

Employment Relations Comment

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Transforming conflict management in the public sector?

Employment Relations

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It is a difficult time for relations between public sector managers and their unions. At a collective level there are threats of coordinated action to protest against cuts and significant job losses. But what does this mean for individual employment relations? In this article we discuss the findings from a study commissioned by Acas*, which examines how a partnership agreement and the introduction of an in-house mediation scheme helped to transform conflict management in East Lancashire Primary Care Trust.

However well the change management programmes are conducted, and however closely rules and procedures are followed, and the reasons for change communicated, there will always be levels of conflict in the workplace at an individual level. Some will be caused by organisational change, but other problems will simply result from day to day contact between

colleagues – different personalities, different views, different standards of behaviour, varying degrees of empathy.

Individual conflict has been the subject of much policy debate, in government and among other commentators. A good deal of the concern has focused on the growth in the volume of Employment Tribunal claims, and one response from government has been an increased emphasis on informal procedures and the resolution of disputes within the workplace. Yet, in some quarters, management behaviour and that of their trade unions has often appeared to be moving in the opposite direction, with a greater reliance on formal workplace procedures and regulation and an adversarial union management culture.

The case study on East Lancashire PCT has considered the way organisations can tackle relations where high levels of conflict exist and simultaneously seek ways

*Transforming conflict management in the public sector? Mediation, trade unions and partnership in a Primary Care Trust, Saundry, McArde, Thomas, Institute for Research into Work, Organisations and Employment, University of Central Lancashire.

to encourage approaches to dispute resolution without reliance on formal procedures. Relations between management and the three main trade unions at the Trust were considered to be relatively adversarial by both unions and managers alike, despite the introduction of a partnership framework agreement in 2006/7.

"There wasn't a partnership...it was a 'them and us' batter the barricades the old fashioned way. If there was a problem just hit it head on." (TU rep).

"I think there was a really typical confrontational conflict management style, if you like, where there was an 'us and them,' management versus staff side situation." (Operational manager)

There were inter-related reasons for the situation. The organisation had undergone a significant degree of change which in turn had led to a sense of uncertainty and insecurity among staff. There was also a lack of trust between union representatives and management. This situation was exacerbated by the approach of both sides to conflict, according to the report: "Management respondents claimed that trade unions would immediately formalise employee grievances and encourage the submission of formal complaints on a wide range of issues. At the

same time, management also tended to apply and enforce procedures very rigidly."

Introducing mediation

Attempts to remedy the climate of mistrust began with the development of partnership working as part of Agenda for Change, and although this did go some way to improving relations it was limited in its reach. A key development came with the appointment of an Acting director of HR who decided to introduce an in-house mediation scheme to reduce costs of grievance and dispute handling but also to make a 'real culture difference'.

Although there was strong support from senior management, trade unions were initially hostile and managers and staff within HR were initially unconvinced. The approach of the Trust, or more specifically the HR director, was to invite staff from HR, operational management and the three main unions to train as mediators. Furthermore specific individuals were targeted, including the 'partnership lead' union representative (then RCN). The HR director also sought to involve the lead UNISON representative who had vocally opposed mediation but who, as lead rep, would deal with the largest number of individual cases, came from the part of the organisation from which a high number of disputes emerged (he referred to

himself as the self confessed 'grievance king') and was well respected by union reps and by staff.

The training itself dealt not only with mediation skills but deliberately allowed participants to address the adversarial relations that existed between unions and management. Participants were encouraged to air grievances and explain how they felt about the roles played by managers, employees and unions. It was a high risk strategy as one senior management explained.

'There was a couple of moments where I really did not want to come back...I was really, really about a millimetre away from walking out a couple of times because of the attitude of staff side reps, really sort of going to town on management instead of thinking about us all in it together as mediators... I struggled to understand how you could possibly come in as a mediator if you held such strong views about managers.'

However, all those respondents that had attended the training believed that this approach was necessary in order to shift entrenched attitudes and establish trust between the mediators. Furthermore there was a clear sense that the training had a transformative impact on those that attended and in particular on those

participants who had previously adopted a confrontational approach to disputes:

‘During the training, it was like these eureka moments. You could see people having these, like, oh you know, really enlightening, you know, light bulbs switching on and things like this that they could see the value of, you know, using mediation.’ (Operational manager)

The UNISON lead representative, who had been very sceptical of the entire concept and process, explained that the mediation training had helped him to understand (for the first time) the perspective of managers.

‘I never wanted to go into a room and believe that the manager at any point in any kind of dispute was right. Or even believe that they were a human being....Mediation gets people to sit in the other person’s shoes... until you can understand what pressure somebody’s under, or how they think, you know, don’t judge them.’

Implementation

The scheme was established in 2008. Its aims were to resolve issues related to difficult situations at work affecting: employees’ working relationships; how employees feel about the people they work with; how they do their

work; and the health and home life of employees. There were some teething problems including confusion around what mediation entailed, concern by managers over a loss of management control, and scepticism from trade union representatives who had not been involved in the training and felt that the scheme was an attempt to reduce union influence.

These initial barriers were largely overcome, according to the report: “Perhaps the most effective way in which initial suspicions were quelled was through word of mouth. In short, managers and staff who had been through the process and seen difficult issues resolved, passed on this information to their colleagues.

Consequently, awareness of the scheme has inevitably been incremental and has been taken up with more enthusiasm in some areas than others.” And amongst trade union representatives, “initial doubts appeared to have been overcome, with mediation now routinely considered before formal complaints are made.”

Outcomes and impact

There was clear evidence that the scheme was extremely effective in resolving disputes that were referred to mediation. Only one case out of 28 failed to reach a written agreement. The Trust’s own evaluation claims that most participants found the experience

empowering, even if they were sceptical prior to the mediation process. There was also evidence that the resolution of the 27 cases resulted in significant cost savings.

It was not only the mediation process that proved successful however. There was also evidence that the introduction of the scheme had contributed to a shift away from formal, process driven approaches to individual employment disputes in general. Instead managers, HR practitioners and union representatives placed an emphasis on resolving disputes at the earliest stage.

There was also a consensus that since the introduction of mediation, relations between management and unions were less adversarial and this underpinned both the handling of individual disputes as well as collective issues. There was a shared view that there was now a genuine partnership between management and trade unions, as one senior manager explained.

‘It’s a lot less confrontational, and a lot more forgiving. I think there’s more trust now, so that if the staff side finds something out that they think they should have been communicated on earlier, there tends to be more acceptance that it’s cock-up rather than conspiracy now. A mutual trust to a higher degree, so generally employee relations now here feel

positive. Not perfect; they're never perfect. You've always got to keep working on these things... We're currently doing a major reconfiguration and downsizing. We have the partnership lead on the HR project team actually sits on the project team in the project meetings. That kind, that level of input from staff side I think is very strong.' (Senior HR Manager)

Just as the successful introduction of the mediation scheme was conditional on the development of nascent partnership working, the relative success of partnership working was seen as being critically dependent on the role of the mediation scheme in changing the attitudes of key actors and building trust between unions and management. The interdependency of mediation and partnership was summed up by a trade union representative:

"I don't think it's enough just to have mediation

on its own or just have partnership on its own. It's kind of the foundation for everything that the Trust is going to do with its employees and that's moving away from the Trust doing things to its employee... the mediation service sets up better outcomes for the Trust from the point of view of process. It [formal process] felt really horrible; it felt really unfair. It left people very disillusioned and demoralised and eventually they'd either be really unproductive or just wander off the books altogether and there was no way out of it. There was no way at which you could stop it and say, "Okay. We stop the process there. We can make this better". The only thing that's done that is mediation, but mediation wouldn't have happened if weren't for the workforce partnership which bred the trust in the first place."

Lessons for the public sector

The authors highlight the fragility of the transformation warning that the "changes are critically linked to specific individuals who play central roles within dispute resolution processes and that the change in the Trust while significant remains contingent and fragile." However, the transformative effect on the individuals who took part in the training and on the wider employment relations culture, provides a useful lesson for other public sector bodies where management union relations have soured. Union respondents were bullish about the importance of partnership in dealing with the potential of cuts and downsizing, and there was a strong belief from those involved in the scheme that mediation would be even more valuable in an environment in which cost saving was a priority and in which managers and staff would be placed under increasing pressure.

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