[Workplace Conflict Resolution Game Plan](#)

Harmony; peace; understanding; respect

These are laudable values, but frustratingly difficult to achieve within a workplace setting. Just ask any HR director. After all, companies are made up of people and where there are people, there's bound to be personality conflicts. And we're not just talking about conflicts between employees and their bosses over the usual employment matters, such as raises and performance reviews. HR directors spend a lot of their time and energy sorting out conflicts between employees at the same organizational level. Managing employee conflict isn't just about preserving morale and workplace congeniality. There are also serious financial and legal issues at stake. Conflicts between employees interfere with work and create an unpleasant and sometimes [toxic work environment](#) that may lead to discrimination and/or [constructive dismissal](#) complaints against your company.

So, [how do you handle conflicts](#) between employees before they create the kind of toxic work environment that can lead to liability? We'll explain the legal risks and lay out a 6-step game plan for handling employee conflicts in your own workplace.

The Human Rights Laws Implications of Workplace Conflict

Human rights laws make it illegal to discriminate against a person on the basis of race, religion, age, sex, disability, national origin and other protected characteristics. One of an employer's key obligations under these laws is to provide all employees a fair and respectful working environment that's free from sexual, racial and other forms of discriminatory harassment.

The potential for liability under human rights laws arises when employees involved in a workplace conflict have one or more characteristics protected from discrimination. Thus, for example, where a female employee butts heads with a male counterpart, either side may claim that they're being sexually harassed. The mere fact that one combatant in a workplace conflict is male and the other is female doesn't prove sexual harassment; but it does at least bring the question into play and makes you vulnerable to a lawsuit alleging failure to provide a work environment free from discrimination and sexual harassment.

The Constructive Dismissal Implications of Workplace

Conflict

Legal implications arise any time you terminate an employee. The legal risks may be much harder to manage when you terminate employees without ever using the words, "You're fired." [That's what constructive dismissal is all about.](#) One way it can happen is when the workplace becomes so toxic that the employee feels compelled to leave. Even though the employee initiated the breakup, the legal responsibility lies with the employer for creating or allowing for the creation of the toxic work environment that forced the employee out.

Serious conflict with co-workers often leads to this outcome. As conflict escalates, it may exert enormous physical and mental stress on the employees involved and force them to leave what they otherwise consider to be a good job. And because they were forced to leave against their will, they might sue you for wrongful termination in the form of a constructive dismissal lawsuit.

Bottom Line: Be Prepared to Intervene When Workplace Conflict Gets Personal

Conflict can be positive to the extent it promotes the free interchange of ideas and opinions. But it may turn cancerous when things get nasty and personal. These conflicts aren't really work-related; they're personality conflicts that just happen to take place at work. Employers must take such personal conflict seriously not only in the interests of preserving productivity and morale but also to manage liability risks. They also must be prepared to intervene, if necessary. Stepping in between warring employees isn't something you should do on the spur of the moment. Effective conflict resolution requires planning and preparation in anticipation of conflicts before they actually arise. Here are 6 steps to take.

Step 1. Implement a Respectful Workplace Policy

Written HR policies that ban [workplace harassment](#), discrimination, bullying and violence, while necessary, aren't enough. Every company should also have a basic code of conduct that requires employees to treat others like they'd like to be treated themselves—that is, with respect and courtesy. Of course, requiring employees to behave civilly toward one another won't guarantee a civil workplace. But it does set the tone for the workplace and lets employees know your expectations.

A [respectful workplace policy](#) also helps establish your right to discipline employees for abusing a co-worker and thus keep conflict from escalating. The mere threat to impose sanctions for violating the policy could prove a powerful incentive for employees to rein in their aggressions. And if conflicts nevertheless do spin out of control, having—and diligently enforcing—a respectful workplace conduct is evidence that you acted reasonably and in good faith to contain conflict, which reduces your risks of liability for a toxic work environment in a constructive dismissal or discrimination case.

Step 2. Encourage Employees to Work Out Their Own Conflicts

Encourage employees to work out personality conflicts among themselves without intervening. "It's always best when the warring parties can reach their own resolutions," says an Ontario employment lawyer. Many conflicts are the product of a misunderstanding that reasonable people can resolve by just talking things through.

In this situation, the employer can do the most good simply by bringing the parties to the table and getting them to talk to each other.

Step 3. If You Do Intervene, Intervene Early

While a self-brokered peace is the optimal outcome, employees must be prepared to step in and broker a peace when employees are unwilling or unable to reach a solution between themselves. Early action is critical, HR experts say. "Once you realize that the sides aren't going to come together, you need to step in and try to nip the conflict in the bud," according to a BC HR consultant. The one thing you can't do is turn your back on the situation and allow things to escalate. Left unresolved, minor conflicts often fester and become major problems for both the combatants and the company as a whole. The longer you wait to act, the greater the risk of irreparable damage.

Step 4. Establish Conflict Reporting Procedures

Set procedures for resolving workplace conflict. While conflict resolution mechanisms vary, the starting point is to be able to determine when a conflict exists. So, you need a process for employees to file complaints or report problems with their colleagues to supervisors, HR or management.

Step 5. Establish Conflict Classification Procedures

Once you receive a conflict report, you must determine how to process it. The basic question: Does the conflict involve a disciplinary matter or a dispute that can be addressed via conflict resolution? Thus, if employees who report conflict claim they're being harassed or bullied, you'll likely have to refer the matter for an internal investigation under your company's harassment policy. But if the conflict involves a non-disciplinary issue, such as a disagreement over work-related matters or a clash of personalities, it might be better suited for your company's conflict resolution processes.

Step 6. Implement Conflict Resolution Mechanism

Because litigation is so expensive, time-consuming and inconvenient, many businesses have come to rely on so called "alternative dispute resolution" (ADR) to resolve disputes without going to court. These basic ADR models can also be used to resolve workplace conflicts between employees, including:

Method 1. Formal Complaint Resolution

Under this model, an employee makes a formal (written or oral) complaint to a designated "conflict resolution manager," typically the company HR director or another manager, who then investigates the complaint and recommends a resolution, which may be either binding or non-binding. The conflict resolution manager may also refer the complaint to another company official if it involves a disciplinary issue for which the company has its own investigation protocols, such as a workplace harassment complaint. The formal complaint mechanism should also provide for the confidentiality of the parties involved in the conflict.

Method 2. Mediation

Mediation is a voluntary and confidential process that uses a neutral, mutually agreeable third-party (which may be the HR director or a trained dispute resolution

professional) to help the parties work out the problem on their own. The way it typically works: Each side states their case to the mediator and then get a chance to respond to what the other said. Once the opening statements and responses are made, the mediator meets with each party in private. The discussions continue as a negotiation with the mediator going back and forth to each room to lay out the other party's offer. The mediator may also bring the 2 sides together into the same room for direct negotiation. If an agreement is reached, the mediator puts the terms into writing for each party to sign; if not, the mediator helps the sides decide whether they want to continue to negotiate.

Method 3. Arbitration

Arbitration is a process in which a third-party arbitrator hears the arguments of both sides and issues a binding decision. Frequently used when employees belong to a union, arbitration is a relatively expensive and lengthy process that's generally more suitable to major disputes involving multiple employees or significant financial stakes.

Takeaway

The key to avoiding liability for inter-employee conflict is recognizing that you do, in fact, have a legal duty to do something about it. There are also some basic measures you can take to resolve conflict before it escalates and causes major trouble. While working toward dispute resolution may not resolve every case, it will go a long way in preventing the kind of toxic work environment that can undermine productivity and make you a target for a constructive dismissal or discriminatory harassment lawsuit.