

No harm intended? Think again

HR professionals are entrusted to deal with respect-related issues and, when harassment occurs, take action to resolve it. Unfortunately, many HR professionals and managers suffer from erroneous thinking that prevents them from doing what needs to be done. They often dismiss a complaint or ignore questionable behaviours. They get themselves (and the perpetrator) off the hook by saying the person engaging in those behaviours intended no harm.

A blind spot often exists in those grey situations that do not involve blatantly problematic behaviours, such as racist comments or unwanted sexual advances. The flawed rationale seems to be: "If the source did not intend to harm, perhaps it is the impacted person who should acquire a thicker skin."

When someone complains about George's temper tantrums and sarcastic ways, we may suggest the affected person become a little less like Velcro and a lot more like Teflon.

"After all," one might say, "George will be George." Or: "We can't change people's personalities." Or maybe: "You know, George has been like this for the past 30 years and he's retiring next year. Let's just learn to live with it until then." Or, an old favourite: "George is one of our best performers and this is just part of who he is".

The truth is these types of responses provide an easy and accepted excuse for ignoring the issue. The Canadian workplace culture is, by and large, conflict-averse and HR is part of that culture. If there's an opportunity to avoid an unpleasant confrontation with the mighty George, most people will readily take it.

But mishandling complaints or letting people get away with questionable behaviours exposes an organization to potential legal challenges. Furthermore, the problem behaviour poisons the work environment, damages productivity and interferes with the retention of good people.

Here's the good news: There's a relatively easy path for avoiding this mistake. It involves putting the terms "intent" and "impact" to proper use.

Intent describes the source's motive and objective when engaging in actions that offend or hurt others, whereas impact refers to the negative effect of the source's actions. The question is: How much weight should



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we place on each?

To answer this, let's start with the basics. Sorting out any respect-related situation comprises two key phases, regardless of whether the situation came to light as a result of a complaint or simply via a manager or HR's own observations. The two phases can occur swiftly, such as when a manager has to make a quick, on-the-spot decision. Or they may linger over a longer period of time, such as when HR is called to investigate a complex situation.

Phase one: Diagnosis

Phase one is the diagnosis phase. Its purpose is to determine whether harassment has occurred. Typically, the actions have to be at least unwelcome or vexatious. Many organizations have expanded definitions to include behaviours that create intimidating, hostile or offensive work environments, interfere with people's work performance or deny an individual dignity and respect.

It is at this juncture that managers and HR professionals tend to get confused. It is not uncommon for the source to engage in unwelcome conduct out of sheer ignorance or lack of sensitivity. In fact, the majority of offensive behaviours are not consciously intended to harm. But there are sometimes powerful subconscious motives driving the behaviour, such as a need to establish power or position.

The seeming lack of harmful intent to obscure a decision-maker's ability to clearly see the source's intention is a completely separate issue from the impact it may have on others. You can be deeply impacted even if the person meant absolutely no harm.

In the diagnosis phase, impact is the single most important factor. The laws of the land — and most organizations' harassment policies — are heavily weighted in favour of impact. Organizations are required to ensure they provide a safe work environment. If the actions of an individual or a group are impacting negatively on another person's subjective sense of safety or dignity, then the pendulum tips in favour of protecting that person, even if on occasion someone may abuse this protection. Obviously, the alleged impact has to meet some reasonability test.

Once impact exists, we can safely ascertain harassment has occurred. Now the organization is legally and morally bound to remove it.

Phase two: Intervention

Phase two is the intervention phase. It comprises establishing how to best address the situation and following up with action. The possible courses of actions vary greatly depending on the severity of the situation, the organization's culture and the person's work history.

Only in phase two does intent finally enter the scene. The source's intent — inasmuch as it can be accurately assessed — will play a pivotal role in determining the type of corrective action to be taken. In those cases where there was no conscious intent to harm, some education, awareness-raising or straightforward coaching will suffice. Other times, a more rigorous response is in order.

In the final analysis, by convincing yourself there was no malicious intent, you're abdicating the responsibility with which you were entrusted. When the confusion and noise are removed, it's a fairly simple proposition. Ask if someone was impacted negatively by another's unwelcome or offensive actions. If so, you are required to act. Then, and only then, do you incorporate intent into your deliberation process.

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