

# AN OVERVIEW OF HOW TO MAKE DISPUTE RESOLUTION WORK... AT WORK





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## INTRODUCTION

The vast majority of interpersonal conflict at work never reaches an employment tribunal but just silently reduces performance, disengages employees, and costs hidden sums employers can ill afford. And training more mediators is not the answer. Mediation is only *one* solution to *some* conflicts.

*Mediation is underutilised not because of any shortage of mediators but because of a shortage of cases.*

To change the culture of conflict at work needs more than employers setting up a mediation service: what is needed is an investment in building workplace conflict competence.

This paper introduces the changes you should consider making to reduce the wholly unnecessary cost of conflict to your organisation.

## THERE'S A CONFLICT IN YOUR BUSINESS

You'll have heard of the fight or flight response: the instinct to run away from conflict, or meet it head-on. Neither strategy works in the long term and both are a type of conflict "incompetence". When we adopt a strategy from habit, from a lack of awareness of the options, and from defensiveness, we are simply reacting at an organisational and at a personal level. But it is possible to change from reacting to responding, by reflecting and then *choosing* a more constructive response. The impact on the individuals and your organisation as a whole, of this responsive approach can be significant.

## IF YOU BELIEVE YOUR ORGANISATION HAS NO CONFLICT...

Perhaps people are just chronically avoiding conflicts, which is not a good thing. It does not represent wisdom or tolerance to 'walk away' if it means that bullying goes unchallenged, performance is down, and people feel disengaged. If your organisation is conflict averse and people avoid raising differences and difficulties directly, then you're losing the insight and creativity that comes from difference and challenge. Apathy and hopelessness makes for a poor culture at work – so avoiding conflicts is not a solution.

*An apparent lack of conflict is symptomatic of a sense of hopelessness and helplessness. People don't even bother raising problems because they lack belief that anything will be done.*



**IF YOUR ORGANISATION HAS TOO MUCH CONFLICT...**

You may feel you work in a highly conflicted organisation where raised voices, power-attacks, manipulation and bullying are the means people adopt to get the job done. If grievances over trivial matters are the norm and people are dealing with complaints about behaviours and issues that ought to be sorted out by those directly involved, then your organisation is wasting resources and underperforming.

*A 'hot' conflict organisation is losing good people who can't tolerate the bad behaviours; it's full of sound and fury that is distracting from the real work; and it's spending far too much HR and management resource on putting out the fires than on the strategic work.*

Organisations tend to wait to react to conflict until it becomes 'hot' – and thereby unavoidable. If you bring in an expert to resolve the matter through mediation, or 'terminate' the conflict through litigation or compromise agreements, this is not being conflict competent – and nor is it a sensible use of resources. The cost of managing a 'hot' conflict is high, and in the majority of cases, is a cost that could have been prevented by earlier action.

An organisation that is sensitive to and responsive to conflict – 'conflict competent' – is one that adds value to its employee relations, as people are able and encouraged to raise difficult issues and generate the latent benefits of conflict, through constructive dialogue.

**SO HOW GOOD IS YOUR ORGANISATION AT MANAGING CONFLICT? QUIZ**

Take this quick quiz. Tick as many as apply to your organisation then add up your As, Bs, Cs and Ds and check your results in the Annex at the end.

A: We don't have any conflict where I work	
A: Conflict is a fact of life – some people just don't get on	
D: Everyone in our organisation knows how to access a mediator	
A: Our grievance numbers are average for an organisation like ours	
D: Our management training includes anti bullying and harassment, and having difficult conversations	
A: We have very robust senior leaders and a strong management culture	
D: Most people would take up a difficult issue with a colleague directly with that colleague	
B: Our managers need hand-holding from HR when it comes to managing their people-problems	
C: We have high levels of stress-related sickness absences	
B: The staff survey results in relation to bullying and harassment don't relate to our grievance numbers	
D: We offer coaching for people who have been found to have bullied or harassed others	
D: We use early neutral assessment when the time is right	
B: We settle the majority of ET claims	



D: We have an internal mediation service that is used reasonably well	
A: A typical grievance takes more than 30 days to be investigated	
D: Our staff are able to 'talk truth to power'	
A: It's not what you know, it's who you know, in my organisation	
B: People view our HR department as a management tool	

## YOU ALREADY HAVE 'GOOD CONFLICTS' IN YOUR ORGANISATION

You 'do' conflict all the time at work, using existing skills to get matters resolved. So you – and your people – already have the ability to have a 'good conflict'! When we take responsibility for our behaviour and comments, and apologise in a meaningful way when we get things wrong, we are having a good conflict. The trouble is, this kind of conflict is almost invisible, and goes unappreciated. Conflict only becomes visible when a good conflict turns bad.

## WHAT TURNS A "GOOD CONFLICT" BAD

Several things can turn a good conflict, bad.

- 🔥 Our skills desert us when we are unclear about our goals and needs, when we fear that what we have to say will sever the working relationship, and when our intentions are confused.
- 🔥 We are unaware of our feelings because we believe anger or emotions at work will bring about the disapproval of others.
- 🔥 We deny what is obvious to others – and this denial adds fuel to the fire and becomes an issue in itself.
- 🔥 We communicate being angry 'at' rather than angry 'about' – venting our anger rather than using it to identify what our needs are.
- 🔥 We have inbuilt resistance to change. People who appear to comply but who then go on to sabotage and undermine what's expected of them, may not even know they are doing so.
- 🔥 We feel 'it simply isn't worth the fight' as there are inbuilt injustices in the organisation and we feel we have no one to turn to for support.



## HOW TO BECOME BETTER AT MANAGING CONFLICT AT WORK

### EMBRACE THE 'GOOD CONFLICT' CONCEPT

Ensure your employees at all levels know *how* to have good and creative conflicts. To have 'good conflicts', we need to:

- 🔥 Be clear what our needs are, what we think and feel, who is responsible for what, and what, specifically, we need to change.
- 🔥 Be clear about our personal responsibility or 'response-ability' – to be able to observe our self and others in interactions.
- 🔥 Develop new ways of responding, rather than simply reacting from habit and defensiveness.
- 🔥 Accept that we want to control not only our own decisions and choices but also the other person's reactions to them – and that this is unachievable.
- 🔥 Believe in our right to speak our thoughts and feelings and to make decisions that our congruent with our values and beliefs - and the right of everyone else to do so.

## HELP MANAGERS TO HAVE GOOD CONFLICTS

The CIPD has long advocated bringing dispute resolution skills in to the management line and away from simply 'bringing in a mediator', but this shift has not happened.

*Inadequate line management remains one of the main causes of conflict at work (CIPD survey report, Leadership and the Management of Conflict at Work)*

Managers avoid tackling conflict in case they say or do something that exacerbates the problem, or which could be held against them during any formal proceedings (CIPD 2007). Yet evidence shows that conflict is much *less* likely to escalate where managers have the skills and confidence to tackle situations as soon as they arise.

*The CIPD continues to raise the lack of conflict management skills as a key requirement for the UK's growth*



## CONFLICT MANAGEMENT SKILLS ADD HUGE VALUE TO YOUR MANAGERS

Managers are the tone-setters and the first line response when conflicts start to appear. So it's vital they can identify the early signs of conflict and intervene and defuse situations before they escalate. Conflict management should be an integral part of your leadership and management training if your people are to work productively and remain engaged.

And you need managers who can manage underperformance firmly and consistently, as well as pick up on when banter starts to become bullying. Think of the benefits: from better time keeping to reduced grievances; fewer disciplinary measures and less sickness absence.

*Building effective working relationships with employees pays long-term dividends by preventing and resolving workplace conflict*

Train your managers to manage in a way that does not itself create conflict: managers are under huge pressure themselves, and especially if the senior team display poor behaviours, so will the managers. Managers are routinely in a position where they have difficult conversations – and they will do this far better if they know how to do those well.

## MAKE MEDIATION A MORE NATURAL CHOICE

Refer to mediation in as many policies as possible: grievance and disciplinary, dignity or fairness at work, performance management, customer complaints, health and safety, sickness absence, corporate and social responsibility, recruitment and retention.

*Include a clause in employment contracts which encourages mediation as a way of demystifying and normalising mediation.*

If you outsource cases to a provider be aware that you may only find the money when all alternatives have been tried and the situation has escalated beyond the reach mediation. So set up an HR budget for mediation so cases can be referred earlier. Think about establishing a call off contract with a supplier, to get a number of mediations more cheaply over a year.

If you set up an in-house service, do it properly to avoid simply wasting your money on training a group of mediators. Here are some ideas for what to do now – and we can help you implement these changes if you need some support.

- 🔥 Get a senior manager to 'own' the service. Make sure managers, unions and staff see mediation as the norm and a positive step, not a sign of failure.



- 🔥 Create standard documents for mediation deployment, support materials for potential users and guidance for everyone across departments about the ground rules, rights and responsibilities in mediation.
- 🔥 Get the right people in post as mediators by using job descriptions, person specifications and tailored questions for selection. Ask for written applications, interview rigorously, even test competencies in an assessment centre if you are recruiting in significant numbers.
- 🔥 Create a contract that outlines your expectations and your - and their - obligations. Look at the profile of your organisation and build a representative team – including a range of staff grades, not just middle or senior managers.
- 🔥 Ensure that there is effective ongoing quality assurance, evidence of skills top-up and support for internal and external mediators.
- 🔥 Make mediation more accommodating to the needs of employers and parties by using the right model for the right situation. Person Centred Mediation is great when someone needs more coaching or is highly emotional and off with stress. Use “Direct to Mediation” as faster tool for resolving issue-led disputes. Assisted Mediation works best where an outcome is essential. We can advance your mediators’ skills with training in these models, or bring in experts with these skills for tricky cases.

## **BUILD CONFLICT COMPETENT EMPLOYEES**

Your policies will say ‘in the first instance, raise a conflict with the person directly’. Yet how many of us do that? If you train your people to have the skills and confidence to have early difficult conversations, this is where conflict is ‘nipped in the bud’; not at the mediation table. So prevent conflicts from becoming negative and costly by creating the climate and giving people the skills to address differences constructively.

*If everyone can have good difficult conversations and good conflicts, they'll be much better able to sort out problems and conflicts directly with your clients and customers too.*



## DO FORMAL PROCESSES COMPETENTLY

If you do formal processes fairly, constructively and in line with best practice, the benefits are significant. By implementing best practice measures you can prevent complaints escalating to Employment Tribunal.

Ensure that you learn from these difficult conflicts and complaints to prevent recurrence. This might be most cost effectively done by outsourcing the provision; or by properly training managers in the role and using a consistent approach.

Train people to manage grievances properly, so there is consistent theory and practice, not ad hoc individual methods. Don't overlook your Hearing Managers. If 'Gary' would uphold a complaint that 'Barry' would see as unsubstantiated, you have a problem. And if Larry would dismiss someone for an incident of bullying which Harry would see as needing only a verbal warning, you will be extremely vulnerable at ETs.

So train your HR advisors to be able not only to offer technical support to investigating managers, but to also have persuasion and influence skills to ensure the managers get the job done on time.

Use harassment advisors to support people who have legitimate grievances to raise these early and constructively. Support them with time to network and case review. Market the service consistently; run internal Webinars to raise awareness; give it a high profile with senior management support.

*Emphasise the resolution options, not the punishment options, as many people simply want behaviours to stop, rather than have someone dismissed.*

## DESIGN A CORPORATE FRAMEWORK WHICH BUILDS CONFLICT COMPETENCE WHETHER YOU CLOSE, MANAGE OR PREVENT CONFLICT

- 🔥 **Close** difficult high-level conflicts with the minimum of stress and negative impact, with maximum added value to your business, and without recourse to tribunals
- 🔥 **Manage** conflicts which need to be resolved with a third party involved, whether this is facilitation, professional mediation, or manager-led mediation.



- 🔥 **Prevent** conflicts turning from good to bad, by skilling managers and employees to have difficult conversations and resolve conflict at source, rather than adopt the fight or flight options.

## ABOUT CMP RESOLUTIONS

We improve how organisations handle workplace disputes. We help employers create working climates where people have productive relationships. And we work with employers to maximise productivity and wellbeing by closing, managing and preventing negative conflict.

## FOR FURTHER INFORMATION PLEASE CONTACT

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## ANNEX: QUIZ RESULTS

**Mostly As:** Unconsciously incompetent. Read about how to improve your culture of conflict management, and then contact us for a conflict audit!

**Mostly Bs:** Consciously incompetent. You know what you need to do, contact us to see how we can help.

**Mostly Cs:** Unconsciously competent. You're doing some good things and this paper should have given you some awareness of what you're doing well. Contact us for more ideas you may not have implemented yet.

**Mostly Ds:** Consciously competent. Are you a CMP client? And if not, we'd love to hear how you achieved this and case study your work.