

WORKPLACE STRATEGIES

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Outsourcing Conflict Management - the External/Internal Workplace Mediator

There can be little doubt that employers continue to struggle with addressing conflict at the workplace. Statistics from the Commission for Conciliation, Mediation and Arbitration (**CCMA**) show that it deals with more than 100,000 cases each year; evidence that high-conflict situations are common practice in the South African workplace.

This article looks at the role of a workplace mediator and proposes that employers who regularly make use of mediation services can prevent disputes finding their way to the CCMA (or if applicable, an industry bargaining council). As the incongruous title suggests, it also argues that employers should consider outsourcing their conflict management efforts to a mediator that is both external and internal to the organisation.

Cost and Frequency of Disputes

The need for on-going mediation can be appreciated by an understanding of the costs and frequency of external workplace disputes.

Some employers calculate the cost of workplace disputes by simply adding together fees paid to attorneys and monetary compensations orders imposed on the company by Courts or tribunals. Such a calculation fails to take into account a number of key elements of a workplace dispute, such as the time spent by managers preparing for cases and giving evidence, the cost of termination payments and fees incurred in recruiting new applicants to fill positions left vacant because of dismissals.

The likelihood of a workplace dispute being referred for third party intervention is also worth considering. Almost any employee in South Africa, with the exception of "soldiers and spies", can approach the CCMA for relief. Other countries, such as the United Kingdom and Australia, have placed restrictions on an employee's entitlement to seek relief from an industrial tribunal. In those jurisdictions, employees are prohibited from lodging a claim for unfair dismissal if they do not have a year's completed service (in the United Kingdom) or if they earn in excess of a remuneration threshold (A\$106,400 per annum in Australia). Given that there is no qualifying period nor a remuneration cap in South Africa, access to the CCMA is almost unrestricted and provides further motivation for employers to take steps to prevent disputes materialising into CCMA claims.

Outsourcing Conflict Management

Employers wishing to properly manage workplace conflict may consider retaining mediation services that address the cause of the conflict, before one party seeks to discontinue the employment relationship. Ideally, this person's role could be described as an "external/internal mediator".

The mediator should be external to the extent that he or she is removed from the employee-employer relationship. If the mediator is an employee of the organisation, they are likely to face vested interests and find it difficult to be impartial or objective, particularly in situations where an employer may be acting unfairly or unreasonably.

However, there are benefits to be gained from a mediator who is (at least partially) 'internal' to the business. If the mediator has an understanding of how the organisation operates and the issues that it faces, he or she has the ability to propose solutions to the cause/s of the conflict that would be difficult to identify without that internal knowledge. A mediator that is 'internal' to the degree that he or she is known by and familiar to the parties, may also find it easier to gain a level of trust during the mediation process. This invariably assists efforts to find an agreeable resolution.

The appointment of an external/internal mediator, tasked with handling the majority of an organisation's conflict management efforts, is in essence an outsourced arrangement.

Historically companies have entered into outsourcing arrangements when the outsourced-service has not formed part of the company's core business. To put it another way, outsourcing is considered either when the business realises that it does not have the expertise to provide the service, or it is not cost-effective for the business to do so. If you consider those two criteria, workplace conflict management may well fall into both categories. Few organisations can turn to the services of a competent mediator from within their internal structures. For most companies, it is not cost-effective to provide that function internally. However, given the costs associated with employee terminations and the frequency of CCMA claims, it may well make financial sense to consider an outsourced mediation arrangement.

When to call the external/internal mediator?

Naturally it will not be cost-effective for employers to involve an external/internal mediator on each occasion that a dispute appears on the horizon. In any event, it would be a mistake to alleviate obligations on line-managers to informally deal with conflict 'at the coalface'.

When structuring an outsourced arrangement for conflict management, employers may consider limiting the use of a mediator to the following types of circumstances:

- when personality clashes arise, particularly at managerial level;
- where demarcation issues exist, such as a dispute about the roles and responsibilities assigned to particular employees;
- in situations where conflict exists at departmental level (for example, where a finance team and a sales team fail to work together); or
- in instances where an organisation seeks to bring about potentially controversial workplace change, such as restructuring initiatives.

Retaining an external/internal mediator can also be advisable as an interim step to train managers in effective conflict resolution techniques. Rather than attend external training programs, managers often learn more from being coached in real-life conflict situations that exist at their own workplace.

Measuring Return on Investment from Outsourcing Conflict Management

The costs of failing to deal with workplace conflict are considerable. Organisations that do not cope with conflict invariably suffer low productivity levels, high rates of employee attrition and inevitably, significant attorney fees.

If an outsourced conflict management provider is effective it should bring about productivity rises, co-operate and collaborative working relationships, managers that are growing into leaders and a reduction in visits to the CCMA.

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Workplace Strategies has expertise in conflict resolution and provides clients with the opportunity to outsource conflict management efforts.

For more information see:

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