Understanding conflict W1& 2:	Dispute resolution processes and dispute system design W3 & W12 extra material:
- Conflict is defined as a perception of incompatible objectives. It can happen in life or workplaces among individuals or groups of people who have conflicting goals or interests. It generates discomfort, disputes interactions and can destroy relationships. However, it could be a positive catalyst for changes.	- Dispute system design: an employer's right to design and implement a conflict management system that is limited by collective bargaining and the legal framework governing the employment relations systems. Those tasked with the HR function will be responsible for designing a conflict management system that can handle a variety of disputes. The dimensions include formal//informal, direct//indirect voice, internal//external, binding//non-binding, individual (survey)//collective (team); interest-based (mediation, negotiation)//rights-based (arbitration, investigation).
- Conflict Management is designing strategies which:	- Principles of dispute system design:
o minimise the destructive elements of conflict	o Focus on interests
o maximise learning & satisfaction of needs	o Low cost to high cost sequence
o are efficient and fair	o Create feedback loops to negotiation: Create feedback loops from right-based solutions// Create feedback loops from power-based solutions
o Disputes can be framed as conflicts over interests, rights and/or power: A system for managing conflict needs to deal with all these frames.	o Provide low-cost rights and power backups
- Foundations of effective conflict resolution:	o Build consultation
o Communicating and active listening skills.	o Justice: Procedural, Distributive, Interactional
o Understanding how emotions shape conflict	o Timeliness
o Planning and preparation.	- Dispute resolution process: Four steps (level) for employee grievance, refers to: 1-immediate supervisor; 2-next upper level of management; 3-senior management or to HR manager or to dispute resolution committee; 4-an independent mediator.
o Understanding underlying interests.	- It needs to consider broader scope, having an open culture, is confidential and is neutral and impartial.
- Principled approach to managing conflict:	- Goals of conflict management is to be:
o Define the issues/problems	
o Concentrate on interests not on outcomes	
o Generate options	
o Select an option or options and implement	
o Evaluate	
- Positive function of conflict	
o Heighten awareness of issues	
o Enhance relationships	

- o Personal development
- o Benefit organisations
- Negative function of conflict:
  - o Escalation of emotions: anger, anxiety, depression
  - o Lower productivity and moral
  - o Exclusion of others
  - o Breakdown in communication

- o Efficient: Effective use of scarce resources (Eliminates barriers to performance, does not interfere with productive deployment of resources, cost effective, speedy, flexible)
- o Equity: Fairness and justice (Unbiased decision-making, Reliant on evidence, Consistent, Effective remedies)
- o Voice: Participation in design and operation (Hearings and obtaining and presenting evidence)
- A conflict management system manages conflict and provides justice in the workplace.
- Disputes can be framed as conflicts over interests (focus on the problem and is open to a range of needs and options), rights (who is right or what is fair) and/or power (base on who possess stronger position, focus on a particular solution, makes demand with implied threats). A system for managing conflict needs to deal with all these frames.
- ADR can refer to a range of processes in between the parties ignoring or settling the dispute between themselves and a court of law determining the outcome. Principles guiding a conflict management system include:
  - – Focus on interests
  - – Informal to formal where possible
  - – Low cost to high cost
- A conflict management system should be judged on the efficiency of the process and the degree of equity and voice provided to participants.
- Benefits of ADR: Cheaper, confidential, and flexible
- Limitations of ADR: ignore public interest and third party might not be neutral.

The managerial role in conflict resolution (The manager as a third party) W11:	Communication and emotion in conflict resolution W4:

- What role do managers play in the dispute resolution process?
Conflict resolution is central to the functions of the HR Manager. A HR manager but increasingly the focus is on 'strategic business partner', that is, integrating HR functions with the overall business strategy. They are frequently a part of the problem with concerns of own org's best interests. They have wide range of authority and are expected to act as a decision maker to make the best decision for the org.
- Are managers neutral and impartial third parties?
This alignment with the organisation's business objectives raises questions about the HR manager's role in dispute resolution. The impact on neutrality and impartiality which are core requirements in a dispute resolution system.
- Refers to printed doc PART OF ON-LINE LESSON 3
	- Communication is viewed as a process which reveals layers of the personalities and penetrates the layers of personality of those we deal with.
	- Communications and negotiation rely on perception (giving meaning to the environment) and cognition (process of knowing certain concepts) as fundamental processes that govern how people construct and interpret interactions. Dispute resolution often focuses on managing misconceptions, misperception and biases.
	- Barriers to an effective communication include sender issue (encodes message based on their perceptions and experiences), receiver issue (might have too much info to process or not ready to understand the message) or environmental issues (noises or cultural barriers).
	- Active listening: showing other parties that you're concerned which may lead to better outcomes, corporations and problem-solving and receive reciprocity in listening. Try to incorporates attending (non-verbal skills), following (open-questioning) and reflective (clarification and paraphrasing) skills to enhance communication).
	- Dealing with difficult (angry) people: listen, respect, empathy.
	- Communication skills include:
	   o Clarity and consistency in verbal, vocal and visual communication
	   o Listening: passive, active, constructive
	   o Managing emotions; Being assertive
	   o Giving and receiving feedback
	- Active listening can be used to persuade others and manage difficult people by not being defensive in your response to the speaker they may reciprocate
	- Good communication can be a source of creativity

Power and persuasion W6:	Negotiation W6 & W7:
(1) Persuasion is the ability to convince others to adapt the ways of thinking and ideas from you. It requires careful preparation, presentation of arguments and supporting evidence.	- All negotiation situations can be defined by the extent to which there is scope for creating value for all parties involved in a negotiation:
(2) Process of effective persuasion:	o Distributive situations (value claiming): competitive strategies and one party's gain is based on other party's expense.
1. Understand others motivation and needs	o Integrative situations (value creating): problem-solving, interest-based and mutual gain
2. Establish creditability: expertise and trustworthiness	o Mixed situations: can be seen in industrial relations where employers want to reduce wages and unions want to increase.
3. Frame for common ground	- Negotiation inevitably involves leveraging different sources of power.
4. Joint problem solving: the outcome will be mutually beneficial	o Importance of BATNA as a source of leverage.
5. Support preferred with logic: present compelling evidence that leads to the desired outcome	o Persuasion involves more than use of power.
6. Reinforce with emotions	o Power raises serious questions about ethics in negotiations.
(3) A (appropriateness: right and moral) C (consistency) E (effectiveness: leads to desirable state) theory	o Communicating with constituencies, audiences and bystanders.
(4) Before entering negotiations we need to:	- Power imbalances may mean 'rights' are neglected.
o Identify our interests and goals	- We negotiate:
o Determine a strategy (distributive/integrative)	o When we need someone's consent
o Plan the negotiations	o When the time and effort of negotiating are justified by the potential outcome
(5) Preparing for a negotiation involves a self-assessment, assessment of the other party/parties and an assessment of the situation	o When the outcome is uncertain
(6) Negotiators need to be aware of persuasion tactics aimed at the rational side of human behaviour (central route) as well as the emotional side (peripheral route)	o We negotiate because our decisions affect others and their decisions affect us
(7) Negotiation is complicated by the cognitive biases all parties bring to the negotiation table	- Basic framework for negotiation is present
	o Parties can be identified and are independent
	o Parties have basic skills and can represent themselves
	o Interests not entirely incompatible or Weak alternatives

Mediation W9:	Arbitration W10:

- Facilitative mediation is useful for collaborating over complex problems when the parties are committed to finding a mutually satisfactory resolution
  - Interest-based // Unique solution // Third party
- Facilitative mediators do not
  o give advice
  o determine the solution
- advantages of mediation: low cost, encourage cooperation
- The very elements that make mediation appealing (compared to court action) also create potential dangers:
  – conducted in private, often without legal assistance
  – not tightly bound by rules and laws and precedents:
  – fair process? It lacks the precise checks of the legal system
  – therefore, risk of dominance by more knowledgeable, powerful or less emotional parties
- Power imbalances raise a number of ethical questions for mediators, should the mediator be able to engage in evaluative behaviour?
	- Arbitration is a determinative process
	  o Adversarial
	  o Rights-based
	  o Evaluative
	- Determinative processes are most suited to situations where there is no need to maintain an ongoing relationship
	- They are inappropriate where emotions or values are central and an ongoing relationship is important
	- Arbitrators is concerned with content and process
	- Stages for arbitration: 1-parties agree to process and use an arbitrator; 2-investigation and information sharing; 3-hearing; 4-determination
	- Arguments supporting arbitration: equal opportunities to present opinions and is fast.
	- Arguments against arbitration: unfair to employees, it might result in damaged relationships.

When is facilitative mediation appropriate?	When is facilitative mediation not appropriate?	When to use arbitration: cases suited for determination	When to not use arbitration: cases unsuited dor determination
Basic framework for negotiation is present - Parties can be identified and are independent - Parties have basic skills and can represent themselves - Interests not entirely incompatible - Weak BATNAs Where additional factors that make unassisted negotiation difficult:	• High level of conflict and animosity • Low motivation to reach agreement • Low commitment to mediation • Shortage of resources • Issue is a 'fundamental principle' • Parties have unequal power	- Matters of fact or legal interpretation, particularly where they are complex - No ongoing relationship - No emotional or value conflict: Enables parties to preserve their relationship and perhaps return to collaborative approaches - Where there has been a breakdown in a longstanding relationship: No need	- Difficult to adduce evidence on which to base a decision. - Disputes based on feelings, values or interpersonal relationships - On-going relationships

- interpersonal barriers - substantive barriers - procedural barriers		for communication or trust - Commercial relationships where there is no underlying relationship	

Investigation W10:	Ethics W11:

- There are numerous other conflict resolution processes.
 	
- Fact finding and investigation is an important part of conflict resolution
 	
- Investigation is used when there is a need to determine the objective facts as to what did and did not occur.
 	
- Involves gathering info and organising the info to allow a systematic consideration of the conflict.
 	
- Investigation is common where workplace misconduct is suspected:
    ○ Harassment
    ○ Bullying
    ○ Discrimination
    ○ Threats or incidents of violence
    ○ Unprofessional or inappropriate behaviour
    ○ Theft
    ○ Inappropriate use of company information or assets
 	
- Investigations must be fair and just: The investigator should employ strategies to guard against bias
 	
- Problems of unconscious bias including social stereotypes and confirmation bias
 	
- Education, training and the use of neutral language can help reduce those bias and enhance the quality of investigation.
	- Ethics in conflict resolution: ethical judgments evaluate strategies and tactics based on standards of moral behaviour and right-wrong concepts. Need to have interactional justice, fair process and fair outcomes.
	
	- Neutrality (free from favoritism and bias) and impartiality (balanced power of both parties, if unbalanced, should create opportunities for weaker party to express and be heard) of third party
	
	- #1: Two parties in mediation appear to reach a mutually acceptable resolution – but it seems to the mediator that this is only happening because:
	    ○ one party is intimidated by and frightened of the other
	    ○ giving in easily to an agreement that seriously jeopardises that party's rights, and that is against his or her best interests
	    ○ The mediator has to decide whether he or she has any responsibility to do anything.
	
	- #2: The mediator notices that one participant is:
	- less intellectually skilled
	- less verbally skilled
	- less confident and
	- less assertive than the other, and
	- is, accordingly, being dominated and directed by the other
	- The ethical dilemma here is what, if any, action should the mediator take in this situation.
	
	- #3: One party discloses information to the mediator in confidence
	    ○ This information radically affects the position of the other party and if the other party were aware of it, would lead to a completely different approach being taken

	- The mediator is faced with a decision as to whether: - to disclose (and breach confidentiality) or - fail to disclose (and potentially breach impartiality and trust, and possibly, to breach a duty of care) - Strategies to prevent unethical behaviours: - It can be discovered with verbal (ambiguity) or non-verbal cues (eye-contact, posture) - Raise doubts and ask question - Be assertive and persistent - The potential incompatibility between neutrality and impartiality poses an ethical dilemma for third parties in conflict resolution - Managers often act as third parties in dispute resolution but they are rarely neutral or impartial and therefore can compromise perceptions of justice in dispute resolution - Different approaches to ethical reasoning help explain why behavior some consider unethical is considered appropriate by others - Detecting unethical behaviour is difficult but there are some strategies we can employ - To be ethical we need to reflect on our own behaviours: if we agree that deception is unethical, we need to think about alternative tactics during conflict resolution

Negotiation approaches W5:	Collaborative conflict management model W3: Concentrates on interests of all parties

- Negotiation must involve 2 parties who has a conflict of interest (tangible & intangible) and expect to reach a better outcome and mutual agreements as a result of negotiation. Parties negotiate when their actions require other party's consent or affect other party's interests.
 	
- Best negotiators:
  o Spend time on planning
  o Use problem-solving to identify both parties' interests and issues
  o Plan approached and language to be used
  o Are open to options and alternatives
 	
- Bargaining mix are all issues involved in the negotiation. More issues mean greater possibility and complicity
 	
- Target point is the best outcome each party would reasonable expect.
 	
- Resistant point is the reference point for parties to decide whether to accept or reject the offer. The resistant (reservation point) is the quantification of BANTA where the available alternatives are.
	(1) Interest and concern: list, documents and clarify
	(2) Issue/problem definition: open-ended definition
	(3) Options and ideas: as much as possible
	(4) Select option: meets as many interest as possible
	(5) Evaluation and outcomes

	In-class activity:
- BANTA is the most ideal outcome that one party could get without negotiating. The better BANTA the party has, the stronger their position is during negotiation. - Initial offers are the opening offers - Settlement zone is the zone of possible agreement where the settlement points (what both parties actually agreed upon) lies. - Goals need to be specific, achievable and optimistic	Key differences that make multi-party negotiation challenge and complex W7: - Preparation challenges: complex parties lead to complex trade-offs, solve with clarifying responsibilities in different areas - Increased competition for airtime: more parties means greater variety of views and approaches; conversation will be difficult to managed. - Procedural chaos: greater need for formal rules - Formalisation of alliances - Potential for dysfunctional group dynamics: silent, withdraw, group think and side conversation Can solve with preparing agenda.