

Mid Kent CIPD Webinar
Managing Difficult Conversations
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Overview

- Framework and techniques for handling difficult conversations
- Drink and drugs – impact and legal issues
- Personal matters – hygiene, dress and attitudes
- Relationships – inappropriate or not?
- Approach to employee departures and conversations
- The ‘without prejudice’ principle

Framework

What is a difficult conversation?

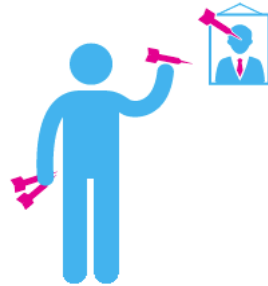
- One whose primary subject matter is potentially contentious and/or sensitive and may elicit strong, complex emotions that can be hard to predict or control.

In the UK, the top three hardest conversations we face in our lives are all work-related.



PAY

33%



COLLEAGUES'
INAPPROPRIATE
BEHAVIOUR

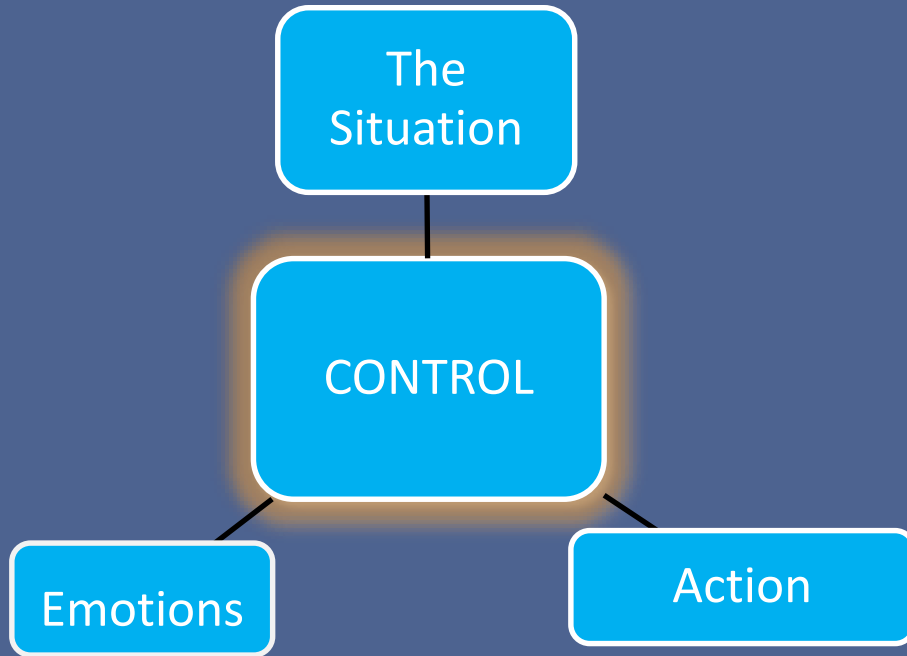
31%



FEEDBACK ON POOR
PERFORMANCE

30%

Framework



Framework – Formal Meetings

Brachers
With you all the way

Specify the situation

Name the issues

Ask for explanation

Provide a way forward

Drink and Drugs

What might lead to a conversation?

- Arrives late or frequent short term absence
- Smell of drink / hangover
- Unkempt physical appearance
- Weight gain / weight loss
- Moody, volatile, unpredictable
- Disappears for long periods
- Recognisably under the influence at work or at a work social event
- Performance issues

Dealing with an issue

- Records/ Interview
- Poor performance
- Ask for an explanation
- Policies/ help available
- Agree action
- Monitor progress

Policies and Procedures

- Solid policy documents and workplace rules
- Review of health and safety responsibilities
- Areas of issue – rules, drugs testing and stop and search policies
- Proper training on disciplinary procedures

Legal Issues

- A Fair reason for dismissal – conduct
- A fair process should be followed
- Alcoholism and addiction – Disability?
- Off Duty misbehaviour at company events
- Off duty misbehaviour

Personal Matters

Personal Hygiene - What might lead to a conversation?

- Body Odour & bad breath
- Stale smell from poorly laundered clothes/ dirty clothes
- Dirty appearance (dirty hands and nails, facial hair, dandruff)
- Strong smell of smoke
- Medical issues (e.g. hormonal, thyroid, related to weight)
- Poor personal / oral hygiene

Impact

- Ostracised individuals
- Employee's genuinely feeling off-put by their environment
- Offended customers and suppliers
- Health and safety concerns – food handling etc

Addressing the issues

- Unlikely that the other person won't be a little bit upset BUT its very important that they do not feel humiliated
- Revert back to your preparation tips
- Don't leave deodorant/mouth wash around for the other person..... So they get the hint, this could be perceived as bullying
- Don't wimp out, plan what you are going to say and say it
- Try and have the conversation towards the end of the working day
- Keep to what you have observed (not what EVERYONE thinks)
- Keep it recent

Legal Issues

- Is the odour a symptom of a medical condition?
- If not linked to a medical condition / disability then is it a conduct issue
- Remember the implied duties of any employer

Personal Appearance- conversation?

- **Signs and Symptoms**
 - Hair colour, clothing, tattoos, piercings and
- **Organisation**
 - Most organisations still regard visible tattoos and piercings as a no-no
 - Many organisations have policies against visible tattoos and piercings (dress codes)
 - Piercings may be a health and safety or food hygiene issue

Legal Issues

- ACAS have introduced guidance on tattoos and piercings
- Rules should be detailed within a dress code
- Health and safety issues and food hygiene should be taken seriously
- Any rules should be applied equally to all to avoid discrimination.
- What about religious dress?

Attitude- what might lead to a conversation?

- Sarcasm
- Horseplay
- Banter
- Jokes/kidding
- Teasing
- Gossiping
- Joshing

Addressing the Issues

- Try to resolve informally
- Do not ignore the behaviour
- Be alert to bullying and harassment and the risk an employer may be found to be vicariously liable.

Poll

- Which of these steps is likely to be appropriate if you have concerns about personal matters?

Personal relationships at work

What might lead to a conversation

- Inappropriate behaviour
- Decreased productivity
- Perceived favouritism by other employees
- Internal gossip and rumours
- Angry spouses/ partners!

Relationships at work policy

- Where disclosure is required
- Potential conflicts of interest
- General workplace rules – Prohibition on inappropriate behaviour
- Grievance policy
- Penalty for breaching policy

Addressing the issues

- Handle any conversation sensitively and, as far as possible, in confidence
- Create an open dialogue
- Ensure that the colleagues are aware of the impact of their relationship on their colleagues

Legal Issues

- Sexual harassment
- Sex discrimination
- Respect for private and family life –
Ban or Disclosure
- Relationships between senior and
junior members of staff

Approach to Employee departures and conversations

Employee departures

- Plan for the future of the business
- Reminding the employee of their contractual obligations and retrieve company property
- Communicate with affected staff
- Schedule an exit interview

Settlement Discussions

Settlement discussions

- Without Prejudice or S.111A ERA 1996?
 - Ensure the you are familiar with these concepts
- Avoid improper behaviour/ unambiguous impropriety.
 - Risk that the discussions may be seen in open court

Examples - Case Law

- Unambiguous Impropriety – Ferster v Ferster and Others [2016]
- Unreasonable Behaviour- Lenlyn UK Ltd v Mr H Kular [2016]

- Code of Practice on Settlement Agreements
- Settlement Agreements: A Guide

- Plan the meeting

Timings – process- the people involved- sensitivity –
pay arrangements- termination practicalities

Poll

- What is likely to be considered as improper behaviour?

Thank you for listening

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