

HR'S ROLE IN DIVESTMENT

CRF members recently gathered to discuss HR's role in divestment. This summary shares some of the key takeaways from the discussion, with insights from **Emily Clark** (Bird & Bird), **Neil Foulger** (Liberty Global), **George Goudriaan** (ABN AMRO), and **Richard Stokes** (formerly of Aggreko).

- Some organisations lean on lawyers and consultants for divestment work, which may not be cost-effective if there is an ongoing or regular need for support to MA&D activity.
- The contingent workforce might provide opportunities to bring talent in as needed for divestment work. However, organisations need specialist agency support or to be well-connected to access the network of such individuals. One attendee said that, while it sounds like a good idea, in reality, they are not finding success with this potential solution.

FORMING A TEAM

With divestment, as with mergers and acquisitions, the value is often in the people. This means HR has a key role to play in the success of a divestment.

But HR capability and/or availability to form or join a team is a challenge.

- It's difficult and expensive to maintain a dedicated team, because organisations usually don't know when a divestment is going to happen. The work requires very specific knowledge, and people who have this knowledge might not be available when a divestment arises. We have, however, identified some larger companies who do maintain a small HR MA&D team who become specialised and work closely with Finance and Strategy functions to deliver transactions.
- In other cases, companies may have a dedicated or part-time lead HR person who supports such transactions. This individual can then draw on the wider functional resource when needed. This allows for expertise and common process to be developed and reused. This individual is 'plugged into' the other M&A teams in the organisation and keeps abreast of upcoming M&A activity.
- Attracting HR people to divestment work is relatively easy – it's perceived as strategic and a good opportunity for career development. And from the organisation's perspective, it's an opportunity for talent to learn and grow in a pressure cooker environment. However, people sometimes become less enthusiastic when they see how much extra work is entailed (weekends, evenings, work done in addition to, not instead of, the day job) and that the work can be tedious. Unconventional hours are the nature of divestment work – it's not possible to be flexible. As ABN AMRO's George Goudriaan said, "Learning things sometimes requires working outside the 9 to 5."
- Flow-to-work or agile resourcing models might be useful for forming divestment teams.

HR'S ROLE

HR has an essential role to play in the process of divestment. When the HR team (together with the business) manages the trajectory of a divestment well, everyone benefits. Remaining staff benefit because they see how well such processes are managed, departing staff benefit because they become / remain ambassadors to the previous organisation, the business benefits due to the smooth transition, and stakeholders benefit as clients remain to receive good service.

MANAGING PEOPLE ASPECTS OF THE DIVESTED COMPANY

People and emotions are at the heart of divestment, which makes it a complex and potentially painful process.

- Employees sometimes have a clear view of whether they want to be part of the spinoff. They can be vocal about this, and can get very creative about trying not to go or indeed trying to align themselves to be part of the divested area as they wish to transition. Part of HR's role is to manage this versus the legal obligation for those who work in the defined business area to go with the disposal.
- Investors, customers, and employees have greater expectations now of employers with respect to purpose and responsibility. Consequently, do companies care more about the what and how of 'disposal'?
 - How people are treated during divestment poses external and internal risks, to brand, reputation, and retention. Consider the recent P&O Ferries scandal in the UK – the damage to the company's reputation is likely to last for decades. With respect to retention, employees who remain are watching how employees who go are treated.
 - Some companies try to uphold principles by setting conditions for the buyer around how employees going with the divestment will be treated. They may express views about maintenance of certain specific benefits, particularly pensions schemes, but this may be easier

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for large companies; smaller companies may have little influence over the buyer (*note: while benefits in general are protected by legislation in most jurisdictions the specific 'equivalent' benefit may not exactly match the current provision certainly in the eyes of the employees*).

- A company's interest in supporting their divesting employees may also be related to the organisation's degree of paternalism.
- For companies that do take an active role in the post-divestment employee experience, it can be useful to engage trade unions (if the workforce is unionised) to help. There is an 'art' with respect to how and when these stakeholders are involved, but they can be a useful lobbying force.
- The buying company, in many cases, needs the people to make a success of the acquisition. People need to be incentivised and fully engaged; the management team of the new entity is very important. If the skills being acquired are hot skills, the buyer should remember that people have a choice too, and can simply walk away. HR at the divesting company can help highlight these risk factors to the buyer.
- Risk analysis is critical. HR has an important role to play in raising any red flags, and emphasising the commercial imperative to take the time, energy, and effort required to thoroughly explore people-related aspects of risk.
 - From a PR perspective, there were many red flags at P&O Ferries. While the decision, taken in the Middle East, and in line with industry practice, likely made sense on paper, the company got caught out because it didn't read the room correctly (for example, taking action over school holidays, doing it over Zoom). The damage to the company is likely to be long-term and deep.
 - One attendee shared the view that companies frequently divest without care for employees; P&O Ferries simply got caught.

MANAGING PEOPLE ASPECTS OF THE REMAINCO

Equally important, but sometimes neglected, is the attention and care given to those who remain after a divestment.

- HR should articulate a positive message about the future for remainers. They shouldn't feel left behind, wondering if the others are going to a prosperous future while they are left behind.
- HR needs to be clear about what has changed and how those changes impact roles and responsibilities. Is there less to do? Are there different things to do?
- Is there scope for some kind of retention bonus for remainers? What if people have worked hard on a deal, but don't get a retention bonus because they are staying? Or is that just part of their job?
- CEOs can present a special challenge. Buyers often to want to put in their own CEO, unless they are buying outside their core business – for example, a bank buying a fintech start-up might need the CEO's knowledge (these CEOs might not be energised for the new company, though). For those CEOs who are left behind, should they be retained in some capacity? Some organisations do so. As one attendee explained, "They are good talent, so we carry the cost to wait for the right next opportunity."
- In general, clear communications to the whole remaining organisation is important to position the disposal in the context of company strategy and to reassure, if possible, those staff who fear further disposals could jeopardise their future careers.

FURTHER READING:

CRF. 2021. *Delivering Value Through Mergers and Acquisitions: HR's Critical Role*. <https://www.crforum.co.uk/research-and-resources/research-report-delivering-value-through-mergers-and-acquisitions-hrs-critical-role>