

We just need to talk it over

Most business disputes can be settled through mediation in a matter of days – and so can rows at work. We explain how

Carly Chynoweth Published: 5 December 2010



Conflict resolution has become big business in the last decade (Nicola Dove) Conflict resolution has become big business. The number of disagreements settled through arbitration or mediation rose 78% between 2007 and 2009.

The cost of mediation cases alone is more than £5 billion a year. But while companies are increasingly likely to use this method to resolve problems with other businesses, they are slow to use it for conflict within the ranks of their own staff.

The business case for mediation in arguments with other businesses is straightforward: 70% to 80% can be resolved in two days, according to Karl Mackie, chief executive of the Centre for Effective Dispute Resolution (CEDR). Also, it costs far less than litigation and the contractual relationship is more likely to continue afterward, he said.

“The earlier parties come to mediation, the more we can do and the better the results we can achieve,” Mackie added. “If you leave it too late, things can get so soured by the conflict that people can’t imagine working together.”

The number of business disagreements settled through arbitration or mediation rose 78% between 2007 and 2009. Mediation and arbitration are both confidential and can lead to a binding agreement without going to court. In mediation, a neutral third party helps the two sides negotiate a settlement between themselves; in arbitration, the third party imposes a decision.

GE Oil & Gas calculated that it avoided millions in legal fees and other costs within two or three years of starting an early dispute resolution scheme that promoted mediation. Michael McIlwraith, senior

litigation counsel for the technology and service provider, said: “We are out to make better products and provide better services at the lowest possible costs. “Disputes come at a cost ... and if you can take those costs out, you have a competitive advantage.

“One area where mediation is very useful to us, and where we have tried to help it grow, is in dealing with customers in emerging markets. They do not have the same sort of legal infrastructure in place.” Here, mediation helps protect against falling into what could be seen as a risky court or legal system.

Some companies invite suppliers to join their staff at workshops to talk through how they will deal with conflict should it arise, Mackie said. “They recognise that they are trying to build a long-term relationship with suppliers so it is in everyone’s interests that they not only get things right from the outset, but that they have mechanisms for managing it when there is conflict. There is always conflict in business, so why not think about how you will deal with it?”

GE Oil & Gas provides conflict management training for future leaders from its customers, who attend its own “university”.

“A lot of the training [on the course] is technical, so they learn about things such as processing sour gas, say ... but one of my colleagues and I also teach a component on negotiation, which includes conflict management,” McIlwrath said. “The hope is that if we can embed these things into our relationships with customers, then should there ever be disputes in the future, the communication will be better between us.”

Within the workplace, however, communication has been getting worse, according to a CEDR survey. It found that nearly 60% of the 1,000 employees surveyed listed management and co-workers as a significant source of “challenging conversations”. Alongside this, only 44% of managers were confident about their own ability to handle conflict.

Alex Efthymiades, co-founder of Consensio Partners, a conflict resolution consultancy, blames inadequate training. “This is a real blind spot for managers and organisations, who do not realise that part of being able to manage people is having the skills and confidence needed to have difficult conversations. Because they feel unable to do so, the conflict escalates, the human resources department gets involved and it is a huge waste of time for everyone,” she said.

A typical conflict starts when an attempt to improve performance leads to an allegation of bullying, Efthymiades said. Neither side feels able to have a calm and clear conversation to resolve the matter, and the next stage often sees increasingly hostile emails being exchanged, with other people copied in. “It very quickly becomes a formal process in which things are documented in case a grievance or a counter-grievance is taken out, even though most of the time things could have been resolved very early through an informal discussion,” Efthymiades said.

This is not something that happens only at junior or middle management level — Efthymiades has dealt with conflicts between board members that have turned into time-consuming vendettas.

“It can end up in gang warfare where it is not just about two individuals, and people and teams are forced to take sides,” she said. “When things completely break down you can end up with people behaving vengefully, for example by withholding information from the other person or otherwise undermining them because they are out to hurt them.”

Their aim may be to make the other individual look incompetent, but it will be the business that suffers. “And if you are the chief executive, you will be the one who has to wear that damage in the end,” Efthymiades said.

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