

DEVELOPING ORGANIZATIONAL RESPONSES TO CASES OF WORKPLACE BULLYING

Emmy Jean Humber, B.A. University of Victoria, 2006

James Hamilton Kerr, B.A. University of Victoria, 2009

A Capstone Project Submitted in Partial Fulfillment of the Requirements for the Degree of Master of Arts in Dispute Resolution in the Faculty of Graduate Studies School of Public Administration University of Victoria

Supervisor: Dr. Evert Lindquist, School of Public Administration, University of Victoria

Second Reader: Mr. Gordon Sloan, School of Public Administration, University of Victoria

Client: Mr. Ken Carradine, BC Public Service Agency

Date of Submission: December 15, 2013

This page intentionally left blank

EXECUTIVE SUMMARY

This report was prepared for the Employee Relations Branch of the British Columbia (BC) Public Service Agency (PSA) to provide an understanding of how Canadian organizations effectively stream and assess instances of workplace bullying. The research questions were focused on examining how organizations assess workplace conflict and stream cases into appropriate response processes. The PSA does not currently have an informal dispute resolution mechanism in place. Consequently, many workplace conflicts that allege bullying or harassment are streamed into formal investigations when other, less formal processes may be more appropriate for resolving disputes for employers and employees.

The project contains three major research components: (a) a review of academic literature that provides a theoretical context for understanding conflict and describes the spectrum of alternative dispute resolution (ADR) methods, (b) a cross-jurisdictional review of Canadian legislation relating to workplace conflict, and (c) a section of key informant interviews undertaken with expert practitioners regarding streaming and assessing cases of bullying and harassment.

Principal findings were organized into the following themes that can act as guiding principles for developing a process to stream and assess cases of workplace conflict: defining workplace conflict, accessibility, transparency, organizational commitment, systems approach, and values. These themes were synthesized with the finding of the other research components to develop key recommendations that favour a universal and integrated approach to workplace conflict focusing on prevention, education, and internal capacity building. These components should include an accessible and transparent dispute management process, which encompasses a suite of ADR interventions, in order to ensure all self-identified issues can be resolved with both initiating and responding clients.

Three options are provided for the PSA to consider for developing a corporate response mechanism for cases of workplace bullying. The three options are placed in order from minimum to maximum scope - moving from low resource intensity to high resource intensity.

- Option 1: focuses on leveraging current resources and processes to allow the PSA to address its capacity issues with respect to streaming and assessing bullying complaints.
- Option 2: increases the scope and depth of the development of a service line for responding to workplace bullying complaints, and includes a focus on prevention
- Option 3: represents a move toward implementing a conflict management system.

Option 3 is recommended as most congruent with the PSA's organizational culture and mandate and best encompasses the principles and practices uncovered through the research.

TABLE OF CONTENTS

This page intentionally left blank.....	ii
EXECUTIVE SUMMARY	iii
LIST OF FIGURES	vi
SECTION 1 – INTRODUCTION	1
SECTION 2 – BACKGROUND	3
2.1 The Client	3
2.2 The Problem	3
2.3 The Rationale for Change.....	5
2.4 Summary	5
SECTION 3 – METHODOLOGY	7
3.1 Defining the Research Scope	7
3.2 Literature Review	8
3.3 Cross-Jurisdictional Scan of Canadian Legislation	8
3.4 Interviews.....	9
3.5 Methodological Framework.....	9
3.6 Study Limitations	11
SECTION 4 – LITERATURE REVIEW	12
4.1 Background on Workplace Conflict in the Literature	12
4.2 Frameworks for Understanding Conflict.....	13
Understanding conflict as escalating behaviour.....	13
Defining bullying within conflict behaviour	15
4.2 Conflict Intervention Frameworks	17
A broad discussion of current literature on conflict interventions in the workplace	17
Three methods for resolution — power, rights, and interests.....	18
4.3 A Deeper Dive into Interest-Based Methods: the Spectrum of Intervention	19
A systems framework for understanding conflict	21
4.4 Summary	22
SECTION 5 – CROSS-JURISDICTIONAL SCAN OF LEGISLATION	23
5.1 Federal Jurisdiction	23
5.2 Provincial Jurisdictions	25
Québec.....	25

Saskatchewan	26
Ontario	26
Manitoba.....	27
British Columbia.....	27
5.3 Summary	29
SECTION 6 – INTERVIEWS	31
6.1 Policy Definitions and their Effect on Streaming and Assessing.....	31
6.2 Providing the Service — the Role and Location of Conflict Management Staff	32
6.3 Doing the Work — Insights into the Screening and Assessment Process	35
Assessing the level of escalation - the first steps of a successful screening process	35
Applying the spectrum of intervention – next steps of a successful streaming process	36
Concluding the intervention – final steps of a successful streaming process.....	37
Defining success – respondents’ discussion of successful conflict management	38
SECTION 7 – DISCUSSION	40
7.1 Defining Workplace Conflict	40
7.2 Benefits and Challenges of the Spectrum of Dispute Resolution Interventions	41
7.3 Beyond Streaming and Assessing: Taking a Systems Approach to Conflict	43
7.4 Principles that Underlie a Broader Systems Approach to Workplace Conflict.....	44
Accessibility – engagement, visibility, and location	44
Transparency – scope, process, and outcomes.....	44
Organizational Commitment: prescription, leadership, capacity, and congruency	45
7.5 Summary and Implications for Creating Options	46
SECTION 8 – OPTIONS	49
Option 1: Integrate ADR into current processes	49
Option 2: Expand healthy workplace culture to include conflict competency	50
Option 3: Establish a Conflict Management System	51
Comparing the Options.....	52
SECTION 9 - RECOMMENDATION	53
SECTION 10 – IMPLEMENTATION	55
SECTION 11 – CONCLUSION.....	57
REFERENCES	58
APPENDIX: INTERVIEW QUESTIONS	64

LIST OF FIGURES

<i>Figure 1.</i> A Framework for Understanding PSA’s Rationale for Change.....	6
<i>Figure 2.</i> The Methodological Framework.....	10
<i>Figure 3.</i> Glasl’s Nine-phase Model of Conflict Escalation.	14
<i>Figure 4.</i> Analysis of the Components of Bullying Definitions in the Literature.	16
<i>Figure 5.</i> Two Frameworks for Dispute Resolution.	20
<i>Figure 6.</i> A Detailed Spectrum of Conflict Intervention	21
<i>Figure 7.</i> Key Findings	22
<i>Figure 8.</i> A Comparison of Key Features of Legislation Governing Workplace Conflict.....	29
<i>Figure 9.</i> Key Findings	30
<i>Figure 10.</i> Key Findings	39
<i>Figure 11.</i> Framework for Analyzing PSA's Response to Bullying.....	42
<i>Figure 12.</i> Summary of Key Findings.....	48
<i>Figure 13.</i> Comparing the Options Based on the Research Findings.....	49
<i>Figure 14.</i> Strategic Comparison of Options.....	52
<i>Figure 15.</i> Implementation Strategy.....	55

SECTION 1 – INTRODUCTION

Over the past several decades, organizations have realized that it is in their best interest to develop fair and efficient processes for dealing with workplace conflict. Lipsky et al. (2003) advise that “Organizations with effectively functioning systems of conflict management will gain significant advantages over their competitors as they minimize the costs of unnecessary, expensive disputes with their own employees, without diminishing the rights of their own employees” (p. 21).

Minimizing costs is important to organizations, and subsequently they have begun taking note of the many negative effects bullying has on individual employees, work units, and organizations as a whole. Bullying and harassment have been shown to result in “stress reactions, health complaints and lower job satisfaction (Fitzgerald et al., 1997; Mikkelsen and Einarsen, 2002)” (Salin, 2008, p. 26) and to interfere

with workplace performance (productivity, rise in accidents and mistakes, diminished corporate reputation), [result in] withdrawal (high turnover, loss of the brightest, absenteeism), [produce] effects on organizational culture and climate (strained loyalty, distrust, sabotage, resentment, uncivil climate, decreased communication, potential escalation to workplace aggression or violence), and [result in] direct organizational costs (legal liability, higher workers compensation and disability costs). (Fox & Stallworth, 2009, p. 227)

Duffy (2009) quantified both the prevalence of and the organizational costs of bullying across the globe:

Workplace bullying costs employers and insurers \$250 million annually in expenditures related to health care, litigation, staff turnover and retraining. In Britain, Pinkerfield (2006) reported that workplace bullying costs British industry over £2 billion (approximately \$3.3 billion) and 19 million lost work days annually and that the damage to corporate reputations as a result of high-profile bullying cases can be incalculable.

Recent prevalence figures indicate that anywhere from 35% to 50% of U.S. workers have experienced bullying in the course of their careers (Lutgen-Sandvik, Tracy, & Alberts, 2007). The Workplace Bullying Institute/Zogby International U.S. Workplace Bullying Survey (2007) conducted the largest survey of its kind and found that 37% of U.S. workers had been bullied. (p. 248)

British Columbia is the most recent jurisdiction in Canada to enact legislation to address workplace conflicts, and the first jurisdiction to use the term bullying in the wording of the legislation. WorkSafeBC has consequently introduced a policy regime that makes employers in BC responsible for a number of actions for reasonable prevention and resolution of workplace

bullying (Morfitt et al., 2013). Concurrently, the BC Public Service Agency (PSA) has experienced a rise in bullying and harassment complaints from across the public service, which has outstripped their capacity to respond. The PSA requested this research project be undertaken to learn how other similar organizations are dealing with bullying, and to possibly gain insight from tools or frameworks that have already been developed.

The objective of the report is to provide PSA with an understanding of how Canadian organizations assess workplace conflicts and stream cases into appropriate response processes. The project analyzes relevant literature, legislation, and data collected from key informant interviews for streaming and assessing cases of workplace conflict. The deliverable includes a report that discusses PSA's current state regarding workplace conflicts and a rationale for change, proposes conceptual frameworks for understanding conflict from an alternative dispute resolution (ADR) perspective, reviews the relevant Canadian legislative context, reviews the literature with respect to definitions of workplace conflict, presents findings from key informant interviews regarding streaming and assessing workplace complaints, and ultimately provides options for addressing workplace conflict, including bullying.

The report consists of ten sections including this introductory section. Section 2 provides background information on the client organization, the problem, and the drivers that are influencing the organizations rationale for change. Section 3 explains the methodology of the three research components undertaken by the research team for this report, presents the report's methodological framework, and discusses the report's limitations. Section 4 outlines findings from the literature review, and describes relevant alternative dispute resolution conceptual frameworks. Section 5 summarizes the current legislative landscape governing workplace conflict with respect to bullying. Section 6 presents and summarizes findings from the key informant interviews. Section 7 consolidates research findings into four themes. Section 8 provides and compares three options for the client to consider within a strategic context and Section 9 provides a discussion of the recommended option, Section 10 outlines a high-level implementation strategy, which is followed by the conclusions presented in Section 11.

SECTION 2 – BACKGROUND

The chapter describes the client organization’s mandate, discusses their problem, and provides the rationale for carrying out this research project.

2.1 The Client

The BC PSA, established by the *Public Service Act* (1996) and formed in 2003, is the largest corporate employer in the province. The PSA’s mandate is to provide human resource leadership for the ministries and agencies and the 30,000 employees working to serve British Columbians. The PSA achieves this mandate by providing variety of human resource services, products and programs and improves the overall effectiveness of the public service by developing and implementing human resource management policies and frameworks (Government of British Columbia, BC Public Service Agency, n.d.).

The PSA is an integral part of the “Government’s vision... to be a leader in Canada and to be recognized internationally for public service excellence - by building internal capacity, improving competitiveness and managing for results, (the PSA is) supporting B.C. in becoming the best public service employer in Canada” (Government of British Columbia, BC Public Service Agency, 2009, p. 3). This mandate and vision is directly aligned with the PSA’s corporate human resources strategy, *Being the Best* (Government of British Columbia, BC Public Service Agency, 2012).

2.2 The Problem

The BC Public Service has been operating within an environment of fiscal pressure as a result of the economic downturn in the province and across the globe. The ongoing provision of high-quality public services is challenged further by a context that includes a shrinking workforce due to a large wave of retirements, skill deficits, recruitment challenges in rural areas, and fierce external competition for talent.

To address these challenges, the PSA has been undertaking significant program and policy development in areas such as workplace health, technology and collaboration, training and education, process improvement, and diversity (Government of British Columbia, BC Public Service Agency, 2012). In addition to these corporate priorities, PSA’s services include labour relations between the employer and unionized employees, which includes responding to cases of bullying in the workplace. Recently, the PSA has experienced an increase in the number of complaints it has received which exceeds the organization’s capacity to respond.

The PSA is bound “to take responsible action to prevent bullying and whenever they become aware of such behaviour, put a stop to it” (BC Public Service Agency & BC Government and Service Employees’ Union, 2010, p. 182) under the terms of Memorandum Of Understanding

(MOU) #13 of collective agreement ratified with the BC Government and Services Employees' Union (BCGEU). However, many of the cases received by the Employee Relations Branch (ERB) that allege bullying do not meet the criteria of bullying as defined in the MOU #13:

Bullying refers to vexatious behaviour taking the form of repeated hostile conduct, comments, actions, or gestures that affect an employee's dignity and that results in a harmful work environment; or a single incident of such behaviour that has a lasting harmful effect on an employee may also constitute bullying. (BC Public Service Agency & BC Government and Service Employees' Union, 2010, p. 182)

If a complaint meets this definition, the current response is to initiate a formal investigation, which is the PSA's standard process for claims of workplace harassment (excluding sexual harassment). However, if the case falls short of meeting the MOU #13 definition, the PSA cannot currently assess or stream these cases through any alternative processes. So, current practice is to commence formal investigations into most allegations of workplace conflict when other less formal processes may produce more satisfying outcomes for employers and employees. It should be noted that during these formal investigations, ERB staff do employ some informal interventions when possible such as case conferencing; the use of mediation before hearing dates; and running dual tracks of litigation and negotiation during the investigation. Informal resolutions can also be reached before decisions are rendered and arbitrators encourage settlement discussions before and during hearings. However, there are likely many cases that require a lesser response than a formal investigation, and it is likely that these types of cases could be effectively addressed through ADR interventions.

If a case goes to formal investigation, it can lead to many negative effects on employees, their workplaces, and the organization. Investigations are time consuming, costly, and tax the limited resources available for investigations in the ERB; the demand for the investigative services into alleged workplace conflicts already exceeds the ERB's capacity. Investigations are also adversarial in nature, which can lead to negative experiences by the employees and their coworkers and rarely lead to improved relationships. Conversely, some cases may not be addressed if they do not meet the bullying definition. These cases are also conflicts that negatively impact workplaces, and from an organizational health point of view, should elicit some type of response from the PSA.

Addressing these gaps by providing structure for assessing and streaming all cases of workplace conflict that are referred to the ERB could reduce the number of formal investigations the PSA undertakes and potentially increase investigators' capacity to undertake formal investigations. Introducing a system of assessing and streaming all cases across a spectrum that includes ADR methods and formal investigations would be an approach that is more closely aligned with industry practice, could promote healthy workplace environments, and may avoid the often divisive effects of formal investigations.

2.3 The Rationale for Change

Momentum for the PSA to develop a more comprehensive policy regarding workplace conflict is increasing in connection with a number of new or revised requirements on employers in relation to workplace bullying. This includes revisions made to the employee Standards of Conduct in 2008, as well as MOU #13, which was first ratified in 2010 (BC Public Service Agency, & BC Government and Service Employees' Union, 2010) and is included in the most recent collective agreement ratified in 2012 (BC Government and Service Employees' Union, 2012).

Additionally, in May 2012, the BC government made a further "pledge to prevent workplace bullying and harassment" (Macnaughton, 2012, para. 1) by introducing amendments to the Workers' Compensation Act (1996). These amendments expanded workers' compensation benefits "to include diagnosed mental disorders caused by significant work-related stressors, including bullying and harassment" (Macnaughton, 2012, para. 6). Subsequently, WorkSafeBC has developed a new policy that sets out the "obligations of employers, workers, and supervisors regarding preventing, where possible, or otherwise minimizing bullying and harassment in the workplace" (Morfitt et al., 2013, p. 1). In addition to established standards of conduct and negotiated agreements, renewed commitment from government to address bullying and harassment in the workplace was galvanized with the amendments to legislation that prompted new WorkSafeBC policy.

In early 2012, allegations of harassment and bullying in the BC Public Service were reported to the media. Premier Christy Clark (as cited in Smyth, 2012) stated, "If there are allegations about bullying in our public service, we have to deal with them" (p. A.16). John Dyble (as cited in Dyble, 2012), Deputy Minister to the Premier and head of the BC public service, stated,

The Public Service Agency takes the issue of workplace bullying seriously and we do not tolerate it. Where a complaint of bullying is brought to our attention, it is investigated and, if substantiated, appropriate action is taken to remedy the complaint . . . there are processes in place for employees who feel they are being bullied. (p. A.21)

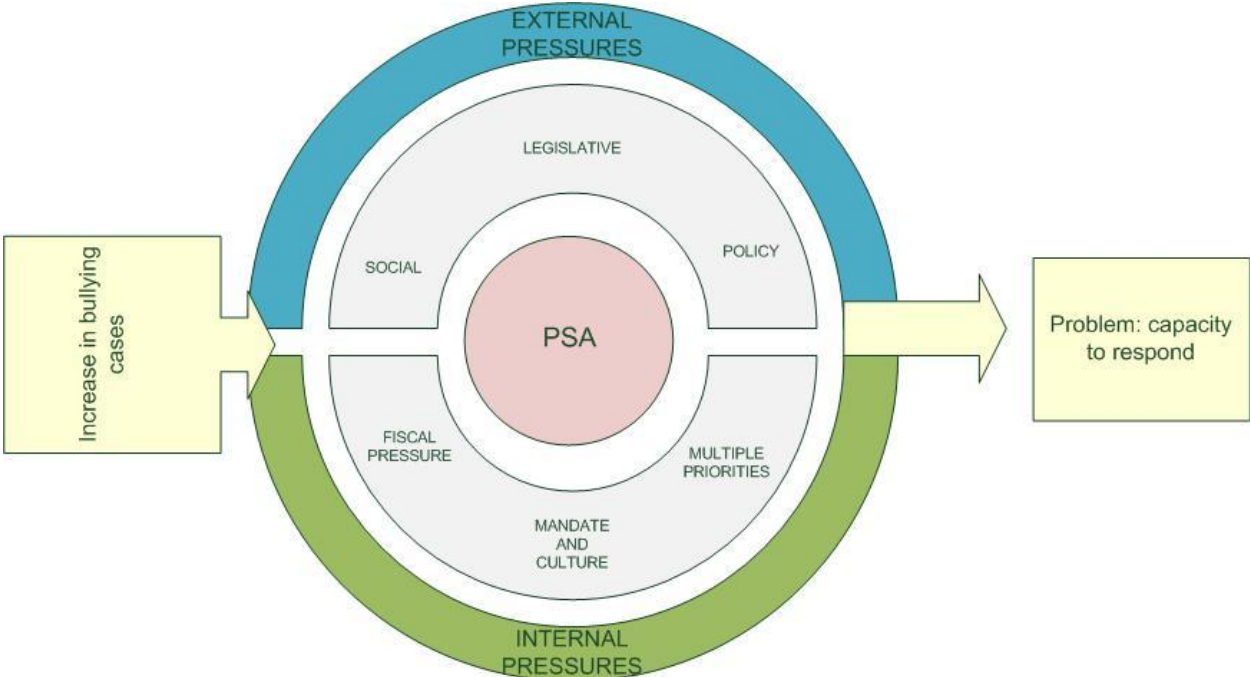
Media attention and stated government direction, coupled with the new requirements, set out in WorkSafeBC policy has created an urgency to develop effective policies, protocols, and practices within the public service. In response to this increased sense of urgency, the ERB has suggested that the PSA consider how it streams and assesses allegations of workplace bullying.

2.4 Summary

The PSA is the largest corporate employer in the province, and strives to provide human resource leadership to the client ministries and agencies it serves. Figure 1 represents the factors which are driving the PSA's rationale for change. Beyond the pressures resulting from the

fiscal situation in the province, the PSA has significant challenges to overcome in their drive toward achieving their goal of being the best public service in the country.

Figure 1. A Framework for Understanding PSA’s Rationale for Change.



Significant momentum, including social changes, workforce changes, and political will have created a tipping point for the PSA. These external drivers, when coupled with the BC public service’s innovative culture and dedication to excellence provide strong rationale for change. This culture is characterized as “*Being the Best*” (Government of British Columbia, BC Public Service Agency, 2012) and therefore the steps taken to address workplace bullying by the PSA must be congruent with the corporate culture. This would suggest that a response should not simply meet WorksafeBC’s policy requirements but also position the PSA as an industry leader in creating a conflict competent workforce and organizational culture. As stewards of the public service, the PSA has the opportunity to show leadership in fostering this culture of excellence.

SECTION 3 – METHODOLOGY

3.1 Defining the Research Scope

The initial research question identified by the Client was focused on streaming and assessing cases of bullying in large, public sector Canadian organizations. The research team developed a three-pronged qualitative research approach to address this research question that included a review of academic and grey literature, a legislative review, and key informant interviews. The initial approach was based on the expectation that a body of literature exists focusing specifically on the mechanisms used for streaming and assessing bullying complaints in organizations.

The research team anticipated finding academic resources that outlined best practices for streaming and assessing complaints, and being provided organizational policies on streaming and assessing procedures from respondents. The initial research uncovered that there is not a developed body of academic literature on the processes for assessing and streaming cases of bullying in the workplace. The research team found a similar trend in both the legislative and grey literature scans: less than half of the jurisdictions in Canada have amended legislation to address bullying behaviour in workplaces, and regulations and policies stemming from these changes do not directly outline prescriptions for streaming and assessing cases of workplace bullying. It was clear this area of study and practice is still in a formative phase.

Interview respondents were, in almost all cases, unable to provide policies that detailed streaming and assessment procedures for application within their respective organizations. These documents either did not exist, the respondents were unwilling to provide them to the research team, or the documents received did not outline specific procedures.

In response, the research team took a broader view of the problem. This included investigating workplace conflict more broadly, with the aim to understand the frameworks and mechanisms that are described in the established literature, and how they are applied when addressing workplace conflicts. Bullying is just one way of characterizing workplace conflict that occurs within organizations — this is discussed in a thorough review of academic research on defining bullying. The research team also reviewed and analyzed models from the dispute resolution discourse that can provide a foundation for understanding bullying as a type of conflict, and the spectrum of interventions that are established responses to workplace conflict.

This project employed a three-pronged qualitative research approach that includes a review of academic and grey literature, a cross-jurisdictional scan of Canadian legislation, and a series of key informant interviews. For all three areas of inquiry, the research team used qualitative methods to collect and unpack data with the goal of identifying and analyzing basic themes

(Creswell, 2009). The research team, the client, and the academic supervisor supported the methodology used in this inquiry.

3.2 Literature Review

A review of academic literature was undertaken from September 2012 to June 2013. The review commenced using key search terms related to the initial topic of bullying and harassment in the workplace including workplace bullying, harassment, and then broadened to include workplace conflict, organizational conflict, and conflict management systems. The University of Victoria Libraries' Summon search engine was used to search the library's entire collection of books, scholarly journals, newspaper articles, e-books, theses, and dissertations. Summon is an aggregate search tool for all scholarly databases available to University of Victoria students.

In addition, a general Internet search using the Google search engine was undertaken to identify relevant grey literature from governments and large organizations. The initial searches uncovered no descriptive or evaluative frameworks for streaming and assessing cases of workplace bullying. Based on the existing literature around bullying and harassment, it was clear that the development of such frameworks would be based on foundational concepts within the ADR literature. Ultimately, the comprehensive literature review developed for this report provides the context for understanding workplace disputes by outlining conceptual frameworks used in dispute resolution.

3.3 Cross-Jurisdictional Scan of Canadian Legislation

A cross-jurisdictional scan of Canadian legislation was undertaken from September 2012 to June 2013. The scan was carried out using key search terms such as bullying, harassment, and workplace. The University of Victoria Libraries' Summon search engine was used along with the CanLII website which provides access to Canadian statutes and regulations. In addition, a general Internet search using the Google search engine was undertaken to identify relevant information on federal and provincial websites and any policy related information (grey literature). The Client organization is a provincial public body, so the scan focused on other Canadian jurisdictions to understand the state of statutory law and how it applies to similar organizations across the country.

The review summarises relevant legislation from across Canada and policies that have been created in response to subsequent regulatory requirements. The purpose of this is to provide the PSA with an understanding of how other Canadian jurisdictions have addressed issues of workplace conflict through legislation and to provide context for the primary research data.

3.4 Interviews

In conjunction with the client, a list of expert practitioners was developed as potential interview respondents. A total of 20 potential interview respondents were emailed an invitation to participate. Nine respondents accepted the initial invitation, while a further two respondents were contacted on recommendation from initial invitees. The 11 respondents included four representatives of federal public sector organizations, four representatives of provincial public sector organizations, and three private practitioners who have experience acting as third-party interveners in workplace disputes in both the public and private sectors.

Prior to the interviews, respondents signed a consent agreement confirming their willingness to participate. All interviews were approximately 45 to 90 minutes in duration. The semi-structured interviews were guided by a questionnaire (the Appendix) developed in conjunction with the client and approved by the academic supervisor. Questions were asked in a fluid manner, based on interview flow and individual participant's subject matter expertise. As a result, not every question was asked in every interview. The research team conducted interviews over the telephone and recorded the sessions through typed and handwritten notes.

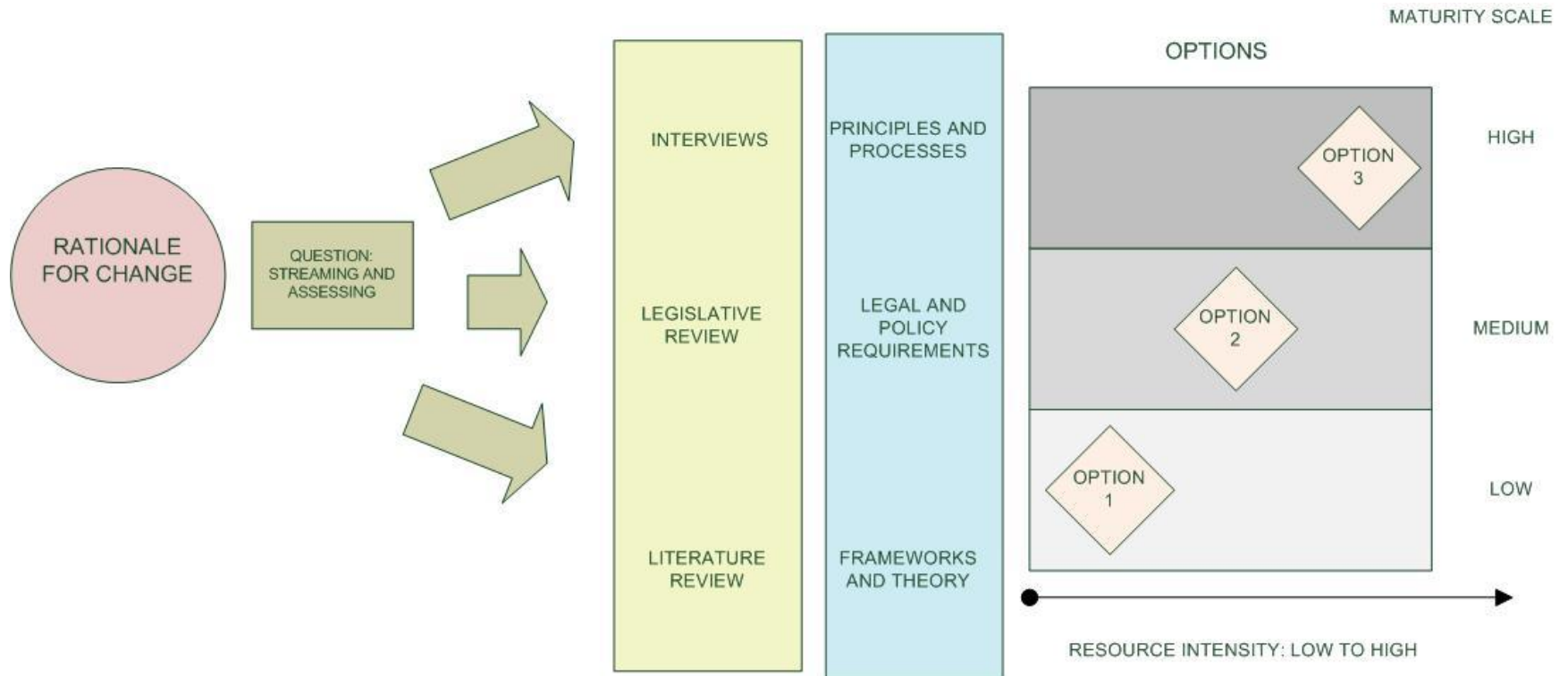
The results of the interviews were analyzed and then organized by theme and topic. This was done intentionally to highlight best practices and processes, which then informed the study recommendations. Respondents were given the option to review the interview notes for accuracy and have also been offered access to the final report. The purpose of the interview process was to inform the PSA regarding current practice in the work of streaming and assessing cases of workplace conflict.

In instances in which the respondents had policies available and their disclosure was not restricted by organizational confidentiality, we collected copies of these documents from them. In most cases, relevant policies did not exist or the experts were not authorized to share them. Therefore, the low number of policies received did not provide enough data for a significant or useful policy review.

3.5 Methodological Framework

Figure 2 below represents the research team's methodological framework. It visually represents how all the components of the project are integrated and frames the options within a spectrum of resource intensity and organizational maturity.

Figure 2. The Methodological Framework.



3.6 Study Limitations

The legislative and policy review focused solely on Canadian federal and provincial jurisdictions. As the researchers, we acknowledge that restricting the inquiry to within Canada may have been limiting, particularly as “workplace bullying legislation in Canada and the United States has lagged (behind) Europe and Australia” (Murphy, 2012, p. 17). The Canadian federal government has over 300 conflict management practitioners and an unknown number of independent contracted practitioners. As a result, there are as many different perspectives on the development and implementation of tools and techniques to deal with workplace conflict, bullying, and harassment as there are practitioners. This research project was only able to include interviews with 11 subject matter experts.

This research explored both practical and theoretical perspectives for assessing and intervening in workplace conflict in Canadian public organizations. It became apparent through the research that it is important to connect this work to principles of conflict management system (CMS) design. CMS design is touched on in the discussion sections of the project, yet a more in-depth inquiry should be undertaken if the PSA moves toward developing a comprehensive policy on addressing workplace conflict.

SECTION 4 – LITERATURE REVIEW

The objective of this report is to provide PSA with an understanding of how Canadian organizations stream and assess instances of bullying in the workplace. The research question focused on examining how organizations assess and stream such cases into appropriate response processes. The researchers had hoped to find discussions of streaming mechanisms, diagrams, decision trees, or other process maps that could inform the research question and provide a basis for creating a list of best practices in this area. Ultimately, the literature review uncovered fragmented information around the application of methods of intervention. There is little description in the literature of how organizations implement dispute management methods in the workplace.

The review evolved to encompass an investigation of the body of dispute resolution literature regarding how organizations conceptualize conflict and set up processes that deal with issues of workplace conflict in both a theoretical and practical sense. By situating bullying within the broader context of workplace conflict, the researchers hoped to find useful frameworks for applying to the research question. Similarly, by stepping back from streaming and assessing processes to focus on a broader view of conflict resolution, the researchers were able to find frameworks that illuminate best practice responses to organizational conflict, including bullying.

4.1 Background on Workplace Conflict in the Literature

Workplace conflict is a phenomenon that is ubiquitous and nebulous. The topic has been studied broadly from the perspective of a variety of disciplines such as human resources, organizational development, and ethics. Therefore, the frameworks, models and definitions used to describe and investigate conflict are equally varied. As conflict encompasses any type of incompatibility, difference, disagreement, or unmet expectation between two or more parties (Costantino & Merchant, 1996; Goldberg, 2007; Lipsky, Seeber, & Fincher, 2003), it is fair to say that in any workplace with more than one individual, there will always be instances of conflict between individuals or groups.

Since the rapid industrialization of the workplace at the turn of the twentieth century, organizations have been experiencing a continued evolution that has required a normalization of constant change and transformation. Lipsky et al. (2003), describe this changing landscape as “an array of economic and societal changes that became particularly pronounced during the last couple of decades of the twentieth century — globalization and increasing market competition, technological change, urbanization, the growth of statutory regulation in business, and social relationships” (pp. 31-33). These changes affect workers and employer organizations on many levels, both as an antecedent of workplace conflict and as an impetus to understand and respond to workplace conflict in the face of changing social and legislative expectations.

How have these societal changes been reflected in the way we deal with conflict? Goldberg situates the development of modern conflict resolution approaches by describing the “waning role of some of society’s traditional mediating institutions — the family, the church, and the community” (Goldberg, 2007, p. 4). Sociologist Robert Putnam supported this idea, as his research has found that “social networks, and the norms of reciprocity and trustworthiness that arise from them” (Putnam, 2000, p. 21), hold a value, which he describes as social capital. Social connections mediate relationships by establishing norms of behaviour and mutual obligations between members of the community, resulting in “positive consequences (such as) mutual support, cooperation, trust, [and] institutional effectiveness” (Putnam, 2000, p. 21). Putnam’s research unfortunately demonstrates that in the last few decades of the twentieth century, America’s civic ties have been weakening, and the civic decline within society is resulting in the weakening of social networks and the norms of behaviour that are associated with them.

Interestingly, as traditional institutions of authority declined over the past fifty years, society exhibited an increased appetite for legislation in the domain of both individual and group conflict. Starting with the entrenchment of civil rights in the sixties in America, the update of the Canadian Charter of Rights and Freedoms in the eighties, and moving forward to the present, increased legislation regarding discrimination, harassment, and other types of conflict have provided a legal framework for norms of behaviour within our society. Workplace bullying as a specific type of conflict has come to the forefront of popular and academic discourse over the past 30 years, gaining momentum in both areas since 2000.

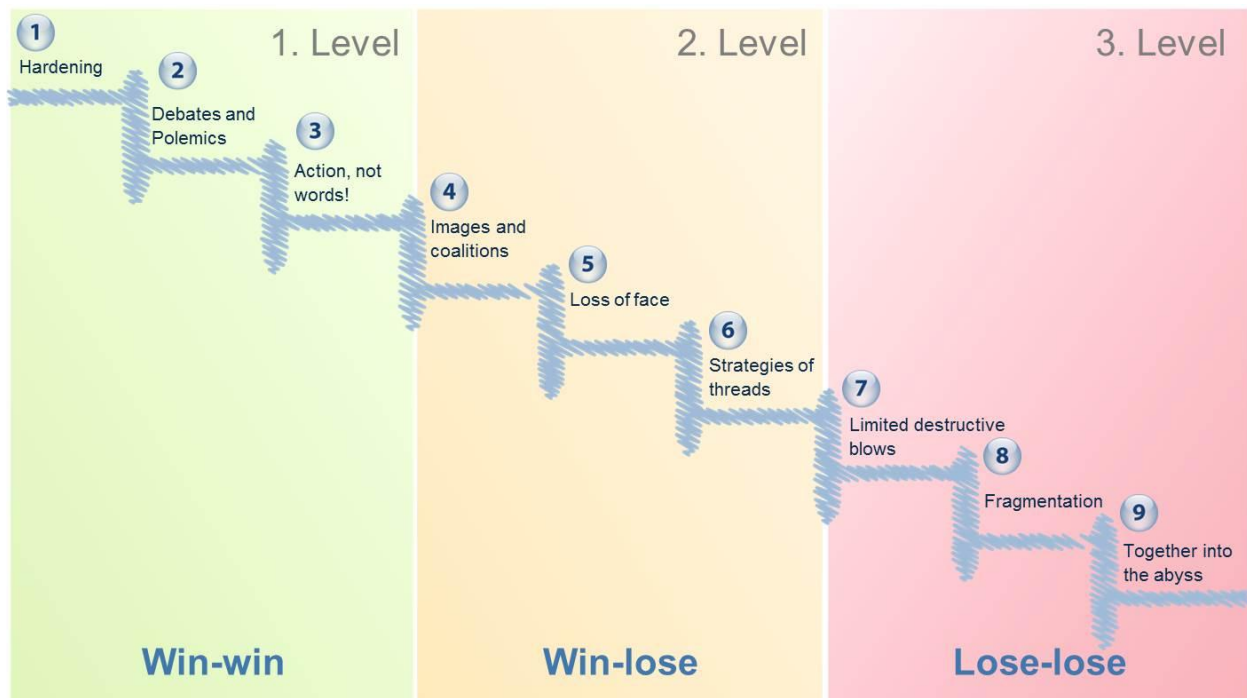
4.2 Frameworks for Understanding Conflict

The frameworks described in this section provide a foundation for understanding both conflict and various types of conflict interventions that are well-developed in dispute resolution literature. This section situates the discussion of streaming and assessing workplace conflicts within evidence-based frameworks and offers the building blocks for more detailed inquiry in the Interviews and Discussion sections.

Understanding conflict as escalating behaviour

The escalation model developed by Glasl (1999; see also Figure 3) has been foundational for practitioners working to resolve organizational conflicts. The nine-phase model of conflict escalation identifies each phase distinctly by their key features that can be characterized as a specific intensity level in which different norms and values are considered valid. The nine phases are grouped into three stages: win–win, win–lose, and lose–lose (Glasl, 1999). By applying the escalation model to disputes, practitioners can identify the level of escalation of the conflict and determine an appropriate intervention (Saam, 2010). Glasl (1999) suggested that bullying could be classified as within the win-win escalation stage that is best addressed through mediation, although severe cases of bullying could require arbitration or power-based interventions — this will be discussed in depth later in the section.

Figure 3. Glasl's Nine-phase Model of Conflict Escalation.



Source: reprinted from Kraus, G (2011).

Saam, (2010) investigated how models of conflict escalation, such as Glasl's nine-phase model, are applied in organizational responses to workplace bullying. The practitioners' model of choice was found to underpin the respective methods used to intervene in cases. Saam's research found that application of intervention strategies used in practice was based on preference — either the consultant subscribed to the *contingency approach*, which views bullying as a level of conflict escalation, or to a *multilevel approach*, which views bullying as a symptom of a conflict embedded within all levels of an organization.

Saam (2010) explained that more questions than answers exist related to practitioner preferences and their effect on intervention decisions and mused, "One would like to know reasons other than the characteristics of the organization or the personnel manager that explain why a certain intervention method is applied" (p. 56). What this research highlights is how important it is to be explicit and transparent regarding the theoretical framework organizations use to conceptualize workplace conflict because it underpins all decisions made about the intervention methods used in cases of workplace conflict.

In summary, Glasl's nine-phase model of conflict escalation provides a useful conceptual framework for situating bullying as a phase within a larger spectrum of conflict. Using such a framework can help provide direction on organizational responses to cases of workplace conflict. One study was found that demonstrated that consultants who dealt with cases of

workplace bullying and conflict rely on personal frameworks as a basis for intervention decisions (Saam, 2010). It is important to note that the choice the practitioner or organization makes regarding conflict frameworks will underpin their response and therefore outcomes of cases.

Defining bullying within conflict behaviour

Because specific research on bullying is a relatively new field, the literature search revealed a lack of consensus for either a definition of the term bullying. Exploring the ways in which the literature defines bullying is significant because, as the previous section described, the way organizations choose to characterize workplace disputes (which includes, but is not limited to, bullying) greatly influences the way people respond to it; furthermore, the lack of a common definition of bullying in the literature is problematic, as Crawshaw (2009) discussed:

Conflicting terms and definitions . . . impede [the] ability to conceptualize the phenomenon” and calls for a standard nomenclature around bullying to be developed, as “the absence of a shared descriptive language for the phenomenon is perplexing for employers, legislators, and other members of society who seek to address this source of psychological pain in the workplace.
(p. 264)

To address the absence of a consistent definition in the literature, we undertook a scan of the various definitions. By bringing the following definitions together and providing an analysis of the components of each definition, we hope to help the client understand both the breadth of and the existing definitions and provide some of the building blocks an organization would need to include in the development of a local definition of bullying.

Each definition was broken down to its components and the following three core components were identified: repetition or persistence, power, and intent. These align with the analysis of prominent scholars in this area (Fox & Stallworth, 2009), as demonstrated below in Figure 4: The first core component identified in the literature is repetition (Fox & Stallworth, 2009); despite variations in criteria, the consensus within the research community requires “behaviors to be repeated, patterned, or persistent” (Fox & Stallworth, 2009, p. 222) to be described as bullying. Another temporal characterization supporting the repetitive nature of bullying is “an escalating process where the target is placed in a more and more inferior position to the bully (Einarsen, 2003)” (Jenkins, 2011, p. 26). This definition includes repetition over time, the concept of the escalating nature of bullying behaviour, and the concept of power differential — concepts that are key components within most definitions in the literature.

Figure 4. Analysis of the Components of Bullying Definitions in the Literature.

Definition	Repetition	Power	Intent
Bullying is defined as repeated aggression in which there is a power differential ¹	X	X	X
Workplace bullying is behavior that threatens, intimidates, humiliates, or isolates people at work, or undermines their reputation or job performance ²		X	
Bullying is a dyadic phenomenon in which a bully repeatedly continually harasses and abuses a specific victim ³	X	X	X
Low-to-moderate-intensity, non physical aggressive behaviour that is persistent ⁴	X	X	
A severe and highly stressful interpersonal conflict in which a power difference exists between the parties ⁵		X	
The process whereby hostile and aggressive behaviour is directed systematically at one or more colleagues or subordinates, leading to a stigmatization and victimisation of the target ⁶	X	X	X

The second core concept identified is power. Fox and Stallworth (2009) examined the extent to which power differentials between targets and perpetrators play a role and noted, “Several researchers (e.g., Neuman, 2000; Rayner & Keashly, 2005; Zapf & Einarsen, 2005) have proposed that there must be a power differential, which makes it difficult for targets to defend themselves from the bullying behavior” (Fox & Stallworth, 2009, p. 223). Interestingly, some research has demonstrated that “supervisory bullying is more toxic (i.e., has more adverse effects) than coworker bullying” (Fox & Stallworth, 2009, p. 223). The power-over relationship between a supervisor and employee is often cited as a prerequisite for behaviour to be construed as bullying.

This relationship relates to the concept of escalation above, as researchers have found that the inability for one party to defend themselves is a determinant for bullying behaviour and its escalating nature; succinctly stated, “conflict cannot be called bullying if the incident is an isolated event or if two parties of approximately equal ‘strength’ are in conflict (Einarsen et al., this volume. Cf. also Einarsen, 2000; Einarsen and Skogstad, 1996; Leymann, 1993; Zapf, 1999a)” (Einarsen, 2003, p. 167; see also Keashly & Nowell, 2002). This is especially relevant for an organization such as the PSA to note, as hierarchy and power relationships are structuralized and more pronounced in a unionized environment.

¹ Juvonen & Graham, 2001; Olweus, 1991; Pepler & Craig, 2000 in Craig & Pepler, 2007, p. 86.

² Fox & Stallworth, 2009, p. 220.

³ Sias, 2004, p. 68 in Brisebois, 2010, p. 6.

⁴ Pearson, Anderson, & Porath, 2005, p. 191 in Brisebois, 2010, p. 6.

⁵ Zapf & Einarsen, 2005, p. 238 in Brisebois, 2010, p. 6.

⁶ Einarsen, Hoel, Zapf, & Cooper, 2003: xiii in Brisebois, 2010, p. 6.

The third core concept Fox and Stallworth (2009) identified is intent. Can bullying be unintentional or must intent be established in order for behaviour to be labelled as bullying? Keashly and Nowell (2002) explained, “Intent is considered a necessary defining element, as it distinguishes these abusive and aggressive interactions from other forms of harmful behaviour such as incivility or accidental harm (Andersson and Pearson, 1999; Neuman and Baron, 1997)” (p. 3). Although intent is difficult to establish, this issue is described in definitions as actual or perceived, which allows both subjective and objective perspectives of bullying to be included.

This section has outlined the information available in the literature on bullying definitions. To address this gap, we provided a discussion of the variety of definitions in the literature and analyzed them based on Fox and Stallworth’s (2009) three core concepts of repetition or persistence, power, and intent. Although this area of scholarship is still developing, these three concepts provide a strong evidence-based framework for organizational development of definitions of workplace bullying.

4.2 Conflict Intervention Frameworks

A broad discussion of current literature on conflict interventions in the workplace

In addition to the lack of an established definition of workplace conflict or bullying, the literature review revealed another gap: very little research has been done that describes interventions into cases of workplace conflict including bullying, and the research that was found did not discuss the processes for assessing and streaming cases of workplace conflict or bullying. Salin (2008) summarized this gap in the literature:

Although a number of studies have been conducted concerning the prevalence of sexual and psychological workplace harassment . . . we know little about organisational responses to these problems. Even in countries where employers are explicitly required by law to intervene in harassment, employers are typically themselves required to decide the nature of the response or responses needed to end the harassment. For instance, in Finland there is still no general consensus on what or how much an employer is expected to do, and both in Finland and other countries there is a paucity of research on how organisations actually are responding. (p. 27)

Although many jurisdictions are developing legislation that requires organizations to respond to workplace bullying, translating legislation into policies and practical mechanisms is not simple, and there is no universal roadmap available. Before developing workable solutions for assessing and streaming workplace conflicts in organizations, an understanding of foundational concepts regarding conflict intervention is necessary.

Three methods for resolution — power, rights, and interests

Several established frameworks in dispute resolution literature can be used to inform interventions to remedy workplace conflict such as bullying. One prominent framework is the three-method framework of conflict resolution, comprised of power, rights, and interests (Costantino & Merchant, 1996; Smith & Martinez, 2009). A discussion of these foundational methods in dispute resolution literature will inform the argument that ADR or interest-based interventions are becoming standard practice for organizations.

The power-based method is based on using one's ability to impose or threaten outcomes on another party "whether through acts of aggression or withholding the benefits that derive from a relationship . . . to coerce someone into doing something he would not otherwise do" (Maiese, 2004, para. 5). This can include a variety of actions ranging from war to strikes.

The rights-based method, commonly referred to as the judicial method, conceptualizes the individual as inherently holding rights. Rights are "independent standards of fairness or legitimacy that are either socially recognized or formally established in law or contract. Such standards include reciprocity, precedent, equality, and seniority" (Maiese, 2004, para. 4). Often, dispute resolution within a rights-based method includes two people providing evidence to a third-party adjudicator who decides the outcome.

The interest-based method can be distinguished from power or rights-based methods in its distinctive conception of conflict as an incompatibility of needs or interests, which are "desires, concerns, and fears that underlie people's positions" (Maiese, 2004, para. 2). Disputes are understood as problems that exist between parties who are struggling to meet divergent interests (Della Noce, 1999). The opposition between parties with competing interests creates an adversarial relationship, which the interest-based method mitigates by reframing the conflict into sets of needs.

Power-based and rights-based methods are often employed when disputants want to "challenge their adversaries rather than come to terms with them" (Goldberg, 2007, p. 592). Goldberg (2007) argued that in the "twentieth-century United States, lawsuits are a socially acceptable form of fighting" (p. 592). The responsibility for resolving the conflict is delegated to a neutral outsider who holds the power to provide a judgment about what is right and wrong. There is an understanding within these methods that disputants will participate in a win-lose outcome, a binding outcome, and possibly set a precedent for future disputes.

The interest-based method promotes resolution by the parties themselves, retaining the power of resolution within the process and guiding parties towards developing solutions that achieve win-win outcomes (Folger & Bush, 1994). While this method aims to maximize the parties' individual interests, in the best-case scenario the motivation for the dispute is removed because the parties' needs are met.

In the literature and common practice, interest-based approaches (also known as ADR) to resolving disputes such as bullying are considered the gold standard, and “research strongly suggests that ADR is now firmly institutionalized in a majority of U.S. corporations . . . for employment and commercial disputes” (Lipsky et al., 2003). Rights-based approaches such as arbitration or litigation should only be used in cases in which interest-based approaches have not succeeded, and when general power-based approaches are not appropriate. Further exploration of this can be found in Bingham et al (2009).

4.3 A Deeper Dive into Interest-Based Methods: the Spectrum of Intervention

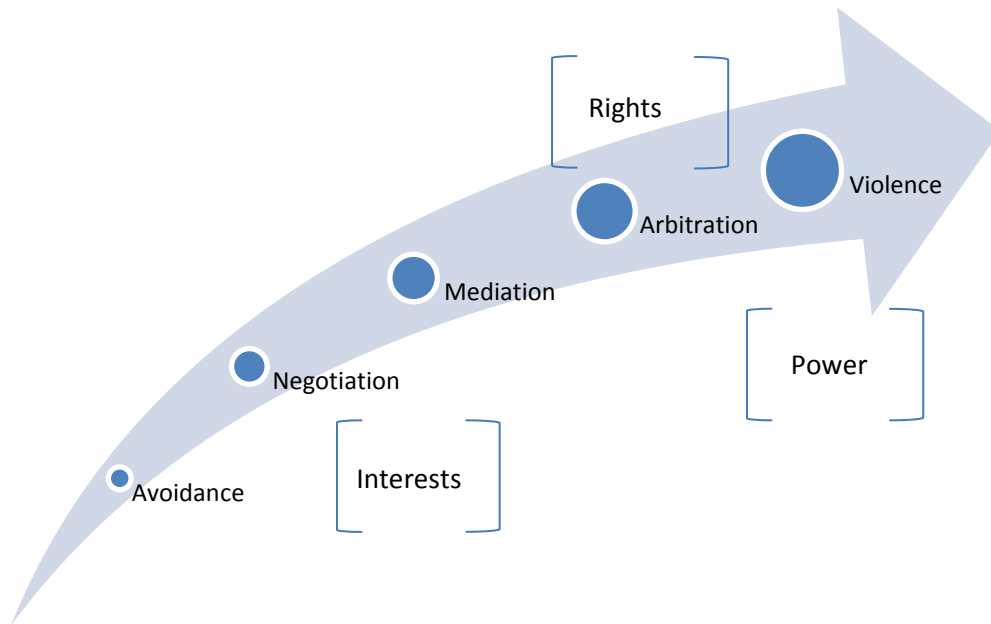
Building on the interest-based method, the conflict resolution spectrum (or ADR spectrum) is useful for organizations when developing their responses to workplace conflict. This is especially true for intervening in cases of workplace bullying, which is characterized by both Glasl’s model of escalation and the three-method framework as being a strong candidate for using win-win, interest-based methods for resolution.

The ADR spectrum, the most widely-used conflict intervention framework in North America, is described as an “array of process options . . . bounded by extreme responses to conflict: avoidance and violence” (Smith & Martinez, 2009, p. 127). Within these boundaries, Smith and Martinez said that the most basic way to conceptualize the spectrum is that the interventions are “arranged according to the level of control the disputants have over process and outcome” (p. 127). Similarly, Chicanot and Sloan (2003) proposed three considerations for defining the features of the intervention: the degree of control asserted by the respondents, the degree of decision making the respondents in the process hold, and the degree of finality that the process outcome produces.

The spectrum of dispute resolution interventions, including negotiation, mediation, and arbitration described by Chicanot and Sloan (2003) can be superimposed with the three-method framework of conflict interventions to provide a useful schematic (see Figure 5):

Negotiation is the most informal problem-solving intervention within the spectrum of dispute resolution. According to Chicanot and Sloan (2003), negotiation is an “intentional problem solving process” (p. 13) in which two parties come together voluntarily to create a dialogue aimed at resolving differences by reaching mutually agreed-upon terms. Negotiation involves the two parties involved in the dispute and may also include others representing each of the two parties. As there are no third parties involved in the activity, “parties retain control over both the process and the outcome” (Smith & Martinez, 2009, p. 127).

Figure 5. Two Frameworks for Dispute Resolution.



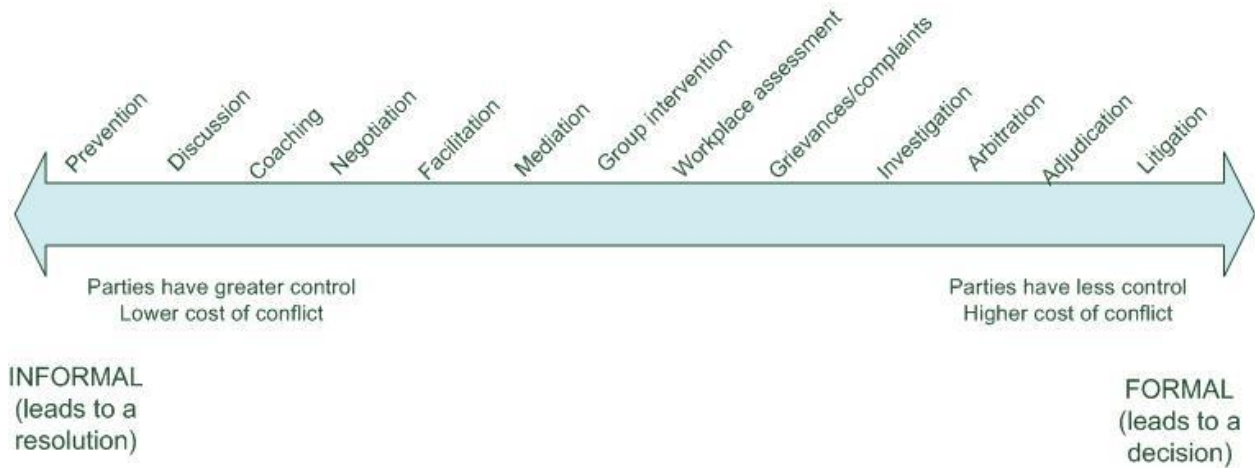
Mediation “involves a third party neutral who does not have the power to impose a binding decision” (Smith & Martinez, 2009, p. 127). When using mediation as an intervention, parties control the process by electing to engage (or not) in an assisted negotiation. Parties also control the decisions within and after the resolution process, as mediators “invite the parties to seek solutions” (Chicanot & Sloan, 2003, p. 29) and do not enforce those solutions after the process is complete.

Arbitration is the next intervention along the spectrum of dispute resolution. This rights-based model is different due the fact that the power over both the process and decision is delegated to a neutral third party, and generally the participation of both parties has been mandated by a collective agreement, policy, regulation, or law. Respondents may or may not have the ability to collaborate jointly to develop solutions. In some cases, arbitrators simply listen to the evidence from both sides and issue a binding decision. Arbitration is the closest method in the spectrum to formal dispute resolution mechanisms such as litigation.

The spectrum of conflict intervention methods can also be conceptualized as an escalating array of process options (Figure 6). Starting with the least formal options on the left, in which the participants have the most control over the process and the outcome; moving through medium-level interventions such as mediation, which is more formal and includes some of the power being held by a third-party, and; moving to arbitration and beyond, which is very formal and involves relinquishing most of the control from participants to a third-party. The conflict intervention spectrum as pictured in Figures 5 and 6 are useful in conjunction with Glasl’s framework of escalating conflict behaviours. Both models use the idea of escalation or moving

from low to high intensity, and therefore the two frameworks can be overlaid to match the level of escalation of the conflict to the appropriate method of intervention.

Figure 6. A Detailed Spectrum of Conflict Intervention



Source: adapted from *Conflict Management Spectrum*, Federal Informal Conflict Management System, n.d.

A systems framework for understanding conflict

Based on the foundational principle that conflict is a constant and natural state of mismatched needs or expectations, some conflict resolution researchers and practitioners, such as Costantino and Merchant (1996), have moved beyond advocating dispute management approaches in favour of a broader, more widely-encompassing view of conflict as part of a system. Within this view, organizations are “open systems: arrangements of parts dynamically interrelated with each other and with the influences in their environment” (Costantino & Merchant, 1996, p. 21). Through this lens, conflict management is viewed as one subsystem that is directly influenced by all the other interrelated parts. In support of this theory, researchers studied the practices of Fortune 1000 companies in the United States and found that “there is a sea of change in . . . organizations that reflects an emergence of systems of conflict management and a new paradigm for organizations” (Lipsky et al., 2003, p. 5). A systems view of conflict management within organizations moves beyond the management of individual disputes, and promotes a more holistic approach to conflict. It provides opportunities for disputes to be streamed into the most appropriate types of management processes. A systems view also focuses on normalizing and preventing disputes from arising by providing support such as training to develop interpersonal communication skills, conflict coaching, and a variety of other resources.

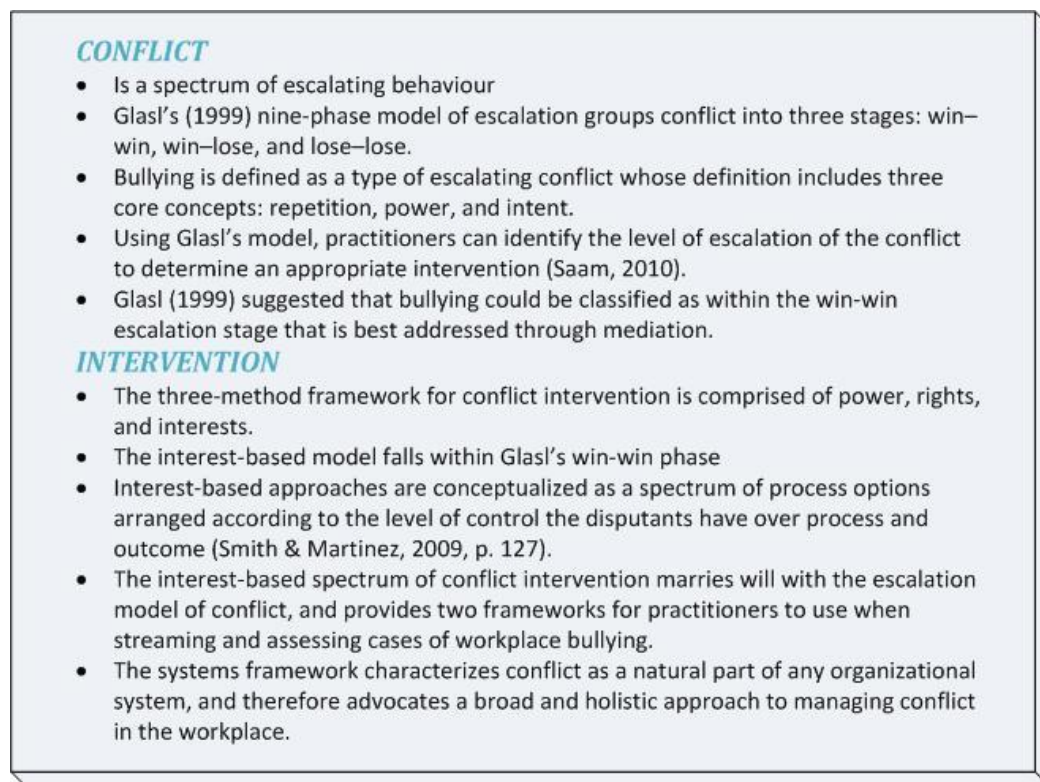
The systems approach to organizational conflict management is consistent with the “societal movement toward more natural and humane methods of dispute resolution” (Costantino & Merchant, 1996, p. 36), which refers to similar movements in legal, public policy, and business

communities to encourage deliberation and participation to create more sustainable and effective decisions. Participatory methods provide an opportunity for individuals to have more control over decision making and, therefore, empower the respondents in the process. This style contrasts with traditional power-based models that use a command-and-control style of management, which have been traditionally employed in organizations and the legal system (Lipsky, 2010). Applying the systems approach to conflict management could enable leaders to diffuse authority, which would facilitate accountability and adherence, allow respondents more control, and would lead to a more flexible and sustainable system overall.

4.4 Summary

The literature review revealed that the study of organizational responses to cases of bullying is a relatively new area of research. This is problematic for organizations that wish to use evidence to develop responses to bullying, as “the lack of sound conceptual and theoretical models also makes the evaluation of intervention and training programs difficult” (Einarsen, 2003, p. 393). We believe that the lack of standard approaches provides an opportunity, and as such we focused the literature review on illuminating the established frameworks within the dispute resolution literature. By using these frameworks as a foundation, the PSA has an opportunity to develop locally appropriate definitions, orientations to conflict, intervention methods, and ultimately a conflict management system that aligns with broader organizational values.

Figure 7. Key Findings



CONFLICT

- Is a spectrum of escalating behaviour
- Glasl's (1999) nine-phase model of escalation groups conflict into three stages: win-win, win-lose, and lose-lose.
- Bullying is defined as a type of escalating conflict whose definition includes three core concepts: repetition, power, and intent.
- Using Glasl's model, practitioners can identify the level of escalation of the conflict to determine an appropriate intervention (Saam, 2010).
- Glasl (1999) suggested that bullying could be classified as within the win-win escalation stage that is best addressed through mediation.

INTERVENTION

- The three-method framework for conflict intervention is comprised of power, rights, and interests.
- The interest-based model falls within Glasl's win-win phase
- Interest-based approaches are conceptualized as a spectrum of process options arranged according to the level of control the disputants have over process and outcome (Smith & Martinez, 2009, p. 127).
- The interest-based spectrum of conflict intervention marries well with the escalation model of conflict, and provides two frameworks for practitioners to use when streamlining and assessing cases of workplace bullying.
- The systems framework characterizes conflict as a natural part of any organizational system, and therefore advocates a broad and holistic approach to managing conflict in the workplace.

SECTION 5 – CROSS-JURISDICTIONAL SCAN OF LEGISLATION

In Canada, legislative developments in the area of workplace conflict are an important issue that are impacting how organizations are required to respond to complaints. Therefore, one of the key components of this research project was to demonstrate how Canadian jurisdictions have dealt with a similar issue stemming from changes from statutory authority. This chapter outlines the vocabulary used to describe workplace disputes stemming from or entrenched in legislation and provides features of relevant legislation, regulations, as well as some examples of policies and guidelines that organizations have used to comply with these legal requirements.

5.1 Federal Jurisdiction

Although there is no single federal enactment specifically addressing workplace conflict or disputes, the *Canadian Human Rights Act* (1985) protects all Canadians from harassment “based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted” (Sec. 2, para. 1). As this act does not apply to all cases of workplace harassment and bullying, cases falling outside the scope of the *Canadian Human Rights Act* must be addressed through other enactments.

In 2008, the federal government added provisions to the Canada Occupational Health and Safety Regulations (Regulations) requiring federal public employers subject to the 1985 Canada Labour Code (the Code), as the Regulations only apply to federal works or undertakings and employees of the federal public service (Canada Labour Code, 1985). These Regulations require employers to create and post a workplace violence prevention policy in consultation with a health and safety committee or representative (Human Resources and Skills Development Canada, 2011). The Regulations require employers to be proactive and identify factors that contribute to workplace violence by taking into account the location and circumstances of the employee’s workplace as well as past workplace violence investigations. Employers must also conduct an assessment that identifies situations in which the potential for workplace violence exists, and then mitigate those risks by establishing appropriate controls. The Regulations require employers to reassess these risks and control measures every 3 years or sooner. Employers must also develop a plan to deal with emergency situations arising from violence in the workplace.

If an employer becomes aware of workplace violence or an allegation of workplace violence, the Regulations set out how employers must respond (Canada Labour Code, 1985). First, the employer “shall try to resolve the matter with the employee as soon as possible” (Canadian Labour Code: Canada Occupational Health and Safety Regulations, 1985, Sec. 20.9[2], para. 1), and if that does not work, the employer must appoint a competent person to investigate. After an investigation has been completed, the investigator must produce a report that includes

conclusions and recommendations. Once the employer receives the investigator's report, they must keep a copy and they must share a copy with the employer's health and safety committee or representative (subject to certain restrictions, including protecting affected employees' privacy where appropriate).

The Regulations also contain a training component. Employers must "provide information, instruction and training on the factors that contribute to workplace violence that are appropriate to the work place of each employee exposed to work place violence or a risk of work place violence" (Canada Labour Code: Canada Occupational Health and Safety Regulations, 1985, Sec. 20.10[1], para. 1). Employers subject to the Regulations must be involved, accountable, and transparent when dealing with workplace violence issues.

As a result of these Regulations, the Treasury Board of Canada Secretariat⁷ (TBS) developed a *Policy on Harassment Prevention and Resolution* (the Policy) in the workplace (Treasury Board of Canada Secretariat [TBS], 2012b). Under the terms of the Policy, divisional executives have "the responsibility and are accountable for the establishment and maintenance of a respectful and harassment-free workplace and for the prompt resolution of related complaints" (TBS, 2012b, Context section, para. 5). The Policy also provides "strategic direction to prevent and manage harassment in the context of creating wide-ranging support for a safe and respectful workplace" (TBS, 2012b, Context section, para. 5) and "enough flexibility for tailoring mechanisms and practices to the distinctive operational needs and culture of each organization" (Context section, para. 5).

The Policy has defined harassment as "improper conduct . . . [that] comprises objectionable act(s), comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat" (TBS, 2012b, Appendix A section, para. 1). The definition includes the meaning of harassment as described in the *Canadian Human Rights Act* (1985) and states that harassment can be one serious event but is most often a series of events.

The Policy sets out a series of instruments to help employees and managers deal with harassment and conflict in the workplace (TBS, 2012b). These include guides on harassment prevention and identification, the complaint process, investigation, and workplace restoration (TBS, 2012b). The Policy also provides a screening tool to "assist the Delegated Manager and the Harassment Prevention Coordinator in determining whether the complaint is admissible under the Policy" (TBS, 2012c) and emphasizes that "each case is unique and should be examined in its own context and according to the surrounding circumstances as a whole. The impact on the complainant should be significant as harassment is serious" (TBS, 2012a, p. 3)

⁷ Treasury Board Secretariat is responsible "for the management of the federal government by translating the policies and programs approved by Cabinet into operational reality and by providing departments with the resources and the administrative environment they need to do their work" (TBS, 2013b, Background section, para. 3).

The Policy also refers to informal conflict management systems (ICMS), created in 2005 as a result of “section 207 of the *Public Service Labour Relations Act* (PSLRA), [which] made it mandatory for all departments and agencies to have in place an Integrated Conflict Management System” (TBS, 2008, “Introducing ICMS,” para. 1). The deputy head of each federal department is responsible for establishing an ICMS and informing employees of its availability.

The ICMS attempts to prevent “conflict escalation by managing and resolving conflicts in the workplace quickly and constructively” (TBS, 2008, “What is ICMS,” para. 1) and “supports a culture of effective conflict management that emphasizes honest discussion and collaborative problem-solving between people who are involved in conflicts” (“What is ICMS,” para. 1). At least one individual in each federal department is responsible for PSLRA (2003) policy and their ICMS.

5.2 Provincial Jurisdictions

To date, only five provinces have passed legislation that affects organizations’ responses to workplace conflict. British Columbia was the most recent province to pass legislation in 2011. The other four provinces with legislation are Québec, Ontario, Manitoba, and Saskatchewan. Most of the laws passed in these jurisdictions account for the personal and psychological element of harassment as well as physical violence.

Québec

Québec was the first province to enact legislation in 2004. Rather than enacting a new law, Québec added provisions to the 2003 legislation titled *An Act Respecting Labour Standards* (ARLS). The provisions apply to most employees in Québec (including unionized and non-unionized workers), although the ARLS excludes some categories of employees. Under the ARLS (2003), “psychological harassment” (Sec. 81.18, para. 1) means “any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee” (Sec. 81.18, para. 1). In addition to repeated behaviour, ARLS stated that “a single serious incidence” (Sec. 81.18, para. 2) may also meet the definition of psychological harassment. Québec’s Labour Standards Branch (2007) has also issued a policy document called *Guideline for Preparing a Company Policy on Psychological Harassment at Work*; this document emphasized the distinct roles and responsibilities of different groups within the employment environment, including senior management, managers, human resources staff, employees, and union representatives (if applicable).

In a separate document, the Québec Labour Standards Branch (2012) set out exactly what criteria must be present in order for an incident to meet the definition of psychological harassment. Working directly from the statutory definition, these criteria include vexatious

behaviour that is repetitive in nature, combined with verbal comments, gestures or behaviours that are hostile or unwanted, which, taken together, affect the individual's dignity or integrity and results in a harmful work environment. Beneficially, the Labour Standards Branch also included several example scenarios of what would and would not constitute workplace harassment (Québec Labour Standards Branch, 2012).

Saskatchewan

In 2007, Saskatchewan became the second province to pass legislation responding to workplace complaints. The Saskatchewan Legislative Assembly's (2007) Bill 66 amended the *Occupational Health and Safety Act* (1993) by expanding the definition of harassment to include "any inappropriate conduct, comment, display, action or gesture by a person . . . [that] adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated" (Chapter O–1.1, Part 1, Sec. 2[1], para. 1–3). The amendments in Saskatchewan followed an incident wherein the opposition criticized the government for sending the wrong message about bullying by paying a \$275,000 settlement to a government manager who was fired and eventually convicted of assaulting two of his former employees ("Saskatchewan's Workplace," 2007). Following the incident, the government publicly committed to expanding legislation ("Saskatchewan's Workplace," 2007).

The Saskatchewan Public Service Commission also revised its internal anti-harassment policy in 2009. The policy included "early problem-solving mechanisms, such as mediation, as preferred processes to resolve problems at the outset (where appropriate)" (Saskatchewan Public Service Commission, 2009, p. 2) as a key principle and included a detailed flowchart on the processes an employee can follow if they are being harassed.

Ontario

In 2009, Ontario became the third province to enact legislation responding to workplace complaints when the Ontario Legislative Assembly (2009) passed Bill 168, which amended the 1990 *Occupational Health and Safety Act* (OHSA). Changes to OHSA took effect June 15, 2010 (Government of Ontario, Ministry of Labour, 2013). Bill 168 amended the OHSA by adding two new definitions. As of June 2010, the term workplace harassment under the OHSA means "engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome" (Occupational Health and Safety Act, 1990, Chapter O.1, Sec. 1, para. 59).

Bill 168 also added a requirement for employers to have policies addressing workplace harassment and to develop the means to ensure that employees follow them (Ontario Legislative Assembly, 2009). Employers must also be proactive, as new provisions to the OHSA (1990) require them to assess the safety of the workplace as often as needed. Examples of a policy include the Government of Ontario (2010) *Workplace Discrimination and Harassment*

Prevention Policy and the Ontario Public Service Employees Union (2012) sample policy *Maintaining a Bully-Free Workplace*, which is still in development.

Manitoba

In, 2010, the Manitoba Legislative Assembly (2010) introduced Bill 219, which in 2010 amended The *Workplace Safety and Health Act* (WSHA), effective January 2011. Some of the changes to WSHA were required to be prescribed by regulation. These include how often employers must provide supervisors with additional training to prevent workplace violence and harassment, additional violence and harassment policies employers may be required to create and implement, and the frequency with which supervisors must receive refresher training. Amendments to the WSHA regulation that took effect on August 31, 2011 addressed these requirements and clarified other changes to the WSHA as a result of Bill 219 (The Workplace Safety Health Act: Workplace safety and health regulation, amendment, 107/2011, 2011). For example, the regulation set out what a workplace violence prevention policy must contain. A separate provision required employers to prepare an annual report on violent incidents and provide it to a workplace committee.

In November 2010, Manitoba's Workplace Health and Safety Division of the Government of Manitoba published a guideline called *Guideline for Preventing Harassment and Violence in the Workplace*. This guideline provided practical information to help employers comply with the new legislative requirements. The guideline included sample harassment and violence prevention policies and information about conducting a risk assessment. The guideline also included a complaint resolution guide, which outlined general steps an employer should take when assessing and streaming a workplace harassment and violence case.

The Manitoba guide is significant for employers in jurisdictions with similar legislative requirements because it offers a template for a dispute resolution process (Government of Manitoba, Workplace Safety & Health Division, 2010). The guide provided a level of detail that is not in the wording of the actual legislation and offers practical instructions for employers that encourages them to engage the provisions and to establish model policies that support accountability and compliance (Government of Manitoba, Workplace Safety & Health Division, 2010). As decision makers may not have the same level of expertise as court officers, this type of guidance is also helpful in that it was written by government experts and not by the courts.

British Columbia

British Columbia is the most recent jurisdiction in Canada to enact legislation to address workplace conflicts, and it is the only jurisdiction that uses the term bullying in the wording of legislation. In November 2011, the British Columbia Legislative Assembly (2011) introduced Bill 14, which amended provisions of the 1996 *Workers Compensation Act* (WCA). Bill 14 created a new section 5.1 of the WCA that replaced the existing wording with expanded language around mental distress. Under the new section 5.1(a)(ii), workers are entitled to compensation if the mental distress is "predominantly caused by a significant work-related stressor, including

bullying or harassment, or a cumulative series of significant work-related stressors, arising out of and in the course of the worker's employment" (Workers Compensation Act, 1996, Sec. 5.1[a][ii], para. 1). In this cross-jurisdictional scan, this the only time the term bullying was found in legislation, and, despite the lack of definition within the legislation, in this case it is linked directly to compensation for damages.

In March 2013, the Workers' Compensation Board (WCB), the entity responsible for setting and revising occupational health and safety policy in BC, approved a policy on bullying and harassment in the workplace that clarified the "obligations of employers, workers, and supervisors regarding preventing, where possible or otherwise minimizing bullying and harassment in the workplace" (Morfitt et al., 2013, p. 1). The policy defined bullying and harassment that for the purposes of the WCA as

(a) includes any inappropriate conduct or comment by a person towards a worker that the person new or reasonably ought to have known would cause that worker to be humiliated or intimidated, but (b) excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment. (Morfitt et al., 2013, p. 2)

Interestingly, this definition did not address two of the three components discussed the literature review section. Although intent was addressed, the definition lacked wording regarding power and repetition.

While the WorkSafeBC policy outlined reasonable steps employers, workers, and supervisors could take to address bullying and harassment in the workplace (Morfitt et al., 2013), the most robust section of the policy focused on the duties of the employer. The policy required employers to train workers and supervisors to recognize, respond, and report incidents of bullying and harassment; develop a policy statement regarding the intolerance of bullying and harassment; and implement procedures for how workers can report incidents of bullying and harassment. The WorkSafeBC policy also outlined a requirement for employers to have investigative procedures in place to deal with complaints.

The WorkSafeBC policy sets out minimum requirements for organizations to have processes in place to investigate complaints (Morfitt et al., 2013). Beyond this requirement, organizations have flexibility to create their own appropriate responses, which could include streaming and assessment tools that are grounded in an interest-based framework. Some of policy's requirements, such as prevention and training, fall outside the scope of streaming and assessment processes but fall within the scope of a broader conflict management system. Taking a systems approach, as discussed in the literature review, would provide the PSA with an evidence-based framework for establishing an organizational approach, which would satisfy the minimum requirements set out by the WorkSafeBC policy (Morfitt et al., 2013) and potentially shift the PSA towards taking a leadership role in organizational conflict management.

5.3 Summary

Over the last nine years, five provinces and the federal public service have passed legislation that affects organizations' responses to workplace conflict. This expansion of legislation suggests the area of workplace conflict is developing and is increasingly being recognized by both legislators and the judiciary. Workplace conflict is addressed in Canadian jurisdictions by amending workplace safety and labour standards acts that cover public and private sector employers (An Act Respecting Labour Standards, 2003; British Columbia Legislative Assembly, 2011; Manitoba Legislative Assembly, 2010; Occupational Health and Safety Act, 1990; Ontario Legislative Assembly, 2009; Saskatchewan Legislative Assembly, 2007; The Workplace Safety and Health Act, 2010; Workers' Compensation Act, 1996). These amendments generally address employers' responsibilities as well as aspects of training and prevention of workplace conflict. These pieces of legislation have led to requisite policy development, which is ongoing and similarly evolving.

Definitions of workplace conflict with respect to bullying were similar across jurisdictions and generally included aspects of physical and psychological harm as well as the concepts of repetition and intent. British Columbia was the only jurisdiction to use the term bullying in legislation (British Columbia Legislative Assembly, 2011). Given that British Columbia was the latest jurisdiction to amend legislation, the introduction of this term suggests that definitions are also developing and becoming more refined. Figure 8 compares some key features of the legislation. It is apparent in Figure 8 that the federal public service has the most robust mechanism in the form of an entrenched conflict management system, and that this could be considered a benchmark for developing the PSA's own mechanisms. Figure 9 distills this section's key findings.

The federal regulations for addressing workplace conflict require departments to be proactive and to identify factors that contribute to workplace violence and include a training component. As a result of regulations, a policy was created to establish organizational responsibility and set out a series of instruments to help employees and managers deal with harassment and conflict in the workplace (TBS, 2012b). Federal legislation also mandated the use of an integrated conflict managements system (Public Service Labour Relations Act, 2003). As a result, the ICMS was created to help prevent and manage workplace conflict and to promote healthy workplace culture. This prescriptive accountability through all levels of federal departments ensures program legitimacy and sustainability.

Figure 8. A Comparison of Key Features of Legislation Governing Workplace Conflict.

Jurisdiction	Definition			Type of Legislation			Requirements					
	Bullying	Harassment	Other	Occupational Health and safety	Labour Standards	Other	Policy	Guidelines	Prevention	Healthy Workplace	ADR Response	Systems Approach
Federal		X	X			X						
Federal Public Service		X		X	X		X		X	X	X	X
Que					X			X				
Sask		X		X			X				X	
Ont		X		X			X		X			
Man		X		X			X	X	X			
BC	X				X		X		X			

Figure 9. Key Findings

- The federal government has the most comprehensive interest-based conflict management system which includes executive support, a systems approach, formalized in legislation and policy, entrenched at all levels of accountability.
- The provinces have taken similar approaches, making amendments to occupational health and safety legislation to expand the definition of harassment to include elements that define bullying, which have led to policies or guidelines that describe employer responsibilities and, in some cases, include elements of training and prevention.
- Legislation in these jurisdictions has entrenched a rights-based approach to recognizing and resolving workplace conflict such as bullying. However, these laws do not account for workplace conflicts that may present themselves but have not yet escalated, or may not fit the definition of bullying yet still need to be addressed and are left to organizations to address. This is the key area of opportunity for organizations — developing mechanisms to address the full spectrum of conflicts.

SECTION 6 – INTERVIEWS

Semi-structured key-informant interviews with 11 experts in the area of labour relations and ADR practice formed the basis for the third prong of the research strategy. The interviews were conducted using a set of questions that focused on organizational structure, streaming and assessment processes, and broader conflict management frameworks (Appendix). The responses were compiled, grouped, and summarized under four emergent themes: policy, staff, screening and assessment, and success factors.

6.1 Policy Definitions and their Effect on Streaming and Assessing

Respondents articulated that employees who access workplace conflict resolution (clients) need clarity about the process from the outset, which makes them more willing to identify, seek out, and engage available resources. Organizational policies should be clearly articulated, and procedures should be transparent; this was seen as a best practice.

The first component of a clear and transparent policy is definitions. Certain behaviour is defined by legislation such as sexual assault or harassment, and therefore definitions are standard. However, respondents noted that organizations are responsible for developing policy definitions for behaviours not defined in law or regulation. Again, because those definitions will be used to assess complaints, organizations should be transparent about the origin of the definitions.

Respondents reported that strict definitions of conflict could be detrimental to resolution, as they limit the power of the assessor (to decide various intervention possibilities) and the client, by constraining them into predefined streams of organizational responses. This reduces the potential for successful use of collaborative, interest-based approaches, as parties can be oriented into an adversarial relationship set out by a formal investigative response. Organizational definitions based on a spectrum concept of conflict can allow for conflicts to be addressed collaboratively and give practitioners flexibility to stream cases into the most beneficial process for the clients.

Respondents favoured broad policy definitions that define conflict in the workplace as farther reaching than two people engaged in a dispute. A focus on how an individual's behaviours are interconnected within a workplace culture was widely preferred to a focus on isolated incidents between two parties. Organizational policies that include vocabulary oriented toward a healthy workplace were preferred to labelling unhealthy behaviour.

Many respondents were clear about their organizational definition of harassment, as it is based on best practice definitions set by the TBS (2012b). The TBS (2013a) lists questions that organizations can ask to assess if behaviour can be regarded as harassment:

- Is the behaviour unwelcome or offensive?
- Would a reasonable person view the conduct as unwelcome or offensive?
- Did it demean, belittle, or cause personal humiliation or embarrassment?
- Is it a single incident?
- Is it a series of incidents over a period of time?

Respondents specifically discussed features of harassment that included unwanted behaviour, improper or inappropriate behaviour for a workplace, and the fact that harassment is often characterized as an escalation of a workplace conflict that is broader than the two respondents involved. In the federal context, a complaint must meet all five of the criteria listed above to meet the harassment definition.

Three respondents reported having a definition of bullying that fell within the broader category of harassment, so bullying complaints were assessed as harassment complaints. Two respondents referred to the concept of “frequency” regarding their definition of bullying, and one participant referred to a real or perceived power difference. Respondents mentioned that bullying behaviour could be directly related to both organizational and workplace culture and, therefore, must be considered more broadly than a strict conception of an issue between two respondents.

For many practitioners, their respective organizations did not have an operational definition of bullying that was different from harassment or other types of behaviour. For organizations with no definitions, respondents felt the labelling of conflict would be problematic. As discussed above, labels can create negative conceptions of conflict, set up adversarial roles, and entrench positions, which hinder the work of the practitioner. Subsequently, respondents who worked within systems that did not have operational definitions reported that cases were best assessed by the practitioner no matter where they fell along the spectrum of conflict, and were then streamed according to organizational practice.

6.2 Providing the Service — the Role and Location of Conflict Management Staff

Concepts of neutrality, confidentiality, access, and credibility were recurring themes in all interviews and important to respondents in connection to the organizational and physical location of assessment staff. Often, respondents reported that neutrality and confidentiality were entrenched through the placement of assessment staff in an external or arms-length location, both in the organizational structure and physical location.

For example, one participant identified a potential conflict of interest if staff in a human resources or labour relations area offered support to management and assessed complaints against management. This opinion was especially prevalent for respondents who work in unionized environments, in which human resources and labour relations staff are usually perceived as representing the employer and are, therefore, not considered neutral by union

employees. Some respondents advised that assessment staff should be located outside corporate government operations in order to maintain neutrality.

Respondents identified that clients should have easy access to assessors in a neutral or confidential location. Moreover, the clients should be able to contact assessment staff through various channels such as phone or email when in an immediate, crisis-intervention mode. Four areas were reported for handling workplace conflict:

- Human resources branch: these areas offer advice on a broad range of human resources and labour relations issues and provide first point of contact for both employees and managers.
- Executive branch: some units were located in a direct reporting relationship to the deputy or an executive member.
- Arms-length unit: some respondents' organizations had separate bodies or commissions in which assessment staff were located, external to government operations or ministries. Often these bodies have a high level of authority that may supersede deputies.⁸
- External service providers: contracting out was a common practice amongst respondents' organizations. Respondents reported mainly functional motivations for contracting, such as size or complexity of the case, physical proximity to the assessment unit, or requirement for a specific skill set. The ability to use neutral parties was important to respondents; for example, in cases where a party to the conflict displays a lack of trust toward the internal practitioner.

Respondents identified authority and credibility of assessment staff as important success factors. Authority and credibility can be demonstrated by structuralized executive access and reporting. This high level of authority also ensures the broader goal of addressing workplace conflicts is supported by leadership.

Throughout the streaming and assessing process, two levels of authority exist:

- Process authority: is the ability to choose the stream or intervention suitable for the complaint. Some organizations promote client self-determination in process decisions, and some organizations give process decision-making authority to the assessors.
- Final authority: is the ability to create decisions in cases which require a ruling, such as harassment. In some organizations this authority is delegated to the head of the assessment unit, and in some organizations it is a deputy-level decision.

⁸ An example of this type of arms-length unit is the BC Ombudsperson, who is an officer of the provincial legislature; independent of government and political parties; responsible for making sure that the administrative practices and services of public agencies are fair, reasonable, appropriate, and equitable (Government of British Columbia, Office of the Ombudsperson, 2013).

Some respondents regarded self-determination as problematic, as they felt that the decision to move into formal harassment investigations should be made by neutral assessment staff. Specifically, in federal departments, the deputy delegates final authority to one individual in an organization, as per TBS (2012b) policy.

Respondents very rarely reported doing complaint assessment as a full-time function of their duties. Assessment work was coupled with other responsibilities, which often included managing a broader workplace program such as health and wellness, respectful workplace, conflict management, or professional standards. No consistent complaint assessment approach was found across interviews.

Respondents placed considerable emphasis on the skills and abilities required for a person to competently assess and stream workplace conflict complaints. Many saw the initial assessment of complaints, from the time a client makes contact through to decision on intervention, as “the most important part of the process.” Respondents thought assessors should have a depth of knowledge and understanding gained through practice and training. Assessors must have the ability to look beyond presenting facts and move toward uncovering underlying issues for productively managing workplace complaints. As one participant stated,

You can't have an intake worker who is checking off boxes. It doesn't work that way. People need to be able to ask probing questions, to get below the presenting issue. Very often the presenting issue is not the real issue, and it's at the intake stage where you find out what the underlying issue is that needs to be dealt with. You have to know what questions to ask, and how to ask them, to get the information that's necessary to figure out the best approach.

Respondents consistently listed the following skills and experience their organizations look for when hiring conflict management staff:

- Education, including psychology, law, or other diploma or master's degrees in interpersonal communications, human resources, or dispute resolution or human rights.
- Skills and abilities in mediation, process and fairness, facilitation, coaching, research and analysis, interpersonal communication, persuasive judgment, and written communication.
- Experience in acting as a neutral third party, working with laws and regulations, labour relations, human resources, organizational dynamics, policy implementation, and dispute resolution.

One participant insightfully noted that organizations should consider retaining senior practitioners who are not only responsible for assessments and case management, but also for developing junior staff.

6.3 Doing the Work — Insights into the Screening and Assessment Process

Respondents appeared to share a common approach to resolving conflicts, being mindful of the effects and consequences of intervention strategies, and applying the minimum intervention appropriate for the context. Respondents agreed that the main goals of their conflict resolution practice was to help people communicate, to increase clients' ability to resolve conflicts on their own, and to enable clients to treat each other with respect. Practitioners characterized their roles as educators and coaches, framing conflicts in the workplace as a learning opportunity.

Respondents emphasized the following key elements to a successful, clear, and transparent assessment process:

- the opportunity for parties to respond to complaints,
- timeliness of the process,
- simplicity of forms,
- confidentiality, and
- clarity of policies and scope.

Each element was deemed as supporting a responsible approach to protecting both the organization and the clients' interests.

Self-determination was also a prominent theme in many interviews. Respondents indicated that creating a frame of conflict education facilitates clients' ability to take responsibility for their choices and behaviours, giving them tools and the power to be confident dealing with conflict by themselves. By promoting self-reflection and communication, respondents felt they were able to reorient clients toward a more healthy conception of respectful workplaces. One participant stated, "The underlying purpose of the process is to increase the organizational capacity to constructively deal with conflict in the workplace," and through encouraging the self-determination of clients to take the responsibility, this capacity was increased. As informal conflict resolution processes are fluid and skill based, practitioners recommended using a variety of intervention strategies that reflect the broader goals of building capacity for respectful workplace behaviours.

Assessing the level of escalation -the first steps of a successful screening process

The screening phase begins by receiving a complaint. The first level of assessment considers other instruments that govern workplace behaviour, such as violations of organizational codes of conduct, human rights complaints, sexual harassment complaints, and violent behaviour. Such cases are channelled to the appropriate authority or department for response. Respondents also stated that at this time they might look for warning signs of mental illness, mental stress, or mental inability to engage in the process and trigger an organization's mental health support resources. Respondents in unionized environments also reported that it is key to prevent parallel processes, such as cases in which a grievance should be pursued would be channelled through processes set out in collective bargaining agreements.

A final consideration is the gravity of alleged behaviour, including those that would most likely result in dismissal or severe disciplinary action and cases that are complex, involve many respondents, or involve a person with a documented history of misconduct. Respondents stated that such complaints require immediate action, and resources such as legal counsel would be contacted immediately to assess liability and possibility of legal action. In these cases the investigation will require valid and actionable evidence, as it will be used to make a final ruling, whether internally, in arbitration, or in court.

Applying the spectrum of intervention – next steps of a successful streaming process

If the practitioner believes a case may meet the organization’s definition of harassment, a formal investigation is launched. From the outset of the investigation, many respondents indicated that there should be an ADR mechanism for early resolution. For example, facilitated conversations or mediation should be available before pursuing a formal investigative process, since adversarial processes can escalate conflicts. Practitioners also expressed concern that the investigative processes and outcomes are not reflective of the actual presenting problems. The outcome often does not reflect underlying issues and worsens, instead of addresses, the broader workplace environment concerns.

There was a difference of practice between respondents in the level of authority exercised in determining whether or not an ADR process would be engaged. Some respondents rely on the choices of the clients, while others rely on their expertise to influence the respondents as much as possible to participate in non-investigative processes.

If informal mechanisms are not engaged, respondents reported eliciting a written complaint from the initiating client, which is evaluated according to the organization’s prescribed policy definitions and procedures. For example, in a federal government context, the TBS (2013a) harassment checklist would be used as a guide to assess the prima facie validity of the complaint and document the investigation.

If the assessor concludes that the complaint is valid, the responding client is invited to submit his or her facts regarding the alleged complaint in writing to the assessor. There are variances to organizational processes, but most of the respondents reported moving forward with a fact-finding phase, which may include interviews with the clients’ managers and coworkers.

Some practitioners pointed to the option for clients to access “loop backs” to informal resolution interventions throughout the investigation. If clients choose to engage ADR processes, these processes would be considered confidential, and separate from the investigation. Finally, if no alternative resolution has been achieved, a report with facts, analysis, and a conclusion of the investigation is submitted to the organization’s designated decision maker for a ruling.

If the assessor receives a complaint that, after initial screening, does not fit the organization's definition of harassment or falls under the jurisdiction of other workplace policies, respondents report discussing with clients the option of applying ADR methods. This discussion may include urgency, seriousness, or frequency of the issue from the client's perspective, as well as the background including triggers and previous resolution efforts, interests and goals, and explanation of the roles, responsibilities, and possible options for resolution. This could be very informal and flexible, in which tools such as probing questions and reflection are key to broadening the initiating client's perspective on the issues.

Respondents reported using many ADR methods, including conflict coaching, leadership coaching, facilitated discussion, mediation, circle processes, and workshops. One participant likened these various ADR methods to a toolbox; sometimes more than one tool is required to address a complaint. Since each situation is unique, respondents described their choice of intervention depends on specific context and is based upon their previous experience.

Concluding the intervention – final steps of a successful streaming process

Respondents pointed to the durability of the outcome as a major accountability for their own practice. Focusing time and effort on this phase was seen as a major factor in achieving success for workplace intervention programs. For some organizations, ensuring the restoration of relationships in the workplace is a requirement of the practitioner who is implementing the workplace intervention policy, and is formalized in their accountability to leadership.

When discussing the conclusion of interventions, respondents stressed the importance of taking measures to ensure lasting resolutions, and that this phase can take time and effort. Strategies that reinforce respectful behaviour most often focus on supporting the individuals' capacities, which are built throughout the intervention. Mechanisms to ensure agreements are maintained can be informal or may be formalized through documentation. Respondents found this component of the work to be integral to ensuring the durability of outcomes. Respondents discussed a variety of ways to create these mechanisms:

- planning future coaching for respondents, managers, or the broader workplace staff;
- planned future interventions, such as check-in discussions;
- documents that outline strategies for future interaction;
- mediation agreements which identify responsibilities;
- follow-up phone calls;
- broader workplace education and training strategies; and
- development of workplace committees.

These tools and techniques were identified as integral for durable and sustainable resolution outcomes.

Defining success – respondents' discussion of successful conflict management

Success was characterized by respondents as concluding interventions which prevented complaints from entering formal investigative processes, and re-established a healthy work environment after an incident. Respondents identified success factors such as giving complainants a venue to tell their story, self-determination in the process, education, and prevention of future complaints. Respondents emphasized the importance of both fairness and satisfaction to all parties to the conflict.

Many respondents cited high-level organizational culture change as a goal that includes orienting organizational focus toward education, prevention, and building internal conflict resolution capacity. By focusing on prevention, very often issues that occur between employees can be addressed informally before they escalate into disputes.

An interesting success metric that was mentioned was an increase in employees' use of workplace conflict services. This may reflect a reorientation of organizational culture toward conflict prevention and resolution. Practitioners mentioned that high conflict workplaces could often have low rates of complaints because lines of communication freeze. Success can mean moving the workplace toward a state of health in which staff can openly talk about their issues and have the skills to effectively deal with conflicts as they arise.

Respondents believe that it is critical for an organization's executive leadership to be engaged in bullying and harassment issues. Executive access and buy-in was seen as important for the intervention programs to have legitimacy, it was a lever for fostering culture change. This includes leadership modeling respectful workplace behaviour and communicating messages about organizational values. Respondents noted it was essential to entrench a strong foundation in legislation or policy, which ensured the program was durable and supports the values necessary for permanent culture change if required.

Figure 10. Key Findings

- Many practitioners reported that their organizations did not have an operational definition of bullying that was different from harassment or other types of behaviour.
- Organizational definitions based on a spectrum concept of conflict can allow for conflicts to be addressed collaboratively and give practitioners flexibility to stream cases into the most beneficial process for the clients.
- The conflict management system policies should reflect the goal of building capacity for respectful workplace behaviours rather than labelling and punishing unhealthy behaviour.
- A successful conflict management system requires experienced practitioners who provide assessment and resolution services, and an executive level program lead to provide program legitimacy and authority.
- No consistent complaint assessment approach was found across interviews.
- Respondents shared common values for applying the minimum intervention appropriate for the context and promoting client self-determination in the process.
- A conflict management system that includes ADR processes can prevent conflicts from escalating and should an initial option to clients and continue to be available as a loop-back throughout the duration of any formal investigative process.
- Success was characterized by respondents as preventing complaints from entering formal investigative processes, and re-establishing a healthy work environment after an incident.

SECTION 7 – DISCUSSION

The objective of the report was to provide the PSA with an understanding of how Canadian organizations stream and assess cases of workplace conflict. This research uncovered that streaming and assessing cases of bullying is situated within a larger framework of escalating conflict and therefore cannot be discussed as a standalone mechanism. Therefore, despite falling beyond the scope of the initial research question, this analysis and discussion includes broader issues that intrinsically affect streaming and assessment.

This chapter reviews and integrates the findings from the three research streams. This section identifies themes and distils them into guiding principles for developing a process for streaming and assessing cases of workplace conflict. These themes are: defining workplace conflict, accessibility, transparency, organizational commitment, systems approach, and values. These themes are important implications for analyzing the options and deciding the recommended course of action regarding responding to cases of workplace bullying.

7.1 Defining Workplace Conflict

In order to fit a process to a problem, the problem must first be defined in a way that is both widely understood and prescribes a certain response according to policy. The literature and legislative reviews uncovered a spectrum of disputes, which often included terms such as bullying and harassment. Within the more narrow definition of bullying, a few common threads provide a foundation for understanding this type of dispute. Definitions generally included the requirement of frequency, in the form of repetitive, vexatious behaviour; bullying or harassing behaviour that is beyond reasonable or is in excess of rules and social norms; and actions that were committed with intent. The characterization of psychological or physical harm arising from bullying was also common.

Bullying and harassment are defined in legislation and policies, which can be used as guidance for organizational responses. However, with the data gathered in the literature review and respondent interviews, no single common terminology was discovered for bullying. A tension surfaced between the need for definitions to be explicitly stated in organizational policy to allow for better assessment of workplace conflicts, and the fact that strict definitions of behaviours can create barriers to addressing workplace conflicts. Respondents often characterized strict definitions of unhealthy workplace behaviours, like bullying or harassment, as limiting. Instead, they point to definitions of healthy workplace behaviour that open more options for assessing and addressing workplace conflict. This is cohesive with a systems approach to conflict management that was discussed in the literature and will be developed in more detail later in this section.

7.2 Benefits and Challenges of the Spectrum of Dispute Resolution Interventions

The literature review highlighted that interest-based models of dispute management are becoming industry standard in North America, which was reflected by legislative and regulatory developments related to workplace bullying and harassment over the past nine years. This study's respondents echoed these conclusions and promoted ADR methods as best practice for intervening in most workplace conflicts, ultimately resulting in the most successful and durable agreements.

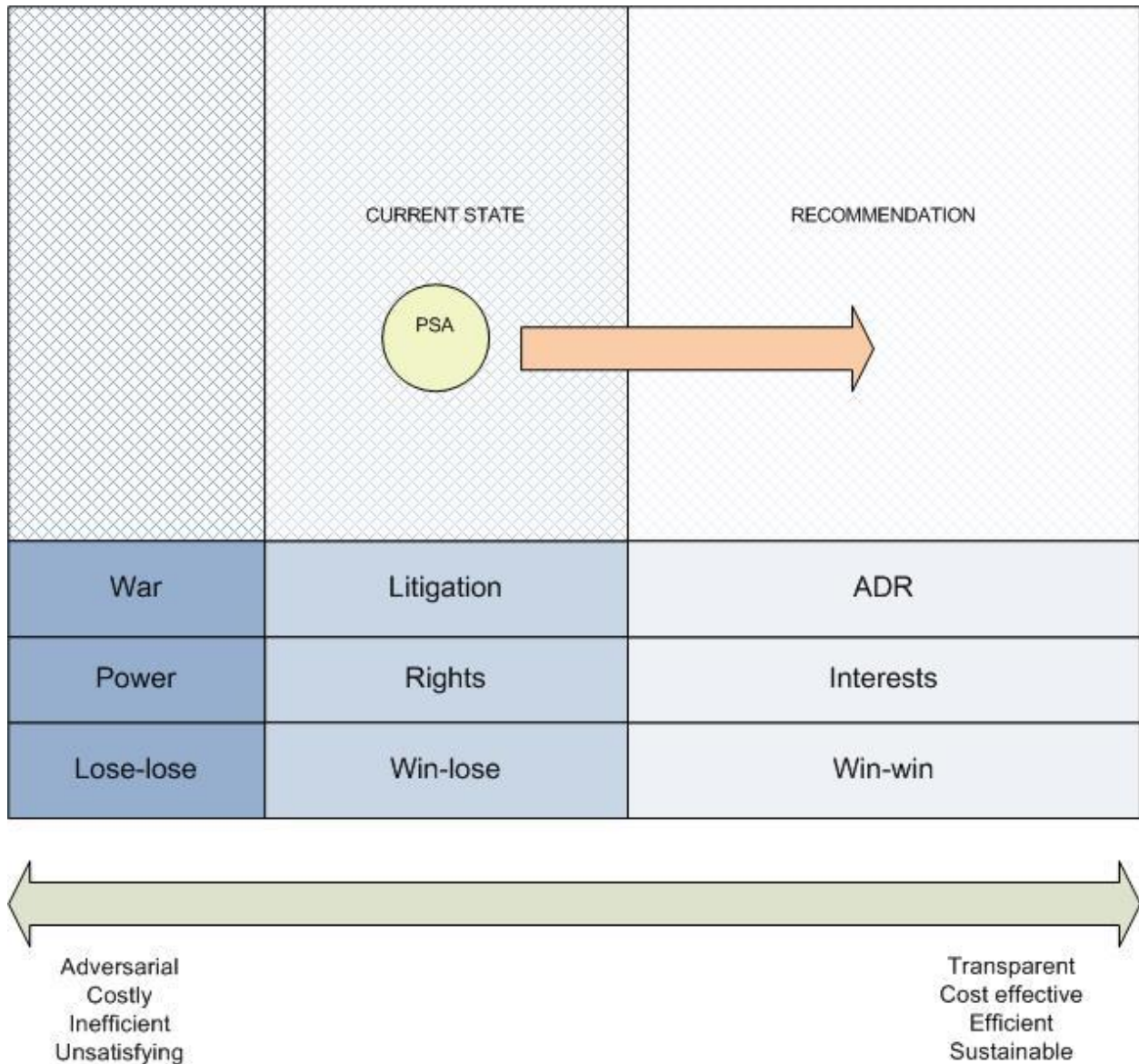
ADR methods were preferred by respondents because formal investigations have many drawbacks such as eroding clients' self-determination in the process, rigidifying disputants' positions, failing to address issues of broader workplace culture, requiring thorough fact-finding and documentation, and ultimately requiring an additional layer of authority to make final rulings. Since formal processes are less efficient, more resource intensive, and less satisfactory for clients, practitioners advocated for the option for clients to re-enter, or loop back, into interest-based methods at any time during a formal investigative process.

Respondent preferences regarding assessing and streaming of workplace disputes supports the spectrum of ADR characterized within the literature review (Chicanot & Sloan, 2003). We found that application of the spectrum of ADR was fluid, based on both context and client preference. Although practitioner experience is important in guiding clients' through the process, respondents reported that the key factor for choice of methods was client self-determination. This was echoed in the literature: Saam (2010) found that "the consultants state that in the end the client decides on the intervention strategy" (p. 59). This concept of self-determination in the process is integral to interest-based methods, and is important in the context of interventions in bullying specifically. Due to the power-differential component of bullying, many people who are bullied feel powerless. ADR methods can offer a framework for evening the playing field, and can give clients' power back through the opportunity to guide and participate in the resolution process and outcome. Furthermore, respondents indicated that clients' control of the process and outcome ultimately lead to more successful, durable agreements.

Another benefit of adopting ADR in legislation, regulation, and practice are the cost savings that organizations can realize in comparison to the financial burden associated with traditional dispute resolution. Lipsky et al. (2003) found, "One of the more significant forces that appears to have been driving corporations toward the use of ADR was the cost of litigation and the length of time needed to reach a settlement" (pp. 102–103). In addition to the benefits of saving time and money, Lipsky et al.'s research found that other reasons companies use ADR methods include the processes and outcomes were more satisfactory, participatory, and confidential, ADR allows the parties to the dispute to avoid legal proceedings, and the ADR process itself was mandated by either contract or by the court. Therefore, many organizations and practitioners prefer ADR because of the many benefits it offers in comparison with

traditional techniques. Figure 11 situates the PSA’s current response to bullying in the workplace and the direction in which the organization may consider moving.

Figure 11. Framework for Analyzing PSA's Response to Bullying



Of course, criticisms of ADR exist in the literature; for example, the confidential nature of ADR can cover up other issues and “shield them from the public domain and scrutiny” (Costantino & Merchant, 1996, pp. 42–43). The issues around power and power imbalances are important in this discussion as well. Some practitioners think that it “may be inappropriate to require the disempowered to used ADR mechanisms” (Costantino & Merchant, 1996, pp. 42–43), which is difficult to navigate in complex situations such as interpersonal relationships in structuralized hierarchies such as unionized work environments (Costantino & Merchant, 1996). Ultimately,

these criticisms simply confirm that the “imbalance of power between employers and most employees” (Lipsky et al., 2003, p. 79) needs to be proactively addressed in the design of an organization’s conflict management system.

Although criticisms were found to exist in the literature, the researchers did not uncover any criticisms of interest-based interventions in cases of workplace bullying in the interviews. In general, the spectrum of interest-based methods was seen as a cost-effective and flexible way for organizations to respond to cases of workplace bullying. Other benefits include providing self-determination for employees who may have felt disempowered, and promoting the capacity for clients to address conflicts in the future.

7.3 Beyond Streaming and Assessing: Taking a Systems Approach to Conflict

Although the initial research question animating this project was focused on the streaming and assessment of workplace disputes, a systems approach to conflict management emerged as a theme. The systems approach, outlined in the literature review, was ubiquitous throughout key informant interviews; in many cases respondents were unable to fragment their dispute management processes from the grander conflict management system they operate within.

A systems approach represents a paradigm shift in which organizations move beyond the management of individual disputes toward promoting a more holistic approach to conflict. Conflict management makes sense from a systems approach because conflict “permeates organizational functioning and affects all phases of its operation and performance” (Costantino & Merchant, 1996, p. 24). The same can be said for the effect of conflict on individuals’ behaviour at work. According to respondents, considerations such as physical and psychological health, disability, and stress factors can influence complaints.

Another interesting benefit of a systems approach is that conflict can offer insight into which organizational sub-systems are not functioning optimally. For example, respondents identified that issues with performance management skills in the organization lead to conflicts between supervisors and employees. Using a systems approach allows the organization to identify such “subsystems that make up the whole and (examine) how well they collectively interact in order to discover how to improve them” (Costantino & Merchant, 1996, p. 21). A systems approach to conflict management can mitigate crucial gaps in policy in which workplace conflicts do not meet organizational definitions. By promoting the organization to utilize a suite of complementary services that provides support to employees and managers, dispute management is one component of an integrated conflict management system.

Costantino and Merchant (1996) affirmed, “The adequacy and effectiveness of the conflict management system has an effect on the successful operation of other systems within the organization and the organization as a whole” (p. 22). This discussion section examined several prevalent interrelated themes that emerged from the research study. These themes can be summarized as guiding principles within the systems approach. First, a systems approach

encourages a wide spectrum of methods for addressing workplace conflicts, interacting in a fluid manner and in many cases empowering parties to resolve disputes. Second, these processes should be accessible and transparent to all parties to the dispute. Finally, a systems approach would not be possible without organizational commitment, which is explicitly congruent to the dominant orientation to conflict.

7.4 Principles that Underlie a Broader Systems Approach to Workplace Conflict

What are the elements of an excellent approach to organizational conflict management? Because conflict management can be a contentious and emotional process, it is very important for organizations to develop and implement principles that guide the work of interventions. The organization should ensure that principles are congruent across practice, policies and structures within their organization.

Accessibility – engagement, visibility, and location

When employees experience a dispute in the workplace, where do they go for help? When developing dispute management policies, it is crucial that staff have both the knowledge and access points necessary to engage the dispute management process. This requires both the organizational policies for dispute management and coordinating dispute management staff to be visible and easily accessible to all employees. Interview data allowed for a deeper understanding of the importance of accessibility for employees.

The physical and organizational location of the dispute management staff must provide ease of access (within convenient physical proximity) and also ensure neutrality and confidentiality, so employees feel comfortable and confident accessing the services. Therefore placement of assessment staff in an easy-to-access external or arms-length location should be reflected in both the organizational structure and physical location.

Transparency – scope, process, and outcomes

Transparency is paramount for clients accessing services — they need to know exactly what the process will involve before they engage. Respondents emphasized the necessity of developing dispute policies and processes which are clear in terms of content and scope. The importance of ensuring transparency in policies is substantiated in the literature (Crawshaw, 2009; Fox & Stallworth, 2009), which highlighted the importance of concretely defined terms to describe various types of workplace disputes.

Neither academics nor respondents advocated strict or minimal definitions of terms; rather, both promoted the development of policies that include clear explanations of the spectrum of conflict and disputes and the types of support available for these cases. This was seen as necessary for supporting a responsible organizational approach that protects both the organization's and the clients' interests.

Organizational Commitment: prescription, leadership, capacity, and congruency

A number of considerations are important for organizations to formalize their commitment to addressing workplace bullying, including executive support, the need for an executive-level program champion, and the development of a dispute management unit responsible for staffing trained practitioners.

Unlike federal bodies, which are guided by the TBS (2012b) policy, provinces have not been as prescriptive in their legislation or regulations in requiring organizations to create specific dispute management or conflict resolution offices, opting instead to focus on requiring the organizations to have policies set out to deal with workplace disputes (An Act Respecting Labour Standards, 2003; British Columbia Legislative Assembly, 2011; Manitoba Legislative Assembly, 2010; Occupational Health and Safety Act, 1990; Ontario Legislative Assembly, 2009; Saskatchewan Legislative Assembly, 2007; The Workplace Safety and Health Act, 2010; Workers' Compensation Act, 1996). This has ultimately given provincial organizations the freedom and responsibility to develop internal policies, which may or may not include the creation of dispute management offices. One consideration in the policy design is the increasing risk of liability if organizations do not demonstrate their commitment to preventing workplace disputes. For example, in BC, new WorkSafeBC policy (Morfitt et al., 2013) provides guidelines around what process employers are required to implement to address bullying, which is now compensable under WCA (1996).

Practitioners were explicit about the impact executive leadership has on program success. Not only was executive access and buy-in seen as important for the program to have authority and legitimacy, it was a mechanism for culture change. Acting as role models for respectful workplace behaviour, communicating messages about organizational values, and ensuring that respectful workplace remained a key strategic priority were seen as integral for program success. Respondents saw ensuring that dispute management staff have decision-making authority over ADR processes and outcomes as a necessity to creating credible and durable outcomes. This high level of authority also ensures the broader goal of addressing workplace conflicts is supported by leadership.

According to Costantino and Merchant (1996), "The practitioner . . . must often model a high level of comfort when dealing with conflict, in addition to supplying the requisite technical assistance and background" (p. 27). Respondents echoed this focus on the dispute management staff as critical; they felt that requiring a high-level of skills and experience in practitioners is integral for staff working with conflicts. Hiring and continually training highly skilled and experienced conflict management staff within the organization could demonstrate organizational commitment in this area.

Organizations choose their orientation to conflict: "Explicitly or implicitly, the (larger conflict management system) purpose is . . . to reflect the dominant view of preferred responses to conflict and its resolution" (Costantino & Merchant, 1996, p. 24). This research has found that

industry best practice ascribes to the interest-based model within which conflict is understood as a mismatch or difference between wants, needs, or values. It is worth noting that when approaching conflict through this lens, organizations must enact policies and practices that are congruent with organizational culture and values, or risk engendering conflict. For example, if supervisors are expected to undertake performance management with staff, yet are not supported and trained to do so, they will most likely experience conflict with their subordinates.

Developing dispute management processes that are congruent with organizational values is a requirement for success. If collaborative and consensus-based processes are implemented without education and training on their approaches and uses, without organizational support to hire and develop skilled practitioners, and without close relationships with other departments, which also work to support healthy and respectful workplaces, these efforts may not have the foundation necessary to succeed.

7.5 Summary and Implications for Creating Options

Three common components of most definitions of bullying were discovered in the research data: repetition, power, and intent. The PSA can use these as a foundation for identifying or measuring bullying behaviour moving forward. The PSA should also consider using a broad conception of workplace conflict as a basis for commencing interventions, which will move beyond the narrow concept of bullying and move toward the ability to stream and respond to all types of problematic workplace behaviours.

The complementary concepts of conflict escalation and the spectrum of dispute resolution methods offer a framework for understanding why bullying behaviour increases in intensity over time and provides the PSA with two proven touchstones for developing their own streaming and assessing practice. This discussion outlined the specific methods available, as well as some of the benefits and criticisms of using ADR for interpersonal conflicts in workplaces. This information provides the PSA with the background necessary to understand the implications of the components of any system they may choose to develop. It will also relate to the framework proposed in the next section that outlines the proposed options for developing an organizational response to bullying.

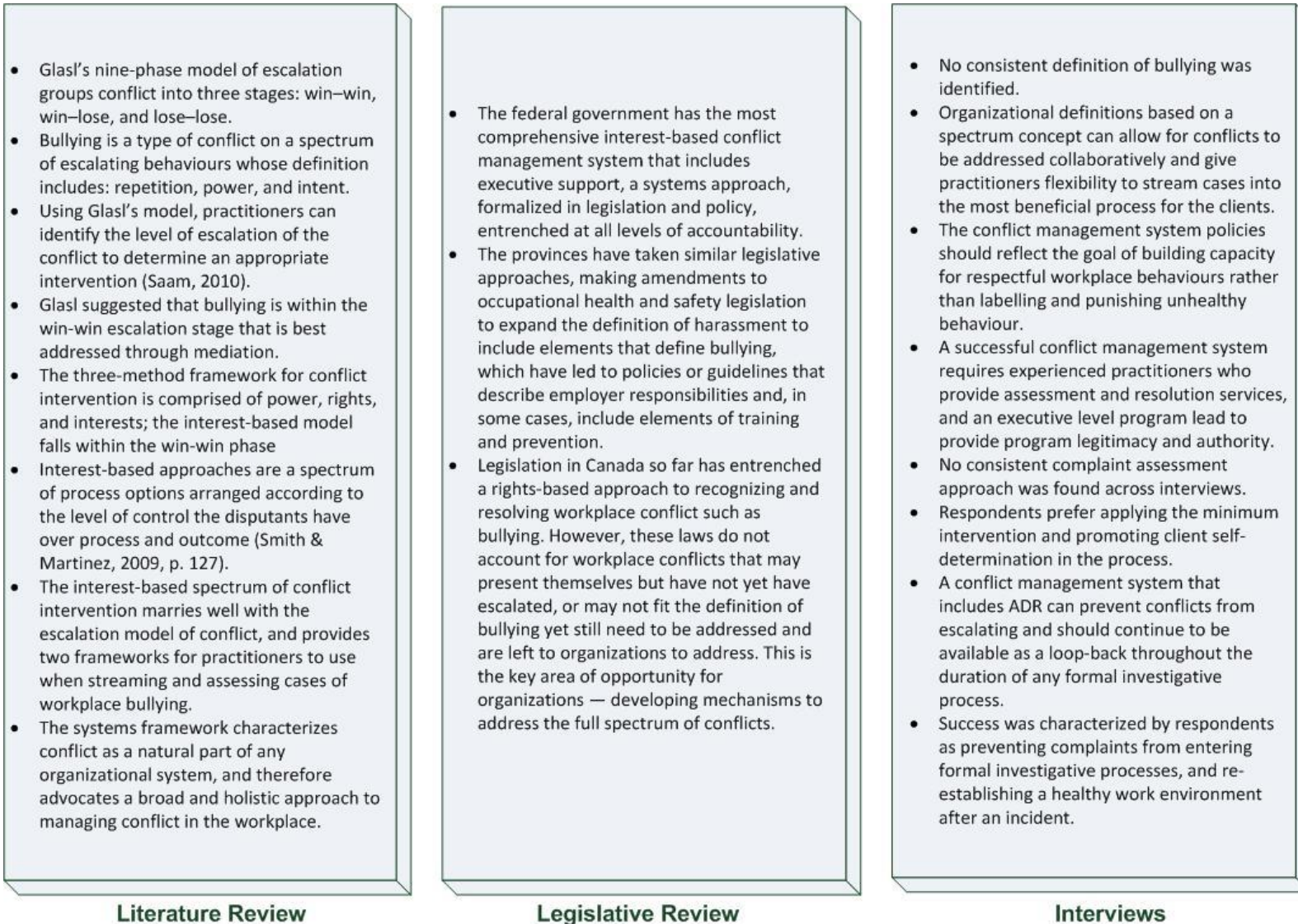
A systems approach represents a comprehensive and progressive orientation to workplace conflict that characterizes conflict as a sub-system within a larger organizational system, and assumes that “the adequacy and effectiveness of the conflict management system has an effect on the successful operation of other systems within the organization and of the organization as a whole” (Costantino & Merchant, 1996, p. 23). This is very useful in the PSA’s role as steward of all corporate human resource management processes.

Respondents promoted the principles of accessibility, transparency, and organizational commitment as key elements of successful workplace conflict management. By underpinning

the development of the conflict management mechanisms to these values, the PSA can ensure that these two levels are congruent — in other words, the ‘what’ is aligned with the ‘how’. Constantino and Merchant (1996) supported the importance of this and concluded, “Such congruency makes the system more stable, more satisfactory, and more likely to be used by disputants” (p. 53).

The discussion section outlined the themes that emerged from the literature review, legislative review, and respondent interviews and Figure 12 compiles the key findings from these three areas of inquiry. These themes are important considerations for the PSA in determining their course of action regarding responding to cases of workplace bullying. Especially in the context of a lack of articulated best practices for streaming and assessing, the PSA has the opportunity and challenge of developing a strategy from the ground up. The next section of the report presents three options for the PSA to consider as a first step toward addressing workplace bullying in the medium and longer terms.

Figure 12. Summary of Key Findings



SECTION 8 – OPTIONS

The following section presents three options for the PSA to consider in forming a corporate response mechanism for cases of workplace bullying. These options are based on an analysis of the literature and legislative reviews and interview data. The WorkSafeBC policy, enacted November 1st, 2013, came into force as this research project was in completion, and these options provide an evidence-based foundation for satisfying some components of the policy requirements.

The three options are placed in order from minimum to maximum scope. This follows the idea that imagines conflict and conflict intervention as a spectrum moving from low intensity to high intensity. The three options also represent a move along a spectrum from low organizational maturity to high organizational maturity in enacting conflict management systems.

- Option 1: focuses on leveraging current resources and processes to allow the PSA to address its capacity issues with respect to streaming and assessing bullying complaints.
- Option 2: increases the scope and depth of the development of a service line for responding to workplace bullying complaints, and includes a focus on prevention
- Option 3: represents a move toward implementing a conflict management system.

Each option is presented in more detail below, with their components compared in Figures 13 and 14 against research findings and strategic criteria.

Figure 13. Comparing the Options Based on the Research Findings

Option	1	2	3
ADR Mechanisms for Bullying	x	x	x
ADR Mechanisms for Conflict			x
Systems Approach			x
Healthy Workplace Focus on Prevention		x	x
Accessible		x	x
Transparent		x	x
Entrenched			x
Aligns with Organizational Culture			x

Option 1: Integrate ADR into current processes

Option one represents a strategy of building on existing resources to leverage the ability to respond to workplace bullying complaints. Currently, labour relations specialists respond to bullying complaints by initiating the formal investigative process that is the response for alleged

harassment. By adding a set of interest-based options to the suite of mechanisms available to these practitioners, the PSA could decrease the number of formal investigations undertaken.

This would require current labour relations specialists to receive training on interest-based methods and their application in cases of workplace bullying. Once trained, these practitioners could use the spectrum of intervention to apply the minimum intervention appropriate for the presenting case. Interview data showed that this type of broader scope of practice is standard in the industry, and is pragmatic since training practitioners to allow flexibility of response reflects the reality of the work. This option also reflect the respondents' data which demonstrated that applying ADR to cases of workplace bullying is often not a full-time job, and is part of a broader scope of responsibilities the practitioner may have within their role.

To address the issue of capacity, the ERB may be required to hire more practitioners; this offers an opportunity to engage practitioners with existing ADR experience, who could provide mentorship, training, and advice to others in the unit. Finally, the PSA is applying Lean thinking as a way of finding new efficiencies in workplace processes. The ERB could use Lean to reduce waste and improve efficiency in the case intake, streaming, assessment, and resolution process.

This option requires low organizational commitment, and therefore represents the lowest resource input. It would require the support of PSA's Executive because it would change internal policy and increase the scope of some practitioner roles. It is possible that job reclassification would be required. Training could be undertaken for existing labour relations practitioners either through external providers such as the Justice Institute, or resources internal to government, such as the Dispute Resolution Office in the Ministry of Justice, could be leveraged. A small but highly trained cohort of dispute resolution practitioners exists with the public service now; they could also be utilized by creating an ad-hoc community to develop a plan for increasing ADR capacity in the PSA. This option could potentially be implemented within a 12 month timeframe.

Option 2: Expand healthy workplace culture to include conflict competency

The second option is focused on developing an organizational culture that considers itself a healthy, respectful workplace. This could be achieved by adding conflict prevention services to existing healthy workplace services within the PSA. Training healthy workplace staff on providing conflict training and coaching to managers and supervisors would be a first step toward developing this culture. This would also include the development of an organizational definition of workplace conflict that is broad, and encompasses many types of behaviour without attaching adversarial or contentious labels such as bullying or harassment.

A second component of this option includes development and broad communication of a healthy workplace policy to all government staff that includes the definition of workplace conflict, and expectations of workplace behaviour.

The goal of this healthy workplace option is preventative, and the ultimate goal is reducing the number of bullying cases that are brought forward to the ERB. In order to address PSA's immediate capacity issues regarding streaming and assessing cases of workplace bullying, contracted ADR practitioners could be used on a case-by-case basis. This would prevent the PSA from needing to train existing labour relations practitioners in new interest-based methods, and free up their time to focus on providing the labour relations support and advice to ministries that they were hired to undertake. This allows the ERB to be flexible and responsive to the volume of bullying cases, and does not require hiring extra staff.

This option represents a medium level of organizational commitment and resource and time allocation. This option would also require the PSA's Executive support to expand the scope of the healthy workplace portfolio, add new resource requirements for conflict managers, and develop and implement broad public sector communication and education. It would also require re-wording and re-aligning many of the PSA's corporate documents to include the orientation toward conflict management as a component of healthy workplaces. Setting up this process would require a similar resource investment, however, would take longer to implement as a culture change strategy and therefore would require a more extensive planning period. To deal with the immediate capacity issue for streaming and assessing bullying complaints, conflict consultants should be engaged – budgeting would depend on consultant fees and volume and complexity of cases.

Option 3: Establish a Conflict Management System

The third option is the most comprehensive means of addressing workplace conflict, and best represents the ideal state as identified by the interview respondents and the literature. It includes creating a specific unit with conflict management staff who are trained in all the methods along the spectrum of intervention. This reflects the systems approach to workplace conflict that was favoured by respondents and referred to in the literature.

This unit should, ideally, be located outside of the PSA existing organizational structure and be lead by an executive who reports directly to the head of the PSA. This unit would encompass a broad range of services including conflict prevention, healthy workplace culture development, resolution services, policy development and implementation. The external location of this unit would provide perception neutrality necessary for staff to feel comfortable accessing the services and the executive level leadership entrenches organizational commitment and ensures the unit remains a corporate priority.

This option represents the highest level of organizational and resource commitment. We anticipate the need for a scoping review to understand the organization's current state. This exercise would take approximately one year and will create more in depth understanding around system development best practices, and include a gap analysis of current practices. This would provide a solid foundation for going forward to Cabinet and possibly Treasury Board for the approval to set up an independent office for managing the conflict management

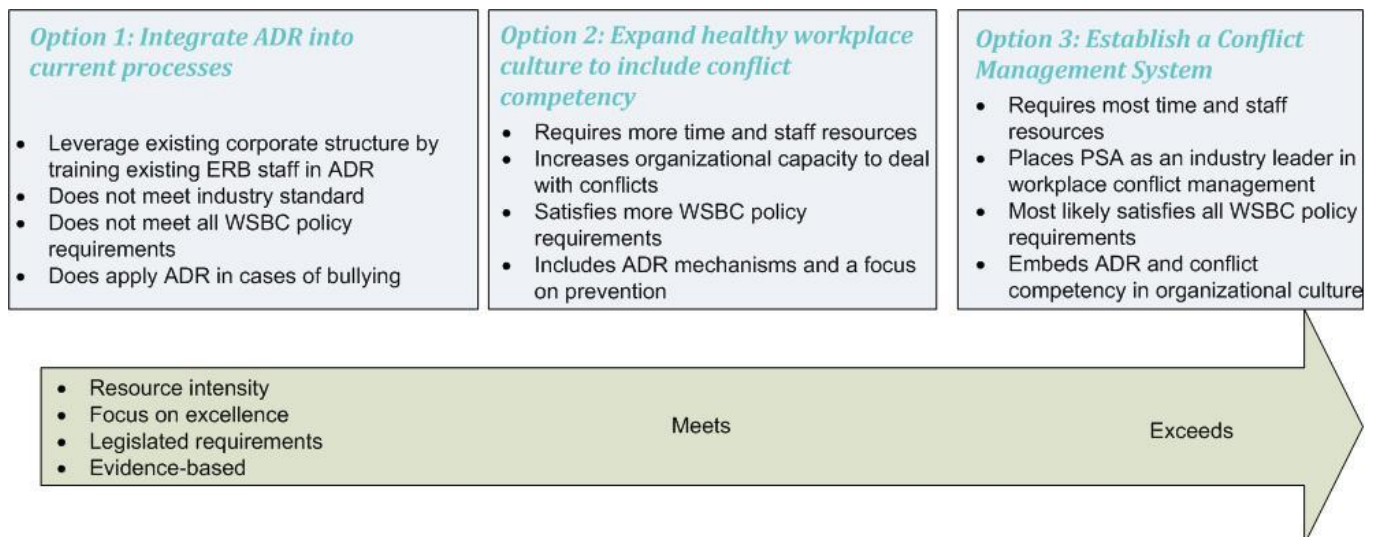
program. Pending approval, it would probably take another few years to set up and start doing the work.

This does not immediately address the PSA’s capacity issue to respond to cases of bullying, as the development and implementation of conflict management unit will require the marshalling of human, financial, and time resources. During this period of development, conflict resolution practitioners could be contracted to use an interest based approach for cases of workplace bullying that present to the ERB. This would allow labour relations staff to focus on formal investigations.

Comparing the Options

The three options presented in this section represent a suite of possibilities ranging from low to high resource intensity and reflect a level of organizational maturity in workplace conflict management. These options are not mutually exclusive and build upon each other forming an incremental implementation strategy, based on further analysis of the PSA’s organizational needs. Figure 13 provides a comparison of the options as they relate to the PSA’s strategic needs.

Figure 14. Strategic Comparison of Options



In all probability, the process of developing a strategy for addressing workplace conflict in the BC public service will be iterative as the organizational maturity towards workplace conflict management will take time to develop. The PSA can anticipate a period of further learning and development before a comprehensive system is implemented. Due to project timing, these options do not address the requirements set out in the WorkSafeBC policy. However, the researchers feel that these options can be leveraged to respond to the respective policy requirements in an informed, evidence-based way.

SECTION 9 - RECOMMENDATION

In the past year, legislative amendments and new WorkSafeBC policy have come into force that entrench people's rights to bullying and harassment-free workplaces. Of the six Canadian jurisdictions that address workplace conflict in law, the federal public service is the only jurisdiction that has instituted a comprehensive conflict management system. A scan of the literature uncovered fragmented information about the methods of intervention used by organization to address bullying in the workplace. Furthermore, primary research with expert practitioners uncovered no consistent framework for streaming and assessing bullying in the workplace.

Despite the ad-hoc nature of organizational responses to bullying, there is now a legal imperative for organizations in BC to understand what bullying, harassment, and other conflicts mean in a labour relations context. The new WorkSafeBC policy sets out minimum requirements for employers who will have to develop robust organizational responses in order to mitigate risk and avoid liability (Morfitt et al., 2013). This is just one requirement within an increasingly complex system of operational challenges the Public Service Agency is facing. The public service must be as effective as possible while still being pragmatic by balancing the need for fiscal restraint while managing issues such as the aging workforce, resource gaps in specific professions, and continued competition with the private sector for talent.

In our research we found that developing a broad conflict management system (CMS) based on a systems approach is the ideal and most comprehensive way to address conflict in the workplace. This type of CMS would provide the PSA the ability to address the entire spectrum of workplace conflict by utilizing the full spectrum of ADR services in addition to the existing formal investigative processes. It also provides a mechanism for addressing the current service gaps the PSA encounters in respect to workplace conflict and could decrease the number of cases streamed into formal processes in the future, addressing the capacity issues in the investigations area of the ERB.

Research respondents suggest that a CMS should take a universal and integrated approach focusing on prevention, education, and internal capacity building. These components should complement an accessible and transparent dispute management process, which encompasses a suite of ADR interventions, in order to ensure all self-identified issues can be resolved with clients. This comprehensive approach can lead to organizational resiliency, program resiliency, sustainable agreements, and ultimately more conflict-competent employees.

Option 3: Establish a Conflict Management System is the recommended option. This option is recommended because it aligns with the PSA's mandate to provide human resource leadership to its clients. This option is congruent with the PSA's stated corporate culture of Being the Best (Government of British Columbia, BC Public Service Agency, 2012) and will ultimately position

the BC Public Service as a leader in the management of all types of workplace conflicts, including bullying.

A conflict management system strategy would exceed the various policy and memorandum requirements and likely place the BC Public Service in an excellent position to respond to any claims made under WSBC policy. It also most directly aligns with the evidence uncovered by literature review and interviews with expert practitioners, who overwhelmingly favoured taking a broad, comprehensive approach to addressing organizational conflict.

SECTION 10 – IMPLEMENTATION

This section presents a high-level strategy for the implementation of Option 3: Establish a Conflict Management System. The implementation strategy is based on the framework presented in Costantino and Merchant (1996). The phases in the table are presented chronologically and cover the entire process from identifying a need for change through to measuring program effectiveness.

Figure 15. Implementation Strategy

IMPLEMENTATION STRATEGY	
Phase 1 – Preparation	
Organize a meeting to discuss this report and assemble a project team	December 2013
Undertake further research into conflict management systems design	January 2014
Develop a steering committee with appropriate leadership representation to oversee the systems design process	April 2014
Undertake a consultation process with stakeholders that includes information-finding on the current state within the public service: <ul style="list-style-type: none"> • the dominant orientation to conflict what are the various types and frequency distribution of disputes; • the conflict management processes in use; • and measure the results of current processes 	May 2014
Phase 2 – Planning	
Develop a strategic and operation plan for creating a conflict management system for the public service, including logistical elements such as human resources, facilities, communications, and finance	July 2014
Get approval from necessary levels of leadership	October 2014
Phase 3 – Design	
Design the conflict management system	January 2015
Assess the organization for training and education needs	January 2015
Phase 4 – Implementation	
Pilot program that includes a small-scale roll-out of the conflict management system that targets a specific type of dispute	September 2015
Assess the pilot program and make necessary changes to strategic and operational plans and system design	January 2016
Expand the implementation across the public service	April 2016
Phase 5 – Monitoring	
Assessment of the program and its outcomes	Ongoing

Phase One of the implementation strategy is focused on preparing the organization to undertake a conflict management system design process. Costantino and Merchant (1996, p.69) state that there is a requirement of “both a presenting problem and a perceived opportunity in order for an organization to initiate change.” This report satisfies these requirements and provides the PSA with the rationale for change. Phase One contains the activities necessary to gather the information required to move forward. Understanding the organization’s current state, further research on conflict management system design, and the establishment of organizational supports would take approximately six months.

Over the next six months, Phase Two would provide time for internal planning and approvals. Depending on the level of approval necessary this phase could potentially take more time—for example, if the program requires Cabinet or Treasury Board approval, the submission and approval process will be subject to their respective schedules.

Phase Three is the design or “architectural construction [that] focuses on disputes themselves and methods of resolution, which is the ‘micro’ part of managing conflict” (Costantino and Merchant, 1996, p.117). This phase is a critical component and must be undertaken with a spirit of openness, collaboration, and flexibility. The work requires leadership from experts in the field of conflict management systems design and therefore will most likely require hiring consultants who have previously undertaken this type of work for other organizations.

Phase Four outlines the implementation component, which is comprised of an initial seven month pilot that allows for testing the suitability of the system’s design. This “think big and act small” method is preferred by practitioners such as Costantino and Merchant (1996, p.153) as it mitigates risk and provides an opportunity to be better prepared for full program implementation. Following full scale implementation, Phase Five measures program effectiveness and provides information regarding achievement of program goals.

SECTION 11 – CONCLUSION

Workplace conflict has become an important issue for both employers and employees across the globe. In some jurisdictions in Canada, including BC, legislators have begun to address the issue, requiring employers to be accountable for developing organizational policies that address workplace conflict (An Act Respecting Labour Standards, 2003; Occupational Health and Safety Act, 1990; The Workplace Safety and Health Act, 2010; Workers' Compensation Act, 1996). Currently, the PSA streams all receivable bullying and harassment complaints into a formal investigative process, with no formal ADR mechanisms available for dealing with complaints that do not meet the definition of bullying. This research aimed to inform future policy development in this area.

In this inquiry we examined relevant literature, legislation, and interview data collected from expert practitioners for streaming and assessing cases of workplace conflict and uncovered that this is a burgeoning area of research and policy development in Canada, especially within non-federal bodies. The PSA may want to leverage existing expertise by partnering with other jurisdictions in order to collaborate on new policy initiatives.

The literature and key informant interviews favour an approach that takes a broad conception of conflict in the workplace, incorporates this viewpoint into policy definitions, and provides mechanisms that address these conflicts by applying the full suite of ADR interventions. The recommendation laid out in this report similarly favours a long-term view for developing a conflict management approach in the BC public service.

Regardless of which option the PSA chooses to pursue, further research into conflict management systems design, dispute resolution mechanisms, and principles of organizational development will be necessary. Beyond academic research, an internal review of the BC Public Service's existing conflict management processes and structures should be undertaken to better understand the organization's existing conflict frameworks and capacity.

The PSA is already taking proactive steps toward dealing with known policy gaps in a concrete way by soliciting research such as this report. As the researchers, we are optimistic that the findings of this project lay a foundation for future policy development, and the recommendations will lead to the establishment of a larger conflict management system within the BC public service.

REFERENCES

- An Act Respecting Labour Standards, R.S.Q. 2003 c N-1.1 [Québec]. Retrieved from <http://www.canlii.org/en/qc/laws/stat/rsq-c-n-1.1/latest/>
- BC Government and Service Employees' Union. (2012). *Sixteenth master agreement*. Victoria, BC, Canada: Author.
- BC Public Service Agency, & BC Government and Service Employees' Union. (2010). *Fifteenth master standing agreement, memorandum of understanding #13*. Victoria, BC, Canada: Author.
- Bingham, L. B., Hallberlin, C. J., Walker, D. A., & Won-Tae Chung. (2009). Dispute system design and justice in employment dispute resolution: Mediation at the workplace. *Harvard Negotiation Law Review*, 14, 1–50.
- Brisebois, J. (2010). *Generalized harassment in Canadian universities: Policies and practices addressing bullying in the academic workplace* (Master's thesis). Available from ProQuest Dissertations and Theses database. (UMI No. 853156812)
- British Columbia Legislative Assembly. (2011). Workers compensation amendment act, Bill 14, 39th Parliament, 4th Session [British Columbia]: The Assembly, 2011.
- Canadian Human Rights Act, R.S.C. 1985 c H-6 [Canada]. Retrieved from <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-h-6/latest/rsc-1985-c-h-6.html>
- Canada Labour Code, R.S.C. 1985, c L-2 [Canada]. Retrieved from <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-l-2/latest/>
- Canadian Labour Code: Canada Occupational Health and Safety Regulations, SOR/86-304. (1985). Retrieved from <http://canlii.org/en/ca/laws/regu/sor-86-304/latest/sor-86-304.html>
- Chicanot, J., & Sloan, G. (2003). *The practice of negotiation: Exploring attitude, process and skills*. Victoria, BC, Canada: ADR Education.
- Costantino, C. A., & Merchant, C. S. (1996). *Designing conflict management systems: A guide to creating productive and healthy organizations*. San Francisco, CA: Jossey-Bass.
- Craig, W. M., & Pepler, D. J. (2007). Understanding bullying: From research to practice. *Canadian Psychology/Psychologie Canadienne*, 48(2), 86–93. doi:10.1037/cp2007010
- Crawshaw, L. (2009). Workplace bullying? Mobbing? Harassment? Distraction by a thousand definitions. *Consulting Psychology Journal: Practice and Research*, 61(3), 263–267. doi:10.1037/a0016590

- Creswell, J. W. (2009). *Research design: Qualitative, quantitative, and mixed methods approaches*. Thousand Oaks, CA: Sage.
- Della Noce, D. J. (1999). Seeing theory in practice: An analysis of empathy in mediation. *Negotiation Journal*, 15(3), 229–244. doi:10.1111/j.1571-9979.1999.tb00196.x
- Duffy, M. (2009). Preventing workplace mobbing and bullying with effective organizational consultation, policies, and legislation. *Consulting Psychology Journal: Practice and Research*, 61(3), 242–262. doi:10.1037/a0016578
- Dyble, J. (2012, January 27). Bullying is addressed. *The Province*, p. A.21.
- Einarsen, S. (2003). *Bullying and emotional abuse in the workplace: International perspectives in research and practice*. New York, NY: Taylor & Francis.
- Federal Informal Conflict Management System (FICMS). (n.d.). *Conflict Management Spectrum*. Government of Canada.
- Folger, J. P., & Bush, R. A. (1994). Ideology, orientations to conflict, and mediation discourse. In J. Folger, & P. Jones (Eds.), *New directions in mediations: Communication research and perspectives* (pp. 3–25). San Francisco, CA: Sage.
- Fox, S. S., & Stallworth, L. E. (2009). Building a framework for two internal organizational approaches to resolving and preventing workplace bullying: Alternative dispute resolution and training. *Consulting Psychology Journal*, 61(3), 220–241. doi:10.1037/a0016637
- Glasl, F. (1999). *Konfliktmanagement. ein handbuch fuer fuehrungskraefte, beraterinnen und berater* [Conflict management: A handbook for managers counsellors and advisors]. Bern, Germany: Verlag Paul Haupt.
- Goldberg, S. B. (2007). *Dispute resolution: Negotiation, mediation, and other processes* (5th ed.). Austin, TX: Wolters Kluwer Law & Business/Aspen.
- Government of British Columbia, BC Public Service Agency. (n.d.). *Working in the BC public service*. Retrieved from <http://www.bcpublicserviceagency.gov.bc.ca/>
- Government of British Columbia, BC Public Service Agency. (2009). *2009/10 -2011/12 Service plan*. Retrieved from <http://www.bcbudget.gov.bc.ca/2009/sp/pdf/ministry/psa.pdf>
- Government of British Columbia, BC Public Service Agency. (2012). *Being the best 2012*. Retrieved from <http://www.bcpublicserviceagency.gov.bc.ca/down/BeingtheBest.pdf>
- Government of British Columbia, Office of the Ombudsperson. (2013). *About the BC ombudsperson*. Retrieved from <http://www.ombudsman.bc.ca/>

- Government of Manitoba, Workplace Safety & Health Division. (2010, November). *Guideline for preventing harassment and violence in the workplace*. Retrieved from <http://digitalcollection.gov.mb.ca/awweb/pdfopener?smd=1&did=18258&md=1>
- Government of Ontario. (2010). *Workplace discrimination and harassment prevention (WDHP) policy*. Retrieved from <http://www.local524.org/website/sites/default/files/WDHP%20Policy.pdf>
- Government of Ontario, Ministry of Labour. (2013, July). *Workplace violence and workplace harassment*. Retrieved from <http://www.labour.gov.on.ca/english/hs/topics/workplaceviolence.php>
- Human Resources and Skills Development Canada. (2011). *Workplace safety - an overview*. Retrieved from http://www.hrsdc.gc.ca/eng/health_safety/workplace/index.shtml
- Jenkins, M. (2011). Practice note: Is mediation suitable for complaints of workplace bullying? *Conflict Resolution Quarterly*, 29(1), 25–38. doi:10.1002/crq.21035
- Keashly, L., & Nowell, B. (2002). Conflict, conflict resolution and bullying. In S. Einarsen, H. Hoel, D. Zapf, & C. Cooper (Eds.), *Bullying and emotional abuse in the workplace international perspectives in research and practice* (pp. 339–358). New York, NY: Taylor & Francis.
- Kraus, G. (2011). *Conflict management in projects*. Retrieved from <http://www.kraus-partner.eu/project-management/basics/conflict-management-in-projects>
- Lipsky, D. B. (2010). The conflict over conflict management. *Dispute Resolution Journal*, 65(2/3), 11, 38–43.
- Lipsky, D. B., Seeber, R. L., & Fincher, R. D. (2003). *Emerging systems for managing workplace conflict: Lessons from American corporations for managers and dispute resolution professionals*. San Francisco, CA: Jossey-Bass.
- Macnaughton, J. (2012, May 2). *New measures address workplace bullying and prevention* [News release]. Retrieved from <http://www.newsroom.gov.bc.ca/2012/05/new-measures-address-workplace-bullying-and-prevention.html>
- Maiese, M. (2004, September). *Interests, rights, power and needs frames*. Retrieved from <http://www.beyondintractability.org/bi-essay/interests-rights-power-needs-frames>
- Manitoba Legislative Assembly. (2010). *The workplace safety and health amendment act (harassment and violence in the workplace)*, Bill 219, 39th Legislature, 4th Session [Winnipeg]: The Assembly, 2010.

- Morfitt, G., Anderson, D., Legg, P., Roger, W., Harder, H., Lindgren, J., . . . Cooke, A. (2013). *Workers' Compensation Board of British Columbia resolution of the board of directors*. Retrieved from http://www.worksafebc.com/regulation_and_policy/policy_decision/board_decisions/2013/mar/assets/20130320-03.pdf
- Murphy, J. (2012). *Examining workplace bullying in Canada: A content analysis of Canadian arbitration and court cases* (Unpublished master's thesis). University of Prince Edward Island, Charlottetown, Canada.
- National Assembly. (2002). An act to amend the act respecting labour standards and other legislative provisions, Bill 143, 36th Legislature, 2nd Session [Québec]: The Assembly, 2002. (Assented to November 7, 2002).
- Occupational Health and Safety Act, R.S.O. 1990, c O.1 [Ontario]. Retrieved from <http://www.canlii.org/en/on/laws/stat/rso-1990-c-o1/latest/>
- Occupational Health and Safety Act, R.S.S 1993, c O-1.1 [Saskatchewan]. Retrieved from <http://www.canlii.org/en/sk/laws/stat/ss-1993-c-o-1.1/latest/ss-1993-c-o-1.1.html>
- Ontario Legislative Assembly. (2009). An act to amend the occupational health and safety act with respect to violence and harassment in the workplace and other matters, Bill 168, 1 Cong. [Ottawa]: The Assembly, 2009. (Assented to December 15, 2009).
- Ontario Public Service Employees Union. (2012). *Maintaining a bully-free workplace: Sample policy*. Retrieved from <http://www.opseu.org/committees/equity/pdf/Antibullyingharassmentpolicysample.pdf>
- Public Service Act, R.S.B.C. 1996, c 385 [British Columbia]. Retrieved from <http://www.canlii.org/en/bc/laws/stat/rsbc-1996-c-385/latest/rsbc-1996-c-385.html>
- Public Service Labour Relations Act, R.S.C. 2003, c 22, s 2 [Canada]. Retrieved from <http://www.canlii.org/en/ca/laws/stat/sc-2003-c-22-s-2/latest/sc-2003-c-22-s-2.html>
- Putnam, R. (2000). *Bowling alone – the collapse and revival of American community*. New York, NY: Simon & Schuster.
- Québec Labour Standards Branch. (2007). *Guideline for preparing a company policy on psychological harassment at work*. Québec City, QC, Canada: Queen's Printer.
- Québec Labour Standards Branch. (2012). *Examples - what constitutes harassment at work*. Québec City, QC, Canada: Queen's Printer.
- Saam, N. (2010). Interventions in workplace bullying: A multilevel approach. *European Journal of Work and Organizational Psychology*, 19(1), 51–75. doi:10.1080/13594320802651403

- Salin, D. (2008). Organisational responses to workplace harassment: An exploratory study. *Personnel Review*, 38(1), 26–44. doi:10.1108/00483480910920697
- Saskatchewan Legislative Assembly. (2007). An act to amend the occupational health and safety act, 1993, Bill 66 of 2006–2007 [Saskatchewan]: The Assembly, 2007.
- Saskatchewan Public Service Commission. (2009). *Human resource manual: Anti-harassment (resolution of harassment)*. Retrieved from <http://www.cs.gov.sk.ca/807>
- Saskatchewan's workplace bullying ban now in effect. (2007, October 1). *CBC News*. Retrieved from <http://www.cbc.ca/news/canada/saskatchewan/saskatchewan-s-workplace-bullying-ban-now-in-effect-1.683322>
- Smith, S., & Martinez, J. (2009). An analytic framework for dispute systems design. *Harvard Negotiation Law Review*, 14, 123–169.
- Smyth, M. (2012, January 26). Bullying takes huge bite out of B.C. economy: She promises to get tough, but it's time to take action. *The Province*, p. A.16.
- The Workplace Safety and Health Act, C.C.S.M 2010, c. W210 [Manitoba]. Retrieved from <http://www.canlii.org/en/mb/laws/stat/ccsm-c-w210/latest/>
- The Workplace Safety Health Act: Workplace safety and health regulation, Man Reg 2017/2006. Retrieved from <https://canlii.org/en/mb/laws/regu/man-reg-217-2006/latest/man-reg-217-2006.html>
- Treasury Board of Canada Secretariat. (2008). *Getting to know informal conflict management systems (ICMS) better*. Retrieved from <http://www.tbs-sct.gc.ca/gui/confplus-eng.asp>
- Treasury Board of Canada Secretariat. (2012a). *Is it harassment? A tool to guide employees*. Ottawa, ON, Canada: Queen's Printer.
- Treasury Board of Canada Secretariat. (2012b). *Policy on harassment prevention and resolution* (2nd ed.). Retrieved from <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=26041§ion=text>
- Treasury Board of Canada Secretariat. (2012c). *Screening tool for the delegated manager and the harassment prevention coordinator*. Ottawa, ON, Canada: Queen's Printer.
- Treasury Board of Canada Secretariat. (2013a). *Preventing and resolving harassment in the workplace – a guide for managers*. Retrieved from <http://www.tbs-sct.gc.ca/gui/hars01-eng.asp>
- Treasury Board of Canada Secretariat. (2013b). *Treasury Board Secretariat - sources of federal government and employee information 2013 (info source)*. Retrieved from <http://www.tbs-sct.gc.ca/atipo-baiprp/sfg-srg/sfg-srg01-eng.asp>

Workers' Compensation Act, R.S.B.C. 1996, c 492 [British Columbia]. Retrieved from <http://www.canlii.org/en/bc/laws/stat/rsbc-1996-c-492/latest/>

APPENDIX: INTERVIEW QUESTIONS

1. Can you identify where within your organizational structure the individual or unit that deals with bullying and harassment cases.
 - a. Where organization structure is the triaging staff located?
 - b. What is the organization's mandate that provides for the use of triage process you currently use?

2. Who in your organization undertakes bully and harassment complaints? In particular we are interested in:
 - a. The skills, knowledge and training your organization look for when they are appointed?
 - b. Are they dedicated to these functions entirely or is this one aspect of their duties?
 - c. What special training, if any, do staff who triage complaints undertake after they are appointed?

Is there anything else about the location of this function or the staff tasked with performing this function that you think we should know?

3. In identifying the nature of the complaint when it is first received into the "triage or streaming" process:
 - a. How important is it that complaint be identified as bullying or harassment?
 - b. What is your organization's definition of bullying and harassment? Can you share with us the criteria for when disputes are labeled as such?
 - c. Does the staff use checklists or decision trees (policies and procedures) to triage cases of potential harassment or bullying? If yes, would your organization willing to share them with us?
 - d. What legislative or policy frameworks prescribe your current process?
 - e. What other factors does your organization consider when assessing the options to responding to allegations of bullying or harassment in the workplace.
 - i. With regard to extreme cases; does the organization consider employer liability if the allegation is true? Is the workplace looking at worst-case scenario to make a triaging decision?
 - f. What does your organization do if, on preliminary review, the person assessing the Complaint finds there is some kind of workplace conflict, but that it does not constitute bullying or harassment? Is there a different process for complaints that appear to be bullying or harassment and those that are workplace conflicts?

- g. What steps, if any, do you take to gather more information after the Complaint receives some preliminary review? Is information about the Complaint reviewed and revised as the resolution process continues?
- 4. As part of your triaging or streaming of the complaint, what meetings do you have with:
 - a. the individual alleging bullying or harassment;
 - b. the alleged harasser or bully;
 - c. third parties, if any have been identified as witnessing the interaction to the complaint?
 - d. Others?
- 5. In addressing such complaints, what options does your organization consider to address complaints about conflict in the workplace that may constitute bullying or harassment?
- 6. Who makes the final decision as to which approach is taken to address bullying or harassment allegations in the workplace? In making a decision about how to proceed, what role is there:
 - a. for the manager?
 - b. for the person making the allegation?
 - c. for the alleged bully or harasser?

Is there anything more about your triage or streaming process or decision making about what approach to take to bullying or harassment complaints that we have not yet touched on?

- 7. If an ADR process proceeds, is there any provision for the investigation/discipline route to be taken up if ADR does not address the workplace issues to the Parties' satisfaction.
- 8. If an ADR approach is decided on, who engages with the employees? Do you contract out the ADR interventions in cases of bullying and harassment (such as mediation and arbitration), or are those functions internal? If internal, what training or skills do these employees hold? Where in your organization are they located?
- 9. What percentage of complaints that your organization receives would you estimate follow an ADR approach? A more traditional investigative approach?
- 10. Are there aspects of a complaint that would lead your organization to decide not to use an ADR approach to addressing bullying or harassment?

Is there anything more you would like to add about how your organization proceeds with the actual work of intervening in cases of bullying or harassment complaints or some other workplace dispute that falls short of bullying or harassment?

Time permitting; we have just a few more specific questions about how your organization addresses these types of complaints.

- a) Do you have a mechanism in place to enforce agreements once they are made?
- b) Can complainants appeal or complain if they are not satisfied with the dispute resolution process? If so, how? How often would you say individuals complain or try to appeal?
- c) How do you know when a chosen method has been successful?
- d) What happens if the chosen dispute resolution method is unsuccessful?
- e) Does your triage or streaming system have a name? Is it contained within a larger conflict management framework?
- f) How successful would you say your organization is at dealing with cases of bullying and harassment? What best practices can you share?
- g) Has your program for dealing with workplace bullying and harassment been formally evaluated? What were the results?

Is there anything else about how your organization triages or streams complaints, decides on processes or actually intervenes in the disputes that is important but that we haven't covered?

Interview Questions for Third-Party Interveners

11. In your experience, can you identify where within an organizational structure the individual or unit that deals with bullying and harassment cases reside.
 - a. Where organization structure is the triaging staff located?
 - b. What is the organizations' mandate that provides for the use of triage process?
12. In your experience, who in an organization is most often tasked to undertake bully and harassment complaints? In particular we are interested in:
 - a. The skills, knowledge and training an organization may look for when they are appointed?
 - b. Are they dedicated to these functions entirely or is this one aspect of their duties?
 - c. What special training, if any, do staff who triage complaints undertake after they are appointed?

Is there anything else about the location of this function or the staff tasked with performing this function that you think we should know?

13. In identifying the nature of the complaint when it is first received into the “triage or streaming” process:
- a. How important is it that complaint be identified as bullying or harassment?
 - b. What do you believe is a sufficient organizational definition of bullying and harassment? Can you share with us your criteria for when disputes are labeled as such?
 - c. In your experience with organizations that use a triaging or streaming process, does the staff use checklists or decision trees [policies and procedures] to triage cases of potential harassment or bullying? If yes, can you give any more detailed information as to these processes?
 - d. In your experience, what legislative or policy frameworks usually prescribe these processes?
 - e. What other factors do you think an organization needs to consider when assessing the options to responding to allegations of bullying or harassment in the workplace.
 - i. With regard to extreme cases; do you think organizations usually consider employer liability if the allegation is true? Is the organization looking at worst-case scenario when making a triaging decision?
 - f. What does an organization do if, on preliminary review, the person assessing the complaint finds there is some kind of workplace conflict, but that it does not constitute bullying or harassment? Is there a different process for complaints that appear to be bullying or harassment and those that are workplace conflicts?
 - g. What steps, if any, should organizations take to gather more information after the complaint receives some preliminary review? In your experience, should information about the complaint reviewed and revised as the resolution process continues?
14. In your experience, as part of the triaging or streaming of a complaint, what meetings are had with:
- a. the individual alleging bullying or harassment;
 - b. the alleged harasser or bully (and are they routinely advised in advance of their opportunity to have representation, if they are a unionized employee);
 - c. third parties, if any have been identified as witnessing the interaction to the complaint?
 - d. Others?

15. In addressing such complaints, what options should an organization consider to address complaints about conflict in the workplace that may constitute bullying or harassment?
16. Who in an organization do you believe should make the final decision as to which approach is taken to address bullying or harassment allegations in the workplace? In making a decision about how to proceed, what role should there be:
 - a. for the manager?
 - b. for the person making the allegation?
 - c. for the alleged bully or harasser?

Is there anything more about the triage or streaming process or decision making about what approach to take to bullying or harassment complaints that we have not yet touched on?

17. In your experience, if an ADR process proceeds, are there any provisions for the investigation/discipline route to be taken up if ADR does not address the workplace issues to the parties' satisfaction.
18. If an ADR approach is decided on, who engages with the employees? Are you aware of ADR interventions in cases of bullying and harassment being contracted to interveners outside the organization (such as mediation and arbitration), or are those functions internal? If internal, what training or skills do these employees hold? Where in the organization are they located?
19. What percentage of complaints that you have been involved with would you estimate follow an ADR approach? A more traditional investigative approach?
20. Are there aspects of a complaint that would lead an organization's decision not to use an ADR approach to addressing bullying or harassment?

Is there anything more you would like to add about how organizations proceed with the actual work of intervening in cases of bullying or harassment complaints or some other workplace dispute that falls short of bullying or harassment?

Time permitting; we have just a few more specific questions about how organizations address these types of complaints?

- a) Are you aware of mechanisms in place to enforce agreements once they are made?

- b) Are you aware of processes where complainants can appeal or complain if they are not satisfied with the dispute resolution process? If so, how? How often would you say individuals complain or try to appeal?
- c) In your experience, how do you know when a chosen method has been successful?
- d) In your experience, what happens if the chosen dispute resolution method is unsuccessful?
- e) How often is a triage or streaming process contained within a larger conflict management framework?
- f) How successful would you say organizations are at dealing with cases of bullying and harassment? What best practices can you share?
- g) Are you aware of any programs for dealing with workplace bullying and harassment that have been formally evaluated?

Is there anything else about how an organization triages or streams complaints, decides on processes or actually intervenes in the disputes that is important but that we haven't covered?