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Performance Monitoring & AI in the Workplace: What Employers Need to Know

EP 70

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Meet Your Presenters

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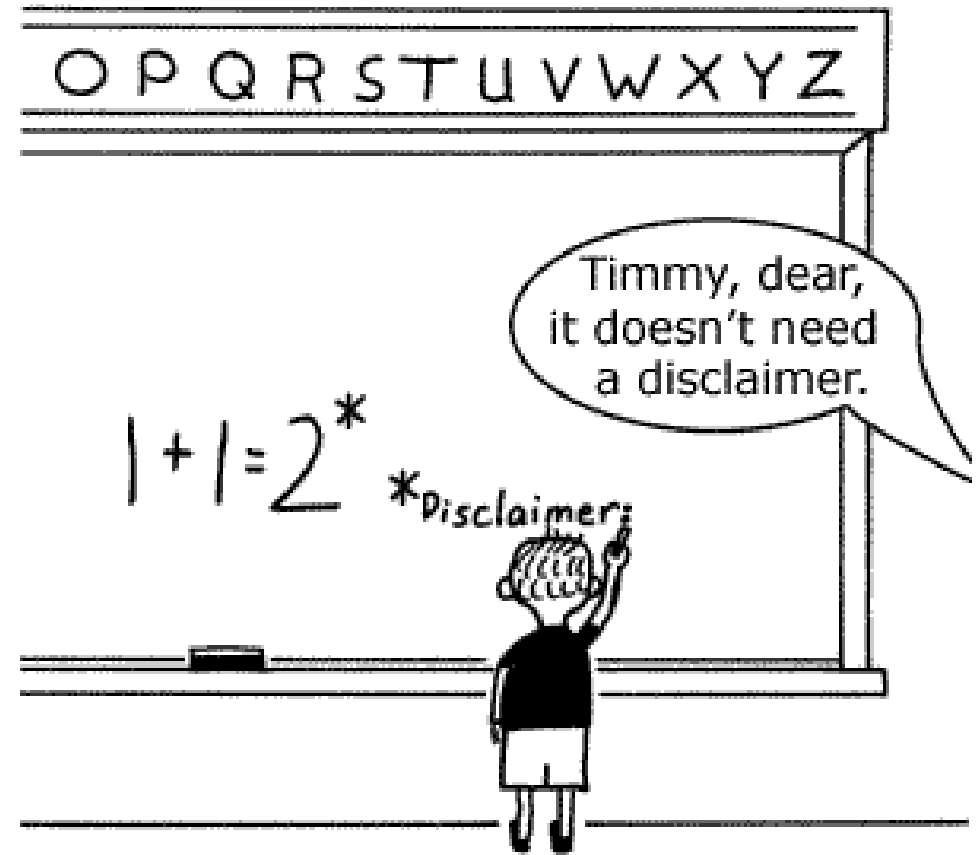
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We are grateful to live and work on this land.

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doesn't need
a disclaimer
but we do...



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Presentation Roadmap

1. **The AI Shift in the Workplace**
2. **Legal Foundations: What Already Applies**
3. **Hiring with AI**
4. **Managing & Future-Proofing Your Workforce**
5. **Terminations & AI**
6. **Building an AI Governance & Compliance Framework**
7. **Key Takeaways & Discussion**

| Year | Innovation | Impact |
|-------|-----------------------------|--|
| 1800s | Industrial Revolution | Machines replaced handwork — but factory jobs exploded. |
| 1900s | Electrification | Power increased efficiency — new trades and industries grew. |
| 1870s | Typewriter | Automated writing — expanded clerical workforce. |
| 1890s | Telephone | Ended messenger roles — created communication careers. |
| 1980s | Personal Computer | Boosted office productivity — spawned the digital economy. |
| 1979 | Spreadsheet Software | Automated math — made bookkeepers into analysts. |
| 1990s | The Internet | Connected the world — created entirely new industries. |
| 2000s | Email & Collaboration Tools | Replaced paper memos — enabled global teamwork. |
| 2010s | Cloud Computing | Centralized data — new jobs in cybersecurity & SaaS. |
| 2020s | AI & Machine Learning | Automates tasks — elevates human judgment and creativity. |

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The AI Shift in the Workplace



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Why This Matters Right Now

- AI is already embedded in your workplace
- Employees are using AI tools daily, often without guidance
- Employers are adopting tools faster than policies can keep up
- Legal frameworks are evolving, but liability already exists

👉 Most organizations are using AI without clear guardrails

👉 Risk isn't coming, it's already operational

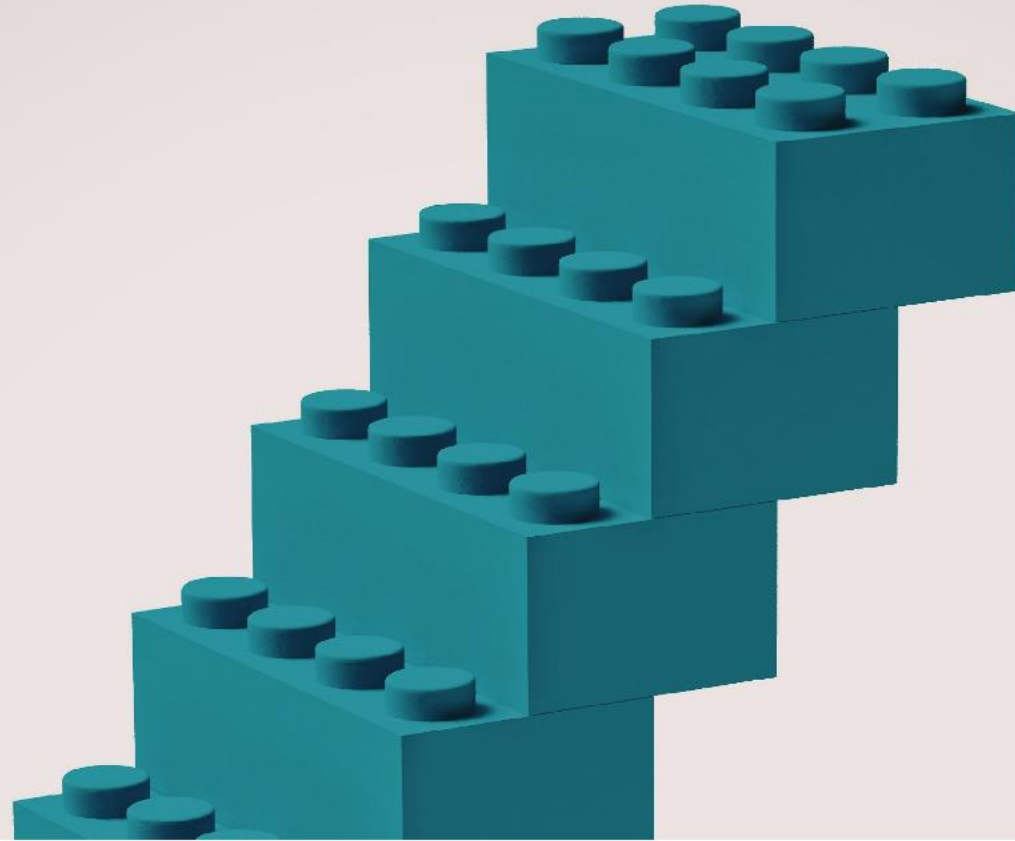
The Core Risk

- AI doesn't remove risk —> it changes where it lives
- Decisions happen faster —> with less visibility
- Outcomes are harder to explain or challenge
- Bias can scale across hundreds of decisions instantly

👉 **Accountability becomes blurred**

👉 **If you can't explain the decision, you can't defend it**

Legal Foundations: What Already Applies



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The Legal Reality in Canada

- There is no “AI exception” in employment law
- Human rights obligations still apply
- Privacy laws still govern data use
- Employment standards still define fairness

👉 AI is just another tool, but your obligations don't change

👉 The same legal tests apply, even if the process looks different

Key Legal Themes

Across all AI use, four themes show up consistently:

1. Bias & discrimination → how decisions impact protected groups
2. Privacy & data use → what information is collected and how
3. Transparency → whether decisions can be explained
4. Human oversight → who is ultimately responsible

 **These aren't new risks, AI just intensifies them**

Governance Lens

Before using AI, pause and ask:

- What decisions is this influencing or making?
- What data is being used and is it appropriate?
- Can we clearly explain the outcome?
- Who owns the final decision?

👉 **Governance isn't bureaucracy, it's risk control**

👉 **If you don't define ownership, the law will**

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Hiring with AI



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AI in Hiring

AI is already embedded across hiring stages:

- Resume screening and shortlisting
- Candidate ranking and scoring
- Interview analysis tools
- Job description and posting optimization

👉 Many tools operate in the background

👉 You may be using AI without realizing it

Candidates Are Using AI

Candidates are also using AI to compete:

- Tailored resumes and cover letters
- Interview scripting and coaching
- Personal branding and online presence

👉 Hiring is no longer just human evaluation

👉 It's increasingly AI-assisted on both sides

Hiring Tension

Employers are experiencing new friction:

- Higher application volume, lower signal
- More polished candidates = harder to assess authenticity
- Longer hiring cycles despite “efficiency tools”

 **AI speeds up inputs, but complicates decisions**

Bias in AI

AI learns from historical data

- If past decisions were biased, AI can repeat them
- Patterns become embedded and harder to detect
- Scale amplifies impact quickly

👉 **Bias doesn't disappear, it becomes systemic**

👉 **And systemic bias is where legal risk increases**

Legal Exposure

Key risks in AI-driven hiring:

- Discrimination claims tied to outcomes
- Lack of transparency in decision-making
- Inability to explain how candidates were assessed

👉 **“The system decided” is not a defense**

👉 **Employers remain responsible for the outcome**

Mitigating Risk

Practical steps to reduce exposure:

- Understand how your tools actually work
- Ask vendors direct, uncomfortable questions
- Audit hiring outcomes for patterns
- Maintain real human oversight

 **You don't need to eliminate AI**

 **You need to control how it's used**

Using AI to Improve Hiring

When used well, AI can support better decisions:

- Reduce biased or exclusionary language
- Expand access to broader candidate pools
- Create more consistent evaluation criteria

👉 AI can improve fairness, if it's actively managed

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Managing & Future-Proofing Your Workforce



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AI in Management

AI is increasingly used in day-to-day management:

- Performance tracking and analytics
- Productivity monitoring tools
- Automated feedback systems

👉 **Management is becoming more data-driven**

👉 **But not always more thoughtful**

The Management Gap

There's a growing gap in workplaces:

- Employees often lack timely, meaningful feedback
- Managers are stretched and time-constrained
- AI is stepping in to fill that gap

 **The risk: replacing judgment with automation**

Privacy Risk

- AI relies on data, often employee data
- Work patterns, communications, performance metrics
- Potential exposure of sensitive or personal information

👉 **Privacy laws still apply, regardless of the tool**

👉 **“It’s automated” doesn’t reduce your obligations**

Workforce Disruption

AI is actively reshaping work:

- Roles are evolving, not just disappearing
- Tasks are being redefined
- Uncertainty is increasing across teams

👉 **The biggest risk isn't just job loss**

👉 **It's unmanaged change**

Workforce Strategy

Strong organizations are taking a proactive approach:

- Be transparent about AI use
- Invest in upskilling and adaptation
- Plan workforce changes intentionally

👉 **Silence creates fear**

👉 **Clarity builds trust**

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Terminations & AI



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AI in Terminations

AI may influence termination decisions by:

- Flagging performance concerns
- Identifying patterns or risks
- Calculating potential entitlements

 **But influence is not the same as authority**

Legal Risk

Termination risk increases with AI use:

- Over-reliance on automated outputs
- Weak or incomplete documentation
- Processes that lack fairness or context

👉 **Termination is already high-risk**

👉 **AI adds another layer of complexity**

Proper Use of AI

- AI should support (not replace) decisions
- Use AI to identify issues and patterns
- Use humans to assess context and fairness

👉 **Judgment cannot be automated**

👉 **Accountability cannot be outsourced**

Employees Using AI

Employees are also leveraging AI:

- To understand their legal rights
- Prepare negotiation strategies
- Challenge employer decisions

👉 **The information gap is shrinking**

👉 **Employees are more informed than ever**

Building an AI Governance & Compliance Framework



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SpringLaw AI Framework

A simple framework to guide decisions:

- What is the purpose of this tool?
- What risks does it introduce?
- What laws apply in this context?
- Where is human oversight required?
- How are decisions documented?

👉 **Structure creates clarity**

👉 **Clarity reduces risk**

Key Takeaways

- AI is already embedded in your workplace
- Risk is immediate, not theoretical
- Governance is your strongest protection
- Humans remain accountable for outcomes

👉 **The question isn't whether to use AI**

👉 **It's whether you're using it responsibly**

Questions



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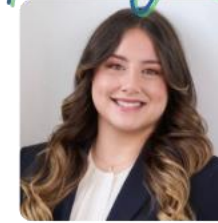
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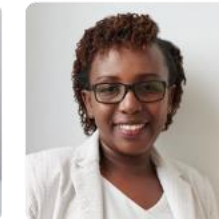
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