Survey report
March 2011

Conflict management

Contents

Introduction and summary

'The current system of employment tribunals is broken.'
(John Cridland, CBI Director-General)

The CIPD undertook a survey of employers' experiences of managing workplace conflict in November/December 2010, with two main aims in mind. One was to find out what changes have taken place in employers' use of different forms of conflict management since our survey report *Managing Conflict at Work* was published in 2007. The second was to feed into our response to the consultation paper on *Resolving Workplace Disputes* published by the Department for Business, Innovation and Skills and the Tribunal Service in January 2011.

The survey findings confirm that the scale of workplace conflict is remarkable and has increased in the recession. Table 1 shows significant increases in most forms of managing conflict, internal and external.

Of those who used each method, almost half say their organisation has increased its use of disciplinary action (49.5%), grievance procedures (47.7%) and mediation (49.4%) in the last two years. The high proportion of respondents saying that their organisation makes more use of mediation is encouraging, but is overshadowed by the proportion making increased use of training line managers in handling difficult conversations.

Two in three respondents (65.3%) say that troubleshooting by the HR department has gone up, reflecting the increased volume of disciplinary and grievance cases (see below). Only small percentages say that use of any of the methods listed has gone down.

In-house conflict management

The number of days of management and HR time spent on managing both disciplinary and grievance cases has gone up since 1997, from 13 to 18 days (disciplinary) and from 9 to 14.4 days (grievance). There are significant differences between sectors – the number of days of management time spent on handling grievances in the public sector, (9 days), is two-thirds as high again as that in private services (5.5 days).

The great majority of discipline and grievance cases are resolved internally (85%), but the lower figure for the public sector (81%) suggests a somewhat greater willingness by employers and employees in that sector to call on outside help to resolve disputes.

Table 1: Use of different methods of dealing with workplace conflict in last two years

	Increased	Decreased	Stayed the same
Disciplinary action	49.5	8.6	41.9
Grievance procedures	47.7	10.3	42.1
Internal or external mediation	49.4	3.5	47.1
Independent arbitration	10.3	6.6	83.1
Early neutral evaluation	7.5	8.3	84.2
Training line managers to handle difficult conversations	61.5	6.9	31.6
Troubleshooting by HR department	65.3	7.3	27.5

Employment tribunals

John Cridland's comment above is amply borne out by the findings of our survey. More than two-thirds of respondents to this survey believe that 'there is no effective protection for employers against wholly unjustifiable claims'. And more than half say that 'the law on unfair dismissal should be amended to make it easier for employers to dismiss'.

Three in five respondents have experience of an employee claiming unfair dismissal and 'tagging on' a discrimination claim in the hope of getting more compensation. Fifty-five per cent have experienced an employee who has brought a complaint against an organisation on grounds that the respondent regards as malicious.

A majority of respondents believe that the most effective means of reducing the volume of tribunal claims would be more-effective case management to identify 'vexatious' claims and requiring employment tribunals (ETs) to award costs against losing claimants. There is little support for allowing certain claims to be dealt with by an employment judge sitting alone.

Compromise agreements

More than half of respondents who have used compromise agreements in the last two years report that their use has increased. The median compensation payment is £10,000, while one in five report that the typical payment is £25,000 or more. These payments are substantial but a key difference compared with the costs of dealing with tribunal claims is that the employer knows what they are getting for their money.

Major reasons for using compromise agreements (other than to settle an existing claim) are to remove an employee on grounds of poor performance or misconduct (38.9%), to avoid legal challenge in relation to redundancy (25.7%) and to make it easier to remove senior staff without embarrassment (24.3%).

The median cost of management time for dealing with a typical compromise agreement is reported as £1,000; the median cost of legal advice in drawing up an agreement is £750. Looking at the total costs involved, including compensation, the median is £11,000 and the maximum £110,000.

It is clear from respondents' comments that employers increasingly see decisions about not only redundancy and restructuring, but also how to deal with employee conduct, performance and sickness, as being based primarily on commercial considerations. Employers are increasingly using compromise agreements to achieve an outcome that is cost-effective and acceptable to the individual.

Mediation

57.3% of respondents report that they use mediation. This supports anecdotal evidence from a number of sources (see for example the box on TCM on page 4) that more employers are now using mediation to resolve workplace issues.

One-half of respondents (49.4%) say their organisation has increased its use of mediation in the last two years. This is overshadowed by the proportion making increased use of training line managers in handling difficult conversations (61.5%).

Some 82.8% of public sector employers report that they use mediation, compared with 47.9% in private services.

More than two in five respondents say they use internal mediation only, while fewer than one in five rely on external mediation only. Two in five use both.

The main benefits of using mediation are seen as being to improve relationships between employees (80.5%), to reduce or eliminate the stress involved in more formal processes (63.6%) and to avoid the costs involved in defending ET claims (51.7%).

The main reasons why some organisations do *not* use mediation are their belief that there is no clear business case (46.6%) and the cost of using mediation (42.0%). However, the costs of mediation recorded by respondents are significantly lower than the costs of handling disciplinary and grievance cases, which suggests that many employers' fears about the costs of mediation are misplaced.

A mediation supplier's view

David Liddle is director and founder of The TCM Group, one of the UK's largest mediation and mediation training companies.

David's experience of talking to employers in the private and public sectors leads him to believe that a lot has changed recently in terms of their adoption of best practice in the area of employee relations. The negative effects of conflict still create a toxic environment and CIPD surveys have shown the costs of conflict to employers. But an increasing number of employers see mediation as a 'breath of fresh air', and a vehicle for encouraging more 'adult/adult' conversations in the workplace. They recognise that neither existing discipline and grievance procedures nor the quasi-judicial approach of employment tribunals are helpful in this respect, and that mediation allows more room for common sense in handling the problems that HR managers are required to deal with.

David has seen a substantial increase in the use of mediation by private sector employers in the last 12 months. Moreover the language used surrounding mediation is now more business-oriented, with more emphasis on measuring costs, return on investment and benchmarking against best practice in other organisations. In the public sector, by contrast, David says that there has been a recent dip in take-up of mediation, no doubt influenced at least in part by budgetary problems. However he believes that greater recognition of financial constraints and the long term benefits of mediation will only strengthen the business case for mediation across both the public and private sectors.

TCM now promote a sustainable framework for mediation and increasingly their work with organisations focuses on the development of internal mediation schemes. The foundation and success of internal mediation schemes is based on the involvement of multiple stakeholders – including senior management, employees, trade unions and occupational health services – who need to be fully represented in any discussions about a new system for managing conflict. A more measured pace for introducing mediation schemes generally leads to fewer problems in implementation.

Looking more broadly at managing workplace conflict, David has seen an increasing interest in 'conflict coaching'. This is typically where an individual senior manager is seen to need help in managing 'difficult conversations' and coaching can be offered on a 'helpline' basis. There is also a need for more line manager training, and TCM has noted a tendency for employers currently to be looking for 'quicker, cheaper, smarter' support in this area.

Mediation is now being delivered to a greater extent by trained and competent HR and line managers, without needing to rely on external support. As employers give more attention to managing conflict and maintaining effective workplace relationships, HR professionals are being empowered to adopt a bigger role as mediators and peacekeepers. For the past 10 years or so, dispute resolution has been process-led – with an HR policy in place covering almost every type of workplace dispute or conflict. A significant benefit of mediation is that it puts the person back into the centre of the resolution process.

Managing disciplinary and grievance cases

The (mean) average number of formal disciplinary cases (including formal warnings through to dismissal) in respondents' organisations over the last 12 months is 16.5. The median figure is 6, but 5 organisations (2.5%) had 100 or more. In the public sector, the mean figure is 20 and the median 8.5.

The (mean) average number of formal grievance cases raised by employees in respondents' organisations over the last 12 months is 22.3, and the median is 2, reflecting the substantial bunching of responses at the bottom end of the scale. However, one organisation reports 2,000 grievance cases and the mean score in the public sector is 76.7, reflecting the typically larger size of public sector organisations.

Comparing the (mean) average number of cases per organisation with those recorded in the CIPD 2007 survey, the number of disciplinary cases is slightly lower (16.5 compared with 18 in 2007) but the number of grievances is substantially higher (22.3 compared with 8). It seems likely that the increased number of grievance cases reflects the impact of the recession, which also produced a higher volume of tribunal claims.

Asked what proportion of disciplinary and grievance cases – that didn't go on to become ET claims – are resolved internally, respondents' answers range from 0 to 100, with 25% going for the top of the range (that is, 100%). The (mean) average for all respondents is 85%, and for the public sector 81%.

Comparing the results with those from the 2007 CIPD survey, it appears that the number of days of management and HR time spent on managing disciplinary and grievance cases has gone up, from 13 to 18 (discipline) and from 9 to 14.4 (grievance).

There are significant differences between sectors. The number of days of management time spent on handling grievances in the public sector (9 days) is two-thirds as high again as that in private services (5.5 days), although the amount of HR time spent on handling grievances is much closer (7.9% in the public sector compared with 7.5% in private services).

The number of days of management time spent on handling disciplinary cases is almost twice as high in the public sector (9 days) as in private services (4.9 days), though other sectors report even higher figures: 9.6 days in manufacturing and 11.3 days in the voluntary, community and not-for-profit sector.

Table 2: Time spent managing disciplinary and grievance cases

	Days per case	
	Discipline	Grievances
Management time	7.8	6.8
HR staff time	10.2	7.6
In-house lawyers	2.2	0.7
Total	20.2	15.1

Employment tribunals

Half of all survey respondents (50%) had been involved in responding to at least one tribunal claim in the last two years, almost all of which had gone to a hearing. A majority of respondents in manufacturing (56.4%), private services (56.2%) and voluntary/not-for-profit (50.0%) organisations had not been involved in responding to a single claim; but this was the case with only one in five (20.3%) public sector organisations.

Respondents were asked how satisfied they were with different aspects of the last tribunal hearing their organisation was involved in. Significant levels of dissatisfaction were expressed with the length of time between receiving the claim and the date of the tribunal hearing (28.6% dissatisfied) and the efficiency of the tribunal process, for example timely production of evidence, keeping to timetable (23.3%). Respondents were more satisfied with the management of the hearing by the employment judge (31% satisfied), the objectivity of the tribunal process (24.3%) and the fairness of the tribunal decision (28.6%).

Opinion about the contribution of Acas to resolving the issue is divided, with slightly more respondents tending to be dissatisfied than satisfied, and one-third neither satisfied nor dissatisfied. More than one-third of respondents failed to state an opinion in response to any of the issues raised by this question.

The survey asked how far respondents agree with a number of statements about aspects of the statutory process for resolving disputes (Table 4).

Table 3: Numbers of tribunal claims organisation has been involved in responding to in last two years (%)

0	44.2
1–5	36.9
6–10	6.8
11–25	4.4
Not stated	5.8

Table 4: Attitudes to statutory dispute resolution process

	% agreeing (all answering)
Employee has used complaints of bullying by line managers when faced with capability or misconduct hearings	70.4 (n=196)
Employee claiming unfair dismissal has 'tagged on' a discrimination claim in hope of getting more compensation	61.1 (n=185)
Employee has brought complaints against organisation that respondent regards as malicious	55.3 (n=188)
ET has penalised organisation for minor failings in following disciplinary or dismissal procedures	18.4 (n=185)
Possibility of having to deal with unfair dismissal claims has discouraged organisation from recruiting	5.7 (n=193)

These responses suggest that a majority of employers have experience of employees 'gaming the system'. Four out of five do not, however, feel that tribunals have penalised them for minor procedural failings. Only a handful say that the possibility of having to deal with unfair dismissal claims has discouraged them from recruiting.

Respondents were asked what changes have taken place in the use of professional support since the statutory dispute resolution procedures were abolished in April 2009. Responses suggest that in a majority of cases usage has stayed broadly the same. However, Table 5 shows that usage of HR departments appears to have increased substantially.

Respondents were also asked what they would say would be the most effective means of reducing the volume of claims reaching employment tribunals (see Table 6). The two most effective means of reducing the volume of tribunal claims are thought by respondents to be more-effective case management to identify 'vexatious' claims and requiring employment tribunals to award costs against losing claimants. There is little support for allowing certain claims to be dealt with by an employment judge sitting alone.

Table 5: Has use of the following increased, decreased or stayed the same since April 2009? (% of those responding)

	Increased	Decreased	Stayed the same
HR department	36.5	2.6	60.8
In-house lawyer	10.5	12.0	77.4
Employment law firm	23.0	12.2	64.9
HR/employment consultant	19.8	6.9	73.3
Acas	23.6	5.6	70.8

Table 6: Effective means of reducing the volume of claims reaching an employment tribunal

	% placing in top two
More-effective case management to identify 'vexatious' claims	53.9
Require employment tribunal to award costs against losing claimants	50.4
Require parties to indicate on ET1/3 if they considered mediation	38.3
Require claimants to pay a fee of, say, £35	28.1
Remove certain claims from jurisdiction of ETs	23.3
Allow certain claims to be dealt with by an employment judge alone	11.7

When respondents were asked for other suggestions about what the Government could do to improve the way employment disputes are handled in the UK, most focused on ways in which they believe the number of tribunal claims could be reduced, for example:

'Cases should be considered before being allowed to proceed to a full hearing and where there is an obvious vexatious claim it should be rejected, in much the same way the CPS judge criminal cases and must find a 51% or more chance that the defendant is guilty before allowing it to go to court. There should also be a compulsory fee to pay if the claimant loses, with stronger enforcement methods to deal with non-payers. Perhaps a deposit should be taken in advance, returned to the claimant if successful in their claim.'

'Increase Acas resource to interview every claimant and form a pre-tribunal case report. Increase resource for pre-tribunal hearings in more cases. Create a fast-track option for claimants similar to what currently exists for personal injury claims, where either party could specify a monetary amount of compensation they would be prepared to offer/accept as complete settlement so employers could make a business decision whether to fight claims or not.'

'The continuous raft of employment legislation makes it increasingly difficult for organisations to operate effectively and/or profitably. I only witness organisations that try their best to make the right decision in any given circumstance. I do not believe employment legislation roots out poor employers. I believe employment legislation is no longer the answer – a new philosophy is required, and we now need to win the hearts and minds of the nation's employers to encourage them to be the best they can be.'

Two respondents were particularly concerned about the use by employees of speculative or misconceived claims of discrimination:

'Details surrounding acts of discrimination should be clearly defined on a claim form, as often discrimination is an add-on to unfair dismissal, without justification, and no real evidence is produced at this stage. If the necessary information on the claim form is not clearly identified, this element of the claim should not be accepted. In addition, if claims are made by employees who have less than a year's service, who have used one of the reasons that don't require a qualifying period, substantial evidence should be highlighted on the initial claim form, and if not, the claim should not be accepted.'

'It is very hard to manage underperformance if the person who is underperforming can claim any discrimination (in my experience unfounded). I have seen time and time again that discrimination is used for a reason(s) by the employee underperforming as to why the employer thinks the employee is underperforming and yet investigation proves otherwise. If an employee takes an employer to tribunal it can cost the employer £15,000–20,000 and if the employer were to win they cannot recoup these costs from the employee, which is unfair, especially to businesses that do not make a "profit" or to businesses that are small. I am sure that some people are being unfairly discriminated against but it is a shame that "discrimination" is being touted by people who are simply not performing their job to the required standard in my experience and this, I think, makes it harder for genuine claimants.'

'Unfair dismissal is not the real risk [for employers] these days. Whilst I fully support equality and diversity, I feel that all the discrimination legislation – especially perceptions – is a very difficult issue to resolve satisfactorily for both parties. Discrimination can be claimed without being employed and this gives a very powerful weapon to a vexatious claimant.'

Table 7: Attitudes towards tribunals (all answering) (%)

	Agree	Disagree	Neither
There is no effective protection for employers against wholly unjustifiable claims	69.0	19.3	11.7
We make a practice of using compromise agreements when terminating employment to avoid the time and expense of possibly having to defend a tribunal claim	44.0	35.2	20.7
My organisation fights every ET claim on principle	18.1	38.3	43.5
My organisation settles every ET claim on principle	6.9	48.9	44.1
Compromise agreements help employers to limit their risk when terminating employees	76.0	4.1	19.9
The law on unfair dismissal should be amended to make it easier for employers to dismiss	52.0	24.5	23.5
More cases should be dealt with by an employment judge sitting alone	26.5	30.6	42.9

More than two-thirds of respondents believe that 'there is no effective protection for employers against wholly unjustifiable claims'. And more than half (52%) say that 'the law on unfair dismissal should be amended to make it easier for employers to dismiss'.

The findings are a useful reminder, however, that most employers are pragmatic and don't adopt extreme positions at either end of the spectrum in their attitudes towards ET claims, despite their concerns about the costs of claims. Fewer than 7% admit they 'settle every ET claim on principle', while fewer than one in five (18.1%) say they 'fight every ET claim on principle'.

Responses to the question whether more cases should be dealt with by an employment judge sitting alone suggest nearly one in three (30.6%) respondents would be opposed to removing side members from the tribunal process. But others who agree with the statement (26.5%) would presumably support a more active role for the employment judge at the pre-hearing stage, in order to identify claims that are unlikely to succeed or encourage the parties to settle the issue by informal means.

Compromise agreements

Compromise agreements have become very popular among employers in recent years. These are agreements, generally made on termination of employment, under which the employer makes a payment to the employee in return for the employee agreeing not to pursue any claim they may have to an employment tribunal.

A clear majority of respondents who have used compromise agreements in the last two years report that their use has increased; most of the rest say that their use of compromise agreements has stayed the same. One in five respondents (21.5%) say they have offered such an agreement 'frequently' when dismissing someone and another 7% say they have done so 'always'.

In some cases such agreements will simply be made in order to give formal endorsement to a settlement of an existing tribunal claim. But more than two-thirds of respondents (69.9%) say they have made use of such agreements in the last two years even in the absence of an existing claim. Employers in manufacturing are more likely to have made use of compromise agreements (74.4%) than those in the public sector (65.6%). Figures for private services were 69.9% and for the voluntary/not-for-profit sector 73.3%.

The responses show a range of reasons why employers may choose to use compromise agreements, the most common being in order to remove an employee on grounds of poor performance or misconduct (38.9%), without the risk of legal challenge (see Table 9).

Respondents also offered a number of additional reasons for concluding compromise agreements. These included:

- 'to aid reorganisation/restructuring without having to follow policies and procedures and the law when there isn't a genuine redundancy or performance issue'

Table 8: Trend in the use of compromise agreements in last two years (%)

Increased	52.1
Decreased	5.6
Stayed the same	38.2

Table 9: Why do respondents use compromise agreements (other than to settle an existing claim)? (%)

To remove an employee on grounds of poor performance or misconduct	38.9
To avoid legal challenge in relation to redundancy	25.7
To make it easier to remove senior staff without embarrassment	24.3
To make enhanced redundancy payments	12.5
To help preserve the employment relationship with an employee	9.7

- 'to remove an employee who will not accept the outcome of the grievance process, in order to avoid costs and time of defending a tribunal claim, even if we think it is a weak claim – the costs of defending even weak claims are just too onerous'
- 'to remove individuals who do not share the organisation's vision and values, do not work in harmony with their teams or managers and who do not wish to leave without compensation'
- 'where the relationship between employee and employer has irrevocably broken down a compromise agreement can be the most cost-effective and quick method to end the employment contract for mutual benefit'.

One respondent drew attention to the Mutually Agreed Resignation Scheme, introduced by the NHS to help trusts achieve efficiency savings, where employees receive a payment for resignation which is managed through compromise agreements.

Of those employers that have not used compromise agreements, the two most common reasons chosen for not doing so are the risk of encouraging other employees to challenge any dismissal and/or seek compensation (19.4%) and a belief that the use of compromise agreements weakens managers' interest in adhering to fair process (22.6%). Only a few employers (12.9%) said they did not use such agreements because of the costs that would be involved by way of compensation.

More than 40% of respondents made between one and three compromise agreements in the last two years. The median figure is four agreements. However, the mean is as high as 37 compromise agreements, reflecting the fact that a small number of large organisations, mostly in the public sector, recorded figures of more than 100.

Two-fifths of those responding to this question reported that a typical payment was in the range from zero to £6,000: 5% recorded that the typical payment was in fact zero. The median compensation payment was £10,000. However, one in five reported that the typical payment was £25,000 or more.

The median cost of management time for dealing with a typical compromise agreement is reported as £1,000; the median cost of legal advice in drawing up an agreement is £750. Looking at the total costs involved, including compensation, the median was £11,000 and the maximum £110,000.

Table 10: Numbers of compromise agreements made in last two years (%)

1–5	55.7
6–10	14.0
More than 10	18.9
Don't know/not stated	11.8

Table 11: Cost of typical compensation payments (all responding) (n=79) (%)

£0–3,000	20.3
£3,500–6,000	20.3
£7,000–10,000	17.7
£10,500–20,000	21.5
£25,000–75,000	20.3

Mediation

The 2008 CIPD survey of employers' use of mediation found that fewer than half of respondents (327 of 766 respondents) were from organisations that had used mediation. In the current survey, 57.3% report that they use mediation. **This supports anecdotal evidence that more employers are now using mediation to resolve workplace issues – a trend already evident from the previous survey.** Some 82.8% of public sector employers report that they use mediation, compared with 47.9% in private services.

It is interesting to note that more than two in five respondents say they use internal mediation only, while fewer than one in five rely on external mediation only. More use also appears to be made of employment consultants than other mediation suppliers as mediators.

Table 12: Type of mediation used (n=118) (%)

Internal mediation only	42.4
External mediation only	18.6
Both	39.0

Table 13: What sources of external mediation are used? (all answering) (%)

Employment consultants	42.6
Other mediation suppliers	26.2
Acas	23.0
Solicitor in private practice	3.3
Local authority solicitor	3.3
Don't know	1.6

Table 14: Sources of advice on finding services of an external mediator (n=68) (%)

Recommendation by business contact or colleague	38
Acas	25
Commercial organisation specialising in mediation	18
Professional adviser (for example accountant)	15
Professional body (for example the CIPD)	10
Internet searches	7
Other	13

Changing the culture by in-house mediation

Arcadia Group is the UK's largest privately owned clothing retailer, with more than 2,500 outlets and a number of well-known high street brands, including Topshop and Topman.

In August 2009 a pilot mediation scheme was introduced in the two brands. The business case was built on cost savings from reducing the number of cases referred to the grievance procedure. Grievance cases typically take three weeks to resolve and require a significant input of HR and line management time. In the following 12 months, the number of grievances involving relationships between managers and subordinates at Topshop/Topman was down by 50%, while it increased by 12% across the group's other brands as a whole. In the same period, 14 issues were referred to mediation, all but two of which were brought to a successful conclusion.

Topshop and Topman have trained members of their joint HR team in mediation skills. It operates a two-tier system under which some cases are dealt with by senior mediators who have undergone extensive training while less difficult issues are referred to mediators with more limited skills. The company can also draw on the support of external mediation (though so far they have not found it necessary to do so).

The pilot has had the unexpected benefit of getting across to employees the general idea that problems could be resolved by talking about them. This was a major shift from the belief that, if they had a problem, 'someone else' would be there to sort it out for them. The mediation scheme is seen as fitting well with the culture and values of Topshop and Topman, which amongst other things emphasise employee well-being.

Paul Forrest, Employee Relations Manager at Acadia Group, emphasises that putting in place a mediation scheme involves a lot of hard work for HR and managers but is worth the effort. Mediation is an alien concept for many people and the scheme needs to be vigorously marketed.

At Topshop and Topman there was some initial scepticism among employees, who saw that mediators were members of the HR team and which then raised the question 'what was so different from the standard process for handling grievances?' The HR team for the two brands responded with posters and leaflets emphasising that mediation was totally impartial. Now that they are becoming more familiar with it, employees have confidence in the service.

Paul says that before the mediation scheme was introduced, he had already begun to think about reinforcing the company's policies on bullying and harassment and problem-solving. However, the repeal of the statutory discipline and grievance procedures in 2009, and the emphasis by government on the value of mediation, was an important catalyst. He did a course to acquire professional mediation skills to get a better understanding of how mediation works before he introduced it to the business.

The success of the Topshop and Topman pilot means that the Arcadia Group has decided to roll out mediation across its seven other brand businesses in 2011. The group has initiated a training programme for 30 HR professionals so that mediators are available to work across brands and the whole of the UK and Ireland. Eventually the plan is to recruit and train line managers in mediation skills. Other big retailers have also now introduced or are considering mediation schemes.

In this survey, the main source of advice on where to access the services of a mediator is recommendation by a business contact or colleague. Unsurprisingly the next most frequent sources of advice are mediation suppliers, with Acas used somewhat more often than commercial mediation specialists. Only one respondent had made use of the Civil Mediation Council for this purpose, suggesting that further efforts may be needed to raise awareness of this source of advice.

The costs of external mediation recorded by respondents (see Table 17) are significantly lower than the costs of handling disciplinary and grievance cases. This survey has found that employers spend an average of 18 days in management and HR time alone on each disciplinary case, and 14.4 days in managing grievances. This suggests many employers' fears about the costs of mediation are overstated.

Table 15: What are the benefits of using mediation? (%)

To improve relationships between employees	80.5
To reduce or eliminate the stress involved in more-formal processes	63.6
To avoid costs involved in defending ET claims	51.7
To develop an organisation culture that focuses on managing and developing people	38.1
To reduce sickness absence	38.1
To retain valuable employees	37.3
To maintain confidentiality	27.1
Other	6.8

Table 16: Why do some organisations not use mediation? (n=88) (%)

No clear business case	46.6
Cost of using mediation	42.0
Risk of undermining management's ability to use disciplinary sanctions	25
Lack of interest by senior management	22.7
Difficulties in finding a mediator	9.1
Resistance from line managers	9.1
Lack of trust by employees in mediation process	8.0
Lack of support from workforce or trade union	6.8
Other	25.0

Table 17: Costs of external mediation

	Median (£)
Direct financial costs	1,000
Management/employee time	1,000
Other	500

Internal or external mediation?

Internal	External
(+) Knows and understands the organisation culture	(+) Comes with little or no knowledge of the organisation or parties in dispute
(+) Potentially requires less briefing	(+) May be a more experienced mediator with the ability to pick up issues quickly
(+) Little or no cost	(+) Likely to gain trust of parties more readily
(–) May not be perceived as impartial	(+) Able to provide the organisation with fresh view of possible cultural or organisational issues
(–) May have historical baggage	(–) Charges for services
(–) Experience level may be low	

From *Resolving Conflict at Work: 12 stories of conflict* by Clive Lewis to be published in April 2011.

Note on methodology

A link to the survey was emailed to 9,710 senior CIPD members with employee relations interests in November 2010. The survey link was also included in the December edition of *Impact* magazine, which is emailed to 50,000 Chartered members. A number of mediation suppliers drew clients' attention to the survey. Despite these efforts, the number of completed responses received was only 206. Although this is disappointing, it is believed that the findings reported can be taken as indicating the direction of travel by employers on conflict management and a broad consensus of attitudes towards the dispute resolution process. The average number of employees in respondents' organisation in the UK was 2,067.

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