

Workplace Conferencing: A Breath of Fresh Air from Australia

Conflict in the workplace.

Unless you work by yourself, it's a fact of life. What we all struggle with is: how can we do a better job managing conflict in the workplace?

John McDonald and David Moore from Australia provide a new perspective with their work using the principles of community conferencing to resolve conflicts in the workplace. On two of the hot, smog-warning days last June I went to a special seminar in Toronto presented by McDonald and Moore for Canadian mediators. Despite the heat, the air inside the meeting room was fresh with new ideas. The community conferencing process that

"We see the defining feature of conferencing as its philosophical foundation, which is its transformative approach to conflict."

John McDonald and David Moore

McDonald and Moore developed is described on the back of this page.

When is workplace conferencing appropriate?

- Someone has experienced harm and involvement in the incident is admitted by the person who caused the harm, or at least is not denied.
- There is an experience of conflict, possibly built up from unresolved past or present disputes. *If the incident concerns just one clearcut dispute, traditional mediation may be a more appropriate tool.
- The potential benefits to the people involved

justify the time and effort required to prepare and convene a community conference.

The Background

Early in the 1990's New Zealand began using a process known as family group conferencing for the juvenile justice system. It was adapted from a process used by the Maori people. The results were encouraging: the new system encouraged greater involvement of those most affected by crime in finding constructive responses.

In North America the victim-offender reconciliation or "restorative justice" programs begun in the 1970's have become widespread in the 1990's. One theme of restorative justice is the process originally called "family group conferencing" which was imported from New Zealand.

Through the 1990's there have been programs in Canada to provide training for the RCMP and many community groups in the use of conferencing in the criminal justice system as an alternative to a charge or as part of the sentencing process. Gradually in Australia and other countries, conferencing has expanded into schools and has become very widespread.

In 1995 John McDonald and David Moore began a trial of workplace conferencing in Australia. The companies included coal and steel industry, electronic media and information technologies, and personnel agencies. The community conferencing process is described in the sidebar.

Australian playwright David Williamson wrote a play which dramatises a typical workplace conference as developed by Mc Donald and Moore. The play, Face to Face was performed in Sydney in early 1999 and has been published recently. Watch for the play to come to Canada.

What does the research say?

Primarily the research has been done on conferencing in the context of school and the justice sector. Measured against the alternatives in comparable cases, community conferencing generates more satisfaction of the participants, more support between individuals within the affected community and reduced rates of further offending behaviour.

My view is that workplace conferencing is a breath of fresh air: another option available to us for resolving serious conflicts.



Munn-thly Memo

Question:

I'm a lawyer who has represented clients in several mediations, some under the Ontario Mandatory Mediation Program and some not. Mediators use the term "interest-based mediation". I'm not sure what is the difference between that and "rights-based mediation". Please explain.

Answer:

This is one of the key distinctions in the styles of mediation.

A mediator using an interest-based approach facilitates communication between the parties. The process of interest-based mediation generally involves exploration of the parties' interests, development of a large number of options and an assessment of options by objective criteria agreed upon by the parties. I use an interest-based approach to mediation.

In contrast, the mediator using a rights-based approach evaluates the case in the light of rules (for example, generally accepted accounting principles), contract interpretation or the law. This style of mediation is sometimes called early neutral evaluation or evaluative mediation. A rights-based approach is typically used in pretrials.

What are interests? They are the goals, val-

ues, concerns, hopes, fears or priorities of the person. Interests are the motivators for a party's position. Interests are not negotiable matters. The identification of the parties' interests is the necessary basis for developing the resolution which is most effective for all parties.

Under the Ontario Mandatory Mediation Program there is no prescribed approach. The Rule says "In mediation, a neutral third party facilitates communication among the parties to a dispute, to assist them in reaching a mutually acceptable resolution." The mediator is not confined to a particular style of mediation. Before the mediation the parties are required to provide each other and the mediator with a statement of issues in which the parties are encouraged to present their interests and proposed solutions and not just their legal position. This also supports a flexible approach to the style of mediation which is used.

What is Workplace Conferencing ?

The basic concept is that "a community conference brings together a community of people who have been affected by harmful behaviour," according to John McDonald and David Moore.

The structure of the conference provides participants with the opportunity to determine

- how to repair the damage resulting from the harmful behaviour, and
- how to minimize further harm.

Each person in the circle has the opportunity to explain their own perspective on events and has the opportunity to hear the perspective of all the other members of the group. After everyone has spoken and been listened to the group begins to work together on improving their situation. The resulting agree-

ment is set out in writing.

Conferencing is useful where amplifying conflict is not necessary because there is really no dispute about the basic facts, and yet ignoring the conflict will leave emotional or other damage. Conferencing is neither an amplification nor an avoidance of conflict; it is a transformation of conflict into agreement.

Experience shows that the resultant experience of community is very beneficial in the institutional systems of education, justice and work.

"The overwhelmingly negative feelings associated with conflict are transformed into the generally positive feelings associated with a sustainable community," said McDonald and Moore.

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Communication from Conflict to Consensus
November 2 & 3

Mediation I - November 23, 24, & 25

Conflict Resolution - December 7 & 8

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