

Chartered Institute of Arbitration
Annual Summer Seminar

PSYCHOLOGY
OF
DISPUTES

By Peter Stewart



Field Fisher Waterhouse

Heart or head Emotion or logic

“Annoyance, frustration, anger, dismay, indignation”

“Most manager allow emotions to cloud their judgement”

Two thirds of respondents admitted that emotion and personal pride adversely affected their chances of reaching a commercial solution

Emotion inevitable

The other side is seen as “unrealistic and antagonistic”

Glasshouse syndrome

“when considering our own actions we look at the situation for explanation and not usually our own weaknesses. Psychologists refer to this as the fundamental attribution error”

Barriers to effective dispute resolution

Bad communication

Management non-availability

Lack of good legal advice

Egos

Politics

Financial issues

Engagement of management

Management must not simply delegate to in-house counsel

Management need to consider the personal positions of those employees involved in the issues giving rise to the dispute

Internal morale

Risk vs Reward

Risk factors

Strength of legal position

Costs

Number of employees who will have to spend time dealing with dispute and their time

Consequences of losing

Consequences of not disputing

Risk vs Reward

Reward factors

Benefit of recovery of sum claimed

Public message from a successful outcome

Creation of competitive strength

Creation of good internal morale

Realistic assessment

Dispassionate involvement necessary

Ensure objectivity and commerciality to decision making

“How people manage conflict typically depends on two variables: being assertive....and being co-operative. Competitive people are often assertive and unco-operative...others may be unassertive and unco-operative...the key is to avoid either extreme”

A Balancing Act

