

The practice of discipline: evaluating the roles and relationship between managers and HR professionals

Carol Jones, Principal Lecturer in Human Resource Management, University of Central Lancashire

Richard Saundry, Reader in International Employment Relations, University of Central Lancashire

Human Resource Management Journal, Vol 22, no 3, 2012, pages 252–266

The roles played by managers in exercising workplace discipline have been of long-standing academic interest. However, relatively little attention has been paid to the way that the distinctive functions of operational managers and HR practitioners may interact and shape the nature and outcomes of disciplinary procedures and processes. This article examines this through a series of organisational case studies. It suggests that dimensions of control between operational managers and HR practitioners are fundamental to understanding the nature of workplace discipline. Furthermore, it argues that this relationship is crucial in determining the prospects for a shift towards greater flexibility in the management of discipline, as called for by Gibbons and reinforced by the Employment Act 2008. Therefore, findings suggest that questions of managerial preparedness to embrace this new agenda must also consider the role played by HR practitioners in embedding a culture of formality.

Contact: Dr Richard Saundry, Institute for Research into Organisations, Work and Employment, University of Central Lancashire, Lancashire Business School, Preston PR1 2HE, UK. Email: rasaundry@uclan.ac.uk

INTRODUCTION

Discipline and disciplinary rules have long been recognised to be a key dimension of the employment relationship (Edwards, 2005). UK public policy has largely been underpinned by a conceptualisation of workplace discipline as a linear technical process through which managers improve employee behaviour by the application of fair and just procedures (Edwards and Whitson, 1989; Fenley, 1998). This 'corrective' perspective has been reflected in the progressive extension of the legal regulation of individual dispute resolution (Earnshaw *et al.*, 2000; Edwards, 2005) and the consequent formalisation of workplace discipline through the near universal spread of written disciplinary procedures (Cully *et al.*, 1999; Kersley *et al.*, 2006). In contrast, academic research has tended to emphasise the use of discipline, both as a means of punishment and as a way to exert control over the labour process (Mellish and Collis-Squires, 1976).

While the literature focuses upon the way in which the application of discipline shapes, and is shaped by management-labour relations, less attention has been given to intra-management relations and in particular, the way in which (in larger organisations) operational managers and HR professionals interact within disciplinary processes. The progressive devolution of people management activities (McGovern *et al.*, 1997) has left the responsibility for disciplinary decision making with operational managers. Nonetheless, HR professionals retain a key role in providing expertise and advice and ensuring that managers comply with disciplinary procedures and so

avoid potentially damaging and costly litigation (Harris *et al.*, 2002). This arguably comes into conflict with operational managers' perceived preference for informality (Edwards, 2000) and the flexibility to respond to both the circumstances of individual employees (Rollinson, 2000; Cole, 2008) and the work-site context (Dunn and Wilkinson, 2002; Edwards, 2005).

Importantly, this apparent tension has been brought into stark relief by the increased emphasis placed on greater flexibility and informality in dispute resolution in the wake of the Gibbons Review (Gibbons, 2007) and reflected by the subsequent abolition of statutory disputes procedures under the Employment Act 2008 and the government's recently published *'Resolving Workplace Disputes: A Consultation'* (BIS, 2011). While attention has focused on the capability and desire of managers to take increased responsibility for disciplinary matters (CIPD, 2008; BIS, 2011), little has been said about the role of HR professionals.

This article attempts to rectify this omission and suggests that the complex relations between managers and HR professionals lie at the heart of the operationalisation of workplace discipline and will inevitably shape the impact of public policy initiatives. Drawing upon research in seven case study organisations, the analysis explores the nature of relationships between HR and line management within workplace discipline, the way in which relationships shape the handling of disciplinary issues and the implications for theory, policy and practice. We begin the article by discussing the existing research into the roles of HR and line managers in relation to workplace discipline. The methods used in this research are then set out and the findings are presented. Finally, the discussion and conclusion examine the conceptual and policy implications.

DISCIPLINE IN PRACTICE

Historically, the rules governing workplace discipline developed as a result of negotiation between employees, trade unions and employers (Edwards, 1994). An overlooked aspect of this is the way in which disciplinary processes and outcomes are shaped by the interplay between different functions and levels of management. To date, the literature has largely focused on the roles played by 'managers'. While research has pointed to heterogeneity in managerial approaches to discipline (Edwards, 1989), there has been little discussion as to how operational managers and their counterparts in personnel or human resources work together in practice when dealing with disciplinary issues.

It is often argued that operational managers dislike dealing with discipline through standardised procedures, instead favouring a pragmatic approach based on 'gut feeling' (Rollinson *et al.*, 1996: 51) and 'instincts' (Cooke, 2006: 699). However, evidence suggests that managerial decision making in disciplinary situations is based on a complex range of factors as opposed to a mere preference for informality.

First, it can be a reflection of managers' personal relations with subordinates. Thus, managers may prioritise the specific circumstances of the employee. For example, they might wish to treat long-serving employees with leniency (Rollinson, 2000). Similarly, they can be more understanding of an employee with time-keeping issues who has significant caring responsibilities in contrast to an employee who is persistently late due to being out drinking each night (Cole, 2008). Conversely, if an issue has the potential to undermine their authority, they may take an autocratic approach to reassert their control and send a clear signal to others that such behaviour will not be tolerated (Hook *et al.*, 1996; Rollinson *et al.*, 1996). As such, operational managers may develop a specific notion of 'fairness' that is intimately related to the social and power relations within their work unit. In doing so, managers have been noted to 'frame (and use) disciplinary rules for their own convenience' (Rollinson, 2000: 746–747).

Second, for many line managers, the rigid application of formal procedure does not provide the flexibility required to balance disciplinary considerations against the operational requirements of the immediate work context. Thus, notions of 'custom and practice' and a concern to maintain good working relationships can be **drawn upon** by managers to inform disciplinary decisions even where the behaviour concerned appears to **contradict substantive** rules within the wider workplace (Dunn and Wilkinson, 2002; Cole, 2008). For example, the vigorous application of **sanctions** in regard to absence may be perceived to be counter-productive if this is likely to result in a withdrawal of commitment and cooperation and damage output. As Edwards concludes, 'Rules are thus interpreted in context. Any manager sticking to the letter of the rule book might well be surprised not merely by the workers' reactions but also by line managers, who have negotiated a form of workplace equilibrium that turns on rules in practice' (2005: 384).

Third, as will be discussed in more detail later, the competencies of the manager and their position in the organisation may shape their approach to discipline. A 2007 CIPD survey claimed that most operational managers take on less responsibility for people management than was intended largely because of their attitudes and abilities (2007: 21). Disdain for formal procedures may in reality mask a lack of confidence in dealing with disciplinary issues due to inadequate training, inexperience and also the threat that decisions may be legally challenged (Harris *et al.*, 2002). In addition, managers may simply consider disciplinary processes to be excessively time consuming (Edwards, 2005).

Traditionally, the focus of HR in relation to discipline has been on the regulation of the employment relationship through active intervention in disputes between employers and managers (Storey, 1992). Importantly, HR professionals were widely seen as a 'neutral' third party responsible for ensuring that employees were fairly treated (Harris *et al.*, 2002). Arguably, this also placed them in an ideal position to broker informal resolutions of disciplinary disputes.

In recent years, while discipline has largely remained a jointly regulated activity (Whittaker and Marchington, 2003; Hales, 2005; Kersley *et al.*, 2006), HR professionals have sought to withdraw from the day-to-day management of disciplinary issues and cede the responsibility for disciplinary decision making to operational managers (Hall and Torrington, 1998a, 1998b). Accordingly, they have attempted to develop a more 'advisory' role (Storey, 1992), possibly reflecting the HR profession's desire to adopt a more strategic focus (Ulrich, 1997; Caldwell, 2003; Pritchard, 2010). Thus, increasingly, HR practitioners concentrate on the provision of arms-length specialist expertise (Cunningham and Hyman, 1999; Hunter and Renwick, 2009) in terms of: (a) the design of policy and procedure, (b) the consistent application of disciplinary rules (Goodman *et al.*, 1998; Cooke, 2006), (c) the legal guidance to ensure that managerial decisions do not lead to costly and disruptive **litigation** and (d) the offer of a broader view of the organisational implications of disciplinary decisions.

Crucially, the professional HR perspective is framed around a consideration of 'best practice' (Gilmore and Williams, 2007), which with regard to discipline is based on an **ethos** of consistency, procedural adherence and legal compliance. This appears to be in **stark** contrast to the contingent approach outlined above that might be said to be more characteristic of that favoured by operational managers. Further, it implies a clear divergence between the objectives of operational management and HR when handling disciplinary disputes.

It might be argued that the perceived shift to a more advisory role has also left HR professionals 'stranded without real influence, administrative resources or power' as they have simply become internal consultants (Caldwell, 2003). However, Hall and Torrington (1998b: 53) have hypothesised that HR professionals can regulate line manager behaviour by

defining 'tight procedures and manuals for line managers to follow'. Indeed, research has also found that operational managers can be highly proscribed in terms of what they can and cannot do in a disciplinary situation (Whittaker and Marchington, 2003; Hales, 2005; Kersley *et al.*, 2006).

A significant dimension here is the progressive juridification of workplace discipline, the threat of litigation and the consequent spread of standardised disciplinary procedures. As a result, managers who fear the potential legal consequences of their disciplinary decisions (Harris *et al.*, 2002: 225) may be more likely to **defer** to and become reliant on the active intervention of their colleagues in HR (Guest and King, 2004). For example, a 2008 CIPD survey of its members found that 'managers **shy away from tackling disputes** in case they do or say something that might be held against them during formal proceedings' (CIPD, 2008: 18). In **some respects**, this might be argued to **cement** a view among HR professionals that they have to 'police' the activities of operational managers in order to protect both the managers themselves and the organisation.

This discussion is not just of conceptual significance but has clear implications for policy and practice. The post-Gibbons policy agenda has refocused attention on the 'positive' dimensions of informal processes for dispute resolution. The **repeal** of the dispute resolution regulations under the Employment Act 2008 and the introduction of a shorter, less prescriptive Acas Code of Practice on Disciplinary and Grievance Procedures, were designed to avoid unnecessary procedural formality and provide managers with greater flexibility to seek the early resolution of disciplinary issues and employee grievances. Most recently, the government's '*Resolving Workplace Disputes: A Consultation*' (BIS, 2011) clearly stresses the need for early and less formal approaches to dispute resolution.

In some respects, this should provide an opportunity for line and operational managers to take greater responsibility for disciplinary issues and enable them to pursue the pragmatic and contingent approach discussed above. However, the CIPD has pointedly questioned 'whether managers are willing to and capable of taking this on effectively' (2008: 8). The government has also identified the need for improved dispute handling skills arguing that 'it is clear that many more problems could be prevented from escalating into disputes if line managers were better able to manage conflict' (BIS, 2011: 17).

Of course, questions of managerial capability and competence are of central importance in developing effective approaches to workplace discipline and dispute resolution. However, the review above clearly shows that this cannot be **divorced** from the influence of HR professionals who have **forged** a new advisory role for themselves based on an ethos of legal compliance and organisational consistency. Unfortunately, any consideration of the role of HR has been notable only by its absence from the policy debate.

This article begins to address this important issue and **poses a number of key questions**. First, what roles do operational managers and HR practitioners play within disciplinary processes? Second, how do operational managers and HR practitioners relate to each other within the management of workplace discipline? Third, how does this relationship shape the nature of both formal and informal disciplinary processes? Finally, what are the implications of this research for policy initiatives designed to increase the flexibility of dispute handling?

METHODOLOGY AND RESEARCH DESIGN

This research was conducted within seven case-study sites, which reflected the need for a methodological approach that exposes the social processes that shape workplace dispute resolution (Dickens *et al.*, 2005). Cases were selected to provide a **diverse** range of settings in

terms of workplace size, ownership, industrial sector, workforce composition and level of trade union recognition and representation. A **breakdown** of the sample is provided in Table 1. Precise details are not provided in order to protect the confidentiality of respondent organisations. All workplaces were located within the north of England.

In each case, interviews were conducted where practicable with (a) a senior HR/Personnel manager with responsibility for disciplinary issues, (b) an operational manager with experience of **chairing** disciplinary **hearings**, and (c) a trade union representative and/or employees who had acted as companions. In addition, further interviews were conducted with regional officers of trade unions that covered those workplaces without lay union representatives. In total, 26 interviews were conducted including eight HR managers, nine operational managers and nine trade union representatives and companions. In addition, copies of disciplinary, grievance and related procedures were requested from respondent organisations.

The majority of interviews lasted between 45 and 75 minutes. It is important to note that interviews with (non-union) companions tended to be much shorter due to a relative lack of involvement with broader disciplinary issues. The interviews were semi-structured and gathered responses across a number of key issues. Each interview was recorded (with the permission of the respondent) and then transcribed. Transcripts were then sent to respondents for **amendment** and/or verification.

The data presented below are organised as follows. First, we provide a brief overview of the nature of the disciplinary processes within the sample case studies. Second, we explore the roles played by HR practitioners within disciplinary processes and the key factors that appear to shape their approach to such issues. Third, the attitude of line managers within the sample to the handling of disciplinary issues is examined. Finally, we consider how line managers and HR practitioners interact within disciplinary processes and the implications of this for the way in which disciplinary issues are handled and consequent outcomes. In the concluding section of the article, the findings are discussed in terms of the research questions set out above.

Findings

As might be expected, all the organisations within the sample had written procedures for dealing with discipline and grievance that complied with existing legislation and broadly followed the Acas Code of Practice on Disciplinary and Grievance Procedures. The procedures normally included an informal stage or a reference to the fact that minor issues would be dealt with informally by an employee's line manager. The majority of the procedures then had four stages – verbal warning, written warning, final written warning and **dismissal**. In two organisations, further details were given in terms of the extent and nature of the disciplinary investigations and hearings, but in most procedures, there was a degree of flexibility in terms of implementation.

Importantly, within all procedures, operational managers (and not HR professionals) generally had the prime responsibility for investigating alleged disciplinary breaches, hearing disciplinary cases and imposing sanctions. For example, in a typical case of **gross misconduct**, the employee's immediate line manager would investigate the issue and a more senior operational manager would chair the disciplinary hearing. The most formal and complex procedures **were to** found within public sector organisations. Here, disciplinary hearings had a **quasi-judicial** character, which was perceived to be important by respondents in terms of ensuring natural justice within the process. Overall, there was a general **consensus** among both operational managers and HR professionals within the sample that the aim of discipline was to improve or correct behaviour rather than to punish.

TABLE 1 Breakdown of sample

Case	Size (employment)	Sector	Representation	Gender	Ethnicity	Skill	Interviews
A	10,000+	Private – manufacturing	TU recognised	Largely male	Largely white British	Semi-skilled, skilled	HR manager Ops. managers (3) TU rep. (2)
B	4,000+	Private – manufacturing	TU recognised	Largely male	Largely white British	Semi skilled, skilled	HR manager Ops managers (2) TU rep.
C	350–400	Private – retail	No TU recognition – low levels of TU membership	Diverse	Significant minority of non-British	Diverse – significant proportion low skill	HR manager Ops. manager Companion Reg.TU Officer HR manager
D	300–350	Private – retail/ manufacturing	No TU recognition – low levels of TU membership	Largely female	Diverse	Diverse	Ops. manager; Companion HR Manager (2) TU rep.
E	40,000+	Public – local authority	TU recognised	Diverse	Some diversity	Diverse	Ops. manager HR manager Ops. manager TU rep.
F	750–1,000	Public – transport services	TU recognised	Diverse	Largely white British	Diverse	HR manager Ops. manager TU rep.
G	100–150	Private – personal care	No TU recognition – minority union membership	Largely female	Largely white British	Low skill	HR manager Reg TU Officer

HR professionals – a disciplinary police force?

Throughout the sample, HR practitioners were not directly responsible for making decisions within formal disciplinary processes. Instead, their role was to provide support, advice and guidance to line and operational managers. They were seen as the ‘technical’ legal experts whose main function was to ensure consistency and the robust application of procedure. One respondent described her role as follows:

“coach the manager in the process and they make sure that the practicalities of the investigation and everything else was done in line with the process” (HR Manager, Private Sector A).

HR respondents were also **adamant** that operational managers were ‘owners of the process. They are responsible for managing the people, not HR’ (HR Manager, Private Sector A).

For the most part, operational managers did not disagree with this:

“I’ll do what I think should be done, and you get some right and you get some wrong. But it’s not for HR to determine disciplinary action or grievance response on operational matters. The manager should manage” (General Manager, Public Sector E).

In addition to providing advice and guidance, a number of respondents also saw HR practitioners as providing a degree of objectivity – ‘another party in the room that will see a sense of fair play’. (Operational Manager, Private Sector A)

Crucially, HR practitioners themselves were very clear that they represented the interests of the ‘organisation’ as opposed to ‘management’. This distinction was explained in clear terms by an HR manager in a medium-sized private sector business:

“there’s still this sort of level of mistrust between employees and HR because a lot of people see HR purely as there for managers and I hold my hand out. One of the most important jobs I have is to protect the business. That’s what I do. I protect the business but I also have to make sure the business protects itself as well from **rogue** managers” (HR Manager, Private Sector C).

This would suggest that many HR professionals see themselves as increasingly distinct from the managers that they advise. While, in the past, a central function of personnel management was to regulate the employment relationship through the active management of conflict, HR practitioners within our sample were increasingly concerned with regulating operational managers. Inevitably this could have an impact on outcomes:

“you go to [human resource advisors] for advice on sticky matters like how the law’s interpreted or if we’re covering a discriminatory issue, what’s the law. . . . they need to have their finger on the pulse of what’s happening. So they advise – which is their job. And it does influence the way things come out” (Project Mgr, Private Sector B).

This was **reinforced** to some extent by a pre-occupation with the threat of litigation. HR respondents were **acutely** aware of the legislative framework within which they operated. Moreover, in the event of an employment tribunal application, their advice would be scrutinised, and they may well be held to account for procedural breaches. Perhaps not surprisingly, therefore, HR respondents themselves acknowledged that in some cases, they had

a tendency to go 'into businesses like a bit of a police force' (HR Manager, Private Sector C) to ensure that managers 'carried out to the letter the procedure that was in place' (HR Manager, Public Sector F).

Despite their preference for an advisory role, a number of the HR practitioners in our sample were still involved in informal processes of disciplinary management and dispute resolution. In some instances, this was simply to assist operational managers who lacked the experience or confidence to discuss 'difficult issues'. But, perhaps, more importantly where HR practitioners had established **constructive** relationships with operational managers and, in some cases, trade union representatives, they were much more likely to be actively involved in attempts to seek informal resolutions to disciplinary issues. However, union respondents and some operational managers argued that this was increasingly difficult due to the changing nature of the HR function:

"One time you had a personnel department that **sat over** the whole site so you were dealing constantly with the same people . . . now, each business has its own HR department . . . So consequently, you're going into hearings with totally different HR people all the time . . . you certainly don't feel as sure as you would be with somebody that you know and you know the direction that maybe that person tends to go in or what they were looking at or what advice they would give the manager" (Trade Union Representative, Private sector A).

Overall, therefore, within the organisations that we examined, the HR function (in respect of workplace discipline) was increasingly centred on the provision of advice and the regulation of managerial activity. While, in some contexts, HR practitioners still played a role in brokering informal resolutions, there was a progressive shift (albeit somewhat uneven) away from active intervention within disciplinary management to a more remote function in which legal compliance and procedural adherence were paramount.

Operational management and discipline – informality, vulnerability and dependency

Operational managers throughout the sample were expected to address issues with employees at an early stage and so avoid any escalation into formal disciplinary disputes. However, not all managers were either good at this or convinced by its value. Formal processes were seen as time-consuming and complex. If disciplinary or performance related issues were raised:

"You're then going into a performance improvement programme which takes six months' worth of little meetings, giving tasks, and if the manager's not willing to spend the time to correct it, they'll just ignore it and let it go" (Project Manager, Private Sector B).

Moreover, some managers simply lacked the experience, training or confidence to manage conflict in a timely and effective way. As the manager quoted above conceded, "If the management's ability is poor, then you'll never get to the disciplinary stage, that's just too far down the line" (Project Manager, Private Sector B). Dealing with a number of employees on a regular basis could also cause **frustration** for managers. Consequently, formal procedure was sometimes used as a short cut to justify relatively **draconian** action. For example, one private sector HR manager explained that an operational manager had sought to dismiss an employee for being late:

"I said, 'You put yourself in a tribunal, in front of a tribunal judge who is going to say, you sacked this person because they were thirty-eight seconds late on that

occasion'. 'Yes but it's policy, it's procedure', and this was his argument to me, that it's procedure" (HR Manager, Private Sector C).

Overall, there was a perception among HR practitioners that many managers (particularly those with less experience) lacked the ability or willingness to manage disciplinary issues. HR staff felt that they were often left to deal with the aftermath of issues which had not been 'nipped in the bud' or handled in a way that breached procedure and risked litigation.

Where issues were addressed by operational managers, there was a clear evidence of a more pragmatic and contingent approach. As discussed above, such decisions were not straightforward, reflecting both managers' own sense of fairness and the individual circumstances of the employee. An operational manager explained this as follows:

"You've got to be adaptable and yes there's a policy in place but you've got to be flexible... If someone's grandma has died and they've had a day off for the funeral, yes, that policy may state it's an absence and that policy will state a disciplinary but hang on a minute, you've got to have compassion. You've got to care about that person and you've got to ask yourself the question, would it be fair if you were sent to a disciplinary for that reason?" (Assembly Manager, Private Sector C)

Here, the determination to be adaptable in terms of the response to take into account specific circumstances clearly stems from a concerned and empathetic perspective. Nonetheless, it is implied that this necessarily entails a departure from rigid procedural adherence. Similarly, a public sector manager argued that:

"It should be down to the manager to take on board that advice and guidance and then make a decision, which doesn't necessarily have to be in full accord with the guidance that you've been given... there is a defined process that is quite clear, quite prescriptive in a lot of instances, but the circumstances of individual cases don't always fall exactly in line with what that guidance was intended for" (General Manager, Public Sector E).

Therefore, the data highlights friction between the concern of HR with procedural and legal compliance and the desire of some operational managers to make more nuanced and contingent decisions. However, while experienced managers were generally willing to take responsibility for such judgements, the evidence suggests that the threat of litigation, plus a lack of capability and experience in some cases, has left many operational managers increasingly dependent on HR advice and support.

Managing discipline and drifting towards formality?

The findings presented above would appear to suggest that there is a clear tension between the preference of operational managers for a pragmatic and informal approach to workplace discipline and an ethos of compliance and consistency which underpins HR practice. How this tension is resolved could define the way in which discipline is managed.

It might be argued that the shift towards an arms-length advisory role may reduce the influence of HR practitioners and provide more scope for operational managers to adopt informal approaches to discipline. However, in reality, in many of the case-study organisations, there was a degree of ambiguity between the espoused devolution of discipline to the line and the extent to which operational managers relied heavily on HR, at times seeming willing for them to take over the situation:

“we’re trying to develop our managers at the moment but managers are nervous in dealing with disciplinary issues or grievances and they will listen closely to the advice being given. Quite often you’ll see the personnel officer virtually running the situation. So no, we don’t have many incidents whereby there’s a split between the manager and the personnel officer” (HR Manager, Public Sector E).

Furthermore, the tacit legal and organisational knowledge of HR practitioners increased the dependency of managers on HR. Importantly this allowed HR to **restrain** operational managers who while having a preference for informal action, saw formal procedure and following HR advice as the safest option:

“because they need to know how the law is going to be taken. You’re frightened of saying the wrong things. You’ve got to be careful what you say to people, even when it comes to interviewing, what you can say and what you can’t say. [...] That’s why you have to be careful when you’re dealing with somebody off the record that you discuss it with [the HR Manager] just in case she feels at that stage that it might be better if you deal with it in this particular way” (Marketing Manager, Private Sector D).

As **intimated** above, the extent of experience of HR professionals and operational managers appeared to shape relations. Experienced managers were comfortable with the role played by HR departments in acting as **arbiters** of consistency across the organisation and in explaining the implications of particular courses of action:

“I would always say to my [human resource advisor], ‘I need to understand whether this is a consistent approach. So I don’t want to set a precedent today that’s going to screw my colleague up for something he did last week, so you know, I need you to help me in understanding how consistent I’m being’” (Technical Manager, Private Sector A).

Similarly, HR professionals with good relations with managers and a firm **grasp** of operational contexts saw their role as trying to develop the competencies of less practised managers and gradually transferring control over the process. An HR manager explained that this involved a:

“delicate measure of not substituting what you think should happen and how you think you should deal with it but giving them the power to do it and giving them the confidence that the next time it arises, they may be able to do it without any help” (HR Manager, Public Sector F).

In contrast, management respondents indicated that less experienced HR practitioners tended to be ‘risk-averse’, a feature **compounded** by a perceived lack of organisational knowledge and also a concern that legal **ramifications** could impact upon their reputation. Thus, one private sector HR manager commented that **at times**, HR advisers could **exacerbate** a dispute when they:

“have come straight into the organisation and they know the process and procedure and know the law but don’t have the experience and knowledge to be able **to work outside the box**. So the advice they give to managers is that the process is the process, chop, chop, bang. Stick to process and the process will protect you” (HR Manager, Private Sector A).

Importantly, this was exacerbated by the changing nature of the HR function. The findings suggested that informal processes of resolution were more likely to be found where the HR practitioner retained a more traditional interventionist role. Indeed, this, in itself provided a framework within which high-trust relationships between key actors were developed. However, the shift towards an advisory role potentially threatens to disconnect HR from both the disciplinary process and also from the relationships that underpin informal processes. This problem was particularly acute where the HR practitioners were physically remote from the workplace that they covered:

“HR are too sort of divorced from employees a lot now and they shouldn’t be . . . I spend a lot of time in the business because I don’t want to be that separate entity. I hate the word business partner because it sounds as if I don’t even work here” (HR Manager, Private Sector C)

“We’re trying to evolve the traditional personnel role into that business partnership model . . . I think there is that danger that some HR people will simply just say yes, well there’s the process . . . you might lose that added value of the much closer support” (HR Manager – Public Sector F).

Furthermore, within unionised organisations, traditional relationships between managers and trade unions, that previously underpinned informal processes, were clearly under strain. It was suggested that newer operational managers were wary of acting without strong support from HR because some union representatives could have a ‘better grounding’ in the complexities of relevant procedure and law:

“So you may have a young, ambitious, up and coming manager, very capable, very competent technically but a complete lack of confidence in dealing with the trade unions in these sorts of issues and it’s in those circumstances where an experienced HR person probably tends to do more in the hearing than they should do” (HR Manager, Private Sector A).

Problematically, this could over-face HR professionals unused to working in unionised environments:

“the safest way for most managers and HR people to deal with that is to follow process and procedure because then there’s no argument. If you follow procedure [. . .] that’s a very black and white way of dealing with sometimes quite difficult trade unions reps” (HR Manager, Private Sector A).

Arguably, it is in the ‘informal’ dimension that the relationship between HR and operational managers is the most critical, and there was some evidence that even informal aspects of disciplinary processes were being formalised over concerns of consistency and equity. For example, some of the case study organisations had already put formal review and record-keeping elements into the process. Others were aware that this was an element that was a work-in-progress:

“in terms of the approach to the informals, I think what we are trying to do is be more consistent in our approach because with the four divisions one of the things I’ve identified is that different managers deal with things in different ways and what we’re trying to do at the moment is develop a consistency of approach so that we can be seen to be operating fairly and consistently across the organisation” (General Manager, Public Sector E).

Managers were thus at least encouraged, and in some of the larger organisations required, to formalise the informal. Of course, a fair and consistent approach to disciplinary issues is a **laudable** objective, but equity was not the main consideration. Instead, the main driver for such initiatives was not a desire to facilitate the resolution of disciplinary issues but the need to provide an audit trail so that if needed, further action could be justified, and the organisation could **rebut** eventual employment tribunal claims. Moreover, this was also **symptomatic** of a broader trend towards the increased organisational regulation of the management of discipline.

DISCUSSION AND CONCLUSION

The issue of workplace discipline has always been a central concern for those involved in the day-to-day conduct of workplace employment relations. But the increased **prominence** of individual employment conflict has placed it at the **forefront** of the policy **agenda**. Recent prescriptions have focused on providing employers with greater flexibility in the way they handle individual disputes (Gibbons, 2007). In some respects this is congruent with the pragmatic approach favoured by many operational managers (Edwards, 2000; Rollinson, 2000). Furthermore, the progressive shift of HR practitioners from a regulatory role in discipline to one of adviser (Storey, 1992) or even business partner (Ulrich, 1997) arguably leaves operational managers with greater freedom to handle and resolve disciplinary issues more informally. However, our findings suggest that such a view is much too **simplistic**.

There was little evidence that placing greater emphasis on operational managers to handle disciplinary disputes had necessarily translated into constructive attempts to **'nip issues in the bud'**. In fact, managers were often reluctant to deal with emerging disciplinary issues. This was partly due to a **long-standing** aversion to the time, cost and complexity of formal proceedings (see CIPD, 2007, 2008). But, it also reflected a lack of confidence in their ability to deal with such matters, a problem recently highlighted by the government (Department of Business, Innovation and Skills, 2011). Furthermore, this was accentuated by the perceived threat of litigation. Operational managers were **acutely** aware of the possibility of employment tribunal claims but were rarely well versed in the complexities of employment legislation. Consequently, they relied on their HR adviser for this knowledge. They also feared the internal **repercussions** that may result if they contradicted HR advice and if the disciplinary issue subsequently **escalated**. In this respect, despite their withdrawal from decision making, we found that HR practitioners retained significant influence over the decisions that such managers made. Therefore, the combination of a **cadre** of managers who have little experience of discipline and the increasing complexity of the legislative framework has placed HR practitioners in a particularly important position.

But what role did HR practitioners within our sample play? While they were sometimes forced to **step into a breach** left by unwilling or less capable operational managers, there was little **enthusiasm** for such an interventionist role. The day-to-day handling of discipline was universally seen as a job for managers, whereas the function of HR was to ensure that disciplinary decisions did not have **undue** adverse effects on the organisation. Rather than regulating the employment relationship, as the traditional personnel function might have done, the HR practitioners within our sample were largely concerned with regulating managerial activity. In some respects, this reflects the general desire within the HR profession for a more strategic advisory role (Gilmore and Williams, 2007). But more importantly, it also implies a dynamic of growing formality as managers become increasingly **reliant** on an HR function that is underpinned by a common ethos of procedural adherence, organisational consistency and legal compliance. Among our respondents, this was seen to be particularly apparent within new

generations of HR professionals, trained within a highly litigious and legislatively complex environment. These practitioners were perceived by both operational managers and more experienced HR professionals as being 'risk-averse' and 'inflexible'.

Furthermore, our findings also suggest that a formal approach to discipline may become further entrenched by trends towards the provision of remote HR services. This is perhaps not surprising if HR professionals have little contextual knowledge of the workplace and have no emotional stake in the outcome of a disciplinary decision, then the key determinant becomes the application of consistency. Of course, one could argue that such an approach maintains equity and fairness, but whether it promotes effective dispute resolution is more questionable (Saundry *et al.*, 2008).

Significantly, there was evidence of disciplinary issues being handled in a flexible and contingent manner with an emphasis on the potential for informal resolution. But, this appeared to rest on three related factors. First, operational managers with greater experience were more confident in their decision making and prepared to move away from a rigid application of procedure if necessary. Second, this confidence was based, at least in part, on the development of constructive and high-trust relationships with HR practitioners. These appeared more likely to exist where the HR practitioners themselves had greater experience within the organisation and/or knowledge of the context within which managerial decisions were taken. Such individuals were seen by their managers as 'knowing the business', and as 'experienced' and 'flexible'. Finally, HR practitioners with both contextual knowledge and technical expertise were able to combine their role as adviser with a more regulatory and interventionist approach where this was necessary and appropriate. In short, high-trust relations between operational and HR management clearly were crucial in underpinning informal resolution.

While it is difficult to generalise from a small sample of organisations, the data reported above have important conceptual and policy implications. Existing analyses of discipline focus, quite rightly, on the importance of workplace power relations. However, the discussion tends to be limited to the struggle between labour and capital. More sophisticated contributions have explored the broader contested and political nature of the negotiations that underpin disciplinary processes and outcomes (Edwards, 2005). They have also highlighted the heterogeneity of management and the roles played by trade unions. But, the impact of HR practitioners and their interactions with operational managers has received much less attention. This research suggests that any consideration of workplace discipline must take into account how the relationships between HR and line managers shape disciplinary processes and their consequent outcomes.

This article also has significant consequences for policy, and in particular, the prospects for a shift towards greater flexibility in the wake of the Gibbons Review (2007) and the Employment Act 2008. Organisations such as the CIPD have voiced scepticism over the ability of operational managers to take up the challenge presented by Gibbons. This has recently been reinforced by the government who have identified a need for improvements in the capacity of managers to tackle disciplinary issues and other sources of potential conflict at an early stage (BIS, 2011).

Indeed, there is some evidence of increased training of managers in such issues (CIPD, 2011). In the longer term, this may help to create a new wave of managers with the requisite capability to address and deal with disciplinary issues. However, our research suggests that this ignores both the context within which managers operate and the importance of their relations with HR practitioners. Compared with their predecessors, the current generation of managers operate in a complex legal environment and within a highly litigious culture. Therefore, even if they

develop the necessary skills, one must question whether operational managers will develop the confidence needed to address 'difficult' issues (BIS, 2011: 17). Consequently, we would suggest that HR practitioners will continue to play an influential role.

Importantly, HR practitioners can play a key role both in facilitating informal resolutions and in maintaining the relations between key actors that underpin informal processes. However, our findings point to the development of an advisory HR function that threatens to become increasingly distant from the workplace and which relies on a conception of best practice that is rooted in an ethos of legal and procedural compliance. When combined with a generation of managers with a lack of experience and a fear of organisational and legal exposure, there is a clear danger that discipline (along with dispute resolution) will become locked into a dynamic of increasing formality.

Therefore, neither operational managers nor HR professionals alone hold the key to enhancing the management of workplace discipline. There is clearly a need for managers to develop the requisite skills to deal effectively with individual conflict. But, this in itself will have little impact unless HR practitioners, on whom they rely for guidance and advice, also adopt an approach that places dispute resolution before procedural observance.

Acknowledgements and disclaimer

The authors would like to acknowledge the financial support of Acas who commissioned the research from which the findings in this article are drawn. The views in this report are the authors' own and do not necessarily reflect those of Acas.

REFERENCES

- Caldwell, R. (2003). 'The changing roles of personnel managers: old ambiguities, new uncertainties'. *Journal of Management Studies*, 40: 4, 983–1004.
- CIPD (2007). *Managing Conflict at Work*, London: CIPD.
- CIPD (2008). *Leadership and the Management of Conflict at Work*, London: CIPD.
- CIPD (2011). *Conflict Management – Survey Report*, London: CIPD.
- Cole, N. (2008). 'Consistency in employee discipline: an empirical exploration'. *Personnel Review*, 37: 5, 109–117.
- Cooke, H. (2006). 'Examining the disciplinary process in nursing: a case study approach'. *Work, Employment and Society*, 20: 4, 687–707.
- Cully, M., Woodland, S., O'Reilly, A. and Dix, G. (1999). *Britain at Work as Depicted by the 1998 Workplace Employment Relations Survey*, London: Routledge.
- Cunningham, I. and Hyman, J. (1999). 'Devolving human resource responsibilities to the line. Beginning of the end or a new beginning for personnel?' *Personnel Review*, 28: 1/2, 9–27.
- Department of Business, Innovation and Skills (BIS) (2011) 'Resolving Workplace Disputes: A Consultation', <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/r/11-511-resolving-workplace-disputes-consultation.pdf>, accessed 1 March 2011.
- Dickens, L., Hall, M. and Wood, S. (2005). 'Review of research into the impact of employment relations legislation', *Employment Relations Research Series No. 45*, London: DTI.
- Dunn, C. and Wilkinson, A. (2002). 'Wish you were here: managing absence'. *Personnel Review*, 31: 2, 228–246.
- Earnshaw, J., Marchington, M. and Goodman, J. (2000). 'Unfair to whom? Discipline and dismissal in small establishments'. *Industrial Relations Journal*, 11: 1, 62–73.
- Edwards, P. (1989). 'The three faces of discipline', in K. Sisson (ed.), *Personnel Management in Britain*, 1st edn, Oxford: Blackwell, pp. 296–325.
- Edwards, P. (1994). 'Discipline and the creation of order', in K. Sisson (ed.), *Personnel Management. A Comprehensive Guide to Theory and Practice in Britain*, 2nd edn, Oxford: Blackwell, pp. 562–592.

- Edwards, P. (2000). 'Discipline: towards trust and self-discipline?' in S. Bach and K. Sisson (eds), *Personnel Management: A Comprehensive Guide to Theory and Practice in Britain*, 3rd edn, Oxford: Blackwell, pp. 317–339.
- Edwards, P. (2005). 'Discipline and attendance: a murky aspect of people management', in S. Bach (ed.), *Managing Human Resources. Personnel Management in Transition*, 4th edn, Oxford: Blackwell, pp. 376–397.
- Edwards, P. and Whitson, C. (1989). 'Industrial discipline, the control of attendance and the subordination of labour: towards an integrated analysis'. *Work, Employment and Society*, 3: 1, 1–28.
- Fenley, A. (1998). 'Models, styles and metaphors: understanding the management of discipline'. *Employee Relations*, 20: 4, 349–364.
- Gibbons, M. (2007). *Better Dispute Resolution: A Review of Employment Dispute Resolution in Great Britain*, March 2007, London: DTI.
- Gilmore, S. and Williams, S. (2007). 'Conceptualising the 'personnel professional' – a critical analysis of the Chartered Institute of Personnel and Development's professional qualification scheme'. *Personnel Review*, 36: 3, 398–414.
- Goodman, J., Earnshaw, J., Marchington, M. and Harrison, R. (1998). 'Unfair dismissal cases, disciplinary procedures, recruitment methods and management style. Case study evidence from three industrial sectors'. *Employee Relations*, 20: 6, 536–550.
- Guest, D. and King, Z. (2004). 'Power, innovation and problem-solving: the personnel managers' three steps to heaven?' *Journal of Management Studies*, 41: 3, 401–423.
- Hales, C. (2005). 'Rooted in supervision, branching into management: continuity and change in the role of first-line manager'. *Journal of Management Studies*, 42: 3, 471–506.
- Hall, L. and Torrington, D. (1998a). *The Human Resource Function, The Dynamics of Change and Development*, London: Pitman.
- Hall, L. and Torrington, D. (1998b). 'Letting go or holding on – the devolution of operational personnel activities'. *Human Resource Management Journal*, 8: 1, 41–55.
- Harris, L., Doughty, D. and Kirk, S. (2002). 'The devolution of HR responsibilities – perspectives from the UK's public sector'. *Journal of European Industrial Training*, 26: 5, 218 – 229.
- Hook, C., Rollinson, D. and Foot, M. (1996). 'Supervisor and manager styles in handling discipline and grievance. Part one – comparing styles in handling discipline and grievance'. *Personnel Review*, 25: 3, 20–34.
- Hunter, W. and Renwick, D. (2009). 'Involving British line managers in HRM in a small non-profit organisation'. *Employee Relations*, 31: 4, 398–411.
- Kersley, B., Alpin, C., Forth, J., Bryson, A., Bewley, H., Dix, G. and Oxenbridge, S. (2006). *Inside the Workplace. Findings from the 2004 Workplace Employment Relations Survey*, London: Routledge.
- McGovern, P., Gratton, L., Hope-Hailey, V., Stiles, P. and Truss, C. (1997). 'Human resource management on the line?'. *Human Resource Management Journal*, 7: 4, 12–29.
- Mellish, M. and Collis-Squires, N. (1976). 'Legal and social norms in discipline and dismissal'. *Industrial Law Journal*, 5: 3, 164–177.
- Pritchard, K. (2010). 'Becoming an HR strategic partner: tales of transition'. *Human Resource Management Journal*, 20: 2, 175–188.
- Rollinson, D. (2000). 'Supervisor and manager approaches to handling discipline and grievance: a follow-up study'. *Personnel Review*, 29: 6, 743–768.
- Rollinson, D., Hook, C. and Foot, M. (1996). 'Supervisor and manager styles in handling discipline and grievance. Part two – approaches to handling discipline and grievance'. *Personnel Review*, 25: 4, 38–55.
- Saundry, R., Antcliff, V. and Jones, C. (2008). 'Accompaniment and representation in workplace discipline and grievance'. *Acas research papers*, London: ACAS.
- Storey, J. (1992). *Developments in the Management of Human Resources*, Oxford: Blackwell.
- Ulrich, D. (1997). *Human Resource Champions*, Boston, MA: Harvard Business School Press.
- Whittaker, S. and Marchington, M. (2003). 'Devolving HR responsibility to the line. Threat, opportunity or partnership?' *Employee Relations*, 25: 3, 245–261.