



Workplace conflict management special interest group

Special Panel: *summary notes*

Coopers Inn, Thursday April 14th 2016 [6:00 – 7:30 pm]

A panel discussion “**From triage to case management: crafting bespoke interventions**” was held at Coopers Inn on the evening of 14th April, 2016.

Three members of the VADR / VARJ **Workplace conflict management special interest group**, all experienced workplace mediators, participated in the panel presentation. **Murray Bickerdike** (DW Bowe & associates), **Meriel O’Sullivan** (Redd consultancy) and **Stephen Graham** (TriSigma) were joined by a visiting colleague, **Professor Jerry Goodstein**, who specialises in business ethics. Professor Goodstein was visiting Australia from the Carson College of Business at Washington State University.

As a VADR/VARJ CPD event, the evening was formally opened by VADR President **Deborah McFarlane**. VARJ President **David Moore** then facilitated the session, reminding participants that the joint workplace special interest group had been established after a similarly well-attended panel presentation and discussion at Coopers Inn in **April 2015**. The group met bi-monthly through 2015 and early 2016, and held engaging and illuminating discussions.

Stephen Graham

Stephan opened this discussion with a description of four very different examples of workplace conflicts. He named these:

- i) **The Chased employee**, who reached such a point of frustration in his treatment by the supervisor that he turned, picked up an electrical cable, and chased his employer until stopped by colleagues;
- ii) **The Fireball employee**: one employee, a painter, noted that another colleague smelled like petrol – then pulled out a lighter and ignited him;
- iii) **A wink is as good as a nod**: a senior female clinician received a wink of the eye from a “subordinate”, and perceived this act as threatening;
- iv) **The Quarrel**: a situation where a group of directors were in conflict, and one of them preferred to liquidate the company rather than deal with the presenting issues of concern.

A moral of these examples was that, where the essence of each conflicts is so different, so too the appropriate interventions should differ.

Stephen stressed that we are at a crossroads in this profession, and need to consider with care:

- i) the lack of consensus of language to describe “matters” in the workplace (e.g. as “issues”, “concerns”, “disputes” – but with or without “conflict”, and so on)
- ii) the various forms that conflicts take;
(For example, some are primarily about rights, some are about interests, others about welfare/safety matters, some have “horizontal/vertical” aspects; there are different degrees of /complexity/seriousness.)
- iii) the cultural implications of conflict in the workplace; &
- iv) what to do about how conflicts are managed, since “off-the-shelf” interventions are often inadequate, or inappropriate.

Stephen concluded this summary with caution about a naval captain giving the command: “Ready, Fire, Aim!” The process we have available tends to determine how we actually proceed. As a profession, we need to become more sophisticated in our diagnosing, and in the processes we offer.

Meriel O’Sullivan:

Meriel’s presentation focussed on understanding the sources of conflict and how this understanding can assist with selecting the most appropriate ADR intervention.

Meriel noted the trend in workplaces for HR to respond to complaints by offering:

- i) **Mediation** as *the* “informal process”, with the outcome that the matter is registered as resolved or unresolved at the conclusion; and/or
- ii) **Investigation** as the “formal processes”, with the outcome that complaints are upheld or not upheld.

In each case, complaints can be addressed and resolved without a role for, or the participation of, senior management of the organisation. How can we broaden this approach so that organisations (or those representing them) are not removed from discussing the problem, and that interventions are tailored to meet the presenting problems?

A case study of a Mediation was used to highlight the limitations of mediation in those cases where there is a mismatch between the causes of the conflict and the intervention. In the case study, an employee lodged a complaint about threatening behaviour of a colleague, and also made a complaint against management. The mediation process identified issues with the way behaviour is addressed in the workplace, with a culture of aggressive behaviour, and with unresolved disputes. At the mediation, the employee and management representatives acknowledged issues were not dealt with well, but felt unable to resolve this without the involvement of HR and senior management.

Discussion on the case study covered the:

- organisational factors that contribute to a toxic culture;
- limitation of ADR processes where there is a disconnect from the causes of conflict; &
- the problem with assuming conflict is always about individuals.

Meriel suggested that, as practitioners, we consider whether the employer should be a party to the conflict resolution process. She also discussed encouraging HR to take a case management approach to conflict (noting David Moore's work) and referenced the 7 steps model of case management developed by the NSW ombuds service:

1. acknowledge,
2. assess,
3. plan,
4. implement,
5. respond,
6. follow up, and
7. review.

The step model on assessment provides an opportunity to introduce HR to a triage approach to situations of workplace conflict. A case management approach can also be useful when dealing with litigious employees, and has been well received by HR for this reason.

Murray Bickerdike:

Murray presented a case study of an intervention within a law enforcement workgroup of 32 uniform and non-uniform staff.

The workgroup had utilised two types of intervention in the past to address problems in the workplace: either mediation or investigation (as outlined by Meriel).

Murray talked with management to identify their highest priorities. There were two: i) the *health and well-being* of the staff (fulfilling OHS duties) and ii) improving the *effectiveness* of the unit (in terms of interaction between staff, productivity and the income-generating objectives of the unit).

There was a discussion with management around what problem solving or dispute resolution methods had been adopted in the past: "What have you done with complaints in the past?" What was loosely described as "mediation" was a process whereby a manager asks each individual to explain their position and what they wanted, then the manager issues a direction to close the matter. The other method was "formal investigation", which could take many months to reach a conclusion. It was often the case that neither of these options achieved a satisfactory outcome or lasting improvement.

Lesson for the practitioner: It is important to ask and understanding the past - what has been tried, what worked, and what didn't work.

Murray asked: "Why wasn't this approach working?" One lesson he has learnt over time is that when the staff involved in the problem are not involved fully in creating the resolution, there is often minimal "buy in" from them for a solution which they see as being imposed on them. Similarly, the rights-based processes were limited in their scope and potential outcomes (i.e., alleged misbehaviour, with outsiders assessing the situation, and this exercise leading to the solution of either "sanction" or "no sanction").

So: what is different with the approach Murray took with this workplace? He involved the workers in a collaborative *health and safety auditing* process, to identify all the issues that were having an unhealthy impact or a negative impact on workgroup effectiveness, and he developed tailored solutions that would be effective and sustainable for this unique working environment.

It required some bravery from management to accept this approach, as it inevitably resulted in challenging messages for the leaders about the way they were perceived to have contributed to unhealthy or ineffective outcomes.

A ‘health and safety’ focus was the key to engaging this group, as they were familiar with OHS principles and it enabled the team to have a common, unarguable objective – to create an effective and psychologically healthy environment. While the OHS language was familiar from a physical hazard perspective, it was novel for the group to use the same language when responding to hazards to mental health.

The language was about working together to identify patterns of behaviours or types of situations that created health hazards - and about finding *solutions*, rather than *finding fault* and imposing sanctions for specific instances of misconduct. **The focus therefore moved from a reactive response to problems - the symptoms of an unhealthy working environment - to proactively identifying the underlying causes of such problems and putting in place preventative measures.**

First step: to conduct a briefing with the whole work group, ensuring that there is clarity that the process isn’t about ‘fault finding’ but rather it is inclusive, collaborative and confidential.

Lesson: This type of approach can help groups experiencing tension and conflict to move on because everyone in the team is heard and given an equal voice to identify problems and create solutions.

Being an OHS process, the staff understood the language and the compliance element: once a risk is identified, there is a requirement to do something about it. This framework assisted staff to engage with the process, as there was greater confidence that sustainable improvements would be achieved.

Next step: send out a questionnaire; in this case, it had a 100% return rate.

Next step: one-on-one interviews to discuss their responses and to clarify points made or the practicality of suggested solutions (for e.g. no sanction means no sacking, so what are other options?).

This information was collated, de-identified, and provided back to the group for further discussion and feedback. The feedback was grouped into 4 areas: Leadership, Communication, Issues Resolution and Culture.

A detailed report was then compiled, which collated the responses from the group meeting, and included a number of one-page flowcharts to use for different situations.

For example, one of the flowcharts focussed on ‘Issue resolution’ – a practical guide created with the group to provide a pathway for individuals to use when deciding on the most appropriate way to address a particular issue. The flowchart provided a clear structure everyone could follow easily: *i.e.*, an informal chat over a cup of coffee first, then a range of progressively more formal options if the less formal opinions had not resolved the matter. The flowchart was created as part of a discussion and understanding reached about the value and limitation of different options, including mediation or formal investigation, and at what stage it would be appropriate to seek assistance from a line manager, senior manager or HR.

One option in the **Issue Resolution Flowchart** was to use a Guided Discussion to assist staff to engage in a difficult discussion in a healthy, safe and effective manner. The Guided Discussion used a traffic-light analogy to initially triage the way to use the process - based on the difficulty or seriousness of the problem. The process then involved four steps: from initial planning, to understanding the issue from each other’s perspective (using the language of impact and intention), then using that

understanding to collaboratively develop practical solutions, and finally checking in, after a period, to ensure the solutions had worked and the issue could be closed.

Key lesson: the value of involving, enabling and empowering individuals at all levels to take ownership over i) the decision to select the issue resolution process most suited to a particular situation, and ii) accountability to find and implement healthy and effective solutions.

Outcome of the intervention: a significantly more positive culture where issues were being addressed and resolved promptly and effectively; no new complaints lodged with HR; trust was being rebuilt; and increased optimism and humour was apparent in the workplace.

David Moore then summarised some of the **themes highlighted by the 3 presenters:**

- shifting the default focus beyond individual grievances, to collective **occupational health and safety** [OH&S];
- seeking to **involve all those affected** by a situation in understanding and improving it;
- not only protecting *rights*, but also considering **what interests need to be met**;
- the practice of developing collaboratively a series of diagrams that explain at-a-glance some key abstract concepts, and also developing practical **templates for effective communication** that are understandable to, and used by, all staff.

Questions:

Q: *Can the organisation be a party? Could they be an 'observer'? Who would play that role? What are the implications re: confidentiality?*

A: The organisation has an interest in resolution. Workers may be fine with never talking again, but that outcome is not in the interest of the organisation. Some of the "pure models" of mediation don't acknowledge these aspects, nor raise important questions such as: Who needs to be in the room? Who is impacted by this situation?

NB. The [work of Moira Jenkins](#) and the OHS model that encourages professionals to provide a report on an intervention (outlining systemic issues) and brings in a OHS PERSON to sign off and discuss it to make it viable. This approach does change aspects of confidentiality.

Q: [To Murray]: *What type of time commitment did you have and what length of time did the OHS in the prison take?*

A: Two months. Then another few months for review. 80-90 hours all up for Murray. But compared to the costs of just two prior formal investigations (which hadn't improved the culture), this was seen as a cost-saving and very much a worthwhile investment. Murray was known to the organisation, and this helped because the leadership was open to the application of a process that had not been used in this workplace before.

Another benefit of this type of process is that it educates the clients, so they start talking the language, become involved in an assessment of the situation, and develop approaches to effectively intervene in conflict at an earlier stage to proactively reduce tension and conflict.

Q: *How did the outcome work industrially?*

A: The OHS framework was established with the unions, so it worked well, and the unions backed it.

Jerry Goodstein

Jerry outlined how he became interested in studying the application of group conferencing to address situations of abusive behaviour and bullying in the workplace.

He explained that in business ethics, the focus is on preventing or avoiding unethical behaviour. However, there was little attention given to how to *respond* to unethical behaviour. The two most typical responses were i) to punish or ii) to get rid of the person. (Although, most say if a person breaks the code, then we will let them go.) But there is no real learning with this approach, there is no prompt for change, or learning within the organisation.

So, Jerry asked himself, “Where would I look for solutions that are not so punitive?” In the US, the response is usually punitive. Outside his field, there seemed to be more on offer. The most common response was “mediation”.

He then looked well outside his field – into criminology, and there he came across restorative justice literature (RJ) relating to justice systems, in schools and in some corporate settings (via the writings of David Moore and Brenda Morrison). But there seemed to be virtually no application in workplaces in the US, despite the good work done in other settings and in other countries. He thought that it was odd that, in the corporate setting, such an approach wasn’t adopted more.

Jerry emphasised that he is a researcher, not a practitioner. So he focused on where restorative practices (RP) were being applied – public sector workplaces, health organisations, etc. and some of the differences in outcomes between approaches. He discovered that there was little evidence-based research. Much of the material was anecdotal.

In the South West of the US, he found one person working to modify the often abrasive behaviour of doctors. Rachel Schaming, who was Senior Vice-President of Radiology Ltd, adopts a collaborative approach which includes coaching and other interventions. The processes she applies are “not purely RP”, but the principles guiding her practice seem closely aligned. For instance, she has brought together multiple parties, involving co-workers and those affected by the situation. She has collected feedback about the harm caused. She asks: Who is harmed? What should we do collectively to address the harm caused? And, then she assesses how to feed this information back to an abrasive medico. She will hold a “forgiveness meeting”, a type of reconciliation process that enables everyone to communicate with each other. She supports the doctor to acknowledge the harm and to identify how they may change their practice, and supports others to receive this apology or message given by the doctor.

Jerry is now working with colleagues at the University of Queensland and Flinders University, and has applied for an ARC grant to study the application of group conferencing in situations of abusive behaviour and bullying in the workplace. The research aims to i) document where group conferencing is working and why; ii) what are the barriers to it being effective; and iii) to provide evidence-based information to demonstrate how group conference is working.

Most of this practice work is occurring in Australia. He cannot not say RP is the right approach in all situations, but it can work with complex conflicts with multiple parties. The approach is also useful for going beyond a focus on a “difficult person”, and shifting the focus to systemic factors that may be contributing to, or causing, the presenting problems. RP offers a mechanism for getting to the sources of the conflict.

Jerry will be returning to Australia, and he is keen to work with anyone who might be able to help get this work documented.

Further Questions

Q: *One of the practical requirements for an offender to be involved in the group conference is that they must acknowledge their “misdemeanour” in the workplace. There are sometimes no obvious offenders, or if there are, they may not accept/recognise their manner. So how would a group conference apply in this type of situation?*

[See the Appendix below, from D.B. Moore’s *Group Conferencing Convenor’s Manual*, which answers this question in terms of variations to the conferencing process]

A: There may be situations in the workplace where it is not appropriate to offer conferencing. Maybe you cannot meet collectively until someone has demonstrated some ability to acknowledge the situation. However, you can adopt different processes simultaneously, for instance, provide some coaching process by relying on the responses for a person to ‘hear’ what others are saying. Bringing people together can involve supporting the person to better comprehend the situation before meeting with others.

Example: a person may be engaging in criminal behaviour (harassing staff and threatening) and not want to recognise the situation.

Murray: once you have identified an unhappy impact, then you must act. That is the power of treating an issue as affecting OHS for all.

Q: *How does [Jerry Goodstein’s colleague] get around confidentiality with the information she was giving for feedback?*

A: No names given. But general terms provided: “fearful”, “worried about expressing details”, etc.;

Q: What about smaller organisations, where people will know each other and who has responded.

Q: *What about the in/formal approach, since the laws around bullying and there is a want to investigate – what then after the investigation? If it is a removal, that is clear. But what to do with those in the workplace who are affected?*

A: Investigation may become less the focus. There will always be a place for an investigation, because it is a ‘break through’ for some. The emergence of mediation as an alternative has a purpose, but again it has its limitations. The initial impetus may be to arrange a meeting between two people, but looking more broadly may be more significant and beneficial.

[Notes recorded by Dr Alikki Vernon / alikki@alikkiv.com.au / April 2016]

APPENDIX: Variations on the Group Conference structure

As the number of *programs* using Group Conferencing has grown, distinctions have become clearer between the categories of cases for which Conferencing is used. It is helpful to distinguish **three distinct variations** of group conferencing (along with hybrid, or combinations of these variations):

i) The most familiar applications of Conferencing dealing with an incident that has caused harm, and where there is no dispute about who is culpable. This type of case can be categorised as a “**single incident of undisputed harm**”. Most youth justice conferences, and *some* conferences in schools and workplaces, are of this type.

(ii) Other conferences in schools, and *most* conferences in workplaces or residential communities, address a series of significant incidents that have affected a group of people. This type of case can be categorised as conflict as a legacy of a “**sequence of poorly resolved or unresolved disputes or incidents**”.

A useful generic structure for a “sequence of incidents” Conference, addressing a complex situation that has developed over time, is to revisit three specific moments, incidents or unresolved disputes incidents. These incidents tend to have promoted those involved or affected to say to themselves:

1. “Something’s bad here”; then
2. “Now things have gone from bad to worse”; then
3. “Now something really needs to be done!”

A hybrid of type (i) and type (ii) is appropriate of those situations where a series of incidents (often over a long period) has left a legacy of trauma. For these cases, a group conference can provide for truth-telling about undisputed harm. A detailed and coherent narrative of events and their aftermath may provide a new perspective for those affected. They may be able to “let it go” & “move on”, especially when participants with authority undertake to “do something” with any lessons.

iii) A third type of group conference deals with some common issue that causing problems or escalating ill-feeling among individuals or groups of people. We categorise these cases as “**many different experiences of the same situation**”

A useful generic structure for a “common situation” Conference is to ask each participant for a specific examples of “things going well”, before then asking each participants for a specific example of a problematic element of the situation that needs to be addressed and improved. In this sort of case, the conferencing process can help the group achieve a collective goal by:

- Gaining insight about styles & systems of communication;
- Identifying existing problems & how to address them more effectively;
- Establishing goals & options to get there;
- Creating an action plan; &
- *Coordinating* “community” & “official” resources for ongoing **oversight & support**.