INTERACTIVE SKILL 6: NEGOTIATION

Negotiation is a long-standing art which has developed into a major mode of decision making in all aspects of social, political and business life, even though there is always a feeling that it is no more than a substitute for direct, decisive action. In employment we have developed the institutions of collective bargaining as a means of regulating some parts of the employment relationship between employer and organised employees. The essence of the process is to find not just common ground between two parties but a new relationship with greater constructive potential than the one that preceded it. To some this is the cornerstone of industrial democracy and the effective running of a business, but to others it is seen as impairing efficiency, inhibiting change and producing the lowest, rather than the highest, common factor of cooperation between management and employees. There is growing concern among union leaders as well as in parts of management that there is a lack of both experience and expertise in bargaining.

. . . for over a decade it has been possible to shape an HR career without coming into contact with unions. Industrial relations expertise has been lost as those who forged their skills in the 1970s have moved on, many into retirement . . . Some employers are looking outside their organizations to bring in industrial relations expertise. But this can not be a permanent solution. (Roberts 2002, p. 37)

This Focus on skills deals directly with that field of expertise. Because negotiation has been out of fashion, most of the academic work on negotiation is of relatively long standing, although there is a recent thorough review in Hiltrop and Udall (1995) and a particular angle described in Grint (1997). There have also been a number of more practical books recently, including Kennedy (1998).

The objectives of this Focus on skills are to:

1 Examine the place of conflict in the employment relationship, its sources, benefits and drawbacks

2 Explain bargaining strategies and tactics

3 Explain the negotiating sequence

4 Consider some aspects of bargaining with individuals

Since the summer of 2000 trade unions have had restored to them a statutory right to recognition by an employer that had been removed from them twenty years before. Recognition means the right to require an employer to negotiate on matters such as hours, pay and holidays: not to consult, but to negotiate. A useful summary is in Younson (2000).

Is negotiation rightly viewed as an activity that is only second best to unilateral decision making? If the outcome is no more than compromise, the choice seems to be between negotiation and capitulation. Some would argue that capitulation by one side would be a better outcome for both than a compromise that ignores the difficulties and dissatisfies both. There is, however, an alternative to splitting the difference in negotiation and that is where the differences in view and objective of the parties are accommodated to such an extent that the outcome for both is better than could have been achieved by the unilateral executive action of either.

Any negotiation takes place because there are some goals that are common to both parties and some goals that conflict. Between employer and employees the desire to keep the business in operation is a goal they usually have in common, but some of their other goals may conflict. Consequently the two parties negotiate a settlement because the attempt by one to force a solution on the other either would fail because of the other's strength or would not be as satisfactory a settlement without the approval of the other party.

Traditionally, negotiation on employment matters has been assumed to deal with the collective aspects of the relationship, the management or the employers being pitched against the unions or the workers. Now, however, we include material on the negotiation of the bargain between the management and an individual person or consultancy selling services. Another recent change has been the growing interest of language specialists in the various processes of negotiation (for instance, Mulholland 1991).

The nature of conflict in the employment relationship

The approach to collective negotiations depends on the view that conflict of interests is inevitable between employer and employee because there is an authority relationship in which the aims of the two parties will at least sometimes conflict. A further assumption is that such conflict does not necessarily damage that relationship.

This has led some commentators to discuss negotiation in terms of equally matched protagonists. The power of the two parties may not actually be equal, but they are both willing to behave as if it were. Negotiation thus has the appearance of power equalisation in the search for a solution to a problem. When both sides set out to reach an agreement that is satisfactory to themselves and acceptable to the other, then their power is equalised by that desire. Where the concern for acceptance by the other is lacking, there comes the use of power play of the forcing type described later in this Interactive skill:

> negotiators seek to increase common interest and expand cooperation in order to broaden the area of agreement to cover the item under dispute. On the other hand, each seeks to maximize his own interest and prevail in conflict, in order to make the agreement more valuable to himself. No matter what angle analysis takes, it cannot eliminate the basic tension between cooperation and conflict that provides the dynamic of negotiation. (Zartman 1976, p. 41)

The relative power of the parties is likely to fluctuate from one situation to the next; this is recognised by the ritual and face-saving elements of negotiation, where a power imbalance is not fully exploited, both to make agreement possible and in the knowledge that the power imbalance may be reversed on the next issue to be resolved.

The classic work of Ann Douglas (1962) produced a formulation of the negotiating encounter that has been little modified by those coming after her. However, this needs further thought when applied to negotiations between representatives of management and representatives of employees about terms and conditions of employment because of the clear inequality of power and access to resources between them.

Sources of conflict in the collective employment relationship

Most texts on organisational behaviour include sections on reducing conflict, and management talk is full of the need for teamworking, corporate culture and collaboration, so why do we find one area of working life where conflict is readily accepted, even emphasised?

Although the processes of civilisation tend to constrain it there is a natural human impulse to behave aggressively to some degree at some time. It has a number of outlets, for example, watching football, wrestling or boxing. Another outlet for aggression is in negotiations within the employing organisation, which is a splendid arena for the expression of aggressiveness and bravura without actually incurring the physical risks that would be involved in violent combat. Dr Johnson summed up the attractions of vigorous disagreement when he said, 'I dogmatise and am

contradicted, and in this conflict of opinions I find delight'. Probably the main source of industrial relations conflict is divergence of interests between those who are classified as managers and those who are seen as non-managers. One group is seeking principally such things as efficiency, productivity and the obedience of others to their own authority. The members of the other group are interested in these things, but are more interested in features such as high pay, freedom of action, independence from supervision, scope for the individual and leisure. To some extent these invariably conflict.

Potential benefits of such conflict

Although it is widely believed that conflict of the type described here is counter-productive, there are some advantages.

Introducing new rules

Employment is governed by a number of rules, formal rules that define unfair dismissal and the rate of pay for various jobs, as well as informal rules such as dress codes and modes of address. Management/union conflict is usually a disagreement over the rules and the bargain that is struck produces a new rule: a new rate of pay, a new employment practice or whatever. It may be the only way of achieving that particular change, and it is a very authoritative source of rule making because of the joint participation in its creation.

Modifying the goals

The goals that management sets can be modified as a result of conflict with others. Ways in which management's goals will be unpopular or difficult to implement may be seen for the first time and modifications made early instead of too late. A greater range and diversity of views is brought to bear on a particular matter so that the capacity for innovation is enhanced, but modification of goals can be difficult for managers to accept.

Clash of values

More fundamental is the possible clash of values, usually about how people should behave. Frequently the clash is about managerial prerogative. Managers like to believe and proclaim that management is their inalienable right, so that those who question the way their work is done are ignorant or impertinent. Non-managers may regard management as a job that should be done properly by people who are responsive to questioning and criticism.

Competitiveness

One of the most likely sources of conflict is the urge to compete for a share of limited resources. Much of the drive behind differential pay claims comes from competing with other groups at a similar level, but there may also be competition for finance, materials, security, survival, power, recognition or status.

Organisational tradition

If the tradition of an organisation is to be conflict prone, then it may retain that mode obdurately, while other organisations in which conflict has not been a prominent feature may continue without it. It is axiomatic that certain industries in the United Kingdom are much more likely to display the manifestations of extreme conflict in industrial relations than others. Indicators such as the number of working days lost through strikes show a pattern of distribution which varies little between different industries year by year. The nature of the conflict can range between the extremes of pettiness, secrecy, fear and insecurity on the one hand, to vigorous, open and productive debate on the other, with many organisations exhibiting neither.

Understanding of respective positions

Combatants will come to a better understanding of their position on the issue being debated because of their need to set it forth, develop supporting arguments and then defend those arguments against criticism. This enables them to see more clearly what they want, why they want it and how justifiable it is. In challenging the position of the other party, they will come to a clearer understanding of where they stand, and why.

Potential drawbacks of such conflict

The above advantages may not be sufficient to balance the potential drawbacks.

Waste of time and energy

Conflict and the ensuing negotiations take a great deal of time and energy. Conflict can be stressful when over-personalised, and individuals become obsessed with the conflict itself rather than what it is about. Negotiation takes much longer than simple management decree.

Emotional stress for participants

People vary in the type of organisational stress to which they are prone. To be involved in negotiation is stressful for some people, while others find it stimulating.

Accommodating conflict often causes some inefficiency through the paraphernalia that can accompany it: striking, working to rule, working without enthusiasm, withdrawing cooperation or the simple delay caused by protracted negotiation.

Risks

Negotiation may be the only way to cope with a conflictual situation, but there is the risk of stirring up a hornets' nest. When conflict is brought to the surface it may be resolved or accommodated, or it may get worse if the situation is handled badly.

The quality and amount of communication is impaired. Those involved are concerned more to confirm their own viewpoint than to convey understanding, and there are perceptual distortions such as stereotyping and cognitive dissonance. The attitudes behind the communications may also become inappropriate as there are greater feelings of hostility and attempts to score off others.

Bargaining strategies

Managers and managements adopt various strategies to cope with conflict. We need to recognise these and appreciate some of the likely effects.

Avoidance

To some extent conflict can be 'handled' by ignoring it. For a time this will prevent it surfacing so that it remains latent rather than manifest: the danger being that it is harder to deal with when it eventually does erupt. Opposing views cannot be heard unless there is apparatus for their expression. The management of an organisation can fail to provide such apparatus by, for instance, not having personnel specialists, not recognising trade unions and not recognising employee representatives. If the management organises the establishment as if conflict of opinion did not exist, any such difference will be less apparent and its expression stifled. This strategy is becoming harder to sustain because of the developing legal support for employee representation, but it has obvious short-term advantages.

Smoothing

A familiar strategy is to try to resolve conflict by honeyed words in exhortation or discussion where the emphasis is on the value of teamwork, the assurance that 'we all agree really' and an overt, honest attempt to get past the divergence of opinion, which is regarded as a temporary and unfortunate aberration. This is often an accurate diagnosis and represents an approach that would have broad employee support in a particular employment context, but there is always the risk that smoothing ignores the real problem, like giving a massage to someone who has suffered a heart attack.

Forcing

The opposite to smoothing is to attack expressions of dissent and deal with conflict by stamping it out. This is not easy and has innumerable, unfortunate precedents in both the political and industrial arenas.

Compromise

Where divergence of views is acknowledged and confronted, one possibility is to split the difference. If employees claim a pay increase of £10 and the management says it can afford nothing, a settlement of £5 saves the face of both parties but satisfies neither. However common this strategy may be, and sometimes there is no alternative, it has one major drawback: both parties fail to win.

Confrontation

The fifth strategy is to confront the issue on which the parties differ. This involves accepting that there is a conflict of opinions or interests, exploring the scale and nature of the conflict and then working towards an accommodation of the differences which will provide a greater degree of satisfaction of the objectives of both

parties than can be achieved by simple compromise. This sounds ambitious, but we suggest that this is the most productive strategy in many cases and offers the opportunity of both parties winning. It is this strategy that we consider in the remainder of this Interactive skill.

ACTIVITY VI. 1

Consider an industrial dispute or disagreement which you have recently witnessed or read about.

1 Was the management strategy one of avoidance, smoothing, forcing, compromise or confrontation?

2 Was this an inappropriate strategy?

3 If the answer to the last question was 'yes' why was an inappropriate strategy used?

Bargaining tactics

In preparing for negotiation there are a number of matters that the parties must review before they begin.

Resolution or accommodation

Conflict can be *resolved* so that the original feelings of antagonism or opposition vanish, at least over the issues that have brought the conflict to a head. The schoolboy story of how two boys 'put on the gloves in the gym' after a long feud and thereafter shook hands and became firm friends is a theoretical example of a conflict resolved. This type of outcome has a romantic appeal and will frequently be sought in industrial relations issues because so many people feel acutely uncomfortable when involved in relationships of overt antagonism.

Alternatively, the conflict may be *accommodated*, so that the differences of view persist, but a modus vivendi, some form of living with the situation, is discovered. In view of the inevitability of the conflict that is endemic in the employment relationship, accommodation may be a more common prospect than resolution, but an interesting question for a negotiator to ponder when approaching the bargaining table is: which is it – resolution or accommodation?

Tension level

Most negotiators feel they have no chance to determine the timing of encounters. This is partly due to reluctance; managers in particular tend to resort to negotiation only when necessary, and the necessity is usually a crisis. A more proactive approach is to initiate encounters, at least trying to push them towards favourable timings.

A feature of timing is the tension level. Too much, and the negotiators get the jitters, unable to see things straight and indulging in excessive interpersonal vituperation:

too little tension, and there is no real will to reach a settlement. Ideal timing is to get a point when both sides have a balanced desire to reach a settlement.

Power balance

Effective negotiation is rarely limited to the sheer exploitation of power advantage. The best settlement is one in which both sides can recognise their own and mutual advantages (Fowler 1990, pp. 11–16). The background to any negotiation includes the relative power of the disputants. Power parity is the most conducive to success:

> Perceptions of power inequality undermine trust, inhibit dialogue, and decrease the likelihood of a constructive outcome from an attempted confrontation. Inequality tends to undermine trust on both ends of the imbalanced relationship, directly affecting both the person with the perceived power inferiority and the one with perceived superiority.
> (Walton 1969, p. 98)

The greater the power differential, the more negative the attitudes.

Synchronising

The approaches and reactions of the two parties need a degree of synchronising to ensure that an approach is made at a time when the other party is ready to deal with it. Management interpretation of managerial prerogative often causes managers to move quickly in search of a solution, virtually pre-empting negotiation. When what they see as a positive overture is not reciprocated, they are likely to feel frustrated, discouraged and cross; making themselves in turn unready for overtures from the other side.

Openness

Conflict is handled more effectively if the participants are open with each other about the facts of the situation and their feelings about it. The Americans place great emphasis on this, as openness is more culturally acceptable in the United States than in the United Kingdom, but we note their concern that negotiators should own up to feelings of resentment and anger, rather than mask their feelings behind role assumptions of self-importance.

WINDOW ON PRACTICE

John Dunlop is known as one of the great theorists of industrial relations and the processes in collective bargaining (*see* Dunlop 1984). David Farnham summarises the ten points of his framework for analysing the negotiating process:

1 It takes agreement within each negotiating group to reach a settlement between them.

2 Initial proposals are typically large, compared with eventual settlements.

3 Both sides need to make concessions in order to move towards an agreement.

4 A deadline is an essential feature of most negotiating.

5 The end-stages of negotiating are particularly delicate, with private discussions often being used to close the gap between the parties.

6 Negotiating is influenced by whether it involves the final, intermediate or first stages of the conflict resolution process.

7 Negotiating and overt conflict may take place simultaneously, with the conflict serving as a tool for getting agreement.

8 Getting agreement does not flourish in public.

9 Negotiated settlements need procedures to administer or interpret the final agreement.

10 Personalities and their interactions can affect negotiating outcomes.

Source: D. Farnham (1993) *Employee Relations*. London: IPM, p. 337.

The negotiation sequence

In the various stages of the negotiating encounter aspects of ritual are especially important. They can make for formality and awkwardness rather than relaxed informality, but these ritual steps are not time-wasting prevarication: they are an inescapable feature of the process, which is summarised in Figure VI.1.

Agenda

The meeting needs an agenda or at least some form of agreement about what is to be discussed. Some people nurture a naive conviction that there is benefit in concealing the topic from the other party until the encounter begins, believing there is something to be gained from surprise. In fact, this only achieves a deferment of discussion until members of the other party have had a chance to consider their position. The nature of the agenda can have an effect on both the conduct and outcome of the negotiations. It affects the conduct of the encounter by revealing and defining the matters that each side wants to deal with. It is unlikely that other matters will be added to the agenda, particularly if negotiations take place regularly between the parties, so that the negotiators can begin to see, before the meeting, what areas the discussions will cover.

The sequence of items on the agenda will influence the outcome as the possibilities of accommodation between the two positions emerge in the discussion. If, for instance, all the items of the employees' claim come first and all the management's points come later, the possibilities do not turn into probabilities until the discussions are well advanced. An agenda that juxtaposes management and employee 'points' in a logical fashion can enable the shape of a settlement to develop in the minds of the negotiators earlier, even though there would be no commitment until all the pieces of the jigsaw were available. Many negotiations take place without an agenda at all, sometimes because there is a crisis, sometimes because neither party is sufficiently well organised to prepare one. Morley and Stephenson (1977, pp. 74–8) review a
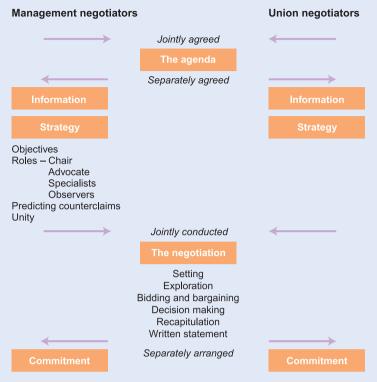
Management negotiators **Union negotiators**

Jointly agreed

The agenda

Separately agreed

Information   Information

Strategy   Strategy

Objectives
Roles – Chair
          Advocate
          Specialists
          Observers
Predicting counterclaims
Unity

Jointly conducted

The negotiation

Setting
Exploration
Bidding and bargaining
Decision making
Recapitulation
Written statement

Separately arranged

Commitment   Commitment

Figure VI.1 The negotiating process

number of studies to draw the conclusion that agreement between negotiators is facilitated when there is the opportunity for them to experience 'orientation', considering on what to stand firm and on what to contemplate yielding, or where there is an understanding of the issues involved. An agenda is a prerequisite of orientation.

Information

Both parties need facts to support their argument in negotiation. Some information will be provided to employee representatives for the purposes of collective bargaining and both sets of negotiators have to collect what they need, analyse it so that they understand it, and confirm that the interpretation is shared by each member of their team.

Strategy

The main feature of preparation is for each set of negotiators to decide their strategy. Probably the most helpful work on negotiation strategy has been done by Fowler (1990), with his careful analysis of bargaining conventions and possibilities. Here we limit our considerations to four aspects of strategy.

Objectives

What do the negotiators seek to achieve? They need clear and helpful objectives. When the question has been put to management negotiators entering either real or contrived negotiations in recent years the following have been some of the statements of objectives:

- 'Get the best deal we possibly can.'
- 'Maintain factory discipline at all costs.'
- 'Keep cool.'
- 'See what they want and put up a strong defence.'

All these declarations have a common, negative quality. The initiative is with the other party and the only management strategy is to resist for as long as possible and to concede as little as possible. If this is the best management negotiators can contrive, then their prospects are indeed bleak. They are bound to lose; the only unresolved question is how much. They cannot gain anything because they do not appear to want anything.

More positive objectives are those that envisage improvements which could flow from a changing of the employment rules, changes in efficiency, working practices, manning levels, shiftwork patterns, administrative procedures, flexibility, cost control, and so forth. Unless both parties to the negotiations want something out of the meeting there is little scope for anything but attrition.

Roles

Who will do what in the negotiations? A popular fallacy is that negotiation is best conducted by 'everyone chipping in when they have something to say' and 'playing it by ear'. This is the style for a brainstorming, problem-solving group discussion; negotiation is quite different. Problem solving implies common interests; negotiation implies conflicting interests between groups who are opposed in debate. Negotiators need a specific role, in which they remain. The roles are:

1   Chair. In the majority of cases the management provides this function, and one of the management team will chair the discussion and control the meeting.

2   Advocate. Each party requires one person who will be the principal advocate to articulate the case and to examine the opposing case. This provides focus to the discussion and control of the argument. Although it is common for the roles of chair and advocate to be combined in one person for status reasons, this can put a great strain on the individual, who is bowling and keeping wicket at the same time.

3   Specialists. The third role is that of specialist. There is one person who fully understands the details of the management proposal or arrangement that is being questioned, another to provide expert comment on any legal points, and so forth. The important emphasis is on what the specialist does *not* do. One would not expect this particular negotiator to become involved in the general debate, as this is confusing and moves control from the advocate. The specialist's role is to provide advice when required, rather like the civil servants who regularly pass notes to ministers appearing before House of Commons Committees. Negotiating does not benefit from free-for-all, unstructured discussion.

4   Observers. There is no need for all those attending to speak in order to justify their presence. There is an important role for those who do no more than observe the discussions. They get less emotionally involved in the interplay and point scoring, and are able to evaluate the situation as it develops. When there are adjournments the observers often initiate the discussions within their team as strategy is redefined and further tactics considered.

Predicting counterclaims

No strategy survives intact the first encounter with the opposition, but its chances are improved if the negotiators have tried to predict what they will hear from the opposition. In this way they will be prepared not only to advance their own arguments, but also to respond to arguments put to them.

Unity

Because negotiations are the confrontation of different sets of interests, each team works out a united position before negotiations begin and expresses that unity in negotiation. If the position is to be modified, then they will agree the modification. This is another aspect of the vital difference between this activity and problem solving. It is the differences between the parties that have to be handled; differences within the parties are simply a nuisance.

The negotiation

Setting

The number of people representing each side will influence the conduct of negotiations. The larger the number, the greater the degree of formality that is needed to manage the meeting; this is an argument in favour of negotiations between very small teams. On the other hand, meetings between two or three people in 'smoke-filled rooms' give rise to allegations of manipulation and are difficult for members of trade unions to countenance in view of their dependence on democratic support. Another problem is that different phases of negotiation call for different arrangements. Relatively large numbers can be an advantage at the beginning, but are often a hindrance in the later stages:

> it is not uncommon for the trade union side to field a sizeable team – a union official, perhaps, supported by a shop stewards' committee. It is unwise for a single manager to attempt to negotiate alone with such a team. Negotiation demands a high level of concentration and quick thinking and it is difficult for one person to maintain full attention to everything that is said, and to detect every nuance in the discussion. This does not mean that the management team must equal the trade union team in size. Indeed, to go beyond a fairly small number runs the risk of poor coordination between team members and the possibility that differing views will emerge within the team as negotiations proceed. (Fowler 1990, p. 35)

When asked to suggest an appropriate number, most experienced negotiators opt for three or four on each side.

The nature of the seating arrangements needs to reflect the nature of the meeting, and that means that the sides face each other, with the boundaries between the two being clear. The importance of the physical arrangements were demonstrated by the Paris Peace Talks, which were intended to bring an end to the Vietnam War. The start of talks was delayed for some weeks due to the delegations not being able to agree about the shape of the table.

Negotiating

The opening stage of the negotiations is one of *exploration*. Negotiators begin by making it clear that they are representing the interests of people who are much more important than the negotiators themselves: 'the membership', 'the board' and 'the shareholders' are just a sample of the powerful decision makers behind the negotiators. They also emphasise the strength and righteousness of their case as well as the impossibility of any movement from the position they are declaring. Both sides know but do not acknowledge that there will be movement from the positions that they are busy declaring to be immovable. The displays of strength are necessary for the negotiators to convince themselves that they are right and to impress the opposition, who have previously only been able to see the rightness of their own position.

The substantive element of this phase is to clarify what the differences are and how important or intransigent each feature of the opposing case is. By the time it draws to a close the negotiators should be quite clear on the matters that divide them, where and how. This, of course, is an important part of the process: differentiation precedes integration.

An important part of the ritual at this point is for the participants to keep down the level of interpersonal animosity. This is a part of the emphasis on their representative role that has already been mentioned. Different behaviours are needed later that depend on an open, trusting relationship between the negotiators, so this must not be impaired by personal acrimony at the opening. Ann Douglas (1962) described this stage as 'inter-party antagonism'.

After the differences have been explored, there is an almost instinctive move to a second, integrative stage of the encounter. Here negotiators are looking for possibilities of movement and mutual accommodation:

> Douglas distinguishes between the public role-playing activities of the first stage and the 'psychological' (individual) activities of the second stage as being concerned, respectively, with inter-party and interpersonal exchange. Behaviourally the inter-party exchange is characterized by official statements of position, ostensibly committing the party or parties to some future action congruent with that position. The interpersonal exchange, on the other hand, is characterized by unofficial behaviours which do not so commit the parties in question. (Morley and Stephenson 1970, p. 19)

This second stage is *bidding and bargaining*. The statements made by negotiators are much more tentative than earlier, as they sound out possibilities, float ideas, ask questions, make suggestions and generally change style towards a problem-solving mode. This has to be done without any commitment of the party that is being represented, so the thrusts are couched in very non-committal terms, specifically exonerating the party being represented from any explicit authorisation of what is being said. Gradually, the opportunities for mutual accommodation can be perceived in the background of the discussion. We can now incorporate the idea of target points and resistance points advanced by Walton and McKersie (1965).

The target point of a negotiating team is the declared objective, what they would really like to achieve. It will be spelled out in the exploration phase. The resistance point is where they would rather break off negotiations than settle. This point is

never declared and is usually not known either. Although negotiators frequently begin negotiations with a feeling of 'not a penny more than . . .', the point at which they would actually resist is seldom the same as that at which they think they would resist. Normally the resistance points for both parties slide constantly back and forth during negotiations.

Decision making

Through the stage of bidding and bargaining all the variations of integration will have been considered and explored, even though negotiators will have veered away from making firm commitments. The third phase of their encounter is when they reach an agreement, and it is interesting to pause here with the comment that agreement is inevitable in all but a small minority of situations, because the bargainers need each other and they have no one else with whom to negotiate. The employees want to continue working for the organisation. Even if they take strike action, they will eventually return to work. The management needs the employees to work for it. Employees collectively cannot choose a different management with whom to negotiate and managers can seldom choose a replacement workforce with whom to bargain. They have to reach agreement, no matter how long it takes.

After an adjournment the management will make an offer. The decision about what to offer is the most difficult and important task in the whole process, because the offer can affect the resistance point of the other party. The way in which the other's resistance point will be affected cannot be predetermined. A very low offer could move the other's resistance point further away or bring it nearer; we cannot be sure until the negotiations actually take place.

The offer may be revised, but eventually an offer will be accepted and the face-to-face negotiations are over, but the full process is not yet complete.

Negotiations on the contract for collective consent are thus significantly different from those other types of bargaining in which people engage. The negotiations to purchase a secondhand car or a house may seem at first sight to be similar, but in both of those situations either party can opt out at any stage and cease to deal any further. The possibility of losing the other is always present, just as is the possibility of negotiating with a different 'opponent'. For this reason the political analogies are more helpful. A peace treaty has to be agreed between the nations that have been at war, and no one else.

Recapitulation

Once a bargain has been struck the tension of negotiation is released and the natural inclination of the negotiators is to break up and spread the news of the agreement that has been reached. It is suggested that they should resist this temptation and first recapitulate all the points on which they have agreed and, if necessary, make arrangements on any minor matters still outstanding that everyone had forgotten.

In the wake of a settlement there are usually a number of such minor matters. If they are dealt with there and then they should be dealt with speedily because of the overriding relief at reaching agreement that is felt. If discussion of them is deferred because they are difficult, then agreement may be hard to reach later as the issues stand on their own, instead of in the context of a larger settlement.

Written statement

If it is possible to produce a brief written statement before the meeting is ended, both parties to the negotiations will be greatly helped. The emphasis here is on producing a brief written statement *before* the meeting ends, not as soon as possible afterwards. This will help all the negotiators to take away the same interpretation of what they have done and make them less dependent on recollection. In most circumstances it can also be used to advise non-participants: retyped as a memorandum to supervisors, put up on noticeboards, read out at union meetings, and so on. This will reduce the distortion that can stem from rumour. Until the agreement is in writing it rests on an understanding, and understanding can easily change.

Commitment of the parties

So far agreement has been reached between negotiators only, and it is of no value unless the parties represented by those negotiators accept it and make it work. This requires acceptance at two levels: first in words and then in deeds.

Employee representatives have to report back to their membership and persuade them to accept the agreement. To some extent management representatives may have to do the same thing, but they customarily carry more personal authority to make decisions than do employee representatives.

Although this is a difficult and uncertain process, it is no more important than the final level of acceptance, which is where people make the agreement work. Benefits to the employees are likely to be of the type that are simple to administer, such as an increase in the rates of pay, but benefits to the business, such as changes in working practices and the variation of demarcation boundaries, are much more difficult. They may quickly be glossed over and forgotten unless the changes are painstakingly secured after the terms have been agreed.

WINDOW ON PRACTICE

Lemuel Boulware, Vice-President for Employee Relations in the General Electric Company of the United States, tried to side-step the ritual dance described above by developing a strategy which he called 'truth in bargaining'. The essence was that his first offer was also his last. He claimed that in conventional bargaining everyone knew that the first offer would be improved, so it was artificially low. He intended to be direct and truthful, making one offer that would not be varied so as to save time and speculation about the final outcome.

This policy had short-run success, but trade unions objected to Boulwarism on the grounds that it eliminated the constructive interchange of normal bargaining and diminished the importance of union representatives in negotiation. Eventually they challenged the policy successfully in the US courts on the grounds that it was not bargaining in good faith.

ACTIVITY VI. 2

1 What was Lemuel Boulware's mistake?

2 Why is the process (as well as the result) of negotiating important to both management representatives and employee representatives?

3 Is the process of negotiation important to the members of management and the employees who are represented, but not participating in the negotiations; or are they only interested in the result?

4 In view of the assertive, take-it-or-leave-it approach of some managements at the end of the twentieth and the beginning of the twenty-first centuries, is Boulware just a historical footnote, or is there still a lesson to be learned from his experience?

Negotiating with individuals

The majority of people at work are employed at the rate for the job, even though there may be some marginal variations in individual circumstances. There are, however, a small number of people who genuinely negotiate an individual arrangement. Sometimes they are employees, more often they are freelance providers of specialist services.

Although there are not the same elaborate rituals that surround the collective bargain, there is still a fundamental conflict of interest in that the two parties are not 'on the same side', but there is also the key difference in that the parties can walk away from each other. They are not (yet) bound to each other by a contract of employment; the employer can readily decide to contract with a different supplier and the supplier of services will not be wholly dependent on a single employer. Also the employer is keen that the supplier should produce a *performance*, not simply honouring the agreement with poor grace, but performing at a high level.

Some individuals get great satisfaction from the idea of negotiating their own deal. It gives them a clear sense of their own value and a feeling of autonomy, being in control of their own destiny. It was earlier suggested that collective negotiations are at least partly a way of people dealing with their aggressive tendencies. In individual situations it is slightly different in that the gaming element is stronger and everyone becomes their own entrepreneur.

The negotiating process is broadly the same in that the first stage is to muster all the information that is needed. Exactly what is the task to be done? What is the standard to which it has to be completed? What are the timescales? What latitude is there? When the parties sit down to negotiate, there is again the general searching stage of defining the negotiating range, clarifying what is wanted and hearing what the supplier wants and needs. The employer has the useful advantage that the prospective supplier has to tender, knowing that there are, or may be, others tendering for the same work, so the supplier has to pitch the tender at a level attractive enough to interest the employer not only in the price but also in the quality of service being offered.

Those employing services have to know what they can and cannot do. William Oncken (1984) has coined the term 'freedom scale' to describe the degree of discretion you want to enjoy. His scale is:

- Level 5 – Act on your own, routine reporting only.
- Level 4 – Act, but advise at once.
- Level 3 – Recommend, then take resulting action.
- Level 2 – Ask what to do.
- Level 1 – Wait until told.

Although Level 5 sounds very status-full and macho, employers may prefer in some negotiations to have less freedom, so that they cannot be expected to commit themselves without time for thought. Remember the representation element that was so central to collective negotiation.

WINDOW ON PRACTICE

Roger Fisher and William Ury (1986) suggest four basic rules to govern any negotiation:

1 Separate the people from the problem. Don't focus on the clash of personalities or bruised egos, but on the problem that needs resolution.

2 Focus on interests, not positions. If you get locked into a particular position, you may not achieve the real objective of your negotiation. Always be looking for alternative possibilities.

3 Make the pie bigger. Generate other possibilities beyond what your 'opponent' is asking for by thinking of options that are low cost to you and high benefit to them.

4 Insist on using objective criteria. Prevent the negotiation becoming a contest of wills by looking for objective standards or criteria that can be used by both parties to test the reasonableness of any position that is adopted.

SUMMARY PROPOSITIONS

VI.1 The practice of negotiation is based on a need to resolve or accommodate matters on which there is a conflict of interest about the appropriate rate for the job between those who employ and those who are employed.

VI.2 In collective issues negotiation can clear the air, introduce new rules, modify an unworkable management position or produce better understanding of respective positions.

VI.3 Among the problems of negotiation are the waste of time, the stress and the risks.

VI.4 The most common bargaining strategies are avoidance, smoothing, forcing, compromise or confrontation.

VI.5 Aspects of preparation are setting the agenda, collecting information, deciding a strategy, agreeing objectives and roles.

VI.6 The stages in collective negotiation are exploration, bidding and bargaining, decision making, recapitulation, agreeing a written statement and ensuring the commitment of the parties.

VI.7 In individual negotiations a negotiator will want to get agreement to an appropriate position of the 'freedom scale'.

GENERAL DISCUSSION TOPICS

1 In 1735 Benjamin Franklin said that 'necessity never made a good bargain'. Do you agree with this when applied to collective negotiations?

2 Is negotiation necessary in payment matters or is it just a form of game playing that appeals to people who like doing deals?

FURTHER READING

Fisher, R. and Ury, W. (1986) *Getting to Yes: Negotiating agreement without giving in*. New York: Penguin
This is very sound on the basics and probably the most thorough recent treatment.

Hiltrop, J.M. and Udall, B. (1995) *The Essence of Negotiation*. Hemel Hempstead: Prentice Hall International
A relatively recent thorough treatment of the process, it has an especially useful review of the literature.

Kennedy, G. (1998) *The New Negotiating Edge*. London: Nicholas Brealey
Written by a professor in a business school, who combines academia with running an international consultancy, this book combines some of the merits of both spheres of work. It proposes an approach to negotiating that is a modification of what is set out here. It is described as trading behaviour with four stages: prepare, debate, propose and bargain.

Mulholland, J. (1991) *The Language of Negotiation*. London: Routledge
This book is quite different from most texts which take an industrial relations perspective of negotiation, as it uses the distinctive approach of analysing the linguistic subtleties of the process.

Scott, W.P. (1981) *The Skills of Negotiating*. New York: Wiley
This book has probably the best explanation of the interactive skills involved in negotiating.

WEB LINKS

Most websites deal with negotiating sales but two that could be useful are:

www.core-solutions.com (a consultancy, Core Solutions); and
www.unison.org.uk/bargining (the trade union, UNISON).

REFERENCES

Douglas, A. (1962) *Industrial Peacemaking*. New York: Columbia University Press.
Dunlop, J.T. (1984) *Dispute Resolution*. London: Auburn.
Farnham, D. (1993) *Employee Relations*. London: IPM.
Fisher, R. and Ury, W. (1986) *Getting to Yes: Negotiating agreement without giving in*. New York: Penguin.

Fowler, A. (1990) *Negotiation Skills and Strategies*. London: IPM.

Grint, K. (1997) *Fuzzy Management*. London: Sage.

Hiltrop, J.M. and Udall, B. (1995) *The Essence of Negotiation*. Hemel Hempstead: Prentice Hall International.

Kennedy, G. (1998) *The New Negotiating Edge*. London: Nicholas Brealey.

Morley, I. and Stephenson, G.M. (1970) 'Strength of case, communication systems and the outcomes of simulated negotiations', *Industrial Relations Journal*, Summer.

Mulholland, J. (1991) *The Language of Negotiation*. London: Routledge.

Oncken, W. (1984) *Managing Management Time: who's got the monkey?* Englewood Cliffs, NJ: Prentice-Hall.

Roberts, Z. (2002) 'A Square Deal', *People Management*, September, Vol. 8, No. 18, pp. 37–40.

Walton, R.E. (1969) *Interpersonal Peacemaking: Confrontations and third party consultation*. Reading, Mass.: Addison-Wesley.

Walton, R.E. and McKersie, R.B. (1965) *Towards a Behavioural Theory of Labour Negotiations*. London: McGraw-Hill.

Younson, F. (2000) 'How to handle a union recognition claim', *People Management*, Vol. 6, No. 15.

Zartman, I.W. (1976) *The 50% Solution*. New York: Anchor Press/Doubleday.

REVIEW OF PART VI

When Friedrich Engels came to Manchester from Germany in the 1840s he acted as agent for his family firm at what is now known as Jackson's Mill, for many years housing the Chemical Engineering Department of the University of Manchester. Looking out of his small first floor office he saw the squalid hovels of his workers in nearby Ancoats, with overcrowding, lack of sanitation and a level of poverty such that the average life expectancy was less than 30. This was a life-transforming experience for the young man who had left behind the elegant buildings and broad thoroughfares of Dresden. He wrote *The Condition of the Working Classes in England in 1844* and four years later collaborated with Karl Marx to write *The Communist Manifesto*. Here was the economic analysis that was to provide the intellectual underpinnings of the labour movement and of trade unionism for a hundred years. Fundamentally antagonistic, the interests of capitalists and workers were bound to cause class conflict and struggle as those who controlled the means of production wrestled to extract a surplus from the producers.

The management of employee relations is not now quite so stark, but the processes rest on the same fundamental premise of conflict between two different sets of interests, and much of that is about money. How will it be distributed? Who will decide on fair shares? How will the inevitable disagreements be dealt with? Pay is the mechanism of exchange at the centre of the employment contract. It not only rewards contribution and determines standard of living, it also reflects social status and financial security. Every aspect of human resource management has an important impact on the lives of all those involved, whether they be managing or managed, although the distinction between those who manage and those who are managed is hardly clear. Pay has a more significant impact on people's lives than some of the matters we have considered in this book.

Offshoring to India

Since 2000 dozens of large corporations based in the UK, USA and Canada have transferred parts of their operations to cities such as Bangalore and Mumbai in India. In the main the activities that are 'offshored' are those carried out in call centres, such as customer enquiries, telemarketing and back-office administration. Some 50,000 such jobs are estimated to have been switched from the UK to India between 2000 and 2004. Most of the larger finance companies either have made such a move or are actively considering doing so. The same is true of many e-businesses, mail-order retailers and other service sector companies. Rail and airline enquiries may well soon be answered down the phone from India, while some larger legal firms rely on secretarial services based in India to type up dictated letters. Offshoring has clearly become a major business trend.

The potential advantages are very evident. The salary that has to be paid to a call-centre worker in India is around 20 per cent of the figure required to secure the services of someone in the UK. This means that call centres in India operate at around 40 per cent of their cost in the UK once international telephone charges have been taken into account. Setting up a 850-seat centre in India costs about £20 million, but can easily yield annual savings of £15 million once it is established. Savings of that kind are just too significant to pass up in highly competitive industries that must cut costs wherever possible if they are to survive and grow.

Moreover, by Indian standards, these are well-paid jobs which attract highly educated people, including graduates, who perform more effectively and more quickly than the typical UK call-centre worker. Employers report that as well as having lower salary expectations, Indian employees are more adaptable to change and more responsive to management demands than their UK counterparts. Their level of spoken English is generally very high too. It is thus argued that costs are saved and quality is increased when an organisation offshores its operations to India.

Offshoring has been criticised vigorously by trade unions representing the British workers whose jobs are put at risk by the offshoring trend. They argue that it is no more than a 'corporate fashion' which cannot be justified over the longer term. They point to the very high levels of staff turnover that are found in many Indian call-centre operations and to persistent power maintenance problems. Over the long term, the critics argue, shortages of appropriately qualified staff will emerge as the Indian economy develops its own high-tech industrial sector. Cost savings will thus reduce substantially within 10 years. Critics also point to well-publicised instances of poor quality services being provided by some Indian operations.

It appears that in order to be successful, a great deal of effort must be put into training Indian staff to adopt Western personas, particularly in the telesales operations. They

have to make 200 calls to the UK or the USA on each shift that they work, and these yield more sales if the operator poses as someone called Jack or Cathy and is able to chat about the weather in the UK or the latest television programmes.

Questions

1 Companies transferring their call-centre operations to India can either outsource to one of the established India-based providers (which typically operate 10,000-seat centres), or set up their own bespoke operation via a subsidiary company. What are the major advantages and disadvantages of each of these options from the perspective of the corporation?

2 Critics of offshoring often claim that the practice is unethical, when seen from the perspective of both UK and Indian employees. To what extent do you agree with this view and why? What steps might be taken by a company that aims to be a champion of corporate social responsibility to ensure that it acted ethically when offshoring?

3 A great deal of customer demand for call-centre services is concentrated in the evenings and at weekends, and this is also the prime time for selling goods and services to UK and US-based consumers via cold calling. What implications does this have for the achievement of a work-life balance for Indian call-centre workers?

4 Some companies have already outsourced parts of their HR function to India – mainly basic back-office tasks such as payroll administration, the maintenance of databases and intranet systems, generation of standard letters and sets of documentation and benefits administration. How much further do you think this process could be taken? To what extent would it be feasible to offshore some of the advisory functions carried out by HR specialists as well as the basic administrative tasks?

Sources

Crabb, S. (2003) 'East India companies', *People Management*, 20 February, pp. 28–32.
Articles downloaded from the BBC News website (www.bbc.co.uk).

1 Explain the difference in the objectives of employer and employee when considering the payment arrangements of the employee.

2 What are the differences between wages and salaries?

3 'Job evaluation is redundant: it is only the Equal Pay Act that keeps it going.' Discuss.

4 How effective are payment systems in improving effort levels and performance?

5 If you are managing a system of payment with the objective that those being paid should regard the system as being fair, would you relate the payment to the demands of the job or to the relative performance of individuals doing the job?

6 'Individual performance pay is only one ingredient of a performance management system and a relatively insignificant one at that.' Do you agree or disagree with this statement? Explain your reasons.

7 What are the advantages and disadvantages of broadbanded pay structures?

8 What should be the main benefits of an employee benefits policy?