

# Negotiation Briefing: Effective negotiating to secure better outcomes

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NB: Please note this briefing has been updated to include delegate feedback collected at the regional seminars.



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## Abstract

The effectiveness of third sector organisations in winning contracts for services, developing partnerships, or engaging agencies, can be enhanced by strengthening the negotiation skills of people who work for them.

Many third sector organisations find themselves in difficult negotiating positions. Some negotiating partners, such as local authorities or government departments, seem to hold all the negotiating power, and leave little room for discussion.

Yet a few simple rules, applied to every negotiation, can dramatically improve the results you achieve. This briefing will help you to take a structured and methodical approach to negotiation, enable you to secure better outcomes for your organisation and those it serves.

This briefing will be an excellent practical guide for those who are new to negotiating, as well as a good refresher for the more experienced negotiator. The principles outlined will be helpful for negotiating with many different stakeholders in different situations and they are not set out to be prescriptive for any particular negotiating scenario.

## Introduction

Third sector leaders must now regard their funders as “customers” or “clients”, and accept the need to compete, and negotiate, for their business.

Negotiation can seem daunting. A recent acevo survey has shown that third sector leaders, especially those running smaller organisations, experience various difficulties when negotiating with funders:

- Only one in twenty smaller organisations, and one in five larger ones, say that almost all their negotiations result in successful outcomes,
- CEOs of smaller organisations are far less likely to walk away from negotiations than those leading larger ones (7% versus 22%),
- 45% of CEOs leading smaller organisations said they found negotiation “uncomfortable”, compared with 18% in larger organisations, and
- Almost half of smaller organisations (turnover under £1m) have no more than 3 significant funders, placing them in a weak bargaining position.

By taking a planned and structured approach to negotiation, you can overcome many of these challenges and achieve better results. For instance, you may be able to build better relationships with your funders, and secure funding that covers your costs.

In any negotiation, it is critically important to identify what influence you can wield in the negotiation. So often, particularly as

third sector negotiators, we fail to acknowledge our own strengths in negotiating and the fact that we do not have to accept unreservedly all the provisions and offers set forth by the other party. Consider what value you add above and beyond the contract and how this might be advantageous to the other party. The Impact Briefing might be a useful guide on this, specifically pages 17-19.

You may also be in a position to influence the buyer at the tender preparation stage by helping to shape the document and acting in a consultative role. Tender documents are not always clear and you may have questions about it as well as advice at this early stage. You are strongly encouraged to pursue this role as relationships can be forged early in the negotiating process and will put you in the position of a ‘consultative negotiator’ (see later note on consultative negotiating – page 7).

This briefing outlines, in a step-by-step template, the four stages of a negotiation process:

1. Preparation
2. Discussion
3. Proposal
4. Bargain and Close

The briefing explains how to undertake each stage, and so make sure the negotiation achieves the best possible result.

## Key points

1. Negotiation is a skill that can be learnt and mastered.
2. Use the four steps outlined in this briefing for each negotiation process: Preparation, Discussion, Proposal, and Close. This will help you structure your negotiations effectively and improve your outcomes.
3. Think of your funders as 'customers' or 'clients', and accept the need to compete and negotiate for a business relationship with them.
4. Try to avoid relying solely on one funder, and putting yourself in a position where you cannot walk away from a negotiation.
5. Take time to understand your own organisation from the funders' eyes, so that you can emphasise your strengths and address any perceived weaknesses.
6. Always know your entry and exit points on each specific variable which you are negotiating.
7. Identify those areas where you can wield influence or power.
8. Establish the point at which you will walk away from the negotiation. This requires you to identify your BATNA – best alternative to a negotiated agreement.
9. Remember to take in VAT implications when negotiating about price. Refer to the VAT briefing for guidance.

## What is Negotiation?

Negotiation is the process through which two or more parties seek to achieve an agreement for their mutual benefit. This usually means providing goods or services, in exchange for money. For instance, a charity may agree to provide social care services, receiving funding from a local authority.

This exchange will usually be the subject of a contract. In a competitive tendering process, a contract is the main output. During the implementation of the contract, further negotiations may take

place over any changes in the scope or scale of the goods and services it covers, or over any changes in the price.

There are times when it will not be possible to negotiate. Sealed bid tenders and fixed fee contracts are examples. However, the principles of understanding what the organisation can afford to provide for a given amount of funding, and perhaps more appropriately what it cannot afford to do, are still fundamental to ensuring an achievable deal is struck.

## Negotiating in the third sector

Third sector organisations operate in an increasingly competitive world. An important mission and charitable status alone do not entitle an organisation to funding.

Third sector leaders must regard organisations providing funding as 'customers' or 'clients', rather than 'funders', and accept the need to compete, and negotiate, for their business.

To compete effectively, organisations must understand their clients' buying

methods (often called 'procurement processes'), and the factors that shape them.

When negotiating with statutory bodies this will involve considering the political and economic constraints and pressures they are under, as well as the financial constraints. By learning about the client and their environment, we will be better placed to enter successful negotiations with them.

## Consultative negotiation

Akin to consultative selling, consultative negotiation establishes a positive and non-adversarial negotiating position early on in the engagement. It puts you and the other party essentially on the same team seeking to arrive at a win-win outcome and working together to overcome barriers and problems to each party's

satisfaction. Not all negotiation can be consultative, but it puts you in a very positive position if it can be and is often an automatic outcome when you advise at the tender preparation stage. Consultative negotiation is particularly relevant when you are seeking to build partnerships and establish consortia.

# The four phases of negotiation

The four phases of a negotiation process are:

1. Preparation
2. Discussion
3. Proposal
4. Bargain and Close

## 1. Preparation

Preparation is the most important stage of negotiation. Before negotiating, all good negotiators identify their objectives, set their priorities, and assess the other side's position. They plan their strategy and tactics to achieve the desired result.

The first phase of preparation involves asking general questions about your own organisation, such as:

- Who (are we)?
- What (do we do)?
- Where?
- When?
- How?
- Why?

It is useful to consider these questions in more detail. The lists below are not definitive. They serve to illustrate some of the thought processes we must go through before negotiating with a potential client.

### Who?

- What type of organisation do we run?
- What is our value base?
- What sets our organisation apart from the competition?

As well as being important for your own awareness, your answers to these questions may shape the other party's perceptions of your organisation and how they should deal with you.

### What?

- What do we do?
- What is our "Unique Sales Proposition" (USP), which sets our service apart from the competition?

These questions help to explore what you can offer the other party, and why they should be interested.

### Where?

- Where do we work?
- Where can we work?

These questions prompt thought about your current geographical presence and reach.

### When?

- When were we formed?
- When did we start doing what we do now?

These questions draw attention to your organisation's history and its track record in a specific field.



### How?

“How” questions involve reviewing the relationship between your organisation and those with whom you negotiate.

- How do we view ourselves?
- How do local authorities view us?
- How can we achieve our ultimate objectives?

You should consider how your relationships depend on mutual perceptions, and how they can be harnessed to achieve your organisation’s objectives.

### Why?

All too often, organisations that are selling goods or services ask:

- Why should we take work from them?
- Why should we accept their terms & conditions?

That might be all right if you have so much work that you can afford to turn some away. If that is not the case a better question to ask is:

- Why should they buy from us?
- Why should they pay the price we are asking?

If you can answer these questions, you are beginning to provide the rationale for a procurement decision in your favour. At the same time, you are acknowledging a competitive context in which you cannot expect simply to be awarded funds.

Finally and most important is to ask the question whether you should be entering the negotiation in the first place. Is this business relevant to our aims and objectives and does it fit with our strategic plan? The Tendering Briefing has some useful guidelines on this on page 8.

# The negotiating position

Look at your negotiating position in three ways:

1. what would be our ideal outcome?
2. what are we prepared to accept?
3. what would make us walk away from the negotiation?

Set out your position in the form of a table, ascribing a relative priority to each issue. Identify issues that are ‘essential’, ‘highly desirable’ or ‘desirable’. We can think of each issue as a “variable” in the negotiation.

For each variable, identify your ‘entry position’, then set your ‘exit point’, below which you’ll walk away. This will allow you to see at a glance your options in the negotiation.

The example below sets out a negotiating position for a service provider. The variables are the price charged for the service, its availability, and the start date.

**Fig.1: Table of issues and negotiating positions<sup>1</sup>**

Variables	Importance	Entry	Exit	Degrees of freedom
Price	Essential	£160k	£130k	£30k
Service availability	Highly desirable	150 days per year	180 days per year	30 days
Service start date	Desirable	120 days	90 days	30 days

The table should include each ‘negotiable’ under the contract as perceived by you or notified by the other party. However, you should keep an open mind on what is and what is not negotiable.

Note that the table enables you to see potential links between each of the negotiables. Link variables so that you don’t get dragged into negotiating each point individually.

Visualise the variables as tied together with string: if you pull at one point the other points move. So you might end up saying, “We could start the service 90 days from now, but we would need to charge an extra £10k to cover the additional costs.”

<sup>1</sup> Taken from *Win-Win: Negotiation Strategy and Tactics for Third Sector Leaders*, acevo, 2007

## About them

Examine the likely position of the other party, employing the same techniques used to clarify your own position. Begin by thinking about their probable wish-list and priorities, which will form the basis of the questions asked at the Discussion Phase.

You will find useful information in the relevant documents, such as the invitation to tender. However, you will also have to make assumptions about their position.

Bear in mind that your job at the negotiating table is to find the 'overlap' in entry and exit positions of the parties. So you should compare their likely negotiating position with your own. Consider whether, and how, the two can be reconciled.

## 2. Discussion

In the discussion phase of a negotiation, you should seek to set up a good rapport. You should therefore avoid arguments, direct counter offers and direct contradictions. These can seem hostile or aggressive and damage the negotiation at the sensitive early stages.

### Clarifying the purpose

Establish early on that both parties agree on the purpose of the meeting. This avoids discussions at cross purposes, which can lead to frustration on both sides.

### Gathering information

In opening the negotiation, you should seek to confirm the position of the other party. A simple technique is to ask the other party what they want. You should also be prepared to state your opening position.

### Summarising

Summarising is a vital tool in the Discussion phase of negotiations. It provides an opportunity to reduce tension by taking the negotiation back to a point of agreement.

**“So in summary, against the agreed agenda, we have settled and recorded outcomes for points 1 & 3, not discussed point 4 and have the following proposals on the table in respect of point 3 ...”**

## 3. The proposal

Having prepared your negotiating position and confirmed or altered it as a result of discussion, you are now set to move to the Proposal phase.

In the Proposal phase it is important to understand:

- What is a proposal?
- When should you make a proposal?
- How should you make a proposal?
- How should you respond to a proposal?

Let us consider each of those questions in turn.

### What is a proposal?

A proposal is a tentative answer to the question:

**“Which of their needs must I meet, in order for them to meet mine?”**

It suggests a solution that may solve problems for both sides. It may be unconditional, but usually should have conditions attached.

A complex negotiation will usually involve multiple proposals from both sides, each meeting some of each side’s requirements.

### When should you make a proposal?

You should make a proposal when you are sure that you understand the other party’s position and all of the issues are on the table. You should not make a proposal unless you can provide an accurate summary of what the other party wants.

### How should you make a proposal?

In general, all your proposals should be conditional.

A conditional proposal has two elements: the condition and the offer. It is good

practice to state the condition first, and follow it with the offer. This helps to ensure that all offers are conditional.

Thus the offer should be constructed “If..., then...,” for example:

**“If we are able to cover our full costs, we can have the service up and running in 90 days.”**

### Unconditional Proposals

Unconditional proposals can be subdivided into two categories:

- The something for nothing demand, and
- The something for nothing offer.

#### The something for nothing demand

When confronted by the something for nothing demand, your counter should be to use a conditional response.

To the demand,

**“I need a 10% discount on the price,”**

You might respond,

**“If you agree to pay 10% of our price up front, we can reduce the overall cost by 2%.”**

Note that the conditional response falls short of the unconditional demand. The original demand represents the other party’s entry position, which may be open to negotiation.

#### The something for nothing offer

If you are presented with a something for nothing offer, you should “thank and bank”. In other words, say thank you for the offer and accept it, without making any offer in response. Make sure you record this properly, so the offer does not disappear.

## 4. Bargain and close

By this time you have identified the negotiables through Preparation and Discussion, and heard and made one or more Proposals. Now you have to Close the deal.

This phase creates the most difficulty, especially in professional, work-related negotiations. Adults become inhibited by their other experiences and less willing to take risks, including the risk of the ultimate indicator of rejection: a simple “No”.

A bargain is an exchange: each party offers something in order to obtain agreement. At this point in the negotiation you are starting to look for the answer “Yes”, so you must take particular care over your questions, offers and proposals.

The bargain might cover all of the issues that are under negotiation, or if all other issues have been resolved, just a single issue. However, it is good practice to keep all elements of the negotiation alive until you are ready to close the deal. If you fail to do so, you might find that a valuable negotiation ‘chip’ has already been banked by the other side, and no longer features in the scenario.

Closing the negotiation is often the most challenging part of the engagement and requires a certain persistence and assertiveness which not all of us possess. If you feel uncomfortable in this role or feel your assertiveness skills need some improving you are strongly advised to involve a team member with good closing skills in this final stage.

Here are seven low-pressure phrases to bring the negotiation to a close:

‘Do I have your approval to proceed’

‘When would you like to start the project/programme/service’

‘If we covered all the bases, can I have your agreement to drawup/sign the contract?’

‘Finally, do you have any concerns/issues that I/we have not addressed?’

You might also consider using a compelling date by which the final decision must be made in order to move all parties to a close. This might be associated with budgets, fiscal planning, an industry event or the availability of a key resource.

Even if you can’t close on the final deal, try to close on something to keep the negotiation alive. This heightens commitment from the other party and increases the other party’s motivation to move forward. This is known as an intermediate close and could include;

- Meeting again
- Further review and discussion of the tender document
- A service demonstration or visit to your facilities
- Using the product or service on a trial basis
- Arranging a meeting or consulting with another decision-maker in your organisation or the other party’s
- Providing further information
- A visit to a reference site

## Case study 1: The credit card scheme

By Jason Suckley, Head of Corporate Partnerships at Macmillan Cancer Support

**This case study shows how third sector organisations are often in a stronger negotiating position than they think. Do not assume there is no room for negotiation, just because the other side is very assertive.**

We had a deal with a card provider to issue a Macmillan credit card. With 12 months left on the contract they suddenly told us that they had sold our contract to another provider, and we had only two weeks to sign a new five-year contract. We normally take three months to agree a contract like this.

Before we spoke to them we made a list of our needs, and a list of their needs, and then thought about how we could trade these. For example, if we have something of low value to us that they want, we won't give it up easily. This is what I learnt in the private sector, and it needn't be any different in the third sector.

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From the start, we were clear that the two week deadline was their deadline, not ours. Our main lever in the negotiation was the threat not to sign the new contract. That would have meant staying with them for another year and not making any money, but we had to be willing to carry through on our threat, otherwise they might call our bluff.

On the whole we were reasonably well prepared and knew our options. By being assertive, we got what we wanted.

Coming from the commercial sector, I was surprised by the other side's attitude, who thought that we would roll over because we are a charity. Apparently all other charities that were offered the same deal as us accepted without question. Most charities are actually in a stronger position than they think they are.

## Case study 2: The building transfer

**By John Every, Blacon Community Trust**

**This case study shows how a third sector organisation can make progress even in a complex and bureaucratic negotiation. It shows the importance of getting all the right people on side before focusing on the specifics, and of sheer determination!**

We were negotiating with our County Council for the transfer of a former primary school which was surplus to the County's requirements. It was a large building that needed considerable investment. It was an ideal opportunity for us to integrate our activities into one base with room for growth. There was no other obvious alternative use.

The negotiations went through various stages. First we encountered real incomprehension, as we were dealing with property people trained to do commercial deals. 'Not-for-profit' or 'collaborative negotiation' were not concepts they were used to dealing with.

There was a phase of complete confusion with growing numbers of Council departments becoming involved as the building had to be declared 'surplus to requirements' and opened up for competitive offers. At this point we organised an emergency meeting with all 22 Council staff involved. This was a crucial step which secured agreement in principle to go ahead. It also resulted in the appointment of a lead person from County to coordinate the transfer process.

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Finally we worked through a period of bureaucracy to comply with the Council's approval and scrutiny requirements. The deal that we eventually struck was for 5 years rent free against market rent of 25,000 pa. Our preference was always to own the building – so watch this space!

Over the two and a half years that this took, we learned the following:

- Recruit champions and advocates early in the process to help prepare your case and assist in understanding the County's broader aspirations.
- Be prepared to make the business case from day one and have a comprehensive business plan drafted. This will improve your credibility.
- Discuss things with both junior and senior staff to ensure that all decision makers and influencers are fully onside.
- Deal with one effective spokesperson.
- Don't negotiate specific terms until the later stages - trying to drive a bargain too soon will tend to scupper the deal.

## Final word

The authors hope you have enjoyed reading this briefing and we encourage you to consider taking a practical negotiation training course as well as reading one or two of the books we have recommended. You are also encouraged to read the other briefings provided by acevo on tendering, impact and VAT.

We want to emphasise that proficiency in negotiating is a path rather than a destination and the more you practice and gain experience the better you will become.

Please let us know how you do by emailing us at: [info@acevo.org.uk](mailto:info@acevo.org.uk)  
We look forward to hearing about your negotiating experiences.



## About the author

Third Sector Leaders

**acevo**

Acevo is the Association of Chief Executives of Voluntary Organisations, and it was founded in 1987. Acevo develops, connects and represents the sector's leaders, for a modern and enterprising third sector.

## Disclaimer

The information in this article is believed to be correct at the time of publication. It is general in nature and is not intended to be exhaustive nor to provide legal advice in relation to any particular situation, and should not be acted or relied upon without taking specific advice.

## Further reading

*Win Win: acevo Guide to Negotiation*,  
acevo (2007)

*Six Habits of Merely Effective Negotiators*,  
(Harvard Business Review, April 2001)

*The Seven Habits of Highly Effective  
People*, Stephen Covey (Simon &  
Schuster, ISBN: 0684858398) -  
particularly Habits 4,5 & 6)

*Conflicts*, by Edward De Bono, Penguin  
Books (1985) - ISBN: 0 14 02.2684 2

*The Effective Negotiator* - Gerald G M  
Atkinson - Quest Research Publications  
(1975) - ISBN: 0-903947 15 0

*Getting to Yes* - Roger Fisher & William  
Ury - Better Business Guides, Hutchison  
(1983) - ISBN: 0 09 164071 7

*Managing Negotiations* - Kennedy,  
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Guides, Hutchison (1987) - ISBN: 0 09  
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*The Negotiating Game* - Karrass, Chester  
L - Crowell (1970) - ISBN: 0 690 00359 5

*The One Minute Sales Person* - Johnson  
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Gower Business Skills (1981) - ISBN: 0  
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*Successful Negotiation* - Robert B  
Maddux - Kogan Page Better  
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Fowler - Institute of Personnel  
Management (1990) - ISBN: 0 85292 416

*Everything is Negotiable* - Gavin Kennedy  
- Better Business Guides, Hutchison  
(1982)

*International Dimensions of Organisational  
Behavior* - Nancy J Adler - PWS-Kent  
(1991) - ISBN: 0 534 92274 0

*Win New Business* – Susan Croft –  
Acorn/Thorogood



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