

Dealing with Difficult People and Behaviours

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Lawyers spend a lot of their time managing difficult people and high conflict behaviours. It might be their clients, the party on the other side, lawyers on the other side, court officers, staff, perhaps themselves. There is a pattern to the behaviours of difficult people. Recognising those patterns can help us choose how to respond.

This paper:

- explains patterns of difficult behaviour including
 - Personality disorders and maladaptive personality traits
 - Cognitive distortions that lead to difficult behaviours and high conflict thinking
 - Cycle of high conflict thinking
- suggests strategies and ways to engage with the behaviours of difficult people.

Personality disorder vs maladaptive personality traits

A personality disorder involves an enduring pattern of behaviour which:

- exists from early adulthood
- is rigid and unchanging
- leads to significant distress or impairment
- exists well outside the person's cultural norms.

People with personality disorders generally do not recognize they have a problem. They are unlikely to change unless they want to and are willing to engage in therapy. Their behaviours can lead to high conflict behaviour. Personality-disordered people will see their difficulties in dealing with other people or tasks as external to themselves, and independent of their own behaviour. They often complain of being victimized by others.

Personality disorders involve significant distress or impairment in social, occupational and other important areas of life. A person who is successful in some aspects of their life may not qualify for the diagnosis of disorder, even though they may have some traits associated with it. Hence the notion of maladaptive personality traits.

Everyone has personality traits. They become maladaptive if they cause distress and impact someone's ability to function especially in their relationships.

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Having a maladaptive personality trait does not mean someone is crazy or stupid. Instead, they may have repetitive behaviours that cause them problems (but may also contribute to their successes). People who have maladaptive personality traits can be successful in many aspects of their lives.

In high-conflict situations (disputes and conflicts, tense contractual negotiations, dysfunctional workplaces, family and relationship breakdowns) people with maladaptive personality traits can engage in ways that make them appear to have personality disorders. Some may have the capacity to change their behaviour. Others may not recognise the problems arising from their behaviour and see the consequences as caused by others – maybe the other side (or their lawyer) in a legal dispute or negotiation.

Personality disorders according to the DMS

The DMS is the Diagnostic and Statistical Manual of Mental Disorders American Psychiatric Association (APA, 2000), currently in its fifth edition.

The DMS identifies ten personality disorders and organises them into 3 clusters A, B, and C.

Difficult people or high conflict people tend to have one or more of four types of Cluster B personality disorders. Personality disorders are rare. 6% of Australians may have a diagnosable personality disorder. Each of the ten disorders individually may apply to 1% of the population. More people however may have maladaptive personality traits.

1. Borderline Personality Disorder

People with BPD have unstable and extreme mood swings, fears of abandonment (being rejected or left alone), clinging behaviour, unstable relationships which start intense and then sour, frequent and intense anger. They often use manipulative behaviours. They will overly praise to gain relationships and then use threats of self-harm if abandoned. They have a fragile sense of self and identity – which in legal disputes can focus around being a victim. They will see other people and situations (such as jobs) as either completely good or completely bad.

Their behaviours of clinging, manipulating, and trying to control are likely driven by an unconscious fear of abandonment. Their behaviours are so emotionally intense that people repeatedly abandon them – reinforcing their fears.

These fears of abandonment may come from early trauma or abuse. The person may react to current situations as if they are re-experiencing the earlier trauma or abusive situation. They may have learnt to survive earlier difficult situations by using certain behaviours that are less useful now.

2. Narcissistic Personality Disorder

People with NPD have a preoccupation with themselves and a contempt for others. They believe they are better than other people and lack empathy for the feelings and needs of others. They feel entitled to special treatment and attention, and want to be treated as superior. They use relationships to serve their own desires. They are envious of others or think others are envious of them. They respond strongly to perceived criticism.

These behaviours come from unconscious fears of inferiority. These fears are soothed by fantasies of having or achieving incredible success and that they have incredible personal qualities. Such persons can be very charismatic.

When their dreams are not fulfilled, they blame it on others and consider themselves the victim.

3. Histrionic Personality Disorder

People with HPD are demanding of attention and emotionally intense like people with BPD — but often with less anger and more drama. They have a high need for attention and approval. They are easily suggestible and may incorporate recent news events into their own stories of dramatic experiences. They will make things up in the moment and believe it.

Histrionics are driven by an unconscious fear of being ignored, but their demands for attention are so irritating that people repeatedly try to get away from them or ignore them.

4. Antisocial personality disorder

People with antisocial personality disorder have an extreme disregard for laws and rules of society, and a willingness to hurt other people for personal gain. They try to dominate and manipulate others. They will lie, steal, and be violent without remorse. They take risks without thought of consequences. They may think everyone lies and cheats and presume that is how you survive and get ahead - “You’re a fool if you don’t”. They will blame their victims for allowing themselves to be conned. They can be charming and are less emotional than borderlines or narcissists.

Antisocials are driven by unconscious fears of being dominated. As a defence, they try to dominate others through deception or violence. Their fears of being dominated may arise from a personal history of being dominated or seeing others being dominated. This may be within their family as children, or institutions. Their behaviour may result in them being institutionalised thus fulfilling their fears. They may fear the law as a system which can dominate them, but also use the law to sue and dominate others.

Cognitive distortions and defence mechanisms

Behaviours of difficult people can be viewed as arising from high-conflict thinking based on cognitive distortions and unconscious defence mechanisms.

Cognitive distortions are extreme thoughts that do not match our present circumstances, and trigger intense feelings and reactions.

Common examples of high conflict thinking are:

1. All-or-nothing thinking—seeing things in absolute terms, such as believing there is only one explanation for a problem and only one solution, when there may be several.
2. Jumping to conclusions—quickly assuming the worst from very little information, especially regarding the future or other people's intentions.
3. Splitting—seeing people as either all-bad or all-good.
4. Essentialising or personalising — seeing the behaviour of others as deriving from their intrinsic personalities and not from their circumstances.
5. Emotional reasoning— assuming facts from feelings. If it feels true, it must be true. “I feel in danger, therefore I am in danger”. “I feel upset around you, therefore you must have made me upset”.
6. Mind reading— believing we know with certainty what another person is thinking. Similarly, thinking the other person accurately knows what we are thinking.
7. Wishful thinking—if they wish for something it will happen. Or retrospectively, they wish so strongly for something to have happened that they think it has actually happened. “You said you had signed the contract.” But the other person says “No, I said I would think about it and get back to you.”

They believe that if they can achieve one thing, their life will magically be completely better.

8. Tunnel vision—Being preoccupied with one narrow issue, while missing more important ones.
9. Projecting—Seeing their own feelings and behaviours in another person, and not in themselves.

We all use these shortcuts when making decisions. They work by simplifying complexity. They can be quick and efficient when making trivial decisions or when we are faced with immediate dangers which we rarely are. They derive evolutionary from dealing with dangerous environments – but they are less useful now when we rarely face life or death situations.

Unconscious defence mechanisms soothe our fears and help us feel good about ourselves when things are going badly. They can involve automatically repeating standard scripts we learn culturally – that we have seen on TV and in movies or have observed in our families of origin.

Cycle of High Conflict Thinking

Interaction with difficult or high conflict people can follow a recognisable cycle.

Step 1: Mistaken Assessment of Danger

Their mistaken assessment of danger may be triggered by a spontaneous internal upset or a misinterpreted external event. They may feel another person has caused their internal upset sensation. They treat the upset as external and beyond their control. They feel helpless and identify as the victim. Given their preexisting fears (of being abandoned, inferior, ignored or dominated), they are more likely to interpret other's behaviours and situations as a threat to the subject of their fears.

Step 2: They feel the need to defend themselves against the perceived danger by taking aggressive action.

Step 3: Others respond to the counter-attack by:

- strong negative feedback - sarcasm, put-downs, threats, anger, threats of court. These confirms the perception of a threat.
- constructive feedback which is still misheard as threats.

All feedback feels negative to difficult or high conflict people and is heard as personal criticism. This confirms the initial assessment of threat repeating the cycle from Step 1.

The challenge is how to avoid being heard as a risk or danger thus triggering Step 1, or in how to respond to the step 2 counter-attack.

Strategies for dealing with difficult or high conflict people

Strategy 1 - Don't deal with them.

Identify them early on and decide if you need and want to deal with them.

Strategy 2 - If you choose to deal with them, don't be like them

If you do choose to deal with them, try to avoid using some of the cognitive distortions and shortcuts discussed above. Do not engage in your own all-or-nothing thinking by essentialising the person down to a simplistic difficult person type. Forget about trying to diagnose them – that is difficult for a trained psychologist and the person is not asking you to be their therapist. Think about the person not as a psychological type but as a real person driven by fears. Think about their circumstances rather than their personality. Avoid mind-reading - do not presume you know what they are thinking.

Strategy 3 - Do not think of them as being angry

This is as much as managing yourself as managing the difficult person.

Do not think of them as being angry. Anger is a masking or secondary emotion – and what it typically masks is fear and anxiety. Rather than thinking “They seem angry, what are they angry about” instead think “They seem angry. I wonder what they are scared or fearful about.” It might be fear of being abandoned, inferior, ignored or dominated.

Dealing with a person you perceive as being scared is easier than dealing with a person you think of as angry.

Strategy 4 - Do not think of them as being powerful.

Do not think their anger come from a sense of power or confidence. It probably comes from their sense of lacking power. They certainly do not have all the power. If they had all the power they would not have to deal with you or your client. Absolute power is being free to do whatever you want. The fact they are dealing with you means there is something you, or your client, have that they think they need. In a negotiation context, that's what you want to find out - what they need and what they think is important. Hopefully, there are some things important to them which are less important to you or your client which you can trade off for what is more important to you/your client.

Many people will feel and say they have no power. They may say the other person has all the power and that resolution is entirely up to the other person. This might be a cognitive shortcut or defence mechanism to soothe their immediate discomforts and fears. It absolves them of any responsibility and from having to do or think anything – this is the attraction of being the victim. Instead, consider why the other side is engaging with you, and what do you or your client have that the other side wants. The more the other side want/needs from you, the more power you have.

In dealing with the other side, reframe their angry demands to being things they need from you. It repositions them to being the needy party rather than the powerful one.

Strategy 5 - dealing with their fears.

This will take some time – but it will save you time in the long term.

Do not abandon, treat them as inferior, ignore them or try to dominate them. That is what they will be expecting and therefore what they will likely hear whether you intend or not.

Do not respond or give feedback in the same way that they expressed their counter-attack in step 2 – but try to consciously respond in the opposite way. Respond in a different way to what they are complaining about in others. Two ways is active listening and reframing.

Active listening

Let them speak for at least a few minutes. Listening is part of what they want. Listening does not mean you are agreeing. Listen to them positively and respectfully. Show them you are listening. Use open body language, face on, eye contact, no crossed arms. Nod your head. Put your phone aside, do not look at or use your computer. Do not look at your watch. Avoid interrupting with questions at the beginning. If you ask any clarifying questions, keep them open. Avoid a lawyer's preference for closed questions. Don't tell them to calm down.

Do not think about what you are going to say – you do not need to prepare a response yet. When they pause, just repeat back their last two or three words with a rising intonation. They will hear it as an enquiry and keep talking. If they keep repeating something, it is because they do not feel heard. Just repeat it back to them two or three times using the exact words (including any obscenities). "I think you just said [repeat their words] ... can I check that you said ...[repeat their words]... Have I got that right? "

After a few more minutes, attempt a summary using more neutral language than they used.

Consider taking notes. This will make them think you think they are important. Ask them to slow down a little so you can write it down.

Do not worry about facts. Listen for the words they use to describe their emotions and repeat them back. Metaphors indicate what they think is especially important so repeat them back.

Think about the venue for this listening. In public for safety, or privately so they do not play to an audience, and there are less distractions for you and them.

This takes time, but not a huge amount if done well. They are not used to being listened to so ten or fifteen minutes will calm them down and allow for the next step of reframing.

Reframing

Reframing is re-expressing their statements to change the focus. Do not attempt this until after they feel heard through your active listening. Their statements can be reframed in a number of ways:

- a. From past to future

"It sound like last year was not good for you. Would you like to discuss some ways things might work better in the future?"

- b. From what does not work to what might work

"It sounds like things have not been working. Can we discuss options for how it might work better?"

- c. From negative complaints to positive requests

If you tell a high conflict person what you do not want them to do, they will hear it as a criticism and respond by denying they do it. Instead try”

“You have told me what you do not want me/the company/the other person etc to do. Can you explain what you do want me/we/the other person etc to do?”

- d. From big to little or little to big.

If they are bogged down in details, zoom out. *“It sounds very difficult now. How would you like it to be in a month/year etc.”*

If they are all-or-nothing, zoom down. *“I wonder what is the smallest first thing I/we/they can do right now that will help the situation a bit for you?”*
This also sets up a potential follow-up question – *“I wonder what might be the smallest thing you think you might be able to do right now that might help the situation just a bit?”*

- e. Externalize from internal personalities to circumstances.

“It sounds like the relationship/ communications between you two have let you down.... It sounds like the uncertain real estate prices/share market/court delays etc have made it difficult to sort this out.”

Strategy 5 - Present them with choices and options – rather than demands

If a difficult or high conflict person is told “you have to do XYZ” they will not consider the reasonableness of the underlying request. They will just hear “you have to...” and react to that. Instead reframe a single demand to choices and options. Give them more than one option (and ideally more than two – both good and bad ones including doing nothing and letting the current situation continue). Multiple options give them a choice and might modify their perception of threat and loss.

Explain what you can and cannot do. Then ask them “What would you like to do now?” Do not insist on an answer on the spot.

Strategy 6 – set boundaries and be consistent

Before you commence engaging with them, ask them how much time they have, and explain how much time you have. Do go beyond your stated time – or theirs (whichever is the shortest). Blame (or externalize) the need to finish on the clock (not that you are finding them difficult).

If you choose to continue to engage with them, explain how communications will work, frequency, response times, emails, whether they can text you. Confirm these in an email.

Conflict is not chaos. There are structures and patterns to the behaviour of difficult people. Understanding those structures and patterns gives choices and strategies in choosing whether to engage with them, and how to do so.

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