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Reasonable human resource practices for making employee downsizing decisions

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Downsizing became a common business practice in the 1980s and continues to be a common practice today. For 2008, the U. S. Bureau of Labor Statistics reported that 1,517,857 workers were laid off. Given the current economic climate, this is not entirely surprising. However, downsizing seems to be a common practice regardless of the economic situation. In fact, since 2000, the lowest number of layoffs in a year was 884,661.

Recently, researchers and practitioners have begun to question the effectiveness of downsizing as a turnaround strategy. At the company level, downsizing does not always lead to improved profitability. And, in terms of human resources, downsizing often results in discrimination litigation and negative outcomes for survivors, such as lower job satisfaction and higher levels of stress.

The HR department, a key player in downsizing, has both strategic goals and legal compliance requirements. These goals are not necessarily incongruent. Strategic human resource management aims to align HR goals with the company's strategy. Desirable strategic organizational outcomes include profits, growth, increased market share, and the survival of the firm. Strategic HR contributes to these goals by managing the downsizing process while at the same time attempting to achieve its own goals of maintaining job satisfaction, organizational commitment, and employee morale. In addition, HR must comply with legislation on Equal Employment Opportunity (EEO) for members of protected groups according to gender, race, ethnicity, color, religion, national origin, disability, and age. Age discrimination, in particular, is a common result of downsizing, because older workers are often laid off in greater proportions.

HR should aim to use practices that minimize negative effects on both terminated and surviving employees, while avoiding legal problems that could result from downsizing. In this article, we propose a set of eight reasonable HR practices that can benefit and protect both the employer and the employee. For the employer, such practices are helpful to attain its strategic and compliance goals. For the employees,

reasonable HR practices protect them from discrimination and unfair treatment by considering only appropriate factors in making decisions.

We identified the eight major reasonable downsizing practices and 21 sub-practices shown in Table 1. Some of these practices are grounded in theory and supported by empirical research, while others are based on recommendations of experienced practitioners. These practices are not necessarily the most commonly used practices, which is why downsizing often results in negative organizational or legal outcomes.

Many of these practices draw from theory and research on procedural justice. Procedures are considered fair or just if they follow criteria such as the following: (1) are applied consistently across individuals, (2) are free from bias, (3) use accurate information to make decisions, (4) have a mechanism to correct inaccurate decisions, (5) meet ethical standards, and (6) consider opinions of various groups affected by the decision. Research on organizational justice suggests that when employees perceive their treatment to be fair, they are more likely to have positive HR outcomes and less likely to sue.

DRAWING FROM EXISTING THEORY, RESEARCH AND PRACTICE

We conducted an extensive literature review that began with a search of the PsycInfo and the Business Source Premier databases, which are the two most complete databases for business and psychology research and professional practice journals, where the literature on downsizing relevant to HR is found. An initial search of articles on downsizing yielded nearly 10,000 citations.

These citations were narrowed down by several quality indicators and for relevance. Articles were deemed relevant if they were about HR practices related to preparing and carrying out the downsizing rather than post-downsizing

Table 1 Reasonable HR Practices for Making Employee Downsizing Decisions.

<p>Eight practices and sub-practices</p> <ol style="list-style-type: none"> 1. Identify the business need for downsizing 2. Communicate with employees throughout the process 3. Identify future work <ol style="list-style-type: none"> a. Identify future jobs and tasks to be performed b. Identify future KSAs and experience requirements 4. Determine criteria to evaluate employees against future work <ol style="list-style-type: none"> a. Emphasize job-related criteria b. Emphasize objective (vs. subjective) criteria c. Consider past job performance heavily d. Consider seniority e. Avoid inherently age-related criteria 5. Establish fair evaluation procedures <ol style="list-style-type: none"> a. Use multiple independent evaluators b. Provide clear instructions and train evaluators on the decision-making process and EEO considerations c. Base selections on accurate and complete information d. Prevent exposure of demographic information to evaluators e. Apply methodology in a consistent and fair manner f. Allow employees to compete for remaining or new positions throughout the organization g. Establish an appeal mechanism h. Maintain adequate documentation 6. Analyze adverse impact <ol style="list-style-type: none"> a. Conduct analyses in a timely fashion b. Take action if adverse impact is shown 7. Evaluate the process and outcomes 8. Ensure an informed and independent Human Resources staff

practices. In total, we obtained 80 relevant articles and books. Given this volume and method of search, it was judged that the list of practices identified was fairly complete and represented most of the advice in the professional and scientific HR literature.

REASONABLE PRACTICES IN DOWNSIZING

As a result of this review of the HR downsizing literature, we identified eight major reasonable downsizing practices (with a total of 21 sub-practices). The practices were chosen in terms of how well they are likely to result in the attainment of both the strategic and legal goals of HR. For the interested reader, the list of references is available online at www.campion-services.com.

1. Identify the business need for downsizing

Identifying the business need for downsizing is not always addressed explicitly, and the decision to downsize may be implemented too hastily without the consideration of alternatives. Often the decision is made soon after financial problems are identified. Labor costs are often a large proportion of the overhead of the company, so it is appealing to make reductions in personnel immediately. However, research suggests that downsizing does not always lead to improvements in business effectiveness, cost savings, and long-term firm performance.

Newspapers are filled with stories about decisions to cut personnel by a given percentage, without noting what other factors were considered. This gives the impression that only personnel cuts are needed to turn the company

around. For example, in 2000, a Denver newspaper reported that executives of Qwest Communications had selected a number of jobs to cut in order to lower costs, but did not state any details on further consideration of the business need to downsize. The way it was reported may lead others to believe that the only necessary consideration when downsizing is the number of jobs to cut.

Given some of the negative outcomes of downsizing, it has been suggested that downsizing should be considered as an action of last resort. Under certain circumstances, however, there may be a business need for downsizing, and under such circumstances, downsizing may lead to improved organizational performance, in particular if downsizing is aligned with other strategic changes. If downsizing is chosen, the focus should be on attaining business goals, not staff reduction. The decision to downsize should be made based on the long term health of the company, not short-term labor cost considerations.

2. Communicate with employees throughout the downsizing process

One way to reduce the negative reactions to downsizing is to clearly explain the reasons for the downsizing to all employees. This should be done before any separation interviews take place. It is important to share information about the intent to downsize, the timeframe, how termination decisions will be made, general information about severance packages, and other factors that are important to employees. Employees have expectations about being informed about major company undertakings, including answers from all levels in the company. For example, while undergoing downsizing, Columbia Wesley

Medical Center set up a mechanism for executives to answer employee questions directly. This allowed employees to feel that they had better access to information than having to go through several layers of managers, some of whom may not have the answers.

Research has shown that increased communication is one of the most important factors in reducing the negative consequences of downsizing. In addition, research on downsized workers has shown that intentions to file wrongful termination claims can be reduced by treating employees fairly and with dignity at the time of termination. Increased communication can be used to increase this sense of fairness.

Communication may also reduce age discrimination or the perception of discrimination in several ways. First, having to justify the downsizing to employees requires that management have nondiscriminatory reasons. Second, having to explain the way in which termination decisions will be made increases the likelihood that fair procedures will be used. Third, open and honest communication is likely to improve employees' perception of fairness and trust in management.

3. Identify future work

Downsizing should be an effort to strategically make changes in the company that will improve its future outcomes, rather than just making a reduction in the number of employees. Recently, various cities in Arizona used layoffs and early retirement of city workers as a way of cutting costs. Shortly thereafter, experts observed that these actions are likely to result in a substantial loss of experience and knowledge related to running various city government functions, such as transportation and sanitation that contribute to the economic development and wellbeing of cities. This loss of knowledgeable workers is likely to be exacerbated when large numbers of baby boomers begin to retire, leaving only younger and less experienced workers to determine how the work should be done.

Management should identify the type of work that will be needed in the future and determine the knowledge, skills, and abilities (KSAs) that will be required to perform this work. Decisions about layoffs are more likely to be both fair and justifiable when based on job-related criteria. This ensures that decisions are based on the organization's primary purpose, which is the work to be performed. In addition, focusing on the future work and its performance requirements rather than focusing initially and mainly on the people to eliminate reduces the potential for discriminatory factors such as age from being considered.

Without focusing on the work to be done as the first and most important consideration, there is a strong tendency to instead rank employees compared with each other, rather than comparing them to future work requirements. Extensive research suggests that the way to avoid the impact of stereotypes on decision-making is to focus attention on the unique aspects of the individual that are relevant to the context. In the downsizing context, this means focusing on the job requirements of the future work and the skills and experiences of the employees. Comparisons between people tend to encourage the consideration of personal factors such as age.

3a. Identify future jobs and tasks to be performed

To meet its strategic goals, HR should analyze the jobs and tasks to be performed by the organization in the future. This analysis should identify redundancies and inefficiencies, and identify work processes that will be needed in the future as well as those that will no longer be necessary. This analysis should also determine the new organizational structure. This analysis is critical when identifying the job requirements of the future jobs. Some downsizing experts recommend a formal skill needs analysis. Court decisions in EEO cases in the United States have favored companies that conducted job analyses to make decisions in relation to other HR systems, such as performance appraisals. This is also likely to apply to court cases involving downsizing.

A fundamental principle of HR management is that employment decisions should be made based on job-related reasons. Also, in terms of legal compliance, identifying future work is important for demonstrating the validity and utility of the selection method when adverse impact is present, as required by the Uniform Guidelines on employee selection procedures. The Uniform Guidelines are guidelines provided by the U.S. Federal government to assist employers to comply with laws prohibiting employment practices that may discriminate.

3b. Identify future knowledge, skills and abilities (KSAs) and experience requirements

After the future work is determined, it is necessary to identify its KSA and experience requirements, against which employees can be evaluated. As noted above, fundamental to any HR system is a clear understanding of the job requirements, and this is key to justifying business necessity (and legal defensibility) according to the Uniform Guidelines, if the downsizing results in adverse impact. This is also critical to procedural justice. Identifying future work is a critical first step toward ensuring that the remaining reasonable HR practices can be met, including that criteria are applied consistently across individuals, that decisions are free from bias, that accurate information is used to make decisions, and that the decisions and actions taken by the company meet ethical and legal standards.

4. Determine criteria to evaluate employees against future work

Determining fair criteria for evaluation is important in order to be able to make decisions that lead to desirable organizational and legal outcomes. From a procedural justice perspective, determining the evaluation criteria is important because it shows that the company is not choosing people based on favoritism or other unfair considerations. Emphasizing objective and job-related criteria, considering past job performance and seniority, and avoiding inherently age-related criteria are critical. For instance, Telefónica O2, a British telecommunications company, laid off approximately 10 percent of its staff in 2009. The company cited that its decision criteria were based on the company's ability to support the services that their customers valued the most. In other words, the company made its decision considering future work.

4a. Emphasize job-related criteria

Employees should be evaluated against the job-related criteria that have been identified as being impor-

tant in future work. If job-related criteria are not explicitly used, decision makers are likely to use vague criteria. This is problematic, because criteria that are not specifically job-related are less likely to predict the performance of future work. Whenever possible, the criteria should be obtained from established HR practices such as a job or skills analysis.

4b. Emphasize objective (vs. subjective) criteria

Subjective measures allow more opportunity for bias than objective measures. Objective measures not only improve the accuracy with which criteria can be measured, but they also improve employees' perceptions of fairness. The importance of using objective criteria in other HR practices like performance appraisals and interviews has been shown in a great number of studies, and it is also likely to be important to downsizing contexts. If objective criteria cannot be used, then subjective criteria should be defined in as specific and observable manner as possible so that accurate and fair judgments can be made.

4c. Consider past job performance heavily

The most common recommendation related to employee selection in downsizings is to consider the past job performance of employees. Evaluating past job performance of employees is likely to be helpful when trying to predict performance of future work. The organization's formal appraisal system is often used as the source of past performance information because it is likely to be a valuable source of information, in particular if performance is evaluated objectively.

4d. Consider seniority

In terms of fairness, even in non-union and white-collar downsizings, seniority is often considered because it is believed to protect the employees who have contributed the most to the company, those who have the most invested, and those who are the most loyal. Decisions based on seniority are likely to be perceived as fair, because they are based on objective criteria and they reward long service. In terms of performance in future jobs, there is extensive evidence that past job performance predicts future job performance, and that job performance does not decline with age in most jobs. In addition, organizational knowledge often rests on employees with longer tenure. Finally, considering seniority as an asset will help prevent age discrimination.

4e. Avoid inherently age-related criteria

There are at least two types of criteria commonly used in downsizings that tend to be age related. First, criteria that focus on subjective capabilities to perform future work like "potential" are commonly used. This type of evaluation criteria are likely to be correlated with age when making reference to the "future" and to "potential." Older employees have less future time left in their careers by definition. Also, older employees are commonly viewed as tending to be at a flatter period in terms of their growth curve, which may create the perception that they have less potential for future work. This is problematic not only because it may have negative outcomes in terms of adverse impact, but also because the assessment of "potential" is very subjective.

Second, other subjective criteria such as adaptability and flexibility are common in downsizings because of the

uncertainty of the future. However, this may be problematic because many people hold the stereotype that older workers are less adaptable, less flexible, and more resistant to change.

5. Establish fair evaluation procedures

In addition to using fair evaluation criteria, it is critical to have fair evaluation procedures. A study conducted in the Pantex Plant, a nuclear weapons facility, found that when procedures were perceived to be fair, employees reported better health and less insecurity regardless of whether they were laid off or not. Unfair procedures can be demoralizing and discouraging to those being laid off as well to those remaining.

Fair evaluation procedures include the following:

5a. Use multiple independent evaluators

Reliability refers to the extent to which decisions or judgments are consistent, stable, repeatable, and free from error. The statistical science of psychological measures (called psychometrics) has demonstrated that the combinations of judgments of multiple independent evaluators of human attributes are more reliable than the judgment of a single evaluator. This is partly because of the increased information from gathering multiple viewpoints and partly because multiple independent evaluators tend to cancel out each others' idiosyncratic rating tendencies.

Specifically, research has shown that ratings of job performance have low reliability when a single evaluator is used. Because of this, multiple independent evaluators are recommended whenever possible. In addition, multiple independent evaluators can provide a check against potential biases and help prevent discrimination. This occurs because biased ratings of individual evaluators will be more readily identified when they are compared to the ratings of others and because evaluators will have to justify their ratings to each other.

It is important to note that this is not the same as having reviews of the downsizing decisions. Having higher level managers or the HR department review the decisions is also a good practice, but it is insufficient by itself. Reviews do not provide an independent judgment that will increase reliability and prevent bias. Reviews by senior managers tend to do little more than rubber stamp the decisions made by lower-level managers or identify minor mistakes. Reviews by the HR department usually focus on administrative matters (e.g., whether the paperwork is complete) and not on the decisions being made.

5b. Provide clear instructions and train evaluators on the decision-making process and EEO considerations

Evaluation materials should contain clear instructions so that managers understand specifically what judgments they need to make. Materials should include the definitions of the employee attributes to be evaluated and the process to be followed in making the judgments. Having clear guidelines has been shown to be related to positive litigation outcomes in EEO cases related to performance appraisals and employment interviews, and it is likely to be important to downsizing as well.

Training should include instructions on what needs to be evaluated, the information upon which to base the evaluations, the procedures for making the evaluations, checks and balances, and other aspects. Moreover, evaluators should be trained to avoid potential bias and to be sensitive to EEO concerns. Research has shown that older workers are more likely to be laid off during downsizing. If such adverse impact is a result of bias, training the evaluators can be used to minimize the likelihood of biased evaluations. Downsizing outcomes are particularly difficult to justify to employees and to the courts if subjective criteria are utilized in conjunction with the absence of training and lack of specific instructions for making layoff decisions.

5c. Base selections on accurate and complete information

In order to make accurate employee selection decisions, the information upon which the evaluations are made must be accurate and complete. This information should include employee records on training, education, job experience, previous assignments, espoused areas of interest or expertise, and other information on the capabilities of employees being considered for termination. If managers do not have access to accurate and complete information, they may overlook important capabilities relevant to future work requirements. This is especially important for older employees because they have longer work histories and possibly more experience and skills of which their current managers may not be fully aware. More complete knowledge of past experience and skills may reduce adverse impact against older workers.

5d. Prevent exposure of demographic information to evaluators

One exception to providing complete information is the concealment of demographic information. To reduce the potential for discrimination, evaluators should not be exposed to information on the protected group membership of the employees. Although managers may know or have a sense of the demographic information of employees (such as the approximate age), exposure to records containing such information should be prevented because putting it in front of the managers when they are making termination decisions makes it more salient. Such exposure can occur, for example, by inadvertently showing personnel documents that contain age or date of birth information. This personal information should be kept in a separate filing system so that such exposure does not occur.

5e. Apply methodology in a consistent and fair manner

Applying the same method consistently helps to ensure that the downsizing process is conducted in a fair manner. Without the consistent application of the employee selection methodology, other reasonable HR practices cannot operate effectively. Examples of inconsistent procedures include managers not following the company's official downsizing guidelines consistently for all employees, or exempting some employees from any risk of termination (e.g., by classifying them as "high potential"). In terms of circumventing the procedures, managers may change the ratings of employees to alter the outcomes, complete ratings and forms after the decisions of whom to terminate have been made, and allow a very short period of time to make evalua-

tions, rather than giving enough time to consider various aspects required to make the evaluation. All of these examples are likely to lead to unfair outcomes and poor decisions that may also have legal repercussions.

The consistent application of any HR practice, but especially downsizing practices, is critical to employees' sense of fairness. Not only are employees who feel they have been treated fairly less likely to sue, but in the event of a lawsuit, the courts are likely to favor the consistent application of downsizing practices, as they do in relation to other HR practices. Finally, consistency prevents age discrimination by ensuring that both older and younger employees are treated the same.

5f. Allow employees to compete for remaining or new positions throughout the organization

When the focus of the downsizing is to improve the future operations of the company, and future work is identified, it is likely that there will be a number of new job openings. For instance, when Medtronic Inc. downsized its global workforce by more than 1,500 employees in 2009, it also added about 700 positions in sales and research and development (R&D).

In order to enhance the sense of fairness, it is important to give downsized employees the opportunity to compete for remaining or new jobs. The positions can include those for which the downsized employees have the requisite skills or those for which they can be trained. The positions may be anywhere in the organization, even outside of the employee's original department or location.

Transferring current employees to other jobs in the organization has many advantages over hiring externally. Some advantages include that current employees know the organization's practices and culture, they may be less expensive because hiring from outside usually requires matching or exceeding the labor market wage, redeployment may be faster, and the company can avoid the costs of recruiting external candidates. Research on procedural fairness in hiring shows that having the opportunity to fully compete for jobs is critical to perceptions of fairness, especially when the candidate is not hired. Allowing employees to openly compete for jobs may reduce adverse impact against older workers, because they have more extensive past work experience (and perhaps corresponding additional skills) that would make them more competitive.

5g. Establish an appeal mechanism

An appeal mechanism allows employees whose jobs have been eliminated to have the process that led to the decision reviewed. This not only enhances the employees' sense of fairness, but it may uncover additional information that could change the decision. Appeal mechanisms are best known in public-sector employment downsizing, but are also a common practice in private companies. An appeal mechanism is intended to ensure that the process was consistent and fair for all employees. An appeal mechanism may reduce adverse impact by providing a way to challenge discriminatory procedures directly and to present additional information for consideration.

5h. Maintain adequate documentation

It is important to maintain adequate documentation of downsizing decisions in order to ensure and to prove in court if it becomes necessary that decisions were based

on appropriate considerations. Documentation reduces the potential for discrimination by demonstrating that specific procedures were followed to guide the decision-making process to make fair evaluations. Also, some recommend the use of "justification forms" to document the reasons why each employee was selected for termination.

6. Analyze adverse impact

In the context of downsizing, adverse impact refers to a greater rate of termination of members of protected groups than for non-protected groups (e.g., those 40 years old or older vs. those under 40 years of age). Adverse impact has to do with the outcome of decisions rather than the intent. The practice of analyzing adverse impact includes conducting analyses in a timely fashion and taking action if adverse impact is shown.

For instance, ING Americas had spent a great deal of time and effort building a diverse workforce. When making layoff decisions, management focused on performance first. But before anyone was let go, adverse impact analyses were conducted to ensure fairness to protected groups and also to maintain the diversity in the workforce that was part of the company-wide initiative. Analyzing adverse impact allows management to avoid adverse impact even if it was unintentional.

6a. Conduct analyses in a timely fashion

Because of the potential for adverse impact against protected groups, it is essential that adverse impact analyses be conducted in a timely fashion during downsizings. Ideally, the analysis should be conducted after the initial decisions have been made but before the separations take place. It is also recommended that adverse impact is reviewed by EEO officials within the company.

6b. Take action if adverse impact is shown

When adverse impact is shown in the initial termination decisions, taking action allows the organization the opportunity to eliminate the adverse impact or at least to review the decisions to make sure they are justified. When an employee selection procedure is shown to create adverse impact against a protected group, the Uniform Guidelines call for elimination of the adverse impact or for validation of the selection tool or procedure. In this context, validation has the purpose of ensuring that the termination decisions are made based on job-relevant criteria, are consistent and free from bias.

7. Evaluate the process and outcomes

It is important to evaluate the process and outcomes of downsizing. This evaluation gives management the opportunity to make corrections if errors are made or improvements can be identified. Evaluation in the context of downsizing may include, in general, the identification of problems related to the procedures and gathering suggestions for improvement. More specifically, the evaluation may assess the managers' reaction to the process and employee perceptions of fairness. In terms of other outcomes related to downsizing, the evaluation may include the estimation of cost savings and the impact on the business, on employee loyalty, and on diversity.

As an example, when undergoing a restructuring in the late 1990s, Donna Karan International (DKI) continuously evaluated their downsizing processes and outcomes and made the appropriate adjustments. As a result, DKI was able to prevent employee concerns in the future. The vice president of human resources of DKI was quoted as saying that the aftermath of downsizing may be the most difficult part of the process, especially if evaluation and changes are not made along the way.

8. Ensure an informed and independent Human Resources staff

A strong and independent HR department is needed to effectively manage a downsizing, especially when senior management is focused on other aspects of downsizing other than ensuring EEO compliance. HR professionals are in the best position to help managers analyze the job requirements, anticipate staffing repercussions in the future, understand the impact on employee loyalty and morale, ensure the fairness of the process, and identify and prevent potential discrimination.

Senior management needs to trust the HR department to design the appropriate processes to ensure that these goals are met. But even if this trust is not present, HR professionals need to be able to question decisions independently and be able to push back on management when necessary. If the HR staff is not empowered, they may be reluctant to question or resist senior management downsizing decisions, even if these decisions are viewed as unjust, for fear of being terminated themselves.

For example, in several companies known by the authors, the HR staff was so concerned with their own job security that they went along with anything management wanted. They forgot their role of being independent reviewers of the downsizing process and turned their heads to bias and age discrimination. In one specific instance, the result was a major lawsuit that cost the organization millions of dollars.

CONCLUSION

In organizations, the HR department has a dual role of obtaining desirable organizational outcomes and legal compliance. Both aspects are important during downsizing. To reach both goals, we proposed a list of reasonable downsizing practices. These practices are recommended based on an extensive review of theory, empirical evidence, and professional experience. These reasonable practices can help managers ensure that they downsize strategically and plan for the long-term viability of the company by retaining the employees that are most capable of performing future work while being fair to the downsized employees. These practices, partly based on procedural justice, are expected to result in desirable organizational outcomes and enhanced legal defensibility when used appropriately.



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A complete listing of the research and practice articles supporting each downsizing practice upon which this article is based is available on www.campion-services.com.

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