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Balancing individual rights of workers with company health objectives can prove to be a tricky business

MUTUAL BENEFITS

The idea of an employee being forced to keep fit and healthy – and coerced to have their annual health tests (among other things) – seems to fit more into a dystopian vision of the future than modern-day life. But it is not as outlandish as it may first appear. Just ask the American woman who lost her job for refusing to do something as banal as having a flu shot.

Respected media outlets such as the Huffington Post, CNN, Bloomberg and the Wall Street Journal have been addressing the topic of personal health and employee rights in recent months, and this prickly topic is becoming more and more pertinent as billions are lost to absenteeism.

This coincides with the rise of corporates that are focusing much of their time, money and energy on keeping their workers healthy. Employee-wellness programmes have become a billion-dollar business globally as savvy corporates increasingly recognise the benefits of healthy workers.

According to Forbes, a multibillion-dollar industry has popped up virtually overnight, and today more than 90% of all large employers in the US reportedly offer a dedicated wellness department.

It's not merely a nice to have – it makes good business sense too. It is also seen as a response to a number of socioeconomic trends, including the crippling cost of healthcare; growing insight into how poor health can negatively impact staff's ability to deliver on their responsibilities; the development of tools to evaluate lost productivity and increased absenteeism; rising societal pressure to live healthy lifestyles; and the emergence of the millennial employee, who is perceived to demand more from the institution they work for.

'A well-structured and well-executed wellness programme can be beneficial to both employer and employee,' says Gabriele Cillié, AfroCentric Health's business development head. He refers to studies by leading firms such as PwC and Towers Watson, which have found that these programmes reduce absenteeism, increase productivity and reduce staff turnover, often by significant numbers.

'Fit and healthy employees tend to have more energy, which results in sustained energy throughout the day – this allows employees to be more focused when completing tasks,' says Michelle Esterhuizen, HR manager of Workforce Holdings. 'Employees who are dedicated to achieving their personal health and fitness goals tend to apply the same principles to their performance in the workplace.' She adds that when it comes to companies



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TARINA KEMP, CONSULTING PSYCHOLOGIST, WORK DYNAMICS

promoting a healthy lifestyle in the workplace, SA is still developing, but 'trends such as employee wellness days are fast becoming very popular in the South African workplace'.

It appears, anecdotally, that most people perceive wellness programmes positively and appreciate the framework of support offered by their companies. And it's not all about Google-esque nap pods, mindfulness classes and free massages. Annual wellness weeks, a half-price massage, a talk on spinal alignment and a quick cholesterol and glucose test seem to suffice for most of us.

The bottom line is this – if people are healthy at work, they do their jobs better and employers see less burnout and lower staff turnover. But when does support become intrusive and controlling?

Take for example the case reported by CNN in which an employee of a company in Massachusetts was fired for failing a nicotine test (the company, Scotts Miracle-Gro, had a no-smoking policy). The

employee sued, saying this impinged on his privacy and civil rights. The case, which is still pending, is sure to be one of many though, as some companies prohibit their employees from smoking anywhere – even at home.

Meanwhile, in an article on employee wellness programmes, Bloomberg related the story of employee Dale Arnold, who worked for Wisconsin plastics maker Flambeau. When Arnold declined to take his work-sponsored health assessment and biometric screening, his company withdrew his health insurance. Flambeau, like many US employers, uses a wellness programme to cut medical aid costs by encouraging healthy employee habits. Offering in-office health tests was all about saving money.

It seems to have gone a step too far now though, with some companies refusing to offer healthcare to people who don't participate. Employees are often coerced into opting for more expensive health insurance programmes as a result. ▣

It's not just health insurance that's causing employees to feel unwell. The issue of incentives is also coming under fire in the US.

Incentives can be provided in a number of different ways, including discounts and surcharges to premiums, reductions in cost sharing (such as deductibles and co-payments), gift cards, giveaways (such as movie tickets), and contributions to health savings accounts.

In the US, employers that offer financial incentives to workers who take part in wellness programmes that include screenings for blood pressure, cholesterol and body mass index are increasingly being challenged by the country's Equal Employment Opportunity Commission (EEOC).

In one case, the commission filed a suit against multinational conglomerate Honeywell International, claiming that the company's wellness programme isn't voluntary and therefore violates federal law.

In a press release, the EEOC announced its request for a restraining order. 'Under the [Americans with Disabilities Act], medical testing of this nature has to be voluntary... The employer cannot require it or penalise employees who decide not to go through with it,' stated the commission.

In the Honeywell programme, employees and their partners are required to have blood drawn to test their cholesterol, glucose and nicotine use, in addition to undergoing BMI and blood pressure tests. Anyone who refuses is subject to a \$500 surcharge on health insurance premiums and could lose up to \$1 500 in Honeywell contributions to a health savings account.

To many, this appears severe and flies in the face of the initial rationale behind wellness programmes. And herein lies the crux. How does a company care for or nurture employees without treading on their civil liberties and crossing the privacy line?

Fortunately, in the less litigious SA, intrusive wellness programmes that overstep the mark have not become a burning issue. 'Because it is not done in SA, I don't consider it an issue at this stage. Yes, companies want their employees healthier but can only encourage them, not force them,' says Cillié.

According to Jeandie Leone of Workforce Holdings' legal department, applying specific health requirements to all employees alike may be discriminatory depending on the circumstances, which in turn would contravene both the Constitution and Employment Equity Act.

'Where specific health requirements are inherent to a particular job, such requirements may be justified, such as with mine workers, who are required to fit a certain bill of health in order to be employed

WORKPLACE WELLNESS IN SA BY NUMBERS



The average **reduction** in sick leave at companies that implement **employee wellness programmes**



The overall annual **cost** of absenteeism to the **country's economy**



The number of **employees** in a **workplace** that experience symptoms of **depression**



The amount **lost** every year as a result of **colds** and **flu** alone

The **growth** of absenteeism between **2001** and **2011**



Sources: Adcorp, Global Hygiene Council, Officevibe, WHO

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and subsequently maintain their employment,' she says. The Occupational Health and Safety Act, which applies to all industries not regulated by other specific legislation, obliges an employer to ensure a safe and healthy working environment, adds Leone. Where health requirements are not formulated for this purpose, or are not an inherent requirement to perform in a specific position, they may not be justified and the employer will not be able to force compliance.

'In short, where a specific health requirement has no impact on the employee's ability to perform, or there is no danger to other employees, an employer will have difficulty in implementing the proposed requirement.'

The general perception of employee wellness intervention is the belief that employers should not interfere in the personal lives of employees, according to Tarina Kemp, consulting psychologist at Work Dynamics. But, she says, employers do have the right to set performance standards and establish sanctions against those who do not meet them.

So what is the ideal course of action for employers with regard to best practice and legislation?

'Companies need to consider three aspects in relation to the health and wellness of their

employees. Namely, what are they legally bound to do? What is the moral thing to do? And, what are the financial considerations?' says Kemp.

Employers, by means of wellness programmes, have a moral responsibility to protect their employees. It is therefore important for companies to identify factors that have a crippling effect on the performance of an employee in the workplace and make suitable corrections.

Many companies are not yet familiar with the human capital investment principle, argues Kemp. But if a company has highly skilled employees and a focused strategy, it should result in growth and profitability. To do so, 'companies need to recognise the importance of investing in their employees by building competence and creating a climate for productivity via wellness in the workplace', she says.

Of course, a one-size-fits-all approach does not work when it comes to wellness, as each workplace and organisation has specific dynamics and needs. Customised wellness solutions are also recommended in achieving an authentic programme that allows employees to feel they are not simply a saving on a spreadsheet but rather a key part of a happy, healthy company culture. ■