

May 2011

HR Market News



Market Insights

I have been pondering on the content of this latest ezine. A snapshot of the market as we are finding it is a given and that's useful. However I have felt the need to share something more. But what? My brain skipped to an article I read a couple of weeks ago and perhaps because I am a bit of a Pollyanna anyway, this article resonated with me. Should anyone else care? Yes!

It made me think about the candidates we see every week and the clients we talk to; and what makes the difference as to why we might come out of one meeting feeling energised but another feeling totally drained. Perhaps I shouldn't admit this happens... but it does. And that made me think about the different reasons why some of our candidates will have multiple offers and opportunities while others struggle even to secure an interview.

So what was this article? At the risk of sounding like a hippy tree hugger, it was all about what is now known as The Happiness Advantage. And for the sceptics out there, this guy spent 12 years at Harvard researching the idea.

For the first time there is now research to categorically prove that if you want to excel in any aspect of your life, first you have to be happy. The reason for this is because positive brains have a biological advantage over brains that are neutral or negative. In 21 days we can retrain our brains to capitalise on positivity and improve our productivity and performance. Achor gives a really simple example of this in an experiment which involved a group of experienced medical practitioners. Shawn Achor – check him out.

We are still flat out with both permanent and contracting work. Emma's perm work has a broad market spread and encompasses a range of roles. She has been working on some great roles at Senior Business Partner level and has attracted a few quality candidates from around the country. The contracting market continues to flourish, buoyed by the ubiquitous restructurings/ mergers. It is interesting to note the number of contractors we are sourcing and placing from outside of Wellington. It would appear that Wellington continues to offer a far richer market for contracting opportunities than the much bigger Auckland.

Employment Law Update

BUDDLE FINDLAY

Wide duty to provide information during restructuring

In one of the most significant Employment Court decisions this year, the full Court has taken a very wide view of the obligation to provide "relevant" information under the section 4 good faith provisions. On its face, the decision requires employers to make available almost all information produced during the redundancy process, e.g. working notes, information about options that were discarded and documents produced during a selection process.

In *Massey v Wrigley & Kelly* a number of existing employees who did the same job, had to apply for a reduced number of positions. The unsuccessful applicants sought more information about the selection process. This included interview and assessment sheets for the other candidates, all handwritten notes and the information in the minds of the selection panel members which led to their recommendations. The employer said that it had provided the applicants with sufficiently precise information (consistent with the previous leading case, *Simpson Farms v*

Aberhart) and that the additional information requested was confidential.

The Court disagreed. It said that the obligation to provide "relevant information" was much wider than previously thought and that there was not sufficient "good reason" to maintain confidentiality over the other candidates' information. In essence, the rights of the two unsuccessful employees trumped the privacy rights of the employees who were selected and the promises of confidentiality that were made to all employees by the employer.

This will be a surprising result for many employers. The sheer volume of information employers must provide could be very large. It is far from clear now what circumstances will satisfy the Court that there is good reason to lawfully withhold information on privacy grounds.

For more information please contact Peter Chemis (Partner, Wellington) on 04 498 7339 or Sherridan Cook (Partner, Auckland) on 09 357 1858 or visit www.buddlefindlay.com.

To have a further discussion about anything in this newsletter, to share suggestions or for a general chat about anything HR please feel free to contact any of us in the Wheeler Campbell HR team. We would love to hear from you.

Lynda Fraser
+64 4 496 9963

lynda.fraser@wheelercampbell.co.nz

Emma Wehipeihana
+64 4 496 9964

emma.wehipeihana@wheelercampbell.co.nz

Alyshia Winnie
+64 4 496 9269

alysia.winnie@wheelercampbell.co.nz