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The state of employee relations in the NHS in the 'new normal'

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Acknowledgements

Introduction: Employee relations in the NHS

This paper draws on the views of HR and managerial staff and trade union representatives to assess the state of employment relations in the NHS ('the Service') across the UK, as it emerged from the height of the pandemic and into a 'new normal' for people management.

Employee relations in the NHS, and the associated consequences of political interventions in the Service, have long been a focus of academic and practitioner-based research. It could be argued that many of the issues central to the current industrial dispute have been influenced partly by the UK Conservative Government-driven reforms of the 1990s, such as the creation of an internal market in the NHS and the adoption of a more 'private sector' management approach (Lloyd and Seifert, 1995).

Subsequently, a 'central HR strategy' introduced by the Labour Government, 'Agenda for Change', saw a new pay and reform package aimed at ensuring NHS employees are paid based on equal pay for work of equal value. This modernisation initiative, again, had employee relations implications in terms of negotiations and partnership work with the unions. This was particularly so in relation to: reorganisation of work, relaxation of occupational boundaries, and broadening of some job roles (Tailby et al, 2004, p404). This government-led strategy also heralded a 'good employer model' for the NHS that has resonance with the current culture changes discussed further below.

As a key topic of employee relations research, studies suggest that line managers are often overworked and under-resourced (Hutchinson and Purcell, 2010). Conversely, in terms of ability and skills, research reveals that promotion to reward operational performance or expertise can often lead to the 'accidental manager', who is not suited to management (Haaland et al, 2019; CMI, 2021). Townsend et al's study, for instance, found that "ward managers almost without exception find themselves in a line manager role accidently and are unprepared for what is required of them" (Townsend et al, 2012, p217). Consequently, they felt 'unprepared' and 'relatively unsupported' (p216).

Recently, the NHS has witnessed quite radical organisational change in terms of people management policy and practice at some trusts. The 'Just Culture' initiative aims to increase 'consistency' and 'fairness' towards staff during people management processes and practices around patient safety (NHS, 2021). It also encourages a move away from 'blame culture' towards staff feeling able to talk openly about incidents. Through the introduction of Freedom to Speak Up Guardians – trained individuals within the NHS to whom staff can safely disclose concerns – trusts are making improvements to reduce disputes (Francis, 2015).

Changes in organisational conflict management generally, and the use of alternative dispute resolution processes such as workplace mediation, have also had an increasing impact on employee relations within the Service (Saundry and Latrelle, 2015).

Interestingly, the former head of the TUC, Francis O'Grady, argues that to address the health inequalities in society that impact on the NHS and all its staff, post-COVID, "new jobs need to be healthy jobs that promote physical and mental wellbeing. That means fair pay, positive flexibility, secure contracts and satisfying work" (O'Grady, 2021, p54).

With respect to flexibility, she further maintains that we must not allow a gap to appear between 'Zoomable jobs' (O'Grady, 2021, p58) and everybody else, particularly in relation to the real growth in hybrid and homeworking.

Coming out of the pandemic and into the 'new normal'

Our study was carried out between November 2021 and March 2022 as the third wave of the pandemic relented and government restrictions were then substantially relaxed. It is based on the views and experiences of an interview sample of 22 senior management, senior HR and senior union representatives, and a cross-sectional survey sample of 229 HR practitioners, managers and union representatives from throughout the NHS. More than 90% of survey respondents worked in NHS organisations with 1,000 employees or more; 85% of respondents were from England. In contrast, the occupational sample was quite diverse, with roles across bands and functions.
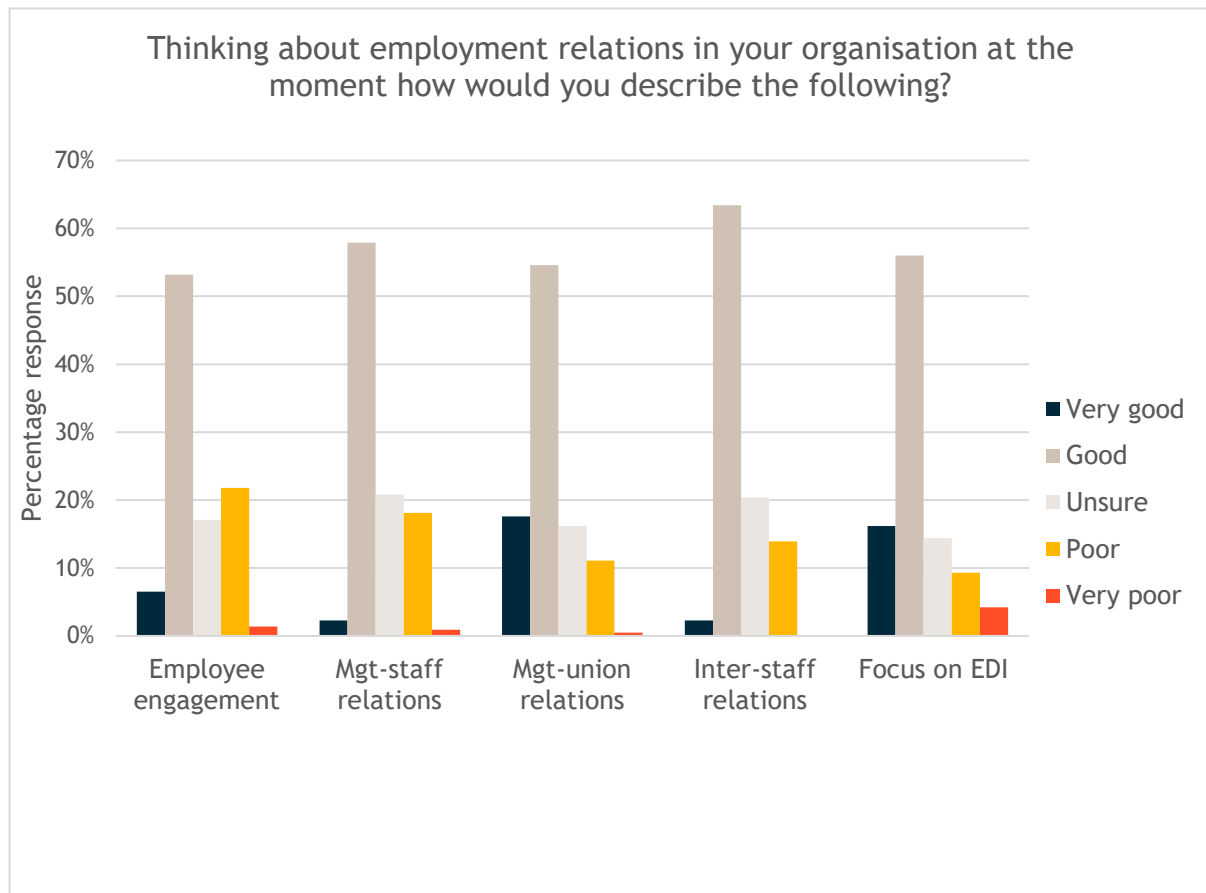
Current state of employee relations

The overall finding from the study suggested that, despite optimism that HR will have real influence in terms of continuing to provide innovative solutions to people management issues, there are several challenges to achieving this objective. The people management role of line managers was an issue of serious concern. In particular, the survey results highlighted that for most respondents, the prime barrier to good employee relations is the capability and capacity of line managers to deliver on increasingly devolved HR tasks.

Further investigation through the interviews, however, suggested that the challenges around line management were far more complex. Another key issue was – unsurprisingly given the impact of the pandemic – staff wellbeing and its management. Effectively managing conflict was also a major concern arising from the research, where relationship and personal issues were prominent reasons for conflict at work. In response, there appeared to be strong support for, where possible, informal procedures in resolving disputes.

As Figure 1 illustrates, at the time of the survey, when respondents were asked about five key aspects of managing the employment relationship, the overall state of employee relations was seen as very positive. Seventy-two per cent of respondents reported that the effectiveness of equality, diversity and inclusion (EDI) initiatives in the NHS was either good or very good. More than 73% of respondents also reported a good or very good relationship between management and the unions. Significantly, given the pressure on the workforce, more than two-thirds of respondents recorded good relations among staff.

Figure 1: The current state of employee relations

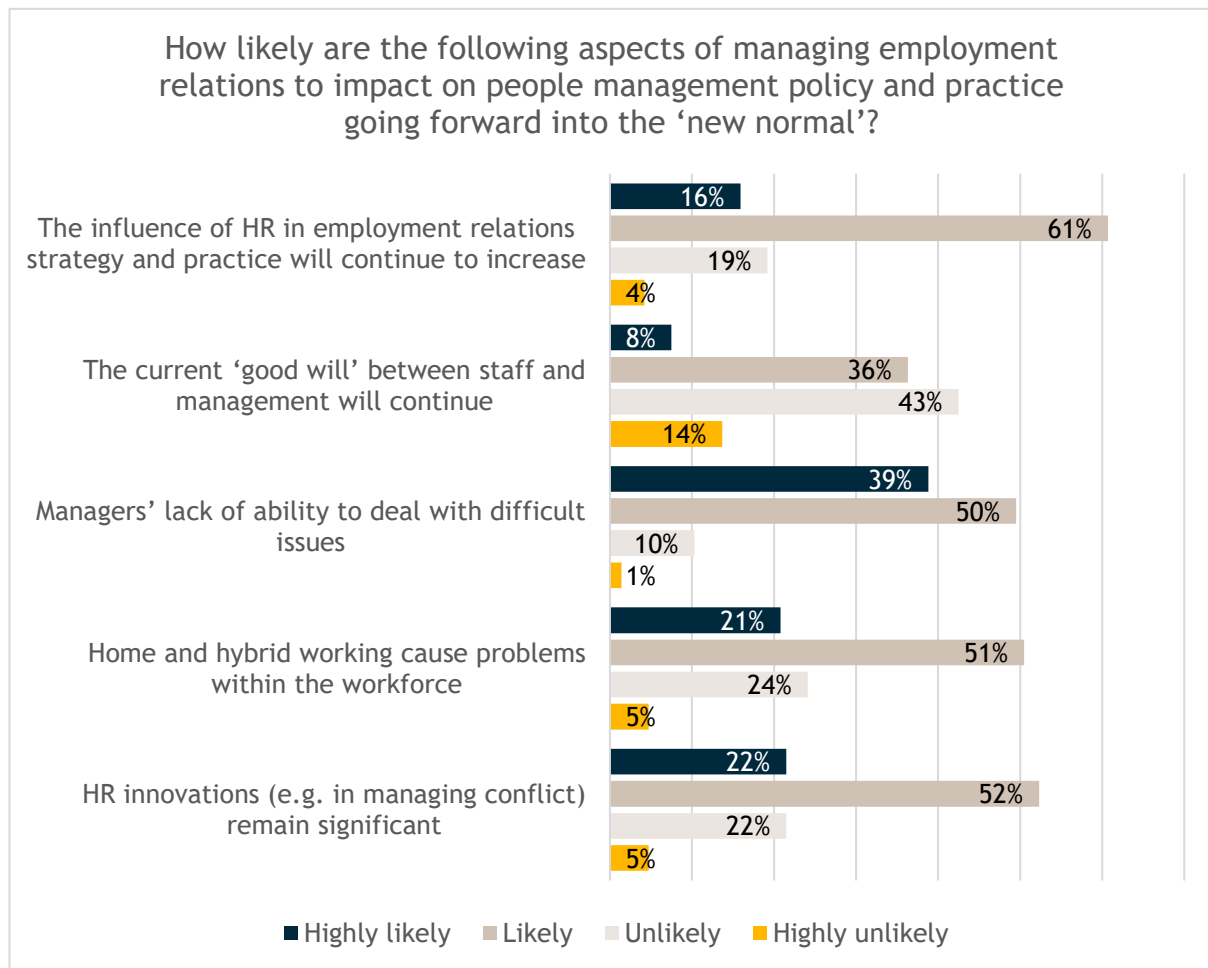Thinking about employment relations in your organisation at the moment how would you describe the following?

Going forward into the new normal: Key challenges facing the Service

To gauge the overall state of employee relations in the coming 12 months, respondents were also asked for their views on several key aspects of employee relations and the degree to which they were likely to impact on people management policy and practice going forward into the 'new normal'.

Figure 2 demonstrates that more than 74% of survey respondents thought it likely or highly likely that further HR innovations will impact positively on employee relations, a positive endorsement of current HR initiatives and practices. This was substantiated by 77% of the sample also seeing HR influence continuing to increase in that period.

In contrast, the less positive outcomes formed the basis for the employee relations areas that were investigated in more depth in the subsequent interviews. For instance, there is an ambivalence over the continued 'goodwill' existing between staff and management. Similarly, respondents' lack of confidence in the ability of line managers to deal with difficult issues was a key theme. Given the impact of the pandemic, staff wellbeing was also a significant issue; additionally, home and hybrid working form a key element of the broader issue of flexible working and its facilitation.

Figure 2: Employee relations in the 'new normal' in the next 12 months

How likely are the following aspects of managing employment relations to impact on people management policy and practice going forward into the 'new normal'?

- The influence of HR in employment relations strategy and practice will continue to increase: Highly likely 16%, Likely 61%, Unlikely 19%, Highly unlikely 4%
- The current 'good will' between staff and management will continue: Highly likely 8%, Likely 36%, Unlikely 43%, Highly unlikely 14%
- Managers' lack of ability to deal with difficult issues: Highly likely 39%, Likely 50%, Unlikely 10%, Highly unlikely 1%
- Home and hybrid working cause problems within the workforce: Highly likely 21%, Likely 51%, Unlikely 24%, Highly unlikely 5%
- HR innovations (e.g. in managing conflict) remain significant: Highly likely 22%, Likely 52%, Unlikely 22%, Highly unlikely 5%

Legend: Highly likely, Likely, Unlikely, Highly unlikely
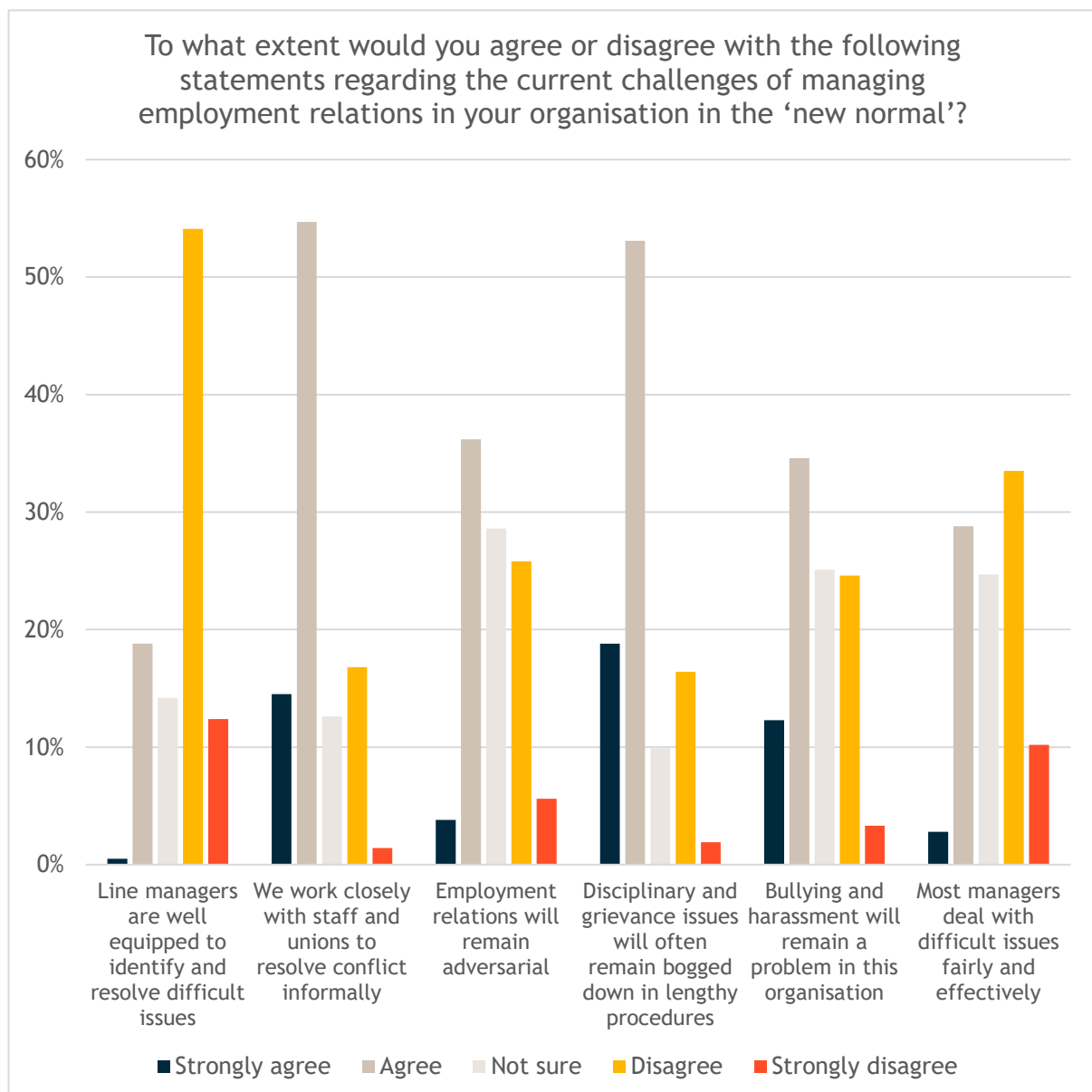
Management of conflict

The effective management of conflict was a major focus of the research. In terms of measures of formal conflict resolution, survey results revealed that respondents felt that there would be no change in the coming 12 months in employment tribunal submissions, or in grievance and discipline cases. These findings, therefore, belie any concern that there may be a 'bottleneck' of disputes deferred because of the pandemic. Similarly, this would appear to be an affirmation of support for the underlying theme arising out of the research that, where possible, respondents favoured more informal means of dispute resolution.

Paradoxically, as seen in Figure 3, however, when asked to what extent would you agree or disagree with the following statements regarding the current challenges of managing employment relations in your organisation in the 'new normal', 72% of respondents agreed or strongly agreed that disciplinary and grievance issues will often remain bogged down in lengthy procedures. Nevertheless, mediation figured extensively and positively in both the survey and interview responses, particularly regarding interpersonal disputes. As one typical interviewee commented, it "[t]ends to be more grievances for mediation or breakdowns in relationships".

For this reason, it remains pre- and post-pandemic, as another interviewee emphasised, a key mechanism for managing disputes:

> "We have trained mediators in the organisation. Then in part, what we're finding is we can't keep up with the demand. So, we had a pool of mediators, but because people have either moved on or changed roles or for whatever reason, we haven't got that many anymore. And so, we are actually just going through a process of procuring some more training for some more mediators because, yeah, we can't keep up with the demand."

Figure 3: Current employee relations challenges in the new normal

To what extent would you agree or disagree with the following statements regarding the current challenges of managing employment relations in your organisation in the 'new normal'?

Crucially, mediation was also seen as a key aspect of changing the culture of managing conflict, such as the encouragement to use facilitated conversations by both HR colleagues and line managers before more formal actions or mediation is chosen.

Interestingly, Figure 3 also highlights a certain ambivalence with respect to the success of bullying and harassment policy and practice. Furthermore, while there exists a clear view that unions and management do seek to manage conflict informally, in tandem with the overall state of union–management relations revealed in Figure 1, in contrast, survey respondents' views on the adversarial nature of employee relations in the NHS more generally, again, were quite ambivalent, suggesting the challenges for HR remain more multi-layered and complex in nature.

Line managers: A key barrier to effective employee relations?

As noted in Figures 2 and 3, a key finding from the research was that the prime barrier to good employee relations is the capability and capacity of line managers to deliver increasingly devolved HR tasks. Further investigation revealed that the causes for this were more nuanced, particularly in terms of the substantial operational pressures on those managers, exacerbated during the pandemic, and the type and degree of support they expected from HR colleagues.

For instance, respondents' concerns over promotion as a reward, rather than based on suitability to manage, resonates with a key theme arising out of current employee relations literature on the resulting 'accidental manager' (Townsend et al, 2012; CMI, 2021).

A further fundamental concern for respondents was the lack of 'confidence', and therefore capability, of many line managers to carry out HR-related tasks. As one typical respondent concluded:

> "It's not that they're not necessarily skilled, because we do a lot of training for that, but unless you use it you don't feel comfortable. And I think people are very nervous about saying anything that could come back to bite them – something that could cause offence that might be seen as discriminatory, about being accused of being a bully."

Furthermore, the following contribution articulates a similarly recurring theme of the need for greater line manager support and development, which present real challenges for HR in terms of resources and staff time in accessing support:

> "We've been talking about this for some time, that there's a lack of confidence and there's a lack of competence, and they're the group that are crying out for support and some development, because often what we're finding in terms of employee relations and dealing with difficult situations in the workplace… [It] comes up that they need most support [on having] difficult conversations with people on a whole range of issues and dealing with conflict and issues of grievance."

Staff wellbeing coming out of the pandemic

Staff wellbeing was another area of concern arising out of the research. Noticeably, survey respondents agreed or strongly agreed that COVID-related absence, referrals to occupational health services and stress-related sickness were likely to rise significantly in

the next 12 months. There were several other specific COVID-related issues identified, leading particularly to potential conflict. These included: mandatory vaccination of staff (despite being later rescinded as a policy); lack of cover for 'at risk' colleagues; and, crucially, overall 'burnout' of the workforce.

Another significant issue that arose out of both the survey and the subsequent interviews was the challenge going forward of managing flexible working in the Service. Unsurprisingly, and precipitated by the experience of COVID, home and hybrid working were key issues identified for HR to address in the new normal.

Most interview respondents agreed that, where appropriate, homeworking can offer "maximum flexibility, convenience, autonomy, trust and empowerment" (Hesketh and Cooper, 2019). Conversely, as also reported in the literature, respondents recognised that it can lead to elements of isolation that required increased support from their line manager and the employer generally.

However, for many interviewees, this aspect of new working should be categorised under the broader heading of flexibility. Interviewees felt that homeworking, if rightly managed, is a positive to have come out of the pandemic. For one typical respondent:

> "It helps flexible working, it helps engagement. And it helped [manage] space in the Trust. You know, we have no accommodation and… very rarely do we have an office anywhere."

That said, it was felt that homeworking does not suit all jobs or all workers, and why flexibility more broadly is a better strategic term and process. This could also avoid disputes with staff whose job does not lend itself to homeworking (ie frontline staff). If the employer recognises this and offers alternative ways for their work to also be flexible, this could mitigate any feelings of injustice, which could otherwise lead to conflict.

Managing change in organisational culture

Models of strategy and practice, such as 'Just Culture' and 'the civility and respect programme' (NHS, 2021), figured regularly in discussions with respondents in driving change in people management approaches. Generally, the analysis of the survey results – and in subsequent discussion with interviewees – highlighted that key concepts of 'restorative justice' and a 'compassionate leadership' approach were well understood in terms of their application within the Service. Crucially, in support for these initiatives, two out of the top three employee relations priorities identified by survey respondents in the coming 12 months in their organisation were 'promoting justice and fairness' and 'promoting civility and respect'. Interestingly, one of several interviewees argued that its emphasis on the informal is not in contradiction to applying more formal routes when necessary:

> "Being fair and just means that others see it as right when performance and attitude, etc, is dealt with formally. So long as those processes are in themselves fair. To this end, changing policies to reflect this new ethos and make them easier to understand and apply is equally fair for employees and also the line manager."

A more prosaic, yet highly practical, take in terms of the informality of a 'Just Culture' by another respondent was that:

> "Quick guides and things like that will help. But, yeah, very much through the just and learning culture work, is to make policy and procedure… much less onerous for managers."

Summary

It is apparent from the research that, while overall, many positive measures of employee relations exist – for example, for EDI and union–management relationships (the research obviously predating the current industrial disputes in the NHS) – several other key issues warrant action by organisations within the Service. These include:

- addressing key reasons for potential conflict, such as requests for flexible working and managing hybrid and remote working staff
- increasing the use of mediation as a practical vehicle for managing relationship and personal disputes among staff
- the central role of the line manager in achieving effective management of employee relations was the most pressing issue raised by all respondents and, crucially, in terms of their capability and capacity to do those tasks, the training, development and ongoing support from HR they require
- workplace conflict is very expensive to organisations, with each grievance estimated to cost £951, and each disciplinary case estimated at £1,141 (Saundry and Urwin, 2021). Therefore, addressing the causes of conflict, as revealed in our findings – such as line manager ability and capacity, issues of employee wellbeing and managing flexible working – could demonstrate real cost benefits for the NHS.

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