

# FirstCall HR Newsletter



FirstCall HR  
01 831444  
info@firstcallhr.ie  
www.firstcallhr.ie

What we provide.....

- Team of experienced HR professionals in conflict management
- Single point of contact for full range of services
- Competitive pricing
- Facilitation and mediation
- Audits and reviews
- Independent investigations
- Training and coaching

## Message from First Call HR

The need for organisations to have a high level of conflict competency has not abated because of the recession. If anything, the recession has put people and organisations under greater pressure than before and, arguably, is leading to increased levels of low level workplace conflict. The overall climate of industrial unrest doesn't help either. Needless to say, some conflict can be good—people arguing over best ways of saving costs or increasing productivity, for example. And conflict can often help to 'clear the air' and clarify important matters in the workplace.

But if it is not handled properly, conflict can undermine morale, hinder performance and create a nasty atmosphere that is not conducive to everyone rallying around in difficult circumstances.

Late last year five of us -- Tara Flynn, Lynda Murphy, John O'Dowd, Claire Hayes and I - decided to pool our resources and

to offer a single point of contact for the full range of workplace conflict management services. Each of us still ploughs our own furrow as HR consultants but we work together on this new initiative which offers organisations the opportunity to access a substantial body of experience and expertise in one place.

Most organisations don't have regular conflict and it can, therefore, be difficult for them to build up sufficient expertise to handle conflicts with confidence.

Even after a few short months and despite the recession, it is clear to us that many organisations in both the private and public sectors have a need to bring in expertise when significant conflicts are threatened or arise.

Between us we have considerable experience in facilitation and me-



Ultan Courtney

diation, in conducting independent investigations, in assisting with negotiations, in auditing and evaluating procedures and practices, and in coaching and training.

We have a strong mix of management, union and academic backgrounds and we are experienced in operating at high levels of organisation. We want to bring that experience and mix together to offer clients a 'one stop shop' for all their workplace conflict needs.

And we want to provide these services at a cost that is realistic in the current environment.

This is our first newsletter. In it we set out the range of services that we provide as well as some up to date information on relevant HR developments.

We hope you find the newsletter interesting and useful. Full details of our services can be found on our website at [www.firstcallhr.ie](http://www.firstcallhr.ie) and you can contact us at

## Poorly handled complaint leads to award of €45,000

In a recent case at the Employment Appeals Tribunal, the claimant succeeded in her claim for constructive dismissal with an award of €45,000. Tara Flynn summarises the key points from this case.

A former chief executive of the organisation alleged, in an email to the executive committee, that the claimant had bullied another employee. The allegation was later released to the media. The claimant denied the allegation and requested an investigation. The organisation was experiencing internal rivalries and difficulties with changes in senior management and an ongoing Labour Relations Commission (LRC) inves-

tigation. After discussions with the then chief executive and the replacement chief executive, the claimant sought an apology and a guarantee that her complaint would be treated seriously. This was not forthcoming, so she resigned. The Tribunal concluded that the organisation failed to carry out a proper investigation of complaints about its handling of allegations made against the claimant.

This was an interesting case with



Tara Flynn

some key points to note. Regardless of internal difficulties and challenges, and the voluntary nature of the roles in the organisation, the law is the law and the same standards apply to all situations equally.

This case demonstrates that failure to investigate a formal complaint amounts to a basis for constructive dismissal - most notably as a breach of contract which renders the complainant's position untenable. Her attempts to resolve matters internally before tendering her resignation meant she was found to have done everything in her power to resolve matters.

### Inside this issue:

Stress and Employee Support	2
LRC Report on Workplace Conflict	2
Mediation: fast, cheap, flexible	2
Your Questions Answered	3
ICTU Commission	3
Conflict Coaching	3
Senior Management Conflict	4
Independent Investigations	4

## Signs that employees may need stress support

**Stress management is not touchy-feely. It's hard business sense.**



Dr Claire Hayes

One of the biggest challenges facing companies in 2010 is how to support employees through severe stress. Young and old employees are facing significant difficulties such as redundancy, lower incomes, higher taxes, increased expectations re work productivity and lower job satisfaction. Such difficulties can lead to workplace conflict.

There is a risk that employees who are left to cope unsupported will develop physical and/or mental difficulties such as anxiety and depression that can impact on their health and their work.

### Recognising Severe Stress

People tend to cope with severe stress in different ways. Some people show obvious signs such as looking over-whelmed, taking things personally, becoming unusually aggressive, jumping to conclusions and working extremely long hours with poor results.

Other people may hide their stress and it can be much more difficult to spot that they need additional support. They may go quiet, agree

to everything they are asked to do without challenging, and even seem hopeless.

A third reaction to extreme stress is for people to go 'silly' – to lose focus and to become irresponsible. Sudden changes in personality and work patterns can be worrying, as can persistent signs of alcohol abuse.

### Supporting Employees

The first step is to acknowledge that with the world the way it is now, that additional stress is normal. It is important that employees are involved in decisions affecting them such as reduced salary and additional work responsibilities.

Some people by nature tend to panic and become anxious in stressful situations and it is important that they be helped face, rather than avoid, situations they find stressful.

Others have more of a tendency to become depressed. They can 'bring down' the atmosphere in the work place by talking in a hopeless, pessimistic, even angry way.

### How First Call HR Can Help

We help employees—either individually or in small groups - to understand the nature of severe stress and how to handle it. We can also deliver customised 'Stress Empowerment' training for groups of all sizes.

One-to-one coaching, small group coaching and larger training workshops are all aimed at helping people to better understand what it is that is causing their stress and how to manage it.

This includes looking at the factors or stressors affecting them, the personal and professional impact of stress, how they typically react to and cope with stress, how their reactions affect work productivity, relationships with colleagues, family and their own health and well-being, and how they can effectively cope with stress.

Employers can help their employees through difficult times while also helping themselves. They can help to develop hope where there is pessimism. Stress management is not touchy-feely. It makes hard business sense.

**A significant number of organisations felt that line managers and supervisors may be reluctant to act on their own to resolve workplace conflicts.**

## Large scale conflicts down – small scale conflicts persist

A recent LRC report titled 'Managing Workplace Conflict in Ireland' found that large scale workplace conflict has declined dramatically but that a high level of small scale conflicts persist. Two thirds of respondents felt that there was a need for practices that resolved problems more quickly. About a third felt that the costs of managing conflict were too high. However, more than eight out of ten felt that their conflict management practices contributed positively to the employee relations

climate.

Most firms were satisfied overall with their approaches to managing workplace conflict. However, a significant minority of managers did not receive formal training in how to handle workplace conflict. Managers in large firms were more likely to receive such training than those in small firms.



John O'Dowd

A significant number of organisations felt that line managers and supervisors may be reluctant to act on their own to resolve workplace conflicts. Dr John O'Dowd, FirstCall HR, commented; "Overall, the report shows that there is room for improving the conflict management capabilities of line managers. These are important findings given that line managers play a key role in ensuring that teams work effectively, employees reach full potential and good relationships prevail inside the organisation."

## Mediation: fast, cheap, flexible



**The idea is to reach an early agreement but also one that sticks**

All the evidence suggests that more organisations are using mediation as a fast, cheap and flexible approach to resolving conflicts. For some, however, there is still a mystique around mediation: what exactly is it?

The Mediators' Institute of Ireland (MII) describes mediation as a process in which an impartial and independent third party facilitates communication and negotiation between the parties to a dispute and assists them to reach a mutually acceptable solution.

The mediator has no authority to impose a solution (that would be

arbitration) - the parties must 'own' the solution themselves.

Mediation can be used to resolve conflicts between two individuals or between groups of people.

The mediator and the parties agree on terms of reference for the mediation as well as on ground rules. A party can withdraw from mediation at any time—it is 100% voluntary.

Mediation involving two individuals usually follows a standard pattern of initial separate meetings with the facilitator followed by a small number of joint sessions that are chaired or facilitated

by the mediator. The process is tailored to meet the time needs of the parties.

Mediation is 'interests-based' in that the mediator helps the parties to establish what their underlying needs and wants are before helping them to come up with a range of possible solutions from which they can choose the best one.

The mediator helps the parties to talk to each other in an open, non-aggressive and respectful way that can form a basis for mutual understanding and agreement.

The MII estimates that mediation works in about 80% of cases.

## Your Questions Answered

Lynda Murphy answers some real-world questions from clients.

**Question:** *what do you do when you are in the middle of an investigation and the complainant decides to withdraw the complaint?*

**FCRH:** The first thing to do is to ask why the complainant wishes to withdraw the complaint and carefully consider their response. Based on the reasons given, you can then decide how best to proceed. Occasionally the complainant may complain of further intimidation or express fear of being further intimidated. If further allegations are provided these need to be investigated and it may be appropriate to suspend the respondent on full pay during the investigation. This needs to be done carefully and we would recommend that you seek professional advice. Please remember that the allegations are only allegations at this stage! You may also identify that the complainant feels emotionally vulnerable through the process and requires professional support. This support should be provided by a trained professional and someone impartial to the investigation. You may decide to proceed even if the complainant withdraws their

complaint. Any decisions will have to be carefully considered and done in a timely manner. Remember that you have a responsibility to both the complainant and the respondent.



Lynda Murphy

**Question:** *what do you do if the respondent goes sick the middle of your investigation?*

If the absence is likely to be long term or is stress-related, we would recommend that you get the employee medically examined by an Occupational Physician ensuring that you provide the Doctor with full information.

Based on the medical report you can then decide the appropriate way forward. You may decide to proceed with the investigation as far as possible and wait until the employee returns or is medically fit to respond to the allegations and any potential witness statements. It is important that the complainant and respondent are

treated fairly throughout the process and you have a responsibility to ensure that this happens.

**Question:** *what do you do if the respondent keeps giving different reasons for avoiding meetings?*

It is important that you manage the 'process' and not the parties. We recommend that a letter is issued to the respondent giving them notice to attend a meeting in a few days time. Don't forget to offer them the right of representation and advise them that they are expected to attend unless there are extenuating circumstances. If there are such circumstances, these must be considered.

If the respondent fails to provide adequate reason for non attendance, you may need to refer the matter back to a manager or HR department as perhaps it may be a disciplinary matter. You may still decide to proceed with the investigation in which case you may consider sending the necessary documentation to the respondent for their response. In any case all facts and issues raised in the investigation process need to be considered before concluding.



*investigations can become complex and frustrating.*



*The object is to identify measures that unions can take to combat stress and bullying.*

## ICTU Commission on Stress, Bullying and Violence at Work

In what looks like a very worthwhile initiative, the ICTU has announced the terms of reference of an Advisory Commission on stress, violence and bullying at work.

The commission will be chaired by the NUJ's Irish secretary, Seamus Dooley. It was set up on the initiative of ICTU's legal and social affairs officer, Esther Lynch, who is a member of the board of the

Health and Safety Authority.

The Commission will examine the effectiveness of current measures aimed at preventing workplace bullying, stress and violence. It will examine the effectiveness of trade union responses to stress, violence and bullying at work.

The Commission will seek submissions from unions and experts. The Commission will identify measures

that unions can take to promote better workplaces and combat stress and bullying.

The Commission will report to the 2011 ICTU conference with recommendations for improving the legal framework, codes of practice, disputes resolution procedures, workplace agreements and employers responses..

## Conflict coaching.....when you don't want to face that meeting

Conflict coaching is a one-to-one approach to helping people strengthen their conflict management skills. A trained coach helps people to handle in a confident and effective way situations that they would otherwise find daunting and perhaps seek to avoid altogether.

Many mediators in Ireland have been trained by a Canadian specialist in this field, Cinnie Nobel. Conflict coaching blends the

insights and approaches developed in the coaching field with knowledge of how conflict arises, how individuals tend to handle conflict, and 'best practices' in conflict resolution.

One of the reasons why conflict coaching works so well is because the people coming to the conflict coach usually have a current conflict that they want to resolve through an early meeting or through an upcoming mediation

session. They can put their insights and learning into practice immediately. They can use the coaching session to plan their upcoming meetings in as much detail as they need.

Coaching sessions are planned and structured. They usually take about an hour and it is up to each individual to decide how many sessions they need. Direct coaching sessions can be supplemented by phone calls and emails.



*People coming to a conflict coach tend to have a conflict that they want to resolve fairly quickly*

## Senior executive conflict

Conflict between senior executives is inevitable. In many cases, different views among senior executives on strategic and operational issues generate a healthy tension that leads to valuable debate and sound decisions.



Senator George Mitchell

And they are highly unlikely to consider internal mechanisms such as in-house mediation as being appropriate to people at their level. Also, in addressing the conflict they may need to discuss confidential business issues. So what can be done?

However, conflict based on career advancement, competition for resources or personality clashes can be damaging to the managers concerned as well as to the organisation.

Left too long, such conflicts can be impossible to resolve and can lead to resignations or constructive dismissals and expensive legal actions.

Senior executives are likely to find it difficult in the first place to admit that there is a problem – perhaps even to themselves. They are highly unlikely to admit to their own seniors that they themselves are part of the problem.

Senior management conflicts are not likely to be tackled unless someone senior to the managers concerned decides to call a halt before the whole house is brought down. Then it is time to bring in an experienced mediator with experience of operating at senior executive level.

Senior executives will want to know that the mediator on offer to them is not just an expert in resolving conflicts but is also someone who can understand business and organisational matters.

George Mitchell was, no doubt, helped in his Northern Ireland peace efforts with politicians by the fact that he himself was a senior political figure!

The mediator then works in separate and joint sessions with the senior executives, off-site to avoid attention.

The mediator will treat what is said during the mediation with complete confidentiality.

The focus of the mediation will be on helping the parties to identify key issues, to develop mutual understanding and to negotiate an outcome that works for them and for the organisation.

FirstCall HR  
01 831444  
info@firstcallhr.ie  
www.firstcallhr.ie

What we provide.....

- Team of experienced HR professionals in conflict management
- Single point of contact for full range of services
- Competitive pricing
- Facilitation and mediation
- Audits and reviews
- Independent investigations
- Training and coaching

## Independent Investigations

Establishing the facts is frequently central to the resolution of workplace disputes. This is generally best done by an agreed and independent third party. Independent investigation or fact finding involves an experienced third party conducting a thorough and fair assessment of difficult or complex situations, for example disputes over work, over compensation or allegations of bullying or harassment.

People tend to think of bullying and harassment when you mention independent investigations but there's more to it than that. Independent investigation has a much wider role in the area of workplace conflict resolution.

An independent investigation involves all of the parties to a dispute or accusation and leads to a report with findings and conclusions, sometimes with recommendations for how to improve the situation. Bullying investigations are generally framed by current

agreements such as policies and procedures on 'dignity at work' and by national codes of practice set out by the Labour Relations Commission and the Health and Safety Authority.

For issues not covered by existing policy and procedures, specific terms of reference are usually agreed beforehand by the parties. Procedures always take account of the requirement of natural justice and 'best practice' as this evolves over time.

The main benefits associated with independent investigation are:

All parties can contribute to the terms of reference and to the selection of the agreed third party.

All parties have an equal opportunity to give an account of the situation from their point of view.

The investigator brings an independent perspective that allows him or her 'to see the wood from the trees'.

The investigator applies an agreed and robust methodology to the work in hand.

Issues can be clarified quickly and parties can stand back from immediate conflict on grounds that the issues are being addressed within an agreed timescale.

The parties receive a detailed report based on professional assessment of the facts as they emerged in the course of the investigation.

Such reports can form a basis for parties taking discussions further themselves or they can provide a basis for management decisions on what needs to happen next.

As well as leading to solutions to immediate problems, investigators' reports can highlight systemic problems that can then be remedied through preventive measures.

We can provide more information, including examples of different types of investigations, upon request.



*People tend to think of bullying and harassment when you mention independent investigations but there's more to it than that.*