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The Structural Causes of Workplace Conflict: Understanding the Implications for the Mediation of Workplace Disputes

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Abstract

Conflict resolution theory posits that understanding the sources of conflict aids peace making by informing the selection of interventions most likely to support the resolution of conflict. At the workplace level, a common approach to addressing conflict between staff is to treat the situation as a grievance and refer it to mediation or investigation. Such interventions presume the source of the conflict is between the staff who are parties to the grievance. In doing so, the interventions may be limited in their effectiveness, as a focus on individuals does not consider the role that organisational factors can play in conflict. This case study of a grievance is used to explore theories on the sources and resolution of workplace conflict. The case study illustrates what a dispute labelled as being between individuals can reveal about the role of the organisation as a source of conflict. This understanding is used to critique typical Human Resources ('HR') responses to conflict, and explore alternative interventions. Fundamentally, the case study highlights what happens when there is a mismatch between the sources of conflict and the conflict resolution intervention, and how this can be addressed by broadening the range of interventions utilised in a workplace environment.

Practice Note:

The Structural Causes of Workplace Conflict: Understanding the Implications for the Mediation of Workplace Disputes

MERIEL O'SULLIVAN*

Abstract

Conflict resolution theory posits that understanding the sources of conflict aids peace making by informing the selection of interventions most likely to support the resolution of conflict. At the workplace level, a common approach to addressing conflict between staff is to treat the situation as a grievance and refer it to mediation or investigation. Such interventions presume the source of the conflict is between the staff who are parties to the grievance. In doing so, the interventions may be limited in their effectiveness, as a focus on individuals does not consider the role that organisational factors can play in conflict. This case study of a grievance is used to explore theories on the sources and resolution of workplace conflict. The case study illustrates what a dispute labelled as being between individuals can reveal about the role of the organisation as a source of conflict. This understanding is used to critique typical Human Resources ('HR') responses to conflict, and explore alternative interventions. Fundamentally, the case study highlights what happens when there is a mismatch between the sources of conflict and the conflict resolution intervention, and how this can be addressed by broadening the range of interventions utilised in a workplace environment.

I The Case Study

A complaint was initiated by an employee (the 'Complainant') about the behaviour of a colleague at a mid-size public sector organisation (the 'workplace'). As part of the grievance the Complainant alleged his colleague made a threatening comment towards him and that the comment reflected a pattern of aggressive and bullying behaviour that management was aware of and failed to address. The Complainant lodged a formal complaint against his colleague regarding the alleged threat, and a second complaint against his supervisor (the 'Supervisor'), the next-level supervisor (the 'Coordinator') and the line-manager for the department (the 'Manager'), for failing to address his initial concern (the 'second complaint'). The Complainant agreed to address both complaints through

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mediation. However, his colleague did not consent to participate in a mediation process. Ultimately, the Complainant decided his primary concern was to address the second complaint, and he did not pursue the formal complaint against his colleague.

A mediation process was undertaken in relation to the second complaint. The Complainant, the Supervisor, the Coordinator and the Manager (the 'parties') all participated in two mediation sessions that resulted in a written agreement between the parties on communication and protocols for managing future incidents involving aggressive behaviour.

II The Issues

The Complainant said there had been multiple examples of 'bad behaviour' by a group of staff, including failing to carry out work instructions, going home during work hours, making intimidating comments and threatening other staff. The Complainant said disputes between staff were caused by management's failure to effectively address incidents of poor behaviour for fear of causing a dispute with the Union. In describing the work situation, the Complainant said:

> Bad behaviour is the status quo. Management don't deal with behaviours. [The Supervisor and Coordinator] have both said, 'HR won't do anything because the Union will give them a hard time and then they will back off'. They say they have 'tried and tried' to warn people for bad behaviour. Absenteeism is out the window. So is non-performance. They have put it to the guys and tried to discipline them, then the Union says, 'We don't agree', and HR says, 'That's fine. We will leave it alone.' I have heard on the grapevine that the CEO is risk-averse and doesn't want to tackle the Union.

The conflict situation in the work area was exacerbated by the dynamics of the workplace. The parties work in a male dominated, highly unionised area where there is a division between management and non-management positions, with non-management staff viewing management positions and processes with suspicion. It is common for the culture to be described as 'blokey', for communications to be direct and blunt, and for there to be internal pressure amongst non-management staff to resolve issues between themselves rather than referring issues up reporting lines (derogatively referred to as 'dobbing'). These dynamics add complexity to the assumed understanding of power in the workplace. Weber argues that power occurs where one person in a social relationship carries out their will 'despite resistance'.[1] This allows for the possibility that individuals can exercise power informally, irrespective of the formal authority afforded to a position. This idea can be extended through Arendt's view that power can

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[1]   Max Weber, *The Theory of Social and Economic Organization* (Talcott Parsons and A M Henderson, trans, Free Press, 1965).

occur through people acting 'in concert'.[2] Accordingly, a group of staff acting cohesively, whether through collaboration or intimidation, can exercise power in the workplace to shape decision making and exercise authority. The risk for a workplace that has a social system that reinforces conflict is that, in the long-term, the values of an aggressive group can become dominant and break down the intended culture.[3]

III The Impact

Each party experienced stress as a result of the 'bad behaviour' and, more significantly, from not being supported to address the behaviour when their roles gave them varying degrees of responsibility for managing behaviour and conflict in the workplace. Recognising that conflict is a consequence of unmet human need,[4] the perceived lack of support served to undermine the core needs of the parties relating to identity, recognition and security.[5] For the Complainant, the result of the alleged ineffective management is workplace bullying and the loss of job satisfaction. The Supervisor agreed that bad behaviour and poor performance were not addressed and cited examples of where reported misconduct resulted in no action by the Manager or the HR Manager, to the point where he felt undermined, unsupported and powerless. During the mediation, the Supervisor disclosed that he experienced depression from the negative work environment and consequential sense of helplessness. The Manager argued that the situation was complicated by legal restrictions on employers and that he had not been made aware of all examples of misconduct raised through the mediation process. Nevertheless, the Coordinator and Manager agreed that there were issues with behaviour, and expressed their own frustration with a lack of support from senior management, including the Director, HR Manager and CEO, in addressing concerns.

While there were differing views amongst the parties on the degree of responsibility they should share for the situation it was common ground that senior management did not support lower-level managers in addressing performance when there was a risk of a situation becoming the subject of a dispute. Prior to the mediation at least five investigations had occurred at the workplace dealing with separate complaints about inappropriate behaviour across multiple departments. In each case the evidence highlighted that the behaviour had occurred over an extended period and that the behaviour had been reported to management but not effectively addressed. Comments from the investigations included: 'We've

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2   Seyla Benhabib, 'Hannah Arendt and the Redemptive Power of Narrative' in Lewis Hinchman and Sandra Hinchman (eds), *Hannah Arendt: Critical Essays* (State University of New York Press, 1994) 111, 130.

3   Lewis A Coser, 'Social Conflict and the Theory of Social Change' (1957) 8(3) *The British Journal of Sociology* 197, 204.

4   Robert Burrowes, *The Strategy of Nonviolent Defence: A Gandhian Approach* (State University of New York Press, 1996) 65.

5   See generally Anne Ardagh, 'Conflict, Globalisation, Needs and Security' (2004) 15(4) *Australian Journal of Dispute Resolution* 235.

had made many, many complaints over the years'; 'I can't believe it has been allowed to get where it's got to with [the] behaviour'; and 'I've never seen a situation go on like this at this level for so long'. The consequences of inaction by the senior management extended beyond a detrimental impact on the parties and the environment in the work area, and was having significant ramifications for the culture of the workplace as a whole. The situation supports Burton's argument that a failure of institutions to satisfy human need will result in social conflict and the destabilisation of institutions.[6]

IV Relevance of Conflict Resolution Theory to the Workplace

Conflict resolution theory is an interdisciplinary field that draws on a range of theoretical backgrounds to inform our understanding of the nature, causes, management and resolution of conflict. Psychologist B F Skinner theorised that human behaviour is learnt as the result of positive or negative reinforcement: where an action results in a positive consequence the behaviour will be reinforced, and where an action results in a negative consequence the behaviour is less likely to be repeated. Thus, argued Skinner, human behaviour can be conditioned by 'what follows as a consequence of behaviour'.[7] This well accepted theory underpins many HR practices, such as bonuses for high performance and disciplinary action for misconduct. From a behaviourist perspective, the logical consequence of inaction by HR and senior management in the face of disruptive and aggressive behaviour will be an increase in the poor behaviour and, consequently, an increase in conflict.

Azar extends Burton's understanding of the consequences of unmet needs in his examination of the role of the nation state in meeting human needs, and the relationship between met or unmet needs and the prevention or generation of conflict. Azar theorized that the sources of protracted social conflict relate to the failure of the state to meet the basic needs of communal groups.[8] In the context of a workplace, the 'state' can be understood as including the systems (policies, procedures and work practices) and structures (roles, responsibilities and reporting lines) that guide the production of goods or services. It is evident from the case study that the needs of the staff for security, identity and recognition were undermined by the structural failure to implement systems designed to regulate behaviour. The failure resulted in employees losing confidence in management and, consequently, ceasing to report ongoing aggressive and inappropriate behaviour. This had the effect of positively reinforcing the

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6   Burrowes, above n 4, 65.

7   Nigel C Benson et al, *The Psychology Book* (Darling Kindersley, 2012) 81.

8   Oliver Ramsbotham, Tom Woodhouse and Hugh Miall, *Contemporary Conflict Resolution* (Polity Press, 3rd ed, 2011) 94.

bad behaviour, leading to the behaviour escalating, which triggered more conflict and a cycle that leads to the creation of intractable disputes.[9]

Azar's theory is reinforced by the work of the Parliamentary Inquiry into Workplace Bullying, which outlined that '[a]n abusive working environment or a toxic workplace is more likely to spring from the failure to address bullying and other negative behaviours systemically, quickly and consistently'.[10] It is for this reason that repeated, ongoing incidents of inappropriate behaviour, misconduct or bullying should not just be seen as being about the treatment of an individual by another and that 'behaviour must also be analysed in the context of broader organisational dynamics'.[11]

For the workplace, the failure of senior management and HR to consistently enforce the formal systems for addressing behaviour, such as the code of conduct, anti-bullying policy and disciplinary procedure, led to a break down in social cohesion and an increase in conflict. The response of HR to incidents of bullying was to rely on staff to lodge formal complaints and then treat those complaints as disputes between individuals by referring them to mediation or investigation. This approach proved inadequate for managing the situation, as evidenced by the fact that different departments within the workplace have experienced multiple grievances with the common theme of management inaction in the face of repeated poor behaviour.

V Alternative Dispute Resolution Approaches

Mediation and investigation, both of which are common workplace interventions, can be valuable for addressing staff grievances, but it is important to understand their benefits and limitations. Mediation is an interest-focused approach that seeks to empower the parties to a dispute to reach a mutually agreeable resolution.[12] It is a flexible, informal and useful intervention because it 'strives to improve relationships between parties and achieve reconciliation'.[13] However, it is limited in its ability to address entrenched, systemic conflict, as there is often a disconnect between the parties to the initial dispute and the underlying source of the conflict. In relation to the case study, the absence of senior management or HR from the mediation process meant genuine resolution of the underlying causes of the conflict was not possible.

There are variations to the mediation model that seek to reduce the disconnect between the individual-focused approach that is characteristic

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[9]   Ibid 99.

[10]   House of Representatives Standing Committee on Education and Employment, Parliament of Australia, *Workplace Bullying: We Just Want it to Stop* (2012) 105 [4.2].

[11]   Dennis Pearce, *Workplace Conduct in CSIRO: A Report of the Independent Investigator for Allegations of Workplace Bullying and Other Unreasonable Behaviour* (Report, Commonwealth Scientific and Industrial Research Organisation, 31 July 2013) 39.

[12]   Jay Folberg and Alison Taylor, *Mediation: A Comprehensive Guide to Resolving Conflicts Without Litigation* (Wiley, 1984) 15.

[13]   Ibid 16.

of a typical mediation and the need to acknowledge the role of the organisation in creating, escalating and/or impacting a dispute. For example, the Occupational Health and Safety model of mediation (the 'OH&S model') includes the provision of a post-mediation report to the organisation with recommendations on identified organisational or systemic issues that may assist with the resolution of the dispute.[14] While the OH&S model can be useful for raising broader issues, it does necessarily involve all the parties to the conflict in the resolution process. In the case study the parties found the mediation helpful but ultimately unsatisfactory, as the settlement could not provide a sense of justice. This sense of justice is necessary to support enduring resolution.[15]

Investigations are more determinative processes, and tend to focus on the specific incidents that make up a grievance. This typically results in a win/lose outcome, as is often associated with rights based processes,[16] and can damage ongoing relationships.[17] Nevertheless, 'rights or power procedures' can be useful for bringing 'a recalcitrant party into the process'.[18] The evidence from the workplace, however, is that investigations are used by human resource departments to ultimately deny or 'attempt to reduce conflicts',[19] rather than to understand and resolve the underlying causes of the conflict.

What was needed for the case study was a problem-solving approach that took into consideration the total environment, and not just the issues within the parties' control, in order to effectively deal with the source of the conflict.[20] There are several emerging dispute resolution ('DR') processes that provide this, including group conferencing, which 'is designed to bring together those affected by harmful and destructive behaviour in the workplace'[21], providing an opportunity to consider the impact of workplace culture on the situation[22]. Group conferencing may have been more effective than mediation for addressing the second complaint as representatives of senior management could have been included. This would have fulfilled Galtung's requirement that all parties need to participate for a peace building intervention to be effective.[23]

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[14]   See generally Moira Jenkins, 'Practice Note: Is Mediation Suitable for Complaints of Workplace Bullying?' (2011) 29(1) *Conflict Resolution Quarterly* 32.

[15]   See generally Nancy Welsh, 'Remembering the Role of Justice in Resolution: Insights from Procedural and Social Justice Theories' (2004) 54(1) *Journal of Legal Education* 51.

[16]   Tania Sourdin, *Alternative Dispute Resolution* (Lawbook Co, 4th ed, 2012) 5.

[17]   Judge Joe Harman, 'From Alternative to Primary Dispute Resolution: The Pivotal Role of Mediation in (and in Avoiding) Litigation' (Speech delivered at National Mediation Conference, Melbourne, 10 September 2014).

[18]   William Ury, Jeanne Brett and Stephen Goldberg, *Getting Disputes Resolved* (Jossey-Bass, 1988) 4–5, cited in Burrowes, above n 4, 71.

[19]   Coser, above n 3, 198.

[20]   Burrowes, above n 4, 76.

[21]   Margaret Thorsborne, 'Beyond punishment – Workplace Conferencing: An effective response to incidents of workplace bullying'. Transformative Justive Australia (Queensland), 2.

[22]   Ibid.

[23]   Burrowes, above n 4, 78

An additional alternative process is to appoint a skilled, independent third party to conduct a facilitated discussion. This is a less defined, more flexible option that provides management and HR with the opportunity to influence the purpose and agenda of the DR process and to be part of the discussion. This approach, like group conferencing, recognises that organisations can be parties to a workplace conflict and have an interest in the terms of any resolution. Critical to the implementation of an appropriate DR process is an intake process that seeks to clarify the issues, determine the relevant parties and select the most effective process for the resolution of the dispute. An effective HR intake will support individuals to address issues directly, enable the root causes of a dispute to be identified, and encourage the relevant people to be involved in the discussion and resolution of the conflict. [24]

Ultimately meeting staff needs and attaining peace at the workplace will require more than DR processes, and will involve structural and cultural change.[25] Actions senior management can take to turn around the culture include ensuring there is a timely, consistent and appropriate response to incidents of poor behaviour. Culture is influenced by the actions of the senior leaders and it is critical that the CEO and senior leadership team demonstrate a preparedness to act. This means enforcing the code of conduct, following policies and procedures regarding performance and behaviour and supporting managers to act fairly, consistently and expeditiously. The role of middle managers will be significant, as this group have the most contact with staff, and their behaviour contributes to the establishment of behavioural standards. Strong, practical and consistent HR support will also be necessary to address poor performance.

VI Conclusion

Conflict, even where it appears to be between individuals, occurs in a context. Workplaces, like societies, have formal and informal sanctions that encourage and discourage particular behaviours. The behaviours highlighted through the case study demonstrate what can occur when there is a disconnect between formal and informal positions regarding workplace behaviour. The formal position, as expressed by the policies, procedures and systems, was that poor behaviour was not acceptable and would be addressed. The informal position, as expressed by the actions of HR officers and management, was that poor behaviour would not be addressed, and people who reported the behaviour would remain unsupported and be left to continue to work alongside the alleged perpetrators. Ultimately, those with the power to implement policies and sanctions did not exercise formal authority, leaving others to exercise power informally. The case study highlights that identifying the sources of workplace conflict can be

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[24]   State Services Authority, 'Developing Conflict Resilient Workplaces: A Report for Victorian Public Sector Leaders' (Report, Victorian Government, 2010) 3, 12, 27.

[25]   Ibid 68.

complex and that ADR interventions must be sophisticated enough to manage and respond to complex situations.[26] Popular ADR interventions such as mediation and investigation focus chiefly on the individuals directly involved in the dispute, and may be ineffective where the sources and resolution of conflict are beyond the capacity of parties to a conflict to address.

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[26]   Ramsbotham, Woodhouse and Miall, above n 8, 122.