



**2022 CLM Focus June Conference
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Sad But True: Unconscious Bias in the Claims Environment

I. Implicit Bias, Explicit Bias & Racial Anxiety

A. Understanding Implicit Bias

Implicit Bias (Unconscious Bias)

Thoughts and feelings are “implicit” if we are unaware of them or mistaken about their nature. We have a bias when, rather than being neutral, we prefer or aversion to a person or group of people. We use the term “implicit bias” to describe when we have attitudes towards people or associate stereotypes with them without our conscious knowledge.

Why it matters:

The mind sciences have found that most of our actions occur without our conscious thoughts, allowing us to function in our extraordinarily complex world. This means, however, that our implicit biases often predict how we’ll behave more accurately than our conscious values.

What can be done about it?

Social scientists are in the early stages of determining how to “debias.” Media and culture makers have a role to play by ceasing to perpetuate stereotypes in news and popular culture. In the meantime, institutions and individuals can identify risk areas where our implicit biases may affect our behaviors and judgments. Instituting specific procedures of decision making and encouraging people to be mindful of the risks of implicit bias can help us avoid acting according to biases that are contrary to our conscious values and beliefs.

B. Understanding Explicit Bias

Explicit Bias

“Explicit bias” refers to the attitudes and beliefs we have about a person or group on a conscious level. Much of the time, these biases and their expression arise as the direct result of a perceived threat. When people feel threatened, they are more likely to draw group boundaries to distinguish themselves from others.

Why it’s important:

People are more likely to express explicit biases when they perceive an individual or group to be a threat to their wellbeing. Research has shown that white people are more likely to express anti-Muslim prejudice when they perceive national security to be at risk and express more negative attitudes towards Asian Americans when they perceive an economic threat. When

people perceive their biases to be valid, they are more likely to justify unfair treatment or even violence. This unfair treatment can have long-term negative impacts on its victims' physical and mental health.

What can be done about it?

Expressions of explicit bias (discrimination, hate speech, etc.) occur as the result of deliberate thought. Thus, they can be consciously regulated. People are more motivated to control their biases if there are social norms in place which dictate that prejudice is not socially acceptable. As we start forming our biases at an early age, it is important that we reinforce norms in our homes, schools, and in the media that promote respect for one's own and other groups. Research shows that emphasizing a common group identity (such as "we are all Americans") can help reduce interracial tensions that may arise between majority and minority ethnic groups in the U.S. Also, when conducted under the right conditions, studies show intergroup contact between people of different races can increase trust and reduce the anxiety that underlies bias.

C. Understanding Racial Anxiety

Racial Anxiety

"Racial anxiety" refers to the heightened levels of stress and emotion that we confront when interacting with people of other races. People of color experience concern that they will be the subject of discrimination and hostility. White people, meanwhile, worry that they will be assumed to be racist. Studies have shown that interracial interaction can cause physical symptoms of anxiety and that our non-verbal behaviors—making eye contact, using welcoming gestures or a pleasant tone of voice, for example—can be affected as well. When everyone in a conversation is anxious that it will turn negative, it often does. This causes a kind of feedback loop where the fears and anxieties of both white people and people of color are confirmed by their everyday interactions.

Why it matters:

One obvious way that racial anxiety affects our daily lives is in the aggravation of existing racial tensions. While this may seem small in comparison to larger structural challenges, racial anxiety affects interactions with teachers, employers, law enforcement, and healthcare providers. Racial anxiety also affects many areas of our lives in ways that are subtle but pervasive.

What can be done about it?

Over the long term, diversity, integration, inclusion, and greater contact between people of different races will go a long way towards lessening racial anxiety. Positive interracial contact has been shown to increase positive impressions of people of other races. Studies show these interactions will be most successful when shared identity is affirmed prior to recognizing difference. Ignoring difference completely, however, is likely to create a scenario in which subconscious anxieties and stereotypes can flourish.

II. Unconscious Bias Encountered in the Workplace

Research into unconscious bias in the workplace has shown time and again that none of us is immune to it.

Affinity Bias

Affinity bias (also known as similarity bias) occurs when we treat people more favorably, simply because they are like us or others we like. Similarities can include any shared commonality, including everything, from likes, dislikes, or appearance, to schooling or career history.

Avoiding affinity bias is key to creating diverse teams. When recruiting, it can lead managers to hire individuals who they get along with, but who aren't necessarily the right fit in terms of experience or skillset. As a result, it can hurt the growth and function of a business, as well as denying opportunities to otherwise deserving applicants.

To avoid affinity bias, ensure that an applicant's skills and experience are given greater importance than attributes such as background or personality, and implement blind recruitment processes.

Attribution Bias

Attribution bias occurs when we incorrectly evaluate the reasons behind the experiences and accomplishments of others. Usually, this means we believe individuals' successes are due to luck, as opposed to effort or skill, which is seen to be behind their negative experiences or failures.

Impacting recruitment and performance reviews, attribution bias can lead to managers unduly disregarding candidates' accomplishments, letting excellent talent pass by that could have otherwise been an asset to their teams and the business.

Guaranteeing you don't fall prey to attribution bias involves properly considering the reasons behind individuals' backgrounds and accomplishments, as opposed to jumping to conclusions. In the workplace, this can mean analyzing performance indicators, properly analyzing an employee's role in successful or unsuccessful projects, and analyzing a wide range of work examples.

Conformity Bias

Conformity bias is the pressure to we feel to act due to the actions of others, not our own independent thinking. This bias is due to our want to conform and please others around us.

This bias is a big problem in business settings, since it can lead to the formation of groupthink, where discussions become echo chambers of the same or similar views, or cultures where decisions aren't properly critiqued. Due to these effects, conformity bias can lead to senior members of staff having undue influence over hiring, promotion and other business processes, and poor decision-making impacting business performance.

To fight conformity bias, create and promote a workplace culture that allows staff to constructively voice their views and opinions, and that sees superiors actively listening to the concerns of their teams.

Confirmation Bias

If we make decisions or draw conclusions about people or situations that are based on our own experiences, beliefs, or preconceptions, then we have fallen prey to confirmation bias. When we

succumb to it, early interactions and experiences of others can go on to influence our lasting, long-term feelings towards them, regardless of their current actions or performance. In the workplace, avoiding confirmation bias means giving individuals a second chance, as well as identifying and ignoring your in-built prejudices to give individuals a proper evaluation. In the realm of interviews, this also means adopting standardized questions that stop your biases from manifesting themselves as you quiz prospective hires.

Name bias

Name bias is when we treat people with similar names as ourselves preferably. Often taking place along racial and cultural lines, it can seriously hamper the prospects of minority individuals whose names differ from the group. In the US, many studies have shown that individuals with ethnic sounding names were more discriminated against compared to those with Caucasian sounding names.

In workplace settings, succumbing to name bias can result in a lack of diversity amongst employees, or see capable, talented individuals with minority names not offered promotions they otherwise deserve.

Overcoming name bias requires us to look past our initial reactions to someone's name and assess their skills and personality instead. In recruitment, it can be overcome by removing candidates' personal information before handing their resumes and applications to managers, ensuring interviewees are selected based on their accomplishments.

Gender Bias

When we tend towards preferring one gender over another, we are exhibiting gender bias. Generally speaking, gender bias affects women far more than it does men, and can lead to both men and women hiring more male job candidates, and have an influence on the roles men and women are seen to be best at performing.

The workplace effects of gender bias are clear – more men in senior positions, hiring more men than women and for certain roles, resulting in a team marked by a lack of diversity, not the skills and accomplishments of its members.

As with name bias, overcoming gender bias requires resumes and applications to be anonymized, on top of the establishment of diversity hiring goals to ensure that the gender mix of your business is equal.

Ageism

Ageism is the discrimination of individuals based on their age. A common bias, a 2019 Hiscock survey found that 44% of workers knew someone that had been affected by age discrimination, and 36% felt their age prevented them from getting a job after they turned 40.

Based on stereotypical assumptions made about older people, such as that they are resistant to change or anti-technology, ageism can manifest itself in many areas of business, although the hiring and promotion processes are most common. The effect on business can be severe – excluding the aged often means ignoring the most experienced hires.

To combat, anonymize job applications so that age is not shown, and look beyond colleagues' ages to their skillsets and experience when promoting.

Halo Effect

This type of bias comes up often in our unconscious bias training sessions. The halo effect sees us believe all an individual's attributes are exceptional after seeing they have a single exceptional attribute, such as their place of education, previous employer, or personality.

Impacting interviews and reviews, the halo effect can result in generally ineffective individuals being hired or promoted due to a notable, but otherwise limited, success, or their mere presence in a highly regarded organization. This comes at the expense of other individuals who, despite appearing less exceptional at first, are just as, if not more skilled.

To avoid the halo effect, try to consider and compare all an individual's characteristics, qualities, and weaknesses to produce a well-rounded view.

Horns Effect

The horns effect occurs when we form a complete view of someone based on a single negative attribute. The opposite of the halo effect, the horns effect has similar impacts on business, excluding employees who may be generally excellent but who have done something potentially minor wrong, removing the benefit of the doubt. One way of exemplifying this bias is a person arriving at an organization for a job interview. When they walk into the building, they do not see an employee walking behind them and therefore fail to hold the door open. This person happens to be the person conducting the interview. And although the applicant did not even see them, their chances of getting the job have been skewed because the interviewer's tainted judgement of that applicant.

Avoiding the horns effect requires us to not rush to conclusions when interviewing prospective hires and to use techniques such as blind interviewing and standardized interview questions.

III. How Can We Combat Unconscious Bias in the Workplace?

Fortunately, there is a lot we can do to combat unconscious bias in the workplace.

Accept unconscious bias exists and questions assumptions

The first step on how to challenge unconscious bias at work is to acknowledge that unconscious bias exists and that we all have preconceptions about people which we cannot control.

When you ask most people to justify a decision or choice they made, they will have an explanation, but it's often not the whole truth. All of us are trained to rationalize decisions that have been made by our subconscious without any logical input, even if they are at odds with our conscious beliefs. Few people get out of bed in the morning planning to treat people unfairly or unequally, but the results of numerous scientific studies prove that we do.

That means, to overcome the bias that's built-in to our brains, we need to question our beliefs and decisions, even when they 'feel' right.

Slow down your decision-making

You are most susceptible to making a biased decision when you are interacting with other people. In any conversation with your direct reports or colleagues, you are at risk of making assumptions, jumping to conclusions, or reverting to your gut instincts.

One of the interesting things about unconscious bias at work is that if you're interacting with other people and you're also under pressure, then the likelihood of being governed by your biases increases.

We can process around 40 things per second consciously – this rises to 11 million unconsciously. If you're having to fill in the blanks due to lack of information, or at the other extreme, you have information overload then again, the impact of bias is more pronounced.

Combat bias in processes and strategies

Changing the way your workplace operates is a sure-fire way to ensure unconscious biases can't affect staff or anyone interacting with the business, such as applicants or customers.

It involves analyzing all the different steps of your processes and plans. In doing so, you can work out how bias might infiltrate actions, such as decision making or day-to-day work, and how they will likely affect people.

From there, you can review and analyze your business' approach to ensure it's free from bias. That might mean blind recruitment processes, gender-neutral job ads, training your staff, and making your workforce more representative.

Become an actionable ally

An ally is any person that actively promotes and aspires to advance the culture of inclusion through intentional, positive, and conscious efforts that benefit people.

Allyship is a lifelong process of building relationships based on trust, consistency, and accountability with marginalized individuals and/or groups of people. Not self-defined—work and efforts must be recognized by those you are seeking to ally with. An opportunity to grow and learn about we, while building confidence in others.

Everyone has the ability to be an ally as privilege is intersectional - white women can be actionable allies to people of color, men can be allies to women, cis people can be allies to members of the LGBTQ+ community, able-bodied people can be allies to those with different abilities, economically privileged people can be allies to those who are not and so on.

To be allies, words and action must be in sync. Words without actions are detrimental and work against changing the culture.

To be a true ally, you should:

- Lift others up by advocating,
- Share growth opportunities with others,
- Not view venting as a personal attack,
- Recognize systematic inequalities and realize impact of micro-aggressions,
- Believe underrepresented people's experiences, and

- Most importantly – listen, support, self-reflect & change.

Allyship is a continual investment of time in supporting others, holding we accountable when mistakes are made, apologizing, and being prepared to rework the approach towards allyship as needs change.

Through personal actions, a more inclusive environment can be fostered by:

- Becoming a sponsor – champion someone from an underrepresented community to support career growth and increase company retention. Being a sponsor is different to being a mentor – sponsoring is being actively involved in aiding someone’s career progression; mentoring is providing advice.
- Calling out inappropriate behavior – People in privileged positions can call out unacceptable behavior towards underrepresented people and be heard. Underrepresented people may not be comfortable raising issues due to a fear of backlash or risk of jeopardizing professional relationships.
- Tasking all employees with getting involved with diversity and inclusion related tasks – embracing diversity & fostering an environment of inclusion is good for business. Everyone should be involved. Do not assign this daunting task to underrepresented people only.
- Using inclusive language – Be aware of gendered terms and use language which embraces all walks of people. For example, using “partner” instead of gendered terms such as “girl/boyfriend” or “husband/wife” to be more inclusive of those in the LGBTQ+ community.
- Rolling out unconscious bias training regularly – Understand that unconscious, unchecked bias cannot and will not be fixed after one unconscious bias training session. This is a growing process and continued challenging of we and peers must happen to aid growth and learning in this space.
- Trying different recruitment methods – To attract and retain different kinds of people, use different recruitment methods. Partner with organizations which actively push for equality in that space, be present at conferences, and reach out to underrepresented people for their honest feedback on where they would look for roles – listen to the people you are trying to reach.
- Recognizing privilege and use it to amplify underrepresented voices – Understanding and recognizing privilege can be a daunting and uncomfortable task. Having uncomfortable conversations with yourself, understanding the systematic and societal issues which may have played in your favor is eye opening and allows you to use this privilege to amplify those who do not have it.
- Following an array of voices – Learning and growth will not happen without being challenged. Follow different people and listen to them. Challenge yourself to cross-examine your bias after learning from different voices.

IV. Claims Handling and Unconscious Bias

Identifying unconscious bias in claims handling

Unconscious bias as we have already discussed is something that we may not even think twice about in a claims investigation. However, the various types of biases affect how we may investigate, analyze, or even resolve a case

Much like jurisdictional considerations in a litigated matter to determine whether the venue is liberal or conservative, our unconscious bias can play into how we treat a claim. A preconceived notion about a certain demographics may cause any adjuster to make improper assumptions about the validity of a claim and may lead to unnecessary steps to confirm your bias as opposed to investigating the matter on its merits.

It is important to recognize that you may inadvertently make judgement regarding a matter as opposed to allowing the facts to develop and getting to the best resolution to avoid department of insurance complaints or even worse a bad faith allegation. Taking a step back to reassess the facts and conversations had during your investigation and round tabling matters with your colleagues or counsel can help to be certain that you are not allowing an unconscious bias to sway your decision-making process.

File Handling do's and don'ts

Do...properly and thoroughly document your file with the details of your investigation.

Don't...add personal commentary