

# contract management

IN PRACTICE

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## to be frank ...

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### Good negotiation — five essential qualities

Negotiation is probably the single most used skill in business and in life generally. Negotiation is not litigation nor is it war; it is not about *always* obtaining a total victory on all points. More often than not, in business, negotiation is about achieving desired outcomes while maintaining and developing relationships.

Given the high monetary cost and significant investment of time required to attract potential commercial partners, it makes sense that dealings with them be as collegial and co-operative as possible so as to not to potentially alienate or antagonise. At the same time, one must maintain a tight focus on the economics and commercial viability of the situation.

This article will be published in two parts. This part examines five essential qualities of a good negotiator. The second part, to appear in the next issue, will focus on the mindset of a good negotiator.

The qualities of a good negotiator examined in this part are the requirements to be:

- a clear communicator;
- empathetic;
- creative;
- strong; and
- in possession of good interpersonal skills.

#### Clear communicator

Communicating does not only mean speaking and writing — rather, it is the *interaction* of the speaking, writing and listening functions.

Listening does not simply consist of acknowledging what the other side is trying to say. It is the skill of being able to genuinely appreciate and understand what it is the other party wants and to assess this in relation to your own objectives.

Assuming that a negotiated bargain is one acceptable to all sides, it follows that all good thinking in a negotiation arises from listening to and understanding the relevant issues from all sides.

Of course, it also helps when you are able to clearly and unambiguously articulate your requests and your point of view and to offer logical and reasonable justifications for your actions and positions.

#### Empathetic

Empathy not only helps to establish a negotiating rapport but also gives you the ability to genuinely place yourself in the position of the other party. Having an

appreciation of the circumstances of the other party can be of enormous benefit in helping to tailor a solution that meets the needs of the other party as well as your own. There is an old saying about walking a mile in the other person's shoes — it is about the need for empathy.

Empathy enables you to think more laterally and creatively and to perhaps see a different solution that might not have been otherwise apparent to the self-interested or positional negotiator.

## Creative

Creativity requires solution oriented thinking. Every move must be considered with the end solution in mind; considering also that there might be more than one solution to a problem and that an alternative solution might prove to have less unwanted consequences for one of the parties and, therefore, be more suitable to everyone.

Being creative involves a certain element of flexibility. The recognition of the evolutionary process of a negotiation is critical. To enter a negotiation with a rigid plan and an iron will to adhere to it, regardless of the flow of proceedings, is not the hallmark of an able negotiator.

The element of creativity can also involve the ability to restate a problem in a slightly different way. This can often trigger an examination of the issues from different angles. Thus, issues not previously considered can be uncovered, or a proposed solution to a problem can be refined.

## Strong

Being strong has nothing to do with being antagonistic or stubborn. There

is a saying among trial lawyers that *cross-examination is not simply examining crossly*. One can be strong by being firm — that does not equate to being overbearing or angry when making or emphasising a point.

Confidence is part of strength and is achieved through:

- thorough preparation;
- knowledge and familiarity of the issues; and
- knowledge of the motivating factors of the other side.

Strength is a necessary trait in a negotiation when a stand needs to be taken either on a particular issue or point. A certain amount of tenacity is also an advantage.

## Good interpersonal skills

The ability to get along and be likeable is important. This is a reference to the genuine appreciation that both sides are attempting to secure a workable arrangement. People skills help one to be attuned and responsive to the objectives of the other side. This does not mean that you always accommodate the other side's wishes. It means that you are able to recognise, in a co-operative and sensible way, a situation where a request simply cannot be acceded to or even to spot an occasion where a deal cannot be reached by the parties.

Also, the ability to read and understand the non-verbal signals in a negotiation is critical — just ask any poker player.

The definition of people skills extends to include the ability to read and judge a situation in order to know when to keep pushing on a particular issue and when not to do so.

Possessing a modicum of people skills will also help you to recognise when the people with whom you are negotiating do not have people skills.

People skills can also make you aware of those who approach a negotiation with a *kill or be killed* mentality, and can help you defuse and neutralise such negative behavioural patterns.

## Conclusion

The characteristics of a good negotiator should not be considered singularly or in isolation. These qualities are delicately intertwined, and when *combined* in the right measure (and in the right circumstances), produce an accomplished negotiator.

Naturally, as we are describing human beings with all their idiosyncracies and differences, you will find that people have differing measures of each trait. This mixture alone is sufficient to produce varying outcomes, even though they may arise from a similar set of circumstances.

In any negotiation one would do well to remember that we are not always dealing with creatures of logic. We must also take into account other motivating factors that influence human behaviour, such as self-interest, emotion, prejudice, pride and vanity. ●

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