MANO RAMO

MEDIA ARTS NETWORK
OF ONTARIO
RÉSEAU DES ARTS
MÉDIATIQUES DE L'ONTARIO

BEST PRACTICES GUIDE
FOR CONFLICT RESOLUTION

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Introduction to the MANO Best Practices Guide for Conflict Resolution

This *Best Practices Guide for Conflict Resolution* is one of three developed specifically for the Media Arts Network of Ontario (MANO). The *Guides* were developed through both joint and separate research and writing processes, with a different consultant responsible for each topic area. The MANO *Better Practice Guide to Board Governance* and the MANO *Best Practices for Equity Guide* are important companion resources referred to throughout this manual.

The *Guide* is set up in five sections plus appendices, including the *Introduction*, *Part 1,2* and *3*, and *Conclusion*. The next section of the *Introduction* explains the project scope and methods used by the consultant with the Conflict Resolution Working Group. Each of the following 3 parts builds on the one before, and integrates MANO members' contributions with conflict resolution literature, and the consultant's suggestions, resources and guidance.

> *Part 1 - Conflict in MANO Member Organizations*
> What are conflicts and disputes? How are they experienced by MANO members?

> *Part 2 - Collaborative Approaches to Conflict Resolution*
> What's the difference between negotiation & mediation? How do these processes work?

> *Part 3 – Conflict Resolution Policy and Conduct: Implementing Best Practices*
> What does the sample Conflict Resolution Policy look like & how do we apply it?

Scope and Methods of the Conflict Resolution Working Group

Consultations and surveys were carried out between May and August 2015, as part of MANO's three-prong Consultancy Project. There were 2 consultations, on June 3 and July 6. One was in-person in Toronto (attended by 9 MANO members), and the other was done remotely (involving 5 MANO members). In addition, individual feedback was welcomed throughout the project. Consultation, individual feedback and survey data are presented in full in Appendix 2.

The 2 surveys were carried out in March and July. The first was carried out by MANO staff, focusing on *Structure and Leadership in Media Arts Culture*. Of the 52 MANO member organizations (as of May 2015) there were 21 responses. The second survey was created by the 3 working group consultants, and distributed and compiled by MANO staff. It featured a series of questions on the 3 Working group areas: Human Resources (HR) & Governance, Equity, and Conflict Issues. This survey was sent to a broad cross-section of people, those who might be carrying out board, staff or volunteer roles. There were 11 responses (see Appendix 2).

The MANO-member Conflict Resolution Working Group varied from 3 to 5 staff or board members of MANO organizations. The Group was recruited on a voluntary

basis, through the consultations, surveys, and follow-up by MANO staff. They worked with the consultant over the course of 3 meetings between August and November 2015. The Group contributed in the following ways: 1) review of a draft of Appendix 2 for clarification and analysis; 2) working through draft 1 of sample Conflict Resolution Policy using different types of scenarios, and; 3) commenting on and discussing with the consultant the first draft of this Guide.

The 3 Working Group consultants collaborated on the large group consultation phase of the project. The 3 consultants also met periodically throughout the research and writing phases to share what each was learning in their respective Working Groups, to ensure the *Guide*s evolved in an interconnected way.

Through surveys and consultations, MANO organizations were also requested to provide sample by-laws, policies, and procedures that addressed conflict resolution. Additional research was then carried out to seek by-laws, policies, and procedures from non-MANO artist and other non-profit organizations. Appendix 3 provides that research data.

With that context provided, the *Guide* now continues with *Part 1 - Conflict in MANO Member Organizations*. This section gives an overview of what some of the literature has to say about conflicts, disputes, and how they occur within non-profit organizations. Embedded in this discussion is what MANO members have said about conflict in their artist-run organizations.

Part 1 - Conflict in MANO Member Organizations

Conflicts and Disputes

Conflict is endemic to organizations because human beings are involved. That is, human relations tend to involve conflict as part of how we interact, communicate and act.

We often hear two other things about conflict: it can cause great harm to people and organizations, and most people prefer to avoid dealing with it. This *Guide* adds another thing you can say about conflict: it is people's assumptions, perceptions, actions, and structures that create conflict and cause harm, so it is people that can also resolve it.

The word **conflict** refers to an ongoing experience of varying degrees of tension, usually involving multiple events, and misunderstandings, possibly leading to the building up of layers of interpersonal discord. **Disputes** are specific disagreements between or among people on a particular topic.[1]

At times, conflict is the submerged part of the iceberg and disputes are the tips that keep shifting and poking through the surface of our interactions. It is therefore useful to distinguish between *conflicts* and *disputes* in the process of choosing and then engaging in resolution processes. That is, to help bring clarity to exactly what you are prepared to address with the other party, and what you want to set aside.

Organizational conflict often happens because people that have both different *perspectives* on many kinds of things, and varying degrees of different and shared *interests* must work on the same organizational tasks and projects. Differences in multiple and interconnected power relations may also infuse or be the source of disputes. When oppressive power relations play out in conflict, people can experience particular kinds of harm.

In *From Conflict to Creativity,* the authors see people's diversity and interdependence as being the foundation of conflict. Under each category, they discuss multiple and interacting sources of organizational conflict:[2]

Diversity	*Interdependence*
Individual differences	Scarce resources
Professional differences	Struggles for power
Unclear vision	Organization Structures and Procedures
Conflicting responsibilities	
Unclear responsibilities	
Conflicting information	

Like many other non-profit organizations, MANO member groups report conflicts that touch on these categories (see Appendix 2).

Professional differences is captured in the case of members of a production organization, who represent a vocal group of long-standing members, resisting a change in direction made by staff and board as technology and membership shifts.

Quite often the *professional* and *individual differences* spark off each other. Reflective of this is the MANO-reported scenario of a group of organizations working on a major collaborative project. The groups involved develop different management visions, and become deadlocked in their collaborative work process, effective decision-making grinding to a halt. As the deadlock and *struggle for power* continues, the conflict escalates to become personal.

The differences that make up human diversity are not generally a problem by themselves. It is how those real or perceived differences become real or perceived sources of discord, hostility, and threats to visions, livelihood, carrying our responsibilities, or interfering with predominating power relations. Conflicts can thus be as complex as the people and organizations involved.

Increasingly, many organizations experience an unwieldy combination of the above factors in conjunction with precarious and overloaded work conditions. MacDonald notes how non-profit organizations often, "Operate in a dynamic, frequently adversarial, political context."[3] This is increasingly true for artist-run organizations.

What MANO Member Organizations Say about Conflicts and Disputes

In the course of the MANO project research on Conflict Resolution, 5 overlapping themes were uncovered and discussed. While the full results of the consultations, feedback and surveys are in Appendix 2, following is a snapshot:

- Conflicts and Accountability
- Conflict of Interest
- Board Roles and Involvement
- Succession Planning, Job Security & Precarity
- Meaningful Diversity: Representation & Partnerships

Conflicts and Accountability:

Seven relationships were identified as being sources of conflict within and among MANO organizations, between:

- Junior staff and Executive Director (ED)
- Board and ED
- Board and junior staff
- Membership and staff/board
- Contractors and permanent staff
- Organizations working in collaboration
- Organizations working in competition

Several factors were discussed in relation to this. Significantly, some people note that even when there are policies or procedures in place, people are nervous about holding each other accountable. In some cases, this has led to people having been fired without cause so that someone with more power can hold sway.

In relation to this, it was pointed out that Board members often do not know their own policies or staff-related obligations arising from laws such as *Employment Standards Act*, *the Occupational Health & Safety Act*, and the Ontario *Human Rights Code*.

It was also noted that conflict resolution between members of a small, close-knit, diverse community is challenging. As is resolving interpersonal conflict and tension among individuals and other organizations. Someone wondered aloud, "Do we end up only working with people we feel comfortable with because of the lack of respect that comes out in conflict?"

People questioned how to understand when something is a personal dispute or an organizational conflict. They also expressed interest in policy and procedure guidance with this, as well as training for Boards.

Of the 21 respondents to the first project survey, 5 said their organizations employed Conflict Resolution policies (see Appendix 2). Conflict resolution processes are referred to in different types of policies as a good practice for resolution of

disputes (see Appendix 3). Of note was the report that there is no forum, structure or mechanism within MANO currently to share best practices – such as, policies, protocols, codes of conduct, contract language - on these or other topics. A survey respondent showed enthusiasm to be able to have an opportunity do so (see Appendix 2).

Conflict of Interest:

There are often intense real and perceived conflict of interest issues involving artists on boards or that are staff, in relation to showing their work /composition/ commissions, and in programming and opportunities.

There are many ways this may play out. A frequently remarked on and discussed area with a high degree of tension and disagreement was whether board members ought to recuse themselves from showing their work through the organization they represent, while they are on the Board. There are various opinions on this among MANO members, with rationales for each. In this light, it is noteworthy that survey 1 reported that 10 out of 21 organizations have conflict of interest policies, yet only 4 of the 10 use them (see Appendix 2).

Something else that was noted as being difficult to discuss in an organization is that it is quite awkward for an organization employee programmer to reject a board/ employer group member submission. A conflict of interest policy should provide a structure and process to assist with this.

Board Roles and Involvement:

Lack of or excessive board engagement, board member role confusion or gaps, uneven workloads amongst board members, and unclear mechanisms to hold each other and other organizational members accountable for actions or inactions, were identified as serious issues people struggle with and about which disputes emerge.

The MANO *Better Practice Guide to Board Governance* is an important tool to help address these issues.

Succession Planning, Job Security & Precarity:

Succession planning was identified as a major area of potential for conflict, especially given low compensation levels in the chronically under-funded artist-run sector. Given this, boards can be perceived by some people as a training ground for them to take on a future staff role. This is understandable, given the scarcity of jobs, especially at a senior level. But it can lead to the undermining of staff. One person suggested that to address this role conflict, organizations could implement a 6 to 12 month "cooling off" or separation period, before a former board member is able to apply for a paid position with that same organization.

In one consultation discussion it was pointed out that there is a fee schedule for artists but none for cultural workers. Someone also pointed out that the Charity

Village website has a scale that could be adapted and approved to be used as a guideline. As under-funding should not be an acceptable reason for artists and cultural workers not being paid what they deserve, the urgent and ongoing need for a living or fair wage policy for the sector was also enthusiastically discussed.

Precarious work has many features to it: it is often short-term, impermanent, underpaid, and exists in many types of contractual forms. Contract employees are reported to be a large group with many working in contract positions for many years, and festivals in particular having a large seasonal flux in staffing. There are also summer students or other staff funded through employment grants, as well as independent contractors who do not have employee-based relationships with the organizations. Precarity breeds conflict, and is seen with problems around scope of work, payment schedules, differential pay rates, working conditions, and disputes over deadlines.

Meaningful Diversity: Representation & Partnerships:

A significant topic of discussion in all 3 Working Group areas was the need to be creating or expanding an organizational focus on meaningful representation of and partnerships with artists who identify as members of equity-seeking groups, and providing space to such artists who normally are not represented in media arts events. Someone noted that this is an ethic that has been lost in the last number of years, with the drive for the corporatization of organizations.

While the issue as a whole is addressed in the MANO *Best Practices for Equity Guide*, significant conflicts regularly arise in the media arts sector due to: a lack of clarity on what it means to bring meaningful equity practices in to the core of an organizations functioning; tokenizing as a reflex way to get people involved; lack of funder support for equity-oriented policy and program development, and; harassment & discrimination. The latter may happen through casual comments or jokes that go unchallenged, and/or be deeply systemic (in structure and functioning). One survey respondent noted how such a conflict caused a complete "melt down" in their organization, and another had so little support they were just forced to "suck it up" if they wanted to keep their job (see Appendix 2). The harm caused by not preventing or responding adequately to harassment and discrimination can be far-reaching and long-lasting.

Some organizations have more diverse (representative) boards, but less diverse (more homogenous, dominant-group) staff. For some others, the reverse is true. Generally, the boards are more racialized and the staff more white, except in a community-specific organization.

Members consulted think that consistent and ongoing leadership is needed to build equity and representation into the consciousness and structure of members' organizations. A key part of this is leadership training and development on how to be an effective ally in the implementation of policies and the consistent application of them in practice.

In relation to all of these themes, a number of conflict resolution "asks" are reported in Appendix 2. The key ones addressed in this *Guide* are:

- Conflict Resolution policy that deals with all types of relationships involved: staff, board, members, inter-organizational disputes.
- Case studies to work through in conflict resolution training.
- Procedures that address what happens if the board chair is implicated in a dispute.
- Constituting an ex-officio or advisory board to assist with disputes.

Much of what MANO members reported struggling with in their organizations is characteristic of the non-profit environment as a whole. Between the *Managing Conflict* guide for volunteer boards[4], and the *Tips and Tools for Cultural Managers* manual[5], both MacDonald and Frei separately report, that in the non-profit context conflict develops:
- Among Board members
  - Such as, when selecting board members
- Between Board and ED
  - For example, through attempts to control versus support the management role of the ED, and due to confusion and lack of clarity in role boundaries between Boards and the EDs
- Amongst staff members
- Due to tensions that arise between different segments of the organization and its membership/constituency.

The MANO *Better Practice Guide to Board Governance* is thus an important companion resource for MANO members reporting and seeking to avoid these types of conflict-laden organizational moments.

The Conflict Cycle

If we were to try to break it down, is there a simple way to understand how these conflict moments start and then take on a life of their own? In *From Conflict to Creativity,* the authors spell out how we often get caught in a cycle of escalating conflict based on a very simple dynamic[6], which is expanded on here:

- Sam perceives a conflict with Jesse
- Sam makes assumptions about Jesse's intentions, interests and the sources of perceived conflict
- Sam takes action
- Jesse perceives a conflict
- Jesse makes assumptions about Sam's intentions, interests and the source of perceived conflict
- Jesse takes action
- And around and 'round we go...

What is happening here? What's going on is that people are acting without being self-aware about making assumptions, then not clarifying their perceptions of the other persons reasons for (and feelings about) doing or not doing something.

Instead, all these become each individual's own often dearly-held beliefs about the "facts," beliefs that then form a view of reality that each of us emotionally digs into, defending our position and what we experience as the "correct" and often only way to see and experience reality.

So, how do we interrupt this cycle? Part 2 is exactly about doing that, and will be the start to addressing the MANO members' conflict resolution asks reported above.

Part 2 - Collaborative Approaches to Conflict Resolution

There is a range of approaches to controlling and resolving conflict. Ellis & Anderson see this as a continuum, starting with struggle and negotiation on one end (involving only the people in the conflict), to mediation (engaging a 3rd party to set up and control the process), followed by arbitration and adjudication. The latter 2 procedures take decision-making out of the hands of the people in conflict.[7]

This *Guide* focuses on the considerations for, processes of, and techniques involved in the ***collaborative processes of negotiation of mediation***.

Collaborative conflict resolution requires developing mutual respect for a range of interests and a commitment to active listening in the discussion process. It can be time consuming and personally challenging. But collaborative processes are often the ones that yield results all parties can accept because all parties' interests in a dispute are taken into account and addressed in some way. As one project survey respondent noted, there can be some enduring positive effects from collaborative resolution: "… we built a lot of trust between employees and (in) the committee's ability to mediate issues," (see Appendix 2).

It is important to be clear that these approaches are means to addressing a shared conflict, in which there are "(*m*)*utual* feelings of antagonism, hostility, or anger…"[8] When there are harmful patterns of bullying or other forms of harassment or discrimination, these processes may not be at all appropriate. The sample *Conflict Resolution Policy* in Part 3 of the *Guide* considers such circumstances, and allows for the complainant – within a framework of organizational awareness and overall policy support – to decide on the appropriateness of employing collaborative processes.

The Ontario Human Rights Commission offers an important educational resource to learn more about preventing and addressing harassment and discrimination, called Human Rights 101.[9] This issue is addressed further in the MANO *Best Practices Guide for Equity Guide*.

What comes now is first a detailed, step-by-step review of what is involved with ***negotiation,*** followed by how to carry out ***mediation.***

Negotiation

Negotiation commonly takes place through positional bargaining: each side argues over their standpoints, and will reach an agreement once they reached enough of a compromise.[10]

Fisher et al. note that when choosing a method of negotiation, 3 main criteria should be used to evaluate if it's the right one:

> 1) Can you get a good agreement, that meets the needs of both parties?
>
> 2) Is it efficient? Long drawn out processes can lead to more problems.
>
> 3) Does it make the parties' relationship better? Or, at least, not cause it harm?[11]

Negotiation processes that lead to people digging into their positions, and overly engaging their egos, can bog down and likely fail on the above criteria.[12] Positional bargaining quickly can become a "contest of will"[13], which is often seen in many types of organizational conflict.

Instead, based on developing and integrating the work in the 2 books *Getting to Yes* and *From Conflict to Creativity*, following is a method for engaging in **merit-based or interest-based negotiation**. Negotiating on interests is about getting to the heart of what is causing the conflict, instead of what each party has decided is their perspective on the problem.[14]

Interest-based negotiation works like this:

1) Starting with a clear method for working through the conflict:

- Be clear about **how** you are negotiating, such as through the **procedure** laid out here for doing it. And separate that from **what** you are negotiating about: the **substance**. A clear method for working through the interests and issues will help you get to the heart of the actual **cause** of the conflict.

   MANO Scenario: *Junior staff has a complaint about the ED. They complain to a Board member that they think will be sympathetic. The Board tells the ED, who then gives staff a warning about not undermining her by going over her head like that again. The staff concerns are not discussed.*

There was no clear procedure here for how to address the issues, no policy apparently referred to. A chain of interpersonal communications never clarified what the actual cause of the initial upset was. But each communication and action ultimately made the problem worse.

2) Focusing on solving the problem, not being hard on the people:

It is important to separate the ***people from the problem*** and focus instead on what are each party's ***interests*** in the conflict at hand.

This doesn't mean that discussing people's feelings and opinions are not important; on the contrary. It means that the negotiation is not about arguing over which one's are "right/wrong" or "good/bad."

In fact, there are usually **interpersonal, psychological** and **substantive** issues and interests that all need to be spelled out and addressed. There may be a number of them.

Any major interpersonal issues should be discussed first. Otherwise they will remain overly entangled with substantive ones and it will be difficult to resolve any of them. If people feel mistreated or disrespected it is hard to solve scheduling or contract problems.

> **The MANO collaborative project case mentioned in Part 1 is a good example of such issue entanglements:** *A group of organizations is working on a major collaborative project. The groups involved develop different management visions, and become deadlocked in their collaborative work process, effective decision-making grinding to a halt. As the deadlock and struggle for power continues, the conflict escalates to become personal.*

In this scenario, the interpersonal conflict is what actually developed later, after the substantive cause of the problems between the groups was already playing out. So, it will be important to work through how people have been treating each other and repair that, before getting to the heart of "why we got here."

The conflicting interests may be more obvious and seem more important at first than the shared ones. But it is important to spell them all out. When you do so, remember to be specific about your interests, acknowledge that addressing theirs is important for resolving the conflict, and take the time to get all these on the table before rushing to problem-solving.

The most powerful interests tend to be in relation to: "security, economic well-being, a sense of belonging, recognition, and control over one's life."[15] People may be in deep conflict over generally shared concerns that they believe or they actually must compete over.

This is where it becomes important to acknowledge and address *power relations* in your conflict context. Power relations are usually many and interconnected. They include – for some examples – race, gender, gender identity, dis/ability, and/or sexual orientation. Thus, a man who is an organization's senior permanent staff for many years and is also white-identified, has multiple interconnected locations of power: organizational, gender, race, and greater job security. If the person he is in conflict with is a young racialized woman working on a summer contract, these power relations are not only significant in their day-to-day relationship: they may also be the drivers of the conflict.

> **Scenario** – *The above summer student was really glad to have the opportunity to work for XYZ Media-Arts. She's heading into the fourth year of her film studies program and has a lot of skills and ideas, to both offer and develop. But she finds the relationship with one of the senior staff challenging. He is checking in on her progress in her project a lot, and frequently asks her to*

*explain to him why she is taking the approach she does. He's friendly enough
but it doesn't seem like he's doing this with other students.*

A lot of things might be going on here. One of them could be what is called in human
rights law *discrimination through differential treatment*. Managerial deviation from
usual policy or practice when supervising racialized people is recognized as a form
of non-overt or subtle racial discrimination.[16] Such sources of conflict are extremely
difficult for someone like this student to raise, given the power relations involved.

So, power relations need to be attended to as part of fleshing out what the conflict is
about. And also in looking at alternatives to negotiation or mediation as a solutions
(see "Figuring out your BATNA?" below).

When you flesh out the power relations involved in your conflict, you may also
uncover shared ground for joint action.

> **MANO Case Example** – *Remember the Living or Fair Wage policy raised by
> MANO members in Part 1? This is a great example of a joint action project
> that focuses on precarity as the substantive cause of a type of conflict. An
> agreement to work on such a policy project could be one negotiated resolution
> to a dispute.*

3) Analyzing, planning and then discussing:

This process requires separate and joint ***analysis*** and ***planning***, before sitting down to
have the ***discussion***.

The longer a conflict has been left unaddressed, the more challenging it is in the
discussion process to disentangle people's feelings and the content-based interests,
the psychological and substantive issues.

In the discussion phase it is important then to take time to understand each other.
Again, the longer the conflict has gone on, the longer this may take. In talking this
through, *Getting to Yes* offers some tips, which are expanded on here:[17]

- Disentangle your fears and emotional response to what someone is doing,
  from what their intentions may be. This does not mean the affect of the other
  person's actions is not important. It means that we become self-aware that our
  perception of why they are doing it may not be accurate.

- Avoid placing full and personal blame on the other party for the whole
  problem. When people are under attack, they get defensive and dig in.

- Take the time to talk about and sift through each other's perceptions and
  feelings about the issues.

> **MANO Scenario***: Remember our professional differences scenario in part 1? This
> is the case of members of a production organization, who represent a vocal group*

of long-standing members, resist a change in direction made by staff and board as technology and membership shifts.

Put yourself in the shoes of the long-standing members. What do they fear about this change? Can you separate what is being proposed from how you feel about the organization taking a different direction? Is your fear about losing your job, the creative mark you made on the organization, or both? With this question we see how psychological interests and substantive interests can be deeply and emotionally intertwined.

4) Figuring out your BATNA – the Best Alternative to a Negotiated Agreement:

A driver for people in negotiation or mediation is either not knowing there are other alternatives or being afraid of the ones they are aware of. For this driver to have a positive effect on the conflict resolution process, people in disputes should take time to figure out their BATNA: their *best alternative to a negotiated agreement*.[18] It's best to do this at the start of the process, when you are considering interest-based negotiation as the way to solve the problem.

What are the other organizational by-laws and policies internal to the organization that offer different processes and remedies? Is there a tribunal or other court process that you want your complaint to be heard at? And, how do you assess if it would be better or worse to do that, now or later? Usually key factors to assess the BATNA include: time, affordability, limits of remedies available through in-house processes, and concern for the ability to repair relationships following the engagement in a confrontational legal processes.

> **Scenario:** *Remember the summer student scenario above? If discrimination through differential treatment is left unaddressed and not remedied in an organization, this employee may have a good case for the Human Rights Tribunal of Ontario (HRTO).[19] Mediation through the HRTO is most often the first step after the initial application process, prior to a full hearing.*

5) Brainstorming options and setting objective criteria:

Before you get into the discussion of the heart of the negotiation around interests, your joint analysis and planning should include 2 key pieces, before you get into the heart of the interest-based discussion:

- *Brainstorm a range of different options for outcomes* that might address the interests. You do not assess each one, you just list anything you both can come up with.

- *Set objective criteria in advance* to assess the result. Objective criteria are some legal, policy or organizational best practice standard. They might involve the organization's code of conduct, for example. And objective means that they stand outside people's feelings or perceptions; they pre-exist in some form as benchmarks for conduct or content in organizational functioning. Your

conflict resolution policy should offer a set of guiding principles and other direction, as well.

6) Reaching agreement:

Reaching agreement will mean checking back in on steps 2, 3 and 4. Avoid rushing to wrap up when it looks like you've got "the answer." There will likely be a number of them, of different types. Instead, ask yourselves:

- Have we addressed all of our interests, psychological and substantive?

- Have we assessed all the options we came up with? Are there others?

- Do the proposed solutions fit the criteria we agreed to?

Your organization's version of the sample *Conflict Resolution Policy* will provide you helpful direction when deciding whether you need an informal verbal agreement or written agreement, or a more formal "Minutes of Settlement" guide at this stage (see Appendix 1).

What if you need some assistance making your way through these steps? Don't worry – many people do. If you need a neutral third party involved, that's where **mediation** comes in.

Mediation

The main difference between interest-based negotiation and interest-based mediation is the involvement of a neutral, third party: a mediator. The mediator is not an advocate for any person or issue. Their role is to assist the parties in the collaborative conflict resolution process to achieve a mutually beneficial outcome.

Trained mediators create and support the collaborative process that integrates what was discussed above, in a way that can be summarized in the following 10-steps.[20]

It is critical to note that this is not a simple, linear process. Steps 5 through 10 are usually revisited and repeated throughout the mediation process:

1) Meeting with each party separately to:

- Explain your role, in the context of organizational policies
- Start building trust by offering a confidential, non-judgmental, active-listening-based way for the person's story to be told and heard
- Identify the underlying causes
- Explain what the "BATNA" is (see Negotiation, #4 above).

This is an important step for getting to know the people, in order to help analyze the problem.

2) Getting the parties together:

Face-to-face mediation is much preferable to shuttle mediation for re-building trust and solving problems when people must continue working together.

However, if the conflict is so fraught with interpersonal discord that face-to-face mediation is not initially possible, shuttle mediation may be employed instead or just at the start. This means each party is in a separate room, and the mediator conducts the following process by going back and further between the rooms. Once some of the interpersonal issues are addressed, then the mediator might be able to move the parties to the face-to-face mode.

3) Reviewing the process and ground rules or discussion guidelines:

The mediator explains their role, and reviews all the steps in the process. Ground rules or discussion guidelines are created, agreed to and applied throughout the process. It is made clear to both parties that they can caucus (meet one-on-one) with the mediator during the process if they need to. The mediator may also explain what "active listening" is and how t do it. Part 3 of the *Guide* explains active listening.

Sample Discussion Guidelines may include:

- *Practice Active Listening*
- *Be both honest and respectful, at the same time*
- *Agree to a level of confidentiality (defined by the parties, but consistent with organizational policy)*
- *Agreement on start and end times, and taking regular breaks*

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4) Telling the story:

Each person is given the opportunity to give their perspective on what is going on, while the other person engages in active listening. The initial interviews in step 1 will have provided the mediator important ground on which to understand what is going on, but in this phase the parties and the mediator hear together what the conflict is all about.

5) Exploring and agreeing on issues and interests:

Remember step 2 in the negotiation process? We pick that up again here. The people are separated from the problem and the focus placed on what are each party's interests in the conflict at hand.

People's feelings are discussed, as part of spelling out the interpersonal, psychological and substantive issues and interests. There may be a number of them. Any major interpersonal issues are worked through first.

The mediator may question, paraphrase and summarize[21], and re-direct people to the ground rules as needed.

The mediator looks for opportunities to point out shared ground and new understandings. They acknowledge and give positive feedback for openness and the making of concessions.

MANO Scenario - *"I can see how me not including you in those planning meetings was upsetting, whether I intended that or not." Someone saying this is an important moment in interpersonal conflict resolution and needs to be noted and positively reinforced. In the previously mentioned case of the break down of a collaborative project's functioning, a statement like this could also be a critical step in getting to the substantive issues.*

Prominent sources of conflict are ones that both parties identify or refer to frequently. These are important shared interests to take note of and discuss.[22]

6) Coming up with the Mutual Problem Statement:

At this stage the mediator has a list of everyone's important interests that can be re-framed in a Mutual Problem Statement (MPS) that the parties will work together to resolve.

The Mutual Problem Statement:

How can we make sure that "A" happens while at the same time ensuring "B" and "C"?

> **MANO Scenario**: *Take for example the case of seasonal contractors (whether contract employees or independent, self-employed contractors) in conflict with junior staff, who have been assigned to supervise the seasonal contractors. And the ED is failing to address it.*

After working effectively through steps 1 through 5 above, the MPS might look something like:

How can we make sure all of our **summer projects** get done while at the same time ensuring **each person is able to carry out a reasonable job description** and **each person has adequate organizational support to carry out their role**?

7) Brainstorming options:

This is done the same way in step 5 of the negotiating process: *a range of different options for outcomes* that might address the interests.

You do not comment, react to or assess each one, the mediator just documents anything either party comes up with.

The more creativity the better!

8) Setting objective criteria:

As discussed in step 5 of the negotiating process, objective criteria are some legal, policy or organizational best practice standard. They might involve the organization's code of conduct. An objective criterion could also be about timeliness, efficiency or simply evaluating the match with the "ABC" of the Mutual Problem Statement

Objective means that they stand outside people's feelings or perceptions; they are some form of benchmark for conduct or content in organizational functioning. Your conflict resolution policy should offer a set of guiding principles and other direction, as well.

9) Sifting through the options:

This is a process of going through each option, and seeing if it both addresses the Mutual Problem Statement and fits with the objective criteria.

You now have a list of solution options that might form part of the final agreement.

10) Reaching agreement:

Each party is encouraged to compare what is proposed for the agreement to their BATNA. Do they think they could so better or worse in another forum? Could this agreement be a good step in a better direction for them, and worth trying out?

The organization's conflict resolution policy will provide the mediator and both parties helpful direction when deciding whether they need an informal verbal agreement, a written agreement, or a more formal "Minutes of Settlement" guide at this stage (see Appendix 2).

Part 3 – Conflict Resolution Policy and Conduct: Implementing Best Practices

As a MANO member noted in the second project survey (see Appendix 2) at the heart of good conflict resolution practice is the organizational and individual willingness to "address discontent before it balloons into something more."

Part 2 provided collaborative resolution methods outlined to negotiate or mediate conflicts and disputes. This section offers a fully developed sample *Conflict Resolution Policy* tool that MANO members can adapt and implement in their context. It also provides some best practice considerations for addressing conflict in your organization.

Part 3 now focuses on the sample policy and approaches to best practice.

Best Practices for Conflict Resolution

One overall recommendation to organizations and people about conflict is to *get it early, address it fairly, and be consistent.* Sitting on a dispute hoping it will "just go away" rarely solves the problem. Groups need to create an environment of commitment to actively breaking the assumption/action/reaction cycle discussed in Part 1. And, being consistent means that everyone is held to the same policy standard.

Principles & Tips:

The *Managing Conflict* guide offers 10 helpful practice tips in relation to this:

1.	Pay attention to good interpersonal communications
2.	Operate with a strategic plan
3.	Clarify roles and responsibilities
4.	Help develop a skilled chairperson
5.	Learn about conflict resolution processes
6.	Establish a code of conduct for directors
7.	Encourage performance evaluation
8.	Implement a grievance procedure
9.	Celebrate agreements and new understandings
10.	Look to gender and cultural differences as a way out of a mess.

MacDonald (2005), p. 4-5

The sample MANO *Conflict Resolution Policy* in Appendix 1 of the *Guide* incorporates some additional best practices as the following principles:

- *Personal Responsibility and Engagement:* All parties to a complaint will actively participate and strive to achieve a collaborative resolution and outcome at the earliest possible stage of the process.

- *Confidentiality:* Information about a complaint will only be given to parties directly involved and to others on a need to know basis.

- *Transparency:* The parties will be provided clear and understandable reasons for decisions relating to complaints. All parties will be provided with updates during review processes.

- *Timeliness*: Complaints will be dealt with promptly and resolved as quickly as possible.

- *Fairness:* Review of complaints will be fair, impartial and respectful, allowing all parties to have their perspectives heard.

- *Thoroughness:* Review of complaints will be thorough and as detailed as possible, based upon the information provided by the parties.

- *Accessible and User-Friendly*: The process will be easily accessible and communicated to members. It is designed to be clear and as simple to follow as possible.

- *Training and Professional Development:* The organization will ensure conflict resolution is a central part of annual board governance training and staff professional development, and set aside time and resources to do so. Professional development can range from dispute resolution training[23] for people designated as internal mediators, to MANO trainings, to the Human Rights 101 module offered by the OHRC.[24] It may also include internal workshops using various community resources.[25]

With all this in place, implementation at an interpersonal level is greatly aided by the use of **active listening** techniques. You can employ this approach in day-to-day communications, particularly with people you tend to disagree with. It's not just for trying to work through disputes when they have already happened: engaging in active listening can interrupt the assumption/action/reaction cycle discussed in Part 1, and prevent differences in *perspectives*, *values* or *interests* from escalating into harmful conflicts.

Active-Listening:
Figure 1 succinctly sets out what is involved with Active Listening and how to do it.

L = Look interested - get interested

I = Involve yourself by responding

S = Stay on target

T = Test your understanding

E = Evaluate the message

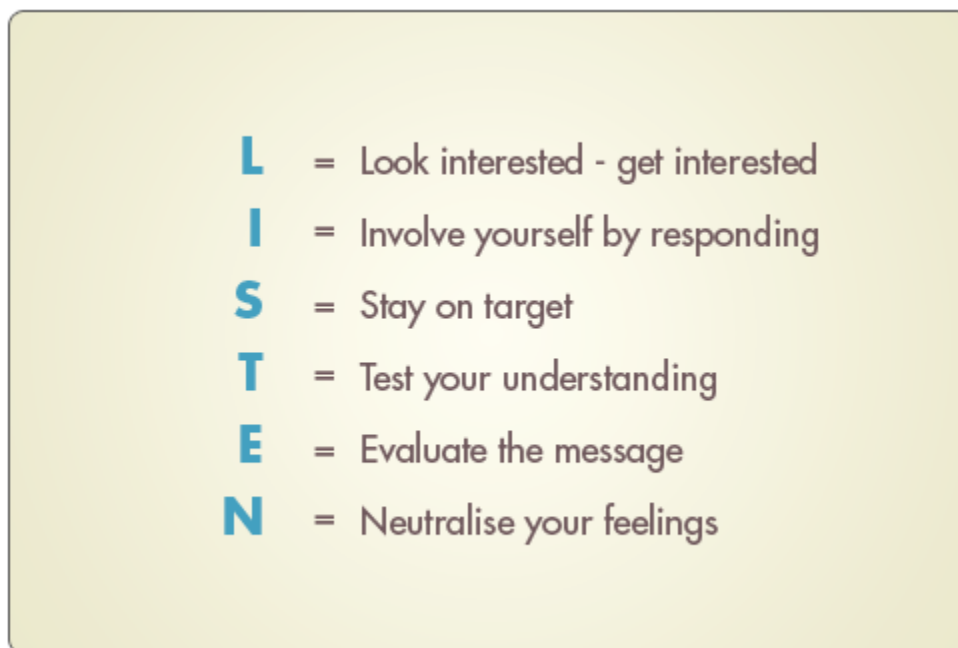**N** = Neutralise your feelings

Figure 1 – Active Listening[26]

When people get into an argument with someone, we often either quietly wait for them just to finish talking in order to make our points, or outright interrupt what they are saying to refute them before they have even gotten out what they have

to say. The "Listen" key above provides a different approach that involves not only paying attention, taking in what is being said, and remembering it: with practice this communication approach develops to include thinking through what has been said, reflecting on it, to be able to relate back to the person a clear understanding of what they have said, in your own words.[27]

The MANO Sample Conflict Resolution Policy

MANO organizations were requested, through surveys and consultations, to provide sample by-laws, policies, and procedures that addressed conflict resolution. Additional research was also carried out to seek by-laws, policies, and procedures from non-MANO, artist and other non-profit organizations. A summary and samples of this information is provided in Appendix 3.

Four MANO organizations that responded to the initial survey reference the use of mediation in their Anti-Racism, Access and Equity Policies or Codes of Conduct. Four non-MANO sample policies were also obtained through both direct organizational requests and online research. All of these informed the development of the sample Conflict Resolution Policy.

Based on both MANO members' contributions in the consultations and surveys, and on general good collaborative conflict resolution practice, the following factors were considered in developing the sample policy.
- Who does it cover?
- What kinds of conflicts does it cover?
- What does it not cover, and where is the policy for that?
- What are the roles?
- Who is accountable for implementation, and responsible for participation?
- What are consequences for not implementing or participating?
- What resources are needed for implementation?
- If organizational "culture change" is needed for effective conflict resolution, how does the policy inform that?
- What happens if it does not work?
- What are the clear step-by-step procedures, with a timeline attached?

The "Media-Arts Organization" Sample Conflict Resolution Policy:

The "Media-Arts Organization" Sample Conflict Resolution Policy is found in its entirety in Appendix 1.

This organizational conflict resolution tool is divided into 2 main sections, each with itemized parts:

Policy	Procedures
- Purpose - Applicable to - Guiding Principles - Definitions - Responsibility for Implementation	- Informal Complaints & Dispute Resolution - Formal Complaints and Resolution

The policy section clearly outlines why this policy exists and who it covers, the interconnections with other organizational policies and procedures, and statutes, and gives clear direction in the guiding principles for the necessary organizational climate for successful and ongoing implementation of the accompanying procedures.

The procedural section is divided into 2 parts: the resolution of *informal complaints* is part 1 and part 2 is for *formal complaints*. Each section of the procedure spells out clear expectations of the person(s) complaining, the person(s) responding, and the organization as a whole.

The policy is designed to encourage collaboration on resolving multiple interests, not to escalate to confrontational "win-lose" processes. However, it does acknowledge that the latter do exist and are indeed options as possible BATNAs (see part 2). Following is an example of how to apply the policy in practice:

MANO Case Scenario #1: *Michel has been working at his job for more than 20 years. Jeff, who is Michel's subordinate, is up managing Michel in order to do his job. Jeff feels resentment as he is having to work beyond his job description to fulfill his actual role. Michel feels undermined and disrespected by Jeff. The tension between them is noticeable to other people in the organization.*
How would you use this CR policy as Jeff? As Michel? As the ED or a board member?

Let's take Michel as an example. As soon as he experiences unhelpful pressure from Jeff, he could attempt a conversation as outlined in 1.01, page 4 of the *Informal Resolution* section of the Policy. Arranging to have a conversation like this is not easy for most people, so the fact that MANO members reported having difficulty being able to hold each other accountable is not surprising or uncommon. The 5 bullet points on page 4-5 of the Policy are there as a guide to make this process easier. Michel can set the conversation up with an informal style yet making it a priority through scheduling it into the day. For example, something like, "Jeff, would you have 15 or 20 minutes to chat with me about some overlapping work issues," is a neutral way to start.

When they meet, Michel can have a plan to set up the conversation using the active listening type of approach discussed above. "I'm glad we could meet Jeff. I've been feeling a lot of stress lately as I feel we are working too much against each other, not with each other. We've got a lot going on with the festival coming up in a few months, for sure, but I've not felt so much pressure before. I'm wondering how you're feeling too about your workload and such." What kinds of responses might Jeff have that fit with a collaborative conflict resolution approach?

Organizations can set the stage for these types of conversations having the best chance to be collegial and productive by implementing and consistently following policies and best practices. This is key to creating a organizational culture for collaborative conflict resolution.

> **MANO Case Scenario #2:** *Janice is a long-time member of your organization, volunteering at festivals and other special events. She also comes by often outside of those times, dropping in to talk with staff about programming ideas or initiatives. Due to the set up of the office, Toni usually ends up having these conversations with Janice. Increasingly Toni's having to find gentle ways to tell Janice that there are other things Toni needs to get done, and give Janice other mechanisms to provide input. Toni has told the ED what's going on, who supports the approach. But, Janice increasingly responds to these attempts by loudly making demands, which include remarks like, "No one listens to the volunteers around here!" and "Who is the employee here, you or me?!" Toni has asked Janice to not yell but these interactions continue.*
> **If you were Janice, how would you use this CR policy to deal with this situation?**

Toni feels like they have made their best effort on their own with this member, who is escalating in a threatening way. And, Toni has already spoken with the ED about it. So, Toni writes a formal complaint, as found in section 2 of the policy, page 6. The ED is the Responsible Contact Person as set out in part 2.03. What are the next steps for the ED? What other organizational policies be relevant here? What do you imagine is a constructive outcome?

MANO members who have successfully worked through scenarios like this reported that a combination of a good *Code of Conduct* and a supportive yet firm conversation with the member has been helpful. MANO members also reported in this research project that a Safe Space Policy would be helpful to address such conflicts. From both these scenarios it is clear that it is never easy to address organizational conflicts but having clear policies in place that are consistently implemented in practice are needed to encourage and normalize collaborative conflict resolution. Remember: *get it early, address it fairly, and be consistent.*

Conclusion

Now that you have read through the *Guide*, what's next? Here are some ideas about how to get going on implementing the best practices you have just reviewed:

- The Board of Directors and ED could organize a dedicated meeting to review the 3 *Guides* and assess gaps with current policy and practice. How are we doing? What do we need to do next?

- Based on this, your organization can start to develop a plan that includes policy and procedure development, education & training needed and for whom, and assign a timeline.

- Make "Implementing the MANO Best Practices Guides" a standing item on the Board agenda, so you keep on track with your progress

As referenced throughout the manual, this *Best Practices Guide for Conflict Resolution* is one of three developed specifically for MANO. It was carried out through both joint and separate research and writing processes, with a different consultant responsible for each topic area. The input from MANO members at

various stages of the project was indispensable, as was the MANO staff assistance. Everyone's time and candor were highly valued and appreciated. The MANO *Better Practice Guide to Board Governance* and the MANO *Best Practices for Equity Guide* are important companion resources as you go forward in implementing this *Guide*.

Appendix 1

The "Media-Arts Organization" Sample Conflict Resolution Policy

Policy

Purpose:

The Media-Arts Organization recognizes that conflicts occur in organizations for various reasons. If conflicts are identified and recognized promptly and treated appropriately, the knowledge gained can enrich and improve our organization.

The Media-Arts Organization also recognizes that an unaddressed conflict, whether because it is avoided or improperly handled, can escalate causing people harm and having a negative impact on the organization.

Prevention and early invention efforts are key to fostering collaboration and to maintaining a healthy and respectful creative and work environment.

The purpose of this policy is thus to provide an effective, consistently applied, and transparent method to address conflicts and disputes. Such issues may arise in relation to the Media-Arts Organization functions, its governance, or the conduct of its directors, staff, members, and members of the public.

Applicable to:

A complaint under this policy may be made verbally or in writing by any director, staff or member, or by any member of the public, noting that:

- A complaint about a real or perceived "conflict of interest" will be addressed in conjunction with the Media-Arts Organization's Conflict of Interest Policy.

- Staff complaints involving interpersonal relations are addressed through this policy in conjunction with applicable HR policies and procedures [*name the policies here and who to see about it. For example, ED]*

- Staff complaints involving compensation, performance, or other HR issues are addressed through HR policies and procedures *[name the policies here and who to see about it. For example, ED]*

- Formal complaints o*f harassment or discrimination based on protected grounds under the Ontario* Human Rights Code *(OHRC) will be dealt with in accordance with the Harassment and Discrimination Policy*. In addition, n*o*thing in this policy prevents or discourages anyone from filing an application with the Human Rights Tribunal of Ontario on a matter related to Ontario's Human Rights Code. *[* replace with appropriate policy name, as needed]*

- *Formal Complaints of* Occupational Health and Safety Act *(OHSA), Workplace*

Harassment or Violence will be dealt with in accordance with the Workplace Harassment Policy or Workplace Violence Policy and Program

- Complaints arising out of disputes between the Media-Arts organization and other organizations with which it is engaged in a shared project will be resolved through the terms of that agreement *[ensure there is a dispute resolution clause in those agreements]*.

- Directors, members and staff are obligated to comply with the Media-Arts Organization Conflict Resolution Policy and related by-laws and policies as a condition of membership or employment. The failure to cooperate with the Media-Arts Organization Conflict Resolution Policy may result in the undertaking of disciplinary procedures.

- Where Collective Agreements are in place for employment arrangements, the processes therein may apply.

Guiding Principles:

In-House Conflict Resolution: The skills and resources of the Media-Arts Organization will be developed and used to resolve conflicts in a manner that is interest-based, understanding-based, facilitative, collaborative and fully participative whenever possible. Seeking external advice and expertise is recommended in cases of formal complaints.

Personal Responsibility and Engagement: All parties to a complaint will actively participate, and strive to achieve a collaborative resolution and outcome at the earliest possible stage of the process.

Confidentiality: Information about a complaint will only be given to parties directly involved and to others on a need to know basis.

Transparency: The parties will be provided clear and understandable reasons for decisions relating to complaints. All parties will be provided with updates during review processes.

Timeliness: Complaints will be dealt with promptly and resolved as quickly as possible.

Fairness: Review of complaints will be fair, impartial and respectful, allowing all parties to have their perspectives heard.

Thoroughness: Review of complaints will be thorough and as detailed as possible, based upon the information provided by the parties.

Accessible and User-Friendly: The process will be easily accessible and communicated to members. It is designed to be clear and as simple to follow as possible.

Training and Professional Development: The organization will ensure conflict resolution is a central part of annual board governance training and staff professional development, and set aside time and resources to do so.

Definitions:

An **Advisory Group** is an *ex-officio* body of 3 to 4 persons, external to the Board of Directors, with professional expertise to provide advice on addressing complaints, particular formal complaints as per section 2.

Conflict refers to an ongoing experience of varying degrees of tension, usually involving multiple events, and misunderstandings, possibly leading to the building up of layers of interpersonal discord. This policy uses both "conflict" and "dispute"(see below) without necessarily distinguishing between the 2 terms, since most people do not give them different meanings. Mediation processes will make the distinction as needed.

The **Conflict Resolution Sub-Committee** is a three-person standing committee of the Board to which unresolved formal complaints are sent for review and recommendations, as per 2.07.2 or 2.08.4 below. The ED will sit ex-officio on the sub-committee unless restricted as per 1.04 or 2.03 below. The committee will designate a staff liaison for the purpose of serving as a Responsible Contact Person, as per 1.04 and 2.03.

A **Complainant** is the individual lodging a complaint against another Media-Arts Organization-related individual, policy or practice.

Discipline refers to the corrective action taken in respect to an individual, as a consequence of a formal complaint. Disciplinary measures are normally considered confidential, and the details are usually not shared with other parties to the conflict, except when considered necessary to advise other organizations or safeguard the public.

Disputes are specific disagreements between or among people on a particular topic. This policy uses both "conflict" (see above) and "dispute" without necessarily distinguishing between the 2 terms, since most people do not give them different meanings. Effective mediation processes will make the distinction as needed.

An **Internal Advisor** is an individual who has been appointed by the Board to act as an intermediary, convening authority, facilitator and/or mediator in the conflict resolution process, and to work with the parties to achieve a satisfactory outcome. The Board will annually appoint one or more Internal Advisors, the appointments of which may be from the Board, the staff, or the general membership based on training, experience, and neutrality.

A **Respondent** is an individual against whom a complaint has been made, and/or someone responsible for the policy or activity complained about.

Responsible Contact People are those who are accountable in the Media-Arts

Organization for assisting in conflict resolution and addressing of formal complaints. They do not act as advocates for any party in the conflict. Their role is a neutral implementer of the policy. The assignments to this role are listed in the procedures below.

Support people are individuals not connected to the conflicts or disputes being addressed, which either the complainant or respondent may choose to have in attendance at mediation meetings.

Responsibility for Implementation:

This policy respects the governance structure of "The Media-Arts Organization" which provides that Operational and Educational activities are the responsibility of the Executive Director, and matters relating to Board policy, activities, decisions and governance are the responsibility of the Board of Directors.

[Each organization's version of this policy statement should reflect its own governance structure]

Procedures

1. Informal Complaints & Dispute Resolution

1.01 - An informal conflict resolution effort happens when a person seeks information, expresses their concern(s), engages the other party to the dispute in dialogue, and is able to resolve a dispute without recourse to a formal complaint.

1.02 – When disagreements arise, it is expected that the parties involved will attempt to speak with each other about their concerns. In addition to the following considerations, both parties in this conversation will use the Media-Arts Organization *Code of Conduct* as their guide for how to conduct themselves in discussing the dispute.

- Choose a time and place to meet that is private and agreeable to both people.
- Allow a reasonable amount of time.
- The meeting is not about one person "winning" and the other "losing." It is about coming to a mutual understanding. This takes patience and a willingness to listen to the other's point of view and not to dismiss it as the "wrong" point of view.
- Speak directly from how you feel/think or felt/thought, and speak directly to the issue. By using "I" Statements and "Active Listening" techniques you can avoid belittling the other person, or dismissing their thoughts or feelings.
- Ideally you will be able to learn from the conversation how to avoid miscommunicating and/or misunderstanding in future. Helpful questions to this end include, "If what I / you said or did came across like that, what should I / we do to guard against this happening again?"

1.03- If step 1.02 does not work, the Complainant may ask for assistance, from the appropriate Responsible Contact Person (see below). This may be done orally or in writing.

When communicating in writing the complainant will note in their correspondence that they are making an informal complaint and are communicating in order to get help to resolve it.

1.04 - *Responsible Contact People for Informal Complaint:*

(a) Staff as Complainant – contact your immediate supervisor. If the respondent is the immediate supervisor, then contact the Executive Director (ED). If the immediate supervisor is both the ED and the Respondent, then staff will contact the staff liaison on the Conflict Resolution Sub-committee

(b) ED as Complainant – contact the Chair. If the Respondent is the Chair, then contact the staff liaison on the Conflict Resolution Sub-committee. If the Respondents involve multiple directors, the ED will contact the Internal Advisor.

(c) Director as Complainant – contact the ED. If the respondent is the ED or Chair, then contact the Internal Advisor.

(d) Member of the organization, or member of the public as Complainant - contact designated staff. If the Respondent is the designated staff, contact the ED. If the Respondent is the ED, then contact the Internal Advisor.

1.05 - If approached with an informal complaint, the Responsible Contact Person will inquire about any initial resolution efforts (as per 1.03), and will consult as needed with the Internal Advisor.

1.06 - Efforts will be made by the Responsible Contact Person to resolve the matter informally within the first two (2) weeks after the complaint is made.

1.06.1 – The Responsible Contact Person will have a conversation with each party separately to: a) discuss their perspective on and interests engaged in the dispute, and; b) to review the internal informal dispute resolution methods available to them (as per 1.06.2).

1.06.2 - Both parties will be invited to participate in processes such as informal meetings, negotiations, facilitated meetings, or shuttle or in-person mediation. If there is more than one Complainant or Respondent this may involve multiple, separate meetings. If one party refuses participation in either facilitated discussions or a mediation process, see 2.01.

1.06.3 - Depending on their training and neutrality, either the Responsible Contact Person or the Internal Advisor will act as facilitator or mediator in the chosen process.

1.06.4 – If the chosen process yields an acceptable informal outcome to both parties, the matter will be considered to be resolved.

2. Formal Complaints and Resolution

2.01 - If informal resolution efforts do not achieve an acceptable outcome in a timely fashion, or to the satisfaction of the Complainant, the Complainant may submit a written formal complaint. A formal complaint requires written submission.

2.02 - A formal, written complaint will be submitted to one of the Responsible Contact People below. The written complaint will include:

> (a) The Complainant's name;
> (b) Detailed information about what the issue is, the Respondent's name, what has taken place, where, and when;
> (c) Details of all prior efforts to achieve a resolution;
> (d) The specific outcome(s) the Complainant is seeking.

Complaints that do not provide all of this information will be considered incomplete.

2.03 – *Responsible Contact People for Formal Complaints*:

> (a) Staff as Complainant – contact your immediate supervisor. If the Respondent is the immediate supervisor, then contact the ED. If the immediate supervisor is both the ED and the Respondent, then staff will contact the staff liaison on the Conflict Resolution Sub-committee.
>
> (b) ED as Complainant – contact the Chair. If the respondent is the Chair, then contact staff liaison on the Conflict Resolution Sub-committee. If the respondents involve multiple directors, the ED will contact the Internal Advisor.
>
> (c) Director as Complainant – contact the ED. If the Respondent is the ED or Chair, then contact the Internal Advisor.
>
> (d) Member of the organization, or member of the public as Complainant - contact the ED. If the Respondent is the ED, then the member contacts the Internal Advisor.

2.04 - The Responsible Contact Person will immediately acknowledge to the Complainant the receipt of the complaint.

2.05 - The Responsible Contact Person will forward the complaint to the Internal Advisor (if not self) within one (1) week of receipt. The Internal Advisor will then proceed as follows:

> 2.05.1 - The Internal Advisor will review the complaint to ensure all information is included as per 2.02 above, and that enough information is present to be able to assess the situation and respond. If not, the complainant will be advised.
>
> The review will include assessing and making note of organizational by-laws,

policies and codes that might have been violated.

If the issues raised by the complainant include matters that directly engage the Human Resources Policy, reports of harassment or discrimination based on protected grounds under the OHRC, or report incidents of Workplace Violence (as per the *Occupational Health and Safety* Act), the relevant policies and procedures will be followed. The Internal Advisor will immediately notify the designated contact people for those policies and procedures, and advise the Complainant of this. Immediate courses of action may include separation of parties and initiation of a third party investigation.

The review may also include seeking advise from the Advisory Group or other external source of expertise. If formal complaints involve multiple Complainants or Respondents that are staff and/or directors, or are non-HR contract disputes, the Internal Advisor shall seek Advisory Group or external legal advice. Such complaints may then be referred to some form of external adjudication process.

2.06 - Within one (1) week of complaint receipt, the Internal Advisor will: (i) inform the Complainant that they have carried out an initial review of their complaint; (ii) provide the Complainant with a copy of this Policy; (iii) review the informal dispute resolution process, and; (iv) communicate additional information required, including:

(a) Any referral of the complaint to a separate process, as per 2.05.1.
(b) Available informal or assisted resolution options as set out in this Policy, section 1.
(c) That processes in relation to this policy cannot result in an award of damages or compensation to the Complainant, Respondent, or anyone else;
(d) That processes in relation to this policy may or may not result in disciplinary measures against the Respondent.
(e) That the Respondent will receive a copy of the Complaint (with the Complainant's name) if it is not resolved through informal resolution mechanisms.

2.07 - *Notice to Respondent (Offer of Informal Dispute Resolution)*

2.07.1 – Consistent with the timeline in 2.06, and when the appointed Internal Advisor is satisfied the requirements outlined above are met, and has determined that written complaint disclosure will not jeopardize the potential for an Informal Dispute Resolution process, the Internal Advisor will send the respondent:

(a) A copy of the complaint;
(b) Possibly supporting materials;
(c) An assessment of organizational policies and/or codes of practice that may be engaged;
(d) A copy of this policy;
(e) A request for a response within two (2) weeks;
(f) An offer to facilitate Informal Dispute Resolution.

2.07.2 - If the Respondent does not reply within one (1) week, the Internal Advisor will notify the ED (or alternate, as per 2.03 above), who will then decide a course of action with the information provided to date. They may consult with the Conflict Resolution Committee, as needed.

2.08 - *Initial Response to the Complainant (Offer of Informal Dispute Resolution)* **-**

2.08.1 - Upon receipt of a timely response from the Respondent, the Internal Advisor will send to the complainant:

(a) A copy of the response;
(b) Possibly supporting materials;
(c) An assessment of organizational policies and/or codes of practice that may be engaged;
(d) An offer to facilitate Informal Dispute Resolution.

2.08.2 - If both parties accept the offer of Informal Dispute Resolution, the Internal Advisor will arrange within one (1) week to facilitate the Informal Dispute Resolution process. This may include such processes as informal meetings, negotiation, facilitated meetings or shuttle or in-person mediation. The Internal Advisor may engage a mediator external to the organization.

2.08.3 - Any agreed resolution of the complaint arrived at through Informal Dispute Resolution shall be documented in writing and signed by both Complainant and Respondent. These Minutes of Settlement shall be confidential, and items within strictly shared with the Internal Advisor, Staff, Board, legal counsel or other parties that need to know to carry out their organizational duties. Considerations when making an agreement should include:

➢ Is the agreement within the scope of the parties' decision-making powers in relation to their organizational role?
➢ Is the agreement realistic and durable?
➢ Does the agreement in any way compromise the Media-Arts Organization?
➢ Are there elements of the agreement that impact on the Media-Arts Organization's operations, policies, reputation, external relationships or public perceptions?

2.08.4 - If both parties do not accept the offer of Informal Dispute Resolution, or if Informal Dispute Resolution does not resolve the complaint, the Internal Advisor will immediately forward the Complainant's and Respondent's documentation and the Internal Advisor's report on dispute resolution attempts to date, to the Conflict Resolution Committee. The Committee may then seek advice from the Advisory Group or other external source of expertise. The Conflict Resolution Committee will decide on a course of action with the information provided. Such action may include, but is not limited to:

- Separation of parties via work re-assignment or changing of scheduling;
- Having a meeting with each party to discuss best practices for dispute resolution;
- Directions on training;
- Implementation of organizational practice and policy changes;
- Referral to HR policies and procedures, Harassment and Discrimination policy and procedures, and/or OHSA-mandated policies and procedures for resolution.

This Conflict Resolution Policy was written by Sheila Wilmot, Consultant for the MANO Conflict Resolution Working Group, and drew on the sample policies in Appendix 3.

Appendix 2

MANO Conflict Resolution Workgroup
Consultation & Survey Data Summary

Overview

Consultations and surveys were carried out between May and August 2015, as part of MANO's 3-prong Consultancy Project. What follows is a data summary of the Conflict Resolution-related research data, which includes individual feedback sent to the consultant.

There were 2 consultations, on June 3 and July 6. One was in-person, in Toronto (9 MANO members), and the other was done remotely (5 MANO members). All 3 Working Group consultants collaborated in the large group consultation phase of the project.

The 2 surveys were carried out in March and July. The first was carried out by MANO staff, focusing on Structure and Leadership in Media Arts Culture (21 responses). The second was created by the 3 Working Group consultants, and distributed and compiled by MANO staff. It featured a series of questions on the 3 Working Group areas: Governance, Equity, and Conflict Issues. This survey was sent to a broader cross-section of people, carrying out board, staff or volunteer roles. There were 11 responses.

The MANO-member Conflict Resolution Working Group varied from 3 to 5 staff or board members of MANO organizations. The Group was recruited on a voluntary basis, through the consultations, surveys, and follow-up by MANO staff. Finally, individual feedback was welcomed throughout the project. They worked with the consultant over the course of 3 meetings between August and November 2015. The Group contributed in the following ways: 1) they reviewed the draft of this Appendix for clarification and analysis; 2) They worked through draft 1 of sample Conflict Resolution Policy using different types of scenarios, and; 3) they commented and discussed with the consultant draft 1 of this Guide.

The consultation and feedback summary data is presented first, followed by the survey data.

Consultations and Individual Feedback

Issues connected with Conflict Resolution have been summarized and thematically grouped. The 5 themes that often overlap are: Conflicts and Accountability; Conflict of Interest; Board Roles and Involvement; Succession Planning, Job Security & Precarity; and Meaningful Diversity: Representation & Partnerships. At the end of the consultation section there is a list of conflict resolution-related "asks" that came up in the sessions.

Conflicts and Accountability:

>Some points of conflict are:

- Conflict between junior staff and director (ED)
- Between board and director
- Between board and junior staff
- Between membership and staff/board
- Between contractors and permanent staff
- Between organizations working in collaboration
- Between organizations working in competition

> Even when we do have policies or procedures in place, **people are nervous about holding each other accountable**. People have been fired without cause just so someone else can have their way on an issue, and no one addresses this.

> Conflict resolution between members of a **close-knit, diverse community** is challenging. As is resolving interpersonal conflict and tension among individuals and other organizations. Do we end up only working with people we "feel comfortable with" because of lack of respect that comes out in conflict?

> How do we understand when something is a **personal dispute or an organizational conflict**? (e.g. as organization develops & expand).

> **Sector ombudsperson** would be useful for conflict resolution amongst organizations/people in those organizations. While we see ourselves as socially progressive people, sometimes we start to work together and personality/political/vision conflicts arise and escalate. Whatever contracts and agreements we sign need to include how a dispute will be mediated and that all parties must participate in that (or the contract is void?)

> Need to develop policy around relationship between staff + board in relation to HR i.e., if conflict between/amongst staff that can't be resolved, **how to involve the board**. Often though, policies do exist; it's an issue of consistently, year-by-year, implementing them.

> Board members often do not know their own policies or staff-related obligations arising from laws such as Employment Standards Act, the Occupational Health & Safety Act, and The Ontario Human Rights Code.

> There is no forum or structure within MANO for developing and sharing "**model" by-laws and policies**. People just connect informally, by word of mouth. Nor is there a regular by-law/policy review. Usually driven by something external (e.g. getting charitable status, new funder requirement).

> Open access vs. protection of staff: we are community oriented organizations, open to the public, but what happens when **members of the organization/public are abusive to staff**? There are challenges with holding them accountable.

> Dealing with interpersonal conflict, how it affects the community. Occasionally need to set limits with members who are **abusive to staff**. Part of this is defining **"safe space"** (staff issue) and developing a policy in relation.

>A **code of conduct** is useful for staff working with members that don't really understand how the organization works, and the organization's, staff's, and members' associated responsibilities in relation to harassment & discrimination.

> Here are some examples of types of conflict:

1) Members of a production organization who represent a vocal group of long-standing members resisting a change in direction made by staff and board as technology and membership shifts; or the inverse.

2) A group of organizations working on a major collaborative project develop different governance/management visions and are deadlocked in voting and process. The issue escalates over time to become personal.

3) Junior staff have a complaint about the director who is told of the complaint by the board and uses it against staff instead of addressing it.

4) Seasonal contractors (whether contract employees or independent, self-employed contracts) have a conflict with junior staff assigned to supervise their work and the director fails to address it.

Conflict of Interest:

>There are intense real and perceived **conflict of interest** issues involving artists on boards or who are staff, in relation to showing their work /composition/commissions. A need for Conflict of interest policies that help identify conflicts of interest, recognizing the reality that artist-run organizations have board members that are artists. That is, on one hand, some artists don't care about the optics; they want to show their work and serve on the board. On the other hand, in small communities the pool of possible artists who might serve as board members is quite small so a strict conflict of interest policy could lead to vacant board positions.

> There are also **conflicts of interest** in programming and opportunities. We have/ there is a commitment for artists to be on the board but how does the organization balance that with professional expectations? Need to build leadership capacity [to help separate artist self-interest from board role]

> Perhaps being a board member needs to be more promoted as a service to the community so artists recuse themselves from showing for that time. But, it's hard enough to get board members already.

> It is quite awkward for an organization employee programmer to reject a board/ employer group member submission. A **conflict of interest** policy needs to build in how to address this.

> **Artistic merit** is a troubled, related area. Who decides? This affects equitable access of artists to being shown, as well. When is it an "objective standard" being applied and when is it someone's (in a position of power) personal aesthetic choice?

> Board/staff relationship in dealing with conflict: how can a policy be implemented to be more about **relationships of mutuality than conflict of interest polici**es that may or may not work.

Board Roles and Involvement:

> Sometimes there is conflict within a board or collective governance structure. How do we prevent unilateral action by members opposed to a decision or ensure transparent process and voting. What to do if someone who **looses a vote tries to sabotage the group**?

> **Board engagement** – increased retention, two-year terms, some who are engaged, some who attend meetings. Conflict arises from a **less than equitable distribution of workload.**

> Most boards are not working boards. But the other extreme is a micromanaging board.

> **A mix of artist and non-artists on the board is ideal.** But this is challenging. And, in smaller areas, it is difficult to get **adequate numbers of board members,** as there is a lot of competition for certain kinds of volunteer professionals (e.g. lawyers).

> When we have policies, **practices are sometimes still unclear**. How/who implements HR policies? Director/ BOD-both?

> **Lack of defined board roles** for many of those who contribute, and also **no defined process** for raising accountability issues and **dealing with disputes.**

> **Roles are in the by-laws** but the by-laws are rarely used, and only quoted occasionally.

> **Without the people/the will/the leadership to implement** and back up a policy, the policy does not have weight.

> The **board manual** needs to be a "living document." It can be practical, flexible and built on each year.

Succession Planning, Job Security & Precarity:

> **Succession planning** as a major area of potential for conflict, especially given low compensation levels in the industry.

> Board members who join with their **eyes on the ED job**. That is, people may have an agenda that they do not disclose, while carrying out their board role. This is

understandable, given the scarcity of jobs, especially at senior level. The best practice with this though is to have a 6 to 12 month "cooling off" or separation period, before being able to apply for a job.

> A board member position can be a **learning tool** for future staff. The investment in the organization gained can be valuable, perhaps inevitable in small communities. But so can entry-level and/or part-time staff positions. **Low compensation levels** in artist-based organizations make it difficult to attract and retain staff.

> There is a **fee schedule** for artists but not cultural/artist centre workers. Charity Village has a scale. Need a **living/fair wage policy for the sector**. Just because the Canada Arts Council doesn't provide the funding does not mean we shouldn't be paid what we deserve.

> What happens when it is the **ED who needs protection** when not supported by board and is the one being attacked. This happens for all kinds of reasons, including because someone wants the ED job.

> Need an HR policy around firing of senior staff. But this is an under-resourced/-paid workforce, in a **chronically under-funded sector**, so there are problem with succession planning. That is, there are limited options for moving on or up, and limited possibilities for retirement. So, older people, who are predominantly white, stay on.

> HRDSC has funds for paid internships, as **mentorship programs.** If can structure this in with the seeking of meaningful representation, can get a wider diversity of people involved in the organization.

> Contract employees are a large group, with many working in contract positions for many years, festivals in particular have a large seasonal flux in staffing. Many seasonal staff work for numerous arts groups through the year and most have great experiences, but there are occasionally issues.

The other large group of seasonal staff are summer students or other staff funded through employment grants, mostly good but in some cases there can be problems around scope of work, payment schedules, and working conditions may be an issue. Clear HR practices implemented by all organizations can help alleviate what are mostly misunderstandings.

Independent contractors vary with the organization type. Often they are graphic design, curators or programmers, web development, bookkeeping, accounting, technical. There are sometimes conflicts in this area, although the precarious quality of contracts means they are rarely subject to disputes we become aware of. The main issues here is conflict over scope of work, fee schedules and deadlines.

Curators and programmers are one key area where there is conflict for contract staff or independent contractors as the scope of work can often include writing at a lower rate than contracted writers. The lack of consistent sector wide fee schedules or guidelines for curatorial and programming work creates uncertainty for both

parties as to fair wages and scope of work, additionally increasing competition from a expanding pool of freelance programmers may create a downward pressure in fees

There is another important type of independent contractor within the sector, artists. They have fee agreements through CARFAC (http://www.carfacontario.ca/) or IMAA (http://www.imaa.ca/en/index.php/homepage). All artists being paid are typically independent contractors and while bound by collective agreements often work for less as organizations often do not have sufficient resources to pay at the collectively agreed rates. Fees are rarely an issue with publicly funded groups: the problem is mostly with expenses for producing and/or installing the work, such as specialized equipment rental of gear owned by the artist.

Meaningful Diversity: Representation & Partnerships:

> There is a **lack of financial support for equity initiatives**/programs.

> **Meaningful representation of and partnerships** with diverse artists and providing space to those who normally are not represented in media arts events. This is an ethic that has been lost in the last number of years, with the drive for corporatization of organizations. But, how different is the artist-run sector from others on this issue?

> Make **equitable representation** – on board and staff of the organization, and in showing/distributing artists' work – **part of organizational mandate and policy**, avoiding tokenism and framing diversity quotas as something other than "government obligations", ticking off identity boxes, in relation to membership/board/staff representation, and the perception people develop that there are "strict quotas."

> Need a **structured employment/board equity approach** to get there. Especially since, when given the opportunity to self-identity, some youth (e.g.) do not. So, both can't "add them to the stats" and we don't know why they don't self-ID.

> CAC has a "cultural background" self-ID box, which is odd for people.

> If TAC is giving direction on ensuring representation, why do they not provide **policy templates** for us?

> Do we comply or just **pretend to comply?** Do we have anti-harassment & discrimination policies but none for employment and organizational equity?

> Expectation that staff or board, community members of colour are **experts on diversity**. How much progress has been made in **representation,** both of staff and artists?

> Different parts of the organization are not as diverse, in addressing where does **tokenism** become, how do organizations navigate. Needs to be part of strategic plan.

> Some organizations have more **diverse (representative)** board, but less diverse (more homogenous, dominant-group) staff; others in reverse. Generally, the

board is more racialized and the staff more white, except in a community-focused organization.

> **Harassment and racist comments** from members. Relies on staff to take action and bring to management or board. Need a document that can be referred to, so if there is a problem the code of conduct creates a structural way to sit down with the person harassing. Usually an apology is the result.

> Without strong board support the ED can become vulnerable, in a time of conflict with board chair there is no one to turn to, even with a good policy in place (with no leadership to implement it) **people targeted by racism "have to suck it up" and deal with working in a poisoned environment**.

> Leadership needed to build equity and representation into consciousness of the organization. Need leadership development on how to be an ally.

The Conflict Resolution-related asks:

- Conflict Resolution policy that deals with all types of relationships involved: staff, board, members, inter-organizational disputes.
- Case studies to work through in conflict resolution training, with examples and comparisons w/ other sectors. How are other types of organizations working through such issues?
- Organizational modeling – provide case studies of where something was handled well (via person, policy & or practice)
- Conflict of Interest Guidelines for: 1) Distribution and galleries; 2) Artists & cultural workers & boards; 3) Festivals - special. Also, in relation to board supervision of staff.
- Enforceable code of conduct.
- Organizational processes to consistently implement policies, and protect people from harassment & discrimination.
- Procedures that address what happens if board chair implicated in a dispute.
- Incident report form – tool for documenting and tracking harassment & discrimination, and other types of disputes
- Ex-officio or advisory board to assist with disputes. Need clear roles & boundaries as they are not within the governance structure
- A leadership school for board chairs, so they learn their roles and the legal/ fiscal gravity of them
- Detailed handover meetings when transitioning from one board to the next

Surveys

Survey 1 - Structure and Leadership in Media Arts Culture

1. Is your group incorporated non-profit, a charity, unincorporated collective

      10/21 incorporated; 9/21 charity; 2/21 unincorporated collective

2. Do you have a B.O.D.?

      19/21 – yes   2/21 – no

3. Do you have staff?

      17/21 – permanent staff   3/21 –contract staff 1/21 – no

Comment – *"we have both permanent + contract (staff). Really excited about this [project), our org has some good strong policies, glad to share but also want to update/expand our documents. Really interested in learning/sharing/growing skills around peer conflict resolution and best HR practices in terms of Board Governance (what happens when Board's aren't governing?) i realize that's a huge question and very complex but our sector is too fragile in general to have non/dys/under/over-functioning boards."*

4. Does your organization have any of the following policies in place as formal documents?

	No	Yes	Policy in Use	Policy not in Active Use	Total Respondents
Human Resources Policy	52.38% 11	42.86% 9	28.57% 6	4.76% 1	21
Hiring guidelines	55.00% 11	40.00% 8	25.00% 5	0.00% 0	20
Employee Grievance Policy	65.00% 13	25.00% 5	20.00% 4	15.00% 3	20
By-laws	9.52% 2	85.71% 18	33.33% 7	9.52% 2	21
Board Manual	47.62% 10	47.62% 10	23.81% 5	4.76% 1	21
Conflict of Interest Policy	42.86% 9	47.62% 10	19.05% 4	4.76% 1	21
Curatorial or Programming Policy	55.00% 11	40.00% 8	30.00% 6	0.00% 0	20
Anti-Oppression or Equity Policy	52.38% 11	42.86% 9	23.81% 5	4.76% 1	21
Accessibility Guidelines	57.14% 12	33.33% 7	14.29% 3	4.76% 1	21
Conflict Resolution Policy	61.90% 13	28.57% 6	23.81% 5	4.76% 1	21

5. Are staff, board, collective members from your organization willing to participate in consultations between May and November 2015?

    9/21 – yes   7/21 – maybe

6. Additional comments?

> Our part time staff has limited hours to address organization needs. Please consider remunerat(ing) the participants for the extra hours.

> We have recently completed a review of the above to ensure conformity with ESA and ONCA guidelines and will be presenting revisions to our policies and bylaws at our upcoming AGM.

> Ad hoc collectives have many advantages over Board-run cultural organizations. I think a clearer understanding of how these groups function can inform incorporated not-for-profits as well.

> Might I recommend you put Accessibility guidelines in priority sequence as well as add NFP Compliance?

Survey 2 – Pre-Workgroup Survey

The purpose of this survey was to particularly capture the perspectives of people that had not participated in either of the first 2 consultations. Below are the responses in the conflict resolution section only. Each of the respondents that answered the questions is designated as #1 through #11.

CONFLICT RESOLUTION and MEDIATION
1. What was the most memorable conflict about that happened in your organization?

#1 - Our attendant put out chocolates to raise money for a Christian mission without consulting the Director. This raised concerns among board members and staff about what the invisible chocolates might be (i.e. the subtle ways that the attendant might be bringing their beliefs to work in a way that took up/shut down space for others' beliefs).

#2 - Staff complaints about the board.

#5 - The whole organization had a melt down in 2003. Ultimately it was about power and control. People were fired and there were allegations of racism flying from a white person to a black person. I wasn't part of the centre at the time but spent my first two years here reconciling differences.

#6 - We had a staff person who suffered a mental breakdown, who needed to transition to long term disability.

#7 - A member who was banned a few years ago for being a pain in the neck recently

returned, with a lawyer's letter, to reapply for membership.

#8 - A complaint filed with OHR was withdrawn and settled amicably.

#10 - expectations of scope of artist's work versus compensation.

#11- Work conflict with an employee who was sick and could not continue working. attendance and reliability became an issue before we uncovered the issue; it weighed heavily on the other employees.

2. Did using a policy, procedure or law help in resolving it? Yes/no please explain

#1- Yes, in that such fundraising activity had nothing to do with our mandate, and that was easy for the attendant to understand; so the immediate problem of removing the chocolates was taken care of.

#2 - No, we used mediation.

#5 - Our code of conduct was written in response to it.

#6 - Our policy was not helpful in this regard, nor was the Employment Standards Act. We relied upon the guidance of a lawyer and the Ontario Human Right Code.

#7 - We had the support of a lawyer, who in the end told us the easiest, best thing to do was allow the member to rejoin. The member has rejoined and hasn't been heard from since.

#8 - Resolved with policy and negotiation.

#10 - No. It just dissolved, treated as a misunderstanding, and we started writing contracts to define more clearly what the expectations were.

#11 - Yes, and we also had to go through the process of creating an employee termination policy in order to resolve the issue.

3. Did a person's or a group of people's approach help in resolving it? Yes/no please explain.

#1 - Yes. The Director **invited the attendant to reflect** on how they came to put the chocolates out for sale, and in the course of talking it through, the attendant came to appreciate that even though it did not seem "pushy" at the time, endorsing missionary activity takes up/shuts down space in which others can feel free/comfortable expressing themselves.

#2 - Yes, but clear policy would have helped.

#5 - It really got out of hand and the centre almost went under. I'm not sure of the approached used before I was hired after the dust settled, so I don't know the answer to this.

#6 - An employment lawyer helped us determine our rights and the rights of the staff member.

#7 - It was resolved, but there is the taste from staff that this **member was able to get their way** because they had the money to fight us. The staff, in this case, don't feel like they could be really supported in this situation. Even though the member is not currently a problem (and their membership has expired again), it does leave a bad taste that as a public facing organization, we're **not particularly protected from the public**.

#8 - Board intervention and insurance effectively dealt with the matter.

#11 - Yes, It was taken on by the HR committee.

4. What has been the enduring effect of dealing with it well or poorly?

#1- Ultimately the attendant's position was dissolved (for budgetary reasons), and being able to maintain a strong relationship with that person means that the gallery's reputation around town remains good (which means a lot in a small town).

#2 - Staff concerns about changes and updates to the organization and how it affects them.

#5 - When there is an inkling of disrespect we **send people immediately to the code of conduct**. We don't let board members disrespect each other or the organization. We have recourse for people who feel they are treated unfairly but because we work pretty hard to **address discontent before it balloons into something more**, we don't have to use it often.

#6 - Senior staff was able to educate the board on a key staffing matter. The enduring effect of it was that the staff was treated sensitively and fairly and we were able to maintain business as usual in our operations.

#7 - It was dealt with fine, because the member just wanted to be part of us, but we don't really have a policy if this flares up again or if we have to deal with a more difficult member in the future.

#8 - Complete review and modernization of bylaws and HR policy occurred.

#11- It was dealt with well, everyone was happy with the eventual outcome, and together we built a lot **of trust** between employees and the committee's ability to mediate issues.

5. Do you think is needed in your organization to consistently and effectively address conflicts?

#1 - Clearer policies and another layer of accountability (e.g. an advisory board).

#2 - Policy and practices.

#5 - I think we are ok on the conflict resolution front. Probably if we had some conflict my board might get engaged.

#6 - Understanding what tools are available to help - the value of paying into long term disability benefits, employer and employee legal rights, etc.

#7 - better time management ;)

#8 - We have the means, the policy and the structure (now).

#10 - written contracts to start. if conflicts still arise, some legal information/advise/ mediation would be useful.

#11- A a general framework that the HR committee can use as a starting point to assess the problem. Some standard generalized steps.

MANO Conflict Resolution Workgroup
Conflict-Related Policy Research

MANO organizations were requested, through surveys and consultations, to provide sample by-laws, policies, and procedures that addressed conflict resolution. Additional research was also carried out to seek by-laws, policies, and procedures from non-MANO, artist and other non-profit organizations. Below is a summary of the information provided. Four organizations that responded to the survey reference some method for conflict resolution in their Anti-Racism, Access and Equity Policies, or their Codes of Conduct. These are Ed Video, SAW, IFCO, and Images Festival.

MANO Organizations' Submissions

Number of Member Organizations (as at May 2015)	52
Anti-Racism, Access and Equity Policy or Procedure	4
AODA-compliance policies	1
Artist Fee Policy	1
By-laws	2
Board Roles	1
Codes of Conduct/Ethics	4
Confidentiality	1
Conflict of Interest	1
Governance Policies/Handbooks/Guides	5
Vulnerable Persons	1

Organizations External to MANO

This part of the project was done through both primary and secondary research. The secondary online research component yielded fewer results than the primary approach. This was done through sending some form of the below message to consultant contacts, after which many of those contacts suggested other organizations to approach. MANO staff also provided contact names and information for 3 sibling organizations in Canada.

> "….[_____ gave me your email.]

> I am doing a consultancy with an artist organization, for which I need to research policies and practices both within and outside of the artist-run organization sector. The 4 key ones that have come up are: Conflict of Interest Guidelines, Conflict Resolution Policy, Code of Conduct, and/or Safe Space Policy.

Does the group you're connected with have any or all of these that I could get a copy of? I would not use organization names in any communications or the final report...."

In the cases in which the policies were available online or when groups gave explicit permission, the names of the organizations have been include. Otherwise they are referenced by group type. Four Conflict Resolution Policies were located online or made available by contacts. The ADRIA Complaints Policy set the framework for the MANO sample and can be found at https://www.adralberta.com/Resources/Documents/Policies/ADRIA%20Complaint%20Resolution%20Policy%20June%202015.pdf. The Sample Workplace Policy (located online), the CQAM Policy (located via contacts), and Health Organization (located via contacts) are inserted below. All non-conflict resolution specific policy and code samples noted in this chart will be passed to MANO staff.

	Contacted	Responded with Policy	Responded to report 'No Policies'
Alternative Dispute Resolution	1	1 (found online)	
Arts-related groups	5	1 (1 found online)	1
Arts-related networks	4	1 (1 online)	1
Community-based agencies	3	2	1
Community activist groups	2		
Health Centre	1	1	
Housing related (non-profit)	3	3	
Indigenous-specific (non-artist)	1	1	
Midwives' Association	1		
Non-profit, General	2	2 (found online)	
Social Service (municipal)	1	1 (online)	
Workers Rights	6	2 (1 online)	2
Totals	30	15	5

"Health Organization" Conflict Resolution Policy

2.5 Conflict Resolution Policy

Health Organization is committed to developing effective ways to address conflict within the organization. This policy applies to individuals who work within the Health Organization including staff, students and volunteers.

Procedure

Conflict resolution between individuals is may be challenging and it is important that discussions in order to resolve conflict need to be framed in such a way that they do not escalate the conflict.

Here are some suggestions as to how to go about this.

- Choose a time and place to meet that is private and agreeable to both parties.
- Allow a reasonable amount of time.
- The meeting is not about one or other of you "winning"; it is about coming to a mutual understanding. This takes patience and a willingness to listen to the other's point of view and not to dismiss it as the wrong point of view.
- Speak directly from how you feel or felt and speak directly to the issue; do not make personal attacks on the other person; do not belittle how they felt or are feeling now.
- Ideally you will be able to learn from the conversation how to avoid mis-communicating and/or mis-understanding in future. "If what I / you said or did came across like that, what should I / we do to guard against this happening again?"

Approval Date: May 2000
Approved by: Leadership Team
Dates of Review & Revision: May 2003, January 2007, May 2007, January 2009, November 2013

Sample Workplace Conflict Resolution Policy
There are various types of internal dispute resolution options, ranging from a very formal, binding mandatory arbitration procedure (which may or may not be legally available to an organization), to the informal open door policy favored by most mid-sized and small nonprofits. Some options are:

1. mandatory binding arbitration,

2. a commitment to bring disputes to alternative dispute resolution (ADR), using non-binding arbitration,

3. a formal two- or three-step grievance procedure, with a review committee comprised of various board and staff members,

4. referral of the dispute to an impartial party, who may or may not be connected with the nonprofit, to serve as the arbiter of disputes,

5. an open door policy, and

6. a peer review committee.

Whatever the mechanism, an internal dispute resolution procedure is helpful because it provides an outlet for employees' concerns. A grievance or complaint procedure gives the employee his "day in court" and can be helpful for the nonprofit's management because misunderstandings or unhealthy disputes between staff may be uncovered and addressed before the conflicts spin out of control. Serious concerns, such as sexual harassment between co-workers, can be uncovered and addressed by the nonprofit before a lawsuit is filed. The goal of internal dispute resolution is to solve the problems at the lowest level possible, so that workplace disputes don't escalate into legal actions. It is important that whatever internal dispute resolution procedures the nonprofit uses provide that employees who use the process will not be retaliated against.

https://www.nonprofitrisk.org/library/articles/employment01002000.shtml

POLITIQUE DE RÉSOLUTION DES CONFLITS
DU CONSEIL QUÉBÉCOIS DES ARTS MÉDIATIQUES

Le Conseil d'administration du Conseil québécois des arts médiatiques reconnaît que les conflits peuvent survenir au sein de la vie associative. Au travail comme ailleurs, si les conflits sont identifiés et reconnus rapidement et traités de manière appropriée, ils peuvent devenir des sources d'enrichissement et d'amélioration dans notre vie associative.
Le conseil d'administration reconnaît également que tout conflit non reconnu, négligé ou non traité convenablement peut dégénérer en violence organisationnelle ; ils peuvent alors, avoir un impact négatif sur les personnes et sur l'organisation tout entière.
Par conséquent, le conseil croit qu'en cas de désaccord, la prévention et l'intervention précoces sont les meilleurs moyens pour éviter que les conflits ne dégénèrent. Dans une démarche favorisant la collaboration entre les parties concernées et afin de maintenir un milieu de travail favorable et respectueux des personnes qui oeuvrent au CQAM, la présente politique émet les lignes suivantes de conduite pour les administrateurs, dirigeants, employés, membres et collaborateurs du CQAM

1. Dans un but de prévention, le CQAM encouragera la participation à des activités de formation de groupe ou individuelles visant à créer un environnement de collaboration pour favoriser la résolution de tout conflit de contenu ou de tout conflit relationnel.

2. Dans un but de prévention, le CQAM élaborera une politique pour prévenir et contrer la violence et le harcèlement psychologique en milieu de travail.

3. Afin de résoudre toute situation problématique ou tout conflit le plus tôt possible de façon juste et respectueuse, le CQAM prône les actions suivantes:

- Toute personne impliquée dans un désaccord a la responsabilité de faire connaître, de manière appropriée, son désaccord directement l'administrateur désigné sur la déclaration d'engagement de l'employeur affichée à la vue de tous dans les locaux du CQAM
 - Le CQAM favorisera le rapprochement des parties en encourageant la tenue de rencontres permettant aux personnes de reprendre le dialogue dans un climat de collaboration et de saine confrontation et de participer à tout processus de résolution de conflit, si nécessaire.

Politique approuvée le ……………………………………
Numéro de la résolution ………………………………
Date de la prochaine évaluation …………………

Online: http://www.cqam.org/pages.php?lg=fr&type=cqam&id=40

Glossary

Active Listening: an approach to interpersonal communication that is grounded in being willing and open to understanding another person's perspectives. It involves developing and implementing skills to connect with what someone is communicating (both in words and in other ways). This includes: paying close attention/listen; remembering what they have said; thinking and reflecting on the context, and; paraphrasing and feeding back what has been communicated.

Advisory Group: in the MANO Sample Conflict Resolution Policy, an *ex-officio* body of 3 to 4 persons, external to the Board of Directors, with professional expertise to provide advice on addressing complaints.

BATNA : this is the "best alternative to a negotiated agreement."[28] Simply put, it is some sort of process, legal or otherwise, or course of action that a person assesses is a better alternative for them than either sitting down with another party to negotiate or engage in mediation, or to agreeing to an outcome once such a process has been underway.

Conflict: an ongoing experience of varying degrees of tension, usually involving multiple events, and misunderstandings, possibly leading to the building up of layers of interpersonal discord.

Conflict Resolution Sub-Committee: in the MANO Sample Conflict Resolution Policy, this is a three-person standing committee of the Board to which unresolved formal complaints are sent for review and recommendations.

Complainant: an individual lodging a complaint against another individual, policy or practice.

Discipline: refers to the corrective action taken in respect to an individual, as a consequence of a formal complaint. Disciplinary measures are normally considered confidential, and the details are usually not shared with other parties to the conflict, except when considered necessary to advise other organizations or safeguard the public.

Dispute: a specific disagreement between or among people on a particular topic.

Interest-Based Negotiation and Mediation: a collaborative orientation to resolving disputes that focuses on addressing the needs and concerns of the parties involved. The range of interpersonal, psychological and substantive issues and interests all need to be spelled out, taken seriously, and addressed. This contrasts with positional bargaining, in which each side argues over their standpoints and will reach an agreement once they have a compromise they can both accept.[29]

Internal Advisor: in the MANO Sample Conflict Resolution Policy, an individual who has been appointed by the Board to act as an intermediary, convening authority, facilitator and/or mediator in the conflict resolution process, and to work with the parties to achieve a satisfactory outcome.

Power Relations: individual and/or systemic ways of functioning, coded into (organizational) practices, policies, and structures, that differentially privilege certain groups and individuals while marginalizing & excluding other groups and individuals. They are usually multiple and interconnected. They include – for some examples – race, gender, gender identity, dis/ability, class location, and/or sexual orientation.

Respondent: an individual against whom a complaint has been made, and/or someone responsible for the policy or activity complained about.

Responsible Contact People: in the MANO Sample Conflict Resolution Policy, those who are accountable in the Media-Arts Organization for assisting in conflict resolution and addressing of formal complaints. They do not act as advocates for any party in the conflict. Their role is a neutral implementer of the policy.

Support People: individuals not connected to the conflicts or disputes being addressed, which either a complainant or respondent may choose to have in attendance at mediation meetings.

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Notes:

1   Cooperative Solutions, 2010, p. 1_2

2   Landau et al (2001), p.7-17. Ellis & Anderson (2005) also identified a number of these. See pages 11-12.

3   MacDonald (2013), p. 1.

4   MacDonald (2013), p. 2-3

5   Frei (2005), p. 14

6   Landau et al. (2001) p. 21

7   Ellis & Anderson (2005), p. 4

8   Ellis & Anderson, 2005, p. 22.

9   OHRC (no date) *Human Rights 101*. Online: http://www.ohrc.on.ca/en/learning/human-rights-101/human-rights-101.

10   Fisher et al. (2011), p. 3

11   Fisher et al. (2011), p. 4

12   Fisher et al. (2011), p. 5

13   Fisher et al. (2011), p. 7

14   Fisher et al (2011) p. 11, 43 & 52; Landau et al. (2001). p. 41-42

15   Fisher et al (2011) p. 50

16   Ontario Human Rights Commission (2005). *Policy and guidelines on racism and racial discrimination* p. 21

17   Fisher et al (2011) p. 26-27

18   Fisher et al (2011), p. 104 and Landau et al., 2001, p. 57

19   Social Justice Tribunals Ontario. (2015). *Human Rights Tribunal of Ontario*. Online: http://www.sjto.gov.on.ca/hrto/

20   This section is primarily based on the work of Landau et al (2001, p. 56-65) and Cooperative Solutions (2010).

21   Ellis & Anderson, 2005, p. 25

22   Ellis & Anderson, 2005, p. 28

23   ADR Ontario provides certified mediator training. Community-based organizations such as St. Stephen's Conflict Resolution Service also provide shorter, less comprehensive and potentially more budget-friendly training options.

24   OHRC (no date) *Human Rights 101*. Online: http://www.ohrc.on.ca/en/learning/human-rights-101/human-rights-101.

25   See for example in the Reference list at the end of the Guide the National Campus & Community Radio Association's, *Equity Resources*, & Lopes's and Thomas's *Dancing on Live Embers.*

26   From Multiprofessional Faculty Development, NHS. (no date). *Skillful questioning and active listening*. Online: http://www.faculty.londondeanery.ac.uk/e-learning/appraisal/skilful-questioning-and-active-listening

27   See https://figures.boundless.com/9559/raw/active-listening-chart.png for a chart that visually explains this process.

28   See Fisher et al. (2011).

29   Fisher et al. (2011), p. 3

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