Effective Negotiation

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Creating Suitable Environments for Working Together
Towards Resolution
Negotiating solutions to conflict

- Parties in conflict usually enter negotiations knowing the outcome that they would like. As a result they are often blind to other outcomes and are not particularly creative.

- Despite this, as soon as a problem is spelled out, effort should be made to finding a wide variety of ‘possible’ solutions (or elements thereof) that advance the mutual interests of the conflicting parties.

- Success at finding such options (i.e. that produce mutual gains) underlie the premise of Win / Win negotiations.

- "Negotiation involves two (or more) parties with competing or conflicting interests or needs, working towards an agreement on how they will co-operate" Dr Gregory Tillett Resolving Conflict (Sydney: Sydney University Press, 1991) p46.

- Rather than bargaining on positions, attention should be given to finding standards, that is, using ‘objective criteria’ (e.g., market vale, expert opinion, law, company policy) that can be used to determine the quality of an outcome. In doing so, negotiations become less about a contest of wills or exercise in stubbornness.
Think of some recent negotiations in which you have been involved. What are they?

- buying a car, a house or an appliance
- negotiating a new salary package
- negotiating different roles and responsibilities at work
- arranging a fair division of household chores
- making divorce settlements and custody arrangements
- agreeing with a child (or a parent) on a study schedule or what time to be home.
Why do we negotiate in these settings?

- variety of reasons depending on the situation
- there seems to be no alternative (people may not otherwise be willing to shift)
- to reach agreement
- to maintain or strengthen the relationship
- to be fair; to take account of both parties' perspectives, needs and concerns
- to get the best deal possible.
In what ways is our style of negotiating different depending on the situation?

• we often tend to be more open in our negotiations when there is a high level of trust, when the continuance of the relationship is seen as important, and when there seems to be many options available (e.g., negotiating task divisions amongst people with whom we either work or live).

• we often tend to be less open when there is little trust, when we are not overly concerned about the relationship, and when there seems to be few options available (e.g. buying and selling a car).
What do you think a win/win approach to negotiation would involve?

• A win/win approach to negotiation takes account of the many needs of the parties involved.

• This approach is sometimes known as interest-based bargaining. Roger Fisher & William Ury in *Getting to Yes* (London: Business Books 1981) identify it as "principled negotiation or negotiation on the merits" (p11).

• This can be understood as a process which seeks to meet needs or interests; not to win positions or to gain victories for people. It's very different to positional bargaining in which each side takes a position argues for it and at best, makes concessions to reach a compromise.

• Fisher and Ury (ibid. p.11) identify four main points to define this method of negotiation.
  – Separate the people from the problem
  – Focus on interests, not positions
  – Generate many options
  – Use objective standards
The Phases and Skills of a Negotiation

For a negotiation to be successful resulting in agreements to which people feel committed, we need to take account of the range of people's needs. These needs will be both tangible and intangible.

The Satisfaction Triangle below is adapted from CDR Associates: Papers from "Negotiation and Mediation. They Won't Cost the Earth" a seminar held in Sydney, Australia, 10 October 1990.
The Satisfaction Triangle

- Substantive needs refer to tangible needs for money, time, goods, resources, territory, products etc.
- Procedural needs are those that relate to specific types of procedures and behaviours, "the way something is done".
- Psychological/Relationship needs are those that refer to how people feel, how they want to be treated and the conditions for the on-going relationship.
- Concern for all these needs provides us with a win/win framework for the negotiation.
- It can be useful to think of a negotiation proceeding through three phases.
PHASE 1: PREPARATION

There are four key activities in the preparation phase.

- Prepare environment
- Become clear on outcome
- Research
- Map
Why would we map the negotiation?

- to identify our needs and concerns, and to speculate on those of the other parties
- to assess the needs which are most important, so that these are given priority in the negotiation.
What might be included in research?

• gathering information on facts, costs, precedents, protocol etc.
• identifying currencies. What can we trade? (What is it easy for one person to give and valuable for the other person to receive?)
• finding out what it is possible for the other parties to do, making it easy for them to say "yes"
• identifying the behavioural or personality style of the parties, so that we can prepare and present a case in ways that are appropriate to the other parties' needs.
What do you think is meant by becoming clear on the outcome?

• identifying what it is we want to achieve
• defining it in such a way that there is room to negotiate.
• We often call this: being clear on the outcome and flexible on the route.

As an adjunct to becoming clear on our outcome, it is wise to develop both a **BATNA** and a **WATNA**.

• **BATNA** is the Best Alternative to a Negotiated Agreement and
• **WATNA** is the Worst Alternative to a Negotiated Agreement.

• BATNA is the best we can hope for if negotiations don't succeed; and
• WATNA is the worst we can realistically fear. For example, when purchasing a car, the BATNA might be to accept the best deal I can get at a different dealer. The WATNA might be to accept a car with fewer of the features I would like.
What could we include in preparing the environment?

- choosing a place where all parties feel comfortable
- arranging tables, chairs, flipcharts and refreshments appropriately.
PHASE 2: INTERACTION

There are four key activities in the interaction phase.

- Phase 1
  - Prepare environment
  - Become clear on outcome
  - Research
  - Map

- Phase 2
  - Select Options
  - Generate Options
  - Educate on needs & perspectives
  - Build rapport
Why would we want to build rapport?

• to encourage trust
• to understand each other's point of view
• to establish the negotiation as an exercise in partnership and joint problem-solving
• to help maintain an approach which is soft on the person and hard on the issue.
What skills would be particularly useful to build rapport?

- active listening
- asking questions
- being aware of behavioural styles using inclusive language: AND not BUT
- identifying areas of agreement.

Skilled negotiators give priority to establishing and building common ground before confronting areas of difference.

This is particularly valuable in the early stages of a negotiation; and it is also very important whenever differences receive so much emphasis that the parties start losing sight of the similarities and, therefore, of their partnership.
Why is educating each other on needs and perspectives important?

• to confirm a win/win approach of needs first, solutions later
• to establish common ground
• to clarify differing perceptions of the issue, facts etc.
• to expose where needs can interlock.
What skills would be particularly useful to educate each other about needs and perspectives?

- "I" Statements
- mapping the situation together
- managing emotions
- asking questions
- active listening
- inclusive language: AND not BUT.
What skills would be particularly useful in generating options?

• Brainstorming
• chunking the problem into smaller parts
• identifying ways of "expanding the pie" such as longer timeframe, more resources etc.
• using inclusive language: AND not BUT
• re-framing the problem to clarify and explore details and direct attention to the positive
What skills would be particularly useful in selecting options?

- assessing how well the options meet the needs of the parties
- trading by using currencies. What is it easy for one person to give and valuable for the other person to receive?
- using objective standards and criteria to establish what is fair, reasonable, or fits within the guidelines or rules
- assessing the options in comparison with a BATNA and a WATNA.
What do we understand by the term "currencies"?

- Currencies are what we trade in.
- Currencies which we wish to receive could include money, services, goods, security, recognition, or esteem.
- Currencies we trade away in exchange for the currencies we wish to receive could include effort, time, support for colleague, or our expertise.
- Some currencies are easy for us to give and valuable for the other parties to receive. We can offer these during negotiation; and we can ask the other parties to give us what is low cost for them and valuable for us.
Important Points to Cover:

• Throughout this interaction phase, it is crucial to:
  • listen carefully
  • identify areas of agreement, and
  • be explicit in looking for ways to meet needs of all parties.
• As negotiators, in order to solve our own problems, we need to solve the other person's problems also.
PHASE 3: CLOSE

In the closing phase, there are four key activities.

Phase 1
- Prepare environment
- Become clear on outcome
- Research
- Map

Phase 2
- Select Options
- Generate Options
- Educate on needs & perspectives
- Build rapport

Phase 3
- Plan review
- Set timeframe
- Develop action plan
- Form Agreements
Making a clear agreement

We need to make clear agreements. Depending on the situation, this may involve a spoken agreement, a show of hands, a handshake or a written contract.

Then we need to develop an action plan and timeframe for implementing the options. Without these, the difficulty which brought us to the negotiating table may persist, and people may lose faith in the negotiation process.

Similarly, establishing a review process ensures that the implementation of the options and the satisfaction of the parties can be monitored.
Responding to Resistance from Others

A major block during the interaction phase of a negotiation can be resistance by some or all of the parties to shifting from their positions.
How might parties in a negotiation show their resistance to shift from their positions?

- use resistant body language (e.g. arms folded, fist on the table)
- say directly that they want a particular solution chosen
- repeatedly steer discussion to focus on their positions
- argue their solution is best (e.g., most effective, most efficient, meets most needs etc.)
- react negatively to any other solution or idea that is proposed
- refuse to attend discussions.

Let's consider specific ways in which people react negatively to a new idea or proposal.
Imagine you want to introduce a new policy or practice, and you're confronted with strong resistance from others. What might be some of the negative responses that you could hear?

- “We've tried that already".
- "It's too expensive".
- "You're being naive – that's not how the system works”.
- We'll now spend some time exploring specific strategies to deal with this type of negativity.
Opening a Negotiation

• Sometimes we find ourselves in the midst of a negotiation, when we weren't even planning one. However, as we have already noted preparing carefully for a negotiation may result in it being more effective.

One aspect of preparation is working out how to open the negotiation. If we are able to introduce our idea in a way that captures the interest of the other person, we may succeed in:

– setting a positive tone for the negotiation
– pre-empting some objections
– decreasing resistance and negativity from the other person.
When we're opening a negotiation, what sort of things would we need to focus on to capture the interest of the other person?

- the main thrust of the idea
- the benefits to the other person and/or to the organisation
- a way to involve that person.

In identifying benefits, we need to step into the shoes of the other person. "What would he/she consider a benefit?"

An opening statement needs to be kept to about thirty seconds. It's like a headline in a newspaper: short and snappy to gain the person's attention. It provides a bridge from the preparation phase to the interaction phase.

1. Engaging interest.
2. Stating the objective.
Responding to "Unfair" Tactics

• What tactics used by people during negotiation have you found difficult to deal with?
  – personal attacks
  – introduction of irrelevant or misleading information
  – the addition of conditions after agreement has been reached
  – manipulative timing or agenda-planning (includes leaving important discussion points to last in a busy agenda; and pushing through seemingly small, but often important, agreements at the last minute when everyone is tired)
  – negotiation of unrealistic positions so that a later position, in comparison, looks very generous or reasonable
  – accusations regarding integrity and motivations of parties in the negotiation
  – emotional blackmail (e.g., stirring up guilty feelings)
  – statement of ultimatums
  – referral to higher authority (indicating during the negotiation that any agreements made will need to be checked with other, more senior people)
  – persistence with finalising details on one issue, thus delaying proceeding to the other issues some of which may be relevant to the first issue.
  – introduction of past events and hurts in the relationship
Important Points to Cover:

• Using a win/win approach to negotiation leads to a particular set of responses to unfair tactics. The aim is not to out-trick the other party.

• Rather, the aim is to neutralise the effect of the tactics in a way which maintains the relationship with the other person while resolving the issue.

• In broad terms, the response to an unfair tactic is always to re-direct attention back to the issue.