous failure' by the House of Commons Health Select Committee.

A lack of strategic planning by the Department of Health meant that trusts recruited far more staff than they could afford to pay. Figures reveal that between 1999 and 2004, nursing numbers increased by more than 67,000 - some 340% in excess of original targets. During the same time, GP numbers swelled by 4,098 - 105% over target.

"It was too easy to throw new staff into the task of meeting targets rather than consider the most cost-effective way of doing the job" the report concludes.

The Committee criticise the lack of integration between financial and workforce planning. "The expansion of the workforce was reckless and uncontrolled and increases in funding were often seen as a blank cheque for recruiting new staff" the report says.

The Committee calls on the Government to increase productivity through better use of staff contracts, particularly the new consultant contract and Agenda for Change.

"Large pay increases were granted without adequate steps being taken to ensure increases in productivity in return."

MPs conclude that there is clear evidence that the NHS has gone from "boom to bust", with staff being hit by "widespread job reductions, sweeping training cuts and severe pay restrictions". The Committee were shocked to find that UK healthcare graduates are facing unemployment, largely because trusts chose to increase capacity through international recruitment.



Kevin Barron,
Committee Chairman

Commenting on the report, Committee Chairman Kevin Barron said: "Improving workforce planning is crucial if the health service is to respond effectively to future change and provide value for money for taxpayers. As a result, we hope that the Government will act swiftly on the recommendations in this report."

Deborah O'Dea, HPMA President, said that the HPMA praised the report's emphasis on the importance of integrating, workforce and financial

planning. Joint working with its financial counterparts (HFMA) was already underway, she added.

When giving evidence to the Committee herself, Ms O'Dea had stressed to the importance of clinical engagement and role redesign. She commented: "The HPMA wholeheartedly agree that increasing clinical involvement is a priority for our members. At the coalface, I think clinicians have always been involved where projects have been successful. When they are not involved, projects are not."

She added: "Human Resources practitioners have a key part to play in role redesign. The NHS primarily delivers the knowledge and skill of its staff, and medicines. Modernisation of the service will mean either changing the knowledge and skill base in the light of research and new technologies, or changing who has those knowledge and skills, or where, or when, or how, they are delivered. New roles need to be designed around patient need - observing both quality of care and patient safety. In order to do this we must understand the basic education of each of the professional groups and identify where particular roles can only be done by professionals.

"In every case, substitution between professional groups and from professional staff to trained staff will mean that the task is tackled differently, from a different educational base. This will bring some gains and some losses and we need to identify what these are if skill mix initiatives are to be successful. We need also to consider modernising and updating traditional roles rather than just layering new roles on top of existing structures."

Ms O'Dea represents HPMA on the NHS Working Time Directive Programme Delivery Board. This appointment ensures members are completely up-to-date in terms of best and most successful practice.

Full details of HPMA activities and publications can be found on our website www.hpma.org.uk, including details of our upcoming UK Conference *HR - Leading success* on 7 - 8 June 2007 at The Oval Centre, London, where we hope to debate the report finding further with members of the Select Committee themselves.

Attracting, engaging and retaining the best talent



Greig Aitken.

Greig Aitken from the Royal Bank of Scotland Group is the latest speaker to sign up to an already packed programme at the HPMA Annual UK Conference.

RBS has a clear commitment to human capital management and the group believe that people data should be high on the agenda. Their aim is to provide a compelling proposition for staff so they have carefully designed a human capital strategy.

The award winning strategy provides a detailed understanding of how the group effectively attracts, engages and retains the best people. The impact of their strategy is highlighted in the annual report, which includes sections on employee communications, diversity and learning and development opportunities.

Head of Human Capital Strategy at the Royal Bank of Scotland Group, Greig chairs the RBS Group's human capital board and has developed sophisticated intranet based tools to support it's HR leaders make informed people decisions. The suite of online HR tools is accessible to over 1,000 HR staff. The toolkit helps to increase 'ownership' of the concept of human capital measuring at all

levels of the group and to promote best practice.

Greig will be advising delegates on how RBS's successful strategy is transferable to any organisation. He feels that human capital can only become alive and add value once the basics are covered - literally learning to walk before you can run. Understanding the business is an important first step, from which you can then develop other key skills.

RBS feel they have the best HR professionals in the market and Greig will be able to explain how other organisations can adopt the fundamental ideas that they have used so successfully. His simple effective advice will make his session one not to be missed!

To come and hear Greig and a wide variety of expert speakers visit www.hpma.org.uk to book your place at the conference. Delegate places start from as little as £170 plus VAT and for the first time this well established event will be taking place in London. So book now to ensure you gain from all the benefits the HPMA UK Conference has to offer.

A gender equality duty in practice



Readers will no doubt be aware that on 6 April 2007 all public authorities become subject to a new Gender Equality Duty. Each organisation must have a gender equality scheme in place by 30 April 2007. The new statutory duty is defined as a 'general' duty to eliminate discrimination and harassment and to promote equality. The 'specific' duties which apply to public bodies are not an objective in themselves but are a means of meeting the general duty. The specific duties have been written about in previous articles and this brief article will cover the methods criteria by which you are likely to be assessed by the EOC, and from October 2007, by the Commission for Equality and Human Rights (CEHR).

In practice the CEHR will be able to issue compliance notices to public bodies that are failing to meet both their general or specific duties, and the compliance notices will be enforceable by the courts.

The EOC describes 5 key criteria to be applied when assessing compliance with your gender equality duties:

- **Information** - do you have sufficient management information which allows you to understand the impact of your work on women and men (including transsexual women and men)?
- **Consultation** - have the relevant people inside and outside your organisation been involved in providing information and identifying gender equality priorities?
- **Transparency** - have you ensured that information

about your gender equality scheme has been widely and appropriately publicised, both inside and outside your organisation?

- **Proportionality** - have you clearly exerted enough time, energy and resources into the process of developing and implementing your gender equality scheme?
- **Effectiveness** - has your scheme made a difference to the organisation and met any described objectives in terms of reducing discrimination and achieving greater gender equality?

Readers are also reminded that although they will currently already operate within the specific equality duties prescribed within the Race Relations Act 1976 (as amended) and the Disability Discrimination Act 1995 (as amended) the information gathering requirements are slightly different for each duty.

There have also been a number of significant amendments to the final Gender Equality Duty regulatory framework such as the pay duty - this now requires public bodies to address the three causes of pay gaps; namely, pay discrimination, caring responsibilities and occupational segregation. HR practitioners are encouraged to ensure that they are referring to the correct version of the Gender Equality Duty and for further useful guidance go to the EOC website at www.eoc.org.uk

Sharon Gregory, www.sgtd.co.uk
for Consult GEE NHS

Age discrimination and retirement

Last October new laws were introduced to protect people against age discrimination in the workplace. In a controversial move, however, the government included in the new regulations, a default retirement age of 65. This means that it is still possible for employers legitimately to force employees to retire once they have reached the age of 65.

The default retirement age is now threatened by a court challenge brought by Age Concern. The charity is arguing that having a national default retirement age contravenes European anti-discrimination laws.

The European Court of Justice (ECJ) is being asked to give a ruling. If it agrees with Age Concern, the consequences for NHS employers will be significant. This is because public sector bodies are legally bound to comply with the European Directive on which our domestic laws are based. So although the UK regulations appear to allow compulsory retirement, if it transpires that the regulations conflict with the Directive a health service employer will not be able to rely on them to defend a claim of age discrimination or unfair dismissal.

It is likely that any claims brought by public sector employees complaining about being forced to retire will be put on hold by Tribunals until the test case is decided. Employers will then be at risk of having to deal with a flood of back-dated claims if Age Concern's case is successful.

The ECJ's decision is unlikely to be received until well into 2008. However, the European Court is expected to give a ruling later this year in a Spanish case which raises a similar question. In that case, the ECJ's Advocate General has expressed the view that European law does not prohibit national laws allowing employers to set compulsory retirement ages. As independent advisor to the Court, the Advocate-General's opinion will carry some weight. But as the ECJ does not have to follow his lead, the only safe policy for health service employers, for the time being, is not to require any employee to retire against their wishes.

Age Concern is also challenging another aspect of the age regulations. Under UK law employers are allowed to discriminate against workers directly on grounds of their age provided the discrimination is 'a proportionate means of achieving a legitimate aim'. Age Concern says this gives employers more freedom to discriminate than is permitted by European law. If this challenge succeeds, the regulations will have to be changed. As with compulsory retirement, however, the immediate concern is the risk of claims based on the European Directive rather than our own UK laws.

Shirley Wright, Partner, Eversheds
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Just in time events

The *Just in time* programme continues to go from strength to strength with three more events announced with Capsticks and two more in the pipeline with Bevan Britten and Eversheds.

Flexible working (Tuesday 17 April 2007, Education Centre, St Mary's NHS Trust, Paddington)

The third event in our workstream, has been introduced following direct feedback from participants at previous *Just in time* events. Kate Groucutt from Carers UK will provide the user perspective, and Andy Lake editor of online resource *Flexibility* will discuss current research and opinion on innovations in employment practice and organisational development.

Age diversity (Tuesday 1 May 2007, Education Centre, St Mary's NHS Trust, Paddington)

The last London *Just in time* event of this programme brings together Nony Ardill from Age Concern with an older person's user perspective and Ali Mohammed from Medway NHS Trust who will share some of the learning from his intergenerational learning project.

Bullying and harassment (Tuesday 19 June 2007, Education Centre, St Mary's NHS Trust, Paddington)

This event is set to be a little different with Robbie Swales from Steps Drama - a hit at the 2006 UK Conference in Cardiff - providing a user perspective. And the team from St Mary's NHS Trust will provide the trust perspective with their insightful case study analysis and practical management tools.

The aim of the *Just in time* workshops is to provide practical solutions to today's problems, to reduce workload and ensure participants implement to the highest possible professional standards. Members who have attended see the events not just as the help we intended, but also as a great development and networking opportunity for deputies and others.

And the *Just in time* brand is growing: virtually every organisation that attended the first workshop, enrolled at least one, if not two of their team, on the gender equality event. So with limited places on these next events we recommend you book early.

The *Just in time* events are intended to 'roam' so contact your branch if you would like to be involved in developing a workshop which we can then offer to other branches across the UK.

To see full programme details and download a *Just in time* booking form visit www.hpma.org.uk/html/future_conference.php



Andy Lake.

Passing it on



Bill Davies, HR management trainee, Sydney, Australia.

Hello Ali,

I have to admit I have been struggling for inspiration this month. Like the other trainees, my mind is preoccupied with CIPD work and new challenges as I come towards the end of the NHS HR management scheme.

All the trainees recently spent a week in Manchester and a constant point of discussion was how much more we knew about the operational and clinical objectives within the NHS, for example, hitting the 18-week waiting list target. We all agreed operational experience would be invaluable for our careers.

Our work, in Manchester, was focused on HR strategy and idea of 'HR business partners' came up. Do you think they are becoming a reality within the NHS? From your experiences are HR managers really becoming strategic business partners? I would be interested in what you have found really makes this a reality...

Best wishes,

Bill Davies, HR Project Officer, NHS HR Management Trainee, Westminster Primary Care Trust

Dear Bill

Ah, the latest kid on the block - the 'HR business partner'. This is fast becoming the latest solution to everything! I have to say that from talking to other HR directors, my impression of what most have done is simply to use the following recipe:

Ingredients: HR Managers, General Managers

Method:

1. Take HR managers and place within general manager structure.
2. Rebadge as HR business partner
3. Leave well alone but nod knowingly (sometimes smugly) when someone asks 'What are you doing about HR Business Partners?'

To me, this really misses the point. We've tried a more strategic approach at Medway. My two assistant directors and I personally act as the business partner to directorates. What we have done is to set out a number of activities which allow us to work closely with the general manager/executive director and not only monitor their workforce performance but, perhaps more importantly, start looking at future issues with them and planning for change.

My own view is that the jump from middle manager level to senior and top management in operational management is pretty great. Moving from purely functional (in this case just HR) to functional plus fully corporate is even greater. The senior HR people therefore are the appropriate people to act as business partners not HR managers.

This leads me on to your first point. If you accept the logic of what I've said then this also allows for the appropriate space and proper development of mid-level HR managers in terms of really starting to understand the business of the NHS.

Until next time

Ali Mohammed, Director of Human Resources, The Medway NHS Trust



Ali Mohammed, reigning HR Director of the Year.

Consult GEE and HPMA are pleased to publish the results of the HPMA Conference research on Managing Change and Organisational Development in the NHS.



The 2006 HPMA Conference research in conjunction with Consult GEE was designed to establish what the challenges are for human resources professionals within the various parts of the NHS, in dealing with staff development and managing change.

We are now pleased to be able to publish the results of the research, which have provided Consult GEE and HPMA with some interesting findings which will help both organisations to support HPMA members and guide them through the challenges ahead in 2007.

Such challenges for include financial recovery,

improving efficiency and productivity and the restructuring of the NHS.

The research has also provided Consult GEE and HPMA with some useful information on the engagement of clinicians in people management issues, the amount of support that organisations have received in relation to issues such as Pay and Redundancies, and how organisations measure the effectiveness of training and development.

To see the full Research Report go to www.hpma.org.uk/html/other_activities.php

A recklessly good read

It's long and it's detailed but I defy any HMPA member not to find the Health Select Committee's report of NHS workforce planning a riveting read. First, it uses deliciously powerful language such as 'the expansion of the workforce was reckless and uncontrolled. And: 'The lack of focus on increasing efficiency during the recent period of rapid growth in staff numbers was reckless and unwise.' Its well-written, weaving in quotes from the oral and written evidence with great skill.

Second, for anyone who has lived through the HRM rollercoaster of the past seven years it sets out what we have all known but hardly dared to admit. It does an excellent job of weaving together all the different policy strands while demonstrating how they really didn't hang together. The WDCs set up and abolished within three years, workforce planning

and financial planning running along parallel lines, the GP contract which gave them more cash for less work in the name of productivity and so on.

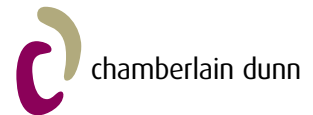
Third, it gives the HRM fraternity some clear pointers for the future. It recommends, for example that they ensure that the status of workforce planning rises up the totem pole and that HR people should walk along the corridor more often to talk to their finance colleagues.

Give it a read. In a funny sort of way it will cheer you up. www.publications.parliament.uk/pa/cm/cmhealth.htm

For subscription details of our healthcare employment newsletters go to www.health-workforce.com

Alison Dunn

Editor in chief, Chamberlain Dunn employment reports



We are in awe of them, but what makes elite sporting performers tick?

The tougher the situation, the better and longer elite sportsmen and women seem to perform. Jonny Wilkinson's last minute drop goal to win the Rugby World Cup. Kelly Holmes finally overcoming a spate of injuries to win two Olympic titles. Ellen MacArthur's solo circumnavigation of the world in world record time.

Keynote speaker at the HPMA UK Conference in Cardiff last year, Adrian Moorhouse, together with his Lane4 co-founder, Professor Graham Jones, have written *Developing Mental Toughness*, a unique insight into the psychology of sporting champions, which shows how the same results can be achieved in the business world.

Graham Jones, one of the world's leading sport psychologists, explains why he set out to write the book, "I started my career trying to understand the minds of elite sportsmen and women; to find out how they acquire and focus their mental toughness. Working alongside Adrian has been fantastic because he is one of them! All of our work shows that the essential ingredients of pressure and high performance are very similar across sport and business. We wrote this book to show people that they too can achieve the mental toughness and high level of performance so admired in sport. We know from experience with elite businesspeople the impact this can have."

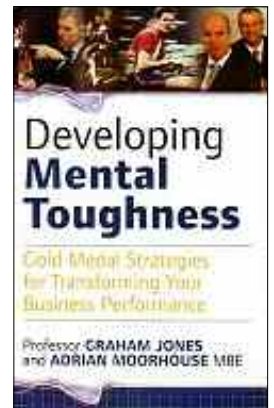
To add to the book launch celebrations, there was more good news for Lane 4, as they were crowned runners up in the *Sunday Times Best*

Companies to Work For 2007 Award. Voted for by the companies' employees who answer questions in the categories of leadership, wellbeing, the manager, the team, fair deal, giving something back, the company and personal growth, Lane4 can boast high morale, satisfied and motivated employees and a well-respected managing director.

Lane4 invests much time and energy into the development of its staff including monthly Magic Mondays, which involves company and team updates, knowledge sharing and shared learning, quarterly company days, work club environment groups such as gardening and yoga, and annual attendance at the Corporate Games.

Commenting on the accolade Moorhouse said, 'When leadership is our business, coming second place in the *Sunday Times Best Companies To Work For In the UK Award* hopefully demonstrates to our prospective and existing clients that we practice what we preach and actively instil good morale and productivity in our own workplace. Any business leader will agree that if you motivate and respect your employees, it pays dividends for your business both in terms of profits and company reputation.'

If you would like to review *Developing Mental Toughness: Gold Medal Strategies For Transforming Your Business Performance* for the next issue of *Network* please contact Lauren Crawford (lauren@chamberdunn.co.uk). The book is currently available from Amazon (www.amazon.co.uk) priced £9.74 (35% of RRP).



Adrian Moorhouse

Conducting disciplinary investigations

When misconduct of any kind is suspected it should be properly investigated. The ACAS code of practice on disciplinary and grievance procedures emphasises the need for an investigation to ascertain the facts. The initial investigation, which precedes the decision to commence the procedure, is not part of the disciplinary process unless the procedure itself specifies this.

The Employment Act (Dispute Resolution) Regulations 2004 impose minimum standards in the application of a disciplinary process. If a dismissal contravenes the requirements of the statutory procedures, it will automatically be unfair. The case of **YMCA Training v Stewart** (2006) highlights that it is the employer's actions which are important, not how the meetings are labelled. In this case, the EAT held that the employee had been unfairly dismissed, but that if the proper procedure had been followed it was more than likely that she would have been fairly dismissed.

The function of an employment tribunal is not to establish whether an employee was innocent or guilty but to establish whether the employer acted fairly and reasonably in dismissing the employee. It is the employer, not the employee, who is 'on trial', as the burden of proof is on the employer to show that there was a fair dismissal. Therefore, a full and thorough investigation is always important where any misconduct is suspected.

Before an employer dismisses an employee for misconduct there should normally be three factors present:

- the employer must have a genuine belief that the employee was guilty of misconduct,
 - the employer must have reasonable grounds for that belief, and
 - at the time the employer formed that belief they must have carried out such investigation as was reasonable in all the circumstances for the case.
- The Employment Appeal Tribunal (EAT) established these principles in the case of **British Home Stores v Burchell** (1978).

To ensure these three factors can be assessed, it is important that the investigation is conducted fairly, so the investigator should be neutral, and should not play any other part in the proceedings. It is the task of the investigator to collect all the relevant evidence that is sufficient to enable the disciplining manager to decide what action, if any, is appropriate. The Court of Appeal (in the case of **Sainsbury's Supermarkets Ltd v Hitt**, 2003) decided that the band of reasonable responses test applies to the adequacy of the employer's investigation.

Thus, whether the employer's investigation was reasonable will depend on the facts and the circumstances of each case.

Jean Purnell and Nigel Youngman

Source: *Disciplinary Investigations - A Summary of the Law and Good Practice for NHS Employers* NHS Partners, March 2007

A wealth of good practice



Congratulations to every member who found the time to enter the HPMA and NHS Partners excellence in HRM awards. We have received over 100 entries so far - and counting - the effective recruitment advertising category remains open for submissions until Monday 16 April 2007 (see www.hpma.org.uk/html/excellence.php for a copy of the entry form).

Entries reveal a fascinating snapshot at good practice initiatives across healthcare HR in the UK. Entries from England, Wales, Scotland and Northern Ireland highlight subjects as diverse as black social history, team appraisal, patient dignity and staff healthy living programmes to name just a handful.

In the next stage of the competition, our category judges will score each entry against the programme criteria.

They are looking for entries that demonstrate:

- A design based upon a thorough analysis of business need
- An underpinning evidence base for the chosen strategy
- Excellent project management and evaluation

- Measurable achievement of expected benefits including cost-effectiveness
- Making a difference to patient/client care
- The potential for the transfer of learning to other organisations

The three highest scoring entries in each category will then be invited to make a short presentation to one of our judging panels in London on Wednesday 9 May.

Every project that reaches the final qualifies for two free tickets to the excellence awards ceremony but teams can purchase further tickets for colleagues or family. **Tickets are just £95 +VAT** each (including drinks package, four-course meal and disco entertainment).

So if you have entered the competition please keep Wednesday 9 May 2007 free - finalists will be informed of their appointments via email by Friday 27 April 2007.

Employment law news

This month, there is a general update on recent employment law developments that are likely to impact upon your organisation.

Firstly, the complex question of **agency workers**. There have been several cases recently on whether or not agency workers have a contract of employment with the agency, the end-user, both or neither! In **Craigie v Haringey**, the Employment Appeal Tribunal upheld the Tribunal's decision that there was "no necessity" to imply a contract of employment between an agency worker and end-user. This followed on from the case of **James v Greenwich Council**, where no such contract was implied. The EAT declined to follow the recent Court of Appeal decision in **Ducas v Brook Street Bureau** where it was held that an employment contract existed between the agency worker and the end user. The EAT commented that the law of agency workers required clarity.

Action: review arrangements with employment agencies to ensure that they indemnify your organisation against any costs incurred in defending a claim brought against it by the agency worker.

Secondly, radical changes have been proposed to the controversial **employment dispute resolution rules**. The DTI has produced an independent review of employment dispute resolution procedures and the most radical proposal is that the procedures, which came into force in October 2004, should be abolished. These procedures, which can have a significant impact on Employment Tribunal proceedings, have been unpopular with employees and employers alike.

The review acknowledged the good intentions behind the current statutory procedures, but considered that they have 'had unintended consequences that outweighed their benefits'. It has been recommended that the government publish instead clear but non-prescriptive guidelines on grievances, discipline and dismissal in the workplace. It has been suggested that compliance with new guidelines should be encouraged by maintaining and expanding employment tribunals' discretion to take into account reasonableness of behaviour and

procedure when making awards and cost orders. The independent review is now in the consultation period and the closing date for responses to the DTI is 20 June.

Action: continue to follow local policies closely to ensure compliance with the statutory procedures.

Thirdly, from **1st July 2007**, new smoking regulations come into force making it an offence for employers to permit their employees to smoke within all indoor workplaces. The regulations affect nearly all enclosed public places and business workplaces requiring them to be smoke-free environments. This will also include smoking within vehicles used by employers and extends not only to the employees driving the vehicles, but also to their passengers. The use of indoor smoking rooms will no longer be permitted subject to certain limited exemptions (care homes, prisons, designated hotel rooms, theatre/film performances and other examples where people may be detained as well as private dwellings).

Failure to comply will be a criminal offence and the fine could be as much as £2,500. This may affect not only the individual smoking in a smoke-free office but also the employer for failing to put up adequate no-smoking signs.

Action: if your workplace is currently a no-smoking zone, you may already have a smoke-free policy in place which should be reviewed to ensure that it complies fully with the new legislation.

Finally, in **Grant v in 2 focus sales** the EAT considered the issue of the incredible shrinking fax! The Tribunal had rejected a claim where the compulsory claim form had diminished in size during the fax process. Overturning the decision on appeal, the judge commented that "faxing was an appropriate way of lodging the claims and a reduction in size was a natural or frequent result of the faxing process". Who says lawyers have too much time on their hands...?

Capsticks

Andrew Rowland is a Partner at healthcare employment law specialists Capsticks. Andrew welcomes your comments or queries on the issues covered in the update; contact him on 020 8780 4740 or by email at arowland@capsticks.co.uk

Are your HPMAs colleagues getting eNetwork?

If you or any of your colleagues have experienced problems downloading, viewing or receiving the latest issues of the electronic newsletter please email Lauren@chamberdunn.co.uk at Chamberlain Dunn Associates.

BRANCH MEETINGS

Meetings at branch level take place usually on a bi-monthly or quarterly basis. They typically include speakers, presentations, social gatherings, workshops or educational activity and many branches run regular employment law updates.

Contact HPMAs administrator Hannah Barnett on 020 8334 4530 or admin@hpmas.org.uk for details on your local branch.

South West branch conference review

The South West branch enjoyed an excellent two day conference in Tiverton, Devon on 1st and 2nd February, 2007.



Sir Ian Carruthers

UK President, Deborah O'Dea opened the conference with a topical reference to Big Brother and a New Year's wish for more tolerance of difference, and zero tolerance of harassment and bullying (see page 9 for Deborah's speech transcript).

Paul Holmes then gave an overview of approaches to workforce productivity. He argued that human resources staff are ideally placed to enhance the delivery of services. But the key to being effective is to understand the operating environment and to be at the table to influence discussions at the right time.

Peter King then discussed leadership in the NHS. After an entertaining whistle stop tour of the major leadership theories and concepts, he focused on the Leadership Qualities Framework. A key theme at this conference was the important leadership role for all HR practitioners, and our key role in facilitating leadership opportunities for others.

The panel discussion provided three contrasting

perspectives on topical issues from Steven Keith, Deborah O'Dea and Harry Hayer. Deborah O'Dea said that if she was stuck in a lift with Claire Chapman she would congratulate her on the quality of her HR people and she would encourage her to learn from the NHS.

Angela Barron gave an excellent overview of how we can use human capital to improve performance, drawing on CIPD research. Victoria Downing-Burn closed day one with a session on making a difference through mentoring.

Day two featured sessions from a conference favourite Stuart Chamberlain, who provided an entertaining employment law update, and from Alexis Nolan, Features Editor from the Health Service Journal who gave a media perspective of the NHS.

Sir Ian Carruthers closed the conference with an inspiring presentation and discussion, which picked up the major themes from the two days.

Marcus Adams, SW branch chair

Headlines from

Personnel
today

Almost one-third of public authorities still have not published the details of their disability practices and policies, despite the government's Disability Equality Duty becoming law in December 2006.

The Public Bodies' Response to the Disability Equality Duty report found that only half (54%) of authorities had included any evidence of involving disabled people in their Disability Equality Scheme. The study of more than 1,750 public authorities by the government's Office for Disability Issues and the Ipsos Mori Social Research Institute included government departments and central government bodies, police authorities, NHS Trusts and Strategic Health Authorities.

Anne McGuire, minister for disabled people, said: "Implementation of the Disability Equality Duty is the key to improving the lives of disabled people. It's a huge step forward that just over half of all public bodies audited by the Office for Disability Issues were found to have given disabled people a real opportunity to influence and shape the policies and services which have an impact on their lives.

"But it's disappointing that a significant number of public bodies missed the December deadline to publish a scheme - and the Office for Disability Issues, working with the Disability Rights Commission, will be taking appropriate action to ensure all public bodies are playing their part in promoting equality for disabled people."

Most public authorities, with the exception of schools in England and Wales, were required to produce and publish their Disability Equality Scheme by 4 December 2006.

Health service HR professionals have been praised by NHS Employers, despite their role in the government's controversial Modernising Medical Careers (MMC) programme.

Earlier this week, the Department of Health (DoH) announced a review of the specialist training scheme for doctors in response to a storm of complaints from health professionals' groups.

The British Medical Association (BMA) said it had received reports that unqualified medical staff had been shortlisting applicants for the MMC scheme and they were able to change the candidates' scores.

But Sian Thomas, deputy director for NHS Employers, told Personnel Today: "We recognise the huge workload and effort that has been put in by consultants, HR departments and deaneries in shortlisting so many applications in the past few weeks."

Dr Jo Hilborne, chairman of the BMA Junior Doctors Committee, welcomed the review: "The government has finally been forced to address the appalling problems with this system. From the point of view of the thousands of doctors who've been messed around, given incorrect information, or denied job opportunities that they deserved, it's a shame the government didn't listen then."

The DoH is expected to publish its review recommendations by the end of March.

Tolerance

It is not often that New Year's wishes come true. Some of you may have noticed mine in People Management in January when I suggest I'd like to



Jade Goody, *Big Brother* contestant.

see a bit more tolerance of difference but a lot less tolerance of bullying and aggressive demeaning behaviour that makes people feel worthless, vulnerable and alone. I would like to say thank you for anyone who voted to stop this kind of behaviour on our TV screens in *Big Brother*.

I was heartened to find that public opinion went this way - frankly because I had not expected it. However, I remain concerned that people got lost in the question of whether the cause of this behaviour was racism, classism or ignorance. I sincerely hope that the public vote was against the behaviour of three women against one and that the results would have been the same regardless of race, sex, sexual orientation age etc.

Well done public. But my interest is, Why were they able to do this? Was it because it was in their living room? Was it because they were invited to vote? Was it because of the anonymity of the vote line? People we know don't usually interfere, won't put themselves out. Sadly, other people in the house behaved more in the expected manner. At best they sympathised with the victim outside the earshot of the perpetrators. At least I suppose they acknowledge it.

I did hear one young man who I am told is someone called 'H' from Steps say, 'It's not my argument'. Well on behalf of the HPMA community, a collective of HR professionals I'd like to think we would say it is ours.

I spoke at the HPMA UK Conference in Wales in October about the power of collectivity. Please may I ask you to set an example - to ask all your senior staff and managers to set an example - if necessary set up training on appropriate intervention and reward people that do. I don't want to hear another bullying and harassment case. It's all gone too far by then. I want our professional colleagues to be clear that our expectation is that they will self regulate at the front line.

This to a great extent is calling for what Purcell would call discretionary effort. And that's where I think our profession needs to focus its attention right now. How in the current climate do we get front line staff to go the extra mile? Why do I want to do this? Because I believe it is that discretionary effort - that real engagement of our staff in what we are trying to achieve that will increase our productivity while assuring the quality and safety of our patient care 24/7.

We talk of productivity, 'doing more for the same' or 'the same for less', but what does it mean? It's the

kind of management speak that leaves clinicians cold.

At St Mary's we have defined it as getting patients better quicker. All staff can buy into that. We then need managers to develop the metrics that test our accomplishments. I recently heard RBS speak about employee engagement. They have a very simple workforce strategy recruit, engage, retain supported by a very complex set of metrics that absolutely link employee engagement, with productivity with business performance. They genuinely believe that investment in employee engagement is the lever that leads to business success. We have a long way to go - we know that some of the metrics are length of stay, increase in day case activity and reduction in infection rate but can we show HR levers and their link to productivity? Do we know what each of our staff contributes and that their knowledge and skill is focussed in the best possible way? Are our line managers supported to excel in engagement - in gaining discretionary effort?

I believe this is where we as a profession must focus our attention. In my inaugural speech in Cardiff I also spoke of our intention, that is Alex O'Grady and I, to ensure that every HR professional in health is a member of HPMA - this your professional association. We are building a strong, modern and successful association that is committed to the education and development of our profession to enable us to be the very best that we can be. An association that is committed to promoting the highest quality standards of practice using research evidence and teaching innovation and improvement.

HPMA is building membership at a rate of approximately two organisations a week. I am pleased to report that for the first time in many years most of the London Teaching hospitals are not just on board but taking part in our many new activities and work streams (see next column).

This leads me on to the theme of HR leading success: the theme of our UK Conference and awards evening which will take place on 7-8 June. I met our new director general of workforce, Clare Chapman in February. Clare is delighted to be the keynote speaker at the conference and I have discussed what I promise will be an exciting and inspiring conference programme. And I hope to see many of you at the Oval in June!

Deborah O'Dea
HPMA President



You can now book your HPMA UK conference pass online, follow the link from:
www.hpma.org.uk/html/future_conference.php

The HPMA work streams:

1. Just in Time events

In response to our members' requests for some practical solutions, these are half day workshops supported with CD roms that take the grind out of initiatives like Disability and Gender Equality Scheme development.

Feedback has been excellent and London HR teams have now committed to send people regularly as they give not just a 'follow the instructions on the packet' guide to easy implementation but also provide an excellent networking opportunity for staff at below Director level.

2. Award Winning Ideas

These promote the excellent practice that we see in our successful award winners that we run jointly with NHSP. We have started this with a DVD of the HR Team of the year 2006 that have developed a unique approach to team success.

3. People and Money

This work stream is aimed at very senior and director level staff in HR and finance and is developed jointly with HFMA. It is developed in response to the suggestion that finance and HR do not work together. We intend that HR staff will fully understand the HR Implications of PBR and other changes to the funding regime that all senior HR staff will be fully financially literate and that senior finance staff will truly understand that financial performance is merely a consequence of human behaviour.

4. HR Development

We will be working with the CIPD and there is in truth a little delay on this work stream because of Duncan's departure. We will develop learning packages that will support colleagues in their career progression we envisage four of these; trainee to HRM, HRM to deputy, deputy to board director and director to CEO.

See www.hpma.org.uk for details and booking forms

Ask the experts

The HPMA has introduced a new feature into *Network*; Ask the experts. This will give our membership the opportunity to pose any HR and legal questions to health sector employment specialists at Beachcroft LLP and our panel of HR professionals.

beachcroft

If you have any questions you would like to pose to the experts whether they be about legal issues such as restructuring, organisational issues or even careers advice please e-mail lauren@chamberdunn.co.uk or rheenan@beachcroft.co.uk. These questions will be responded to in *Network* and on the HPMA website on an anonymous basis.

QUESTION: During periods of organisational change, how should NHS employers treat fixed term workers?

Rachael Heenan, Health Employment Partner at Beachcroft LLP replies:

The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations made certain changes to the way fixed-term employees should be treated. The regulations contain a number of rights.

The most significant right, is the right not to be treated less favourably than a comparable permanent employee because of their fixed term contract. In a reorganisation they have a right not to be selected for redundancy if the principal reason for the selection was because they were a fixed term employee unless this can be objectively justified.

In the case of organisational change, if fixed term employees are not allowed to be

considered for permanent posts without objective justification, this could be considered less favourable treatment on the grounds of their fixed term status.

So what is objective justification? Case law is limited in this area but where a post requires a particular skill, qualification or experience that the fixed term employee does not have this may be a good defence. Alternatively, where the that the employee was brought in to do a specific task or cover a peak in demand that has now finished this may qualify as objective justification.

Length of service can be applied as a criterion for redundancy selection (subject to any age discrimination arguments) provided it is applied consistently. This is acceptable even though the effect may that more fixed term employees are redundant than permanent employees.

Don't forget, if there is a dismissal then regardless of whether there is a redundancy or not employers are normally obliged to go through the statutory disciplinary procedure even for those on fixed term contracts.

If you have any queries arising out of this issue, please contact **Rachael Heenan** on 0113 251 4714 or rheenan@beachcroft.co.uk.

DATES FOR YOUR DIARY

- **Welsh HPMA branch conference** 27 April 2007 Celtic Manor Resort, Coldra Woods, Newport
- **HPMA and NHS Partners Excellence in HRM Awards Ceremony** 7 June 2007 London
- **HPMA UK Conference** 8 June 2007 London
- **Just in time programme:**
 - Flexible working** 17 April 2007 London (with Capsticks)
 - Flexible working date tbc** Bristol (with Bevan Brittan)
 - Reorganisation and redundancy date tbc** Leeds (with Beachcroft LLP)
 - Bullying and harassment** 1 May 2007 London (with Capsticks)
 - Age diversity** 19 June 2007 London (with Capsticks)

See www.hpma.org.uk for further details and booking forms

Northern Ireland branch conference

The HPMA Northern Ireland branch conference was a huge success - a tribute to all involved. Against a backdrop of reorganisation and redundancy branch chair Billy Bateman delivered a top programme and more importantly helped find a positive frame for the change that assembled HR professionals are experiencing.

The NI branch conference was held on 8-9 March, in beautiful Limavady, at the Raddisson Roe Hotel. Attracting over 80 participants, one of the largest attendance figures in years, the event celebrated the achievements of the profession in Northern Ireland and looked forward to a new era in the region.

The event kicked off with presentations from three women very important to HPMA's past and present, namely past presidents Elaine Way and Tracy Myhill and current HPMA president Deborah O'Dea (see p9 for extracts of her speech).

Firstly Elaine Way couldn't avoid taking time to celebrate Ireland's recent 6 nations rugby success over England. But at the heart of her ribbing was a powerful illustration of what can happen in the absence of good leadership. In the preceding match the Irish suffered a blow as their captain Brian O'Driscoll left the pitch with an injury in the closing minutes of the game. The disorganised Irish defence then allowed France a last minute try to win. Elaine, now chief executive at Western Area HSC Trust, encouraged delegates to demonstrate their leadership skills: relationships matter more than structures. Finally she implored delegates not to, "let their memories be greater than their dreams".

Tracy Myhill shared her reorganisation experiences and her drive to efficiency in Gwent. The Gwent turnaround team - led by Tracy - devised a remarkable cost reduction programme. One notable innovation has been the creativity workshops where participants are not allowed to kill ideas so comments "yes, but", "we've tried it before" and "that won't work because",

are all banned! The impressive organisational engagement has produced a £12M efficiency plan for 2006/07, rising to £15M in 2007/08.

Workshop sessions were led by four of the five HR Director designates at the new trusts, Nuala Sherrin (Western), Eamonn Molloy (South Eastern), Marie Mallon (Eastern) and Jacinta Melaugh (Northern). Delegates then enjoyed a night of good food, good company and good dancing.

On day two, delegates were treated to a thoughtful presentation by Colm Donaghy outlining his ideas on the future of Health and Personal Social Services in Northern Ireland. His vision of a coherent system is summarised on the chart below.

Jenny Wilcockson from the BBC and Bridget Green from Capita described the BBC's experience of moving to shared services. Highlighting many fascinating parallels with the NHS, Jenny outlined the project's outcomes: savings targets met, strong commercial contract, and smooth separation of services ('BBC People' still have a strategic role). A solution offering value for money, simplicity, improved work flow management, improved standardisation, flexibility and a strong governance model - delegates were again asking can shared services offer answers for the NHS.

A review of this conference wouldn't be complete without special mention of the HR graduates presentation, Extreme makeover: HR edition. Kathryn McIlrath, Fiona Stevenson and Riona Fitzpatrick offered a witty, insightful look at the changes to the NI health system.

The conference closed with a heartfelt address from David Bingham, thanking colleagues for their hard work and professionalism and hopeful for the future.

Many of the delegates in Limavady are intending to attend the HPMA UK conference in London in June - an early warning in the battle of the branches - the Northern Ireland team are going to be hard to beat.



Billy Bateman.



Colm Donaghy.



David Bingham.



Conference speakers: Elaine Way, Tracy Myhill and Deborah O'Dea.



Conference delegates.

Enabling elements	New systems	Outcomes
Effective strategic planning processes	Commissioning	Enhanced user experience
Service frameworks		Improved performance and quality levels
Strong information systems	Performance improvement	Value for money
Enhanced public user and staff engagement	Financial	Improved health and wellbeing
Effective professional leadership	Public and social health development	New integrated models of care
New organisational arrangements	Workforce and staff development	Motivated, dynamic workforce