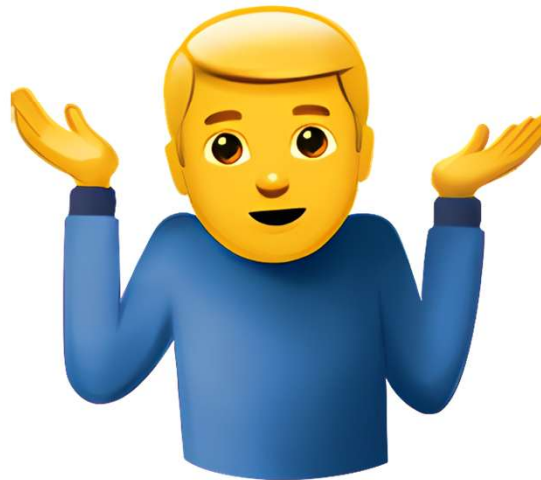


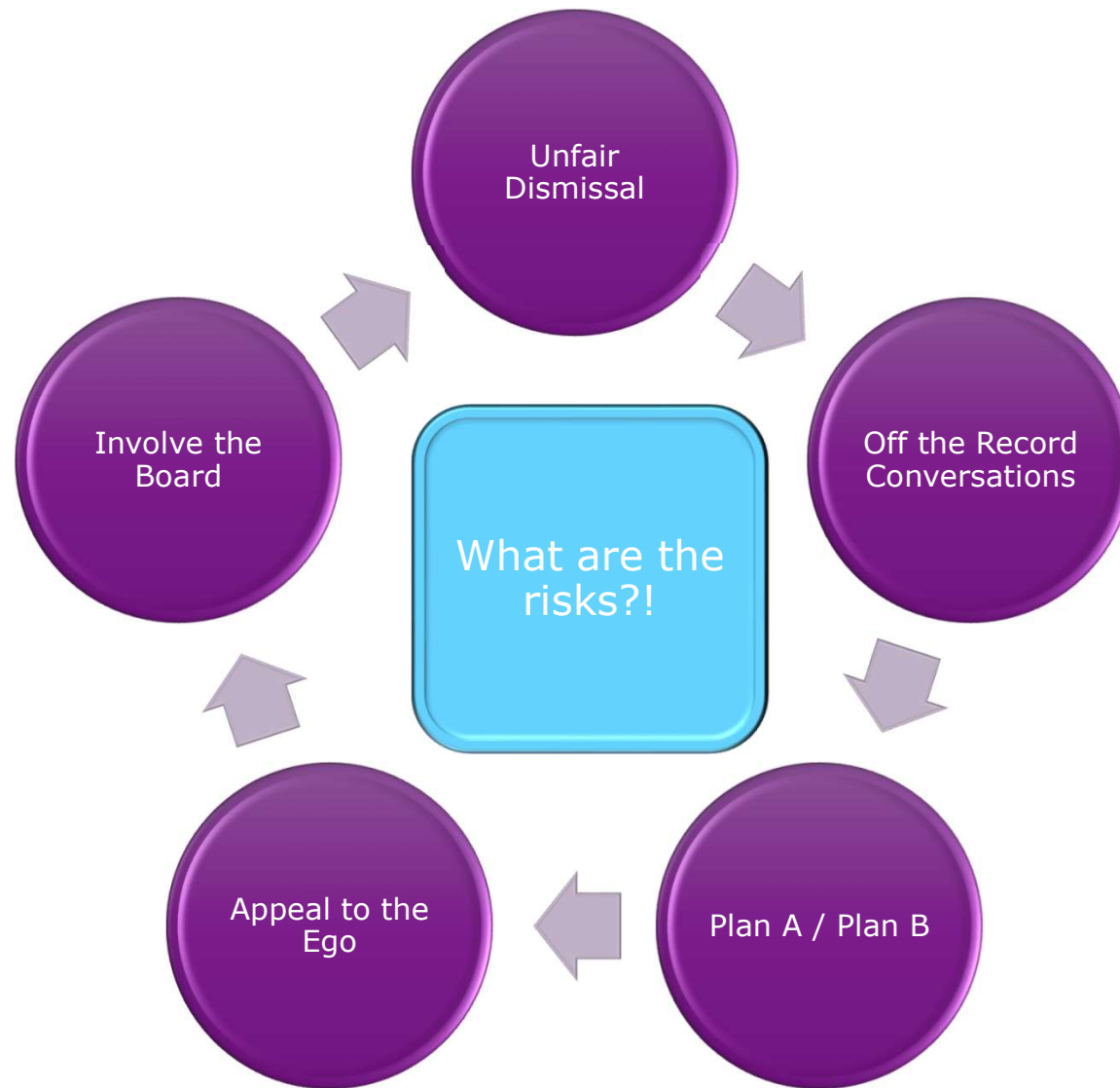
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Exit Conversations

Euan Smith

How do you de-risk exit conversations with senior employees who have lost the trust of their teams or the CEO, or were simply the wrong hire, even though they may not realise this?





Meet Joe

Joe is:

- 40 years old
- Scottish
- Heterosexual
- Not disabled
- Atheist
- Not performing very well in his role as Operations Manager in a manufacturing business to the extent that the Board has lost confidence in him.



What risks are we concerned about?

Disruption during exit

Grievance

DSAR

Sabotage

Stress absence

Lack of cooperation

Disruption after exit

Negative publicity

Competition

Confidentiality breach

Legal claims

Unfair dismissal

Discrimination

Whistleblowing

Unfair Dismissal

A reminder...

- Potentially fair reasons for termination include **capability** or **some other substantial reason**
- Employees with fewer than 2 years' service have no protection against unfair dismissal
- If Joe has only been with the company for 1 year – safe to dismiss?
 - 2 years requirement will be reducing
 - Discrimination claims or whistleblowing claims do not require 2 years' service
 - Fire first and ask questions later?

Involve the Board

“The Board has lost confidence in you”



- A collective view is less susceptible to allegations of individual bias
- It's the most senior authority in the organisation

Off-the-Record Conversations



“Without Prejudice”

- There must be an existing dispute
- Covers more than unfair dismissal
- Improper behaviour = protection lost

“Protected Conversation”

- No need for an existing dispute
- Limited to unfair dismissal

Plan A / Plan B

Plan A

- *"We'd like to talk to you about concerns about your Performance"*
- *"We're going to put you on a PIP"*
- *"Failure to meet the required standards might lead to your dismissal"*



Plan B

- *"Let's have a protected conversation"*
- *"We're worried you won't make it to the required level"*
- *"There is another option, leading to your exit with head held high"*

in case Plan B doesn't work....

Plan A / Plan B

Disruption during the exit

- Get him out of the office
- Set a time limit, then revert to Plan A
- Prohibit access to premises / people?
- Disable access to network / systems?
- Gather documents, details of benefits
- Draft the settlement agreement

*...MOVE
QUICKLY...*

Appeal to the Ego

What will make Joe **FEEL** better about the situation?

- Money, obvs...
- Agree the narrative about his departure, for internal and external audiences
- Make an announcement
- Provide a complimentary reference
- When will he go: quickly and abruptly; or after a period of transition?
- Leaving parties?

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“You never really know a man until you understand things from his point of view, until you climb into his skin and walk around in it.”

Lee, Harper. To Kill a Mockingbird. J.B. Lippincott & Co., 1960



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This information pack is intended as a guide only. Whilst the information it contains is believed to be correct, it is not a substitute for appropriate legal advice. Eversheds Sutherland (International) LLP can take no responsibility for actions taken based on the information contained in this pack.

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