

THE LIES WE TELL OURSELVES

Leslie Cuthbert warns of the hidden effects of prejudice and preference known as 'cognitive dissonance'



IN THE SPRING 2014 issue of *Tribunals*, Lydia Seymour wrote about the dangers posed by a psychological term known as 'confirmation bias'. If you have not already read it, I would recommend doing so as a complementary piece to this article. Confirmation bias is just one of a number of unconscious biases everyone, including decision-makers, regularly fall foul of.

Part of the competencies which the Judicial College expects of all judicial office-holders is to be aware of our own prejudices and preferences and to take steps to ensure that they do not have an excessive impact upon our determinations. However, where we are less assisted is in relation to identifying and coping with the dissonance we feel when we are confronted with discomforting evidence, i.e. evidence which is contrary to the view that our unconscious biases may have led us to reach.

Conflicting information

Cognitive dissonance is the name given by psychologists to the mental stress or discomfort experienced by an individual when they are confronted by new information that conflicts with their existing beliefs, ideas or values.

As human beings we strive for internal consistency. When inconsistency (i.e. dissonance) is experienced, individuals tend to become uncomfortable and they are motivated to attempt to reduce this dissonance. What this means in practical terms is that when someone else puts forward a belief or evidence which causes dissonance in us we are likely either to misperceive what is being said, reject it out of

hand or dispute the validity of the information. Alternatively, we may seek support from others who we consider share our beliefs or we may attempt to persuade or intimidate others to agree with our perspective.

Has this happened to you?

Has any of the following situations ever happened to you? You have read or listened to the evidence in the case and you have a preliminary view as to the potential decision you feel should be made. However, one of your fellow tribunal members expresses an entirely different opinion as to their preferred course of action. Have you ever immediately dismissed their view out of hand? Have you alternatively been told by your colleague that your opinion is 'stupid', 'flawed' or 'unsupported by the evidence'? Have they, to your mind, misquoted the evidence or sought to get another tribunal member to side with their perspective? If any of these situations has occurred it may be that cognitive dissonance was at work.

Self-awareness and challenging yourself are key to understanding when and how cognitive dissonance may be affecting your decision-making.

Research¹ has now gone so far as to use fMRI – functional magnetic resonance imaging – to investigate the neural basis of cognitive dissonance in a modified version of what is known as an induced compliance paradigm. While in the scanner, the participants 'argued' with themselves that the uncomfortable MRI environment was in actuality a very pleasant experience and the resulting neurological changes were recorded.

What can you do about minimising cognitive dissonance? Self-awareness and challenging yourself are key to understanding when and how cognitive dissonance may be affecting your

decision-making. For example, if your internal rationalisation for something is 'Well, that's the way I've always done it', challenge yourself as to whether it is right for you to undertake the decision in the same way on this occasion especially when someone suggests an alternative. For example, in the Mental Health Tribunal, members traditionally ask their questions of those attending before the patient's representative asks their questions. However, my preferred approach is for the patient's representative to ask their questions first as a means of focusing the hearing on the disputed issues and to avoid unnecessary duplication of questioning. Some representatives do not accept this approach as a method and immediately request that instead the hearing follow the 'normal' manner.

Therefore avoid immediately rejecting a different opinion to your own. Instead, be aware of your response (irritation, annoyance or whatever) and,

rather than demonstrating your frustration, enquire into why another member has formed a different viewpoint. Accordingly, we have to accept that we are not infallible (a shocking prospect I know) and be willing to admit when we are wrong and apologise if needs be.

If this subject has been of interest to you and you would like to find out more you may wish to read the following book, with a wonderful title, where the entire focus is on describing practical examples of cognitive dissonance at work: 'Mistakes were made (but not by me)' by Carol Tavris and Elliot Aronson.

Leslie Cuthbert sits in the First-tier Tribunal (Health, Education and Social Care Chamber)

¹ Van Veen V, Krug MK, Schooler JW, Carter CS (2009). 'Neural activity predicts attitude change in cognitive dissonance' (PDF). *Nature Neuroscience* 12 (11): 1469–147.