Managing individual conflict in the contemporary British workplace

23 March 2016

Disclaimer

Executive summary

This report provides a detailed analysis of findings from a qualitative research project that sought to extend our understanding of the management of conflict in British workplaces and how this is being shaped by the regulatory environment. It also examines the influence of the Acas Code of Practice on Disciplinary and Grievance Procedures.

The research was conducted between December 2014 and September 2015, and comprised 25 focus groups and 20 individual interviews. In total, 158 managers, HR practitioners, union representatives and employment lawyers, drawn from a wide range of different organisations, took part in the research.

The nature, pattern and significance of workplace conflict

Perceptions of the incidence and significance of workplace conflict reflected organisational characteristics and context. Managers of smaller enterprises reported that conflict, which they tended to equate with visible expressions such as disciplinary cases and employment tribunal applications, was rare. In contrast, respondents who worked in larger organisations felt that conflict was an inevitable part of employment relations. However, the prevalence of conflict tended to 'wax and wane', depending on external competitive, funding and regulatory conditions, and their consequent impact on working practices and employment security.

Focus groups suggested that, in the public sector, the conditions for conflict had worsened over the last five years. Pressures on funding had increased work intensity and created environments in which tensions between employees were more common. Moreover, managers had less time and space in which to communicate with their team and 'nip' difficult issues 'in the bud'. Employee representatives were also under pressure, and their capacity to support informal resolution appeared to be shrinking. In the private sector, the incidence of conflict reflected specific market characteristics. For example, where labour was seen as being relatively easy

to replace, there was some evidence that use of discipline was more arbitrary and grievances were less common.

Although there was general agreement among participants that conflict had significant and negative implications for both employees and employers, there was little sense that conflict and conflict management was a strategic priority for most organisations. Instead, conflict was only seen as a problem if it escalated into a grievance, disciplinary issue or an employment tribunal application. Consequently, organisational responses to conflict often tended to be reactive and focussed on dispute resolution as opposed to proactive attempts to manage conflict.

Contemporary issues in workplace conflict

Within larger organisations, attempts to manage the performance of individual employees were the main causes of workplace conflict. There was broad agreement that an increased focus on cost, efficiency and regulatory compliance had seen employers, particularly in the public sector, adopt much more robust and systematic approaches to performance management. In some cases staff either found it difficult to meet new expectations placed upon them and/or felt that this was unfair.

For HR practitioners, addressing absence and underperformance was, in many organisations, long overdue. Conflict was therefore an inevitable consequence of managers 'doing their job'. However, trade union representatives expressed concern that more stringent application of performance targets and rigid interpretations of sickness absence policies could cross the line into bullying and harassment. Managers and HR practitioners accepted that poor performance management practices could have a negative impact on employee well-being and in certain situations lead to bullying behaviours. This was particularly the case where performance issues had not been identified, addressed and managed at an early point.

Respondents also argued that greater awareness of employment legislation and broader notions of 'fairness' and 'rights' meant that managerial decisions were more likely to be challenged. However, these attitudes tended to be found in settings in which employees felt a degree of job security. In others, it was suggested that workers were often reluctant to raise concerns due to a fear that this would have a negative impact on their employment prospects. This was particularly the case in respect of those engaged on temporary, agency and zero-hours contracts.

It was reported that social media was playing an increasingly important role in conflict escalation. This partly reflected an increasing number of conduct issues related to the misuse of Twitter and Facebook but these applications also provided a 'venue' outside working hours in which relations could quickly deteriorate and over which organisations could exert very little control.

Early resolution and the barriers to effective conflict management

Growing enthusiasm for early identification and resolution of conflict was reflected in organisational procedures, which had been revised to provide a greater focus on informal stages. Managers argued that the personal nature of employment relations in smaller workplaces facilitated less formal approaches, while HR practitioners and union representatives expressed a preference for trying to identify, address and resolve issues before disciplinary and grievance procedures were triggered.

Early resolution was more likely to be found in workplaces in which: managers had the necessary skills and confidence to discuss difficult issues with their staff; managers felt that they had the support of both HR and senior management; there were high trust relations between HR, managers and employee representatives; and conflict resolution was seen as an organisational imperative. However, across the sample, these conditions were relatively rare.

HR practitioners, union representatives and employment lawyers reported that the confidence and competence of frontline managers was a major barrier to effective conflict management. In smaller workplaces, managers had limited knowledge of, or interest in, employment relations. In larger organisations, managerial caution was not primarily driven by concerns over the law and litigation, but by the potential negative impact on internal relationships, the possibility of criticism from senior management and the potential for retaliatory grievances.

The ability to manage conflict, or more broadly, manage people, was not a core competence for most people with managerial responsibilities. The economic climate also presented challenges to overcoming these competency gaps. In many organisations, managers faced cuts to their own budgets and fewer resources and staff. As a result, their own work had intensified, leaving little time to devote to the management of conflict. In SMEs, often working in highly competitive environments, conflict management was something for which there was little time and for many respondents it was simply not a consideration.

Consequently, in larger organisations managers tended to rely on procedure to provide a degree of protection. In addition, a lack of faith in the ability of operational managers led HR practitioners to formalise 'informal' aspects of policy and procedure. Union respondents argued that managers had less discretion to deal with difficult issues and that HR involvement was more rather than less evident than it had been in the past. Managers in SMEs were generally dependent on advice from employment lawyers or external HR consultants once conflict had escalated beyond a certain point. Overall, responses to conflict were still dominated by procedural and legal compliance.

Relationships between key stakeholders were also under strain. Developing trust was increasingly difficult in an environment where the HR function had been severely rationalised, centralised or outsourced. Their advice was inevitably more remote and less timely. This left frontline managers isolated and often dependent on online information or contact by telephone. Union representatives also reported that the high turnover of HR specialists in firms and increased outsourcing of HR expertise made it difficult to identify and build good relationships with conflict management specialists. They argued that, in some parts of the public sector, a competitive dynamic between outsourced and in-house HR practitioners meant that a commercial rather than a people orientated approach to difficult issues predominated.

A further barrier to the development of effective conflict management was that, compared to operational objectives, conflict management and particularly more informal approaches to early resolution were opaque activities that were difficult to measure. As a result good management practice in this area which could be essential in underpinning productivity and improved employee engagement tended to go 'under the radar'.

Innovation in conflict management?

There were tentative signs that organisations were beginning to recognise the need to develop the people management skills of line managers and taking steps to address this issue. An increasing number of larger organisations were developing mentoring and 'buddying' systems. There was also evidence from a number of respondents that people management competences were beginning to be built into recruitment and development programmes.

Respondents who had used mediation were generally positive. However, evidence from the focus groups suggested that mediation use was uneven. Examples of organised internal mediation services were rare and mediation use tended to be more likely in 3 situations: as a last resort when other interventions had already been tried; where there was a risk of the organisation being exposed to a high risk of litigation and/or reputational damage; or where senior staff were in dispute. There was little sign of mediation being used in a strategic or transformative way.

Although cost was a barrier, the reluctance of small business to use mediation reflected a more deep-rooted cultural aversion to inviting in 'outsiders' to explore an organisation's problems. There was also evidence that mediation was seen as a formal process, particularly within smaller organisations, and that referring issues to mediation at an early stage could be seen by the parties as a significant escalation.

In addition to workplace mediation, the focus groups revealed a number of different initiatives and practices that had been developed to address workplace conflict and its consequences. These included coaching for line managers and for staff taking on particular responsibility for providing support in relation to mental health and bullying and harassment. However, these developments tended to be isolated and were rarely part of a more co-ordinated and strategic approach to conflict management. Participants believed that there was still little recognition of the links between the way in which conflict is managed and broader aims such as wellbeing and employee engagement.

More strategic approaches appeared to be more likely to be adopted by organisations for whom brand and reputation were important and who faced high levels of regulatory scrutiny. In addition, the presence of strong trade unions and the potential for conflict to be expressed in a visible way provided an incentive for organisations to invest in more proactive approaches to conflict management.

Responses to regulatory change

Reactions to the introduction of employment tribunal fees divided along clear lines. HR practitioners generally supported their introduction, arguing that this prevented speculative claims being made, while union respondents were universally opposed and felt that the changes had reduced access to justice. Employment lawyers had mixed reactions but there was a majority view that tribunal fees were a blunt instrument which could have the effect of deterring meritorious as well as weaker applications.

Evidence of the impact of the introduction of fees on the management of conflict was complex and uneven. Overall, the evidence suggested that this had reinforced existing attitudes and practices. Participants argued that those organisations which had tended to 'hire and fire' and/or had little or no internal HR function had become emboldened by these changes, while employers who had a more progressive approach to employment relations would continue to seek to resolve conflict in a constructive way, irrespective of the risk of litigation.

There was greater awareness of the increase in the period of continuous employment required to claim unfair dismissal from 1 to 2 years. Managers and HR practitioners argued that it provided more time to train and assess the capability of employees. However, there was evidence the reduced likelihood of litigation from employees with less than 2 years' service encouraged some employers to take a more relaxed approach to procedural compliance. At the same time, concerns were expressed that individuals employed for less than 2 years may be less likely to raise concerns, suppressing discontent.

Views in relation to the impact of Early Conciliation (EC) were mixed. The idea of conciliating at the earliest possible point was seen as beneficial, but there was some scepticism as to whether EC had increased the likelihood of claims being settled. Some respondents, particularly employment lawyers and union representatives, saw it as an 'additional hurdle', which increased the complexity of the application process. Furthermore, it was argued that parties who were represented were sometimes reluctant to begin serious negotiations until it was clear that the claimant was prepared to pay the necessary fees to progress the case to a tribunal hearing.

The Acas Code of Practice on Disciplinary and Grievance Procedures

There was limited knowledge of the detail of the Acas Code of Practice of Disciplinary and Grievance Procedures (the Code) and also the accompanying guidance, albeit this varied according to the role that respondents played, with specialist HR managers and employment lawyers having much more knowledge. The line managers and SME owners and managers who participated in the research knew very little about the Code, relying on the HR department, internal organisational policy or advice from external consultants and lawyers.

The main function of the Code was to shape the development of organisational procedure and policy. In this respect it provided a vital benchmark of good practice and legal compliance. Consequently, it remains a very powerful policy lever. Just as the 2009 revision had led to a shift in organisational approaches to conflict management, so any substantial amendment of the Code would be likely to trigger a review of policy and procedure.

Overall there was limited appetite for amending the Code. From managerial respondents and most employment lawyers there was support for the principles-based approach of the current Code. Trade union representatives, while finding the Code extremely valuable, argued that it provided employers with unnecessary flexibility which could lead to uncertainty and disputes over interpretation. There was general support for continuity and a concern that radical changes would increase uncertainty and encourage more risk averse approaches to conflict handling.

1. Introduction and context

In recent years, there has been growing interest in the way that organisations address and seek to manage workplace conflict and individual employment disputes. It could be argued that this is largely due to the rapid increase in the number of employment tribunal claims during the late 1990s and 2000s, which peaked at 236,000 in 2009 to 2010. Although this headline figure concealed a much more complex and arguably less dramatic picture (Dix and others, 2009; Saundry and others, 2014), the extent of litigation was undoubtedly seen as a problem by both policymakers and practitioners.

Nonetheless, managing conflict is clearly a central part of the day to day activities of employment relations practitioners. In the Workplace Employment Relations Study 2011, more than 9 out of 10 HR practitioners reported spending time on disciplinary and grievance issues, a greater proportion than training, diversity, appraisals and pay. Similarly, discipline and grievance were the most common issues dealt with by trade union representatives (van Wanrooy and others, 2013). Moreover, individual employment disputes have significant implications for efficiency and productivity. On average, an employee grievance takes up more than 2 weeks of management time and each disciplinary case 18 days (CIPD, 2011). In addition, such cases damage the psychological contract, undermine health and wellbeing, and negatively impact on performance (De Dreu, 2008).

There have been 3 inter-related strands of policy in response to this issue.

First, the Gibbons review of dispute resolution in the UK (Gibbons, 2007) focused on the perceived complexity of the statutory 3-step procedures for dealing with employee grievances and dismissals, which had been introduced under the Dispute Resolution Regulations 2004. Gibbons argued that "rather than encouraging early resolution, the procedures have led to the use of formal processes to deal with problems which could have been resolved informally" (Gibbons, 2007:8). Consequently issues were more likely to escalate taking up management time and causing employees unnecessary stress. A revised Acas Code of Practice on Discipline and Grievance was introduced in 2009 which was substantially shorter, less prescriptive and focussed around a number of key principles. This, it was hoped, would give all parties more 'room' to find commonsense solutions to problems. Moreover, this arguably reflected a broader emphasis on providing employers with greater flexibility to manage conflict and promoting the earlier identification and resolution of individual employment disputes.

A second theme of policy reform has centred on the extension of conciliation and mediation. The most notable change has been the introduction of early conciliation in 2014 by which parties considering submitting a claim to the tribunal must first notify Acas and will be offered voluntary conciliation. Among the notifications received by Acas in the first 8 months of the scheme, 15% reached a written, legally enforceable agreement; in 22% of cases the party decided to submit an application to the tribunal; a further 63% of cases did not progress to the tribunal due to the employer and employee reached an unwritten settlement or alternatively the employee deciding not to pursue a claim. An initial evaluation of early conciliation conducted by TNS BMRB (Downer and others, 2015) demonstrated relatively high levels of user satisfaction with 83% of users satisfied with the service provided by Acas and 57% with the outcome.

While early conciliation tends to address disputes that are close to litigation, mediation has been promoted as a way of facilitating the early resolution of conflict and disputes. More fundamentally, it has been seen as a potential means of transforming the culture of conflict management. The inclusion of mediation in the foreword of the 2009 Code of Practice prompted some, mainly larger organisations, to develop in-house mediation capacity (Rahim and others, 2011; Saundry and Wibberley, 2014). However, evidence of the wider awareness and uptake of mediation is very mixed. The recent Workplace Employment Relations Study found that mediation by an impartial third party was used in 17% of those workplaces which had experienced an employee grievance in the last 12 months (Wood and others, 2014). A 2015 CIPD survey of its members reported that inhouse mediation was used in 24% of organisations, and external mediation in 9% (CIPD 2015b:11). Moreover, the use of in-house and external mediation increased by 24% and 32% respectively. At the same time, almost 4 in 10 organisations had expanded their development and use of mediation skills (CIPD 2015b:14).

Where mediation has been employed, the broad consensus from the evidence (from both the UK and USA) is that it can have a positive impact both in terms of delivering resolutions to intractable disputes and in triggering the development of more constructive approaches to conflict management (see for example, Latreille, 2011). Nonetheless, substantial barriers to its adoption remain, not least in the form of resistance from managers who can see mediation as a threat to their authority and discretion, for instance over

individual performance issues (Saundry and Wibberley, 2014).

The final area of policy reform has centred on the law related to unfair dismissal and employment tribunal process. This has included 3 key measures introduced in 2012 and 2013: the extension of the qualifying period to claim unfair dismissal from 12 months to 2 years; the introduction of fees for registering an employment tribunal application and for taking such claims to hearing; and the reform of the existing law around compromise agreements, now recast as settlement agreements. The rationale for these changes was to disincentivise potential claimants. Furthermore, by reducing the fear of litigation, it was hoped that this would encourage less formal and more creative approaches to resolution (BIS, 2011).

Jones and Saundry (2012) found that concerns of possible employment tribunal action (whether real or imagined) were important in pushing managers to adopt risk averse approaches to disciplinary and grievance issues. Consequently, it could be suggested that if the government's reforms change the perceptions of managers, this could in turn shape the way they manage conflict. However, research conducted by Jordan and others (2013) found that there was a lack of understanding of the precise nature of employment legislation among employers, therefore casting doubt on the link between legislative change and managerial behaviour. At a more fundamental level, critics of these measures argue that they represent a restriction on access to justice within a system in which the chances of success for claimants was already extremely low (Ewing and Hendy, 2012; Hepple, 2013).

The introduction of fees has certainly been accompanied by a significant fall in the volume of employment tribunal cases. The total number of single claims in the second half of 2013 to 2014, following the establishment of the fee regime, was 10,588, less than 40% of the volume in the equivalent period 12 months earlier. Note: more recent data is complicated by the introduction of early conciliation, which has contributed to the reduction in the volume of applications.

Fees clearly represent a significant deterrent. An analysis of the reasons why applicants decide not to pursue their claim following early conciliation found that tribunal fees was the main reason cited, however this was only the dominant cause of withdrawal for 26% of claimants (Downer and others, 2015). At the same time, there is no available data that sheds light on whether the reduction in the number of cases represents a 'weeding out' of claims with less merit. Importantly, the diminution of employment litigation in the amount of employment litigation does not necessarily reflect a reduction in the prevalence of workplace conflict with 4 out of 10 employees experiencing some form of interpersonal conflict at work according to a recent representative survey conducted by the CIPD (CIPD, 2015a).

The focus on employment tribunal volumes has arguably diverted attention away from more fundamental changes to the nature of workplace employment relations which in turn, have eroded the capacity of organisations to manage conflict. It can be argued that a 'resolution gap' has been created through 3 main developments:

- the erosion of structures of employee representation
- the changing nature of the HR function
- an apparent lack of confidence and competence among frontline managers when faced with conflict

Furthermore, the challenges faced by line managers are rooted in the failure of organisations to see conflict management as strategically important. This means that the role played by managers in addressing and resolving conflict is not seen as a priority and consequently, little emphasis is placed on conflict competence in terms of recruitment, development and career progression (Saundry and Wibberley, 2014).

Although recent Acas funded research has extended our understanding of the management of workplace conflict, there are a number of limitations associated with the evidence base to date.

First, much of the research has been based on case studies, which have mainly centred on larger organisations. While these have provided valuable insights into attempts to develop innovative approaches to conflict management, we have little evidence as to whether these findings are replicated across different types of organisations and in smaller workplaces. Second, there has only been limited research into the impact of recent policy initiatives.

It is in this context that this research seeks to extend our understanding of the way in which conflict is being managed in British workplaces. We also examine the extent to which Acas advice and guidance is used and shapes the way in which key actors address workplace conflict and individual employment disputes.

More specifically, the research aims to:

- identify key trends in the nature and pattern of workplace conflict and individual employment disputes
- assess the main challenges facing organisations in resolving conflict at an early stage
- examine key changes in the approach taken by organisations to the management of conflict and identify any innovative practice
- explore the use of Acas advice and guidance, including Acas's statutory Code of Practice on discipline and grievance handling, and identify any ways in which this can be revised to provide greater support to organisations and employees involved in conflict situations

This report is structured as follows. In section 2 we set out the methodology used in the study. In section 3 we present the findings, organised around 6 main themes: the nature, pattern and significance of conflict; contemporary issues in conflict management; early resolution and the barriers to effective conflict management; innovations in conflict management; responses to regulatory change; and the use of the Acas Code, advice and guidance. In section 4 we set out our conclusions and the key lessons for policy and practice.

2. Methodology

The research was conducted between December 2014 and September 2015. The main method employed was focus groups. This was chosen because it provided an opportunity to explore the social processes that underpin attitudes to conflict management and the behaviour of key stakeholders while also giving access to a much wider sample of participants than would have been possible through using semi-structured interviews. In addition, it was hoped that the interaction of participants within the focus group setting would stimulate creative and innovative ideas in relation to future developments in conflict management.

The project began with a pilot exercise – this comprised 4 focus groups, 3 in the South West and one in the North East, which involved 22 individual participants and 19 different organisations. Two focus groups were held in Plymouth. Both comprised a group of HR practitioners. The third focus group was held in Bristol and comprised 2 HR practitioners and 6 operational managers.

The final group was held in Leeds and comprised senior HR practitioners. Access was co-ordinated in some cases through Acas regional offices, and in other cases through existing networks. Each of the pilot focus groups lasted for approximately 2 hours and was conducted under Chatham House rules. Each group interview was comprised of 3 parts based on a common topic guide: the first explored the scale and scope of conflict and key issues related to its management; the second examined the detail of conflict-handling by focussing on specific scenarios; the third looked directly at Acas guidance and advice.

Following the pilot groups, it was clear that different categories of respondents would require different approaches, making combined groups problematic. For example, the use of scenarios was not particularly helpful for the groups of HR practitioners, but was much more effective in providing operational managers and those working in SMEs with a focus for their responses. The pilot groups also demonstrated the need for a much shorter topic guide which focused on the key themes to emerge from the research. In addition, in order to aid recruitment, it was decided to reduce the length of groups to between 60 and 90 minutes and also to offer an incentive to participate of either a donation to charity or shopping voucher to the value of £20.

A schedule of the completed research is set out in Table 1 (below). In total 25 focus groups were completed in 3 regions – the South of England, the North East and the North West. Ten groups comprised of HR practitioners, 8 groups were made up of trade union representatives, and there were 4 groups of operational managers, including a number employed within SMEs. It was also decided to conduct 3 groups of employment lawyers, recruited through the Employment Lawyers' Association. These were made up of senior

lawyers who represented both claimants and respondents, and a number of whom provided advice and handled work for smaller organisations. In addition, 7 individual interviews were also conducted where focus groups had initially been set up, but where changing commitments of respondents meant that they had been unable to attend.

Table 1: Schedule of focus groups and interviews

Region	HRPs	TUs	Lawyers	Line managers/ SMEs	Individuals	Completed groups	Participants
South	2	4	2	2	2	10	63
North-east	2	1	0	0	5	3	14
North-west	6	3	1	2	0	12	68
Midlands	0	0	0	0	13	0	13
Total	10	8	3	4	20	25	158

Recruiting focus groups among SME owners and managers proved particularly difficult. Contact was made through existing networks and also attempted through various intermediaries such as regional offices of the FSB and local Chambers of Commerce with a view to inviting participants to focus groups. These routes proved to be unsuccessful; as although they produced individuals who were willing to share experiences and take part in the research, it was found to be logistically difficult to arrange focus groups. Therefore, it was decided that one to one interviews would be conducted with the member of staff responsible for HR matters.

In total 13 individual interviews were conducted of between approximately 30 minutes and 60 minutes duration. The variation in length was largely due to the differences in experience and familiarity with issues relating to conflict. Ten interviews were conducted by phone and 2 were conducted face to face. The businesses operated across a range of sectors and employed between 4 and 268 employees.

All the groups (and individual interviews) were recorded and transcribed – any identifying features or comments were removed from transcripts to maintain anonymity. The data was analysed using an iterative process – the key themes identified during the pilot exercise provided a starting point and as transcripts were analysed these themes were developed, some were discarded and new themes emerged. Illustrative quotations were used to highlight substantive issues and findings. The research began in December 2014. However, restrictions to the conduct of fieldwork during the period running into the May 2015 General Election meant that fieldwork was suspended during April and early May 2015 but was resumed after the election. The fieldwork was completed in September 2015.

3. Findings

3.1 The nature, pattern and significance of workplace conflict

In this section we examine evidence relating to patterns and trends in workplace conflict. We seek to assess both the prevalence of conflict within our sample and its impact on organisations and their employees. We first discuss the experiences of managers in small and medium-sized enterprises and then look at the link between work intensification and conflict in larger organisations. Finally we assess the importance and significance of conflict.

3.1.1 SMEs: an absence of conflict?

Perceptions of the incidence and significance of workplace conflict differed markedly between different groups of participants. This mainly reflected organisational characteristics and context. For example, managers and owners of smaller enterprises claimed to have had little experience of conflict. They explained this in reference to the strong personal relationships that smaller teams can create and the 'family' atmosphere of small businesses:

"The business was originally very much a family business, but we've moved a million miles from that in terms of how the business is run… it's a very professionally run organisation now, but we still like to maintain the benefits that we had when we were a small sort of family based business, more a family feel to the business." (SME4W)

This mirrors previous research that has found that workplace size is positively related to rates of grievances and disciplinary action (Wood and others, 2014) and also suggestions that close relations between managers and staff in smaller workplaces can facilitate informal resolution through discussion (Forth and others, 2006). In some respects, it is not surprising respondents did not see conflict as being particular prevalent. Managers in SMEs tended to equate 'conflict' with more formal expressions of workplace conflict and most small employers rarely experience an employee grievance or an employment tribunal application. Furthermore, the personal nature of employment relations in SMEs could also create an environment in which employees were reluctant to raise concerns, thus masking underlying discontent.

Where conflict did occur in SMEs it was linked, by some respondents, with rapid organisational growth. In particular, it could be difficult to maintain a family ethos as the size of business increased and new employees were integrated into very well-established teams. For example, in one business a stable team was disrupted by the employment of an apprentice who was not only new to the business but also much younger than the rest of the team:

"There is very little conflict in the regular, core team of long term employees. They obviously enjoy working in the business and all have distinct roles, they don't really cross over each other... it's the first time we've used an apprentice. It's a bit of a learning skill there for myself. There's a big age gap... I found it a little bit challenging dealing with someone of that age compared to the rest of the team who are all senior people." (SME9W)

Another respondent also explained that recruitment decisions made under pressure to meet expanding demand could mean that individuals are employed who don't fit into the culture of the organisation:

"Inevitably in a start-up because of the risk associated and the fact that you are paying below market rates and all of those things, you tend to get forced into a situation where you take the best of a reasonable bunch, not necessarily the best of the greatest bunch…and because you tend to also recruit on an ad hoc, bit of a knee-jerk basis, you also don't necessarily get a particularly cohesive team." (SME12W)

3.1.2 Larger organisations: work intensification and conflict

Respondents who worked in larger organisations felt that conflict was an inevitable part of employment relations and for HR practitioners and employee representatives dealing with conflict was a central aspect of their job. Conflict was shaped by structural factors and the nature of employment relations. For example, in larger, unionised organisations, managerial decisions were more likely to be challenged and escalate into grievances, whereas in other settings conflict was generally expressed through disciplinary sanctions. Moreover, the prevalence of conflict tended to 'wax and wane' depending on external competitive funding and regulatory conditions and their consequent impact on pay, working practices and employment security.

Within the public sector, pressures on funding and increased demands for service quality meant that staff were being expected to 'do more' with fewer resources and this was creating fertile conditions for conflict. Respondents in a number of groups reported that increased expectations on staff coupled with diminishing resources had created unhealthy workplace environments in which tensions between staff were more common:

"Certainly in the last few years, in times of austerity with public sector cutbacks, there seems to be having to do more and more with less and less and, you know, it does explode into relationship problems sometimes between supervisors, managers and staff. People sort of then snap." (HR Practitioner, FG1U)

Similarly, a senior employment lawyer described their experience of the education sector:

"That's where you see a substantially high number of stress related conflict, change management conflict, often driven by external government changes that then have to be implemented at a lower level... And managers don't have the time in that scenario to do the job of managing, because they are required to teach children as well."
(Employment lawyer, FG10U)

As this quote suggests, work intensification also tended to crowd out communication, particularly between managers and members of their team. In short, people had less time to talk to each other and managers had little opportunity to 'nip problems in the bud':

"There's so many more demands on people all the time. So if people are being asked to do more then they don't have time to speak reasonably to people... the priority isn't to fix those little problems... just leave them to it because we've got bigger things to do, bigger fish to fry..." (HR Practitioner, FG6U)

Overall, within the public sector, the focus groups suggested that the conditions for conflict had worsened over the last 5 years. This was less evident in respect of larger, private sector organisations. Here, the prevalence of conflict was dependent on specific market conditions and/or the composition of the workforce.

Trade union representatives argued that in organisations with low-paid, lowskilled workforces, there was little attempt to manage and resolve conflict because labour was easily replaceable and those workers were less likely to be either unionised or have the resources to challenge managerial decisions:

"The pay for the job is the National Minimum Wage, it always has been, always will be unless something dramatic changes. And they are so easily replaceable as a workforce [okay]. The balance of the workforce is probably at best 50/50 between agency and zero hours contracts. So it's just fluid all the while. People just get dismissed and you hear nothing about it." (Trade Union Representative, FG4P)

In organisations with high levels of sub-contracting and outsourcing, union representatives claimed that conflict resolution was at best problematic and often non-existent. The use of rolling fixed-term contracts was felt, by union representatives, to be one mechanism through which employers could 'avoid' dealing with underlying causes of conflict within their organisations. The continued employment of workers on fixed-term rather than permanent contracts meant that employers could regularly use the option of non-renewal of such contracts to remove 'problem' workers.

3.1.3 The impact and importance of conflict

There was general agreement that the escalation of conflict had significant and negative implications for the individuals involved and on organisational performance. Disciplinary and grievance proceedings took up a substantial amount of management time and commonly involved organisations incurring considerable legal expenses. It is important to note that seeking external advice from either employment lawyers or other specialists appeared to be a default position in most organisations. Furthermore, protracted disputes often resulted in long term absence and also greater expenditure on recruitment to replace staff who resigned or were dismissed.

However, the headline costs associated with the management of disputes did not necessarily reflect the wider damage to the organisation caused by conflict. Disciplinary and grievance cases were often the visible manifestation of more deep-rooted problems relating to behaviour, relationships and performance that managers were unwilling or reluctant to address:

"When you come to something like this it is often a symptom of loads of other stuff behind it. It's a real iceberg moment, isn't it? Nine tenths of everything else that's going on is below the waterline." (HR Practitioner, FG2)

Therefore, HR practitioners generally agreed that conflict typically had a wider impact on teams in which employees are involved, undermining productivity:

"You've definitely got a productivity dip, not only from the people affected, it's between say, 2 colleagues or a colleague or a manager, that sort of thing. Those 2 will definitely be affected, because whichever side you are on, it's not a nice thing to go through. But you've also got other members at work when it's the water cooler talk, it's the gossip, it's exciting. And you will see productivity dip in groups when something like that is going on. I think that's what the cost is."
(HR Practitioner, FG1P)

While disciplinary action and formal grievances were rare in SMEs, when they did occur their impact was particularly severe. The time needed to deal with such issues could have a disproportionate effect on employers with limited resources. In addition, it was often very difficult to insulate other staff from conflict and impossible to resolve the situation by moving personnel to different teams or duties. Consequently, organisational morale could be badly damaged:

"[Conflict] can damage team morale, issues of people refusing to work with other people and it can have that knock on effect on the harmony of the team and the whole sort of structure because people have to work together in teams on machinery, they have to work in despatch areas and you are then having to try and carefully either move people around into the right teams so you don't then get the clashes or having to try and say 'look you have got to work together'. It can divide and cause a lot of upset." (SME Manager, SME8W)

One example given by an SME owner highlighted the way in which fallout from conflict could impinge on others in the organisation. In this case, the issues raised by trying to manage one individual led to 2 other people leaving the business:

"That did have a ripple effect in then causing another member of staff to hand his resignation in before we actually realised. I think it actually cost me in total, 2 members of staff as well as that member of staff in terms of the problems he was bringing to the workplace, in terms of expectations and attitudes." (SME11W)

The extent to which conflict was seen as an organisational imperative reflected the structural and sectoral dividing lines outlined in the previous section. In SMEs, despite the potential impact that conflict could have on a small business, there was little sense that this was an important or strategic issue. Indeed, they did not feel that they could justify a full-time or part-time position for HR matters and accordingly someone senior in the company assumed the role alongside other duties. Moreover, if conflict escalated into a disciplinary or grievance issue, responsibility for this was essentially outsourced. As the following quote illustrates, the main priority of SMEs was to sort out the issue as quickly as possible and at minimum cost:

"We have a lot of SME clients... they've never dealt with this kind of thing before; it's their business, they're losing money and they just want to do something about it and make decisions quickly." (Employment Lawyer, FG4U)

Even within larger organisations, in which conflict was more prevalent, the importance placed on conflict and its effective management was rarely shared by senior managers. There was little sense that conflict management was seen as being a strategic priority for most organisations. Therefore, HR practitioners, and to some extent trade union representatives, were forced into reactive 'firefighting' responses as issues escalated:

"We tend to be … more on the fire-fighting side. We haven't got this... strategy to say we all need to do this because we're managing through really difficult times and this is something that you all should be doing... there's no strategic push to say this is fundamentally important... we tend to do it when we've got pockets of … of issues and try and address those." (HR Practitioner, FG4)

To some extent these attitudes reflected the intangible nature of conflict, whereby underlying discontent is often difficult to identify and measure until it escalates into a grievance, disciplinary issue or an employment tribunal application.

Therefore, HR practitioners in particular reported that conflict was rarely seen as a problem by senior managers unless it had a quantifiable impact on cost (or on brand and reputation as we see in section 3.4.4 Brand, reputation and engagement - towards a more strategic approach).

3.2 Contemporary issues in workplace conflict

This section highlights and discusses a number of factors which participants identified as playing a particularly important role in generating and shaping conflict in contemporary British workplaces. First, we examine the relationship between the management of performance and allegations of bullying and harassment. Second, we explore the propensity and ability of employees to challenge managerial discretion and finally, we look at the role of social media, both as a source of conflict and as a conduit through which conflict escalates.

3.2.1 Managing performance or unfair treatment?

Findings from the focus groups clearly pointed towards the growing importance, within larger organisations, of performance management as a source of workplace conflict. Although prevalent across all sectors, this was felt most acutely by participants from the public sector who saw this as linked to an increased drive for efficiency or in response to external regulatory pressures. For HR practitioners, addressing high absence rates absence and underperformance was, in many organisations, long overdue. Conflict was, to some extent, seen as an inevitable consequence of managers 'doing their job' rather than shying away from difficult issues:

"More and more, we're getting people taking grievances out because we're making managers take the appropriate actions early. So I don't necessarily see someone taking a grievance out because management are managing them as a failure but more I see that as management doing their job." (HR Practitioner, FGP2)

This was particularly acute in organisations in which performance had not been addressed or managed in a systematic way previously. Consequently, staff either found it difficult to meet the new expectations placed upon them and/or felt that this was unfair. Consequently, disputes were triggered by attempts by managers to address performance issues and consequent accusations of bullying and harassment:

"My organisation culturally has never done any kind of performance management... [managers] are dealing with people that have been there for 5, 10, 15 years who have never been told, 'you know all that stuff you've been doing for the last 14 years? Actually, you shouldn't be doing that.' So you've got a big cultural barrier there... So it is definitely poor performance management... but it's also new performance management and it's perceived as bullying and harassment." (HR Practitioner, FG1P)

This could also reflect a broader change in organisational values with which employees find it difficult to cope:

"They've got new leaders come in and they've changed the culture... and suddenly a person is like a fish out of water. And they no longer fit in that organisation. And it's almost like whatever you do you're in conflict with that organisation, because you're suddenly in the wrong organisation..." (HR Practitioner, FG6U)

It is important to note that performance management was a visible trigger for conflict across private and not-for-profit organisations, however, this problem appeared to be most acute in the public sector. This certainly reflects survey data from WERS2011, which found that unfair treatment or a poor relationship with a line manager or supervisor were the most commonly cited causes of employee grievances and more prevalent in the public rather than the private sector (van Wanrooy and others, 2013).

Trade union representatives felt that cost cutting and efficiency rhetoric were being used to justify a more robust approach to management. This manifested in a number of ways, through: more stringent application of performance targets and appraisal criteria; the stricter use of probationary contracts; and more rigid interpretation of sickness absence policies:

"I don't know about anybody else - there's a lot of disciplinaries happening around absence. Everyone's nodding, yeah. Where companies have absence policies... the very good ones will have a trigger point... and an investigation takes place in respect of those absences…the bad ones will be 3 strikes and you're out..." (Trade Union Representative, FG5P)

These actions, it was felt by union representatives, increasingly crossed the line into bullying and harassment. An illustration of this was given by a trade union representative in a large private sector business who explained that action was being taken against older

members of staff who were unable to cope with the increasing demands of the job:

"We've got a very high age profile in our company... The senior people are having real problems with performance management. They are physically not able to do the stuff that younger guys can... It really is cruel, it's bordering on bullying and harassment because they've been good, loyal employees for a number of years and for whatever reason, they've ended up there in a physical job and they can't compete against their younger counterparts." (Trade Union Representative, FG6P)

Managers and HR practitioners accepted that poor performance management could have a negative impact on employee well-being and in some cases lead to bullying behaviours. In some cases disciplinary action against employees could reflect a managerial failure to address conflict, and particularly performance issues, at an earlier stage. In such circumstances, some managers would be reluctant to resolve the issue and would instead look to exit the individual from the organisation:

"If there is a breakdown in the relationship between a line manager and a member of their team, that then results in what is perceived as poor performance, that Line Manager will want to take formal action against that employee. They might want to go down a disciplinary route. That person may then put a counter-grievance in because the relationship has broken down and then you've got the added pressure of them wanting to make a commercial decision, potentially, to try and exit that person from the business rather than actually tackle the root cause and just go straight in with formal, rather than try and resolve it in any other way." [HR Practitioner FG1U]

As we describe in section 3.4.3 ('Innovation in conflict management', below) some organisations had put in place measures to offset some of these effects through initiatives related to coaching, dignity at work, mediation and mental health, however, this was far from commonplace. Moreover, there was also a commonly held view among HR practitioners that some employees were increasingly strategic in raising formal grievances in order to delay or derail managerial attempts to raise performance issues or take disciplinary action:

"When someone is challenged because of their absence or their capability, they then try to switch it so that it's bullying or harassment or something like that. That's why they were off sick and we find that... when we go to manage them, manage the absence, they then pull out a grievance as a delaying tactic." (HR Practitioner, FG1P)

3.2.2 A challenging culture?

For conflict to escalate, a key factor is the extent to which employees feel able to challenge managerial actions. There was broad agreement that there was a growing culture of challenge with employees 'more vocal' than they had previously been (Operational manager, FG3). A number of explanations were given for this, some participants saw this as being a generational phenomenon linked to a growing awareness of specific employment rights but also a much broader and undefined notion of 'fairness' and 'rights'. It was suggested that this placed managers in a more vulnerable position and accentuated fears of addressing difficult issues:

"I think the zeitgeist of the time is that people are more demanding. Whether it's customer services... whether it's value for money, good service in a restaurant. I think now employees also see themselves as customers, if you like? And 'I get to say my piece, I get to complain when things aren't right. I get to be treated just as well as him or her or him. Any perceived inconsistency, I will latch upon'." (HR Practitioner - FG1)

A number of managers working in smaller organisations felt that employees were often better informed about employment rights. One respondent argued that behaviours which in the past would have been clamped down on, often in informal ways, were now more difficult to control because of changes in legislation and what was commonly seen to be acceptable management behaviour:

"We've noticed with apprentices... they don't understand rules they don't have any idea of rules or boundaries... One of the managers said you know in years gone by when I was an apprentice if I acted like that my manager would have me by the scruff of the neck against the wall and said right you're an apprentice, you're here to learn if you don't do it you're out, and that is it... Well you can't in this day and age because you're going to be breaching this, this and this..." (SME Manager, FG7P)

Interestingly trade union representatives also found their members more demanding. In particular, they reported that the ability of individuals to access, often inaccurate, legal information from the internet resulted in unrealistic expectations of the outcomes of a grievance or legal action. These views were summed up graphically by the following (tongue in cheek) example:

"My mate's brother's auntie who I met down the pub... says that despite the fact that I punched the MD in the face and nicked £20,000, I've got a claim for unfair dismissal and I'm going to win 7,000 gazillion pounds. And I want you to get that for me because that's what I've paid £13 for the last 3 months for." (Trade Union Representative, FG4P)

This misinformation could lead to a false confidence on the part of employees who may delay getting union support and advice. Union representatives reported that they often became involved in cases far too late, having been notified of conflict and individual disputes by members after issues had already escalated, making resolution much more difficult.

However, the ability of employees to challenge managerial decisions or actions rested on their bargaining power. Employees working under temporary contracts were often reluctant to raise legitimate concerns due to a fear that they would not be given work in the future. Therefore, the spread of agency work and zero-hours contracts could make it more likely that conflict will be suppressed:

"People feel a lot more sort of trapped and less able or confident to be able to... raise their heads above the parapet and talk about if things were not working out." (Trade Union Representative, FG3U)

Employment lawyers and trade union representatives suggested that SMEs were more likely to adopt more robust approaches to conduct and capability and as the following quote from an HR practitioner illustrates, the lack of support structures in SMEs made it less likely that employees would challenge their employer:

"In the SME sector... if somebody goes on the sick, the first few days you get nought and after that they get £89 a week. So there's a bit of a driver to get people back in work... [in larger organisations] when you start to manage performance... as soon as you start to bring them in for performance reviews, sometimes they go off sick with stress. To a greater degree, that doesn't happen in the SME sector because people can't manage on the money." (HR Practitioner, FG9U)

3.2.3 Social media: blurring the work-life boundary

There was a widely held view among respondents that social media was playing an increasingly important role in conflict escalation. Conduct issues related to the use (or misuse) of social media were increasingly common with one employment lawyer claiming that social media played a part in nearly three quarters of the disputes that they deal with. In part this was perceived as result of employees being less guarded on social media and the extent to which criticism of an employer could become widely known very quickly:

"The issues with social media is people sounding off. They've had a bad day at work or were disgruntled with their employer and then bringing the employer into disrepute and there's a fine line between identifying the employer or not. And also, you get people who are on sick leave with stress conditions or immobility and lo and behold, you load up pictures being on holiday in Spain or running up a mountain." (Trade Union Representative, FG5U)

Nonetheless, in some settings, the use of social media by staff for professional purposes was encouraged, so a balance had to be struck. Almost all participants had developed some type of policy or set of rules to deal with this issue. However, social media also undermined the ability of organisations to control and manage conflict. It provided a 'venue' outside working hours in which conflict could escalate extremely quickly. Respondents gave examples of interpersonal disputes developing through social media spilling into the workplace – sometimes this involved serious cases of cyber bullying but more often "banter getting out of hand" (HR Practitioner – FG1P):

"Instead of raising the formal grievance in the workplace, they then make a comment on Facebook or Twitter, then that perpetuates the problem and the conflict then becomes a lot more serious... people then feeling that they're talked about publicly… and they're feeling upset and vulnerable... Sometimes the truth of the issue doesn't really matter at that point. They feel that they've been publicly humiliated…" (HR Practitioner, FG1U)

These problems also reflected a more general blurring of lines between social and work life, particularly given increasing pressures on employees and a growing sense of insecurity in some sectors. Issues which occurred outside work between colleagues often translated into workplace conflict. In such circumstances it is difficult for the employer to deal effectively with the dispute, when no 'rules' have been transgressed. A manager working in an SME described a situation where a breakdown in a friendship between 2 colleagues due to issues outside of the workplace had severe implications for the organisation:

"Technically it was something that had happened out of work and from the company's point of view neither party there was nothing wrong with the work that they were doing. They were both doing good jobs, they were both meeting their targets, so it was a bit of a difficult situation because on their actual performance there wasn't an issue it was purely that their out of work actions caused the problem." (SME8W)

3.3 Early resolution and the barriers to effective conflict management

A key focus of public policy has been to encourage early and more informal approaches to conflict resolution. However, previous research has suggested that this has been hampered by changes to the nature of employment relations in UK workplaces which have created a 'resolution gap' (for example, see Saundry and Wibberley, 2014). This section examines the extent to which key stakeholders attempted to address and resolve issues at an early stage and explores the barriers they face.

3.3.1 Early resolution: developing a less formal approach?

Respondents were overwhelmingly in favour of trying to resolve conflict at the earliest possible point and also agreed that there had been greater emphasis on less formal approaches to resolution in recent years. Among larger organisations this was clearly linked to the revision of the Acas Code in 2009. In particular, this had triggered a review of procedures, which resulted in greater focus on informal stages and a shortening and streamlining of formal stages of procedures:

"We're trying to replicate [the Acas Code] with our own policies and procedures now. So that they are broad, to give us a bit of manoeuvrability." (HR Practitioner, FG1P)

Interestingly, this was not necessarily seen as contradicting a need to ensure legal compliance and natural justice. Sound procedures were seen by all respondents as being important in providing a foundation of fairness and equity and informal action was part and parcel of good process:

"I think you can deal with things very informally and still follow the process. So if you are a fastidious HR personnel manager who loves processes and likes to tap their clipboard, as long as your process is a good one it will say, 'deal with it informally'." (HR Practitioner, FG1P)

However, whether this preference for early, informal resolution was being implemented was much less clear. Attempts to resolve issues through discussion were dependent on a range of factors including the confidence and competence of line managers and the quality of their relationships with HR practitioners and employee representatives. Where managerial skills or relationships between key stakeholders were poor, parties in conflict were unlikely to look for solutions and would instead resort to formal process. As the following exchange between 3 HR practitioners illustrates, a lack of trust almost always led to the use of procedure and once this was entered into, informal resolution was extremely difficult:

Participant 1: "They are working towards resolving something very early on before it escalates into anything big or before it becomes something big in that person's mind."

Participant 2: "That only works well for us... if the individual has got the trust that they will look at it properly at that early stage. If they don't have the trust with us to do that, then it's going to go to grievance…So sometimes we can't stop it because the individuals don't have that trust and confidence."

Participant 3: "Once it goes into formal grievance procedure, you've appointed an investigator, it can get quite protracted... and can often make it more difficult to repair some of the damage once it's gone weeks and weeks down the line."
(HR Practitioners, FG11U)

In SMEs, there was a clear preference for avoiding formal procedure where possible. For one respondent the aim of the process was to be 'restorative' rather than punitive, and while this approach did not rule out the possibility of more formal action in the future, it was felt that moving directly to a formal process was unlikely to bring about the desired outcome:

"If you immediately instigate a formal procedure what happens is it becomes a conflict situation between you and them and it is unlikely to come to a good outcome, because people then have a disciplinary record or whatever and they see themselves in a parent / child kind of role, where you're telling them off for something that they would consider has been dealt with." (SME Manager, 12W)

Formal processes were therefore reserved for instances where the informal approach had proven unsuccessful or was inappropriate due to the seriousness of the issue. However it was also clear that once conflict had escalated beyond a certain point, SMEs were often dependent on advice from employment lawyers or external HR consultants and from this stage the focus was largely on procedural compliance. Trade union respondents in the sample argued that opportunities for informal resolution in disputes between members and SMEs were very limited:

"The issues start straight away. Even from dealing with small conflicts, there is no informal bit. It's bang, you either put your grievance in or we're going to discipline you. There's no talking, not with the smaller organisations." (Trade Union Representative, FG5U)

This was partly due to the fact that trade union representatives tended to be called in once the dispute had become 'formal' and also they rarely had the opportunity to build constructive relationships with SMEs.

3.3.2 The invisibility of early resolution

A key barrier to the development of early resolution was the difficulty in measuring the impact of effective conflict management and also the intangible and opaque nature of processes of informal resolution. Having difficult conversations with staff were normally in private and off the record. Although this may have prevented conflict escalating and consequently had a positive impact on performance, it was almost impossible to track such outcomes and attribute them to a particular managerial intervention. As a result good management practice in this area, which could be essential in underpinning productivity and improved employee engagement tended to go 'under the radar':

"I think there are certain things in business that are easier to measure than others and those things sometimes therefore get given more import. When you're looking at what makes a good manager in business terms often if they come in under-budget and they manage their projects on time, those are all very good measures and easy to measure. But managers who are good people managers, because those things... being a good manager of people can manifest itself in improved productivity and it can manifest itself in maybe a more engaged workforce but those can also have other factors that affect them. It doesn't necessarily have a direct correlation to that manager." (HR Practitioner, FG2)

In contrast, staff absence was easily measured. As a result, respondents argued that there was much greater focus on absence without perhaps any real scrutiny of the underlying causes:

"They don't tend to think of conflict in the strategic sense; they're more bothered about the sickness absence. They obsess every week about what that percentage is and yet if I said to them, 'Well what's the percentage of conflict?' they wouldn't want to know because it's just not seen... It is in the HR circle... I wouldn't say that conflict is discussed at Board level... It would just be 'something that HR deal with'." (HR Practitioner, FG1U)

In addition, where concrete metrics such as absence levels were integrated into key performance indicators (KPIs), it could be difficult for managers to respond to problems in a more creative, flexible and nuanced manner. For example, dismissing staff with poor absence records will have a more positive impact on KPIs in the short term than trying to resolve underlying issues. Moreover it will

take up much less management time. As the following quote from a trade union representative suggests, even if managers want to adopt a different approach this may be very difficult:

"To reduce the amount of absence becomes a key performance indicator for the manager. So they've got to achieve that... If they don't, they themselves live in a climate of fear because they'll be performance managed... So what you've got is you've got a top down bureaucracy that sets the KPIs for the managers that says if you don't achieve X, Y and Z, you yourself will be at risk because you'll be performance managed out of the business. Again, that means very little room for any flexible thinking, any independent chains of thoughts." (Trade Union Representative, FG5P)

Conflict was therefore seen by senior management as a transactional issue. HR practitioners also felt frustration that they were still seen by senior management as playing a policing or problem-solving function rather than having a strategic role. One respondent described this as being told to 'go away and sort it. That's your job.' In this context, HR practitioners who saw the need for investing in improved training or the development of mediation, for example, found it very difficult to build a convincing business case.

3.3.3 Line managers and conflict competence

There was a clear finding across all the focus groups that the competence and confidence of line managers was a significant barrier to early resolution and to managing conflict more broadly. In general, it was agreed that most managers feared dealing with conflict. However, this was not primarily driven by concerns over litigation. In fact most of the operational managers in our sample had relatively little knowledge of employment law. Instead, their concerns appeared to be rooted in the impact on internal relationships, either with colleagues or their standing in the organisation. Consequently, managers were reluctant to have difficult conversations when they saw the first signs of conflict:

"In my organisation the managers are not confident of doing that early stage. A lot of what we're finding is it's a management skill that they're lacking... to have a difficult conversation is not easy face to face with staff, and I think that's the issue we tend to jump straight into a formal procedure because that's better as you get the support from HR, you get the support from the senior manager, rather than dealing with it locally first." (HR Practitioner, FG7P)

This problem was seen as particularly acute in smaller organisations and in occupations in which staff with managerial responsibility worked side by side with their colleagues. Newly promoted line managers found it difficult to address issues of capability or conduct with people that they saw as their friends. An example was given by one HR practitioner working in the emergency services, who argued that "it is a very, very hard job for a [operational manager] to separate being a friend of the team and being a manager because of how close knit they are" (HR Practitioner, FG11U).

Managers were also often reluctant to address issues because of the potential for retaliatory grievances and concerns that they will not be fully supported by their own managers if this occurs. A crucial ingredient, therefore, for effective conflict management appeared to be senior managers who were prepared to back the judgements made by managers:

"If the organisation doesn't have a culture or a clear way of dealing with those things, and the fact that the Manager will be supported in dealing with conflict, or the team members will be helped in dealing with conflict, it's just sometimes easier to keep your head below the parapet... " (Employment Lawyer, FG4U]

This was not made any easier by what appeared to be an uneasy relationship between many managers and HR, with the latter seen as playing a policing role, ensuring managerial compliance with policy and procedure. Consequently, even when HR practitioners promoted less formal approaches, managers' fear of getting things wrong tended to militate against this:

"I think the managers are more fearful of being compliant, especially new managers. They are more fearful of getting things wrong so they don't always even pick up our policies to start the process off because of that fear." (HR Practitioner, FG2)

The lack of trust that HR practitioners had in many of their line managers had also resulted in attempts to 'formalise' the emphasis on informality within policy and procedure:

"We rewrote the grievance procedures, particularly focussed on the grievance procedure because we wanted to make it a requirement to be informal; within the procedure we've got a 'get out' at any stage, so you can go into the formal... but you can move out of the formal and you can have a discussion and try and solve it, even right through to an appeal point." (HR Practitioner, FG4)

There was a universal view among union respondents that managers had less discretion to deal with difficult issues and that HR involvement was more rather than less evident. This reflected a view that HR practitioners did not trust managers to deal with issues effectively. A number of respondents reported that it was common for senior managers in hearings to read off pre-prepared scripts or templates during disciplinary and grievance hearings:

"What they do is they get a tick box sheet and a flow chart... and every meeting the manager will sit there and go 'good afternoon', tick, 'are you fit to attend?', tick, 'is your representative here?', tick, ...if the answer is X, look at your flow chart... absence management policy is classic... they are starved of making an independent decision." (Trade Union Representative, FG5P)

In some respects this type of approach appeared to be accepted by managers because it provided a degree of control and protection. Furthermore, enacting formal procedure would also 'move' the issue from their desk by triggering the involvement of HR or another (often more senior) manager:

"I think they also want to rely on a formal process because it's easier to control. Whereas if you try and resolve a dispute before it becomes a grievance or a disciplinary, you haven't got the control around it and there's the fear of what can I and can't I say..." (HR Practitioner, FG1U)

In line with previous research, one problem was that the recruitment of managers was not related to their ability to manage:

"We don't employ managers because of their management, they are managers because they are good engineers who have demonstrated their abilities and they end up managing. So we are mindful that not all our engineers are the best managers so we have to try and balance that up and hopefully with things like courses and stuff like that we can put that right." (SME Manager, SME3W).

In some respects, this reflected the lack of emphasis placed on 'people issues' by organisations. Therefore, the ability to manage conflict, or more broadly, manage people, was not a core competence for most managers. Almost all participants, from different sectors, made similar points. The following exchange from a mixed group of HR practitioners and managers from smaller organisations illustrates this problem:

Participant 1: "I don't think you'd find it as a key competency skill when people are selected for roles. It's more about whether they are task oriented and whether they can deliver an objective, and so on."

Participant 2: "I definitely don't think it's a new thing... we have people who are bloody skilled in what they do and they get promoted up, but they are not people managers. They might lack emotional intelligence."

Participant 3: "We promote based on... people's productivity. How fast they can get stock out. Compared to their people skills. And then we try and tidy that up afterwards." (FG3P)

The economic climate also presented challenges to overcoming these competency gaps. In many organisations managers faced cuts to their own budgets and fewer resources and staff. As a result their own work had intensified, leaving little time to devote to the management of conflict:

"I've been put in that position where I've had to do those investigations. You are doing that alongside running with your own day to day job. So it's the time that you can focus on it, and it's hard because you end up taking it home and finishing it at home because it's only place probably that you get some time and some peace and quiet". (Line Manager, FG10U)

In SMEs, often working in highly competitive environments, conflict management was something for which there was little time and for many respondents was simply not a consideration:

"So if you have an issue arise but your margins are tiny and you're having to work 12 hours a day running your own business and then you get a dispute, you do not put this at the top of the list whereas you should be nipping these things in the bud. Performance slips. The morale slips. The conflict escalates and I think those sorts of employers - it's not all SMEs - but those sorts of employers who bury their head in the sand, then do come and have a much more expensive problem. They come to the lawyer because there is a dispute." (Employment Lawyer, FG9P)

Consequently, SME managers were entirely reliant on external advice from employment lawyers or HR consultants:

"Being a small business obviously I haven't got a HR degree or anything like that and so obviously that's why we outsource that to the solicitors but obviously if you want anything quickly you know there are websites available." (SME5W)

There was general agreement that this was not new – there was no halcyon age of managerial competence but this problem had become much more evident for 2 reasons.

First, the general slimming down of the HR function and the devolution of responsibility for people management issues meant that line managers could no longer 'hide behind HR'. At the same time, respondents suggested that many managers had not fully embraced these new responsibilities for people management.

Second, managers were being asked to take on these responsibilities with little training and often supported by increasingly limited HR resources. Respondents pointed out that even where they had been able to develop training resources for managers in subjects such as 'managing difficult conversations' this was often not mandatory.

An HR practitioner explained this problem as follows:

"They'll go home on Friday doing an operational role... come in on a Monday and you're a team leader and you know that but it's as though there's some kind of magic sprinkling of dust that somehow you're going to develop those skills." (FG7U)

3.3.4 Relationship problems?

Good relationships with HR practitioners were also important in giving line managers the confidence to ask for advice and also to look for more creative solutions to problems. In larger organisations, structures in which HR practitioners worked closely alongside managers and had a detailed knowledge of the context within which conflict developed, supported the development of trust:

"I think trust is the issue... There are various ways to build the trust, but I think you need to have it... And then you can give advice over the phone. Especially for my organisation, if you are not trusted by management, they are not going to listen to you. They are not going to really want to do what you are advising." (HR Practitioner, FG1)

In larger organisations high-trust relationships between key actors was critical in ensuring that employees were able to commit to less formal approaches to resolution. All those HR practitioners who had recognised trade unions in their organisations felt that, on the whole, they played a very constructive role. An HR practitioner in a medium-sized organisation explained this as follows:

"We've had a very good trade union shop steward, who's an employee, and he will deal with a lot of issues or he and I will deal with a lot of issues, sort of informally though, so it doesn't result in disciplinary action or it doesn't result in a grievance being raised or an employee resigning and claiming constructive dismissal or whatever." (HR Practitioner, FG3P)

This was echoed by an HR practitioner in a large public sector organisation:

"We're very highly unionised, 70% plus. So the first thing I would do is pick up, find out if they've got a union rep, find out which union they are and ring their union and I'd say, "You need to work on this person and tell them that this isn't something that we'd want to pursue formally but actually there's nothing in essence we need to investigate here necessarily." So I would try to head it off at the pass, really, if it's coming through like this and it's an obvious... This is where you work with the union. You try and build those relationships because they can do a lot of the work for you." (HR Practitioner, FG2)

There was less evidence of non-union representation within the sample. However, in one organisation which did not recognise trade unions, employee representatives had been trained by Acas, including the development of mediation skills and the ability to represent colleagues in disciplinary and grievance cases. Furthermore, their role also included a broader social element:

"We wanted them to have the ability to have influence and become credible and be more impactful... they've had some mediation training and training on representing employees in disciplinaries and grievances and things. Their role has actually become really, really important and they've changed quite a lot particularly in the warehouse environment... They've got a fantastic social committee going. They've got fund-raising going. They do a lot of charity involvement. They've managed to persuade the CEO to provide them with a subsidised canteen. They have actually become quite an effective body of influence... they'll take the managers to task if the manager is out of order... they'll come [to HR] with any issues that they've got." (HR Practitioner, FG8U)

Whether unionised or not, the contribution of representatives to conflict management depended on the quality of their relationships with managers and, in particular, HR practitioners. Where there was a lack of trust, conflict handling became adversarial and HR practitioners and representatives saw each other as presenting a barrier to resolution:

"In my current organisation it's very, very difficult. We're [HR and union] almost coming at every single discussion, meeting at opposite sides. The simple things that, I'm sure may or may not be deliberate to infuriate so turning up half an hour late for every meeting; delaying every meeting by whatever means possible to protract any issues that are going on. The thing that frustrates me most is I don't always feel it's in the best interest of the individual." (HR Practitioner, FG8U)

However, developing continuity in such relationships was increasingly difficult in an environment where aspects of HR were outsourced, and where layers of HR were increasing in organisations and activities devolved to line managers:

"Long standing HR helps..because there you can have that relationship, you get a sense of conflict, and clarity about conflict issues", (Trade Union Representative, FG3NE).

Perhaps most critically, we found evidence that in many organisations the HR function had been severely rationalised and centralised. Consequently, HR practitioners had bigger 'patches' to cover and their advice was inevitably more remote and less timely. This left frontline managers isolated and often dependent on online information or contact by telephone. This made it difficult for managers who wanted to address an issue at an early stage but needed reassurance that this approach would be supported. The following comment from a line manager, who was reliant on a shared service centre for HR advice, provides a graphic illustration of this problem:

"[HR] generally aren't anywhere near where you are... and are quite hard to contact. And managers are trying to do things at a quick pace to try and nip things in the bud, or to try and have those conversations... what managers want is actually someone there... 'I've got this issue, this is what's happening, what can I do?'... there's a time delay for us... And it's frustrating because that [problem] individual is still there... and the team are like 'so what's going on, the manager's not doing anything and this individual's getting away with it'." (FG10U)

In some organisations, HR had been pared down to such an extent that there was little, or no, support available for line managers:

"Many HR departments now are so lean, they really are, it's frightening, it really is, and you perhaps just don't have that, a team that have perhaps the breadth of knowledge and experience." (HR Consultant, FG10U)

Union representatives also pointed to the challenges resulting from the restructuring of HR departments, and the high turnover of HR specialists in firms. This meant that it was often difficult to identify conflict management specialists within organisations, and where non-HR specialists were involved in conflict, there was a reliance on in-house or external legal advice, to ensure compliance with relevant law and regulations.

Respondents also expressed concern about a competitive dynamic between outsourced and in-house HR practitioners. More specifically, the threat of outsourcing HR also has a negative impact on current in-house HR services who are worried that they too will lose their job if they don't take a commercial rather than a people-orientated approach to difficult issues:

"A lot of schools no longer use Local Authority as their HR resource, they outsource to private providers... These private providers of Human Resources have a different approach. They don't want to be critical of schools, they don't necessarily follow the procedures, they are a lot less interested. They are more interested in pleasing the schools because it's a competitive service that they are providing so the schools will choose them or not choose them." (Employment Lawyer, FG8P)

These changes had tended to formalise issues as there was often a lack of trust on both sides. For many union representatives, the fragmented nature of HR in these settings made informal resolution more difficult. A trade union representative explained that his union used to cover 14 Local Education Authorities but the development of academy schools and other changes meant that the union was dealing with a large number of small separate employers, often using different HR providers:

"Because there are so many more bargaining units... Advice from HR is coming from a wide variety of different sources. So 10 years ago, you would be able to know fairly well how the HR advisory service in one particular Local Authority would respond. Now, in the individual institutions... they may be buying in their HR adviser through a firm of solicitors or from another source. And often you find that those HR advisers are not used to that sort of context..." (Trade Union Representative, FG4P)

In general, this concern was also shared by HR practitioners within the sample who felt that their increased distance from the workplace made it more difficult to forge relationships with staff, managers and unions. Furthermore, it was more difficult to give advice which reflected the context of the workplace:

"You phone up and at the end of the phone, 'Yes, we're here. We can help you.' But they've got no idea of the relationship... of the context, and also they come from a legal point of view so they're actually saying, 'Defend yourself at all costs because you'll only end up in tribunal'." (HR Practitioner, FG8U)

The potential contribution of employee representatives to effective conflict management was noted above. Both HR practitioners and union respondents suggested that a lack of union capacity was increasingly causing delays to formal disciplinary and grievance proceedings and also making informal resolution more difficult:

"Once upon a time that issue would've been solved by the worker going to the shop steward, the shop steward having a word with the manager, and that would've been the end of it one way or another; and that would have been sorted. Now that working relationship or representation is not there in lots of workplaces." (HR Practitioner, FG1U)

In addition, it was argued that any legislative measures which further weakened union capacity would have a negative knock-on effect on the ability of organisations to manage and resolve conflict:

"The way the legislation is changing, the way the present government is driving things is to reduce the impact and role of trade unions. And that's not always a good thing. A really good trade union rep is your best friend... If the drive is to reduce workplace conflict, to reduce employment tribunals, which is everything that you hear from central government, then make sure that the unions have a place." (Employment Lawyer, FG10U).

Overall, this research tended to support previous evidence that has suggested that effective early conflict resolution is facilitated by a network of high-trust relationships between managers, HR practitioners and employee representatives. However, as the findings outlined above clearly indicate, each of the constituent elements of this network is under significant strain.

3.4 Innovation in conflict management?

Given the scale of these barriers, the research sought to identify whether there was any evidence of changing attitudes to conflict management or the development of innovative practice. In this section, we look first at the extent to which organisations are seeking to develop the conflict management skills of their frontline managers. We then explore the use of workplace mediation and the development of other innovative approaches to the management of conflict. Finally we examine the broader links between conflict management and employee engagement and identify those factors that are likely to underpin more strategic approaches to the management of workplace conflict.

3.4.1 Training and skills for frontline managers

As outlined above, the confidence and competence of line managers was seen as a major barrier to effective conflict management. Critically, across both public and private sector organisations, the devolution of responsibility for conflict management from HR to the line had not generally been matched with an increased emphasis on training:

Participant 1: "the HR department is probably about a third of the size it used to be 3 years ago. Whereas they used to say, "Ring up HR, they'll sort it out." Now that's not the case. They have to do it. Now what they haven't done, hand in hand, is given them the training."

Participant 2: "...and the tools..."

Participant 1: "... and the tools to be able to do it."

Participant 3: "Yeah, I think it's an ever-increasing breadth of responsibility that we're giving, in some cases, to relatively junior managers. They now have to be all over their budgets and to be able to have that financial acumen and that ability to forecast and drill down into figures and all of that, whilst at the same time having the softer skills to be able to identify performance problems and manage those going forward." (HR Practitioners, FG2P)

However, among HR practitioners there was agreement that there was increasing organisational recognition of the importance of improving the people skills of managers. In one NHS organisation, bite-size training on managing attendance had been introduced for frontline nursing managers. The success of this had led to the development of a similar course on disciplinary and grievance handling with an emphasis on informal resolution:

"The sickness training went really well so now we are developing stuff for grievance and disciplinary so that if things do come up, they know where to start. It's understanding a grievance before it becomes a grievance... That's the first challenge to find out if something is wrong before it escalates. So we're trying to just open up the awareness." (HR Practitioner, FG1P)

In another organisation, training and mentoring went side by side with increased accountability through staff opinion surveys which were then used to identify areas for improvement and development. Over the sample as a whole, mentoring and 'buddying' systems were increasingly common. These approaches and training using interactive role-play to simulate 'real life' people management issues were generally preferred over classroom methods and seen as more effective.

Similarly, there was evidence from a number of respondents that people management competences were being built into recruitment and development programmes. In a smaller private sector organisation, it was recognised that with some senior managers there was little that could be done to change attitudes and practices, so the focus was on the next generation:

"We are investing a lot now on future leaders. So that's why we've put in some training related about coaching and stuff like that, to try and build in those soft skills and build in to people that that is important and we are looking at it." (HR Practitioner, FG1P)

3.4.2 The Influence of workplace mediation

As we noted at the start of this report, significant policy attention has been given to the extended use of mediation to resolve employment disputes and as part of a broader approach to changing the culture of conflict management. Where mediation had been used it was generally seen as playing a positive role in avoiding the negative consequences of conventional procedures and repairing the employment relationship:

"It's really powerful. So I've used it very much in the early stages when there's been an initial spat and it's been very, very successful." (HR Practitioner, FG1U)

However, evidence from the focus groups suggested that mediation use was uneven. More specifically, although a number of respondents had been trained as mediators or worked in organisations where this was the case, examples of organised internal

mediation services were rare and mediation tended to be used in a relatively ad hoc manner. Moreover, mediation was often deployed as a last resort when other interventions had already been tried, to demonstrate compliance with procedure or to try and minimise reputational damage. In some of these cases, the time for mediation had long passed:

"By the time you get to the table, its often too late...some forms of behaviour like harassment, discrimination are so far ingrained that it has gone way beyond informal resolution or mediation." (Trade Union Representative, FG3NE)

There were a number of specific barriers to the growth of mediation. First, it was suggested that resorting to mediation was seen by some managers and organisations as a badge of failure. This was heightened by a sense that mediation was a very formal process and its use represented a significant escalation of the issue. One respondent, a trained mediator and former HR practitioner who now ran a small business, felt that this could jar with the informality of employment relations in an SME:

"I see my staff every day... so you have that on-going dialogue, to then go into 'right we're now going to have a very formal process' ... staff would go 'what the hell?' I probably have 6 week coffee and chats with 4 or 5 of my key staff... if I was in conflict with a member of staff it would feel a bit alien because... I see them every day... I talk to them every day... so no it would feel a bit clumsy." (SME Manager, FG7P)

Second, the reluctance of small business to use mediation reflected a more deeprooted cultural aversion to inviting in 'outsiders' to explore an organisation's problems. A mediator explained that:

"We're having great difficulty getting small businesses... interested at all. And one of the things they throw up when we talk about mediation to them is 'but I've got a disciplinary procedure… I've gone through all the pain of having this disciplinary procedure forced on me apparently, why would I want to try something else?' So they really don't see that mediation is something they want to take on." (Mediator, FG6U)

Third, there was some evidence that the ability of organisations to manage individuals out of organisations, for example through settlement agreements, outweighed the potential advantages of resolving conflict through mediation. A mediator explained this as follows:

"I don't think I've had one client in the last 2 years ask me about mediation. It's usually how quickly can we get them out the door, that's what they want. They want a quick fix. When somebody is underperforming or they're not fitting in, it has such a big marked impact on their business, so they want a very fast result. And I think they would probably view mediation as a long road to travel." (Mediator, FG6U)

Similarly a trade union representative argued that organisations saw mediation as costly and inconvenient compared with the option of simply ending the employment relationship:

"They don't want to go down the route of mediation because that costs money and that would require somebody a) being taken out of another department to do the mediation and b) somebody being required to do something from external, they're more likely to have a protected conversation." (Trade Union Representative, FG3U)

3.4.3 Innovation in conflict management

In addition to workplace mediation, the focus groups revealed a number of different initiatives and practices that had been developed to address workplace conflict and its consequences. For example there was some evidence of coaching being used to develop managerial skills and also to improve the performance of individual employees. Positions such as 'workplace listeners', 'mental health champions', and 'harassment advisers' had been created with staff acting to provide informal peer support or mentoring or a point of contact for colleagues and to try to prevent the escalation of conflict. These were typically voluntary roles within the organisation, for which the employee was trained and supported to undertake, and were generally independent of the HR function. Workplace listeners were described as follows:

"We provide some support and training for them so that they could be a 'listening voice', a first point of contact for somebody who had something they weren't happy about. So it's not necessarily a grievance. It could be something like a relationship that's gone wrong at work with a colleague... So it might simply be that you talked it through with the [listener] and decided you didn't want to go any further. You just wanted someone to hear or it could be that they might help you to think through... so there's almost an element of coaching in there in that sense of help you to decide what could be a way forward, about how you might raise it yourself with that colleague or with your line manager or with somebody else." (HR Practitioner, FG8U)

However, the evidence suggested that these initiatives, while having potential value, were rarely part of a co-ordinated strategy rather they tended to reflect the particular concerns of senior management or HR practitioners. There was little sign of organisations developing more systemic approaches to conflict management. Furthermore, stand-alone initiatives were vulnerable in the face of wider cost pressures as they were often seen as a luxury by senior managers. One respondent explained that their organisation had previously had a group of staff who were trained as workplace counsellors:

"Anybody could go in and just talk, problems at home, anything like that and it was a way to have a bit of support at work... if you've got issues at home, family, it's going to come out somewhere. And I just think we got rid of that because they wouldn't pay for us to become qualified counsellors and more courses and stuff like that... I can understand we were going for rounds of redundancies at the time, but I think mediation comes in after the problem has occurred. Why can't we be a bit more proactive and instead of spending all this government money on dealing with it after it's happened, let's be a bit more proactive and provide that service in house... " (HR Practitioner, FG2U)

While these were seen to be effective, they were deemed to be too costly in the face of restructuring and had been cut, pointing towards the fragility of conflict management innovation in the face of more immediate organisational imperatives.

3.4.4 Brand, reputation and engagement – towards a more strategic approach

Some of the elements of what we might define as conflict management – such as 'open, honest conversations' were seen as being inextricably linked to more strategic imperatives of well-being and engagement:

"If you have the right strategy and you get the engaged employees and hopefully, you wouldn't have the conflict. That's what you want. If you have a strategy for well-being and open, honest conversations and stuff like that, and engagement, then hopefully, the conflict would be at such a minimum, you wouldn't need it as a headline... " (HR Practitioner, FG1P)

Respondents also pointed to the importance of leadership in determining thefocus on conflict management. In one organisation senior managers had been trained as conflict coaches and this learning has been cascaded down to the front line. It was generally agreed that senior managerial commitment to early and less formal approaches to resolution had a positive impact on frontline managers. At the same time, senior managers who adopted more aggressive attitudes could have the opposite effect.

However, focus group participants explained that while employee engagement and wellbeing were widely seen as strategically important, the potential contribution to these outcomes of effective conflict management was rarely recognised by senior managers:

"We only look at employee engagement and that's what we want to boost and get everyone happier. So that's the strategic thing. But actually, if you strip that back, if what we are trying to get is, you are better at dealing with that conflict and having that conversation. So is it the right focus? Is it the right building blocks that we are using?" (HR Practitioner, FG1P)

Importantly, the terminology of 'managing conflict' was antithetical to positive cultures that senior managers aspired to.

In some settings these links were more evident as there was a direct outcome to the nature or quality of the service. Therefore it was perhaps not surprising that participants from the NHS were more prepared to see conflict management as strategically important as there was a direct relationship with patient care:

"I think it is on our agenda. But then being a Trust, our focus is always going to be patients, no matter what is going on internally, we need to, to put it bluntly, fix the problem so that patient care is number one. So if there is any conflict, be it with patients and our staff or staff and staff or staff and something else, it is on our agenda... those difficult conversations are high on our agenda." (HR Practitioner, FG1P)

Whether more strategic approaches were being developed also appeared to hinge on 2 additional factors. First, in highly unionised settings, conflict was more likely to be expressed in a tangible way and therefore managers were forced to find ways of responding to this. Second, there was also some evidence of a more strategic stance where reputational risk and/or regulatory scrutiny were high.

For example, in the NHS, the increased public and government scrutiny over patient care in the wake of the Francis Report (this refers to the report of the public inquiry into the failings at the Mid Staffordshire NHS Foundation Trust, which was chaired by Sir Robert Francis QC and published in February 2013. Among the recommendations were that there should be "openness, transparency and candour throughout the healthcare system...", so that staff feel able to raise issues of concern without fear of victimisation) meant that bullying and harassment and dignity at work were high on the organisational agenda.

Similarly in finance, the importance of ethical standards in business practice had led to investment in more innovative responses to conflict management. Third, as we see in section 3.5.1 Tribunal fees - more room for resolution?, a number of respondents argued that where organisational brand was seen as important, organisations would be more likely to take a proactive stance irrespective of the wider balance of risk and cost.

3.5 Responses to regulatory change

The regulatory context is a further factor influencing approaches to conflict management. Although the response of organisations to recent changes in regulation was not one of the initial research questions that this project sought to address, discussions in the focus groups inevitably turned to this issue and provided some important insights in relation to 3 key developments: the introduction of employment tribunal fees; the extension of the qualifying period to be able to claim unfair dismissal to 2 years; and the introduction of Acas' Early Conciliation.

3.5.1 Tribunal fees – more room for resolution?

Understanding of the tribunal fee regime was varied. Not surprisingly awareness was high among HR practitioners, trade union representatives and employment lawyers. While knowledge among SME owners and frontline managers was patchy, their reliance on advice from HR practitioners and solicitors made it likely that the implication of fees would be taken into account in handling conflict situations. In broad terms, reactions to the introduction of employment tribunal fees divided along quite clear lines. HR practitioners generally supported the introduction of employment tribunal fees, arguing that this prevented speculative claims being made. Trade union respondents, on the other hand, were universally opposed and felt that the changes had reduced access to justice. Employment lawyers had mixed reactions but there was a majority view that tribunal fees were a blunt instrument which could have the effect of deterring meritorious as well as weaker claims:

"For every person that has brought a nuisance claim... there's always going to be one poor girl out there who's been sacked because she's pregnant, and she can't now have access to justice and that has got to be wrong as far as I'm concerned. And all this 'well we need to root out nuisance claims'. Actually they've always had the power to do it. It's just been that judges have been afraid to do it." (Employment Lawyer, FG10U)

Furthermore, employment lawyers in the sample agreed that the introduction of fees had changed the nature of cases that they were being asked to take. In particular, lower value 'Type A' claims over issues such as deduction of wages had virtually disappeared as there was little benefit in employees pursuing such issues, given the obligation to pay fees and also the fear of retaliatory action, particularly for those employees with less than 2 years' service:

"The unlawful deduction of wages, your outstanding holiday pay, I think they've just diminished into nothing really because they're probably only worth £200, £300, so they think, well, why would I bring a claim for, what, £150 or whatever it is for a Type A claim, and then the hearing would be on top, it's just not worth it, but the issue is still there... " (Employment Lawyer, FG4U).

In contrast, the claims that lawyers were seeing and that employers appeared to be concerned about were those with significant reputational risk such as whistleblowing:

Participant 1: "I don't think it's the right result, necessarily, but I do get the sense that that top line analysis, it's moved down in terms of the risks which face an organisation."

Participant 2: "I think it depends on what the issue is. It has a reputational impact on the business, they have a lot of interest it in. But if it's who punched the foreman first on the end of the nose, they couldn't care less. I think it's the effect on the business."

Participant 3: "Exactly. It only becomes an issue when it's a big issue, when there's a dispute that affects something, yeah. But otherwise..." (Employment Lawyers, FG8P)

Evidence of the impact of the introduction of fees on the management of conflict was complex and uneven. The views of employment lawyers in particular were mixed. Some felt that although they had expected organisations to adopt much more bullish and arbitrary approaches to employment disputes, this had not materialised. However, others argued that the employers they represented had become much less risk averse as a result of the changes:

"We've got a reduction in employment tribunals by 80% and my view is that our clients, in contrast, are much less risk averse about making decisions about employment because the risks are minimal now. So they'll make decisions that they wouldn't have made 2 years ago. And I've got a couple of clients who are reducing the size of their HR departments because they don't see the need for it." (Employment Lawyer, FG8P)

Overall, there was a sense that smaller organisations and their advisers may be more prepared to take greater risks and a more 'robust' approach. Therefore, at this level managers had become emboldened by these changes as the threat of litigation had receded:

"And what are they [the employee] going to do because they're going to have to go and put some money to it. 'so do you know what, we're going to take some risks' whereas when it was one year and tribunals were very much employee supported... managers got very, very nervous about risk and now there's a definite kind of, 'Well what are they going to do?'" (HR Practitioner, FG2P)

However, what this meant in practice depended on the nature of the organisation.

A number of respondents argued that employers who had a relatively progressive approach to employment relations and wanted to 'do the right thing' would continue to do so irrespective of the risk of litigation:

"I think good employers will want to be doing the right thing for HR reasons and for employee relations reasons as well because... they want to be seen as being a good employer and be seen as being fair and sometimes a bullish approach might not achieve that. So I think it's not just the influence of whether or not an employee's likely to bring a claim that might impact on how they react." (Employment Lawyer, FG9P)

In what we might term 'high road' organisations in which there was a relatively sophisticated HR function and structures of employee representation, and a commitment to informal resolution, HR practitioners and employment lawyers felt that there was more freedom to pursue creative approaches. Indeed, one employment lawyer argued that some clients had used the 'space' created by the changes to invest in more innovative approaches to conflict:

"I think brand is very important to our larger clients... so the threat of employment tribunal claims is one thing but if there's any damage to the brand... they're very concerned about that and that is the driver, particularly with the large employers that I work with. They're using the money that they're saving, by not spending on employment tribunal claims and investing in culture change programs. It's the first time in recent years they've had an opportunity to put a breathing space in order to 'Let's sit down. Let's talk about disputes in the

workplace'... but they tend to be the larger ones that have usually got trade unions that they need to keep happy and have a brand that they're very keen to protect." (Employment Lawyer, FG9P)

A number of focus groups discussed the extent to which brand and reputation were becoming more important for larger organisations than the costs associated with conflict and litigation. Furthermore, respondents argued that where reputation was important, organisations were unlikely to respond to the introduction of fees by taking a more draconian approach to conflict and employment disputes:

"You take the latter approach of being robust about getting people out the door, ignoring procedures, ignoring the correct way of doing things, you are going to get a reputation for it in the marketplace. If you are looking to hire people, then you completely shoot yourself in the foot." (Employment Lawyer, FG8P)

In contrast, organisations which had tended to 'hire and fire' and/or which had little or no internal HR function, felt "more confident to take a more robust approach now... and less fearful of the consequences" (Employment Lawyer, FG4U):

"The SMEs that we do work with have always been a little bit cavalier in their attitudes. They're not too worried about their brand and I think they are becoming more bullish although it's not a theme as of yet. But they are saying, 'oh well, he/she's not going to bring in an employment tribunal claim therefore I am going to be a bit more forceful in this disciplinary outcome and this performance issue'." (Employment Lawyer, FG9P)

Overall, it could be argued that rather than change the way that conflict is managed, the new regulatory regime has reinforced existing attitudes and practice:

"I wonder if the types of clients or employers who may take that bullish approach are the type that always would've taken it... I think that they can take a more robust approach and... they seem happy that they can do that but also they don't want to do something that could still risk a claim, even though the fee regime is there. I don't see people just saying, well, we don't care. We're going to do whatever because it's unlikely they're going to sue us." (Employment Lawyers, FG9P)

3.5.2 Qualifying periods

The length of continuous employment required to be able to bring a claim of unfair dismissal to an employment tribunal (qualifying period) has been used by successive UK governments to either increase employment protection or provide employers with greater flexibility. In 1999, the then Labour government reduced the qualifying period from 2 years to 12 months, but this was reversed by the Coalition government in April 2012, which argued that it would increase the confidence of employers to recruit new workers and reduce the threat of litigation.

The extension of the qualifying period to 2 years was generally welcomed by managers and HR practitioners who argued that it provided more time to train employees and provide them with sufficient time to demonstrate their ability to the do the job. An operational manager explained this as follows

"Because a lot of the training for the jobs within the industry takes up to a year to do, so actually having the fact that then an employee has then got a year to perform with full training is much fairer to them... a year is not a very long time and so 2 has made a difference." (Operational Manager, FG3P)

There was also evidence that the extension had provided some employers, particularly smaller organisations, with more confidence in using probationary periods to terminate the employment of staff who they did not feel were capable of working at the appropriate level:

"For us the qualifying period, making that longer, has enabled us to have more confidence in actually dismissing people... in terms of ending probationary periods as well it's given us more confidence around that as well because we can actually take slightly longer to performance manage people now." (Manager, SME, FG7P)

However, others and particularly trade union representatives argued that it encouraged unfair and arbitrary action, removing the need for due process. An HR practitioner gave an example of an employee who had been dismissed:

"For no reason with 3 weeks before his 2-year employment... and they've [employer] said in a meeting to him, 'We agree. We haven't followed any process. We haven't given you Notice. We haven't given you representation rights. We haven't even given you a reason for dismissal but we don't have to because you haven't been here 2 years'." (HR Practitioner, FG8U)

There was certainly some evidence that service was taken into account in deciding how to manage a particular dispute and the potential risks faced by the organisation. For example, if an employee did not have the required service, managers were more relaxed about being "a little more risky" with the disciplinary and performance management procedures that were used:

"We've ended more probationary periods than we've ever done before, so at 6 or 8 months, and not necessarily insisted on a whole volume of evidence and you know concise tracking documents and everything, but you know if it's clear that the manager has been reviewing performance and stuff then let's say yeah let's just do it and we've done it. Whereas in the past we would have... evidence of at least 4 - 5 months of monitoring, performance improvement, targets, even in the first few months... " (HR Practitioner, FG7P)

Another organisation used what were called 'employment review' meetings, whereby decisions were taken on the continued employment of staff who had been employed for almost 24 months. There was some concern that this could increase job insecurity and therefore constrict employee voice, so that employees would be less likely to raise concerns, driving discontent and conflict underground.

3.5.3 Early conciliation: delaying the inevitable?

Views in relation to the effectiveness and impact of Early Conciliation (EC) were mixed. The idea of conciliating at the earliest possible point was seen as beneficial, but there was some scepticism as to whether EC had resulted in more claims being settled than would have been the case under the previous system. Lawyers, in particular, doubted its benefits, as the following comments from a focus group illustrate:

Participant 1: "I found it totally irrelevant."
Participant 2: "I don't think it's necessarily settling claims that wouldn't otherwise have been settled... There is no impetus to use it."
Participant 3: "It's just an additional hurdle."
Participant 4: "I was going to say, acting for employers, you can wait and say, let's wait and see... it doesn't really change much, just pushes it back rather than bringing it forward."
Participant 5: "You can also put a book on exactly how high the first number is going to be so it provides a little bit of amusement... But I don't think it's been a tremendously valuable feature." (Employment Lawyers, FG8P)

Four particular concerns were raised by focus groups. First, trade union representatives felt that it simply added more complexity to an already complex process, which could have the effect of deterring applications:

"The physical act of putting in a tribunal application is so technical now, you're probably running PhDs at the university on how to complete an application to tribunal... you've got the fees, then you ask for remission if you're a trade union member and then you've got the ET1 process... it's fine if you're getting advice from the trade union... but imagine a lay person doing that and you've perhaps not got the best educated lay person and early conciliation is another hurdle you've got to jump now... " (Trade Union Representative, FG4P)

Second, it was argued that EC was only as effective as the conciliator themselves. A number of respondents, from across the sample, reported positive experiences with very skilled Acas conciliators, but examples were also given of conciliators simply passing on

messages between parties and some complaints about the time taken for conciliators to respond to emails and phone messages. There were also mixed views as to the role of the conciliator – a number of lawyers wanted conciliators to play a more active role in developing a dialogue with, and between, the parties, however others were concerned that conciliators could provide advice or give an opinion which would not be helpful:

"In one case, my client... was sent an email copying the respondent's adviser saying, I would like to remind you... From the ACAS conciliator. I would like to remind you that the median award is £5,000. My client's claim is worth over a million. I thought it was inappropriate. And I know what the median is. It's not relevant to this case. It was a Judgement passed on my client's case, I felt it was unhelpful." (Employment Lawyer, FG8P)

Third, it was argued that employers were not given sufficient information about the nature of the potential claim at the outset. This it was argued could lead to defensive attitudes and get in the way of resolution. Consequently, the lawyer's advice to their clients was often to wait for the ET1:

"I think one of the problems is, the way it's set up... They put a claim down, they are only required to do that. The employer said, well, what have we got? How long is a piece of string? Let's wait for the claim and then we know what the piece of string looks like." (Employment Lawyer, FG8P)

Fourth, there was a widespread belief (particularly among employment lawyers and trade union representatives) that employers were waiting to see if an employee was prepared to go to hearing and pay the relevant fees, before starting serious negotiations. Where the employee was a trade union member, a consideration would be whether the union would legally support the claim:

"Employers are sitting back, let the Unions and individuals invoke a conciliation... Funnily enough, the moment [the union] launches tribunal claims, the offer of conciliation comes back." (Trade Union Representative, FG5U)

3.6 The Acas Code of Practice

The Acas Code of Practice on Discipline and Grievance (and its accompanying guidance) was substantially revised in 2009, following the recommendations of the Gibbons Review into the UK's system of dispute resolution and subsequent Employment Act 2008. The new Code was shorter, less prescriptive and framed around a number of key principles aimed to encourage early resolution and provide parties with greater flexibility in responding to and managing disciplinary matters and employee grievances. In the light of regulatory changes described in 3.5 Responses to regulatory change, this section outlines how participants used the Code and their views on whether it provided an effective framework for the handling of workplace conflict.

3.6.1 The Code of Practice: awareness and use

One of the most notable findings from the groups to date was the relative lack of knowledge of the Code and also the accompanying guidance, albeit this varied according to the role that respondents played, with specialist HR managers and employment lawyers having much greater awareness. The line managers and SME owners and managers who participated in the research knew very little about the Code, relying on the HR department, internal organisational policy or advice from external consultants and lawyers:

"It's common sense, your legal obligations, your common sense and your good practice, which is what all policy should be full of. I find them really helpful. But not one of my employees or fellow managers, if they know they exist, they certainly don't read them..." (HR Practitioner, FG1P)

For most participants, the Code was only used to reinforce a point to a manager or somebody challenging a particular aspect of procedure:

Participant 1: "When you've got to bash a manager over the head to say, 'Look, you haven't followed this. We're going to need to follow this process.' Quite often they're just kind of quite stubborn about, 'Well, I don't want to go through all these hoops and everything.' And you have to say, 'Well, okay.'"

Participant 2: "On the flip side with me, I think I would potentially refer to it in order to give a manager confidence that they have the right to do this because some of mine are terrified so I would be, 'Actually, you're perfectly within your rights to be able to do these things and yes, you can have these conversations' but I don't think I'd even refer to the guide itself because it wouldn't mean anything." (HR Practitioners, FG2P)

While the Code was rarely used on a day-to-day basis by HR practitioners or line managers with access to in-house HR expertise, it was more likely to be relevant to smaller organisations. Lawyers found the Code particularly useful with clients in smaller organisations:

"With the clients who don't have handbooks, or the smaller clients, I would send them a copy [of the Code] and say read this, and advise them on the basis that they have to comply with it... " (Employment Lawyer, FG4U)

"I refer people to Acas but it's usually smaller businesses who maybe don't have their own HR... I think it's [the Code] a really, really good resource but not particularly for experienced HR managers because... it's the HR role, isn't it, to look at the legislation... " (HR Practitioner, FG1U)

For trade union respondents, the Code was vital, particularly when dealing with smaller companies with no access to HR advice, and in negotiating with employers over the introduction of new procedures. The impartiality of Acas provided a degree of legitimacy which helps union representatives to convince employers of the merits of their arguments:

"I think I use any Acas codes or guidance most is where employers are looking at rewriting their policies while they work with a new employer and they'll say, 'We'll run this policy past you. What do you think?' And that's when it's handy if they are going in at bare minimum, just to say, 'Look, it's not just the unions banging on that you should be doing this. Acas suggest this. You can use this as a starting point. Or what you are suggesting really isn't best practice, here's where it says'... and using it as and when required at the early stage of discussions." (Trade Union Representative, FG4P)

"The Acas Code of Practice in some ways is our only lever with some employers. That's all we've got left and it's scary and it's frightening and it's that small thin book that I carry around with me all the time." (Trade Union Representative, FG3U)

Even though, in many organisations, the Code of Practice was rarely used on a day to day basis, it remained the basis on which organisational disciplinary and grievance procedures were developed. The Code therefore ensured that the organisation would be seen as following appropriate processes at a tribunal.

However, most respondents in larger organisations claimed that their procedures exceeded the minimum requirements set out in the Code:

"We always follow it. I mean our policies are based on it. We kind of start with that and then add your own organisational slant onto it... you kind of think well, what do I need in my bundle if I ever go to tribunal and you're on a bit of a sticky wicket if you haven't followed the Acas Code." (HR Practitioner, FG8U)

"As an HR professional that's what you are educated to look at. If you're writing policies and procedures for your own organisation, or for anybody else's organisation, you'll always make sure that it complies with the Acas Code." (HR Practitioner, FG1U)

Consequently, it remains a very powerful policy lever. Just as the 2009 revision had led to a shift in organisational approaches to conflict management, so any substantial amendment of the Code would be likely to trigger a review of policy and procedure. This was summed up by an HR practitioner as follows:

"I don't think Acas should in any way undervalue [itself]... When Acas say jump, HR professionals say, 'how high'? I mean that in a nice way." (HR Practitioner, FG1P)

3.6.2 The Acas Code: a case for change?

Overall there was limited appetite for amending the Code. From managerial respondents and most employment lawyers, there was support for the principlesbased approach of the current Code and its lighter touch compared to previous versions:

"I think it's a pretty good summary of the course of natural justice, it's a good indication of how people should proceed. I've never seen anyone disagree with it strongly." (Employment Lawyer, FG8P)

Trade union representatives, while finding the Code extremely valuable argued that it was too vague and provided employers with unnecessary flexibility which could lead to uncertainty and disputes over interpretation:

"I definitely agree there should be more meat on the bones of the actual Code of Practice. I think [for] quite a lot of people, there's too much room now for manoeuvring and quite a lot of managers are looking at it and going 'well, I can go this far this way and this far this way, which way do I fancy going?' So I think it needs to have a bit more clarity to it." (Trade Union Representative, FG5P)

Furthermore union respondents argued that given its relatively limited scope, the Code was a minimum that all employers should be expected to comply with. Therefore, its terms should be binding, with any breach constituting unfair dismissal. There was also a minority of HR practitioners and employment lawyers who felt that a little more detail would help managers, particularly those in smaller organisations. They argued that the flexibility of the current Code suited confident managers or those with access to HR expertise, but there was a little too much ambiguity.

Respondents made a number of suggestions for specific revisions to the Code – the most often mentioned fell into 4 categories, although it should be noted that none of these constituted a majority view: first there was some support for a greater emphasis on mediation, although there were concerns that it would be difficult to define the nature and type of mediation required.

Second, it was suggested that both Code and guidance could be updated to reflect more contemporary developments including the importance of social media. Another area that required updating was the increased separation between conduct and capability issues:

"I find it [Acas Code] quite user friendly, quite good. But it's 6 years old now. Twitter wasn't a thing when this happened. Facebook wasn't a thing. And perceptions and attitudes and behaviours, I think, of people, not necessarily employees and employers, youngsters, older people. I think 2015 is very different to 2008, 2009. I think a bit of an update is a sensible thing." (HR Practitioner, FG1P)

Some respondents argued that the language of discipline and grievance no longer reflected the multiplicity of different processes used in many organisations to manage absence, performance and dignity at work:

"I think one of the big failings of this is it is that word 'disciplinary' where actually in practice a very few of us are doing disciplinaries compared to performance management, capability, performance improvement-type processes... that dialogue we're having all the time is informal around performance management capability reviews. Whereas this [the Code] is about somebody's nicked something, somebody's turned up late, somebody's sworn at a customer or a patient or whatever." (HR Practitioner, FG2P)

Third, the most common complaint from managers and HR practitioners was the recommendation in the Code that if an employee registers a grievance during disciplinary proceedings, the latter should be suspended to allow the grievance to be heard. It was argued that this encouraged the use of grievances to be used as a delaying tactic.

Fourth, some union respondents argued that employees should have the statutory right to be accompanied at the investigation stage and at meetings where it is not anticipated that a formal warning might be issued or disciplinary action pursued. They suggested that this might help to avoid the escalation of individual disputes and promote early resolution. It was also felt that, in some cases, the '5 days' rule (where, in circumstances where an individual's chosen companion was unavailable, management offered another meeting time, within 5 days of the original request) did not provide the time needed to prepare for meetings and gather necessary evidence.

Overall however, there was general support for continuity and a concern that radical changes would increase uncertainty and not necessarily lead to improvements in conflict handling and management. Moreover, the general applicability of the Code meant that greater detail would cause significant problems:

"I think any more complexity is really bad and you've got to remember that if this is a Code of Practice that can be taken into any employment tribunal, the number of different types of industry, size of employer, range of situations it covers, I think it would be wrong to make it more prescriptive or more detailed... " (Employment Lawyer, FG9P)

This reflected a general view that any 'ratcheting up' of the Code would be problematic and that a more sensible approach would be to use the accompanying guidance to reflect changes to the conflict handling environment:

"It depends on the nature of the change. The whole spirit of where we're going perhaps with codes and with formal compliance is that it's reducing rather than ratcheting up so if this were to become more informal and even shorter then I don't think that would make a change but I think, counter to where we're heading if suddenly the Code was ratcheted up and new things were added you'd get this whole industry around HR practitioners." (HR Practitioner, FG2)

4. Conclusions

In conclusion, a number of key findings can be drawn from this research. First, the growing significance of performance management giving rise to conflict is clear. In some cases, this reflects more robust approaches to performance in a climate where there is a greater emphasis on securing efficiency gains. However, this may be exacerbated in circumstances where line managers are inexperienced, or 'heavy handed' in their approach or feel under great pressure to meet operational objectives. This, coupled with a greater willingness of employees to challenge managerial authority, means that performance management is not only an increasingly important trigger for conflict but has the potential to lead to complex, intractable and damaging disputes.

Second, the lack of competence and confidence of frontline managers in addressing conflict remains a fundamental problem. Managers in larger organisations are reluctant to pursue informal routes to resolution and use the rigid application of procedure as a shield against internal criticism and censure. Moreover, this skills deficit has restricted the extent to which responsibility for the management of conflict has been devolved to the line and also the degree to which HR practitioners trust the abilities of the managers they advise. Moreover, the capacity of managers to take the time needed to pursue more informal routes to resolution is limited by increasing work intensity. Therefore, despite a rhetorical commitment to early and informal resolution of conflict, the predominant concern of HR practitioners is still procedure and legal compliance. In smaller workplaces, although the personal nature of employment relations should be conducive to informal resolution, managers invariably turned to external consultants and legal advisers to shape their response to escalating conflict.

Third, the web of relationships that underpin informal and social processes of conflict resolution is being progressively dismantled. Our findings add further weight to earlier research that highlighted the constructive role played by employee representatives and particularly trade union representatives in identifying and resolving conflict. Where there are high-trust employment relations, representatives not only help to ensure fair process, but also manage the expectations of members and 'unfreeze' defensive attitudes. However, an increasingly small proportion of employees have access to representation and those representatives who remain are under increasing pressure. Furthermore, the progressive removal of HR specialists from the workplace limits the development of positive relationships with either managers and/or employee representatives. Importantly, the findings above provide striking evidence that this has been exacerbated by organisational fragmentation and outsourcing, reducing the likelihood of nuanced and creative conflict resolution.

As a consequence of these factors, the rhetoric of early resolution does not appear to have transferred to the reality of managerial practice. Instead, our findings suggest that conflict management and dispute resolution in British workplaces are increasingly dominated by notions of procedural compliance. There are some very tentative signs that organisations are beginning to recognise the importance of developing the people management skills of frontline-managers. In addition, we found isolated examples of large organisations adopting innovative approaches to the management of conflict in response to reputational and regulatory risks. However, across the sample as a whole, there was little evidence that conflict management is considered as a strategic priority by most UK employers. This finding is perhaps surprising, given that the benefits of good conflict management (and the costs of poor conflict

management) were universally recognised by respondents.

An important question is whether organisational approaches to conflict have been, or are likely to be, affected by changes in the broader regulatory and legislative environment. We already know that the introduction of employment tribunal fees was followed by a sharp reduction in the volume of claims. With the subsequent introduction of Early Conciliation we have seen a new form of notifications of disputes. Aside from the volume of claims, it seems likely that a combination of fees, the extension of qualifying period for claiming unfair dismissal, the introduction of settlement agreements and (to a certain extent) the introduction of Early Conciliation, have reduced the risks of litigation for employers. However, how this has shaped the way that organisations manage conflict is less clear.

There is little evidence that it has stimulated more informal and creative approaches to conflict resolution. At the same time, there does not appear to have been a wholesale shift to more arbitrary and unilateral uses of discipline. Instead, the new regulatory environment seems to have reinforced existing conflict management styles. Those organisations who previously tended to 'hire and fire' can now do so with limited risk, while those 'good' employers conscious of the need to maintain their reputation may use the regulatory space afforded to innovate. From a policy point of view, the main concern is that the reforms do little to incentivise employers to change their approach and adopt a more strategic approach to conflict management.

A key part of the regulatory framework is the Acas Code of Practice on Disciplinary and Grievance Procedures. Interestingly our research suggested that the Code is not necessarily a common reference point in the day-to-day handling of workplace problems. Managers instead rely on organisational policy and guidance developed by in-house HR practitioners or external advisers, such as specialist solicitors and HR consultants.

Nonetheless, the Code is the touchstone for the development of disciplinary and grievance procedures, while wider Acas guidance shapes the advice provided by HR and legal practitioners. Consequently, the Code remains a powerful policy lever and there is clear evidence that its revision in 2009 led to the extension of workplace mediation and more streamlined disputes procedures (Rahim and others, 2009; Saundry and Wibberley, 2014). Our research suggests that any further changes to the Code would trigger a similar review of organisational processes. However, while many respondents had particular concerns over detail, it is difficult to see an overwhelming case for reform.

Moreover, we would argue that the problems facing organisations in managing conflict stem not from the Acas Code but from the lack of conflict competence among frontline managers; the erosion of structures of employee representation; and the increasing remoteness of HR. This, in turn, reflects the failure of employers to recognise the strategic importance of effective conflict management.

References

BIS (Department of Business, Innovation and Skills) (2011) Resolving Workplace Disputes: Government Response to the Consultation, London: BIS.

CIPD (2011) Conflict Management – Survey Report, London: CIPD.

CIPD (2015a) Getting under the skin of workplace conflict: Tracing the experiences of employees, London: CIPD.

CIPD (2015b) Conflict management: a shift in direction? London: CIPD.

De Dreu, C (2008) 'The virtue and vice of workplace conflict: food for (pessimistic) thought', Journal of Organisational Behaviour, 29, 5-18.

Dix, G, Forth, J and Sisson, K (2009) 'Conflict at work: the changing pattern of disputes', in Brown, W, Bryson, A, Forth, J and Whitfield, K (eds.) The evolution of the modern workplace, Cambridge: Cambridge University Press.

Downer, M, Harding, C, Ghezelayagh, S, Fu, E. and Gkiza, M (2015) 'Evaluation of Acas Early Conciliation 2015', Acas Research Papers, 04/15.

Ewing, K and Hendy, J (2012) 'Unfair Dismissal law Changes – Unfair?', Industrial Law Journal, 41:1, 115-121.

Forth, J, Bewley, H and Bryson, A (2006) Small and Medium-Sized Enterprises: Findings from the Workplace Employment Relations Survey 2004, London: Routledge.

Gibbons, M (2007) A review of employment dispute resolution in Great Britain, London: DTI.

Hepple, B (2013) 'Back to the Future: Employment Law under the Coalition Government', Industrial Law Journal, 42:3, 203-223.

Jones, C and Saundry, R (2012) 'The Practice of Discipline: Evaluating the Roles and Relationship between Managers and HR Professionals', Human Resource Management Journal, 22:3, 252–266

Jordan, E, Thomas, A, Kitching, J and Blackburn, R (2013) 'Employment Regulation – Part A: Employer perceptions and the impact of employment regulation' Employment Relations Research Series, 123, Department for Business, Innovation and Skills.

Latreille, PL (2011) 'Workplace Mediation: A Thematic Review of the Acas/CIPD Evidence', Acas Research Paper, 13/11.

Rahim, N, Brown, A and Graham, J (2011) 'Evaluation of the Acas Code of Practice on Disciplinary and Grievance Procedures', Acas Research Paper, 06/11.

Saundry, R, Latreille, P, Dickens, L, Irvine, C, Teague, P, Urwin, P and Wibberley, G (2014) 'Reframing Resolution – Managing Conflict and Resolving Individual Employment Disputes in the Contemporary Workplace', Acas Policy Series. London: Acas.

Saundry, R and Wibberley, G (2014) 'Workplace dispute resolution and the management of individual conflict – a thematic analysis of 5 case studies', Acas Research Papers, No. 06/14.

Van Wanrooy, B, Bewley, H, Bryson, A, Forth, J, Freeth, S, Stokes, S and Wood, S (2013) Employment Relations in the Shadow of Recession: Findings from the 2011 Workplace Employment Relations Study, London: Palgrave Macmillan.

Wood, S, Saundry, R and Latreille, P (2014) 'Analysis of the nature, extent and impact of grievance and disciplinary procedures and workplace mediation using WERS2011', Acas Research Papers, 10/14.