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Negotiation in practice

Doing it better — behaviour indicia of superior negotiators Part 1

Pat Cavanagh

Why are some negotiators better than others? Why do some negotiators consistently achieve superior results? Why do most negotiators fail to adapt their 'standard routine'?

Negotiation is the only professional conduct for which no training or formal qualification is required. Many negotiators not only spurn such formal education but believe that negotiation is simply the application of commonsense mixed with experience.

Despite this strict aversion to any systematic approach that discloses a theoretical and practical understanding of superior negotiation conduct, there is evidence that indicates what superior negotiators actually do. This evidence is more than 20 years old and it has not been updated; yet it is the best available.

The simple fact is that different negotiators do achieve different results. Some consistently achieve better results than others. This alone should drive professional negotiators to examine their conduct so as to achieve superior outcomes. A superior negotiator is one who consistently achieves better results than their peers for their clients.

It is assumed that by contrasting the behaviour of average negotiators against the conduct of superior negotiators we can identify behaviour which, if followed, will improve our negotiated outcomes. This theory is clearly a behaviourist approach and is the formula adopted by all professional educational establishments, and professions. Lawyers, doctors and engineers are urged to study the behaviour of their successful counterparts — why don't negotiators do the same?

The most significant behaviourist based study of what superior negotiators actually do was undertaken by Neil Rachman in

1980.¹ This was a study in which the negotiation behaviour of 102 labour relations negotiators was examined. The results are illuminating. Even allowing for the fact that the subject matter of industrial relations may make the findings non-transferable to any other subject area, the findings are worthy of examination. The study examined two stages of negotiation, the time prior to the negotiation and the actual face to face meeting.

Pre-negotiation conduct

This is the stage most often ignored by the majority of negotiators. Many practitioners believe that any investment of time in this stage is a waste of time and money. Their aim is 'to get down to business'. Such an attitude is equivalent to the surgeon refusing to undertake any pre-operational examination of the patient, and being anxious to 'start cutting'. Such a refusal to take x-rays and blood tests or to ask for other professional input would be a clear example of professional negligence or complete stupidity. It appears to be the norm for negotiators. The failure to prepare is a principal reason for the failure of many negotiations.

What the research indicated

Rachman isolated five specific pre-negotiation behaviour patterns of superior negotiators.

Consideration of multiple outcome options for the issues being discussed

A major failure of negotiators is their belief that there is only one way to resolve a problem. Not surprisingly, their belief is that their solution is the only solution. It is totally predictable that their opponent will have the same but opposite view. It is inevitable that

the negotiations will lead to an impasse. Rachman's superior negotiators considered a range of options to meet the needs of all negotiating parties. Rather than coming to the negotiation table with one solution, they were prepared to discuss many solutions.

Examination and identification of common ground

The study identified what professional negotiators have seen in practice. Most behavioural psychologists attest to the fact that our conduct mirrors not the reality of any situation but the reality as seen by an individual. The research confirms the saying 'we do not see things the way they are but as we are'.

Given that most negotiators see the negotiation process as an opportunity to amplify the differences between the parties it is unavoidable that the negotiation is reduced to a verbal sparring competition. If your basic premise is that negotiations are competitive, then you will be proved correct. A self-fulfilling prophecy will occur. Superior negotiators seek out an early stage to emphasise the common ground between the parties, identify the outstanding issues and then move to prioritise issues. By emphasising the commonalities rather than the differences, a problem solving approach to contested issues can be achieved.

Considering the long term consequences of different issues

The reality for many negotiators is that due to the lack of any pre-negotiation planning there is a tendency to adopt measures that may have long term detrimental consequences.

The most common of these tendencies is agreement without any consideration being given as to how such a settlement can be sold to absent third parties. Often when negotiators report to their principals, employers, employees or those directly or indirectly affected by the outcome the necessary ratification of the deal is refused. The failure to predict this problem leads to adverse long term consequences for the negotiators. They are perceived as lacking competence, good faith or honesty. ➤



► None of these attributes may be correct, but in negotiation perceptions are paramount. Superior negotiators anticipate future problems and articulate them with alternative proposals to the opposite party.

Negotiation goals around ranges rather than specific outcomes

Many negotiators come to the table with a specific resolution in mind. As mentioned earlier, this resolution (being *their* resolution) is their strong preference, and such preference is expressed in financial terms. The presentation will be that the opponent must pay a specific sum. As also noted earlier, the other party will have an identical and opposite game plan.

Given the realities of commercial and legal considerations such an exact financial claim, down to the last dollar, simply demonstrates the standard game plan of many negotiators. No lawyer can accurately predict the exact dollar result in any future court case. Litigation is an

exercise in uncertainty. It is the equivalent of throwing the dice in the casino, with any appeal presenting the opportunity to throw again. Predicting what an unnamed and unknown third party — the judge — will do in the future is best left to astrologists.

All superior negotiators realise that an opening offer is only that — an opening offer. Given time, all parties move from this position. Giving a range from a best to worst case scenario for settlement indicates professionalism and expertise in the negotiating process. As in all negotiation skills it assumes a similar move from the other side. If not, then the rule of reciprocity applies and the negotiation can revert to standard positional tactics.

Demonstrated procedural flexibility

Rachman identified that superior negotiators were prepared to adopt a flexible agenda and were prepared to 'move on' when faced with impasse ►

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➤ on any one issue. Standard negotiators tend to isolate one issue and then, when faced with impasse, abandon the process.

Superior negotiators demonstrate the ability to 'park' an outstanding issue and then either return or fail to return to it at a later time. Often such an outstanding issue becomes redundant and is ignored or used in the process of conditionally linked bargaining with another difficult issue. This is achieved

by suggesting a movement on such issue, provided it is agreed that there should also be reciprocal movement on a corresponding issue. The psychological basis of reciprocity reflects the basic negotiation principle 'to get something you must give something'. Such behaviour patterns demonstrate the high communication and process skills of the superior negotiator.

Part 2 in this series will deal with real, face

to face conduct of superior negotiators. ●

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Endnotes

1. The work of Rackham is discussed extensively in Lewicki, Saunders and Minton *Negotiation* (3rd ed, 1999) Irwin McGraw-Hill pp 99-103.