

University of Victoria: School of Public Administration

Alternative Dispute Resolution for Cowichan Tribes

DR: 598

Lea Joe

11/28/2011

Executive Summary

The purpose of this report is to draft an Alternative Dispute Resolution Process for Cowichan Tribes. In consultation with Cowichan Tribes, an inclusive approach in drafting the process was imperative. The input of the employees will be used to draft a process that the employees will then utilize.

The process will be used for the employees of Cowichan Tribes. Cowichan Tribes is a progressive First Nation organization that governs the community of *Qu'wutsun*, located in Duncan, British Columbia. The community membership is currently at 4,499 members, who live both in the community and elsewhere. The organization employs approximately 310 people, including part-time, full-time, seasonal, and casual.

The main research method used for this report was conducted through one on one structured interviews. The intention of the interview method was to document the interests, concerns, and suggestions of the employees by sharing their experiences, examples, and recommendations for alternative dispute resolution. In addition to being a value added research method, this method also reflects traditional Coast Salish culture whereby oral history and verbal communication predominately centers in dispute resolution and Coast Salish society in general.

The secondary research method used was a literature review. First Nations organizations and dispute resolution literary sources were integral for analysis. Organizations in general were helpful to review, as well as literature on communication and alternative dispute resolution.

An integral portion of the literature review stems from two years of dispute resolution courses at the University of Victoria. Concepts, theories, and information about disputes, conflict, and resolution were briefly analyzed.

The outcome of this report includes: providing an avenue for participants to share their experiences, concerns, and suggestions; recommendations for a new process to channel disputes to the appropriate avenue; and an overall approach to improved communication and relations in the workplace.

The findings of this research include samples of current forms of disputes in the organization, a sense of organizational culture, and suggestions for an alternative dispute resolution process.

This report concludes with recommendations for alternative dispute resolution categorized according to the interview questions, including: problem solving, disputes with employees, disputes with managers, disputes with community members, and disputes with Chief and Council. Sub-headings encapsulate common themes or recommendations as recommended by the participants.

Recommendation #1: Problem solving

Communication: When dealing with problems, issues, or conflicts, direct communication is recommended; that is: speak directly to the person, one on one, and listen to both sides of the story where possible (with the exception of serious disputes involving harassment).

Policy: A clearer policy for grievances or disputes in the Human Resources Policy needs to be outlined.

Health: A healthy balance between work and personal health, i.e. stress-prevention, would help prevent problems before they occur.

Follow up: Follow up and follow through is highly recommended. Whether the problem is with an employee or a community member, more follow-up and follow-through is recommended.

Confidentiality: While dealing with internal or external problems, confidentiality is of utmost importance. In particular, an unhealthy workplace habit of gossip should be avoided; if possible, drafting a portion of the HR policy to reflect this unhealthy work habit to warn employees to refrain from gossip and possible repercussions.

Recommendation #2: Employee

Communication: More communication is recommended, such as communication in dealing with a dispute, added communication with a community member, and follow-up and follow-through after a dispute. A recommendation for a communication workshop surfaced from the interviews.

Error: Training for new employees on the first day, and other important administrative details such as assisting people with filling out forms correctly, directing people to the right department, is recommended to prevent disputes.

Culture: Leave of absence for culture-related reason needs to be outline in the HR policy. As well, cultural consideration in dealing with disputes is recommended.

Authority: A promotion from employee status to supervision requires communication around the importance of supporting fellow employees in mobility, as well as perhaps a transition period.

Disciplinary action: Disciplinary action for employees not fulfilling their duties needs to be outlined more clearly in the HR Policy.

Recommendation #3: Manager or supervisor

Communication: Communication between employee and manager would help prevent miscommunication or misinterpretation. Regular workshops or training on communication for employees and management may help to address such disputes.

Culture: Cultural considerations need to be reflected in the HR policy. Emergency cultural obligations need to be reflected in the policy, for the staff that cannot abide by the policy due to short-notice, emergency cultural obligations.

Third party: Third party or mediator intervention may be required in dealing with disputes involving management for the safety and comfort of employees.

Recommendation #4: Community members

Follow-up and follow-through: Servicing the community is top priority. Providing a service to a community member needs to be conducted with the utmost respect, care, patience, and empathy where possible. As well, follow-up and follow-through would satisfy the community member as well as the work load.

Extra attention: For front-line workers servicing the community, extra attention is required in terms of assisting a community member with filling out a form, speaking to the right person and department, and other important administrative duties.

Patience, respect, and communication: Literacy or lack thereof is a common trait of the community as expressed by employees. Extra patience, respect, and communication would ensure a smoother relationship with the community.

Community groups: Community members that have formed groups to deal with grievances or other issues of concerns need to have a clearer process in dealing with their disputes. Having a process outlined to the staff and formal groups alike would ensure less time on the chief and council agenda, and more time in administration such as with the General Manager, Assistant Manager, and Human Resources Department.

Recommendation #5: Chief and council

Culture: Having a symbolic or actual ‘nail on the door’¹ outside council chambers would remind people to leave their personal issues at the door, and to focus on dealing with issues on the table more effectively.

¹ “nail on door” is a common Coast Salish term, (although origins are unknown to the author) meaning “leave your issues (or baggage) at the door”

Accountability and transparency: Budget information, lack of information flow, and accountability needs to be outlined in terms of reference for chief and council.

Process: In addition to the current policy or practice, a clearer process in terms of administrative or Human Resources items on the chief and council agenda needs to be outlined. Before going to chief and council, or perhaps not going on the agenda at all, I would recommend the items going to Administration first, whether it's to the General Manager, Assistant General Manager, or Human Resources Manager.

Table of Contents

	Page
Acknowledgement	7
Terms	7
Introduction	8
Client	9
Literature Review	11
Conceptual Framework	16
Methodology	18
Findings	21
Discussion	29
Recommendations	31
Conclusion	35
Bibliography	36
Appendices	37
List of figures:	
Figure 1. Interview Framework	17
Figure 2. Sample age	18
Figure 3. Sample gender	18
Figure 4. Sample department	19
Figure 5. Conflict between two employees with positive results	23
Figure 6. Conflict between employee and manager with negative results	25
Figure 7. Conflict between employee and community member with negative results	27
Figure 8. Recommendations for dealing with Chief and Council	29

Acknowledgement

Before we embark on this journey, I'd like to express my gratitude to those that have helped along the way. First and foremost, I thank the creator, *tsi-tsul si'em*, for the air in my lungs and earth under my feet.

I thank my daughter, Madison Amber for her continued patience, support, questioning, and pride. While I sat hunched over my lap top, Madison sat beside me on the couch to do her homework with the colouring book and crayons. I thank my dad for his continued support, child-minding, and chef services on those nights I needed that extra bit of support.

I thank my friends Nicola Campbell, Marie Morris and the gang at my old workplace for their support and kind words of encouragement.

Thank you to Cowichan Tribes, the client, for their continued support, input, and patience in seeing our idea come to fruition. I thank the participants for the time and energy they spent in sharing their experiences, suggestions, and aspirations.

I thank my supervisor, Barton Cunningham, for his guidance, extensive human resources and organizational expertise, and words of encouragement.

Finally, I thank Angelique Lalonde of the Indigenous Affairs Writing Centre for her editorial input and feedback.

Terms

“ADR” refers to the Alternative Dispute Resolution process drafted for Cowichan Tribes for the purpose of this study.

“Conflict” involves struggles between two or more people over values, or competition for status, power or scarce resources (Pirie, 2000, pg 37)

“Dispute” is conflict that becomes particularized, concerning a specific issue or set of issues (Pirie, 2000, pg 37). “Conflict” and “dispute” will be used interchangeably, but, where possible, will be used in appropriate context.

“First Nations” will be used to describe the indigenous people involved in this study, the Cowichan people of the Coast Salish Nation, as opposed to “Aboriginal” “Native American” or “Indigenous”.

“CT” or “Tribes” will be used to refer to the client, Cowichan Tribes.

Introduction

“If we draw on already existing cultural values and teachings around problem solving and conflict resolution, our ancestors have been problem solving and dispute resolution successfully since time immemorial; everybody is automatically connected to who they are and their core values” - Participant

When dealing with conflict in an organization, there may be a process to follow in terms of finding a resolution. Regardless, people tend to approach disputes in the manner of the organization, that is, the ‘culture’ of an organization. The ‘culture’ of an organization typically sets the tone for conflict resolution. Holmes, Schnurr, and Marra (2007) define organization (or work place) culture as “the way we do things around here, that is, the instantiation of the shared values and meanings of the group, made up of the artefacts, values, and assumptions that together influence communicative behavior at work” (p. 4). Sometimes ‘the way things are done’, no longer works.

The culture of the Cowichan Tribes organization typically involves similar qualities in any workplace: meetings, boardrooms, emails, memorandums, clients, partners, a flow chart, and Human Resources policy. Other qualities include: conflict between employees and clients, exploring problem-solving options, and change.

Cowichan Tribes currently has a Human Resources Policy to administer the employees of Tribes. The policy outlines various aspects of an employee’s administrative life in the workplace, from compensatory time and statutory holiday leave to appropriate work attire and grievances. The Human Resources Committee, who regulates and drafts the Policy, is a committee delegated by Chief and Council to review policies and procedures related to human resources. The committee is comprised of four elected councillors, the chief, and general manager. They can vote on matters at the table and make recommendations to Council. The HR Manager and Advisor are technical advisors to the committee.

The grievance portion of the policy outlines the steps an employee would take if he or she had a concern with: another employee, a manager (separate process), or General Manager. Another process outlined in the policy deals with harassment. Between these two processes, employees are encouraged to voice their concerns and complaints. However, this opportunity to exercise their right is not always followed.

To add to this complexity, Tribes is in the business of serving their community. If a community member had an issue to bring forward, they are encouraged to do so through a similar process, submitting their concern in writing to the respective department directly. Again, this process is not always followed either.

In order to attempt to bridge the gap between the current process and the missing pieces that people need in order to follow the processes, an alternative dispute resolution will be drafted for the employees of Cowichan Tribes. The purpose of this paper is to serve as a tool in bridging the gap by drafting the ADR. As well, the

process for employees will also complement a process to deal with community members. It is hoped that drawing on existing strengths and cultural teachings will meet new, innovative, and resurfaced teachings that will enable an ADR for all.

Client: Cowichan Tribes

‘Cowichan Tribes’ is the modern term to describe the administration and government of the people of Cowichan. Cowichan people have traditionally lived with the seasons, that is, Cowichans migrated for season-appropriate activities. Hunting, fishing, cultural ceremonies, and normal every day living determined where people lived.

Winter villages span up and down the island, on the Gulf Islands, over to the Fraser Valley, and into the Washington state. Sterritt and Consulting states, “Cowichan ancestors travelled widely throughout the Coast Salish area, fishing, hunting, and meeting with their families and neighbours. Each year, the people travelled to, and fished the Fraser River, as far upriver as Yale” (2010).

Cowichan Tribes website indicates, “We were a large population - some put the estimate at 15,000 - and we were the most powerful tribe on the southern coast of what is now called British Columbia. We were the undisputed rulers of our territory” (2011). So what caused a massive decline in Cowichan’s population from 15,000 to 4,499? The elders have stated that disease, war, and the introduction of practices and ways of life foreign to Cowichan people were responsible for this decline. Again, the website states, “Smallpox, measles and other sicknesses, previously unknown to us, carried away 90% of our people” (2011). In addition to the rapid decline of the population through introduced diseases, Cowichan people were warring with other tribes over various issues such as land, title, or other communal dispute. However, disease and the introduction to foreign ways of living contributed more to the decimation of Cowichan people than warring.

Rather than hunting, fishing, and gathering berries and plants to sustain a family, Cowichan people were forced to learn new ways the colonizers felt were appropriate. The website states, “they [Indian Agents] made laws and rules that they said we must follow: When and where we could fish and hunt; banned our ceremonies; said that our *siem*, our elders and leaders, were not our chiefs. They assigned us an Indian Agent to enforce the new laws and rules”. As indicated, cultural ceremonies that governed Cowichan people were also affected by colonization.

One of the most impactful changes to Cowichan people (and First Nations people in general) was the introduction of residential schools. “They sent our children to residential schools for years at a time from a very young age. Our children were wrenched from their families, and had to grow up lonely and uncared for - often

abused, miles away from the love and comfort of their parents and the familiarity of their community. They were taught nothing, but at the same time, were not permitted to speak our language or practice any of our traditional ways” the website states. Fear, shame, and confusion were carried forward and continue to exist in the community.

Today’s population is governed by Cowichan Tribes. Aboriginal Affairs and Northern Development Canada (branch of the Canadian government that governs First Nations people) indicates that there are 4,499 registered members of Cowichan, making Cowichan the single, largest tribe or band in British Columbia.

Governing a community of 4, 499 members (although some are living in other communities), Cowichan Tribes has a challenging job.

The staff of Cowichan Tribes includes approximately 310 hard working, Cowichan and non-Cowichan employees alike (personal communication, November 13, 2011). This includes seasonal, casual, part time and full time employees. This does not include the various committees that govern the different departments and aspect of Cowichan Tribes. The departments are:

- Quw’utsun Syuw’erst Lelum (Education)
- La’lum’utul Smun’eem Child and Family Services
- Social Development
- Operations and Maintenance
- Finance
- Human Resources
- Tse’wultun Health Centre
- Sustainable Housing
- Lulumexun Lands and Governance Department
- Information Technology
- Administration
- Membership

Cowichan Tribes is a modern, progressive, and dynamic governing body that carries traditions and teachings into the modern day organization. Governed by a Human Resources Policy, the staff of Cowichan conducts business to the highest standard possible.

Currently, Cowichan Tribes members utilize the services of Cowichan Tribes and consider the organization an “employer of choice” with approximately 80% First Nations employees (personal communication, November 13, 2011). The Human Resources function was managed by the General Manager. In 2000, Cowichan Tribes dedicated resources to the creation of a Human Resources Department.

The services provided to the community reflect municipal (land registration, by-law enforcement), provincial (vital statistics registration, health, education [including day care, upgrading, grade 12 equivalency, and grade 1 - 3]) and federal government (treaty negotiations).

Finally, Cowichan Tribes, like most First Nations or tribal councils, is governed by a chief and council. There is one Chief Councillor, currently held by Lydia Hwitsum, and 12 councillors. An election is held every two years for this office. However, Cowichan Tribes is currently undergoing an election code review, which may change the length of term to three years and other regulatory changes.

Sterritt (2010) indicates currently, the chief and council sign an oath upon office to uphold transparency, accountability, and openness to Tribes and the community, ensure confidentiality, and execute duties in a 'truly, faithfully, impartiality and to the best of the ability and skill' (p 7).

This is Cowichan Tribes, from past to present.

Literature Review

In drafting an alternative dispute resolution, one must consider the terms mentioned in the terms of reference section, but also a deeper consideration of the meaning. This literature review will encapsulate the meaning of ADR, the components of it as suggested by the author, and a brief theoretical glimpse.

Just what is ADR? According to Pirie (2000), ADR is whatever you need it to mean. In terms of this report, alternative dispute resolution means a road to peace and harmony (p. 4). Reinforcement is given to other common definitions by arguing that ADR is not an 'alternative' to current justice system, but components of it (ibid).

Furthermore, ADR, for the purposes of this report, is an alternative, improvement, and change to the current dispute resolution mechanism at Cowichan Tribes.

Pirie (2000), quoting Bush, offers six quality statement goals for ADR:

“1: Individual satisfaction: ADR leaves disputing parties feeling that their individual desires, as defined by themselves, have been satisfied, in terms of the experience and the outcome of the processes; or

2. Individual autonomy: ADR strengthens the capacity and increases the opportunity for disputing parties to resolve their own problems without being dependant on external institutions, public or private; or
3. Social control: ADR facilitates or strengthens control of public and private institutions, and the interests they represent, over exploitable groups and over possible sources of social change or unrest; or
4. Social justice: ADR ameliorates, neutralizes, or at least does not exacerbate existing inequalities in the societal distribution of material wealth and power; or
5. Social solidarity: ADR provides common values, referents, or “texts” for individuals and groups in a pluralistic society, and thereby increases social solidarity among these individuals and groups; or
6. Personal transformation: ADR provides opportunities for and encourages individual disputants to experience personal change and growth, particularly in terms of becoming less self-centred (sic) and more responsive to others” (p. 10)

For Cowichan Tribes, whose complex layers and groups of people are also a factor; these goals would apply. It is hoped that the employees, management, Human Resources department (as mediators and problem solvers), community members (as clients), and chief and council would also feel a sense of justice, solidarity, autonomy, control, and transformation. The employees, in particular, are encouraged to take the process and eventually transform in terms of dispute resolution.

For the employees that attempt to resolve disputes one on one this may be accomplished through and as a result of personal transformation. In order to begin this process of resolving disputes directly, one must understand ‘conflict’. Pirie (2000) describes conflict as an “expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce reward or resources, and interference from the other party in achieving their goals. Conflict involves struggles between two or more people over values, or competition for status, power, or scarce resources” (p. 37). Before attempting to solve a conflict, one must understand what the conflict is, what the struggle is or misaligned goals. One way to do so is through communication.

Fisher, Ury, and Patton (2001) suggest three big problems with communication: “first, negotiators may not be talking to each other, or at least not in such a way as to be understood. Second, listening. In a negotiation, you may be so busy thinking about what you are going to say next, how you are going to frame your next argument, that

you forget to listen to what the other side is saying now. Third, misunderstanding. What one says, the other may misinterpret” (p. 33). Unfortunately, this carries over to other situations such as home, family, friends, and other situations involving more than one person.

In order to take proactive measures, Fisher, Ury, and Patton (2001) recommend, “standard techniques of good listening are to pay close attention to what is said, to ask the other party to spell out carefully and clearly exactly what they mean, and to request that ideas be repeated if there is any ambiguity or uncertainty” (p. 34). Taking these steps would seemingly prevent disputes from occurring. However, some of these steps may be more difficult to carry out in Cowichan, such as asking questions and repeating, some people may take offense and feel patronized. With consistency and practice, these feeling may go away eventually and these proactive measures ensure fewer disputes.

As a part of these measures and communications, Picard (2002) defines reflective or active listening as “a skill with which the listener attempts to hear and accurately feedback the content and the feeling of the speaker’s message. Reflective listening shows that the listener is trying to understand how it feels to be the speaker, and it intuitively says that the speaker is important” (p. 74). Reflective listening ensures less misinterpretation and reinforcement or support for the speaker.

Reflective listening would also play a role in a dispute, which is similar to a conflict. Pirie (2000) defines a dispute as a “conflict becomes particularized concerning a specific issue or set of issues” (p. 37). When an angry community member come to Tribes for general reasons not specifically listed or without context, it can be considered a conflict. But when a community member comes to Tribes with concern for housing, the lack of housing, need for repairs, or long waiting list for housing, that would likely be classified as a dispute.

In order to understand the meaning behind a dispute, as in the meaning of a conflict, Pirie (2000) explains, “the venue of the dispute, who the unique parties are, what the subject is, and how long the problem has been brewing, do not provide the complete contextual picture of the full ‘why’ of the dispute” (p. 16). It’s important to understand the context of a dispute, as explained later, prior to solving a dispute.

Further to considering the context of a dispute, it’s also important to consider other aspects, particularly for Cowichan Tribes who are amidst a diverse society. Pirie (2000) argues, “Disputes also arise against a contemporary backdrop of social, political, and economic conditions. Like a play, the drama of the dispute unfolds in a complex set of attitudes, beliefs, opinions, values, structures, and relationships that

influence how the players - the disputants, other individuals, and society in general - create and experience the dispute, perceive its importance, and understand what should or can be done about it” (p. 16). These factors are also important for this First Nations organization, for employees whose beliefs, values, and opinions are highly important in Coast Salish culture.

For those involved in resolving disputes, it would be helpful to understand different ways to do so. For Cowichan Tribes, there is a Human Resources Policy in place, which leaves less room for vagueness or confusion. However, for those parties involved in resolving disputes at Cowichan Tribes, it would be helpful to read literature from various sources, such as negotiators, mediators, other Human Resources professionals, and the like.

Fisher, Ury, and Patton (1991) suggest four points to frame a negotiation:

People: separate the people from the problem

Interests: focus on interests, not positions

Options: generate a variety of possibilities before deciding what to do

Criteria: insist that the result be based on some objective standard” (p. 11).

Focusing on the issue entails separating the people from the people, which is difficult for some to do. Other literature regarding negotiation is helpful for this situation. However, Fisher, Ury, and Patton are well-known for their concepts and definitions in negotiation.

In terms of negotiation in the workplace, literature suggests negotiation skills are not too different. Fisher, Ury, and Patton (1991) argue “A working relationship where trust, understanding, respect, and friendship are built up over time can make each new negotiation smoother and efficient” (p. 19). It is hoped the employees of Tribes eventually get to this point.

Now that the meanings of dispute and conflict are introduced, interpersonal and conflict styles are now examined. Fisher, Ury, and Patton (1991) argue, “Understanding the other side’s thinking is not simply a useful activity that will help you solve your problem. Their thinking *is* the problem; whether you are making a deal or settling a dispute, differences are defined by the difference between your thinking and theirs” (p. 22). Of course, conflict would not surface if a difference in thinking were not the issue. This is the premise of most conflicts in the workplace.

In terms of styles, Picard (2002) offers “5 styles of conflict: collaborate, accommodate, compete, compromise, avoid” (p. 6). It is natural for people to fit into more than one of these categories; however, people generally have one dominating style.

Picard (2002) further explains the styles:

Competitive individuals try to ‘win’. Accommodating individuals are unassertive and cooperative. People who accommodate often neglect their own needs in favour of others and have a tendency to yield their own views. Avoiding individuals are unassertive and uncooperative, and they typically either side step, postpone, or withdraw from conflict. Compromising individuals are intermediate in both assertiveness and cooperativeness. Their objective is to find an expedient solution which often involves splitting the difference. People who collaborate are both assertive and cooperative attempt to work with the other person to find solutions that fully satisfy the concerns of all parties (p. 7).

There are seemingly people in the workplace that fit into all of these categories. Two people with different conflict styles, it would seem, likely find themselves in conflict.

Finally, literature detailing the theory is vast. Rigney (2001) describes ‘society as game’ (as well as machine, war, and others). Because theory is not easy to comprehend at times, society as game was the less difficult concept of theory to analyze.

Rigney (2001) claims, “game theory generally assumes that each player is rationally self-interested - or - cunningly self-interested” (p. 128). Society as a game suggests conflicts result from self-interested people, which can be assumed, do not align with the interests or goals from others.

Finally, Rigney (2001) asserts, “There is something enchanting and captivating about playing games - something that draws us into their imaginary worlds and seals us off from the world outside. Work can also be a kind of serious play. The work/play distinction seems to dissolve when we lose ourselves in the fascinations of a complex task” (p. 128). This theory suggests there is sometimes a vague distinction between work and play.

In sum, literature involving ADR and its elements prove to be invaluable in drafting an ADR for Cowichan Tribes. In fact, Picard (2002) suggests, “Advocates of ADR believed it would promote compromise over win-lose outcomes, replace confrontation with

harmony and consensus, minimize state control, and empower communities to achieve harmonious resolutions to social conflicts” (p. 9).

Conceptual Framework

There are two key issues examined in this report: 1) conflict resolution in First Nations communities, particularly in the workplace, and 2) the grievance process of existing Human Resources policy that governs the employees of Cowichan Tribes.

The primary methodology used to address these key issues included a literature review aimed at conflict resolution, alternative dispute resolution, and First Nations people and culture in those two capacities and structured open-ended interviews with the employees of Tribes as well as one retired employee, who is also a councillor.

Input by the employees in drafting the alternative dispute resolution process was used as the framework for structuring the interviews. The interviews were written with the input of the Human Resources Committee, with the “echo” approach in mind. This approach attempts to tackle an issue with the input of the people dealing with it directly. In this case the echo approach resulted in a draft of an alternative dispute resolution process from the input of the employees of Tribes and other key players such as chief and council, managers, and staff members.

These key players (employees, chief and council, and managers) normally come into conflict because of unmet needs, differing values or beliefs, or other underlying root cause (Fiadjoe, 2004). According to Fiadjoe (2004) ignoring these unmet needs or differences does not work, while addressing underlying causes would presumably address the conflict.

The framework for the interviews was created with a human resources and echo approach, as follows in Figure 1:

Group	First Section	Second	Third	Fourth
Between employee and: Employee Manager Community Member Chief and Council	Background information: name, age, department, Length of employment with Cowichan Tribes	Approach to problem solving How that has worked When and why it has not worked	Three examples of disputes with positive and negative results	Recommendations for a dispute resolution process

Figure 1 Interview Framework

The framework for the interview structure assisted in keeping the participant focused on the topic of dispute resolution. In tackling the positive examples first, the participant was able to stay on topic and address examples of positive experiences and seeming oversights or learning opportunities. In addressing negative experiences, the participant was able to reflect on what worked and did not work in terms of dispute resolution. Finally, the dispute resolution process question gave the participant opportunity to provide recommendations that stemmed from the previous questions, strengths to take forward but also mistakes not to be repeated.

One way to address the conflict is to draft a framework for the employees to follow when dealing with conflict. In order to draft this framework, it is imperative to assess the current situation. Tools to draft this framework must be considered. These include: communication, addressing cultural barriers, and examining the organizational culture.

Key findings from an assessment of the current situation with Cowichan Tribes suggest communication workshops to address the importance of communication with employees, chief and council, and community members. Other key findings include: 1) a need for dispute resolution training, 2) a need for a dispute resolution process to be clearly defined and followed, and 3) that culture is a key component in resolving disputes.

Methodology

Research Design and Data Collection Strategies

Data was collected through structured interviews with 20 participants in total. Participants included current and former employees of Cowichan Tribes. Interviews were conducted primarily at the Cowichan Tribes office, however, coffee shops and private residences were also locations requested by participants.

While some interviews were recorded manually and audio, the remaining few were recorded manually only as the digital recorder was not available. As well, the participants were given the option to remain anonymous or provide their name (or withhold information altogether in this study) on the consent form. However, names will be left out to protect their credibility as most remain employed with the client.

Sample

The figures below present demographic data of the participants. Figure 2 shows that the greatest number of participants was between 31 and 40 years old. Figure 3 illustrates the gender of participants; more than three-quarters of participants are female. Finally, Figure 4 shows the departments for which participants worked; the Health Department had the greatest number of participants.

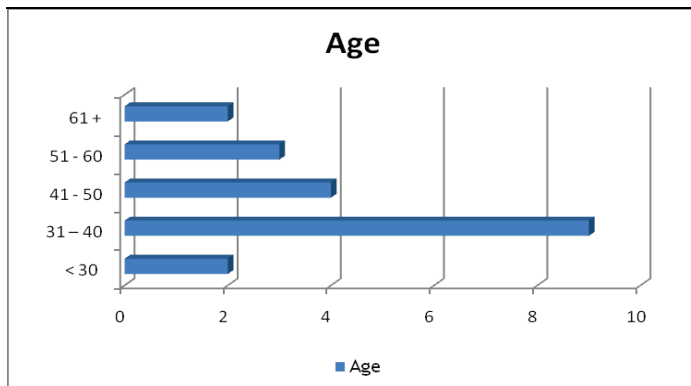


Figure 2. Age

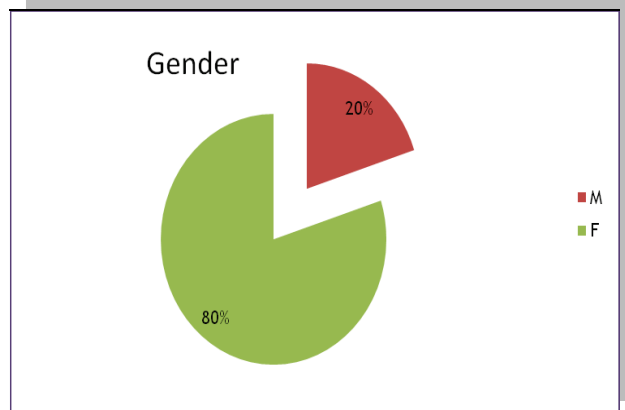


Figure 3. Gender

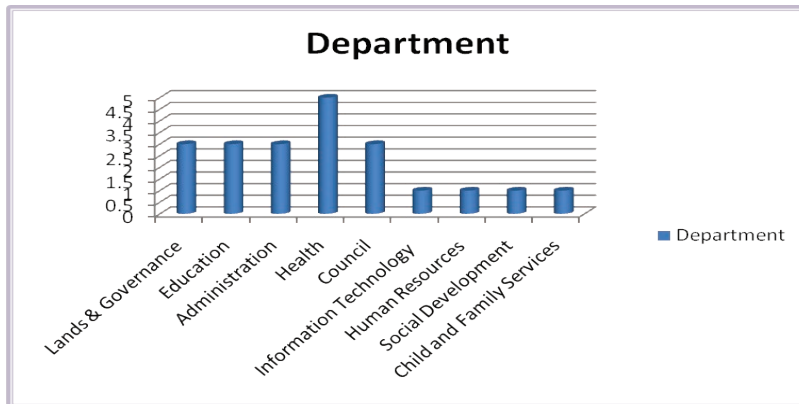


Figure 4. Department

The sample of participants was invited to participate through notification from the Centre Managers, emails, a Microsoft Publisher flyer posted in each department, and face to face. The method that attracted the most response was face to face. The sample included men and women of various ages and backgrounds. All departments were invited to participate, and some departments included other sub-departments such as child care facilities that are associated with the Education Department. Finally, three councillors participated in this study.

Design of instrument

A primary tool in collecting first sources of information is an interview guideline. The interview was prepared with the input of this project's supervisor and client. The Human Resources Manager and Advisor, in particular, were instrumental in having these questions slightly modified to suit the needs of Cowichan Tribes. The project supervisor was instrumental in keeping the questions focused on human resources. Some of the participants expressed appreciation of having the questions focused and concentrating on the issues.

Conducting these interviews was, in fact, seen by some as conducting official business. Therefore, I took much pride and effort in designing an interview to fit the needs of the participants. With my project supervisor's input, I crafted a set of interview questions to: gather background information (i.e. employment, age/gender, and general approach to problem solving), hear specific examples of conflict, disputes, or issues in specific settings (i.e. with fellow employee, manager, community member, and chief and council), and to solicit their feedback or suggestions for dealing with disputes.

Attached in *Appendix 1* is a copy of the interview questions.

Methods of Analysis

After the interviewing stage the results were broken down by question and categorized. Common themes began to emerge, and the results were becoming clear.

An instrument used in the beginning to analyze the responses was an Excel spreadsheet. The first section was categorized according to background information (age, gender, and department) and so a chart was easy to create. The second section, general approach to problem solving, was generated more for my purpose as an interviewer to get a sense of what kind of problem solver I was interviewing. It wasn't as simple or easy, but less complicated than the next four sections. The most common approach in the responses, as the results will show, is the direct approach whereby people prefer to deal with the problem or issues directly. "Triangulation" as people referred to, was a less favourable approach in having a third party intervene or assist with the dispute.

During the interview process, I explained to the participants that the term "dispute" in the question refers to something that does not necessarily refer to a heavy-handed, negative, heavy term. The term "dispute" in my interview questions referred to anything that included: an issue, oversight, difference of opinion, difference of approach to something (i.e., filling out a standard form), or problem. Once the interviewee heard the explanation, he or she was able to address the question with more ease.

Sections three to six were questions specific to workplace conflicts. Section three included conflicts or disputes with fellow employees, which was difficult for managers and the chief to answer as they typically do not deal with employees, particularly the more senior managers who have a junior or lower level manager or coordinator that deals with employees directly.

Section four addressed conflicts with managers. The results will show that most participants did not have disputes, conflicts, or issues with a manager. However, where possible, the participants spoke of their concern with managers.

Section five included questions regarding the community members. Cowichan Tribes is an organization that serves its community members. In fact, on the flow chart of the *Cowichan Tribes Pocket Governance Guide*, the community members are at the top of the flow chart. The community members direct chief and council, who direct the chief and general manager, who direct the staff.

The nature of some of the participants' work is very confidential. In fact, people wanted to share more information but could not do so due to the sensitive nature of their work. Therefore, the participants were requested to generalize their examples, omit names and departments, and such.

The final section, six, spoke to disputes with chief and council. The nature of this section is to address disputes that people have personally had with chief and council, and more specifically, bringing issues to the chief and council meeting. While some people did not have such an issue, some participants spoke of their concerns, recommendations, or observations of chief and council.

Findings

The findings from the literature indicated much research on conflict, organizations, and culture. Stemming from conflict and problem solving was another important topic, communication. In terms of organization, research shows very little about First Nations organizations. Rarer is literature about First Nations and alternative dispute resolution.

Regardless, literature provides useful consideration for alternative dispute resolution, organization culture, and communication. Miller (2007) suggests employees try “compassionate communication” whereby people immerse themselves in their job, but stay detached to avoid stress, burn out, and fatigue. Miller also offers ways to respond to conflict, including: neutrality, safety, rationality, and information gathering. Including these ways when addressing a conflict would assist employees in any organization.

In any organization, Holmes, Shnurr, and Marra (2007) assert that “humour provides a useful focus for exploring differences in the workplace”. Interestingly, First Nations people around the world have humour as a commonality. One participant (personal communication, September 23, 2011) said, “humour is important part of way we do things, humour is way to pre-empt conflict, way to preventative method saying subtle way ‘you might want to re-think what you’re doing, the process’, without being overtly confrontational I guess”.

In addition to humour in the workplace or First Nations culture, culture in general was briefly explored. LeBaron and Pillay (2006) state, “culture shapes our ideas of what is important, influences our attitudes and values, [and] animates our behaviours” (p. 14). They go on further to state ‘you can’t view conflict without considering culture’. Bridging the two, culture and conflict, was addressed through the interviews.

The findings from the interviews will now be examined through the categories from the actual interviews.

Problem Solving

Current approach

Problem solving approaches that participants were currently using included speaking directly to person in a dispute. Participants also utilized direct, face to face (as opposed to written (email, memorandum) communication when attempting to solve a problem. Listening to both sides of a dispute was highly utilized as well. Alongside direct communication is asking questions to understand a problem before attempting to solve it as well as finding a solution that works for everyone. Following policy was important to some.

Using this direct approach works best in team settings, according to the participants, when the other party is willing to listen and engage.

When it doesn't work

This approach does not work when the other party is not willing to meaningfully engage. For example, one participant (personal communication, September 1, 2011) stated, "It doesn't work well when people don't recognize their impact on others, they say they do but when they apologize it's not sincere".

Recommendations

Participants recommended: respectful communication in problem solving, following the process to avoid administrative items going to chief and council; finding a healthy balance at work i.e. yoga or walking session at lunch, building a wellness centre, or other forms of stress-relief and self care; and follow up and follow through after a problem has been addressed.

Participant (personal communication, June 30, 2011) recommends, "We need to show one another respect not engage in triangulation, direct, respectful and non confrontational communication, how we engage with one another in workplace".

Another participant (personal communication July 4, 2011) suggests, "use of our First Nation, Quwutsun practices, those are foundational values that we use in decision making, respect is one of the most important. If we have that as a foundation in our conflict resolution, that will bring us a long way"

Disputes between employee and employee

Conflict with positive results (as illustrated in figure 5):

The top three causes of conflict with positive results were: culture clashes, decision making, and a simple mistake or oversight. Culture clash refers to a dispute resulting from something that would only occur when Coast Salish culture was involved. Decision making was not always favourable to some employees, that is, a decision made by a person of authority or a fellow employee was not supported.

The next causes of conflict were: people unhappy with task delegation they felt belong to them or other, people's own behavior causing the conflict, job-specific causes such as dentist department and unhappy patients, the education department and unhappy or struggling students, or other job-specific causes of conflict; and finally, when an employee moves up to supervisory status, this move caused conflict with positive results.

Type of Conflict	Mistake or oversight, culture, clash, decision making	Job-specific (dental patient, child care, or other department-specific)	Move up to supervision, behaviour, power struggle, ‘no’ to ‘little’	Family favouritism, insubordination
Number of respondents	5 respondents	3 respondents	2 respondents	1 respondent

Figure 5. Conflict between two employees with positive results

Conflict with negative results

Causes of conflict with negative results include: employees not fulfilling their part of the job, with little to no repercussion or resolution; lack of follow through on issues; and communication (miscommunication or lack thereof). Other causes of conflict include: issues for staff that are also on council, dependency on Cowichan Tribes by community members; ‘triangling’ (involving third party in a dispute where it’s unnecessary), other departments providing the wrong information for a department; eye rolling; harassment; an employee not following procedure; and employee not being truthful.

One participant (personal communication, September 2, 2011) admitted, “when I was facilitating meeting two parties were not happy with each other they were going to deal with on own, I never asked them how did it go, they were still upset with each other, I wasn’t there to continue to provide support, I assumed it was dealt with”.

Recommendations

In terms of suggestions for dispute resolution, participants recommended: communication, follow the process already in place in terms of dispute resolution, considering the cultural aspect (in various forms, sometimes not specified), documenting the issue; confidentiality; have employees and management alike trained in conflict resolution; involving a mediator or HR involved in assisting with disputes; and maintaining respect.

One participant (personal communication, September 1, 2011) suggested, “There needs to be intake process where if someone not confident in putting forward a solution, somebody can help them identify what the problem is, solving the wrong

problem is not very effective. The third party person could say “what’s your goal? What’s going to help you resolve the problem?” If they can’t identify problem, they can’t identify solution.”

Another recommended, “Get it in writing that you’ve both come to mutual agreement and common understanding so that dispute will not resurface or perpetuate”

Other recommendations included: finding a healthy balance at work such as involving exercise, involving elders in the dispute resolution process, having an appeal process clearly defined, finding neutrality as an employee and community member, start meetings with a prayer where possible, having the budget made public knowledge, and giving the school/day care manager more authority in dealing with disputes.

Participant (personal communication, July 4, 2011) asserts, “The most important things are, when I come to work every day, the workplace needs to be safe supported and respected, those are key core values”

Disputes between employee and manager (or supervisor)

Conflict with positive results

Seven participants indicated ‘little to no’ problem with their manager.

The top three causes of conflict with positive results were miscommunication, a manager (from another organization) who was unaware of negativity to people, and the importance of culture and language or lack thereof.

The remaining causes of conflict were: communication, vague job description, decision making, and racial remarks (which are not condoned at Cowichan Tribes, and reflected in the HR Policy as inappropriate).

Conflict with negative results (illustrated in figure 6)

Five participants indicated ‘little to no problems’ with managers that have had negative results.

Cause of conflict with negative results included: communication, policy being unclear or not followed; paperwork not being signed or considered (in which important funding opportunities were missed); no follow through when issues were raised such as problems with other coworkers; finding a replacement for employees on leave of absence or retired; cultural considerations not being reflected in the HR policy, a manager who was simply “mean” (at another organization), and feedback taken as criticism rather than a learning opportunity (according to one participant).

Type of conflict	No to little problem	Paperwork going unsigned, communication, lack of follow through, finding replacement, policy issue (i.e. not receiving a raise)	Cultural consideration (i.e. leave without pay for cultural reasons), 'mean', feedback taken as criticism
Number of respondents	5 respondents	2 respondents	1 respondent

Figure 6. Conflict between employee and manager with negative results

Recommendations

Solutions that participants recommended include: speaking directly to the manager where possible; verbal communication (as opposed to written such as email or memorandum); having the dispute resolution process as culturally sensitive as possible (details weren't specified); following the policy; and using a mediator where necessary.

One participant (personal communication September 1, 2011) suggested, "I would say there needs to be, with a manager, there needs to be almost a flow chart for decisions, talking to manager above you, how much weight does the person have and how much does the advice they give carry? Using an example here, comptroller says something, and the HR manager says something else, which voice does the general manager listen to and why?"

Other recommendations included: having the HR policy as culturally sensitive as possible, as opposed or in addition to the dispute resolution policy; being honest in dealing with disputes; having upper and middle management spend more time with supervisors and other managers so that they (upper management) know and understand what the junior management staff do and what decisions they make; training in dispute resolution for management; one employee suggested that she'd go federal if her dispute is not resolved; have a written agreement on the outcome of the dispute; allowing managers to delegate to site managers i.e. Lelum el Daycare

manager, to deal with disputes rather than waiting for Human Resources to intervene; and finally, one employee is so disappointed with management in her department, she has no recommendations and has given up.

Participant (personal communication, September 23, 2011) states, “From a First Nations perspective, most issue we run into, are very dear to us. If it’s dealing with Chinook, because of our existence, if we lost Chinook, we lost a part of who we are. It’s a perspective that can be different to bring forward to a non-First Nations person”.

Disputes between employee and community member

Conflict with positive results

The most common conflict with positive results was job specific, that is, conflicts that were so detailed and specific to the department, that this conflict was categorized under “job specific”. Conflict in this category include: children not happy with dental services; parents not happy with child care or dental services; community member unwilling to provide information (such as need for medical taxi, filling out a form for social assistance or other service); parent mistakenly forgetting to indicate one food item on allergy list, and having child consume that food; and community member not receiving response from the housing or education department.

Other causes of conflict with positive results include: people not receiving help or unhappy with the response, such as: assistance for half the costs of dentures, not the full cost; community members that have formed a group to deal with past or current grievances; and issues where safety is a concern such as child apprehension or ‘limited intervention and apprehension’ or intoxicated community members entering the office.

Conflict with negative results (as illustrated in figure 7)

Causes of conflict with negative results include: verbal abuse; not receiving help or a response; unhappy with response; job specific conflict such as: troublesome caller, community members with disabilities, and parent unhappy with advice given for oral health; community members that are part of a formal group to deal with grievances; gossip; community members that were dishonest; and items on the chief and council agenda.

Type of Conflict	Unhappy with service (i.e. no response from department)	Verbal abuse, job specific (i.e. child care, health, or other department specific), community member group	Not receive help (due to funding or process), 'no' to 'little' conflict	Gossip
Number of respondents	9 respondents	3 respondents	2 respondents	1 respondent

Figure 7. Conflict with community member with negative results

Recommendations

In terms of dealing with disputes, participants recommend: addressing disputes, communication with patience, respect, sympathy, and empathy; keeping disputes confidential; following the policy; apologizing; conflict resolution training for employees to deal with disputes; declaring conflict of interest; having an open door policy for community members; accountability to community members; and speaking directly to the community member face to face.

One participant (personal communication, September 23, 2011) suggested, “A face to face meeting, that’s really important when resolving conflict or dealing with issue that you finish in good spirit, in good terms, if you don’t, then you may have made things worse than better. It’s really important to leave on positive note.”

Another participant (personal communication, September 1, 2011) recommended, “Maybe rather than having meetings where we chair, maybe having someone facilitate a circle or other cultural model, for any discussion that creates an additional framework of safety and respect”

One participant (personal communication, July 4, 2011) stated, “we have a group of community members that came together speaking on behalf of Cowichan community and employees that are afraid to speak for themselves. They were one group, but they split and became two groups. So we have two groups coming to council asking the same questions, sometimes not following the procedure in filling out an agenda request form for the agenda. All of these questions from both parties have taken up a lot of our administrative time, so we all focus on trying to answer these 50-60 questions rather than doing pro-active work”

Disputes between employee and chief and council

Ten participants indicated little to no conflict with chief and council.

Conflict with positive results

Disputes with positive results include: budget concerns, information flow to staff or community members; accountability; putting the literal or symbolic “nail on the door”, and the Canada Pension Plan implementation process.

Conflict with negative results

Causes of conflict with negative results include: items on the chief and council meeting agenda that should not be on there; budget information not made public; allegations by community members; and implementing a decision the staff did not agree with.

Recommendations (as illustrated in figure 8)

Recommendations for dealing with chief and council include: finding a balance between chief and council and the HR policy (this includes avoiding items on the agenda that belong with the HR or admin department); following the flow chart with the same example; more communication with employees and community; following the teachings (respect, ‘leaving issues at the door’, respectful and diplomatic communication [no shouting, name-calling], and possibly starting with a prayer before chief and council meetings); and clearly identifying the problem prior to finding a resolution.

One participant (personal communication, September 1, 2011) suggested, “Think when a matter goes to chief and council, the problem needs to be clearly identified and needs to be appointed to someone to define the scope of work before it gets adopted or made it into action item by way of motion. I don’t think they should make commitments to community members as soon problems are sent to them; that could get us into trouble”

Another participant (personal communication, July 28, 2011) stated, “Part of my reflections is thinking about old people, their teachings. There was a lot of transparency in dealing with the community. If we can continue to move back and re-establish an acceptance to those certain societal standards that reflect who we are as Aboriginal people connect to each other then we are in a better position to find resolution because there is some base line, reference point. We all agree. There are teachings”

Recommendations	Follow the flow chart	Communication (to staff and membership), follow teachings, balance with HR policy	Clearly identify problem prior to finding solution
Number of respondents	4 respondents	2 respondents	1 respondent

Figure 8. Recommendations for employees when dealing with chief and council

Discussion

After speaking with 19 employees and one retired employee (who is also a councillor), the results show that conflict is inevitable in this organization. Conflict needs to be dealt with, at least with a process in place to help address this issue.

Due to the large size of the organization, with different segments of people (managers, staff, chief and council, community), drafting an alternative dispute resolution cannot be possible without acknowledging and including these segments.

For example, when dealing with an issue between two employees, the Human Resources Policy will have suggestions and a process to follow. The same goes for dealing with a manager; however, more caution will be used because of the authority the manager carries. Miller (2007) states, “leaders are most powerful carriers of an organization. Through their activities, behaviours, and interactions, they constantly reinforce and shape their organization’s core values and basic assumptions”. Leaders in this sense can refer to management or chief and council. However, for day to day operations of this organization, management plays a bigger role in the administrative and operational side.

Participant (personal communication, September 23, 2011) suggested, “Managers should know when to step back, find solid constructive ways to delegate responsibility”.

For conflict between an employee and a community member, more care, attention, and respect needs to be considered. The participants felt that three particular qualities led to the need for these considerations: low levels of literacy, dependence, and genuine unhappiness with the services provided by Tribes. When dealing with something as seemingly simple as filling out a form for money or services, employees

were met with anger, hostility, passive-aggression (due to the fact that the community member's lack of ability to fill out a form), or the need for the information being unclear.

Miller (2007) describes a method of communication that would suit this group, 'compassionate communication', "emotional contagion is feeling *with* the client; empathic concern is feeling *for* the client" (emphasis added). Detaching one's feelings for clients would ensure a healthier balance and boundary in serving the community.

In terms of disputes with chief and council, less compassionate communication appeared necessary, and more policy, process, and accountability. That is, less interpersonal conflict appeared through the findings, and more procedural, policy and other impersonal conflict such as budgeting concerns, accountability, and lack of clarity in terms of administrative versus chief and council process.

Participants who brought an issue to the chief and council did so as a community member, not employee. As such, they felt they were going to a body they had elected to represent them. Chapman, Newhouse, and McCaskill (1998) suggest, "Leaders regard themselves as the servants of the people, as do Aboriginal leaders in communities". As mentioned previously, the community is located at the top of the organization chart.

Finally, disputes between employees appeared to have the densest discussion and therefore saved for last. It would appear that most issues resulted from interpersonal conflict. Coltri (2010) defines interpersonal conflict as "a state of interrelationship between persons or groups in which one or more of one participant's goals are actually apparent in opposition of one another" (p. 1). Whether this conflict is intentional or not, it would appear that one employee's goals differ than another. When the employees are in the same department that would likely cause more conflict.

Coltri (2010) also speaks of "latent conflict", where employees aren't aware that their goals differ or that a conflict exists. This type of conflict would surface in conflicts that involve simple mistakes or oversights, for example. It would appear that sometimes employees are not willing to accept a simple oversight or mistake, rather, passive aggression seems to surface, i.e. "eye rolling" or "gossip".

These types of conflict, interpersonal and latent, would not be found in the Human Resources Policy and therefore, are more difficult to tackle. Preventative measures such as regular training and workshops on communication, lateral violence, conflict, and dispute resolution may assist in addressing these types of conflict.

Other types of conflict between employees include the issue of authority, whether that includes someone moving up to a supervisory position without the support of their fellow employees, or an employee whose decision is not supported. Regardless, this type of conflict appears to exist in Tribes.

In terms of Picard's conflict styles, collaborate, accommodate, compete, compromise, and avoid, it would appear that the participants fit into more than one category: collaborate, avoid, and accommodate. Unless a participant wasn't truthful and simply focused on seemingly positive traits, most asserted the need to collaborate with other departments, and with community or elders. As well, avoidance was mentioned a few times in the interview process, mostly for the disputes participants felt were minor. Accommodation was definitely a trait of some of the participants. Accommodation to the elders, community, and culture is a common trait.

Similarly, another type of conflict is culture-related. Whether there is an issue or misconception or other form of conflict with culture, this is a difficult issue to address.

Recommendations

The following recommendations are categorized under the following headings: problem-solving, (disputes with an) employee, manager or supervisor, community member, and Chief and Council. Under each of these headings, themes that have emerged are included, such as: communication, policy, health, culture, etc.

Recommendation #1: Problem solving

Communication

When dealing with problems, issues, or conflicts, direct communication is recommended; that is: speak directly to the person, one on one, and listen to both sides of the story where possible (with the exception of serious disputes involving harassment). Non-judgmental and respectful communication is also recommended for the parties involved. For serious disputes where direct communication is not possible, third party involvement such as the Human Resources department or a mediator is recommended.

Policy

A clearer policy for grievances or disputes in the Human Resources Policy needs to be outlined. A clearer process will help alleviate the amount of issues or grievances going directly to chief and council rather than being dealt with at the administration level.

Health

A healthy balance between work and personal health, i.e. stress reduction, would help prevent problems before they occur. Whether this recommendation can be addressed through a wellness centre located at Cowichan Tribes, or a walking, yoga, or other exercise program at lunch, a healthy balance is a proactive measure in dispute resolution.

Follow up

Follow up and follow-through is highly recommended. Whether the problem is with an employee or a community member, more follow-up and follow-through is recommended. Also, having the parties involved in the decision or outcome would assist in having a solid outcome.

Confidentiality

While dealing with internal or external problems, confidentiality is of utmost importance. In particular, an unhealthy workplace habit of gossip should be avoided; if possible, drafting a portion of the HR policy to reflect this unhealthy work habit to warn employees to refrain from gossip and possible repercussions. Confidentiality is a key to having problems fully closed.

Recommendation #2: Employee

Communication

In dealing with fellow employees, communication appears to surface regularly, whether it's miscommunication, lack of community, or recommendations by participants for more or clearer communication. More communication is recommended, such as communication in dealing with a dispute, added communication with a community member, and follow-up and follow-through after a dispute. A recommendation for a communication workshop surfaced from the interviews. A communication workshop could help address employee concerns with miscommunication

Error

Most conflicts stemmed from mistakes, such as misinterpretation in the case of an employee filling out a form incorrectly, sending an invoice or payment to the wrong recipient, and directing people to the wrong department. For these disputes, situation-relevant communication skills, training for new employees on the first day, and other important administrative details such as assisting people with filling out forms correctly, directing people to the right department, would prevent disputes. Another suggestion from a participant was for the supervisor or Human Resources Department representative to read to a new employee the Human Resources Policy in detail.

Culture

Leave of absence for culture-related reasons needs to be outlined in the HR policy. In addition to outlining culture-related leave in the HR policy, communicating with employees on the use and abuse of such time is recommended.

As well, cultural consideration in dealing with disputes is recommended. Posting a symbolic or actual "nail on the wall" outside the council chambers and perhaps

Human Resources Department (where disputes are often brought for resolution) as well as a prayer at the beginning of chief and council meetings and meetings involving disputes is recommended.

Authority

A promotion from employee status to supervision requires communication around the importance of supporting fellow employees in mobility, as well as perhaps a transition period. Decisions made by persons of authority need to be cohesive where possible, or more communication if arbitrary decisions need to be made, for example for emergency and time-pressing decisions.

Disciplinary action

Disciplinary action for employees not fulfilling their duties needs to be outlined more clearly in the HR Policy. Examples emerged about lack or slow implication of repercussions, which also suggests a need for improved follow up and follow through by management.

Recommendation #3: Manager or supervisor

Communication

Communication between employee and manager would help prevent miscommunication or misinterpretation. Regular workshops or training on communication for employees and management may help to address such disputes. Regular training would include annual or bi-annual workshops and training to help maintain consistency and practice for communication.

Culture

Cultural considerations need to be reflected in the HR policy. In particular, it is recommended that emergency cultural obligations need to be reflected in the policy, which includes short-notice, emergency, or other time-sensitive cultural duty.

Third party

Third party or mediator intervention may be required in dealing with disputes involving management for the safety and comfort of employees.

Recommendation #4: Community members

Follow-up and follow-through

Servicing the community is top priority. Providing a service to a community member needs to be outlined in most people's job description. As well, follow-up and follow-through would satisfy the community member as well as the work load.

Extra attention

For front-line workers servicing the community, extra attention is required in terms of assisting a community member with filling out a form, speaking to the right person and department, and other important administrative duties.

Patience, respect, and communication

Literacy or lack thereof is a common trait of the community as expressed by employees. Extra patience, respect, and communication would ensure a smoother relationship with the community. Employees and managers alike need to have an open-door policy with community members as much as possible.

Community groups

Community members that have formed groups to deal with grievances or other issues that need to have a clearer process in dealing with their disputes. Having a process outlined to the staff and formal groups alike would ensure less time on the chief and council agenda, and more time in administration such as with the General Manager, Assistant Manager, and Human Resources Department.

Recommendation #5: Chief and council

Culture

Having a symbolic or actual ‘nail on the door’ outside council chambers would remind people to leave their personal issues at the door, and to focus on dealing with issues on the table more effectively. As well, starting the meeting with a prayer may assist in grounding people prior to dealing with important and potentially high-stake issues.

Accountability and transparency

Budget information, lack of information flow, and accountability needs to be outlined in terms of reference for chief and council. Community members and formal groups that have formed to deal with grievances and other issues that are brought to chief and council meetings may be addressed through more communication, accountability, and transparency. Suggestions given included: reporting on councillors’ votes such as motions, abstain, or conflict of interest; printing and distributing budget information where possible, other than the annual audit; and more communication and outreach between councillors and community members on topics such as the role of a councilor, duties outlined, and areas that councillors cannot cover.

Process

In addition to the current policy or practice, a clearer process in terms of administrative or Human Resources items on the chief and council agenda needs to be outlined. Before going to chief and council, or perhaps not going on the agenda at all, I would recommend the items going to Administration first, whether it’s to the General Manager, Assistant General Manager, or Human Resources Manager.

Conclusion

In summary, drafting an alternative dispute resolution could not be achieved without the input of the employees and councillors. The ADR process for Cowichan Tribes will be drafted with change in mind, change for employees, management, community members, and council. It is hoped that this change will provide great benefit for all.

Although it would be difficult to include all of the recommendations, particularly those that include culture, interpersonal behavioural suggestions i.e. 'extra care and attention', these are a reflection of the many years of service by the participants. The amount of meetings, focus groups, community meetings, and client appointments involving the participants warranted these recommendations. However, it is hoped the thoughts, concerns, and visions of the participants are accurately reflected in this paper.

Bibliography

- Chapman, I., Newhouse, D., McCaskill, D. (1998) "Management in contemporary Aboriginal organizations" *The Canadian journal of Native studies* 11(2) pg 333 - 349
- Coltri, L. (2010) *Alternative dispute resolution: a conflict diagnosis approach* Boston: Prentice Hall.
- Fiadjoe, A.K. (2004) *Alternative dispute resolution: a developing world perspective* London: Routledge-Cavendish
- Fisher, R., & Ury, W., Patton, B. (1991) *Getting to yes: negotiating agreement without giving in*. New York: Penguin Books
- Holmes, J., Schnurr, S., Marra. (2007) "Leadership and communication: discursive evidence of a workplace culture change" *Discourse and communication*. Wellington: Sage pg 432 - 251.
- LeBaron, M., Pillay, V. (2006) *Conflict across culture*. Boston: Intercultural Press
- Miller, K. (2007) "Compassionate communication in the workplace: exploring the process of noticing, connecting, and responding" *Journal of Applied Communication Research* 35:3, pg 223 - 245.
- Newhouse, D.R., Chapman, I.D. (1996) "Organizational transformation: a case study of two Aboriginal organizations" *Human Relations* 49(7) pg 995 - 1011
- Picard, C., (2002) *Mediating Interpersonal and Small Group Conflict* Ottawa: Golden Dog Press.
- Pirie, A.J. (2000) *Alternative dispute resolution: skills, science, and the law* Toronto: Irvin Law.
- Rigney, D., (001) *The Metaphorical society: an invitation to social theory* New York: Rowman & Littlefield Publishers Inc.
- Sterritt, N. (2010) *Cowichan Tribes Pocket Governance Guide*. 150 Mile House: Sterritt Consulting

Appendices

Appendix 1. Interview Questions

Interview Questions for the Employees

DR 598: Alternative Dispute Resolution for Cowichan Tribes

Lea Joe, Researcher and Interviewer

May 3, 2011

Interview Questions for the Employees

SECTION 1

Thank you for agreeing to meet with me today. As explained in the consent form, your contribution today not only assists me for my Master's project, but your information will be used to design an Alternative Dispute Resolution process for Cowichan Tribes.

a) Name: _____

Age or birthday: _____

Department/occupation: _____

b) Background and history:

How long have you been employed with Cowichan? _____

SECTION 2

a) How would you describe a problem-solving approach?

b) Where has this worked well?

c) Where has it not worked well?

d) What do you feel is important to take forward? i.e. strengths that can we use in other approaches

SECTION 3: EMPLOYEE AND EMPLOYEE

a) Please provide 3 examples of a conflict where you've had positive results or experiences

b) Please provide 3 examples of a conflict where you've had negative results

c) What are your recommendations for a dispute resolution process?

SECTION 4: EMPLOYEE AND MANAGER

a) Please provide 3 examples of a conflict where you've had positive results or experiences

b) Please provide 3 examples of a conflict where you've had negative results

c) What are your recommendations for a dispute resolution process?

SECTION 5: EMPLOYEE AND COMMUNITY

a) Please provide 3 examples of a conflict where you've had positive results or experiences

b) Please provide 3 examples of a conflict where you've had negative results

c) What are your recommendations for a dispute resolution process?

SECTION 6: EMPLOYEE AND CHIEF AND COUNCIL

a) Please provide 3 examples of a conflict where you've had positive results or experiences

b) Please provide 3 examples of a conflict where you've had negative results

c) What are your recommendations for a dispute resolution process?