

The value of workplace mediation in resolving conflict between councillors and officers

Key learning points

- Why and how conflict between councillors and officers remains a significant risk to local government, twenty years after the Committee on Standards in Public Life recommended stronger mitigation.
- Why and how councils today are choosing to use mediation to resolve conflict between their councillors and senior managers efficiently, discreetly and sustainably.

Change and churn are driving tensions between managerial and political leadership

In 1997 the Committee on Standards in Public Life acknowledged the misconduct risks inherent in local government, recognising in particular the challenges facing working relationships between councillors and officers.

Chief among these was the perceived 'vacuum' for dealing effectively with councillor misconduct, as opposed to well-established disciplinary procedures for council employees. To address this, the Committee recommended that all councils implement codes of conduct for both groups and institute standards committees.

These recommendations were made mandatory by the Local Government Act 2000, which also established the Standards Board for England and associated Adjudication Panel to manage related complaints and disciplinary issues.

In 2012, in favour of a 'lighter touch', both the Standards Board and the mandatory requirement for standards committees were abolished.

However, despite the attention previously given and all measures implemented, dysfunctional relationships and conflict between councillors and officers have remained a risk for many local authorities.

"The vast majority of authorities have strong and positive councillor-officer relationships which have withstood the test of austerity," say Bryony Houlden and Ian Morgan, Chief Executive and Head of HR Services for South West Councils. "However, there are potential vulnerabilities within their unique relationship and a breakdown in that relationship can create volatility within the organisation. That is no different now than it was twenty years ago. The tensions between managerial and political leadership encourage healthy and constructive, creative collaboration where there is a shared understanding of roles and responsibilities. Challenges can arise where that understanding is not in place. With stability and continuity it can work extremely well, but the challenges of the last ten years have applied unprecedented pressure. Change and churn have become the norm, making it a challenge to align and build strong relationships between the different representatives of local government."

Stripped of formal means by which to mitigate and resolve any breakdown in councillor-officer relationships, councils have begun to explore alternative approaches, including workplace mediation.

"Without effective mitigation in place, councils and individual councillors and officers can be exposed and vulnerable. Traditional measures are less effective because they tend to be more retributive than restorative. This can leave relationships bruised, which can enable the same problems to come back again and again."

"In the absence of an independent regulatory body, the expectation now is that councils will manage their conduct issues internally," says Jennifer McNeill, Regional Director of South East Employers. "Every council has its own protocols for dealing with poor behaviour and conflict. If it concerns an employee then of course the issue defaults to standard disciplinary process, but no such course of action exists for councillors. In those cases the approach can be less procedurally formal, passing up the chain of command until officially settled. However, the action often taken – stern words, removal of privileges, even suspension – rarely drives meaningful resolution between those involved."

Issues that cannot be settled locally may be referred to the Local Government Association (LGA).

"Even if they are escalated outside the council," adds Ian, "the LGA has no greater authority to tackle the underlying issues. Without effective mitigation in place, councils and individual councillors and officers can be exposed and vulnerable. Traditional measures are less effective because they tend to be more retributive than restorative. This can leave relationships bruised, which can enable the same problems to come back again and again."

Conflict often emerges from within the dynamics of local government itself

Although by no means the norm, conflict between councillors and officers is not irregular.

"It happens quite a lot," Jennifer advises. "More than people are generally aware of. It's a familiar frustration."

As with conflict in any working environment, personalities and everyday pressures can put strain on relationships. For councillors and officers, however, conflict often emerges from within the dynamics of local government itself.

"Politics and perceptions," says Jennifer, "are significant sources of potential friction. Political undercurrents permeate local government, introducing tension, complexity and miscommunication. At the same time, the judgement and behaviour of councillors and council employees alike are susceptible to misunderstanding and misperception. Accustomed to partisan motivation and sensitive to political machination, they can sometimes jump to erroneous conclusions, constructing internal narratives that help them to rationalise what they see and feel. They contrive similar justifications for their own behaviour. Misinterpretation breeds mistrust and mistrust feeds itself. People behave accordingly and the impact can reach far beyond the damage it does to the central relationship."

In the majority of cases, both parties have set out with best intentions, seeking to serve the interests of the council and all stakeholders. Each role is driven by different responsibilities, however, which can cause expectations and objectives to diverge and misalign.

"Councillors represent their communities and are accountable to the expectations of the electorate," says Jennifer. "They are constantly under pressure from their residents – inundated with dissatisfaction and social issues. Councillors cannot help but view council activity through the eyes of the community."

Councillors are also passionate about fulfilling their duties and making a difference. They have strong appetites for action but are often deeply frustrated by the written and unwritten rules that govern councils.

"People start to forget that they're on the same side. Attention is drawn away from priorities to focus on the conflict. The situation can grow increasingly adversarial and counterproductive. Meanwhile, it starts to filter through the organisation, unsettling employees and undermining council performance."

"The majority of councillors do not have a local government background," Jennifer explains. "They may be used to entirely different ways of working and getting things done. They may not fully understand or appreciate a council's due process, the intricacies of administration and where the lines are drawn between roles and responsibilities. They want real, timely action and can find it hard to abide by a system they may consider unnecessarily byzantine. In their frustration councillors can overstep and even demolish boundaries."

In striving to fulfil their duties, therefore, councillors can earn an unfavourable reputation among council officers.

Meanwhile, councillors do not always hold a high opinion of their managerial colleagues. Officers provide impartial checks and balances and answer to the legal framework of the council. It is their duty to advise councillors what can and cannot be done.

"Those who take their roles seriously must put their heads above the parapet," says Bryony. "For some councillors, therefore, officers are the representatives of bureaucracy and often the bearers of bad news. Officers may sometimes appear unreasonable and even obstructive. Councillors may feel unsupported, restricted or excluded. They may feel they're being ignored or deliberately kept in the dark. Opposition members are likely to feel these frustrations more acutely. It's not exceptional for a councillor to criticise the performance, question the competence or find fault with the behaviour of a council officer they find challenging."

As with any relationship breakdown, these issues can escalate and become disproportionately disruptive.

"People start to forget that they're on the same side," says Ian. "Attention is drawn away from priorities to focus on the conflict. The situation can grow increasingly adversarial and counterproductive. Meanwhile, it starts to filter through the organisation, unsettling employees and undermining council performance."

Political expediency can drive problems into the public arena as well. Council officers can find themselves at a distinct disadvantage when this occurs:

"Councillors occupy a stronger and more privileged position," explains Jennifer. "They have greater freedom of speech, and can act and behave in ways that officers cannot. Shooting first and asking questions later does happen and can be done in public meetings. By complaining or criticising in public they can be seen to take action or deliver a strong message for their audience. Others may employ this tactic as a means of intimidation."

Strict protocols prohibit officers from responding or behaving in the same way.

"Responding to challenging councillor-officer interactions can be like walking a tightrope," says Bryony. "Even the most senior leaders can feel undermined, isolated and vulnerable. It can be extremely stressful and draining to both parties."

The impact is not limited to those involved and the people immediately around them.

"When this kind of conflict manifests in the public domain it can reflect badly on the organisation as a whole," says Ian, "damaging the council's reputation and undermining public confidence."

Nor is conflict of this nature limited to the upper tiers of local government.

"We have found these situations at the parish level," Ian continues. "It can have greater impact and do greater damage in smaller organisations."

“Effective working relationships between officers and councillors are essential for good local government and healthy democracy. When they falter, the utmost care must be taken to resolve the issue without damaging the relationship.”

“It’s often the same in schools as well,” adds Jennifer, “when conflict emerges between head teachers and governors. There are many parallels between the councillor-officer and governor-teacher relationships, and unfortunately the nature and impact of conflict is among them.”

Resolving conflict and restoring relationships through mediation

For Bryony, meaningful resolution of councillor-officer conflict cannot be achieved by penalising inappropriate conduct any more than it can by letting it go unchecked:

“Effective working relationships between officers and councillors are essential for good local government and healthy democracy. When they falter, the utmost care must be taken to resolve the issue without damaging the relationship. Top-down formal methods risk inflaming the situation in their efforts to impose resolution. Both parties can find themselves driven into corners where their only option is to adopt an adversarial stance. Once on that path, regrettably there are no real winners, only losers. Stressful, disruptive and costly, the outcomes for all involved – including the council itself – are rarely favourable.”

Escalation also increases the risk of public awareness.

“The right response to this kind of situation should be positive, proportionate and respectful,” says Ian. “Nobody benefits from airing dirty laundry and everybody deserves the chance to resolve their issues privately and for themselves. The outcomes are far more likely to be positive and sustainable.”

Mediation enables councils to more discreetly and sensitively approach and engage with existing and emerging issues – maintaining absolute confidentiality and supporting both parties.

“Sometimes all you need to clear up a potential grievance is an ‘off-the-record’ heart-to-heart, but councillors and officers rarely get the chance to engage in conversation,” says Jennifer. “Not privately, not in person and not as themselves, as opposed to the hats they wear day in, day out. There may be issues between them that need to be addressed but the opportunity never presents itself. Or perhaps they don’t know how to approach it. Even people on the same wavelength – people who more easily relate to one another – can find it difficult to initiate and pursue an honest and forthcoming conversation through to a constructive conclusion. For people whose relationship may be defined by what divides and differentiates them, it may seem impossible.”

Mediation provides people with an opportunity to speak freely and safely to one another. The closed environment, dedicated time and simple, yet conducive structure create a level playing field where they can listen and be listened to.

“It all comes down to communication,” Jennifer explains. “Like any working relationship, you need a solid foundation of mutual trust and respect, openness and honesty. Good communication is critical, helping to establish clarity about roles, responsibilities, motivations and expectations.”

The mediator helps the participants to overcome any discomfort and be open-minded, whilst encouraging candour and self-awareness.

“In a political environment people maintain professional personas aligned to their roles,” says Jennifer, “behind which their true thoughts and feelings may be safely hidden. Senior officers, for example, may hide their true feelings for fear of retribution relating to their employment position and security.”

"Mediation is one of the most appropriate, effective and efficient ways with which to resolve conflict, especially for these unique and naturally complex relationships that are fundamental to the wellbeing of our system of democracy and society at the local level."

"They can feel unsupported by councillors, especially given the fewer resources available and difficult decisions needing to be made, all of which can impact on local communities. Councillors, meanwhile, have a tendency to be bold and bombastic in public, as is often expected of them. In front of an audience they can be impenetrable. Any attempt at meaningful discussion can be more easily ignored or evaded.

"In one-to-one meetings with a mediator, however, there is no audience to play to or bring on side. In those entirely confidential circumstances an independent and impartial mediator can cultivate a little trust, encouraging them to surface any relevant inner vulnerabilities and recognise the impact of them. This can have a profoundly beneficial effect on subsequent dialogue with the other party."

Helping people to correct any misperceptions is an important part of resolving conflict and restoring relationships.

"People get twisted up about the assumptions they make and the conclusions they jump to," says Bryony, "but sometimes they don't entirely understand their *own* motivations, let alone the person sat opposite them. They have no idea what that person is thinking and feeling, and what their motivations truly are. As they get it all out on the table they begin to see their situation more clearly and more completely, including any behavioural blind spots. As they explore the complexities and dynamics of their conflict with a fresh pair of eyes mutual understanding develops, from which trust and respect can emerge."

Through mediation, councillors and officers can explore their situations safely and respectfully, focussed on agreeing constructive and mutually beneficial outcomes and improvement of their working relationship.

"It's amazing how many times we see people go from each other's throats to shaking hands and even finding humour in the situation," says Jennifer. "The impact is not limited to the immediate relationship either. General improvement in interpersonal behaviour often follows mediation. The seeds of self-awareness take root and continue to grow, extending the benefits over other areas of interaction."

The more informal nature of mediation also makes it easier for councils to resolve issues in their early stages, or even pre-empt them arising. This, combined with coaching, mentoring and development to enhance interpersonal and collaborative capability, is helping councillors and officers to work more effectively together to build stability and a culture of engagement and respect in local government.

"Councils at all levels, other local government bodies and schools across the UK are increasingly cognisant of the value of preserving and improving working relationships between governing roles and managerial roles," says Jennifer. "They're introducing core development solutions to build effective partnership and mitigate the likelihood of conflict, whilst also recognising the need to put in place restorative measures for the resolution of any issues that do arise. Mediation is one of the most appropriate, effective and efficient ways with which to resolve conflict, especially for these unique and naturally complex relationships that are fundamental to the wellbeing of our system of democracy and society at the local level."



About South East Employers

South East Employers (SEE) is an independent and not-for-profit centre of excellence, advising and supporting employers. They are a leading provider of high quality consultancy and learning in areas of organisational change, leadership, compliance with employment law, governance and local democracy. As a central 'hub', they are a forum for networks, partnerships and shared learning. They aim to add value through their wealth of local knowledge, experience and professional expertise regarding the challenges and opportunities facing organisations today and tomorrow.

Since 2010 SEE has trained over 300 mediators and delivered successful mediations for a range of employers. They are regularly called upon to deliver mediation training and complex mediations in other regions.

The SEE mediation programme is designed and delivered to take account of real and increasingly complex workplace situations. It develops confident and mediation-ready mediators who can gain an ILM certificate on successful completion of the course and assignments.

About South West Councils

South West Councils (SWC) is a not-for-profit membership organisation. Its core members are the forty-one local authorities in the South West and they have 100 Associate members from across all sectors.

It provides specialist HR and Learning & Organisational Development support services and has trained mediators in the team, able to support organisations in a cost-effective way to deal with workplace conflict.

SWC also delivers Mediation and Conflict in the Workplace training in partnership with SEE, an ILM-endorsed programme, as well as bite-sized sessions on mediation to raise awareness of the benefits of the approach.

Their fifty years in operation and skilled team of experts enables SWC to add value to organisations across the region.

The Guildhall
High Street
Winchester
Hampshire SO23 9GH
T: 01962 840664
E: info@seemp.co.uk
W: www.seemp.co.uk

