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Reframing Resolution - Managing Conflict and Resolving Individual Employment Disputes in the Contemporary Workplace

Richard Saundry (Plymouth University), Paul Latreille (Sheffield University), Linda Dickens (IRRU, University of Warwick), Charlie Irvine (Strathclyde University), Paul Teague (Queens University Belfast), Peter Urwin (Westminster Business School) and Gemma Wibberley (iROWE, University of Central Lancashire)

Introduction

The resolution of individual workplace conflict has assumed an increasingly important place in policy debates over contemporary work and employment. This is in part due to the decline in collective industrial action and the parallel rise in the volume of employment tribunal applications. It reflects a growing concern over the implications of individual employment disputes for those involved but has perhaps been driven by concerns over the cost of litigation and the perceived burden that this places on employers.

Against this backdrop, an ESRC-funded seminar series, entitled 'Reframing Resolution – Managing Conflict and Resolving Individual Employment Disputes in the Contemporary Workplace', was held between October 2012 and September 2013. This comprised six seminars held at: University of Strathclyde; University of Central Lancashire; Swansea University; Queen's University Belfast; IRRU, University of Warwick and University of Westminster. The series brought leading academic researchers, practitioners and policy-makers together to explore new empirical and conceptual developments, examine innovative practice and provide insights into key questions of public policy.

This paper draws together the key findings from the series. It firstly examines the nature and scale of individual workplace conflict in the UK before highlighting emerging trends in the management of conflict and in particular the impact of changes to the structure of workplace relations and the HR function in larger organisations. It then explores the role of employment regulation with a particular focus on the Coalition government's recent reforms of the UK's system of dispute resolution. The potential of alternative forms of dispute resolution (such as workplace mediation) is then considered and the prospects for more innovative approaches to conflict management are assessed. The paper closes by setting out the main implications for policy, practice and academic research.

The paper argues that the focus on the 'problem' of employment tribunal volumes has overshadowed broader changes in workplace relations which have fundamentally weakened the capacity of organisations to manage and resolve conflict within the workplace. It calls on employers to acknowledge the centrality of effective conflict management in HR strategy and in particular in the way managers are recruited and developed. Furthermore, it urges government to provide a policy framework that incentivises the adoption of pro-active approaches to conflict resolution.

Individual workplace conflict – exploring the scale and shape of the problem?

There is little doubt that conflict is a significant feature of organisational life – the CIPD has estimated that employers devote an average of 18 days in management and HR time to each disciplinary case, and 14.4 days to managing an employee grievance (CIPD, 2011). Moreover, employees in the UK spend an average of 1.8 hours per week dealing with conflict equating to an annual 'loss' of 370 million working days (OPP, 2008). Importantly, its impact is not simply confined to the minority of employees who are directly involved but can reverberate through an organisation, undermining the psychological contract, hampering performance and having a negative impact on health and well-being (De Dreu, 2008). While there is little reliable data measuring the cost of individual workplace conflict, Giga et al (2008) estimated that £13.75 billion was lost in 2007 due to absenteeism, staff turnover and lost productivity as a result of workplace bullying.

The extent of workplace conflict is much more difficult to discern – a clear conclusion from the seminar series was that a pre-occupation with employment tribunal volumes has distorted the overall picture. While there was very significant growth in applications during the 1990s, over the past decade, unfair dismissal claims have remained relatively stable and the number of single claims shows a small downward trajectory. As Gill Dix (Head of Strategy, Acas) pointed out at the opening seminar, held at the University of Strathclyde, high volumes can be partly explained by large-scale multiple claims relating to issues such as equal pay, redundancy and working time. This perhaps suggests that the most significant change has not been to the nature or extent of workplace conflict but to the channels through which it is expressed and potentially resolved. In short, it is not conflict but systems

of conflict resolution that have become increasingly individualised.

Data from the Workplace Employment Relations Survey (WERS) series does not point to an increase in the extent of workplace conflict. Between 2004 and 2011, the proportion of workplaces that reported any formal employee grievances in the previous 12 months dropped from 38 to 29 per cent, while levels of disciplinary action and dismissals reduced slightly. Moreover, levels of voluntary resignations and sickness absence were not indicative of rising discontent (van Wanrooy et al., 2013a). This may reflect more positive perceptions of work and employment relations. Dix et al.'s (2009) evaluation of evidence from the British Social Attitudes Survey, British Household Panel Survey and WERS series suggests an improvement in views of employee relations from the mid-1990s, which seems to have been sustained, despite evidence of work intensification and the impact of the recession (van Wanrooy et al., 2013a).

However, evidence from the Skills and Employment Survey (SES) 2012 (Gallie et al., 2013) appears to paint a very different picture with an increase in fear of dismissal, discrimination and victimisation since 2000 with a rise in anxiety levels among public sector workers in particular. In addition, the CIPD's conflict management survey (2011:2) reported that 'the scale of workplace conflict is remarkable and has increased in the recession', with almost half of its members who responded reporting an increased use of disciplinary action and grievance procedures in the preceding two years. Moreover, WERS2011 pointed to a sharp rise in the proportion of workplaces imposing disciplinary sanctions for poor performance (van Wanrooy et al., 2013a).

This may reflect arguments made by Phil Taylor (University of Strathclyde) at the Strathclyde seminar that the development of new systems of performance management, 'Lean' and sickness absence, particularly within the public sector, are intensifying work and creating new sources of discontent and conflict (Taylor et al., 2010). Andrea Broughton (Institute of Employment Studies) argued at the opening seminar of the series that recessionary conditions provide an environment in which conflict can emerge in response to downsizing, organisational change and pressures to increase efficiency. This can lead to increased use of disciplinary sanctions but also trigger grievances as employees challenge managerial decisions and approaches which they see as bullying and harassment. Restructuring can be a problem for both those leaving organisations and also those staying as working teams and relationships were reconfigured. Certainly, analysis of WERS2011 found higher rates of disciplinary sanctions and grievances in workplaces in which action had been taken in response to the recession (van Wanrooy et al., 2013a).

Whether or not such issues escalate into formal disciplinary issues and grievances depends in part on how individuals react to difficult situations. As Charlie Irvine, from Strathclyde University, argued during seminar one, both manager and managed rely on 'attributions' to make sense of the situation they find themselves in.

In short, disputants look for internal explanations of the other's behaviour, while rationalising their own behaviour in objective terms (Irvine, 2014). According to Andrea Broughton, such 'attribution bias' is particularly relevant to the management of performance and change. Employees may see a manager's approach as confrontational and bullying while the manager may see the employee's reaction as unreasonable and obstructive. Therefore, as Rachel McCloy, from Reading University argued at the Strathclyde seminar, the 'emotional context' of disputes needs to be given due weight alongside social and environmental factors and the broader impact of employer and union strategies.

From representation gap to resolution gap – emergent trends in the management of conflict

The extent to which individuals and organisations involved in conflict have access to effective resolution processes was a central theme throughout the series. Contributors highlighted three key issues: the erosion of trade union and employee representation; the changing nature of the HR function; and the lack of confidence among line managers in addressing and dealing with difficult and emotional issues with their staff.

Declining union density and the shrinking of collective bargaining over the last 35 years has been well documented but, crucially, there is little evidence of alternative sources of employee voice filling this gap. According to data from WERS2011, only around a third of workplaces have any structures of employee representation and the majority of employees (53 per cent) have no access to an on-site representative (van Wanrooy et al., 2013b). Even in unionised workplaces, representatives are under growing pressure due to the increased demand for representational services and restrictions on facility time.

Crucially, the evidence suggests that this has had a profound impact on dispute resolution. Falling union density has been associated with higher rates of disciplinary sanctions and dismissals (Antcliff and Saundry, 2009; Knight and Latreille, 2000) and the greater use of litigation (Burgess et al., 2000) as David Coats (WorkMatters Consulting) pointed out at the Warwick seminar. Moreover, Urwin et al. (2007) found that where unions are present employers are less likely to experience adverse tribunal judgments, pointing to a possible link between improved workplace performance and effective 'voice'.

The nuanced role that can be played by trade unions within the resolution of individual employment disputes is well established. This includes promoting self-discipline (Edwards, 1994), managing the expectations of members and negotiating with managers to resolve issues or minimise sanctions. At the second seminar of the series, Jonny Gifford, from the CIPD, argued that managers and employee representatives can use each other as a 'sounding board', warning each other of potential problems. However, as Gemma Wibberley (UCLAN) argued at the same event, such informal processes are dependent on the existence of high trust relationships between employee representatives and managers – where such relationships are absent, workplace dispute resolution can become adversarial and tends to revert to the formal application of procedure as organisations seek to protect themselves against litigation (Saundry and Wibberley, 2012).

What of other forms of non-representational voice? Colvin (2004) has argued that the link between high involvement work practices and workplace dispute resolution is not clear cut and appears to depend on both the organisational context and the nature of employee involvement. Certainly analysis of WERS data in Britain (Knight and Latreille, 2000) has suggested that while employee perceptions of commitment and satisfaction are related to lower levels of disciplinary sanctions, organisational practices designed to elicit such commitment have little or no effect. However, during the second seminar, held at the University of Central Lancashire, Andy Charlwood from the University of York discussed his work with Anna Pollert (Charlwood and Pollert, 2012) into the experiences of low-waged and non-union workers. This found that where they could meet regularly with their managers to discuss workplace issues, they were more likely to resolve problems at work and less likely to exit the organisation as a result. Although these effects were modest, they arguably point to the importance of managerial responsiveness in generating trust and also the channels through which informal resolution can prosper.

This in turn places a significant emphasis on the confidence and competence of managers in dealing with difficult issues and working within the emotional contexts of workplace conflict. The government has suggested that, 'it is clear that many more problems could be prevented from escalating into disputes if line managers were better able to manage conflict' (BIS, 2011a:17). However, recent CIPD survey evidence revealed that 'conflict management' and 'managing difficult conversations' were the two most cited skills that line managers found most difficult to apply (CIPD, 2013:7). This reflects academic research that points to a crisis in confidence among UK line managers (Hutchinson and Purcell, 2010; Jones and Saundry, 2012; Teague and Roche, 2012). One consequence of this is that a general preference among managers for pragmatic approaches to conflict resolution has increasingly been replaced with a rigid adherence to process and procedure. While a lack of skill may be part of this problem, there is often a lack of support from senior management, who may not see conflict management as a priority. This has two related effects. Firstly, line managers do not receive sufficient time and space to devote to dealing with conflict, which is seen as secondary to immediate operational considerations. Secondly, key performance indicators on which managerial performance is judged rarely contain any reference to workplace conflict. In addition, managers fear the ramifications of making mistakes in conflict handling, and particularly the threat of litigation (Latreille, 2011).

There is also a danger that managers may be isolated as they assume day-to-day responsibility for handling conflict and as the HR function adopts a more 'strategic' focus. This can involve the centralisation of HR expertise, the removal of on-site HR specialists and an increased reliance on of online guidance. In some cases it has even seen the shift of employment relations advice into shared service centres or outsourced to an external provider (see Huws and Podro, 2012). While the pace and scale of these changes is unclear (see van Wanrooy et al., 2013(b): 12-13), there is a risk that

conflict management could increasingly be seen as transactional activity which adds little value to the organisation and does not require specialist knowledge or skill. Furthermore, the role of the HR practitioner as a mediating influence between employee representatives and line managers could be eroded, undermining informal processes of resolution and encouraging dependence on formal procedures. Overall, in an increasing proportion of workplaces, the network of relationships that facilitate discussion and negotiation of difficult issues no longer exist; in others they are under significant strain. This inevitably limits the potential for the early and informal resolution of conflict.

A question of regulation?

Despite its critical importance, the impact of the changing nature of workplace relations in shaping conflict and dispute resolution has been given little consideration in the contemporary policy discourse. Instead, attention has focused on reducing what the current government sees as the 'burden' placed on businesses by employment regulation. The case for reform is three-fold. First, it is argued that the current employment tribunal system encourages weak, speculative claims that employers are forced to settle to minimise expenditure on legal advice, representation and management time (British Chambers of Commerce, 2011; CBI, 2013). Second, it is suggested that the complexity of the legislative framework and fear of litigation discourages employers from taking on new employees. Third, in order to avoid legal action, employers are reluctant to adopt common-sense, informal approaches to resolving disputes within the workplace.

However, the existence of large numbers of speculative claims is difficult to evidence, partly due to the fact that perceptions of the merits of applications are inevitably subjective. The CBI (2013) argues that the relatively high proportion of applications that are withdrawn and the high success rate of employers at hearing are indicative of the weakness of many claims. In contrast some commentators (see for example Hepple, 2013; Ewing and Hendy, 2013), cite these same factors as demonstrating that the current system is heavily weighted in favour of employers and severely limits the ability of employees to enforce their rights. Notably, Gillian Morris (2012:17) has argued that the relative rarity of costs awards against claimants by tribunals suggests that 'contrary to anecdote, the number of unmeritorious claims is few'.

In terms of the impact on employment, the international evidence in relation to the impact of regulation is not straightforward with researchers finding both negative and positive economic impacts (see for example Deakin and Sarkar, 2008). Furthermore, a number of contributors to the series pointed out that, according to the OECD, the UK already has one of the least regulated employment systems among developed economies.

Despite this, there is no doubt that there is significant anxiety and uncertainty over the potential for, and implications of, employment litigation. Legislation has become increasingly complex, with tribunals covering 67 separate jurisdictions (Ministry of Justice, 2012). Perhaps more importantly, as Sue Corby

and Paul Latreille pointed out during the Warwick seminar, the employment tribunal system has become progressively more legalistic and adversarial, mirroring the civil courts (Corby and Latreille, 2012). Thus, the prospect of litigation is undoubtedly daunting for both employers and employees, particularly where they do not have the benefit of legal representation. Moreover, the seminar series heard evidence that that this fear encourages risk-averse approaches to conflict management and limits informal resolution processes (Jones and Saundry, 2012).

One way of countering these fears would be to return to Donovan's original vision of an 'accessible, speedy, informal and inexpensive' means of settling workplace disputes. Interestingly, the series heard Kieran Mulvey, Chief Executive of the Labour Relations Commission, describe proposals by the government of the Republic of Ireland to move to a more inquisitorial system of adjudication (Department of Jobs, Enterprise and Innovation, 2012). In the UK, while the Acas Arbitration Scheme (launched in 2001 and still in operation) was not intended to replace the employment tribunal system, it offers an alternative means of deciding claims of unfair dismissal and those relating to requests to work more flexibly. To date, the voluntary nature of the Scheme, its jurisdictional reach and a lack of incentives for potential users (among other factors) has limited its use and significance (see Dickens, 2012). Nonetheless it potentially provides a model for a less adversarial and more accessible means by which workplace disputes can be decided.

The current government has done little to radically reform the way in which employment claims are heard and decided. Instead, it has sought to reduce the legal exposure faced by employers when ending the employment relationship through measures including: an increase in the qualifying period to claim unfair dismissal to two years; the introduction of hearing fees for claimants; new provisions for 'settlement agreements'; and a cap on compensatory awards. The impact of the government's employment law reforms is yet to be properly assessed, however there is some early tentative evidence that the number of single claims has fallen sharply following the introduction of fees (Ministry of Justice, 2013). For some, this reflects the narrowing of access to justice while for others it may simply represent the weeding-out of weak claims. There is also a danger that reducing the risks associated with dismissal will narrow the incentives for employers to take steps to resolve disputes when the least cost option may simply be to terminate the employment relationship.

However, the extent to which these changes will shape the way that employers and their employees seek to navigate and manage workplace conflict is open to question. A recent study, commissioned by the Department of Business, Innovation and Skills (BIS) has found evidence that 'the perception of legislative burden may be more indicative of employers' anxiety than the actual impact of regulation on running a business' (Jordan et al., 2013:44). They argue that this perception is driven by the volume of the 'anti-legislation discourse' as opposed to substantive effects.

Critically, small and medium sized enterprises, who are both more anxious about, and also more likely to find themselves subject to, litigation (Saridakis et al., 2008), are also less likely to be aware of the detail of employment law. Consequently, 'a reduction in legislation is unlikely to have any impact' (Jordan et al., 2013:45). Indeed Professor Hugh Collins, from the London School of Economics, argued during the fifth seminar of the series held at the University of Warwick, that the government's emphasis on the regulatory 'burden' of employment regulation may actually accentuate fear among employers.

Mediation and conciliation – changing the culture of conflict management?

Although the government has shown little interest in reforming the nature of adjudication it has stressed the importance of workplace mediation and expanded the use of conciliation to encourage the settlement of workplace disputes. In policy terms, the most significant change in this area has been the extension of Acas's individual conciliation services. Following the Gibbons Review in 2007, this initially centred on the promotion of pre-claim conciliation (PCC), which built on Acas's long-standing role in conciliating disputes in the workplace by offering conciliation where litigation was likely. Gill Dix, from Acas, pointed out (during seminar one) that PCC was designed to encourage the earlier and speedier resolution of disputes. This would not only avoid the time and cost of legal action but help to preserve employment relationships. Certainly, users have found PCC to be quicker, cheaper, and less stressful than litigation. In addition, evaluations have shown some evidence of consequent improvements to organizational practice. Moreover, in 2012/13, just over half of the 22,630 cases referred to PCC were resolved or settled and fewer than one-third progressed to tribunal (Acas, 2013). Importantly, PCC has been disproportionately used by small firms without HR expertise, and also by unrepresented employees. However, it has been less successful in resolving disputes inside the workplace and consequently preserving employment relationships (Acas and Infogroup/ORC International, 2010; TNS BMRB, 2013). The positive impact of PCC paved the way for a new 'Early Conciliation' (EC) scheme (to be introduced in April 2014) under which all prospective claimants will have to submit their details to Acas, who will then offer to conciliate. Where either party rejects conciliation, or no settlement is achieved, the claimant will be able to submit a claim to the tribunal service. Critically, while PCC offers the possibility of early intervention in the workplace, the focus of EC will primarily be on the avoidance of litigation. Overall, contributors to the series generally saw the introduction of EC as a positive development, although there was concern that the introduction of tribunal charging could deter some employers from seeking early settlements.

In contrast, workplace mediation perhaps offers greater opportunities to seek to repair and preserve damaged employment relationships. Its promotion has been one of the key components of Coalition policy even if there have been few concrete measures to increase its adoption. There is a small but growing body of research in the UK suggesting

that in certain contexts mediation can help to resolve issues that might otherwise result in long-term absence and litigation. Significantly, it also offers substantial savings in terms of staff time and cost (Latreille, 2011). This reflects a fairly consistent stream of evidence from the USA which points to high settlement rates and levels of participant satisfaction (for example see Nesbit et al., 2012). However recent research presented by Tony Bennett (UCLAN) at seminar three, held at Swansea University, has suggested that the notion of 'success' in mediation is complex (Saundry et al., 2013b). In particular, settlements may be difficult to sustain and have limited impact on employee behaviour. Furthermore, there is a risk that mediation could be used to shift the responsibility for conflict from the organisation to the individual by reinterpreting unfair treatment as an interpersonal issue. Nonetheless, participants, and particularly employees complaining of unfair treatment, may find the process empowering, enabling them to move on without the need to resort to formal procedure. As Professor Charlie Irvine argued at our opening seminar held at Strathclyde, one of the main benefits of mediation is that it helps participants 'unfreeze' attitudes to a dispute, allowing more data to emerge and explore the issues underlying a conflict (Irvine, 2014).

Perhaps more fundamentally, the government has claimed that a growth in the use of mediation 'has the potential to lead to a major and dramatic shift in the culture of employment relations' (BIS, 2011b:13). There is evidence that an involvement in mediation or being trained as a mediator can enhance the conflict competence of individual managers and employers (Latreille, 2011). Furthermore, in the USA, analysis of the US Postal Service's REDRESS programme suggests that transformative mediation had improved the organisational climate and stimulated early resolution (Bingham, 2009). In the UK, Saundry et al.'s (2013a) case study of the introduction of mediation at a public health organisation demonstrated that mediation could act as a catalyst in developing trust between unions and managers and facilitating informal processes of resolution. However, much more research is needed to substantiate the claims that mediation can fundamentally reshape organisational attitudes to conflict.

Contributions from a wide range of practitioners throughout the series certainly suggested a growing awareness of, and interest in, workplace mediation. There is also tentative evidence that the introduction of the revised Acas Code of Practice prompted organisations to explore the potential offered by mediation (Latreille, 2011) and in some cases led to the development of in-house capacity (Rahim et al., 2011). However, it remains a minority activity with WERS2011 reporting that only 7 per cent of all workplaces had used mediation to resolve a dispute in the previous 12 months[1] (van Wanrooy et al., 2013). Moreover, as a number of contributors during the series pointed out, it is generally found in larger and public sector organisations. Overall, for SMEs, cost would appear to remain a significant deterrent, while line managers, in organisations of any size, can see mediation both as a threat to

1 This figure includes workplaces which did not report experiencing disciplinary action or employee grievances in the previous 12 months – therefore it may understate the use of mediation in response to an employee grievance or disciplinary matter arising.

their authority and a sign of failure. Moreover, the lack of robust evidence as to its impact also makes it difficult to demonstrate the organisational benefits of investing in mediation capacity, contributing to its reputational fragility (Latreille, 2010).

The search for innovation – is conflict a strategic issue?

One of the main findings from the seminar series was that the piecemeal adoption of mediation is not a panacea for workplace conflict. Instead, participants pointed to the need for organisations to adopt more integrated approaches which locate conflict management as a central element of HR strategy. However, as Bill Roche (University College Dublin) explained at the Belfast seminar, there is, to date, little academic evidence of such developments within Great Britain and Ireland (see also Roche and Teague, 2012). Furthermore, research conducted by Paul Teague and Liam Doherty (Queens University, Belfast), and presented at the same event, found a deep antipathy to the notion of managing conflict among senior managers, who were hostile to any idea that the discourse of 'conflict' should be accepted as a part of organisational life. Instead, conflict was seen as 'deviant and dissident' and organisations were more likely to try to 'expunge conflict from the vocabulary of the organisation' rather than look to develop strategic approaches to its management (Teague and Doherty, 2011).

In contrast, innovation is much more apparent in the USA with an increasing number of large organisations using combinations of rights- and interest-based processes, or what have been termed 'integrated conflict management systems' (ICMS) (Lipsky et al., 2003). At the final seminar of the series, David Lipsky (Cornell University) outlined findings from a study of Fortune1000 companies conducted in 2011, which replicated a previous survey in 1997. The results suggest that an increasing proportion of organisations are moving beyond the occasional and pragmatic use of ADR mechanisms and adopting more strategic and pro-active approaches to managing conflict. Overall one-third of the corporations in the sample had adopted features associated with conflict management systems (Lipsky et al., 2012). In addition, while mediation and arbitration remained the most widely used, new forms have also emerged such as 'early case assessment' and 'peer review' (a process by which disputes are adjudicated by a panel of co-workers).

But what are the catalysts for and barriers against innovation? Here, Alex Colvin's analysis of the experience of the USA (presented at Belfast) is instructive. Perhaps the biggest incentive for employers to develop new approaches is the extremely high cost of litigation through the civil court system. The average federal court case takes more than two years to come to trial, while median damages are $176,000. This therefore suggests that there is a positive relationship between the risks associated with employment litigation and innovation in conflict resolution. By extension, the UK government's current attempts to reduce these risks could blunt (employer) incentives.

It has also been argued that innovation in the non-union sector has been driven by a desire to ward off trade unionisation

(Lipsky and Seeber, 2000). The all or nothing nature of union recognition within the US system means that the implications of this for the UK are relatively limited. Nonetheless, there are undoubtedly mixed views among UK unions, with some concerned that alternative forms of dispute resolution (ADR), such as mediation, erode their traditional representative role. Against this it has been argued that it can provide opportunities for trade unions to deliver improved outcomes for members and extend their influence (Saundry et al., 2013a).

At the same time, as Alex Colvin explained at Belfast, the experience of the USA suggests that integrated and innovative approaches (such as peer review) are more likely to be found in 'high road' organisations which see conflict management as part of human resource strategy designed to maximize employee engagement and maintain competitiveness. David Lipsky argued at Westminster that rather than mediation and ADR being used as a measure of last resort, there is evidence of companies moving from using ADR techniques to avoid litigation to using conflict management strategies to resolve disputes at the earliest possible stage and to provide a greater role for front-line managers. Moreover, the adoption of strategic approaches to conflict management also appears to be associated with the use 'High Performance Work Systems' and more participative HR approaches.

This link between the strategic management of conflict and employee engagement is notably absent from managerial discourses in Great Britain and Ireland. Instead, conflict management remains associated with the administration of disciplinary and grievance procedures and is consequently stereotyped as a low value and essentially transactional element of the management function. However, it can be argued that a recognition that conflict is an inevitable part of organisational life, and a proactive approach to its management, can underpin employee commitment. Research has shown that organisational support is a fundamental strut of employee engagement (Saks, 2006). Furthermore, as Purcell (2012) has suggested, this is underpinned by perceptions of fairness, justice and trust.

Justice does not simply relate to the outcome of a decision (distributive justice) but critically to the way in which that decision was arrived at (procedural justice) and how this was dealt with by managers and/or colleagues (interactional justice). Accordingly, where decision and actions are seen to be 'just', employees are more likely to co-operate and reciprocate with increased discretionary effort (Colquitt et al., 2001). In addition, it may affect the trajectory of conflict. Andrea Broughton, speaking at the Strathclyde seminar, pointed out that individuals' perception of justice is a vital issue in the escalation of workplace disputes. Purcell also claims that informational justice (the extent to which employees understand the reason for a certain course of action or outcome) is a crucial ingredient in building trust (see Fuchs and Edwards, 2012). In this context, Andy Charlwood, addressing the second seminar in the series, highlighted the need for a focus on developing ways of building trust as opposed to a focus on formal procedures.

Ariel Avgar, from the University of Illinois, shed additional light on these issues in his presentation during seminar four. His research suggested that the avoidance of conflict can have a negative impact on the generation of social capital which it could be argued is fundamental in underpinning collaboration, co-operation between staff and effective organisational performance (Avgar, 2010). His detailed quantitative case-study of a large medical establishment in the USA found a positive relationship between conflict resolution and social capital. Furthermore, these relationships were most strong where informal processes of resolution were employed, particularly between line managers and their team members. This again puts a focus on the importance of line manager capability but also on the role of trust – a central ingredient in social capital. Avgar's research not only suggests that the informal sphere and the role of supervisors are crucial, but that the way in which conflict is resolved can itself help to foster (or damage) trust, mutuality and reciprocity.

Thus, as Liam Doherty and Paul Teague suggested at Belfast, it could be argued that conflict management is crucial if organisations are to extend employee engagement and inculcate organisational citizenship behaviours. During the seminar series there was some suggestion that attitudes in Great Britain and Ireland may be beginning to change. Mediation practitioners pointed to examples of organisations attempting to integrate mediation provision within conventional rights-based procedures and using mediators to train and coach staff. However, without further research, the extent and significance of these initiatives is difficult to establish.

Conclusions and key issues

While the scale and direction of individual workplace conflict is both contested and difficult to measure, there has been less disagreement among those participating in this ESRC seminar series as to the potentially damaging effects for both the individuals and organisations involved. Furthermore, there has been a degree of consensus that changes in the structures of workplace representation and the changing balance between the responsibilities of HR and line management have had a significant impact on the capacity of organisations to resolve difficult issues in the workplace.

The task of filling this 'resolution gap' is more problematic. Public policy in relation to the UK's system of dispute resolution has focussed almost exclusively on the impact of legal regulation on employment and economic efficiency. The debate here is extremely polarised. On one hand, there is a widely held belief among employers that the current system is costly, complex and prone to speculative litigation. Others argue that measures to introduce application and hearing fees in employment tribunals, for example, simply limit access to justice, undermining employment protection.

The very early signs are that these changes will trigger a significant reduction in tribunal volumes. However, it is doubtful whether this reflects any diminution of workplace conflict and highlights a danger that restricting access to the tribunal system will simply drive workplace problems underground. While the government's reforms may

reduce the number of employment tribunal applications, they do not appear to tamper significantly with the nature of tribunal hearings themselves, which both employers and employees have come to regard as daunting. An interesting contrast to this can be found in the Republic of Ireland, where the government is exploring a shift towards a more inquisitorial system. This could provide an indication of whether a more radical approach, including a reconsideration of the 'arbitration alternative' (Dickens, 2012:32), is either possible or desirable.

It might be suggested that employers, 'freed' from the fear associated with litigation, may be more likely to address issues at an early point or even invest in more innovative approaches such as mediation. But, recent research for BIS (Jordan et al., 2013) suggests that this may not be the case, while the experience of the USA implies that reducing the potential costs of conflict could blunt incentives to innovate. Therefore, while the government has largely focussed on the end of the employment relationship and reducing the likelihood of subsequent litigation, it could be argued that there is a need to place a greater emphasis on what happens in the workplace and on ways in which employment relationships can be salvaged.

One area in which the government has sought to encourage early resolution in the workplace is through the promotion of mediation. There has undoubtedly been an increased interest in its potential both as an alternative to conventional rights-based disciplinary and grievance procedures and also as a catalyst for deeper organisational change. However, its use remains limited, and is largely the preserve of larger, often public sector organisations. To date, concrete government action has mainly been limited to funding two regional mediation pilots which are attempting to build networks of trained mediators within SMEs. While this is a positive development and the evaluation of this initiative is awaited with interest, can more be done? Interestingly, a key trigger for increased interest in workplace mediation was the revision of the Acas Code of Practice on Disciplinary and Grievance Procedures and the inclusion of a brief reference to mediation in the foreword and a more detailed treatment in the accompanying guidance. However, there is no mention of mediation in the body of the Code. Therefore it could be argued that a further revision to place greater emphasis on the potential of mediation could stimulate its adoption.

Even so, mediation alone is unlikely to affect the type of transformational change to the culture of conflict management envisaged by government. This hinges on the development of good employment relations practice – providing skills to line managers and effective structures of employee voice and representation – and the pursuit of more innovative approaches to conflict resolution. This, in turn, is dependent on workplace conflict being recognised by organisations as a strategic issue. There is tentative evidence from the USA of a growth in more integrated approaches to conflict management. But the signs from both Great Britain and Ireland are not promising – for many organisations conflict is simply viewed as a

transactional issue that does not extend beyond the handling of disciplinary and grievance issues. Thus there is a need to broaden the terms of the public debate to emphasise the potential value of effective conflict resolution processes in underpinning workplace justice, trust and employee engagement, and ultimately organisational performance.

The extent to which government can intervene to promote a different approach may be limited, but it can provide a framework that encourages innovation. For example, it has recognised the importance of enhanced management skills and supports their development within a range of initiatives such as the Growth Accelerator programme and the Growth and Innovation Fund. However, there is a need to embed the importance of conflict resolution within its skills strategy. Encouraging the development of employee representation is arguably more difficult – here the evidence clearly suggests that some statutory underpinning is vital (see Bryson et al., 2012). Nonetheless, the existing Information and Consultation of Employees (ICE) Regulations could provide a possible starting point, as David Coats discussed at the Warwick seminar. However, the wide discretion and flexibility provided to employers as a result of the way in which the original directive was transposed into UK law has, so far, led to a lack of enthusiasm from trade unions and limited uptake (Hall et al., 2011). But, as Purcell and Hall (2012) have intimated, if the regulations were strengthened to reflect the provisions of the amended rules covering European Works Councils (by for example providing clear rights to representatives for time-off to carry out their duties) they may have the potential to begin to close the representation gap.

More broadly, there is an opportunity for government to send a clear message regarding the importance of effective and innovative conflict management through its role as an employer. To some extent this is reflected in the government's Dispute Resolution Commitment (DRC) which built on the previous ADR Pledge, introduced in 2001. The DRC is 'aimed at encouraging the increased use of flexible, creative and constructive approaches to dispute resolution. It offers an opportunity to demonstrate a best practice approach to business and in particular to how disputes are managed and resolved.' However while the DRC covers claims brought by 'individuals' and 'organisations' against government departments, there is currently no specific reference within the DRC to its application to employment disputes. Thus, there is arguably some scope to use the DRC more proactively to promote the application of ADR to workplace conflict through government and its supply chain networks.

The tentative evidence that we have to date suggests that the public sector is a focus for new approaches to workplace conflict resolution. There are examples of organisations within the NHS, Local Government and Higher Education working closely with trade unions and other stakeholders in developing mediation and enhancing conflict resolution capacity. The capacity of such initiatives to restore and repair workplace relationships in these sectors is particularly resonant given the potential link between employee well-being, dispute resolution and standards of service and also the broader aspirations of increasing employee engagement. However, it would also appear that such initiatives often operate in isolation.

Therefore there is a clear need for greater co-ordination and sharing of best practice.

Finally, the existing knowledge base in relation to the resolution of individual workplace conflict and employment disputes is still limited. While this seminar series has aimed to generate increased interest in developing research, assessments of the impact of existing dispute resolution regimes and more innovative organisational approaches remain hampered by a lack of systematic data. Although the body of independent academic research in this area is beginning to grow, key questions remain, particularly over the nature and trajectory of disciplinary and grievance issues; the organisational impact of workplace mediation; and the extent of integrated approaches to conflict management. This underlines the importance of developing partnerships between academics, employers, trade unions and the policy-making community so that future developments in policy and practice are based on robust evidence.

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