General Report

MIKKELLER RECONCILIATION PROGRAMME

Author: Hand & Heart GmbH

1. Background

In January 2022, Hand & Heart GmbH was engaged to execute a reconciliation programme developed through consultation with affected former workers of Mikkeller ApS and its subsidiaries, and through a series of conversations with Mikkeller CEO and Board members. The Mikkeller Reconciliation Program sought to reconcile experiences of former and current employees who had experienced a harmful working environment during their tenure with the company - across all locations globally. This process engaged Hand & Heart as a third-party workplace investigator and reconciliation advisor. The H&H team was supported by local independent legal counsel. The mutual goal of Mikkeller and H&H, as the facilitator of this secure and confidential process, was to ensure all cases be acknowledged, documented, and reconciled in a manner that met the expectations of those who had experienced harm. The purview of the program, its purpose and intentions are outlined in the initial announcement and Q&A via the Hand & Heart Website.

Fig 1

H&H followed strict guidelines of workplace investigations per BSI Standards and the AWI processes for best practice. H&H relied on an investigative inference cycle, presented in Fig.1 below. This process was detailed to Mikkeller and External counsel in the initial phases of the Mikkeller Reconciliation Programme.

1
Case registration, initial calls, and case batching

2
Preliminary discussions and preparations with Mikkeller

3
Initial legal briefings and memos via independent external counsel

4
Dates of Statement collected from participants

7
H&H coordination of external counsels for legal analyses, arguments and consensus; assessment of initial reconciliation offers.

6
H&H coordination of external Mikkeler legal counsel

5
Collection and verification of discovery materials

8
H&H communication of offers to Participants

9
Participant response to offers. If offers were rejected, Participants provided explicit instruction and guidelines to H&H to proceed with mediation with Mikkeller

10
All cases mediated and offers negotiated to acceptance by Participants

11
Administrative protocols implemented - including verifying what information Participants required/requested for inclusion in Final Report

14
Final Report generated according to Participant requests, presented alongside final agreements, inclusive of any applicable appendices, for approval by Mikkeller General Counsel

13
Final Reconciliation Agreements and Reports distributed to Participants for signing

12
Reconciliation terms, payment terms and data handling terms are clearly outlined in the final agreements, signed by all parties.

Fig 1

3. Methodology

H&H relied on an investigative inference cycle, presented in Fig.1 below. This process was detailed to Mikkeller and External counsel in the initial phases of the Mikkeller Reconciliation Programme.
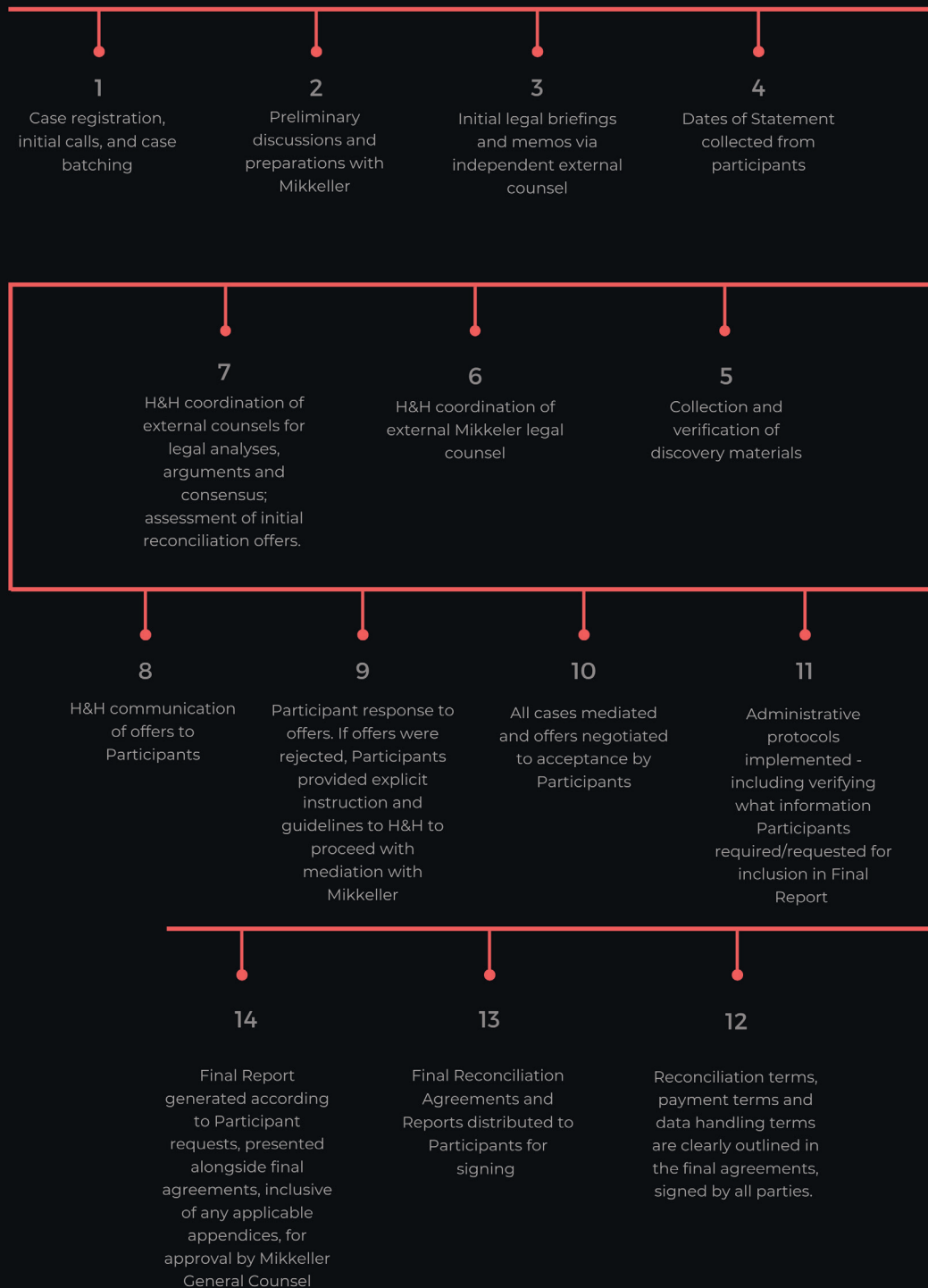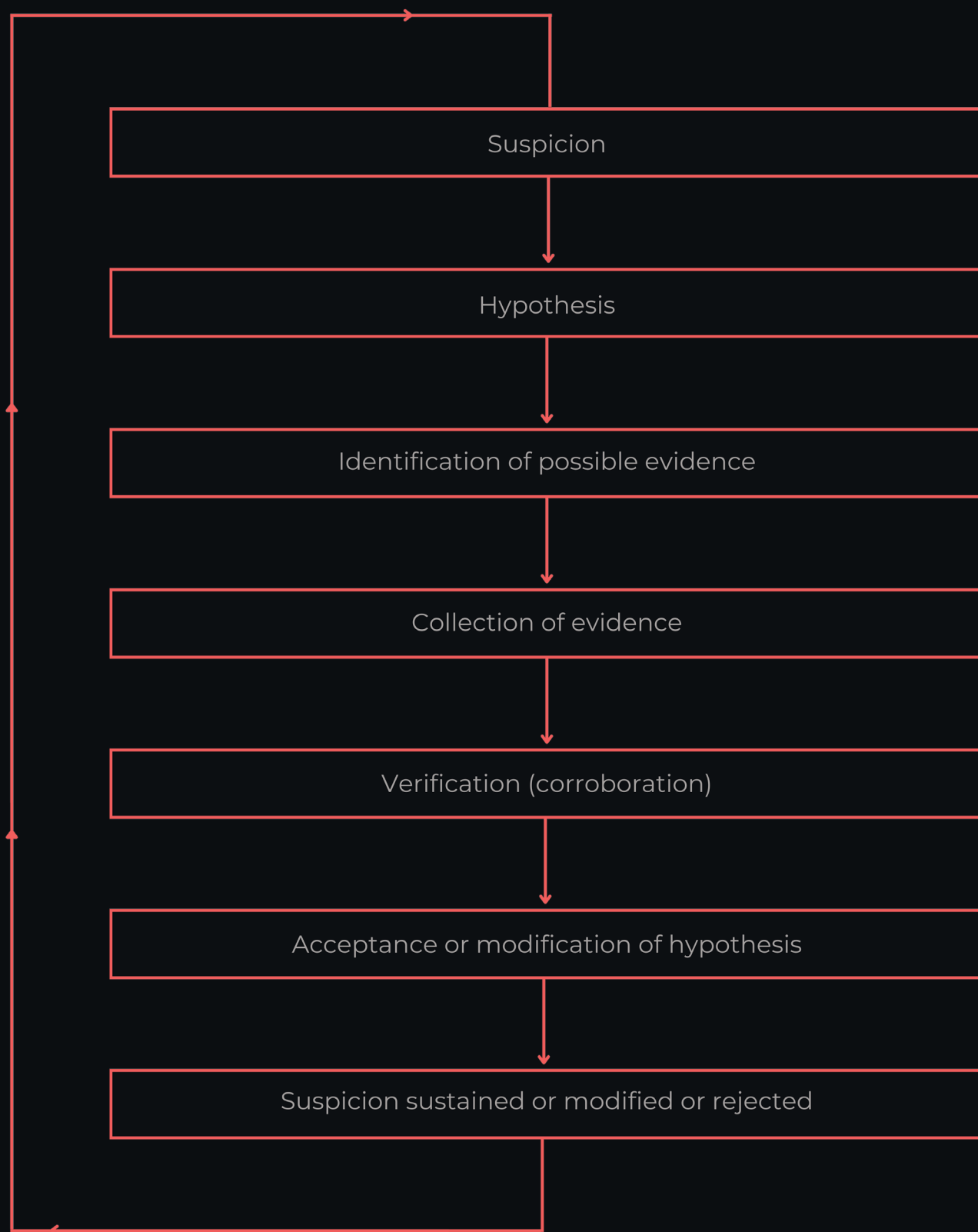
H&H collected primary and secondary testimony via in-person meetings, phone calls and/or video meetings. Through the Date of Statement, supporting documents and other evidence was identified by the Investigator and provided digitally by the Participant. Discovery materials were catalogued, held for further investigation, constituting the basis for outcomes in the MRP. Where factual disagreements occurred, both parties presented and analysed evidence in a cooperative fashion to agree on the basis for any legal analysis.

All information collected by H&H through the processes outlined in Background and/or above, was distilled into a report for analysis by H&H external legal counsel. Legal analyses were returned by counsel alongside recommendations, and were submitted to Mikkeller counsel for consideration. Through mediation, the recommended reconciliation quantum was achieved and subsequently presented to the Participant.

Fig 2

Suspicion

Hypothesis

Identification of possible evidence

Collection of evidence

Verification (corroboration)

Acceptance or modification of hypothesis

Suspicion sustained or modified or rejected

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4. Mental Health Impacts, Workplace Insights & Suggestions For Mikkeller

Impacts of Harmful Culture/ Consistent Bullying / Daily Interpersonal Conflict on Workers

Hand & Heart defines a "harmful culture" as one that consistently, over time, does not address the needs and concerns of employees. Particular features of harmful cultures include complacency over reports of and acquiescence to abrasive leadership; low employee morale and overwork remaining unaddressed; unequal application and/or lack of consequences or outcomes regarding reported behaviours and experiences; and consistent state of fearfulness and/or insecurity in employees regarding treatment in the workplace and/or job security. Colloquially this is referred to as a "toxic workplace." A harmful culture often initially presents symptoms of issues around protected characteristics, particularly gender, race and/or ethnicity.

Harmful cultures and problematic behaviour in the workplace can have lasting negative effects on employees. In an external work culture study performed in the UK, in 2019 by Hand & Heart for a multinational company with an equivalent workforce to Mikkeller, it was found that two in five employees had experienced problematic behaviour, such as bullying, harassment and/or discrimination at work. 42% of employees reported impacts of toxic workplace culture on their mental health. More than a third of employees had felt silenced on issues that mattered to them in the workplace and two thirds of those who had experienced problematic behaviour in the workplace reported the subsequent negative impacts on their confidence and ability to seek alternative employment. Moreover, 67% had experienced anxiety due to workplace bullying, and 29% had taken leave due to incidents at work such as bullying, harassment, discrimination and/or sexual misconduct. The study found 71% of affected employees had to seek therapeutic interventions, demonstrating the prolonged impact negative workplace cultures can have on individuals, and that the rates of depression, anxiety and suicidal ideation were the greatest in this group.

Witnesses of bullying fall into two groups, bystanders and interveners who act to stop bullying. Bystanders often are marred by a true fear of retaliation and experience upset because of the conflict between their fears and will to intervene. Bystanders as a result experience increased anxiety and depression that affects their productivity and performance; and can result in increased use of alcohol, tobacco and other substances. Interveners at times experience positive outcomes including increased self-esteem.

Bullying

Bullying behaviour can take a tremendous toll on the mental health of targets and witnesses - causing depression, burnout and even symptoms of Post Traumatic Stress Disorder (PTSD). Bullying can contribute to intense feelings of helplessness and hopelessness; and victims who experience frequent and persistent bullying are at greater risk for suicidal ideation. Moreover, organisations with employees that report bullying often experience reductions in work quality and productivity, as well as lower levels of employee collaboration, decreased loyalty and lower rates of employee retention.

Investigators are sometimes called upon to investigate alleged bullying behaviour and those serving in HR positions or employee trainers are at times asked to assist organisations in implementing corrective measures.

Clear guidance exists for the investigation, assessment and subsequent consequence of harassment and discrimination. Bullying is an encompassing term which suffers from a lack of common definition in law but also academia, which makes its investigation and correction more cumbersome. Bullying conduct can include abrasive conduct, emotional abuse, aggression and microaggressions and is often subjective. The subjectivity and broadness of potential bullying behaviours represent challenges in recognising bullying behaviour, consequently representing challenges for addressing bullying and implementation of corrective action.

To effectively investigate and affect workplace bullying, it is necessary to be able to recognise it. Academically recognised behaviours which fall within the remit of bullying include:

- Abusive conduct that may create an intimidating atmosphere at work
- Psychological or physical harm to targets and witnesses
- Psychological power imbalance between the person engaging in bullying behaviour and the targets and witnesses.

A different kind of psychological power imbalance often exists between the person engaging in bullying and organisational leadership in which bullying occurs, who frequently perceive individuals charged with bullying as important in terms of profitability or efficiency. Leadership may fear that aggressive leaders who are called out on their aggressive behaviour will leave, and their abilities to bring in money or get results will go with them. As a result, people engaging in bullying sometimes feel empowered to continue without fear of repercussions.

Impacts of Sexual Harassment on Workers

Sexual harassment experienced by workers, and in particular when perpetrated by a superior, is related to poorer mental health. This is indicative in thousands of substantive studies in the U.S., U.K., and the EU. Sexually harassed women are substantially more like to experience symptoms consistent with a major depressive disorder and elevated anxiety, sometimes and often resulting in a clinical diagnosis. These experiences may depend on the severity or chronicity of the victimisation history. Sexual harassment is associated with an increased odds of poor sleep consistent with clinical insomnia. Notably, poor sleep, depressed mood, anxiety, are themselves linked adverse physical health outcomes - and thus, in a workplace environment, sexual harassment is frequently the direct catalyst of adverse physical health outcomes, especially for women or non-binary identified persons.

As a traumatic or distressing event occurs, it may overwhelm normal coping mechanisms and as a result the memory and associated stimuli are inadequately processed and stored in an isolated memory network. It is almost as if the brain is rewired to focus only on the traumatic event and its associated emotions as if the event was constantly on repeat in the brain. When this occurs, these memories will have lasting effects and will be repeated over and over as if the individual is re-experiencing the

trauma for the first time because the sounds, smells, images and feelings were not adequately processed and stored.

Those who have experienced sexual harassment or a consistently sexist environment may feel out of control or powerless after experiencing a traumatic event and as a result, they use restricting or binging behaviours to control that aspect of their life in order to hide their feelings of shame, hopelessness and fear. Other self-destructive behaviours that are used to self-medicate after a traumatic event is non-suicidal self-injury, which includes cutting and other forms of self-mutilation in order to release feelings of guilt and anger. Eating disorders like other self-destructive behaviours are ways to maintain control while distancing oneself from the pain. Others may not even realise their loved one is strongly affected by the traumatic event because they are able to bury their emotions through their eating habits to the point the individual may completely forget why their eating disorder began in the first place.

Workplace sexual harassment stems from hierarchical power dynamics and the majority of sexual harassment complaints include a subordinate and a higher-level position. Regardless of the level of power or the gender, sexual harassment results in higher levels of depression, anxiety and eating disorders on a long-term basis. This is because sexual harassment is a form of psychological and physical trauma.

From MCLAUGHLIN, UGGEN and BLACKSTONE (2017), the following summary from "THE ECONOMIC AND CAREER EFFECTS OF SEXUAL HARASSMENT ON WORKING WOMEN" provides academic analysis on the direct effects of sexual harassment on women in the workplace:

Such harassment undermines women's workplace authority, reduces them to sexual objects, and reinforces sexist stereotypes about appropriate gender behaviour (McLaughlin, Uggen, and Blackstone 2012; Quinn 2002). Because many targets quit their jobs rather than continue working in a harassing work environment, sexual harassment may have long-term consequences for women's careers. Throughout their twenties, young adults experience frequent job change as they find their footing on the "long and twisting path to adulthood" (Settersten and Ray 2010, 19). As a result, measuring the direct and indirect effects of sexual harassment for women's careers is difficult. Sexual harassment can have deleterious consequences for mental and physical health (McDonald 2012; Willness, Steel, and Lee 2007). Houle and colleagues (2011), for example, point to the longevity of these effects, as targets of harassment continue to report depressive symptoms nearly a decade later. The same study links sexual harassment to other aspects of mental health, including anger and self-doubt, which likely influence targets' future employment experiences. Given these serious health effects, it is not surprising that sexual harassment affects immediate work outcomes, such as reduced job satisfaction (Chan et al. 2008; Fitzgerald et al. 1997; Laband and Lentz 1998), increased absenteeism and work withdrawal (Merkin 2008; U.S. Merit Systems Protection Board 1988), and deteriorating relationships with co-workers (Gruber and Bjorn 1982; Loy and Stewart 1984). Organisational commitment may also wane if employers fail to adequately address harassers or protect targets (Willness et al. 2007).

Impacts of Abrasive Leadership on Employees

"Abrasive" is defined as harsh or rough in manner, describing the characteristic interpersonal style of abrasive leaders. Simply put, they rub their coworkers the wrong way. Their behaviours, characterised by aggression, damage work relationships to the point of disrupting organisational functioning. Aggressive behaviours can range from mild offence to open attack: the words and actions of these individuals create interpersonal friction that grates on subordinates, peers, and/or superiors, grinding away at trust and motivation, and ultimately disrupting the smooth flow of work. Abrasive leaders can inflict deep wounds and intense suffering in employees.

To reiterate, abrasive leadership adversely affects employees, erodes effectiveness and paralyses productivity. The academic literature on workplace mistreatment is fragmented and ranges from low-level workplace incivilities to more aggressive behaviours where intent to harm is clear. Examples of abrasive behaviour include, but are not limited to: rudeness, downgrading or demeaning another's capabilities, public ridicule and disrespect, swearing and shouting or other verbal abuse, failing to control bodily functions, chronic complaining, excessive reassurance-seeking, singling out, ignoring, constant targeted criticism or gossip, violating confidentiality and work interference that sabotages outcome. From a corporate bottom line perspective, abrasive management causes work disruption that can be measured by the following metrics:

- Attrition of valued employees
- Decreased morale and motivation, results in lower productivity
- Higher incidence of stress-related illness and substance abuse
- Higher turnover rates
- Presenteeism- employees focus on the pain of the abrasive behaviour- hence, not on duties and responsibilities- paralysis takes over
- Increased legal actions based on hostile environments
- Retaliatory responses such as sabotage – employees and management might take out their frustration and anger with patients and may begin to gossip about the working conditions & post on social media groups

Abrasive leaders are generally "blind" to the pain they cause, and this condition is often compounded by a lack of feedback as well; most hear very little about their conduct from others, essentially functioning in a feedback vacuum. Subordinates are understandably reluctant to directly voice concerns for fear of adverse reactions, and peers normally don't see it as their role to provide unsolicited feedback. The abrasive leader's superior may not be aware of the distress experienced by those lower in the organisation's structure, or may buy into the abrasive leader's description of "whining, complaining employees."

One study showed these results reported by employees who had experienced the effects of an abrasive leader:

- 48% intentionally decreased their work effort
- 63% lost work time avoiding the offender
- 66% said their performance declined
- 78% said their commitment to the organisation declined
- 12% left their job because of the experience

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5. Suggestions from Hand & Heart to Mikkeller

Through the program, Hand & Heart have or are making the following suggestions. Mikkeller has no contractual obligation or requirement through this program to act or implement these suggestions.

1. Systemic Historical Investigation

a. Outside of the MRP, it is strongly recommended a systemic historical investigation is conducted into any and all complaints within the last five years that did not reach a formal resolution; i.e. an agreement and acknowledgment of incidents and recourse.

b. Such an investigation will ensure all incidents and cases are recorded and be acknowledged by the company and ultimately resolved.

c. Incidental outcomes of such an investigation will also allow for the identification of compliance issues across the organisation, as well as process and procedural problems which are crucial for creating improved HR processes designed to appropriately address workplace issues.

2. Financial Impact Report / Attrition Study

a. Staff attrition refers to the loss of employees through a natural process, such as retirement, resignation, elimination of a position, personal health, or other similar reasons. With attrition, an employer will not fill the vacancy left by the former employee.

b. Employee turnover is when an employee who needs to be replaced leaves an organization. This is thought of as preventable (or regrettable) turnover and can be costly. It's usually directly related to the job or organization, say if an employee isn't happy with their role, manager, team, culture, work environment, or conditions.

c. Financial Impact is a metric which is highly important for understanding, addressing and setting benchmarks for performance.

d. Exit interviews and continuous feedback models should be implemented. Whether it's through 1:1 conversations or pulse surveys, the organisation needs to be talking to their staff about their wellbeing, workload, and general feelings about the company. Through these models, understanding the financial impact of a staff member leaving will enlighten management as to the material costs of impulsive decision making or allowing toxic environments to fester.

e. Through the MRP, we can understand the harm and damage the historical

issues have caused individuals. The Company is not exempt from this harm, and considering the costs associated with a poor working environment, it is paramount to first implement change with clear goals, but to sustain that change as well.

f. The company should consider the costs associated with turnover:

    I.   Productivity decline during a staff member's notice period

    II.   Sick days taken (disengaged employees have a 37% higher rate of absenteeism than engaged ones, according to Gallup)

    III.   Gaps/disruption to the business and team if the position is left unfilled or other team members have to pick up the slack

    IV.   Impact on culture, loss of morale or the negativity that an exiting staff member sometimes spreads (and can be quite contagious)

    V.   Customer experience – the disruption of a customer's relationship with the employee or their experience with a new and inexperienced person.

    VI.   If recruiting internally, the opportunity cost of the time of those who are involved (i.e. the hiring manager's time spent interviewing)

    VII.   Costs onboarding a new staff member:

        i. Opportunity cost of the time of the new starter and other staff involved in onboarding and training
        ii. Lower productivity and mistakes while they ramp up to peak performance
        iii. Strain on current team members to support
        iv. Culture/team disruption

g. Cultural Assessments

    I.   A cultural assessment is an internal process by which organisations can evaluate their overall workplace culture. Such an assessment typically aims to analyze both the implicit and explicit beliefs and attitudes held by an organisation and fostered by those associated with it.

    II.   The company, especially in this tenuous and stressful period of recalibration and organisation change, should be conducting cultural assessments every three months both on a company-wide level and in individual development plans and meetings.

3. Development of Mitigation Processes Specifically Around DE&I

a. It is suggested the Company implement Mitigation Processes around DE&I particularly for consumer facing products. It is suggested that the company calibrates its policies with tangible defined processes.

    I.   i.e.; Beer Labels: The company's policy is zero tolerance on racism of any kind. The current system and the current cultural awareness within the organisation does not mitigate the potential for racial or protected class offences. By having

a review system integrated with DE&I infrastructure, with checks and balances and an overall C Level Commitment to understanding DE&I issues, the company would be less likely to go to market with racist or protected class offensive labels.

II. Workshops and Cultural Mapping: multinational corporations should consider what might be inoffensive in one culture, is not in another. This does not excuse offensive behaviour and any company who wishes to profit from within a cultural market, should be adapting their culture (consumer facing and internally) to reflect the respect for that culture they seek to profit from. Understanding the culture map of the organisation and ensuring this map can be sustained, alongside utilising standalone workshops and similar, would greatly improve intercultural relations and the overall cultural health of any company, but specifically this, Mikkeller.

4. Development of People & Culture Infrastructure

a. HR has been a dismissed component of the Mikkeller organisation since its inception. The Company does not have the adequate experience in HR operations to enhance and develop the program.

b. Nearly every business will create more formal HR processes and departmental structures as they grow. This development is a response to the need to acquire talent, increasingly complex compliance demands and culture challenges that arise with new staff.

c. In the last decade, this approach to HR & Business Infrastructure has unfortunately led to spikes in mistreatment of workers across the board.

d. It is suggested a company like Mikkeller has a devoted C Level in between the COO and CEO that is entirely independent with decision-making capacities regarding cases, reports, policies and budgets. The skills HR practitioners bring to the table, as virtually no single professional is strong in all required HR competencies. It may be more advantageous to outsource certain aspects, such as payroll and benefits and even cultural development as well as implementing a degree of digital and technical automation not currently present in the organisation.

e. Any company can have fantastic written policies; however their utility is nil unless they are implemented effectively. The "rule of thumb" for actually implementing and managing policies, as well as general HR duties, is 1.4 full time HR staff for every 100 employees.

f. While small and mid-sized (5-100 employees) businesses do need HR support, research shows that most owners and key executive staff do not feel confident managing these responsibilities. Industry research also shows that owners and executives in smaller organisations spend as much as 12 hours every week on workforce administration (Source: SHRM):

- 45% of business owners spend 1 day per week or more on HR administration
- 54 percent of small businesses handle employment matters themselves
- Less than 50 percent of small-business owners are very

confident about the way their companies handle HR
- 70 percent of businesses with five to 49 employees add HR onto the workload of employees with little to no experience in workforce issues

g. While Mikkeller is a much larger organisation and the statistics do not directly apply, there can be no denying the time and skillful burdens of managing HR—with or without expertise.

h. It is suggested to the Company to determine which aspects of HR and workforce management can and should be handled internally. To make this determination, the company should examine what strategic and financial value is added by managing each part of HR administration. It is a very strong suggestion that the HR administration is considered in two areas, people and processes, in the future.

i. The company should have prescribed disciplinary consequences for complaints, or other issues, and there should be no exceptions to this rule.

5. Rehabilitative Training for C Levels and Management, and/or Coaching

a. "Bad Bosses" are the consistent factor of variance in employee engagement scores. Nothing – not wages, not benefits, not work environment – impacts employee engagement (and related metrics like attrition) as strongly as a bad boss.

b. Any employee who was trained by abrasive leaders who have left the organisation in the last year should undergo rehabilitation training with a professional to recalibrate their management style.

c. Establishing a positive, supportive and coordinated approach through empowering and informing these managers is vital to ensuring the success of cultural changes within the organisation.

d. An ounce of prevention is worth a pound of cure, as the saying goes. Review hiring procedures, as well as any leadership development programs the company has in place. Better candidate screening, hiring, and training procedures can go a long way to prevent problems before they arise.

6. Workshops and/or Coaching

a. The Company should be implementing workshops and/or direct employee coaching regularly within the organisation. These workshops should be focused on key issues understood and highlighted in employee engagement, both direct and one-on-one.

7. Reporting

a. It is suggested that the company completely revises its reporting system and strategy, and for the betterment of staff and re-establishment of trust, look to external third parties for a solution. Further, there needs to be adherence to investigation practices as well as strictly followed processes for reaching outcomes.

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