

# HRINSIGHT

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INVESTED IN HR CAREERS

2018 is proving to be a busy year for legal seminars and updates. With GDPR upon us we are looking forward to moving onto other topics that also create the need for policy and culture change.

Following the supreme court ruling deeming employment tribunal fees unlawful, tribunal claims have unsurprisingly surged. So we were pleased to present a social media breakfast seminar with the employment team at Goodman Derrick LLP, looking at recent case law involving dismissals for social media use, as well as tips to take from tribunals. On pages 6 & 7 we take a look at current state of social media usage within the workplace and share some of the event's key takeaways, including a practical look at what employers can do to minimise the risk of claims.

We are thrilled to be once again partnering with Goodman Derrick LLP to host a two-part event series. The first will address common pitfalls in the employment tribunal process followed by a mock tribunal later in the year. For more details, click [here](#).

With the extension of the Senior Managers & Certification Regime for all FCA regulated firms by the end of this year, we have included a detailed HR checklist for all firms who will be caught by this extension based upon the event we hosted last year, presented by Constantine Law.

As a result of continued business growth, we are pleased to announce that we have moved to a new office location in Manchester. We are now conveniently located in Piccadilly Place, providing a stronger local presence in the city centre.

For 2018 we are conducting our HR Salary Survey, taking a look at what HR professionals earn as well as career priorities and preferences. We are still taking participants for the next few weeks. All participants in this confidential survey will be entered into a draw to win £100 worth of Amazon vouchers and will receive a preview copy of the report, which we look forward to sharing with you. Click [here](#) to take part.

We hope you enjoy our latest issue of the HR-Insight and if you would like to feature in our next edition, please get in touch.



**DARREN HAYMAN & ANGELA FRANKS**

## HR MARKET TRENDS



After a mixed end to 2017, the first quarter of 2018 has been relatively active. We are continuing to see businesses promoting internally which has resulted in a slow down at the more senior end of the market but a rise in demand for junior and mid-level. Temp to perm and fixed term contracts which offer more flexibility whilst organisations navigate through uncertain times and try to predict demand internally remain popular at all levels which slightly bucks the wider market trend favouring permanent hires over contracts. The City is reporting growth in permanent hires up 11% against the same period and predicting that Financial Services will emerge largely unscathed from Brexit, with fewer job losses than originally predicted. However, many of our clients remain cost conscious when hiring but we still find there is flexibility when competing for the best talent.

Demand for strong regulatory experience continues, with GDPR still impacting the workforce. We saw a huge spike in demand towards the end of last year with businesses rushing to hire to ensure compliance, often on a temporary or contract

basis. Following the deadline for gender pay gap reporting, HR functions are thinking more seriously about diversity & inclusion which has resulted in a demand for related specialists.

The market for generalist roles remains steady, for both interim and permanent, particularly within the senior commerce sector. On the interim side we are seeing a number of requests for practitioners experienced in establishing an HR function in SME's as well as an increase in the number of contract candidate registrations at the senior level.

The trend for specialists continues with L&D and reward positions still high, with many clients prioritising relevant sector experience too.

At the junior end of the market we have seen an increase in permanent generalist roles (circa £35-40k salary) for the first time in over a year, where lower level roles (£25 - £30k) still remain in high demand.

**Darren Hayman & Angela Franks - Macmillan Davies**

# GLOBAL MARKET TRENDS



## ASIA

Interestingly, the market began to pick up markedly from October 2017 and continues to be extremely buoyant through Q1 2018. Even in some of the typically quietest months of December and January, we took on a number of new mandates that were additional headcounts, notably including front office recruitment positions. Of particular interest has been specialist roles including recruitment, talent management, and HRIS/HR operations positions. As the market has tightened, clients are starting to look further afield (beyond Asia) and be more flexible with their requirements.

There is also an increased dissatisfaction in the workplace; more candidates are open to a move (than this time last year), many believe they are not being adequately developed in their current firm, are disengaged by ongoing office politics and in many cases hanker after better leadership.

Work/life balance remains an important attraction and retention tool, to such an extent that candidates in some instances will forgo an increase in compensation in favour of a flexible working arrangement. Not only has the market picked up in financial services, but also across FMCG, luxury and mass market retail.

## AUSTRALIA

The first quarter of 2018 started like many in Australia. With the post-Christmas holidays in full swing and a much quieter recruitment market, Australia Day on 25th January again acted as a watershed with the HR recruitment market picking up significantly in February & March. Both permanent and contract opportunities saw significant uplift in the east coast capital cities. Combined with this increase in demand, we also saw demand in particular segments of the market be well ahead of supply. This has meant that for some, HR professionals have had plenty of career opportunities to choose from, and caused some salary inflation in certain areas. However, this has not been as apparent in the senior market where supply is still outstripping demand.

In both NSW and Queensland, HR opportunities grew by 12.8% over the last 12 months, whilst in Victoria growth was a heady 17.1%. As a result of this growth in Victoria, the demand for mid-career HR generalists has outstripped supply, making it a very challenging market for companies to hire talent. It has required organisations to move at pace to secure talent, as

Up from 2017, base salary increases and bonuses seem to have fared moderately better across the board. That said, given the confidence in the market, we are seeing candidates' expectations on compensation increase. Typically candidates can expect to see a 10 to 15% base increase to move companies, but in this climate, the numbers could exceed this. Notably, we have recently seen a number of clients buy-out notice periods and bonuses in an effort to expedite the process and ensure candidates start within the first quarter of 2018.

Having taken on (and completed) an unprecedented number of mandates in the first quarter of 2018, we are led to believe that the pickup in the market is set to continue through 2018. Becoming wise to the shortage of available talent, candidates will also become increasingly demanding on their salary expectations and overall packages.

Clients who can move their recruitment processes quickly, be creative with total and holistic compensation packages, and who ultimately can recognise that each candidate has individual/unique needs, will be the winners in this refreshingly busy but candidate-short market.

### Amanda Clarke - Profile Search & Selection

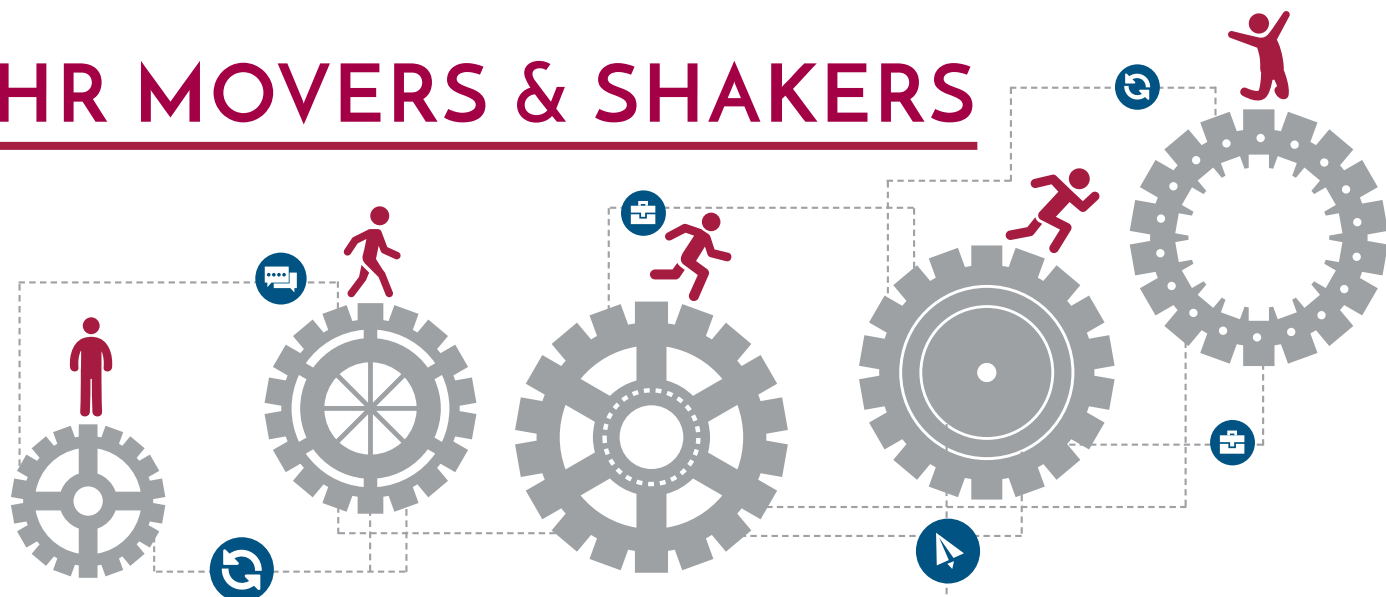
these individuals are often juggling 4-5 excellent opportunities, as well as really engage talent in the opportunity on offer.

A similar situation is apparent in the junior market in Queensland and the mid-market in Sydney. The knock on effect of such a strong permanent market at these levels, has been the difficulty in acquiring short term contract talent, as this market is usually well served by permanent candidates filling a gap between roles. On numerous occasions, placements of short term talent are falling over, as they secure permanent opportunities.

As the Australian market now enters the final quarter of the financial year, the expectation is that demand will remain strong. The final quarter is traditionally one of the strongest of the year, and if it follows through as expected, the demand for scarce talent will continue, and put pressure on employers on employers to ensure that their offer is compelling. Many candidates though, in the junior and mid markets, are making choices based on the development and career opportunity, and not just making a short term financial decision.

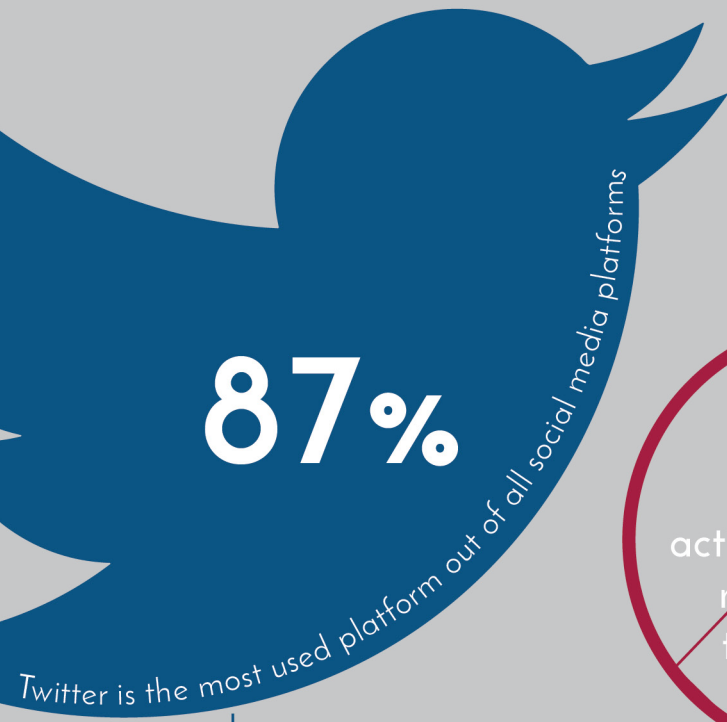
### John Baker - The Next Step

# HR MOVERS & SHAKERS



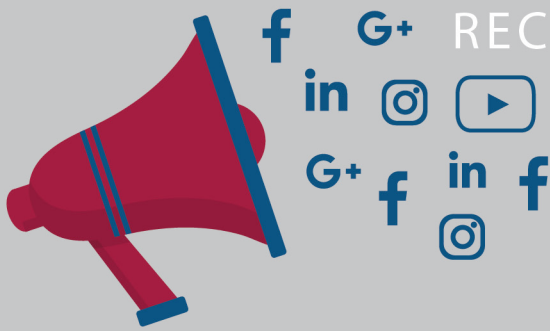
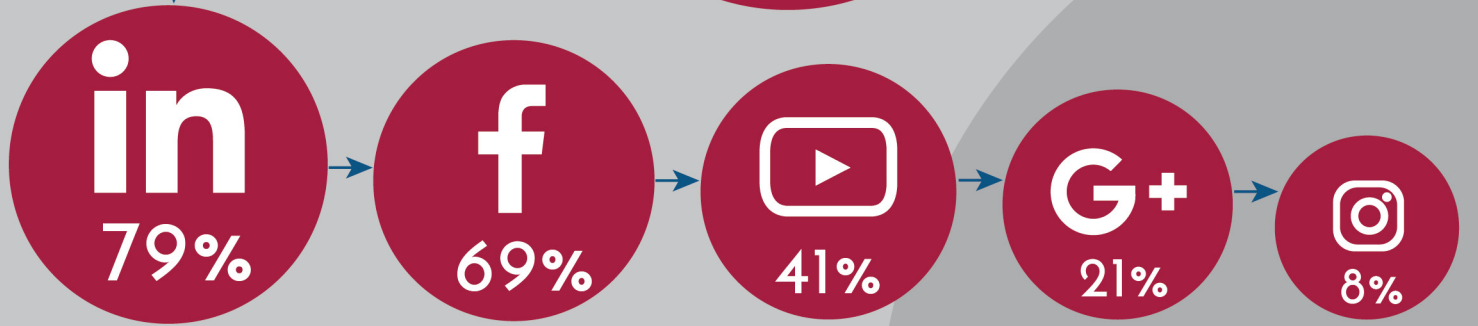
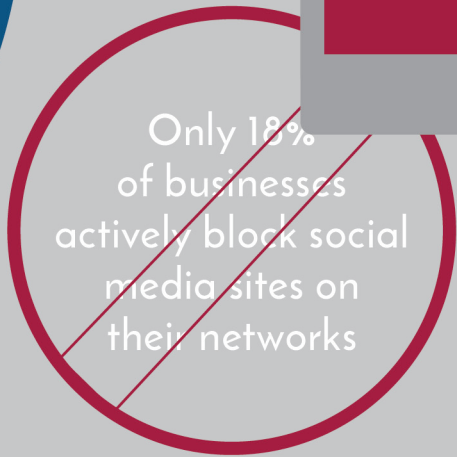
- Chris Kewish joins Merlin Entertainments Group as HRD
- Justine Dinter joins Deutsche Bank as Change and Culture Director
- Victoria Winner joins Blenheims as Group HR Manager
- Heather Hazel joins Ballymore as Head of People
- Fran Maidment joins Refresco as HR Director
- Lyndsay Jones joins the Alchemist Bar & Restaurant as Head of People and Talent
- Nicki Barnes joins Selecta as HRD
- Alyson Fadil joins N Brown Group PLC as Chief People Officer
- Jan Wade joins Arrow Global as Head of HR - UK & Ireland
- Steve Tree joins Vannin Capital as HR Director
- Mike Rogers joins Oxford Bio Therapeutics as Interim HR Director
- Caroline Edwards joins Make it Cheaper as Interim HR Director
- Craig Rowe joins Wagamama as Head of HR
- Steven Dyke joins Nestle as Global Head of Integrated Talent Management
- Kerry Holt joins Shop Direct as Interim Group Head of Talent

Congratulations and best wishes to all those embarking on new opportunities.



Source: Reboot  
Online 2018

UK workers spend an average of 3 hours and five minutes of a working week on social media



79% of businesses use social media to advertise vacancies

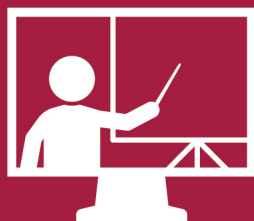
RECRUITMENT



With 15% using it to screen applicants



50% of businesses have a social media policy in place



Only 17% have provided training on the legal issues of using social media



44% do not know if they can ask employees to share business related social contacts

Source: Goodman Derrick report on social media - Read the original [here](#)

# MANAGING SOCIAL MEDIA IN THE WORKPLACE



Social media can be a powerful tool for businesses, but it is not without its problems. And with social media users in the UK now exceeding 39 million, it is perhaps not surprising that there has been a significant rise in the number of employee dismissals relating to inappropriate social media usage.

So, what happens when an employee vents their frustration about a situation that has arisen at work, or posts a derogatory comment about their employers on social media? Social media misuse poses many potential issues for employers and HR teams, with a host of new policies and procedures to consider.

Earlier this year we partnered with Law firm Goodman Derrick to host a seminar addressing social media in the workplace, reviewing recent social media dismissal cases, sharing top tips to take from tribunals and identifying what you can do to minimise the risk of claims. We are pleased to share some of the content presented at the event.

**Set out below are some factors that an employer should consider if faced with this type of situation:**

1. How offensive or serious were the comments and what was its reach (views, shares, privacy settings etc). Were any of those clients or customers and were there any resulting complaints?
2. What is the nature of the employee's job and their seniority within the business?
3. Did the misconduct damage client relations or risk the reputation of the business?
4. Has any confidential information about the business been disclosed?
5. Any there any mitigating factors, such as the employee's service record, co-operation during the disciplinary process and contrition?
6. Was this an actual breach of policy or contract?

## UNFAIR DISMISSAL?

The employee may have a potential claim against the employer. The most likely claim where an individual has at least 2 years of service, is an unfair dismissal claim. Compensation would be based on two elements; a basic award based on age, length of service and weekly pay (capped at £479) and a compensatory award based on the individual's loss of earnings (essentially how long it would take them to get a comparable job, but this is capped at either 52 weeks actual gross pay or £78,962, whichever is the lower).

Other employment claims may include breach of contract, whistleblowing or discrimination (depending on the circumstances) and these can be brought even where the employee has less than 2 years' service.

## MINIMISING RISKS

How can an employer better protect its business from social media blunders? The first step is to have a comprehensive social media policy in place to outline expectations and the consequences of non-compliance.

This should tie in with your existing employment policies, such as your anti-bullying and harassment policy and your disciplinary rules and procedure. You should also check that you have the right to monitor your employees' postings.

### SOCIAL MEDIA POLICY... WHAT SHOULD IT CONTAIN?

- Clear guidelines detailing your expectations as an employer
- Outlining social media access during company time
- Details of any prohibited content
- Guidelines detailing business and personal use
- Ownership of business contacts
- Recruitment guidelines
- Clarify the consequences of any breach



Check related employment policies. As well as having a good social media policy in place, it is important that the content of that policy ties in and is consistent with the guidance set out in your other employment policies, such as your IT and computer use policy, your anti-harassment and bullying policy and your disciplinary rules and procedure. Review and update these accordingly to maximise your protection from social media misuse.

## Acknowledgement and training of employees

Ensure that you obtain your employees' express acknowledgement of the social media policy as this could provide you with valuable evidence in the event that you need to commence disciplinary proceedings. Additionally, ensure that you go one stage further and train your employees on the principles set out in your social media policy and keep records of when and what employees were trained on.



## What is the best way to secure monitoring rights over your employees?

- Express consent in a contract
- Wider policy detailing how and why monitoring will take place (before it takes place)
- Monitoring should be proportionate
- An impact assessment should be carried out to balance the needs of the employer against the employee's right to privacy

Goodman Derrick LLP is a leading commercial law firm in the City of London, recognised for providing high quality legal advice across a range of practice areas. [www.gdlaw.co.uk](http://www.gdlaw.co.uk)



# SENIOR MANAGERS & CERTIFICATION REGIME 2018 EXTENSION

The Senior Managers and Certification Regime (SMCR) was introduced to UK banks and building societies in March 2016. The government has since committed to extending this to all firms regulated by the FCA this year (an estimated 47,000 companies). The extension is unlikely to come into force until late this year (with a policy statement containing final rules expected this summer), but there is a lot that HR teams can be doing to ensure compliance with the new rules.

## Who will be affected?

Due to the range and scope of firms affected, the FCA have split SMCR requirements into 'limited, core and enhanced' firms, with three corresponding levels of compliance for each tier.

**Limited Scope Firms** - Firms within this tier will have fewer requirements than Core Firms and covers firms which currently have a limited application of APER

**Core Firms** - The majority of firms will fall under the core scope of the regime and have a baseline of SMCR requirements.

**Enhanced Firms** - Approximately 1% of firms (around 350) who will be subject to additional requirements.

## How will the new regime work?

The core regime consists of three main elements:

- the Senior Managers Regime;
- the Certification Regime; and
- the Conduct Rules

## SENIOR MANAGERS REGIME

Under the proposals, all FCA-regulated firms should have at least one 'Senior Manager'. Every Senior Manager will have a statutory duty of responsibility. This means that where a firm breaches an FCA requirement, the Senior Manager responsible for that area could be held accountable if they did not take reasonable steps to prevent or stop the breach occurring.

*The proposals include:*

### Statement of Responsibilities

Firms will need to submit a statement of responsibilities to the FCA when applying for a Senior Manager to be approved. This sets out their role and what they are responsible for. Every person who is appointed to an SMF will need a Statement of Responsibilities. Individuals may be appointed to more than one SMF, and will have to be approved for each function. Firms must then keep this statement of responsibilities up to date and resubmit them whenever there is a significant change to a Senior Manager's responsibilities.

### Duty of Responsibility

Like the existing SM&CR regime, Senior Managers will have a

statutory duty of responsibility. This means that if a firm breaches an FCA requirement, the Senior Manager responsible for that area could be held accountable if they did not take reasonable steps to prevent or stop the breach from occurring. The FCA will consider the person's Statement of Responsibilities as well as considering what was or was not done in the circumstances and may decide to take action against the individual, the firm, or both, as is currently the case under the Approved Persons regime.

## Senior Management Functions

The Senior Management function is similar to a controlled Functions' so that, as with the current Approved Persons Regime, anyone who holds such a Senior Management Function will require pre-approval from the regulator before performing this role.

## THE CERTIFICATION REGIME

The Certification Regime will apply to employees who are not Senior Managers but whose roles may pose "significant harm" to customers, markets or the firm. This moves the onus from the FCA to firms themselves to certify that individuals performing 'Certification Functions' (as well as Senior Managers and Non-Executive Directors) are fit and proper on an ongoing basis. Firms will need to consider how best they can assess the qualifications, training, competence and personal characteristics of individuals caught by this regime.

## CONDUCT RULES

Affecting all individuals working at FCA-regulated firms, The 'Conduct Rules' replace the 'Principles for Approved Persons' and relate to professional conduct. These rules apply not only to those individuals caught by both the Senior Managers Regime and the Certification Regime but to all other employees other than ancillary staff who do not perform any financial services-related tasks.

Two tiers of Conduct Rules are proposed. The first is a general set of rules applying to most employees in a firm. The second tier consists of rules that only apply to Senior Managers.

Firms are required to make staff aware of the Conduct Rules and provide appropriate training. The FCA also proposes to require firms to notify it when disciplinary action has been taken against a person because of breaches of the Conduct Rules.

## What you can do now

Although the final rules have yet to be published, firms caught by the extension can start taking steps to prepare now, including:

- Identifying the scope of the regime relevant to their own operations
- Identifying who their senior managers may be
- Training their board and potential senior managers on the scope of the regime, what changes will need to take place in the business and the implications for senior managers

In the longer term, key considerations for HR are:

- Updating employment contracts to address the requirements of the new regime
- A number of policies are likely to need to be amended to address issues arising from the regime including new whistleblowing policies to comply with SMCR
- Changes to performance management processes may be necessary in order to minimise the risk any under-performing staff pose to the firm
- Providing training sessions for relevant affected groups, and consider whether additional professional training is required
- Implementing a process or policy to manage regulatory reference rules
- Managing possible termination or departures of a senior manager or CR employee, including: re-allocation of senior manager responsibilities, handover and settlement agreements
- Implementing a process for fitness and propriety assessments

## CHRIS TUTTON - CONSTANTINE LAW

Chris is a partner of Constantine Law, a specialist employment and business immigration firm. If you would like further information, training or support on the HR issues arising on the implementation of the Senior Managers' and Certification Regime, please contact him directly.

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# MACMILLAN DAVIES MEETS:

## LOUISE MCCARTHY-TEAGUE HR DIRECTOR BLM



**Q. Can you tell us a little bit about yourself and your background?**

I'm currently the HRD at BLM, which is an insurance and dispute resolution firm, but we also have a commercial and private wealth team, which we acquired at the end of 2017.

I sit on the operations board and I also work with the partnership board and the executive board within the business. In terms of my career background, I have over 30 years in HR spanning a range of sectors; retail, logistics, IT & telecoms, recruitment, and this is my first venture into the legal sector.

**Q. What are the main HR initiatives you are currently working on at BLM?**

We embarked on a business improvement programme about 18 months ago. One of our biggest opportunities is the use of technology, seeing it as an enabler to support lawyers, but also to drive efficiencies within the business.

Other top priorities, as the HRD, is to build our talent network. This means developing career paths, talent mapping and looking at our route to partnership, because we need to create a succession plan at all levels. EDI is a priority with a particular emphasis on inclusion for which we are developing a strategy

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**"WE HAVE JUST PUBLISHED OUR GENDER PAY REPORT, SO IT'S CONSIDERING THE IMPACT OF THAT ON US AND THE SECTOR AS A WHOLE."**

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which will be launched in May. It's important that we encourage our employees to get involved and have a voice.

Another focus area for us is our pay and reward structures and constantly looking at our competitiveness. We are introducing pay banding as well as looking at our reward offering.

Our recent engagement survey highlighted generational preference whereby; what you want in your twenties in terms of reward and benefits is different to that in your forties and so forth. It is no longer a case of one size fits all; there has to be flexibility.

**Q. In your observations, what are some of the unique challenges that HR faces in the North West?**

I think Manchester is an exciting place to work with all of the investment taking place within the city and the North West as a whole. I split my role between Manchester and London and I can see why more businesses are moving part, if not all of their business to Manchester where there is a huge talent pool to take advantage of. One thing I am seeing as an HR Director

in the North West is increased competition. That's competition for different things, such as certain skill sets, location, coming up against other firms from London who are moving in and offering competitive salaries for example. As a business you've got to be a realistic, so we've been really looking into what our USPs are, why people want to come and join our business, why they stay, and capitalising on that to compete.

### Q. What is your biggest challenge from a people perspective & how are you tackling it?

I mentioned talent, I think as a law firm, the traditional route as to how employees progress their careers is changing, and the consequence of that is really being transparent around career paths.

You have to have a balance; whether offering technical, professional or a leadership route as a career path. That's important to us. Also remaining competitive in terms of what we offer, not just monetary reward, but also other rewards and flexibility. For example we recently introduced staggered start and finish times for all to enable a true work/life balance and we have also introduced a relaxed dress code.

### Q. What is top of your agenda for 2018?

The business improvement programme remains high on our agenda. And that's continually looking at how we work as a business. There's a big link between wellbeing, performance and our physical environment so we have a specific project looking at workplace 2020.

Another focus is how we retain our people and the link to social mobility in the business. Not unlike other firms, we have multiple locations, and we assume everyone wants to remain in the same office, but we can risk losing them if the right opportunity isn't there for them.

### Q. What are some of the biggest trends / your predictions for HR

We have just published our gender pay report, so it's considering the impact of that on us and the sector as a whole. I think there's an education for everybody in the business to understand what that is and what we're doing to improve it.

Health and wellbeing continues to be a focus for UK plc and as a business we are developing strategies to support our employees.

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**"MY BIGGEST TIP, AND PERHAPS ALSO MY BIGGEST FRUSTRATION, IS THE LACK OF COMMERCIALITY WITHIN HR PROFESSIONALS... IF YOU WANT TO GET A SEAT ON THE BOARD, MY BIGGEST TIP IS HONE YOUR COMMERCIAL SKILLS."**

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### Q. And what are your tips for HR professionals looking to progress their careers?

My biggest tip, and perhaps also my biggest frustration, is the lack of commerciality within HR professionals. We sit alongside the Finance Director, on the board, and if you want to get a seat on that board, my biggest tip is to hone your commercial skills. You don't have to be an accountant, having an understanding of how the business works, how it profits from people's contribution is absolutely essential. Being able to demonstrate measurement, return on investments on projects you want to do around people, is very, very important.

**BLM LLP is an insurance and dispute resolution law firm operating across 13 offices in the UK and Ireland. BLM provides legal services in 50 areas of law, grouped into eleven key market sectors: brokers, construction and property, general insurance, healthcare, leisure and hospitality, Lloyds and London market, manufacturing, public sector, retail, TMT and transport and logistics.**

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