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Options and Choice for Conflict Resolution in the Workplace

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► Henry came into my office extremely upset because his supervisor had taken credit for work that Henry had done. Henry said he did not want to *just forget it*. He did not want to leave the department, but he did not see how he could stay. He did not want to make a formal complaint. In short, he felt he had no options. Henry was also afraid of the half dozen other alternatives I suggested to him, including the possibility of a polite, well-crafted letter to his supervisor. However, he finally decided to work with me on a letter and then eventually did send the letter privately to his supervisor. He was astonished that his letter brought an apology, and full credit in public.

Colleen poked her head into my office. *My boss tried to take off my blouse last night in the lab. I stopped in to tell you because I*

AUTHOR'S NOTE: This article was adapted from a lecture about complaints and disputes that arise within institutions. I have been a full-time ombudsman at MIT since 1972 and a consultant to a wide variety of other ombudsmen and other private and public employers. The ideas, examples, and quotes in this article are drawn from that experience and are taken from real cases.

know you want to know about these things and, besides, I just wanted to tell somebody. Charges? A complaint? No, I don't want to make a complaint. He'll never do it again. I really walloped him. I told him if I, or any one else I know, ever has this problem with him again, he'll be missing a piece of himself. I don't want you to do anything about this; what's more . . . you don't need to!

Sandy came in sadly to talk about a problem with an old friend in the department. Sandy felt the friend might be drinking at lunch, was using poor judgment and might possibly get himself or Sandy into a unsafe situation with high voltage equipment. *I know I should turn him in, but I don't want to call an investigation on him and get him fired.*

Both Complainants and Complaint Handlers Need Options

People with concerns, and those who complain and are involved in disputes often want more options than they perceive that they have. Employers and others who are responsible for dealing with complaints also have much to gain by offering options. For example, people who believe they have realistic options to solve their problems are much more likely to come forward in timely fashion. I note that those who choose their own options are more likely to be satisfied. In addition, employers may in some cases be protected, if the complainant's choice of an option does not work out well, because the complainant could have chosen a different mode of complaint handling. Despite these arguments, many managers and even some negotiation theorists do not believe that they should provide options, and in practice they and most complainants actually use only one or two ways of complaint resolution.¹

Disempowering the Complainant

Decision makers do not instinctively provide options to others about how they may complain or raise a concern. Most people who think about complaint procedures and grievance procedures, at

home or at work, imagine only one or two ways to handle a concern or complaint. In fact, in childhood many people learned only two ways to handle conflict: versions of fight or flight. Others seem to think that *experts* should determine the *best* way for complaint-handlers to deal with disputes. Restrictive thinking characterizes the work of many alternative dispute resolution (ADR) theorists as well as the average person's approach to conflict. Some examples of restrictive thinking, and of the all-too-common willingness of decision makers to make decisions about how complainants *ought* to have their complaints handled, are the following.²

1. The power orientation: Many people automatically assume that most disputes should be handled, one hopes fairly, by those with more *power*; for example, parents, the relevant supervisor, the CEO. (*Because I'm the parent; that's why! Do it my way or you're fired!*) Many managers, in fact, believe that managers *should* decide the outcome of most workplace disputes and concerns, because it is their responsibility to be a leader and to maintain workplace control.
2. The rights orientation: Many principled people and many political activists think that nearly all disputes should be decided on the basis of justice or the letter of a contract (e.g., union contract). They believe that complaints should be decided on the basis of who is *right*. (*Get the facts and decide the matter fairly.*) While this approach may be appropriate for such problems as larceny, this type of thinking is also commonly applied when the problem is controversial and, in part, a matter of individual perception (i.e., issues of academic credit, sexual harassment, the use of alcohol, and safety). In fact, many managers and academics think of workplace complaint systems *only* in terms of formal, due process, complaint-and-appeal systems. In the extreme form, if a problem cannot be adjudicated fairly, for example, because of a lack of sufficient evidence, a person oriented solely toward this view may take the position that nothing can be done and, therefore, that no complaint exists.
3. The interests orientation: Many ADR practitioners will seek the *interests* of those involved in the dispute and then recommend and/or practice the form of interest-based problem solving with which they are familiar. Mediators tend to think solely or mainly in terms of mediation—and within the context may be *bargainers* or *therapists*;³ counselors tend to think in terms of therapeutic interventions, communication specialists think about better communication, and organizational theorists think in terms of changing the system to prevent or deal with problems.

In prescriptive research, as negotiation theorists have applied their tools to more and more types of negotiations and conflicts, they have tended to seek *optimal* solutions to problems. For many types of objectively quantifiable problems, this has made excellent sense. My concern is that this type of research, and all three viewpoints above—while extraordinarily useful as advisory tools—tend to focus people's thinking on *singular solutions, rather than ranges of choice*. They also focus on solutions that can be prescribed by those outside the dispute and even outside the system. This is often not as appropriate for complaint handling as it is for other forms of negotiations.

Descriptive research may also lead to stereotyped solutions to problems. For example, some researchers who have observed complaint handling and complaint handlers, correctly note that the ways in which people deal with their disputes are culture specific, and that many complaint handlers deal with disputes in narrowly defined ways. Descriptive researchers in this way may focus quite narrowly on only one type or style of complaint handling, in a way that inadvertently reduces the likelihood that interested managers will learn to think about many different modes of complaint handling.

Complaints and intrainstitutional disputes are not necessarily like commercial or game-theory negotiations, which may have an inherently *best* solution. Also, the specific practices of individual complaint handlers may or may not be as broad as complainants would wish (if they were aware of the choices they were missing). In short, for a wide range of cases, there may not be any one *optimal* way to handle a complaint, other than whatever responsible method is freely chosen, by disputants and the complaint handler, under conditions of choice. This chapter is about developing options and deliberately providing choices within a complaint system.

The Value of Options and Choice

Different People Want to Settle Things in Different Ways. Different options may be necessary to satisfy the variety of people in a given workplace who believe *complaints should be resolved on the basis of principle*, but who do not share the same principles.

For example, some believe, on principle, that disputes should generally be resolved in an integrative fashion. These people will not be very happy if they are provided only adjudicative, complaint and appeal channels (e.g., *Please don't set up another formal equal opportunity thing for racial harassment; we get singled out enough already.*). People who share this opinion may not complain at all and will prefer to suffer rather than be forced into a polarized situation. The reverse is also true. An exclusively integrative, problem-solving complaint system will not satisfy the feelings of everyone who uses it, for some people will feel that their grievances should be adjudicated as a matter of justice (e.g., *It's time those creeps were stopped. I am going to take them every step of the way if I have to. I'll go to the Supreme Court.*).

Providing Alternative Modes May Be Necessary to Deal With a Particular Problem. For example, many complaints cannot be adequately adjudicated in the workplace for lack of sufficient evidence to convict a wrongdoer.⁴ A formal process may, therefore, be useless in certain workplace disputes such as harassment, if sufficient evidence of wrongdoing does not exist (e.g., *He only does it behind closed doors; it'd be his word against mine. I don't want to bring a formal complaint; they would say it could not be proved and nothing would happen.*). An adjudicatory process may also be impractical for handling a very complicated web of problems; mediated outcomes may, in such cases, be substantively better because they often include a wider range of topics and feelings. (*Separating the work of the guys on that work team would take an arbitrator 6 weeks. We need to find a way to help them to work out the details themselves, without killing each other or the project.*).

Choice Itself Is Often Important to Disputants and Complainants. For example, *I stopped feeling that my hands were tied.* Having choices offers a measure of power and self-esteem and will often be perceived as more fair. Some complainants specifically ask for a *vote* on how something will be handled, instead of, or in addition, to substantive redress. Choice can be itself an *interest*, that can and should be included in interest-based problem solving.

Even in situations for which there appears to be only one responsible option, a complaint handler may be able to provide small choices. For example, suppose a theft must be reported; there seems to be only one responsible option. But there may be some small choices available: Would the complainant prefer to go directly to the security office alone, would she rather have the complaint handler accompany her, or would she rather that the complaint handler go to report the theft? It is especially important to offer some choice if the subject matter is stressful; people cope better with tough problems if they perceive that they have some control over the complaint process, and they are more likely to feel that the process is fair.

Knowing That There Is a Choice About How to Pursue a Complaint Is Essential to Getting Some People to Complain. My research⁵ indicates that many people do not wish to lose control over their complaints, especially in the beginning while they are thinking things through. For example, many people who come to my office feeling harassed express fear of retaliation and of loss of privacy (e.g., *I know it's important to stop my supervisor from using coke, if only because he's mean as hell. But I can't be the one to complain; I've got a family.*). In addition, they may care about the object of the complaint and may fear being seen as childish or disloyal. Many would ultimately do nothing about their problems if we could not together devise a tailor-made option that satisfied their individual concerns (e.g., *Thank you for letting me wait until after graduation; I just could not have come forward before.*).

The Complainant's Choice May Be a Better Choice. This is particularly true when the complainant finds it difficult to identify exactly the factors that are important (e.g., *I don't know why. I just couldn't look her in the face if I didn't try to take it up with her directly one more time before I go to the boss.*).

The Complainant Who Chooses May Learn Something. Having a choice of complaint handling modes may encourage complainants to take more responsibility for their lives and to become more effective. Developing and then choosing an option with a skilled

complaint handler provides a complainant not just an individual solution, but a method for responsible dispute resolution in the future (*Hey, I came back to see you. You know that year I spent carping at everyone about safety on the plant floor? Well, you know you finally taught me how to negotiate these things. I haven't had a fight about safety, or much of anything else, for 4 years. . . . I just wanted to tell you.*).

Providing Options May Be Less Costly. It is important to provide (responsible) options that cost the complainant and the system as little as possible in terms of time, soul, and money. Costly alternatives are often used in situations in which someone mainly *just wants to be heard*. Numerous studies of union grievances have shown that complainants sometimes pursue formal grievances when they think that a grievance is the only available way to express their feelings about dictatorial work relationships. Sometimes people go to court or to government agencies while wishing they had a less costly option (e.g., *I know I may lose this case against that bastard; I know I don't necessarily have a leg to stand on. But he is going to have to listen to me.*). In my experience, the strongest impetus for labor lawsuits against employers is that the plaintiff felt humiliated and could find no other satisfactory way to redress the humiliation. By the same token, sabotage and violence may also be precipitated by humiliation. As Program on Negotiation participant Diane Di Carlo put it, "When social rules provide alternatives, people are less likely to take revenge."

Providing Choice in How to Deal With a Complaint May Help Protect the Employer. The complainant that has chosen his or her dispute-processing mode may be better satisfied with the solution. And if he or she is not satisfied, the employer can reasonably plead that the complainant chose the mode himself or herself and, therefore, should take some responsibility for what ensued (e.g., *This company always offers the possibility of formal investigation and adjudication to anyone who feels harassed. When Chris Lee complained, we wrote her a letter offering an investigation. Obviously, this is the option we would have preferred. She refused. She did not permit us to do a fair, prompt and thorough investigation. She absolutely refused to make an open complaint.*

The only option Lee would agree to was that we develop a training program for that department, which we did immediately.

Creating options and choice for complainants will be especially important for the U.S. workplace in the 1990s and beyond. We are moving into an era of extraordinary diversity. The Bureau of Labor Statistics suggests that only about 1 in 10 of net new entrants into the U.S. labor force of the 1990s will be a native-born Anglo (white) male. The rest will be minorities, women, and immigrants, an extremely diverse group of managers and workers compared with the past. It will be especially important to have choices in how to express concerns or pursue grievances in the workplace because individual values will differ greatly.

Prescriptively, What Are Some of the Choices That an Effective Complaint System Should Provide?

1. **Complaint handlers who will listen and offer respect** to people with concerns and who will help people who are hurt, in grief, confused, angry, aggrieved, or frightened to deal with their feelings. It is essential that this function be offered on a confidential basis, perhaps by employee assistance or ombudsman counselors. Moreover, a complainant should under most circumstances be able to talk and choose *no* further action, if that is what he or she wishes.⁶ It may be appropriate to make a referral to a counselor or religious adviser. The option *just to be heard* by the complaint handler may be the appropriate complaint handling mode for the case of Colleen in my opening vignette. Colleen is simply asking for affirmation and that her situation be recorded in the aggregated statistics on sexual harassment. The complaint handler should, if possible, follow up with Colleen to be sure that the harassment has ended. The complaint handler might also agree with Colleen on the importance of bringing in a training program for the whole work unit. However, in most cases of this kind, the complaint handler ought not act without permission.

2. **Any person in the workplace should be able to receive certain types of information** off the record, for example, about how the system works, what fairness is, what salary equity is, and

how to raise a concern. Everyone should also have safe (that is, anonymous or completely confidential) channels to *provide* information to management about unsafe conditions, unethical and illegal practices, and the like. Colleen wants her case recorded for statistical use. Sandy and Henry in my opening vignettes need to know how the system works. Sandy, for example, needs to know about employee assistance, the policies on use of alcohol, and how supervisors and the safety office may be expected to function if and when they hear about Sandy's co-worker. Henry needs to know his employer's policies on assignment of credit and perhaps on fraud.

3. **All employees and managers should be able to find effective, confidential counseling** on how to sort out their complaints and conflicts, how to generate different responsible options for action, and how to negotiate their problems directly if desired.⁷ This was an option for Sandy and Henry to consider. For example, Sandy might have learned how to persuade the old friend to seek help and perhaps accompany the old friend to employee assistance while nevertheless insisting on compliance with safety standards. Henry chose to learn to write and send an effective personal letter. Colleen seems to have chosen this option, but can still learn more by talking through what she did (as there are several different ways she could have rejected the harassment).

4. **There should be effective shuttle diplomats and process consultants** as go-betweens and educators, for individuals and groups.⁸ It is important to note that this is by far the most common form of *mediation* in the workplace because the assistance of a third party helps people of unequal rank to save face. Henry and Colleen could have asked the complaint handler to talk with their bosses. Sandy could have asked the complaint handler to talk with his co-worker.

5. **Formal mediation should be available**, accompanied by formal written settlements, if desired.⁹ This would have been a reasonable option for both Henry and Colleen.

6. **There should be a fair, prompt, and thorough investigation of complaints when appropriate.** A good complaint system can provide formal and informal investigation, with or without written recommendations to a decision maker.¹⁰ Henry might have asked for an investigation by his suprasupervisor. Colleen might have asked for an employee ombudsman (EO) person or her boss's boss to look into her complaint. Sandy's complaint

could trigger a safety inspection and possibly a substance abuse investigation by a specialized staff person or the supervisor.

7. **There should be appropriate, fair process, complaint and appeal channels, with impartial arbitration, peer review, or impartial adjudication.**¹¹ These options could have been offered to Henry and Colleen, and indeed would likely have been triggered by an investigation. Henry, Colleen, their supervisors, and Sandy's co-worker could appeal a decision they did not like within a formal grievance structure.

8. **There should be effective provision for feedback and systems change, both as a problem-solving device for specific complaints and to prevent further problems.**¹² Colleen's office should offer a program on harassment, Henry's office should train supervisors about work credit, and Sandy's office should train about safety and substance abuse. A good complaint system will provide management the information needed to design effective problem prevention programs.

How to Provide Options for Complainants

Obviously, an employer wants to take the lead in the design of a complaint handling system, to foster responsible and consistent practice. Potential disputants and potential complaint handlers should be involved in the design process. This may happen naturally in the context of union negotiations or consultive committees, or it may happen ad hoc, through the use of focus groups or by circulating draft proposals to many networks in the workplace.

A grievance channel or a complaint system is often designed around the issue that brought it into existence and, therefore, can be much too narrowly focused. For example, as a result of an organizing campaign, there may be a singular focus on worker versus management grievances. Or a group of concerned employees may generate a great deal of attention to one type of concern such as transfer policy or safety.

This chapter, by contrast, aims to foster choice of complaint-handling options for the whole panorama of real-life workplace disputes. Workplace problems can involve co-workers, peer conflict among managers, or fights among groups. Complaints may arise

in *any* area where people feel unjustly treated. In order to make it clear that there truly are options for complaint handling available to everyone within a workplace, *complaint systems should provide all the options discussed above.* Everyone in the organization (managers, employees, union workers, professionals, etc.) should have recourse, with respect to every kind of important concern.

The systems approach also requires having different kinds of people available as complaint handlers. The set of complaint handlers should, within reason, reflect the given work force, and include, for example, African-Americans, females, Asian-Americans, technical people, and so on. This will make it more likely that the work force will believe there are accessible and credible managers, who might offer acceptable ways to raise a concern.

The point is also true with respect to complaint handling skills. Because few complaint handlers are equally good at listening, referring, counseling, mediating, investigating, adjudicating, and systems change, a good system will have a variety of complaint handlers providing a variety of functions. In particular, it often helps to have different people for problem solving and adjudication, since some people are better at integrative solutions and others consistently think distributively and may make better judges.

Finally, a good system will train its employees and its complaint handlers, including all managers, to respect, offer, and pursue the widest possible variety of different options for dealing with disputes and concerns, with as much choice as possible for those who raise concerns. It may not be easy to change the working styles of employees, managers, and complaint handlers, but everyone can learn what his or her own strengths are and can learn at least to respect and offer other options.¹³

I used to think that my only choices were to put up with the unpaid overtime—shut up—or just quit. Then I thought, well, I could take that slave driver to court or maybe file a formal grievance with corporate [headquarters]. Then I thought, I can't stand it any longer, and I began to miss work. Then you pointed out to me that there were several possibilities other than fantasies of revenge or a lawsuit or dropping out. I actually had not considered sending a private letter to my boss, for example, and I certainly had not imagined that you [the company ombudsman] would be willing to go see the boss for me.

But the best idea was that you would ask human resources to send out a general notice on the overtime rules. The fact that you went to human resources alone, without mentioning me or my boss, really made me feel safer. My boss stopped requiring unpaid overtime and no one knew I was involved. I'm very glad it worked. Who knows? Maybe somebody else's situation got cleared up at the same time.

Functions of a Good Complaint System

In sum, a good complaint system will provide *multiple options* for complainants, and as much *choice* as possible among those options. The first three functions of the system will be *available on a confidential basis* if desired. The system will have *men and women and minorities and nonminorities* available as complaint handlers. The system will be *available to everyone* within the workplace, including managers, trainees, employees, and so on and will accept any kind of concern. Necessary functions include:

- *Expressing respect for feelings*: especially rage, fear of retaliation, and grief. Helping people deal with their feelings so they will be able to make good decisions and deal effectively with their problems or complaints.
- *Giving and receiving information* on a one-to-one basis.
- *Helping people help themselves*: confidential counseling with clients, inventing options, listing possible options for the choice of the client, coaching on how the client or group may deal with the problem directly (problem solving, role-playing, anticipating possible outcomes, etc.).
- *Shuttle diplomacy* by a third party, back and forth among those with a problem, to resolve the matter at hand (sometimes called *conciliation* or *caucusing* as one form of mediation).
- *Mediation*: a third party brings together the people with a problem to reach their own settlement; mediation settlements may be formal or informal.
- *Fact-finding or investigation*: this may be done either formally or informally; results may be used or reports made either with or without recommendations from the fact-finder to a decision maker.
- *Decision making, arbitration, or adjudication*: a person or body with power and/or formal authority decides a dispute; this may be structured as part of a formal complaint-and-appeals channel or formal grievance procedure.

- *Systems change*: designing a generic process for a type of problem complaint; *upward feedback*; making actual changes in policies, procedures, or structures as a result of an inquiry, suggestion, complaint, or grievance.

When all these functions are being performed within an organization, one may speak of a complaint-handling *system*. Without fair, accessible complaint-and-appeals channels, other functions are not likely to work well. Where all functions are working well, the formal grievance channel is not likely to be used heavily. In analogy, a manager who is not able to decide disputes fairly will not be trusted to carry out other functions of a complaint handling system. The manager who has all these skills will usually be able to solve most problems without arbitration.

Appendix: Exercise on "Skills Needed by the Complaint Handler"

This exercise is very simple. The sheet on skills needed (see "Functions of a Good Complaint System," above) is assigned for one week or 1 month. The task is for the assignee to notice and keep a journal on the ways in which he or she deals with concerns. In addition, the writer should analyze the complaint handling option chosen by those with whom he or she comes in contact.

The writer should take notice of his or her customary ways of expressing concerns and ask the following questions. Do I seek advice about how to handle my problems? Do I just need to blow off steam, and with whom do I do this? Do I look for mediatic services? Do I ask others to be a shuttle diplomat for me? Do I ask for an investigation of my problems? Do I want someone more powerful than I to take care of my complaints? Do I seek a systematic change in the conditions that cause the problem?

By the same token, the writer should notice how others handle complaints and concerns. Do they offer choices to the complainants? Or do they just seem to "know what is best?" Do they appear to listen to the complainer, help to invent options, advise or tailor an option to the concern at hand? Or do they irritably decide the question before exploring it?

The writer should try to develop insight into his or her normal complaint handling modes with children, colleagues, supervisors, strangers, and so on. It is also useful to analyze the patterns of others, to see how they deal with complaints and concerns.

Obviously, some people will be very much oriented toward justice. Others will problem solve in the face of the most tenacious wrong-doing and in the most serious, win-lose situations. Most people have a variety of skills and can develop and work on new skills. It is useful to reflect on the variety of skills needed in different situations and to provoke discussion as to whether and when certain complaint handling modes appear to be best or necessary.

Notes

1. See also generally the work of Professor Kolb (Simmons College), and Professor Merry and Professor Silbey (Wellesley College) on the narrow range of conflict resolution modes practiced by mediators whom they have studied. See also the typologies of Myers-Briggs and Chapter 11, this volume, by Professor Williams (Brigham Young University) on negotiating styles.

2. This typology is drawn from the terminology of colleagues at the (Harvard/MIT/Tufts) Program on Negotiation and Ury, Brett, and Goldberg (1988). It will be noted by negotiations theorists that an orientation on rights is likely to lead to distributive solutions and orientation on power is also most likely to be distributive, although there are a few power-oriented managers who seek integrative solutions. A manager who is oriented toward interests is more likely to seek integrative solutions.

3. See again generally Kolb (1983; also this volume), and Merry and Silbey (1984).

4. For further work on this point see Rowe (1990).

5. Rowe (1990).

6. This possibility is controversial for some types of complaints, for example, harassment. It is in this arena that we see most clearly the extent to which many people would like to be able to make decisions for complainants about how they will be "allowed" to complain. For example, many people think that all harassment complaints should be investigated and adjudicated, whether or not the offended person wishes this to happen. This is a complicated matter, but in most cases I feel that if a complainant knows there are options and refuses investigation and adjudication, and the complaint handler follows up and knows the harassment has ended, the matter should not be pursued. Investigating harassment that is said to have ended should, ordinarily, require permission from the harassed person. There should, of course, not be adverse administrative action, or a record made against the alleged offender, in the absence of a fair investigation. A review of choices actually made by this type of complainant is included in Rowe (1990).

7. See, for example, Rowe (1990).

8. See, for example, Blake and Mouton (1984).

9. See, for example, Ury, Brett, and Goldberg (1988).

10. See, for example, Ewing (1989) Westin and Feliu (1988).

11. Ewing (1989) and Westin and Feliu (1988).

12. There are many good examples of systems change mechanisms in the books cited in this chapter, although each example tends to focus on only one way to produce systems change. Ombuds practitioners typically spend a quarter to a third or more of their time on systems change.

13. See the appendix to this chapter for an exercise that can be used as a diagnostic tool. The exercise provides a framework for analyzing one's own skills as a complainer and a complaint handler and for analyzing the skills and methods of others.