

Transforming Employment Relationships?

Making sense of conflict management in the workplace.

Gaye Greenwood

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List of Abbreviations

ADR	Alternative dispute resolution
BoT	Board of Trustees
CCM	Collaborative conflict management
DOL	Department of Labour
DP	Deputy Principal
EC	Education Council
ERA	Employment Relations Act 2000
ERO	Education Review Office
ERP	Employment relationship problems
EWAG	Education Workforce Advisory Group
GERM	Global education reform movement
GTM	Grounded theory method
HPP	High-performance practices
HRM	Human resource management
HRO	High-reliability organisations
IBN	Interest-based negotiation
IC&A	Industrial Conciliation and Arbitration Act 1894
ICMS	Integrated conflict management system
IR	Industrial relations
MBIE	Ministry of Business Innovation and Employment
NZCER	New Zealand Council for Educational Research
NZEI	New Zealand Educational Institute
NZSTA	New Zealand School Trustees Association
NZTC	New Zealand Teachers Council
PRP	Problem resolution process
PRT	Provisionally registered teachers
REDRESS	Resolve Employment Disputes, Reach Equitable Solutions Swiftly
USG	University System of Georgia
ZPD	Zone of proximal development

Attestation of Authorship

I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person (except where explicitly defined in the acknowledgements), nor material which to a substantial extent has been submitted for the award of any other degree or diploma of a university of higher learning. The following publications and conference papers relate to work undertaken for this thesis.

Refereed Journal Articles

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Greenwood, G., A. (2010). *The Challenge of Collaborative Law: Is Access to ADR through the Family Court an Oxymoron?* *The Journal of the Institute of Arbitrators' and Mediators' Australia*, 29(3).

Book chapters

Rasmussen, E., and Greenwood, G. (2014). *Conflict Resolution in New Zealand. The Oxford Handbook of Conflict Management in Organizations*, Roche W., Teague, P., Colvin A.(Eds.). Oxford, United Kingdom: Oxford University Press.

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Conference Papers

Greenwood, G., & Rasmussen, E. (2015). *Making Sense of workplace conflict Management in New Zealand*. 29th Annual Conference of the Australian and New Zealand Academy of Management, Queenstown, December 2-4.

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Greenwood, G. (2011). *Conceptual and Methodological issues for the study of Employment relationship problem resolution*. Conference of the Association of Industrial Relations Academics in Australia and New Zealand (AIRAANZ), *Dialogue Down under* 2-4 Feb 2011.

Gaye Greenwood
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During the last five years, I have come to think about building knowledge like the sand dune on the beach where I walk to think and reflect. Dark and pensive before day break, making sense of the shadows and folds where ideas swirl like sand in the wind, shifting, layering the valleys and embankments in colour and texture, until the wind drops at sunset and the dune is temporarily still. Like sand on the dune, this thesis is one small artefact of a dynamic human learning process where participants, colleagues, friends and family have been taking the time to talk, walk, run and sit alongside me. Here I acknowledge their generosity of spirit and time.

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Abstract

The way we manage workplace conflict matters because outcomes affect day-to-day relationships between individuals, families, team members, organisations and communities. The processes for managing employment relationship problems (ERP) are particularly important in education because adult citizens are expected to create a learning culture in school communities, in the best interests of children, on behalf of the state. This study investigates the management of employment relationship problems (ERP) in the education sector.

Located in New Zealand primary schools, the goal of this thesis has been to build empirical and theoretical insights about the nature of ERP and how best to manage workplace conflict. I wished to find out: 1) what types of workplace conflict and ERP had been experienced; 2) what organisational conflict and dispute resolution policies, processes and practices were implemented in the workplace; 3) how participants understood ongoing employment relationship problems; 4) how conflict and ERP had been resolved; and 5) why problems had been avoided, managed, escalated, resolved or settled.

Fundamental to this study is the ontological assumption that social reality is subjective, co-constructed by human interaction. Ontologically, I view the nature of reality as a dynamic social process. Dervin's (1983, 1992) claim that people are making sense of specific moments in time through message exchange, co-constructing social realities, is at the heart of this research about ERP resolution. Social constructivism attributes meaning to experiences as an ongoing interpretative process of construction and reconstruction, or sensemaking (Weick, 1995, 1976, 2009; Weick, Sutcliffe and Obstfeld, 2005). A social constructionist approach is appropriate because people construct, reconstruct and co-construct their conflict stories while seeking to make sense of ERP.

This interpretive study has been inductive and iterative with data collection, analysis, literature review and application of extant literature occurring simultaneously. There were 38 qualitative semi-structured, face-to-face, in-depth interviews where participants were asked to recount recent stories of ERP. In excess of 260 ERP episodes surfaced. Drawing on grounded theory method (Charmaz, 2006, Corbin, and Strauss, 2008; Urquhart, 2013) ERP were coded, compared by participant, process, outcomes and categorised. The participants' metaphors framed the themes reported in the four findings chapters. Building the emotional bank account focuses on relational trust

(Chapter 5), Percolating problems: explores the nature of the ongoing day-to-day negotiation of power (Chapter 6), Blurred boundaries, examines governing, leading and managing ERP's (Chapter 7). The theme Learning and transforming employment relationship problems (Chapter 8), presents long narratives of ERP stories where transforming, collaborating, inaction, and resigning were significant characteristics of the management of ERP.

The propositions that emerged from those four themes were clustered into three key theoretical insights and discussed in terms of extant literature. First, *complex employment relationships* identifies a fundamental shift in the way we think about parties to employment relationships and the problems that emerge from those relationships. The participants in this research reported a range of stakeholder involvement in ERP, beyond the employer/employee relationship. Secondly, *barriers to workplace conflict management and problem resolution* interrogates institutional barriers, misalignment of goals, and legalism embedded in processes that undermine trust in existing problem resolution processes. This study provides empirical evidence for a reconceptualisation of the employment relationship and governance structure in the New Zealand education sector, given the complex stakeholder involvement in the day-to-day management of conflict and ERP.

The third and final theoretical insight proposes a model for embedding *collaborative conflict management (CCM)* in schools. The model emerged from comparing extant literature with findings that demonstrate early collaborative sensemaking can positively influence transformation and resolution of complex ERP. The study concludes by asserting that this model of CCM involving sensemaking, preceding joint problem-solving early in the emergence of ERP is a theoretical bridge between processes of negotiation, reflective practice and Weickian sensemaking (1995; 2010b). The study provides empirical evidence of complex contemporary employment relationships where trust is at the heart of negotiating dynamic stakeholder relationships and ERP are experienced as day-to-day ongoing phenomena. The emerging model reconceptualises workplace conflict management as a social learning process.

Ethics Approval number 11/23

Ethics Approval granted on 10th May 2011

Chapter 1: Introduction

This study focuses on the management of workplace employment relationship problems (ERP) in New Zealand primary schools. The study emerged from my professional interest, as a mediator and academic, in the relationship between conflict resolution and learning. The idea for the research surfaced from conversations with colleagues who sought information about appropriate processes for managing workplace conflict in the education sector. In a judgement on January 25TH 2010, Chief Employment Judge Colgan identified that legalism and escalation of ERP were risks for teachers' careers in *Lewis v Howick Board of Trustees*. The judgement provoked interest because the claim appeared contradictory given the small number of such cases before the Employment Court. This research aimed to discover whether there was escalation, if so why, and how to enable early conflict resolution in schools. I aimed to contribute to theory, practise and process that was specific to ERP in the education sector. My motivation for this investigation emerged from my commitment to ongoing learning about facilitating the processes of learning and dispute resolution.

This inquiry begins in chapter two, by analysing how and why ERP have been managed in Aotearoa/New Zealand until now and the policies, processes and practices that have been implemented during attempts to resolve ERP here. New Zealand legislation broadly defines an ERP as:

A personal grievance or a dispute, and any problem relating to or arising out of an employment relationship, but does not include any problem with the fixing of new terms and conditions of employment (Employment Relations Act 2000, Part 2, s5). Primary schools proved to be a complex context for examining ERP.

Theory from the literature regarding employment relations, conflict management and alternative dispute resolution, sensemaking and learning have been applied to the analysis of the findings. This study is interdisciplinary.

1.1 Why Study Conflict Management and ERP?

Everything we do at work, at home and in our leisure involves negotiation of options and alternatives during decision making for self, others, teams and/or organisations. Negotiation is a dynamic process, it is “a form of decision making in which two or more parties talk with one and other in an effort to resolve opposing interests” (Pruitt, 1981, p xi). Negotiating differences may result in agreement or disagreement with other people. The conflict that emerges from disagreement is not

essentially a problem, but the way we manage conflict matters because the process affects relationships, self-esteem, identity, ethics, reputations and many other complex elements of daily life for individuals, families, team members, organisations and communities. On a conflict continuum, from constructive disagreement through to escalation of disputes litigated in the courts, conflict can have both positive and negative impacts on our cognitive, emotional, psychological, social, economic and financial well-being. Our personal and professional relationships are influenced by our conflict competencies. This study aimed to facilitate a deeper understanding of the role that the management of conflict and ERP plays in the workplace.

In this thesis, the term ‘conflict management’ refers to the policies, processes and practices implemented with the goal of reaching agreement, settlement and/or resolution of conflict between individuals and groups at the level of the workplace. I distinguish between the notions of ‘settlement’ as a decision to end conflict and compensate for harm, hurt or damage and ‘resolution’ being a mutual agreement in which there is recognition of past conflict and improved understandings with regard to why an ERP emerged, how it was expressed and the consequences. The differentiation highlights that although some conflicts and ERP may be settled by mutual agreement, the underlying events, interests and issues that drove the problems may remain ‘unresolved’ in spite of the parties reaching a negotiated ‘settlement’. The term ‘escalation’ refers to the intensified polarisation of conflict or ERP to a point of dispute, with entrenched positions of disagreement and the engagement of more people than those who were originally involved in the conflict or ERP.

Conflict management is critical in the education workplace because it can affect childrens’ learning, school leaders’ performance, overall staff retention and careers, individual teachers and team well-being, the effectiveness of school governance, the school’s reputation and relationships between members of the whole school community and the Government. Historically in Aotearoa/New Zealand, the state has provided an innovative suite of processes for assistance with the early resolution of ERP, but little or no research has examined conflict and ERP in the context of the workplace. This research project describes a paradigm shift in employment relations policy and practice from rights to interests, which is yet to be fully realised at the level of the workplace.

The period of this research project, between 2010 and 2015, was punctuated by significant disruptions. When considering whether to enrol to do a PhD, the global financial crisis was still having negative effects on employment and business confidence worldwide and there was an atmosphere of impending gloom and austerity. In the

context of my workplace, education policy changes and faculty restructuring fuelled a sense of urgency, especially during the data collection phase. While analysing the data, seeking cues, identifying patterns, comparing stories of ERP and reflecting on the findings, the employment relationships of my colleagues and I were front of mind. Our futures were clouded by restructuring in both 2012 and 2014. Like three boisterous inseparable triplets complexity, change and conflict disturbed faculty relationships (Greenwood, 2015). The phenomenon were experienced simultaneously as both destructive events and constructive opportunities for learning. ERP emerged from dynamic systemic, social, psychological, emotional, political and economic processes associated with the ongoing organising and reorganising of our workplace. The substance of the research echoed in my professional world.

1.2 Rationale and significance for policy theory and practice

In recent New Zealand employment relations literature, Walker and Hamilton (2010a) confirmed the need for in-depth analysis of ERP resolution processes at the level of the organisation. Conducting case study research, Walker (2009) had identified context as an unexplored area of grievance outcomes. Walker and Hamilton (2010a) concluded “there is a need for investigation into processes that do actually occur within New Zealand organisations, before grievances reach external forums, and particularly within company resolution” (2010a, p.52). This current study builds on Walker’s (2009) recommendations by exploring ERP in the context of primary schools. During the last decade, New Zealand research on the employment relations dispute resolution system has focused on state-created employment institutions, processes for collective bargaining, rates of grievance handling, the relationship between unions and employers, union density, strikes and lockouts. Academic literature (McAndrew, 2010; Walker & Hamilton, 2010a; Walker & Hamilton, 2010b) and state-commissioned research (McDermott Miller Limited, 2007; Woodhams, 2007) has identified a lack of understanding regarding workplace management of ERP. Chapter 2 provides a review of employment dispute resolution literature and Chapter 3 reviews literature related to conflict management in the education sector.

In the institutional setting, aggregated frequencies of disputes have been indicators of workplace conflict in previous literature (Department of Labour, 2002a, b; Waldegrave, Anderson & Wong, 2003). Little is known about the substance and context of ERP that are settled during mediation, because the process is contractually bound by confidentiality. State funded free mediation provided by the New Zealand Ministry of

Business Innovation and Employment (MBIE), formerly the Department of Labour (DOL) is defined as:

a process whereby parties are assisted to resolve a problem between them by an independent, impartial third party in a confidential forum. The mediator has the role of encouraging those with a problem to explain what has occurred, to discuss the pros and cons of the difference that has arisen, and to come to a resolution that is satisfactory to both parties.

<http://employment.govt.nz/er/services/mediators/what-is.asp>

1.2.1 Rationale and significance for the New Zealand education sector

The commentary of the Chief Employment Court Judge in *Lewis v Howick Board of Trustees* identified unnecessary escalation of disputes in the education sector, reflecting earlier secondary research across industry sectors (Waldegrave, Anderson & Wong, 2003; Wyse, 2006) that suggested that some lawyers, parties and advocates favour adversarial processes to settle ERP. It has been claimed that parties increasingly engage the Ministry of Business Innovation and Employment (MBIE) Mediation Services to *dissolve* rather than *resolve* the employment relationship. Mediation Researchers have claimed there are barriers to the early resolution of workplace relationship problems within organisations and these have not yet been captured by primary research in Aotearoa/New Zealand (Waldegrave et al., 2003; Walker, 2009; Wyse, 2006). In *Lewis v Howick Board of Trustees*, Chief Judge Colgan suggested that there might be characteristics unique to schools that give rise to the potential for the escalation of ERP in the education sector.

1.3 Aims of the Study—Research Questions

The primary aim of this study is to understand how ERP are managed in schools, the context in which ERP escalate, settle or resolve from the experiences of principals, governors and dispute resolvers who have been responsible for conflict management in the education sector. The second goal is to build a process model that applies new understandings about ERP resolution thereby adding to the literature on theory, policy and practice of conflict management. The third goal is to provide a foundation for future research. The overarching research question is: Who are the parties to ERP, what is the nature of ERP and how are they managed in the primary school workplace? The research questions are as follows:

RQ1: Who are the parties to ERP?

RQ2: What is the nature of ERP in primary schools?

RQ3: Why do ERP emerge?

RQ4: How are ERP managed?

RQ5: How is employment relations dispute resolution policy reflected in practice?

RQ6: What were the common elements of the ERP that were resolved in the workplace?

RQ7: What were the common elements of the ERP that were not resolved at the level of the workplace?

RQ8: Why did ERP resolve, transform, settle or escalate in the context of the schools studied?

The study has also prompted new questions and propositions for future research, outlined in Chapter 10.

1.4 Implementation of the study

Underpinning this research was the assumption that problems, conflicts and disputes are interpreted in the context of the specific culture of organisations. The research required detail of context-specific settings, processes, policies, communication and relationships, within and from which the participants interpreted events and experiences. However, fieldwork about conflict directly inside organisations is ethically problematic. There is high risk of causing harm and escalation by engaging directly in real time conflict and ERP. Therefore, the investigation involved people who had responsibility for management of schools and experience of processes for conflict resolution. Participants were school leaders, governors, experts in education and education dispute resolution. The study draws on 38 narrative interviews with 15 school leaders (principals, deputy principals and team leaders), six members of Boards of Trustees (BoTs), six experts in education and employment relations, five dispute resolution experts, five mediators with experience in school ERP and one significant case of a scale-A teacher's ERP.

I was interested in the episodic nature of ERP; and how the negotiation and dispute resolution processes were acted out. An underpinning assumption of the research was that the emergence of problems could have both positive and negative effects and conflict was an inevitable feature of the primary school workplace. However, there were four caveats to the study:

1. The study focused on ERP involving individuals, not collective disputes nor bargaining of wages and conditions.

2. The episodes reported did not include allegations of misconduct, gross misconduct nor criminal matters.
3. The study did not engage with the vast body of literature on leadership in education, although Chapter 10 outlines the way I could collaborate with leadership researchers in the future.
4. The episodes reported were not observed nor gathered in real time—they were all retrospective stories.

The philosophical approach to this study is social constructivism. Drawing on the principles of the ‘grounded theory method’ (GTM) to explore, describe and compare a range of participant understandings of ERP, I sought to establish the way people made meaning of and interpreted their experiences of ERP in schools. The approach required the collection of primary and secondary data for the examination and analysis of where, when and why sites of relational conflict and ERP emerged, how they were managed, and who was involved. The study aimed for credibility over generalisability by gathering rich, in-depth conflict stories. The stories were analysed by comparing types of ERP, relationships, processes and outcomes. The study has analysed data from 261 ERP stories gathered during the 38 interviews, evidenced in appendix A. Chapter 4, outlines the methodological approach, research design and data analysis.

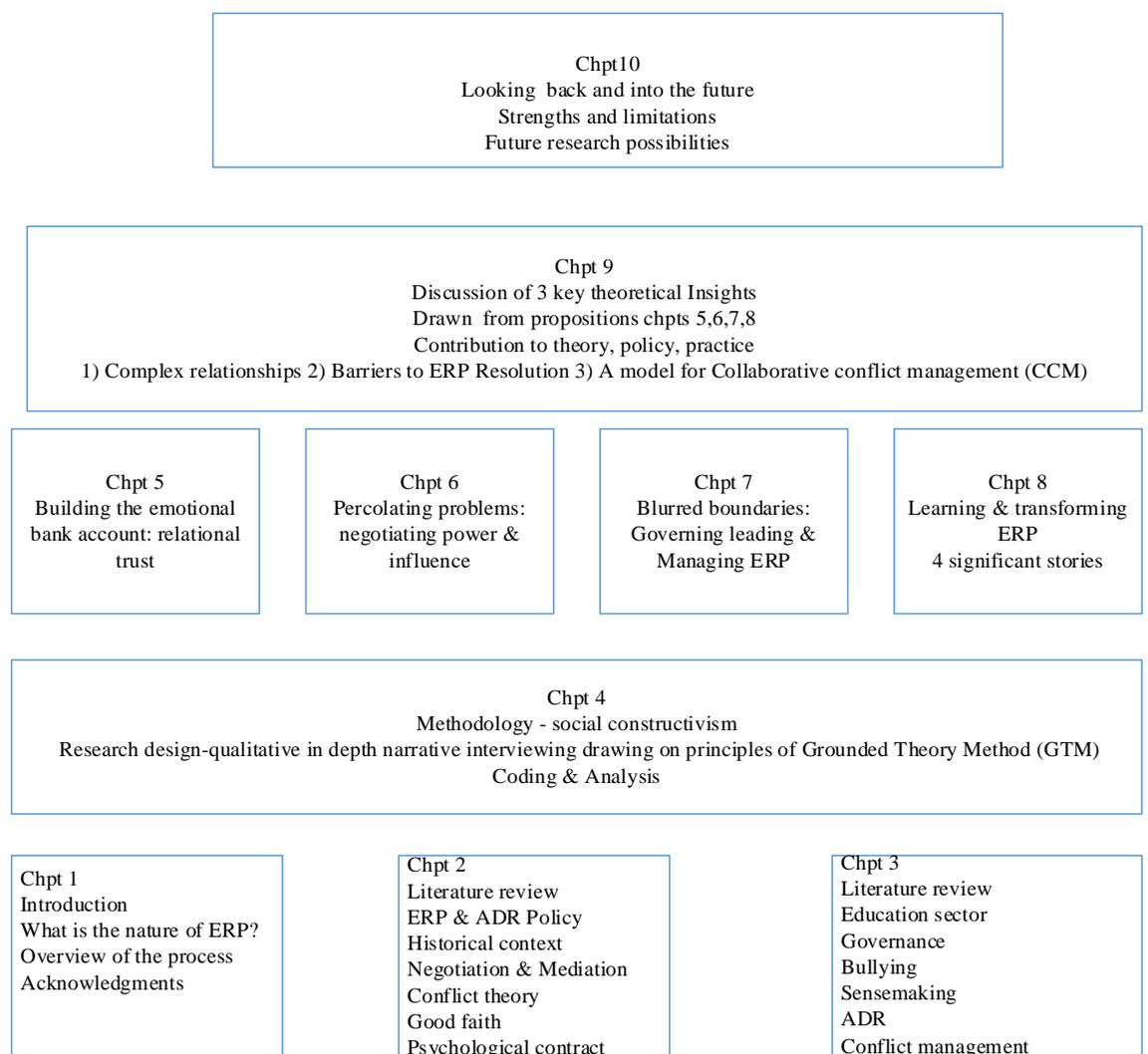
The research findings are presented in Chapters 5,6,7 and 8 with participants coded descriptors of ERP tabulated to illustrate the categories underpinning the four themes; Building the emotional bank account-relational trust (Chapter 5); Percolating problems-negotiating power and influence (Chapter 6); Blurred boundaries-Leading, governing and managing ERP (Chapter7); Learning and Transforming employment relationship problems (Chapter 8).

The associations between the four themes above are discussed in Chapter 9 where three theoretical insights (complex relationships, barriers to ERP resolution and a model for collaborative conflict management) provide evidence of the contribution this study makes to theory, policy and practice. Chapter 10 responds to the original research questions and concludes by identifying strengths, limitations and possibilities for future research.

At a personal level, this long research project has influenced my thinking and practice with regard to the intersection between dispute resolution and learning. I have observed a relationship between storytelling, learning and the resolution of conflict. As a facilitator of learning in a tertiary institution, during the course of this research I have experimented more freely with discourse in the classroom posing disorienting

dilemmas, prompting the expression of irritation and disagreement, followed by shifts in thinking, individual learning and new collective understandings. During mediation, I have witnessed the transformation of anger and confusion to authentic commitment to behavioural change emerging from joint problem solving, mutual recognition and acknowledgement of parties' contributions to conflict events. I have a personal and professional commitment to continuous improvement and am infinitely inquisitive about the way others have interpreted their experiences of workplace conflict and their processes of learning.

Figure 1.1 The structure of the thesis



Chapter 2: The Framing and Reframing of Employment Dispute Resolution in New Zealand

Industrial relations (IR) has focused on the institutional relationship between employers and trade unions, especially collective bargaining ... and associated normative institutions, as mechanisms for regulating conflict and creating industrial order. It is now more fully recognised that people are citizens and customers as well as employees and that these multiple identities bring different and at times conflicting expectations of the business enterprise. ... The employment relationship may involve an element of raw coercion, but it also suggests forms of co-operation based on long term trust relationships of loyalty and mutual respect... Neo-pluralism does stress social values over interests, co-operation over conflict and trust over power (Ackers, 2002, pp.16–17).

2.1.1 Introduction

This chapter provides the historical context of Employment Dispute resolution in New Zealand. Ackers (2002) above signposted a shift in employment relations from regulation to collaboration and that shift is reflected in the history of New Zealand employment relations policy. This chapter will examine that history. The chapter has its own history too because it has been developed iteratively over time, in three phases. During the first phase of the research, I reviewed theoretical frameworks and policies that had historically swung on the pendulum of regulation and deregulation of employment relations and dispute resolution in Aotearoa/New Zealand, reflecting the ideology of the government at the time. Following the analysis of interviews with mediators in July 2011, models of alternative dispute resolution (ADR), specifically negotiation and mediation, were compared with international approaches to ADR.

The third section of this chapter was written in August 2012 during a phase of data collection when interest based negotiation (IBN) was identified as a process for problem solving, negotiation and early facilitative mediation. The association was made during an interview with Professor Margaret Wilson, the former Attorney General and sponsor of the Employment Relations Act 2000 (ERA). This chapter concludes with a discussion of updated literature that identifies a link between the object of the ERA 2000 and building trust in the psychological contract.

This first section discusses the theoretical frameworks and policies of employment relations in Aotearoa/New Zealand, tracing the history from regulation to deregulation. In the context of a mixed-market economy, the historic role of collective bargaining in industrial relations dispute resolution is outlined. The shift to processes of dispute resolution, in which rights and interests were separately defined, through to

personal grievances heard by employment tribunals, is followed by the promise of the early, informal resolution of ERP. Table D.1 (see Appendix D) presents Rasmussen and Greenwood's (2014) summary of the relevant legislation and processes for dispute resolution, from 1894 to the present time.

2.2 The Highly Regulated Era of Collectivism

For over 100 years, a highly regulated system of industrial relations controlled conflict between employees and employers through processes of collective organisation. The tripartite relationship between Government, unions and employers involved a high degree of legal regulation and control of industrial conflict that negated the need for individual advocacy or action to manage until the 1970s (Rasmussen and Lamm, 2002). The Industrial Conciliation and Arbitration Act 1894 (IC&A) provided the first conciliation process by independent, government-appointed councils, chaired by conciliation commissioners (Dell & Franks, 2007, p.45). Howells (1974, p.161) claimed that "compulsory conciliation and arbitration, legally binding awards, industrial agreements and penalties for strikes, does successfully control excess industrial conflict ... serving efficiently in maintaining industrial peace". According to Roth (1974), the objective of the IC&A was "to provide the machinery for the peaceful settlement of industrial disputes, but it was intended to encourage the formation of industrial unions and associations," (p.7). Unions and employers were registered and required to follow a precise process for addressing disputes.

The government-appointed councils, which were chaired by conciliators, were a forum for collective bargaining and made 'arbitration awards'. Critiqued at the time as "litigious ... creatures and instruments of state regulations" (Clark, 1907, in Roth, 1974, p.64), state mediators now acknowledge that the IC&A provided institutional mechanisms for "the first step toward trying to encourage parties to make decisions by themselves" (Dell & Franks, 2007, 2009). Tillet and French (2009) explained that conciliation is considered a process in which the "parties to a dispute, with the assistance of a neutral third party (the conciliator), identify the disputed issues, develop options, consider alternatives and endeavour to reach agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but does not have a determinative role."(p.111). However, under the New Zealand IC&A the conciliators made decisions, called awards.

A hybrid process, in which bargaining and determination have sat side by side, has continued in New Zealand industrial relations. Under the Industrial Relations Act

1973, industrial disputes were defined under two categories: ‘interests’, which involved disputes about procuring a collective agreement, award settling, wages and conditions of employment; and ‘rights’, which concerned the interpretation, application and operation of an employment contract, as well as any dispute that was not an ‘interest’ during ‘the currency’ of an agreement, and personal grievances. The language of grievance highlighted a focus on the imbalance of power in the employment relationship and signalled the objective of correcting that imbalance. Williams (1981) explained that the difference between interests and a grievance was that interests were based on the bargaining preceding the establishment of an agreement and a grievance was a dispute arising out of the agreement, or as a consequence of the agreement, (p.917).

This distinction between rights and interests was a springboard for increased mediation of employment disputes for individuals. By 1978, amendments to the Industrial Relations Act 1973 created three agencies for dispute resolution: the Industrial Mediation Service, the Industrial Conciliation Service and the Arbitration Court(s). The Industrial Mediation Service provided mediators whose role it was to help employers, unions and workers maintain harmonious relationships, prevent industrial disputes, make enquiries into matters and where the parties agreed, to make decisions. Mediators were, therefore, shuttle diplomats, investigators, negotiation facilitators and decision makers.

2.3 Creeping Individualism

By the 1970s, a focus on the ‘individual’ was entering employment dispute resolution policy with individual union members afforded the right to take a personal grievance under the IRA 1973. This led to increased numbers of disputes being heard by mediators in the Industrial Mediation Service and an increase in decision making by mediators: “If the committee failed to make a decision they [mediators] made a ruling” (Dell & Franks, 2009, p.4).

The Employment Contracts Act 1991 fundamentally changed employment relations, reframing the employment relationship as an individual contract. The move away from the collective to the individual, accompanied by changes in the nature of work and the competitive market economy, led to individual workers negotiating their terms and conditions of work with relatively less protection from exploitation and increased power imbalances in the employment relationship (Rasmussen, 2009).

Individual contracts became more prevalent, alongside decentralised bargaining, a reduction in union effectiveness, and the right to take ‘personal’ grievances. More cases were taken to the Employment Tribunal, which provided mediation and decision-making (termed ‘adjudication’), and a backlog developed (Dell & Franks, 2009). It is not clear whether the cause of this growth in cases was a symptom of the neo-liberal discourse of competitive individualism, the result of an imbalance of power in the employment relationship, the disempowerment of union advocacy and reduced access to collective processes, or an increase in legalism (Rasmussen & Ross, 2004). Peel and Inkson (2000) noted that the collectivist tradition was being rejected (p.210) and “workers were becoming more litigious in their approach to employment issues” (p.209). Peel and Inkson (2000) claimed that the increased litigiousness in employment was due to the relationship between the transactional approach of the employment contract and the direct involvement of employees in the determination of wages and conditions, but this was “difficult to trace empirically” (p.210). However, in retrospect it is clear that there was a shift in employment policy to individual grievance that was aligned with a reduction in union density and a shift in the political economy.

The ideological shift to competitive market economies, deregulation, privatisation and individualism of the mid-1980s and 1990s provided a foundation for the passing of the Employment Contracts Act 1991, which abandoned the “traditional arbitration system...and individual bargaining was elevated in status” (Rasmussen, Foster, & Murrie, 2012, p.3). The statutory provision of access to take a personal grievance without the requirement of trade union involvement foreshadowed reductions in union membership. By 1996, there had been more than double the numbers of claims before the Employment Tribunal (Deeks & Rasmussen, 2002, p.90). Business leaders, employer associations and public policy lobbyists had pressured Government, asserting it was too difficult and expensive to dismiss employees. Cullinane and McDonald (2000) had argued a correlation between the rise in personal grievances and the shift to individualism. Rasmussen & Lamm (2002) argued that the strengthening of individual rights to take a discrimination case to the Human Rights Commission undermined the role of the unions (p.4). Appendix D (Rasmussen and Greenwood, 2014, pp.450-453), illustrates the purpose of legislation introduced between 1894 and 2000, with the associated processes and outcomes related to each statute. That table demonstrates the shift from collectivism to individualism and illustrates the early adoption of hybrid med-arb approach to dispute resolution processes is historically embedded in New Zealand legislation.

The next section discusses the retention of personal grievances and the objective under the ERA to frame conflict in employment relationships as problems to be solved without the involvement of the judiciary.

2.4 Contemporary Development of the Employment Relationship Problem Resolution System

This section scrutinises the contemporary development of the ERP resolution system alongside the reduction in union density and growth of individualism. It identifies an ideological shift from the mixed-market economics of a social democracy to a neo-liberal, free, competitive market ideology in which labour has been framed as a commodity, like any other factor of production (Rasmussen, 2009; Wilson, 2010). The associated shifts in employment dispute resolution policy included the deregulation of collective bargaining and union membership, accompanied by a shift in dispute resolution practice from arbitration to mediation.

2.4.1 A Dynamic Shift from Work as a Contract to a Relational Agreement

Under the ERA, there has been a particular focus on a workplace ERP resolution system applied to all workplaces provided by the state. In the new millennium, the Attorney General, Hon Margaret Wilson, advocated for the reframing of the employment ‘contract’ to an ‘agreement’ about the nature of the employment ‘relationship’ and advocated for a free, early-intervention mediation process as the core of an ERP resolution system. This relational focus was an indicator of an ideological shift from the unitary orientation of the former neo-liberal, right-wing National Government to the pluralist roots of the Labour-led coalition in 1999, (Rasmussen, 2009; Rasmussen, Hunt & Lamm, 2006; Rasmussen & Ross, 2004; Rasmussen & Lamm, 2002). The Hon. Margaret Wilson’s drive for a “free, fast and fair” mediation service (Wilson, 2000, p.1), with a focus on self-determination where “parties resolved their employment problems for themselves” close to the workplace, retained the ability for individuals to take an ERP to the state Mediation Service whether or not it involved a personal grievance. The policy’s aim was to move employers, unions, individuals, legal representatives and employment relations institutions from positional bargaining to an integrative, problem-solving approach and to foster early assistance for resolving workplace conflict, moving away from the pluralist assumption that employee employer interests were irreconcilable.

2.4.2 New Zealand policy context

As mentioned earlier, the ERA signalled a fundamental ideological shift from the former neo-liberal, ‘free market’ transaction between the employer and employee of the Employment Contracts Act 1991, to a relational approach based on social exchange (Rasmussen, 2009). The policy goal was to view the employment agreement as more than a contract of service and to acknowledge the human relationship in which people contributed effort and participation in return for formal and informal reward. The Act was innovative in its aim to influence negotiation behaviour by requiring good faith communication in the workplace and employment relationship.

This requirement for good faith behaviour was outlined by the MBIE (2013a) to mean “in broad terms, that both employers and employees must:

- act honestly, openly, and without hidden or ulterior motives
 - raise issues in a fair and timely way
 - be constructive and cooperative
 - be proactive in providing each other with relevant information and consider all information provided
 - respond promptly and thoroughly to reasonable requests and concerns
 - keep an open mind, listen to each other and be prepared to change opinion about a particular situation or behaviour, and
 - treat each other respectfully”
- (<http://employment.govt.nz/er/solvingproblems/keyprinciples/goodfaith.asp>).

This definition of good faith behaviour provided a conceptual and pragmatic process framework for communication that aimed to enhance trust and normalise inevitable conflict in the employment relationship. The language of the Act signposted the intention for resolution close to the workplace: “to recognise that employment relationship problems are more likely to be resolved quickly and successfully if the problems are first raised and discussed directly between the parties to the relationship,” (section 101. (a) (b)).

2.4.3 Aiming for self-determination through problem solving

The provision of free education about negotiating workplace problems and information through a state-funded call centre aimed to enhance productivity by resolving ERP early, thereby strengthening joint commitment to an ongoing relationship. The legislation described the innovative goals of building trust through good faith behaviour and problem solving in situations of relational conflict: The objective of the Act is stated thus:

3. The Object of this Act is:
 - a. to build productive relationships through the promotion of mutual trust and confidence in all aspects of the employment environment and of the employment relationship –
 - i. by recognising that employment relationships must be built on good faith behaviour; and
 - ii. by acknowledging and addressing the inherent inequality of bargaining power in employment relations; and
 - iii. by protecting the integrity of individual choice; and
 - iv. by promoting mediation as the primary problem-solving mechanism; and
 - v. by reducing the need for judicial intervention, and
 - b. to promote observance in New Zealand of the principles underlying International Labour Organisation Convention 87 on Freedom of Association, and Convention 98 on the Right to Organise and Bargaining Collective (ERA, 2000, s3).

The provision of self-help negotiation advice and information on the former Department of Labour's website, and mediation in the former Employment Relations Service (ERS) (now MBIE's Mediation Services) was intended to encourage productive relationships by resolving ERP close to the workplace. Researchers have noted it is unclear whether this resolution system has been successful in practice. There is little New Zealand literature on the early resolution of ERP by mediation because the process is confidential (McAndrew, 2010; McDermott Miller, 2007; Walker & Hamilton, 2010a; Walker & Hamilton, 2010b; Woodhams, 2007). The attempt to enable early resolution of conflict and disputes by mutual agreement, as close as possible to the workplace, has been disputed recently by international conflict management literature challenging the fairness and effectiveness of these processes, claiming they are symptomatic of the rise of individualism (Godard, 2014).

Since the passing of the ERA in 2000, employment dispute resolution institutions in Aotearoa/New Zealand have reflected the public policy dualism of the turn of this century. Attempts to compromise collectivism with individualism were signalled in the object of the ERA above, expressed as

... acknowledging and addressing the inherent inequality of bargaining power in employment relationships; (iii) ... promoting collective bargaining; and (iv) by protecting the integrity of individual choice.

Hence, the onus has been on unions, human resource managers, employees and employers to negotiate the intersection between collective and individual relationships in good faith. Initially, there was an increase in personal grievances, followed by an increase in self-determined recorded settlements and a reduction in union density. There is little empirical research to ascertain the correlation or significance of these parallel trends. The picture painted of conflict management in Aotearoa/New Zealand has been

one of public access to interest- and rights-based processes working side by side (Rasmussen & Greenwood, 2014).

The intentions of the Labour Coalition at the turn of the century for a mutual, interest-based problem-solving approach to conflict management policies, practices and processes in the workplace, and the provision of institutional systems for early intervention in ERP resolution, retained the nomenclature of personal grievances as a subset of widely defined ERP. The retention of grievance language illustrates a dissonance or conceptual tension between the rights-based bargaining of the aggrieved and collaborative problem solving. Before embarking on litigation in the Employment Court, unions and individuals access a suite of services via MBIE (formerly the Department of Labour), including negotiation advice from the call centre, Mediation Services, early assistance mediation, settlement mediation, sign-off for recorded settlements, and neutral adjudicated determination or facilitated bargaining from the Employment Relations Authority.

While the ERA retained personal grievance entitlement, employees and employers were directed explicitly to take a mutual good faith approach to conflict management in the workplace. The reframing of resolution processes embodied in the legislation aimed for an integrative approach focused on the interdependence of the relationship, shifting from a view of employment as an individualised market transaction to one of negotiating mutual interests while protecting the right to organise collectively.

2.5 Conflict, Disputes and Employment Relationship Problems

The terms ‘employment conflict resolution’, ‘workplace dispute resolution’ and ‘employment dispute resolution’ have been used interchangeably in the literature. International literature about employment conflict and disputes has focused on union and non-union workplace grievance procedures and systems (Bingham & Chachere, 1999; Feuille & Delaney, 1992; Lewin, 1987, 1999; Lipsky & Seeber, 2003). Other streams of literature have focused on processes, such as mediation and arbitration in collective bargaining (Dunlop & Zac, 1997; Ury, Brett & Goldberg, 1989), or negotiation (Lewicki, Saunders & Barry, 2010; Walton, Cutcher-Gershenfeld & McKersie, 2000).

A focus on the relationship, positive change or transformation of communication and increased awareness of conflict analysis was common in ADR literature (Bingham,, 1997, 2004, 2012; Bowling & Hoffman, 2003; Bush & Folger, 1994, 2004, 2005;

Cloke, 2001; 2006; Cloke & Goldsmith, 2000b; Jameson, 2001; Tillet & French, 2009; Winslade & Monk, 2008) and in the design of workplace conflict management systems (Amsler 2014; Bingham, 2007; Costantino & Merchant, 1996; Donais, 2006; Ury et al., 1989).

As discussed above the ERA has grouped employment conflict, disputes and grievances all under the term 'employment relationship problems'. This has been an attempt to merge rights and interest-based disputes, to address both collective and individual concerns. Rights to fair and equal treatment could be claimed concurrent with problem solving where individuals sought resolution in the mutual interests of both parties. In policy, the imbalance of power in the relationship could still be recalibrated by collective action, through unions and/or mediation with a third-party neutral.

There appears to be debate over the terms 'problems', 'conflict' or 'disputes'. An area of contention in the literature has been whether there were differences between conflicts and disputes and if so, what are they? Meyer (2004a) and Moore (2003) challenged Burton's (1990b) assumptions that 'conflict' was concerned with universal human needs, while 'disputes' were about substantive issues that were negotiable. Tillet and French (2009, pp.7-9) argued, "Disputes are usually settled whereas conflict resolution was essentially a process of changing relationships". Mayer (2004a) and Moore (2003) focused on the relationship, both claiming that conflict was resolvable and "the more disputants believed conflicts were solvable, the more likely they were to aim for a full resolution of the conflict and a positive relationship" (Mayer and Moore, 2004a, p.28). Boulle, Goldblatt and Green (2008, p.73) had defined conflict as a term "used in a broader sense than the term dispute to refer to any situation in which there is a state of tension, disagreement, or contention between two or more people or groups". Boulle et al. (2008, p.74), went on to explain that parties to a 'dispute' experienced "conflict as a morass of chaos and confusion and mediation could bring structure to the disorder". Tillet and French (2009, p.8) had asserted that 'problems' are "not disputes or conflicts as such, problems are manageable". They differentiated between disputes, conflict and problems, by claiming that a 'dispute' arises "when two or more people or groups perceive that their interests, needs, or achievement of their own goals are incompatible", and "disputes are usually settled by mutually agreed settlement or by an imposed decision; however, conflict resolution is concerned with changing relationships" (2009, p.8). The conceptual differentiation has a procedural implication. On a continuum, it appears there is conceptual agreement that relational problems and

conflict are antecedents to disputes, which may continue to manifest as unresolved problems or unresolved conflicts whether or not a dispute is settled.

The terminology ‘*employment relationship problems*’ (ERP) embedded in the New Zealand legislation is defined in Section 5, encapsulates personal grievances, disputes and “any other problem relating to or arising out of an employment relationship”. The way the public, employment dispute resolution institutions, interest groups, organisations, legal advocates, employees, and employers have understood the terms ‘employment relationship problems’, ‘conflict’ and ‘dispute resolution’ processes and systems is important in this study. While determining how the terms are understood by the general public was beyond the scope of the project, exploring the participants’ conceptions of ERP was an important research question.

Underlying that conceptualisation of ERP and the processes for resolution was the assumption that conflict underpins relationship problems, which are at the core of (and dynamically influence) escalation into a dispute. The underpinning philosophy was that early intervention in problems would prevent escalation to dispute and the terminology that conveys the literal policy expectation was McAndrew’s (2010) reference to the New Zealand “employment relationship problem (ERP) resolution system” (p.79). New Zealand legislators attempted to capture workplace conflict management in the institutional framework by directing parties to solve problems early as close as possible to the workplace with institutional support through negotiation advice and free mediation.

This study’s review of the policy literature not only identified an academic empirical research gap regarding the substance and processes of the ERP resolution system provided under the ERA but also confirmed a lack of empirical research on ERP in Aotearoa/New Zealand at the organisational and individual levels. Boulle et al. (2008), Walker (2009), McAndrew (2010) and Woodhams (2007) have highlighted the reliance on internal departmental policy research and the lack of academic literature on the topic. In terms of policy evaluation research, there is little empirical data evaluating the effects of the dispute resolution processes on employees, employers and organisations; Shulruf, Woodhams, Howard, Johri, & Yee (2009) have exposed the lack of evaluation research into of the costs and benefits of employer–employee problem and dispute resolution systems. This situation mirrors a lack of contextual international empirical research on conflict management practices and dispute resolution processes, such as negotiation and mediation, at the level of the workplace and the organisation (Bingham, 2004; Bingham & Chachere, 1999).

There is a gap in international research about the phases of emergence, transformation, resolution and settlement, or the escalation from problems to conflict, grievance and dispute (Antes, Folger & Della Noce, 2001; Bingham, 2004; Bingham & Chachere, 1999; Bush & Folger, 2005; Felstiner, et al., 1981; Mayer, 2004a). Internationally, policies and processes for the early resolution of workplace conflict have proven difficult to evaluate. There have been calls for the identification of dimensions for comparing early conflict resolution processes (Mayer, 2004a; Budd & Colvin, 2008; Bingham & Chachere, 1999; Bingham 2004). However, comparative research on the substance, processes and outcomes of ERP has been hindered by differences between internal and external dispute resolution systems, private and public sector delivery across federal or nation states, legal jurisdictions, and public policy contexts (Bingham, 2004; Bingham & Chachere 1999; Donais, 2006; Feuille & Chachere, 1995; Feuille & Delaney, 1992; Walker, 2009). There has however been a long scholarship of comparative, experimental and case study research on differing styles, roles, strategies and cultural approaches to negotiation to be discussed in the following section.

2.6 Negotiation

Negotiation scholars increasingly recognize that as a negotiation unfolds over time, negotiators adapt their strategies in response to external events and internal processes. Yet, despite a growing literature attesting to the improvisational aspects of negotiation, researchers rarely explore how and why the dynamics change over time. This neglect seems even more puzzling because we have good evidence, from case study analyses of large-scale negotiations and from experiments, that the critical events punctuating negotiations also propel them onto a different course (Druckman & Olekalns, 2011, p.6).

This section examines how negotiation has influenced employment relations dispute resolution and in particular models of mediation. The terms negotiation and bargaining have been used interchangeably however classical negotiation theory has consistently acknowledged bargaining as aligned with the distributive, competitive, win/lose approach to disputes between labour, management and owners. Particularly with regard to collective 'bargaining' during disputes over rights, policies, laws and regulation of wages and conditions (Ury & Fisher, 1981; Fisher, Ury, & Patton 1991; Jameson, 2001; Lewicki et al., 2010; Ury, 1993; Walton et al., 1994; Walton & McKersie, 1965; Weeks, 1994; Tillet & French, 2009). Two identifiable shifts in thinking about negotiation have been reflected in the literature. First, there was the move away from game theory, market transactions and positional zero-sum bargaining towards mutual problem solving (Follett, 1940; Walton & McKersie, 1965; Fisher &

Ury, 1981; Fisher, Ury & Patton, 1991; Pruitt, 1981; Pruitt & Rubin, 1986; Lewicki et al., 2010; Riskin, 1996; Walton et al., 2000) and secondly, the contemporary focus on interdependency in employment relationships and the need for relationships to transform during fast organisational change (Bingham, & Pitts 2002; Bingham, 2004; Bush & Folger, 2005; Mayer, 2004b; Moore, 2003; Reardon, 2005; Walton et al., 2000). These shifts have been threaded throughout practitioner and academic literature on conflict resolution, negotiation and mediation, informing external systems and the design of internal conflict management systems as well as mediation processes and practices.

The model commonly referred to as interest-based, integrative or problem-solving negotiation emerged from the work of Fisher and Ury (1981), which built on the work of Walton and McKersie (1965). The psychology underpinning integrative bargaining was founded on the earlier work of campaigner for democratic organisations and communities, (Follett 1940, in Graham, 1995), which recognised the value of collaboration in reciprocal relationships in satisfying mutual interests by integrative bargaining.

According to Graham (1995), the writings of Follett (1924, 1933, 1940) advocated for non-coercive power *with*, rather than coercive power *over* others, asserting that reciprocal relationships required collaboration and ‘integration’ of the underlying interests of all parties in a conflict. Walton and McKersie (1965) further articulated the tensions between competition and collaboration, which ran concurrently and were interwoven throughout the negotiation process. They argued that during distributive bargaining, in which negotiation involved competition for scarce resources (e.g., money), negotiators also needed to collaborate to meet their underlying interests, thereby creating greater value while reframing and reshaping each other’s attitudes towards their relationships. The focus of these researchers was on consensus building. During the 1960s, Walton and McKersie expanded on interest-based bargaining from labour negotiation theory, applying theory to practice in the social and civil rights movements. Subsequently, integrative practices with a focus on interests have been further applied to international managerial, inter-organisational and business negotiations (Lax & Sebenius, 1986; Raiffa, 1982; Watkins, 2002).

The ‘distributive’ approach to negotiation according to Fisher and Ury (1991) as a competitive ‘win/lose’, positional or zero-sum strategy, whereby negotiators were solely focused on competing to maximise their gains over a fixed resource and a value or gain for one negotiator left less for the other. They labelled this style of negotiation

‘positional bargaining’ and claimed that such bargaining was destructive because it focused on the differences between the parties in negotiation and was likely to damage ongoing relationships. According to Fisher and Ury (1991), distributive or positional negotiation led to inefficient negotiation due to tactics such as walkouts, dirty tricks involving resistance to information exchange, and avoidance of decision making, thereby slowing down the bargaining phases and risking disagreement and unsatisfactory adversarial decision making where settlement may be reached but interests underpinning the negotiation may not be satisfied (Fisher & Ury, 1991, pp.1–5). There has been wide international recognition of the change in focus during negotiations from rights to interests and relationships. This has involved a paradigm shift from thinking purely about one’s own position during bargaining over substantive issues, towards negotiating both the relationship and the substantive issues, but with a greater focus on the preservation of the relationship.

In the literature on employment relations, this shift has been seen as particularly important in the negotiation of matters involving the ‘social contract’. The social contract “represents reciprocal understandings or quid pro quos around relationships rather than substantive issues” (Walton et al., 1994, p.vii). It was claimed that problem-solving models of interest-based negotiation (IBN) could strengthen relationships through collaborative brainstorming with a focus on joint gains for both parties to the negotiation, thereby strengthening both the relationship and the social contract (Lewicki et al., 2000, Walton et al., 2000). Integrative negotiation focused on; collaboration and commonalities rather than differences, needs and interests rather positions, and was committed to meeting the needs of all parties through the identification of common goals. Fundamental to the process was open communication, the open exchange of information and ideas, and the collaborative generation of options for mutual gain. The application of objective criteria to evaluating agreements or settlements reached was said to ensure agreements were enduring over time. The common language of integrative negotiation and good faith bargaining in the provisions of the ERA reflected the trend towards a focus on mutual resolution of conflict and the strengthening of relationships, rather than competitive rights or power-based bargaining of traditional disputes that involved strikes and lockouts. The same focus has been threaded throughout the mediation literature, with the facilitative approach based on integrative negotiation or IBN.

However, simply juxtaposing distributive and integrative negotiation as opposing negotiation styles has been critiqued. Kirgis noted, “The temptation is to link

distributive–competitive–adversarial–power and contrast that with integrative–co-operative–problem solving–principles” (2012, p.96). He asserted that integrative processes and phases of hard bargaining frequently co-exist during an ongoing process of negotiation. These approaches were contingent on a range of cultural, situational and interpersonal factors as well as the substantive issues. Thus, more than one style of negotiation could be planned or emerge as a strategy, according to the circumstances, substance and process in which the parties were engaged. Druckman & Olekalns (2011) said researchers had neglected the study of “how and why dynamics change over time” (p.6.) This is important because it identifies the dynamic nature of negotiation and acknowledges that there are complex shifts and links between process, goal, relationships, issues and interests during negotiation and mediation.

2.6.1 Integrative negotiation & facilitative mediation

The problem-solving approach to negotiation is the foundation of the facilitation model of mediation where the mediator actively works to surface interests and frame communication in terms of common or mutual goals and interests focusing on resolving issues while reframing language to facilitate focus on the problem rather than personal attributes or behaviours others (Fisher & Ury, 1981). This approach involves a neutral third-party facilitating negotiation, mirroring the integrated bargaining suggested by Walton and McKersie (1965) rather than competitive zero-sum positional bargaining. The approach is underpinned by a philosophy of collaboration.

The facilitative mediation approach has been critiqued for its propensity to focus on settlement (Bush & Folger, 1994), with little focus on the communication or the relationship (Carnevale & Pruitt, 1992). The critique asserted that while subjectivity and emotion were acceptable during the problem-solving process, the aim was for the parties to deal with matters in a structured, objective manner, the attempt to move away from personalising the problem discounted the role of emotion, communication and relational issues that drive conflict. The limitations of Fisher and Ury’s (1981) directive to separate the person from the problem and focus on mutual gains was critiqued by Walton, Cutcher-Gershenfeld and McKersie (1994) for its lack of focus on the power imbalances between the parties. The process assumes parties in negotiation can agree to rational thinking and behaviours. In addition, the critique asserts there are barriers to interest based negotiation if the parties involved in conflict do not share the same levels of commitment to a collaborative approach.

2.6.1.1 Negotiation theory and trust

The role of trust during negotiation surfaced during data collection. As outlined earlier, building mutual trust in all aspects of the employment relationship was expected to be facilitated by the legislative requirement in the ERA for good faith behaviour. A significant metaphor emerged during an interview with a primary school principal, Catherine, when she was explaining that workplace relationships required ongoing maintenance. She identified this as “building the emotional bank account of relational trust” and her metaphor prompted a literature search about trust. Rousseau and Schalk (2000, p.5) claimed that trust is not transparent in the employment relationship, “although people may appear to be co-operating, there is no guarantee they trust each other or have exercised any choice in their actions”. Trust is a form of social capital, according to Putnam, Leonardi, & Nanetti, (1994), and particularly important for fostering co-operation in institutional life, especially where public policy meets social provision in democratic jurisdictions.

Trust encourages pro-social collaboration, which cues cooperative task behaviour, according to Butler (1995), who found that expectations of trust led to sharing of information, the hallmark of in New Zealand legislation. Trust is likely to be higher in institutions if group identity is fostered through collaboration across diversities, rather than through competition between ‘in’ and ‘out’ groups. Reciprocity was reduced where there was a sense of mistrust according to Song (2004), and, Malhotra (2004) argued that trust building is more effective if the parties are communicating clearly about vulnerabilities. Therefore, trust affects the degree to which people engage collaboratively. The objective of the ERA, to build mutual trust in employment relationships by good faith behaviour was predicated on a mutual problem-solving approach to negotiations, open communication and problem solving facilitated through mediation.

The role of a neutral third party or mediator was to work on how parties approached problems, helping them make a shift in their conflict perceptions and communication by facilitating change in the conflict narrative. Mayer (2000) asserted that mediators could not build trust. Nor could they depersonalise conflict-separating the person from the problem-as directed by the win-win Fisher and Ury (1981) model. He claimed that parties made sense of conflicts by attributing blame or engaging in dualistic (I’m right, you’re wrong) thinking. To achieve change in the conflict narrative mediators focused on reflective listening, summarising, and reframing of language to enable parties to re-examine the confusion and complexity of the conflict. Reflective,

open-ended summarising and paraphrasing prepared parties to discover for themselves that there may have been more than one cause of the problems and more than one person who was right or wrong (Mareschal, 2003) during the conflict.

The application of a relational focus through integrative negotiation and facilitative mediation processes has been further developed in other mediation models, such as the narrative and transformative approaches that aimed for change in workplace relationships through storytelling, self-determination, acknowledgement and empowerment (Bingham, 2004; Bowling & Hoffman, 2003; Bush & Folger, 2005; Cloke, 2001; Cloke & Goldsmith, 2000a, 2000b; Jameson, 2001; Winslade & Monk, 2008). The story of the conflict told by each party, that is the narrative, was important for identifying the individuals' core values and enabling the discovery of differences and similarities.

This process has also been applied to organisational change, whereby members of an organisation have engaged in telling successful stories or narratives to enable the organisation to discover and activate core values from participants, as stakeholders in organisational success. This practice, called 'appreciative inquiry' (AI), has been widely applied internationally (Barrett, Fry & Wittockx, 2005; Cooperrider, Sorenson, Whitney & Yaeger, 2000; Gergen & Gergen, 2006; Gergen, Gergen & Barrett, 2004; Watkins & Mohr, 2001; Whitney & Trosten-Bloom, 2003). AI aimed to facilitate change through a participatory process founded on the same principles as the narrative model of mediation.

2.6.1.2 Narrative mediation

The narrative approach to mediation (Winslade & Monk, 2000, 2008) was based on the assumption that people in conflict had differing constructions of reality. The process focused on challenging and deconstructing assumptions and perceptual distortions of the conflict story, to facilitate the building of an alternative narrative. This approach aimed for resolution of the relational antagonism, in contrast to the problem-solving approach, which was dependent on rational option generation and evaluation toward settlement of relational obligations. Freed from strategic, competitive bargaining, parties explored the conflict narrative and mediators demonstrated curiosity about potential new ways of viewing the stories, helping the parties to externalise issues within the conversation in such a way that the problem became detached from personalities (Gergen & Gergen, 2006). While similar to the Fisher and Ury (1981) directive to separate the person from the problem and search for mutual interests, the

discovery of common ground focused on enabling the reconstruction of a new collective narrative. The model embraced listening as a way people could make meaning of their world and recognised that individuals were engaged in a complex, continuing process of selective construction of their own realities. Storytelling, associated with the narrative approach to mediation, recognised that people constructed their unique multiple realities that could shift over time (Winslade & Monk, 2008). Recognition of complexity built bridges for deeper active listening and acknowledgement of different perspectives on the same problems.

Gergen and Gergen (2006) asserted that narratives could be understood as “relational stories” and claimed:

If narration plays a critical role within our relationships, making us intelligible to each other, bringing us into consensus, and creating divisions, then alterations in (narrative) discourse hold important promise for enhancing otherwise problematic relationships Narratives may become major levers for human change (p.119).

The claim was that parties were able to engage in a transformative process through facilitated, narrative storytelling.

2.6.1.3 Transformative mediation

Through the transformative lens, conflict is viewed as inevitable and mediation as an opportunity for empowerment and positive shifts in communication. The mediator is charged with identifying opportunities for recognising and acknowledging possibilities for positive change in relationships (Bush & Folger, 1994, 2004, 2005). The transformative approach claimed that it was the “destabilising” nature of relational disputes that disturbed people most about conflict; therefore, Bush & Folger (1994, 2004, 2005) asserted that conflict was an opportunity to develop coping skills and resilience for the future. They propose a process whereby mediators identify opportunities for shifts in the nature of destructive interaction. By reflecting on dialogue and noticing small changes in the nature of the communication, and recognising and acknowledging the human capacity for reconstruction, parties would begin to replace the self-centred, negative spiral of powerlessness, hostility, suspicion and anger. Transformative mediation aimed to empower parties to change conflict behaviour themselves.

The US Postal Service’s (USPS) mediation programme, REDRESS (Resolve Employment Disputes, Reach Equitable Solutions Swiftly), implemented Bush & Folger’s (1994, 2005) transformative approach to mediation. The evaluation by Bingham (2004) latterly Amsler (2014), found evidence of transformation for parties which included increased consciousness and understanding of the substance of the

conflict, communication about the conflict, and an improved relationship between the parties who had been in conflict.

The aim was to reduce conflict and prevent it from escalating. Bingham (2004, p.168) noted that transformative mediation produced positive “upstream effects in terms of disputants’ conflict management skills”. Before the introduction of the REDRESS transformative mediation programme, the USPS conducted employment mediation in 10,000 matters per year; after the introduction of the programme, the number of formal workplace complaints fell by 25% the first year and a further 20% the following year. “The drop was attributed to the positive impact of mediation on enhanced communications between supervisors and employers” within the organisation (Stipanowich, 2004, p.900). In other words, the transformative mediation process resolved disputes and changed conflict behaviour. The process provided opportunities for building capacity in conflict resolution learning. Bingham (2002) identified this as self-determination.

2.7 Mediation Approaches and Early Assistance in New Zealand

Through the ERA, a mediator in the MBIE’s Mediation Service can implement a wide range of different mediation procedures, whether “structured or unstructured, or do such things as he or she considers appropriate to resolve the problem or dispute promptly and effectively” (s147 (2) (a)). Cloke and Goldsmith (2000b) argued that mediation was often implemented early simply to clarify implicit and explicit expectations and refresh relationships, dependent on the needs of the parties, with an underpinning assumption of continuing the relationship rather than ending it. Department of Labour mediators Cotter and Dell (2010) noted a focus on the empowerment of parties during all mediation interventions, delivered in a range of flexible styles and models, contingent on the requirements of the parties. They claimed that these practices reflected a mediation ‘meta model’ (Alexander, 2008), which plotted problem and process orientations across the dimensions of intervention and interaction from five approaches to mediation: settlement, facilitation, tradition-based, transformative and narrative.

According to Cotter and Dell (2010, p.7), a *settlement* mediation process orientation was normally implemented when the objective was service delivery and access to justice if the outcome was more important than the relationship and the parties wanted no future relationship. This latter situation was common because by the time many parties sought mediation, the relationship had already ended; reinstatement was

not a viable remedy nor was the relationship tenable. Thus, so-called ‘exit mediation’, which sought a suitable ‘settlement’, became a preferred option for the parties in many mediation cases (McAndrew, Morton & Geare, 2004; Walker, 2009).

The language of the ERA’s object clause is that of *facilitative* mediation, the model underpinned by integrative, IBN (Fisher & Ury, 1981; Mayer, 2000; Walton & McKersie, 1965) and referred to as a problem-solving model (Moore, 1986). According to Cotter and Dell (2010), this approach is often used for ‘ongoing relationships and collective bargaining disputes’.

The *tradition-based* approach reflected the indigenous Māori consensual decision making process, with community participation and a restorative justice orientation. This community model was less likely to be confidential and may have reflected elements of what Metge (2001, pp.33–39) referred to as *kōrero tahi* (participatory talking together in a circle, the passing of the stick, and facilitated criss-cross exchange). Significantly, good faith negotiation in this process incorporated respect for cultural differences, drawing inspiration from the partnership principle embedded in the Treaty of Waitangi between the Crown and indigenous Māori tribes.

Transformative mediation (Bush & Folger, 1994, 2005) and *narrative* mediation (Winslade & Monk, 2000) were found to be most suited to workplace mediation if there was an ongoing relationship involving relational conflict and/or behavioural issues (Cotter & Dell, 2010, p.8). Drawn from therapeutic principles and focusing on dialogue, in practice these theoretical constructs were fluid in application as mediators adapted models to fit the requirements of the parties (Cotter & Dell, 2010, pp.6–8; Hurley, 2009b).

In summary, the collaborative problem-solving approach to ERP has been the historical preference (Miller, 1982), further championed by the ERA 2000, in which the legislature balanced the right to individual choice, with collective organisation supported by institutional processes for early problem resolution. Thus, mediation has been the consistent dispute resolution process provided by the state for more than 110 years (Dell & Franks, 2007). However, resorting to legal causes of action, rather than dialogue, has remained the preferred option. In the education case described in the next section, mediation was rejected and the problem escalated to dispute in the courts, affecting the careers of at least two parties and affecting the whole school community.

2.8 Legalism

On 8 January 2010, in *Lewis v Howick College Board of Trustees*, Chief Employment Court Hon. Judge Colgan noted:

This is the second recent teacher employment case in which this court has been moved to comment on the procedural domination of lawyers, legal issues and legalism at the expense of professional education input. ... Whether as a consequence of indemnifiers, caution or for other reasons, both cases illustrate the potential for dealings between parties to teaching employment relationships to become prematurely and unduly legalistic (*Lewis v Howick College Board of Trustees* [2010] NZEMPC 4 ARC 82/08, para122).

There is no empirical evidence to explain the potential for a premature and unduly legalistic approach to ERP in the education sector, as asserted by Judge Colgan, nor is it known whether an unduly legalistic approach is widespread. The developmental phases of conflict and disputes have not been investigated to ascertain the way problems transform or emerge as disputes in the employment relations institutions of the state. If legalism in the ERP resolution system is prevalent, then that phenomenon is in tension with the objectives of the ERA. The Act clearly directs parties to resolve ERP themselves in, or through the free mediation service provided by MBIE. However, in this case there were wider issues, as explored below.

In *Lewis*, it was found that Mr Lewis had been unjustifiably dismissed but he was unable to be reinstated, as the dispute had escalated to the degree that he could not return to the school. The dispute had emerged from a complaint made by a colleague about bullying during a meeting on the moderation of economics assessments. The problem had escalated following complaints about other matters by students and parents. The judgement in *Lewis* noted he had been suffering from psychological stress and depression and that his behaviour had contributed to the problems. He was compensated and awarded minimal costs but he lost his job. There was a perception of an imbalance of power, as Mr Lewis represented himself at the Employment Relations Authority. The internal processes that were implemented at Howick College involved meetings, interviews and investigations conducted by lawyers appointed by the governors of the school, the Howick College Board of Trustees (BoT), early in the process. McAndrew (2010) highlighted empirical evidence that where there was involvement of external advisers or advocates, it “lifted the stakes considerably” (p.80). From the McDermott Miller (2007) report, *Social and economic costs and benefits of employment relationship problems*, McAndrew noted, “internal resolution directly between parties without outside assistance was the quickest and least expensive resolution to obtain” (McAndrew, 2010, p.80). The McDermott Miller report noted the

significant finding that 60% of ERP were settled internally by negotiation (McAndrew, 2010, p.80).

The case of *Lewis* was an example of a lack of early assistance to prevent escalation. The outcome was contrary to the policy objective and there was no evidence of what happened at the level of the workplace. This suggests that a new avenue of research, to identify factors that influence escalation rather than early internal resolution of ERP in the workplace, would be of value to academic and public policy audiences in employment relations and ADR.

There is a significant lack of empirical research about the early resolution of workplace conflict and ERP. Data pertaining to the Mediation Service of New Zealand's Department of Labour (now MBIE) has been gathered in-house and reflects the experiences of the parties who have accessed the service rather than those who did not. Boulle et al. (2008, p.247) questioned the Department's 2006/2007 annual report, critiquing its claim of quantitative success because no information was provided regarding "genuine success rates or participant satisfaction in the process". In addition, they claimed that notwithstanding the Department's reported claim of handling "7,000 cases in the 2006/2007 year" (Department of Labour, 2007a, p.25), "the figures included withdrawn applications and disputes that may have been resolved by other means" (Boulle et al., 2008, p.247). How disputants may have resolved ERP by 'other means' is unknown.

This current study aimed to explore research participants' experiences of conflict and ERP resolution through the employment relations institutions and resolution by any 'other means'. The most recent research by MBIE (2014a) concluded that there was work to be done to improve dispute resolution service delivery because those most satisfied were the human resource management (HRM) departments of large employers. The recommendation was to "do more for inexperienced and one-off users, reaching out to them earlier to help avoid protracted disputes and providing information where needed" (p.28). More research in this area would be valuable, but it is a very difficult situation, as mediation is contractually bound by confidentiality and specific cases cannot be studied.

2.9 Growing Interest in Early Mediation and Quick Resolution

At the policy level, there has been renewed political interest in the resolution of workplace conflicts and disputes, with Parliament reviewing ERP, specifically personal grievance procedures. The debate centred on assertions by employer interest groups that

the employment problem resolution system was over-regulated and the onerous procedures were costly to business. At the 2010 launch of the Grievance Review, the then Minister of Labour, Hon. Kate Wilkinson, was concerned about legal certainty, the length of time legal action could take and was seeking to find out whether the personal grievance system was costly to parties (Wilkinson, 2010a). McAndrew (2010) claimed political rhetoric in the media reflected the views of a 'business-aligned government' that aimed to deregulate the labour market and that the perception that the ERP resolution system was an undue burden on employers was unsubstantiated by empirical research. In 2006, Lowe (the employment services manager for the Employers and Manufacturers Association) alleged that an increase of 5% in the rate of employee success in Employment Relations Authority determinations was an indicator of a growing grievance "industry" and "a gravy train for advocates" (Lowe, 2006, p.9). The Woodhams report (2007) refuted this claim of overall growth in ERP, finding that for every 100 employers, there had been an average of 1.5 ERP each year, with an average of less than 1 per year in the public sector. Over 80% of public sector and 90% of private sector employers surveyed for Woodhams' study said they had not experienced ERP and this was cited as evidence that grievances were more likely to have fallen, rather than risen, since the passing of the ERA 2000. However, reasons for low averages of ERP may be complex: while organisations may have implemented effective internal processes for the early management of conflict, employees could be not reporting ERP, or could be choosing to leave organisations rather than confronting ERP. This current study hoped to identify the elements of ERP resolution processes that have had negative or positive impacts on staff retention, stress and sick leave.

In previous research, the number of disputes and grievances in institutional settings has been used as an indicator of workplace conflict (Department of Labour, 2002a, 2002b, Waldegrave, et al., 2003). However, little is known about the source and escalation of ERP that have been settled through mediation, because information about the process and issues remains confidential to the parties in dispute as part of the agreement to mediate. An evaluation of the Department of Labour's Mediation Service contended that it had been perceived as a "formal route to settlement" and "often a last resort" (Department of Labour, 2007b, p.3), rather than an early step in the process of ERP resolution, but there was a lack of information on why this was the case.

The principles that underpin the ERA 2000, including open communication, building mutual trust by information sharing and problem solving, signposted a subtle

shift in the conceptualisation of conflict in employment relations which had been traditionally been explained by the conflict theory frames of reference.

2.10 Conflict Theory: Pluralism, Neo-pluralism, Unitarism, Radical Pluralism

The conceptualisation of industrial relations perspectives by Fox (1966) as 'frames of reference' initially compared the dominant pluralist outlook with the unitary managerial perspective. The pluralist frame of reference conceptualised the employment relationship as one of conflicting interests. At the core of this frame of reference was the contention that employers' interest in profit maximisation was in conflict with employees' interests in labour compensation (Greenhalgh, 1999; Rasmussen, 2009). The different and competing interests of employees and employers meant conflict was inevitable. The unitarist frame, on the other hand, viewed the organisation as united, with employees and employers engaged in common interests and values (Rasmussen, 2009).

Ackers and Wilkinson (2005) noted, "It was not until the 1980s, with the development of American-style HRM, that unitarism academically materialised into a more substantial protagonist" (2005, p.448). They further opined that the radical pluralist frame (Fox, 1974), which had emerged in the 1970s, had shifted in focus from the search for stability to "a class struggle". What was now required was a theoretical framework in which research was linked to wider society and the sociology of work (Ackers & Wilkinson, 2005, p.449). Ackers and Wilkinson's (2005) argument for a contemporary approach that accounted for a range of relationships and took into account context was a neo pluralist approach. Ackers (2002) had earlier defined the neo-pluralism as follows:

Building on the pragmatic institutional emphasis of the Oxford pluralist school, established by Clegg and Flanders, while recovering some of its original sense of ethical and social purpose, ... the 'problem of order' has shifted to the relationships between employment and society (p.3).

The neo-pluralist approach was interdisciplinary, contributing to public policy and the effectiveness of organisations and asserted that contemporary industrial relations research should make a difference to the well-being of both employees and employers. Ackers and Wilkinson (2005, pp. 453-454) advocated for the development of theory in relation to evidence that provided 'thick description of employment institutions', based on case study methods with an emphasis on 'neo-institutional regulation' that included 'all types of groups, from unions to work groups and teams'.

They advocated for a ‘procedural focus in research about the rule making that governed the social relations of work’. Quoting Edwards (2003), Ackers and Wilkinson (2005, p.454) stressed the importance of context and the interconnectedness of social phenomena, “which refuse to privilege structure or action, and which argue that the ‘causal powers’ ... are not invariant but depend on their context” (Edwards, 2003, p.31). This was a brave call, given the propensity to research grievance handling by survey at the aggregate level across organisations, with a focus on rates of grievance filing (Bacharach & Bamberger, 2004). Ackers & Wilkinson, (2005) expected research to uncover associations between structural inequality and contextual factors that influenced the outcomes of conflict in the employment relationship. Bacharach and Bamberger (2004) advised, “A reorientation of the analytical paradigm used to frame research on employee grievance behaviour ... to go beyond the cause and effect models” (p.537). This current study is one shift toward an examination of a range of stakeholders and factors that influence the outcomes of ERP. I aimed to better understand the contexts in which employment relationships problems are resolved, settled, transformed or escalate in Aotearoa/New Zealand, and that context included consideration of the policy culture and employment relations institutions.

2.11 Aotearoa/New Zealand: Tensions Between the Collective and the Individual

The Employment Contracts Act 1991 heralded the move towards a unitarist frame of reference, away from the pluralist commitment to collective organisation in industrial relations. The move towards a unitarist approach was evidenced by the deregulation of the labour market and individualism in negotiation of the terms of the employment relationship. Conceptualised as a private contract, the jurisdictions of the Employment Tribunal and Employment Court were extended to include disputes involving individual employment contracts (Dell & Franks, 2009; Rasmussen, 2009). In the new millennium, the ERA 2000 attempted to rebalance the unitarist approach of the Employment Contracts Act 1991 with a pluralist approach to empower collective bargaining, balanced with individual choice. The intention to re-empower unions and the right to collective bargaining was stewarded in with the requirement of good faith behaviour in all aspects of the employment relationship. However, alongside the right to collective organisation was a focus on the individual, embedded in ERP resolution processes.

As discussed earlier, the intention was for “parties to resolve their employment problems for themselves” (Wilson, 2000, p.1), aiming for self-determination with a fundamental objective of the ERA of early resolution of ERP, maintaining and preserving relationships, reducing disputes and terminations (Department of Labour, 2002a, 2002b). In the USA earlier research had demonstrated that committing grievances to writing increased rates of filing (Lewin & Peterson, 1988) and Britain’s legal requirement for formal in-house procedures has more recently been associated with the escalation of disputes (Antcliff & Sundry, 2009). While there has been research about the employment relations institutions and collective bargaining, there has been little attention paid to processes within the organisation that involve individuals themselves resolving conflict through face-to-face negotiation, or the early mediation of ERP. Walker and Hamilton (2010a; 2010b) found a lack of empirical data about steps taken within organisations to handle grievances and identified a need for research that examined internal conflict resolution processes and systems at the level of the organisation (p.105), aligned with the unitarist perspective.

Productive relationships were to be promoted by resolving ERP close to the workplace through the provision of self-help advice and information on the then Department of Labour’s website, the contact centre, and a mediation service offered by the Department. The State provided institutional support for ERP resolution aiming for self-determination and 10 years later, academic research has recently begun to examine individual bargaining and personal grievances.

The policy shift from a pluralist frame of reference to a unitarist orientation has been explored by Foster, Murrie and Laird (2009), who reported, “statistics show a clear preference by employers and employees for individual bargaining” (p.505). Their survey found “the majority of employers saw collective bargaining as hindering managerial freedom” and “minimal support from employers for engagement with unions for workplace conflict resolution” (p.505). Their research implied that concurrent with a continued decrease in union density, an individualistic approach to ERP resolution in the workplace was likely to continue. Labour Department research has reported repeatedly that the majority of mediation cases (62–86%) taken to the Department’s Mediation Service involved “personal grievances” (Franks, 2003, p.7; Department of Labour, 2010). Walker’s (2009) 14 case studies of personal grievance mediations in the Mediation Service suggested that the imbalance of power negatively affected outcomes. He argued, “Employers held considerable power, it was employees who lacked influence and, despite their attempts at restoration, typically felt unjustly

forced from jobs they wanted to keep” (Walker & Hamilton 2010a, p.104). It is unclear whether MBIE mediation has been effective as a ‘primary’ problem-solving mechanism or as a process for the negotiation of exit packages. If the above is a trend then it is difficult to argue that in those cases the mediation process has been implemented in good faith.

2.12 Good faith and the Psychological Contract

Earlier in the chapter, the concept of good faith was explored. This section returns to the assertion that the objective of the ERA for good faith behaviour was an attempt to provide a framework for the ongoing negotiation of the psychological contract. The Act required both employers and employees to “build productive employment relationships through the promotion of good faith in all aspects of the employment environment and employment relationship” (ERA 2000, s3 (a)), “recognising that employment relationships must be built not only on the implied mutual obligations of trust and confidence, but also on the legislative requirement for good faith behaviour” (ERA 2000, s3 (a) i). The requirement for “good faith in all aspects of the employment environment” was an attempt to influence the negotiation of the employment agreement and the tacit psychological contract or “implied mutual obligations” by requiring an open, problem-solving approach to communication.

As outlined, the notion of reciprocal sharing of information is embedded in the legislative direction to act in good faith under the ERA 2000. Philosophically, the Act communicates the nature of the employment relationship as a tripartite social contract between the Government, organisations and members of society—a human relationship rather than a purely contractual exchange of labour as a commodity. Pragmatically, the employment relationship is formed by agreement regarding the terms and conditions of the reciprocal exchange between employee and employer. The ERA’s aim to strengthen the relationship through good faith behaviour reflected an integrative approach to negotiation and mediation of the employment relationship and problems that emerge during the relationship.

The ERA’s explicit direction that parties in an employment relationship should behave in good faith involves all aspects of the employment relationship, but especially the process of negotiation or bargaining. Good faith, as defined at Section 4(1), is to “behave co-operatively”, “not mislead or deceive each other” and be “active and constructive in establishing and maintaining a productive employment relationship”, as well as “responsive and communicative” (s4(1A)(b)). While the good faith provisions

have been explored in the context of ‘codes’ of good faith for collective bargaining, good faith is both implicit and explicit in its protection of individuals from unfair bargaining. The onus of good faith behaviour is on both the employee and the employer and signals the legislative aim for parties to the employment relationship to value long-term trust in relationships of loyalty and mutual respect. Such subjective codes of good faith behaviour are somewhat similar to the reciprocity identified in literature regarding the psychological contract.

2.13 The Psychological Contract

The psychological ‘work contract’, identified by Argyris (1960), required mutual respect for the informal culture in the organisation. According to Argyris (1960) and Levinson (1962), the psychological contract was a relational dynamic construct, subject to contention and debate dependent on the actions, thinking, agendas and perceptions of the parties. Nevertheless, the conceptualisation of the psychological contract has been contentious and has been debated overtime. From March and Simon’s (1958) reference to exchange behaviour, to Argyris (1960) focus on an dynamic evolving relationship; Levinson, Price, Munden and Solley’s (1962) reference to mutual expectations; Kotter’s (1973) focus on implicit reciprocity; Schein’s (1980) analysis of ‘espoused’ versus ‘tacit’ values; the debate often centred on a tension between the formal and subjective interpretation of individuals’ beliefs about obligations between the employee and employer.

Rousseau (1995) led thinking about assumptions and obligations during formation and maintenance of the psychological contract in organisations, comparing the notion of a legal document and unwritten mutual obligations. Rousseau’s (1989) application of transactional promissory principles of contract formation encompasses the principles of mutual obligation, promise, and less formal expectation—often unwritten or implicit taken-for-granted assumptions about appropriate conduct in the workplace. On the other hand, Roehling (1997) focused on more explicit behavioural expectations informally negotiated in the workplace. Rousseau and Tijoriwala (1998, p.679), defined the psychological contract as involving reciprocal expectations as “an individual’s belief in mutual obligations between that person and another party such as between the employee and the employer”. Guest (1998) claimed that operational aspects of the psychological contract were an “analytical nightmare” and that posed problems for evaluation, suggesting there was a conceptual problem of interpretation. Definitions of the psychological contract are not clear with regard to whether it involves promises

or implied terms of an employment contract. Thus, the language of a physical written contract suggested certainty and clarity in drafting while the language of reciprocity could be ambiguous subject to interpretation, and potentially lack clarity.

As a metaphor, the psychological contract was intended to communicate the idea that mutual obligations were often implicit agreed social norms, hence being a psychological agreement or meeting of the minds sitting alongside the formal legal agreement. Robinson (1996) studied the relationship between a perceived breach of the psychological contract and trust longitudinally in an organisation finding a strong dynamic relationship between, trust and perceptions of a breach that correlated with a reduction in performance, engagement, loyalty and retention depending on levels of trust at the beginning of the relationship.

Guest (1998) claimed the psychological contract as a legal metaphor was inappropriate because terms of the contract were in the subjective “eye of the beholder” (Guest, 1998, p.652), as “taken-for-granted assumptions”. Roehling (1997) had noted that people entered into working relationships on a broader basis than just the employment contract or agreement, the critical question was whose perception of the broader based obligations defined the psychological contract over time? Guest (2004) latterly asserted the research focus could be on a more dynamic view of the “state” of the psychological contract in terms of trust and fairness in the employment relationship. Similarly Dabos & Rousseau (2004) focused on beliefs about assessing terms and conditions of reciprocal exchange in the employment contract, highlighting that the psychological contract could relate to either the employee’s or the employer’s beliefs about obligations.

The debate was also addressed in terms of the relative imbalance of power in the contemporary employer employee relationship. Cappelli (1999) claimed that the employer had paid less attention to the psychological contract since the commodification of work following the global economic shift in the 1980’s to market driven high performance work. Arguing a transactional approach emerged from the decreased role of unions, greater diversity, contracting out, outsourcing, cheap labour, temporary and vulnerable employees, and a focus on employability, restructuring, and downsizing, undermining trust in the psychological contract.

Overall, the psychological contract is commonly understood to reflect the expectations each party may have in terms of the attitudes and behaviours appropriate in the conduct of the employer–employee relationship. Thus, the relational elements (attitudes/behaviours) are expected to be embedded in day-to-day relationships, which is

more than the transactional exchange related to the economic terms (money/time/tasks). Psychological terms may not be written, as in a legal employment contract, but they imply an expectation of being treated fairly. This tension between the transactional and subjective nature of the agreement to enter into an employment relationship is mirrored in New Zealand legislation evidenced by the requirement for good faith behaviour in all aspects of the relationship.

As discussed earlier New Zealand employment law requires open communication and good faith behaviour throughout the life cycle of the employment agreement. Hence, it could be inferred that the psychological contract is potentially strengthened by requiring good faith behaviour in all aspects of the employment relationship. As outlined earlier, the notion of reciprocity is embedded in the legislative direction under the ERA to act in good faith. Philosophically, the Act is a social contract between the Government and individual members of society; it has the pragmatic aim of strengthening the psychological contract between employers and employees by taking a relational approach to the employment relationship. The central feature of good faith negotiation is a prescription for strengthening the employment relationship through clarity about the terms of the psychological contract.

If the expectations each party has “of attitudes and behaviour appropriate in the conduct of the employee–employer relationship ... informed by general expectations (often taken for granted) about workplace behaviour” (Rasmussen 2009, p.392), then those would need to be informally negotiated in the workplace. Therefore, daily impact of face-to-face negotiations in the workplace are an important area for investigation. The process of creating exchange is an ongoing process between workers and employers, both of whom have their own subjective experiences and influence the nature of that dynamic relationship. The building blocks of the psychological contract, according to Rousseau and Schalk (2000, p.18), are “the meaning[s] of promises, perceptions of certainty, beliefs regarding the future, and differences across societies” and thus may be economically, politically and culturally specific. In New Zealand, the process of negotiating the psychological contract is deemed visible given the requirement of good faith. According to Tipples (2009), interest in the psychological contract has moved “from touchy/feely to the concrete personal deal” (p.1). The question for this study is; how is good faith reflected in ERP management in workplace?

2.14 Conclusion

This chapter has provided a backdrop to New Zealand employment relations policy, tracing dispute resolution processes from collective bargaining under the IC&A through to the current ERA 2000. We noted that New Zealand employment relations institutions of the state continue the long history of delivering alternatives to litigation. The attempt to give voice to the individual disputant by fast free equitable access to ADR has assumed employees, employer, unions, employer advocates and regulators would act in good faith to manage and resolve problems at the level of the workplace. However, a gap in employment relations research evaluating statutory direction to ERP resolution has been identified. The professional resistance to meeting the objectives of the ERA 2000 for early on site mediation by problem solving has been highlighted. The association between good faith provisions and building mutual trust in the employment relationship has been linked to the psychological contract. This literature sets the scene for the participants' stories about ERP processes that build trust in chapter 5. This literature also informs the chapter 9 discussion of findings about the interrelationships between relational trust, and early processes for ERP resolution.

The next literature review (chapter 3), was conducted during interviewing to explore ERP and complaints processes specific to governance in the education sector. In response to issues that emerged during data collection workplace bullying is conceptualised. In the absence of New Zealand literature, international workplace conflict management research is reviewed to enable comparison of internal and external problem resolution processes with the New Zealand system.

Chapter 3: Literature Review

Making Sense of Conflict Management in Education

The Education Council of Aotearoa New Zealand is the new professional organisation for teachers.... We provide leadership and help strengthen the regulatory framework and disciplinary regime for teaching. We aim to boost the status of teaching, strengthening accountability and bringing consistently high standards across the education system.... The Education Council is responsible for investigating, and if necessary exercising disciplinary functions, relating to teacher conduct, convictions and competence.

<http://educationcouncil.org.nz/content/about-education-council>

3.1 Introduction

The literature review in the preceding chapter provided a context for understanding employment relations dispute resolution in New Zealand. This chapter begins by examining employment relationships in the context of the primary education sector with a focus on the governing and leading relationships. The discussion overviews institutions that regulate or respond to problems and complaints involving school performance and teacher competence. Those institutional structures underpin the ERP stories presented in chapters 5, 6, 7 and 8. Secondly, the literature identifies government dissatisfaction with members of the teaching profession and the establishment of the Education Council (quoted above). This is significant given the dominance of ERP stories involving complaint about matters of teacher conduct, competence and performance.

The third section of this chapter is a brief conceptualisation of the phenomena of workplace bullying which has emerged as an issue during data collection. One significant story of a principal's struggle to make sense of parents' complaints about a teacher bullying children triggered the exploration of literature on sensemaking.

In the absence of literature about the management of ERP at the level of the New Zealand workplace, international literature on conflict management is reviewed, and the chapter concludes by identifying institutional gaps in provision of systems for conflict management at the level of the workplace in the New Zealand education sector.

3.2 New Zealand Education Sector

This section provides an overview of the relationships between the state, teachers, principals, boards of trustees and school communities. New Zealand's 2,538 schools (2,133 of them primary) have a strong tradition of state provision of compulsory

education. The rationale has been a universal right of equal access to education. Across the political spectrum, governments have funded education as a fundamental socio-economic investment in the future of the nation. Learning has been viewed as an investment in the nation's social cohesion. Since the neo-liberal reforms of the 1980s-1990s, governments have continued to pay teachers' salaries, while devolving employer and infrastructural responsibilities to the board of trustees (BoT) who delegate responsibility for day-to-day management to principals. In the following section, we discuss the interface between governance and management of New Zealand schools.

3.2.1 Governance

In 1989, the fourth Labour Government reformed what they saw as 'top-heavy bureaucracy' in the public education sector by the policy shift called 'Tomorrow's Schools'. Governance was devolved from the Department of Education to school communities, with the role of the BoT established under the Education Act 1989. This new governance structure aimed "to bring schools and communities closer together, provide localised decision making, accountability for public money and improve performance" (Wylie, 2007, p.1). BOT are the legal employers, with the power to appoint and dismiss all employees, including the principal, and the BoT delegates the day-to-day management of the school to the principal (Education Act 1989, s 66).

Each school's BoT consists of five or more elected trustees (who usually have children attending the school), the principal and an elected staff representative. This governance/management structure treats the principal as both a member and an employee of the BoT. The BoTs' power over, and performance management of, the principal, is guided by the Education Act 1989, the State Sector Act 1988, National Administrative Guidelines (NAGs), the Ministry of Education, principals' collective agreements, and the ERA 2000. Those guidelines include powers and obligations. The powers are to impartially select and appoint (Education Act 1989, s 65) a suitably qualified person (State Sector Act 1988, s 77A) and to dismiss the principal (State Sector Act 1988, a 77E). The obligations are to develop and implement the principals' performance management policy (Education Act 1989, s 60A, s 76; State Sector Act 1988, s 77A; NAG 3); to have a written performance agreement in place and appraise the principal's performance (collective employment agreements for principals); to provide professional development (State Sector Act 1988, s 77A (2) (e)) providing opportunities to improve performance (Primary Principals' Collective Employment Agreement); and, to use best-practice fair and reasonable processes of natural justice, by

treating the principal fairly and following fair processes (State Sector Act 1988, s 77A; Primary Principals' Collective Employment Agreement).

There have been assertions that in some schools the BoT may not have experience in implementing statutory responsibilities and that are potential conflicts of interest because the chief executive of the school (the principal) is also the professional colleague of the employees. Patten (2002, pp.5-6) researched processes of ERP investigations in the education sector and found a lack of appropriate procedures with regard to competency and dismissal.

However, the New Zealand School Trustees Association (NZSTA) supports BoT members' training in leadership, accountability and problem resolution, and provides employment relations advisers, human resource teams, recruitment and performance management systems, and an online help desk. The NZSTA states that governance means:

The Board is entrusted to work on behalf of all stakeholders and is accountable for the school's performance. It emphasises strategic leadership, sets the vision for the school, and ensures that it complies with legal and policy requirements. Policies are set at governance levels and clear delegations to the principal¹.

In spite of the support of the NZSTA there are tensions related to having Boards of Trustees as employers. The quality of governance and relationships with the principal are two issues that surfaced in the literature. On one hand it has been asserted there are conflicts of interest due to the interdependent relationship between governance by the BoT (predominantly parents), and the management of the staff by the principal (a member of the BoT). On the other hand, there are assertions that poor governance affects student achievement. "Weaknesses in governance ... are often, but not invariably, linked to weaknesses in the quality of teaching performance" (Wylie, 2007, p.7). Hogden and Wylie (2005) found that a principal's well-being was influenced by the relationship with the BoT, reporting 44% of principals had struck problems in their relationships with board members and there were consistent themes of poor board-principal relationships, with "difficulties providing timely support and advice from outside school where boards cannot or will not carry out key aspects of their legal role

¹ www.nzsta.org.nz/representation/board-of-trusteestline

... .” She said this was not confined to particular demographic areas: they occurred in “high-decile large urban and low-decile small rural schools” (2007, p.3).Wyllie concluded:

The time has come to directly address some of the issues that are evident around school governance, and to build trust between schools and government through finding new ways in which they can work together, sometimes directly, sometimes through intermediaries such as the suggested local teams of accredited education professionals. The provision of good-quality learning opportunities is a collective responsibility. Schools cannot operate as effectively as we would like them to—and our expectations keep increasing—unless they are provided with realistic support, understanding, networks and accountability frameworks that motivate schools to keep developing and challenging themselves (2007, p.61).

However, it is apparent that growth in trust has not emerged. Wyllie and Bonne (2014) reported a decrease in principals’ morale in 2010, from 87% to 72%. The NZCER 2013 national survey of primary and intermediate schools reported findings of increased stress levels, with teachers also reporting a decrease in morale. Schools were reported to be struggling to make time for teachers to work together and develop collaborative professional learning. In that survey, BoTs reported that 26% of issues raised by parents involved dissatisfaction with a staff member (p.124). ERP featured in approximately one-third of the issues reported.

Anderson (2009) analysed a series of governance reports conducted in 2007 by the NZCER, the Education Review Office (ERO) and the NZSTA and found that the majority of Boards were doing a reasonable job of governance, but all three reports identified weaknesses in the governance framework, including principal employment, performance management and support. Anderson (2009, p.7) asserted that in New Zealand, where schools’ employment responsibilities are held by BoTs, there is no check on the BoTs power, as there is no obligation to take advice from central or local education authorities and Boards dominated by parents with no training in education or human resource management may have the sole power to appoint, control and dismiss the principal based on their perceptions of teaching learning and management.

The Education Review Office is responsible for the monitoring of learning, teaching quality assurance, compliance, governance and management. In a ministerial briefing paper, ERO identified the following problems:

- BoTs not taking responsibility for learning about all of their duties
- BoTs not taking the advice of the principal
- principals not advising the BoT properly

- BoTs being too closely involved in the day-to-day management of the school (ERO, 2005b).

The most recent response to the ERO report (2005 b) was in 2010 when the Ministry of Education set up the Education Workforce Advisory Group (EWAG) to report on issues facing the teaching workforce. They concluded that the teachers' regulatory body, the New Zealand Teachers Council (NZTC) was not perceived to be autonomous and its credibility was questionable, as it was "seen as a government body" (EWAG, 2010, p.26). It suggested that "union representation on the NZTC may lead to an emphasis on employment conditions and industrial matters rather than professional leadership" (p.26). The EWAG report was critical of processes for the appointment of principals: firstly, there were no specific requirements for becoming a principal other than being a registered teacher. Secondly, the report found BoTs, who did not necessarily have the appropriate expertise to make a quality appointment, were solely responsible for the appointment of a principal. The need for active promotion of diversity of ethnicity, culture and gender in principals was recommended, "but not at the expense of quality and capability" (p.5).

After this EWAG report, in 2012 Education Minister Hekia Parata announced her expectations for improvement in the operations of the NZTC, including a review of the functions of the NZTC that included providing processes for the implementation of registration of teachers and setting standards; professional leadership; a code of ethics; discipline and competency issues; approval of education programmes; and ongoing research to support quality teaching.

The review found that there were institutional, communication, methodological and other barriers working against raising the quality of teaching practice and promoting professional leadership. These barriers included lack of engagement of teachers with the NZTC; inflexibility in teacher registration; lack of feedback on teaching as a profession; lack of meaningful engagement between the NZTC and the teaching profession; poor public policy implementation; lack of human resource capacity at the level of school governance; variable capacity in professional leadership in schools; perverse financial incentives; professional standards being embedded in collective agreements; and the culture of the education sector. Overall, the findings seemed to imply dissatisfaction with standards of teaching practice, with the repeated observation that the "teaching standards are set for public benefit, not to serve the interests of the profession or its individual members" (Winter et al., 2012, p.24).

The following Ministerial statement to teachers highlighted the findings of the review:

Teachers themselves need to work in a culture of learning, where assumptions are challenged, so they are able to see their practice in new ways and then do things differently. Teachers work in a world of massive and ongoing social, economic and technological change, with exponential growth in knowledge. There are many implications for teachers and teaching (Winter et al., 2012, p.3).

The statement signposted the Government's dissatisfaction with members of the teaching profession. The review supported the Government's concerns regarding the need for "cultural change" in the education sector, "best sought through strengthening leadership" (Winter et al., p.v). The review stated that the NZTC needed to be responsible for "setting and enforcing clear standards for entry, progression and professional accountability" and have the support of the profession and be differentiated from government and industrial advocacy organisations" (p.8). The implicit aim seemed to be to change the traditional tripartite relationship between unions, the Government and the profession. The focus was on changing the culture of the education sector.

Union advocates (e.g., Nixon, 2012) have claimed that the ideological drivers of the debates are the neo-liberal conceptualisation of competition, choice; accountability and testing that underpin the global education reform movement (GERM). The notion that the current Government was moving towards privatising the education system was repeated in the media, alongside a debate about teacher competency, student performance and claims that the Government was trying to increase student: staff ratios and close down technology classes. Teachers, parents and children lined the streets in protest over increased class sizes. The Government backed down, with Minister Hekia Parata eventually abandoning the policy change to increase the student: staff ratio but the polarisation between Government educationalists and citizens was in the context of an international trend for greater community involvement in education (Ministry of Education, 2007; Claxton, 2008).

3.3 Teacher Competency, Professional Registration and Reporting

The government focus on leadership and competency shines the spotlight on the BoT as the employer and principals as leaders. Schools are mandatorily required to report competency, dismissal and resignation of teachers to the New Zealand Education Council (EC) formerly the New Zealand Teachers Council (NZTC). As both a crown entity and a professional registration organisation, the EC is charged with compliance and leadership in the education sector. The EC answers to its members (teachers) and to

the Government of the day. The purpose of the EC is to “provide professional leadership in teaching, enhance the professional status of teachers in schools and early childhood education and contribute to a safe and high-quality teaching and learning environment for children and other learners” (Education Act 1989, s 139 AA). As an autonomous crown entity, under the Crown Entities Act 2004 the EC is expected to act independently from the government. The Minister of Education may not give directions to the EC with regard to its functions under s139AE (a) and (b), which relate to best teaching practice. The philosophy is that the state should not determine knowledge construction or dictate pedagogy.

Since the 2012 review of the NZTC discussed above, there have been process changes in reporting requirements to the (EC). When a teacher is dismissed or resigns, it has become mandatory to immediately report the matter to the EC, under the NZTC Rules 2007 with processes for mandatory reporting, investigation, competency assessment, guidance and monitoring provisions provided under the Education Act 1989, s 139k (1). If a school fails to report to the EC, it commits an offence and faces a fine of up to \$25,000. Mandatory reporting covers the dismissal or resignation (s 139 AK) of former employees (s 139 AL), possible serious misconduct (s 139 AM), or a teacher’s failure to reach the required level of competence (s 139 AN). If a teacher is dismissed for competency reasons or resigns within 12 months of an employer advising them of dissatisfaction, or intention to investigate competence matters, this must be reported to the EC. The EC’s initial process under the NZTC (competence) Rules 2007 may involve investigation (s 11 (a)) by a competence assessor to ascertain further information, evaluate competence (s 11 (c) (i)), check records concerning the teacher (s 11 (b)), arrange meetings (s 11 (c) (ii)), arrange for programmes to improve competence (s 11 (c) (iii)) arrange guidance and advice for the teacher (s 11 (c) (iv)), and arrange for monitoring of the effect of any procedures undertaken by the teacher, or of advice and guidance offered to the teacher (s 11 (c) (v)).

With regard to complaint handling EC states on receiving a complaint from students, the public, parents or schools that it focuses on making the best effort to reach agreement with the teacher for resolution, noted in Rule 12. It is expected that every attempt will be taken to ensure fairness and to protect the teacher from injustice resulting from reports or complaints to the EC. If a complaint is escalated to the EC Tribunal, it has extensive powers to impose penalties that can affect the career, reputation and long-term livelihood of the teacher. The EC Tribunal is a quasi-judicial

body, but it must follow processes that align with principles of natural justice and decisions may be subject to appeal in the District Court.

At the time of writing, in 2015, the EC website claims vast improvements since the 2012 review. The EC outlines a suite of processes to be followed for competence issues and provides case studies of success stories that are based on the philosophy of rehabilitating teachers, based on processes of natural justice and support for teachers who have been found to have competence issues. Teachers are mentored and given opportunities to demonstrate competence.

However, it is claimed in the first instance, competence issues are to be dealt with according to the employment agreement at the level of the school. The EC advisers assess complaints or reports and try to reach an agreement with the teacher to follow a mentoring process and build competencies through a guidance programme. If the teacher cannot come to an agreement with the EC, the Governing Council makes a determination and the EC may deregister the teacher.

While the policy and processes above appear to be fair, based on learning over penalty, intending to build capacity rather than undermine the relationships between teachers and schools it was apparent during data collection that there is anxiety about the system with regard to teachers and principals reputations due to the ease at which the public can complain online, gather evidence and frame competency issues. During data collection, there were reports of confidentially negotiated resignations to avoid the EC exit settlement payments and accusations of bullying.

3.4 Bullying

Bullying is a poignant phenomenon in education. Schools are charged with keeping children safe psychologically, emotionally and physically and it is implicit in the parent, teacher child relationship that the workplace, schools, will model appropriate behaviour given the nature of the learning environment. Bentley, Catley, Cooper-Thomas, Gardner, O'Driscoll, Dale, & Trenberth (2009), identified the New Zealand education sector as being a "particular hot spot" for workplace bullying, which has serious detrimental impacts on individuals their families, communities and organisations. The negative impacts of bullying on people's stress levels, social, psychological, physiological and economic well-being have been reported as widespread in the New Zealand public sector and Thirlwall and Haar (2010) claimed there are greater rates of workplace bullying in New Zealand than found in European and US studies. The detrimental impacts of bullying on workplace culture, productivity,

morale, reputation and retention of staff in education are serious. Peer bullying of students in schools is a growing concern. Recent neuroscience research has linked impaired learning with stress and bullying. While there does not appear to be any empirical research linking adult workplace bullying to student bullying, respectful treatment has recently been associated with improved social outcomes in schools (Bonell, 2015). The *Inclusive* programme, or learning-together approach proffered by Bonell (2015), suggests that “engaging children in a more respectful way ... gives everyone a stake in the school” and is a collaborative approach to bullying and other negative social issues for students who do not have a positive ‘voice’ in the culture of the school. The same approach may be an appropriate response for adults in the school workplace.

Bullying can be considered a hazard in the workplace. The 2003 amendments to the Health and Safety and Employment Act 1992 extended the definition of harm to include physical or mental harm caused by work-related stress; therefore, bullying could now be considered a workplace hazard. This can be grounds for a personal grievance under the ERA 2000, or if discriminatory, illegal under the Human Rights Act 1993. The Health and Safety and Employment Act 1992, s 6, defines a hazard as including situations in which “a person’s behaviour may be an actual or potential cause or source of harm to the person or another person”. In the *Worksafe New Zealand Guidelines*, bullying is defined as behaviour “that is repeated, persistent, unreasonable and directed towards a worker or group of workers” (p.6). A single incident of unreasonable behaviour is not considered bullying, but the guidelines warn against a lack of action, because of the potential for escalation. The guidelines separate harassment and discrimination as potentially related but having their own legal remedies (p.6).

Mediation practice leaders Takitimu and Freeman-Greene (2009) developed a cross-agency mediation approach, integrating the legislative directives of the Human Rights Commission under the Human Rights Act 1993 with the Employment Relations Mediation Service under the ERA, to bring all issues into one mediation process. The *Worksafe New Zealand Practice Guidelines* (2014) categorise bullying as either personal or task related, perpetrated by colleagues, managers or clients, and provides useful advice for identifying whether or not an experience is defined as bullying, warning readers of the risk of incorrectly defining their experience (p.16), thereby damaging trust in workplace relationships.

Einarsen (2000, pp.383–384) defined bullying as situations in which a person has repeatedly, over a period of time, been exposed to negative acts; (i.e., constant

abuse, offensive remarks or teasing, ridicule or social exclusion) on the part of co-workers, supervisors or subordinates, and in which the person confronted has difficulty defending himself/herself against mistreatment. According to Nielsen, Matthiesen and Einarsen (2010), the following four factors are involved:

1. The target of the bullying is exposed to unwanted (direct or indirect) negative acts, ranging from subtle to blatant abuse.
2. Negative acts are repeated regularly.
3. The negative acts occur over a prolonged period of time.
4. There is real or perceived imbalance of power between the perpetrator and the target; therefore, the targeted person feels unable to defend or protect themselves from the behaviour.

Thus, when humiliating intimidation, threats, abusive language, victimisation or unfair treatment is targeted and repeated over time, the behaviour is defined as bullying. One-off events are not defined as bullying in policy or in law (Einarsen et al., 2010; Bentley et al., 2009, 2014).

In cases in which there has been a bullying complaint, the employer is obliged to undertake a full and fair investigation, with the complainant being told of the outcome and the steps taken to prevent the behaviours. Anderson's (2009) findings suggested these processes risk conflicts of interest. She recommended that the investigator should not act as a legal representative for the school in future legal action, as the processes of investigation and fair reporting are critical to natural justice. Mirroring, good faith these processes are an attempt to objectively rationalise ERP. However, this is the point at which parties to the problem are engaged in the social process of exploring unusual, disturbing, ambiguous social events, and the juncture at which the school community is making sense of events. A question emerged about how to maintain trust in a confidential legal investigation process while members of the school community were engaged in the interpretative social process of making sense of ambiguous circumstances and acting on whatever seemed plausible?

3.5 Sensemaking

"I need to make sense of an accusation of bullying by talking" (Anita)

As explained in chapter one the research process was iterative with literature review, data collection and analysis occurring simultaneously. During interviews it became apparent that the stage at which ERP emerge, the decision making process is crucial to the ongoing management of the problem in the workplace. Anita's drive to 'make sense by talking' was explained by the process of sensemaking.

When they deal with ambiguity, interdependent people search for meaning, settle for plausibility and move on (Weick, 2010b, p.549).

Sensemaking is theorised as a response to ambiguity, uncertainty and change (Weick, 2001, 2009). This section makes an analogy between sensemaking, cognitive dissonance and Mezirow's (1994) notion of a disorienting dilemma, asserting that conflict and dispute resolution can be conceptualised as relational sensemaking. According to Festinger (1975), constructing a new sense of situations involved reframing thinking to reduce dissonance (1957). Thomas (1992) called conversations with people who are not involved with a particular situation, third-party sensemaking. The sensemaking recipe according to Weick (2009, p.143) "how can I know what I think until I see what I say", is a speaking-listening-thinking process. Volkema, Farquhar, Bergmann, (1996) identified that third party sensemaking, change and ill structured problems like workplace conflict, involved third party sensemaking as people looked to others to help them make sense of situations. According to Miller and Jablin (1991), people engage in third party sensemaking to seek validation, clarification and comfort in new circumstances.

Weick et al. (2005, p.419), claimed sensemaking influences identity construction. Weick et al. (2005, p.419) said sensemaking was a series of "micro-level actions ... but they are small actions with large consequences". Sensemaking as an ongoing process involved seven dimensions (Weick 1995) which "represent the situation that is present at moments of sensemaking- summarised by the acronym SIRCOPE (Weick, 2010b, p. 544). This acronym covered the following: sensemaking is a *social* phenomenon involving social context, where *identity* construction is grounded in who we are and what has shaped our lives and influenced the way we see the world. Sensemaking is *retrospective*, because we rely on past events to help us interpret current events. Sensemaking is a comparative process whereby we select the *cues* and elements that support our beliefs and interpretations, in an *ongoing* process that is sequential and never ending. When engaged in sensemaking we are updating *plausibility* preceding action where we are *enactive* of the environment (Weick, 2010, b). That is people engaged in ongoing sensemaking are enacting decisions that both respond to, and, create the environment of the organisation, where 'awareness' of anomaly creates struggle in crisis situations.

The seven dimensions of sensemaking are grounded in identity, and plausible explanations. The assertions emerged from Weick's (1988; 1993) analysis of crisis decision-making, Weick (1979, 1988; 1989, 1993, 1995), Weick et al. (2005) maintained that decision-making was anchored in identity as people searched for meaning. A threat to identity included actions that failed to confirm self-concept. He

asserted that sensemaking was influenced by efforts to maintain a positive self-concept, claiming that when people act on what seems *plausible*, they might forget to consider alternative possibilities, which (in their accident and disaster research) have “large consequences” (Weick et al., 2005, p.149). An example of ERP sensemaking that had *large consequences* can be illustrated by the *Lewis* case where the Dean’s formal complaint of bullying to the BoT, escalated before all options could be considered. The action had significant consequences for members of the whole school community.

According to Conway and Briner (2005), Weick’s (1995) ‘plausibility’ is founded on the notion that the post-modern world is made up of multiple identities, multiple realities, ambiguous and changing contexts. Conway and Briner (2005, p.150) identify that “the search for accuracy becomes a futile pursuit; hence, the actor needs to act pragmatically, not necessarily rationally”, settling for plausibility. Making sense of ambiguity and complexity is therefore an important consideration when analysing conflict in the workplace.

The process of working through ambiguity to reach common understandings and acknowledge different viewpoints is especially important in schools where learning and problem solving are at the heart of the organisation. Weick (1976, p.2) called schools “loosely coupled systems”. He defined loosely coupled systems in education as “a processes where coupled events are responsive, *but* each event preserves its own identity” (p.2). For example, he said, “the principal is regarded as acting in one system and the teacher classroom-parent-pupil-parent-curriculum as another system ... thus the principal is loosely coupled with the teacher”. Given this loose coupling, he went on to assert, “We would be making a great mistake in regarding the management of schools as similar to the processes of constructing a building or operating a factory” (Weick, 1976, p.2). This idea of loose coupling is important in the context of employment relationships because autonomy may be an important element of teachers’ employment relationships that in turn suggests a need for clarity about processes for communicating and negotiating ongoing dynamic relationships between teacher–principal, teacher–parent–pupil–teacher–parent–curriculum during the negotiation of inevitable conflict.

3.6 Conflict

Conflict like sensemaking is conceived as an ongoing dynamic interpretive process. Framed as both a destructive problem and an opportunity for growth, the dichotomy of conflict has been the subject of an interdisciplinary range of research in organisational psychology, communications, negotiation, and dispute resolution and

employment relations. The importance of constructive conflict management within organisations including training for the management and resolution of conflict is one of the themes of extant research on international conflict management (Amsler, 2014; Roche, Teague & Colvin, 2014). As Roche, Teague & Colvin (2014) noted, different ways of thinking about conflict management are required if academics, dispute resolution practitioners, organisations, unions, employers and regulators are to achieve deeper understandings of dynamic workplace conflict.

In the case of schools, conflict management is a complex, dynamic phenomenon. Principals constantly engage in negotiating, mediating and managing accountability demands (Koyama, 2013). Interviews during this study identified that conflicts are common in issues related to policy, employment, children's behaviour or parental complaints about any aspect of the organisation. "Percolating problems" was an *in vivo* code and metaphor used (during interviews) by Peter, a principal, to express the day-to-day negotiation of power and potential for escalation affecting the school community.

As outlined in Chapter 2, in employment relations literature the traditional focus has been on the structural inequality of the employment relationship and conflict as a negative phenomenon. The frames of reference or perspectives on conflict theory have assumed a structurally embedded imbalance of power between employer and employee; underpinned by the radical perspective of competing class conflict that asserted the employer's interest was to extract as much productivity from employees as possible. The assumption of the radical perspective was that employees and employers are driven by conflicting needs and should therefore follow the Marxian option for solution—to collectively organise, as was the case in the industrial era. The pluralist approach acknowledges conflicting interests inherent in society recognising the positive role of divergent views. The legitimate role of conflict resolution and negotiation between management and trade unions recognises the role of bargaining to resolve competing interests. In the context of 21st century individualised workplace conflict is prevalent (and increasing) in self-managing teams (Jehn, 1997) and flat-structured organisations (Janssen, Van de Vliert & Veenstra, 1999). Workplace conflict has been theorised as an inevitable, relational phenomenon.

In the past, behavioural, process and structural models have had the most influence on our understanding of workplace conflict management. Literature consistently defined conflict as a 'process' involving a sequence of events, with cognitive, behavioural, emotional and interpersonal responses between parties

influenced by situations in the context of a diverse social environment (Folger, Poole & Stutman, 2005; Jehn, 1997; Rahim, 2002). Debate about the nature of conflict in organisations has evolved over time from claims of conflict as a failure and breach in expected behaviour or procedure (March & Simon, 1958), to defining it as presenting a threat to cooperation, oppositional and involving competition (Ury & Fisher, 1981), through to an opportunity for transformation and change (Bush & Folger, 1994, 2004, 2005).

Organisational conflict has historically been attributed to a wide range of factors, including unfair management processes, diversity and an imbalance of power, economic and structural constraints. In the context of mid-twentieth century workplace Pondy (1967) had broadly perceived conflict as a negative experience involving emotions, perceptions and behaviours. He posited that organisational conflict was used to explain a range of states, from behavioural responses to conditions (e.g., a lack of resources) to the affective state of individuals (e.g., stress, tension, hostility), on a continuum from passive resistance to aggression. Concurrently Walton & Dutton (1969) were concerned with the events or stages of conflict, types of antecedents and interdependency of factors during organisational conflict management. Thomas in Thomas, & Dunnette, (1976) had focused on the role of cognition or conceptualisation in shaping conflict behaviour. He designed conflict-handling modes to explain the conflict escalation he had witnessed on a university campus over the Vietnam War and the firing of a black activist professor. Thomas believed “that conflict behaviour was shaped directly by the party’s cognitive interpretations of the events” and was often “limited and oversimplified as conflict intensified” (Thomas, 1992, pp.267-269). A structural model (Thomas, Walton & Dutton, 1972; Walton, Dutton & Cafferty, 1969) aimed to identify diverse sets of causal explanations with four variables: 1) behavioural styles; 2) social pressures from stakeholders; 3) ‘stakes’, in the conflict of the parties involved and 4) rules and procedures that are the negotiation, mediation or arbitration processes.

The conflict-handling modes were determined by the effects of the four sets of variables. Thomas (1992) reflected on the above approaches of the 1970s and claimed the emphasis was on collaboration as a desirable state of affairs for individuals and organisations, ‘based on empirical evidence from research’ and ‘social values of the Kennedy-era Age of Aquarius and the human relations movement’ (Thomas, 1992, pp.267-269). Thomas (1992) said he had distinguished between structure and process and specifically defined conflict as an episode “the process which begins when one party perceives that another has frustrated, or is about to frustrate, some concern of his”

(Thomas, 1976, p.891). In the 1970s and 1980s, the research focus was on conflict-handling modes or styles of dealing with conflict (Rahim, 1983; Ruble & Thomas, 1976; Thomas & Kilmann, 1974, 1977). The focus of the research was on behaviours, influence of others, risks and rewards, and data about the modes of conflict handling was analysed for causation and tested for validity and reliability.

There were several laboratory experimental studies and attempts to validate the various modes (Pruitt, 1983; Ruble & Cosier, 1982). Alongside Thomas's modes (1976), Blake and Mouton's managerial grid and conflict-handling modes (1981) have been reinterpreted as orientations, models, behaviours and strategies, and Thomas also described them as strategic intentions of a party in conflict (Thomas, 1992). The role of cognition in shaping conflict behaviour, with an emphasis on underlying interests, was reviewed by Thomas (1992). He critiqued the interest-based approach (Ury & Fisher 1981) due to the stage in the process where parties were directed to engage in 'objective evaluation' of options. He asserted it was evidence of an underpinning assumption of economic rationality. Moreover, the importance of analysing the thinking that guided the conflict processes should, according to Thomas (1992), include analysis of the role of emotion in negotiation and feedback during reasoning as factors that influenced outcomes. This suggests learning theory such as the theory of reflection in action or double loop learning (Argis & Schön, 1978; 1995) influenced negotiation research literature.

3.7 From ADR to Workplace conflict management

During the 1970s, with the increased focus on collaborative, IBN and facilitative mediation, the term ADR emerged as a term to differentiate litigation from dispute resolution. Litigation was constructed as the mainstream approach to dispute settlement in the courts, akin to the positional, competitive, adversarial paradigm of positional bargaining. The processes sat at opposite ends of the dispute continuum.

Within the academic discourse, the juxtaposition of adversarial, collective action with ADR has continued. For example Stone (2004), argues that ADR conflict management is part of a wider anti-union posture to undermine collective action by employees, while Colvin (2003) found individual employees were likely to seek external resolution of workplace grievances in non-union workplaces if there were innovative, external ADR procedures available. The consistent idea is that integrative negotiation is at the core of alternatives to rights based litigation, such as mediation, conflict management and conflict resolution. As discussed in chapter 2, a range of

theoretical approaches to negotiation include for example; behavioural decision theory (Lax & Sebenius, 1986; Raiffia, 1982; Walton & McKersie, 1965), multi-party decision making (Neale, & Bazerman, 1992) psychology of decision making in dyadic bargaining (Neale & Northcroft, 1989), the study of individual personality differences (Gilkey & Greenhalgh, 1986; Rubin & Brown, 1976), the structural approach (Pruitt, 1981) and the communications approach (Putnam, 2004). The international increase in non-union dispute resolution procedures and the diversity of organisational structures highlights what Colvin (2003) identified as a 'dual shift' in institutional structures and an increased range of types of workplace dispute resolution.

Drawing on multiple discourses the question examined here is: what is conflict management and what is the value of conflict management at the level of the workplace? According to Rahim (2002, p.208), conflict management is "the process of limiting the negative aspects of conflict while increasing the positive aspects of conflict. The aim of conflict management is to enhance learning and group outcomes, including effectiveness or performance in the organisational setting". Rahim's (2002) mention of the dual aims, to "enhance learning" and "effectiveness or performance", cues us to think about comparing the positive and negative outcomes of workplace conflict and its management.

Recently Roche, Teague and Colvin (2014, pp.1–5) noted, "There has been considerable ... growth in the numbers of consulting houses, independent consultants and external experts providing conflict management services to organisations". They identified changes in the way state agencies "provide third-party services to parties in conflict in the world of work" but they also identified a paucity of empirical research evidence for "portentous claims about [the way the] outcomes for stakeholders affected organisations, employees and trade unions". The use of the word 'portentous' communicates their scepticism about the lack of an integrated conceptual framework. They noted that conflict management in organisations falls into the categories of either individual grievances or collective disputes. However, this does not address the management of day-to-day conflict in relationships that do not escalate to dispute. There are ranges of constructions that consider conflict management as the provision of practices, grievance processes and institutional support for conflict resolution, such as those delivered by the state in New Zealand, as well as internal systems design in unionised and non-unionised organisations. This is problematic, as practice, policy and processes such as negotiation and mediation may or may not be distinctly different, whether provided externally or within organisations.

The reference to ‘conflict management’ in the employment relations system is a reminder of Dunlop’s (1958) industrial relations systems theory, which analysed work as a subsystem of industrial society. The focus was on a system of rules rather than relationships within the workplace. Dunlop’s (1958) systems approach to conflict management did not focus on how power was distributed or why conflict emerged. He identified systems within systems and opined that systems overlapped; for example, procedural rules, such as legislation, were integrated into the substantive rules, such as negotiated pay rates, which he viewed as outputs of the system (Lamm et al., 2009). The systems approach lacked reference to institutional or structural sources of conflict, such as the imbalance of power between employee and employer. However, the value of Dunlop’s (1958) contribution was the focus on processes. He identified bargaining, negotiation, conciliation, arbitration, statutory intervention and direct worker action as ‘conversion processes’ within in the system (Lamm et al., 2009). Processes such as bargaining and negotiation in the industrial system were later theorised by the behaviourists Walton and McKersie (1965), as discussed above. The following section contains a brief description of participatory systems that integrate Dunlop’s (1958) conversion processes and conflict management systems, which claim to support high performance.

The common critique of Dunlop’s (1958, 1993) industrial relations systems theory was centred on his assumption “that the system is bound together by ideology or commonly shared bodies of ideas and beliefs” (Rasmussen, 2009, p.25), rather than by conflicting interests. Dunlop asserted that it was the level of congruence/incongruence of the ideological beliefs of the key actors that determined the level of integration or functioning of the system. Dunlop was interested in inputs and outputs of systems but did not provide a framework for examining conversion processes at the level of the organisation. The contemporary terminology, of *integrated systems of conflict management*, may be a relic of Dunlop’s continued influence on contemporary industrial relations. However, the idea that it is possible to adopt effective, equitable, internal, integrated systems to address workplace conflict is debated. The core argument is the relationship between the substantive outcomes for workers’ well-being gains in real wages and the participatory processes that are claimed to enhance productivity.

In contemporary employment relations literature, Dunlop’s (1958) assumption of shared ideas could be articulated as a mutual-interest approach or partnership approach; for example, the high-performance paradigm. A radical critique of approaches that adopt assumptions of shared ideology between workers and employers

for example by Godard, (2004; 2014) is that the approach reinforces capitalist inequality of bargaining power. The fundamental assertion is that it is not possible for there to be a shared common ideology in employment relationships.

Godard (2004; 2014) argued that a fundamental conflict of interests in the employment relationship is hidden or disguised by the language and practice of joint consensus partnership processes, high-commitment employment practices, and promises of “meaningful effects on performance” (Godard, 2004, pp.350–352). Following an in-depth review of research and practice of high-performance practices (HPPs), Godard (2004) concluded that outcomes of HPPs provided little support for substantive gains in income for employees. Surveys also showed unclear outcomes for the social/psychological well-being of workers, and that HPPs could be a barrier to union membership and participation. Godard’s (2004) proposition was that HPPs are hard to implement due to underlying mistrust in the employment relationship. He found that initial employee cooperation in HPP processes can be followed by resistance or apathy if management reaches a decision that is perceived to “violate the psychological contract” (Godard, 2004, p.367). Employees could be sceptical of HPPs that frame and shape the terms of the psychological contract. When negotiated through participatory, democratic consultation and consensus, the psychological contract can be vulnerable to perceptions of breach. In essence, the managerial prerogative to make decisions that affect employees is a barrier to them trusting in HPPs and any decision made without consultation can be perceived as a breach.

Godard’s (2004) findings are salient to this research as they identified that employers’ costs outweighed the benefits and suggested that implementing HPPs was likely to be influenced by employee participation, mediated by their options and alternatives. In other words, employers implemented minimal HPPs and where employees feared job loss, they would be more likely to engage in HPPs. Two important hypotheses to emerge from Godard’s review of the research on HPPs were that increased performance pressures and stress levels for employees were hard to sustain and that the adoption of HPPs by employers was associated with organisational size, technology and market structure. More importantly is Godard’s (2004) claim that trust in HPPs is problematic in neo-liberal market economies where there is a lack of institutional direction regarding information sharing, accommodation of union practices and grievance processes, meaningful representation or voice. He therefore asserts that structural conflict of interests, embedded in Western neo-liberal, competitive, market-driven political economies, is reflected in the inherent immutable conflict embedded in

the employment relationship. While the radical critique asserts the grave problem of structurally embedded inequality of bargaining power as a defining feature of western neoliberal capitalism, the decrease of union power and increased individualism requires attention to the day-to-day management of conflict in the workplace.

Deutsch had investigated the conditions under which parties developed a cooperative or competitive relationship (Deutsch, 1973, p.19) by experimentally studying individual communication behaviour. The typology of conflict that emerged was a style-based set of characteristics focusing on roles and strategies that affected outcomes. He proposed that trust emerges most easily from ongoing interaction and saw an interdependence between context and process influencing outcomes. Deutsch's focus on relationships was influential but the research was simulated in the laboratory rather than in the context of organisations. Historically, experimental methods have applied behavioural game theory to organisational conflict, social dilemmas, intergroup conflict, strategic decision-making, workplace aggression, information processing in negotiation, attitude change and the role of emotion in negotiation (Lewicki et al., 2010). Jehn, (1997) reported that such studies framed conflict as negative phenomena without addressing the positive effects of conflict on performance and teamwork. In spite of the inequality of bargaining power and construction of conflict as a negative phenomenon the potential for learning through problem solving and transforming conflict in workplace teams was a finding of this study discussed in chapter 9.

Costantino and Merchant (1996) proffered a learning approach to conflict management. They claimed that embedding conflict management systems in organisations, through training and processes for joint problem solving that engaged all stakeholders in organisations, would spread positive results into the wider community. If processes were developed through learning, creating, building, practising, managing and designing interest-based conflict management systems, the outcomes would positively influence the communication behaviours of individuals, teams, co-workers, leaders, families, spouses, partners, parents and friends of the organisation. Costantino and Merchant (1996) asserted that ADR practitioners should model the behaviours they advocated, incorporating the collaborative, interest-based values in their everyday lives. The idea was to move away from hierarchical, authoritarian decision making to consensus building and joint problem solving, thereby building the capacity for conflict resolution in wider society through organisational practices. Schools were a particular site for promoting participatory conflict management practices through training in peer mediation.

The conflict management system they proposed was called a socio-tech approach (Costantino & Merchant, 1996, pp.150–167), driven from the top of the organisation by appointing an ombudsperson to initiate a pilot programme that worked alongside a design team to investigate how well ADR practices worked during its implementation. Top-level organisational support was necessary to secure the services of an ombudsperson, joint health and safety consultation teams, joint problem-solving teams and peer mediation programmes. The positive outcomes were expected to include prevention of escalation, reduced costs of litigation, reduction of appeals and complaints, increased capacity to address broad problems, increased customer and employee satisfaction, and better engagement and productivity. The design of the conflict management systems would be co-constructed and particular to the organisation. The potential incentives and rewards for stakeholders were recognition for innovation; motivation due to the team-building nature of joint problem solving; the creation of new initiatives; the achievement of organisational missions; the fulfilment of personal vision and values; increased efficiency and effectiveness; economic advantages of early resolution of conflicts; positive publicity to internal and external stakeholders; increased efficiencies; and, higher participation in collaborative problem solving across the organisation. Costantino & Merchant, (1996) predicted improved relationships and organisational learning as more people practised IBN in their everyday lives. The potential for learning through conflict management was subsequently realised in the peacekeeping sector

Olsen-Buchanan and Boswell (2008) identified a gap in research about the management of mistreatment in the workplace. They noted the role of recursive sensemaking and the role with whom the individual chooses to engage in sensemaking as highly relevant to the outcomes. They agreed with Colvin (2003) that traditional voice mechanisms are not always appealing to employees. They concluded there was a need for in depth research that captures the dynamic nature of how people respond to mistreatment.

Mikkelsen (2012) analysed how conflict changed following training by taking a sensemaking approach to the analysis of workplace conflict in the NGO peacekeeping sector. The research found that disputants thinking about issues changed from personalising to framing conflict as problems to be solved. Mikkelsen's (2012) recommendations highlighted the importance of taking a holistic view of conflict, and paying attention to organisational structure, culture and power analysis during training in conflict management processes. However ongoing commitment to training and

implementation of internal conflict management systems proved to be crucial in the university context.

At the tertiary level, an integrated conflict management system (ICMS) was instigated in 1994 called the University System of Georgia (USG). According to Yarn (2014, p.94), as a regional entity, the USG incorporated 34 higher education institutions “under a single governing body, the board of regents, a chief executive officer, and the chancellor. In 2012, USG enrolled over 314,000 students and employed approximately 80,000 full-time and part-time faculty staff under a \$7.5 billion budget”. An ICMS was defined by Yarn (2014, p.86) as “a consciously institutionalised and interconnected set of mechanisms designed to help manage the conditions that give rise to conflict and the resolution of disputes arising from conflict”. He noted that in 1994, hierarchal structures and multiple stakeholders engaged in power struggles had led to “detailed grievance and disciplinary procedures that emphasised adversarial adjudication and rights-based approaches ... to dispute resolution that were costly and unsustainable” (p.86). He reported on 20 years during which the ICMS was designed, redesigned and provided some lessons for conflict management in education.

Originally developed from the USG mission statement, a shared narrative was developed:

Institutions of higher education are communities that should encourage collegiality, trustworthiness, and collaboration. The resolution of campus conflicts should improve the atmosphere for learning, teaching, research and service; it should maximize benefits and minimize costs; it should stress individual and institutional responsibility, respect collaboration, and accountability; it should embody principles of fairness, equity, and accessibility; and it should serve the community-at-large by providing students with collaborative skills and instilling a sense of personal responsibility that make good citizens and effective leaders (Yarn, 2014, p.89).

The USG provided technical training and produced a handbook that set out how to design an integrated ADR system to decrease adversarial processes, resolve disputes efficiently and fairly at the lowest level, foster a healthy community and lead the nation in ADR for higher education. A framework was developed so that each of the 34 higher education units within the system could develop its own plan in consultation with an advisory committee located in the Chancellor’s office and in consultation with Yarn and the Ombudsperson from Georgia State University (Yarn, 2014, p.89). Under the umbrella of the USG, each Tertiary Education Institution (TEI) formed a campus conflict resolution committee from stakeholder groups, trained key decision makers in conflict management, assessed dispute handling, recommended a system, and implemented, evaluated and improved their own system.

Yarn (2014) warned that a shift from collaboration to economic efficiencies detracted from ICMS as a priority. He noted that training and exuberance for mediation undermined conflict-prevention mechanisms, conflict coaching, didactic unassisted problem solving and other informal third-party interventions. He warned that “resolving disputes efficiently and fairly at the lowest possible level ... should focus on empowering everyone in the organization with the skills and knowledge to resolve their own disputes constructively, with minimal third-party intervention” (p.97). Facilitated discussion and conflict management training was more suitable than mediation. The system was incentivised by including conflict management in leaders’ key performance indicators. However, there are difficulties in evaluating and measuring the economic outcomes of collaborative, interest-based conflict management systems. It is not possible to measure problems that have been prevented or resolved early, without assistance. Yarn (2014) advised that ICMS required a commitment from both the bottom and the top of an organisation, with individuals working for the collective good rather than individual advancement and status.

One other extensive system of conflict management was evaluated in depth. As outlined in Chapter 2, from 1994 to 2000, the USPS had partnered with Indiana University’s School of Public and Environmental Affairs to experiment with workplace conflict management systems. In partnership, they designed, implemented and evaluated the conflict management system known as REDRESS. Amsler (2014) (formerly Bingham) led the research, which provided evidence of the value of mediation processes for workplace conflict management in one large unionised workplace. The REDRESS program of conflict resolution, piloted in the USPS, demonstrated the way individual group and organisational learning emerged from the transformative model of mediation and conflict coaching for individuals.

The longitudinal REDRESS studies claimed that individual learning brought about positive change to the organisational culture (Anderson & Bingham, 1997; Bingham and Novac, 2001; Bingham and Pitts, 2002; Napoli, 2004, Bingham, 2012; Amsler, 2014). An example of such learning was the simple skill of learning to listen without interrupting or defending (Anderson & Bingham, 1997, pp.606–607). Before the introduction of a training programme in communication, negotiation and transformative mediation, the USPS had a strict, formalised culture accompanied by a rigid mechanistic bureaucracy, with a scientific management emphasis on competitive quotas and goals. According to Baxter (cited in Napoli, 2004), processes that were designed to move mail with increased mechanisation led to an escalation of conflict in

the organisation. Low levels of satisfaction with work arose from a simplification of tasks, limited freedom of movement, lack of control over speed of work, and rigid job requirements involving repetitive mechanistic tasks, all of which yielded increased grievances, EEO complaints and increased sick leave.

Researchers claimed that the REDRESS move towards a learning organisation created a change in thinking and increased awareness of the need for continual improvement in communication. Dispute resolution training and development programmes were developed to introduce and implement the ideas from Senge's *Fifth discipline fieldbook* (1990). As well as the personal transformations from training in negotiation, the researchers found positive links between individual and organisational learning (Napoli, 2004). Training was a key element of organisational culture change and the REDRESS training at USPS was designed to emphasise the hallmarks of transformative mediation. The process of transformative mediation was provided by third-party neutrals, concurrent with the training in the principles of learning organisations.

North American literature increasingly distinguishes between alternative employment dispute resolution theory and traditional employee voice and grievance systems. According to Bingham and Pitts (2002, p.135), "organisations in private, public, and not-for-profit sectors are introducing an ever-increasing array of models and systems for resolving workplace conflict" Ury et al. (1986) had argued that IBN and internal systems reduced the costs of disputes to the firm and employees. As discussed earlier, Constantino and Merchant (1996) had designed internal models and systems for both the public and private sectors. Dunlop and Zac (1997) developed systems from Dunlop's earlier work that described complaints procedures, mediation and arbitration for non-union workplaces.

The REDRESS system of early workplace conflict resolution in the USPS was a system of models and processes based on Bush & Folger's (1994, 2004, 2005) transformative theory of conflict and the transformative model of mediation. The REDRESS system has been the subject of at least four studies that have provided empirical evidence that mediation is effective in the early resolution of workplace conflict. The literature claimed that alternatives to litigation, such as negotiation and mediation, were superior because they allowed the employee to have voice in the process and the outcome (Antes et al., 2001; Bingham, Chessmore, Moon & Napoli, 2000; Bingham & Novac, 2001; Bingham & Pitts, 2002). Subsequently, O'Leary and Bingham (2007) developed the *Manager's guide to resolving conflicts in collaborative*

networks. Their report integrated the bodies of literature from negotiation, bargaining, collaborative problem solving, conflict management and conflict resolution. IBN was developed to guide training for governors and managers in early conflict resolution.

Lipsky et al. (2003) explored integrated dispute resolution systems based on interview research and a national survey of Fortune 1000 companies' alternative employment dispute resolution procedures. From this work, a framework for analysing organisational conflict management choices and strategies was developed. Its basis was articulated in the subtitle as "Lessons from American corporations for managers and dispute resolution professionals". The research involved examination of internal and external systems from a managerial perspective. It reviewed processes for internal employment conflict resolution, such as peer mediation, facilitation, ombudspersons, hot lines and peer panels. Systems involving third-party neutrals external to the organisation were also explored, such as investigation, mediation and arbitration. The authors recommended guidelines for planning how internal and external systems could interface. Lipsky and Avgar (2004) claimed that the paradigm shift from collectivist industrial relations to a focus on statutory protection of individual rights and team-based production from the 1970s had not been mirrored in a shift in research. They complimented Bingham's research where the USPS REDRESS programme had been evaluated by interviews and surveys of managers and employees. Lipsky and Avgar (2004, pp.182–183) referred to this as third-generation dispute resolution at the micro-organisational level, finding the conditions under which mediation of disputes in individual relationships reach resolution through acknowledgement and apology.

Unlike Yarn's (2014) claim that the effectiveness of conflict management systems are difficult to measure, Donias's 'fairness theory' (2006) asserted that excellence in conflict management could be measured by analysing decision-making compared with the relative costs. Donias's work in dispute system design provided guidelines for the management of conflict in union and non-union workplaces, with templates for conflict checklists, organisational fairness systems and mediation protocols (Donias, 2006). More recently, the workplace fairness institute website² provides a suite of conflict management solutions, such as an Ombuds Office for the promotion of respectful communication and collaboration at all levels of organisations, violence risk assessments, workplace mediation, investigations, union mediation, union-management partnership facilitation and a range of education workshops.

² <http://www.workplacefairness.ca/services.html>

Most recently Brubaker, Noble, Fincher Ke-Young Park and Press (2014) argued there has been a rise in demand for coaching as a tool of workplace conflict management for individual employees' and leaders in organisations due to the positive value of learning through processes involving conflict. Conflict management coaching is "a one-to-one process in which a trained coach helps individuals gain competence and confidence to manage and engage in their interpersonal conflicts and disputes. It is a future-focused results-oriented process that concentrates on assisting clients to reach their specific conflict management objectives" (Brubaker et al. 2014, p.360).

In spite of the contemporary growth internationally in internal systems of conflict management and the corresponding institutional and legal framework for collaborative practices and processes, in New Zealand there is no research that asks how employees and organisations analyse conflict and make decisions about ERP resolution. This thesis aims to answer that question.

3.8 Conclusion

While chapter two highlighted statutory direction to early resolution of ERP there was no empirical evidence that New Zealand organisations had, like their North American or European counterparts, adopted internal systems of conflict management. This chapter has identified the international shift from external ADR to internal conflict management. The adoption of transformative mediation in the US postal service as a response to complaints about bullying was highlighted because bullying was a common topic to emerge during interviews. Bullying behaviour was asserted in *Lewis*, and bullying was identified as a source of complaint. One participant identified how sensemaking had broken down while trying to understand differing views of parents' complaints about teacher bullying. Sensemaking became integral to the research during data analysis, when responses to ERP were compared and contrasted. This research process has been iterative weaving between literature prompted by data that emerged from interviews. The next chapter justifies that approach to this study. Chapter 4 explains how the research design draws and deviates from grounded theory method (GTM), defends the inductive relationship between phases of data collection and clarifies the influence of sensemaking on the methodological approach.

Chapter 4: Methodological Approach and Research Design

The sociology of law should pay more attention to the early stages of disputes and to the factors that determine whether naming, blaming and claiming will occur. Learning more about the existence, absence, or reversal of these basic transformations will increase our understanding of the disputing process and our ability to evaluate dispute processing institutions (Felstiner, Abel & Sarat, 1981, p.636).

4.1 Introduction to the Research Questions

The preceding chapters have identified the importance of studying conflict management in the education sector and gaps in empirical research about conflict management at the level of the workplace in New Zealand. This chapter tells the story of this research project, linking the chronology of the journey to the explanation of why I adopted an interpretive paradigm and how I drew on principles of grounded theory method (GTM) for the collection and analysis of data. The chapter begins by outlining the methodology, linking the study to the research design, the core research question (RQ 1): ‘What is the nature of ERP in primary schools?’ and, the subsequent research questions:

RQ2: Who are the parties to ERP?

RQ3: Why do ERP emerge?

RQ4: How are ERP managed?

RQ5: How is Employment Relations dispute resolution policy reflected in practice?

RQ6: What were the common elements of the ERP that were resolved in the workplace?

RQ7: What were the common elements of the ERP that were not resolved at the level of the workplace?

RQ8: Why did ERP resolve, transform, settle or escalate in the context of the schools studied?

The first section of this chapter defends the overall interpretive methodology, especially the connection between the ontological lens—the nature of what exists—and how knowledge is built—the epistemological approach (see figure 4.1). This first section includes an explanation of my personal frame of thinking, or the axiological assumptions that I brought to the investigation as a learner, teacher, researcher and dispute resolution practitioner. This section concludes with a discussion of the influence of sensemaking on the methodology.

The second section explains the way GTM informed the research design, data collection, analysis and the inductive process of moving between interview data coding

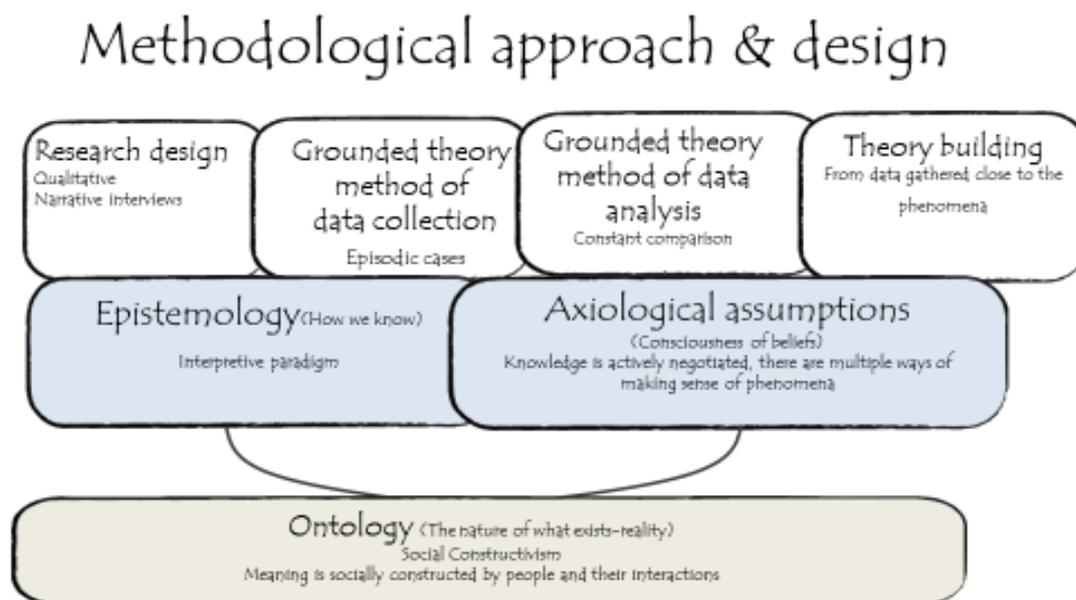
and analysis of ERP. The analysis and interpretation has both drawn on, and departs from, the principles of GTM. My goal was to contribute new thinking and build theory generated from data gathered in the field, analysed by comparison of ERP type relationships, outcomes and resolution processes. This chapter explains the research, including the challenges and design adaptations, beginning with the philosophical underpinnings of the project.

4.2 Interpretive Paradigm

This study takes a world view from the interpretive paradigm because it explores the way people make sense of social phenomena. It investigates a complex social process, human experiences rather than physical elements. Creswell (2007, p.74) defined a 'paradigm' as "a set of basic beliefs". Traditionally, workplace conflict research has focused on grievances (Bemmel & Foley, 1996; Walker, 2009) and grievances have been studied from the 'positivist paradigm', in which theory is tested to explain objective reality, attempting to find valid and reliable explanations of relationships between variables, predict causation and quantify outcomes (Guba & Lincoln, 1994, p.106). Rather than being concerned with how many problems were caused by which factors, this research was concerned with the context of human relationships, the way conflicts are understood and how and why dynamic processes influence outcomes.

The goal in this study was to develop theory about the nature of the problems that emerged in primary school workplaces and the way processes and practices for managing the ERP influenced the chronology and outcomes of the ERP. I was interested in how people understood ERP and sought to compare the differences, similarities, consistencies and contradictions. I wanted the voices of the research participants to be heard and the findings to be an authentic representation of their experiences. The research approach required in-depth inquiry into the way participants interpreted conflicts and processes for ERP resolution. I was seeking to discover patterns from a range of interpretations of ERP and processes for resolution from which to propose theoretical insights to inform theory, policy and practise

Figure 4.1: Overall research strategy: Ontological and epistemological approach



4.3 Social Constructionism

Ontological and epistemological assumptions underpin the design of all research. The philosophical question regarding the nature of reality (ontology) is the first assumption to consider. My belief is that social reality is subjective, co-constructed by human interaction. Ontologically, I view the nature of reality as a dynamic social process. Dervin’s (1983, 1992, 1998) claims that people are making sense of specific moments in time through message exchange, co-constructing social realities, is at the heart of this research about ERP resolution. Social constructivism attributes meaning to experiences as an ongoing process of construction and reconstruction, or sensemaking (Weick, 1995).

While social constructionism guides the ontological and epistemological approach, I accept the nature of an objective physical reality. The constructivist approach assumes that individuals acquire knowledge during the ongoing construction and reconstruction of meaning, through cognition, language, conversation and action (Guba & Lincoln, 1994; Berger & Luckmann, 1991). The assumption that what people perceive as real *is* real, in terms of consequences is appropriate because this research was concerned with how individuals understood the conflict events they had experienced, either personally or as facilitators of resolution processes. The participants’

stories, explanations, multiple realities and the consequences of their thinking, behaviours, dialogue and actions were the foci of the study. Viewing human reality as social process of construction and reconstruction is not to suggest that I reject natural phenomena as fact. The physical world exists and affects society, but I view the construction of knowledge as a social process that materialises through interaction with others and reaction to the expectations of a range of interconnected social institutions.

Weick (1995) discussed Follett's (1924) theory of the inter-relationship between ontology, epistemology and sensemaking, which suggested that tensions did not need to be dwelled upon:

We confront activities, then action, relationships, trust, faith, experience, and presumptions are not just tools of sensemaking. They are also tools of epistemology and ontology. They create that which they interpret. To charge people with ontological oscillation is to make too much of too few moments of sensemaking (Follett, 1924, cited in Weick, 1995, p.38).

While the distinction between the construction of social reality and natural realism has been viewed as a contest, I have been influenced by the thinking of Weick (1995), Follett (1924), and Denzin and Lincoln (2005), who all maintained that it is not necessary to draw a sharp distinction between them. Also influenced by my work as a mediator, I have adopted the view that humans experience multiple realities about the same events and processes, framed and filtered by a multitude of diversities, differences and identities. The idea that there are multiple understandings of social reality was central to this project, as I sought to discover the way meaning related to the management of ERP, and the resolution processes and practices that were experienced. From conceptualisation to the collection of qualitative data and analysis of the comparisons, differences, similarities, consistencies and contradictions in the social construction of ERP, it was a search for what my supervisor referred to as 'gold' to be discovered in the data, mined by constant comparison.

Understanding social interaction during ERP involved investigating the way conflict in the employment relationship in schools was constructed and understood. Organisations (in this case, schools) were conceived as "a network of inter-subjectivity, shared meanings sustained through the development and use of a common language and everyday social interaction" (Walsh & Ungson, 1991, p.60). Therefore, this study is underpinned by an interpretive worldview of social constructivism, which is also an approach to learning (Vygotsky, 1978) where the facilitator of learning responds according to sociocultural context, and readiness of the learner (see Appendix G.p.305). This idea is important and worthy of lengthy focus in this chapter. As the reader will

discover, the findings of this study indicate that employment problem resolution is a process with potential for individual, social and organisational learning.

The past philosophers who asserted that knowledge was constructed through action and interaction were Dewey (1944), a pragmatist who believed that reflexive actions co-constructed meaning and Mead (1934 cited in Huebner, 2012), who claimed that ‘meaning making’ was a dynamic, negotiated social process. Blumer (1969) conceptualised the process as symbolic interactionism. Blumer (1969, p.19) asserted that symbolic interactionism involved “responses not made directly to the actions of one and another but instead on the meaning which they attach to such actions”. The notion that meaning and intentions may differ from outcomes and both may be misinterpreted was important at all levels of thinking about ERP—individuals, schools, dispute resolution institutions and policy makers.

The social constructionist seeks to locate authentic exemplars of the phenomena studied. According to Denzin & Lincoln (1998, 2005), the social constructionists, who were informed by Dewey’s pragmatism, Mead’s theory of social action and Blumer’s symbolic interactionism, contributed to the development of GTM as one of the most influential paradigms in qualitative research. GTM seeks to inductively generate and systematically analyse theory from data gathered in the field (Patton, 1990, 2002; Denzin & Lincoln, 2005; Urquhart, 2013; Charmaz, 2006). I was curious about the *nature* of ERP in education (not their quantification), to understand how and why processes and outcomes were evolving. As noted earlier, I wanted to understand the way people thought about conflicts in the education workplace and the meanings they attributed to ERP resolution.

4.3.1 Epistemology: Knowledge, the researcher and the participants

This section explores the epistemology, or underpinning theories of knowledge, that explains, “how we know what we know” (Crotty, 1998), focusing on the co-construction of knowledge between the researcher and participants. The researcher seeks to understand and describe the way people are constructing or making meaning from experience, rather than testing a hypothesis or drawing on scientific propositions (Cooperrider & Barrett, 1990; Guba & Lincoln, 1994; Crotty, 2003; Davidson & Tolich, 1999; Creswell & Plano-Clark, 2007; King & Horrocks, 2010). The constructivist view of the nature of knowledge developed from the philosophy of phenomenology and naturalistic inquiry, where knowledge is built from information collected by the researcher close to the place where the phenomena occur. Guba and Lincoln (1994)

asserted that the face-to-face approach better informs theory and practice than survey or experimental approaches. When knowledge is co-constructed by the researcher and participant, there is potential for the emergence of a more complex body of knowledge than could be constructed by either the researcher or the participant without the relational exchange.

A positivist conception of objective scientific investigation is not explicit about a relationship between researcher and participant. It mirrors the natural sciences, with theory deduced from hypothesis testing and a strictly defined research protocol claiming to keep the researcher and participants detached from each other. Conversely, the constructivist approach views the human experience of negotiating meaning as a “social construction through interaction”, with face-to-face interviews being an “observational encounter ... for the purpose of focused interaction” (King & Horrocks, 2010, pp.20–21). The human propensity for connection and engagement with others is relational, including that between the participant and the researcher. I aimed to search for patterns and explore the context and the complexity of ERP for those for whom ERP management was embedded in their day-to-day lives. I wished to explore what was happening ‘at the coal face’ of ERP resolution in education.

4.3.2 Social constructionism & grounded theory method (GTM)

This project draws on grounded theory method (GTM) a long respected research process for rich description and explanation of qualitative data. Central to GTM is the commitment to beginning with a context, issue or problem by seeking to discover what is happening by interview, conversation and observation. According to Myers (2013, p.111), contemporary thinkers about GTM, such as Urquhart Lehmann & Myers, (2010, p.358) and Goulielmos (2004), believe the approach brings the potential for the emergence of rich findings close to the data in studies involving information systems, health and education. A basic electronic AUT University Library search (conducted in December 2012) for GTM research, limited to peer-reviewed scholarly journal articles in English, confirmed that the method is common in education and health research. The year 2011–2012 returned 287 results, with 119 in education, 114 in health, 44 in management, 16 in employment relations and 5 in conflict resolution. Bingham’s 12-year study of mediation in the USPS applied GTM to the analysis of conflict events and mediation data (Nabachi, & Bingham, 2001; Bingham, 2014). While editors of the *Academy of Management Journal* recently acknowledged the historic difficulty in publishing research from qualitative inductive theory building, they identified the value

of qualitative work with its propensity to “expose the boundaries and push theoretical insights” (Bansal & Corley, 2012, p.513). This study aimed to generate process theory about employment problem resolution in education employment relationships. The goal was to build theory from everyday conflict episodes reported by people close to the emergence, management and resolution of ERP.

As noted earlier, my goal was to contribute new thinking from data gathered in the dispute resolution and education sector, analysed by constant comparison and modelled on GTM. The GTM approach to research in this interpretivist study differs from the positivist GTM developed by Glaser and Strauss (1967). Originally, those researchers argued that GTM was an objective, qualitative methodology for building theory from empirical data; however, the approach was controversial because it begged the question of how qualitative, interpretive research could claim positivist dimensions of realist scientific objectivity, such as reliability and validity. Glaser and Strauss (1967) asserted that the strength of the GTM was that objective, empirical, scientific methods of social research were developed from qualitative data gathered in the field, rather than simulated in the laboratory and analysed statistically. While it was clear, the data gathered would be more authentic than data generated in a contrived context the risk was that methods of coding the data could be contrived. The debates about coding drove subsequent disagreements between Strauss and Glaser. Debate ensued about whether coding could (or should) be prescriptive or emerge solely from the data (Urquhart, et al. 2010). The question was whether the investigator framed the thinking informed by theory before data collection and whether it was therefore possible to ensure that uncontaminated substantive theory would emerge from data collected in the field (Creswell, 2007). Some believed the researcher could remain ‘uncontaminated’ by not conducting a literature review before researching in the field, to protect against prescriptive coding. However, it is unlikely that any researcher can claim to be ‘uncontaminated’ by knowledge. Thus, contemporary views, such as those of Urquhart et al. (2010), have highlighted that all researchers bring prior knowledge to a study and therefore the key is to refrain from allowing pre-reading to have a negative influence on creativity, or from building preconceived ideas about the theory that will emerge.

Discussion of the preconceived ideas from pre-reading and concurrent reading during this study has been interwoven throughout this study. I have narrated the thinking behind the design (axiological assumptions) during data collection (memoing), data analysis (integration of literature review and findings) and conclusions. Rather than claim one static section of a chapter to convince the reader of the authenticity,

trustworthiness and dependability of the study, I have attempted to make that visible throughout.

4.3.2.1 Dependability and trustworthiness

There is contemporary agreement that the best test of dependability or trustworthiness is whether the researcher has been transparent about how they had questioned preconceived ideas before embarking on the research (Strauss & Corbin, 1998; Urquhart et.al, 2010). According to Bansal and Corley (2012, p.513), the generation of theory from grounded techniques is judged by whether “there is a chain of evidence linking findings to data, multiple instances in the data which support the concepts produced and whether the researcher has demonstrated familiarity with the subject area” and “is steeped in the field of investigation”. Thus, any emergent theory would be judged by whether the researcher had developed reasonable, convincing propositions from the analysis of the findings and suggested relevant, theoretical generalisations applicable to a range of situations.

The constructivist approach to GTM in this project focused on how dimensions of conflict and processes for resolution were given meaning and acted on in schools. Research that focuses on meaning making rather than truth fits with Glaser’s (2000) argument that GTM is a general method of symbolic interaction research. Corbin and Strauss (2008) agreed that grounded researchers were interested in “human action, interaction and emotional responses that people have to the events and problems they encounter” (Corbin & Strauss, 2008, pp.6–7). Moreover, Corbin argued it was not “the event itself that is studied; rather the different meanings attributed to events in light of one’s own biography and experiences” (p.10). Given, my own biography and the way I attributed meaning to events was going to be influential. I would need to be careful about signposting the generation of propositions through a chain of evidence.

In this research, I have assumed that meaning is ongoing, negotiated over time, intra-personally, interpersonally and collectively between individuals, social groups, organisations and communities. The shift in thinking about GTM by leading scholars, from assuming there is one objective social reality to the constructivist view of multiple realities, is linked to the notion that what people view as ‘real’ is an ongoing social process that impacts on courses of action and is likely to change over time (Strauss, 1993, cited in Corbin & Strauss, 2008, p.8). Constructing meaning from social action is considered an individual, collective and institutional phenomenon. The social constructivist approach was taken in this project because problems, conflicts and disputes are relational constructs, personal stories with differing perspectives on the

substance of the conflict, and processes of negotiation, communication and dialogue between individuals, groups and institutions.

ERP are created explicitly and tacitly by the social relationships and interactions during conflict. The constructivist approach to social science research aims to understand and describe how and why humans construct, or make meaning, according to differing values and worldviews (Cooperrider & Barrett, 1990; Davidson & Tolich, 1999; Creswell & Plano-Clark, 2007; Crotty, 2003; Guba & Lincoln, 1994; King & Horrocks, 2010). Conflict escalation, settlement, resolution or transformation emerge from the framing of thinking, communication and behaviours of individuals and groups. The thinking underpinning this research assumed potential for individuals and groups to construct and develop new knowledge as they interact and make sense of phenomena. Hence, the constructionist assumption underpinning this study was that conflict and ERP involve processes of thinking, knowing and learning within complex explanations of events in the context of wider cultural, social, political and economic systems. On accepting the constructivist worldview, we accepted the relational nature of the research process, with my presence influencing the thinking of the participants, just as the participants' thinking influenced my analysis of the incidents being studied. We were engaged in co-constructing meaning, collaboratively making sense of conflict events and ERP. In positivist research, this notion of co-construction would have been viewed as problematic. In this research, we (the participants and I) shared the common languages of education, dispute resolution and employment relations. We were seeking meaning from the intersections between ERP resolution processes and practice to build theory.

The epistemological integrity of research, according to Marshall & Rossman (1995), is the relationship between the nature, strategy, research question design and method. I was an active participator, listening, questioning meaning, transcribing, interpreting transcripts reading for meaning and re-reading for confirmation before coding, categorisation, tabulation and thematic analysis of the process categories. During these processes, conscious neutrality was my aim. Constructivists acknowledge that learning is ongoing and dynamic. We all bring prior knowledge to new experiences. My challenge was to bring an open mind, aiming for conscious investigative neutrality, but acknowledging that I had preconceptions that I would scrutinise, as well as reflect on biases, along the way.

4.3.3 Axiological assumption: Reflection on self

The qualitative researcher is charged with building a case that is grounded in the phenomena, integrates the analysed data and emergent theory compared with extant literature. Qualitative methodology literature argues that the research journey should be comprehensive, personal and transparent (Patton, 2002; Denzin & Lincoln, 1998; Grant & Giddings, 2002; Corbin & Strauss, 2008). I brought to this project my own worldview, values, biases and political agendas. Given the ontological approach, it is important at this point to note my personal conceptions of conflict and dispute resolution as dynamic processes with potential for empowerment and learning. As a mediator, teacher and researcher, my understanding is that conflict is an intrapersonal, interpersonal and organising phenomenon embedded in the daily emotion and actions of all humans, mediated by thinking and past experiences, transmitted through language and relationally enacted. When we draw meaning from an event, we are using pre-existing mental images and linguistic frameworks, comparing current events with past experiences or retrospective memories. Therefore, while we may weigh up a range of interpretations of an event, it is unlikely there is only one explanation for it. Conflicts and the way they manifest, are settled/transformed or escalate are complex phenomena. This study draws on Hall's (1980, 2001) conception of the "telling paradox" that conflict events become "stories" of a "communicative event" (1980, p.129), which once told, are open to a number of interpretations. According to Charmaz (2006, pp.1–2), the classical approach to GTM is to try to establish one's own ideas as far as possible and then integrate them with other theory. If we are familiar with a particular theory, we will be sensitised to particular aspects, but we must be willing to change if our initial theories do not 'hold up'.

My interpretations of the participants' 'stories' required self-awareness, to examine my own understandings and taken-for-granted assumptions. For this reason, data coding presented the same dilemmas experienced by mediators, where neutrality while searching for clarity about the meaning made by others is a core skill of the listener. Hence, my thinking about what was found in the field was automatically influenced by my training and knowledge of process and theoretical frameworks.

Once the interviews were conducted and the data were collected, the search for analytical tools was an unexpectedly difficult stage of the research process. During the transcribing process, the first reading of the transcriptions revealed between 200 and 300 problems involving employment relationships and the project became

overwhelming. A discussion of the way I managed this conundrum is addressed in the data analysis section of this chapter.

I initially aimed to identify and analyse best-practice ADR processes. I hoped to reveal positive approaches to conflict conversations as well as identify challenges and tensions in conflict resolution. I aimed to adopt the AI approach discussed in Chapter 2 (Cooperrider, Sorenson, Whitney & Yager, 2000) to promote social change by taking a positive view of social organising, rather than taking a problem-based, deficit approach. I also expected to unearth examples of transformation that could inform future practice (Mertens, 2005) and contribute to positive change. However, early expert interviews identified significant problems in the primary education sector, at the levels of the employer–employee relationship, the level of the school and the policy culture of the State. The debates over National Standards, performance pay and class sizes were high-profile public policy issues influencing employment relationships that could not be analysed from an AI perspective, as they were characterised by adversary and battle metaphors. However, in spite of the policy context and academic critique, findings of transformation and best practice, juxtaposed with extreme procedural injustice, emerged during this study.

Creswell (2007) reminded researchers to openly discuss their own values that shaped their narrative to include our own interpretations in conjunction with the interpretations of participants. Throughout the course of this study, I adopted a reflective approach on both process and personal assumptions. As advised by King and Horrocks (2010, p.23), during interviews I was careful to reality check dialogue for different assumptions and conceptions, with frequent questions such as, “So are you saying?” ... and “Is ... what you are telling me?” Additionally, I found that it was not sufficient to rely on computer software content analysis to guide my interpretations of what was said. The transcripts required repeated reading for meaning and repeated listening for confirmation of the construction of meaning by the participants.

4.3.4 Sensemaking as methodology

Weick’s (1995) sensemaking framework became a conduit between the interpretivist epistemology of social constructionism and my data analysis. As participants were telling their retrospective stories, constructing, ordering and analysing their experiences, I assert they were engaged in a process of ongoing sensemaking. Sensemaking assumes that individuals apply observations of others and themselves to make sense of situations (Weick, 1989, 1995, 2001, 2009). Sensemaking is conceived as

a dynamic, ongoing process of social construction and reconstruction of reality through story telling. Sensemaking, as a term in communication studies, has been viewed as:

... a set of concepts and methods used to study how people construct sense of their worlds ... and is central to all communicating situations whether intra-personal, interpersonal, mass, cross cultural, societal or international. The sensemaking approach is seen as having wide applicability (Dervin, 1983, p.1).

I sought to explain the relationships between the micro-workplace practices in the context of macro-employment and education policy discussed in Chapter 3, by investigating the way participants made sense of ERP at the levels of the individual, the organisation and public policy. Brown & Jones (1998) drew attention to how people make sense of and justify problems by omission to recalibrate a sense of self.

Individuals construct their understandings of organizational events by shaping and omitting information to bolster their self-esteem and feelings of control. Explanations of failure may therefore be largely imposed after the event as participants seek to make sense of, and synthesize, the many possible meanings available to them (Brown & Jones, 1998, p.74, as cited in Mills, Thurlow & Mills, 2010, p.3).

Sensemaking is the process of framing or organising an experience by defining perceptions of what is going on in a situation (Goffman, 1974). According to Weick, it is a dynamic process: “on-going accomplishment that emerges from efforts to create order and make retrospective sense of what occurs” (Weick, 1993, p.350). In this project, Weick’s model (1995, 2001) of sensemaking began to provide dimensions for analysing the meaning that parties made of events after I interviewed a principal, (Anita) who talked about struggling to make sense of ERP but made sense by talking. Reinforcing the Weickian (1995) claim that people need to articulate stories orally. Weick (2009, p.235) claimed the recipe identified earlier where one “simplified question captures; how can we know what we think until we see what we say?” He continues with:

People need to act in order to discover what they face, they need to talk to discover what is on their mind. The *saying* involves action and animation; the *seeing* involves direct observation; the *thinking* involves the updating of previous thinking; and the *we* that makes all of this happen takes the form of candid dialogue that mixes together trust, trustworthiness and self-respect. Sensemaking appears to be the root activity when people deal with an unknowable unpredictable world (Weick, 2009, p.235).

Sensemaking is, therefore, a process in which we engage to attribute meaning to an experience. When there is ambiguity, people experience the process of making sense of events that somehow do not fit together. According to Weick, Sutcliffe and Obstfeld (2005), we are “concerned with identity in the social context of other actors engaging in ongoing circumstances from which they extract cues and make plausible sense retrospectively while enacting more or less order into these ongoing circumstances” (2005, p.409). Weick (1995) had observed that organising and sensemaking occurred

concurrently. He constructed a seven-dimensional framework, the acronym SIRCOPE (outlined in chapter 2) for analysing the way individuals, groups and organisations made sense of events to explain how different meanings were assigned to the same event by individuals, groups and organisations during decision making during disaster (Weick, 1988; 1993; 2010b). Weick et al. (2005) claimed that when critical events occur, sensemaking happens at the levels of the individual, the organisation and during policymaking. Weick et al. (2005, pp. 412-415) re-examined organized sensemaking as a process in response to 'disruptive ambiguity' acknowledging elements of past and future (retrospect and prospect) beginning with noticing & bracketing, labelling retrospective stories followed by presumption or connecting the "abstract with the concrete" (p.414). 'Dialogue' 'action' and 'presumption' interdependently 'unfold' to for clarity to emerge.

The sensemaking process above echoed this research process. The qualities of sensemaking in Weick et al., (2005) acknowledged the inductive fluid cyclical nature of conversation where talk and action were not necessary linear in sequence; thinking, acting, interpreting, re-talking and conversation reminded us that sensemaking evolves as a process of adaptation, 'organising through communication' (p.415). The sensemaking process resonated during data collection because parties were eager to tell their stories over and over again; it became clear that their 'interview' was sensemaking in action, and on several occasions participants made contact post interview for additional conversation. While they were making sense of their retrospective experiences, some participants acknowledged their biases and former discrepancies in overlooked information. While sensemaking in practice may often omit acknowledgement of assumptions and bias, it became clear that sensemaking was an important step for clarifying experiences of relational conflict. An ERP could have been conceived as 'disruptive ambiguity', Weick, et al., (2005).

Whether in dialogue with a friend or colleague, in the classroom as co-creators of meaning and facilitating learning, or as mediators interacting to support parties' negotiations neutrally, we engage in making sense of conflicts and disagreements. Our actions affect meaning; therefore, we act on our personal interpretations of the meaning of events. During the first phase of interviews in this study, sensemaking appeared to be a significant process, which directed me to the sensemaking literature and influenced the research design during the implementation phase.

4.4 Research Design

Qualitative research was appropriate for this study because it allowed for authentic inquiry with people about their experiences of ERP, rather than simulated experimental problems constructed in contrived contexts. As stated at the beginning of this chapter, the interpretive, qualitative, inductive approach to this study was differentiated from deductive reasoning. Denzin and Lincoln (2005), argued for an inductive approach in organisational situations where relationships are problematic, and issues complex. The inductive nature of this research involved an iterative process, meaning tasks involved moving back and forth between data collection by interviewing, coding, analysing and searching literature. Appendix H illustrates this process, mapping the research journey that began with the literature reviews, written in part preceding and during fieldwork.

4.4.1 Qualitative narrative interviews v mixed method design

The original research design sought ethics committee approval for a mixed method approach that began with key expert interviews, followed by a survey of teachers' experiences and then more in-depth interviews. Originally, the research was designed in 2010 to be implemented in three phases from July 2010 to 2012, with semi-structured expert interviews followed by narrative case study interviews and a survey. I aimed to conduct a participant-oriented, electronic, self-administered survey/questionnaire regarding the experiences of a large, diverse sample of teachers with conflict resolution policies, processes and the ERP resolution system. The aim of this phase was to explore anonymously the way a diverse range of teachers understood, reflected on, perceived and believed that policies and processes were implemented to resolve conflict events/mini cases. I sought to investigate the impact of various negotiation and conflict management policies, processes and experiences on measurable outcomes (such as types of outcomes and agreements reached) and explore the subjective and substantive alignment between policies and processes with the outcomes experienced by participants. This survey particularly aimed to collect data from teachers.

I aimed for volunteer participants to complete this survey online, via the free survey platform, Survey Monkey (www.surveymonkey.com). It would not have required name, contact or other details that could identify participants and internet protocol (IP) addresses would not be associated with any individual response. Data would have been collected and processed using the Survey Monkey tools, which would

have been accessible only by the researcher. A simple statistical analysis of quantitative data, using the Survey Monkey program, would have provided frequency response statistics to standardised questions. The qualitative responses would necessitate manual coding to enable thematic interpretation and reporting or loading in a software program such as Nvivo.

I designed and piloted the questionnaire between February and May 2012, while concurrently interviewing participants. During an interview with a representative (Bob) from the teachers' union (NZEI), I was informed that the union did not allow information about surveys to be communicated through their magazine *Education Aotearoa*, or their database. Their policy was that researchers should contact specific schools about this process. This situation was ethically problematic: under the rules of the AUT Ethics Committee, I was not permitted to approach organisations and there was a risk of harm for participants and escalation of problems in interviewing people from schools in which ERP could have been current. Therefore, I resorted to simply conducting 38 narrative interviews and, as discussed below, the data gathered from these provided more than enough data for analysis; saturation had been reached from interview data without disrupting or harming current employment relationships.

4.4.2 Ethics

In New Zealand, it is of particular concern that the three principles of the Treaty of Waitangi; partnership, participation and protection are embedded in a research project.

4.4.2.1 Partnership

The provision of opportunities for participants to articulate their different experiences and cultural identity was at the heart of the processes explored. My approach was mindful of cultural fluency (Le Baron & Pillay, 2006), exploring the way people wanted to conduct the processes and acting collaboratively in my language and actions. I was careful to be reflective about how the communication process was going. There were authentic moments of cultural tension.

4.4.2.2 Participation

The research provided the opportunity for participants to voice their experiences and concerns regarding appropriate processes and policies for the resolution of conflict in schools. The aim of gathering this data was to use the feedback to develop suggestions and protocols for not only improving policies and processes but also to

design culturally appropriate early intervention options that foster early resolution of conflict through voluntary participatory processes. Thus, the substance of the research and its ethics and design mirrored the principle of participation and self-determination embedded in the topic being researched.

4.4.2.3 Protection

The notion of protection was upheld through ethical behaviour, including full anonymity of participants, respect and understanding of the cultural diversity of participants, academic robustness of analysis, presentation of data, and respect for the informed consent process, as well as the provision for participant withdrawal at any stage of the project. I was careful to edit the stories to remove any implicit identifiers; anonymising dispute resolvers' stories was important, as in some cases they were stories that had emerged from confidential processes. The schools' names and locations were changed, to protect the participants. None the less, the stories in this study were all real-life stories that emerged 'on the ground' in the day-to-day lives of teachers, leaders, dispute resolvers and legal experts.

4.4.3 Grounded Theory Method: An approach to data collection and analysis

The constructivist approach to grounded theory acknowledges that propositions emerge from interactions between the researcher and the participants. The approach taken to GTM by Charmaz (2006) directs the researcher to engage in grounded theory techniques for data collection that include interviewing and observing, theoretical sampling, open coding directly from the data, note taking and memo writing, sorting and comparing data with data, checking emergent theoretical ideas and collecting more focused data over time. Urquhart (2013, p.38) reminded the researcher that coding from the data was a basic principle of GTM. The warning was that coding from the literature was not GTM. The co-construction of meaning between researcher and participant could be critiqued of this study because some participants had engaged with and used the language of the literature. This could be considered to be in tension with the tenants of, or deviation from GTM, because the researcher is 'expected to set aside theoretical ideas to let substantive theory emerge' (Urquhart, 2013, p.4). This study is about processes of ERP resolution, practitioners and experts in the field are being interviewed. Their use of theoretical language should not detract from the commitment to collecting data from the bottom up- a grounded approach. These tensions and the explanation of the iterative nature of this research is explained in the following account of how data collection and analysis proceeded.

4.4.4 In the field: Data collection

4.4.4.1 Hybrid of theoretical & snowball sampling: a deviation from GTM

One similarity between GTM and this research project is that data influenced the nature of sampling. ‘Theoretical sampling’ involves decision making about where to sample from, for analytical reasons. Findings influence the data collection process. The researcher looks from one sample to another sample to compare and contrast emerging concepts (Urquhart, 2013, p. 194). This research involved theoretical sampling but some participants identified themselves for participation because ERP were of concern to them. For example the theme ‘building the emotional bank account-relational trust,’ emerged from interviews with Principals’ who offered to take part and had concerns about the impact of complaints on trust in teachers’ negatively impacting on their employment relationships (Chpt 5). Other interviews with investigators of ERP and mediators confirmed parental complaint as a source of ERP and I sought to discover whether other participants had similar experiences. Following interviews in high socio economic areas, I sought interviews with leaders from lower social economic regions to determine whether parental complaints were dominant types of ERP in other situations. In New Zealand socio-economic areas were ranked according to aggregate funding needs in a system known as ‘deciles’ graded 1-10. Decile 10 is representative of the most affluent socio economic areas requiring the least state funding. The sample-included participants from decile 1 /7/8/9/10 (see Table 4.1.1). Moreover, there were significant differences reported. Therefore, the sampling process deviated from the traditional GTM approach because it involved snowball as well as theoretical sampling on the other hand the self-selection of participants contributed to findings that were being tested by constant comparison between data, which is a core principle of GTM.

4.4.4.2 Narrative in-depth interviews

Interviews were the main source of information and I sought a range of participants involved with ERP in education. Thirty-eight participants were interviewed. The participants included 15 school leaders (nine principals, five deputy, assistant or associate principals and one team leader), 6 past or present BoT members (four of whom were also mediators), 6 education and employment relations experts, 10 experts in education and/or employment dispute resolution (including a leader from the primary teachers’ union, NZEI, one from the New Zealand School Trustees Association (NZSTA) and one Employment Court Judge), and 1 scale A teacher. The participants are listed in table 4.1. Professor Margaret Wilson, an expert in public policy and the

former Attorney General responsible for the drafting of the Employment Relations Act 2000, did not wish to be anonymous in this research, which was very valuable, as her interview elucidated Parliament's intentions for the legislation in a manner that had been unavailable previously.

The interviews were approximately one hour each. The timing of the interviews and the positions and pseudonyms of the participants are outlined in Table 4.1.T. While I originally began by designing the process as semi-structured in-depth interviews, the participants' stories were so rich that the interview schedule was mostly abandoned in favour of listening to the participants' stories or narratives. Participants told stories of ERP, and conflict resolution processes that they had experienced as parties to an ERP, as dispute resolvers, or as education or legal experts. The interviews were recorded between 2010 and 2012, and 1 later interview (Aidee's story), was recorded late in 2013.

The 38 interviews involved face-to-face story telling about ERP. They were conducted in an office or meeting room, mostly at schools or wherever the participants were most comfortable. I travelled to three large cities and four smaller, semi-rural towns. Interviews were audio recorded and consent was gained via consent forms (see Appendix B). I audio recorded and uploaded the recordings to my computer and backed them up to an external hard disk, saving them to my secure, password-protected database. I transcribed most of the interviews myself until I became unwell at the end of 2012, at which time a transcriber signed a confidentiality agreement and transcribed six of the interviews for me. The audio recordings were anonymous and did not include names, contact or other details that could identify the participants. Each individual was given a pseudonym immediately, to protect their privacy.

Table 4.1 Participant interviews

Date	Role	Decile	Roll	Pseudonym	N
Leaders					
Dec 2011	Principal	10	347	Lisa	1
Aug 2012	Principal	1	751	Thomas	2
Aug 2012	Principal	8	344	Anita	3
Sept 2012	Principal	9	825	Peter	4
Sept 2012	Team leader	8	618	Martin	5
Oct 2012	Principal	10	696	Steven	6
Oct 2012	Principal	1	751	Lavinia	7
Oct 2012	Deputy Principal	1	751	Sam	8
Oct 2012	Asst. Principal	1	751	Enid	9
Oct 2012	Principal	9	350	Maree	10

Date	Role	Decile	Roll	Pseudonym	N
Oct 2012	Deputy Principal	9	350	Earnest	11
Nov 2012	Deputy Principal	9	689	Cary	12
Dec 2012	Principal	8	344	Anita	13
Dec 2012	Principal	10	574	Catherine	14
Dec 2012	Principal	7	670	Edward	15
BOTs					
July 2011	Mediator /BoT, Lawyer	n/a	n/a	Eron	16
July 2011	Mediator /BoT, Lawyer	n/a	n/a	Alana	17
July 2011	Mediator BoT, Lawyer	n/a	n/a	Tom	18
Sept 2011	Mediator/BoT, Lawyer	n/a	n/a	Sarah	19
Oct 2012	Parent BoT, Lawyer	10	369	Maggie	20
Sept 2012	Parent BoT	1	751	Arini	21
Education & employment relations experts					
Oct 2011	Employment Court Judge	n/a	n/a	n/a	22
Aug2012	NZEI Rep ER/IR/HR	n/a	n/a	Bob	23
July 2012	Academic, policy maker	n/a	n/a	Margaret	24
Aug 2012	Academic, leadership	n/a	n/a	Deborah	25
Sept 2012	Edu. evaluator, training & development	n/a	n/a	Colleen	26
Jan 2013	NZSTA field advisor, ER/IR/HR	n/a	n/a	Joe	27
Dispute resolution experts					
July 2011	Lawyer & investigator	n/a	n/a	Paige	28
Dec 2011	Employment Relations Investigator	n/a	n/a	John	29
Aug 2012	Employment Relations Investigator	n/a	n/a	Bill	30
Sept 2012	BoT Chair, lawyer	n/a	n/a	Michael	31
Oct 2012	Lawyer & investigator	n/a	n/a	Carl	32
Mediators					
July 2011	Mediator, academic	n/a	n/a	Adele	33
Nov 2011	Mediator, academic	n/a	n/a	Adam	34
May 2012	Mediator, investigator	n/a	n/a	Brian	35
July 2012	Mediator	n/a	n/a	Jerica	36
Aug 2012	Mediator, investigator	n/a	n/a	Raife	37
Dec 2013	Scale A teacher	n/a	n/a	Aidee	38

4.4.5 Grounded theory approach to data analysis

4.4.5.1 How coding proceeded

Charmaz suggested the researcher engage in line-by-line coding of interview data rather than thematic coding. Line by line coding involved reading through interviews and notes asking, ‘what is going on in the data?’ coding by naming the

process or situation. This approach breaks the data into fragments (Charmaz, 2012, 30.0 video). On the other hand, narrative analysis looks at the whole and then the parts. Grounded theorists look for assumptions and implicit actions and meanings by first examining the parts or fragments, then moving to the whole. The narratives in this project were initially read to discover how participants made sense of ERP across dimensions of relationships, type, process and outcome. Data from the interview transcripts were collated with observations in the field, note taking about the physical surroundings and interactions between the participants and myself. I was seeking to understand how participants interpreted ERP and the processes of resolution they had experienced. I was looking for explicit and implicit actions and meanings in the data to compare propositions as they came to light.

I began coding while listening and directly after interviewing but finally open coded in hard copy after transcribing the interviews. There were times when interviewing, writing literature review and transcribing interviews, coding and tabulating data occurred concurrently. This could be said to contaminate the coding in a traditional GTM process, where the researcher should refrain from literature review. However, the relationship between the literature and coding was noted at the time as I wrote memos and recorded ideas about how process codes from documents such as policy or legal sources might differ from open codes identified from interviews. The relationship between extant literature and my professional background precluded naive inquiry in which concepts and theories were unknown. While recognising that I did not come to the research process “with a blank slate” (Urquhart, 2013, p.13), I set aside theory while I engaged in open coding. The aim was to allow theoretical propositions about the substance of ERP and processes for resolution to emerge from the data. I aimed to build theory and discover something new, grounding theory in the authentic voices of the participants, but there were tensions discussed in more detail below.

4.4.5.2 Deviating from grounded theory

Administration and data management was challenging, moving between hard copy and electronic copy. In July 2013, while sorting the 38 interview files I realised that each one potentially told 5 to 30 discrete ERP episodes. I searched through the stories highlighting themes trying to gain a more holistic overview of broad categories. Looking to Patton (2002), Robson (2002) and Marshall and Rossman (1995) for guidance, I read for commonalities and differences, seeking “patterns across stories, experiences, and different perspectives” (Patton, 2002, p.6). But I was beginning to

conduct a thematic analysis. This was a deviation from GTM. However, in retrospect it helped make sense of how the codes might, or might not fit, into emerging categories. While looking for common themes I was aiming to clarify two issues. Firstly was there a limitation in the research due to the lack of teacher voice, given I had abandoned the electronic questionnaire? Secondly, were there any themes common to sets of participants?

Consequently, transcripts for all principals and members of senior management teams were grouped together as *leaders*; a second group of *education employment relations experts* included an Employment Court Judge, union leader, education evaluator, and education lawyer and field advisor. The mediators and investigators were grouped as *dispute resolvers* and the members of BoTs were grouped together—interestingly, five of these people were also lawyers (but not specifically in employment relations or education) and four were mediation trained as well. Where participants' roles were multidisciplinary, they were grouped according to their self-identified expertise. Only one group could be specifically identified as playing one role—*leaders*—and even then, 10 of the 15 were clearly principals but the other five had a range of titles pertaining to their roles in the school management team. All participants identified as playing more than one role in the sector: leaders were also teachers; principals were governors as BoT members; NZEI and NZSTA field officers had been teachers; investigators had been mediators and principals; lawyers had been mediators and BoT members; and a legal academic had been the Attorney General. That sorting exercise was useful because I realised the relationships being studied were complex, multi-dimensional and there were many stories about the impact of ERP on teachers because all leaders were or had been teachers. There were chunks of data where I could identify rich detail. They were distinct ERP stories; some of them short others very long and complex. The ERP stories were coded as the core units of analysis.

4.4.6 ERP stories were at the heart of data analysis

The open coding of each ERP was the linchpin of the coding. This coding of ERP as chunks was a deviation from line by line coding associated with GTM but the principle of bottom up coding was adhered to because the data was driving the coding. I coded according the following questions to ascertain what was happening in the ERP stories 'What is the stated nature of the ERP experienced?' then, 'Who were the parties to the problems?', 'Why and when did the problems emerge?', 'How were problems

managed?’ and ‘What were the outcomes?’ In addition, I took field notes and identified elements of the social context.

4.4.6.1 Open coding & tabulating ERP

Coding had begun during the interviews and transcribing. As identified above the sheer quantity of ERP data was overwhelming. I initially tabulated the open coded data by relationship, chronology of the ERP, outcome, and social context with the associated quotes from the interview transcripts.

4.4.6.2 The initial coding and tabulation process

Table 4.4 provides an example of the way the ERP were tabulated. Comparisons between data sets contributed to insights about relational interactions, types of ERP, processes, context, outcomes and conditions that preserved relationships compared with those where employment relationships ended. The challenge of presenting the findings simply was in tension with the complexity of the participants’ stories. The first tabulation of coded data from transcriptions of interviews, aimed to retain the depth and richness of the participants’ voices while communicating complex dimensions. The ERP episode described in Table 4.4 is one example of the first tabulation during open coding. That initial tabulation of 261 ERP created over 300 pages of tables similar the 1 ERP reported by Martin below in Table 4.4.

Table 4.4 Example of tabulation of ERP during initial coding

N Participants' <i>in vivo</i> codes	Chronology of episode/actions/ events/	Relationships/ identities/parties	Process of conflict management	Social context	Outcome/how resolved	Field insights/ memos
<p>1. Martin</p> <p><i>Disrespectful treatment of children</i></p> <p><i>Complaining parents</i></p> <p><i>Racism</i></p> <p><i>Parental expectations</i></p> <p><i>Trust</i></p> <p><i>Escalation</i></p> <p><i>Teacher resigned</i></p>	<p><i>Parental complaints about teacher's performance & absences; claimed teacher was abrasive towards children. The teacher was about 30% absent, but I had no problem with his/her competence.</i></p> <p>Parents considered the same children had had a 'dud' teacher the previous year</p> <p>The teacher resigned.</p>	<p>Principal–parents–team leader–teacher.</p> <p>Pākehā people complaining about a Māori teacher.</p> <p><i>Parents were concerned about teacher's level of commitment.</i></p> <p><i>There was a loss of trust in all relationships: teacher–parents–principal–team leader.</i></p>	<p>PR & DP avoided</p> <p>Martin <i>collaborative negotiation - conversations to support teacher at parent–teacher meeting.</i></p> <p>Team leader led an open process of support for the teacher & meeting with parents.</p> <p>Lack of communication between teacher & leaders</p>	<p>Decile 8 school</p> <p>74% New Zealanders</p> <p>9% European Pākehā</p> <p>3% Māori</p> <p>2% Samoan</p> <p>3% Tongan</p> <p>9% Chinese</p>	<p>Teacher left without saying goodbye or giving notice.</p> <p>Parents had not communicated openly but had sent racist emails to the principal & team leader about Māori teacher.</p>	<p>Team leader very collaborative.</p> <p>Teacher labelled as secretive. by parents</p> <p>Parental complaints escalated further, alienated & disengaged teacher - many complaints by email.</p> <p>Martin said he was taught <i>collaborative negotiation & reflection by his academic father.</i></p>

The large files of coding documents were later reduced to the chain of evidence in Appendix A. During the reduction from the above tabulation to a chain of evidence, there was tension between capturing the issues important to the participant in their ERP stories, not pre-defined by myself nor contaminated by the literature. One problem highlighted above, was when professionals reporting the ERP used theoretical terms (reflection, collaborative negotiation) derived from theory. The solution was to code the interviews and ERP by type of ERP and outcome, in the words of the participant and reframe the overall picture as another descriptive code that summarised the ERP. I called those descriptive codes selective codes. The selective code and categories were more likely to be analytical, influenced by literature or in cases as such as Martin’s above, apply conceptually relevant language (collaborative / reflective/ negotiation) used by the participants. One entry to the chain of evidence (appendix A) for Martin’s example in Table 4.4 is provided in Table 4.5 below:

Table 4.5 Coding Table

N	Rel	ERP type	Process	Outcome	Selective code	Category	
1Martin	P/TL T/PR	P racist complaints	Avoidance	Resignation	Disrespectful treatment of children /Collab reflective negotiation	Culture of complaint / Early approaches to ERP Res	X

4.5 Data analysis

Data analysis had begun with interviewing, coding and proceeded throughout the research process (see figure 4.2), however the following discussion explains the phases following coding- including the tabulation of categories, development of themes and discussion of the emergent propositions & theoretical insights.

One benefit of collecting so many ERP was that they provided the opportunity for comparison. While selective coding and tabulating the final cut of 261 ERP, I was searching for patterns across processes that encompassed sets or categories and encompassed the characteristics of ERP, open codes and selective codes. The memos and notes written during interviewing influenced this stage of the analysis. For example relationships between the type of ERP, processes and outcomes were compared to in order to categorise the ERP.

4.5.1.1 Identifying categories & themes

During the categorising process, I compared relationship problems that were resolved with relationship problems that escalated or ended searching for commonalities and differences. For example, ERP where relationships ended were clustered and compared with episodes in which relationships were retained. The categories were clustered in nested tables where ERP, process and outcomes were compared. The categories are labels that communicate the relationship or association between the ERP, the approach to the resolution process, outcome. The categories in nested tables provided verbatim evidence of the ERP illustrating the associations between the selective code, the relationships, type of ERP and problem resolution process. For example Figure 4.6 shows how Martin’s ERP (above) is presented in a table under the category -ERP loss of trust & complaint from the theme *Building the Emotional Bank Account –Relational Trust*.

Table 4.6 Tabulating categories to themes

Relationship Code-type of ERP <i>PRP</i>	ERP loss of trust & complaint
Parents–teacher–team leader–principal Parental complaints - disrespectful treatment of a child <i>Racist rhetoric from parental emails—principal avoided problem, teacher resigned</i>	I had a lot of issues with a staff member & parents who had some legitimate concerns about a teacher ... I didn’t have any issues with her competence but the complaints were about performance, timeliness, and mostly her abrasive relationship with children. She had lots of time off; but the racism, disgusting rhetoric [&] emails from parents to the principal escalated the problem. But there are high parental expectations ... & she put in [the] bare minimum of effort; it was really hard. A school like ours is a high-performance school, you have to be fully committed to your job, otherwise you don’t last. The teacher left [with] no notice to go to another job ... She didn’t even say goodbye, she just left, boom, two days after parent meetings where she had asked me to come support her cause the principal had not responded ... (1, Martin, team leader).

The coded episodes from the chain of evidence (see appendix A) were compared and sorted into categories and presented as evidence for the core themes. Some ERP were sorted and mapped to more than one theme or category, however in this study the ERP stories are not replicated in the text. Relevant ERP were mapped to the categories. The selection of evidence for each category and each theme emerged from the aggregate data of ERP (see appendix A). The following core themes are presented as findings chapters:

- 1) Building the emotional bank account: relational trust
- 2) Percolating problems: negotiating power & influence
- 3) Blurred boundaries: governing, leading, and managing.

4.5.1.2 Gaps in the data: justification of four learning stories

The fundamental unit of analysis has been ERP, reduced during coding from longer story/ narratives to sort distinct episodes. However, it became apparent during the process of tabulation that I might have missed an important point compared with my reading of the first ‘case’ that had sparked my interest in this research project: the *Lewis* story. This had been of interest due to the relationship between the chain of events and the implications for the education sector as a whole. I had begun the project conceptualising the investigation as one exploring ‘what, how, why and who’ was involved in the conflict resolution *process* at the *level of the organisation*, but it became clear from the stories I gathered that the phenomena could not only be confined to individual *events, organisations* or *structures*. While the locus of each of the conflict events or stories emerged from individual schools, these issues were events with a process chronology, systemically attached to the wider community, Government and interest groups; influenced by the dominant philosophy of the global education system. I could not tidily isolate the *level of the workplace* from the larger system. To attempt to do so would have produced a tightly bound (fast) micro-study that masked the influences of power, socio-economic systems, demographic and political discourses that affected the social construction of participants’ stories.

What began as an analysis of ERP *events* at the level of the workplace emerged as the study of ERP as a daily *ongoing process* within a wider system in a state of constant change. From comparison of the coded ERP episodes and processes of conflict management, there were four significant stories about distinct processes that could not be reduced into codes. These were subsequently reported as longer narratives which highlight the intersection between ERP and learning and they were categorised by metaphor under the theme *Learning and Transforming ERP*:

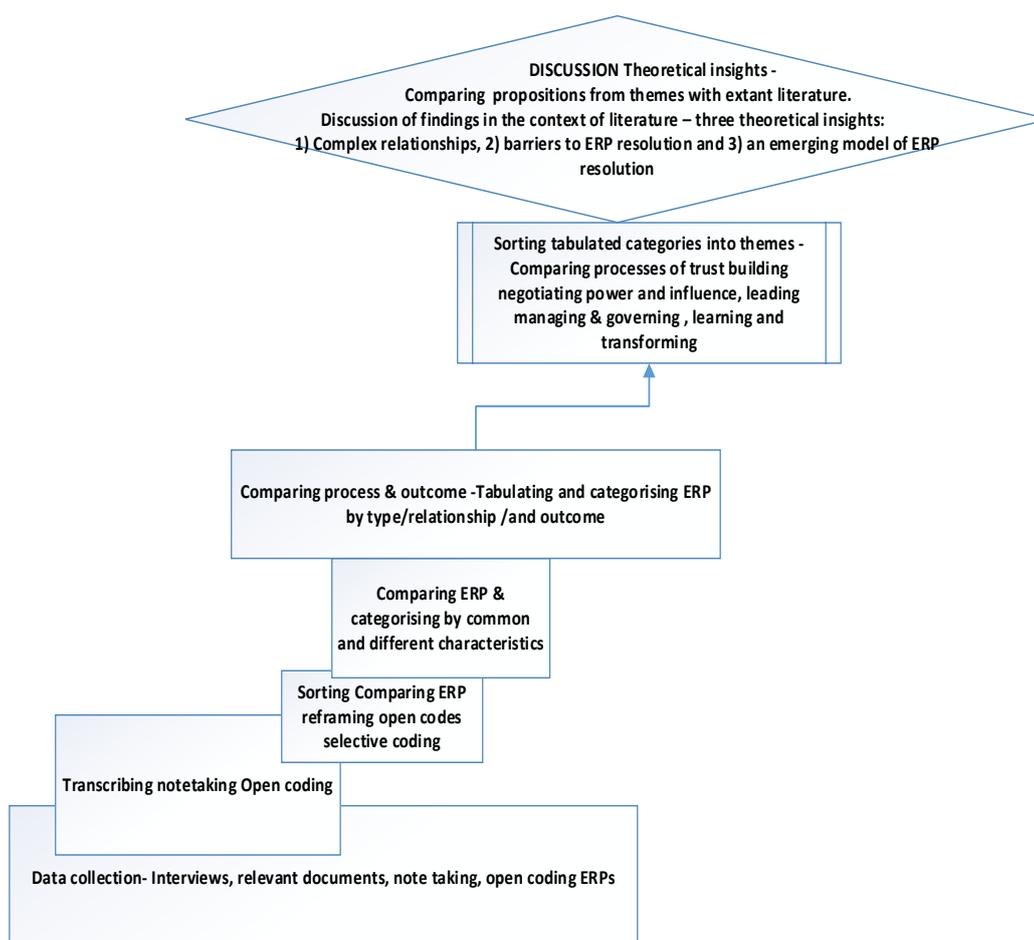
1. *Paddling the Waka in synch*, involved transforming a school by radical change to embed a new culture in the school.
2. *Trapped in inaction*, illustrated the importance of giving voice to parents, to prevent families choosing to leave the school and going elsewhere.
3. *Painting a culture of collaboration* involved a new school creating a collaborative culture, ‘from a blank canvas’.

4. Resigning from dismissal, highlighted the risk of injustice for teachers where confidential settlement, with inaccurate allegations led to a teacher being ‘moved on’ unfairly following a long stressful process.

4.5.2 Integrating the entire project

The data were rendered by comparison throughout overlapping phases of the analysis. Figure 4.2 maps the analysis process from data collection, coding and categorising into themes. The final stage of analysis involved drawing propositions from the themes and comparing extant literature with those propositions. Each chapter of themed findings generated propositions that are presented at the end of the chapter. Those propositions were clustered as evidence for three theoretical insights and discussed in the context of extant literature. The three theoretical insights that have emerged are 1) the dynamic complexity of ERP 2) barriers to ERP resolution and 3) a process model for conflict management. Those insights are discussed and mapped back to themes in chapter nine.

Figure 4. 2 How coding and data analysis proceeded



4.6 Conclusion

This chapter has explained the research process and methodological underpinnings. I have claimed the research process has drawn from the GTM approach to qualitative research. The chapter has explained departures from the traditional GTM with reference to a hybrid theoretical approach to sampling and reframing of open codes to selective codes. However, the chapter has also highlighted how in principle the process drew on GTM by developing propositions from the bottom up where the interview data was coded and categorised as emergent themes then discussed in the context of extant theory. The strength of the study is that the findings remain rich in procedural detail. One challenge has been to present these succinctly. Chapter 5 is the beginning of the reader's journey into the rich, tabulated description of ERP resolution.

Chapter 5: Research Findings: Theme 1 **“Building the Emotional Bank Account—Relational Trust”**

5.1 Introduction

5.1.1 Building the emotional bank account

The theme ‘*building the emotional bank account: relational trust*’ reflects the way one school principal (Catherine) thought about the social process of building trust in relationships. She claimed it was akin to saving financial resources. Experiences that she perceived as ‘deposits’ strengthened relationships and actions she interpreted as ‘withdrawals’ weakened relational trust. The metaphor conveys the core idea of the theme presented in this chapter —workplace conflict management is an ongoing social process that affects trust. The chapter begins by illustrating the complexity of relationships by comparing the legal definition with the relationships discovered in the ERP data. Secondly, the chapter compares situations that were effectively resolved with those that were not, identifying early relational approaches to resolution. Those ERP are followed by examples of ERP that escalated and relationships ended. The third section examines the relationship between ERP and trust, concluding by identifying processes that were considered to resolve ERP early and build trust.

5.1.2 Complexity of relationships

One early significant finding was the complexity of employment relationships in the primary school workplace, as illustrated by the tabulated example in Table 4.4 in the previous chapter. Martin identified himself as a reflective team leader, steeped in collaborative negotiation, dealing with problems at the coalface. His manager, the school principal, received and managed parental complaints, which were written in racist language, about a Māori teacher in his team. The BoT, as the official employer, was informed early about the problems. However, trust broke down when parents’ email complaints were not communicated to the teacher; instead, they went straight to the principal and conflict between the parents and the teacher escalated.

The teacher resigned without giving notice. It was unclear whether the teacher resigned to engage in a different career or due to her experience of workplace conflict. Martin understood this as a lack of open communication between the parents, principal

and teacher. While he had tried, as a leader, to support the teacher, the school’s avoidance of the parents’ concerns and issues of racism led to a breakdown in relational trust. The complex relationships between the principal, parents, teacher and team leader were at the forefront of the ERP experience.

5.2 Who are the Parties in Primary School Employment Relationships?

All of the team leaders who were interviewed mentioned the ongoing, day-to-day nature of managing the complex relationships from which ERP emerged. The dominant relationships identified in the interviews are set out in Table 5.1.

Table 5.1: Relationships identified in the interviews

Relationship	
Principal–senior/team leader (s)	Principal–parent(s)
Senior leader(s)–teacher(s)	Principal–teacher(s)
Teacher–parent(s)	Principal–BoT–Teacher(s)
Teacher–teacher	Principal–BoT
Principal–union–teacher(s)–Government	Principal–BoT Chair

It is significant that participants in this research thought about the parties to employment relationships differently from the definition of the employment relationship used in the ERA 2000. The Act explicitly focuses on the relationship between employer and employee. Teacher–teacher relationships (in other words, employee–employee relationships) are not considered employment relationships; nor are parent–teacher relationships. Teachers’ and principals’ employment agreements and policy directives of the Ministry of Education mirror the construction in the Act. On the other hand, the MBIE states that anything that harms the employer–employee relationship is an ERP, and this includes problems between employees.

Another relationship that was commonly reported in the ERP episodes studied was the relationship between teachers and parents. The significant impact of parental complaints on workplace conflict management was an important finding of this research. The first key question to emerge from the *in vivo* coding was: Who do the participants in this research construct as parties to the employment relationship in primary schools?

5.2.1 The legal framework of the employment relationship

As explained in the Chapter 2, employment relationships, as defined in Section 4(2) of the ERA 2000, includes those between:

- a) an employer and an employee employed by the employer,
- b) a union and an employer,
- c) a union and a member of the union,
- d) a union and another union that are parties bargaining for the same collective agreement, or
- e) a union and another union that are parties to the same collective agreement.

As mentioned earlier, employee–employee relationships are not explicitly covered by the definition, even though a problem between two employees (e.g., a team leader and principal, teacher and teacher, or team leader and teacher) can significantly affect the performance of any of those employees and ultimately, other school and community relationships.

5.2.2 Employment agreements

In the Ministry of Education defines the employment relationship in primary schools as being between the BoT (as the employer) and teachers (as the employees). In their collective and individual employment agreements (Ministry of Education, 2013b, part 1.3 Coverage b), employees are:

- a) teachers
- b) speech language therapists
- c) untrained employees in teacher positions.

However, this agreement does not apply to principals (Ministry of Education, 2013b). The principals' collective employment agreement is more complex, identifying principals as either employees of the BoT or employees of appointed commissioners under delegated authority, depending on the circumstances.

According to the Primary Principals' Collective Agreement, “‘Employer’ shall mean a Board of Trustees (BoT) constituted pursuant to the Education Acts 1964 and 1989 or where a commissioner has been appointed under Part 9 of the Education Act 1989 to act in place of the Board of Trustees” (Ministry of Education, 2013a, s1.4.3).

The MBIE is responsible for delivering dispute resolution services for the state and acknowledges a wider interpretation of the terms ‘employer’ and ‘employee’. The providers of free mediation services recognise employee relationships as integral to the employment relationship.

5.2.3 Who is a party to an employment relationship problem?

Participants identified employee—employee problems as ERP. Similarly, the MBIE mirrors the ERA “recognises an employment relationship problem includes anything that harms or that may harm an employment relationship” (MBIE, 2013a,). While the most obvious relationship is between an employer and an employee, other examples are relationships:

- among employees
- between a union and its members
- between a union and an employer
- among unions covering employees in the same workplace.

The way ERP influence workplace relationships is fundamental to this study. The finding that the complexity of employment relationships in the education sector is not explicitly covered in the ERA 2000 is important because it suggests that conflict management practices have a special role in schools.

The intention of the legislators for a focus on relationships was expressed in an interview with the former Attorney General responsible for the drafting the ERA. As an expert participant in this study, Hon. Margaret Wilson, currently Professor of Public Policy at the University of Waikato, consented to being identified. She stressed the emphasis on relationships thus:

To use the language of relationship was to try and get people to recognise that it isn't entirely legal, that we're not just talking about a legal relationship, but we're talking about a human relationship that is, by and large, hopefully ongoing. So therefore, it requires a different approach, I suppose, than the strict adversarial legal approach to everything (173, Hon. M. Wilson, personal communication, July 13, 2012).

A mediator reflected on gaps in the legislative definition of the employment relationship; however, she treated problems between employees as ERP under the Act because she believed problem resolution was in the interest of the employer:

It's becoming common to receive written complaints about performance and competence between staff members—teachers. The Act does not formally cover many of the conflicts and disputes we have in schools. Usually it's been between the principal and the staff member or between two equal complainers. Well, strictly speaking under the ERA, two employees don't have an employment relationship. How I think of it is that it's the employer who wants these two to get on, so there is an employment relationship between each of them (156, Sarah, mediator).

The important words to note from Sarah's observations above are “two equal complainers”. The emergence of employee—employee complaints being framed as ERP is an area asserted to be growing with the rise of individualism and reward for performance.

In the *Secretary for Education v New Zealand Educational Institute (NZEI)*, the court found the Employment Relations Authority had jurisdiction to determine a dispute involving the NZEI union and the Secretary General because an ERP was “not restricted to the parties to the employment relationship itself but extended to any problem to or arising out of an employment relationship”. However, there is no explicit institutional process for dispute resolution that deals with ERP that involve other stakeholders, such as parents. The idea that parents (other than as members of the Board of Trustees) are party to employment relationships in schools is incorrect in terms of the law, policy and government regulation. However, in terms of practice some ERP recounted by participants in this research suggested parents have substantial influence over employment relationships. While the legislative focus at the time of enactment was on early intervention by way of a fair, fast, mobile mediation service that went to the workplace it did not include ERP involving parents.

5.2.4 What is the legal objective of resolving ERP in the ERA 2000?

5.2.4.1 ERA 2000. Part 9 101 Object of this Part

The object of this Part is—

(a) to recognise that, in resolving employment relationship problems, access to both information and mediation services is more important than adherence to rigid formal procedures; and

(ab) to recognise that employment relationship problems are more likely to be resolved quickly and successfully if the problems are first raised and discussed directly between the parties to the relationship; and

(b) to continue to give special attention to personal grievances, and to facilitate the raising of personal grievances with employers; and

(c) *[Repealed]*

(d) to ensure that the role of the Authority and the court in resolving employment relationship problems is to determine the rights and obligations of the parties rather than to fix terms and conditions of employment.

5.2.4.2 Early mediation assistance: A free, fast and fair mobile mediation service

The notion that relational problems between employees or with their managers should be resolved early was central to the former Attorney General’s thinking when crafting the ERA 2000:

The ideas for the ERA probably went back to experiences of the 1970s in research on workers’ participation in management; not only the literature told you this, but reality did. If you can get the problem or the issue sorted at the lowest possible level, then you’re more likely to get a resolution than not, in most cases. If you can get them at the right moment, to get the people involved in the conflict to work out what’s happening, then you’re likely to get a resolution that’s more satisfactory and long lasting. Therefore, that was the whole idea that informed the Act; that by problem solving you can create a better understanding of what is happening (Hon. M. Wilson, personal communication, July 13, 2012).

Albeit this legislation provided for early mediation, implementation was not without resistance:

We were meant to be open about mediation and go to site to be involved early in the process. But when the new Act was implemented, the former Tribunal employees, including the chief mediator, decided to replicate the old system ... they took over as informal managers and they replicated the old system. But this has changed. MBIE now offers early workplace assistance (155, Sarah, mediator).

5.3 Early Relational Approaches & Resolution of Employment Relationship Problems

This section examines ERP in which problem resolution processes had a relational focus and preserved the ongoing employment relationship. In Table 5.2 the headings of ‘Relationship’, coded ‘**Descriptor or type of ERP**’ and ‘*Problem resolution process (PRP)*’ are located in the left-hand column against the participant’s exemplar or story in the right-hand column.

Table 5.2: Early relational ERP resolution

Relationship Code - type of ERP <i>PRP</i>	Participant’s description of resolved ERP
Senior team leader–teacher Negative style & tone in conversation <i>Mediation, listening, reframing recognition acknowledgement</i>	Both parties used a negative style & tone in conversations: “ <i>She’s telling lies; he’s such a bully; he’s so demanding; she’s so unreasonable; she won’t let me do this; he won’t cooperate with us.</i> ” This was resolved by mediation, using reframing, listening, recognition & acknowledgement of different thinking about the issues (129, Adele, mediator).
Team leader–teacher Angry verbal exchanges about nasty notes <i>Mediation resolved issue & built communication awareness</i>	There were high levels of angry verbal exchanges: “ <i>She doesn’t need to know every time I go to the toilet; there is retribution through nasty notes</i> ”. There had been shifts in power, changes in roles, a male had managed [the] female; now the female was managing the same male. This was resolved by exploring awareness of communication styles during mediation (130, Adele, mediator).
Team leader–teacher Change in planning support <i>Narrative mediation</i>	Change to support for planning, individuals suddenly had to plan themselves. The story told was “ <i>Camp Mother used to prepare teaching resources; now camp leader has left people to do it themselves</i> ”. Resolved by ‘ <i>narrative</i> ’ mediation (131. Adele, mediator).
Team leader–teacher Lack of communication awareness, terrible relationships <i>Mediation communication awareness</i>	“ <i>I’m having difficulty getting this person to do what I want & this person has got a terrible relationship with others.</i> ” The problem involved a lack of awareness, ... on the teacher’s part, ... oblivious to the impact of their communication behaviour on other people. This was resolved by talking with the parties confidentially in the workplace (149, Raife, mediator).

Relationship Code - type of ERP PRP	Participant's description of resolved ERP
Team leader–teacher Feeling undervalued <i>Early workplace mediation, recognition & acknowledgement</i>	People feel that they're not valued & leaders say ... the teachers are just trying to get time or money out of me, ... if you let that go very quickly we have it escalated to a personal grievance. The leader tells the mediator, " <i>This person has been into me & feels undervalued</i> ". ... I talk to the teacher & she's been feeling undervalued. It's got nothing to do with pay or time; it's about a lack of awareness & trying to educate leaders into recognising that ... people tend to be multi-taskers so they are putting in a huge number of different skills that need to be recognised & acknowledged. [This was] resolved on-site by early workplace mediation (150, Raife, mediator).
Team leader–parent Intimidating parental behaviour <i>Face-to-face conversation relationship building</i>	A ... parent was intimidating/bullying young teachers by taking over the classroom. I intervened ... invited her in to be a part of ongoing learning in my classroom. We built a relationship through face-to-face conversation. I always approach & try to de-escalate. She was parenting alone & very motivated for her children to do well. It strengthened the relationship. The kids are happy, I admire their mum, now she is great support in the classroom (2, Martin, team leader).
Teacher–teacher Not communicating <i>Mediating, using teachers' natural problem-solving skills</i>	A successful early assistance mediation that I did was about a team leader saying, " <i>I want more communication from you; that's why I've been grumpy; it's because you're not communicating</i> ". The team of teachers came up naturally with a solution ... a mnemonic in 5 Fs of communication. [Teachers have a] lot of skills ... that make them very good problem solvers (158, Sarah, mediator).
Principal–teachers Change—a complex tipping point, too many withdrawals <i>Mediation</i>	In workplace relationships, you make deposits, you make withdrawals, & as long as there are more deposits than withdrawals, you're all right. For example, this mediation was about change. The new principal added duties, removed administrative support & made new times for staff meetings. It was an accumulation of stuff. There are tipping points. Too many withdrawals & not enough deposits. So there are usually multiple causes. Resolved by mediation (132, Adele, mediator).
Acting Principal– BoT/combative parents Combative parental complaints—bullying <i>Open inquiry, acknowledgement, collaborative conflict management</i>	Parents came in to sort out child bullying issues & they were in quite a combative mood. The acting principal was fabulous & very open; he said, " <i>Look, I can't begin to understand how you must feel but how can we help, what can we do, this is what we have already done, ... you tell us what you want</i> ". He was very open & he had an openness about his own vulnerability. He said " <i>Look, I'm not quite sure what's going on ... I think this is what's happening, but ...</i> " He was fabulous & it was done in a way that the whole tension in the room deflated like a balloon (114, Maggie, Parent, BoT, lawyer).
Teacher–teacher Disrespectful dialogue <i>Mental models/respectful conversation</i>	A parent reported ... that a staff member was not showing respect. The teacher was heard yelling at a colleague in front of children. This was resolved by assumption checking & a difficult conversation with the teacher about different mental models & modelling elements of respectful communication (9, Lisa, principal).
Teacher–principal Aggrieved re unsuccessful promotion application <i>Reflective talking document</i>	Sometimes a staff member can feel really aggrieved by something. One example might be that two teachers go for the same job in a senior role & one ends up not getting it. So you have to have empathy for them & really work with that person. One staff member wrote me a letter & said, " <i>I feel this, this, & this</i> ". They said they couldn't talk about it, so we sat down; I had the letter in front of me for the purposes of reflective coaching. It was a talking document & the teacher remained on the staff (12, Lisa, principal).

Relationship Code - type of ERP <i>PRP</i>	Participant's description of resolved ERP
Parent–teacher–principal Disrespectful dialogue towards a child <i>Apology & learning support</i>	There was a complaint about a teacher using inappropriate communication with a child, yelling at the child to “ <i>get a brain</i> ”. This teacher was speaking disrespectfully to a child. There was a conversation, an apology. I say to teachers, “ <i>Admit when you’re wrong. Just say: I’m a human, I shouldn’t have said that, I’m terribly sorry. I’m more than happy to apologise to your child & say ‘It’s a dumb thing for a teacher to say’.</i> ” The teacher was youthful. In the end, [the] process built a stronger relationship. It is important in these situations to respond in timely way & not let the teacher walk away feeling as though [they] have been sold down [the] river (16, Lisa, principal).
Teachers–principal–parents Parents complaining <i>Looking at the problem from different perspectives—perspective checking</i>	Parents are quite hard on teachers ... —there are always complaints bouncing around about teaching, curriculum, National Standards, policies, rules & treatment of children. I hold a meeting using a technique I was taught at Harvard in ’05. I said, “ <i>I’ll meet with you but don’t think that I feel comfortable about you attacking my staff.</i> ” I name the behaviour, refrain from attacking. We sit at a round table & I get out a big number 3 & say, “ <i>From various angles, we see different things (M 3 E)</i> ”. We look at the problem from all of the perspectives & it usually resolves (21, Lisa, principal).
Teachers–team leader–principal Allocation of teaching resources <i>Negotiation coaching</i>	This problem was about the allocation of teaching resources. The team leader lacked negotiation & communication skills. They all went running to the principal. I mediated it by coaching them in negotiation. I said to the team leader, “ <i>I’m not going to do it for you. Here are some things that you can do to help you decide ... you can try negotiating on interests ... some process stuff, but in the end I’m not doing it—you’re going to do it</i> ” (168, Adele, mediator).

The episodes described above highlight the pervasive nature of parental complaints. However, there were also many successful processes that facilitated resolution, including open communication, perception and assumption checking, collaborative problem solving and early mediation. Sarah identified a relationship between problem solving and learning, saying that teachers were natural problem solvers. Mediators used negotiation coaching and transformative approaches to build awareness. Lisa’s perception checking, learned during a summer school leadership course at Harvard University in 2005, was a success. She dealt collaboratively with complaints while remaining supportive to teachers. Martin approached conflict as an opportunity to build trust and strengthen relationships by working through issues through reflective communication. The positive contribution of open communication is threaded throughout the exemplars of successful resolution. The sense that there are always complaints ‘*bouncing around*’, requiring face-to-face communication, highlights the ongoing nature of conflicts and the value of prioritising emerging problems early to prevent damage to the ongoing relationship.

5.4 Employment Relationship Problems Escalated—Relationships Ended

This section presents episodes with outcomes that were less successful than those recounted above. There was a lack of early collaborative problem solving and the conflict escalated and employment relationships ended. The section begins with an extract from an interview with an Employment Court Judge who warned schools to take a special approach to conflict management, due to the risk of ‘double jeopardy’, where teachers risked losing both their job and their career. That is followed by a mediator’s exemplar that suggests negotiations between lawyers, unions and BoTs undermines trust in the ERP resolution processes because the negotiations are motivated by settlement rather than resolution.

With regard to the risk of double jeopardy, the Employment Court Judge said:

An Exclusive Brethren teacher was dismissed for alleged misconduct, which had to be, under the statute, the subject of a report to the Teacher Registration Board (but it wasn’t misconduct). An employment inquiry leads to a complaint to the Registration Board, the teacher faces being deregistered, is not able to work anywhere in the profession. The school overlooked that. It is important to get it right because a teacher can be dismissed from a job with a school, also professionally disciplined and excluded from the profession ... plus have the double jeopardy of their professional licensing cancelled [or] suspended (224, Employment Court Judge).

A mediator reinforced the risk of injustice for teachers and identified the subsequent role unions play in avoiding the Teachers Registration Board:

Unions play a huge part in actual cases in education ... it’s massive. ... If someone was grumpy around their performance review and left in the middle of it, that went to the Teachers Council and they got a black mark against them because they left in the middle of the dispute. ... This NZEI guy, who wasn’t a qualified lawyer but he was a very, very good bush lawyer, settled a huge number of cases, big ones. It was best to resolve or settle; otherwise, it could be viewed [negatively] from the outside. We knew the history of how things settled. So we were bargaining for an outcome; we knew how to bargain for an outcome that was correct for the market. I suppose you could say it was settlement rather than resolution (159, Sarah, mediator).

The difference between *settlement* and *resolution* implies the outcome was one of monetary compensation rather than resolution of relational conflict. While the mediator above appeared to understand the school sector, she referred to *bargaining in a market*, which is a term usually reserved for discussion of the supply and demand of commodities. This is an interesting use of language because the mediator and the NZEI representative’s construction of problem solving as *bargaining for an outcome that was correct for the market* was not how teachers and principals understood ERP resolution. In Chapter 9, the proposition that there is a difference between the way teachers and these two dispute resolvers thought about teaching is discussed, comparing the

conceptualisation of teaching labour as identity, a commodity and/or a social relationship. That discussion highlights an important difference in thinking. Language frames conceptions that cue what is valued and what is expected from teachers.

Table 5.3 reports findings pertaining to problems that were not resolved, in which conflict escalated and relationships ended. One employment relations investigator was succinct in his analysis of how and why workplace problems escalate:

Things that escalate problems are preconceived notions, an unwillingness to listen, information that doesn't necessarily reflect the truth, and communication about how you deal with it. The other thing that escalates issues is not dealing with it and that's one of the biggest problems (244, Bill, employment relations investigator).

Table 5.3: ERP that escalated

Relationship Code - type of ERP <i>PRP</i>	Participant's description of ERP that escalated
Principal–teachers Autocratic, combative, contemptuous communication <i>Loss of trust & confidence, end of employment relationship</i>	A principal had a really offhand way of speaking to people. I said to him that he needed to modify the way he spoke to people. There was a lot of mentoring him about how to deal with things without escalating them, without getting people's backs up, improving his communication skills. He had quite a combative way ... he was an autocratic principal ... & that's another ... whole dynamic ... those people who lock themselves away or separate their management team from the rest of the people is a ship heading for disaster Whenever he didn't like what anybody said, he would go, "Ugh." It was a contemptuous sort of dismissal of the issue. People would get infuriated. ... When I confronted him, he said, "I can't change it, that's the way I am" & I said to him, "The message you give is that they don't matter". Sadly, he couldn't change it. Well, he had completely lost the trust & confidence of his whole team. Sadly, he moved on. Trust & confidence is at the heart of everything (195, John employment relations investigator).
Principal–teacher–insurance companies–BoT Early adversarial investigation, notification of insurance company <i>Negotiated exit settlement</i>	In a situation where it gets too adversarial too quickly, it may be a lawyer trying to score points ... A lawyer said, "Oh you'd better get your insurance company on deck because it's going to be potentially a personal grievance ...". But on the other hand, she'd also flagged a possible mediation, so she was keeping open both things & threatening you with the most expensive legal process. ... I'd hold out the olive branch of mediation. But unfortunately, by the time it gets to an investigation, there's a polarisation. Unfortunately, a majority of investigations lead to an agreed-upon exit (165, Adam, mediator, academic).
BoT Chair–principal Contemptuous Chair contaminating the Board <i>Resignation</i>	There was situation where the Chair held the principal in complete & utter contempt [and] then contaminated the Board. It's a recipe for disaster—how a principal can function in that environment is very hard to understand or imagine, the principal left (107, Eron, Mediator, BoT, lawyer).
Teachers–BoT–principal Fixed term v. permanent <i>Follow collective process over substance</i>	Two teachers have been on long-term relieving contracts for four or five years; now they are deemed 'permanent' under the law. They were getting very twitchy because their employment is up in the air & that's just not fair. There is a process to be followed in the collective & we just have to make sure that the process is right, but when it breaks down it's almost always because of process, not substance (190, John, employment relations investigator).

Relationship Code - type of ERP <i>PRP</i>	Participant's description of ERP that escalated
Teacher–teacher Written formal complaint = problem escalation <i>Schools have the skills but early assistance failed</i>	It is becoming common to receive formal complaints between staff members over an informal relationship issue, complaints about performance & competence between teachers. A written complaint is usually what people mean when they use the term ‘formal complaint’—it might be an email. And that’s the point where a lot of school managers, principals & BoTs decide that they are out of their area of competence. I don’t think they are. But they decide they’re not up to it. ... I’ve decided that when there’s been a formal letter of complaint, the early assistance model doesn’t work so well because it can be too prolonged ... the drama has built up ... the conflict has built up (153, Sarah, mediator).
Principal–BoT Disrespectful dialogue & process <i>Exit settlement negotiation</i>	You had almost an entire Board & a principal around a table & the mediator allowing the Board members to heckle the principal while he/she was trying to speak. The state mediator failed to intervene when people constantly interrupted. The principal didn’t want the exit package that eventuated—it wasn’t about that, it was staying on & doing the job. And the problem for principals who exit that way is: How do they get another job? You know, if a principal is, let’s say, aged 50 plus, it’s a real serious problem. Settled by exit negotiation (137, Eron, lawyer, ADR mediator, BoT Chair).
Teacher–teacher Violence, complex relationships <i>Lack of HRM, process mistakes are made</i>	One teacher was violent towards another teacher. There was union involvement. I conducted a complex investigation. There is a lack of professional HRM persons in schools. The relationships are complex. Schools have difficulty analysing problems & approaching not only the substance of the problem but also getting the process right. ... There is incredible complexity in the investigations ... schools make process mistakes (143, Adam, academic, mediator, investigator).
BoT–principal–teacher Competency <i>Exit settlement mediation, legalism, insurance-ism</i>	There were professional competency issues. So a principal, & then Board, began to have competency concerns with a teacher. The union was brought in, insurance companies were notified, lawyers were called; there was a mediation. But the relationship was beyond repair by then & it wouldn’t have mattered who mediated ... no one was going to fix it. Exit settlement at state-sponsored mediation (135, Eron, lawyer, mediator, BoT Chair).

5.4.1 Education, a special case?

The exemplars above highlight the risk for the emotional bank account and ever-present possibility of the loss of relational trust in complex relationships between BoTs, principals and teachers. The Employment Court Judge quoted earlier suggested that schools need a specialised, education-focused problem resolution system because teachers face a very real risk of losing their career if an ERP goes badly. There is a relationship between this risk and trust in dispute resolution processes for teachers, emphasised by the Judge’s comment that there were problems with the current state provision of mediation services for employees in the education sector:

The Mediation Service can take a while and they’re not particularly focused on education. Mediators are focused on getting a resolution of the problem and they may handle an engineering works problem, [then] a shop assistant the next. They try to get a resolution quickly because there’s a lot of pressure on them, they do two or three of

these a day; they're not going to be able to take the time to get outside educational input. If you have early mediation, it needs to be expert mediation and people in the education sector probably need to think about their own problem resolution mechanisms (225, Employment Court Judge).

The notion that educators could design specialised workplace problem resolution processes has weight because teachers are facilitators of problem solving with students in the classroom. However, problem solving did not necessarily flow into employment relationship problem resolution.

5.4.2 Teachers' contribution to escalation

According to one expert in education employment law, who was also an investigator and appraiser, teachers who acted contentiously were distrusting of managerialism and problems emerged from their sense of equal status with the principal. Teachers were resistant to being managed:

There was a lot of bad faith amongst employees. ... When staff are unhappy, you get this dynamic of a group of people who are all educated, so the teaching staff form a group who consider themselves all to be equals with the principal. They respect each other as professionals, some are more experienced than others, but you know they act as if, professionally, we're all a group of equals. I think it creates conflict in terms of an unwillingness sometimes to be told by a principal, this is going to happen. ... Some staff will object very much in the educational sector to an authoritarian management style. I mean, nobody likes that really, but the education sector, I think, responds badly. People that come in and are very directive—you know, "I'm the principal; this is what's going to happen"—have a recipe for conflict in the education sector (215, Carl, lawyer & investigator).

According to Carl, this was explained by the mindset of collective organisation and commitment to consultation. He identified a tension between rights, collectivism and managerial hierarchy influenced by the size of the school:

The teacher unions have always pushed that we work collaboratively, cooperatively together—we're kind of professional equals and we'll work together and help each other. In small schools that's fine; [in] bigger schools you've got to have a hierarchy and you've got to have lines of responsibility and so the bigger schools accept "okay, he's the boss and we do what we're told". [In] smaller schools, you'll still find staff thinking, "well you know, I've got a right to tell the principal, I've got a right to have a say how things should be in the school". I think that some teachers need a little bit of a reality check in employment terms about what their rights are to have a say in how the school is run (207, Carl, lawyer & investigator).

5.4.3 Parents' contribution to escalation

While some teachers had an expectation that consultation was a right, participants across all of the data sets said parents also actively claimed their right to have a say. The school has the *loco parentis* responsibility where the school takes the place of the parent. For parents, this shared parenting role is one of emotional attachment to their children. The inclusion of parents' participation in decisions

concerning teachers’ employment appears to be one that engages emotion and influences relational trust in the *emotional bank account* of the employment relationship. In some ERP, parental complaint had a negative impact on trust between teachers, principals, parents and BoTs. It is significant that parent–teacher and teacher–teacher complaints were common among the exemplars that follow where trust had been damaged by complaint, tabulated in the category ‘*a culture of complaint*’ in Table 5.4.

5.5 A Culture of Complaint: Loss of Trust

Table 5.4: ERP loss of trust & complaint

Relationship Code-type of ERP <i>PRP</i>	Participant’s description of ERP loss of trust & complaint
Parents–teacher–team leader–principal Parental complaints - disrespectful treatment of a child <i>Racist rhetoric from parental emails—principal avoided problem, teacher resigned</i>	I had a lot of issues with a staff member & parents who had some legitimate concerns about a teacher ... I didn’t have any issues with her competence but the complaints were about performance, timeliness, as well as her abrasive relationship with children. She had lots of time off; but the racism, disgusting rhetoric [&] emails from parents to the principal escalated the problem. But there are high parental expectations ... & she put in [the] bare minimum of effort; trust was low it was really hard. A school like ours is a high-performance school, you have to be fully committed to your job, otherwise you don’t last. The teacher left [with] no notice to go to another job ... She didn’t even say goodbye, she just left, boom, two days after parent meetings where she had asked me to come support her cause. ... (1, Martin, team leader).
Teacher–parents–principal Parental complaint disrespectful treatment of a child <i>Avoidance of managing the dispute</i>	I find the stand-off between “he said/she said” (between parents & teachers) quite hard ... Well, I don’t know what it is that makes me kind of hesitant to say ... this but, I mean, I can think of one example maybe more ... if I kind of dig deeper about that teacher’s behaviour, one example ... [pause] I did see her [the teacher] move the head of the child (48). The Board has had two complaints in writing but there are also some other issues around parents’ perceptions of her teaching & her leadership (50, Anita, principal).
Parents–teacher–principal Parental complaint Perceived disrespectful dialogue to children <i>Difficult conversation, loss of confidence, teacher exit</i>	I had a staff member with a hearing impairment who appeared to yell constantly at the children & parents were concerned they complained... He lost confidence & left the profession. We talked—it was a difficult conversation. He decided he was not suited to the classroom ... Parents take you on, complain about anything, in a decile 10 school (10, Lisa, principal).
Parent–teacher Parental complaint Disrespecting a child, poor performance or misconduct <i>Investigation, teacher exit</i>	A child stepped on a piece of equipment & the teacher abused the child saying he/she is ‘hopeless & useless’. An investigation found that’s a poor way to teach. I think that’s poor performance, but abusing the kid for stepping on the equipment could also be misconduct. We did not agree on whichever it was. I can’t give you a clear, bright line between a concept of poor performance resulting in a bad outcome, & misconduct resulting in a very bad outcome; it was the same thing (144, Adam, mediator, academic, investigator).

Relationship Code-type of ERP PRP	Participant's description of ERP loss of trust & complaint
New principal–parents Parental complaints Children's placement in classes <i>Unsuccessful negotiating of decision making, family exited</i>	We hadn't put a child with their friend in a classroom. I said, "But there will be kids in there that you know." So friendship is not driver of school, & ... every time we talked about that kid's behaviour it was always blamed back at us because previously in this school they said we used to put children with their friends first. So that caused a whole lot of grief for a year till they finally left the school. We now have a complaints policy & [the] only thing they can complain about is my process, not my decision. We have had a lot fewer complaints since that policy (41, Peter, principal).
Teacher–parents–BoT–principal Parental complaint about ill-treatment of a child <i>Escalated/negotiated teacher exit</i>	There was a complaint against a teacher's perceived ill-treatment of a student. Through the maelstrom of conflict relationships & [the] complicated raft of legal & social obligations, they rushed for lawyers & an external investigator; & none of it saved it from escalating. They had no education input. It would have been better to have sought dispute resolution advice, problem-solving advice, [or] interest-based advice rather than simply looking to lawyers to get rights-based processes (166, Adele, mediator).
Parents–principals–teachers Communication Complaint <i>Mediation cut through legal differences</i>	What about complaints that the principal is not communicating well with parents or the Board & there is a serious loss of confidence & trust in the principal? There is such a lot of loss of trust and it does not fit neatly into any area of law ... it is all on the same spectrum. The mediation process can cut through all the legal differences & get to what is it that these people have done, what needs to be fixed, & what is the way forward (183, Adam, mediator, academic, investigator).
Ministry of Education A culture of complaint, intervention, investigation <i>Investigation before Ministerial appointments of commissioners or statutory managers</i>	Basically, it's a culture of complaint. The problem is that the Ministry of Education responds to complaints [&] puts in statutory intervention when a sufficient number of complaints go directly to them, or a year report, which itself will be usually dealing with a barrage of complaints when the ERO team turned up in the school. Now, I think that results in the Ministry getting a comment from the Board & from the principal about what sort of intervention is required, but the appointment of a statutory manager or whatever to achieve outcomes is sometimes just the ministerial predetermined direction of the intervention. It may be better if that appointee or somebody went into the school & did a proper analysis first. Okay, there are a lot of complaints but what are the complaints really about, you know, what is the real validity; there may be lots of unhappy people & the Ministry responds to the fact that there are lots of unhappy people, but it's a complaint that needs a fair investigation (210, Carl, investigator, lawyer).

In the cases above, the culture of complaint was based on parental dissatisfaction with teacher performance and teachers' disrespectful treatment of children. However, this culture of complaint was claimed to be located more in high-performing schools than in schools in lower socio-economic areas. Principals in fast-growing urban schools observed that they experienced more parental complaints, which they believed were influenced by demographic factors such as parents' professional status and high socio-economic indicators. Lisa, a principal in a decile 10 school, said:

If I compare complaints and problems to when I worked in a low-decile school, parents are scared stiff of the teachers in a really big way; they think we are godly things, you know, that aren't to be taken on. Decile 10 is the whole other end of the spectrum.

You'll get taken on over every little wee thing. I have teachers putting up signs on their doors saying they are not available before 8.45am otherwise complaint & problem conversations take up class preparation time before school (21, Lisa, principal).

Lisa's suggestion that complaint is a product of unreasonable expectations implies that parents from high socio-economic areas in decile 10 schools are likely to be more demanding and therefore teachers are more likely to experience complaints. In Chapter 6, that assertion is reinforced by a principal from a decile 1 school, who discusses different relationship between parents and teachers in the context of a low socio-economic demographic. However, regardless of the decile level of the school, the importance of respectful dialogue permeated all the interviews.

The next section presents the professional expectations of dialogue between members of the school community that contribute to trust in the of the employment relationship. ERP that highlighted the role of disrespectful dialogue and mismatched expectations are presented in Table 5.5.

5.5.1 Professional dialogue and trust

Table 5.5: Mismatched expectations and loss of trust

Relationship Code - type of ERP <i>PRP</i>	ERP—episodes of mismatched professional expectations & loss of trust
Teacher–teacher–principal Disrespecting children, mentoring by put-downs <i>Natural justice process</i>	This problem related to the way a teacher [spoke] to students. There was a formal complaint about this, followed by a response from the teacher to the complainant, “ <i>You stay in your corner, I’ll stay in mine</i> ”, followed by an interpersonal relationship breakdown. Then there were three more complaints about the tone of voice, continuing lack of respect for children, mentoring by put-downs, & a growing concern from one of the three complainants. We instituted a process of natural justice where the teacher had the opportunity to attend meetings with a support person & time to change his/her behaviour. We followed the letter of the law. Professionalism builds trust & capacity. In this case, the teacher resigned (31, Steven, principal).
Principal–teacher–parents Intercultural incompetence, disrespectful treatment towards parents who were new New Zealanders <i>Difficult conversation</i>	I observed cultural contempt, eye rolling & not being open & welcoming towards parents who may lack confidence at school when they were asking to do things differently. This was between a Chinese parent & a young Pākehā teacher. I conducted a difficult conversation & required behavioural change. We value & celebrate diversity here. This needs to be explicitly & implicitly embedded in the culture of our school (29, Maree, principal).
BoT member–principal Disrespectful communication in Board meetings, parent BoT member <i>Board member exited role after the first term of office</i>	This principal has been here for a long time & he/she is secretive & defensive. The culture of the school is all about projecting to the world how great we are, how good we are in terms of standards ... it’s all about meeting the highest standard possible in reflecting the school as being great (this is a decile 10 public school wanting to be thought about as a private school). But the issue is that it’s all about this thing called ‘the school’ & less about ‘the children’, even though everyone says it’s about the children. I don’t trust people; they roll their eyes when I want to talk about these matters at Board meetings. I am not standing for a second term (113, Maggie, Parent, BoT, Lawyer).

Relationship Code - type of ERP <i>PRP</i>	ERP—episodes of mismatched professional expectations & loss of trust
Principal–teacher–teacher Disrespectful meeting behaviour, poor listening & communication skills <i>Training in collaborative conversations</i>	At planning meetings, staff behaved as if they were being railroaded by each other; they were talking over each other, there was a lack of listening, & competition instead of collaboration. This resulted in a loss of trust. It took time for trust to be rebuilt after we addressed the behaviour. Collaboration is necessary in our school, where we work in learning hubs rather than single cells. I ask them, “ <i>Are you collaborating or competing?</i> ” We sought training (26, Maree, principal).
BoT–Board Chair–principal Board treating the principal contemptuously, perceptions of incompetence, loss of trust beyond repair <i>Principal exit</i>	By the time a Board, led by a Chair, absolutely hated or held in contempt a principal ... it was beyond repair. So much is about timing, isn't it? And you don't reach a state of utter contempt overnight; that happens from an accumulation of experiences ... of incompetence & lack of trust ... emotional responses. So if you're going to turn that type of emotional response around, that's only going to be done through early intervention. The best you could ever hope for is a transitional process of limping along until someone leaves—but you'll never, ever repair the relationship (136, Eron, lawyer, mediator , BoT Chair).
Principal/teacher Teacher perceived as undermining principal, loss of trust <i>Who is neutral? Conflicting interests</i>	In a situation where a principal said to a teacher, “ <i>You are undermining me, I've lost trust & confidence in you</i> ”, [& that teacher had an issue with the principal], now you might want a mediator. They do sometimes use the union but it is hard for the teacher to request the neutral facilitator or mediator (216, Carl, investigator, lawyer).
Principal–teachers Mutual respect, opinion vs authority, status, loss of trust <i>How do we negotiate a common understanding of respect & disrespect?</i>	Some people feel disrespected if you disagree with them & that's the problem for the principal. What would be disrespect for me? What does disrespect mean in an employment situation? If you belittled my opinion or simply dismissed it, it won't bother me. If you give me a direct order & say, “ <i>look can you go & do that ...</i> ”. What is disrespect? Do people know ... it when they see it? You've got a lot of intelligent staff & they want to contribute & they've got ideas & they say, “ <i>Can we do this/let's do this/what about this?</i> ”, & the principal says, “ <i>How dare you tell me how to run the school. You are challenging my authority</i> ”. Or if you ask the question, “ <i>why we are doing this?</i> ” and the reply is “ <i>Just do it. You're challenging my authority</i> ”. Now that is felt as disrespect. Now the principal feels “ <i>You're not respecting my authority</i> ”, but the person on the other side feels “ <i>You're not respecting my professionalism & my status as a teacher</i> ”, & you know trust is going (214, Carl, investigator, lawyer).

Relationship Code - type of ERP <i>PRP</i>	ERP—episodes of mismatched professional expectations & loss of trust
New principal-school community Undermining leadership <i>I was going to resign until the Chairperson intervened</i>	The school had a principal who'd been here for about 20 years & the school grew from 200 to 800 students. He was well known, well loved, & then they bring me in; of course there's going to be huge conflict in the community & [it will be] unsettling. And he hasn't let go, which caused problems for me. It was difficult. He kept coming back. He was there on the last day of school in the morning. He didn't tell me. And then another time, I was in an office meeting with three other intermediate principals & he just walked in & said, " <i>Oh, hi</i> ", like it was sort of like, his place still. So, he was back [in] two weeks, came in for morning tea, which was fine, & said to me, " <i>Can you show me around school?</i> " I said, " <i>You can find your own way around!</i> " So you know, we're quite different. I'm quite ... I mean he was really affable & friendly & kind but I'm a bit more hard-nosed. It's a very dangerous situation. After 18 months I thought I was going to resign, I just couldn't handle it any more, it got so bad. I have rules & I won't ... like, the school used to waive rules for some people & ... I've always said, " <i>I'm not prepared to play God, rules are rules, I'm not playing with people's lives. Rules are designed to ... I mean you bend rules around those things & also around friendships ...</i> " It was all that transition time. The Board Chair was smart enough to be able to manage that in the end ... all that conflict & all that upset & grief. He is an industrial relations lawyer (45, Peter, principal).

In the above table, Carl articulated an important problem for teachers who need access to an early dispute resolution process when the problem is between the principal and that teacher.

What do I do if I am a teacher and I want to make a complaint? I'm unhappy, I don't like the way the principal talks with me, I have to interact with him every day and he/she just makes me feel like crap. Now what do I do about this, who do I complain to? I go and complain to the principal, that's hard, I don't know how to do that but the principal says, "Don't go to the Board. You have to come to me; if you've got a complaint, you have to come to me". All right, I go to the principal and I make a complaint and he just says, "Well, you are just challenging my authority". So now where do I go? (211, Carl, investigator, lawyer).

The conflict of interest in the situation of discord between a principal and a teacher highlights an important tension created by the power imbalance in the employment relationship; the teacher's attempt to seek support from colleagues can be viewed as strategic alliance building and acting in bad faith, undermining the principal. The exemplars above highlighted a gap in systems and processes for dealing with complaints fairly and quickly in order to learn from conflict, retain and build trust in relationships. The idea that trust building is ongoing is the focus of the next section.

5.5.2 The relationship between employment relationship problems and trust

Trust is an outcome of effective relationships. Quite often I hear it asserted as an input to be trusting but I think you actually become trusting on the basis of the quality of the interaction you experience. In our education system, there is paranoia and a lot of closed assumptions about what is good and what is bad. You can see that highlighted with the debate around National Standards—most of the education profession is vitriolic on one

side and [there's] a fairly staunch Government on the other, with a reasonably supportive public siding with the Government (239, Colleen, education evaluator).

The tensions between the political beliefs of the union, BoTs, parents, the Government, principals and teachers were mirrored in extraordinarily insightful narratives from this study's participants. Their stories highlighted the complexity of the relationship between trust and ERP in schools. They deserve to be given space here because they provided such rich understandings about trust, engagement, consultation, acknowledgement and recognition, across socio-economic demographics.

When Thomas arrived as principal at a suburban decile 1 school, he found conflict and illegal behaviour "embedded throughout the culture of the school":

I'd uncovered a huge amount of fraud within the school. The DP [deputy principal] was stealing money and resources and laptops, a whole range of things that'd been going on for yonks. At the Board level, we were re-envisioning the school and looking at the mission statement and the vision statement. The motto of the school was (when I started, and had been since the school opened) to 'be honest'. So that used to make me laugh, all these rules they had 'do not, do not' [and] their vision statement 'be honest', all the things they weren't doing. It took us a whole year to develop a new vision statement and our values and where we wanted to head. And I thought, "This is going to be a joke, we're not going to get parents involved in this process compared to high-decile schools".

But it was the best experience I've ever had. Out of all my schools as a principal, I had the most buy-in and involvement here. It might have taken a lot of talking and a lot of time but it was unbelievable. It was amazing. They [parents] came to the focus group meetings and the conversations went on for ages ... and ... they were such sad stories "My older boy came to the school and principals and the teachers did not care". They were telling all these stories, which seemed irrelevant to what we were doing now, but it was good for them and fed into what we needed to become trusted (55, Thomas, principal).

Thomas highlighted the role of respect, acknowledgement, recognition and participation in building trust. He identified a complex network of implicit social agreements between the parental community, educators and the organisation. This suggests an ongoing explicit role of building trust in the aggregate 'emotional bank account' through processes of participation across the school community, especially between teachers and parents.

From the perspective of her expert academic dispute resolution skills, Adele understood teacher disengagement, distrust and contempt as symptomatic of a gap between teacher identity and the managerial prerogative of the business management model. She described schools as systems in which loss of trust was the result of a breach of the social contract between Government, society and schools:

Schools are more like villages than businesses, because in villages, people do a bunch of stuff for nothing and they are involved in a whole lot of things that interlock and they will do heaps to help and be engaged with their village. If they feel like they're excluded from their village, then they just ... pariahs ... they just do nothing. Whatever

government policies and procedures are, they're a social contract; they're a living document; they're part of how we decently treat people; and they've got to be informed. They've got to be informed by educational advice, in an educational environment; it's the core activity that they are engaged in (171, Adele, mediator, academic & ADR expert).

An example of a senior teacher's perception of the social contract emerged as I was writing this chapter. Unexpectedly, I received a telephone call from Cary, a deputy principal, whom I had interviewed early during fieldwork. She was ringing to tell me about why she was leaving her education career of more than 20 years. Her words echoed Adele's insights:

It seems to me that in policy and practice, this is the beginning of performance pay and schools as high-performance workplaces. Who are going to be our evaluators—parents? We engage in ongoing professional development, reflective practice, but apparently we are not to be trusted. I have always worked many more hours than I have been paid in weekends, after school and during all of my holidays. One day I woke up and thought, "I don't want to be there anymore. I don't want to go to work". I used to love it but you give so much of yourself. There came a time when I needed to save some of that giving for myself (8b, Cary, deputy principal).

Cary was disillusioned with government policy and implied there was a lack of trust in teachers. She feared the idea of performance pay and suggested there was a risk that parents would act as evaluators of teaching practice. This, she claimed, was a fundamental change in the way we constructed our understanding of the role of teaching in society and it was beginning to be reflected in the behaviour of teachers:

I think it is a change. In the old days you taught because you loved kids and you wanted to be with kids and now ... anything you do, you are supposed to be rewarded ... people don't want to do anything unless they are paid for it. It is a philosophical thing that we are there for the kids, so why are teachers not prepared to do whatever we need to do, to do the right thing by the kids? But there's the next generation who think that unless they are paid then they won't go the extra mile ... there is some sort of relationship between the incentives to take on extra work or they are not prepared to do extra ... you can't quantify the good teacher (8b, Cary, deputy principal).

This philosophical shift, in which individual benefits were being weighed against the collective good, was also identified by Professor Wilson as a shift in social structures. When talking about the impact of change on trust she said:

The dilemma I feel at the moment is about trying to work out a new analysis as I call it, because there's now a whole generation of kids, young people, and now not-so-young people, who have experienced nothing but insecurity, in terms of trust ... now how do you build institutions and structures when you have destroyed trust in just about everything ... it's very hard, actually, and what do you do? (Hon. Professor Margaret Wilson).

The concerns of Professor Wilson, Adele and Cary regarding the philosophical application of the business model to the human relationship were reflected in an employment mediator's narrative about the difference between mediating education sector disputes and commercial employment disputes:

They are saying we're special, we're teachers, we can't possibly be treated like people on an assembly line ... a vehicle assembly plant. ... I don't know if that's a useful insight, but that's one of my experiences that commercial employment mediation is different because it's about money, the deal and nothing else (185, Adam, DR practitioner & academic legal expert).

Cary hinted at why this relationship was different when she said people used to do the job because 'they loved kids' but now the performance management approach was undermining trust. However, there were processes that reportedly built trust in relationships at other schools and these were framed as *deposits in the emotional bank account*. The processes involved collaborative meaning making, reframing complaint and modelling appropriate behaviour, as outlined in the next section, beginning with Table 5.6.

5.6 Processes that Built Trust

Table 5.6: Processes that built trust

Relationship Code-type of ERP <i>PRP</i>	Exemplars of processes that built trust
All school relationships Sensemaking biases <i>Assumption checking, collaborative process, dialogue capacity building, honest conversations</i>	When you jump to conclusions & take a short process, we interpret actions differently. Biases mean you have to double-check understandings. Building trust is not a short-term thing. There is a 'walk the talk' aspect; it's modelling. [But] even with the best stories & discussion, you do get it wrong from time to time. You need to build the capacity of the whole school by insisting on collaboration while remembering that one size does not fit all (37, Steven, principal).
Government-schools Complaints <i>Reframing 'complaint' to 'suggestions for improvement'</i>	Well, you know when ERO came & said, " <i>Can we see your file of complaints?</i> " I said, " <i>We don't have any. ... We have a file of suggestions for improvement</i> ". If a parent has got a complaint, they have got to come with two solutions about what we can do about it (74, Catherine, principal).
Team Leader-team members Reflective Dialogue <i>Maintaining relationships, reflective practice, spending quality professional time with colleagues</i>	I think I'm good with communicating in relationships. I have three foci that underpin everything I do. First ..., establish & maintain positive peer relationships—number one for me. Second, engaging in reflective practice. Third, maximising quality professional time. So those are the three prongs that underpin everything. On top of that is relationships. I always seek to encourage positive relationships & work on those, building trust through dialogue with people, spending time with people. I think those are the key links to people in general (4, Martin, team leader).
Senior team-Principal Giving feedback <i>Organisational learning, solution focus rather than problem focus</i>	We did dialogic conversations where my senior manager & I've analysed all different types of learning conversations. We've done a comparison; also been reading some stuff around courageous conversations & mediation conversations & just looking at, do you use different things for different ways? So we're just doing lots of research at the moment. What we want to do with our staff next year is actually empower them to work out how you give feedback that's positive in moving people on. So, we are more solution focused rather than problem based, which is probably what we've done more in the past (76, Catherine, principal).

Relationship Code-type of ERP PRP	Exemplars of processes that built trust
Senior leaders- Principal Listening processes <i>A focus on process to build trust, avoiding banking resentment, leading through dialogue meetings</i>	We need a mediator. One team leader does bank grievances. She'll bring things up that happened three years ago to remind me about stuff & I'm thinking, we've got to get through that ... I'm focusing on process ... I haven't resolved in myself how I deal with content yet but it's working in a sense. Well, maybe I don't have to deal with content because ... I actually just deal with process & trust that everything's being heard & put it all out on table (77, Catherine, principal).
Whole school Norm -respectful dialogue <i>Respectful dialogue</i>	The expectation at our school is to be respectful; if not—if ultimately the way people speak to each other involves irreverence, aggression or antagonism—if it continues, I make it an employment issue. I think principals do set the standard for what's ok, they do set the tone for [the] organisation; they will encourage appropriate behaviours & follow-up on bad behaviour too (80, Edward, principal).
Principal–staff Principal mediator <i>Open door—the principal's job is a mediator's job, conflict resolution policy</i>	Staff bring their problems to work; principals are the person they confide in. The principal is the conflict resolution expert; the principal is in charge of leadership & that involves lots of conflict resolution. You have to have a policy & if you don't have one, you should get one or you will trip yourself up (82, Edward, principal).
Team leaders Intra team relationships <i>Early intervention, separate preliminary meetings, support at joint meetings</i>	I have regular meetings with my team leaders & we talk about " <i>How are relationships?</i> " ... It's part of [the] learning curve of good leadership, but it's also part of [the] learning curve of maintaining professional relationships that allow school & teachers to focus on what they need to focus on & for necessary actions to be done in a respectful way. Early intervention is best. If you let something build up, it's just going to explode. I always talk to people with the issue first individually, before I will put them together. Just little steps like that. Even if you think it's just a simple thing & I'll be able to solve this in a couple of minutes, I have a chat with each of them first & suggest "I think we need to bring this together. Bring somebody in with you if you want support but you don't have to". It's setting [the] ground work for communication as much as dealing with problems (85, Edward, principal).
Principal–BoT Chair Open communication <i>Listening & respectful dialogue</i>	They are issues of communication in part. They are not raising issues that are going to go bump in the night with the Chair & not keeping the Chair informed of things—you know, some of those sorts of issues, not sort of trusting, because that relationship with the Chair & the principal is critical. You need to stick by the principal, like glue, or you're stuffed it seems to me ... because once there's a dispute you've got major problems for the school, so you've got to be able to talk things through & trust each other, to sign each other out, & to be able to say to the person, " <i>Actually, on that I think you're wrong</i> ". And be able to hear each other out & change your views on stuff & the Chair has got to be able to say that [&] the principal has got to be able to say that to the Chair. You've got to be respectful & we listen to each other & we as a Board or the Principal at times win, get our own way you know, but you go out there united, because if you're not, then you're stuffed. So you've got to do those things, & if you've got a principal who won't in private, thrash things out, ... you have got a major problem (232, Michael, employment lawyer & BoT Chair).

Relationship Code-type of ERP PRP	Exemplars of processes that built trust
<p>All school relationships Respectful dialogue <i>A culture of open collaborative problem solving communication, building trust through support & regular conversations</i></p>	<p>Ongoing dialogue ...an environment where, if you ask for class management support, it's provided. If you inform others that you are going through something then we will give assistance, we will give you personally as much support as professional support. "<i>We can't do anything about what we don't know about</i>" becomes part of [the] culture too. It doesn't mean people have to necessarily like each other, but it builds a professional respect ... having problem solving conversations regardless of the form of those conversations ... they have to have been had regularly (87, Edward, principal).</p>
<p>Teachers–principal–children Recognition & acknowledgement <i>Building trust through affirmation, building a culture of respect</i></p>	<p>I've had teachers say to me when complaining about a principal, "<i>When we're talking with our kids, we're positive with them, we affirm them, we speak to them respectfully, ... this is how we are role modelling to them, & shouldn't the same happen to us?</i>" I said, "<i>Well, I'm not entirely sure that you can make a straight transfer from the teacher to the child or the employer to the teacher, ... the principal to the teacher, ... because you are adults & you're expected to be a little bit more robust sometimes & not need quite so much nurturing</i>". But I suppose there is, definitely for teachers, a need because a lot of people who are in teaching do really care about the kids & they affirm them & they respect them & encourage them & all that sort of thing, then they go outside the classroom & then in their working relationships they see something completely different. The principal just presents edicts & you've got to do this, & he was rude to so-and-so & they've got a contrast straight in front of them. Teachers are complaining & they say, "<i>Here's what we're supposed to be doing in the classroom, why is it different for us?</i>" So they take their analogy from that situation & they debate it. Why should it be different, really? People still want to feel respected (200, Carl, investigator, lawyer).</p>

The barriers to respect, according to Bill, were similar to Steven's warning to avoid making assumptions or jumping to conclusions:

Losing respect, trust and confidence is often due to an unwillingness to listen, again, the communication process, how you deal with issues, or [don't] deal ... with issues. That is one of the biggest problems—not dealing with problems early enough. Trust and confidence is important; it is at the heart of everything (245, Bill, employment relations investigator).

This significant quote highlights the core finding of this chapter, the idea of building mutual trust, which was the vision of the Attorney General in the drafting of the ERA 2000. That same vision was mirrored by Catherine, whose metaphor framed this chapter.

I recognise that underpinning a lot of stuff I do with people is about relationships So every day I'm out at [the] gate and I go up to parents and I introduce myself and I chat to them and I make jokes with them and you know, make that personal connection. I mean, I'm thinking about potential conflicts between me and staff, or me and parents; there is quite a bit of good faith coming to [the] table, so I think that is a really important antecedent for keeping things at bay, really. So it's all pre-empted stuff that you do even before any conflict ever happens. Building the emotional bank account ... is a really important antecedent for keeping things at bay, really. And the aim is that this is reflected in the culture of the whole school. ERO reported (2011), "The Board and staff have high levels of engagement with school community and strong consultation and communication processes are in place. ... The school has a robust, high-energy,

positive learning culture ... underpinned by positive relationships and the school's philosophy of living and learning together" (61, Catherine, principal).

5.7 Conclusion

The findings presented in this chapter have identified a complex range of stakeholders in the employment relationship. The categories escalation, a culture of complaint and mis-matched expectations suggest the objectives of legislators for early resolution are yet to be fully realised. The category processes that built trust has identified the positive role of respectful dialogue, collaborative, open communication, and processes for joint problem solving in the whole school community. Given the complexity of the employment relationship in schools, ongoing open communication and processes for exploring different interpretations of ERP may be an antecedent to building mutual trust. There is evidence here that early attention to ERP and complaints helps to build a culture of respect. In Catherine's words, a relationship focus supported the *building of the emotional bank account* by anticipating conflict, developing trust over time and thereby preventing conflict escalation. While a collaborative philosophy of *living and learning together* was a preferred approach for Catherine, the findings in the next chapter identify barriers to collaboration associated with the negotiation of power and influence in the ERP reported.

The propositions summarise the findings emerging from the categories presented in this chapter in Table 5.7. The table illustrates the relationship between the categories and processes that informed the propositions. In the discussion in Chapter 9, these propositions and the propositions from Chapters 6, 7 and 8 are discussed in the context of extant literature.

Table 5.7: Propositions—Building the emotional bank account—Relational trust

Interrelated subcategories	Propositions
<p>Who are the parties to ERP? ↓ Teachers, team leaders, principals, BoT., parents, teacher aides—a range of stakeholders other than employees & employers</p>	<ol style="list-style-type: none"> 1. School ERP are more complex than those prescribed in the ERA 2000 between an employer & employee. 2. ERP can be influenced by other stakeholders in the wider school community—parents are influential. 3. In practice, some MBIE mediators recognise complexity in relationships, providing assistance in employee–employee disputes. 4. There are no specific institutional processes for ERP resolution involving parents. 5.
<p>What were the intentions of legislators? ↓ An early relational problem-solving approach to ERP resolution</p>	<ol style="list-style-type: none"> 6. The language and intentions of the ERA 2000 reflect the principle that early resolution by joint problem solving is more likely to be satisfactory and long lasting than instigating legal causes of action. 7. The intentions of the ERA 2000 for mobile mediation through early problem solving in the workplace was resisted by the mediators from the former Employment Tribunal & employment lawyers.
<p>How did relational approaches help resolve ERP? ↓ Ongoing relationship building, early collaborative meaning making (perspective checking/ interrupting ladder of inference open to learning conversations) & awareness of communication styles, negotiation coaching & transformative mediation all supported ERP resolution</p>	<ol style="list-style-type: none"> 8. Ongoing face-to-face relationship building (talking, joking, listening) acts as an antecedent, developing & trust, preventing escalation of inevitable conflicts. 9. Early coaching in recognition, acknowledgement, reframing & listening supports ERP resolution. 10. Coaching in communication awareness of appropriate dialogue supports ERP resolution. 11. Narrative & transformative mediation are successful approaches to resolving ERP & retaining relationships. 12. During periods of change, there is an association between adding duties & taking away benefits that impacts on trust, depending on the perceived balance between the two. 13. Mediating change requires acknowledgement of task and relationship complexity in the school system. 14. Reflective processes that examine mental models & perspective checking are effective for handling complaints & early resolution of ERP.
<p>What factors damage trust &/or escalate ERP? ↓ Processes for evaluating teachers, competitive approaches to communication & conflict management & a mismatch between the way we think about teaching labour as a caring service or a commodity</p>	<ol style="list-style-type: none"> 15. Autocratic, combative communication damages trust. 16. Disrespectful dialogue between adults & towards children is a significant factor in the emergence & the escalation of ERP. 17. Investigation & statutory intervention may disadvantage principals. 18. Precarious, short-term contracts & fear of non-renewal undermines trust, fuelling ERP. 19. The loss of a job following reports to the Teachers Registration Board can result in the end of a career. 20. There is an association between staff tensions & different conceptualisations of teaching & the escalation of ERP—some think of teachers’ labour as a commodity, while others think of it as identity & service.
<p>What processes build trust? ↓ Assumption checking, collaborative dialogue, being</p>	<ol style="list-style-type: none"> 21. Collaborative respectful dialogue builds trust. 22. Acknowledgement of the difficulty for teachers’ identity and roles as trusted responsible caregivers when the managerial prerogative is being exercised builds trust.

Interrelated subcategories	Propositions
solution focused, organisational learning, open communication about explicit processes, & factors in the school that are necessary for building a collaborative culture of respect & trust that are school specific	23. Leaders who recognise that trust is an outcome of effective, quality relationships, builds capacity for handling problems & complaints. 24. A collaborative philosophy of living & learning together builds trust. 25. Early attention to collaborative sensemaking builds trust & demonstrates acceptance of different conceptualisations of problems to be resolved, potentially building capacity in collaborative conflict resolution across the whole school community.

Chapter 6: Research Findings: Theme 2

“Percolating Problems—Negotiating Power & Influence”

To label somebody, as a bully in the context of the school environment, that is a bit like labelling a Sunday school teacher as a pervert ... it's damning and powerful stuff (134, Eron, BoT/mediator/lawyer).

6.1 Introduction

This chapter presents evidence supporting the theme, *Percolating problems: negotiating power*. Peter's metaphor communicated a similarity between day-to-day ongoing ERP and the potential energy of hot liquid before boiling. The categories reported in this chapter suggest ERP perceived as bullying can escalate to engulf the wider school community. This was verified by leaders, ADR practitioners, members of BoTs, and legal and education experts. In the quote above, Eron alluded to the moral outrage associated with accusations of inappropriate behaviour in organisations that care for children.

The first category, *making sense of bullying*, explores the judgement in *Lewis v Howick Board of Trustees*, to ascertain how the investigation of a complaint of bullying was viewed by the Employment Court. The category *understanding ill-treatment and bullying* compares and contrasts stories of alleged bullying perpetrated by people with and without authority: leaders, governors, unions, parents and teaching staff. Thirdly, *negotiating diversity* reports ERP across gender, age, culture and ethnicity in situations in which there was a sense of ill-treatment. The fourth category, *competence performance and power*, is about processes of dismissal and resignation in cases in which the margins between the two processes were blurred. Finally, a repeated category, *the power of complaint: a culture of settlement* focuses on parental complaints about teacher performance, competence and conduct.

These findings suggested that understanding how, from where and in what contexts ERP emerge was crucial to interpreting them. The potential for complaints to percolate throughout the school system, with complex shifts in power, illustrates the risk of misinterpretation and escalation, in which energy focuses on defining behaviour through legal courses of action and fault finding over collaborative sensemaking and problem solving.

6.1.1 Making sense of bullying—Lewis v Howick Board of Trustees

The starting point for this study originated with the case of *Lewis v Howick Board of Trustees*. While that case was outlined in Chapter 2, in this section I search for

deeper understanding of the allegation of bullying. The ERP in *Lewis* focused on a complaint about angry exchanges between Lewis and the Dean during a moderation meeting. The conflict escalated to accusations that Mr Lewis was bullying his Dean, Mrs R, who made a formal complaint to the BoT. The conflict had initially involved disagreement about assessment moderation. However, the formal complaint and subsequent investigation failed to bring to the surface a range of differing needs, interests and perspectives involved in the exchanges between Mr Lewis and Mrs R:

The significant complaint by Mrs R was that she was ‘over-ruled’ by Mr Lewis that she defined as bullying and harassment. The Court said if the Board had investigated the allegation appropriately it would have obtained evidence from a colleague of both Mr Lewis and Mrs R which would have led to the conclusion that Mr Lewis along with other staff members had raised appropriate professional concerns about course content, assessment and moderation and were justified in doing so. Mrs R may not have liked the outcomes but this was not harassment and bullying (Hannan, 2012, p.64).

In spite of the nature of the verbal exchange, the complaint escalated into an ERP involving acrimonious investigation, led by the Board Chair. Adversarial legal negotiations began in February 2008, ending in litigation in 2010, in which Mr Lewis was found to have been unjustifiably dismissed. Reinstatement was not possible; he was unable to return to the school and Mrs R remained a senior leader. From *Lewis*, the Court identified that there was a need to adopt a procedurally “high standard” of appropriate investigation. Hannan (2012) advised BoTs and their advisers “emotion, personal affront and dislike be rigorously put aside in dealing with competency and disciplinary matters in the education sector” (p.64). It was noted in the *Lewis* case that Mr Lewis had been at the school for 20 years and in 2002, had made complaints of being bullied by a staff member who had since left the school. Mr Lewis had taken sick leave on that occasion but returned without any further difficulties until 2008. Thus, Mr Lewis had both experienced bullying and then been accused of bullying. His subsequent defence of the accusation led to the loss of his 20-year career, in spite of being found to have been unjustifiably dismissed. There was harm for both parties in the ERP that was not mitigated by the dispute resolution process. What was particularly problematic in this case was the ease with which behaviour was labelled as ‘bullying’, without deeper exploration of intentions and other plausible interpretations, moreover formal investigation fuelled escalation.

The aim of the following section is to examine episodes where there were accusations of ill-treatment and bullying. The assertions reported involved relationships between teachers and principals, chairs of BoTs and principals, and the union and young teachers. In these episodes, authority did not always rest with the employer. BoT

members reported feeling bullied by both Board chairs and principals. Members of one BoT were claimed to have been bullied by the principal in a decile 1 school, while another principal felt bullied by a parent who was also a staff member. Power shifted between parties during ERP. In another instance, ill-treatment and blame had been embedded in the school culture for some time and the relationship between staff members and unions seemed to be problematic. One principal claimed she found it difficult to get her staff to appoint a representative to the NZEI because young teachers had repeatedly reported being bullied by older union members.

Table 6.1: Making sense of bullying

Relationship Code -type of ERP PRP	Participant's description of making sense of bullying
Teachers–principal Ill-treatment/blame <i>Transformative mediation resolution & retention</i>	A nasty situation; an all-female staff had behaved appallingly towards each other for far too long, then someone was shoulder tapped, blamed as being the person who was responsible. She felt very aggrieved. The principal was resistant to mediation, adamant she wasn't going to move or pay one cent. The mediator did a transformative process; the aggrieved party remains employed, without any repeat of the problem (125, Alana, BoT, mediator & lawyer).
Senior teacher–deputy principal/principal Objection>verbal abuse> intimidation>bullying> silenced <i>Resolved by statutory management</i>	The principal managed by power. You left if you did not comply with him. He was always bullying; there were lots of times when he would just intimidate people. He would try & intimidate if we objected but we didn't object because he was just verbally abusive (93, 96, 97, Lavinia, deputy principal).
Principal–teacher–teacher aide–BoT Chair Accusations>complaint about dialogue-claims of bullying acknowledged>management authority- restored>trust damaged <i>Chair of the Board support for principal's authority—settled, but barrier to woman teacher's future promotion</i>	This story is about the lowest point of my career. I felt bullied; I nearly resigned. I responded in a staff meeting to a percolating problem that was going on for a long time, expressed as an accusation by a teacher, who was also a parent. [She] said, " <i>It's disgusting you getting rid of the music programme</i> ". It was due to a building project. She had been going around talking to all the staff. I said, " <i>Is that personal or professional?</i> " The shit hit the fan; she stormed out crying. I gave her time to recover then went down & said, " <i>I'd like to speak to you</i> ". I was sitting down & she was standing up & you know, she kept that power relationship & I deliberately did everything to remove my power. I sat at a round table to talk & she stood, left the door open. I said, " <i>Shut the door</i> "; she said, " <i>No, you're just a marketing man; you have no understanding of education philosophy</i> ". She's a senior teacher & she went off at me, blew smoke up my arse. I thought, this is not really good to be in this sort of situation so I said, " <i>Then I've got nothing more to say to you</i> ". Her friend, a teacher aide, was in her room & she wrote a letter of complaint to the Board Chair about the way I spoke. My Board Chair came in & said, " <i>We've had this written complaint about you</i> ". But the Board dealt with it well; they said as the principal is the employer, he had the right to speak to any employee at any time & the employee did not have the right to refuse him. That teacher is still here & this year I gave her a unit for literacy; I think we have a good relationship but I don't think I'd ever make her my DP, I'd never trust someone who did that in public, you know what I mean? (46, Peter, principal).

Relationship Code -type of ERP PRP	Participant's description of making sense of bullying
BoT parent–principal Bullying>silenced> disempowered Board members <i>Resolved by statutory management</i>	The school was, like, gloomy; I was silent. I wasn't allowed to say anything; I was to sit here & listen. Wow, it was a mess. They had no idea what the hell they were doing. ... The principal was a bully—had power but no mana—I didn't respect him. Like in Board meetings, " <i>I'm the principal, in charge of everything</i> ". Board meetings were a shambles; it was just chaos (128, Arini, BoT parent rep).
New principal–BoT Chair Excluding>undermining> withholding information> bullying <i>Bridge building/stating aspirations/challenging the behaviour/record keeping/ learning/resolved by natural exit</i>	I was just terrified the night before every single meeting & I'm not that kind of person & it gutted me, it got to me so much. I was bullied by the Board chairperson who wouldn't communicate or reply to me ... & all that bullying kind of behaviour. In his speech he said, " <i>I think we have appointed the right principal</i> " & then he would be undermining decisions at Board meetings; you knew he had been on the telephone to everyone. In the end, I pulled him in because he was talking about writing to the Government. I was scared actually & I couldn't understand why they appointed me. I asked, " <i>Why did you appoint me when you treat me like this? I aspire to have a really good working relationship with the Board Chair. I think the trust between us has been undermined.</i> " It was about control & power, that was my take on it. I kept building bridges. I have a file of emails—people wouldn't believe actually—when I started documenting the whole list of things that happened. He was a 70-year-old politician, wanted me to be subservient. I took it all quite personally. It was awful. I learned a huge amount from it. He did not stand for the Board a second time (27, Maree, principal).
Principal–BoT–ERO Lack of information sharing >aggressive oral communication>yelling> bullying <i>Escalated conflict with regulators, resolved by statutory management</i>	It was a control thing. We knew nothing about finance or five-year maintenance plans because he controlled the whole thing. I mean, ERO pulled him up on the last two reviews. They wracked him up about why didn't the Board know about the upkeep of the school &, um, he just screamed them down—he bullied & screamed ERO down (138b, Arini, BoT member).
Teacher–NZEI union reps Aggressive dialogue>militant bargaining>solidarity ultimatums>bullying <i>Positional bargaining vs collaborative negotiation</i>	Our staff doesn't like NZEI. They really don't like them. The rep resigned because at meetings she gets abused, told, " <i>You will do X & you will do Y & you will say this</i> ", & I mean they are all grey-headed oldies & she's a Gen-Y & she just gets absolutely furious. It pushes every button & she stands up & says " <i>I don't agree with your process</i> " & they basically tell her to shut up. So she walks out & she said a lot of young ones in NZEI are saying same; they don't want to know. Our staff don't like the NZEI organisation; they think that they are out of touch with them & I think a lot of teachers would rather be going for a win–win than a win–lose. I think that a lot of aggressiveness is not doing them any favours. They would like to see more dialogue than conflict. Staff went to a paid union meeting that was really militant. The NZEI person's coming to meet with them but I can't get anyone who wants to be the NZEI rep (70, Catherine, principal).
Principal–teaching staff Abrasive management style >labelled bullying, laying down the law <i>Staff complaint to the Board through staff trustee>Board Chair reminds trustees about Code of Ethics>Board supports</i>	I've seen one situation where the issue was the principal's management style & it was extremely abrasive. Staff did find it very abrasive, pretty close to bullying, although it wasn't bullying ... you see, bullying is really targeting a person. But teachers tend to use the word 'bullying' when they just mean that the principal is abrasive. Quite often, it's not really bullying at all, it's just the principal's style. You know, the principal has the right to lay down the law in terms of behaviour. It's a common dynamic. Then the staff start to petition the Board through the staff trustee but they are not a

Relationship Code -type of ERP PRP	Participant's description of making sense of bullying
<i>principal</i>	representative of staff concerns—all trustees have a code of ethics but the Board Chair can't enforce that. [He] simply reminds trustees they are not managers & supports the principal (201, Carl, employment relations investigator).

A contest for influence and power is illustrated in this table with reference to repeated behaviour occurring over time: *for far too long/lots of times/going around talking to lots of staff/before every Board meeting/the last two reviews*. The longer interpersonal conflict was allowed to continue, the more likely there was to be escalation of conflict and blame. Problems emerged in the context of staff, Board and union meetings in which people had *lost face/lost mana/felt intimidated or undermined/were yelled at/shouted down*. One emergent proposition is that there is an association between aggressive behaviour in meetings, loss of face and assertions of bullying, as illustrated in the episodes reported by Peter, Lavinia and Maree, and reinforced by the Court's judgement and Hannan's (2012) advice following the case of *Lewis*.

When there was assertive disagreement in staff meetings and loss of face/shame, that behaviour was interpreted as bullying. Angry verbal intimidation by leaders in meetings and explicit ongoing silencing of subordinates was conceptualised as bullying. A curt, authoritative tone was also perceived as bullying; however, the mediation practice of simulating or mirroring the behaviour subsequently reframed this as a curt tone and emotive language, thereby unpacking misinterpretation and misunderstanding of intention. Similarly, transformative mediation was a successful intervention for resolving long-term embedded intra-school conflict. Acknowledgement and identification of mutual aspirations, and recognition of legitimate authority for those with power, positively influenced outcomes. Power shifted during the course of the ERP in Peter's case, where he experienced feelings of *shame* and *blame*. He was ready to resign but his mana was restored by the Board Chair acknowledging his authority.

Problems were resolved where there was early face-to-face communication. Maree, a first-time female principal, kept records, named the behaviour, engaged in bridge building and negotiated mutual aspirations. Alana reported that transformative mediation successfully retained a staff member in a situation in which there had been no hope, and the process resolved a systemic problem of ill-treatment in an all-female school. Conversely, Peter reported that a highly emotional ERP was settled but the

resulting lack of relational trust would be a barrier to career advancement for the woman who had challenged him. This was an example of resolution for the principal; however, the woman may have been unaware that her future career was in jeopardy. Both people felt bullied.

It appears that assumptions about gender influenced the negotiations in the episodes presented in Table 6.2, and age and gender were influential factors in two ERP that escalated to the Court: *Lewis* and *McKean*. Whether age and gender were significant factors in the eyes of Ms R or Lewis, we cannot be sure. The next section focuses on gender and intergenerational struggles for influence in situations where ill-treatment and/or bullying were asserted.

6.2 Negotiating Influence Across Diversity: Age and Gender

Table 6.2: Contesting power & influence: gender & age

Relationship Code-type of ERP <i>PRP</i>	Participant's description of contesting power & influence
Older male teachers–women line managers Contesting power across gender & age <i>Escalation>exit</i>	In two different cases (in <i>Lewis</i> & in <i>McKean</i>), they were both men who came into teaching late in their careers [&] had younger women as direct line managers, with whom they fell out. The female Dean of Economics felt ‘bullied’ by Lewis. McKean [was] appraised by two women [&] claimed he was ‘stitched up’ by the DP & team leader (226, Employment Court Judge).
Deputy principal & principal–team leader Belittling sarcasm, micro-managing <i>Loss of trust</i>	My older male principal & deputy use belittling sarcasm in meetings towards team leaders & embarrass one woman in front of others at staff meetings. The DP pulled me up during assembly for having my hands in my pockets at assembly. He micro-manages me; it damages trust it’s been going on for too long (3, Martin, team leader).
Young male teacher–older woman leader Unsuccessful promotion application <i>Lost mana>disengagement</i>	During the appointment of a new deputy principal, to replace me a young male was unsuccessful. An older woman new to the school was appointed & he didn’t feel valued. Thereafter, the loss of mana was obvious in ongoing disengagement, lack of trust & ongoing conflict between him & the new female deputy principal (6, Cary, deputy principal).
Team leader/teacher Emotive language <i>Perception checking by simulation</i>	In the primary sector, it is a largely female workforce. I think about how females & males operate differently. People use emotive language. In one investigation, the woman victim who asserted bullying constantly used the words, “ <i>He screamed & yelled</i> ”. I said, “ <i>I want you to replicate the kind of voice for screaming & yelling, because I need to know exactly what it is</i> ”. She spoke curtly & abruptly to me. But there’s a huge difference between bullying & speaking abruptly (246, Bill, employment relations investigator).

The episodes above illustrated different interpretations of ill-treatment and workplace bullying, and these examples appear to have been influenced by age and gender. When teachers are older than their line managers, disagreement and perceptions of *overruling* leaders in meetings may increase the risk of bullying complaints from

young leaders. The Judge's observations about the two litigated cases, *Lewis* and *McKean*, suggested that contested power underpinned relationships between mature men managed by younger women. Cary reported that a young male team leader felt disempowered when an older woman (new to the school) was appointed to the DP role over him. On the other hand, irrespective of gender, Martin reported the use of sarcasm, directed at both himself as a young male team leader and a woman teacher in his team, as an ongoing tool for micro-management. As an emerging leader, he lost trust in his older senior male leaders who used belittling, sarcasm and processes of micro-management towards him and members of his team.

In contrast, a female deputy principal claimed power was being asserted by a new male principal who was challenging her right to smoke during the lunch hour and she threatened union intervention if this continued. She claimed that off-site smoking and taking sick leave to care for dependents were 'rights'. These episodes indicated that between generations and genders, there were complex understandings of appropriate behaviour that sat beneath the surface of everyday contests for influence and power in workplace relationships. These different behavioural expectations may or may not have been bullying. There were also different process expectations across the generations of union members, with some young union members objecting to militant processes. Aggressive dialogue could lead to the escalation of commitment to position by young union members, as some young teachers' preferred collaborative negotiation over positional bargaining. There was a perceived reduction in young teachers' union participation due to positional bargaining.

How people understood the intentions and style of communication was a factor in the negotiation of the problems described above. Assertive dialogue by older male teachers towards subordinate young female line managers could be interpreted as bullying. John utilised a process of role-playing to make sense of emotive language, demonstrating the difference between screaming and yelling and an abrupt, curt tone of voice. Percolating underneath the surface, there were unmet needs for power, pride, mana, respect and trust across age and gender. Ongoing tensions manifested as disengagement, power struggles and complaint, and escalated conflict in unresolved cases. These ongoing percolating problems were complex.

In addition to age and gender, problems were influenced by other sources of identity. Araini was a Māori woman on the BoT along with an older Māori male principal. Traditionally on the marae, women do not have speaking rights. Lavinia was a Māori woman, older than her school's young Pākehā principal. These different

identities may have played a role in the parties' personal management of the conflicts described above. The next section explores the role of ethnicity and culture in ERP. Some episodes resulted in the severance of the employment relationship.

6.3 Negotiating Influence Across Diversity: Ethnicity and Culture

In the examples in this section, diversity in culture and ethnicity created complex barriers to mutual understanding and those dimensions influenced the outcomes of ERP. Principals, teachers and deputy principals highlighted the complexity of communicating across cultures. One employment relations investigator highlighted that this could involve regional differences as well as ethnicity.

I had to speak to the principal behind a curtain; he was behind a curtain because he couldn't look at me. In a Muslim school you have to dress differently. And you don't say to a Pacific Islander: "You'll be at work at such and such a time, won't you?" The 'won't' means 'not to turn up'. Between Auckland and Christchurch, it's like chalk and cheese ... when I investigate ERP, it's a battle, and ERP are more complex in Auckland because of the diversity of cultures in the population. Relationships are very much about culture; in the Far North, it's almost entirely Māori. In Auckland, you have to learn to work with a variety of nationalities. In Christchurch it is more collaborative (250, Bill, employment relations investigator).

6.4 Dismissal Versus Resignation: Negotiating Across Cultures

The following significant episode involves the ending of the employment relationship due to issues of competency related to cultural difference. Here, Thomas reported incompetence in more detail. He asserted that incompetent staff had been hired by a previous principal through an immigration agency. Thomas said he felt terrible about the process he adopted for negotiating the resignation below, but he justified the process as being in the best interests of the students.

I felt so sad about this woman. I'd done an observation. It was the worst lesson I'd seen in my entire bloody life. It was a maths lesson. I'd already planned to watch an English lesson. I walked out at the end of the period and she would've seen the look on my face. She came into my office at morning tea and she said, "How was the lesson, Mr Thomas?" I looked at her and I said, "It was the worst lesson I've seen in my entire life. I hope your English lesson is going to be a bit better than that". So then I go in after morning tea to the English lesson and it was even worse. So I had to decide, do I make a point here or do I sit through it. So I decided I'm going to make a point so I just got up and left. I didn't say anything to her or make a scene with the kids so she knew, oh shit. She came and saw me at the end of period 3. She said, "You didn't like my lesson?" "No," I said, "and I can't see how we're going to be able to work through a programme of support and guidance to help you get more effective. I don't believe in a million years it's going to be possible. What I suggest you do now is you go up to your class. You get some boxes—I'll go and get some boxes from the caretaker, while you pack up all your stuff in your classroom that is yours. I'll come up with my car (because she didn't have a car) and put them in my car and I will drop you home straight away and you will resign before you leave. That was the most blunt I've ever been. I mean, I was on dicey ground doing that from a union perspective, but I did it. She wrote a letter. I took her home. I dropped her off. I took the boxes out of her car. I put them on her

doorstep. She hugged me and cried and said, “Thank you, you’re the first person who’s been honest to me”. And she was so appreciative. It was bizarre (54, Thomas, principal).

Thomas claimed he was not racist, that he had not discriminated and that the teacher was appreciative of the feedback when she resigned. He believed that he could not put in place any form of support that would help that teacher be more effective; therefore, she was instructed to resign. However, the ERA 2000 does prescribe minimum requirements of procedural fairness for the process of dismissal. There must be justification for the action, good reason and due process. The minimum requirements are determined by the test for justification.

6.4.1 Dismissal v resignation

Whether there was overall fairness and reasonableness to the parties in the circumstances was questionable in the case that Thomas cited. There were some essential flaws in the process, which could have been found to be unfair and unreasonable. In spite of Thomas’s claim, the teacher was unable to improve; he may not have provided her with a reasonable opportunity to respond to the concerns nor given her a chance to improve. Thomas argued that the problems for the provisionally registered immigrant woman teacher above were due to a former principal’s lack of competence and lack of performance management, but that does not mitigate the injustice for the teacher. Thomas avoided the regulatory process by not reporting her to the Teachers Registration Council. He said, “You can’t advise the Teachers Council about anything like that unless a professional development programme is started.”

I wasn’t able to advise the Teachers Council, which is not fair, as if they went on and got other jobs but they were incompetent ... and I believe a principal must ensure just because you’ve got rid of them from your school doesn’t solve the problem for the other ones. I was able to report those who were eventually dismissed through a process of incompetency because then you have to advise the Teachers Council.

However, according to Section 139AK of the Education Act 1989, reporting of dismissals **and** resignations is mandatory:

- (1) When an employer dismisses a teacher for any reason, the employer must immediately report the dismissal to the Teachers Council.
- (2) An employer must immediately report to the Teachers Council when a teacher resigns from a teaching position if, within the 12 months preceding the resignation, the employer had advised the teacher that it was dissatisfied with, or intended to investigate, any aspect of the conduct of the teacher, or the teacher’s competence.
- (3) Every report under this section must be in writing, and must include,—
 - (a) in the case of a report of dismissal, the reason for the dismissal; and
 - (b) in the case of a report of a resignation,—
 - (i) a description of the conduct or competency issues that the employer had been concerned about; and
 - (ii) a report of what action (if any) the employer had taken with respect to the conduct or competency issues.

The NZTC provided a case study of a situation that reflected this problem. In this case, the lack of competence of a PRT new immigrant with literacy, numeracy and behaviour management issues led to her resignation after she experienced a strained relationship with the principal over a lack of support. Following the principal's mandatory report to the NZTC, the issues were successfully resolved by an agreement to further training and monitoring, and that teacher was re-employed at another school with no further action being taken (NZTC, Case study, *provisionally registered teacher with behaviour management concerns*). While Thomas believed that it was neither necessary nor possible to deal differently with the PRT at his school, it is possible that the process illustrated by the NZTC case study could have ensured that her career continued.

In Thomas's case, negative cultural assumptions about an immigrant PRT's cultural and potential ability to have positive relationships with Māori and Pacific students influenced his decision-making. Colleen, an expert education evaluator, said she believed there were 'enclaves' of less competent teachers in low-decile schools in which children's achievement was at risk. She called this a critical social problem:

The tail, the long brown tail, is sometimes not talked about in polite society but I'm fairly confident it is there, despite not being talked about. The problem [is] some less effective teachers in lower decile schools. You've got some stunning teachers, but [the] preponderance is [at the] other end and those kids are the hardest to teach, the hardest to reach, they need really good teaching ... If you want to do something about the underperformance of kids ... then that's what you tackle directly. But high-level teaching performance pay doesn't go anywhere near to resolving that problem. Addressing the tail by trying to make every school conscious of how it is meeting the needs of young Māori and Pacific kids is what will help the progress of your below-standard kids. This will require a big emphasis on locating responsibility at the school level for making those shifts (239, Coleen, education evaluator).

Colleen appeared to be assigning responsibility for teacher quality to individual schools, which highlights the ethical dilemma experienced by Thomas, who was considering student well-being when he used instant dismissal to deal with an incompetent teacher. Evaluation of poor performance, followed by driving employees out, was also emphasised by mediators, who asserted that in cases where employers wished to ensure that an employee exited, it was almost impossible to change the outcome. They claimed it was difficult to negotiate a shift in thinking in disputes when decision makers were consciously or subconsciously trying to get someone out of the workplace by setting impossibly high standards. When the parties' goals were not aligned, mediation was not appropriate. No matter what was done, eventually a person on an exhausting performance improvement plan would leave the organisation. Sarah, a mediator, reported she couldn't make a difference when the person with power over the

situation intended their subordinate to fail; no matter what the worker did, there would be something wrong. Competency and performance issues would be used as tools for dismissal under the disguise of resignation.

The next section explores the differences between competence and performance. The participants suggested that the primary education sector was moving towards performance pay. Considering the above episodes of resignation and dismissal, this could suggest a potentially dangerous risk of performance management as a means of eliciting resignation, or constructive dismissal. Evaluators, education lawyers, employment relations investigators, principals and an Employment Court Judge all highlighted a tension between *educators* thinking about their work as service to the community and the *business model* where education may be considered a commodity. It became clear that there was a complex association between different understandings of the exchange of labour for financial reward in the primary education sector.

In the following section, expert evaluators identified the risks of designing criteria to measure the performance of teachers and the predicted negative impact on collaboration between teachers. The ERP where competence and/or performance were at issue are compared in Table 6.3.

6.5 Competence Performance & Process

Table 6.3: Competence, performance & process

Relationship Code-type of ERP <i>PRP</i>	Participant's description of competence, performance & process
Immigrant teachers–principal Incompetence <i>Recruitment</i>	One school was recently doing standardised testing over the intercom because some teachers were not competent enough in English for the students to understand. My jaw dropped & I said, “ <i>You mean they’re not competent enough for them to understand in a test but they are competent enough to do ... day-to-day teaching?</i> ” (192, John, employment relations investigator).
Teachers–principals Performance—discipline <i>Ambiguity appraisal processes</i>	A lot of principals also confuse discipline & competence. I say to them, “ <i>Discipline is ‘won’t do—competence is can’t do’ & you need to ask yourself that question</i> ”. Because they’ll often come in & want you to provide advice on a disciplinary issue or even say that it is competence when it is actually discipline. If someone has been shown very clearly how to do their planning but fails to deliver it over & over again, & you know, it has had the coffee spilled on it & “ <i>Oh dear, it’s in the car & it’s at the panel beaters—I can’t get it</i> ” & you know, excuse after excuse, it’s not that they can’t do it (they’ve been shown how), they just don’t get around to doing it ... that’s a need for processes for discipline about performance (193, John, employment relations investigator).

Relationship Code-type of ERP <i>PRP</i>	Participant's description of competence, performance & process
Teachers–principals– Government Performance pay> competition>secrecy <i>Ambiguity- criteria for</i> <i>performance pay</i>	If the Government was silly enough to decide that they want to go down a ... performance pay sort of track that would be huge tension because you have to decide on the criteria for measurement of performance. ... The minute that the appraisal becomes performance based, an appraisal becomes measured, & performance driven people become secretive, hide away & [don't] share (242, Colleen, education evaluator).
Deputy principal–teacher Allocating units > disengagement>loss of trust <i>Lack of consultation</i>	Currently we have a situation where it is the beginning of performance-based pay where National Standards will inform rewards & undermine what is important in teaching. A teacher missed out on being allocated units of responsibility & his response was to disengage, work to rule, & would no longer take responsibility for equipment or coach sport. There is meant to be consultation but more often than not, responsibilities are awarded because people identify what they want to do, not what the school needs & this negotiation damages trust because you consult people but they don't get what they want. It causes ongoing resentment & conflict (5, Cary, deputy principal).
Teacher–principal Performance expectations impossible to meet <i>Unreasonable performance</i> <i>appraisal</i>	Some principals can make it impossible to prove performance. " <i>Your planning wasn't specific enough.</i> " ... It is very hard for me to understand exactly why & it would be possible, I think, for someone who was subconsciously trying to get someone out to have standards that were impossible to pin down. I'm not always convinced that it would be that easy for someone to follow those instructions (160, Sarah, state mediator).
Teachers–principals Teachers pushed out <i>Making sense of bullying</i>	People get confused. If people think there has been a history of someone pushing people out of their job, ... they think that two of their mates have been bullied & left ... or just gone before it got too bad, & then they have the same person, principal, deputy or whatever start picking on them, they will sum it up very, very quickly. One principal, she'd find something in your performance that she doesn't like & it doesn't matter what you do to correct it ... it won't be enough & eventually you'll be on a performance improvement plan & once that happens, you might as well just leave ... it is impossible for the mediator, it doesn't work (162, Sarah, mediator).
Teachers–unions–BoT Fast settlement <i>Exit settlement culture</i>	There are two types of case: there's cases where teachers are unhappy & there's cases where schools are unhappy. So, with the conflicts within ... primary schools, there are two types of scenarios. Schools perhaps don't take on what they should take on & there is a bit of a settlement culture among school trustees associations [and] there is a bit of settlement culture among the NZEI. Within the sector, ... if there's a problem, you pay something & someone moves on. There is not a strong culture in a way of actually addressing problems in the workplace, so there is a sense that you pay someone some money & they go. There is a sense that if you do things quickly, the Teachers Council need not become involved ... & that's sometimes used to put pressure on people to settle. So schools perhaps don't confront things that they should confront when people are unhappy & they want to take cases on & there is a bit of a culture of settling them fast & moving them on (233, Michael, employment lawyer).
BoT member–principal–BoT Chair Lack of transparency <i>Process ambiguity</i>	There was one teacher who was employed with a little bit of fanfare & she lasted a relatively short time at the school & I said, " <i>Why is she leaving?</i> " & the principal said, " <i>Well, sometimes things just don't work out for some people & she's decided to move on.</i> " I asked " <i>But why?</i> " & she said, " <i>Well, you know, it's just sometimes people don't</i> "

Relationship Code-type of ERP PRP	Participant's description of competence, performance & process
Teacher–parents Loss of confidence in a teacher <i>Escalation of ERP by stakeholder strategic alliances—pack mentality</i>	<i>wish to change things or they don't want to fit in & they want to do things in a different way & she's decided that our school's not for her". So ... a lot of things like that happened. The chairman was quite keen to move things on in the meeting & no one else was asking any critical questions & afterwards I sort of asked around & there was a bit of whispering that this teacher had been challenging the way things were done. And so it was slightly different to the principal's view, which was that this person didn't really want to be here, whereas ... from the rumours, she wanted to be there, but wanted to change things & she (the teacher) was pushed out. The principal was very defensive (111, Maggie, Parent, BoT,lawyer).</i>
Teacher–Board–lawyers–insurers Professional competency issues <i>Escalation, legalism, relationship breakdown/ insurance-ism</i>	This is a case of professional competency issues. So a principal & then [the] Board began to have competency concerns with a teacher ... the union was brought in, insurance companies were notified, lawyers were called, but there was a mediation—so much is about timing, isn't it? The relationship was, I think, beyond repair & it wouldn't have mattered who mediated—whether it was Adam, Eve or God herself—no one was going to fix it (136, Eron, BoT Chair, lawyer, mediator).
Teachers' professional development Lack of professional learning <i>Professionals not modelling learning by inquiry</i>	Principals keep coming with tales of despair about competency of class teachers. They ask how we do this job when we are working with teachers who just don't have enough knowledge. And this is extraordinary after the last 20 years; the Ministry has put millions of dollars into literacy & numeracy professional development for teachers & you are still getting a lot of teachers who don't know enough to make sense of or recognise any of the progressions or what to do next ... that's not a failure of the [professional development]; that's a failure of the professionalism of teachers who actually can stand in front of the class, probably sit in front of the class, year after year & not actually solve that problem for themselves ... as an adult, it's not that hard to read something that tells you how to teach—it should not be a big issue ... it's a lack of any appreciation of how to systematically change or improve what you're doing so the notion & the curriculum of teaching as 'inquiry' is seen as a bolt out of the blue! (243, Colleen, education evaluator).

Four issues emerged from this data: ambiguity about problems being due to competence or performance issues, the process of performance appraisal, the right to a fair process; and teacher resistance to upskilling. The stories illustrate the power of leaders and governors to corroborate with insurance companies and lawyers to push people out of jobs quietly. The episodes above confirm that incompetence can be confused with lack of performance and unreasonable performance standards can be set,

to force teachers out. Allocation of units of responsibility has been conceptualised as the beginning of performance pay, considered inappropriate by some leaders. In addition, it was suggested that teachers who considered themselves equal with the principal, resisted the managerial prerogative.

These cases have highlighted a link between performance management and a culture of complaint that may make employees in education vulnerable to parental grievances, which may not always be reasonable. The next section re-addresses the nature of complaint, identifying a relationship between complaint and exit settlement negotiations.

6.6 The Power of Complaint

Table 6.4: Complaint v feedback

Relationship Code-type of ERP <i>PRP</i>	Participant's description of complaint v feedback
Teachers–parents–principal Feedback, accountability <i>Feedback processes & parental education</i>	Accountability is huge; problems are percolating along daily due to the sheer volume of expectations. One of the new entrant's mothers wanted the teacher to write an email entry each week about what each child's doing in new entrant's class to send out to all parents. You've got to be seen to be giving 100% to every one of those children 'cause if not, we'll be asking questions, or parents will be asking questions. The parent complained . . . , " <i>I don't know what my child has done this week at school. I would like more regular feedback</i> " (43, Peter, principal).
Principal–teacher–parent Parental expectations & accountability <i>Support for teacher stress & pressure</i>	I've got one parent at the moment that my teacher is so nervous about [with regard to] the child's report. I've got a folder of all her communication to the parent & this is how it's changed. This is one child & she's written all of this to me to try & justify to the parent why she's done all the comments on the report. This is a gifted child whose parents come from overseas. . . . We've actually got one of our teachers to do all this reading testing on her [and] we've [got] someone to go & double-check everything. This is a parent that's complained about a report. So that's sort of pressure. It's a bloody waste of time (69, Catherine, principal).
Teachers–leaders Staff complaints, strategic alliances & third-party gossip <i>Need for effective systems for handling complaints</i>	I haven't seen very many schools that have a set up process for dealing with complaints by the staff if they have a complaint about the principal. Would they go & talk about it? No, because it's going to put us in conflict & anyway he won't give me a promotion. He's got power over me, so what do I do? I subvert. Basically, I take the stuff all over the place & moan about town, you know all that sort of stuff. . . . the longer it festers the bigger it gets. So if you're not approachable as a principal, if people have got issues with you, they will take it outside. Complaints are not always in writing. I think sometimes when they say a complaint has been made, it might have just been informally, verbally made. Someone might say, I'm going to put it into writing, then the Board has to react (154, Sarah, mediator).
Teacher–parent— <i>McKean v BoT of Wakaaranga School</i> Ineffective support networks	The <i>McKean</i> case involved a personal grievance for unjustified disadvantage, poor performance competency issues. A newly registered teacher, following parental complaint alleging classroom

Relationship Code-type of ERP PRP	Participant's description of complaint v feedback
<p>for problem-solving non-union members <i>Termination/litigation</i></p>	<p>disorganisation, uncertainty in learning program had appraisals that identified areas for improvement –principal put in place assistance & personal guidance following, clause 3.6.1 primary teachers collective employment agreement. A year later, there were still concerns. External guidance [was] set up, but [the] teacher immediately took sick leave. Senior management team changed the teacher's level of teaching for the following year without consultation. [The] teacher filed a psychiatric report, to say they were not safe in same school. There was termination due to incapacity. The teacher had a support network who gave evidence about him, but weren't involved in the problem earlier (227, Employment Court Judge).</p>
<p>ERO–whole school Complaints policy <i>Reframing 'complaints' as 'suggestions for improvement'</i></p>	<p>When ERO came & said "<i>Can we see your file of complaints?</i>" I said, "<i>We don't have any</i>", & they said, "<i>Pardon?</i>" & I said, "<i>We have a file of suggestions for improvement</i>". "<i>Oh, okay,</i>" they said, "<i>so just reframe it & ... write it out in [the] newsletter</i>" And I say, "<i>Look, I spend an hour with every new family that comes into school because if we're going to be a decile 10, then they have to be indoctrinated into how we're going to do it. If a parent has got a complaint, they have got to come with two solutions about what we can do about it.</i>" (74, Catherine, principal).</p>
<p>BoT parent–first-year teacher–principal Feedback about learning <i>Defensive meeting</i></p>	<p>My child has a learning issue. A therapist has suggested several process ideas but then those are not happening. This teacher is also not wanting parental feedback or involvement in the classroom. So it was really difficult to actually see what was going on & then knowing it wasn't happening then going to the leader & saying, "<i>Look ... I'm having a problem here, quite simple things to follow in order to help this child learn & to ensure that's happening</i>" ... but she would be placating & defensive about the staff member. When I've talked to the principal about issues that I was having with a first-year teacher ... she was very defensive about the teacher & not open to seeing my perspective & I know that there's been a couple of parents who've had similar issues (115, Maggie, Parent, BoT, Lawyer).</p>
<p>Principal–parent A 'parental posse' ensued after a child brought a knife to school <i>Parental education conversation/natural justice</i></p>	<p>One of my gifted kids, carrying a knife at school, showed it to another child. This other child told other kids & they all went home & the parents arrived sort of in a ... posse to complain & wanted this kid hung out to dry. I said ... "<i>Come in & sit down; let's talk about natural justice</i>". And I said, "<i>I've spoken to this little boy. The reason he's carrying a knife (& it's a pocket knife) is because he kept seeing all the mental health patients around the community & in his head he had decided that they were dangerous</i>". He didn't talk to anyone about it but he just thought, "<i>If one of them comes into the school ground, I'll at least be able to 'save' someone if he hurts someone</i>". Now that was his whole mental picture. The kid with the knife I'd already interviewed, spoken to for a long, long time. I'd rung his parents. We'd had a big meeting—he was part of that meeting as to why he can't take the law into his own hands. The next problem was to solve it with the parents; the teachers had no problem with it, they just knew that he was a little boy who was 9 years of age with a big brain who thought he had to do something for the world. But it did cause angst for a while. And I know there were parents gossiping out in the community saying, "<i>Oh, I don't know if she dealt with that correctly</i>" ... but then I did a big article in my newspaper about natural justice & why it's really important to always look at natural justice for all people (14, Lisa, principal).</p>
<p>Union-BoT Lack of support</p>	<p>It's a feature that most people are isolated & on their own, without professional assistance. This happens quite a lot, that people who</p>

Relationship Code-type of ERP PRP	Participant's description of complaint v feedback
<i>Individuals isolated from support</i>	have difficulties in their employment relationships want to be told what they want to hear & if a union says, " <i>This is not enough for you</i> " or " <i>We think you should pull your head in & try these things</i> ", people will not infrequently say, " <i>Oh, I'm resigning, you're no help to me</i> ". And so they end up being on their own & they lose the value of that support. ... Even with the union acting as an independent mediator role, ... I think it's fair to say that unions won't support non-members in these sorts of disputes ... particularly non-members who were previous members who've fallen out with them (228, Employment Court Judge).
Teacher–BoT parent Humiliating children <i>Defensive & closed to feedback conversation</i>	I'd observed a boy's writing book ... held up in front of the classroom of 26 children & ... the dyslexic child was very distressed about writing. The teacher said, " <i>Look at this, whose writing is this? Look, it's like brail on the other side of the page. Do we write like that? No we don't.</i> " The boy ended up crying. The head of the middle school was defensive, said it was under control, but I thought there was [a] need for professional development. I don't think the school is open to change (116, Maggie, Parent, BoT, Lawyer).
Teacher–union–parents–Board Chair Parental complaints <i>Performance/competency—exit negotiations</i>	Six parents came to complain ... We had a meeting about reports because they thought they weren't accurate & they didn't know where their children were at. We did have in-class support going on, so we were already on process before they came in ... We were moving down to competency & when six came in, the Board Chair (who is a lawyer) had a word to the union & said, " <i>Look, this is going to go really badly. Can we come to some sort of mediated agreement ... this is what we're prepared to offer</i> ". ...Everybody saved face; everybody had dignity. That's what it's about. Everyone had dignity, I think, so there's room for principals to actually be less defensive have [the] balls to confront an issue but to confront it in a dignified manner. The psych of a teacher is they want to do a good job, they want to teach, they care about kids, but sometimes they just don't have [the] skills to be able to do it & [the] skills have got more & more complex (42, Peter, principal).

6.7 Conclusion

This chapter presented evidence that ongoing ERP have a dynamic influence on workplace conflict. Inappropriate meeting behaviour contributed to the emergence of ERP. Where aggressive yelling and shouting was labelled bullying, there was a high risk of escalation. Some people who felt bullied and negatively affected by a one-off event were told their experience did not fit the definition of bullying. Complaints that emerged from angry events during meetings could be disadvantageous to teachers' careers. The negotiation of authority during meetings was a critical site for the risk of inappropriate communication across gender, culture and age. Participants were easily offended by aggressive disagreement and there was loss of face during combative meetings. When people were silenced loss face or felt undermined, the behaviour was

seen as bullying, regardless of the legal definition of bullying. If the relationship problems were not addressed and the behaviour was ongoing, problems escalated.

Parental expectations regarding feedback about their children had a negative impact on teachers' stress levels if the problem was avoided or unresolved. It seemed that parental complaint could quickly escalate to resignation/dismissal, with the risk of unjust processes. ERO policy requires schools to keep files of complaints, and it is possible that the framing of problems as a "complaint" has primed principals for defensive positional approaches to issues. Principals and teachers may feel under attack from complaints. There was a relationship between competency complaints and exit settlement negotiations. Investigation of complaints by BoT members could lead to escalation of problems. Investigations by principals into teachers' conduct or competency was considered a process risk with regard to perceptions of fairness and neutrality. An important policy finding was the vulnerability of new immigrant teachers in low-decile schools, on short-term contracts in which children were also particularly vulnerable.

The bullying nature of performance management that was used to push teachers out of jobs was one aspect of what was repeatedly named as a culture of negotiated exit settlement. The influence of legalism and the negative impact of insurers on ERP has been reiterated in this chapter. Finally, the power of complaint to disrupt and undermine the employment relationship was presented here as having a negative role in performance management. The emergent propositions presented in Table 6.5. summarise the findings presented in categories from this chapter, to be discussed in chapter 9.

The next chapter builds on the notion that percolating ERP are being managed on a day to day basis by presenting categories that examine the role of leadership, governance and management of ERP.

Table 6.5: Emergent propositions—Percolating problems, negotiating power & influence

Interrelated subcategories	Propositions
<p>Making sense of ill-treatment & bullying ↓ Disagreement in meetings<X>loss of face>assertions of bullying</p>	<ol style="list-style-type: none"> 1. Assertive disagreement in staff meetings causing loss of face/shame, that behaviour was interpreted as bullying. 2. Angry verbal intimidating language used by leaders in meetings & silencing subordinates was considered bullying. 3. The longer interpersonal conflict is allowed to continue, the more likely there is to be escalation of conflict & blame. 4. When highly emotional ERP are settled but not resolved, a lack of relational trust becomes a barrier to career advancement.
<p>Making sense of ill-treatment & bullying ↓ Yelling & shouting>simulating authoritative tone ≠ bullying</p>	<ol style="list-style-type: none"> 5. Ongoing use of a curt, authoritative tone can be perceived as bullying. 6. Simulating an authoritative, curt tone can result in reality testing & reframing emotive language, creating doubt and resolving misinterpretation & misunderstanding. 7. Transformative mediation is a successful intervention for changing long-term intra-school aggressive communication & escalated conflict.
<p>Negotiating influence across diversity: age & gender ↓ Communication styles of older teachers perceived as bullying</p>	<ol style="list-style-type: none"> 8. Disagreement & perceptions of overruling leaders in meetings when teachers are older than their line managers increases the risk of bullying complaints by young leaders 9. Assertive dialogue by older male teachers who are subordinate to young female managers was interpreted as bullying. 10. Emerging leaders lost trust in older senior leaders who micro-manage & used belittling, sarcasm in meetings. 11. There are different process expectations across the generations of union members—some young union members object to militant processes. 12. Aggressive dialogue is considered bullying by some young union members who prefer collaboration to positional bargaining. 13. There is a perceived reduction in young teachers' union participation.
<p>Negotiating influence across diversity: ethnicity & culture ↓ Competency & PRTs</p>	<ol style="list-style-type: none"> 14. Negative cultural assumptions were made about immigrant PRT's ability to have positive learning relationships with Māori & Pacific students. 15. There may be enclaves of less competent teachers in low-decile schools where children's achievement is at risk & there is less parental complaint than in high-decile schools. 16. In some schools there is a lack of professional development support for immigrant PRTs.
<p>Dismissal v. resignation—negotiating across cultures ↓ Meeting the test of justification</p>	<ol style="list-style-type: none"> 17. New immigrants may resign rather than lose face. 18. New immigrant PRTs may be at risk of unfair processes of dismissal disguised as resignation. 19. The NZEC should be informed about incompetence because there are processes for learning & development support. Deregistration is not the only option.
<p>The power of complaint ↓ Increase & escalation of ERP</p>	<ol style="list-style-type: none"> 20. Parental expectations of regular (sometimes daily) feedback can be an unreasonable source of stress for teachers. 21. Parental complaints can quickly escalate to resignation/dismissal with a risk of unjust processes. 22. ERO policy compliance frames the language of ERP as

Interrelated subcategories	Propositions
	complaints rather than as problem solving.
	23. When teachers complain to the Board about principals, the Board members are considered conflicted because the same people are in charge of the well-being of their children.
	24. Some principals feel under attack by complaints & become defensive of the teachers, the school & their own reputation.
	25. There is a relationship between complaints & a culture of settlement.
	26. Investigation of complaints by BoT members can lead to escalation of problems.
	27. Investigations of complaints about teachers by leaders is considered an unfair process due to potential lack of neutrality.

Chapter 7: Research Findings: Theme 3 “Blurred Boundaries: Governing, Leading and Managing”

If the Board turns on the principal, it's very dangerous. It's actually a very dangerous job being a principal. It's not a safe job because you're depending on the needs of the Board and a Board can get one or two negative people on it and kind of carry the rest (234, Michael, employment lawyer).

7.1 Introduction

This theme is presents categories relevant to the roles and processes of *Governing, leading and managing*. There is an association between the two earlier themes involving trust, power, and influence. Like a chief executive officer, the school principal holds a multiplicity of concurrent responsibilities *governing leading and managing* relationships. The principal is the key player in a school and yet in the quote above, Michael claims '*being a principal is a dangerous job*'. This chapter identifies the reasons for this assertion and presents categories of ERP where blurred boundaries between the roles influence how ERP emerge and escalate during *leading, governing and managing*.

The first section explores the relationship between leading ERP resolution, avoidance and governing change. Just as there are conflicting interests in the employer-employee relationship, parents and staff experience conflicting interests for members of Boards of Trustees. This structural tension of *blurred boundaries* between governance and management is a feature of the Tomorrow's Schools policy, which has been discussed in Chapter 2. The findings show avoidance of conflict, can fuel the escalation of ERP. Resisting and avoiding change can provoke destructive conflict about contestable pedagogical and policy compliance issues, influencing the principal's performance appraisal process.

In the category *Managing Principals -statutory management* negative outcomes during appraisal and performance reviews had escalated into ERP, which spilt over into the wider school community. Some of the examples illustrate the way the Tomorrow's Schools policy allows trustees with strategic agendas for leadership change to pursue those agendas by being elected onto Boards. As such, the policy potentially undermined the role and authority of the principal identifying a risk of statutory intervention enabling the state to act independently of the ERA 2000. The category *Government policy ERP: Barriers to resolution* illustrates examples the role differing mindsets play in the government teacher relationship.

The chapter also provides exemplars of effective ERP resolution processes and draws on the philosophies and practices of one principal (Edward) who had developed skills mirroring the characteristics of mediation. The idea that characteristics of mediation processes are at the convergence of leadership, governance and management roles is the focus of the final section of this chapter.

7.1.1 Leading

During interviews, principals and deputy principals spoke of being *leaders* rather than *managers*. They referred to the transition from teacher to principal involving different capabilities. Lisa (9) a principal, said; “being a great teacher, doesn’t mean to say you’re going to be a great leader as a principal, it takes different skills. One of those skills is negotiating a multitude of different relationships with conflicting interests”. According to one employment lawyer and investigator, conflicts of interest were due to the organisational structure under the tomorrow’s schools policy. Paige (258) an employment lawyer and investigator reflected:

As the CEO of the organisation and an executive director of the board, the principal is excluded from board deliberations about matters where the principal’s actions are having a direct impact on a child. Boards have got to be very, very careful if the principals actions are having a direct impact on a child whose parent is a board member. The parent Board member is conflicted. The fundamental problem with tomorrows schools, even though we are over twenty years down the track, is a failure in some instances of boards and school management not understanding their roles and their boundaries.

Leaders articulated a range of coping strategies for dealing with complex interests. From Chapter 5, the reader will be familiar with Catherine’s engagement in conversation to ‘bank’ trust. Lisa facilitated processes of perception checking and problem solving alongside protagonists and complainers. In chapter 6, Maree spoke of being terrified of board meetings due to the behaviour of the chair of the BoT, she eventually challenged the behaviour. Martin a team leader identified himself as a young reflective relationship builder, mutualising interests, but he was unable to change the authoritarian leadership style of his older male principal. Cary worried about a lack of diversity in the leadership team at her decile 10 school and warned that performance management in the education sector was leading to some teachers disengaging from participation in wider extracurricular interests of the school community. Later in this chapter, Edward highlights the role of leaders mediating across a range of stakeholder interests. However, the view that leaders were too slow addressing problems or avoided ERP is the focus of the examples presented below. The claim that teacher incompetence

was left unmanaged due to avoidance of difficult dialogue, was reported by experts who worked in employment law, professional support, academic research, appraisal and investigation in the primary education sector.

Table 7.1: Avoiding

Relationship Code- type of ERP <i>PRP</i>	Participants description of avoiding
Leaders–teachers Avoiding conflict <i>Continued incompetence—a need for training in difficult conversations about performance appraisal</i>	My recent experience has been with school leaders avoiding conflict. I have been working with people who have these issues that they are scared of, so they don't really talk about them. The main outcome [is] that we end up having people in schools ... that shouldn't really be there. ... but no one is brave enough to have the conversation with them, so avoiding conflict in many ways is one of the issues that I see. People are afraid of it (263, Deborah, academic & appraiser).
Principal–staff–staff Ongoing avoidance of conflict <i>Negotiating exit packages</i>	I think primary school disputes are in a class of their own. There are situations where conflicts between staff are either left to fester & aren't addressed—which a lot of schools do—or you pay them & move them on. I don't think conflicts get managed very often, or I haven't seen signs of that. Staff have a lot to answer for in terms of requesting money to go, in the sense that they have a view they can be bought—a principal's job can be bought—throw some money at it & move them out & you don't actually very often fix the problem (238, Michael, BoT Chair, employment lawyer).
Principal- BoT–Parents Complex relationships & conflicts of interest, avoidance of emotional problems <i>Avoiding emotional conflicts of interest</i>	Emotions are high in school relationships because Board members are parents and they are sensitive to their childrens' wellbeing especially with regard to complaints. There are complex relationships in the school workplace, principals are colleagues of the teachers so there are potential conflicts of interest and given the statutory duties ... some people avoid problems for fear of complications (260, Paige, Investigator, mediator).

Education experts claimed that some leaders were fearful of conflict, avoiding conversations about incompetence, but they had to balance this with the risk of negative impacts on students' learning. In Chapter 6, Thomas engaged in pragmatic radical change to address those very issues in his decile one school. In other schools, change generated complaints and unsubstantiated accusations of incompetence, and conflict escalated. Meanwhile, in the first episode below, some of the pressure for change is attributed to policy making.

Table 7.2: Leading and governing change

Relationship Code-type of ERP <i>PRP</i>	Participants description of leading & governing change
Principals–Government–teachers Policy change & change management <i>Building political capital</i>	There is so much pressure to change from Government that time is not given to do things; there is a lot of pressure on principals to make things happen. I think our schools are pretty stressed organisations in many, many ways. A lot of the stresses of our society get played out in the school. Principals come & they've got this vision & this needs to happen, that needs to happen. John Carver, who is the guru of school governance, writes a lot about governance issues & he talks about building ... political capital before you do the changes. Now, I think that a lot of times in New Zealand, principals don't take the time to build their political capital, which is basically getting to know people, building relationships & your senior management team. You've got to get your senior management team working with you ... Then you've got a base to work off (204, Carl, lawyer & investigator).
Principal–staff–Boards Unsubstantiated claims of incompetence masking teachers' resistance to change <i>Principal stayed, some teachers left, new senior management</i>	This case involved a highly competent new principal. The Board kept wanting me to see if he/she was incompetent & ... basically, that was because there was a group of teachers who had been there forever, very comfortable, & she was ... asking for very rapid change. And maybe that was the mistake; it wasn't what she was doing, it was the process [it's a decile 10 school] & she totally reorganised the management structure. She got some really good people in at the top [&] she put in learning support teachers. In the end, the principal stayed, some teachers left (198, John, employment relations investigator).
Principals–staff–Boards Change>resistance>complaints to the Board>friction>conflict of interests <i>Unresolved problems</i>	I have seen many episodes in which conflicts developed because principals impose change, teachers scream, they run to the Board, the Board ends up fighting with the principal & then you're into broken-down relationships & they've ended up having to appoint a statutory manager. If there are problems, if the principal is weak & avoids the problem, or the Board is overly confrontational, & if there is any friction from the staff [that] the Board is having to deal with, Boards often can't cope with it. These are the teachers of their children; they are conflicted. I actually think that Tomorrow's Schools is breaking down (209, Carl, Lawyer & investigator).

Relationship Code-type of ERP PRP	Participants description of leading & governing change
Board–principal–teachers Board members elected with a view to getting rid of staff <i>Principal in the middle, making sense of bullying</i>	Board members who are elected with the view of getting rid of certain people are situations where the management–governance confusion happens. ... Board members who are elected with the view of getting rid of leads to ERP about the way that the performance management process is implemented or, on other occasions, it’s been resistance to acknowledging that managers have the right to manage performance. But poor performance management often results in stress & bullying claims ... (but I do think the term bullying is very loosely used). Often the principal is the one who protects ... who’s in the middle. It’s quite a difficult position for a principal, ... in the middle between the Board & the staff, & the Board comes in & wants to change things. Sometimes the principal might be doing things that they don’t necessarily want to do (220, Jerica, mediator).
Boards–principals Bias in parent Board member role <i>A lack of neutral community representation on BoT</i>	If you have a private school, they won’t have a whole lot of parent representatives on the Board. They will have one person on the Board who is a parent; the rest will be somebody from the church, a local politician, business person, all of that. In a private school, you don’t have the same degree of parents of current pupils. I’m not sure that parents of current pupils should be on the Board, because most of them have difficulty moving from their interests of their own children & the NZSTA are not always wise to the big picture (32 Steven, principal).

Alongside the conflicting interests of parents on Boards, reported by Steven above, was the risk of damage caused by avoiding ERP in the early stages, making resolution difficult. There was also the risk of the other extreme—rapid change, confrontation, or an agenda to dismiss staff. The different approaches revealed in this research underline the complexity of managing workplace conflict between stakeholder interests in the education sector. Causes of tension, manifesting as pressure and conflict in relationships, were articulated as:

- stressful schools due to governmental policy change
- teachers complaining about change
- unsubstantiated claims of incompetence
- resistance to change
- confrontational boards
- avoidance of conflict by principals
- parental bias on boards
- principals implementing policies that staff do not agree with
- people elected to the BoT aiming to ‘get rid of ‘teachers or principals.

The political power of a board member who aimed to ‘get rid’ of a particular teacher or principal, or to provoke change, could undermine the relationship between

principals and teachers. Carl (261) a mediator and investigator, asserted that political capital is essential when leaders intend to implement change. If the timing for the change was not right and if problems were not addressed, the problem could escalate in the community. However, it was not always clear who should take the role of negotiating, advocating and implementing change. Blurred boundaries and conflicts of interests were identified by educational and legal expert participants in this study. According to John (an expert investigator of many years, who works in schools as both an investigator and as a statutory appointee) the mindset of *partnership* is the key to the intersection between leading and governing:

I think it's about partnerships; it's about working with the Board. Principals do the disciplinary [work] ... but a good principal will always keep the Board Chair and the Board totally informed and if it gets to a disciplinary [action] or a dismissal, then of course the Board's got to do the delegation. The Board delegates the day-to-day management of the school to the principal and it also delegates, under the Act, performance management (199, John, employment relations investigator).

In general, if performance or competency is at the heart of change, this presents a problem of blurred boundaries. While the principal manages the performance of teachers, one role of the Board is to manage the performance of the principal. The appraisal of the principal is the Board's obligation. However, one of the risks of the Board doing the performance appraisal is that information can be 'leaked'. Leaks can split the community, reach the media, be misinterpreted, damage reputations and destroy relationships, and can be devastating for all involved. Relationships can be particularly fragile and problems escalate if strategic alliances are formed between groups in the school community and if power is negotiated publicly in the media. There is legal framework for preventing blurred boundaries, but its effectiveness is questionable.

7.2 The Legal Framework: Governance Versus Management

The roles of those who are governing and managing schools are not specifically defined in the Education Act 1989. However, the Act guides principals' employment relationships with BoTs, with the expectation that Boards will hold a duty of trust and confidence, fair and reasonable treatment, including acting as a good employer, as per the policy intentions of the ERA 2000. Explicit aspects of the governance–management roles are set out in Sections 75 and 76 of the Education Act 1989. Section 75 refers to the “complete discretion of the Board to control the management of the school as it thinks fit”. As the Board's chief executive, the principal's day-to-day responsibility is directed by Section 76(2)(a) of the Act: “to comply with the Board's general policy

directions” and, subject to that compliance, Section 76 (2)(b) gives principals “complete discretion to manage day-to-day as the principal thinks fit to manage the school’s administration”.

Therefore, the potential for workplace conflict is signalled at the intersection between the complete discretion of the Board to “control the management” and the principal’s day-to-day complete discretion to “manage the school’s administration”, in compliance with the Board. The Board’s authority to control and the principal’s direction to manage is at the core of potential disempowerment of the principal’s actual authority. This research revealed evidence of ERP involving principals where role boundaries had become blurred and principals were undermined. Table 7.3 presents representative exemplars of ERP pertaining to that phenomenon.

Table 7.3: Leading, governing and managing—Blurred boundaries

Relationship Code -type of ERP PRP	Participants description of blurred boundaries
Principal–staff Rep–Board Blurring of boundaries, staff trustee complaining about principal <i>Applied code of ethics > difficult to resolve without principal taking a personal grievance</i>	A staff member on the Board reported problems with a principal to the Board, but according to the NZSTA code of ethics, a staff trustee is not a staff representative. You don’t advocate for the staff. You are simply a trustee. You act in the interest of the whole school, not just the teachers You’re a trustee who happens to be a staff member & you don’t lobby & do all that. School trustee codes of ethics are very clear—but the only person who can apply that code of ethics is the Board Chair & he can’t enforce it, he can just remind them. You can’t get rid of a Board member but you can fire a principal. It’s a very difficult problem, but ... the only thing that a principal can do is take a personal grievance against the Board for the behaviour of the Board member if the chairman can’t manage it. You know, if you’ve got a Board member who’s undermining & badmouthing, it’s impossible to resolve (202, Carl, Lawyer & investigator).
Principal–Board Governors managing day-to-day issues <i>Investigation gave the role back to the principal</i>	The boundary between management & governance just didn’t exist. I became aware that there was a Board member [who] actually really made all the decisions—everything, you know, about money, about everything. She had the title of the ‘Financial’ on the Board—well, you know that’s not how a Board is supposed to operate; they set the budget & the principal has to manage the budget. But she did all of that as well (247, Bill, employment relations adviser & investigator).
Boards–principals Problematic structure, lack of expertise in governance <i>Conflicts of interest & lack qualifications of Board members</i>	The governance–management structure is problematic. I think it’s a structure that causes a lot of problems because of the lotto nature of who the principal’s got on the Board. For example, the CEO of Fonterra has got a whole lot of business people on the Board. They’re not going to come in like parents do, arguing about minutiae & trying to micro-manage what he’s doing. Boards just don’t know what to do & it’s not their fault. Governance is hard; governance is not an easy thing to do, to say ... to what extent do I get involved, & you’ve got to stand back, be ‘big picture’ about things. How can you be big picture about an area of knowledge that you may have no training in at all? Boards can’t cope with conflict because these are the teachers of their children—they are conflicted. In smaller communities (& we have got a lot of very small schools in New Zealand) it’s family & tribal stuff. Boards find it very difficult to

Relationship Code -type of ERP PRP	Participants description of blurred boundaries
Board–principal Succession tension, social power, Board intervention in management challenged by lawyer <i>Resolved by parent exit off the Board & lawyer support for the principal</i>	<p>take the big picture & some of them can't re-adapt [to] the level required. Principals need members who come to a Board meeting having read all the papers, but some people can't read the documents. There are whole regions of New Zealand where Tomorrow's Schools are failing today (208, Carl, Lawyer & investigator).</p> <p>I've had an example of a new principal in a decile 10 school replacing a very popular principal who got on very well with a group of parents & was close to a group who had social power in the school. But [the] new principal ... didn't play that game, ... being quite snarly, having to really pull back. They had had a principal who didn't apply the rules if it was someone he knew & liked ... some people have a lot of power & they are on the Board; then if they don't get what they want it becomes difficult to manage. In that case, the very negative woman left the Board. Conflict in the Board–principal relationships happen in schools with very controlling BoTs (237, Michael, BoT Chair, employment lawyer).</p>
Board–principal External media communication <i>Collaborative policy development</i>	<p>A situation where a principal has spoken to the media without informing her Board & the impact of that media release, nationally released information, has brought a great deal of shame on the school; they are embarrassed & ashamed. Now, I think that they would have been happy to have had an investigation & been able to wave the big stick. I've been brought in because they are so upset that there is not quite the same amount of objectivity there should be in any kind of process. The first question I asked was: "What's the policy on communications with the media?" There isn't one in the school. So there is no direction to the principal about who does what. So immediately, you have removed the kind of 'disciplinary' [tone] & then it becomes a learning process ... asking the right questions right at the beginning. ...</p> <p>I never start an investigation without going to the legal, regulatory & policy environment in which anybody works. Once you've got that (or if it's a kura kaupapa of the Māori—they have another document called <i>Te Aho Matua</i>), ... you start with what drives the school. In this case I know it's not going to be disciplinary, but there needs to be some clear directions to the principal & expectations. I think that [if] the Board's understanding is that they have a part to play in a problem ... as well, [it] helps. (206, Carl, Lawyer & investigator).</p>

7.2.1 Blurred boundaries: Key roles and community outcomes

The stories above illustrate how BoT members could manage the principal in a manner that undermined his/her power—in the school, with staff, and/or in the wider school community. In the stories cited, Board members were:

- lobbying
- making decisions
- arguing about minutiae and trying and micro-manage
- contributing to deep rifts between the Board and principal
- part of a social group for whom the new principal hadn't 'bent' the rules

- resisting loss of power with a rules-driven new principal
- wanting to wave the big stick
- objecting to the principal speaking to the media.

The role of the Board to manage the performance of the principal was implicit in these negotiations for power between Boards and principals. In general, this is at the heart of the risk for leader principals, especially if they do not agree with the policy direction the BoT wishes to take. This imbalance of power for the expert educator, whose performance is managed by the BoT (as the employer), can be a particularly difficult challenge if mutual respect and trust is low.

As mentioned earlier, one of the key roles of the Board is to manage the performance of the principal and this appraisal should be rigorous. Issues can develop over the negotiation of authority at the boundary of governance and management, between Board members and the principal, aggregating and building momentum during the appraisal process, with problematic outcomes for communities. An inevitable source of fear when performance management issues emerge is the risk of triggering statutory management. The issue of statutory management was of particular interest to John, who has been a statutory manager in schools. The next section primarily reports the experiences of John and Carl in supporting schools through principal performance appraisals and processes of statutory management.

7.3 Managing Principals: Statutory Management

The examples described in Table 7.4 (following) suggest that some principals had been in their positions for some time without regular appraisal. Repeating themes that emerged from the stories about principals' conduct or appraisal were:

- principal's lack of competence
- complaints and hearsay the topic of community & social conversation
- principal not reporting on National Standards as required
- principal being discussed in the media
- principal not undergoing an appraisal for years
- principal resigning from the school
- principal blaming the Board.

The parental behaviours were reported as vindictive, nasty, blaming, defamatory, dividing the community, making claims that their children were not safe and trying to persuade other families to leave the school. Parents accused principals of being defensive and keeping the Board in the dark. Here John, an experienced

investigator communicates three different significant ERP during statutory management.

Table 7.4: Managing Principals -statutory management

Relationship Code-type of ERP <i>PRP</i>	Participant's description of managing principals
Principal–Board–statutory manager Performance appraisal <i>Principal resigned, school roll dropped, community split</i>	In this case, a long-tenured principal who had not been appraised for years was appraised then performance managed. He resigned, blaming the Board. It split the Board & several [members] resigned in the hope that that would force other resignations. A lot of information spilt into the community. The roll has dropped considerably because several families have left the school ... & ... continue to try to get other families to leave, with very nasty, vindictive & defamatory comments in the community. In about 50% of the cases that I've been into, there have been issues around the competency of the principal, or maybe more In this case, a ... statutory manager was bought in (194, John, employment relations investigator).
Principal–Board Questioning National Standards reporting <i>Ministry appointed a support person to the BoT</i>	One case involved members of the Board who were really beginning to question the principal in terms of assessment reporting & not reporting against the National Standards. But there was this whole raft of other stuff sitting over to the side, so the problem couldn't be fixed until that stuff was resolved. Sometimes the conflict comes from people in authority not actually adhering to or understanding the requirements of the Board. The Ministry put in a support person for the Board (191, John, employment relations investigator).
Principal–Board Keeping BoTs 'in the dark' <i>Limited Statutory Manager appointed</i>	This problem was the principal's lack of competence, ... nobody would say that the complaints growing but they were all hearsay in the school car park & one of the Board members who resigned, who was the Chair at the time, attached his vindictive resignation letter to the school newsletter. The Board started asking questions. The principal was very defensive & the appraisal was very defensive. [Over] two or three ERO reports, the same things were coming out. This last ERO report had big concerns about learning & teaching & the principal was very defensive. One of the Board members at a school had been asking questions, as the children were going on camp (it was nasty stuff). He said, "My child won't be safe", that is how vindictive it became. The principal had been there for over 20 or 30 years. The school was totally run down, absolutely, but the difference is the smallness of the community & the deepness of the rift. The principal had treated them like mushrooms; he kept the Board in the dark (196, John, employment relations investigator).
Principal–Board–staff Undermining principal <i>Designed a BoT & school code of practice</i>	In this problem, the Board was communicating Board information to staff members & the relationship between the principal & the Board was insecure because she couldn't be sure that if something was discussed it wouldn't go somewhere else. There was tension in that the principal had to deal with a whole group of people who were her boss & it only needed one of them to be difficult & then the relationship broke down because she couldn't be open with them because it would be all over the community & it got out into the media. That situation ... is very difficult for principals (203, Carl, employment relations investigator).

Carl identified a crucial problem with the process of statutory intervention, claiming that the appointment of commissioners and statutory managers in schools could prejudicially influence outcomes for principals. The process fell outside of the ERA and investigations and interventions could result in a principal saying, “Hang on a minute. You sent in this limited statutory manager as my employer and the appointment process prejudiced the outcome”. In this case, there could be a breach of natural justice because the ministerial appointment may have come in with a predetermined view, constructed the mindset and influenced the way people in the school made sense of the problems. Carl claimed it was an untested area of law:

The Education Act says the Ministry of Education can appoint statutory intervention if there’s risk to the learning of the school. Therefore, the ministerial intervention may theoretically be outside the entire context of the ERA, because the Minister doesn’t employ anybody. The Board may say to the Ministry, “We can’t manage this, can we have some help?”, or the Ministry may say to the Board, “You can’t manage this, we’re imposing some help”. And so the Ministry just appoints a limited statutory manager (LSM) and if the Ministry has been given a whole lot of information—say, for example, that you know there’s a climate of fear, or somebody’s come and said there’s a climate of fear—the Ministry might say, “Go in and sort it”. So the LSM that’s going in may have been told there’s a climate of fear. From the Ministry’s point of view, they just want it sorted. Sometimes I think that their response to complaints is not necessarily verifiable, but their response may predetermine the issue and therefore that affects the employment relationship because the LSM or commissioner becomes an employer, but they’ve been given an instruction to do certain things (205, Carl, lawyer & investigator).

Carl suggested the appointment of a statutory manager might be procedurally and substantively unjust. That is, the process may be biased, the issues unsubstantiated and the nature of the employment relationship unclear. He emphasised that there is a need for fair investigation before deciding how to deal with the problem. He suggested that pragmatism is valued over process because the Ministry of Education acts outside of the employment legislation and wants the problem settled quickly in the interests of the operation of the school and the welfare and educational performance of the students, which is the core business of the state as the service provider. The three types of statutory appointments and their relationship with the Ministry are explained in the Ministry’s *Support for Boards of Trustees* documents:

A specialist adviser (s78K), limited statutory manager (s78M) and commissioner (s78N) are the people appointed. ... [They are] selected because of the skills required and her/his compatibility with the school environment. While they are statutory appointees and work closely with the principal and the Board (except for commissioners when the Board is dissolved) they are not Board members. They are not employees of the Ministry and must act independently when exercising their judgement. They can seek general consultative advice from the Ministry, but in the case of employment related issues they must seek independent advice from the NZSTA industrial adviser or similar, and not the Ministry ... all statutory appointees are required to exercise independent and unbiased judgement.

In the cases described above, the threat of statutory management could loom as problems escalated. When principals were trying to implement change, in some cases, parents and Boards resisted change and complaints escalated to the point where the welfare of the school was questioned and there were statutory interventions. The six types of statutory interventions are listed in appendix E.

The triggers for statutory intervention are wide and varied. For example, the request for information under 78J is based simply on “reasonable grounds for concern about the operation of the school or welfare or educational performance of the students”. The triggers for s78K, s78L, 78M, 78N (1) (2) (3) are “reasonable grounds to believe that there is a risk” to the operation of the school, or the welfare or educational performance of its students.

The identification of criteria that trigger intervention implies that schools are closely monitored. Anyone can alert the Education Council or community to concerns or risks about teachers or principals; students, parents, the ERO, media, the public and the NZSTA advisers and/or NZEI field officers. This wide range of interest groups and watchdogs, along with the wider school community, monitor legislative and regulatory compliance and monitor teachers and principals on a day-to-day basis.

The next section identifies the way teachers and principals think about their role in society and identifies the dissonance between a service mindset compared with the notion of high-performance teams associated with a business model. Table 7.5 describes the ideological tensions with regard to Government’s perception of performance in the primary education sector.

7.3.1 Government policy and employment relationship problems

Table 7.5: Barriers to ERP Resolution

Relationship Code -type of ERP <i>PRP</i>	Participant's description of barriers to resolution
<p>Teachers–Government Teachers service mindset v. Government perception of performance <i>Disrespectful rhetoric demoralising teachers, anti-teacher attitudes</i></p>	<p>Teachers & principals ... have a service mindset. They are extraordinary, our primary schools. They're not perfect but I think they are safe. ... They've got data to show what they're doing & its looked at & you know, it's a really impressive sector & we are basically bagging them at every opportunity. I think we've got stunningly performing schools, particularly in the primary sector. We've got a sector that is functioning very successfully, has a huge amount of expertise & that the Government is choosing not to have confidence in. ... It's hugely demoralising for the sector because you've got people with no expertise telling you what the sector should be doing. It makes absolutely no sense & [is] at odds with every education academic & [is] anti-teacher actually, really anti & disrespectful of teachers. I think it's really demoralising for teachers [&] I think it is ... annoying for the sector. ... I think it's going to do real damage to kids' education that we are demoralising our teachers (235, Michael, education lawyer).</p>
<p>Teachers–Government-Boards National Standards & consultation <i>Ongoing conflict between Government, Boards, principals & teachers</i></p>	<p>I think the [issues around the] National Standards are very subjective. If you asked teachers, I think they would say National Standards were just imposed. Teachers will say, "<i>Well, we weren't consulted</i>" & there is a point in that because getting buy-in depends on process, how it is done. Some people impose a policy & get everybody doing it & other people can't, but I think that any principal who is planning on making lots of changes within the school needs to make sure they've got their Board onside first. They need to warn the Board & say, "I'm going to do this. There is going to be holy-hell for a while. You may get complaints but what I'd like you [to do] is to send them back to me & we'll work with them & see how we go, but it won't succeed if you are going to deal with all these complaints on the side without talking to me" (212, Carl, employment relations investigator).</p>
<p>ERO–governors–officers–parents– teachers Policy preoccupied & record keeping <i>People in NZ education are not motivated to be legalistic but are forced to comply</i></p>	<p>The goddamn ERO is only concerned about what they see on paper—that doesn't reflect the human communication between those various stakeholders—the governors, the officers & the parents & the kids & the other teachers. The ERO certainly is policy preoccupied & thanks to the law, we have emphasised the paperwork & the record keeping & "<i>Hey, we've got the right policy in place</i>" ... as opposed to what most people do most of the time, which is communicate pretty effectively (more often than not). ... It's when the communications fail & somebody's concealing something & trying to do something devious that even a good policy isn't going to save it. ... The best policies in the world aren't going to prevent bad people from going wrong & bad policies won't prevent good people from having good communication. What makes [communication] work most of the time is good people trying to get a good outcome, communicating with other good people who are trying to get a good outcome. It could be good faith, but it's also something that nobody would have thought to call good faith because it has existed before 'good faith' came in in 2000, at least in terms of employment law. Most people involved in the education sector want to do the right thing because they're educationalists & they're concerned about that ... And it is the culture of New Zealand, not to be legalistic. But it's driven to legalism by the ERO, by statute, judicial decisions, yet the instinct is to make things work (188, Adam, academic & mediator).</p>

Relationship Code -type of ERP <i>PRP</i>	Participant's description of barriers to resolution
Teacher–principal–BoT Artificial causes of legal action <i>Escalation & aggregate loss of trust</i>	The Judges in the Employment Court try to make these bright lines that don't exist. The teacher's behaviour in the classroom, in the way they treat children—is that performance or conduct? But [there's] such a loss of trust when you add examples up. It does not fit neatly into any area of law (189 Adam, academic & mediator),
Teacher–BoT–principal–insurer–lawyer Legalism & insurance escalates <i>Negotiated exit settlement, lack of education expertise, risk of dismissal</i>	The phenomenon of the involvement of insurers removes emotion. People are inevitably involved emotionally in a situation that's going wrong with a school, whatever they may think about it. The insurance company doesn't really care about that; it wants the problem resolved because an insurance company isn't an emotive principal or BoT member. An insurance company is a hard-nosed financial institution that wants to ensure that it is going to [resolve] the problem: " <i>What is this going to cost me? How can I minimise that cost?</i> " And one of the ways of minimising cost is to get in early & to not let a problem escalate, ... which is why insurance companies tend to get their lawyers; they have particular experts in the field who act for them, who are experts in education & employment & work principally, if not exclusively, for insurers. But involvement of lawyers with their insurance companies or directly on behalf of employees means that or they have a major, full-scale investigation with all of the procedures that surround that & somebody ends up being dismissed. It grows from something that is potentially manageable & resolvable professionally, to a full-scale dispute. Any chance the person has is reduced because lawyers just don't think about things as an educational issue (229, Employment Court Judge).
Employee–employee relationship Unclear policy <i>Early assistance —s144 mediation</i>	An area of policy that is not clear is that we often are requested to deal with the employee–employee relationship (best dealt with early). While early assistance mediation is becoming a greater part of the work we're doing it's not really expected to cover the employee–employee relationship. The growth in early assistance mediation can be explained partly because the Mediation Service has been pushing it & partly because the legislation has changed (e.g., early recommendations & options for process flexibility). Partly because over the [past] 10/11 years, that's been a thing that mediators have picked up on & [they have] talked to parties about s144 (221, Jerica, mediator).
Principal–evaluator Lack of courage for difficult appraisal & performance conversations, relationship between government rhetoric and confidence to have open conversations <i>Negotiating the rhetoric between government and the education sector, Training trainers, assertiveness training, being open to learning, courage in performance appraisal</i>	The problem resolution stuff that I've been involved with is helping my colleagues to overcome the barriers to their own effectiveness in schools & helping them to learn to be brave enough to ... be assertive enough & open enough to be able to engage in an open-to-learning way with teachers & school leaders. I have been doing a bit of thinking about how that sits in the current political & industrial space ... certainly within the political space, in terms of the rhetoric around performance pay & National Standards & other ways of judging kids & teachers, ... whether schools are succeeding or not. So there's a lot of interesting & quite tricky little issues ... I think I want to put a full stop there (240, Colleen, education evaluator).

The message from these participants was that there are institutional barriers to resolution of ERP. Government's mindset, state education evaluators (ERO), the lack of early assistance processes for some relational problems in the state mediation service,

the counterproductive role of insurance companies and the approach taken by legal professionals have negatively influenced ERP resolution. Underpinning these barriers is a sense of government negatively influencing public perception of teacher performance, influencing a lack of openness to appraisal and performance conversations in the school workplace. There is a sense of the parent-community-teacher-whole school relationship being undermined by perceptions of policy change and government rhetoric. The language used to describe teachers (“a service mindset/extraordinary/safe/an impressive sector/functioning successfully/have a huge amount of expertise”) compared with the language to describe the mindset of Government (“bagging them at every opportunity/choosing not to have confidence in them/hugely demoralising/at odds with education academics/anti-teacher/disrespectful/demoralising the rhetoric around performance pay and National Standards and other ways of judging kids and teachers”) suggests, the tripartite relationship between schools the public and the Government is a barrier to open good faith communication. Colleen alluded to an implicit relationship between government rhetoric and teachers and schools having courage to be open to learning. The next section examines what is happening in the day-to-day management of ERP and options for PRPs.

7.4 Day-to-day Management of Employment Relationship Problems

This section presents the types of day-to-day ERP that were common in the data sets, such as; loss of face, teachers being required to teach a new class, the way complaints were dealt with, disrespectful dialogue, types of feedback, interpersonal problems between staff, media coverage of staff ERP, contempt for management, assertions of constructive dismissal due to interpersonal relationship breakdown, performance management, underperformance, ongoing unresolved relationship breakdown, third-party conversations escalating complaints, and conflict avoidance.

The first set of exemplars presents ERP in which the PRPs were not considered satisfactory because problems escalated, were unfair, or disregarded the input of education experts. Involving lawyers and insurers in problem resolution and excluding educators could reduce options and alternatives for all stakeholders. The settlement approach was highlighted as the most efficient approach for insurers but not necessarily the best approach for the morale of the school. Once again, the problem of avoidance was noted, with the MBIE Mediation Service identified as complicit in the lack of early help. However, that assertion was countered by a former state mediator, who

acknowledged the recent growth in early assistance (see later in this chapter). Interpersonal relationship breakdown was frequently mentioned, as well as the principal's additional struggle to ensure an equitable duty of care in the treatment of both the complainant and the person whose behaviour was being investigated. The consistent identification of performance appraisal and performance management as sites of ERP emergence suggested this was an important area for leaders' day-to-day management of ERP.

Table 7.6: Escalation

Relationship Code -type of ERP <i>PRP</i>	Participant's description of Escalation
Lawyers–Principals –BoT Performance management <i>Legal thinking restricts alternative options</i>	Lots of employment lawyers think only in terms of dismissal or nothing else; they don't think of the myriad of options that are available between doing nothing & dismissing somebody. The involvement of other professional educationalists expands that opportunity even further, because ... there the other alternatives that the lawyers should know about, which include warnings & performance management schemes & ... ongoing training, re-training, mentoring ... the professional educationalists know that there's a whole suite of other potential solutions to the problem beyond even that (230, Employment Court Judge).
BoTs–insurance Relationship breakdown <i>Insurance- excludes stakeholder participation</i>	When relationships break down & the problems are taken out of the hands of educationalists at an early stage (whatever the BoT thinks or even the principal thinks, ... the other members of staff – all the other people who are inevitably involved emotionally in a relationship that's going wrong with a school), ... the insurance company doesn't really care about that; it wants the problem resolved, efficiently (231, Employment Court Judge).
BoT–principal–teachers Insurance /legal intervention and escalation <i>Escalation, risk to career</i>	In a lot of schools ... there is a perception that it's too hard to deal with underperforming teachers & schools don't do it. ... Actually, they need to do it more. While I'm saying it's a really good sector, I think schools have a fear of Court proceedings, trouble, [and] don't challenge sometimes when they should. I don't see the Labour Department providing early help very often. They tend to once there is a warning, once there is a dismissal. If [I] could move anything out of schools, it would be getting the insurers right out. You could deal with problems in a really low, informal manner without insurance cover, without the need to notify, without insurance companies getting involved. ... Insurers really up the ante, they push for settlement, & they make people nervous about doing things. There is no need for schools to be insured for personal grievances. They are the only industry that I know that's insured for personal grievance. It's tacked onto the contents insurance & it's ludicrous. ... It's partly driving the settlement culture because you've got insurance companies wanting things fixed at a low level all the time. There is no need for it. Schools are not sufficiently at risk from personal grievances that they need to have insurance & they lose controls (236, Michael, employment lawyer).
Teacher–teacher–principal–BoT Complexity of duty owed>escalates to fighting	The education employer was the meat in the sandwich ... in a dispute between one employee & another employee. ... The employer was well intentioned—as good faith , ... they owed a duty to all of them

Relationship Code -type of ERP PRP	Participant's description of Escalation
hard <i>The employer has the duty of good faith, lawyers for the accused are specific & positional</i>	... & the counsel for the person accused was fighting very hard to win but the employer says, " <i>Well yes, I have a duty of good faith, trust & confidence to that employee being investigated</i> ". The employer also had a duty to the employees who were complaining & the employee who was complained about was that close to walking out with a constructive dismissal, so the employer had to walk a tightrope of owing duties on both sides of that line ... & in cases it could be employees or it could be other stakeholders (such as parents) ... & the employees exchanging allegations—the parties don't owe good faith to each other; they're fighting hard! Counsel for the investigated employee wants to put a very tight circle around what's being pursued. I think the employer has a duty (145, Adam, mediator & academic).
Teacher–BoT–principal–deputy principal Disrespectful dialogue, complaint about teaching change <i>Unjustified complaint, disengagement, teacher exited via retirement</i>	The problem was that we wanted to shift a teacher to another area of the school because we felt the younger kids ... were at risk (he/she spoke to them disrespectfully). Managing by collaboration was difficult because this teacher, whom we wanted to help, needed to be observed but the mindset was inspection not collaboration. He/she made a complaint to the Board through a third party about the processes for change in his/her teaching role from one area of [the] school to another. The Board was interested in the process we went through. They examined the legal risk, notified insurers & examined union grounds for complaint. But we followed the right process so the complaint was found to be unjustified & was passed back to the principal. The teacher never got over it but just had to move on in his/her thinking—he/she eventually retired (8a, Cary, deputy principal).
Principal–teachers Put-downs, disrespect <i>Strategic alliances among staff "gathering the troops"</i>	The natural human response, when someone with power (such as the principal) puts you down with an audience, for example in meetings you ... go & get allies—"Isn't this outrageous what he did to me!"—& you tell your story, that's your sort of venting, so it's not dealt with, the situation is not resolved. So now you've got several staff members, so the next time the principal does that to somebody else—"Oh look, he's at it again" Now we're building up a collective view [that] the person up there is the problem, and it escalates they gather the troops because there isn't an outlet for that to be resolved I haven't seen any schools that have set-up a process for resolving problems in school between staff about issues in the school (213, Carl, employment relations investigator).

Carl described the process of debriefing talking and forming alliances after a difficult experience, as a natural human response when there is no clear process for resolving issues. This is an important finding because it pinpoints a key point at which ERP resolution processes could prevent escalation. This human need to talk through issues may be an example of reality construction or "meaning materialising" (Weick, et al, 2009, p.131). Sensemaking in action. If we can intervene at this point in ERP and help parties to collaboratively make sense of issues, problems, complaint, conflict and ambiguity, it is more likely that ERP will be resolved by the parties themselves without recourse to insurers or lawyers, who may be more interested in identifying the courses

of action and the relevant law than in addressing the mutual interests of the parties to resolve problems and move forward.

The Table 7.7 presents exemplars where processes for conflict management were led by the parties themselves and resolved in a manner that built respectful dialogue that was empowering, because of the ERP resolution process.

Table 7.7: Early problem resolution processes

Relationship Code- type of ERP PRP	Participant's description of early problem resolution processes
Parent–BoT–principal Explicit complaints process <i>A school policy process, issues, concerns, complaints, teacher & leader before principal</i>	I think people have to have the opportunity to actually resolve an issue at its lowest possible level; if that doesn't work, take it to the next step. [If it's a] concern that ... isn't being resolved, ... you take it to a senior manager & if then it [still isn't resolved], you ... take it to the principal. ... So a senior manager may include the principal, but it depends on the school, so they can do it whichever way they like & if there is a serious issue, you write to the Board. But a principal should always be given the opportunity to resolve [issues] (particularly [those] to do with kids' concerns) with parents & students, on a day-to-day level. What I say to schools is (& they should send out this policy ... at the beginning of the year to all their parents) that you need to actually define [the problem]. ... If you have a complaints policy, it's kind of: " <i>Oh, it's got to be a complaint</i> ". I say, " <i>Why don't you do it as ... issues, concerns & then complaints, & this is how we deal with the small issues?</i> " ... It might be that in the classroom, somebody is pushing someone around. So go talk to the teacher. ... For you & I, it's probably obvious, but it isn't necessarily so for lots of schools & lots of parents. A parent will want to go immediately to the principal & the principal shouldn't be involved (196, Adam, mediator & academic).
Teachers –principal Framework for building respect <i>Embedding open-to-learning conversations or your own framework in the school for ERP</i>	People just like to be respected. When you've got these areas like Vivienne Robinson's work, on open-to-learning conversations, it's no good if just the principals read it. Everybody has to understand a negotiation framework. ... You might have a principal that's got all these ideas but if your staff are stuck in a mode of 10 years ago, ... you may have developed some good strategies for a dispute, ... & ... have a sort of framework that's quite good, but nobody else knows that framework & they don't play the game. (217, Carl, employment relations investigator).
Teachers –BoT–principal– parents–children Feedback <i>Resistance to 360 feedback has gone</i>	You provide a service but [in] most other occupations, if you're providing a service then you're actually careful to seek feedback from the clients as to what they think of that service. ... In a public service there is more than one client, more than one stakeholder that you need information from, so it is absolutely relevant to know what the kids think. ... As teachers, we've always been bad at that, we're still awful at that, because we think we know what the kids think, whereas at [ABC] school they build that into every daily activity, that feedback is constant, ongoing & it's two-way. ... there is that reciprocal experience of learning.the resistance to 360 feedback stuff is pretty much gone now, so I think it's a fact of life really. ... A sign that we're making progress is that all levels get a lot more relaxed & come to see that actually the information is vital & as that happens, then education becomes ... a little more like life, where its effective that you need feedback for learning (241, Colleen, education evaluator).

Relationship Code- type of ERP PRP	Participant's description of early problem resolution processes
Principal–BoT–teachers Media lobbying- Loss of trust suspicion, anger <i>code of ethical conduct with all stakeholders</i>	A staff member was in the media trying to get the principal voted out, basically. There was a lot of distrust within the staff & everybody was suspicious & angry with each other & did not know what to do. There was a group in the staff that [the principal] was struggling to deal with. What I was saying was, “ <i>the staff want the bad behaviours to stop & they feel that things are a bit leaderless at the moment, that nobody is controlling the behaviour of various staff members & I’d say this was a vote for you—this is a message to you to stand up, take a strong position</i> ” So he/she said, “ <i>Back into your positions everybody, behave, we’ll deal with all the feelings & the issues & so on but in the meantime, you’ve got to behave yourselves</i> ”. We ended up saying, “ <i>Everybody got something wrong here, in terms of employment law. Let’s move on</i> ”. People wanted to allocate [blame] but under stress, everybody makes mistakes. We said, “ <i>Right, we’ve got a code of ethics. We have to stick by it. We can’t deal with colleagues by snubbing or refusing to speak to them. You can’t refuse to cooperate, bully, etc.</i> ” (219, Carl, lawyer, employment relations investigator).
Teachers–principal Teachers’ contempt for management <i>Coaching & skills training in dispute resolution</i>	Teachers in this school had complete contempt for management & everyone avoided dealing with the problems. There was no HR, no conflict management, poor communication with staff, no knowledge of dispute resolution; no one was able to help resolve [issues]. All of the processes [require] some skills, & training. The qualifications & expertise somebody has who is a good teacher or scientist or doctor is not the same set of characteristics as makes a good manager with conflict management skills, unfortunately (167, Adele, academic & Mediator).
Teachers-Principals-Unions-BoT Shift to interest based ERP <i>Moving from grievance processes to early problem solving</i>	In the 90s, there was very little interest-based & lots of rights-based dispute resolution. In the 2000s, the rights continued because that personal grievance era flowed on through. ERP weren’t as prominent—there weren’t as many then, but time has evolved [&] they’ve become more frequent ... & people have become more confident at using the processes provided by the legislation to fix them. Because of the change, rather than take a personal grievance there have been more problems coming in but ... now they’re coming earlier. ... I think in the past people thought that if they had a difficult relationship in the workplace then you put up with it, but now they think there is help to get it sorted (222, Jerica, mediator).

Jerica reflected on a change from *grievances* to *problems* over the last decade. Implicit in Jerica’s language is the intended philosophical shift underpinning of the Act for people to resolve their own problems through interest-based good faith negotiation and mediation identified as a policy aim by Hon. Margaret Wilson in Chapter 5.

The final section of this chapter presents a narrative by a principal who identified his role as a mediator of stakeholder interests and relationships. His views were so strong and well tested by his 30 year career, that his narrative was worthy of one longer piece in this chapter. He justifies his view of mediation as an ongoing process for building respectful workplace relationships.

7.4.1 Principal as mediator

A principal's job is a mediator's job because you care for your staff. But when your staff have got problems, often they don't have anyone to talk to and if they have good relationships with their principals, then they will confide and look for support in the principal for matters in their own lives as well ... right from husband/wife and family relationships to issues with the neighbors.

Ultimately, the Board is the employer, so while they may delegate the management and day-to-day roles, when it all busts loose then it's the responsibility of the Board, [of] which the principal's a member, of course. Therefore, it's a bit of a dual role and I think you've just got to have an awareness around at what point ... you need to consider, *"This may escalate, or if I have to [put] resource into it, if I offer people a mediation approach, it is less likely to escalate"*.

Personally, I always attempt to create a personal relationship with every staff member. We have conversations and I give them opportunities for conversations, formal and informal. I always make sure I catch up and see and have a conversation with every member every week. You have to go out of your way to find people, as you can imagine. You see people in groups but that's not the sort of conversation I'm talking about, which is a *"How's it going?"*, *"What are you up to?"*, *"Is everything working all right?"*. You might call it that you show an element of care and concern, [which] is also a way to me of saying, *"I value you"*. People respect that over time. In fact, sometimes when you don't see them for a week they come to you and say, *"We haven't caught up this week"*, *"I've missed that"*. It can be reciprocated, too, as we're all part of this, but actually [knowing] the leader in this place cares about me [is] an important thing, for everyone to feel valued.

Similarly, when expectations are discussed, sometimes that's when those things happen, or when something is going on, that's their opportunity to bring me into the loop. It could be a problem between the teacher and a parent, for example, or something similar, or an argument over a child or whatever it might be. Any sorts of issues they're dealing with. There's an environment where if you ask for support it's there. If you inform others that you are going through something then we will give you assistance, we will give you personal as much as professional support. *"We can't do anything about what we don't know about"* becomes part of the culture too. It doesn't mean people have to necessarily like each other but it builds a professional respect ... having the good conversations and then having the other ones—all resolutions flow out of having had conversations, regardless of the form of those conversations, regularly (84, Edward, principal).

7.5 Conclusions

The first category in this chapter identified the blurring of the boundaries between management and governance. A need for training in conflict management and difficult conversations about performance appraisal was identified. Where problems had been avoided, there were risks of unjust processes for competency and performance management during statutory intervention. Staff resistance to change was an ongoing challenge for leaders. It was demonstrated in this chapter that one of the principal's core roles is mediating complex interests. The chapter points to the importance of ERP resolution processes being implemented at the earliest possible stage of problem

emergence. The most satisfactory processes were dialogue driven and called on people to resolve their own problems through frameworks of negotiation and reflective conversations. These have emerged repeatedly as tools for building respect and strengthening relationships.

Chapter 8 follows and that chapter builds on the previous three by presenting four significant stories from which there is significant learning about transformation and collaboration. The stories are presented as longer narratives of ERP experiences where learning and ERP processes intersect. While we will view one example of transformation and another of collaboration, the positive outcomes are compared with a third story where ambiguity resulted a lack of action and families exited the school. Finally, the narrative called Aidee’s story is extraordinary as it highlights the risk of constructive dismissal involving humiliation and injustice when good faith processes are disregarded in BoT–leader–teacher relationships In Aidee’s story confidentiality hides injustice and Governors lack awareness about the importance of neutrality.

The following propositions summarise the findings from chapter 7 and reinforce the importance of the governing leading and managing relationships in schools.

Table 7.8 Emergent propositions—governing, leading and managing blurred boundaries

Interrelated subcategories	Propositions
Leaders avoiding appraisal conversations ↓ Avoidance of difficult conversations, ERP avoidance>ongoing festering of problems	1. When leaders avoid conflict & difficult competency & performance conversations, problems escalate.
Rapid policy changes ↓ Stress in schools>lack of relationship building before change>resistance to change	2. There is an association between resistance to change & lack of relationship building before the implementation of change. 3. Schools absorb the stresses experienced by the sector & this may be reflected in resistance to change.
Resistance to change >complaints by teachers to BoTs ↓ Conflicting interests for BoT parents whose children are taught by the same teachers	4. Resistance to policy change arises from differing mindset about learning & teaching processes & practice.
BoT agendas for staff changes ↓ Undermining of the principal’s authority>negative impact on their ability to lead	5. There is a relationship between elected parents’ agenda for staff changes in schools & conflicts of interest affecting a principal’s authority.
Problems during principals’ performance appraisals ↓	6. There are risks for principals during performance management because the principal is the education expert but the BoT may not understand the education & learning principles being evaluated.

Interrelated subcategories	Propositions
Lack of confidentiality> escalation in the community> principal personal grievance	7. A lack of confidentiality about complaints procedures & performance appraisals by Board members can lead to escalated problems in the school community.
Governors involved in management of day-to-day operations ↓ Disempowering principals, blurred boundaries & lack of expertise	8. Governors acting as managers in the day-to-day operations of the school risk undermining the authority of the principal. 9. The BoT structure is problematic, as some schools lack access to BoT members with appropriate skills and there are conflicting interests.
Rifts between BoT & principal ↓ Risk of predetermined goals during statutory management	10. A lack of transparent communication between the BoT & the principal can lead to third-party hearsay & miscommunication, thereby escalating problems. 11. Appointment of statutory managers & commissioners could prejudicially influence outcomes for principals, with the Ministry of Education predetermining goals of the intervention—a breach of natural justice outside the jurisdiction of the ERA 2000.
Managing parental perceptions & concerns is time consuming & involves risk of escalation ↓ Relationships with a wide set of stakeholders is complex	12. The management of parental perceptions can be difficult for principals, who often mediate complex relationships between stakeholders.
Teachers' union v. Government a positional bargaining mindset ↓ The process of implementing Government policies of National Standards & performance management has negatively impacted on a range of relationships with stakeholders in the sector	13. Ongoing discord between the NZEI & Government policy makers about National Standards, the processes of implementation & expectations of consultation during decision making. 14. There is an association between the Government approach to implementation of policy, complaints against teachers & teacher disenchantment in the workplace.
Teachers & principals are focused on service provision of care & human communication, rather than compliance & legalism ↓ Different mindsets	15. There is dissonance between the Government and the education sector's mindset about work.
Disrespectful dialogue between BoTs & principals>strategic alliances ↓ Problems grow collective views from stories>problems escalate	15. Problems escalate where there is disrespectful dialogue & ongoing storytelling by third parties; e.g., venting 'in the car park'.
Legal thinking & insurance v alternatives ↓ There is a range of creative alternatives to dismissal	16. Focusing on legal causes of action can be a barrier to considering alternatives. The involvement of insurers & lawyers early in ERP contributes to a lack of trust in the processes & an escalation of problems. 17. There is an association between a focus on legal causes of action, insurance & exit negotiations.

Chapter 8: Research Findings: Theme 4 “Learning and Transforming Employment Relationship Problems”

The importance of resolving issues is because teachers are registered with professional registration and in many cases, an employment inquiry will lead to a complaint to the Registration Board and the teacher faces the prospect of being deregistered. A teacher can not only be dismissed from a job with a particular school, but also professionally disciplined and excluded from the profession. So it is actually really, really important for school teachers to have the best problem resolution system they can have (223, Employment Court Judge).

This chapter links significant stories related to the wider school community.

Here we bridge ERP *level of the workplace* the larger ERP system in education. Chapter 7 examined the relationship between leading, governing, managing and the roles of the BoT and principal in day-to-day conflict management. The subtitle of that chapter *blurred boundaries*, referred to the barriers faced by principals mediating the conflicting interests of a wide range of stakeholders in the school community. The proposition that conflict management is an everyday ongoing process has emerged and been reinforced throughout the preceding chapters. Here we explore what can be learned from exceptional cases.

Previous tabulated episodes have been compared and categorised for similarities and differences in ERP, relationships and/or PRPs. In this chapter, the narratives have been chosen based on significant situational and procedural differences. The socio-economic, geographic and organisational contexts of the schools differ in meaningful ways. This chapter presents four significant cases as chronological episodes narrated by principals, their deputies, and in Aidee’s story, a scale-A teacher. All four stories in this chapter result in employment relationships ending which reinforces the Judge’s observation above that teachers need the very best problem resolution system they can have.

The first case, *Paddling the waka in synch*, is a story of transformation located in a low socio-economic suburb. We called the decile 1 school *Wairua*. The description of principal Thomas’s hard bargaining during the first phase of change in *Wairua* is followed by the voices of three deputies commenting on his process for leading participatory processes for transformative, organisational change.

The second story, *Stuck in sensemaking*, is one in which a principal’s actions and perceived inaction in addressing dissatisfaction and complaints from parents resulted in children being withdrawn from the school. It is located in a multicultural urban school that we called *Waverville*.

The Principal and Deputy in a new school we called *Blue Sky* narrate the third story. *Blue Sky* was built in a freshly developed suburban village on the fringe of a city. They painted the school as a “culture of collaboration from a blank canvas”; however, they discovered that not all teachers were willing to learn and teach collaboratively.

The chapter ends with *Aidee’s story*—the tale of a scale-A teacher that reinforces previous findings of constructive dismissal being disguised as resignation. *Aidee’s story* is located in a small, rural, indigenous Māori community, characterised by high rates of unemployment and low median household incomes. We called that school *Tangata*—Māori for ‘the people’. The stories presented in this chapter are significant cases of transformation, collaboration, ambiguity and inaction and the confidential exit settlements we have heard so much about throughout the study.

8.1 Story 1: Paddling the Waka³ in Synch—Transforming Conflict,

8.1.1 Introduction

Sitting in the foyer of Wairua, a large decile 1 school that caters for students in years 7 and 8 was like being among a hive of buzzing bees in the honey. I had arrived 15 minutes early, hoping to get a sense of the school culture before my interview with the principal of this multicultural intermediate school, with a roll of over 750, 10- to 13-year-old pupils. Parents and children were pouring into the large, colourful foyer with enormous plates of food. Laughter filled the space. Everyone wore shirts adorned with the school logo and colourful wristbands, including the four smiling adults at reception. Whether signing in late or on time for an appointment, children were greeted with the same affectionate respectful tone of voice. Teachers moved proudly past glass cases brimming with awards, walls adorned with art and hallways of laughing, boisterous students. Thomas strode out of his office beside reception, beaming, eyes bright and dancing, clearly proud of this place.

However, this was not the atmosphere when Thomas signed up for the principal’s position in 2009. On arrival at what was a dilapidated, dispute-ridden school, Thomas was faced with planning and implementing change. The ERO had reported in 2009:

³ Waka (canoe) is symbolic because the first settlers to Aotearoa /New Zealand arrived by waka from Polynesia. The craft were double hulled as if they were two canoes side by side. Maori tribal identity is traced back to their ancestors’ waka. Therefore the metaphor suggests, working together, identity and ‘being in synch’ are important to the participants in this story.

The quality of teaching is poor. There is little evidence of effective and sustained improvements to teaching practice. There are high levels of off-task behaviour and non-engagement of students in many classrooms. Teaching programmes do not provide meaningful, well planned and delivered learning experiences that cater for students' learning needs. Teachers' expectations of students are low and behaviour management strategies are ineffective. As a result, students are frequently inattentive and disruptive. This situation means that most teachers are more focused on managing student behaviour than on promoting student learning and achievement. These concerns remain a serious barrier to learning and major factors contributing to low levels of student achievement.During the course of this review ERO identified serious concerns about the quality of the physical learning environment. The majority of classrooms are not conducive to quality teaching and learning, and in most cases are in poor condition. In addition, the grounds and buildings have deteriorated to the extent that areas of the school environment are damaged, unkempt and present health and safety issues to students and employees.

Thomas and the three deputy principals—Enid, Sam and Lavinia—told their story of transformation.

8.1.2 Background

When I took the job, the former Principal and Deputy Principal were facing criminal charges and there was a big deficit, but the school had not been touched for 30 years, there were no computers, the classrooms still had blackboards, not even whiteboards, the rooms hadn't been renovated, re-carpeted—nothing for decades.

Lavinia had been at the school for 20 years. Her views illustrated a mixture of loyalty to the past and critique of the leadership:

In its heyday, the school was really good, but when it got to the stage where the Principal's ... um ... ideas and systems had outlived their use, then we started to lose a lot of teachers. If he had left 15 years earlier, they would have thought he would have been dynamic in his time; but he was 74 when he was asked to retire ... mmm ... so it sort of came to a head because nothing was getting done. ... We had poor communication with the Principal. He would never have a regular meeting—it was like crisis management. The other DP and I had a regular meeting every week with the senior management. We were just sort of making our way along—I mean, there were no operational guidelines but he would try and intimidate us if we objected to his decisions and most of the time we just didn't bother, he was abusive.

8.1.3 Context: Embedded conflict

Thomas argued the problems were systemic; many staff were incompetent and the students were constantly in violent conflict, but he found out early that fundamentally the pupils had potential for respect because they kept him safe:

When I started, the Ministry of Education was paying for guards on the gate, so there were two guards placed on the gate in school hours. One would stay there at break time; the other would walk round the school and the playground. Teachers were too scared to do duties so they were doing duties in pairs. They were never alone. My first day, I was sitting in my office here and there was an absolute ruckus out in the foyer. And I got out of my Chair ... there were 33 boys fighting right in the middle of the foyer, all over each other, screaming and shouting and swearing. I couldn't believe it. That was my first day. On the Friday of the first week, there was a massive scrap with about 250 kids outside the dental clinic outside the gate. What happened was, a boy came into the

school who was a student here so he got through the guards at the gate, he was walking around the school with a piece of timber, looking for his cousin because his cousin had “done something to him last night” and he was “going to get his cousin back” he was at school with a bloody machete and just as the bell was going, they found each other at the top of the school there. Hundreds of kids swarming around going home and there was a massive fight with pieces of timber and this machete and all these kids came along. Someone came running in to tell me so I stormed out with my phone and as I’m running out there I ring the cops and the minute you ring 111 [and] you say ‘machete fight’, the cops swarm. Literally, within two minutes, no bullshit, there were four bloody cop cars. I couldn’t believe it. But by that stage I was already up there, in between it and it was amazing, the adrenalin-how you don’t even ... you don’t even think like, “*My God, why am I putting myself between this piece of wood and a machete? Why am I doing this?*” I didn’t even think in the sense that “*They’re not going to throw it at me. They’re not going to hurt me*”. And they didn’t, they didn’t try to get me. They were trying to swing it around me.

This was an interesting early mandate for building relationships of trust and respect. Thomas had identified that they did not want to hurt him: “*They didn’t try to get me!*” He was then charged with reciprocating the protection they had shown him in that moment. He said ‘trust in the students’ capacity for care and respect emerged from a crisis event’.

8.1.4 The dilemma of culture and the provisionally registered teachers

Lavinia was wary of Thomas when he first arrived:

It took me a long time to trust him. I think he may have planned to be harsh and then ease up because there were people that were here for the money—teachers, foreign teachers, just working 9 to 3 and he got rid of them. He made it too unpleasant or they were put on a performance management programme and made redundant—all sorts of things. So they knew it was going to happen. Sometimes they left before and then sometimes he got them appraised. I think some of it was unfair, ... but ... the kids are better behaved at our school now. Since Thomas came, the kids are happier and they are more engaged and better behaved.

Thomas lamented the quality of teaching when he arrived:

There was a staff of 38 teachers and 25 were PRTs, which meant they were Year 1 or 2 teachers and 32 were immigrant teachers. And by immigrant, I mean they were either Fijian Indian, Indian/Indian, or South African Indian and so that was one dilemma. In my view, they did not relate well to the culture of the families, who were mostly Māori and Pasifika.

8.1.5 Management versus leadership

When I arrived, there were 21 staff classified as management, who were getting a management unit for something. Not one of them could state what professional leadership they were providing to their team, or whatever their area of responsibility was. It wasn’t just one facet of the school, it was everything. When I had a one-on-one meeting with them, they couldn’t explain what they were doing. They were what I would call technical managers, in the sense that all they did was the mechanics of the day-to-day administration. There was no mentoring, no guidance, no future-focus. Really old-fashioned teaching from decades ago. So to each one of them I said, “*Well, if you can’t even define what the professional leadership is and you can’t even explain what you do in a professional sense, how can you do your job?*” Every single one of

them, [all] 21 said, “*Well I can’t, it’s really hard*”. So I said to them, “*Perhaps you need to relinquish your position*”—straight to their face, one on one. They all agreed to relinquish their management units and I didn’t make any mention at that point about money. They had all been allocated units of responsibility that gave them money on top of their scale-A salary.

8.1.5.1 Relinquishing the middle-management roles

So I said, “*You need to relinquish your position*”. I was very careful with the words I used. Every single one of them agreed, so I said, “*Ok, let me think about this*”. And then, over the next couple of weeks, I developed a new management structure.

8.1.6 Communicating the new organisational structure

I devised that structure, went back to them at a meeting and said, “*This is our new structure. What do you think of it?*” Every single one of them was excited and said, “*That’s great, that’s great*”. Then about 10 minutes into the conversation, one of them asked, “*How are you going to afford this?*” And I said, “*What do you mean?*” And I knew this would be coming and they asked “*How are we going to pay for it?*” ... And I had listed [that] the new positions had five or six units each. I had written down what they’d been getting each. And they said, “*We won’t have enough units*” and I said, “*Yes we will.*” ... “*How?*” they asked. ... “*Well, your units that you have relinquished.*” Well, you should have heard [the] silence ... their shock. I asked hadn’t they clicked when I had talked to them previously? At this stage, they’d all written a letter to me saying that they were relinquishing their position as of the end of the term and would be a scale-A teacher, no mention of money. And I said, “*Well, you’ve relinquished your position and I assumed (knowing damn well that I hadn’t assumed at all) that you knew ... you wouldn’t get units for not doing your job, so a scale-A teacher just gets a scale-A teacher’s salary. So your unit will be used for this new management structure.*”

8.1.6.1 De-escalating employment relationship problems: Standing strong

Well the shit hit the fan then, as you can well imagine. So I let it die down for a while, thinking, “*Right, the union are going to be in here boots and all*” and I was prepared for that and waiting for that. And the union were already in here, before I’d got here anyway, ... as the school wasn’t giving all the PRTs their release time and they weren’t getting any support. I mean, some of these people here were shocking. Four people went to the union about it. I was totally transparent with them about what I was doing. Well, as far as I was concerned, any person with a brain would’ve realised they’re not going to get money if they’re voluntarily relinquishing their job and luckily I’d documented absolutely every single conversation. I had meetings with them and their union reps so all was negotiated conflict resolution. One dropped away and said, oh well it was fair enough. Three kept pushing it: I refused to budge. Two were insisting, said that they wanted to leave, didn’t want to work for me, I was going to be too demanding and [they] wanted a pay-out. I said, “*If you want to leave, ok you leave. If you don’t want to leave, fine, we’ll be putting you on competency anyway.*” So one then came on board really, really well. And the last two kept pushing it and pushing it and we ended up negotiating, because by this stage I was getting bloody tired, and I negotiated that they’d keep one unit each for the following year and they’d just do a job for the unit.

8.1.7 Negative relationships with students

Enid had a view on staff turnover. She saw the problem as relational:

We had far too many teachers who couldn't build positive relationships with the kids. They weren't warm, there was no loving nature, and as a teacher you've gotta care for the kids—at the end of the day, you've got to like kids. We had teachers here who were just not into it and so they obviously had the choice of changing or moving on. It was a case of ...*“This is the way it's going to be. We need people who are going to care for our kids, who show aroha [love] for our kids.”* A lot of them decided it wasn't for them and so over the first two years of Thomas as Principal, probably three-quarters of the staff changed but ... um ... in my opinion, for the better.

8.1.8 Relationships: Four years later

Thomas was feeling very proud of relationships between the Board, staff, parents and children. After four years he believed the physical, social, economic and educational well-being of the school was in great shape.

We've done the entire school up, the school is cabled, there are computers in every room, the whole school has been painted, gardens, everything has been changed. To do that we've got sponsorship, we've got money, we've got funding, we've got a business grant from the Ministry—although they wouldn't halve our debts. We had to get rid of the debts. We got rid of those at the end of last year, which was amazing. A lot of the landscape I got charity grants for, I got sponsorship, a whole range of things.

8.1.8.1 Getting stronger and stronger: Guidance and support

Enid, the Associate Principal with the role of professional guidance and support, attributed the building of strength in the school to explicit vision, values and community engagement:

I think the vision is very clear now. We all know what kind of waka we are in, we all know where our boat's heading and ... um ... if you sort of treated the school or termed the school to be your waka, everybody who is on board the waka [is] paddling in the same direction. ... Prior to our transformation, ... [the] visual in my head was of the waka on the river, ya know, being canoed down. Some people were holding onto it, hoping that they wouldn't let go and be drifting off behind it. Other people were still trying to get to the waka, to swim, to catch up to it because they just weren't anywhere near it. Things were pretty all over the place. Whereas now, we've got a very strong vision ... the vision statement for the school is, *Adventurous risk-takers: persistent focused achievement*. Each of the words are powerful—each one has its own strength in itself, but when you put them together, it's a very strong statement. And one of the big things about that was that we all had ownership in developing that vision.

Enid explained that the improvements were due to inclusive consultation and effective communication as a senior team:

We flourish, we all discuss ideas. We put items on the agenda or we go away and think about issues because we all have distinctive portfolios and we have distinct teaching portfolios. It always starts with big-picture stuff first and Thomas will talk a lot about self-review, operation plans—the nuts and bolts—or those big-picture ideas and then all of us feed into each of those. He keeps us up to date with any reading as managers or as specific faculty reading, so that provides a model. We see his operation as the leader-manager and the way he deals with things, so he is the role model for the rest of management. I think we are paddling the waka in synch.

Sam was the Deputy Principal operations and he confirmed the importance of the common vision and values, which he referred to as 'a buzz' and 'magic':

There is a really good buzz about the school and it's got better every single year. Obviously, as all systems start to work, it just gets so much better. All of our conversations lead back to the new systems in place. They are magic and keys to success. These are, in a sense, our school rules. The three keys to success are really important. They are: we look after each other; we look after ourselves; we look after our property and environment. And then, the breakdown from that are specific keys to success. So they look like the positive things we want them to do and the kids just remember those three steps at a time. Three years ago, kids had a part [in] developing the keys. They are easy to remember and the kids know everything about [the] keys. It was sort of the start of the change, not goals but keys to success in the school. Pretty much it's the culture of the school now. In a recent survey, over 85% of the students said that they love coming to school and are happy and enjoy what they do. At the end of the day, it's about team building, team work, building relationships, positive relationships bringing through those keys to success. Its magic. At the start of the year, we take the whole school away on camp to start the school culture off. They have two weeks in their form room before any specialised programme starts, two weeks to plan for camp, prepare for camp, budget for camp, go shopping for camp food, have the car boot sale, then we take them off to an island and they stay in tents, cook their own food—it's great. It's a great week, then they come back and the curriculum kicks in.

8.1.8.2 *Sharing the pride*

Enid's teaching at the school preceded the appointment of Thomas. She celebrated what she called the pride in the transformation and she was bemused by the assumptions of visitors about the characteristics of decile 1 schools:

The number of people visiting the school is awesome. We never had people coming to visit; now we have lots of people coming in to have a conversation and wanting to know how we are doing something so different ... yeah ... people are coming to learn from us and they are also coming to share stories. So we are sharing our ways now. I think that's one of the things a lot of teachers don't do enough of; they only see what's at their own school, not what's elsewhere. When others come they say, "*This is so flash!*" we ask, "*What do you mean flash?*" They answer, "*It is just the environment. You wouldn't associate it with a decile 1 school.*"

8.1.9 Reciprocal relationships in the community: Embedding values

Sam understood that the changes were associated with human connection. Even though he was Deputy in charge of operations, his focus was relational:

It's building the community, it's the relationships, it's what the community thinks schools are about because [for] a lot of the families in our community, their schooling experiences were not positive. Seeing their kids doing things differently is creating confidence and engagement. There is an energy around this place because there is stuff going on all of the time—there's opportunities for kids to have fun in and out of the classroom. It is interesting how many of them wear their house-bands around their wrists even when they go on to high school. Everyone is given a wristband; it's about belonging and the identity of being at this school and being proud of being in this community.

Enid attributed the change to embedding new values across the school community through a process of positive reinforcement:

In 2008/9, when we did a huge amount of surveying, one of the questions was, "*What values does our community have?*" The values were divided into three different groups: moral values, educational values, and ... global values or qualities. Everyone has

bought into those values. We agreed on those values and the kids live [and] breathe everything about our school values. It's a great way for everyone in the school to be in the same boat.

8.1.9.1 Values in the community

The values are all about instilling them by congratulating kids for good behaviour, so the values cards are in local stores. A shopkeeper will give you a card and it comes into the box in the foyer 'cause they have seen you demonstrate one of the values at their organisation, so the kids get house points for those. But what's really cool is that we gave some to the police as well, so they have them in their patrol cars and each one of the local shops has a different colour. And we have had them come back from the police already saying, "*You know, you guys are doing a great job*". That's a huge thing in the community; they see the police officers in a completely different light 'cause that is not how they see the police when they come to their home or when they see them across at the neighbour's place—that's not what they see when there is a raid on straight across the road.

8.1.9.2 Talking with the community

It is different now. We have been talking to the Pasifika community and the Māori community about what they see education for their kids being like. So getting that voice into the school is one of the differences of our self-review in our forward planning. We are getting multiple voices—kids, staff, community—all contributing to the decision making so there is a sense [of] ownership rather than being told this is how you do it. And ... we have all bought into that process. If you are here, this is the way we do things around here.

8.1.9.3 Core values and service to the community

It is about modelling the core values, such as service to the community, and everyone has bought into it but if you as a teacher don't, then this is not the place for you. You move on because you are creating angst and conflict 'cause if you are coming here just as a job, then it's not going to work for you because at our school we require people to be passionate about what we are doing.

One opportunity that we provide to the kids and staff is to get outside of the school. For instance, the 'giving back service' idea involves each class giving back to the community in some way. That initially started by everyone going out picking up rubbish, 'cause that was easy to organise, but now we have groups of kids on a Friday morning that go to the local ... pre-school and have been working there for the term. Other groups have been out with the coastline society, going out picking up rubbish on the coastline.

8.1.10 Ongoing commitment to the school

Sam claimed that team building for teachers was successful due to the transparent development of any changes when working together off-site at the beginning of every year:

As a staff group we go away for two days to the beach for staff team building. There is integrity and authenticity. That team building is perfect—it's long and we go over our handbooks. Everything has a handbook. We've got annual reports, we have timetables, the professional reading book, learning teacher handbook, staff induction programme book, professional learning handbook. Everything is there for staff; everything is extremely transparent. The staff know it's the organisation for future thinking, so they plan everything way in advance.

In 2012, the ERO concluded : The principal provides transformational leadership, and with the support of his management team and trustees, and:

- the principal provides dynamic, inspirational, professional leadership for the school, staff, and community
- a collaborative, reflective, and enthusiastic senior leadership team model, and the school vision provides strong support for the principal
- the Board is strongly supportive of the principal and staff, well informed and uses evidence-based decision making
- strategic goals provide a clear sense of purpose and direction for school development
- there is a collective responsibility and accountability for student achievement and well-being
- evidence-based self-review is embedded in school culture
- there are strong quality assurance processes in place school wide
- teachers willingly use professional learning opportunities to continually improve their teaching practice
- there is an inclusive, culturally responsive school culture that acknowledges and celebrates diversity
- there is strong community support and involvement in many aspects of school life
- upgrading and refurbishment of school buildings and grounds are providing a high-quality, attractive, and motivating learning environment for staff, students, parents and the community
- an inclusive, safe environment, which acknowledges and values the identity and cultures of the diverse staff, students, parents, and community members.

8.1.11 Propositions drawn from *paddling the waka in synch*

1. Change for school improvement requires radical decisions, effective leadership through processes of systemic evaluation with a focus on competency, self-efficacy, and support for the professional development of staff.
2. The relationships between the Teachers Registration Board, schools, the union and employment problem resolution services has lacked a coordinated, education-specific approach to ERP resolution.
3. There is a relationship between generating a collective mindset; shared values; the collective, explicit generation of school vision and values; and positive, collaborative change in attitudes and behaviours.
4. There is an association between artefacts that communicate the explicit *way things are done around here* and stakeholder adoption of changes at all levels of the school system.
5. Learning for teachers, leaders, students and parents requires a consultative process that enables ongoing change and the embedding of values in the school community.

Figure 8.1: Paddling the waka in synch—Transforming conflict

Conflict | Thomas arrives

- Inappropriate spending of funds
- Theft by former leaders
- Grounds and buildings run down
- Classrooms in poor state of repair
- Blackboards, no whiteboards
- No computers
- Large debt
- Security guards on gates
- Security guards in playground
- Teachers fearful
- 33 boys fighting in the foyer
- 250 kids in machete fight at gate
- Of the 38 staff:
 - 25 PRTs, 1st & 2nd years
 - 21 allocated management units
 - 25 new immigrant teachers
- Some uncommitted teachers 9am–3pm
- Some teachers did not like children

Interviews & appraisals

“ I asked “If you can’t define your role, how can you do your job?”
They all said, “I can’t, it is hard.”
I replied, “Then it’s best you relinquish your position.” ”

- 21 senior staff interviewed & asked to define their roles
- No guidance being provided, no future focus—mechanical, task focused
- Could not define professional leadership
- Leaders relinquished management roles by letter
- Uncommitted staff were appraised, competency & performance management instigated, many resigned
- Union advocated for pay-outs for 4 staff, but there were no pay-outs
- 2 teachers negotiated to keep 1 unit each

Change 2010

- New management structure with 6 new Deputy Principal roles (Operations, Pastoral care, Learning and teaching, Guidance & support) & 2 Learning leaders (mentors/coaches)
- Surveyed students
- Held focus groups with parents
- Collaboratively built vision statement
- Developed values & keys to success
- Planted trees
- Painted buildings
- Installed broadband & computers in all classrooms
- Ongoing seeking of sponsorship
- Paid off debt
- Engaging in conversations with Māori & Pasifika communities
- Annual teambuilding trips
- ‘Walking the talk’ of service
- Ongoing writing & rewriting of staff handbooks and explicit guidelines

Transformation 2012

- Transparent sharing of ideas
- Planning ongoing change & revising values
- Focusing on relationships, respect & pride
- Love for the kids
- Positive reinforcement embedded in the school & community
- Reaching out to give service
- Talking to all stakeholders
- Building a beautiful physical environment
- Embedding a culture of respect for selves, others & the physical space
- Explicit culture

“ We are passionate about what we do. This is the way it is around here. If you don’t like and respect kids, you had better move on.
We are in-synch, paddling our waka together.
Enid (Deputy Principal) ”

8.2 Story 2: Trapped in Inaction—Sensemaking Complaints

I'm now working out what am I going to do that is supportive of the teacher. I want to be supportive of the teacher. I want the problem to be resolved. I want kids to be happy coming to school. I want them to be learning to their full extent. I want the parents to be happy with their decision to be here and not to be questioning their decision and looking elsewhere (53, Anita, principal).

8.2.1 Introduction

Anita, the principal of an urban, multicultural, decile 8 primary school, approached me at a professional development seminar on the topic of negotiating difficult conversations. She asked if I would like to interview her because she thought it would help her to “*make sense of problems*” as there was an “*ongoing undercurrent of dissatisfaction from some parents*”. I took some time to think about it, as I had some ethical concerns that she might have been asking for help in my capacity as mediator rather than offering to be interviewed for the research study. Following clarification of our mutual intentions, we subsequently agreed to two interviews: a *sensemaking* interview and a follow-up interview to discuss the effectiveness of the interventions she performed. Anita was keen to talk about the ERP, saying the opportunity for confidential, self-reflective talking was timely. It was Anita’s comment about wanting to “*make sense by talking*” that prompted this project’s secondary research about sensemaking, reviewed in Chapter 3.

8.2.2 Background

In August 2012, on arrival at Waverville, Anita arrived and led me through corridors the staff room and up two flights of stairs to her office. The narrow, steep stairs to the office felt inaccessible. The ERO reports of 2010 and 2013 were highly complementary about the achievements of the students, Anita’s leadership, the school and senior staff. In 2010, the report noted, “Good levels of student achievement, and a variety of learning opportunities offered”, all of which had continued to be positive features of the school.

The 2013 report was short and upbeat, reporting, “The Board and leaders have responded positively to the recommendations made in the previous report. The school leadership is characterized by open and transparent processes, and wide stakeholder input contributes to ongoing, robust self-review”. For Anita, that high level of transparent, wide stakeholder input and robust self-review triggered worry, stress and constant analysis about what she described as “*ongoing tensions and an undercurrent of dissatisfaction from parents*”.

8.2.3 Employment relationship problem: Parental complaints of bullying and families exiting

The ERP involved complaints from two sets of parents by letter to the BoT, asserting a teacher was engaging in bullying behaviour that made children fearful of attending school. Anita was trying to establish a fair process for resolving the problem with that teacher, whom we have called Amanda. Anita's goal to be a supportive leader was linked to protecting her staff, but reputations were at risk. Families were withdrawing from the school, citing Amanda's behaviour as the reason for leaving. The picture was ambiguous, unclear. Anita was reflecting on the evidence and the possible outcomes of a string of events. Her intention was to take action but she had been stuck for some time before we met for our first interview.

Anita's worry was based on what she called a "flash point" because two letters had gone to the BoT from parents. Both families had left the school and wanted the BoT to know they believed there were issues with Amanda that need to be resolved:

The Board sees some of the content of the letters as bullying. If you take what's written in the letters as the truth, then the kids are being bullied by the teacher. Here a child is fearful of coming to school, and where the body language of a child changes, where there's tears repeatedly ... the definition of bullying is about behaviours being repeated. And you know it's not the children doing it. ... The child's articulated it's the teacher and it's not the first child to say that. It's a stand-off between he said/she said. As a leader, I find that really quite hard.

It was clear from Anita's verbal and nonverbal communication that she was torn between the parents' claims and treating Amanda fairly. However, the problem had escalated. The letters and children leaving were explicit events that had added fuel to the fire and other parents began to complain in inappropriate ways. Anita reported:

At a recent parent interview a different parent has reported that someone commented (in front of the children), "*Amanda can't and won't do anything more for my children*". Parent interviews are supposed to be a positive opportunity to work together to meet outcomes for kids ... if parents are leaving those interviews going, "*She's not going to do anything, she's not going to change for my child, she doesn't hear that I think there's a problem*" ... then we have a growing problem.

Wishing to support Amanda, the children and the parents, Anita said she had been searching for a collaborative, mutually acceptable process for all parties, but past experiences of cultural differences were worrying her:

In my first year here I remember examples where a small number of parents, who were in a group, gave me feedback about how I didn't support staff and that kind of sat in my head because I didn't agree with them but could kind of see how they would think that and therefore could reflect on it. ... I think they were thinking ... "*Oh my goodness, she's not of our culture, ... she's different to us, will she really understand ...?*"

Anita had been supportive of Amanda in the past and she reiterated that she had thought the problems had been resolved:

Amanda is a leader, a middle manager who, in my time of working with her, has had several parents ... complain, where I've had to be part of that discussion with the parents to help get it resolved. There have been a number over the years but mentally I've ticked them off and either seen progress or haven't heard anything else and thought the problem had been resolved. But it's kind of an ongoing undercurrent of dissatisfaction. And I could probably tick these off now and say, "*I think it's in the past*", but now I can't because the Board has the two letters and I have just had another third family leave, citing the same issues.

Anita felt the problem was escalating quickly and becoming a topic of conversation in the wider school community:

The Board has a concern or a fear that the school's reputation is on the line. That if this doesn't get resolved positively and it escalates then it's not just a risk for her unit, it's a risk for the whole school. If you take what's written in the letter as the truth, then the kids are being bullied by the teacher.

As she talked, She described her inaction 'wobbling':

I don't really want the Board to know about the parent interview incident. There are things that have happened that have put me on the back foot and I haven't been that confident in decision making, so you kind of wobble a bit. The more I talk, I think there is a problem and the strategies in the past haven't worked—it's helped it simmer. And now the parent interview complaint has escalated it because the communication of what has happened through that meeting has reinforced other parents' perceptions of Amanda.

As Anita continued to outline her thoughts about how to take action, she was worried about Amanda's reaction to the news and debated whether she should deliver it in writing or by face-to-face conversation:

This will just firstly be at the conversation level, saying, "*I need you to know that the Board have had two complaints in writing, but there are some other issues around parent perception of your teaching and your leadership and so I've written an email that I'm about to send to you. When you read the email, I need you to reflect on what you think about it. Where you sit with the issues that have been raised and how you see the way forward. Do you think it is something that we can just do together or do you think it is something that you will need external or some sort of support?*"

If she chooses to go for external support, I will do the same because I would read that as not the win-win; I would read that as her thinking ..., "*Oh my goodness, I feel really threatened by this.*" Because of the unpredictability, I also need to protect myself and the Board and the school and having that person there alongside me will help keep the process fair.

Anita thought a support person who was knowledgeable about employment law could support her, which in turn would provoke the need for intervention by others. At this point, she began to worry about risk:

I think if she has an external person who is very knowledgeable about how employment matters work and I'm not ... I mean I know a lot more than most people, but not that specific level and I could put the Board at risk without realising it.

Once the concept of risk was raised, Anita began to think about other people who could support her, but her intention to keep the problem low key was still dominant as she attempted to normalize the problem:

I haven't been to NZSTA yet—they're the Board's support people—just to double-check [the] process, and I will go to our insurers just in case, so they've had an early heads up in case I can't manage this process successfully. In my mind, I do want that win-win, so in terms of communicating with her, my current thinking is asking her to meet with me, saying, *"I'd really like to meet with you after school because I'd really like you to know some stuff"*. If Amanda doesn't feel she needs that person, then I think ... I feel safe about it because I know I am not out to get her ... I want kids to come to school happy. I want her to be able to come to school happy and there will always be times where, you know ... I don't think there are many teachers who don't ever get complaints.

With the process outcomes on her mind, Anita began to compare other principals' approaches and tried to make sense of the range of possible behaviours that Amanda might engage in:

Maybe there are other principals who would've nipped it in the bud a lot earlier and gone, *"We're getting too much feedback about you"*. I can kind of see that perhaps there are a range of routes that this could go down. It could be that Amanda reflects on it and goes, *"Yes, there is still a problem and I need help to resolve it"* or *"No, it's everybody else's problem but I'm prepared to work to change other people's perceptions"*; or she may claim there is no problem and she'll come out fighting and it will all end in war. In my head, the ideal would be a short process that is a win-win.

Anita debated the impact that exit negotiations could have on the school if she were to move down the route of competency, resignation or dismissal:

When somebody leaves and maybe you have to pay money, it has [an] impact on the rest of the staff, the impact on the kids, the impact on the parents, and the Board. And sometimes parents give you subtle feedback ... where I might have thought they would be really angry, they've actually appreciated the decision you made and have seen it as a problem you resolved ... whereas I thought perhaps they might go on the attack and go, *"You hurt that relationship; you've maligned that person by doing that"*.

She continued to explore the process options, aiming for fair and reasonable responses during the handling of the complaint.

8.2.4 Four months later

Late in 2012, Anita phoned, keen to tell me about the current situation and the outcomes of her 'problem solving efforts.'

Anita had used a collaborative approach and performance management by meeting to discuss Amanda's leadership and relationships with children and parents. She was continuing to regularly check in and evaluate the situation through conversation:

I've always talked with her about parents' perceptions, so if they share their perception, *"Do we agree with it or not? ... If not, how are we going to change it?"* So I also then asked her if she was happy for her appraiser to give evidence and also the new DP,

who's just become part of that discussion, because you know then it's even more collaborative as we brainstorm ideas, so we ended up in quite a formal organisational meeting.

When asked about the outcome of the bullying accusations, Anita was a little vague. She was currently conducting surveys of the children across all classes, asking questions about behaviours that could be considered bullying, to see if she could note any patterns emerging from data collected in Amanda's class. Anita felt Amanda was *saying* she would make changes but Anita was not sure whether the surface-level compliance masked an absence of change in the classroom:

When you hear her talking, you think, "*Oh, this sounds really good*", but I still think some people can still go through the motions while the children still don't experience any change. I just don't know how to sign it off.

The BoT was patient and did not push the problem; however, that meant Anita was sailing alone, without confirmation that she had their trust:

I don't know if they have really trusted there was going to be any outcome that was going to fix the problem. Those trustees who know and have worked with Amanda more, you know, have a longer history with her and there is one that has had a lot of parents in their ear recently. I don't know what confidence they have, actually, for a meaningful change, but I have been quite positive about this process.

Another parent had recently told her directly that there was still a problem:

Four of the parents came to a meeting and directly challenged me, saying, "*I think you need a change of teacher or teachers in this part of the school*". They said, "*Well, whatever you've been doing in the last month or two is making no difference. My child doesn't really like coming to school, there's no fun, and it's in that class*".

By the end of 2012, Anita was tired of the problem and wondered whether she just was not cut out to manage conflict. As the situation continued and further children left Amanda's class, Anita worried about both her own and Amanda's capacity for managing:

We have lost another couple of kids from over there. It is hard because you're not trained for middle management. People recognise potential in teachers. They are good teachers that you are confident that they will be able to share and reinforce good practice and you see communication you can work with. But then, even with the most amazing teachers that transition into leaders, you still see them struggle. It's something we all go through. You've kind of come through the ranks and have learned skills but nothing really prepares you for when things get tough.

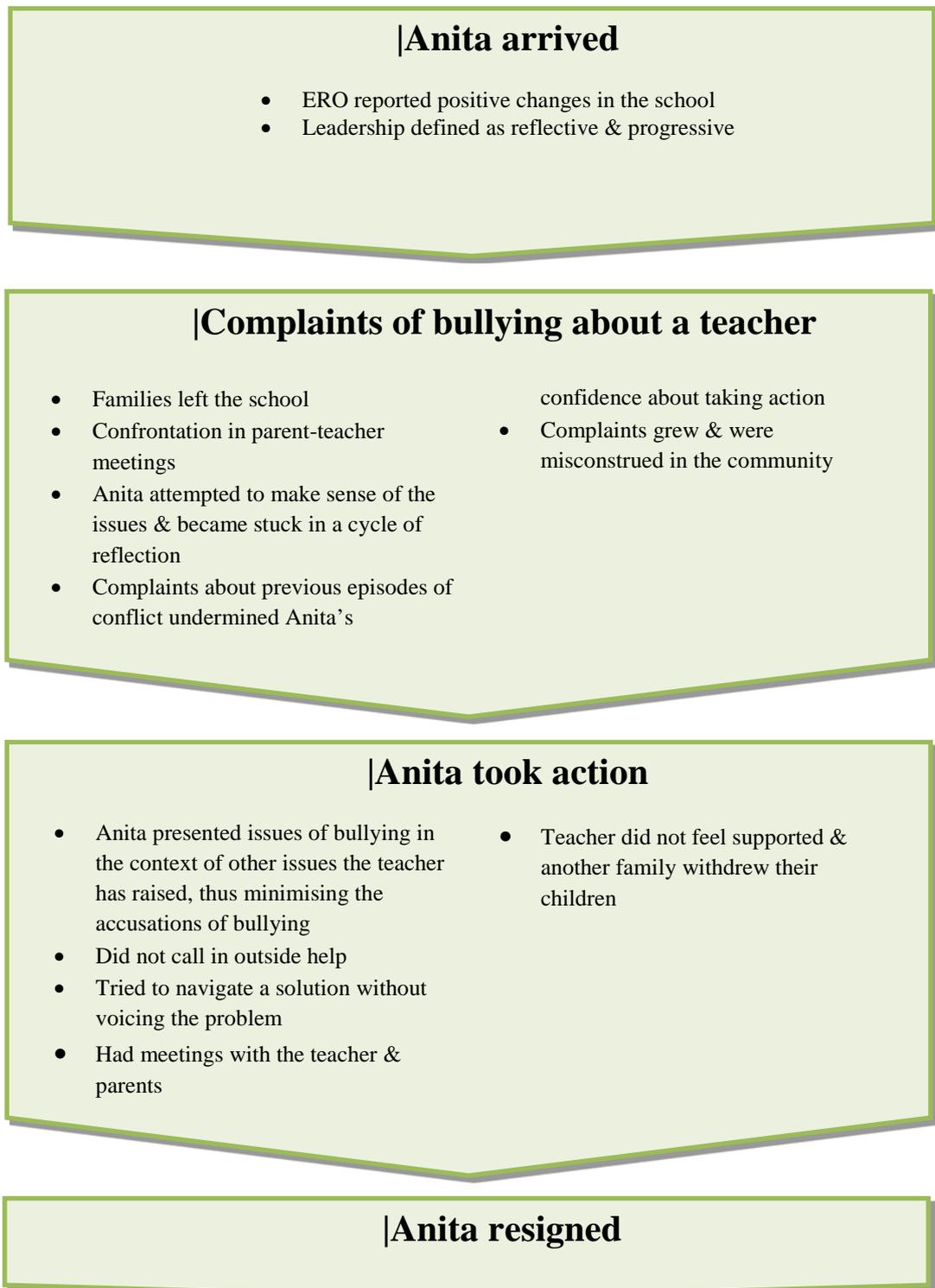
Anita's story identifies the need for training in ERP resolution and analysing sensemaking in ambiguous situations. In Amanda's case, there was no third-party, neutral intervention, investigation or mediation. It is possible that Anita was fearful of the involvement of outsiders and yet there were possibilities for excellent help to meet the interests of all stakeholders. It was unclear why children continued to leave—whether the teacher was resisting change or parents' perceptual biases were influencing

their complaints. In this case, there was a young and capable principal, in all respects delivering excellent outcomes, according to the ERO. However, while Anita was highly effective in all of the attributes that the ERO evaluated, she struggled to implement timely processes that dealt effectively and efficiently with parental complaints about teachers. At the end of the same calendar year I read in the media that Anita had resigned from the school and was taking time out of the teaching profession to travel.

8.2.5 Propositions drawn from *trapped in in action*

1. There may be an association between managing ERP alone and being unable to make sense of, or identify, the core issues and appropriate processes to implement under the circumstances.
2. There is a risk of ongoing reflection on ERP lacking effective action.
3. Managing complaints involving ERP is a very stressful process for a wide range of stakeholders in schools.
4. There is a relationship between unresolved complaints and families exiting their children from the school; therefore, schools require effective systems and processes for resolving matters that emerge from complaints.
5. Leaders require professional development and support in how to understand and manage criticism from parents.

Figure 8.2: Stuck in inaction—Sensemaking regarding complaints



8.3 Story 3: Painting a Culture of Collaboration—A Blank Canvas

Blue Sky School opened 18 months before my interviews with Maree, the Principal and Earnest, the Deputy Principal. At the time of my visit, the landscaped architecture of interconnected structures provided light-filled, open spaces. A philosophy of collaboration shone through the open-plan learning spaces called ‘hubs’. The philosophy of collaborative learning was reflected in the architecture and visible in the behaviours of a range of members of the school community. Teachers were sharing a large, open-glazed meeting room with four open-plan workstations on the edge of the playground. Parents were building wooden, fabric and virtual artefacts with children inside and outside the hubs. Teachers were tutoring groups and individuals while other students worked alongside on different self-directed tasks.

Built in a newly developed suburb, designed to cater for growth, ERO reported, “This is a highly functioning, cohesive school”. The establishment team of this decile 8 school sowed the seed of a collaborative culture by developing four vision principles that were explicitly articulated by a range of stakeholders in the school. ERO reported:

The four vision principles—building learning capacity, collaborating, making meaning, and breakthrough—are clearly articulated by the leadership team and supported by parents, teachers, and children. Parents are well informed about learning programmes and senior leaders encourage an open-door policy where relationships are built with families on an individual basis (ERO).

Maree ‘walked the talk’ of openness as she proudly introduced children and teachers who were espousing the four vision principles. When I naively inquired, “What is breakthrough?”, a child replied [before Maree could answer] “It’s when you’ve worked it out, got over being stuck, it means you are learning!” While the children were verbally interacting, they were on task; there was an atmosphere of conversation and a sense of respect for all voices. There was a lot of questioning, inclusive dialogue; children, teachers, leaders, parents and visitors were engaged in meaningful discussion.

Earnest, the Deputy Principal, believed this attention to openness was a key to ongoing professional development:

One of the things about learning hubs is that practices have got to be honest. In these places, you know you’re constantly on show, you’re constantly viewable, but you are also constantly an observer. Incidental professional learning happens in a space like this. People see, hear and pick up from each other as they spend time together, so it’s an amazing environment to grow as a teacher.

Maree identified the importance of explicitly modelling collaboration and inquiry learning in her relationships with staff and her approach of seeking and accepting feedback. She felt some staff were not altogether receptive:

I'm a learner who loves feedback, thinking about challenges and how we might do things differently. I'm curious if someone might have perceived something really interesting that I need to think about—it's just a wonderful learning. I think most people's experience of feedback has been done in a really formal setting, that ... their experience of feedback has been quite bad, so they take things personally and get quite defensive. I believe being defensive defeats the purpose. I want to be able to build capacity in these people and role model collaborative inquiry all the time. Feedback doesn't make me feel threatened. I will often see restraint and I say, "*Come on, what's the problem with what we are doing, or how do we need to think differently about this?*"

Blue Sky ERO report identified Maree's approach as a strength:

This leader is facilitating exceptional organising for 21st century learning and teaching. The leadership of the school is highly effective. The principal and senior leaders have a clear plan for implementing the school vision and for the future direction of the school. As a result there is congruence and coherence of the vision in practice. Senior leaders are strategic in the employment of teaching staff (ERO).

This final comment provides insight into tensions that Maree had identified. She believed the reported "congruence and coherence of the vision in practice" was at the heart of "facilitating exceptional organising", but she had learned not to assume that everyone would buy into the vision, or be capable of actively collaborating:

For one particular teacher, the locus of control was very much within the teacher as opposed to the child and there was conflict between the teachers. It's interesting it manifested in surface things like tidiness in the space and being timely around the timetable.

Maree has an open-door policy and her approach to resolving the issues was to hold round-table meetings with the team in conflict:

They came to me over several meetings but people were just really unhappy. This open space wasn't what one teacher perceived it to be and he left unhappy, recognising he would be happier in a single-cell classroom where he was more in control. That resolved it for everyone but I worried about the reputation of the school, with a teacher only lasting a term.

Maree concluded that during future appointment processes it was important to ensure that applicants understood the vision principles:

I realised afterward he hadn't come to the information evening where we really conveyed that this approach to learning and teaching is not for everyone. It is one thing to cooperate and accept there is a difference but it is another whole level of collaboration, really valuing the principles. If you can't collaborate, this is not a place for you. The appointment processes are something I really reflected on and learned more about after that experience.

Maree said that alignment of practice with the collaboration principle was critical. She consciously modelled collaborative inquiry in conversations across the school community. The ERO report confirmed that relationships between stakeholders were strong:

The staff and the Board have clear lines of communication. ... The work of senior leaders and the Board is well co-ordinated through the school's comprehensive strategic and operational planning processes. ... The Board continues to engage the school's

growing community. ... Board decisions focus on improving student learning outcomes. Self-review processes are well understood, effectively used, and promoted by Board and school leadership. The Board and staff have developed good partnerships with parents and with the wider community.

From Maree's perspective there was an ongoing need for developing processes to deal with conflict between groups of teachers. She identified one team where there was a habit of disrespectful dialogue:

There was a bit of dissing going on ... a kind of constant rub ... we've just had one [teacher] away for two weeks and the other two [teachers] got really tight and then it was hard for the third one to come back. It's been quite fascinating to watch body language. I have been to every meeting for the last 15 weeks because they have asked me to, but I haven't participated and I've been a presence and then shared my observations. At times, the talking over one another and the lack of respect and how they just competed, ... bettered one another [was obvious]. So I said, "*This is not ok. It's incongruent. Back to the basics ... one of our organisational norms is to be inclusive. Talking over one another is not collaborative behaviour.*" We have had some really heated ... meetings because they are quite stropby by nature. You really see them at their worst!

Earnest mentioned the capacity to collaborate during conflict. He felt that Maree was skilled at this but he felt unsure how to build his own ability to negotiate and navigate conflict:

I probably need a bit more coaching in those open-to-learning conversations. Maree is really good at it, she's very good at doing it in a way that means it's about the learning and not the person ... I know that I'd really enjoy it if we got some more coaching. What's interesting is that traditionally with open-to-learning conversations, you kind of don't get exposed to it until you actually hit that middle-management band. But when you've got a situation [where] three teachers are working collaboratively, or four teachers, they actually need that in their tool kit at a much earlier stage. They actually need to have that ability to have those tricky conversations, those strategies, at an earlier stage.

This concept of open-to-learning conversations was the Robinson (2011) model in which leaders were trained in an appropriate structure for conversations during performance appraisals with teachers. Earnest's point that everyone needed to learn the skills for collaboration is important. Embedding this principle in all hubs would require all individuals to know and understand not just the concept of collaboration but *how to* negotiate collaboratively. This story from Maree and Earnest wove learning and collaboration together and prompted my research into the intersection between pedagogy and IBN, outlined in Chapter 3.

8.3.1 Propositions drawn from *painting a culture of collaboration*

1. Processes that generate consensus through consultation when developing vision statements enhance an alignment between policy and practice.
2. There may be a relationship between physical space and active collaboration.
3. Not all employees embrace collaboration; some may resist and eventually leave.
4. There may be a relationship between the various parties' commitment to shared time and shared space and the ability to collaborate in the workplace.
5. Training in difficult conversations and joint mediation meetings is necessary in schools that intend to operate in collaborative spaces.
6. Disrespectful meeting dialogue undermines collaboration.
7. Some people need more coaching in collaborative dialogue than others.

Story 4: Aidee's story -Resigning from Dismissal

One week before Christmas 2013, I received a phone call from a scale-A teacher in a rural school we have called *Tangata*. Aidee's story is evidence of a contentious ERP that escalated. Aidee claimed the principal, whose bullying behaviour was "repeated, persistent and unreasonable and targeted", solely towards Aidee, had bullied her daily. This story provided additional evidence of the importance of explicit processes for building relational trust, negotiating power & influence and leading, governing, and managing ERP. While Aidee's story highlighted a gap in this research (i.e., a lack of interviews with scale-A teachers), it reinforced the proposition that there is a "culture of negotiated exit settlement".

8.3.2 Background to Aidee

Aidee had been a teacher for more than 30 years. She began her teaching career in the 1970s, in an area coloured by crime, poverty, pubs and pool halls, where pie-eating children were punished by physical abuse in their homes and legally strapped in their schools. Aidee was a highly regarded teacher who focused on the individual learning and wellbeing of students. Aidee felt an enormous sense of belonging and had a solid reputation in the wider rural community, as a respected educator. She had been looking forward to partial or full retirement in three to four years. However, in 2013, a new principal was appointed in their two-teacher rural school.

8.3.3 New principal

At the time of our interview, Aidee was not her bubbly, positive, resilient self—6kg lighter, she was fragile and needed to tell the story of how the new principal had treated her. She was trying to make sense of the experience of being "pushed out" by a series of unreasonable experiences, including requests for staff meetings every night until 6pm, early starts, the confiscation and burning of her hardcopy resources, emails asserting events that never happened, private verbal abuse about short- and long-term planning with accusations of incompetence, playground duty every day, and the withdrawal of reading recovery responsibilities. Worn down and emotionally exhausted, Aidee eventually took a term's refreshment leave and sought advice from the union, but finally resigned because the union advocate told her the best option was to "leave because [the principal] obviously does not want you and will find a way to get rid of you in the end". Aidee found the union unhelpful.

Aidee left that school and had not recovered, there was something about her that was just not right. Saddened and demeaned, she needed to tell her story repeatedly. She could not make sense of what happened to her career:

More than 30 years of service to education without any complaints from principals, parents, school trustees, or communities ... my life's work and not even a bunch of flowers, box of chocolates or morning tea. I have crept out without saying goodbye to the kids or families, disrespected by a principal I voted for on the appointment committee of the BoT. ... It just does not feel right. I didn't want to take it to a lawyer, I didn't want to take a personal grievance ... but at a Christmas function in the community, a lawyer said I had been constructively dismissed. He's offered to write a letter, so now I will go over it all again ... provide evidence, re-live it ... I was just beginning to recover my health. I'm not sure I have the strength to go over it all again.

Initially, Aidee turned her back on legal action. She said she was more motivated to “connect, belong, and contribute to the community; serve and make a difference”. Although the lawyer had said she had been constructively dismissed from the primary education system, she did not seek compensation: instead, she found a new calling. Thinking she could accept early retirement, she volunteered as a reading tutor at a prison. Just one year earlier in 2012, under the former principal, the school had received a remarkable ERO report and the local paper had published an article about Aidee in which the principal attributed the excellence in the ERO report to her “hard work, commitment, love for the children, love for the school and quality teaching”. The original principal was reported to have said that Aidee was an outstanding practitioner and the school was lucky to have her on the staff.

8.3.4 Legal action

In November 2014, Aidee phoned to tell me she was taking a case to the Employment Relations Authority (ERA) regarding her constructive dismissal. Following an unsuccessful mediation at the MBIE and a finding of no evidence of incompetence by the Teachers Registration Board. The new principal had reported incompetence. Aidee had regained her confidence and engaged a lawyer. She and her lawyer were confident of a determination in her favour. Her former principal, who had spoken so highly of her, had contacted her to provide her with important evidential information:

I hoped I would never have to share this information with you, Aidee. During my time as principal, the Board wanted me to **try and get rid of you** because they considered you to be a white, middle-class woman not appropriate for the school because you are not Māori. Even though you speak Te Reo, they believed you should not be teaching at the school.

This was the missing piece of the puzzle for Aidee. Her relationship with the BoT had always been positive on the surface, but there had been a hidden political

agenda. Both principals had been Māori but it had never occurred to her that she was not welcome due to her ‘white Pākehā-ness’.

The lawyer was intending to argue unjustifiable disadvantage due to the unfair, unreasonable actions of the principal. This had become a dispute of rights, as there had been a lack of fair process, secretive communication and a lack of analysis of options or alternatives, without any early process for understanding in more depth the underlying interests for Aidee, the Māori principal, or the BoT. According to Aidee, she was constructively dismissed by a process of targeted, sustained and unreasonable treatment. She had been bullied.

Aidee said, “Given the information shared by the former principal and the fact the principal’s claim I was incompetent was found to be incorrect, thrown out by the Teachers Registration Board with no foundation at all, I should win in the ERA.” Aidee’s lawyer was also confident that she would win. Aidee’s story of lost reputation, hurt and humiliation could be heard and reported in the media. If she won, there could be monetary compensation. However, it might not really be a win for Aidee or the vulnerable children she cared so much about. Although Aidee was in demand across three schools and her skills as a reliever were sought weekly, she believed the problem was a matter of principle, policy and practice that must be addressed.

Aidee phoned in June 2015 to report the matter had been confidentially settled. She was glad it was over and would not be reported in the media. This ERP had been a cost in time (2011–2015) and resources for the school. For Aidee the emotional, professional and personal cost was high, her reputation was clouded but the school and principal’s reputation had been protected. Confidentiality concealed injustice.

8.3.5 The propositions that have emerged from Aidee’s story

1. There is an association between targeted unreasonable demands, accusations and agendas to unjustifiably force teachers out because the perceived best option is resignation.
2. The union maybe powerless to help teachers who are being forced out of their jobs, due to the BoTs’ ability to claim concerns about competency and risk to the welfare or educational performance of students.
3. There is an association between identity and/or ethnicity and rationalisation of discriminatory, unfair processes of performance appraisal, unfair management of competency issues and dismissal.

Figure 8.3: Aidee's story

Before the new principal arrived

- 30 years of teaching
- Passion for helping children from poor backgrounds
- Praise from many quarters: ERO, the community, the previous principal

2012| Principal began to question Aidee's ability

- Principal began to make unreasonable demands; e.g., early starts & late finishes
- Principal confiscated & destroyed Aidee's resources
- Accusations of incompetence
- Removal of responsibilities for work Aidee enjoyed, replaced with playground duty
- Aidee became worn down & took leave
- Advice from union was unhelpful
- Aidee left the school

2014 | Legal action

- Aidee tried to move on but feelings of unresolved hurt weighed her down
- Lawyer advised that she had a case for constructive dismissal
- Information from a previous principal that the Board felt Aidee's approach was too Pākehā for the community
- Teachers Registration Board rejected new principal's complaint of incompetence— no evidence of incompetence found

2015 | Employment case

- Concern that the school, Board, children, community, principal and Aidee would all lose time, money, mana and trust through the court case
- Aidee and the school reached a confidential negotiated settlement

8.4 Conclusion

This chapter has exposed how statutory direction to early problem solving is can be disregarded and confidential processes can disguise injustice. Negative cultural assumptions about a teacher's ability to have positive learning relationships outside her own culture obscured discrimination. It was reported that traditional institutional supports from the union and mediation were powerless to protect this teacher from injustice.

On the other hand, the chapter has shown how transforming an organisation requires radical change and negotiation of a new culture by participatory processes. At yet another extreme, we found a lack of action in the face of repeated complaint resulted in stakeholder exit from the organisation. The findings here suggest ERP practices should be explicitly communicated and embedded in the philosophy and values of the organisation. One significant finding of this study that is reinforced in this chapter is that exit settlement negotiations, where BoT and principals form a strategic alliance to '*get rid of*' a staff member, are difficult to combat under the current ERP system. The stories suggest a need for capacity building in conflict management in schools and a third party independent employment problem resolution system that is specific to education. The following set of propositions summarise the key findings from the theme *Learning and Transforming ERP*.

Summary of Propositions

1. Change for school improvement may require radical decisions, and strong leadership through processes of systemic evaluation with a focus on competency, self-efficacy, and support for professional development of staff.
2. The EC, schools & employment problem resolution services lacks a coordinated, education-specific approach to ERP resolution.
3. There is a relationship between generating a collective mindset; shared values; the collective, explicit generation of school vision and values; and positive, collaborative change in attitudes and behaviours.
4. There is an association between artefacts that communicate the explicit *way things are done around here* and stakeholder adoption of changes at all levels of the school system.

5. Learning for teachers, leaders, students and parents requires a consultative process that enables ongoing change and the embedding of values in the school community.
6. There may be an association between managing ERP alone and being unable to make sense of, or identify, the core issues and appropriate processes to implement under the circumstances.
7. There is a risk of ongoing reflection on ERP, in the absence of effective negotiation delaying action, resulting in escalation.
8. Managing complaints involving ERP is a very stressful process for a wide range of stakeholders in schools.
9. There is a relationship between unresolved complaints and families exiting their children from the school; therefore, schools require effective systems and processes for resolving matters that emerge from complaints.
10. Leaders require professional development and support in how to understand and manage critique from parents.
11. Processes that generate consensus through consultation when developing vision statements enhance alignment between policy and practice.
12. There is a relationship between physical space and active collaboration.
13. Not all employees embrace collaboration; some resist and eventually leave.
14. There may be a relationship between the various parties' commitment to shared time and shared space and the ability to collaborate in the workplace.
15. Training in difficult conversations and mediation meetings is necessary in schools that intend to operate in collaborative spaces such as the hubs at open-classroom schools.
16. Disrespectful dialogue undermines collaboration.
17. Some people need more coaching in collaborative dialogue than others.
18. Targeted unreasonable demands, accusations & agendas to force teachers out unjustifiably led to resignation and negotiated exit settlements.
19. The union is powerless to help teachers who are being forced out of their jobs due to the BoTs' ability to claim concerns about competency and risk to the welfare or educational performance of students.
20. There is an association between identity and/or ethnicity and rationalisation of discriminatory, unfair processes of performance appraisal and unfair management of competency issues

Chapter 9: Making Sense of Employment Relationship Problem Resolution: Theoretical Insights

Schools are communities of care ... a true community of care comes into its own when respect is maintained... [And there is] understanding that meanings are negotiated, which can take both time and patience. It [the community of care] understands too the importance of agreeing on processes for the working through of such agreements A primary objective of schooling could be to develop understanding of how to achieve legitimate goals within relationships of mediation in complex communities (Drewery, 2014, p.10).

9.1 Introduction—Chapter Overview

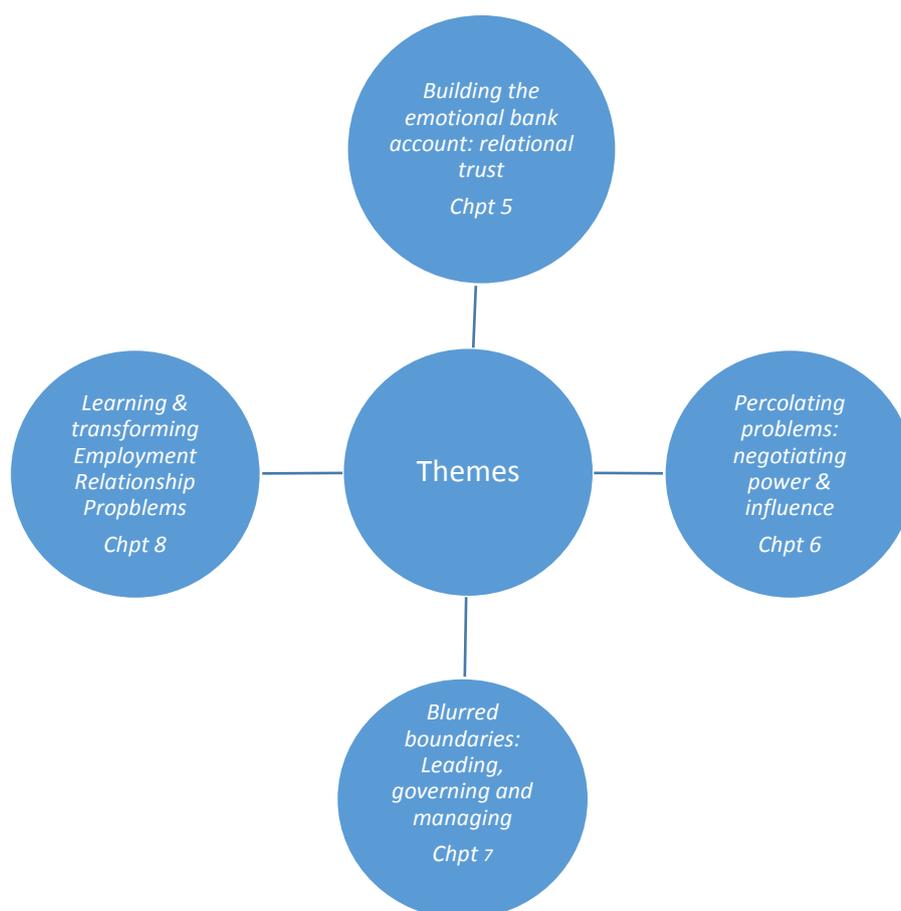
The purpose of this chapter is to discuss the theoretical insights into process, policy and practice of ERP resolution that have emerged from the themes (Figure 9.1). Propositions from each theme inform three key theoretical insights discussed in the context of existing literature. Drawing on clustered propositions from the themes, the discussion is set out in three parts. The first section is concerned with *negotiating complex relationships* (see Table 9.1), with the focus on the nature of ERP in schools. Identifying the effect of complex stakeholder involvement in the employment relationship, this section asserts that disrespectful dialogue, negotiating diversities, a culture of complaint and assertions of bullying are antecedents to escalated conflict.

The second section discusses *barriers to workplace conflict resolution* (see Table 9.2). Here, misalignment of stakeholder goals during change, and the role of legalism undermining problem resolution, are associated with the phenomena of insuring schools against the costs of dispute alongside the lack of an education-specific dispute resolution service. The findings show potential for formal legal processes and investigation to fuel escalation and undermine resolution. A link is made between these barriers and a loss of trust in the psychological contract.

The third section introduces *processes that have emerged for embedding early ERP resolution* (see Table 9.3). Beginning by engaging in consultation with all stakeholders about workplace ERP resolution, this section applies the theory of sensemaking, integrative joint problem-solving negotiation and transformative learning to justify a model for collaborative conflict management (CCM).

The findings from this research provided numerous theoretical insights that were beyond the parameters of this project and some propositions required further review of different bodies of literature, including leadership, change management, organisational learning, training and development. However, constraints of time, word limit and resources dictate that those aspects should be set aside for post-doctoral research, as outlined in possibilities for future research posited in Chapter 10.

Figure 9.1: the themes that inform theoretical insights



In this chapter, each of the three key theoretical insights —*negotiating complex relationships, barriers to workplace conflict resolution and embedding processes for early ERP resolution*—is preceded by a table (1.9, 9.2, 9.3) that maps the propositions from the themes presented in Chapters 5, 6, 7 and 8 (see Figure 9.1) to the discussion of the key theoretical insights. The discussion justifies the emerging model for early Collaborative Conflict Management (CCM) recommended at the end of this chapter.

Table 9.1: Theoretical insight- Negotiating complex relationships

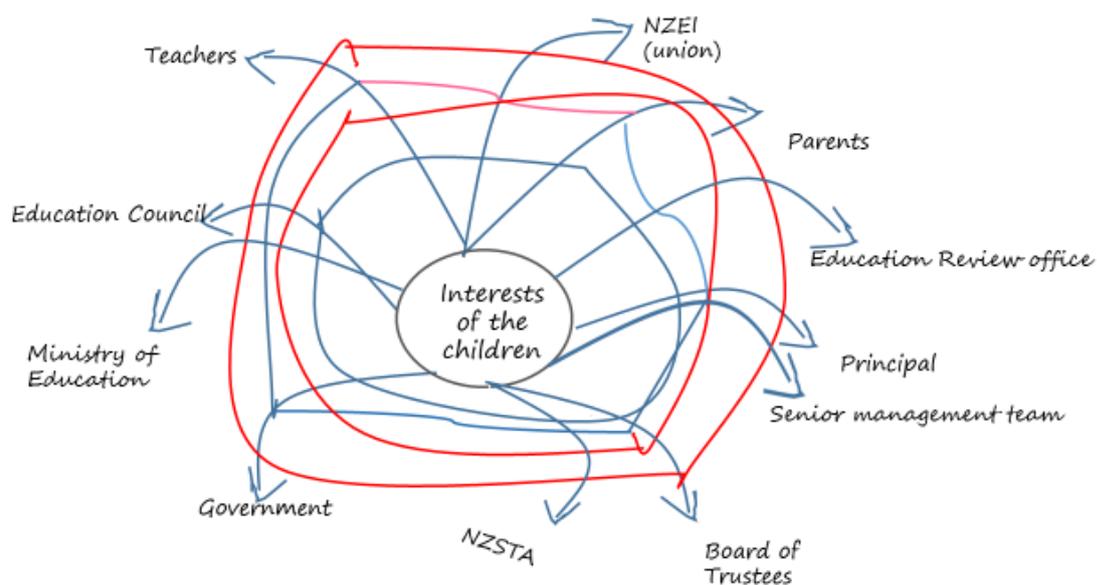
	Clustered propositions
Complex relationships & complex conflict management	<p>(5.1) School employment relationship problems are more complex than those prescribed in the ERA 2000 between an employer & employee.</p> <p>(5.2) ERP can be influenced by other stakeholders in the wider school community; parents are influential.</p> <p>(7.8) Governors acting as managers in the day-to-day operations of the school risk undermining the authority of the principal.</p> <p>(7.12) The management of parental perceptions can be difficult for principals, who often mediate complex relationships between stakeholders</p>
Percolating problems—disrespectful dialogue, negotiating influence across diversities, gender, age, ethnicity & culture	<p>(6.8) Disagreement & perceptions of overruling leaders in meetings when teachers are older than their line managers increases the risk of bullying complaints by young leaders.</p> <p>(6.9) Assertive dialogue by older male teachers who are subordinate to young female managers was interpreted as bullying.</p> <p>(6.10) Emerging leaders lose trust in older, senior leaders who micro-manage & use belittling, sarcasm in meetings</p> <p>(6.11) There are different expectations across generations of union members; some young union members object to militant processes.</p> <p>(6.12) Aggressive dialogue is considered bullying by some young union members who prefer collaboration to positional bargaining.</p> <p>(6.13) There is a perceived reduction in young teachers’ union participation.</p> <p>(8.20) There is an association between identity &/or ethnicity & rationalisation of discriminatory, unfair processes of performance appraisal and unfair management of competency issues.</p> <p>(6.14) Negative cultural assumptions about immigrant PRT’s ability to have positive learning relationships with Māori & Pacific students disguises discrimination.</p> <p>(6.17) New immigrants may resign rather than lose face.</p> <p>(6.18) New immigrant PRTs may be at risk of unfair processes of dismissal disguised as resignation.</p> <p>(6.15) There may be enclaves of less competent teachers in low-decile schools where children’s achievement is at risk; there may be less parental complaint than in high-decile schools.</p>
A culture of complaint	<p>(6.20) Parental expectation of regular feedback (sometimes daily) is an unreasonable source of stress for teachers.</p> <p>(6.23) Principals can be defensive when parents approach them with complaints.</p> <p>(6.24) Some principals feel under attack from complaints & become defensive of the teachers, the school & their own reputation.</p>
Escalation, 3rd-party sensemaking	<p>(8.8) Managing complaints involving ERP is a very stressful process for leaders in schools.</p> <p>(6.21) Parental complaints can quickly escalate to resignation/dismissal with a risk of unjust processes.</p> <p>(6.22) ERO policy compliance frames the language of ERP as complaints rather than as problem solving.</p>

	Clustered propositions
Conflict contagion	<p>(7.10) A lack of transparent communication between the BoT & the principal can lead to third-party hearsay & miscommunication, thereby escalating problems.</p> <p>(7.7) A lack of confidentiality about complaints procedures & performance appraisals by BoT members can lead to escalated problems in the school community.</p> <p>(6.21) Parental complaints can quickly escalate to resignation/dismissal with a risk of unjust processes.</p> <p>(6.25) There is a relationship between complaints & a so-called ‘culture of settlement’.</p> <p>(7.16) Problems escalate where there is disrespectful dialogue & ongoing storytelling by third parties; e.g., ‘venting in the car park’.</p>
Making sense of bullying	<p>(6.1) Assertive disagreement in staff meetings that caused loss of face/shame is interpreted as bullying.</p> <p>(6.2) Angry verbal intimidating language used by leaders in meetings & silencing subordinates was considered bullying.</p> <p>(6.5) Ongoing use of a curt, authoritative tone can be perceived as bullying.</p> <p>(8.18) Targeted unreasonable demands, accusations & agendas to force teachers out unjustifiably led to resignation and negotiated exit settlements</p> <p>(8.16) Disrespectful dialogue undermines collaboration.</p> <p>(8.6) There may be an association between managing ERP alone and being unable to make sense of, or identify, the core issues and appropriate processes to implement under the circumstances.</p>

9.2 Complex Relationships

One substantial finding of this research is a fundamental reconceptualisation of the employment relationship. *School employment relationships are more complex than the ERA 2000 prescribes between an employer and employee* (5.1). The mutual interest in the well-being of each child in the school is at the centre of this sector's employment relationship; hence, ERP involve people beyond the traditional employer–employee relationship. The findings of this research reinforced Patten's (2002) and Anderson's (2009) assertions that the primary school employment relationship is complex. Parties to ERP did not reflect the theoretical conflict frames of reference (Fox, 1966; Greenhalgh, 1999; Rasmussen, 2009). As discussed in chapter 2, the traditional pluralist tripartite relationship between government, unions and employers has weakened and here we have found that conflict with other stakeholders has influenced ERP. The web of relationships between stakeholders in the school community reinforced the neo-pluralist call from Ackers (2002) for research examining a wider range of relationships than the tripartite approach to classical industrial relations. The web of relationships illustrated in Figure 9.2 demonstrates the potential for relational problems between parties. This web of relationships, with potential for a range of networks and alliances, between stakeholders is the context in which ERP emerge and processes for employment problem resolution are managed.

Figure 9.2: A complex web of relationships



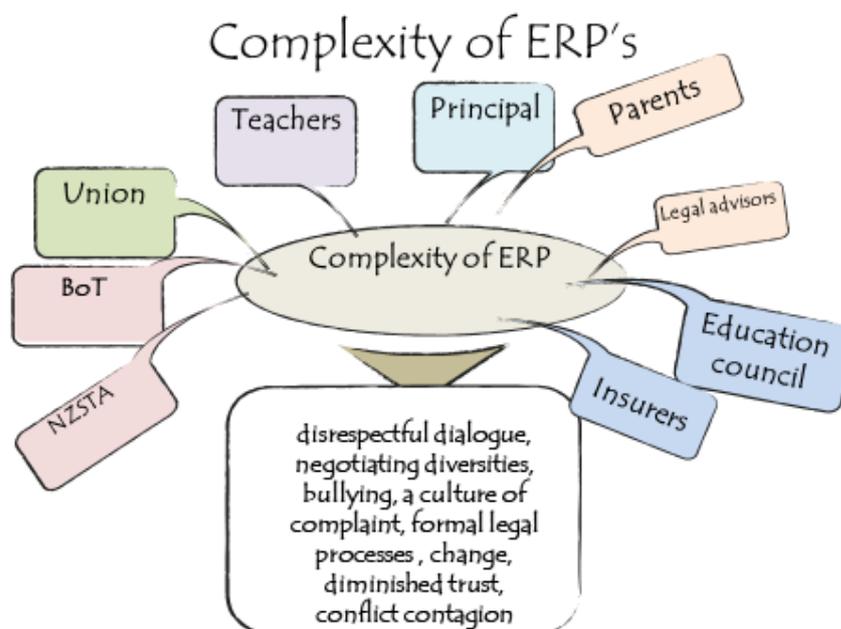
ERP can be influenced by other stakeholders in the wider school community; parents are influential (5.2). In the past, the parent–teacher relationship has been conceptualised as co-parenting or being *in loco parentis*, with collaboration, safety and care of the emotional, social, physical and psychological well-being of the child being fundamental to learning. This means the responsibility for the safety and achievement of the children was shared—parents passed on their responsibility to teachers. However, in the contemporary education workplace there is tension in the *in loco parentis* relationship. Coleman and Fergusson’s (2014) research identified mixed messages and ambiguity if the school’s goals to be child centred were mixed with defensive actions from teachers who felt they knew best when faced with parent queries. The outcome is counterproductive struggle and resistance, which requires facilitated collaborative negotiation processes to build “a new sense of shared power” (Coleman & Fergusson, 2014, p.xviii). The parent–teacher relationship is likely to be contested, as teachers have *in loco parentis* responsibility but may lack authority, especially when parents who are members of the BoT take an interest in the management of the school. This was where there was a potential conflict of interest, especially if there was conflict in the principal–BoT relationship.

Governors acting as managers in the day-to-day operations of the school risk undermining the authority of the principal (7.8). The aim of Tomorrow’s Schools’ self-management was to bring “schools and communities closer together, improve accountability and performance” (Wylie, 2007). However, it was not anticipated that the power of the BoT to appoint, dismiss and delegate power for day-to-day management to the principal would result in Board members engaging in day-to-day management. The performance management of the principal is a critical juncture and nearly half of New Zealand principals have experienced problems in their relationships with their BoTs (Hogden & Wylie, 2005). The reasons that principals have reported a decrease in morale and increased stress are not known (Wylie & Bonne, 2014) and they are likely to be multi-factorial; however, this study found there were daily tensions for principals with regard to managing their relationships with parents and BoTs.

Whether the issues involved individual children, teaching or learning, negotiation between parents and teachers was important and understanding the way parents made sense of issues was important in the day-to-day management of the school. *The management of parental perceptions can be difficult for principals, who often mediate complex relationships between stakeholders* (7.12). The study found that the complexity of relationships in the school system required early attention problems

involving a wide range of members across the school community. This was expressed as a need for an early response to ongoing daily *percolating problems*.

Figure 9.3: The complexity of ERP



9.2.1 Disrespectful dialogue, negotiating influence across diversities, gender, age, ethnicity and culture

The manner of dialogue during the negotiation of problems was linked to disrespectful tone across diversities of gender, age, culture and ethnicity and the context of interaction was important. While conflict was inevitable and diversity was beneficial for generating a range of ideas, the context and manner in which conflicting ideas were negotiated influenced the emergence of ERP. *Disagreement and perceptions of being overruled by leaders in meetings when teachers were older than their line managers provoked bullying complaints by young leaders (6.8)*. Assertive, passionate dialogue may not have been intended to disempower others, but when behaviour was aggressive or oppositional, it was a threat to cooperation. This is supported by Folger, Poole & Stutman (2005), Jehn (1997) and Rahim (1983, 2000, 2002) and positional negotiation is a barrier to joint problem solving and damaging to relationships (Fisher, et al.1991; Lewicki et al.,2010; Riskin, 1996; Walton et al., 2000). Disrespectful dialogue was perceived as intergenerational and an unacceptable dimension of teaching team interactions.

Different approaches to negotiation communication were linked to gender and age. *Assertive, uncompromising dialogue by older male teachers who were subordinate*

to young female managers was interpreted as bullying (6.9). Kolb and McGinn (2009) found that complex situational factors, including cultural patterns and work practices, interaction, negotiation tactics, preferences and strategies, were influenced by gender. Kolb and Putman (1992) had presumed that women were likely to take relational approaches to negotiation and beliefs about expectations of workers influenced negotiation behaviours. However, the notion that empathy and assertiveness are gender specific has been challenged (Mnookin, Peppett & Tulemello, 2000). Kolb (2012) warned that women may be internalising the 'double bind' of the stereotype regarding styles of negotiation behaviour. The double bind in leadership research (Elly & Rhode, 2010) asserted that women exercising authority were torn between conforming to feminine styles such as accommodating others, risking a lack of respect as leaders, or adopting masculine styles and being perceived as cold and self-promoting. Whether this 'double bind' or anxiety has influenced young women leaders' was not clear in this research. On the other hand, men reported difficulty negotiating with older men, and the context of conflict interaction was important. Inappropriate disrespectful dialogue during meetings was a feature of ERP.

Emerging leaders lose trust in older, senior leaders who micro-manage & use belittling, sarcasm in meetings (6.10). Haeger and Lingham's (2013) study of young leaders aged less than 36 years, who managed people more than 20 years their senior, found evidence of conflict due to generational differences that could lead to a "series of collisions" (p.299); where perceptions were not shared, interactions failed. In this study, emerging team leaders expressed dissatisfaction about feeling overruled in meetings by teachers who were older than they were. Some believed that aggressive meeting behaviour was intended to silence others.

As discussed in Chapter 2, policy has shifted from the highly regulated unionised environment to one where individual and collective employment agreements sit side by side, and this shift is playing out in the workplace. *There are different expectations across generations of union members; some young union members object to 'militant' processes* (6.11). While unions negotiate employment benefits for the collective, policy makers have ensured that employees have individual choice. As explained in Chapter 2, the concept of personal grievances was introduced in 1973 but they were taken by the union on behalf of the individual until the ECA 1991, when individuals were able to take a grievance with or without union support. This change has been linked with union struggles to entice new members (Rasmussen & Greenwood, 2014). 'Militant' processes were reported as reasons for a reported resistance to older

unionists' demands for solidarity. *Aggressive dialogue is considered bullying by some young union members, who prefer collaboration to positional bargaining* (6.12).

Dissatisfaction with the perceived dialogue style during union meetings suggested that young employees sought collaborative approaches to negotiation. *There is a perceived reduction in young teachers' union participation* (6.13). Unions have an important role to play in modelling negotiation styles. Collaborative interest-based processes for negotiation may meet the expectations of young teachers.

There was an association between identity and/or ethnicity and rationalisation of discriminatory, unfair processes of performance appraisal, and unfair management of competency issues and dismissal (8.20). The ERA and the Human Rights Act 1993 prohibited discrimination on the grounds of sex, marital status, religious belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status or sexual orientation. However, this research has highlighted an issue of discrimination occurring when competency and performance issues have been explained as being part of the person's culture, language and belief systems. Performance management procedures (which schools are bound to follow) include a duty to act in good faith, be active, constructive, responsive and communicative, and implement fair processes with opportunities for employees to improve. These obligations are important during performance management and disciplinary processes. There is no argument for injustice, yet *negative cultural assumptions are made about immigrant PRT's ability to have positive learning relationships with Māori and Pacific students* (6.14).

A system of performance management is a process aligned with the expectations of standards outlined in teachers' employment agreements. The processes implemented can be subject to scrutiny if there has not been feedback, assessment or opportunities for improvement. Robinson's (2011) open-to-learning conversations compared hard and soft approaches to performance management interviews, drawing on the comparison between hard and soft bargaining, akin to Fisher, et al., (1991, p.13) directive not to "bargain over positions". Robinson's work (2011) explored the conflict for principals between task and relationship, highlighting the value of neither a hard nor a soft approach. Rather, an assumption-checking approach, with an acknowledgement of different views on the issues, reinforcing the possibilities of perspective checking, was demonstrated by being open to learning and reflection about a colleague's performance. Robinson's (2011) training of principals for performance appraisal interviews was reported as beneficial because the approach had engaged teachers and principals in a relational approach as reflective practitioners.

The importance of leaders developing cultural competencies for conflict management is significant because *New immigrants may resign rather than lose face* (6.17). Cultural competency is of increasing importance in New Zealand. For example, 50% of the Auckland population is of Māori, Asian and Pacific descent and 44% of the current population has not been born in New Zealand (superdiversity stocktake, 2015). Embedding processes for performance appraisal and conflict management that seek to understand how people of a variety of cultures make sense of issues will be of significance in a truly good faith environment, and to mitigate the finding in this research that *New immigrant PRTs may be at risk of unfair processes of dismissal disguised as resignation* (6.18). The issue here is that once signed, a full and final settlement agreement is binding and enforceable under the ERA 2000 s149. An agreement that has the effect of releasing a person from the prospect of dismissal (in exchange for resignation), releasing the employer from the threat of litigation, is full and final. There is a serious risk of injustice for new immigrants who feel compelled to accept a confidential settlement.

The notion of dismissal by resignation is in tension with the idea that schools are organisations where the core business is learning. The expectation that teachers would engage in ongoing, continuous learning was a view articulated by educators during interviews. There was significant frustration that some teachers were resistant to new learning. There was also an assertion that *there may be enclaves of less competent teachers in low-decile schools where children's achievement is at risk and there is less parental complaint than in high-decile schools* (6.15). The assertions of parental complaints about teacher competency was an important finding because complaints were constitutively cited as antecedents to exit settlements in some high-decile schools. On the other hand, Thomas demonstrated that he was prepared to use the process of dismissal by resignation (due to incompetence) in a low-decile school. The claim that children who lack financial well-being are subject to a double disadvantage by poor teaching because parents do not complain was identified by principals, dispute resolvers, legal and education experts. The issue is worthy of further in-depth inquiry for two reasons. Firstly the finding suggests vulnerability to procedural injustice by discrimination for teachers and students and secondly it highlights the widespread conception that parental complaint is an appropriate process for monitoring and controlling teacher competence and performance .

9.2.2 A culture of complaint

This study found requests from parents for information were met with resistance from teachers, which provoked complaints to principals. Managing parental requests was said to be putting pressure on the parent–teacher relationship, especially in some high-decile schools. *Parental expectation of regular feedback (sometimes daily) is an unreasonable source of stress for teachers* (6.20). However, parents were said to be requesting open communication and information linked to the implementation of National Standards, which involve regular reporting of children’s achievements. When teachers and principals resisted these requests or avoided dealing with them, parents felt there was a barrier to voicing their concerns informally and were more likely to make a formal complaint. Teachers may not be prepared to discuss challenges or questions about teaching practice as they strive to meet new policy expectations, teach effectively and engage in new professional development expectations. Weick (1976, p.8) theorised a relationship between teacher autonomy and resistance to parental complaints in schools. He saw the classroom as an autonomous subsystem of the loosely coupled school system. He posited that teachers could justify their actions as being in the best interests of the child or children. There was an implicit trade-off, resistance to complaints enabled teacher autonomy. Eighteen years on from Weick’s (1976) claims, teacher autonomy is being questioned. Principals and senior leaders manage teachers’ reporting processes. Whether the duty of good faith, embedding open communication, could be applied to the parent–teacher relationship as a school code could be an area for future investigation.

There was a relationship between complaint and feeling bullied that provoked defensive reactions by teachers and principals. As identified in Chapter 2, the Government is currently encouraging parents to request robust information from teachers and schools. However, this is not always simple. *Principals may be defensive when parents approach them with complaints* (6.23). Parents and students recently gained access to nationwide complaint processes beyond the school, which could add to teachers’ anxieties about how much autonomy and authority they have in the classroom. The EC’s online complaint form, uploaded in July 2015, allows for written complaint about a teacher. There is one caveat: “the first point of contact of any contact for any complaint will be the teacher’s employer” and the complainant is warned, “the complaints assessment committee (CAC) is unlikely to consider a complaint that is

frivolous or vexatious”⁴. However, the complainant may report the conduct of the teacher, quality of the teaching and/or the character of the teacher. The potential impact of the new complaints procedure suggests that a culture of complaint is a significant institutional phenomenon in the education workplace, which requires widespread negotiation and mediation skills for dealing with complaints that frame differences, as concerns and problems.

Principals may become more defensive of their teachers because scrutiny may increase the fear of complaints, in parallel with the new expectations of the administration of National Standards. There may be increased workplace stress about how to negotiate problems. *Principals may feel under attack from complaints and become defensive of the teachers, the school and their own reputations* (6.24). Classical negotiation theory recognises defence as a feature of competitive positional bargaining (Walton & McKersie, 1965; Ury & Fisher 1981, Lewicki et al., 2010). A collaborative interest-based approach is less likely to involve defensive reasoning. While one conversation may involve both approaches, anchoring or framing the goal and the process as a mutual collaboration is more likely to result in a satisfactory outcome for ongoing relationships. *Managing complaints involving ERP is a very stressful process for leaders in schools* (8.8). If parents and principals or teachers engage in dualistic, right-and-wrong thinking, attributing blame before inquiry, without making sense of the situation or assumption checking, complaints are likely to escalate. Internal systems for complaint handling have required the recording of investigative processes, but now parents and students can electronically lodge complaints centrally with the EC and this is a powerful lever, forcing schools to predict, prevent and resolve issues as early and as close to problems as possible. However, a defensive mindset cues ongoing conflict (Mayer, 2000, 2004a, 2004b; Cloke, 2000; Walton & McKersie, 1965; Fisher & Ury, 1981; Lewicki et al., 2000).

As shown across the four chapters of findings, *Parental complaints can quickly escalate to resignation/dismissal with a risk of unjust processes* (6.21). The possibility of complaint to the EC will require a shift in mindset from a defensive and positional rights-based, adversarial negotiation to an early collaborative-learning approach at the level of the school, with information shared and the concept of being *in loco parentis* rediscovered as a good faith relationship of open, transparent communication, thereby building trust in individuals and processes for resolution.

⁴ <http://www.educationcouncil.org.nz/content/complaint-form-0>

Just as adopting, a code of good faith could prevent complaints; the language of Government policy encourages complaint: *ERO policy compliance frames the language of ERP as complaints rather than as problem solving* (6.22). Complaints to schools may be associated with the ERO policy for schools to keep a complaints register. While a complaints register may be a necessary record of processes followed, the framing infers grievance, criticism and blame, which may invoke early formal process of investigation, with evidence gathering rather than an opportunity for feedback and learning. The framing of language anticipates experience and moulds outcomes (Kahneman & Taversky, 1984; Goffman, 1974).

The informal framing of relational problems was an explicit aim of the ERA 2000, to resolve issues before framing problems as ‘legal causes of action’. The goal was to resolve early, by problem solving before escalation. The interface between ERO policy and the objectives of the ERA 2000 may be a site of confusion for those operationalising the policies and processes in schools. It is important that any complaints register uses informal language, but it is difficult to keep a process informal if there is a sense that institutional policies and processes are not being followed. One way to address this was taken by a school that called the complaints process ‘feedback’ and ‘concerns’. Providing a process for voicing concerns or providing feedback, whether positive or an opportunity for learning, is one way to prompt parents and other stakeholders to engage with the school in an informal, collaborative reciprocal relationship in which information is transparently shared rather than hidden. The latter provokes distrust and misinterpretation, which fuels sensemaking around the community by those who seek to be heard.

9.2.3 Escalation of third-party sensemaking—Conflict contagion

According to Jehn, Rispens, Jonsen, & Greer, (2013), conflict is contagious and there may be “perspective taking, and emotional contagion spreading over time” (p.268). *A lack of transparent communication between the BoT and the principal can lead to third-party hearsay and miscommunication, thereby escalating problems* (7.10). In the *Lewis* case that provoked this study, described in earlier chapters, Mr Lewis was accused of bullying the school’s Dean during a moderation meeting and subsequently received a number of other complaints about his teaching and the way he dialogued with students. In the recent *Edwards* case, parental alliances and subsequent complaints about the principal, who claimed he was ‘mobbed’ by complaint, resonates with the pattern of complaints where, *a lack of confidentiality about complaints procedures and*

performance appraisals by Board members can lead to escalated problems in the school community (7.7). This escalation to conflict contagion (Jehn et al., 2013), which played a role in outcomes of Edwards and Lewis, involved strategic coalitions between Board members and parents, confirming the proposition discussed earlier that Parental complaints can quickly escalate to resignation/dismissal with a risk of unjust processes (6.21).

In another recent case, *Campbell* involving accusations of bullying of staff by a principal, settlement negotiations between the Government-appointed commissioner and the principal were protracted and by the time the court found in favour of the principal for unjustified disadvantage and unjustified suspension, she was awarded \$158,000 after two years of battling to clear her name. *There is a relationship between complaints about teachers and a so-called 'culture of negotiated exit settlement' negotiations (6.25). A less resilient individual than Campbell may have accepted the money confidentially offered repeatedly and moved on, to protect their reputation and save themselves the emotional and psychological costs of dispute in the courts. This may explain why there are few cases that reach the Courts. However the absence of court cases does not mean there has not been conflict contagion problems escalate where there is disrespectful dialogue & ongoing storytelling by third parties; e.g., 'venting in the car park' (7.16). It appears that employment relationships end by confidential processes, contrary to the original objectives of the ERA 2000.*

The aims of the ERA 2000 were to strengthen the ongoing employment relationship by the prompt and efficient solution of ERP (s 144 (2) (d)). Mediation is the first step as the primary problem-solving mechanism, aiming to reduce the need for judicial intervention (s 3 (a) (vi)). However, it is unclear how common the relationship is between parental complaint and exit settlement negotiation, or how many exits are being facilitated by the state Mediation Service. In 2014, the reply to an official information request to the Ministry of Business Innovation and Employment could not furnish data concerning exit settlement mediations nor the numbers of mediation by sector, because no such data were collected. It is interesting to consider the potential role of state-sponsored mediation service in confidential exit settlement negotiations. Since the amendments to the ERA in 2004, s 147 has enhanced the application of an evaluative model of mediation, where "to avoid doubt", the mediator:

... decides the procedures that will be followed, which may include to any party his or her views on the substance of 1 or more of the issues between the parties or expressing to any party his or her views on the process the party is following or the position the party has adopted about the employment relationship problem.

Risak and McAndrew (2011) presented ‘strong presence of evaluative elements’ during mediation described as ‘robust risk assessment and analysis of the merits of the case’. The notion that evaluative mediation could potentially provide confidential advice to employees that they were unlikely to ‘win a case’ and thereby advocate exit settlement negotiations suggests there is grave potential for injustice. There is a risk of inappropriate processes for the management of parental complaint and conflicts of interest where the boundaries between governance and management are blurred, problems are personalised, and formal complaint escalates conflict, fuelling contagion in the community. The findings identified formal processes (Figure 9.4) that contributed to escalation of ERP.

The complexity of relationships that go beyond the traditional employee–employer relationship has had consequences for the implementation of daily practices to comply with the duty of good faith, which is “central to ... and permeates the entire employment relationship” (Kiely, Thompson & Caisley, p.154). The fundamental finding of complex stakeholder relationships highlights the need for informal processes that meet the objective of the ERA to promote mediation and problem solving close to the workplace. A common expression throughout this study is the assertion of bullying, which is particularly poignant in the context of schools, where we expect children to be protected from bullying and adults to model appropriate behaviours. However, institutional policies and processes increasingly acknowledge the social problem of aggressive, targeted, unreasonable, ongoing bullying. As highlighted in Chapter 6 and above, under Section 16 of the Health and Safety in Employment Act 2000, if an employer identifies a hazard in the workplace, all practicable steps must be taken to minimise harm and provide a safe workplace, including psychological harm (s 2). Therefore, it was clear that even if leaders did not believe that certain behaviour met the definition of bullying, schools should act early because there were different understandings about the meaning of bullying.

9.2.4 Making Sense of bullying

In relationships between colleagues where there was loss of face during meetings, escalation of conflict and unresolved issues were articulated as feeling bullied. *Assertive disagreement in staff meetings, causing loss of face/shame, is interpreted as bullying* (6.1). In the context of meetings sensemaking is interactive Weick (2012, pp.55-56) discussed organisational sensemaking as “process directed at constructing plausible interpretations of ambiguous cues”. Cues between people in

organisations involved “an interpretation process that requires cognitive coordination in the interest of wise action” (Weick, 2012, p.56). In this study episodes of assertive disagreement led to claims of bullying and positional bargaining and in some cases a negotiated exit from the employment relationship. These outcomes were not ‘wise actions’ because careers and reputations were damaged. While a zero tolerance for bullying is especially important in the school sector, there was a risk that behaviours that did not meet the criteria of ongoing targeting or bullying could end in negotiated exit settlements, for the bully and/or the bullied. Sensemaking is a social ‘relational interactive process’ (Weick, 2012, p.57) and applying the legal test or definition of bullying did not resolve the causes of the problems, relationships were damaged.

Angry intimidating language used by leaders in meetings and silencing subordinates was considered bullying (6.2). Regardless of the policy definition of bullying, people felt bullied in social contexts in which they experienced humiliation. A sense of bullying between a superior and subordinate was not always reported. Experiences described as bullying were not confined to employees. Leaders with legitimate authority reported that they felt bullied. In *Edwards*, the principal described his experience of sustained complaint by a range of people about his competence and performance as “mobbing” or “upward bullying”. Both legally reported cases and the episodes that underpinned the propositions above suggest ongoing circumstances in which people feel disrespected, trust is reduced and barriers to career advancement were reported. Explanations of bullying are more complex than the classical power imbalance between employer and employee suggests.

An ongoing curt, authoritative tone can be perceived as bullying (6.5). A person could name a behaviour they had experienced as “feeling bullied” if dialogue was authoritative and curt, but from a policy and legal definition, that may not be the case. Bentley et al. (2009) and Worksafe New Zealand (2014) warned that it is important to beware of the confusion between task-centred management styles and bullying. In *Harris v The Warehouse*, Chief Judge Colgan said the assessment of bullying behaviour had to be an objective definition. Just because the person who had been the target considered that he or she had been intimidated or threatened, it did not necessarily mean the behaviour met the legal test.

As stated earlier, bullying and harassment in the workplace, as defined by Bentley et al. (2009), is “repeated, unreasonable behaviour” in which the victim is targeted and the unreasonable behaviour is sustained, causing harm, going beyond a one-off incident. The authors had adopted the dominant international definition and

their research is reflected in the recent policy publication, *Preventing and responding to workplace bullying* (Worksafe New Zealand, 2014, p.6). While harassment may be considered different, involving specific elements of diversity such as ethnicity, gender, sexual orientation or any of the 13 categories of discrimination under the Human Rights Act 1993, bullying and harassment may co-exist. Bullying in the workplace is considered a health and safety ‘hazard’ under the Health and Safety in Employment Act 1992 and it can be pursued as a personal grievance under the ERA 2000.

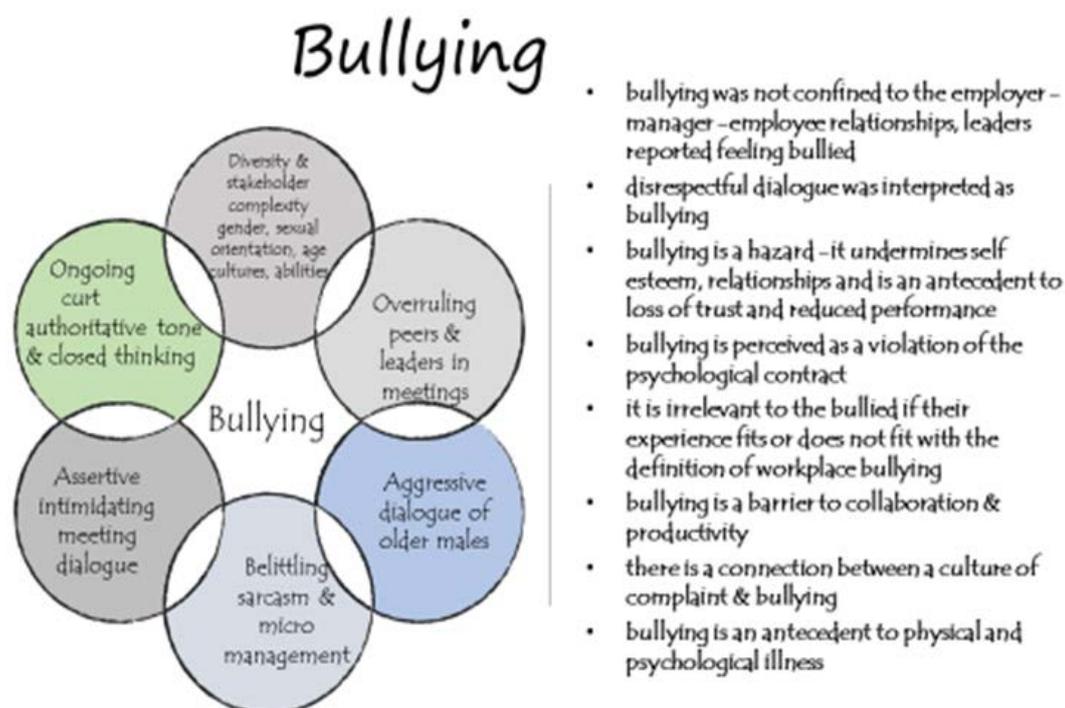
According to Bentley et al. (2009, p. 1), “bullying and harassment are relatively widespread across the health and education sectors”. This study has discovered examples of targeted bullying to force teachers out. *Targeted unreasonable demands, accusations & agendas to force teachers out unjustifiably led to resignation and negotiated exit settlements* (8.18). Bullying and harassment cases have provoked questions regarding the appropriateness of mediation. For example, McLay (2009, p.19) warned that “rather than both parties being empowered by a mediation process, a more likely outcome is that [the] process will reinforce the existing power dynamic where there is a significant imbalance”. The New Zealand Chief High Court Judge, Justice Winkelmann (2011, p.7) raised similar concerns: “Mediation can increase the power of the strong over the weak, magnifying power imbalances and opening the door to coercion and manipulation by the stronger party”. In Aidee’s extraordinary story, we found elements of bad faith, injustice and discrimination. This story demonstrates confidential negotiated settlement is inappropriate in bullying cases, there is little opportunity for healing apology, reinstatement for the bullied or restoration. Aidee like *Lewis* in the case that prompted this thesis lost her career. However, transformative mediation involving acknowledgement, recognition and apology akin to the restorative justice approach ⁵ could be appropriate when the person who claims to have been bullied is taking the action, and, the other party is open to change. As discussed extensively chapters 2 & 3 the REDRESS programme at USPS successfully implemented transformative mediation, notably the process was embedded in the organisation.

In this study, bullying was not confined to the traditional employer/employee power imbalance; principals reported instances where they felt bullied. A fundamental

⁵ Restorative Justice has not been applied in this thesis but is a process entirely appropriate in bullying cases. Restorative justice in schools for children is wide spread with training facilitated by the New Zealand Peace Foundation. It is interesting that the process is yet to be embedded at the level the employment relationship or the governance management relationship.

finding of the research is that *disrespectful dialogue undermines collaboration* (8.16) and processes for developing guidelines respectful dialogue in the school workplace are the subject of the final section of this chapter because *some people need more coaching in collaborative dialogue than others* (8.17). In addition, it is important to note here that people require support to understand the issues they are facing because *there may be an association between managing ERP alone and being unable to make sense of, or identify, the core issues and appropriate processes to implement under the circumstances* (8.6).

Figure 9.4: Bullying



The search for appropriate prevention policies, training, peer mediation, conflict coaching, negotiation and communication training has become more prevalent in the last decade. The Ministry of Business Innovation and Employment, the Human Rights Commission, Human Resource Institute New Zealand, employer organisations and unions have been very active. There have also been insights from practitioners who have suggested new policies and have developed training and coaching modules for strengthening relationships and empowering respectful dialogue. For example, McCulloch (2010) applied principles from the narrative and transformative models of mediation in her work as a mediator in the tertiary education sector and has developed

new conflict coaching, peer mediation and conflict resolution training techniques that aim to empower people to take responsibility for their own actions. Training and coaching recognises that workplace conflict may involve unintended negative impacts due to a lack of awareness when communicating across differences such as culture, ethnicity and gender. Bullying has often appeared in personal grievance claims for unjustified disadvantage and constructive dismissal. McLay (2009) categorised workplace-bullying cases as:

Parties seeking redress following resignation, pre-resignation exit package negotiation or an on-going employment relationship, where parties sought assurances that bullying behaviour would stop and perpetrators would be forced to engage in education (p.19).

As outlined in Chapter 3, bullying behaviours were identified in the USPS before the REDRESS mediation systems and processes were adopted. That programme included peer problem-solving and transformative mediation processes aiming to preserve relationships and demonstrated that basic communication training in listening, conflict coaching, facilitative problem solving and mediation practices had positive outcomes. Facilitative mediation was found to have a positive impact but was not as influential as the transformative approach, in which acknowledgement and recognition were reported to empower individual learning. Amsler (2014) found there was a positive correlation between enhanced listening and the settlement of disputes, as well as reduced absenteeism and greater loyalty in employees. Amslers' (2014) study identified the value of self-determination over outcomes that had emerged from the transformative approach to mediation through face-to-face dialogue.

The core finding of this study that relationships are complex and that *disrespectful dialogue undermines collaboration* (8.16). This suggests a good faith problem-solving approach to conflict management may not be embedded in the daily dialogue of the workplace. As discussed in Chapter 2, the key objective of the ERA 2000, s 3(a)i is a requirement for good faith' in all aspects of the employment environment to 'behave co-operatively' and 'be active and constructive' in maintaining a productive employment relationship'. While good faith informs policies and collective and individual employment agreements, it is possible that the directive has not been considered applicable to day-to-day behaviours. A significant finding of this research is the disruption to relationships within the school by complaints and the potential for escalated conflict posing a barrier to day-to-day conflict management, characterised by a gap in institutional provision of processes for early resolution. A recent policy response to avoidance has been the new EC complaints system. However

the next section identifies tension between the institutional provision of the complaints system that may prove to be an unintended breach of the ERA requirement to act in good faith. The next section discusses institutional barriers to ERP resolution.

Table 9.2: Barriers to resolution of workplace ERP-propositions that inform the discussion

Themes	Clustered propositions
Institutional barriers	<p>(5.4) There are no specific institutional processes for ERP resolution involving parents.</p> <p>(8.2) The EC, schools & employment problem resolution services lack a coordinated, education-specific approach to ERP resolution.</p> <p>(5.6) The intentions of the ERA 2000 for mobile mediation through early problem solving in the workplace has been resisted by the mediators from the former Employment Tribunal & employment lawyers.</p>
Ideological misalignment of stakeholder goals change & expectations.	<p>(7.13) Ongoing discord between the NZEI & Government policy making about National Standards, the processes of implementation & expectations of consultation during decision making.</p> <p>(7.3) Schools absorb the stresses experienced by the education sector & this may be reflected in resistance to change.</p> <p>(7.4) Resistance to policy change arises from differing mind-sets about learning & teaching processes & practice.</p> <p>(7.15) There is dissonance between the Government and the education sector's mindset about work</p> <p>(5.19) There is an association between staff tensions & different conceptualisations of teaching & the escalation of ERP—some think of teachers' labour as a commodity, while others think of it as identity & service</p> <p>(7.12) There is an association between resistance to change & lack of relationship building before the implementation of change.</p> <p>(7.9) The BoT structure is problematic, as some schools lack access to BoT members with appropriate skills and there are conflicting interests.</p> <p>(6.23) When teachers complain to the Board about principals, the Board members are considered conflicted because the same people are in charge of the well-being of their children</p> <p>(7.6) There are risks for principals during performance management because the principal is the education expert but the BoT may not understand the education & learning principles being evaluated.</p> <p>(7.5) There is a relationship between elected parents' agenda for staff changes in schools & conflicts of interest affecting a principal's authority.</p>
Legalism versus problem resolution Processes that undermine trust & psychological contracts	<p>(6.26) Investigation of complaints by BoT members can lead to escalation of problems.</p> <p>(5.16) Investigation & statutory intervention may disadvantage principals.</p> <p>(6.27) Investigation of complaints about teachers by leaders is considered inappropriate due to a perceived lack of neutrality.</p> <p>(7.17) Focusing on legal causes of action can be a barrier to considering alternatives. The involvement of insurers & lawyers early in ERP contributes to a lack of trust in the process & an escalation of problems.</p> <p>(7.18) There is an association between a focus on legal causes of action, insurance, exit negotiation and resignation.</p>

9.3 Barriers to Workplace Conflict Management and Problem Resolution in Schools

This section discusses barriers to the resolution of ERP, including the gap in institutional provision of mediation in matters other than the formal traditional employment relationship. Institutional policies and practices have not catered for the special nature of the education employment relationship, in which conflicts of interest can be barriers to early resolution of ERP. The current ideological approach to policy and implementation, alongside the provision of processes for parental complaint and investigation, undermines early resolution because the search for facts and blame is a rights-based approach and detracts from interest-based processes. Hence, the tendency to default to legalism instead of using early informal collaborative processes, which aim to strengthen mutual trust and are linked to maintaining the psychological contract.

9.3.1 Institutional barriers

The employer–employee relationship is the focus of the state provision of mediation. The employer is responsible for keeping employees safe from disadvantage in the workplace. However, neither in legislation nor in practice has there been a specific process to address ERP involving other stakeholders, such as parents. *There are no specific institutional processes for resolving ERP emerging from problems involving other stakeholders e.g., parents* (5.4). As discussed earlier, in July 2015, a complaints procedure was instituted by the NZEC, including a complaints form that has the potential to escalate conflict in the education workplace. The form requests the teacher’s home address and date of birth, judgement about the teacher’s quality of teaching and character, provision of witnesses’ details, and an invitation to attach extra sheets of paper if there is not enough room for witnesses’ evidence. In addition, there is an invitation to attach schoolwork, letters and emails and for the complainant to state the outcome they wish to achieve. While the legal requirement to refer to the BoT first is noted, the NZEC will accept the complaint if the complainant believes there is a conflict of interest at the school (e.g., their child’s friend’s parent is on the BoT).

In this study, conflicts of interest were found to be inherent aspects of school ERP because the BoT is usually a parent body and it was probable that the complainant would also be a parent in the school community. A complaints register implies grievance, criticism and blame, which can in turn frame the issues as matters for formal investigation rather than an opportunity for feedback and learning. Here, issues of privacy, natural justice and good faith should be examined. This finding generates

several questions for future study, because documenting a complaint about the quality of teaching and character of the teacher can formalise the issues and inflame the problem, preceding neutral investigation, with potential breaches of good faith and natural justice. This new policy affirms the proposition that *The EC, schools and employment problem resolution services lack a coordinated, education-specific approach to ERP resolution* (8.2). The main critique of this new complaints process is that it could fuel conflict, undermine trust in the parent–teacher relationship and escalate the problem before teachers and parents have a chance to make collaborative sense of the issues. Moreover, it should be asked how the regulatory authority received a mandate to engage in delivering regulation, complaints handling and dispute adjudication processes. The development of this complaints process by the EC highlights a gap in the institutional provision of services and the need for a distinct education ERP resolution service.

If ERP have not emerged from actions of the parties to the employment relationship (e.g., if a teacher is ill-treated by a parent), the BoT is responsible. As reported by Anderson (2009), there is an inherent conflict of interest if the principal or Board members conduct investigations. Thus, an internal, early response to problems is an important step in conflict management. Lipsky and Seeber (2003) found that perceptions of the procedural fairness of internal systems influenced engagement in the processes. The mediation principles of impartiality, confidentiality, voluntary participation, neutral facilitation and protection of the right to engage in formal processes later were criteria for ensuring ‘procedural fairness’ (pp.102–103). Thus, facilitators of informal internal systems would require training in the principles of negotiation and mediation, as outlined in the recommendations at the end of this chapter.

The intentions of the ERA 2000 for mobile mediation through early problem solving in the workplace has been resisted by mediators from the former Employment Tribunal and employment lawyers (5.6). In spite of the ERA 2000’s explicit directive for an early, mobile, problem-solving approach to resolving ERP, this study found that the institutional stakeholders resisted this shift in approach. Instead of moving employers, unions, individuals, legal representatives and employment relations institutions away from positional bargaining, we found that employment lawyers and mediators from the former Employment Tribunal adhered to a more settlement-oriented process, resisting a collaborative approach to negotiating problems.

It is possible that lawyers thought the mediation service would operate under the mediation/arbitration approach of the former Employment Tribunal. The convergence of competitive and collaborative approaches to conflict, leading to the integration of settlement and adversarial modes of employment negotiation during mediation, is a departure from the original vision of the policy making involved with developing the ERA 2000. However, the Mediation Service has recently undergone a review of processes and is consciously engaged in training in a range of less adversarial approaches to mediation (Cotter & Dell, 2010; MBIE, 2014) but this does not include providing mobile mediation located in the workplace.

An interest-based, facilitative mediation process was claimed to be unrealistic in some circumstances, such as those in which employers wished to dismiss employees. According to MBIE mediators, if one party aimed to end the relationship and the other party did not, mediation was ineffective. The MBIE (2014) reported that if relational goals were not aligned at the beginning of mediation processes, then outcomes were not aligned at the conclusion of them (MBIE, 2013, 2014). Under these circumstances, positional bargaining emerged as a pragmatic settlement mediation. Therefore, it is clear that some ERP are not suitable for mediation. Employers seeking to exercise power confidentially and unfairly dismiss an employee can enlist the MBIE service to provide the exit process. Likewise, aggrieved employees who wish to leave an organisation can seek the best monetary outcome by filing within 90 days of resignation. These situations are little more than a negotiated exit settlement. Early preliminary processes outlined at the end of this chapter would provide explicit, confidential, without-prejudice processes for exploring intentions, options and alternatives before making decisions about formal processes.

9.4 Ideological Misalignment of Stakeholder Goals and Change

Ongoing discord between the NZEI and Government policy makers about policy implementation, and unmet expectations of consultation during decision-making, affects trust in the employment relationship (7.13). Rationalisation and efficiency are contemporary drivers of policy in education. As noted in chapter 3, Wieck (1976) claimed that it would be a “mistake [to regard] the management of schools as similar to constructing a building or operating a factory”. Applying the metaphor of plant growth, he identified “complex ancient processes” in which “preoccupation with tidy, rationalised, efficient coordinated structure” was the “antithesis of responsiveness” (p.2); therefore responding to problems is likely to be cumbersome where systems value

efficiency over flexible, natural human processes. Weick (1976) argued that a loosely coupled system was inexpensive to organise and self-organising teams required less coordination than a tightly coupled structure, whereas tight coupling resulted in lack of flexibility, unmodifiable systems and resistance to change. The idea of loose coupling, with teachers working autonomously is being challenged in the current education system. A Weickian (1976) lens would suggest that there is an association between the current Government's drive for tighter coupling, by standardisation and accountability and teacher /union resistance. However, as the findings show teachers are in favour of open communication, collaborative practices and continuous improvement.

At the New Zealand Principals Federation Conference in 2014, Gerver (2014) addressed the new politics of education and facilitated workshops on transformational leadership. He presented a view that mistrust of governments in the education sector arose from 'governments' obsession with micro-levels of 'accountability and control' (tighter coupling). This led to 'over-complex and confused systems', with 'extraordinary spending on evaluation control', accountability and a 'testing culture' of global league tables, with education 'aimed at higher qualification for employment' instead of the development of 'human qualities'. On the other hand, he claimed that the top companies in the world are seeking employees with cognitive skills such as listening, distillation thinking and application of theory to practice, rather than good test results. These claims are relevant here, as Gerver (2014) asserted the need for links between education and 'world of work'. He maintained that 'Education should be a celebration of life, and principals should treat their schools as hubs of collaboration, involve parents, build relationships with businesses in local areas, and ask, 'What is it like to be a part of this school; how do we sell education as a lifestyle to our children?' However, collaboration will require a paradigm shift at the level of policymaking.

In the context of the competitive free market ideology, the global shift from collectivism to individualism (Rasmussen, 2009) and the move from pluralist to a unitarist approach where it is assumed "employees and employer share the same interests" (Budd & Colvin, 2014, p.20) may be influencing parents' thinking about making complaints to schools about competency, performance and school management. There is a link between the discourse of policymaking and workplace ERP. *Schools absorb the stresses experienced by the sector, which may be reflected in resistance to change (7.3)*. As discussed above it is possible that education policy change between 2010 and 2014 has influenced individual relationships between teachers and leaders, principals and BoTs, and teachers and parents. In that time, there have been

many issues in which change has been associated with resistance from schools. These issues have included problems with the pay roll for teachers, the implementation of National Standards, new policies for increased class sizes, legislation to implement charter schools, and the executive principal policy. Ideological tensions over policy changes and media coverage of conflict between Education Ministers (Hon. Anne Tolley, 2008–2011, and latterly Hon. Hekia Parata, 2011–2015), the primary school union (NZEI), the Schools Trustees Association (NZSTA), New Zealand Principals Federation (NZPF), and the Post Primary Teachers Association (PPTA) have created complex dissension that has negatively affected trust in the sector.

Political policy change adds pressure to the principals' role as negotiator, mediator between Government regulation, BoT governance, teachers, parents and the wider school community. If we view argumentation as a vehicle of sensemaking (Weick, 1995, p.137), the way a principal negotiates decision-making processes during change affects relationships across the school system. As stakeholders make sense of ambiguity during change, it is to be expected that arguing between individuals will have consequences in the school community. Conflict competencies are especially important during such change; the third section of this chapter proposes a model for facilitating learning about conflict management across the school community.

The policy change was mentioned in all of the interviews for this study. The participants unanimously identified a discourse of competitive, attack and defence between the Ministry of Education and other stakeholders. There was consensus that there was a lack of constructive dialogue. Participants expressed the view that there was a lack of intention to engage in policy debate and escalation of commitment to the Ministerial position on issues involving the sector. Some leaders believed that Government dialogue with schools through the media fuelled dissonance and negativity between schools, parents and their communities. However, the literature has also shown that while dissonance is unsettling (Freire, 1970; Bakhtin, 1981; Mezirow, 2000; Brookfield, 2005, 2006, 2014) it is an opportunity for change and transformative learning. However, there is resistance.

Resistance to policy change arises from having differing mindsets about learning, teaching processes and practice (7.4). Winter et al. (2012) found that the contentious, positional negotiations (see above) between Education Ministers Tolley, Parata and the teachers' unions had negatively affected trust between the Government, the Ministry and teachers. The positional approach to negotiation affects trust (Olekals & Smith, 2005, 2009). Mediating change requires acknowledgement of the complexity

of tasks and relationships in the school system. The competitive, power-based negotiations and lack of collaboration in the sector over proposed changes (e.g., increasing class sizes, charter schools, performance pay, National Standards and league tables) was headlined as a “war on education” (Education Aotearoa, 2014). Ury, Brett & Goldberg (1989, p.17) claimed that the costs of using threats and imposing power can be high, as the weaker parties may not comply, become angry and retaliate (Skarlicki & Folger, 1997; Lewicki & Minton, 2002) resulting in the need for expensive compliance costs, and the weaker party may take revenge in undetectable ways, such as working to rule and refusing to take on extracurricular activities.

The win/lose thinking between stakeholders in the sector was accompanied by a narrative in the media about “war” and “battles”. The lack of positive relationship building within the education sector was, in part, responsible for drowning out informed debates. Governments, schools, parents, unions, principals and BoTs all have a mutual interest in student achievement. The literature shows that IBN begins with relationship building and good faith requires sharing of information. Effective change processes would have engage stakeholders in collaborative relationship building before decision-making.

There is dissonance between the Government the education sector’s mindset about work (7.15). Powerful ideological conflicts may be underpinned by a lack of trust in parties’ different conceptions about the nature of work (Budd, 2011). The findings indicate that tensions were characterised by debate about policy constructs such as accountability, and pedagogical constructs including the influence of standardised testing and league tables, on learning and teaching. According to participants a lack of trust manifested as parental complaint, disrespectful dialogue, conflict about expectations and teacher resistance to small changes in the workplace. According to leaders in this study teachers felt they had lost the power of voice in the competency/performance conversation. In a nationally representative survey (Wylie, and Hogden, 2010) reported “monitoring school performance” is the area BoT now spend most of their time (p.5). While the ongoing negotiation between Government and the education sector could have been viewed as seeking to balance equity, efficiency and voice (Budd, 2004); (that is balancing fair outcomes with the wise use of resources and participation in decision making) participants in this research sensed efficiency had been prioritised over teachers voice. This issue reached down into the workplace because there was dissention between teachers. *There is an association between staff tensions, different philosophies of teaching & the escalation of ERP—some think of teachers’ labour as a*

commodity, while others think of it as identity & service. (5.19) Budd's (2011) focus on the way we think about and experience work, and the links between a sense of value in society, and worker well-being, suggests wider society's trust in teachers can be eroded during conflicts related to policy change. Some participants in the study sensed Government policy changes were moving toward performance pay and high performance workplaces, measured by student achievement.

There is an association between resistance to change and lack of relationship building before the implementation of change (7.12). The idea that teachers might be resistant to change involving student achievement may seem counter-intuitive, given that learning is an ongoing process facilitated by teachers who are capable of adaptation, problem solving and reflective thinking. However, Argyris (2002) theory of closed-loop defensive reasoning may in part explain the phenomenon of resistance to change in the education sector. Argyris theorised a universal tendency to design one's actions to maximise the chance of winning, to stay in control, suppress negative feelings and be perceived to be acting rationally by defining, justifying and evaluating our own behaviour, to avoid embarrassment, shame or threat (pp.7–8). Argyris (1991) claimed this phenomenon was particular to people of high academic achievement because the stakes of failure were high. He noted that people's self-esteem is intimately tied to performing effectively and the more conflicts they experience, the more likely they are to engage in defensive behaviour. This defensive closed-loop reasoning may help to explain reactions to swift and persistent policy changes, especially if the changes are implemented with little consultation and are debated in terms of teacher competency and contested pedagogical values and beliefs that negatively affect teacher self-efficacy.

This research found that the lack of relationship building between teachers and Government before changes were implemented might have affected the teacher–parent relationship. While it was not clear, whether parents had begun looking for problems in their childrens' classrooms or whether teachers had become resistant to parental inquiry, there was a need to examine the way society conceptualises the work of teachers and how it values them. Budd's (2011) focus on the way we think about and experience work, links a workers sense value in society with worker well-being, suggesting increased risk of conflict in the education sector workplace during change in expectations of 'teachers work'.

Negotiating parental expectations was consistently reported in this research as a source of stress for teachers and leaders. With reference to dealing with teacher competency issues, one mediator referred to settlement as “bargaining in the market”, a

term usually reserved for discussion of the supply and demand of commodities. However, framing the education sector as a market commodity was seen as deeming the employment relationship as a disposable win/lose bargain, with an association between parental perceptions of their right to demand high performance and if not satisfied, to complain. This was not the way the teachers and principals viewed their work; they saw teaching as 'service'. Issues that arose from this discrepancy concerned the vulnerability of teachers and principals, and whether collaboration could emerge from market competition was questionable under the current governance structure.

The BoT structure is problematic, as some schools lack access to BoT members who have the appropriate skills and there are conflicting interests (7.9). This study found that there are conflicts of interests exacerbated by lack of appropriate skills especially if principals and board relationships are not conducive to open debate. In addition, *when teachers complain to the Board about principals, the Board members are considered conflicted because the same people are in charge of the well-being of their children (6.23).* Negotiating conflicting interests is problematic in this context. According to Koyama (2014, p.300) principals in market driven conditions play 'an active policy role locally negotiating, and mediating accountability requests'. Given the complex nature of relationships, a principal's ability to influence school policy is dependent on their relationships with Boards of Trustees and their performance is under the daily scrutiny of the wider school community.

There are risks for principals during performance management because the principal is the education expert but the Board may not understand the education and learning principles being evaluated (7.6). This proposition arose from stories that described risks for principals during evaluation, when assumptions were made about their performance and competency by people who did not understand learning and teaching theory. Performance management requires careful handling, (Anderson, 2009, Robinson et al 2009; Wylie, 2007; Wylie & Bonne, 2014). Just as poor performance can have a negative effect on the whole school, it is possible that positive learning can emerge from a process of ongoing feedback with boards and principals collaboratively problem solving. The process can be an opportunity to discuss progress, offer new ideas, identify future potential changes, discuss the implementation of continuous change.

Weick et.al (2008) examined the notion of "mindful infrastructure within organisations" for resilient performance. They claimed that unexpected events are frequent and as organisations face unanticipated change, there is learning to be gained

from high-reliability organisations (HROs) such as airlines, in which “complex problems” emerge from “abrupt disruptive events” that require “resilient actions for speedy recovery”. Weick (2008, p.83) claimed mindful sensemaking by HROs avoided oversimplification of problems, when decision makers “know they have not deduced all possible failure modes, and they have a deep appreciation for the liabilities of overconfidence”. Weick and Sutcliffe (2001) identified mindfulness in high reliability organisations as sensemaking by “ongoing scrutiny of expectations continuous refinement, differentiation of expectations based on new experiences, willingness and capacity to invent new expectations” (p .42). In other words, ongoing reflective attention to failure and success is a dimension of managing continuous change in organisations. Given the culture of complaint identified in this study and the potential conflict of interests in the BoT, with leaders fearing confidentiality breaches by board members about complex problems, there are barriers to ‘mindful sensemaking’ of ERP. One principal in this study predicted board members without children at the school would enable principals to ‘feel more able to take a collaborative problem-solving approach to problems, rather than only report good news stories’. On one hand a fear of open problem solving is a barrier to organisational learning, on the other hand “mistakes are occasions for learning “(Weick 2009, p.130). Therefore, a case could be made for the appointment of neural board members with a range of education and organisational experience to enable mindful analysis of complex problems.

There is a relationship between elected parents’ agenda for staff changes in schools and conflicts of interest affecting a principal’s authority (7.5). While the NZSTA provides guidelines and training on the code of behaviour for governors, this does not guarantee that parents will not subtly lobby to be elected with the aim of bringing about change in the staffing or leadership in a school. Enacting change is not necessarily a negative phenomenon. However, this research found that the process through which changes in relationships, learning and teaching practices were enacted could give rise to escalation of conflict and have negative effects on performance. As noted earlier, performance management is the role of principals and open-to-learning conversations (Robinson, 2011) can guide assumption checking and help to develop collaborative approaches to generating criteria for acknowledging continuous improvement or lack of development. However, the findings suggest the elected nature of BoTs and the terms of their governance could be a block Trustees could gain office to bring about change and stay in office long after their decisions provoked disapproval. Likewise, classroom teachers could frame themselves as experts, knowledgeable about

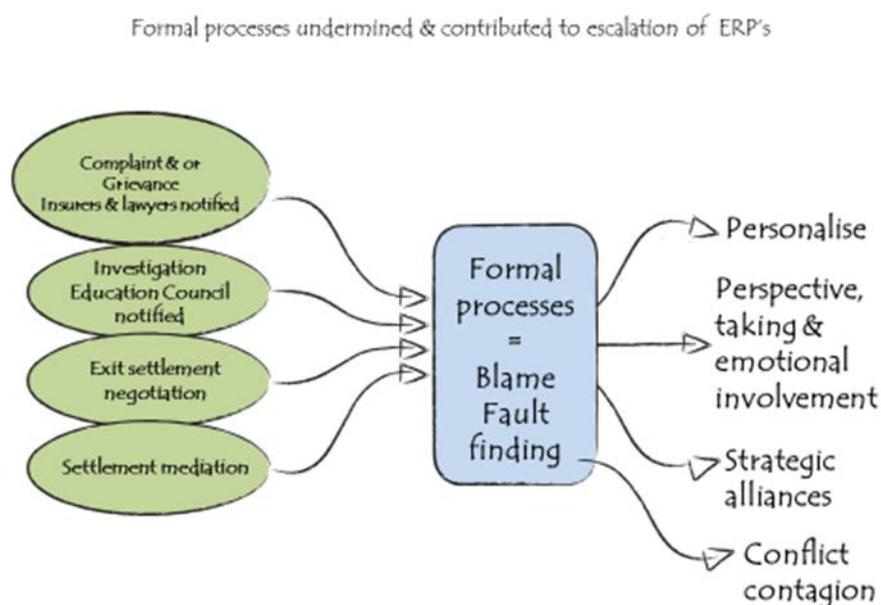
their environment, and thereby protect themselves from change by claiming ‘superior knowledge’ over the Board members, parents or Ministers of Education.

This ambiguity about conflicting interests, misalignment of goals between governance and management underpinned by ideological and institutional barriers helps explain the tendency to default to legalism during ERP resolution.

9.4.1 Legalism versus problem resolution

These findings in this study suggest when conflict escalates the role of legal professionals and insurance obligations undermine early problem resolution. Figure 9. 6 below illustrates the formal processes that undermined resolution and contributed to escalation.

Figure 9.5 Formal processes & Escalation



*Investigations of complaints by members of BoT can lead to escalation of problems (6.26) , Anderson (2009) claimed that New Zealand lacked checks and balances on BoT powers in their relationship with principals, as previously discussed this is due to parents acting as Board members. In *Marlene Campbell v Commissioner of Salford School* the principal (Campbell) sought reinstatement after a protracted legal battle following a finding by the ERA that an investigation into 11 anonymous complaints (about a culture of intimidation and bullying) had resulted in the BoT resigning and the appointment of a statutory manager who dismissed Campbell. The subsequent *de novo* Employment Court decision was that she had been unjustifiably*

suspended and unjustifiably dismissed. Campbell had been offered several confidential settlements but had refused them, choosing instead the more public, protracted fight through the Employment Court. She was awarded \$158,000 but not reinstatement. Section 123 of the Employment Relations Act allows for reinstatement but in such cases where the problems have escalated to include the staff and wider community, reinstatement is not deemed possible as it could be disruptive and possibly prejudicial to other staff. This is the heart of the injustice faced by teachers and leaders when there have been flaws in processes that contribute to escalation and make future reinstatement unlikely.

Investigation and statutory intervention may disadvantage principals (5.16). Campbell's case highlighted the importance of fair investigation. Campbell was asked to answer nonspecific, anonymous allegations of swearing, making inappropriate comments and bullying. Managing perceptions of workplace behaviour and the effect of inappropriate dialogue have been core findings of this study. The potential for parents' complaints to influence BoT or statutory managers during investigations suggests third party neutrals should conduct *Investigations of complaints about teachers, because investigations by leaders was considered an unfair process due to potential lack of neutrality (6.27).* Neutrality is a fundamental principle that underpins trust in processes for the management and resolution of conflict, evidenced by fair unbiased procedures and equal treatment of all parties in dispute. Procedural fairness has been linked to

9.4.2 Processes that undermine trust and the psychological contract

The link between good faith, negotiation and the psychological contract was discussed in-depth in chapter 2 and chapter 3. The formation of the psychological contract was identified as a mutual sensemaking process that could potentially set the scene for informal problem resolution in good faith. However, there were instances reported in, this study where *focusing on legal causes of action was a barrier to considering alternatives. In addition, the involvement of insurers & lawyers early in ERP contributed to a lack of trust in conflict management processes & an escalation of problems (7.17).* The continued focus on legal causes of action rather than informal problem solving could be explained by the terminology of a grievance being a sub set of the broad umbrella term of *ERP*. A 'grievance' implies blame for an injustice, a rights-based issue where lawyers were relied on for dispute resolution processes, and as identified in the findings insurers fund legal action, indemnifying schools. While an ERP infers interest based matters, more akin to informal problem resolution it appears

insurers are notified early in the process and lawyers are expected to manage the cost benefit analysis of the problem resolution process. However as discussed extensively when formal routes are taken *there is an association between the focus is on legal causes of action, insurance and exit negotiations* (7.18). The legal cause of action of a grievance, such as *unjustified disadvantage*, can provoke insurance policies being invoked early by BoT followed by competitive positional legal bargaining. However, as shown in earlier chapters, the first step for attempting problem resolution should be to engage in good faith problem solving thereby protecting trust in the process and parties experiencing the issues taking the opportunity to resolve the problem early. The formal legal processes have been shown to undermine trust, with advocates and lawyers resorting to formal evidence-based processes, with competitive, adversarial negotiation processes further eroding trust. Once lost, trust was difficult to rebuild and when parents were dissatisfied by unresolved problems, complaints escalated and could polarise individuals, groups and communities who would otherwise work together. The intention of a paradigm shift from rights-to interest-based problem solving may not have been fully realised in education or the mediation processes provided by the MBIE.

The ERA 2000 aimed for open communication in all aspects of the employment relationship, to build mutual trust. Behaving in good faith involves engaging cooperatively, without misleading or deceiving, communicating openly to strengthen the reciprocal obligations that exist between employer and employee. Good faith is difficult to implement when stakeholders are involved in conflict. The intersection between good faith and the psychological contract, the perceived reciprocal obligations between the employee and employer, was identified in the literature review (Guest, 2004; Rousseau 1995; Tipples, 1996, 2009; Cappelli, 1999; Rasmussen, 2009). The dynamic nature of the psychological contract was evident in ERP in which perceptions of breaches (Bankins, 2015) led to emotional third-party sensemaking (Weick, 1993, Weick et.al 2005) at the water cooler and in the carpark, fuelling coalition formation, seeking to make sense of conflict and ERP.

Clarity of mutual expectations builds trust and prevents violations of the psychological contract. Explicit communication of the importance of the principles of good faith behaviour in the school setting is a double-edged sword, as parents request open communication and teachers negotiate reasonable levels of information provision. This process requires capacity building for all stakeholders. The proposed model in this study provides a way for parents and teachers to negotiate in good faith.

Table 9.3: Embedding collaborative conflict management (CCM) in the workplace-propositions that inform the model

Processes for embedding CCM	Clustered propositions
Engaging in a whole-school conversation	<p>(5.20) Collaborative, respectful dialogue builds trust.</p> <p>(5.23) A collaborative philosophy of living & learning together builds trust.</p> <p>(8.11) Processes that generate consensus through consultation when developing vision statements enhance alignment between policy and practice.</p> <p>(8.3) There is a relationship between generating a collective mindset—shared values & the collective, explicit generation of school vision & values—& positive, collaborative change in attitudes & behaviours.</p> <p>(8.4) There is an association between artefacts that communicate the explicit <i>way things are done around here</i> & stakeholder adoption of changes at all levels of the school system.</p> <p>(8.5) Learning for teachers, leaders, students and parents requires a consultative process that enables ongoing change and the embedding of values in the school community.</p>
Building capacity in collaborative sensemaking conversations	<p>(5.13) Reflective processes that examine mental models & perspective checking are effective for handling complaints & early resolution of ERP.</p> <p>(5.7) ongoing face-to-face relationship building acts as an antecedent for building trust.</p> <p>(5.24) Early attention to collaborative sensemaking builds trust & demonstrates acceptance of different conceptualisations of problems to be resolved, potentially building capacity in collaborative conflict resolution across the whole school community.</p> <p>(8.15) Training in difficult conversations & mediation meetings is necessary in schools that intend to operate in collaborative spaces such as the hubs in open-classroom schools.</p> <p>(5.22) Leaders who recognise that trust is an outcome of effective, quality relationships build capacity for handling problems and complaints.</p> <p>(8.8) Managing complaints involving ERP is a very stressful process for a wide range of stakeholders in schools.</p> <p>(8.6) There may be an association between managing ERP alone & being unable to make sense of, or identify, the core issues and appropriate processes to implement.</p> <p>(5.21) Acknowledgement of teachers' identity and role as trusted, responsible caregivers of children would convey respect and mitigate resistance.</p>
Building capacity in joint problem solving	<p>(8.10) Leaders require professional development and support in how to understand and manage critique from parents.</p> <p>(5.9) Coaching in communication awareness of appropriate dialogue supports ERP resolution.</p> <p>(5.5) The language & intentions of the ERA 2000 reflect the principle that early resolution by joint problem solving is more likely to be long lasting than filing grievances with legal causes of action.</p> <p>(8.9) There is a relationship between unresolved complaints and families exiting their children from the school; therefore, schools require effective systems and processes for resolving matters that emerge from complaints.</p> <p>(8.7) There is a risk of ongoing self-reflection on ERP, in the absence of negotiation, delaying effective action, resulting in escalation.</p> <p>(5.22) Leaders who recognise that trust is an outcome of effective, quality relationships build capacity for handling problems & complaints.</p>

Processes for
embedding CCM

Clustered propositions

Early
transformative
mediation

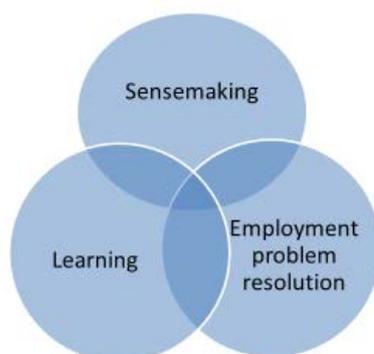
- (5.10) Narrative & transformative mediation are successful approaches to resolving ERP & retaining relationships.
- (5.8) Early coaching in recognition, acknowledgement, reframing & listening supports ERP resolution.
- (6.7) Transformative mediation is a successful intervention for changing long-term intra-school aggressive communication & escalated conflict.
- (5.11).During periods of change there was an association between adding duties and taking away benefits that impacted on trust, depending on the perceived balance between the two.
- (5.12) Mediating change required acknowledgement and recognition of the complexity of tasks and relationships in the school system.

9.5 Embedding collaborative conflict management (CCM) in the workplace: A Model

So far, this chapter has discussed the complexity of ERP and barriers to resolution in the primary education sector. The absence of explicit processes for informal early resolution has been explained by a number of factors: the complexity of relationships in schools; the subsequent complex nature of ERP in the education workplace; the absence of early mediation for such relationships under the ERA 2000; a culture of, complaint and exit settlement negotiations where the reporting of risk to insurers provokes formal legal processes. The association between escalation of complaint and conflict contagion in the school community highlights the need to develop processes and practices for ERP resolution early in the life cycle of a problem, at the level of the school. This section applies those findings to the design of a model for collaborative conflict management (CCM) at the level of the workplace. The model proposed draws together the function of education - learning, with processes for problem resolution in response to findings that indicated collaborative sensemaking conversations supported trust in and early resolution.

Figure 9.6: Learning, sensemaking & ERP resolution

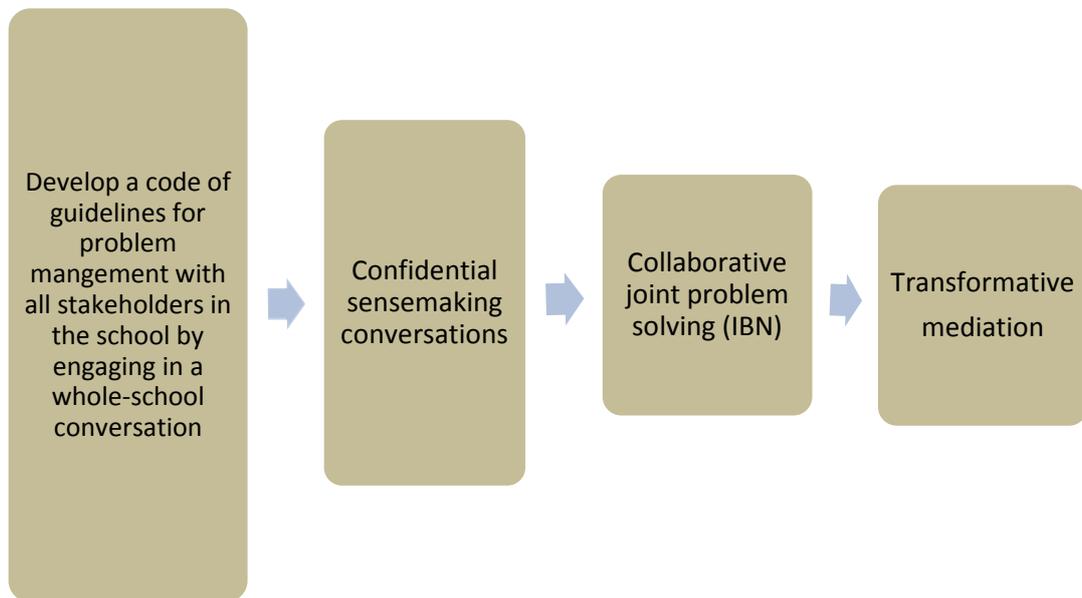
The model presented in this final section of the chapter integrates theory from learning, employment relations problem resolution and sensemaking. It is presented as a four step process, illustrated in figure 9.7.



While these procedures aim for resolution close to the source of problems, engaging in formal legal processes is not precluded. The citing of rights and legal causes of action can be retained as an option by filing with the MBIE Mediation Service or in the

Employment Relations Authority if problems remain unresolved or escalate to an employment grievance.

Figure 9.7: Embedding CCM a four-step process



9.5.1 Engaging in a whole-school conversation

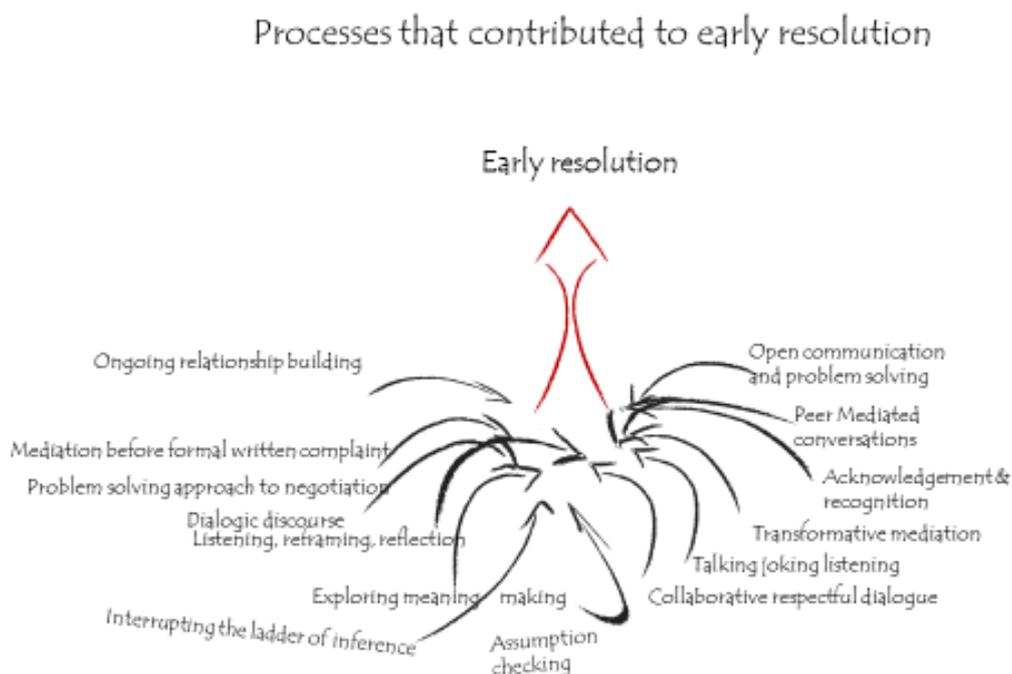
The four-step process shown in Figure 9.7 is based on the finding that *collaborative, respectful dialogue builds trust* (5.20). The model aims to provide clear processes and build capacity in leaders' and teachers' conflict management capabilities to address problems early, to prevent escalation, and empower all stakeholders to resolve problems themselves. The process aims to prevent formal legalism and intervention by third-party insurers

The process begins by socially constructing a vision based on the finding that *a collaborative philosophy of living and learning together builds trust* (5.23). Lipsky & Seeber (2003), Lipsky & Avgar (2010) and Colvin (2014) advised strategic planning should include conflict management planning and should be 'consistent' with the values and goals of the organisation; concurring with the finding that *processes which generate consensus through consultation when developing vision statements enhance alignment between policy and practice* (8.11). The system proposed here is prompted by the collective design of a code for respectful dialogue, specific to the values of the school, which generates a collective mindset, supporting workplace problem resolution to ensure that all stakeholders have a voice: leaders, BoTs, teachers, union representatives and parents. *There is a relationship between generating a collective mindset—shared values and the collective, explicit generation of school vision and values—and positive,*

collaborative change in attitudes and behaviours (8.3). Generating clear expectations of conflict management processes by consultation contributes to the overall ‘matching of expectations’ between stakeholders, in the psychological contracts between teachers/ parents/ principals/ BoT which is said to improve job satisfaction, retention and productivity (Kotter 1973; Tipples, 1996; Wellins, 2007; Rousseau & Tijoriwala, (1998); Robinson (1996)). Lipski & Seeber (2003) and Budd and Colvin (2014) found that process design required consultation where stakeholders had input into the processes and practices that governed workplace conflict management systems. Moreover, the findings suggest it will be important that the code of guidelines developed by a school is easily accessible and visible in the form of artwork or symbols in order that it is embedded in the culture of the school. *There is an association between artefacts that communicate the explicit way things are done around here & stakeholder adoption of changes at all levels of the school system* (8.4).

Generating a collective mindset that stresses learning from conflict by problem solving during the development of a school code of guidelines would aim to build trust during process and strategic school policy development. *Learning for teachers, leaders, students and parents can be a collaborative process that enables ongoing change by embedding collaborative values in the school community* (8.5). Here, opportunities for the school to build awareness and competency in joint problem resolution should be explored. This could be viewed as a facilitated process for reframing the management of ‘complaints’ and preventing conflict contagion or escalation of problems. Learning emerges from modelling or ‘walking the talk’ of collaboration during the development of a code of guidelines. These would address processes specific to communicating views, issues, concerns and problems. Such clarity of process meets the policy intentions of the ERA 2000 for good faith negotiations, as well as the Health and Safety requirements for workplaces to be free from hazards, including psychological hazards such as bullying.

Figure 9.8: Sensemaking processes that contributed to early resolution



9.5.2 Building capacity in collaborative confidential sensemaking conversations

Reflective processes that examine mental models and perspective checking are effective for handling complaints and early resolution of ERP (5.13). The findings surfaced a range of sensemaking processes that contributed to early resolution of conflict (see Figure 9.8). Conversations in which parties engaged in assumption checking and open communication were explicit processes for building a culture of respectful dialogue. Applying Senge, Cambron-McCabe, Lucas, Smith, Dutton, & Kliener's (2000), process of 'interrupting the ladder of inference', during conversation was effective for exploring assumptions made by parties. Where there had been training in Robinson's (2011) open-to-learning conversations, there was confidence in conducting teachers' performance appraisals. Aspects of storytelling specific to narrative mediation (Winslade & Monk, 2008) and acknowledgement and recognition aligned with transformative mediation (Bush & Folger, 1994, 2004, 2005) enhanced problem transformation, and new understandings helped facilitate resolution.

Some leaders had experimented with the reframing of the process of complaint to 'suggestions for improvement' or experimented with 'dialogic discourse' (Bakhtin,

1981), ‘open-to-learning conversations’ (Robinson, 2011) and a process referred to as ‘mediated conversations’ where peers took turns to facilitate joint meetings between staff in conflict. Several leaders were attempting to embed respectful dialogue and assumption checking throughout the organisational culture. The use of humour and active engagement with stakeholders, to build trust in relationships by *ongoing face-to-face relationship building acts as an antecedent for building trust* (5.7) highlighted the ongoing nature of building trust in the psychological contract between parties to the complex relationships across the school community.

The role of a collaborative philosophy for the whole school community is one aspect of the sixth disciplines associated with schools as learning organisations advocated by Senge et al. (2000), where alignment between vision and collaborative sensemaking was key to the school acting as a learning organisation. Robinson’s (2011) open-to-learning conversations had been undertaken by some leaders for performance review, and there were similarities between those conversations and IBN (Fisher & Ury, 1991), reflective learning (Kolb, 1984; Gibbs, 1988) and Senge et al., (2000) focus on the ‘ladder of inference’. All processes required mindful examination of assumptions and exploration of perceptions, these are sensemaking processes where *early attention to collaborative sensemaking builds trust & demonstrates acceptance of different conceptualisations of problems to be resolved, potentially building capacity in collaborative conflict resolution across the whole school community* (5.24).

In so-called high-performance, high decile schools, performance reviews were influenced by parental complaint and feedback. In Blue Sky School collaborative, interest-based problem-solving processes for negotiating day-to-day issues facilitated positive change in relationships in which there was an explicit focus on good faith open dialogue, reflection and the building of trust. They had found *Training in difficult conversations & mediation meetings are necessary in schools that intend to operate in collaborative spaces such as the hubs in open-classroom schools* (8.15). The school had been undergoing professional development to embed collaborative conversations throughout the school. In that school problem, resolution was not the sole role of the leaders or the principal. Building trust was to be explicit in the culture and practices of all members of staff. This is significant for schools, because according to Bryk and Schneider (2002), there is a positive correlation between student success and trusting relationships among the adults engaged in the school community. They found that relational trust was forged through daily social exchanges and the interplay between respect, competence, personal regard for others and integrity. This confirms the

proposition that *leaders who recognise that trust is an outcome of effective, quality relationships build capacity for handling problems and complaints* (5.22).

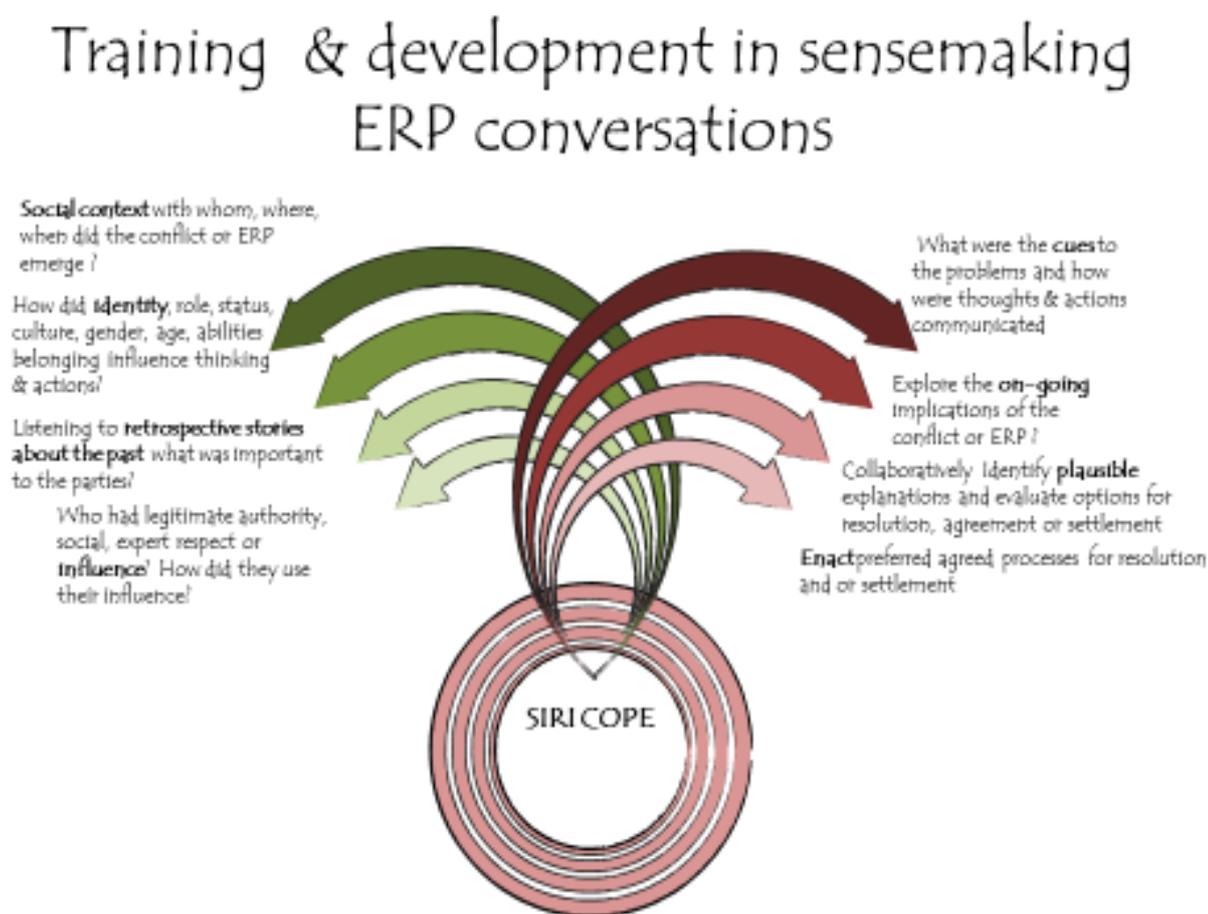
The consistent finding that complaints are dominant in the school workplace led to the search for a body of literature that could transform the process of complaint into a collaborative process of problem resolution. The idea for collaborative sensemaking conversations emerged from examining the intersection (see Figure 9.6) between learning, sensemaking and IBN- employment relations problem resolution. These bodies of theory provided evidence of the value of reflective learning (Gibbs, 1988; Kolb, 1984) assumption checking, (Argriss & Schon, 1974, 1978, 1983); critically reflective practice (Brookfield 1995, 2006, 2007); and sensemaking, in particular the seven dimensions for analysing sensemaking depicted by SIRCOPE (as discussed in chapter 3), Weick (1995, 1999, 2005), and, collaborative interest based negotiation (Follett, 1940; Walton & McKersie, 1965; Fisher & Ury, 1981; Fisher, Ury & Patton, 1991; Pruitt, 1981; Pruitt & Rubin, 1986; Lewicki et al., 2010; Riskin, 1996; Walton et al., 2000). It has emerged that workplace conflict management is a collaborative social learning process.

The model is a response to the finding that *managing complaints involving ERP is a very stressful process for a wide range of stakeholders in schools* (8.8). Weick et al. (2001) argued when there was a breakdown in organisational coordination people under stress acted as individuals, rather than collaboratively, during decision making in crisis. He “uncovered that talk was necessary” and said, “With communication a complex system becomes more understandable (you learn some missing pieces that make sense of your experience) and more linear, predictable and controllable” (2001, pp.142–143). Access to a confidential sensemaking conversation is an important early aspect of the ERP resolution process because *there may be an association between managing ERP alone & being unable to make sense of, or identify, the core issues and appropriate processes to implement* (8.6).

The need for a consistent commitment to respectful dialogue was threaded throughout the interviews. Yet *a lack of confidentiality about complaints procedures & performance appraisals by board members can lead to escalated problems in the school community* (7.8). Experts in ADR, lawyers and leaders stated that given the expectation that children should be treated with respect, it was important for teachers, parents and leaders and other stakeholders to have the same regard for their own interactions. Building a collaborative culture of respect, where *acknowledgement of teachers’ identity and role as trusted, responsible caregivers of children would convey respect*

and mitigate teacher resistance to change (5.21). Weick's SIRCOPE (1995, 1999, 2005), acknowledges the role identity plays during sensemaking. However the lack of attention to power during sensemaking is one critique of SIRCOPE. For this reason there is an addition to the acronym of I for "influence" hence the framework for a sensemaking conversation here is SIRICOPE (see figure 9.9). Applying SIRICOPE for the oral analysis of one's own sensemaking would suggest there is value in this as an explicit reflective learning process preceding the filing of formal complaint.

Figure 9.9: Training and development in sensemaking ERP conversations



The following summarises the important concepts of this model.

Emerging concept

Collaborative confidential sensemaking conversations

A sensemaking conversation is defined as an interaction that seeks to understand a problem through storytelling and reflection.

It is different from advice seeking or coaching. The process remains in the hands of the story teller. A sensemaking conversation could precede negotiation, mediation or be a process during an IBN or transformative mediation. Taking an explicit sensemaking approach provides a structure for conversation in situations where there is ambiguity and low trust. Building on Weickian (1995) sensemaking, parties tell their conflict stories in pairs with peer confidential neutral listeners who paraphrase back in a collaborative conversation, enabling the storyteller to explore plausible explanations. The storyteller is more likely to discover meaning from reflecting on their own story or ‘*seeing what I say*’, enabling decision making about future actions. The process is one of collaboratively analysing the problem according to **SIRICOPE** (see Figure 9.9) and the parties to the problem story discover options and alternatives for future negotiation/mediation and decision-making. The process is framed as ‘learning about the problem’.

Contribution to theory Integrates pedagogical principles of collaborative problem solving, integrative negotiation and decision making under difficult circumstances. The model builds on sensemaking, IBN, pedagogical theories of problem solving and transformative learning.

The value of the sensemaking approach preceding IBN is the added attention to the roles that identity and influence play during the negotiation of problems.

Implications for policy Schools could build a culture of CCM by training and embedding a code in the school charter to support using the CCM process throughout the school. This would reinforce the principles of good faith bargaining and mutual trust that underpin the ERA 2000.

Identifying a sensemaking process as an explicit stage of meaning making for the early resolution of ERP in the workplace has the potential to embed good faith negotiation behaviour in the culture of the organisation and thereby

strengthen the psychological contracts between the various parties in the complex workplace relationships in schools.

Insights into practice This model allows ongoing dialogue with others to share retrospective stories, explore the problems, consider alternative ways of making sense of stories, and to decide collaboratively on future actions and agreed enactments. The contribution of this idea extends the sensemaking model to include 'I' for influence. Here, 'power' is reframed as 'influence', advocating that individuals have influence when they have capabilities and skills in negotiation. Empowerment emerges from processes of collaborative sensemaking over adversarial fault-finding, as well as self-determination as the parties retain decision making about process. The approach to a sensemaking conversation and learning has the potential to strengthen trust in the psychological contract.

At the level of individual schools, CCM involving sensemaking preceding joint problem-solving IBN early in the emergence of ERP is a theoretical bridge between models of negotiation, reflective learning and Weickian sensemaking (1995; 2010b). The model approaches conflict management as a learning process. Responding to the findings that the ongoing nature of an ERP spreads widely across the education organisation—during meetings, in the classroom, in the car park, in the hallway, at the water cooler, over lunch, tea and coffee—wherever repetitive, retrospective stories are told and retold and influence is contested, this approach provides a confidential structure for those conversations, which may prevent escalation.

9.5.3 Embedding collaborative, joint problem solving-IBN

Collaborative joint problem solving or IBN is reviewed in chapter 2 and is drawn from the classical bodies of literature (Follett, 1940; Walton & McKersie, 1965; Ury & Fisher, 1981; Fisher, et al., 1991; Pruitt, 1981; Pruitt & Rubin, 1986; Lewicki et al., 2010; Riskin, 1996; Walton et al., 2000). The problem solving approach with the emphasis on active listening, reframing, focussing on interests, searching for mutual gain and creative option generation before evaluation, responds to the following propositions: *Leaders require professional development and support in how to understand and manage critique from parents (8.10). Coaching in communication styles and creating an awareness of appropriate dialogue supports ERP resolution (5.9). As*

was reported in Chapters 2, 3 and 5, the intentions of policy makers who drafted the ERA 2000 was for a collaborative, relational problem-solving approach to ERP resolution and the findings suggest there are benefits to the approach exemplified by the proposition *-the language and intentions of the ERA 2000 reflect the principle that early resolution by joint problem solving is more likely to be long lasting than filing grievances with legal causes of action* (5.5). The importance of training and development in collaborative conflict management is highlighted by our learning from chapter 8; *there is a relationship between unresolved complaints and families exiting their children from the school therefore, schools require effective systems and processes for resolving matters that emerge from complaints* (8.9) and *there is a risk of ongoing self-reflection on ERP, in the absence of negotiation, delaying effective action, resulting in escalation* (8.7). The association between effective problem solving and trust suggested training in CCM is an appropriate response to the proposition *Leaders who recognise that trust is an outcome of effective, quality relationships build capacity for handling problems & complaints.* (5.22).

The following is a summary of the main concepts in this model.

Embedding interest-based negotiation (IBN)

Embedding IBN simply means training and developing joint problem solving IBN/integrative negotiation CCM in the workplace across the education sector.

Contribution to theory

Preliminary sensemaking conversation with a neutral listener, should precede IBN negotiation between the parties to the problem. Taking a problem solving approach intersects with requirements for good faith behaviour in all aspects of the employment relationship, under the ERA 2000.

Implications for policy

Building capacity in individual negotiation skills could be completed under part 7 of the ERA 2000, which provides unions with the right to negotiate leave for employment relations training and education.

Insights into practice

Preparing for a negotiation after reflecting on the elements of sensemaking is a process that empowers better understanding of self and others' explanations. It is a way of building negotiation skills by reflective learning and giving voice to the problems. The CCM process involves preliminary,

confidential sensemaking conversations with a neutral ‘other’, followed by IBN with the party to the problem, either with or without a support person.

9.5.4 Transformative mediation

This section responds to the proposition, *narrative & transformative mediation are successful approaches to resolving ERP & retaining relationships* (5.10).

According to mediators, transforming conflict requires ongoing reflection and early engagement in recognition and acknowledgement of the conflict or problem from various points of view. Problems and complaints can be resolved early by taking a reflective learning approach. *Early coaching in recognition, acknowledgement, listening and reframing supports ERP resolution* (5.8). As identified in Chapter 2, Bush & Folger (1994, 2004, 2005), advocated the transformative model of mediation as an opportunity for learning, by reflecting on dialogue and recognising changes in communication and acknowledging the human capacity for reconstruction, empowering parties to change their conflict behaviour themselves. This focus on empowerment and self-determination is similar to the process understood by Mezirow as ‘transformative learning’.

Mezirow (1994, 2000) also referred to the disorienting nature of a transformation process in the pedagogical context. He identified the learning process as transformational when people engaged in conducting self-examination of feelings of fear, guilt, anger or shame when faced with a disorienting dilemma. He suggested that when we critically examine and assess our own assumptions, we recognise our discontent and that transformation could be shared with others by exploring new roles and actions, planning a course of action and acquiring knowledge and skills to try new roles to build competence and confidence in new relationships.

Narrative and transformative mediation are successful approaches to resolve ERP and retain relationships (6.7). Transformative mediation (Bush & Folger, 2004, 2005) was successful in the USPS REDRESS programme, where bullying was one of the issues being addressed. Amsler (2014) concluded that transformative mediation improved the disputants’ “conflict management skills”, suggesting that Bush & Folgers (2004) model of transformative mediation mirrored transformative learning. Narrative mediation (Winslade & Monk, 2008) encapsulated the skills of storytelling, listening, paraphrasing, mutualising, reframing and reflective perspective checking. Reflecting on feelings & anger and questioning assumptions suggests that an approach that encapsulates Mezirow’s (1994) theory of transformative learning through disorienting

dilemma could inform the processes for ERP resolution. Both transformative mediation and narrative mediation are part of facilitated collaborative sensemaking and both require minimal intervention on the part of the mediator. It is possible that in the ever-changing world of education, access to transformative mediation could have a positive contribution to the sector.

During periods of change there was an association between adding duties and taking away benefits that impacted on trust, depending on the perceived balance between the two (5.11). If transformative mediation was provided by people who were both trained educators and mediators, it is possible that this would build the bridge needed to engage educators in early resolution if they have been unable to negotiate satisfactory outcomes within the school. *Mediating change required acknowledgement and recognition of the complexity of tasks and relationships in the school system (5.12).* Ongoing relationship building is particularly important in the context of change. The employment relationship is dynamic and vulnerable during processes of change. ERP are not static events; they are ongoing processes of interpersonal sensemaking and the provision of transformative mediation would reinforce the concept that conflict is an opportunity for learning. A regional peer transformative mediation programme could integrate ER policy, process and practice in education.

Contribution to policy *Regional panel provision of transformative mediation across New Zealand*

Panels of mobile mediators trained in teaching and transformative mediation could be appointed and funded in through the MBIE mediation service. The mediation process could be provided to any stakeholder relationship within the school experiencing conflict or employment problems. Responsibility for provision would fall either with the MBIE or other state-funded providers; however, schools would be free to privately fund external private providers as well. These confidential, without-prejudice transformative mediations would be considered early-intervention efforts for parties to confidentially resolve problems themselves, without the intervention of lawyers or insurers.

Contribution to theory Transformative mediation is particularly appropriate in education, given its foundation on an empirically tested

learning process (Mezirow's theory of transformative learning).

Implications for policy A panel of transformative mediators would help to fill the gap in ERP resolution in education and prevent vexatious complaints to the EC because stakeholders would have a voice early in the trajectory of an ERP.

Insights into practice The intersection between learning and transformative mediation exposes great potential for ERP resolution to be framed as 'learning', rather than the escalated language of grievance and dispute.

The four step processes outlined in this chapter are presented as a model in Appendix H

9.6 Conclusion

This chapter has discussed the propositions that emerged from the findings, in light of the relevant theory, as well as proposing a system for ERP resolution in education. The policy findings in this research suggested that past legislators aimed to direct employers and employees to resolve problems collaboratively themselves, close to the workplace, in good faith, to build mutual trust. There was an implicit message in the codification of good faith to strengthen the psychological contract by directing parties to the employment relationship to communicate openly. However, the association between good faith and ERP resolution was not immediately clear to institutional stakeholders in 2000 and given the findings in this research, ERP in the education sector have been managed in a void, due to the lack of an education-specific ERP resolution process. Attention to early resolution of ERP through these informal, transformative processes reflects the intentions of the ERA 2000. The final chapter in this study describes how the research questions have been answered, the contribution of the emerging concepts and questions for future research.

Chapter 10: Looking Backwards into the Future— Conclusions of this Study

Schools are communities of care ... a true community of care comes into its own when respect is maintained.... [And there is] understanding that meanings are negotiated, which can take both time and patience. It [the community of care] understands too the importance of agreeing on processes for the working through of such agreements A primary objective of schooling could be to develop understanding of how to achieve legitimate goals within relationships of mediation in complex communities (Drewery, 2014, p.10).

This chapter is both the end and the beginning of an ongoing research journey. The primary aim of this study was to understand the nature of ERP and the way they are managed in schools. The second related aim was to understand the context in which ERP escalate, settle or resolve from the experiences of principals, governors and dispute resolvers who have experienced conflict management in the education sector. The research has met those objectives, discovering webs of complex relational conflict, institutional barriers to resolution, and collaborative sensemaking processes that have enabled early resolution of ERP.

The first part of this chapter reviews the research journey. The second section answers the research questions by adapting Walsham's (1995) table for analytical generalisations to illustrate contributions to theory, policy and practice. The third section discusses the limitations and possibilities for future research.

10.1 Reflecting back and into the future

This section reviews the research journey, illustrates inter-relationships between chapter themes, literature and the theoretical insights. Chapter 1 described the context for research about employment problem resolution in education. The significance of the study the employment relationship problem resolution system in education was linked to situations where ERP had damaged reputations and lost careers in spite of the Employment Court finding that educators had experienced unjustified disadvantage and/or unjustified dismissal.

The first literature review in Chapter 2 provided the historical context and explained the long history of regulation in the New Zealand employment problem resolution system. That chapter highlighted the shift from collective bargaining to individual employment agreements and increased numbers of individual grievances. Chapter 3 was an iterative literature review collated during fieldwork, data collection and analysis that began to identify issues in the education sector such as the conceptualisation of bullying. The research interviews triggered reading about the nature of problems such

as bullying and meaning-making processes, such as sensemaking and the pedagogical thinking that underpins negotiation theory. The intersection between problem-based learning and models of IBN, transformative learning and transformative mediation were reviewed from international literature.

The design of this project was explained in Chapter 4, outlining and justifying the commitment to gathering rich, qualitative data from people steeped in managing or facilitating resolution of workplace problems in the education sector. A social constructivist approach was appropriate where researcher and participants were engaged in co-constructing understandings, making sense by listening, paraphrasing, calling on our common language as educators, conflict resolvers and learners. The chapter justified drawing on principles from GTM for data collection and analysis to frame codes and categories and themes emerging from the data, rather than coding from existing theory. For example, although the research questions were prompted from a judgement in the Employment Court, the data collection and analysis were not shaped by legal theory nor by legal causes of action. While this may be viewed as a weakness, it can also be seen as a strength of drawing on grounded theory method for data collection and analysis. Counterintuitively, we found that the interviewees' stories did not focus on legal causes of action, their legal rights or the law (even if they were lawyers); rather more interviewees told stories that focused on the nature of the problems and the impact of processes and relationships between stakeholders. Hence, the coding and categories reflected the substance; themes were named by adopting metaphors articulated by the participants from their experiences. One future opportunity for research would be to collaborate with a legal academic to compare and contrast findings from this research with the substance and relevant legal principles of cases heard in the courts.

Chapter 5 presented an important junction on the road to understanding the complex trust relationships that are present in education. The theme '*Building the emotional bank account*' highlighted the role of respectful dialogue, collaborative open communication, joint problem solving and ongoing relationship building, later linked to discussion of good faith and the psychological contract. In Chapter 6, the day-to-day ongoing nature of ERP was expressed as *percolating problems negotiating power & influence*, in which negotiation across diversities was an antecedent to complaint and exit settlement. Additionally, legal definitions of bullying were shown to be unhelpful for early resolution of ERP in the workplace because the term is so widely used to explain aggressive one-off events. Seeking to attribute blame by investigation followed by legal attribution of the bully was a hazard was shown to have detrimental impacts on both the

so-called bully and the framing of the bullied as a victim. How to respond to workplace incidents that are perceived to be bullying but do not meet the legal definition of bullying, as well as investigating the consequential impacts on engagement and retention of staff, are important questions for future research.

Chapter 7 highlighted the conflicting interests for stakeholders involved in *governing, leading and managing the blurred boundaries* of day-to-day problems under the current school governance structures. The role of the principal as mediator and the value of embedding training and development in sensemaking conversations were shown to be areas worthy of future longitudinal research, possibly building on the design and evaluation of the US REDRESS study (Amsler, 2014).

An intersection between learning and transformative conflict resolution emerged from the four significant cases discussed in Chapter 8. Transformation was prompted by radical change followed by embedding values and codes of behaviour in the school community through consultation and explicit expression of those values in all aspects of the social and physical environment of the school. *Trapped in inaction* (Waverville School) highlighted the way school inaction led to families claiming they had not been heard and exiting the school. The section entitled '*Painting a picture of collaboration*' (Blue Sky School) demonstrated that collaboration could emerge from incorporating the values that underpin collaboration in strategic planning and implementing a collective mindset, from induction through to 'walking the talk', thereby modelling collaborative problem solving as an ongoing day-to-day practice at all levels of the school. The exemplar titled '*Aidee's story*' highlighted the injustice of confidential exit negotiations and illustrated how lengthy confidential legal processes can leave parties dissatisfied by the outcomes of mediation and ongoing exit settlement negotiations.

The discussion in Chapter 9 clustered the propositions from the findings, applying existing theory to explain three key theoretical insights; relational complexity, barriers to resolution and how we might embed a system of CCM in the education sector. This research project offers a contribution to such a system, where the core assumption of CCM is that ERP can be an opportunity for learning if the resolution process remains in the hands of the involved parties during the problem definition or sensemaking stage, before invoking legal rights-based evidential and investigation processes. Self-determination is at the heart of transformation.

The following section outlines the contributions of this research to theory, the implications for policy and insights into practice, before closing with new possibilities that have emerged from reflection on the strengths and limitations of the research.

10.2 Response to the Research Questions and Contribution

Part 2 summarises the contribution of this research, in response to the research questions, along with their associated implications for policy and insights into practice. The format is adapted from Walsham's (1995) table for analytical generalisations to illustrate contribution to theory, policy and practice.

10.3 Who are the parties to ERP? (RQ1)

The dynamic web of complex relationships between employee and employer, parents and teachers, and teachers and the school community (see Figure 9.2). This suggests a need for a fundamental reconceptualisation of the complex employment relationship in education.

10.3.1 What is the nature of ERP in primary schools? (RQ2)

<i>Developing concept</i>	<i>Complex employment relationships.</i> The complexity of employment relationships within schools leads to complexity in ERP.
<i>Contribution to theory</i>	The dynamic nature of the employment relationship is determined by stakeholders beyond the employer and employee. ERP in the education workplace are framed by actions and reactions across complex relationships in a school community.
<i>Implications for policy</i>	The classical conceptualisation of employment relationships as dyadic (between employer and employee) or tripartite (between employer, unions and the Government) does not explain contemporary relationships across a range of stakeholders in education. As evidenced there is need for a policy response to the potential for conflicting interests in the current governance structure.
<i>Insights into practice</i>	Explicit embedding of early collaborative processes for ERP resolution in the wider school community, through training and development, should be visible in the school values charter and behaviours of teachers and leaders.

10.3.2 Why ERP emerge? (RQ3)

The following concepts describe the way the ERP studied for this research had emerged from disrespectful dialogue, making sense of bullying, negotiating diversities and a culture of complaint.

10.3.2.1 Disrespectful dialogue

<i>Emerging concept</i>	<i>Disrespectful dialogue</i> The manner in which people dialogue in schools is an important element of building trust in relationships. Robust debate and aggressive disagreement were interpreted as disrespectful dialogue and were sources of ERP.
<i>Contribution to theory</i>	Complex stakeholder relationships are easily damaged by disrespectful dialogue, associated with loss of trust and loss of face.
<i>Implications for policy</i>	Good faith guidelines underpin collaborative problem solving/IBN. Combative distributive approaches to negotiation, indicative of Government–union bargaining, negatively influenced participation in collective organising.
<i>Insights into practice</i>	Respectful dialogue, which underpins the IBN approach to joint problem solving, is embedded in the ERA 2000, but the link between the concepts is yet to be integrated when negotiating day-to-day workplace relationships.

10.3.2.2 Sensemaking bullying

<i>Emerging concept</i>	<i>Sensemaking bullying</i> Individual interpretations of bullying behaviours can defy definition. A single event that is interpreted as bullying can have a negative effect on relationships, irrespective of whether the event meets the criteria of the theoretical definition of bullying.
<i>Contribution to theory</i>	Bullying was a common claim in school ERP. Where claims of bullying were not addressed, escalation and conflict contagion was a significant risk.
<i>Implications for policy</i>	ERP that involve bullying in the education sector are not confined to the traditional leader–subordinate employment relationship. Bullying of teachers and leaders was an antecedent

to resignations and confidential exit settlements; therefore, the traditional inherent imbalance of power in the employment relationship embedded in institutions and legislation is questioned under these circumstances. For example, how does an employer make a case for a personal grievance bullying against an employee?

Insights into practice

There is a connection between a culture of complaint, bullying and exit settlement. Bullying occurred where there were ongoing complaints or BoT and leaders had the goal of “moving on” a leader or teacher.

For those who claim they have been ill-treated or bullied, it is irrelevant whether or not their experience fits the policy definition. Intimidating, sarcastic language and ongoing curt, authoritative tone of voice were perceived as bullying and escalated when unresolved.

10.3.2.3 Negotiating diversities

Emerging concept

Negotiating diversities

This concept communicates the ongoing nature of negotiating understandings across a range of complex differences.

Contribution to theory

Confidential settlement negotiations or confidential mediation hide discrimination and neither individuals nor unions appear to be able to influence decision-making.

Implications for policy

The employment relationships between Pākehā and Māori and new immigrant PRTs are vulnerable to discrimination, which is in breach of the Human Rights Act 1993. The Human Rights Commission has an educative and mediation role to play, in collaboration with the Ministry of Education.

Insights into practice

Complex, ongoing conflict in the school workplace is influenced by age, gender, culture, ethnicity, abilities and communication styles. Negotiating diversity is an everyday, dynamic, complex process that carries the risk of creating injustice for teachers and principals in the context of a culture of complaint and exit settlement negotiations in schools.

10.3.2.4 Culture of complaint

<i>Emerging concept</i>	<p><i>A culture of complaint</i></p> <p>This concept relates to the pervasive nature of complaints about teachers and leaders, which are interpreted as performance and competency issues to be investigated. Problems framed as complaints met resistance and defence from some teachers, which in turn damaged trust. Negotiated resignations and exit settlements were perceived as outcomes of ‘a culture of complaint’.</p>
<i>Contribution to theory</i>	<p>ERP are ongoing, percolating, ever-present dynamic opportunities for organisational learning and change. Complaints that are not issues pertaining to serious misconduct could be framed in the language of collaborative inquiry and learning such as ‘feedback’, ‘problems’ or ‘issues to be resolved’.</p>
<i>Implications for policy</i>	<p>A culture of complaint is currently embedded and legitimised in the language and practice of educational institutions such as the ERO, the EC and the Government. The language and processes of stakeholder complaint handling at the level of schools, ERO, the EC and Government policy should be reviewed.</p>
<i>Insights into practice</i>	<p>Complaint was perceived as a form of external control for managing the competency and performance of teachers. It was a feature of high socio-economic demographic communities that undermined aggregate trust in the teacher–parent relationship. The absence of complaint in low demographic areas was understood as a lack of external control on the management of ‘enclaves of incompetent teachers’. There are opportunities for training and development of CCM in both demographic areas.</p>

10.3.3 How are ERP managed? (RQ4)

The process categories that emerged from the data provided insights into how ERP were managed by building the emotional bank account and relational trust; percolating problems: negotiating power; governing and managing ERP, learning through ERP—paddling the waka in synch; being stuck in inaction; painting a culture of

collaboration; and resigning from dismissal. The propositions that emerged from these processes were clustered and discussed in depth in Chapter 9.

When ERP were responded to early and managed informally, relationships were retained. However formal legal processes tended to damage or end ongoing relationships and unions had little influence over the problems reported. In spite of the ERA 2000 promoting collaborative problem solving, good faith behaviour and free mediation, formal legal procedures were seen to be implemented early by schools, due to risk management under insurance policies. Lawyers and dispute resolvers found that MBIE mediation was focused on settlement. The Mediation Service was perceived as a last resort rather than provision of processes for early resolution. The involvement of lawyers early was understood to take the problems out of the hands of the parties and potentially undermine an interest-based process. The union was powerless to influence the outcomes of the ERP reported in this study. An association between *legalism* and confidential exit settlement negotiations was confirmed.

<i>Emerging concept</i>	<i>Legalism</i>
<i>Contribution to theory</i>	Legalism refers to the early implementation of, and strict adherence to, formal processes, focused on legal causes of action, to comply with school insurance policies.
<i>Implications for policy</i>	There is a relationship between formal legalism in the management of conflict and ERP associated with escalation. Insurance policies for ERP in schools should be reviewed.
<i>Insights into practice</i>	There is a relationship between the early management of risk under insurance policies and the negotiation of confidential exit settlements that negatively impact on the parties involved with ERP.

However, leaders who had skills in negotiation, open-to-learning conversations (Robinson, 2011), assumption checking and mediation by creative problem solving felt that they had positive influence over the management of ERP.

10.3.4 How is Employment Relations dispute resolution policy reflected in practice? (RQ5)

As detailed in the Findings chapters, conflict and ERP are considered ongoing daily dynamic phenomena in the school workplace. The emergence of ERP can be influenced by a policy focus on the individual and philosophical discord between

Government ministers and the sector. This has been framed here as *ideological tensions and policy misalignment*.

10.3.4.1 Ideological tensions and policy misalignment

<i>Emerging concept</i>	<i>A system in tension</i> This concept refers to the contradictions between the ERA 2000 and the New Zealand education system where ERO and the EC frame ERP as complaints.
<i>Contribution to theory</i>	Good faith behaviour provides the process framework for collaborative problem solving of parental complaint
<i>Implications for policy</i>	The policy framework that supports early ERP resolution, embedded in the ERA 2000, has not been implemented to its full potential. The powers given to the EC under the Education Amendment Act 2015 to design processes for complaints handling may be in breach of good faith under the ERA 2000.
<i>Insights into practice</i>	Problem solving is a learning process. Schools are learning organisations and the ERA 2000 provides the informal framework for collaborative problem solving as good faith behaviour. In practice, the link between good faith and collaborative problem solving by IBN have not been embedded in the Education sector.

10.3.5 What were the common elements of the ERP that were resolved in the workplace? (RQ6)

ERP that were resolved featured commitment to ongoing relationship building, listening, and reflective processes that examined meaning making, mental models, perspective checking, IBN, narrative and transformative mediation. Relational trust was built by conversations that included collaborative, respectful dialogue and acknowledgement of different understandings. Early attention to collaborative meaning making facilitated early resolution. Leaders who engaged in collaborative meaning making found that alternatives could be explored before decisions were made and ERP could be resolved without third-party intervention.

10.3.5.1 Building the emotional bank account

Emerging concept *Building the emotional bank account—relational trust*

This concept refers to trust building being incremental, easily damaged, and vulnerable to ongoing change. The loss of trust in workplace relationships was a distinctive feature of ERP. Trust is critical across relationships in the whole school community. Resistance to the managerial prerogative was a characteristic of ERP.

Contribution to theory There is a risk that change and complaint will be responded to defensively, perceived as a violation of the psychological contract, thus negatively impacting on engagement. A perceived shift towards performance pay can be a source of discontent.

Implications for policy There was a lack of relationship building before the implementation of change at the policy level. National conversations about teacher competency had a negative effect on aggregate trust in the profession and trust in day-to-day management of conflict in the school workplace. Hence there is work to be done in terms of trust building between stakeholders in the Education policy system.

Insights into practice Resistance to change can be complex and is not necessarily explained as resistance to continuous improvement. Ongoing trust building requires explicit CCM processes, by engagement with all stakeholders embedding explicit early informal processes for resolution in the school charter mission, vision and values processes and practices of organisations before, during and following change.

10.3.5.2 Collaborative, confidential sensemaking

The model that emerged from this study has been described in detail in Chapter 9. Although there have been models for analysing negotiation in the existing literature, I am not aware of any research in which parties or dispute resolvers have collaboratively analysed ongoing sensemaking by applying the elements of the Weickian mnemonic (SIR COPE) to conflict management.

10.3.5.3 Negotiation and mediation as learning

As shown throughout this thesis, IBN mirrors problem solving and transformative mediation mirrors transformative learning. The possibilities for training by framing the two processes as learning for early CCM of ERP resolution in the education sector is a meaningful insight because it suggests there is a significant role for teachers in the resolution of day-to-day problems percolating within the school. In addition, a learning approach to conflict resolution could empower teachers to deal with complaints, build trust in their own capabilities to cope with conflict and incrementally build capacity in individual schools for problem resolution.

10.3.5.4 ERP that were transformed

Self-determination was an important aspect of transforming ERP. Robinson's (2011) noteworthy theory of open-to-learning conversations for performance appraisal demonstrated that the language that frames process is important. Being 'open to learning' was the antithesis of the defensive behaviours reportedly associated with escalated problems. ERP in which the problem solvers engaged in reflective collaborative conversation were resolved. Enabling parties to discover that their issues were more complex than one person being right or wrong, or that there was more than one set of facts, was powerful for transforming thinking about ERP.

Embedding a culture of problem solving and collaboration in a school was a solid foundation on which to base a whole-school approach to conflict management. Blue Sky School discovered the importance of induction. Wairua embedded a new culture of respect identity and belonging at all levels of a school in which conflict, rather than cooperation, had been all pervasive. There, transformation required radical change. Contrary to Thomas's approach, a learning approach to culture change would have been preferable. Authentically 'walking the talk' of collaboration was important for building trust in the leadership.

10.3.5.5 ERP that settled

As outlined earlier, settlement refers to a negotiation process by which a monetary settlement is reached and the parties agree to move on from the conflict or relationship. In the cases studied, settlement usually precluded reinstatement. This did not necessarily mean that the parties had resolved the substance of the problem(s); it usually meant they had decided to part ways. A settlement process was reported as the more likely outcome of MBIE mediation, confirming Walker's (2009) findings.

At completion of this study, the exit settlement negotiations made when Salford School was under statutory management were challenged in the Employment Court. Former School principal Marlene Campbell was found to have been unjustifiably dismissed but was not able to be reinstated. This is yet another example of a complaint leading to suspension and dismissal. She had declined the raft of settlements offered earlier but had continued to battle to salvage her reputation. This finding was a late confirmation that the potential for injustice in the sector is significant for policy practice and theory.

The problem of creating settlement packages for teachers or principals who lacked competency or were not performing was similarly an ongoing problem for the sector, with teachers moving on to other schools. This issue has been addressed by the newly formed EC, discussed in chapter 3, which now requires mandatory reporting of resignations of people who have left or have been forced out of schools. The EC now acts as both a regulator and as a default dispute resolution provider, as the Disciplinary Tribunal has the power investigate complaints (s 188 (a)(i)), through the CAC, and to conduct hearings (s188 (b)), with its decisions able to be appealed in the District Court. The potential for the escalation of ERP as a result of the processes and powers given to this new and as-yet-untested institution were discussed in Chapter 9. There is potential to fuel the escalation of ERP by accepting complaints and instigating formal processes of investigation. The evaluation of this policy initiative is yet another opportunity for future research.

10.3.6 What were the common elements of the ERP that were not resolved at the level of the workplace? (RQ7)

Reported outcomes that were not resolved included avoidance, negotiated exit packages, resignation, dismissal, settlement, escalation leading to statutory management, and disputes in the Employment Court. Problems changed over time and power shifted over the course of ERP, contingent on parties, context, interventions and substance. It was not possible to assess information about the outcomes of some of the ERP reported in this study, as they did not fit easily into descriptive categories by relationship, substance of the dispute or distinct processes. The ERP were complex stories. Most significant was the repeatedly reported culture of complaint and exit settlement negotiations followed by dismissal disguised as resignation, which had a negative impact on trust.

10.3.6.1 ERP that escalated

As discussed earlier, the common feature of escalation was conflict contagion. The involvement of formal processes, legalism and reporting to insurance companies escalated position taking and fuelled disputes. It was a counter-intuitive finding that formal neutral investigation fuelled escalation. It was possibly due to people becoming more wedded to their positions when they had formally reported their story. At first glance, the process of formal investigation seeks to ensure natural justice processes for the employee. However, in the context of schools, there is risk that strategic alliances can be taken, suggesting that the earlier people who are close to the problem can collaborate to work through ERP, the better. This gives rise to more questions for future research, such as examining the role of social media in the escalation of conflict contagion regarding dissatisfaction with particular teachers and the handling of complaints.

10.3.7 Why did ERP resolve, transform, settle or escalate in the context of the schools studied? (RQ8)

The matter of escalation has been dealt with above. ERP resolved when there was attention to open communication and a focus on early sensemaking by conversation. ERP that settled did so under confidential processes that gives rise to more questions than are answered by this research. One important question is whether mediation is appropriate where schools are “moving teachers on”, and whether a more formal tribunal is necessary to ensure the outcomes are not the result of contagious complaint.

10.3.8 The Strengths of this Research

This research has discovered rich complexity in the narratives of participants who have in-depth experience of the process and practices of ERP resolution. Weaving the link between policy, practice and theory, the study has illustrated the complex nature of ERP and the way these ERP were managed. GTM provided a process for constant comparison of the elements that influenced the ERP.

The learning that has emerged from this research project could be implemented and developed as a system for the education sector. The model for collaborative sensemaking conversations has the potential to transform conflict early, making a difference in the lives of people throughout the school community. Its application to existing legislation could provide a policy framework for collaboration rather than adversarial processes, resolution rather than settlement, and transformation rather than attribution of fault.

10.3.9 Summary of contribution to policy and practice

As outlined above, this research has identified the importance of commitment within schools to dealing with problems in a timely, informal manner, without the involvement of insurance issues or legal representation, until all possible alternatives have been explored. Building partnerships between stakeholders and embedding training in collaborative sensemaking conversations in schools, to protect against conflict contagion, responds to the need for voice as a natural human process for which there is often no visible, explicit, clear process. The research provides schools with a framework for a collaborative conversation, working with Government in partnership to shift the narrative to one that takes a more mindful approach to change and protecting the social contract between teachers and New Zealand society.

The research also poses policy questions for the Government to consider, including whether:

- the policies of the EC complaint process are in breach of the good faith provisions under the ERA2000
- the role and terms of engagement for statutory managers are a breach of good faith provisions
- the state should fund early, on-site mediation
- the Education Act should change the structure of BoTs to ensure non-parent community members are elected to encourage full and frank debate and as a check and balance on the power of parental complaint for escalation of ERP.
- As outlined earlier, conceptually this research integrates social learning theory, sensemaking and employment relations dispute resolution (specifically, negotiation and mediation) in the design of a participatory approach to developing CCM in organisations. Advocating collaborative, confidential sensemaking as the first step in CCM is a significant contribution to the literature. The idea of explicitly developing conflict management processes in education organisations by engaging all stakeholders, then embedding early informal processes for reaching agreement, resolution or settlement in the mission, vision, values processes and practices of schools, is a contribution that intersects employment relations and education policy and practice under the current legislative framework.

10.4 Limitations of this Research

As outlined earlier and acknowledged throughout the thesis the lack of direct real time access to teachers is a limitation of this research. However the research does not lack examples of ERP that involve teachers. Many ERP are neutrally recounted throughout the thesis. Albeit reported by third party neutrals, and principals, who are also teachers. A longitudinal study in the future could directly engage with teachers.

Limitations of this research include the following:

- The findings from this research are not generalizable to the whole education sector, nor to all primary schools, due to the nature of the theoretical sampling and the lack of interviews with teachers. The study does not contribute aggregated, quantitative, generalizable data.
- There are research gaps, such as a deeper exploration of the role of leadership and identity in the resolution of ERP. Additionally, the role of unions in ERP and the process of good faith collective bargaining were not studied in depth.
- Teachers were not surveyed directly, however their experiences will be the focus of future research.

10.5 Future Research Questions & propositions not yet addressed

This research project gave rise to further research questions that could build on this study:

- What are the qualities of leader behaviour that enable early ERP resolution?
- What is the nature of ERP and conflict management experienced by teachers in a) primary schools, b) secondary schools and c) the tertiary sector, and what are the similarities and differences between them?
- What is the nature of ERP and conflict management in other sectors?
- 8.12 Is there a relationship between physical space and active collaboration?
- 8.13 Why do some employees resist collaboration resist and eventually leave?
- 8.14 What is the relationship between the various parties' commitment to shared time and shared space and the ability to collaborate in the workplace?

10.6 Conclusion

This interdisciplinary study has found that primary schools are a complex context for ERP resolution. However, complexity is not limited to the education sector. In the twenty-first century world of ‘work’ ambiguity, complexity, change and conflict are dimensions that challenge us in our paid, unpaid, voluntary, private and public endeavours. There have been high profile ERP in other sectors. Recently the Prime Minister made international news for pulling a waitress’s ponytail in a café. The waitress engaged the union and reportedly took confidential action against the employer. In the New Zealand Fire Service, a firefighter accused of unsubstantiated episodes of bullying in a voluntary brigade was discussed on Facebook until he was suspended from his paid position as a fire safety educator and his volunteer position as fire chief of a rural brigade. Following a failed mediation and two investigations, the parties are awaiting further investigation. Both cases involved parties other than the employer and employee, both situations referred to ambiguity, both featured in social media, and both involved counter claims of bullying. It is apparent there is a wealth of material for future research.

This study has sought to build theory from the experiences of the participants rather than verify established employment relations or human resource management theoretical perspectives such as; conflict theory, organisational justice or the equity, efficiency, voice framework. My aim was to discover theory inside the data. In addition to the findings discussed and model for CCM presented in the body of the thesis, the research has shown it is time to reconceptualise the way we understand who has power in employment relationships. Stakeholders such as insurers and legal advocates have power to undermine good faith, trust and confidence and social networks have informal power to interfere and cause damage to reputations. In light of such power struggles the current ad hoc complaint handling processes in employment relationships are worthy of research. In the future, teacher identity and classroom autonomy will be in tension with the managerial prerogative as will the policies associated with high performance workplaces & performance pay, if they are introduced into the New Zealand education sector. And finally, there is a lack of policy co-ordination across institutional services for complaint, regulation and dispute resolution in the primary education sector. Above all, I have observed that a collaborative philosophy of respectful good faith dialogue in the workplace appears to protect the integrity of relationships and build resilience in the ‘emotional bank account’.

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Appendix A: Chain of Evidence

Relationships P=Parent, PR=Principal, DP=Deputy Principal, AP =Assistant Principal, TL=Team Leader, BOT=Board of Trustees Member, B Ch= Board of Trustees Chair, SM= senior management team, TA =Teacher Aide, Ch/n=Child/ren, Union =U, Office staff =OS, MoE= Ministry of Education, PRT= provisionally registered teachers, L=Lawyers, I= Insurers)

Themes: Building the emotional Bank account RT = Relational trust; Percolating problems NP&I= Negotiating Power & Influence; Blurred boundaries: LMG =Leading, Managing & Governing; Learning & Transforming ERP= L&T.

Themes

Participant / N episode	Relationship	Type ERP <i>in vivo open codes</i>	Process	Outcome	Selective Codes	Category	R T	N P & I	L M & G	L & T
1Martin	P/TL/PR	P racist complaints	Avoidance by PR/DP	Resignation	Disrespectful treatment of chn	Culture of complaint /Early approaches to Res	X	X		
2	TL/T/P	P bullying T	IBN conversation	Relationship building	Intimidating parental behaviour	Early approaches to ERP resolution	X	X	X	
3	TL/T/DP/PR	PR sarcasm 2 ward T	Staff meetings	Loss of trust	Disrespectful dialogue PR 2 T	Negotiating influence age & gender	X	X	X	
4	TL/T	Communication	IBN conversation	Relationship building	Reflective Dialogue	Processes built trust	X		X	
5 Cary	T/DP/P	Allocating units	Lack of consultation	Unresolved inequity	Disengagement loss of trust	Competence performance power		X	X	
6	T/DP/P	Unsuccessful job app	Appointment	Lost mana	Disengagement loss of trust	Negotiating influence age & gender		X	X	
7	DP/SM/T	Resistance 2 Diversity	Recruitment	Group think	Defensive decision making	Loss of Trust	X			
8a	T/BoT/P/DP	P complaint tchng	Observed teaching	Retirement	Disrespectful dialogue 2 child	Escalation	X		X	
8b	DP/T	Performance pay	Negotiating Incentive	Resignation	Disengagement loss of trust	ERP & Trust	X			
9 Lisa	T/T/P/PR	P complaint	Mental models	Resolved	Disrespectful dialogue T 2 T	Early approaches 2 ERP resolution	X		X	
10	P/T/PR	P complaint tchng	Difficult conversation	Resignation	Disrespectful Dialogue T 2 child	Culture of complaint	X			
11	T/T/PR/P	P complaint tchng	Difficult conversation	Resignation (1/2)	Teachers intimate relationship	Culture of complaint	X			
12	T/PR	Unsuccessful job app	Talking doc	Resolved	Building trust	Early approaches 2 resolution	X			
13	T/P/PR	P complaint T 2 Ch	Difficult conversation	Resolved	Disrespectful dialogue 2 child	Early approaches 2 resolution	X			
14	PR/P	Parents' posse Ch Knife	Parental education	Resolved	Power of complaint	Complaint v feedback	X			
15	PR/P/BoT	P complaint - diversity	Problem solving	Resolved	Building trust	Complaint v feedback	X			
16	PR/P/T	P complaint T 2 Ch	Comms coaching	Apology	Disrespectful dialogue 2 child	Early approaches 2 resolution	X			
17	P/BoT	BoT divided architect	Consensus building	Agreement	Decision making	Leading and governing change		X	X	
18	PR/P/T/BoT	Lateness= disrespect	Embed values	Compliance	Explicit values	Early approaches 2 ERP (prevention) resolution		X	X	
19	PR/P/T/BoT	BoT micro managing	Negotiation	Exit a BoT member	Exit negotiation of BoT membr	Blurred boundaries		X	X	

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Participant N episode	Relationship	Type ERP <i>in vivo open codes</i>	Process	Outcome	Selective codes	Category	R T	N P & I	L M G	L & T
20	PR/P/T	P complaint about Ch	Parent education	Empowering parents	Building trust	Collaborative conflict mgmt.	X			
21	PR/T/P/BoT	Complaint strategic pln	Assumption checking	Resolved built trust	Planning & National standards	Different Mindsets	X	X	X	
22	PR/T/P/C	Parent & C complaint	Observed teaching	Resigned	T lack of English language	Power of complaint: settlement		X		
23 Maree	T/T /T	Class management	Observed teaching	Fixed term ended	Defensive response to feedback	Painting a culture of collaboration	X			
24	T/T/T	Ongoing team conflict	Peer reflection	Resolved	Collab sensemaking	Early approaches 2 ERP resolution	X			
25	T/T/T	Undermining 1 & other	Planning meetings	Redesign Induction	Intra team Loss of trust	ERP & loss of trust	X	X		
27	PR/B Chair	Bullying	Challenged behaviour	Chair resigned	Undermining withholding info	Making sense of bullying		X	X	
28	PR/B Chair	Lack of engagement	Difficult conversation	Improved comms	Collab sensemaking	Negotiating diversities		X		
29	PR/T/P	Cultural competencies	Difficult conversation	Behavioural change	Disrespectful nonverbal comm	Early approaches 2 ERP resolution		X		
30 Steven	PR/T	Under performance	Meetings support	Opprtnty 2 improve	T Defensiveness	Early Performance Management			X	
31	T/T /PR	Mentoring by putdown	Natural Justice	Resignation	Disrespecting children lost trust	Mismatched prof expectations	X			
32	PR/BoT/P	Interests of own Chn	Reporting to BoT	Bias P & BoT	Conflicting interests	Blurred boundaries			X	
33	T/T/SM/PR	Competing priorities	Peer negotiation	Senior staff step up	Leading conflict management	Learning & transforming ERP			X	X
34	T/T/SM/PR	Individual v collective	Peer negotiation	Senior staff step up	Honest conversations	Embedding open dialogue			X	X
35	P/PR/BOT	Only good news stories	BoT decision making	BoT lack big picture	Group think	Leading & governing change			X	X
36	T/PR/SM	Professionalism	Video std Behaviour	High standards	Culture of collaboration	Learning				X
37	Sch culture	Jumping to conclusions	Assumption checking	Building trust	Sensemaking biases	Processes that built trust	X			X
38 Peter	PR/BoT/P	P on BoT complaint	Equity School rules	Family exited school	Undermining leadership	Culture of complaint	X	X	X	
39	SM/T/PR	Class management	Decision making	Ongoing T/T conflict	Intra team loss of trust	Negotiating Influence	X	X		
40	SM/T/P	Curriculum planning	Negotiating	Ongoing T/T conflict	Intra team loss of trust	Different mindsets	X	X		
41	BoT/ P/PR	Childs placement class	Complaints process	Family exited school	Culture of complaint	ERP processes & loss of trust	X			
42	T/BoT/PR/U	P complaints about T	Mediation	T Exit settlement	Leading conflict management	Learning v Performance management			X	X
43	T/P/PR	P complaint about T	Reporting	100% Feedback	Expectations & accountability	Accountability Complaint V feedback		X		
44	PR/ MoE	Nat Stds compliance	Reporting to ERO	Policy conflict	Policy V practice	Leading & governing change			X	
45	P/PR/BOT	Undermining principal	New v former PR	BoT Chair supported	Undermining leadership	Mismatched prof expectations- loss of trust	X	X		
46	TA/PR/T	T Bullying accusation	BoT chair intervned	-ive impact T's career	PR authority acknowledged	Making sense of bullying		X		
47 Earnest	T/T/T	T Complaints	Difficult conversation	Gap vision v culture	Defensiveness lost trust	Collaboration v competition				X
48 Anita	BoT/T/PR/P	Bullying	Shuttle diplomacy	Families exit	Trapped in Inaction	Learning from inaction				X
49	P/PR/BoT	P Complaints about SM	Surveying	Ongoing unresolved	Sensemaking	Learning from investigation				X
50	T/BoT/PR/P	P Complaints about T	Correspondence	Avoidance	Disrespectful treatment of child	ERP processes & loss of trust	X			X
51 Thomas	T/CH//PR	Embedded conflict	Change management	Transformation	Building trust & respect	Paddling the Waka in synch	X			X
52	T/SM/PR	Poor middle mgmt.	Interview	Resignation	Expectations & accountability	Leading & governing change		X	X	x
53	T/PR/SM	Incompetent PRT	Observation	Dismissal	Cultural competencies & PRT	Leading change & transformation			X	X

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Participant N episode	Relationship	Type ERP <i>in vivo open codes</i>	Process	Outcome	Selective Codes	Category	R T	N P & I	L M G	L & T
54	T/U/PR	Incompetent PRT	Observation	Exit no \$'s settlement	Union negotiation	Leading change & transformation		X		X
55	T/PR	Incompetent SM	Observation	Resignation	Cultural competencies	Dismissal v Resignation	X	x		X
56	T/PR	Lack of engagement	Consultation	Resignation	Building trust and respect	Paddling the waka in synch				X
57	TPRSM/BoT	Community alienation	Consultation	Engagement	Transformation	Paddling the waka in synch				X
58	P/PR/BoT	Lack of communication	Consultation	Respect -Core values	Transformation	Paddling the waka in synch				X
59	P/T/SM	Org structure change	Negotiation	Transparency	Explicit values /standing strong	Paddling the waka in synch		X		X
60 Catherine	BoT/P	P Complaints	Principal absent	Escalation	Relational approach	Leading ERP resolution			X	
61	BoT /PR	BoT relationships	High engaged comms	Stable board	Early ERP resolution	Building the emotional bank account	X			
62	PR/T/SM	Leader Responsibilities	Distributive leading	Strong relationships	Early ERP resolution	Building the emotional bank account	X			
63	SM/PR/T	Competing for power	Collaborative mtng	Escalation ongoing	Intra team loss of trust	Negotiating influence		X		
64	SM/Office	Don't trust her Win lose	Job description	Unrepairable conflict	Intra team loss of trust	Negotiating influence		X		
65	T/T teams	Volatile 360 feedback	Problem solving IBN	Acknowledgement	Processes that built trust	Early approaches 2 ERP resolution	X	X		
66	PR/SM/T	Performance pay units	Team Meetings	Undermining	Leading conflict management	Ongoing Discontent		X	X	
67	P/BoT/SMT	Class size vs release	SM & BoT meetings	Budgetary decisions	Leading conflict management	Negotiating blurred boundaries		X	X	
68	PR/SM/BoT	Leader burnout	Resignation	Transformation	Growth & change	Leading and governing change	X	X	X	X
69	PR/T/P	Complaints –Ch report	Meeting P/T/PR	Teacher anxiety	Expectations & accountability	Power of complaint		X		
70	U/T	Bullying dialogue	NZEI meetings	Avoidance	Positional bargaining	Making sense of bullying		X		
71	MoE BoT PR	\$ Property & resources	Negotiating funding	Criteria & priorities	Positional bargaining	Leading & governing change		X	X	X
72	MoE/Ts'	Nat Strdrs perform' pay	Media dialogue	Ts' feel under valued	Disrespectful dialogue	Leading & governing change		X	X	
73	U MoE /PRs'	Bullying ED sector	Negotiating growth	Resistance	Expectations & accountability	Leading & governing change		X	X	
74	Govt/T/PR	Complaints Files	Reframing	Improvement files	Complaints Policy	Processes that built trust	X			
75	T/Team/PR	Mental health issues	Negotiating contract	Permanent contract	Collaborative conflict mgmt.	Processes that built trust	X			
76	SM/PR	Feedback & moving on	Open conversations	Collaboration & trust	Giving feedback	Processes that built trust	X			
77	PR/T	Banking grievances	Informal Mediation	Learning CCM	Listening process	Early approaches 2 ERP resolution	X		X	X
78	TL/PR	Sch growth & changes	Mediate conversation	Ongoing change	Learning CCM	Early approaches 2 ERP resolution	X		X	X
79 Edward	PR/T	Workload	Good faith	Openness & fairness	Respectful dialogue	Process that built trust	X			
80	PR/T/SM	Aggressive dialogue	Setting norms- tone	Explicit value respect	Norm = respectful dialogue	Processes that built trust	X			
81	B chair/PR	Personal grievance	Insurance lawyers	Mediation	Litigating & Escalation	Escalation		X		
82	Ts'/PR	Personal v prof issues	Open conversations	Conflicts resolved	Open door Principal mediator	Processes that built trust	X			
83	PR/T/SM	Disrespect for peers	Open conversations	Early resolution	Collaborative conflict mgmt.	Negotiating influence		X		
84	P/PR/T/SM	All emerging problems	Open Conversations	Supportive culture	Collaborative conflict mgmt.	Principal as mediator			X	
85	TL/PR/SM	How r relationships?	Sep & joint mtngs	Early Intervention	Relational approaches CCM	Processes that built trust	X			
86	P/TL/SM/PR	P Complaint	Open conversations	Supportive culture	Collaborative conflict mgmt.	Processes that built trust	X			

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87	T/SM/PR	Class management	Problem solving	Modelling to chldrn	Respectful dialogue.	Processes that built trust	X		X	
88	T/PR/BoT	Competency	Observe teaching	Ongoing appraisal	Expectations & accountability	Early approaches 2 ERP resolution			X	
89 Enid	T/PR/SM	Cultural cliques	Avoidance	High conflict	Disengagement loss of trust	Negotiating influence -ethnicity & culture		X		
90	T/PR/SM	Disrespectful dialogue	Avoidance	Lack of collegiality	Disengagement loss of trust	ERP processes & loss of trust	X	X		
91	PR/SM/T/U	Angst & staff conflict	Appraisal	Resignation	-ive relationships with students	Paddling the waka in synch				X
92	BoT/PR/T/C	School like War zone	Chaos high conflict	Escalation ongoing	Intra school disrespect	leading & governing change				X
93 Lavinia	PR/T/SM	PR Bullying	Staff & SM meetings	High conflict	Bullying	Statutory management			X	
94	PR/ERO	Lack of perf mgmt.	ERO Evaluation	Termination	Expectations & accountability	Leading & governing change			X	
95	SM/BoT/	Crisis management	Decision making	200 unusable policies	Bullying	Making sense of bullying		X		
96	SM/BoT /PR	Signing cheques	Verbal abuse	Lack of respect 4 PR	Intimidation & bullying	Making sense of bullying		X		
97	SM/PR/DP	Disagreement	Abusive threatening	Personal grievance	Intimidation & bullying	Making sense of bullying		X		
98	PR/ERO	Mis-spending	Abusive screaming	Statutory Mgmt.	Intimidation & bullying	Blurred boundaries		X	X	
99	SM//DP	Leadership style	Patronising converstn	Divisive toward staff	Lack of assumption checking	Leading change			X	
100	DP/PR	Rebuked smoking in car	Screaming	Complaint to union	Defensive loss of trust	Negotiating change			X	
101	T/PR/SM	Sick leave 4 family	Negotiating priorities	Compromise	Expectations & accountability	Leading & governing change				X
102	T/SM	Working to rule	Performance mgmt.	Redundancies	Expectations & accountability	Paddling the waka in synch				X
103	DP/PR	Units of responsibility	Unilateral decisions	Lack of consultation	Defensive loss of trust	ERP processes and lack of trust	X			
104	T/SM	Lack of care about Chn	Resignations	Change in staff	Leading & governing change	Paddling the waka in synch			X	X
105 Eron	BoT/SM/PR	Consultation issues	Open communication	Exclnt relationships	Collaborative conflict mgmt.	Early approaches 2 ERP resolution	X			
106	BoT/PR	Spare the rod spoil child	Decision making	Group think	Defensive	ERP processes & loss of trust	X	X		
107	BoT/PR	Contemptuous Chair	BoT meetings	Resignation PR	Undermining leadership	Contagious Loss of trust	X			
108	PRBoT/MoE	We shut down a school	Negotiation	BoT supported Ts'	Leading change	Blurred boundaries			X	
109 Maggie	BoT/ PR/ P	Lack of critical voice	Decision making	Group think	Defensive decision making	Blurred Boundaries			X	
110	BoT/ PR/P	Spending discomfort	Contract formation	Lack of consultation	Defensive loss of trust	Blurred boundaries		X	X	
111	BoT/PR/T	T was pushed out	Process ambiguity	T Resignation	Competence v performance	Making sense of bullying		X		
112	BoT/ PR/P	Stndrds v Special need	Public Relations	Unresolved inequity	Negotiating diversity	Negotiating influence across diversity		X		
113	BoT/PR/p	Eye rolling when I speak	Disrespectful Comms	Resignation frm BoT	Professional dialogue & trust	Relational trust/ Blurred boundaries	X	X	X	
114	BoT/DP	P Complaint bullying	Open inquiry	Resolved	Collaborative conflict mgmt.	Making sense of bullying Early ERP resolution	X	X		
115	P/ T/PR	P Feedback-learning	Defensive meeting	Unresolved	Complaint v feedback	Making sense of bullying/Power of complaint		X		
116	P/T	P Complaint C learning	Defensive Converstn	Unresolved	Complaint v Feedback	Percolating problems/power of complaint	X	X	X	
117	P/PR	P Complaint T apprch	Negotiating change	Unresolved	Defensive loss of trust	ERP processes & loss of trust	X	X		
118	BoT/ P	Proposed BoT Prof Dev	Governance Training	Avoided	Leading & governing change	Blurred boundaries			X	

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119	BoT/PR/P	PR determined B Chair	Strategic alliances	P of gifted pushed out	Leading & governing change	Making sense of bullying /Blurred Boundaries		X	X	
120	BoT/P/PR/T	Nat stndrds v C needs	Outside Recruitment	Internal appointment	Leading & governing change	Percolating problems/Blurred Boundaries		X	X	
121 Alana	BoT/PR/T	Disciplinary processes	ERA BoT contribution	Minimal penalties	Comptnce performce process	Percolating problems / Blurred boundaries		X		
122	BoT/T/PR	Roles & responsibilities	Early IBN	Open Communication	Good faith	Early approaches 2 ERP resolution	X			
123	BoT/PR/T	Illness- stroke	Open honest discussn	Resignation	Collaborative conflict mgmt	Early relational ERP resolution	X			
124	BoT/PR/T/P	Salaries	Good faith	Open Communication	Collaborative conflict mgmt	Early relational ERP resolution	X	X		
125	PR/Ts'	Nasty Relationships	Transftive Mediation	Ts' Resolved Retained	Disrespectful dialogue	Making sense of bullying		X		
126	BoT/PR/T	Resistance 2 discipline	Settlement Med MBIE	Exit Settlement	ERP escalated	Legalism / loss of trust	X	X		
127	BoT/PR/T	Computer 4 persnl use	Discipln Investigation	Escalated - deported	ERP escalated	Legalism / loss of trust	X	X		
128 Arini	BoT/PR	Bullying BoT Silenced	BoT Meetings	Statutory mgmt.	Bullying	Making sense of bullying		X		
129 Adele	SM/T	Negative tone & style	Reframing mediation	Resolved	Early relational ERP resolution	Processes that built Trust	X			
130	T/T	Angry verbal exchanges	Early mediation	Resolved	Early relational ERP resolution	Processes that built Trust	X			
131	SM/T/T	Change planning	Narrative mediation	Resolved	Early relational ERP resolution	Processes that built Trust	X			
132	PR Ts'	Too many withdrawals	Narrative Mediation	Ongoing	Early relational ERP resolution	Leading & governing change			X	
133	BoT Chair Ts	Micro managing	Personal Grievance	Escalation ongoing	Negotiating Roles	Making sense of bullying Blurred boundaries		X		
134 Eron	PR / C	'Bully' damn powerful	Reframing	Problem terminology	ERP Escalated	Making sense of bullying		X		
135	T/PR	Ps lost confidence in T	Email stratgc alliances	Vulnerable escalation	Comptnce performnce process	Making sense of bullying		X		
136	T/BoT/L/I/U	Prof competency of T	Ill-timed Mediation	Unresolved	Comptnce performnce process	Percolating problems				
137	B Ch/PR	BoT heckling PR	Mediation MBIE	Exit negotiation	ERP escalated	Relationships ended	X			
138	BoT/PR	Relationships broken	Negotiation	Exit package	Dismissal v resignation	Making sense of bullying		X		
139	MoE BoTPR	PR mgmt Competency	BoT exit PR & Partner	Resolved	Building relational trust	Education a special case	X			
140 Bob	U/T/MoE	Reforms Nat Stndrds	Positional bargaining	Polarisation	Govt policy & ERP's	Loss of trust/Blurred boundaries	X		X	
141	U/MoE	Charter schools	Govt agenda	Escalation (sector)	Differing mindsets & Trust	Education a special case	X			
142	U/MoE	Govt frame tchnng crisis	Reframing	Polarisation	Differing mindsets & Trust	Education a special case /Leading change	X		X	
143 Adam	T/T	T violent 2 ward T	Complex Investigation	Process mistakes	ERP escalated- substance	Education a special case	X			
144	T/P/Ch	T Disrespectful 2 Ch	Investigation	T negotiated exit	Competenc permf or conduct ?	Culture of complaint loss of trust	X			
145	T/T/PR/BoT	T fighting T, duty GF	Investigation	Escalation ongoing	Complex relationships	Day 2 Day mgmt. ERP /Blurred boundaries			X	
146	T/BoT/PR	P Complaint Tchng	Investigation 1 event	Event v performance	Parents contributn 2 escalation	Culture of complaint	X			
147	T/BoT/PR/I	T Complaint Msconduct	Investigation	De-escalated	Early relational ERP resolution	Culture of complaint	X			
148	BoT/PR	Principal runs foul BoT	Legal & insurance	Legalism escalation	ERP Escalated	ERP escalated relationships ended	X			
149 Raife	TL/T	Resistance to instructn	Early wkplc mediation	Comms awareness	Early relational ERP resolution	Processes that built Trust	X			
150	TL/T	Undervalued	Early wkplc mediation	Recognntn & Acknmt	Early relational ERP resolution	Processes that built Trust	X			

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Participant N Episode	Relationship	Type ERP <i>in vivo open codes</i>	Process	Outcome	Selective Codes	Category	R T	N P & I	L M G	L & T
151	BoT/T	Bullying & harassment	Investigation	Code of conduct	External v internal supervision	Making sense of bullying /building trust	X	X		
152	P/PR/DP	P Zoning complaint	Mediation >ERA	Termination	ERP escalated	ERP escalated relationship ended	X			
153 Sarah	T/T	Email permf complaint	2 late 4 informal app	Conflict built up	ERP escalated formal complaint	ERP escalated / culture of complaint	X			
154	PR/T/T	Interpersonal conflicts	Complaints	Strat alliances	3 rd party gossip	ERP escalated /Power of complaint	X	X		
155	ERS/govt	Mobile mediation	Early involvement	Chief mediator resistd	Legal objectives of ERA 2000	Early assistance <i>free fast & fair</i> mediation	X			
156	T/T	Interpersonal 2 equals	Act does not cover	Mediation?	Complex relationships	Who is party to the Employment relationship?	X			
157	T/PR	Interpersonal conflict	PR lacked skills	Lawyers scared party	Offsite mediation =Escalation	ERP Processes loss of trust	X			
158	T/T	Lack of communication	Early mediation	Resolved	Techers r good problem solvers	Early relational ERP resolution	X			
159	T/U/PR	Performance review	Union advocacy settle	Exit Settlement	ERP escalated	ERP escalated relationships ended	X			
160	PR/T	Impossible expectations	Perf appraisal unresbl	Exit settlement	Dismissal v Resignation	Negotiating influence & power		X		
161	T/BoT/PR	Community complaint	Offsite mediation	Inappropriate 4 Maori	Leading conflict management	Negotiating influence across cultures		X		
162	T /PR/BoT	Teacher pushed out	Perceived bullying	Process ambiguity	Disrespectful dialogue	Competence performance & process		X		
163	T/PR	Bullying	Long separate session	Sensemaking Mgmt.	Teacher mindset v performance	Making sense of bullying	X	X		
164	T/BoT/PR	Harassment	Pushing T out	Performance mngmt	Problem solving v Dispute	Dismissal v resignation		X		
165 Adam	PR/T/BoT/LI	Polarisation	Investigation	Early Adversary exit	ERP Escalation	Dismissal v resignation		X		
166 Adele	T/BoT/PR/LI	P Complaint treating Ch	Legalism	Exit settlement	ERP Escalation	ERP processes & loss of trust	X	X		
167	PR/T	Ts' contempt 4 mgmt	CM training	Resolved	Teacher resistance to mgmt.	CCM training				X
168	TI /PR	Allocation of resources	Negotiation coaching	Self determination	Day to day mgmt. of ERP	CCM training			X	X
169	T/T	Bullying dialogue	Reframing	Improved meetings	Disrespectful dialogue	Making sense of bullying				
170	T/P/PR	P Complaint	Negotiation coaching	Regret repair rspnblty	Transforming conflict	Blurred boundaries /process that built trust	X		X	
171	T/PR/Govt	Sch Village v business	Policy change	Disengagement	Teachers v Govt mindset	ERP's social psychological contract & trust	X			
172	TL/T/T	Interpersonal discntnt	Coaching	Changed mindset	T's contribution 2 escalation	Education a special case	X	X		
173 Prof MW	ERP Policy	Relationship v contract	Human relationship	Mutual trust	Mutual Problem solving	Who is party to the Employment relationship?	X			
174	ERP Policy	Creating understanding	Problem solving	Mutual trust	Interests v legal cause of action	Processes that built trust	X			
175	ERP Policy	Good faith	Natural justice	Human complexity	Explicit GF in statutory process	Good faith negotiation / processes built trust	X	X		
176	ERP Policy	Case law Inadequate	Best interests GdFaith	Self determination	Relational approach	Negotiating in good faith building trust	X	X		
177	ERP Policy	Workplace problems	Mediation service ERS	Early intervention	Problem solving mediation	Early ERP resolution building trust	X	X		
178	ERP Policy	Dealing -human issues	Free mediation	Stop adversary	Adversarial system ingrained	Growing interest in early mediation	X			
179	ERP Policy	Mediation as education	Educative approach	Change	Resistance	Government policy & ERP Resolution		X	X	
180	ERP Policy	Productive workplaces	Efficient ERP resltn	Competing ideologies	Dynamic shift 2 interest based	The legal objectives of the ERA 2000	X	X		X
181	ERP Policy	Lawyer resistance	Undermining ERS	Aim 4Reduction in PG	Complex conflicting interests	Govt policy & ERP resolution			X	
182	ERP Policy	Trust in ERP resolution	Change nature of wrk	Insecurity	Conflicting interests	Aggregate Loss of trust in the nature of work	X			

Transforming Relationships? Making Sense of Conflict Management in the Workplace

Participant N Episode	Relationship	Type ERP <i>in vivo open codes</i>	Process	Outcome	Selective Codes	Category	R T	N P & I	L M G	L & T
183 Adam	P/PR/BoT	Every day complaints	Low level options	Cut thru legal diffs	Explicit complaints process	Culture of complaint /Early relational ERP Res	X			X
184	BoT/PR/U/LI	Unjustified dismissal	Legal contest =danger	Law too technical	Loss of trust, lost career	ERP escalated relationship ended	X			
185	BoT/PR/T	Incompatibility	T not commercial	Sweetners/legals	Differing mindsets	ERP & trust Teachers a special case?	X	X		
186	T/T/ PR/BoT	Constructive dismissal	Multi GF negotiations	Employer in middle	Principal as mediator	Complex relationships blurred boundaries			X	
187	PR/BoT	Competence Complaint	Redundancy	Report to Ed Council	Managing principals	(Schools) Teachers a special case ?	X			
188	ERO/BoT/PR	Compliance/good faith	Investigation	Reporting ERO & EC	The legal framework	Barriers to ERP resolution			X	
189	T/PR/BoT	T behavr in classroom	Gathering evidence	Loss of trust	Legalism & insurance	Barriers to ERP resolution			X	
190 John	T/T/PR/BoT	Fixed term v permanent	Follow the collective	Escalated b4 Resolved	Process v substance	ERP escalated	X		X	
191	PR/BoT/	Reportng Nat Stndrds	Support person BoT	BoT Training	Managing principals	Blurred boundaries			X	
192	PR/BoT/T	T English Competency	Recruitment	Incompetence	Competence v performance	Competence performance & process		X		
193	PR/BoT/T	Perfrmnce Appraisal	Appraisal ambiguity	Pr Perfrmnce=discipl	Competence v performance	Competence performance & process		X		
194	PR/BoT	Principal competencies	Perform management	PR exit split commnty	Performance appraisal	Managing principals stat mgmt.			X	
195	PR/BoT/SM	Autocratic principal	Comms coaching	Contemptuous Exit	Loss of trust	ERP escalated	X			
196	PR/BoT	Keeping BoT in dark	Statutory mgmt.	Deep rift	Defensive loss of trust	Managing principals stat mgmt.	X		X	
197	PR/BoT	Turning school around	Support new P	Transformation	Building trust	Leading & governing change /Trans & learning			X	X
198	BoT/PR/SM	Change complaint resist	Support 4 principal	Some Teachers exited	Unsubstantiated incompetence	Leading & governing change			X	X
199	BoT/BCH/PR	Disciplinary matters PR	Board delegation	Performance mgmt.	Partnerships	leading & governing blurred boundaries			X	X
200 Carl	T/PR	Disrespectful edicts	Coach dialogue	High trust	Recognition acknowledgement	Processes that build trust	X			X
201	PR/T	Assertions of Bullying	Petition to BoT	BCH supported PR	BoT Code of ethics	Making sense of bullying		X	X	
202	PR/BoT/T	Staff rep Complaint PR	NZSTA Code of Ethics	Fire PR not BoT mbr	BoT Undermining PR	Making sense of bullying /Blurred boundaries		X	X	
203	PR/BoT/T	BoT tried 2 Push PR out	Sch code of practice	Escalation in media	BoT undermining PR	Making sense of bullying /manging principals		X	X	
204	Govt/ PR/T	Pressure -Policy change	Lack of social capital	Governance issues	Relationship building	Leading & governing change			X	
205	Govt/BoT	LSM go in & sort it	Statutory mgmt. LSM	Predetermined prbms	Conflicts of interest	Managing principals / blurred boundaries			X	
206	BoT/PR	PR -ive media release	Investigation	Lack of consultation	Collaborative policy developmt	Blurred boundaries				
207	U/T/BoT	Big school hierarchy	Collaboration v rights	T Qu lack consultation	Collaboration v Hierarchy	Teachers contribution to escalation	X	X		
208	BoT/PR	Problematic structure	Governance	Lack of expertise	Conflicts of interest	Blurred boundaries				
209	PR/T/BoT	PR implement change	Ts' complain 2 BoT	Unresolved	Conflicts of interest	Complex relationships /Leading & govng change	X		X	
210	ERO/P/BoT	Culture of complaint	Investigation	Statutory manager	ERP process and loss of trust	A culture of complaint	X	X		
211	BoT /PR/T	T Complaint about PR	Challenging authority	Conflicting interests	Disrespectful dialogue	Complex relationships barriers to ERP Res	X	X	X	
212	Govt/T/BoT	Imposing Nat Stndrds	Lack of consultation	Resistance lost trust	Govt policy & ERP	Complex relationships barriers to ERP Res	X	X	X	
213	PR/Ts	Put downs disrespect	Meeting dialogue	Venting with 3 rd party	Strategic alliances	Escalation				
214	PR/Ts	Mutual respect	Respecting authority	Disagree -Escalation	Mismatched exptns loss trust	Professional dialogue & trust	X	X		

Transforming Relationships? Making Sense of Conflict Management in the Workplace

Participant N Episode	Relationship	Type ERP <i>in vivo open codes</i>	Process	Outcome	Selective Codes	Category	R T	N P & I	L M G	L & T
215	T/PR	T acting in bad faith	Authoritarian mgmt.	Escalation ongoing	Resistance to management	Teachers contribution to escalation	X			
216	PR/T	T issue with PR	Strategic gossip	PR lost trust in T	Undermining- conflict interests	Mis-matched expectations & loss of trust	X		X	
217	Ts/PR	Explicit Neg process	Opn 2 learnng convers	Embedding process	Building respect	Early Problem resolution processes	X		X	
218	Ts/PR/BoT	Resistance to feedback	360 degree feedback	Learning	Feedback	Early Problem resolution processes	X		X	
219	PR/BoT/T	T in media vote PR out	Investigation	Code ethical conduct	Loss of trust suspicion anger	Leading Early problem resolution processes	X		X	
220 Jerica	BoT/PR/T	BoT getting rid of staff	Performance mgmt.	Principal in middle	Making sense of bullying	Leading and governing change		X	X	
221	T/TM/PR/M	Staff ERP ≠ ERA2000	Early mediation s144	Policy Process gap	Barrier to ERP resolution	Who is party to the employment relationship?	X	X	X	
222	T/PR/BoT/U	Growing n's ERP's	Early mediation	Familiar with process	Shift 2interest based Mediation	Early Problem resolution processes	X	X		
223 EC Judge	BOt/L/I	Early Legalism	Investigation	Remove frm Educatrs	Lawyers look at legal causes	ERP Escalate	X	X	X	
224	EC/BoT/PR	Complaint	Investigation discipln	Terminatn-career lost	Legalism	Education a special case?	X	X	X	
225	BoT/PR	Education v Business	MBIE quick resolution	Lacks education input	Specialised Ed ERP resolution	Education a special case?	X	X	X	X
226	SM/TL/T	Bullying	Legalism	Escalation career exit	Disrespectful dialogue	Contesting influence: gender & age	X	X	X	
227	T/PR/P	P Complaint disorg class	Guidance, sick leave	Termination, PG	Ineffective support 4 teachers	Complaint v feedback		X		X
228	U/BoT	Relationship difficulties	Union support	Isolation	Lack of individual support	Complaint v feedback		X		
229	T/PR/IL/BoT	Emotional relationships	Early investigation	insurance escalates	Legalism	Barriers to ERP resolution	X	X	X	
230	I/PR/BoT	Performance mgmt.	Focus on dismissal	Limits options	Legal thinking restricts options	Escalation			X	
231	I/BoT/T/PR	Relationship difficulties	Reporting to Insurers	Lack Educator input	Insurers exclude stakeholders	Escalation			X	
232 Michael	PR/BCH	Communication issues	Rspect listning dilgue	Open Communication	Building trust	Processes that built trust	X			
233	T/U/BoT	Settlement culture	Negotiated exit	Exit settlement	Fast Settlement	Competence, performance & process		X		
234	BoT/ PR	BoT turning on principal	Strategic alliances	PR Vulnerability	BoT Undermining PR	Escalation	X		X	
235	T/Govt	Service v Perf mindset	Media dialogue	T loss of trust govt	Disrespectful dialogue	Barriers to Resolution			X	
236	T/BoT	Insurers legal escalate	Legalism	Exit settlement	Legalism insurance escalation	Escalation		X	X	
237	PR/BoT/BCH	Succession tension	BCH intervention	BoT mmbtr exit	BoT mmbtr undermining PR	Leading governing change blurred boundaries			x	
238	PR/T/T	Unmanaged conflicts	Negotiated exit	Exit settlement	Avoiding	Leading & governing change			x	
239 Colleen	PR/T	Underperformance	Negotiating	Double jeopardy chn	Dismissal v Resignation	Negotiating across cultures		X		
240	PR/SM/T	Appraisal feedback	Difficult converstns	Lack of Courage	Barriers to resolution	Govt policy & ERP			X	X
241	T/BoT/PR	Public sector feedback	360 Feedback	Resistance gone	Feedback	Early problem resolution processes			X	
242	T/Govt/PR	Performance pay	Appraisal	Secrecy competition	Loss of trust	Competence performance process			X	
243	T/Govt/PR	Professional developepmt	Teacher learning	Incompetent teachers	Lack of professional learning	Competence performance process			X	X
244 Bill	PR/BoT/T	Preconceptions	Listening responding	Escalation	Escalation	Escalation relationships ended	X		X	X
245	PR/BoT/T	Not dealing with issues	Coaching negotiation	Lost confidence trust	Early ERP resolution	Processes that built trust	X			X
246	TL/T	Emotive language	Perception simulation	Reframing	Contsting pwer influnce Gender	Negotiating Influence across diversity				

Transforming Relationships? Making Sense of Conflict Management in the Workplace

Participant N Episode	Relationship	Type ERP <i>in vivo open codes</i>	Process	Outcome	Selective Codes	Category	R T	N P & I	L M G	L & T
247	BoT/PR	BoT managing day2day	Managing & governg	Conflicts of interest	Blurred boundaries	Leading governing & managing blurred bndries	X		X	X
248	BoT/T/PR	Symbiotic relationships	Good faith & NZEI	Litigious union mebrs	Good faith =Early resolution	Early problem resolution processes			X	
249	BoT/T/PR	Planning fails to deliver	Performance	Performance mgmt.	Competence v performance	Blurred boundaries(ambiguity)				
250	T/PR/BoT	Culture & collaboration	Investigation	Learning cultures	Negotiating diversity culture	Negotiating Influence across diversity				
251	T/PR/BoT	Mental health issues	P Complaints	Supervision	Collaboration	Early problem resolution processes			X	X
252 Bob	U/T/T	Interpersonal conflict	Confidential Advice	Self-determined	Ambiguous ERP resolution	Early problem resolution processes			X	
253	U/T/PR/BoT	Compliance	Advocacy negotiation	Legal action	Legalism	Escalation				
254	U/T/BoT/TC	Confidential reg issues	Registration T	Legal Action	Legalism	Escalation			X	
255 Joe	BoT/PR/T	Depression sick leave	Termination	Exit settlement \$'s	NZEI legalism	Escalation			X	
256	BoT/PR/T	Stress spec ed	Contract negotiations	Variable costs 4staff	Negotiating diversity	Leading & governing change			X	
257	BoT/PR/T/U	Adversarial neg style	Union organising	Escalation	Positional bargaining	Escalation		X	X	
258 Paige	BoT/PR/P	Neg-ive impacts on ch	Complaint	Role boundaries	Conflicts of interest	leading & governing blurred boundaries	X	X	X	
259	Bot/PR/P	BoT/PR/P	Teaching competence	Dismissal	Dismissal v resignation	Competence performance process	X		X	
260	BoT/PR/P	Avoiding emotive issues	Complaints	High emotion	Avoiding	Leading ERP resolution			X	
261 Brian	BoT/PR/P	School closed jobsv chn	Consultation	Resolved	Conflicts of interest	Leading & governing change			X	X

Chain of evidence. **Relationships** P=Parent, PR=Principal, DP=Deputy Principal, AP =Assistant Principal, TL=Team Leader, BOT=Board of Trustees Member, B Ch= Board of Trustees Chair, SM= senior management team, TA =Teacher Aide, Ch/n=Child/ren, Union =U, Office staff =OS, MoE= Ministry of Education, PRT= provisionally registered teachers, L=Lawyers, I= Insurers) **Themes:** Building the emotional Bank account RT = Relational trust; Percolating problems NP&I= Negotiating Power & Influence; Blurred boundaries: LMG =Leading, Managing & Governing; Learning & Transforming ERP= L&T.

Appendix B: Consent Form

Consent Form



Project title: *Employment Conflict Transformation: a multi-method study of policies and processes for the early resolution of workplace relationship problems in schools*

Project Supervisor: Professor Erling Rasmussen

Researcher: Gaye Greenwood

1. I have read and understood the information provided about this research project in the Information Sheet dated 04 01 2011.
2. I have had an opportunity to ask questions and to have them answered.
3. I understand that notes will be taken during the interviews and that they will be audiotaped and transcribed.
4. I understand that I may withdraw myself or any information that I have provided for this project at any time prior to completion of data collection, without being disadvantaged in any way.
5. If I withdraw, I understand that all relevant information including tapes and transcripts, or parts thereof, will be destroyed.
6. I agree to take part in this research.
7. I wish to receive a copy of the report from the research (please tick one): Yes No .

Signed

Participant

Appendix C: Confidentiality Agreement

Confidentiality Agreement



Project title: *Employment Conflict Transformation: a multi-method study of policies and processes for the early resolution of workplace relationship problems in schools*

Project Supervisor: Professor Erling Rasmussen

Researcher: Gaye Greenwood

I understand that all the material I will be asked to transcribe is confidential.

- I understand that the contents of the tapes or recordings can only be discussed with the researchers.
- I will not keep any copies of the transcripts nor allow third parties access to them.

Transcriber's signature:

Transcriber's name:

Transcriber's Contact Details (if appropriate):

.....
.....
.....

Date:

Project Supervisor's Contact Details (if appropriate):

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.....
.....
.....

**Approved by the Auckland University of Technology Ethics Committee on 10/ 05/2011
(AUTEK) Reference number 11/23** Note: The Transcriber should retain a copy of this form.

Appendix D: New Zealand Employment Institutions

Table D.1: New Zealand employment institutions—Processes and outcomes (Rasmussen & Greenwood, 2014)

Legislation	Employment institutions	Purpose	Process	Outcomes
Industrial Conciliation & Arbitration Act 1894	Conciliation Boards elected employer & employee representatives chaired by Government-appointed commissioners	Intended to create informal state-sponsored dispute resolution conciliation service. Intervention in labour disputes, impose settlement if parties were unable to resolve differences in collective disputes.	Conciliation Boards investigated & conciliators made decisions. Positional distributive bargaining. Lack of preliminary processes. Political appointments.	Prohibited strikes & lockouts during conciliation & arbitration. No process for resolution of individual personal grievances some unions deregistered to enable individual employer-union negotiations.
	The Arbitration Court	Heard appeals on conciliation decisions, made binding judgements, awards & set wages & conditions for registered union labour.	Judges from the Supreme Court elected assessors from employer associations & union representatives to inform binding judgements, awards & set wages & conditions.	Strengthened weak unions' bargaining position with employers through wage fixing across industry sectors.
The Industrial Conciliation & Arbitration Amendment 1970	Industrial mediation service	Mediation in the workplace.	Government representatives provided mediation services for collective bargaining. Introduction of mediation of personal grievances for union members.	Perceived lack of neutrality of government-appointed mediators, power bargaining, lack of preliminary processes, lack of understanding about the role of the mediator lack of power for mediator intervention, resistance to option generation & eagerness for strike & lockout.
The Industrial Relations Act 1973	Industrial Mediation Service	To improve industrial relations by differentiating between disputes of 'rights' & interests.	Mediators aimed to prevent industrial disputes by maintaining close liaison with industry, offering facilitation to assist settlement, make suggestions & recommendations, where the parties agreed make decisions. Mediators were prohibited from intervention in disputes of interest where conciliation or arbitration proceedings had begun. Disputes of interest were facilitated by	Introduction of the right to take a personal grievance for union members. The Mediation Service concentrated on rights & grievances while the Conciliation Service focused on collective bargaining. Mediator focus was on prevention &
	Industrial Conciliation Service The Arbitration Court	Disputes of 'interests' were created to procure a collective agreement or an award settling terms & conditions. Initiation of collective bargaining required identification		

Legislation	Employment institutions	Purpose	Process	Outcomes
		<p>of disputes of 'interests'.</p> <p>Disputes of 'rights' concerned the interpretation, application or operation of a collective agreement or award or a personal grievance.</p>	<p>Conciliation Service conciliators who conducted processes for preliminary exchange of information & mediation but did not make decisions.</p> <p>Conciliators chaired industrial disputes committees for disputes of rights where decisions were made & appealable in the Arbitration Court.</p> <p>Personal grievances involved hierarchical process: 1) self-help submission to supervisor, 2) union branch secretary acted as advocate, 3) submission of the case to a grievance committee with representatives from the union & the employer in attendance, 4) if there was no settlement nor agreement reached dispute was referred to the Arbitration Court.</p>	<p>education of parties in dispute.</p> <p>Public confusion about procedural differences between mediation & conciliation. Mediators often arbitrated.</p>
The Employment Contracts Act 1991	The Employment Tribunal The Employment Court	Abolition of the Mediation Service. Individual employees permitted to take their own personal grievance to the Employment Tribunal irrespective of union membership. Dual emphasis on mediation & adjudication.	Provide mediation & adjudication; however, the same person did not provide both processes. No longer med/arb hybrid approach. Increased focus on case law & precedent in the Tribunal.	Rise in the number of personal grievances & individual disputes. Rise in legal representation at mediation & increased lay advocacy. Widespread critique of overzealous legal advocacy, increased costs for parties in dispute & long delays for mediation in the Tribunal.
The Employment Relations Act 2000	Call centre 0800 number & website fact sheets Employment Relations Service	Provision of self-help information for negotiation of ERP. Aimed for provision of 'free, fast, fair' (Wilson, 2000) confidential mediation service, which was formerly provided through the Department of Labour & currently by the Ministry of Business, Innovation & Employment.	Provision of materials to guide parties to resolve workplace conflict themselves. Direction to fact sheets employment rights, agreement writing & employment law. Referrals to union employer associations, lawyers, community law centres & citizens advice bureaus & the Mediation Service. Mediated settlements, whether settled privately outside mediation & forwarded for recording or settled in the state-sponsored Mediation Service, are signed off by mediators under s149 ERA. Settlement agreements are confidential to the	The primary work of mediators continues to be personal grievances following employees' termination of employment. Around 95% of ERP were referred to the Mediation Service & were settled without referral onto the Employment Relations Authority (see Department of Labour, 2012a). Mediators & Employment Relations

Legislation	Employment institutions	Purpose	Process	Outcomes
			<p>parties & the Mediation Service; do not go to the Employment Relations Authority except in circumstances involving enforcement & compliance.</p> <p>There is wide statutory protection of confidentiality during mediation. Any oral or written statements, admissions made, documents produced or created are all protected specifically at s148. In addition to no evidence being admissible in any court or judicial body, nothing in the Official Information Act 1982 can apply to any part of the mediation (s149 (3)).</p> <p>Mediators can provide written recommendations by s149 (1) at the parties' written request. Recommendation/s can become final, binding & enforceable by s149(1) (b) ERA unless one or both of the parties do not accept the recommendation/s (s149 (3) ERA). A party may not seek to challenge an accepted recommendation in the Authority or the Court by s149(5)(b) ERA.</p> <p>ERA was amended in 2010 to include early assistance mediation, which may include processes such as conflict mapping, conflict coaching & interactive workshops.</p> <p>If parties cannot reach agreement during mediation then they can, pursuant to s150 of the ERA, request the mediator make a final binding decision that cannot be challenged in the Employment Relations Authority; thus mediators make decisions at the parties' request.</p>	<p>Authority members have been involved in high-profile collective bargaining cases in the New Zealand police & fire services & other sectors, including health, meat industry, rest home, manufacturing, energy & transport & stevedore sectors.</p>

Legislation	Employment institutions	Purpose	Process	Outcomes
	Employment Relations Authority	Facilitation of collective bargaining Determination in the Employment Relations Authority	An inquisitorial process led by an Authority Member who has the power to explore the facts of the case in an informal manner by: holding interviews, calling meetings, requesting evidence, conducting investigations & reaching decisions on the merits of the case rather than legal technicalities.	While the ERA has enhanced the existing Employment Institutions with the purpose of prevention & resolution of ERP rather than adherence to rigid formal procedures (McAndrew, Morton & Geare, 2004), those aims are less likely to be realised in the Employment Relations Authority since the 2010 amendments at s160 (2) (2A) that allow for cross-examination.
	The Employment Court	Litigation: judicial hearing seeking damages, injunction compliance, or challenging a determination of the Employment Relations Authority.	Challenges to a determination of the Employment Relations Authority involve a full judicial hearing <i>de novo</i> —the case is heard afresh. The Court & the Authority must determine whether mediation would be of no further use. If the Authority Member or Judge deems the dispute resolvable by mediation, refer the parties back to mediation by s159(1)(a)(b) ERA.	

Appendix E: Statutory provisions—Education Act 1989

Part 78I(1) of the Act provides a range of six interventions the first three involve the secretary of education requiring:

1. [section 78J]; provision of specified information
2. The board of trustees to engage specialist help [section 78K];
3. The board of trustees to prepare and implement an action plan to address specific issues [section 78L];

Two involve the Minister of Education temporarily removing specified power(s) of the board of trustees and directing the Secretary to:

4. Appoint limited statutory manager(s) for a board of trustees while the board remains in existence [section 78M]; or
5. Dissolve the board and appoint a commissioner to replace the board [section 78 N(1) and (2)]. Under s78N(1) and (2) components of the board's responsibilities are removed from the board, the board is replaced by the commissioner, and the roles and responsibilities of governance are temporarily vested in the commissioner; and
6. Dissolving a board of trustees and appointing a commissioner to replace the board [section 78N(3)], occurs where any of the following applies:
 - a. the board has not held a meeting during the previous 3 months;
 - b. so many casual vacancies have arisen that there is no longer any member of the board who is eligible to preside at meetings of the board;
 - c. the result of an election of trustees is that the board has fewer than 3 trustees elected by parents;
 - d. an election of trustees has not been held as required by this Act; and
 - e. it is impossible or impracticable to discover the results of an election of trustees.

Appendix F: Dismissal—The Law

The legal test for justification of dismissal is set out at s103A of the ERA 2000:

- (1) For the purposes of section 103(1) (a) and (b), the question of whether a dismissal or an action was justifiable must be determined, on an objective basis, by applying the test in subsection (2).
- (2) The test is whether the employer's actions, and how the employer acted, were what a fair and reasonable employer could have done in all the circumstances at the time the dismissal or action occurred.
- (3) In applying the test in subsection (2), the Authority or the Court must consider—
 - (a.) whether, having regard to the resources available to the employer, the employer sufficiently investigated the allegations against the employee before dismissing or taking action against the employee; and
 - (b.) whether the employer raised the concerns that the employer had with the employee before dismissing or taking action against the employee; and
 - (c.) whether the employer gave the employee a reasonable opportunity to respond to the employer's concerns before dismissing or taking action against the employee; and
 - (d.) whether the employer genuinely considered the employee's explanation (if any) in relation to the allegations against the employee before dismissing or taking action against the employee.

Appendix G Comparing Learning and Conflict Management

Author	Learning	Conflict management & resolution
Dewey (1897, 1916, 1938)	Education as social change, pragmatic & collaborative Democratic problem solving the foundation of problem-based learning	IBN, facilitative mediation
Kolb (1984, 2005)	Experiential learning cycle, making sense of concrete experiences Applying concepts to experience & reflecting on understandings in new situations = ongoing continuous learning, learning as a process	Making meaning Sensemaking during conflict events
Argyis & Schon (1974, 1978, 1983)	Assumption checking, reflection on & reflection in action Double-loop learning Feedback modification & reframing	Reframing during negotiation & mediation Facilitative mediation
Freire (1970)	Critical pedagogy conscientisation, unsilence the silenced, critical examination of self & the power of race/ethnicity Gender, status & class Ongoing capacity for knowing & discovering gaps in our thinking about what we do not know Praxis-enacted skill—education in conflict resolution is a social-change approach to power imbalance	Consciousness raising during transformative mediation
Habermas (1984)	Kantian notion of reflection on universal principles The role of discourse communication in the construction of beliefs & goals Mutual understanding	Narrative mediation facilitates story telling for critical reflective learning about self & others in relationships
Gibbs (1988)	Reflective cycle of learning & structured debriefing Description/feelings/evaluation/analysis/conclusions/action/plans	Open-to-learning conversations, appraisal, performance review, conflict coaching, reflective journal writing
Bakhtin (1981)	Dialogic discourse: “current experiences are partly constituted by past conversations, past ‘voices’ are in the here & now” (cited in Hernes & Maitilus, 2012, p.5) Dialogic discourse = language interaction & transformation In the classroom, interactive dialogue as opposed to monologic discourse Co-creating meaning through reflection on meaning	Parties engaging in dialogic discourse is a ‘mediator’s dream’, parties experience critical debate
Mezirow (1994, 2000)	Learning occurs in one of four ways:	Meaning is socially constructed

Author	Learning	Conflict management & resolution
	<ol style="list-style-type: none"> 1. elaborating existing frames of reference 2. learning new frames of reference 3. transforming points of view 4. transforming habits of mind. <p>Transformative learning refers to “transforming a problematic frame of reference” so we become reflective of those beliefs that become problematic” (p.20).</p> <p>“Transformative learning is a way of problem solving by defining a problem or by redefining or reframing the problem. We become critically reflective of our assumptions or those of others & arrive at a transformative insight, & need to justify our new perspective through discourse” (p.20).</p> <p>The steps to transformative learning:</p> <ol style="list-style-type: none"> 1. Disorienting dilemma 2. Conducting self-examination with feelings of fear, anger, guilt, or shame 3. Critically assessing assumptions 4. Recognising that one’s discontent & the process of transformation are shared 5. Exploring options for new roles, relationships & actions 6. Planning a course of action 7. Acquiring the knowledge & skills for provisionally trying new roles 8. Building competence & self-confidence in new roles & relationships 9. Reintegrating into one’s life on the basis of conditions dictated by the new perspective 10. Dissonance & dialectic negotiation & critique of assumptions about the context 	<p>Change in understanding of self, revision of belief systems, changes in behaviours or lifestyle</p> <p>Commitment to new actions, often requiring re-negotiation of prior relationships, due to change</p> <p>Transformative mediation practice by creating doubt in one reality or set of values by listening, reframing, inquiring, questioning</p> <p>Transformative sensemaking conversations</p> <p>Open-to-learning conversations</p> <p>Peer reflective practice</p> <p>Transformative mediation</p> <p>Transformative negotiation</p> <p>Advocated ongoing theory building—transformative learning is a process theory (work) in progress</p> <p>If parties embrace the ongoing nature of negotiating differences then the process & practice is more likely to be embedded as transformative learning in action</p>
<p>Brookfield (1995, 2006, 2007, 2014)</p>	<p>The critically reflective practitioner involves:</p> <ul style="list-style-type: none"> • four perspectives or lenses: <ol style="list-style-type: none"> i. autobiographical reflection on self-development ii. learners’ feedback iii. professional perceptions of colleagues iv. theoretical/philosophical literature • cultural suicide, being ‘cut off’ from groups for challenging social norms • workshops on circle of voices • critical ‘snowballing’ • engaging imagination 	<p>Professional reflection, peer mediation, practice & supervision by dispute resolvers</p> <p>Important for schools to adopt processes for safe critical reflection, in which belonging & identity are preserved</p>

Author	Learning	Conflict management & resolution
Wegner (1998, 2000)	<p>Communities of practice, learning as social participation, collaboration-sharing a passion, engaging & interacting</p> <p>Inclusion of newcomers on the periphery, observe experts & integrate over time</p> <p>The integration of education, business & civic-learning organisations, situated learning & action research</p>	<p>Communities of practice as clusters of schools develop peer mediation</p> <p>Community facilitative processes for early workplace conflict resolution</p> <p>Analysis of communities of practice & social networking discussions (e.g., LinkedIn)</p>
Weick (1969, 1976, 1995, 2001, 2009, 1984, 1988, 2005)	<p>The '<i>sensemaking process</i>' of social construction through communication while interpreting events - seven dimensions:</p> <ul style="list-style-type: none"> • social activity in the social context • identity/sense of self • retrospective stories influence noticing • cues extracted for relevance • ongoing reality shaping • plausibility over accuracy in a complex world • enactment through dialogue & narratives <p>Negotiation & mediation—speaking facilitates understanding of self & other</p> <p>“How can I know what I think until I see what I say? ... is how people determine what is going on here?” (Weick, 1997, p.175)</p>	<p>Storytelling, reflective paraphrasing, open questioning during mediation partnered with sensemaking conversations</p> <p>Investigations of past events</p> <p>The Mnemonic can act as criteria for analysis of the dispute SIR COPE</p>
Vygotsky (1978)	<p>Sociocultural theory introduced the zone of proximal development (ZPD), arguing that learning is a process requiring “culturally organised social interaction”, meaning that children learn better with others than alone. Learning is development & development does not precede learning.</p> <p>Theoretical foundation for peer mentoring based on achievement being most likely to occur when the child is operating in the zone of proximal development</p> <p>If development lags behind learning, learning is accomplished by dynamic complex processes in which the ZPD & achievement are ongoing</p> <p>Learning is ongoing & a dynamic process</p>	<p>The concept of ZPD can be applied to adult learning, especially to the process of reflective coaching and narrative mediation where the stories of the parties direct the mediator toward the readiness of the parties</p> <p>The intersection between ZPD & sensemaking is the notion of dynamic social learning during interaction with others</p> <p>New learnings emerge from making sense of retrospective stories during coaching, as the coach or mediator aims to be working in the participant’s ZPD while listening for appropriate connections between the conflict story and opportunities for learning during negotiation of conflict</p>

Appendix H : Mapping the research journey an inductive process

