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*Innovations in Conflict Management*

*Research Papers*

**Research Paper 7**

**Catalysts of Innovation: Facilitators and Mediators**

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## Introduction

This paper examines the views and experiences of conflict resolution professionals. Two distinct groups were involved in the two focus groups that form the basis of the paper. Participants in the first focus group comprised facilitators and mediators who offered their professional expertise to organizations in these areas and sometimes also in other areas of HR. This group comprised people with experience of collective dispute resolution (sometimes outside the remit of collective bargaining) and people with experience of mediating individual grievance resolution. Some participants had experience of both collective and individual dispute resolution. Some participants provided conflict management coaching to clients and conducted workplace investigations. Some had also acted as arbitrators. The experience of members of this focus group spanned unionized and non-union organizations. The second focus group comprised experienced facilitators from the Labour Relations Commission (LRC) whose work mainly, but not exclusively, involved conciliation and related interventions, such as ‘assisted negotiations’.

LRC staff and independent facilitators and mediators perform distinct, if sometimes also interlocking, roles in the conflict resolution process. It was anticipated that each group might hold views that were at times critical of the other. We wished to encourage any such views to be expressed freely and candidly insofar as they might be pertinent to understanding the process of conflict resolution within organizations. For these reasons separate focus groups were conducted with each group, but addressing common themes. We combine their views and experiences in the paper, distinguishing clearly the provenance of views and experiences reported where this is important for establishing the context in which they are shaped and expressed.

Those invited to participate in the focus group of facilitators and mediators were identified on the basis of the research team’s knowledge and experience of the area, by reviewing coverage of dispute resolution activities in the specialist industrial relations and human resource management press, especially the weekly periodical, *Industrial Relations News*, and by canvassing the opinion and suggestions of professionals active in the field. The LRC facilitators’ focus group comprised people with experience of different industrial sectors and different modes of conflict resolution. They were knowledgeable about innovative forms of conflict resolution within the LRC, but were also aware of developments in conflict

resolution in the unionized firms with which they came into contact. LRC facilitators are also trained in mediation and conduct mediation when required by clients.

In all, eight people participated in the facilitators' and mediators' focus group and three people participated in the LRC focus group. We are satisfied that the focus groups brought together people with a broad spectrum of experience in providing support to organizations and their stakeholders in resolving different types of workplace conflict in a variety of employment settings. These included large, medium, and small firms, private sector and public sector organizations and Irish-owned businesses and foreign-owned multinationals.

All focus group participants were provided with a document that outlined the aims of the project and the conduct of the focus group. They were also provided with a set of Power Point slides that identified the areas to be covered in the focus group discussions. These comprised the following:

- The nature and incidence of innovations in conflict management in organizations, with respect to both collective and individual conflict.
- The influences that lead firms on the one hand to adopt innovative approaches and practices and on the other to accept constraints on innovation.
- The outcomes associated with innovations for organizations, employees and trade unions.

Each of these areas was further developed to focus discussion and examples of innovative individual and collective conflict management practices were offered to participants in order to prime the discussion.

Focus group members were also offered a simple and general definition of workplace conflict as 'differences between individual employees and their employer; among individuals; between groups of employees and their employer and between unions and employers'. The focus groups were moderated by members of the research team. With the agreement of focus group participants, focus group discussions were recorded and subsequently transcribed for analysis.

The analysis of the role and experiences of facilitators and mediators presented in this paper begins with a discussion of their experiences of innovative practices. It then examines outcomes associated with the adoption of different innovations. The next sections deal with influences on innovation and the ways in which facilitators and mediators become involved

in innovative activity within organizations. The final section presents the paper's main conclusions.

### **Innovative Practices for Managing Conflict**

In general the facilitators and mediators were of the view that the incidence of innovation in conflict management in firms in Ireland was very limited. Evidence of innovation on the ground was judged to be 'sparse'. A focus group participant said that some instances of innovation, such as the use of arbitrators or ombudspersons, were now of long vintage and that there did not seem to be many new instances of these practices. Particularly sparse were instances of what was described as 'structured innovation' where new sets of practices for conflict management and resolution had been adopted by firms. As one experienced practitioner put it, there did not seem to be a 'whole tin of beans out there'.

At the same time, it was remarked that there were many more professionals working in the field and bringing varied experience to their work. Historically, all that had existed were forms of grievance and dispute resolution that led to referral to the Labour Court and latterly to the Rights Commissioners and the LRC. Independent professionals in conflict resolution scarcely existed in the past. Participants in the LRC focus group concurred with the view that the incidence of innovation was limited. They also emphasized that owing to their vantage point at the apex of the conventional dispute resolution system they were not best placed to observe and assess the extent of innovation in firms and workplaces. Firms and employees dealt with the LRC for the most part where domestic procedures had failed to resolve conflict and LRC staff were therefore likely to have less or no contact with firms where the referral of disputes and grievances to external agencies had been avoided by the use of more effective or innovative practices. Like the independent facilitators and mediators, LRC participants felt that cases that might be perceived as innovative were not always that different in method or approach to conventional dispute resolution, other than that they aimed to keep conflict resolution within firms by using mediators or arbitrators in place of the facilities of the state agencies. It was also observed that there was a 'continuing drive from organizations to push the boundaries' with respect to modes of dispute resolution, even if so far this had involved quite modest changes in the incidence of non-traditional practices or approaches.

With respect to areas where innovation might be most evident, some focus group participants felt that it was more pronounced in collective conflict resolution than in the handling of individual grievances and more prevalent in that sense in the public sector. This was

particularly so in instances of ‘structured innovation’. The introduction of compulsory arbitration under the 2010 Public Service Agreement (Croke Park Agreement (CPA)) and its extension in 2013 into the Haddington Road Agreement (HRA) was widely perceived as a highly significant instance of innovation in the public service.

Participants in both focus groups identified and discussed their experiences of a number of specific innovations. These will be discussed next.

**Mediation:** The use of mediation in cases involving individual grievances was identified as one significant area of innovation. A number of instances where mediation had been added formally or informally to a procedure were identified, including several in commercial state-owned companies and the health services. These innovations sometimes involved the use of internal mediators. The practice of mediation was seen by some as involving ‘huge innovation’ in the new expectations placed on people in conflict to deal with the conflict themselves, with assistance from a mediator. Mediation sometimes arose in conflict surrounding bullying and harassment. Here it was observed that organizations, or those directly involved in conflict, sometimes sought to focus on resolving the immediate issue without concern for the underlying problem that may have triggered the conflict. In some instances, the ‘designated contact person’ enshrined in legislation dealing with health and safety at work acted in what was described as a ‘mini-mediation’ capacity, beyond the narrow remit envisaged in the legislation. Mediators, as would be expected, promulgated the use of mediation, but others offering a range of conflict management interventions sometimes also sought to encourage firms to develop revised grievance and disputes procedures that included a reference to the use of mediation as a key aspect of a policy on ‘dispute avoidance and resolution’. While this was understood as an ‘aspirational’ posture, it was nevertheless seen as worthwhile in re-orientating organizations away from an exclusive reliance on conventional grievance and disciplinary procedures. Less aspirational were instances where an external expert had sought to make the case for using mediation when the provision of mediation had not been the original basis on which they had been engaged:

In a lot of cases that I get in mediation, they often come in as something else and I’ll write in an option for a mediation process – whether it’s an independent review or an investigation. As standard I include an option for mediation in the preliminary investigative meetings. So all sides [may] agree to suspend the investigation and then it goes out to mediation as an option.

With the same kind of approach in mind another focus group participant spoke of being engaged to undertake an investigation under the prevailing grievance process and believing that a basis existed for mediation which might change the investigation into a form of ‘evaluative mediation’. But it was seen to have been difficult to gain acceptance from employers and unions for proposals of this kind because existing procedures had not envisaged such changes or flexibility in modes of conflict resolution.

*Line management training:* Some instances were discussed of line management training in grievance and conflict handling. Training interventions in this area, of which some mediators and facilitators had experience, arose in one of three ways. In some firms, seen as exemplary, line management training in conflict handling reflected an underlying culture of effective line management in which line managers and supervisors were assisted in developing an understanding of their role in the area and encouraged to resolve problems as close to the occurrence of incidents as possible.

Secondly, training in handling conflict was sometimes ‘tacked on’ to management training programmes. External facilitators with expertise in the area might be invited to contribute because the area was seen as ‘messy’ and requiring specific expertise. Thirdly, line management training in handling conflict was in other instances a response to specific problems or challenges, such as high levels of grievances in a workplace or imminent changes in work locations and associated attempts to foster change in how conflict was addressed in new locations. In other instances, it was reported that training in handling conflict amounted to little more than the provision of information on how to process grievances or disputes. In a few instances, in both the private and public sectors, the ability to handle conflict effectively was recognized as a management or leadership competency – in one reported instance this had been an outcome of an external professional accreditation process – or at least as a facet of effective negotiating skills.

It was remarked that in some organizations, sometimes as a result of a crisis, senior management had a high degree of competence in dealing with conflict because this is seen as pivotal to the success of the organization. Apart from the work of independent facilitators and mediators, the LRC also provided training workshops relevant to dealing with conflict in the workplace and allied to themes such as effective communications and building non-conflictual relationships. Training for line managers in conflict resolution, though a subject of comment by a number of focus group participants, appeared limited both in incidence and in

scope. One participant contrasted the pace of developments in this area with the more general devolution of HR responsibilities to line managers – a trend that was seen as having gained momentum.

For some participants, line managers in general lacked confidence in managing conflict. Apart from limited training, this was attributed to the absence of formal organizational and HR policies that might incentivize line managers to engage in conflict management. More often than not, it was claimed that prevailing practices discouraged managers from becoming involved because they faced the prospect of encountering lawyers, or could rely on the LRC or Rights Commissioners to handle the problem.

Mediators also sometimes provided ‘conflict coaching’ for line managers. This appeared to be more closely focused on roles and obligations under legislation in areas such as bullying and harassment and specifically on the handling of the mediation process. Without this training, as one mediator put it, ‘bullying and harassment procedures can be intimidating’. Sometimes conflict coaching had taken place when line managers had to deal with a high incidence of conflict.

Some participants observed that effective grievance and conflict management was essential in multinational firms, where having failed in this area would not be a ‘great mark against your name’. In some of these firms, managers’ performance in this area was made transparent through ‘speak-up’ systems and other organizational HR systems like 360<sup>0</sup> feedback. Systems such as these incentivized effective conflict management on the part of line managers.

*Open-door policies:* Surveys show a relatively high incidence of open-door and associated policies, such as on-line ‘speak-up’ procedures in firms. These were not a subject of much comment by focus group participants. Some comments associated the incidence of these practices with ‘paternalistic types of employment’. It was felt by one experienced commentator that policies such as these could be a double-edged sword for employees, especially where they were used for ‘whistle-blowing’ on misdemeanours or problems. It was observed that initiatives taken by employees might rebound to their disadvantage in the absence of additional legislative supports for whistle-blowing.

*Arbitration:* The use of arbitration was subject to significant commentary in the focus groups. Some observers noted that there had always been some use of arbitration in Ireland, and that no clear trend towards a growing use of arbitration was evident in the private sector. It was



remarked on that a little used section of the 1946 Industrial Relations Act, which was a pillar of conventional conflict resolution, provided for the use of arbitration in disputes. Others felt that there were indications of a growing use of arbitration. Both employers and unions were seen as reluctant in the main to adopt arbitration because it involved a loss of control (to the arbitrator) over possibly significant issues and core areas of decision-making. As one observer put it, the parties were simply unwilling in most cases to ‘give up control over final decision-making to an arbitrator in matters, some of which can be critical’.

Notwithstanding limited enthusiasm for arbitration in the private sector, one facilitator outlined how they had intervened in several grievances and disputes at the request of the LRC and the Labour Court. Their intervention was initially focused on ‘fact-finding’ with respect to specific issues in contention between the parties. While their terms of reference defined the process involved as ‘investigation’, the facilitator proposed to the parties that they should agree to be bound by the findings or recommendations of the investigation. The facilitator viewed this posture as supporting collective bargaining with fact-finding, but it might also be viewed as an initial investigation phase evolving into arbitration through the consent of the parties involved, who were keen to avoid any further cycle of third-party conciliation and also sought finality in their dispute

The term ‘fact-finding’ was seen as holding little currency in dispute resolution in Ireland, but the core processes involved were nevertheless used in instances other than as a prelude to arbitration. The Labour Court is seen to have used a form of fact-finding by engaging independent facilitators to obtain financial information and report this back to the Court. This process is seen to have required facilitation-type skills, together with investigation skills. As well as informing the deliberations of the Court, facilitation of this kind was seen to play a role in ‘building a relationship with the parties’, which makes it ‘easier for them to accept the outcome’. Another example given of fact-finding involved facilitators assisting joint working parties to generate options for responding to problems.

Instances, of ‘structured change’, involving a series of changes to disputes and grievance procedures, to be discussed below, were also seen by some as ways of getting close to arbitrated outcomes without actually embracing formal mandatory arbitration.

In contrast to the limited if possibly growing use of arbitration in the private sector, the introduction of mandatory arbitration under the CPA and its subsequent extension under the HRA was widely seen as a ‘game changer’ in public service industrial relations. In the past,

Conciliation and Arbitration schemes (C&As) in the public service made provision for arbitration in negotiations between the State and public service unions. It had been common practice for the public service arbitrator, in practice a barrister, to issue arbitration awards on pay and conditions where the parties had reached an impasse in negotiations. Under the CPA and HRA, arbitration was extended to both collective and individual disputes concerning the many matters covered in the agreements. This extended the use of arbitration beyond pay and conditions and embedded arbitration for the first time at the core of change handling and transformation in the country's largest employer.

The effects were seen to have been particularly dramatic in the health service: providing the parties with a means of dealing with disputes and grievances in a 'far more speedy way and in a more definitive way than would have been the case heretofore'. Some suggested that the new arbitration mechanism in the public service had provided such an effective mechanism for handling organizational change that there had been little further need for external facilitators. A facilitator with experience of conventional dispute resolution, who had also served on panels where arbitration was an option, assessed the practice in the following terms:

It is innovative. It is a fast-track process.... You get a decision within 21 days. Both sides accept them, good, bad or indifferent. They accept them and they move on.

***Facilitating local solutions:*** Reflecting the comment earlier that a great deal more independent expertise in facilitation and mediation was now available, virtually all focus group participants shared the view that employers had become more willing to engage external facilitators to assist in finding solutions for conflicts within organizations:

I'm certainly seeing an increase in the use of facilitators at an earlier stage and indeed even at times where there might be a conflict in prospect.... It's [happening at] an earlier and more preventive stage.

As part of this process, organizations were seen to be taking more control over who 'actually supported them in their moment of need'. Focus group participants with direct experience of this type of facilitation were of the view that it was used in the main in disputes concerning complex technical issues, sometimes bound up with organizational change, that needed to be teased out locally and, in the eyes of the parties involved, could not effectively be resolved in

the conventional way by resorting to the LRC or Labour Court. Facilitators worked to ‘guide discussions at local level’. This remark needs to be considered in the context of the role of the LRC in providing similar intensive support through ‘assisted bargaining’ to employers and unions involved in complex change and restructuring programmes. Participants in the LRC focus group agreed that there was a growing focus on resolving issues ‘closer and closer to the incident or to the event’. As well as assisting parties to resolve immediate problems or disputes, some facilitators took a longer-term and more transformational view of effective facilitation:

I think good facilitators look beyond the immediate issue and look to try and leave some type of confidence with the parties themselves to try to deal with issues.

In some instances the use of external facilitation reflected a broader concern with what one participant described as ‘proactive conflict prevention’. The latter might also involve intensive communications around change and the establishment of joint working parties to address issues of concern. Examples of a more formalized use of facilitation along these lines to handle change and manage conflict were provided by the Health Services National Partnership Forum (HSNPF) and the Local Authority National Partnership Advisory Group (LANPAG) – the former now abolished and the latter seemingly defunct.

Facilitators were also occasionally appointed by the Labour Court to work directly with the parties to a dispute, where the Court believed that a satisfactory solution depended on further direct work between the parties at local level. This type of adjudicative facilitation was commonly conducted by two persons, one of whom had a union background and the other an employer or HR background. This process was portrayed in the following terms:

The Labour Court has a difficult issue and it sets a process in place, not involving itself but... individual or joint facilitators, who work on an issue within an agreed time and framework, either reporting back to the Court, or resolving an issue directly themselves.

The use of facilitators allied to the Court’s adjudicative role reflected a principle followed by the Court and was articulated by a focus group participant by the aphorism ‘we’re the Labour Court; it’s not our job to manage your company’. In line with this position, the Court had

taken the view that where ‘there is much work which has to be done at local level, [this] simply can’t be tying up a division of the Labour Court’.

*Assisted negotiations:* Similar in some respects to using independent facilitators to find solutions to disputes within the organization is work sometimes undertaken by conciliators within the LRC in structuring or guiding negotiations between parties with a view to avoiding deadlock and reaching agreement. The LRC has not labelled or branded this process as a separate and distinct form of intervention, viewing it as one among several modes of facilitation that can be provided to organizations within the statutory remit of the agency. The agency’s view was that its officers engage in the full range of supports that a third party can provide within a model of conciliation activity that was ‘utterly responsive to the needs of a given situation’.

Assisted negotiations typically involved LRC working parties to develop an ‘overall framework’ for negotiations that surround major issue like organizational restructuring and change management. In a specific instance, this process was described in the following terms:

In [this organization] there was a huge body of work involved, [including] redeployment and closure. The LRC’s role was to try to put an overall framework around the process itself, and maybe to try to take the adversarial nature of the engagement out of it; to try and work proactively together to get it transformed as smoothly as possible.... Similarly in [a commercial state-owned company], we were approached about cost containment, and it was again dealing with a whole plethora and range of unions and they were very much concerned with making sure that everybody was involved.

The assisted negotiations process, in which the principle of ‘everybody’s voice being heard’ was seen to be important, sometimes involved the use of joint workshops, co-ordinated by high-level groups. This approach was seen to have been effective in facilitating and streamlining the negotiating process in circumstances where the parties directly involved wished to avoid issues going to external arbitration or adjudication. They also usually faced an acute or impending commercial problem of major magnitude that required a comprehensive and urgent response. The incidence of assistance of this kind was seen to have increased, although this type of support to organizations was not wholly new for the LRC.

***Interest-based bargaining:*** There had been something of a mini-vogue in interest-based bargaining (IBB) in Ireland during the era of workplace partnership between the late 1990s and the onset of the recession. Focus group participants were of the view that IBB had been considered during this period by a wide cross-section of firms but had been of particular interest to unionized multinationals. At the same time, it was felt that few ‘structural examples’ of IBB remained in being and that firms that might have experimented with IBB had usually reverted to conventional collective bargaining when the economic climate had grown more inclement.

Facilitators with experience of the area observed that they still sometimes used IBB principles and techniques, without labelling them as such:

A good facilitator will use those techniques in resolution, and I think that a good facilitator spends more time working with the parties than between the parties... . Good mediators in the collective arena spend far more time working with the parties jointly than between the parties individually.

Another facilitator with experience of IBB felt that people were more comfortable following processes of this kind without putting labels on the stages and concepts through which they work: ‘that makes people feel oh that we have to do something we’ve never done before and we have to play it completely different’. Yet another observed that IBB-based principles and methods ‘largely operated under the surface’.

Participants in the LRC focus group held a similar view and questioned how novel or innovative IBB was in any case: ‘IBB has always gone on in this economy in my experience... even at an individual level, albeit not called that’. Sometimes LRC provided support in negotiations or dispute resolution processes with features associated with IBB. This had been the case especially in recent years:

The kind of ‘win-win’ idea, people sharing their aspirations and understandings – that has always been a feature of the type of engagement that people have engaged in over the last 20 years. Not in every situation.... In some situations people just won’t take responsibility for understanding the context.

***Conflict management systems:*** A striking feature of the focus groups was how little commentary they contained on comprehensive or integrated conflict management systems involving multiple ADR-type practices. This, no doubt, reflected their limited experience of

such systems in the Irish context and, beyond that, the limited extent to which systems of this kind had taken hold in organizations in Ireland.

Participants were however aware of some instances in which changes had been made to both individual grievance handling and collective disputes procedures, guided by the overall objective of transforming conflict handling and management in the organizations involved. These models combined interest-based (mediation and facilitation) and rights-based (adjudication) options in flexible sequences in which no rigid or linear steps or stages were prescribed. New models of this kind were seen to involve:

A ‘mixum-gatherum’ of internal grievance handling: outside, inside, back outside again. In other words an elongation of process, including some element of quasi-arbitration in a particular format.

What commentary there was on innovation of this type saw it as a form of ‘structured innovation’. For some, structured innovation along these lines was more evident in dispute resolution than in grievance handling. It was remarked that the professional community had little knowledge of how, or whether, these models worked. Nonetheless, as some saw it, they had been developed and promulgated with something like commercial acumen. It was noted that in one instance, where this type of innovation had been introduced, a dispute had recently progressed almost to the point of industrial action.

The ‘elongation of process’ in conflict management systems involved adding stages and levels to grievance and dispute resolution procedures. For those who commented on these types of conflict management system, the overriding rationale for their creation on the employer side was to reach a position close to arbitration as the final stage of procedure. This prompted one focus group participant to coin the term ‘strangled mechanism’ to portray the innovation: the parties, or in any case the employer, seeking to enshrine a final state in the disputes procedure that involved an agreed or adjudicative outcome, without explicitly prohibiting industrial action. Another participant, echoing this view, saw conflict management systems of this kind as a means of creating an essentially “no-strike” scenario’ in a key public service (transport).

To summarize this section: The focus group participants shared the view that innovations in conflict management were not pervasive in Ireland. And this was particularly the case with respect to systematic, formal or ‘structured innovations’. Innovations in conflict management

appeared more common in the handling of collective disputes than individual grievances and in the public rather than the private sector. There was general agreement that the incidence of innovation had increased over recent decades and that the number of independent professionals now active in the field had risen significantly. The facilitators and mediators had direct experience of a series of innovations and were aware of others. Their direct experience provided the basis for the overview presented in this section of the features and operation of innovations in grievance handling and dispute resolution. Drawing on direct experience, focus group participants' assessments of innovations of various types contained both positive comments and a good deal of scepticism and agnosticism. New practices and approaches were sometimes seen as appropriate to the circumstances of grievances and disputes. However, doubts were expressed and vulnerabilities and problems were identified, continuities with conventional practice were highlighted, and some innovations were viewed as yet unknown quantities. It was evident from the remarks of the facilitators and mediators that innovation in conflict management for the most part involved modest departures beyond conventional practices, governed by immediate circumstances. In this cautious and incremental process of innovation, facilitators and innovators sometimes themselves acted as catalysts, nudging the parties towards new options, methods and approaches. The paper will return to this theme in a later section.

### **Outcomes of Innovation**

This section examines focus group participants' assessments of the outcomes associated with the innovations discussed in the previous section. Facilitators and mediators might be assumed to have a vested interest in assessing innovations to which they were integral in positive terms. In fact, consistent with the manner in which they reported on innovations, they assessed outcomes in terms that appeared balanced, acknowledging problems and lacunae in knowledge as much as pointing to positive benefits for stakeholders in workplaces.

One of the most widely remarked on outcomes of innovative practices was the greater speed with which conflict could be resolved compared to conventional approaches. Closely allied to this was a reduction in the cost of resolving conflict, brought about by accelerating the process of finding solutions, avoiding using all stages of the procedure and obviating the delays associated with referral to external agencies or the civil court system:

They're quicker. They give ownership and a better understanding of resolution to the parties. They're confidential. They're less costly, if they're run well.

At the same time it was recognized that innovative practices were not always less costly to the degree that state agencies, such as the Rights Commissioners, the LRC and the Labour Court, were free to users, while facilitators, mediators and other aspects of innovative practices could be costly.

A greater focus on the early resolution of conflict could prevent grievances or disputes from escalating into more formal and serious conflicts, where what originally had been 'quite ordinary kinds of conflicts' become magnified and festered because they 'have nowhere else to go'. Instances where conflict that had begun in perceived personal slights and escalated into formal external proceedings involving large compensation awards were cited to illustrate how mundane problems might be amplified in the absence of line management skills or the availability of early mediation.

In addition to speed and cost, new practices were seen as permitting greater flexibility in tailoring processes to the nature of grievances arising or the preferences and priorities of the parties directly affected:

Different processes have the possibility of being more malleable, more flexible. You move them around to suit the situation, even during the situation. They're not rigid.

Closely allied to these outcomes was the greater capacity of new practices to give the parties to conflict more control over the process and the outcome. The parties immediately involved might also benefit over the longer term in the knowledge they stood to gain after the substantive issue had been resolved. It was the view of focus group participants that 'unseen benefits' arising from 'self-learning' could accrue to both individuals and teams from their experiences of practices like mediation and facilitation. Other participants, however, felt that often the parties did not benefit in this way because external facilitators and mediators 'came and went' and the parties learned little from the process. Another positive outcome from what was referred to as the 'privatization of dispute resolution' was that the parties directly involved in conflict avoided external review and public scrutiny.

Collective dispute innovations such as the introduction of mandatory arbitration under the CPA and HRA were seen as of pivotal importance in facilitating a high level of change in public service delivery, without the state conflict resolution agencies becoming 'choked with the volume of cases that might otherwise have arisen'. In the same way, assisted negotiations



were seen to have played a significant role in structuring and facilitating major change and restructuring programmes both under the CPA and arising from acute commercial pressures.

Finally, a number of focus group participants, thinking in terms of the resolution of individual grievances through mediation and related practices, stressed the benefit for employees and possibly managers of avoiding the ‘personal distress’ or ‘trauma’ that could result from more conventional procedures that involved prolonged procedures and referral to external agencies:

One of the things that strikes me about individual conflict is that the amount of suffering people endure is absolutely horrific. I mean stress, trauma, physical illness, mental illness, referrals to doctors for medical reasons.... I think that people go in fit, well and healthy and in the course of it are very, very badly damaged. It becomes an obsession.

Those involved in mediation were not however exempt from personal stress and trauma. One participant reported an instance where a client adjourned a mediation meeting on advice from their doctor, having been in hospital. While the personal costs of conflict were seen as having been amplified significantly where the conflict involved an individual, it was observed that more conventional referrals to agencies like the Labour Court, or even a Rights Commissioner, might also prove intimidating for people for whom the process was akin to appearing before a judge in the District Court.

Finally, some participants underlined the problem faced in making the case for proactive conflict management and conflict prevention when organizations had usually established no metrics to assess the effects of conflict on their businesses. There was a challenge in persuading organizations to understand that conflict had a cost.

### **Influences and Constraints on Innovation**

This section examines the experiences and views of facilitators and mediators on the factors that influence firms to adopt innovative practices and also considers their views on constraints or barriers that prevent innovation from becoming more widespread and more deeply embedded in organizations. The review of focus group discussions of this theme also acts as a prelude to an examination of the prevailing pattern of innovation in the next section of the paper.

A series of influences on innovation were identified by focus group participants. Innovations in grievance handling that involved the use of external facilitators (often engaged to conduct investigations under legislation and codes of practice concerning bullying, harassment and dignity and respect at work) and mediators were seen to be rooted in the growing tendency for the employment relationship to be 'weighted in legislation'. Part of this trend involves policies and practices enshrined in codes of practice that firms are expected to use as reference points for their own procedures. This influence was seen to have been particularly important in spurring innovation such as the use of mediation in handling cases of bullying and harassment. These areas were often perceived within organizations as 'toxic' and best dealt with by involving outside expertise and by 'calling in the innovators':

I mediate. A lot of the work that I do in small companies but also larger ones [arise because organizations] come to you because they have a very bad ... bullying or harassment allegation that's just causing them a headache and nobody wants to deal with it. Nobody can deal with it and they just see a whole lot of money that they're going to spend and a headache, more than anything. Can you just take it away [they ask]?

As discussed earlier, mediators commonly seek to avoid just 'taking it away' and instead seek solutions involving the parties directly and commonly seek, as well, to encourage learning with longer term benefits for people and organizations. But anxiety in the face of bullying and harassment, and the legislation that surrounds it, is often the spur to involve outsiders and to innovate in the handling of grievances. In the same way, 'toxic relations' in a workplace beyond bullying and harassment might spur HR managers to countenance innovating in the manner in which conflict is handled.

Closely related to the direct influence of legislation is a concern with compliance that is seen to make organizations have regard to practices and approaches that might in other respects be considered as 'conflict management waffle'. As will be discussed below, legislation could also be a double-edged sword in fostering more formal approaches to conflict resolution and a concern to stick rigidly to standard conventional procedures.

A salient theme in the focus groups concerned the number of experienced external facilitators and mediators that now worked in the field and that were available to organizations to adopt new roles in conflict resolution. It was commented on that professionals working in the area had become both more numerous and much more proactive in marketing their services,

sometimes working on a group basis to facilitate this. Thus, in line with a kind of Say's Law, the supply of facilitators and mediators might be creating its own demand for their services.

As touched on above the public service modernization programme associated with the CPA and HRA has also spurred innovation in the form of mandatory arbitration for a wide range of individual and collective grievances and disputes. Similarly, broad change programmes in commercial organizations have spurred innovation in local facilitation and assisted negotiations. In respect of external facilitators, it was observed by a focus group member that their engagement:

Usually [arose] where there were a number of complex issues that the parties needed to tease out as opposed to situations where... there was one or two issues that can't be agreed on and that are capable of being resolved through the Labour Court. It's usually, you know, a lot of issues, complex and messy, often technical and often to do with organizational change.

Other instances were highlighted in the focus groups where crises that exposed deep flaws, misconduct or problems of governance at the core of organizations triggered the intervention of outside facilitators of organizational change and conflict handling. Included here were occasions where dysfunctional collective bargaining and poor disputes procedures came to be seen as involving unsustainable costs, leading to a decision to seek external facilitation. High levels of grievances or conflict in different parts of organizations sometimes had a similar effect.

In these ways discontinuous change, unleashed by radical shifts in fiscal or external market conditions, appears to have had a decisively greater impact on innovation than more normal ongoing change. Organizational dynamics favouring innovation also took hold around organizational crises that had possibly built gradually, in the procedures and practices through which conflict had conventionally been addressed.

Workplace partnership arrangements sometimes involved employers and unions agreeing new ways of resolving disputes surrounding organizational change, such as the agreements involving the HSNPF in the health service and LANPAG in local government. These agreements contained 'protocols' for handling conflict. These were little used in practice and are now defunct. The uptake of internal mediation in a commercial state-owned company was

attributed to a tradition of partnership-based working stretching back to the early 1990s. The vogue in workplace partnership also influenced innovation by introducing interest-based bargaining as a formal set of principles and methods for negotiation and conflict resolution into Irish industrial relations.

An issue commented upon by focus group participants concerned the significance for innovation of a reluctance by parties engaged in conflict sometimes to follow standard, conventional procedures that might have led to referral to external conflict resolution agencies. Such reluctance might have been rooted in a basic concern about the speed of conflict resolution leading to a decision instead to turn to a 'tried and trusted individual' with a 'safe pair of hands who will guide them... over a short period of time to resolve the issues'.

The posture of the Labour Court in some cases that the issues in dispute were more amenable to facilitation than adjudication had also contributed to the use of external facilitation.

Senior managers tended to be viewed in the main as pragmatists, who adopted a strongly instrumental posture towards conflict management and resolution. Whether or how conflict might be resolved was of little concern to them as long as business performance metrics were not compromised. As one facilitator commented: 'a lot of senior managers I meet would say: 'I don't actually care whether grievances are solved or not, so long as there's no trouble'.

Against such a background, leaders and champions within organizations were seen as important internal catalysts of innovation. In some instances of structured innovation involving the development of conflict management systems, this was seen as decisive: other influences not being seen in themselves as sufficient to have triggered systematic innovation. Thus a comment in the focus groups emphasised the key role of 'individuals who are innovative and bring innovation to whatever organization they're working in'. Champions also played a key role in fostering awareness that prevailing practices were unsustainable:

You have to have somebody who says this is causing me pain. This is causing me hassle in my everyday work and because this [alternative practice] will be a way of reducing it, I'll do it. It has to come down to the practical. How does this work in line with what I need?

A broader and more organizationally embedded influence arose from emulation of 'best practice' or by 'isomorphism', terms used in the literature to describe how firms are shaped by their external environment. Some organizations and their managers were seen as always

seeking to engage in best practice and to emulate leading-edge innovations in peer organizations. In cases such as these, the adoption of innovative practices for conflict resolution was seen as an offshoot of a similar disposition towards leading-edge HR practices and indeed management practices more generally. An instance was given of an organization that sought to be 'best in field' in anything that they did and where for a long time:

There had been huge levels of engagement, a lot of forward thinking on the HR side and then, over time, forward thinking by the representatives.... Everybody comes to know about mediation and understands about it, reads about it and attends seminars – all that kind of stuff. They meet other people who are involved in it and [ask themselves] 'why are we not doing that here'? Basically, I suppose it comes down to a commitment to be 'best in field'.

Some secular trends, understood in the sense of long-run and generally present changes in the work and employment environment, were linked with innovation in conflict management. Foremost here was the view that workplaces were evolving into complex and sophisticated environments in which workforces were looking for something different from work, including a more balanced work-life. In response to this, organizations were seen to be changing many aspects of workplaces, including conflict management.

Focus group participants pointed to a broad dynamic of innovation in which these influences might cluster into different configurations, involving alternative trajectories of innovation. It was noted that 'each innovation had its own story behind it'. Often, as one participant put it, the 'problem drives the solution, whether this might have been one incident of conflict, or an unsustainable or dysfunctional set of procedures, or an organizational crisis, or a major disjuncture in the organizational environment'. In other instances, innovation pivots on organizational leadership. In yet further instances, emulation of best practice and a concern to be 'best in field' could be the decisive spur.

As well as identifying influences on innovation, focus group participants had clearly articulated views on the constraints or barriers that might have limited the depth at which innovation had taken hold within organizations and the incidence or pervasiveness of innovation.

One such constraint was the simple absence of evidence that innovations provided more effective ways of addressing conflict:

I think in terms of adoption, my sense is that the evidence isn't there.... The evidence isn't there in Ireland that taking the time and money to put all of these kinds of arrangements in place is actually going to pay off, you know?

Professionals working in the field were seen to carry some responsibility for this: 'I'm not sure that we have actually delivered' and 'an accountant would not get away with what we do'. The problem was also related to features of the process of innovation which meant that information on outcomes of innovative approaches failed to 'cascade back to the organization'. Compounding this was the tendency for different incidents of conflict to be handled through 'discrete processes, where nobody learns' – a process that was likened to the role of the 'priest in the confessional'.

For managers generally and for organizations, 'conflict management' could be a 'dirty word' and there was sometimes a reluctance to engage proactively with the area on that basis. Relatedly, problems that were in essence conflict management issues, such as performance management problems, might be denied or transposed into problems of a more palatable character. Only problems involving bullying and harassment were not amenable to these forms of denial. HR managers and union representatives were viewed in the main as conservatives with respect to conflict management. They were seen for the most part to be wedded to conventional procedures and to conventional roles within these procedures that involve the 'processing' of grievances and disputes. The comments of participants that 'people are obsessed with disputes processes' and that 'a lot of people in HR are ... trained to process them' capture the core observation here. A focus group participant also used the analogy of the professionals involved – including facilitators, mediators and lawyers – 'being on a kind of train journey' to an ultimate destination marked by appearing before one of the state conflict resolution agencies. On this journey, conventional processes of dispute resolution held more appeal than attempting to promote informal processes or 'hybrid' forms of conflict resolution, combining conventional and new practices. It was, however, also commented that 'old style personnel managers and shop stewards' had known 'how to fix problems' but that those skills were no longer as prevalent within organizations. One participant had met with vehement opposition to mediation by a union official on the grounds that employment rights had been hard won and that mediation amounted to giving up those

rights. Unions were seen as having embraced the ‘juridification’ of employment grievances by establishing legal advice and support services for members with employment grievances. Through what was referred to as the influence of a ‘litigation model’, unions were seen to have ‘fallen in with the lawyers’. It was commented on that union officials (like advisors from employers’ organizations) always took account of any wider implications for other organizations when assessing how conflict should be resolved in any given instance, possibly stymieing innovation because it might have wider repercussions and was unpredictable.

Lawyers were seen to have become increasingly important actors in conflict resolution. It was observed that they now commonly ‘canvassed for business’ and targeted groups like migrant workers. The effect of the growing involvement of lawyers in employment conflict was that conventional grievance resolution processes had become ‘calcified’ as concern had grown with operating procedures fairly and respecting constitutional rights. The net effect of these developments was that innovation was stifled and conventional procedures were further formalized.

The ready availability of the services of the state conflict resolution agencies, at no direct cost to users, was also widely seen as a barrier to innovation within organizations and specifically as one of the reasons why HR managers and union representatives were subject to the ‘narcotic effect’ that led them so often to ‘process’ rather than resolve incidents of conflict. Making the change from behaviours embedded within conventional procedures was seen as extremely difficult, ‘especially when it is supported by an entire formal system that is telling you otherwise’.

As long as the State is going to declare itself as having set up a whole process, systemizing conflict resolution, employers are not going to invest in it themselves.

These views were also, of course, a back-handed compliment to the success of state agencies and to the independence of the services they provide. They must also be seen in the light of the role of state agencies, in particular, the LRC and the Labour Court, in innovating through such practices as assisted negotiations and the assignment of facilitators to disputes at the adjudication stage.

Finally, some comments addressed the effects of the current recessionary environment on innovation. One perceived effect of the recession was that conflict might have been

suppressed because people were reluctant to raise issues. The corollary was that the search for innovative ways of addressing conflict had become muted. For some, the more resource-constrained environment meant that less money and fewer resources were available to support innovation, particularly by involving external facilitators and mediators. Organizations that make provision for internal mediators were also affected by budgetary pressures. There was less money for management training. Another view, however, that ran counter to this assessment of the effects of the recession was that employers that in the past paid sizeable fees to employer organizations to advise and represent them in the event of conflict arising were now more commonly resorting to ‘buying a name’ whenever a problem arose.

It was also observed that managers themselves were often under intense pressure to achieve output targets, leading to a single-minded focus on getting work done and less concern with the manner in which this was achieved. This in turn might be sustained by people feeling that they ‘had a mandate from [senior] management to be dictatorial’.

### **The Pattern of Innovation: Facilitators and Mediators as Catalysts**

This section draws on the experiences of facilitators and mediators to examine the roles they play in the process of innovation in conflict management and resolution in organizations. The pattern of innovation within organizations that emerges from the focus group interviews is one that is most frequently reactive, *ad hoc*, cautious and incremental. Facilitators and mediators often appear to act within this process as catalysts for new practices and approaches that may then become subject to varying degrees of institutionalization within organizations.

Leaving aside instances where ‘structured innovation’ arises from wider organizational change programmes, such as the introduction of compulsory arbitration under the CPA and its further extension under the HRA, the dominant pattern of innovation appears organic in nature. Facilitators and mediators most commonly become involved with organizations when their managers and/or union representatives encounter a problem that is not amenable to being handled through prevailing practices or approaches and which, at the same time, they often wish to avoid referring to state conflict resolution agencies. These problems may involve discrete incidents of conflict. They may arise from organizational crises such as high-profile service failures. They may also involve what became viewed as unsustainably high rates of grievances, or dysfunctional and highly costly collective bargaining processes. They



may also arise from major impending change programmes that originate from acute commercial or fiscal pressures. They may further arise because new senior managers seek to make changes against a background where organizations have become receptive to change and renewal more generally. More mundanely, facilitators and mediators can become involved in organizations on a repeat basis, having proven satisfactory in dealing with previous problems – possibly of the same kind. Behind the work of facilitators and mediators, however they become engaged by organizations, may lie what one participant described as a professional disposition towards being involved in ‘exciting, proactive stuff rather than just fire-fighting’.

As one participant commented, innovation is often ‘problem or crisis driven, or even consultant driven’. In such situations the facilitator or mediator often identifies alternative options rather than simply responding to, or remaining confined to, a predetermined process suggested by client organizations:

I’m thinking of situations in which you are asked into an organization and they basically describe a messy situation and they ask you what you can do. And it’s a question then for the consultant to look into his or her toolbox and say, ‘well I think a, b, or c might be appropriate in this situation’. And really you’re falling back on your own experience of what might have worked elsewhere and indeed your own strengths.... And organizations tend to trust you and to go along with whatever you recommend. And if that works in a particular situation, or even half works, and if similar situations arise down the line, the chances are they will come back to you and say ‘could you do in X situation what you already did in Y situation’ ...?

Another participant described an essentially similar process of intervention and professional conduct, which extended to recommending changes to other and wider aspects of conflict resolution:

Certainly in a lot of the cases I’m brought into are reactionary or crisis driven. There is space for innovative intervention, but it tends to be discrete interventions [pertaining] to a particular situation which organizations haven’t been able to manage themselves. So, you go in and you look at policies and procedures. You look at the situation at hand and then devise a process for managing it. There would generally be opportunities to feed back in, make

general recommendations, as well, such as how this type of situation might not arise again. So certainly around feedback in relation to policies and procedures, or induction training for line managers, they are open....

In yet other instances, organizations refer conflicts to external professionals with an expectation that they will be handled in a particular way but the facilitator or mediator offers alternatives that prove acceptable to the parties directly involved. One example given involved a request for a formal investigation of grievances giving way to mediation on the recommendation of the external professional, which they described as ‘very small pieces of ... almost piecemeal innovation’:

I do find that quite a lot of cases I get in mediation often come as something else and I’ll write in an option for a mediation process. So whether it’s an independent review or an investigation, now, as standard, I’ll write in an option for mediation in the preliminary investigative meeting, so all sides or both sides [may] agree to suspend the investigation and then it goes out to mediation as an option.

Another professional portrayed this kind of facilitator- or mediator-led innovation as ‘negative innovation’ triggered by organizations that, when they are ‘stuck’, bring in an external facilitator to ‘try something new’: ‘they want you to dream up something to get themselves out of a hole’. In other instances, facilitators and mediators questioned why they were being involved on a recurring basis in conflicts of the same type: ‘I think it was the fifth or sixth investigation. It was costing quite a lot of money and I asked the organization: “why are you asking me to do another investigation?”.’ The facilitator recommended that line departments should henceforth be required to pay for investigations from their own budgets rather than, as heretofore, being paid for from a central HR budget. In another instance where an organization affected by a high level of grievances engaged an external facilitator, they sought to promulgate a ‘new way of giving ownership of disputes back to people themselves’. Mediators commented that sometimes when organizations engaged them they were poorly informed about what they expected them to do, opening space for them to make proposals on conflict avoidance as well as conflict resolution. In yet another instance cited, recurring referrals of the same kind led to the external facilitator suggesting that conflict needed to be ‘sorted in a different way’ and that there needed to be a better awareness of the ‘conflict culture’ in the organization.

Focus group participants sometimes – although very infrequently – spoke in prescriptive terms of the need for conflict to be managed in a ‘strategic’ fashion: ‘you have to link conflict management to the strategic goals of the company and you have to link it to the consequences of the conflict in inhibiting or undermining progress in relation to the strategic goals of the company’. While such an approach may underpin the way in which some external professionals view their role, there were few indications in the focus groups of organizations acting in this way. The cases of revised procedures for conflict management in LANPAG and HSPNF were described above. In these instances, a more strategic or ‘structured’ view of conflict resolution had been adopted as an offshoot of a more general partnership approach to industrial relations. Another instance was cited where a HR manager, faced by chronic conflict in some of the many dispersed workplaces within the establishment in which she worked, adopted a strategic view of how this problem could be better handled to release her time and attention for other priorities. The more common approach involved being ‘pragmatic’ and ‘departmentalizing’ conflict such that ‘it doesn’t feedback into mainstream policies’.

The comments and experiences of external facilitators and mediators, as conveyed in the focus group, prompt the following conclusions. External facilitators and mediators act as catalysts for innovation by nudging organizations and sometimes their stakeholders towards new practices and approaches. There would appear to be four major discrete *mechanisms of innovation* at work in this area. First, clients involved in incidents of conflict are sometimes offered a range of ‘tools in the toolkit’ of facilitators and mediators, broadening the options brought into play in managing conflict. Secondly, as well as responding to specific incidents of conflict, facilitators and mediators may make proposals to avoid a recurrence of incidents that involve changes in wider aspects of conflict management, such as line management training and accountability, or prioritizing conflict prevention. Thirdly, referrals are not viewed by external facilitators and mediators as fixed within any one mode of intervention: a request for an investigation of a grievance might give way, on the recommendation of the external professional, to an attempt to mediate. Finally, external professionals, faced with recurring instances of conflict, may seek to persuade clients to change the manner in which conflict is handled internally by adopting a more strategic approach. In these ways, external facilitators and mediators act as change agents in a predominantly cautious, incremental and organic process of innovation within organizations.

A question that then arises concerns the extent or degree to which facilitators and mediators act as catalysts in institutionalizing change in conflict management. One possibility is that facilitators and mediators, acting in the ways outlined above, participate in a process which may ultimately lead to the wholesale rebuilding of conflict management practices into integrated systems. This could arise because a tipping-point might be reached in which innovations trigger a wholesale review of prevailing conflict management procedures and practices and a reconfiguration of practices that now pivot more around innovations. It might also arise through a process in which discrete innovations become institutionalized and codified within organizations, leading incrementally to systemic or structured change. The alternative to these dynamics is that particular innovations might simply be bolted on to, or operate in parallel with, formal codified procedures of a conventional kind, without, in any way, transforming these.

It seems clear enough from the focus groups that the latter dynamic pattern is more often the case and that ‘piecemeal innovations’ most often do not trigger systemic change or cumulate in any linear manner into new conflict management systems.

One focus group participant observed that particular interventions in which they had been involved were sometimes repeated a number of times but tended ‘not to be codified or to become part of a new kind of formal procedure’:

In my experience they won’t say to themselves, well you know, we’ve done this a couple of times and it works, so let’s write it up and codify it and make it part of our established practice.

In the general run of external interventions and the problems that trigger these, managers, including HR managers, were seen to have reached a ‘kind of intuitive conclusion’ that:

*Ad hoc* bits of innovation every now and then, when the proverbial hits the fan, is going to be just as effective and possibly cheaper than putting in some kind of very complex and comprehensive set of arrangements that are not just costly but perhaps risky and might be associated with [your] own reputation as a driver of innovation, in terms of whether these things work or not....

The result of these processes is the occurrence of ‘loads of discrete innovations’, ‘bespoke to a particular need’. *Ad hoc* innovation was also attributed in part to the ‘inherent caution and conservatism’ of managers and unions:

I'd say it's a kind of inherent caution and conservatism, you know, around 'what we have we hold; if it ain't broke don't fix it'. And I think that applies equally to management and unions. I think the parties value their well-established kinds of codified arrangements for collective negotiations and I think they would prefer to innovate on an *ad hoc* basis.... I think they know that they can actually have the best of both worlds: stick to the knitting if that's what you want to do and if they come into a situation where something completely different is needed they know that jointly they can agree to do that.... I think that from their point of view it makes a lot of sense. If you can have your cake and eat it... why bake a different kind of cake?

In those few instances reported in the focus groups where innovation had resulted from systemic reviews, or where specific innovations had accumulated into new conflict management systems, the patterns of innovation involved were either the offshoot of wider reviews of industrial relations (as in the cases of some public service partnership arrangements) or reflected unusual levels of innovative leadership on the part of senior managers.

## Conclusions

This paper has reported the views and experiences of a group of experienced facilitators and mediators with substantial experience of working with organizations to resolve individual or collective conflict, or both. They reported experiences of a range of conflict management innovations, including mediation, line management training in conflict handling, open-door and allied policies, arbitration, facilitated and assisted negotiations, interest-based bargaining and conflict management systems. Overall, they were of the view that innovation in conflict management was not widely prevalent in organizations in Ireland. The number of skilled and experienced facilitators available had however grown very significantly over recent decades.

Facilitators and mediators identified a series of positive outcomes they had experienced as a result of the kinds of innovations that had been in use. These included the greater speed and flexibility with which conflict was resolved, more control by those involved over processes of conflict resolution that arose when conflict was referred to external agencies, and lower costs both to organizations and to persons with grievances. However, the direct costs of involving external professionals rather than using free public agencies meant that no definitive generalization was possible on the issue of costs. Also identified was the support provided for

change programmes by new conflict management practices (compulsory arbitration in the public service and assisted negotiations by the LRC). It was commented on that, because organizations seldom used metrics that assessed the costs of conflict and benefits of early and effective conflict resolution, the business case for innovation was generally not evident.

A series of discrete external and internal influences on innovation were identified. These ranged from the need for compliance with the expanding body of employment law and the effects of associated codes of practice on handling conflict; wider organizational change programmes or crises and unusually high and unsustainable levels of conflict. Also important in some organizations was an underlying concern to be a leader in management more generally and thus to emulate other leading firms. Innovative leadership of a more specific and personal kind had also sometimes primed innovation in conflict management. Secular trends arising from the increasing level of education of the workforce and the more sophisticated character of workplaces were also seen to have favoured innovation. **[check against p19]** Constraints or barriers to innovation were also identified by focus group participants. Foremost here were styles and traditions of professional practice in the area in which the ‘processing’ of grievances and disputes to higher levels in procedure and to external agencies was seen to be widely prevalent among HR managers and union officials. The ready availability and zero direct cost of dispute resolution agencies to users, and the resource constraints on organizations in the recession, were also identified as barriers to innovation.

The role of the LRC as a catalyst for innovation in conflict resolution and management was evident from the focus group, especially in the areas of assisted bargaining and in the use and effectiveness of arbitration under the CPA and HRA. The experiences of facilitators and mediators reported in the focus groups also allowed for an examination of their role as catalysts in the processes of innovation. While organizations generally seemed to have been characterized by an *ad hoc*, cautious and incremental approach to the use of more novel forms of conflict resolution, it was clear that external professionals often acted to nudge organizations and their stakeholders towards countenancing a wider array of conflict management practices and innovations. A number of mechanisms of innovation were identified through which this catalytic influence was brought to bear: offering client organizations ‘more tools from the toolkit,’ making proposals to avoid the recurrence of conflict that required changes in various areas relevant to conflict management, offering

different and more effective forms of conflict resolution to those that clients might have had in mind and encouraging a more strategic appraisal of the handling of conflict.

The underlying process of innovation appears only unusually to involve either systemic assessments of conflict management that lead to the wholesale rebuilding or reconfiguration of conflict management systems. Nor, it appears, do discrete innovations commonly cumulate over time into changes in formal procedures that institutionalize new practices. The most common pattern appears to be one in which specific innovations are adopted on a once-off basis or different innovations are taken up serially, without accompanying changes to formal procedures. The result is that innovations in effect become bolted-on to, or operate in parallel to conventional conflict management procedures and practices.