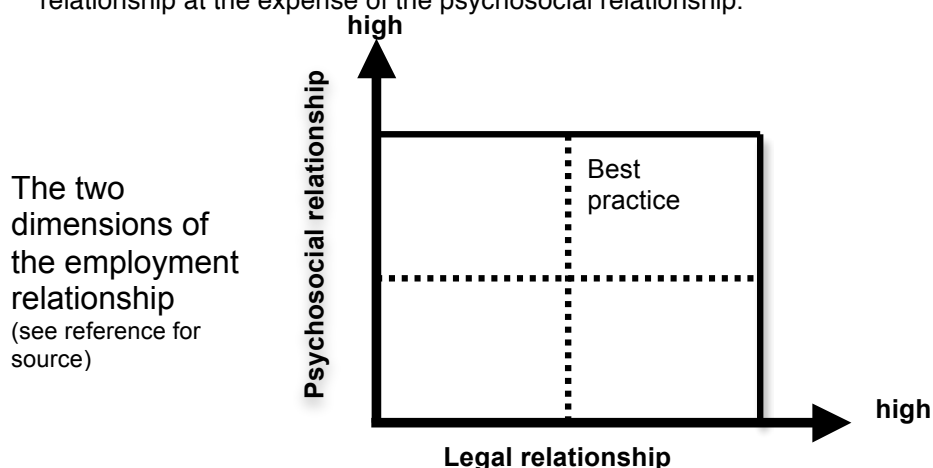


THE EMPLOYMENT RELATIONSHIP

Employers and employees come together because they both have needs, which they feel the other will help them fulfill. By coming together an employment relationship is formed, with obligations on both sides. The degree of formality around contracts is variable, however, what is true of any employment contract is that it consists of two dimensions. The first is the **legal relationship** or contract. Whether a written contract exists or not, a legal relationship does exist, with the Basic Conditions of Employment Act as its heart. The second dimension is that of the **psychosocial relationship** or contract – the ‘human’ aspect. For the total employment relationship to be strong, **BOTH dimensions of the employment contract need to be strong (see figure below)**. Too often, we see it as having to be one way or the other. What often happens is that relationships start out as high on the psychosocial relationship and low on the legal relationship. Then, over time, either the employee or the employer feels that they aren’t getting what they want, and there is a violent swing towards a stronger legal relationship at the expense of the psychosocial relationship.



EXAMPLE

A guide joins a lodge, forming an employment relationship and contract.

Legal relationship (low to medium)

- The lodge has a basic written contract and a code of conduct lives on the notice board.
- There are some policies and procedures sitting in a file in the general manager’s office, but no-one ever really uses them for making decisions.

Psychosocial relationship (high)

- The lodge prides itself on not ‘beating staff with a stick’.
- The guide had a great interview with the head guide; he feels that they have a good understanding and that he will learn a lot in this new position.
- The head guide is happy to have someone on board who is keen and enthusiastic even if he is still a ‘diamond in the rough’.

The first few months go well – there are several occasions where the new guide gets some generally established things wrong, but it is put down to him being new to the game. A few months later, though, things take a turn. The lodge is incredibly busy and the guide has had the bad luck of having several guests in a row who were quite difficult. There are some complaints from the guests. The head guide, at this point, has had enough. He feels that he keeps having to ‘be patient’ with the guide and he has reached his limit (it doesn’t help that he has a myriad of other tasks to deal with and he feels overwhelmed). He angrily threatens the guide with a written warning if he gets another bad feedback.

Legal relationship (steadily getting higher)

- The guide starts seriously considering going to the CCMA.
- The head guide finally has enough and calls the guide in to discuss his bad attitude and to give him a written warning. The guide responds that there is no record of them ever having had performance discussions before, he never signed for his job profile or policies and procedures, he was never inducted or trained and that in prior conversations the head guide never actually gave him a chance to give his side of the story (long hours, not understanding his role etc). In explaining this the guide takes on a tone that the head guide has never heard before – hard, angry and unworkable.
- The head guide now just wants the guide gone. He starts thinking about what he has to put in place just to get rid of this difficult guide who clearly has the wrong attitude for the job.

Psychosocial relationship (steadily declining)

- The guide feels upset and betrayed. The head guide knew when he started that he wasn’t experienced and he thought they had an understanding about that.
- Also, the head guide has never explicitly told him that he was heading into murky water as far as formal discipline was concerned. He feels ambushed.
- The head guide feels upset and taken aback after the performance discussion with the guide. Surely, he thinks, if this guy had a problem he should have just told me? In all our discussions before he always just said ‘yes’ and promised to do better. Now the head guide is extremely irritated and feels betrayed by the guide.

The relationship has gone from a high psychosocial one with little legal to a high legal one with a low psychosocial strength. There is much discontent all round.

Is there a way in which this relationship could have been high in both dimensions?

- When the guide joined the lodge some **very simple administrative tasks** would have ensured that he signed for receipt of a policy and procedure document, which already at face validity would have been a positive way to ensure the formal legal relationship, was strong.
- A **well-designed induction**, that worked operationally with the lodge’s day-to-day reality, would have fulfilled the employers legal obligation to introduce the employee to his job, but also would have helped to cement the psychosocial relationship early on.
- **When the head guide started to have troubles with the guide** he could have asked himself what hadn’t been covered in the guide’s initial start that i) could have been fairly expected in introducing him to his new job and ii) would be legally required if things ever got worse. This includes **training, clarifying expectations, addressing problems in a procedurally and substantively fair way, and documenting the process** so that, in time, it is possible to go back and show what had taken place. All the while using a manner that is firm, but fair and objective.

Consider the following in the employment relationship:

- i) **Performance management processes**, such as disciplinary and incapacity processes, have formal legal requirements that have been instituted because they are best practice for sound psychosocial relationships. Elements such as describing your needs, understanding the other person's needs, coming up with a plan together, setting goals, focusing on the problem (not the personality) – these are human communication requirements that are also enshrined in the law.

- *If your establishment has difficulty with formal discipline or incapacity processes or staff who have a chronic habit of not performing, perhaps consider whether your managers have the interpersonal skills to deal with these situations. The legal steps are usually quite clear, however the interpersonal dealings (the psychosocial part of the interaction) are what really render these interactions successful. Giving someone a template on which to write a warning is not enough. They need to understand the workings behind the template, have real skills to conduct the conversation, and know how to effectively combine a legal mode of communication with a positive psychosocial relationship. This takes ongoing practical practice, training and feedback.*

- ii) **Policies and procedures documents and contracts** are only of high value if they are not only legally correct, but are lived and used in an authentic and fair manner. Remember, consistency in your decisions is important, you can't just whip out a clause in a policy document to prove a point when 9 times out of 10 it hasn't been enforced.

- *If you are finding that your policies and procedures are not enforced, ask yourself what the reason is. Perhaps the policy needs to be changed. Perhaps there is some other inconsistency that is preventing the policy from being enacted (look out for further articles on this).*

- iii) **As an employee, embrace formal procedure when you need to, but maintain your composure and objectivity.** Often staff look for the path of least resistance to solve an issue – they dissolve into negative psychosocial behaviour when they are not happy with the legal relationship. They feel they work too many hours, so they start to look for ways to decrease their work load unilaterally. They feel there is no invitation from management to voice their problems, so they consider CCMA action or stir up discontent among their colleagues. This generally only makes the psychosocial relationship worse and can get the employee into legal hot water.

- *A better psychosocial approach would, in this case, also be a stronger legal approach. Instituting a grievance (in the correct manner, of course) process would open up communication and, if things still remain unresolved, give the employee the option to take things legally further with some chance of success.*
- *As a employee, if an employer addresses you on a legal issue (including formal disciplinary and incapacity matters) know that this is not a punishment, but a method of communication in place to protect your rights as an employee.*

- iv) **Always take a step back and try to look at things objectively.** Ask yourself, 'how can I approach this relationship in such a way as to keep both the psychosocial and legal relationship strong?' If you aren't sure, phone a friend to bounce ideas off them first. This applies to both employers and employees.

A FINAL THOUGHT

The usual cry is ‘**but I don’t have time for all this stuff**’. The question back is ‘do you have time not to do it?’. Eventually, that time will need to be taken, one way or the other. You can either spend that time doing something pro-active, positive and effective or you can spend it reactively putting out fires only for others to crop up.

The other question is ‘**OK, I want to do something to improve the situation, but how do I now do this without losing face. Won’t staff think I’m being odd?**’. The answer here is to be transparent and to view the change as a change process which needs its own plan (and will be discussed in a later article). There is no generic answer for this, each situation is different and needs to be addressed accordingly. Remember, you don’t want to institute one dimension of the relationship at the expense of the other by mistake. The great news is that it is possible to salvage these situations.

REFERENCES

Slabbert, Prinsloo, Swanepoel & Backer. 2004. Managing Employment Relations in South Africa. Butterworths.

This book is available from van Schaik bookstore online and there may be more recent editions available.