



## The evolution from #MeToo to employee activism

Willis Towers Watson recently conducted a survey of 77 executives from various companies about what their greatest concerns are in the coming year. **The 2018 Management Liability (Directors and Officers) U.S. Survey** found that the top concern for 55% of those executives were claims brought by employees of the company. This is likely due in large part to the #MeToo movement, which began in October 2017 as a way to show how widespread sexual harassment is throughout our world.

### Employee walkouts and organizational responses

In September 2018, employees of a major fast food organization walked out in 10 cities during lunch to protest sexual harassment that was allegedly taking place within the organization – one of the first #MeToo-related walkouts. A couple months later approximately 20,000 employees across the globe of a major technology company banded together and walked out to speak out against how the organization handled sexual harassment claims. This walkout was not based on specific instances of harassment, but was rather focused on a more general concern about the organization's culture, where the employees perceived a lack of leadership, accountability and a concentration of power. The employees raised three key issues – sexual harassment claims subject to mandatory arbitration, the appointment of an employee representative to the board of directors and pay and opportunity inequality – the latter two were not addressed by the organization. A week after the walkout, the organization responded and made changes to its sexual harassment policies by making arbitration of sexual harassment and sexual assault claims optional, and noting that employees who do not complete the mandatory sexual

harassment training (which will now be required on an annual basis rather than every two years) will be negatively impacted via performance reviews. One day later, another technology giant followed suit and proactively made changes to its policies as well – without an employee walkout. They will also no longer require arbitration of sexual harassment claims. Additionally, executives at a director level or higher must now disclose if they are dating someone at the company.

### Evolution of #MeToo

The #MeToo movement started as a means for identifying the prevalence of sexual harassment and holding individuals and organizations accountable. These recent events demonstrate a new type of activism – one where employees are feeling more emboldened than ever and are speaking their minds with greater regularity. These events demonstrate that some organizations are no longer waiting to receive a claim, but are instead taking proactive measures to address this issue. These events, as well as recent shareholder, derivative suits against the board of directors of organizations send a clear message – it is no longer sufficient to state that an organization has not had any claims for workplace

harassment; it is instead the culture of an organization that is scrutinized. Is the culture one that enables workplace harassment, or does it promote inclusion, diversity and respect? Is it one that discourages all inappropriate behavior and not just legally recognizable harassment? What the corporate culture represents is certainly changing and organizations and boards need to be prepared to remain competitive.

## Looking ahead

While recent walkouts have been largely motivated by employee concerns over sexual misconduct, given their impact to date, we are also seeing the rationale for these walkouts expanded to other social issues, such as pay equity and workforce diversity. Faced with increasingly vocal employees and potentially damaging negative publicity, it is in the best interests of employers to proactively address these matters, similar to what some other organizations have done.

The aforementioned walkout included thousands of employees and impacted multiple offices across the globe. Management was thoughtful, expressing a degree of empathy with the employees and voiced a willingness to change. However, this specific walkout was brief in duration, which likely limited any financial impact due to lost productivity. If these walkouts increase in frequency or duration and the organization's performance suffers, it remains to be seen whether management will be as understanding. The organizations impacted to date have directors who owe fiduciary duties to shareholders to act in the best interests of the company. If employee walkouts damage the stock price or financial results, management may take a different approach.

Finally, it is worth noting that the employee actions have thus far been limited to walkouts, not strikes – an important difference. Walkouts are essentially large groups of employees leaving their workspace in protest. They are generally brief in nature. Strikes, on the other hand, tend to be longer in duration and more formalized, often requiring a vote. The distinction here is also a legal one, as the implications for a strike could be more severe than a walkout.

## Employee relations best practices

Employee relations are becoming a top priority for boards. Below are a few best practices that can be implemented to help mitigate walkouts and/or strikes relating to the issues discussed throughout this article.

1. Provide regular outlets for employees to express concerns, such as employee engagement surveys and hotlines.
2. Effectively communicate to employees any findings from the employee engagement surveys and changes that will be implemented.
3. Create guiding principles for all employees to help prevent issues before they arise.
4. Ensure leaders reinforce behaviors that are aligned with the organization's values and promote a culture of dignity, respect, inclusion and diversity.
5. Look at all of your Human Capital & Benefits programs (including purpose, work, people, pay benefits, careers, and wellbeing) to ensure that inclusion & diversity is steeped in your talent experience.

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