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An Organizational Ombuds Office in a System for Dealing with Conflict and Learning from Conflict, or "Conflict Management System"

An Organizational Ombuds Office[1] can address conflicts and concerns, informally and confidentially, and in many ways. In addition an Ombuds Office may effectively complement the roles of all the other components in a conflict management system (CMS). In particular an Ombuds Office may help to address major dilemmas faced by a CMS:

Major Dilemmas

A. How to help everyone in an organization to feel they *can* act effectively if they wish to—or come forward on a timely basis—when they have serious concerns;
B. How to help coordinate the system (CMS), and provide back up;
C. How to help keep the system and its people accountable, and foster effectiveness;
D. How to help the CMS to improve, by learning from the ways in which conflict and concerns have been addressed, and how to encourage management to respond to CMS recommendations;

These goals and their challenges are discussed in some detail below.

A. Taking Action on Concerns or Coming forward. The major raison d'être of any CMS is to enable people *to act directly*, when they think something is wrong, or *to report their concerns* so the concerns may be addressed appropriately. However, many people do not act directly, or report problems and conflicts they believe to be serious. They may often think about doing so, but decide not to act.

There are several dozen reasons why people 1) do not act directly, in

[1] [1] http://www.ombudsassociation.org/standards/ provides the Code of Ethics and Standards of Practice for an organizational ombudsman. In these articles we use the term ombudsman for the practitioner and "Ombuds Office" for the office. Like our professional association, the IOA, we respect the use of various forms of these terms.

an effective way, when they see unacceptable behavior, and 2) do not use their conflict management system in a timely or appropriate manner. Foremost among these reasons are: fear of loss of relationships and fear of other bad consequences including retaliation; the belief that they will not appear credible to management; inaccessibility or lack of credibility of those who might be able to make a difference. People often feel they lack "enough evidence." They usually do not know the relevant policies and resources. They may distrust management and believe that no one will listen. They may feel ashamed. They may reject all formal options, or conversely reject all informal options—or not know of *any* options in the CMS that they would consider safe, accessible and credible. All these concerns are suggested in the companion Case presented in this issue.

There appear to be fewer reasons why people do act responsibly. Some reasons seem laudable, like belief in community standards, reasonable self-confidence, or trust in an individual manager. In some cases, there may be a contractual responsibility to report wrongdoing and failure to do so will result in punishment. Acting responsibly may be encouraged by standards of conduct as described by David Miller in his companion article.

Another reason people do act *is that the organization provides an option to deal with a concern that is acceptable to a complainant*—as illustrated in the companion article by Brian Bloch. (There are additional reasons people give for coming forward that may seem controversial, like the desire for revenge.)

B. Coordination. Some coordination among the various elements of a system is important if the organization is to *deal with and learn from conflict and concerns, as distinguished from simply resolving specific disputes* within individual conflict-resolution channels. However, it is not always obvious what the elements of a system in fact are, what the purpose of the system is, and how any linkage should be accomplished.

A simple model of an organizational CMS might include a mediation office, a grievance procedure, and outside arbitration. In our experience, a modern organizational conflict management system looks more like the Chart attached, with many offices that *de facto* are part of a CMS. Some of these offices are likely to have many functions, including providing services, solving problems, dealing with compliance issues, preventing unnecessary conflict—and dealing with conflict. They can and do deal with individuals and also with groups. The modern CMS is complex.

Many people find complex systems hard to understand. People and offices within a CMS may not even realize that "dealing with conflict" is part of their job responsibility, let alone realizing that they are part of a "conflict management system." There is a spectrum of issues relevant to a CMS, including questions, commendations, suggestions, problems, concerns, complaints, conflicts, grievances and whistle blowing. These issues arise from individuals and also from groups. Some managers focus on the front end of this spectrum, without much recognition of the more challenging end of the spectrum. This may be one reason that some managers fail to deal with conflicts. Other managers appear to ignore unwanted conduct that is not obviously criminal.

How far do we go in thinking about who belongs in a "conflict management system?" Do individuals who report unlawful behavior consider themselves part of the system? Do line managers? In the Chart attached we include line managers as part of a CMS; they usually are the most important part. Other individuals who are not ex officio in a relevant office are not listed as part of the CMS.

But— *should* we think of individuals as part of a system, for example, what about responsible bystanders? This is an important question when we think about providing training— for example, training about complaint handling and conflict resolution, and about compliance with standards of conduct and the law.

Second, what is the purpose of a CMS? This is an uneasy question; should and can conflict actually be "managed"? Who actually "owns" a given conflict? Who can or should control a given conflict? We follow convention here in using the term "CMS" in these articles, but we prefer the idea of a conflict system as helping all its members to deal with and learn from conflict.

Third, how can a CMS be coordinated or even effectively linked? It is very common that the various channels and managers do not understand very well what others do in the conflict or complaint system. The various parts of a system often see themselves as independent and/or pre-eminent. Managers may not agree that any one organizational office should supervise the other offices and conflict managers. This is especially true *if the organization lacks, as most do, a shared philosophy of how to deal with conflict and how to learn from it.*

The difficulties in coordination may seem more understandable if we analyze how each office sees itself. We can think about various channels and managers within a CMS—see the Chart—as dealing with concerns in terms of interests and rights and power. They may deal informally or formally.

Offices such as Employee Assistance, Mediation, the Ombuds Office, Mental Health, and Religious Counselors—that deal with conflicts *informally* and mostly on the basis of interests—normally do not manage a CMS. This is especially true if they do not keep records for the CMS, and especially if they do not "represent" the CMS. These offices also will not wish to be managed very closely by those who are compliance offices and do keep records for the CMS. Informal conflict managers tend to believe that complainants and disputants should, in many cases, have some choice of options for dealing with their concerns; this point of view may not be shared by the compliance offices.

Managers who deal with conflict *formally*, on the basis of rights and power, may not feel comfortable ceding autonomy to offices that deal with concerns off the record. This is true even if they themselves often help to settle concerns informally and off the record. Moreover, some managers also are not comfortable offering options to complainants and disputants—they may feel that *managers* should decide how a concern should be handled. These managers might agree that options should exist in a conflict management system but they might wish to restrict the *choice of options* solely to managers.

One or another rights-based office may also try to assert control over a given conflict that is being managed by another office. There may be conflicts of interest between hierarchical control over problems and their solution, and sharing control with other offices.

Sometimes the coordination works well, often because of the individuals involved. Some organizations have one or another experienced professional, for example in HR or Ethics or a Model Workplace or Center for Cooperative Resolution, who provides remarkable leadership and coordination for a CMS. Some modern organizations have an effective steering committee or working group which links and balances major CMS elements. However, it is not easy to coordinate a CMS.

C. Accountability, Effectiveness and System Change. There are *theoretical* problems in maintaining accountability and assessing effectiveness in a CMS where there are multiple stakeholders, multiple missions, intangible interests, and long-term and societal interests—as well as short-term, financial, enterprise interests. In addition, where there are multiple offices in a CMS, it may not be possible to attribute costs and benefits—either to one office of the system, or to the whole system. It may also be difficult to know why a part of the system works or does not work. For example, it is common that parts of a system work very effectively—or fail to work—for *ad hominem* reasons, but this fact may be difficult to bring to light, let alone assess.

There are also *practical* problems in maintaining accountability and assessing effectiveness. It is very common that managers and employees do not know the organization's standards of conduct—let alone the policies and rules—mentioned by David Miller in his companion article. It is even more common that these standards and policies are not seen to apply equally to everyone at every level. In every organization, and especially in complex organizations, there are many managers and employees who presume that their own rules of behavior are the important ones. And in every organization there are local cultural norms.

Unless there are checks and balances, and also appeals, in a CMS, information about how the system *actually* works may not come to light—elements of the system often function out of sight, unless there are mechanisms for reviewing decisions that are made. In addition, parts of the system may be inaccessible, in a far-flung CMS. Gathering data may be too expensive or not timely. Those who gather the data, or hear anecdotes, may not understand the information or have different views of accountability.

In short, accountability, effectiveness and systems improvements depend on communications within the system and interactions among the various elements of the system. These communications may be very uneven.

Learning and Recommendations. Other important aspects of the need to coordinate the various components of a CMS include: where and how upward feedback takes place, what suggestions and recommendations are made, to whom they are made, and what happens to recommendations.

The hierarchical nature of some offices may foster a desire to be seen as the true solver of problems. At the same time hierarchical senior managers may deny that problems exist. ("*If these problems do exist, they are minor and only need an experienced hand to remedy them*.") Thus, the issue of making recommendations can become a thorny one. Why would recommendations be needed, if there *are* no problems? And can someone lower down the ladder make valid recommendations to someone higher up, who then might suffer a loss of face because such recommendations would have to be recognized and—yet more disquieting—be implemented?

There is one other monumental problem preventing organizational learning that is a problem for even the very best of managers. Many senior officers and ordinary line and staff managers are profoundly overworked and exhausted.

Could an Ombuds Office be useful in a CMS?

An Organizational Ombuds (OO) office may be able to address elements of the dilemmas above. The Ombuds Office may on occasion be the only office that can do so. Of course many of the functions discussed below—please again see the accompanying Chart—can be matched to offices other than the Ombuds Office. And occasionally an organization will have a different office that fulfills some of the functions of an Ombuds Office. But often an Ombuds Office may help.

“Just listening,” delivering respect, and a “fuller response.” Listening, and delivering respect may be the most cost-effective elements of a conflict management system[2]. These elements are essential if people with problems are to consider coming forward. People who voice concerns sometimes report that they were met with disinterest, distrust, disrespect, loss of privacy, incredulity, humiliation, intimidation, or incompetence. Many people who escalate complaints, and many who go outside as whistleblowers, have claimed that “no one listened.”

In addition, people who have asked a question, or reported problematic information, or made a complaint, often do not completely understand the response. They may need a “fuller response.” This “fuller response” is sometimes a further explanation about policy. And it sometimes is just listening one more time to the anger and grief felt by a visitor. It might include a plan to follow up, with those who have raised serious concerns, to see if appropriate action has been taken, and that there appears to be no retaliation.

An OO is unusual in that delivering respect, humane regard, and a “fuller response” to visitors is the first function of the office. The OO carries out its function on a powerful platform of confidentiality, impartiality and independence. OOs typically “deliver respect” and follow up with beleaguered and exhausted managers as well as with employees. There are a few other offices that do this, like chaplains, EAP, work-family specialists and health-care practitioners, but the practice is not common.

Zero barriers. An OO is meant to provide a credible, safe and accessible place for all cohorts, from top to bottom within the system. Anyone should be able to raise problems that are seen to be delicate, shameful or frightening, or hard to understand, without fear of retaliation or repercussions. The OO is sometimes the only office that can do this. Because the OO does not accept “notice” for its organization, and almost always will help visitors to the office choose

[2] This subject is well illustrated in studies of those who do or do not sue doctors and their employers.

their own option for action, some people will find it a safer place to start. The Case attached provides an illustration that occurs in virtually every organization, all over the world. It presents a situation where a complainant apparently fears to come forward, lest she lose control over what will happen.

It is common that managers and workers feel reluctant to discuss their work place issues. It is also common for individuals to believe that they are the only person with their problem, and that they must therefore keep silent or leave. Providing a zero-barrier office may contribute to people feeling safer—or less unsafe—about seeking options for their concerns.

Central overview. An OO may be unusual in receiving at least some relatively unfiltered information from the entire organization. The OO also has unusual access to system data across organizational, national and system boundaries, about problems, innovations and good management. It may be one of only a very few offices that deals with the entire organization. The OO has a good understanding about how the conflict system *actually* works.

Systems approach. An OO regularly deals with multi-issue, multi-cohort, multi-cultural, multi-ideological, multi-generational, cross-gender, multi-context, cross-boundary, multi-law-regulation-and-policy problems like those suggested in the Case attached. An OO is used to respecting various regulations and customs of different entities within an organization. An OO is also used to problems that are nested more in the values of the organization and its people than in written rules. The Ombuds Office may be one of only a few offices that deals with very complex conflicts on a regular basis.

An OO is mandated to consider the systems implications of each individual concern—and to recommend and support systemic change. The OO can and should regularly invite itself to talk with committees that are reviewing and drafting organizational policies. The OO can patiently raise and re-raise issues, to exhausted and worn-out managers.

An OO often helps to connect line management and staff office initiatives or actions for conflict management. An OO can often offer positive and affirming options, in response to a concern or complaint, and also defuse groundless rumors. These aspects of the OO, along with central overview, can contribute to some degree of coordination within the CMS, recognition of excellent managers, and also may foster unobtrusive systems change and continuous improvement.

Appropriate dispute resolution. An OO supports "alternative" or informal dispute resolution, and also regularly supports people to use formal channels, in this way seeking to offer "*appropriate*" options to complainants. Having a choice of options may help people to come forward—by including people with different values. Those who *avoid* formal channels—and those who will *only be satisfied* by formal action are both welcome in an Ombuds Office. This broad scope of the OO also can contribute to some coordination within the CMS.

An OO Office is mandated to help people to use all conflict management and compliance channels, including generic approaches to conflict, like training. There are a few other offices that refer people to all relevant conflict options. These include chaplains, employee assistance, work-family specialists and health-care practitioners; however, the practice is not common across an organization.

OOs regularly offer the option of direct action. OOs support people to resolve most problems themselves if they choose to do so. (Many people are reluctant to "come forward" into a CMS fearing that their personal interests, for example for privacy, may get lost in a system. They may therefore prefer to try to address a concern directly. The OO office will typically be available for "follow-up," after a direct approach, if first-person action does not work. If a complainant wishes, and the OO agrees, the OO may sequentially offer other options or help to get an issue to management.)

The "direct action" option may help to get problems settled at the lowest possible level, without overt third-party assistance. This option may also help people to "learn how to fish, rather than just giving them a fish." This is the function that may help bystanders to deal with unacceptable behavior (see the Case attached for an example.) This function of the OO effectively adds bystanders into a conflict management systems approach, although bystanders do not appear on the Chart attached. Fostering effective direct action by disputants and bystanders may be the second most cost-effective element of a CMS.

Independence. Working under appropriate terms of reference, an OO is mandated to tell the truth to those in power—and it may sometimes be the only office that can do so if others are afraid. An OO is also able, on its own motion, to look into a matter that appears problematic and inconvenient (or exemplary) without a complaint, referral or commendation.

As an independent entity, an OO can often help a little, with “fail-safe,” “check and balance,” a “principled approach,” and “back up.” (This may help when an element of a conflict management structure fails to act when urgently needed, in a case where a supervisor greatly exceeds his or her authority, or is pursuing *ad hominem* solutions, or when an office is temporarily in difficulty.) An OO can help surface good ideas and illuminate excellent management practice. This aspect of the OO may help somewhat in fostering accountability, within the CMS, both to the members of the organization and also to the mission of the organization.

Efficiency. By bypassing red tape, an OO may be able to deal with questions, and find appropriate remedies or restitution, quickly, efficiently and at low cost. OOs can often find an acceptable solution or a next step, within a day or less. If the OO office then follows up with appropriate systems recommendations, the efficiency of the OO office may help somewhat in fostering accountability within the CMS.

Summary

An Ombuds Office is an important “zero barrier” office to encourage people to be willing to discuss questions, suggestions, problems, concerns, complaints, conflicts, grievances and whistle-blowing. The Ombuds Office may assist the organization to communicate and exemplify its standards of conduct, as David Miller has described in his companion article. In addition an Ombuds Office may be able to help a wide collection of conflict management offices (see Chart) to become a functioning system for dealing with conflict and learning from conflict. As we see from the companion article by Brian Bloch, an Ombuds Office may help in system design, systems thinking, problem prevention, and relevant training. An ombudsman may suggest the need for new policies and procedures, help to coordinate a system, and help reflect the system back to itself.