CHALLENGING BEHAVIOURS-A CLINICIAN'S PERSPECTIVE

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The term **challenging behaviours** has become an integral part of the jargon of the caring professions and others over the last 25 years. What does it really mean? As always in these situations I go to Google who tell me:

> *Challenging behaviors is a term used to describe certain types of maladaptive behaviors. Other terms such as problem behaviors, disruptive behaviors, or difficult behaviors, are commonly used to describe a variety of different behaviors. The problem with these terms is that they suggest it is the individual that is the problem. The emphasis is important because we need to understand the causes of challenging behavior in order to change the situation effectively.*

With all due respect to the author of that definition, and understanding the motives behind it nevertheless it seems to exemplify the truth of a quote I have on my desk which reads:

> *More and more the concept of moral responsibility is overtaken by the concept of illness*

In truth, challenging behaviours may well be the fault of parents, teachers, schools, the church, society even but this is all of little value when one is dealing with a person whose behaviour is difficult. A person who is rude, aggressive, frightening, interminable, obstructive, unresponsive or just unreasonable.

Challenging behaviours pose problems for tribunals, advocates and expert witnesses and indeed challenging behaviours may be manifested by tribunals, advocates and expert witnesses in addition to claimants.

Leaving aside the question of challenging behaviour by the first three mentioned I will focus on the behaviour of claimants.

Some of the challenging behaviour of claimants may arise from ignorance, misunderstanding, cultural differences or even clumsy efforts to assist the Tribunal, these type of behaviours are more easily managed.

Tribunals have far more difficulty in dealing with claimants who are not prepared to follow the unwritten rules or to accept the process of the Tribunal and who do not understand or acknowledge that the role of the Tribunal is to act impartially to administer the law.

These behaviours reflect a fundamental challenge to the procedures by which the Tribunal comes to its findings. The ordinary sanctions therefore may not prove to be of value. These sanctions include warnings, fines, brief

adjournments, standing down the case, and in clear cases of contempt, possibly incarceration. This process is unpleasant and difficult for all concerned although possibly not for the claimant and is usually a manifestation of failure.

In the context of a tribunal of whatever sort, it is rare that the type of behaviours we are dealing with today arise from mental illness or from intellectual disability per se. While these conditions may certainly be present mental illness or intellectual disability is not an excuse for bad behaviour.

Sometimes these type of behaviour arises from cultural expectations, people who expect that the Tribunal will be biased, sometimes it arises from ignorance, possibly because of an intellectual disability and sometimes it arises because the claimant is not socialised and is operating on the basis that it is "the squeaky wheel that gets the grease". The louder I shout, the more I will get.

It is surprising that of the many thousands of people I have seen for medicolegal assessment over 30 years so few have been a challenge.

Of course I will never forget the member of a criminal organization who decided I was a friend and that he would deal with anybody who gave me a hard time. He said he would be offended if I did not make use of his services.

Then there was the young woman who turned up on my doorstep at five o'clock in the morning and proceeded to remove her clothing.

There was of course the thickset man covered in tattoos who arrived for his 10 o'clock appointment almost paralytically drunk.

More germane to this discussion are the several people who have been threatening, rude, unresponsive and a small number who have bombarded me with written material, faxes, and telephone calls in a vain effort to prove the rightness of their position.

Surprisingly, most people are responsive, polite and behave appropriately, this is even with people who are likely to see me as an adversary. I am talking about people seen both in a civil and a criminal setting, excluding Family Court matters of course where bad behaviour appears normal.

THE BEHAVIOURS

There are a variety of behaviours that fall into this category, these include: Rudeness, tardiness, unresponsiveness, obstructiveness, anger, abusiveness, obsessiveness, and threatening behaviour.

There appear to be six main groups, the first group, and by far the larger group, are people who are rude. The second group are those who for a variety of reasons have become enraged. The third group are those who are paranoid, the fourth group are those described as help rejecting complainers.

The fifth group are the obsessed. The sixth and much smaller group are those who are deliberately obstructive and manipulative.

In dealing with these groups early identification of potential problems is central to effective management.

There are usually early warning indicators of problems.

THE RUDE

Rudeness usually arises from ignorance and lack of social training and is often unwitting but maybe offensive nonetheless. For example I find it discourteous when people wear a baseball cap in my consulting room. Over some time I have developed a strategy for dealing with this, I show people where they can place the cap on my desk without directly asking them to remove the cap. I also ask people to moderate their language if they are swearing. Usually rudeness is responsive to firm direction.

THE ENRAGED

Claimants who are enraged inspire some trepidation and possibly fear**.** The enraged manifest their anger by their body language, their tone of voice and commonly they have flushed cheek bones (I have no idea why they have flushed cheekbones but they certainly seem to have flushed cheekbones, I don't mean that all people with flushed cheekbones are enraged but it is helpful).

Once it is recognised that you are dealing with a claimant who is enraged you must take steps to do with this immediately because it will profoundly interfere with proceedings.

The sorts of things that I notice are people who, either in words or in manner, express contempt for me and for the process, people who seem unable to restrain their swearing and unable to lower their voice.

Once I recognise that I'm dealing with a person who is beyond reason at that time I immediately put down my pad and pen and say words to the effect

you seem to be very upset, can you tell me what is going on for you

The usual response is that people burst out with what has been kept bottled up for some time. This may consist of a torrent of abuse about the process, about the TAC or VWA, about other doctors, and so forth.

It is astonishing how quickly people regain their equilibrium after they are given an opportunity to ventilate in this fashion. The vast majority of people who are given this opportunity to settle down, they become cooperative, and it is surprising how often they apologise at the end of the interview for their outburst.

I also make it clear that swearing is offensive and rude and must stop. Most people cooperate.

There is a small group for whom this is not enough and whose behaviour escalates. I then terminate the interview and ask them to leave and make it clear that if they are not prepared to leave I will contact the police. In each case people have left. I immediately contact the referral source and explain the situation and also write a file note to indicate what happened. It is rare that I would agree to see that person again. In these situations I may not charge a fee if it will prevent further dealings with that person.

I have been asked to see people who have assaulted other examiners. On the several occasions when this has occurred I have become convinced that the previous examiner was unaware of the impending explosion and made no attempts to defuse it. I am reminded of the wisdom of a dear man who was my supervisor when I was training. I would tell him about my involvement in a most difficult an awkward situation and ask him for his advice about what he would have done. His answer was always the same.

I would not have been in that situation

On these occasions I have agreed to see the claimant but only in the presence of a security person. On the rare occasions when this has taken place the most anxious person in the room is usually the security person.

THE PARANOID

Claimants who are paranoid (and by paranoid I mean inappropriately suspicious) are convinced of their own rightness and are often grandiose and contemptuous. They may also be enraged and they may also be obsessional. The usual early indicator is their prickliness. The majority of claimants who are paranoid should be managed with kid gloves. They require a good deal of explanation and I treat them with exaggerated deference. They are often surprisingly cooperative.

HELP REJECTING COMPLAINERS

Help rejecting complainers, also known as "yes but" people are a common trap. They invite support and advice which they promptly reject. They are a cause of major frustration to health care providers and I imagine to tribunals who endeavour to assist them but whose best efforts are rebuffed. The ostensible purpose for which they are seeking advice or help is not their real purpose. The real, albeit unconscious motivation, is to demonstrate your futility.

Again, early recognition is very important. The usual early warning signs are claimants who are dissatisfied and contemptuous about previous health-care providers or other tribunals. These complaints are sometimes accompanied by inappropriate praise about the way the complainant will be dealt with by

you. One thing is certain, in three months time your name will also be on the list of people who have failed them.

The best method of dealing with help rejecting complainers is to provide them with no assistance other than the minimum required and offer nothing gratuitously. This thwarts their gameplaying capacity.

THE OBSESSED

The obsessed are readily identifiable. They have been persistent litigants and are often accompanied by voluminous documentation which they send to all parties willy-nilly. They may have some grasp of the law but it is usually very superficial. Their fight for "justice" has come at an enormous price often sacrificing their families, their work, even their health and certainly their finances. They are sad figures who cannot be helped. They have no insight into their own behaviour and, if allowed, will relate every injustice they have ever experienced at interminable length. They inhabit what I call a museum of injustice. All visitors are invited and at no cost, will be given a full inspection of the museum and its numerous annexes.

The challenge is to recognise this group at a very early time. Generally the matter at hand focuses on a specific issue and if the tribunal can insist that that issue and that issue alone is dealt with this may help cut through a lot of the distractions. Despite this however there is often a titanic battle of wills with the obsessed who have the advantage of having nothing else in their life and are prepared to spend innumerable hours and whatever money they have in their struggle.

THE MANIPULATORS

The manipulators are difficult for us all to deal with. The manipulators are people with a very conscious agenda who are using the system for their own ends. A classic example was a man I saw a number of years ago who had been convicted of murder. At his trial he had pleaded insanity but that defence had been thrown out. When I first saw him it was for the purposes of establishing that he was not mentally ill so he could be given a specific sentence and not be detained as a Governor's pleasure patient. He explained that he had made up his story of being mentally ill to avoid being convicted and gave a convincing account of being inspired to talk of a sea of blood and so forth by a specific book he had read.

I next saw him two years later at his deportation hearing. He had completed his sentence and was about to be deported unless it could be proven that he was mentally ill. It was to his advantage to prove that he was mentally ill. I was vigorously cross-examined about the report I had written as his advocate was endeavouring to prove that indeed he was mentally ill. I thought his manipulation showed considerable chutzpah.

SPECIFIC PROBLEMS FOR TRIBUNALS

It is difficult for a member of a Tribunal to have a one-to-one conversation with a claimant. Discussion with a claimant usually has to take place in an open Tribunal setting and with the permission of the barrister. This is not the ideal setting for any intimacy. Furthermore, there is only a certain amount of time in which a tribunal can deal with this type of behaviour before it becomes too inconvenient and disruptive. The tribunal also has to consider the well-being of all the other people present including the public. The tribunal is also operating in a public setting and is accountable for whatever is said or done.

It may also be difficult for a tribunal to develop early awareness of problems with a claimant. The claimant may not be in the court or tribunal or may be seated behind counsel. The tribunal may not be aware of any problems until the claimant is a witness or makes an angry outburst. Generally by this stage the matter is difficult to resolve easily.

The sanctions available to a tribunal tend to be unwieldy and can be heavy-handed with little subtlety.

CONCLUSIONS

The key to management of claimants with challenging behaviours is to recognise the problems early, attempt to clarify issues raised by the claimant to the degree that that is possible and use strict guidelines with appropriate empathy.

Despite your best endeavours there will always be a small number who are unmanageable.