

The Brain In Conflict

The psychology behind communication skills

A talk by Spenser Hilliard



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The psychology behind communication skills

- Self esteem and the need to be heard



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ACTIVE LISTENING

- **A process that creates relationship through showing empathy. People like being heard. Properly listening raises self esteem.**
- **It is not enough just to listen. You have to show the party that they have been truly heard.**

- **Non-verbal listening**
 - **Eye Contact**
 - **Body Language and Posture**
 - **Use of Silence**



Verbal Listening

- **To demonstrate the party has been heard**
- **‘Interventions’ rather than ‘questions’**
- **Interventions should follow the story and be used tentatively.**



Open and Closed Questions

- **Closed questions**
 - can be answered by ‘Yes’ or ‘No’ - reveal little information
- **Open questions**
 - invite the party to tell us more
 - seek an answer of more than one word
 - tend to start with **How? What? Who? When?**
 - **Avoid “Why?” questions**



Reflecting Back, Paraphrasing and Summarising

- **Three “techniques” used to demonstrate that you have truly heard and understood**
- **Very powerful means of creating rapport and a trusting relationship and in reinforcing a party’s self esteem.**



Reflecting back

- Shows the party that you have heard the significance of what they are saying
- Offering back to the party what they have said.
- Mirror words selectively.
- Reflect back emotions as well as words used.
- One of the quickest ways to establish rapport and trust.



Paraphrasing

- **Putting into your own words what the party has said**
- **Shows the party that you have heard, understood - *and* ‘processed’ in your mind what they are saying and the nuances of their emotions.**
- **Proactively label their fears. Phrases like “It sounds as though you are worried about how much.....”**

Summarising

- Draws together what you have heard
- Summarise not just *facts* but also *feelings*
- Use tentatively - to allow corrections. Trigger a “that’s right” response
- The summary:
 - Shows you have listened
 - Shows you have understood
 - Gives party a chance to clarify misperceptions
 - Crystalizes and gives focus



Tuning In and Tuning Out

Tuning In

- In listening actively and attentively you create a bond of empathy and become “tuned in” to their thoughts and feelings
- You may strongly disagree with views expressed by a party. Showing that you have heard and understood them is not the same as agreeing with them. It takes practice to successfully navigate this distinction.

Tuning Out and Challenging

Tuning Out

- Only when a trusting relationship exists
- Returning to stark realities
- Challenging and ‘Reality Testing’
- The “What if” – The catastrophe of continuing and the comfort of settling

Challenging and Reality Testing

- Reality testing is particularly helpful when it focuses on practical questions rather than the legal strength of the case: i.e.
- *What is the best case scenario if you don't do a deal today and what is the worst?*
- *How much will this litigation cost and how long will it take?*
- *What impact will the publicity of a lawsuit have on you and your business?*



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Reframing



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Reframing

- People are much more risk averse if something is framed as a gain than if it is framed as a loss.
- Your use of words and how you express yourself in conflict is very important.
- Reframing can enable parties to view their relationships in new ways and help resolve disputes
- How you put an offer can make the difference between whether it is accepted or not.



Reframing Can Save Lives

- One study concerned surgery for lung cancer. Half the subjects were told that surgery would produce a 90% chance of surviving for 5 years. The other half were told that surgery carried a 10% risk of dying within the next 5 years. There was a much higher uptake for the first half.



Dealing with Deadlock

MIKE, IT'S YOUR MOM.
SHE SAYS TO SETTLE
NOW SO YOU CAN
PICK HER UP FOR
DINNER ON TIME.



Mediator Trick #273: "The Mom Phone Call"
Used to break deadlocked mediations.

Dealing with Deadlock

- Most deadlocks can be unlocked.
- Most non-negotiables are negotiated.
- Final offers are rarely final.
- Impasse is a stage that many disputes have to go through before they are ready to be settled.
- Think of it as a resistance to settlement rather than an impasse.



Deadlock

- There are a few disputes that, at the time of mediation aren't ready for resolution. They are the minority.
- Mediators and parties are often much too ready to declare an impasse when, in reality, they have just run out of tools to move the process along.
- Importantly, impasse often happens at a stage just before the parties are ready to settle.



Darkest Hour

- In long standing disputes where positions have become entrenched, you are usually asking the parties to move a very long way to achieve settlement.
- Don't give-up. Mediation is like a marathon race and needs real endurance. During the race you may well hit the wall and feel that it is impossible to carry on.
- If you keep going you will get through the wall and go on to complete the race. Impasse is like the wall.



The power of the process. Keep it going

- When the parties are reaching a point that is close to their expectations, they can find it difficult to cross that point. And so they hit a pause button because they are getting frustrated and they threaten to walk out.
- Parties in dispute are afraid of not getting the best deal they can (leaving money on the table).
- Deadlocks and threatened walkout can indicate to the other side that they have pushed as far as they can go and can therefore they can settle knowing they have best deal available.

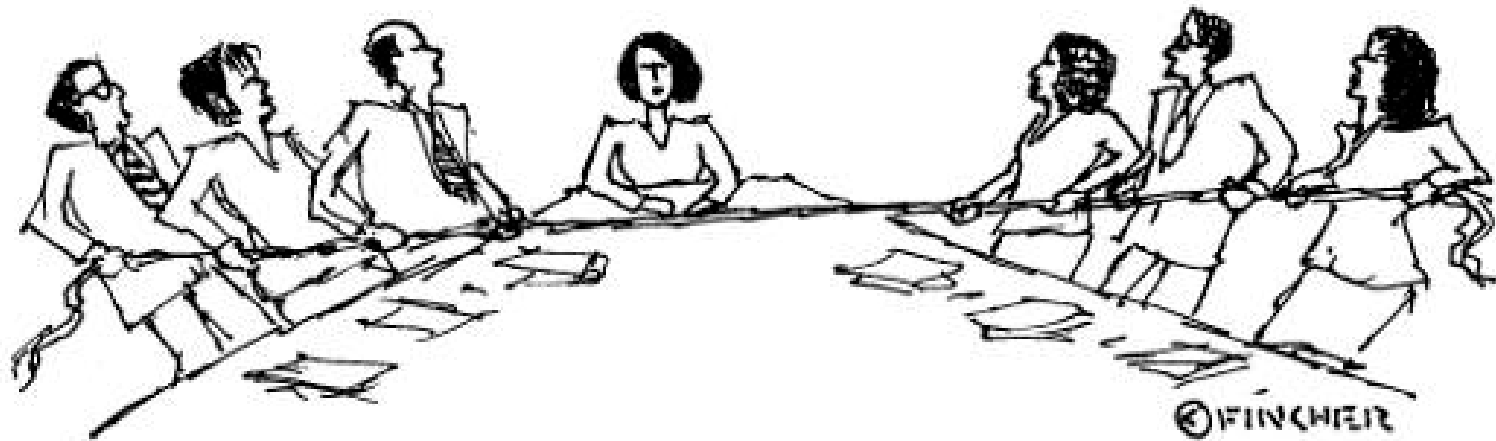


Overcoming Deadlock

- Address self esteem
- Empathise
- Shift perceptions
- Not Through Logic
- Keep it going and help them over the final fence



Deadlock



After all of Judith's mediator tricks had failed to break the negotiation deadlock, she turned to tug-of-war.

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Thanks for Listening - Actively

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