The Sunday Business Post
February 9, 2014
Money Plus

People Problems

Relationship Breakdown

BY GERALD FLYNN

Sometimes Marks & Spencer sales offer good value. Prices are regularly marked down, at the store manager's discretion, until someone takes them off the rack. Often, they are sold below cost to clear items. These below-cost sales are not announced, but staff usually get 48-hours' notice as they may be needed to work an early shift to mark-down price labels.

As duty manager in M&S's Longford branch, Rachel Bermingham oversaw such preparations for a sale in July 2010. While doing so, she bought some clothing items about 30 minutes before opening, as did other staff.

Bermingham's store manager maintained that her actions constituted "gross misconduct", because she had made her purchases before the shop opened, using a cash till that was logged on in the name of another person.

Bermingham told him that she did not think she had broken any rules as she had heard of staff buying sale items in other M&S outlets and she had not realised that someone else was logged in on the cash till.

The manager dismissed her and gave another salesperson a final written warning. He did so on the basis that, he believed, Berminghan had breached two sales reservation policies by using a till logged to another person and by shopping on company time, which he said constituted "stealing company time".

As duty manager, his belief was that Bermingham should uphold company policies rather than breaching them. He did not contact the company's regional HR manager regarding the matter, nor did he interview the other sales person whom he served with a final warning letter.

Bermingham told an Employment Appeals Tribunal that the day before the sale, she had discovered the sex of the baby she was expecting, and had subsequently bought more than 20 baby clothes items.

She was asked by another staff member if it was alright to buy items and she, in good faith, advised that it was. On the issue of "stealing company time", she said that she had taken a shorter break and had started work that morning earlier than scheduled.

Two weeks after the sale, Bermingham had a performance review meeting with the shop manager, which took five hours. She thought that the failure to set any goals for her for the following year was peculiar. A week later, she was told that she had seriously breached M&S policy and was given one hour to prepare for an investigatory meeting.

She told the EAT that her understanding was that staff could not reserve or order items in advance of a sale, but the policy made no reference to actually buying the item on the day. On using the till, Bermingham said that she overrode the till to make her payment and acknowledged an error in that she should also have entered her own login code.

M&S's regional HR manager said that she had conducted the appeal against dismissal and responded to the appeals grounds with a letter in late October 2010, interviewing Bermingham, but no other staff members.

She checked the clock-in times, but had not reviewed CCTV footage to determine whether breaks had been taken or shortened. She denied that the appeals procedure had been a "rubber stamp" exercise.

The EAT found that:

1. Only one hour's notice of the investigation meeting had been given and the range of complaints had not been detailed in advance.

2. The manager's disciplinary hearing was not objective as there had been conflict between him and Bermingham. Instead, an independent person should have done the investigation.

3. The appeal was not carried out by the HR manager as an independent and objective review. She failed to interview other staff, only read the investigation file, and failed to give consideration to Bermingham's good employment record with M&S.

M&S was directed to re-employ Rachel Bermingham from November 2013, preserving her continuity of employment.

The EAT found, however, that Bermingham had contributed "to her own downfall" by failing to get authorisation to buy the items, given her position in the shop, and so was not eligible for any financial compensation for her loss of employment from late 2010.

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David Fitzsimons, chief executive of Retail Ireland: 'Many retailers are now looking to invest in their business'

Retail regains vital signs

After the economic storm, it looks like shoppers are spending more again as business picks ups

writes Gareth Naughton

Retail was one of the sectors hit hardest by the onset of recession, as disposable incomes plummeted and personal savings trebled.

There are signs that stability is now, however, returning to the sector. Property company Savills Ireland released a report last week pointing to an improvement in retail conditions.

Dr John McCartney, Savills' economist and director of research, said the shift was largely down to the knock-on effects of job creation.

"Retail sales had really stopped falling by the end of 2010 and, since then, they have been bumping along the bottom. Now, we are beginning to see a pick-up and that is driven, to my mind, by the labour market," said McCartney.

"We have 74,000 more people in work than we did in the first quarter of 2012 and, as a result of that, it would be obtuse to think that there wouldn't be more spending power in the economy."

Retail Ireland has published a strategy document outlining the steps it wants to see taken to restore and foster growth in the sector with the potential, all going well, to create 40,000 new jobs by 2020.

"Retail has been at the sharper end of the recession," said Stephen Lynam, director of Retail Ireland.

"Sales are down 25 per cent and we lost 50,000 jobs. We had to reduce prices so there was negative inflation there despite the fact that costs were static.

"With what looks like an economic upturn starting this was the right time to put our cards on the table by saying what needs to be done to ensure that we benefit, and by wider extension the economy and the state benefits, from any type of upturn."

Retail Ireland's strategy document set out a number of steps that could be taken to support and foster growth in the sector, including:

- increasing awareness of the significance of retail in the economy;
- transforming the image of retail employment from a "job in a shop" to a sector that offers career progression;
- giving Irish retailers the necessary tools to start to boost online sales.

Retail Ireland estimates that there are 275,000 jobs in Irish retail, generating €5 billion in taxes.

Lynam said it was vital that the government consider the knock-on effects of its own fiscal policies on the sector.

"At the moment, when the government is considering a piece of regulation or a piece of legislation or any fiscal proposals, it has to go through a process where it considers the impact on red tape, poverty, etc, and that is as it should be," he said.

"What we want them to do is to build a retailer reflex in there where they would have to think about the impact of a certain proposal on consumer confidence and spending. If that is considered, then we think that all other things could flow from that."

Retail should also be given due consideration in the roll-out of national digital strategies, said Lynam, given that €3 of every €4 spent online in Ireland goes to retailers with no base here.

Stephen Lynam, director Retail Ireland: 'Retail has been at the sharper end of the recession'

David Fitzsimons, chief executive of Retail Excellence Ireland (REI), said he believed the sector was in a "reasonable place".

"The declines that we suffered for the past five years have ended, so the vast majority of retailers are enjoying like-for-like parity or like-for-like growth in their retail sales," said Fitzsimons.

"That is important from a psychological perspective. We can end the slashing and cutting and many retailers are now looking to investing in their business and, indeed, employee numbers," he said.

REI is spearheading a number of initiatives around the country aimed to create retail opportunities. The organisation wants to see the government begin to promote Ireland – north and south – as a shopping destination.

Town centre revival is on the agenda as well with pilot programmes in Limerick and Carlow aimed at improving retail and hospitality offerings in town centres and boosting consumer interest.

"We are not 'anti' the retail parks and shopping centres," said Fitzsimons. "A town centre has a mixed landlord base, whereas a shopping centre or retail park has a very defined strategy, so, we are concerned not just commercially, but societally for our town centre."

REI also want to see a ban on below-cost selling in the grocery sector to protect independent retailers and ensure competition in the market.

In terms of job creation, Fitzsimons wants to see a reduction in the PRSI rate for lower-paid employees from 8.5 to 4.25 per cent.

"Putting the PRSI rate up on employees earning less than €18,000 doesn't incentivise – if it is marginal to bring in new people, you probably wouldn't," he said.

Both Retail Ireland and Retail Excellence Ireland maintain that the commercial rates charged by local authorities should be cut.

Given that many retailers are struggling with legacy rents, including upward-only rent review clauses, but nothing can be done by government, Lynam argues that reliefs are needed to support retailers in other areas.

"There has been a huge programme of local government reform announced. We have introduced a local property tax for households, we are introducing water charges and no one has referred to the need to reduce commercial rates for businesses," he said.

"We are reducing the size of local government, we are providing them with several extra sources of income and yet nothing is being done to reduce the impact on businesses and retailers in particular. That is a crazy situation. At the very least we would have expected a nationwide freeze or a 5 to 10 per cent reduction on business," he said.

Fitzsimons believes that local authorities should be given the power to use their commercial rates more effectively to foster growth in areas where their particular retail offering is deficient.

"The number one thing that we want to see is that local authorities are allowed to provide some sort of rates incentives to businesses," he said.

"What should happen is that a local authority does a retail mix assessment, realises that they are weak in a certain area and then they are allowed to offer some sort of incentive to those retail uses."

Working Week

David Malanaphy has been group general manager of the O'Callaghan Hotel Group (OCH) since early 2012. The group has four hotels in Dublin, including The Mont Clare, The Davenport, The Alexander and The Stephen's Green Hotel. Overseas, it owns Gibraltar's Elliot Hotel and the Annapolis in Maryland in the US. The Mont Clare, OHC's first hotel, opened in 1990 and now employs 350 people.

What are the main responsibilities of your job?
I manage and direct the company's operations in Ireland and our two international properties. I am also responsible for strategy and development, working with the management team and the board of directors, to devise strategic plans and implement new processes and approaches to achieve our goals and objectives.

What motivates you in your job?
In hospitality, I get great satisfaction in delivering excellent customer care. I believe hotels should be welcoming customers as if they were coming into your own home. My job as a hotelier is to make the customer feel special and to make their life a little easier. I love people in general, so I am in the perfect industry. I enjoy working with, hiring, sharing and learning with my teams. Feeling valued also motivates me. I believe that, to get the best out of everyone on your team, they have to feel valued within an organisation.

How would you describe your work style?
I take a leadership approach and value flexibility. You have to be able to adapt to the audience and the situation you are dealing with.

What is the most valuable professional lesson you have learned so far?
We all make mistakes, but the key is to ensure that you don't keep making the same mistake over and over again. I successfully opened two hotels during my career, which was a great learning curve for me. Starting a hotel from the ground up is no easy task, between hiring new recruits, training and then driving sales to ensure success.

David Malanaphy has been group general manager of the O'Callaghan Hotel Group

Whose career do you most admire and why?
Ryanair chief executive Michael O'Leary. I really admire the big risks he has taken throughout his career and how he is not afraid to stand over his comments, no matter what the backlash is. He has changed Ireland's aviation industry, making it much more competitive and attracting many more tourists into the country. Outside Ireland, I really admire Richard Branson for his mantra "screw it, just do it". He has a great business brain and prioritises customer care and employee culture.

What is the most valuable career advice you can offer others?
Tap into the experience around you. When starting my career, I ensured I had a good network of people from the hospitality industry, as well as friends and family. This gave me encouragement and helped me focus on my goals and objectives. Do a job you love. If you are not happy in your role, you will not give it 100 per cent.

In terms of doing business in Ireland, what do you think is the biggest challenge we face?
I am a firm believer that, in business, realising your vision is all about having the right people on board. The single biggest challenge is finding the right staff, and ensuring they buy into this vision. I look at personalities and attitude first. I can train people to do a job, but I can't change someone's attitude. The key is to learn how to deal with different personalities, figure out what drives each individual team member and tailor your management accordingly.

What is your ultimate professional goal at this point?
Ultimately, I would like to lead a company and believe the lessons you learn in hospitality can be applied in a wide range of industries.

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David Brabazon is joining the board of Mainstay Medical as an independent director. Brabazon is chief financial officer of Adapt Pharma, a role he has held for four months. He was formerly senior vice-president of finance and group company secretary with Jazz Pharmaceuticals for two years.

Irish man Gerard Denneny is the new general manager of luxury hotel Viceroy New York. Denneny was previously general manager of Jumeirah Essex House, also in New York, for 12 months. He also spent seven years as hotel manager of London's Jumeirah Carlton Tower Hotel.

Patrick Campion has been promoted to the role of country manager at pharmaceutical company Lundbeck Ireland. He has been Lundbeck Ireland's national sales manager for the past 12 months and, prior to that, spent five years as its product specialist and sales manager.

Coady Partnership Architects has appointed a new associate director. Donal O'Donohue has been an associate with the firm for the past two years and, prior to that, a senior architect for seven years.