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Editorial: Why HRM should rejoice in error

When an employee seems to be error-prone do not rush to blame them – look closer. It has become something of a stereotype to say some people are walking calamities. But in the workplace they can be amongst your most valuable employees.

Although the vicissitudes of life are largely random, errors are not. They tend to cluster around situations rather than people. Yes, there is a personal element to events. If someone sits in an armchair all day few things will go wrong for them - but if they are active then they will increase the chances of unplanned outcomes, some of which will be unwelcome. People also differ in their level of risk aversion. A totally risk averse employee may make the least mistakes, but is also the least productive person in the company. Taking risks is essential for all business life. But it is calculated risks that need to be taken and the calculations must be sound.

The way that people deal with risks and the way that failure is treated is also culturally conditioned. In a newly published book entitled “China’s Next Strategic Advantage” Professor YIP and Dr Bruce McKern point out the differing approaches to risk taken by Chinese and western enterprises. In China there is today a much greater tolerance of mistakes than in, for instance, the USA. The very public daily staff meetings of employees in China further illustrates how team dynamics operates to foster ideas for improvements in service and, then takes it out of the arena of personal risk. If something does not work – well the team had all backed it.

So rather than see an employee as error-prone, look first at the nature of their work, the systems they are using, their scope for decision making, why there was no collegiate backing for their actions and what safeguards are in place. Two people may operate the system, but one is trying to get the most

efficiency out of it. The challenging employee is going to uncover its weaknesses – so that the system can be rectified. If anyone should be reprimanded it is the cautious employee.

Rather than see things in terms of risk and failure we should look at them in terms of probability. In the world of probability failure is inevitable and the more there is variety, work intensity and complexity the more frequently error will arise. Making probability your friend requires the acceptance that many events are counter-intuitive. They do not seem to make sense and that is why the ordinary employee cannot see or deal with them. Take, for example, a situation in a pure probability environment – horse racing. If you study form it will become clear that one horse is the clear favourite – and it is true that favourites do win more often than any other horse, but the “odds” offered take that into account. So if everyone does the obvious thing and bets on the favourite they will eventually all lose their money. What is necessary is to look at what underlies form - like breeding, the habits of trainers, the nature of the track – then bet wisely against common expectations.

In the Second World War a famous aircraft designer was asked what parts of fighter planes should be reinforced to make them less vulnerable to attack. He responded by looking at all the returning planes and suggested extra armour on all the areas of the plane that had not been hit. The air ministry was confused. This was a counter-intuitive solution - but it worked. Why? Because if a plane actually returned and landed safely with a hole somewhere in its **fuselage** then it was clear that damage where it was struck was not going to affect the integrity of the machine.

So this is why your most error-prone employees may be your greatest asset. They may be making needless errors of judgment,

but that is a training issue. We should also caution against reverting to that practice from ancient Greece of shooting the messenger of bad news. If employees follow conventional logic and cover up errors made by themselves and others or managers simply silence people because they ask uncomfortable questions then a company will never do anything to outsmart its competitors. Examine failures relative to their impact and consider why some seemingly negative actions do not have drastic outcomes. Like the employee who criticizes a company product on Facebook and yet sales for the product increase. Sometimes customers may buy something out of curiosity, find its benefits and tell others not to believe what they have read on the social media. As the saying goes, any publicity is good publicity.

Probabilities underpin everything we do. They can be improved to produce desired outcomes more frequently, but errors can never be eliminated altogether. Ironically, however, it is errors that frequently lead to change – as Einstein once said “In the middle of **difficulty** lies **opportunity**”.

CHINA: Paid leave growing in popularity

China's central government has long been concerned about the need for the country to develop its tourism sector for nationals as well as foreigners. The focus has traditionally been on major public holidays like the Spring Festival, with breaks taken at other times mainly confined to the retired or wealthy.

This is, however, now changing thanks to local paid holiday laws implementing the ‘Paid Annual Leave Ordinance’. So far 12 provinces have responded with their own measures (Hebei, Jiangxi, Chongqing, Gansu, Qinghai, Liaoning, Anhui, Shaanxi, Fujian, Guangdong,

Zhejiang, Inner Mongolia). The ordinance gives workers 5 to 15 paid days off each year according to length of service and a right to be paid 300% the normal daily rate if an employee is required to forego their time-off.

The policy seems to be working, as a State Council survey of 60 Chinese cities last Autumn found that half of all workers were receiving some additional paid leave. Full compliance is, nevertheless, a long way off and the 'Future China Tourism Research Association' has called for better supervision of law enforcement and punishment for noncompliance. A further way to encourage employees taking time off to actually go on vacation is to offer travel coupons or leisure travel subsidies. This is an important feature of local regulations issued in Zhejiang province, although several provinces have been issuing tourism coupons to retired residents for many years.

SE ASIA: The cost of open borders

National border restrictions are being progressively removed between several countries in south-east Asia and greater scope given to cross-border employment.

A new agreement has been reached on the free movement of workers from Vietnam to Thailand. From September this year Vietnamese workers in the construction sector will be able to take up jobs in Thailand, provided they organize this through approved agencies. Migrant workers will be paid a minimum wage of \$US500 a month in rural areas and more in urban areas and must be subject to the same work regulations as local workers. The agreement will eventually extend to other sectors and will remain in force until 2020.

Meanwhile, Vietnam is also opening up four new border crossings with Cambodia, Thailand has opened up the O Neng-Banbaray crossing with Cambodia and also the crossing between Preah Vihear and Pakse in Laos. The Malaysian economy has grown in strength largely because of immigrant labour. But a great deal of this has been illegal. For instance, there is only one official land border with Indonesia, but numerous informal crossings. The focus of governments – particularly through the ASEAN trade association – has been on free movement of skilled labour, but the visa-free travel arrangement between ASEAN states allows its citizens to enter another member country and then stay to work in their growing grey economies. It is for this reason that the future focus of ASEAN labour policy will be less on border controls and more on workplace inspections and the enforcement of labour standards.

SOUTH KOREA: Status of subcontract workers

An important issue in the motor industry is what status can be accorded to contractors or subcontractors hired to perform mainstream tasks for extended periods.

In South Korea, case law began in this field back in 2010 when a subcontractor Choi Byeong-seung was found by the Supreme Court to be a regular employee of Hyundai Motor. The latest case involves several workers hired initially by a partner business of GM Korea. They were subsequently reassigned to work on a packaging line at GM's Changwon plant.

Although GM contested the claim, the law gives workers the right to full-time employee status after two years undertaking the same tasks. That is why this time the Supreme Court dismissed the appeal without even an hearing.

Concern about the legal problems associated with employing contract workers in South Korea are also spreading to other sectors. Recently a UN working group spent ten days in the country observing operations at Hyundai Motor and Hyundai Heavy Industries Ulsan shipyard. They observed at their final press briefing that 80% of shipyard workers were subcontractors that were not adequately protected against industrial accidents.

TAIWAN: Overhaul of working time rules

Labour Minister Kuo Fong-yu has confirmed that Taiwan's government is about to approve amendments to the Labour Standards Act that will finally bring to an end the possibility that a company may require its employees to work seven days a week.

The proposed changes, still to be approved by parliament, place a 6-day cap on weekly working time and a 48 hours limit to overtime hours each month. Employees working overtime will also be entitled to pay premiums of 1.33 times their normal hourly rate for the first two hours of overtime each day and 1.6 times the normal rate for subsequent hours. Working time will also be classified in four, eight or twelve hour blocks – so that if employees are required to work six hours they will be paid for eight.

This move comes after ten separate meetings with both sides of industry and will be seen as a climb down by both employers groups and trade unions from apparent concessions previously made. However, the government is

now determined to push the measures through in spite of expected street protests and possible employer lockouts. Once in place, the enforcement of the new working time rules will be strengthened by a 50% increase in the labour inspectorate and a commitment to conduct on-site investigations following any call to the inspectorate's hotline.

USA: The price of privacy

From January 1st 2017 US employers will be able to offer up to 30% off the cost of corporate healthcare insurance if an employee (and their spouse, if they wish) signs up to a company wellness programme. But the price for this privilege will be a loss of personal privacy.

Regulations approved by the Equal Employment Opportunity Commission (EEOC) entitles employers to collect data on such matters as blood pressure, weight, past medical problems and even past insurance claims. Although this is not, in itself, necessarily contrary to the Affordable Care Act (which allows 'reasonably designed' incentives to improve health) schemes could infringe the federal 'Genetic Information Nondiscrimination Act' and/or 'Americans with Disabilities Act'.

More disturbing still is the fact that under the EEOC regulations employers will be able to share personal health records with other commercial companies serving the fitness market. This may well pay for the employee discounts on offer, but it would expose individual employees to tailored offers for medications, dietary supplements and sportswear.

USA: Back door to drug culture.

It is now a long time since the days when a blind eye was given to a leading US tobacco company that had done a deal to break into the South American Market by allowing its returning cargo boats to fill up with a potpourri of narcotics for the US market. But gradually a fanfare of voices has been getting louder, calling for the legalizing of drug use.

Employers that operate anti-narcotics policies have for some time had to contend with more and more individual state legislation permitting the use of marijuana for “medical purposes”. Now Ohio has become the 25th state to make the use of marijuana allowable in this way.

The problem is that, although formally regulated the actual standards applied by physicians will vary a great deal, especially in a country dominated by private medicine. For instance, State laws usually list “post-traumatic stress disorder” on their approved list – a condition that can be a catch-all for the experiencing of any shock, however minor.

Moreover, the Federal Controlled Substance Act still has marijuana listed as a schedule 1 substance and the US Supreme Court has made clear that states cannot legalize what the Congress and Senate have deemed to be unlawful. Although companies may continue to operate their existing policies they may be tempted to relax them when marijuana is on prescription. Yet, whilst they are obliged to accommodate certain medical conditions such as cancer they are not obliged to tolerate treatments by what remains a banned substance at a federal level.

Marijuana has a number of very serious short-term and long-term negative effects that make the taking of it inappropriate for any workplace and could establish a liability if its use is tolerated. These include apathy, drowsiness,

personality and mood changes, poor comprehension, suppression of the immune system, growth abnormalities, anxiety and depression. For this reason it is very important to detect its use at an early stage and operate a zero tolerance approach. There are alternative and more effective conventional treatments for all the conditions listed in the State legislation and, therefore, such an approach will ensure that physicians are required to rethink their prescription decisions.

Pay, Tax and Benefit Trends

CHILE: Congress has approved a government proposal to increase the minimum monthly wage in Chile by 26,000 pesos to 276,000 pesos (\$US 419) over the next 18 months. This is a significant increase from the original government proposal of 260,000 pesos. Although 183,000 workers are paid the minimum wage in Chile a great many more are reliant on it as a pay setting reference point. The draft now awaits presidential approval

CUBA/USA: The US Congressional Research Service has just published a useful briefing on the present restrictions that apply to travel arrangements and doing business in Cuba. Tourism remains banned for US citizens, but 12 categories of travel are permitted – including attendance at “professional meetings” provided no additional time is scheduled for other purposes. So too are visits for export-related market research, sales and servicing. Although over 300,000 people travel to Cuba from the USA each year, such visits remain technically subject to the “Trading with the Enemy Act” and the Secretary of the Treasury may impose civil fines up to \$65,000 per violation. The US government is very vigilant and so far over 60

major companies have been penalized – even if travel has been organized through an overseas branch of the enterprise.

INDONESIA: The government in Jakarta is struggling to find ways to encourage its population to pay taxes and prevent larger companies going offshore. Only 27 million of the country's 250 million residents are registered as taxpayers and only one million file tax returns. A high proportion of larger companies also use tax havens abroad through special purpose vehicle (SPV) arrangements. The Finance Minister, Bambang Brodjonegoro, has therefore announced a general tax amnesty running from July to the end of the year. He has also confirmed plans to establish a new region as an onshore financial centre to encourage "our companies with offshore business to have their headquarters here, not in tax havens in other parts of the world, like Panama or Mauritius". However, such companies would not be able to serve domestic markets from the centre.

LITHUANIA: On July 1st the minimum wage in Lithuania rose by 8.6% from 350 euros (\$US 389.00) to 380 euros (\$US 423) a month. The last increase from 325 euros a month took effect on January 1st 2016. This is a huge overall increase in real terms as the annual rate of consumer prices over the year to May 2016 was just 0.2%.

NEW ZEALAND: The Labour inspectorate in New Zealand has discovered that an estimated 760,000 people in both the public and private sectors have not received pay due under the Holidays Act. The miscalculations and misinterpretations could, in many cases, go back over more than ten years and involve a loss to individual employees of between \$NZ250 and \$NZ500 a year (\$US 160-320). The problems, that first came to light after

several individual investigations, involve annual leave, BAPS (bereavement leave, alternative holiday, public holiday and sick leave) payments, missing clauses in job contracts and a failure to keep adequate records. Due to the statute of limitations any claims cannot extend for more than six years.

SOUTH KOREA: A 'right to disconnect' Bill has been submitted to the South Korean Parliament by a group of opposition MPs. This bans the sending of messages by telephone, text, social media or mobile messaging apps after normal working hours. Korean employees already work longer working hours than other advanced economies - apart from Mexico - and many large companies already operate "emergency only" policies for afterwork communications.

TURKEY: The structure of earnings survey is conducted throughout Europe and related states every four years. It takes officials two years to process the data and then they often get it wrong. For instance, the 2014 data from the Turkish Statistical institute reveals that the gender pay gap – which throughout the world is tipped in favour of men – is reversed in Turkey. Annual Average gross earnings, they claim (without appearing to realise it) were 27,974 TL (\$US 9,497) for women and 27,775 TL (\$US 9,429) for men. Thus men earned just over 0.7% less than women. But before declaring a world first it is necessary to look at a breakdown of the figures by educational qualification. At every point from employees with just primary education to those with higher education women are paid significantly less than men. The gap is 18.9% for those with least education and 18.2% for those with the highest levels of educational attainment. Yet another case of officials sleeping on the job perhaps?

UNITED KINGDOM: Latest figures from the Office for National Statistics show the pattern of bonus payments for service sector employees on a year-on-year basis. Rather than a seasonal pattern, they reveal huge variations around a mean point from January 2001 until April 2016. The lowest point was reached in February 2009, although one high point was September 2007 – the trigger date for the great recession itself. Was this a swan song or a contributory factor for the recession itself? Since another high point in April 2013 bonus payments have begun to level off. The last high point was July and August 2015, since when bonus payments have reached much calmer waters.

USA: Per diem rates issued for different countries by the US State Department are primarily for government employees undertaking overseas assignments. However the revenue service also allows private-sector employers in the USA to use the rates for business expense purposes. Unfortunately the website on which the data is held has a security problem and some web browsers advise users not to enter the site. There is an alternative source of the data (<http://www.defensetravel.dod.mil/site/perdiemCalc.cfm>) but it is not updated as often as the State Department's site. Updates still pending are for Cambodia, New Zealand, Pakistan, Poland, and Sweden.

Other Global HR News in Brief

AUSTRALIA: A parliamentary committee has recommended the establishment of a labour-hire licencing system to stop bad practices when companies hire seasonal workers. The proposed system would apply equally to sub-contractors, require all companies hiring out such workers to be placed on a public register and comply with all employment law, tax and social security obligations. Although this measure will mainly affect the agricultural and horticultural sectors, it could also restrict agencies using the 'backpacker visa program' to find short-term positions for young, foreign workers.

CANADA/MEXICO: Prime Minister Trudeau has ordered that the current visa restrictions placed upon Mexican citizens to be removed with effect from December 1st 2016. Mexicans travelling to (or via) Canada will need to apply for an electronic travel authorization (eTA) permit, but this easily arranged online and normally lasts for five years. This change will ease the burden on business visitors but those coming to Canada to work or for study will still need permits.

CHINA: China's state council has announced that medical insurance programs for China's rural residents and urban unemployed have been merged into one basic health insurance system. The newly subsidized scheme will require all participants to pay the same premium and enjoy the same reimbursement rate, regardless of their hukou status. Inner Mongolia too has recently decided – together with 11 other provinces and municipalities – to go a step further by fully Integrating its basic medical insurance system for urban and rural residents.

CHINA: Employers in the southern city of Shenzhen - the major centre for foreign companies operating in China – will, in future, have to pay an average of 32.27% less in industrial injury insurance. This is because the present categories used for determining such insurance will be reduced from 8 to 3. The total saving to employers will amount to 648,000,000 RMB a year (\$US97M).

EU: Following the declaration last Autumn by the European Court of Justice that “Safe Harbor” rules for transatlantic data transfers were invalid, the European Commission and Federal Trade Commission/US Department of Labor have been struggling to come up with an alternative mechanism. The resulting “Privacy Shield” proposal has proven to be equally controversial and has therefore been delayed. However, it has now been sent to the EU’s group of Data Protection Authorities (the so-called Article 31 Committee) for approval. Their response was supposed to be issued by July 5th 2016, but will take much longer to achieve.

ISRAEL: The Knesset (Israel Parliament) has voted to introduce a new national holiday. Aliyah Day will celebrate the arrival of immigrants to the country. It will be scheduled for late October or early November depending on the Hebrew calendar. However, it will not be classified as an official public holiday, although some Israeli-owned companies may recognize it on a voluntary basis.

MOROCCO: A new bilateral agreement has been signed between China and Morocco. One consequence of this is that Chinese nationals do not now require a visa to visit Morocco. China is forming close trade alliances throughout Africa, with dominance of the Algerian market since 2013. China is also South Africa and Angola’s largest economic partner. One strategic advantage of relations

with Morocco is that it will act as a doorway to the European Union. An EU-Morocco association agreement has been in force since 2000 and since 2013 an agreement on migration.

PERU: All companies with at least 20 female employees aged 15 to 49 must now establish a special safe and contamination-free area for mothers to breast-feed their babies. This may be designated outside the workplace provided it is easily accessible. The area must be at least 10 square metres and used exclusively for the purpose, with facilities to preserve breast milk. It has to be established even if no employee is actually breast-feeding and noncompliance could result in a fine. Nevertheless, although Peru established a new labour inspectorate (SUNAFIL) in 2014 it has only 295 inspectors – 202 of which were based in the capital, Lima. Health and safety rules have been relaxed and are generally not enforced. There is high incidence of violence against women in Peru and 70% of all workers are engaged in the grey economy.

SCOTLAND: The Scottish Lord Advocate has decided to extend for a further year a scheme that allows companies to self-report cases of bribery that have been found in their organisations. It is up to the company concerned to determine whether any conduct has breached the Bribery Act 2010. But if they do self-report instances of malpractice to the Crown Office, the Serious & Organised Crime Unit will treat them more leniently than if the unit uncovers the case itself or through a whistleblower.

SOUTH AFRICA: President Jacob Zuma has declared that August 3rd this year will be a public holiday. This is to encourage the working population to vote in local government elections on that day. There is a history of violence and vote rigging associated with

elections in South Africa. People have often not voted out of fear over possible harassment and in 2013 independent candidates challenged results from local elections after voters appeared to have been bussed in from other areas.

UNITED KINGDOM: The acceptance of workplace wearables has recently been the subject of a PWC survey report. It was found that although there is a surge in the purchase of such devices for personal use, just less than half of all employees would be prepared to wear them if they were provided by their employer. This is principally because of concerns about privacy and, in particular, monitoring of health and productivity data. Young workers were the most relaxed about

such devices and 59% said they would be happy to use an employer-supplied smartwatch, rising to 70% if they were given an incentive to do so.

USA: The Governor of Colorado has signed a House Bill (16-1114) that eliminates the need for employers to comply with a range of needless additional duties under the Employment Eligibility Verification (1-9) procedures. After August 10th it will no longer be necessary to complete and retain affirmation forms or copies of the identity and work authorization documents presented by each employee.

Dates for your diary:

August 1st 2016: OSHA in the **USA** to increase maximum penalties by 78%. The last change was in 1990.

September 29th 2016: **Canada** to introduce mandatory Electronic Travel Authorization (eTA) for all visa-free eligible nationals (excluding US citizens) arriving by air.

October 1st 2016: **Brazil** CRS international tax transparency rules take effect.

December 1st 2016: FLSA new overtime rules become effective in the **USA**.

January 1st 2017: Oregon state Senate Bill 1587 in the **USA** becomes law - requiring employers to provide employees with additional information about pay.

April 6th 2017 Introduction of apprenticeship levy for large **UK** employers.

May 25th 2018: Final effective date for **EU** General Data Protection regulation.

FedEE Events

DATA MANAGEMENT FORUM: Learn all about the latest developments in data protection and workplace privacy around the world and how they impact upon HR. The new EU's General Data Protection Regulations and transatlantic "Privacy Shield" (replacing "Safe Harbor" procedures) are just two of the many issues that will be covered in our round table forum in London on **Wednesday, July 13th**. To join us contact Karen Wallace on (UK) (0)117 975 8611 or email her on admin@fedee.com.

NEXT FELLOWSHIP MEETING: The next Fellowship Meeting will take place on **Tuesday, July 12th 2016**. Fellowship meetings are a great opportunity to share insights and experiences 'off the record', with no notes taken. This allows participants to see what is really taking place outside their organization - in contrast to conferences where they are given a certain amount of 'window dressing'. If you are not currently a Fellow but are interested in becoming one please contact us on +44 (0)117 975 8611.

Travel Warnings

China: There is severe flooding across much of central and southern China. This will affect travel in the area – especially in the Yangtze basin.

India: An indefinite strike of government employees is due to begin across the country on July 11th. This is likely to include railway workers.

Kenya: There is a fresh warning to US citizens to avoid Kenya because of "potential bombings, kidnappings and attacks on civil aviation in the country".

Nigeria: The Nigerian Civil Aviation Authority (NCAA) has warned all airlines selling flight tickets in foreign currencies in Nigeria to only accept local currency – the Naira.

Pakistan: Flash floods and landslides have been affecting the north-west province of Khyber Pakhtunkhwa.

Philippines: All travel to south-west Mindanao and the Sulu archipelago is not advised because of on-going terrorist activity and the kidnapping of foreign nationals.

Turkey: Following the deadly terror attack at Istanbul's Ataturk Airport visitors to Turkey should adopt extreme caution. Istanbul is also likely to have a serious earthquake in the next twelve months.

UAE: The Ministry of Foreign Affairs and Internal Cooperation (MoFAIC) has urged Emirati men not to wear the national dress while travelling abroad, especially in public places, for safety reasons.

Uganda: Those entering the country now require an E-visa and a valid yellow fever vaccination certificate.

United Kingdom: Far fewer trains will operate in the South of England from next Monday following the introduction of a new timetable. The reduction is in response to ongoing strike action by the RMT union.

USA: The Pavlof Volcano located in the south west of Alaska has been recording increased levels of seismic activity and is likely to erupt violently at any moment. This could affect flights in the area.

FedEE News

CYPRUS OFFICE: We are currently establishing a new office and research centre in Nicosia, Cyprus. It will be fully operational from August 1st 2016. This will be increasingly important in the light of Brexit.

PUBLIC HOLIDAYS 2017: We have now posted public holidays for next year into the individual country sections of the knowledgebase and into the separate public holiday section.

NETWORK WITH OTHER FEDEE PROFESSIONALS: Don't forget to sign up to FedEE's face-to-face networking community, butN. Join for free today at <http://www.but-n.com>.

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