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Expect the  
unexpected

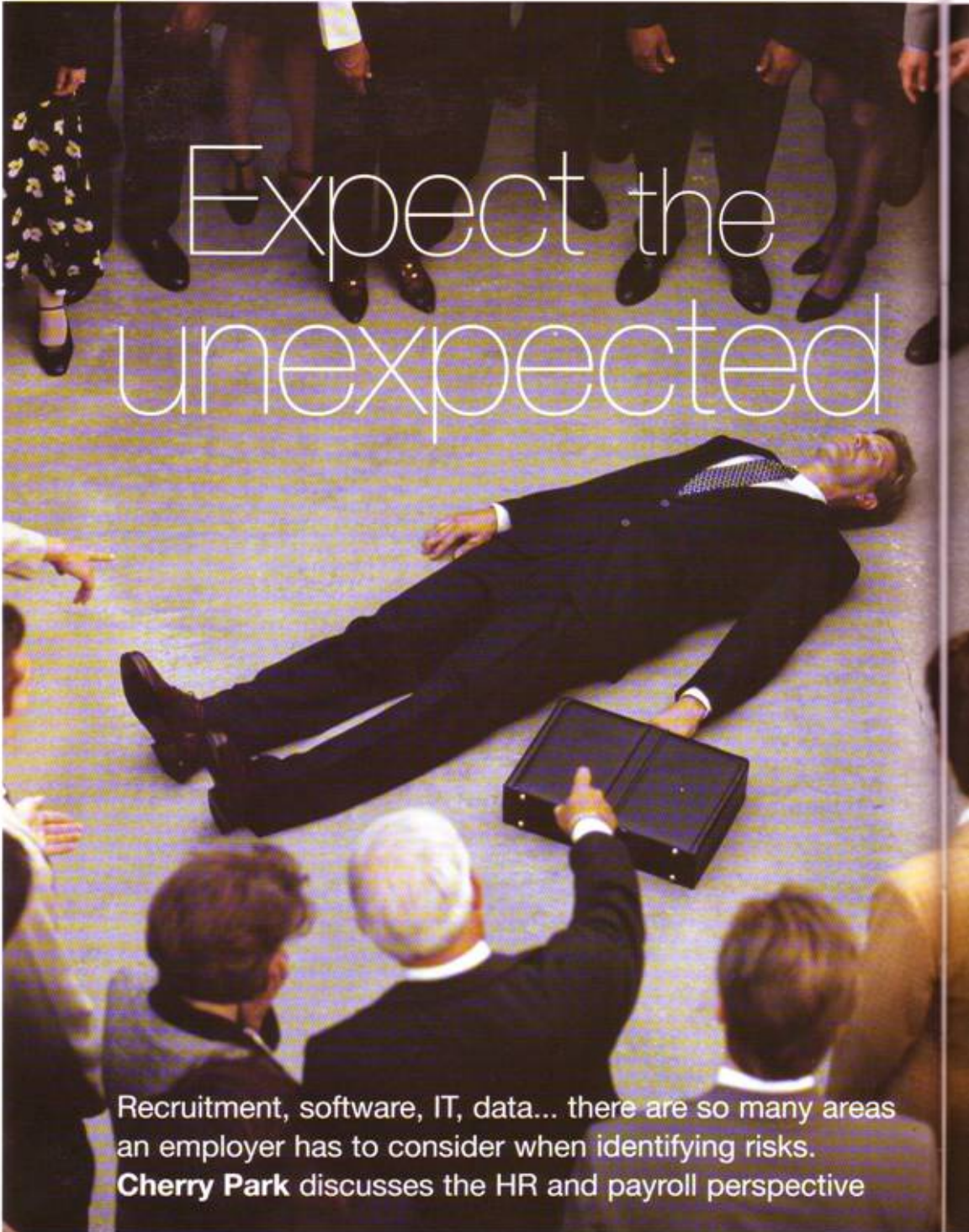
Dealing with risk

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trustee to employees



# Expect the unexpected

Recruitment, software, IT, data... there are so many areas an employer has to consider when identifying risks.  
**Cherry Park** discusses the HR and payroll perspective



## risk management

No business can escape risk. It is a fundamental and growing element of running any organisation that can be managed and mitigated, but not eliminated, since not all risks are known.

Recent research by insurance marketplace Lloyd's, *Directors in the dock – is business facing a liability crisis?*, revealed that 39% of businesses expect the growing risk of litigation to increase the cost of their products and services over the next three years. The report urges businesses to anticipate and prepare for future liability risks.

However, risk management goes far wider and deeper than health and safety, and includes non-compliance with legislation, lack of protection of employees' personal data, systems failure, financial risk, and impact on reputation, as British Airways recently found out to its cost with the Terminal 5 fiasco.

### Identification

Risk management is an area where HR and payroll can have a key influence. Ironically, not properly identifying and managing risk is a risk in itself. So what are the best ways to identify it?

Will Gurry, associate director of global risk management consultants Protiviti, advises organisations to begin by conducting risk assessments based on inherent, or key, risk first, and then to look at residual risks (any risks left after appropriate management control has been put in place). "Risk assessments should be done on an annual basis, followed up periodically to chart progress with identified issues," he counsels. "Risk assessment should be driven out of understanding of a business' objectives, and then identifying what could prevent the organisation from meeting these objectives."

Mandy Rutter, clinical manager of CRISIScall Services at AXA ICAS, outlines three steps in identifying key areas of risk. She says organisations should:

- identify essential functions of the business, and analyse the services, resources and personnel required to maintain those functions;
- separate these out and identify the impact each has on the business function; and
- identify possible alternative solutions to fulfil the essential function.

Once risks have been identified they can then be ranked. "You need to apply two types of grading to prioritise risks: impact and likelihood of occurrence," advises Gurry.

Sharon Drysdale, sales and marketing manager of contingency plan provider BACSc contingency.com, suggests grading risks from one to 10 according to likelihood of occurrence based on the structure of the organisation, the systems in use and where they may fail. Then grade by cost implications of loss due to fraud, disruption, withdrawal of labour, interest or bank charges, the cost of corrective action, and loss of reputation. "For small and medium-sized businesses, monetary value would be right at the top of the scale as the number one risk of damage to the business, even worse than loss of reputation," she says. "Deal with top risks first and cover them with backup plans."

### Risks for HR and payroll

There are many key risk management issues for the business critical areas of HR and payroll. Obviously a fundamental disaster leading to not being able to run the payroll is a major risk to be assessed, as well as non-compliance with payroll legislation. However, non-compliance with constantly changing employment legislation is also a growing risk and internal controls should be instigated to avoid the risk of the organisation being sued.

New legislation, such as the *Corporate Manslaughter Act 2007*, places a heavy burden on employers to get it right. Another hazardous area is data privacy, which is covered by the *Data Protection Act 1998*. This makes it necessary to put effective IT and other controls in place to ensure employee information is secure and to avoid resultant claims. There are yet more pieces of legislation that carry risks if a company falls foul of them, such as the *Disability Discrimination Act 1995*, *Sex Discrimination Act 1975*, *Race Discrimination Act 1976* and the *Employment Rights Act 1996*.

HR always needs to be on the look out for recent changes in legislation. "For example, under an amendment to the *Sex Discrimination Act*, if a third party such as a customer or supplier sexually harasses a member of your staff the employer is liable," says Tim Randles, employment law specialist at →

## risk management

Laytons solicitors. "If you have taken steps such as training your staff, you may have a defence," he adds.

The reliance of business on electronic payments via the BACS system is creating an "unprecedented business risk" according to Drysdale. "A delay in payment can have a huge impact on employees," she says. "There is also the possibility of loss due to inaccurate or fraudulent payments, the need to ensure IT security and minimise the risk of data loss. Finally there is the loss of reputation and its consequent impact on recruitment and retention to think about."

Complacency is a real hazard if the payroll or HR function is outsourced to a bureau or payroll services company, although the outsourcing companies, not surprisingly, regard outsourcing as a method of mitigating risk. Don McGuire, managing director of ADP, says: "We structure our whole business around making sure that our people and systems are compliant with legislation and that payments and reports are processed on time. We also have rigorous continuity plans in place so that organisations can focus on their core business while we mitigate the risks on their behalf."

But, as Liz Hughes, director of Independent Payroll Consultants, points out: "An organisation that outsources their payroll must remember that it is they who are ultimately responsible for paying their employees on time".

Another area of risk that employers need to be aware of relates to migrant workers, particularly with the new system of fines that has recently been introduced. Employers now face fines of up to £10,000 for each illegal immigrant they employ, meaning that background checks on new employees are critical. Employers must make sure people are authorised to work in the UK and they have proof of identity.

"There are four different ways in which risk in recruitment should be considered," says Steve Bailey, director of screening at Reed Managed Services. Employers need to consider the risk:

- to staff of employing those with criminal records;
- to the business itself if the right of a person to work in the UK has not been verified;
- of damage to clients or customers; and

- of damage to the customers of clients, such as bank customers.

Bailey believes that every employee should be screened by an independent organisation, as is the case in 80% of US organisations. For example, where individuals drive for a company on business they must have a valid clean driving licence and business insurance or the employer could leave themselves open to a corporate manslaughter charge.

One of the biggest risks to payroll payments, and increasingly to HR too, is non-authorisation of the payment file once the payroll has been run. "People feel quite nervous about authorising the payroll, and often there are not sufficient people permitted to do it," she says. "You should have a written control procedure, checking that the value of the file does not differ drastically from previous months for no apparent reason, so that if they are not available, a less senior person could sign it off."

So, given all the myriad of possible risks, what should HR and payroll professionals do to mitigate them?

### Role of HR and payroll

"The role of HR and payroll is absolutely crucial in supporting organisational culture and ethics, disseminating the company's strategy, and making it resonate to employees through training," says Gurry. "HR and payroll have a unique role in understanding changes and how to apply them in the organisation."

"Good HR practice has a significant role in managing errors," agrees Randles. "If risks are not managed properly the organisation will lose its human capital. The role of HR is to try to

protect and add value to human capital."

He continues: "HR risk management should be looking at all of the things that could disrupt the relationship between employee and employer and considering how to protect against disruption caused by human error or management mistakes. Looking after risks in its own area will ensure HR looks after risks in the organisation as a whole."

According to Bailey, HR needs to take the initiative. He believes HR and payroll managers should be thinking about how it can minimise the risks of collusive employee fraud; increasing document fraud (passports, driving licences, visas); the right to work and open borders; discrimination; and identify theft, which is "becoming a big problem."

HR and payroll shouldn't work in isolation though. They need to consider the broader risk management framework of an organisation. "It's just a matter of twice a year taking the time to look at the strategy and make sure the right mechanisms are in place to discharge responsibilities," according to Gurry. "Risk management works best when it's ingrained in day-to-day operations. If this is done as part of management or team meetings it shows that it's working — HR and payroll will get credit for doing that."

Drysdale sums up: "HR and payroll are experts in their own area with a deep understanding of systems and procedures. Any changes to those systems and procedures must have an impact on the risk management strategy." ■

### How to mitigate risk

- Identify the hazards in each area
- Assess each area of risk and grade them
- Keep abreast of changes in legislation and how to apply them
- Communicate changes in personnel, roles and responsibilities, particularly to IT
- Instigate background checks and employee screening when recruiting
- Look at how people are managed — delegation, supervision and responsibilities
- Look at file and data management, maintenance, and protection. Put old and used files in a safe place and implement an IT security policy
- Operate a system of checks
- Train staff continually
- Have business contingency plans in place in case of a disaster
- Ensure consistency of processes and know what you are expecting
- Review progress regularly