

TOO CONFIDENT BY HALF

Leslie Cuthbert explains four factors that are at work when tribunals are asked to make decisions, each of which can induce individuals to fall into a 'dangerous' mental state that clouds their judgement.



OVERCONFIDENCE is a dangerous quality in a tribunal member since it has the potential to lead panels into making inappropriate decisions.

Unfortunately tribunal members are exposed to all four of the factors that research studies suggest will lead to overconfidence.

1 'Hard-easy' effect

First, we are likely to become overconfident when facing difficulty, i.e. when we have to make a judgment on a case where there is no way of knowing all the facts. That must be true for virtually every decision a court or tribunal makes, is it not? This factor is known to psychologists as the 'hard-easy' effect whereby we tend to be underconfident with easy problems and overconfident when dealing with tricky ones. This effect is especially true when making accurate future predictions, a task which, if not impossible, is incredibly difficult (yet is one that tribunals are often asked to make!)

2 Familiarity

Secondly, we may become overconfident when dealing with something familiar to us, i.e. when we are doing something we have done a number of times before. Many tribunal members obviously sit on numerous hearings over the course of a year and therefore they are particularly at risk of this factor. As might be deduced, the reason that this factor leads to overconfidence is because we are likely over time to trust our ability as a decision-maker and to become, to an extent, complacent in our approach. How many times, when confronted with a hearing, have you thought to yourself, 'Ah, it's another one of those...?'

3 Quantity of information

Thirdly, overconfidence develops when more and more information is provided to us, i.e. the more we know about something the more we are likely

to think that we can handle the decision we have to make. Quantity of information does not, however, equate to quality of decision-making. Some individuals may be very confident that they have reached the 'right' decision based upon the ever-increasing information that they have received during the course of a hearing. However, research shows that while confidence in your decision increases, the accuracy of a judgment does not necessarily increase significantly the more information that one receives.¹

4 Active engagement

Finally, overconfidence is more likely when we actively engage in a process, e.g. someone who flips a coin themselves believes that they are more able to accurately predict whether the coin will come up heads or tails as compared with someone who is simply watching another person flip the same coin. Hopefully, all tribunal members are actively involved in the hearing and therefore this factor is also likely to be prevalent.

However, forewarned is forearmed! An awareness of these four elements helps individuals to take steps to counteract them. If we accept that we will all inevitably stumble at some point in a hearing and that we need to continue to challenge ourselves and to learn, the risk of overconfidence is reduced.

Therefore, if we have the advantage of sitting with one or more other panel members, we should be open to listening to our colleagues who may be able to remind us of our own fallibility and thereby stop us from deceiving ourselves into making an overconfident blunder.

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¹ *Overconfidence in case-study judgments*, Stuart Oskamp, Journal of Consulting Psychiatry 29, no3 (1965): 261-265.