

dialogue

Negotiation skills

September 2024

Introductions

- Gary Binstead
 - Background in commercial retail sector
 - 16 years in Local authority commissioning
 - Regional and local roles
 - Negotiating for East Midlands
- Cameras on
- Phones off
- Questions any time
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Agenda

- Introductions
- What is negotiation?
- Preparation for negotiation
- Break
- Negotiation techniques
- Dealing with provider requests for price increase
- Discussing contract clauses
- Resolving disputes
- Summary & feedback
-



What do we want to achieve?

- Breakout groups in pairs
 - 5 minutes to discuss
- What do you want to achieve personally?
- What would you like the group to achieve?



What is negotiation?

- Definition:

‘Strategic discussion between two parties to resolve an issue in a way that both find acceptable’

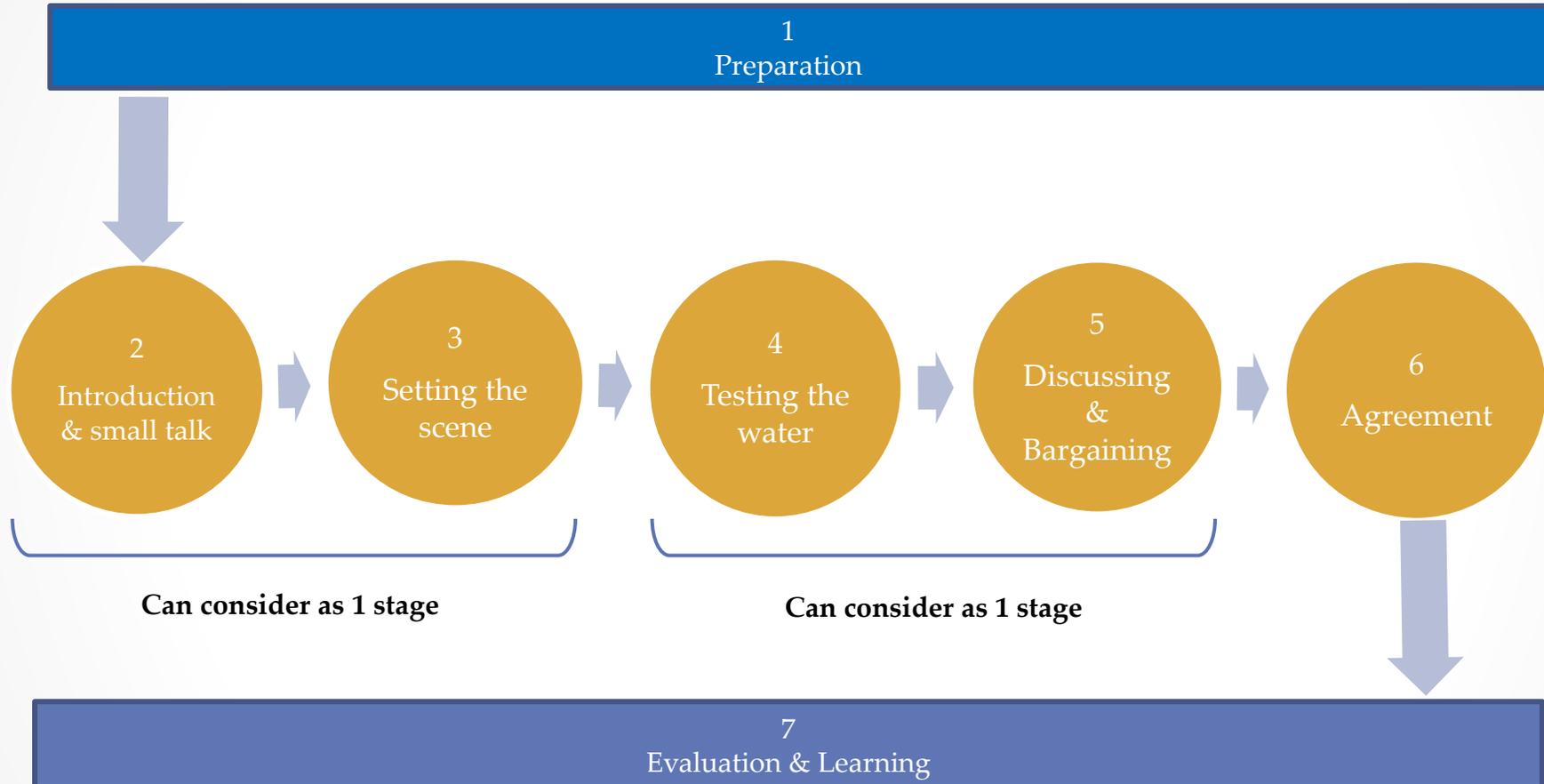
or

‘Formal discussion between people who are trying to reach an agreement’

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Stages of negotiation



Location of your negotiation

- Does it matter how and where you meet?
 - Where and how you negotiate can have an impact on your approach, your team, and the outcome
 - Think what you want the outcome to be and what message you want to send to the Provider
 - On-line or face to face?
 - If on-line who will arrange?
 - Always good to be in control of the meeting / discussion
 - More important is who will chair
 - If face to face, whose offices?
 - Beneficial to bring the provider to you in most cases
 - Possibly at the Provider offices if they are withholding information
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Location of your negotiation

- Harvard research (2021)
 - Face to face allows you to read more cues & body language
 - Video negotiation is more effective than e-mail
 - E-mail can be immotive and more difficult to understand. It is also slower and less effective
- In the current landscape of pressure on time and resources, there is a need to be pragmatic and realistic when deciding where & how to negotiate
- The World Economic Forum (2020) has ranked negotiation among the top 15 skills required for future jobs



Types of negotiators

- There are many different types of people in this world, but there are only three types of negotiators:
 - **Accommodators**
 - People pleasers, want to agree
 - **Analysts**
 - Methodical, diligent, data & results driven
 - **Assertives**
 - Most aggressive & hard bargainer, results driven
- The best negotiators are all 3 at the same time
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Types of negotiators

- **Discuss in groups of 3**
 - 10 minutes
- What type of negotiator am I / my team?
- What are my / my team strengths
 - values, skills, and assets in this negotiation?
- How can I / my team maximise these?
- What are my / my team weaknesses and vulnerabilities in this negotiation?
- How can I / my team mitigate for these?
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How to choose your lead negotiator & team

- What is most important?
 - Years of experience in the role
 - Length of service in company
 - Job title / role in company
 - Age
 - Gender
 - Background

- NONE OF THESE MATTER

-



What make a good negotiator?

- Well prepared
- Confident
- Calm
- Personable
- Empathic
- Co-operative
- Good active Listener
- Persuasive
- Perceptive
- Articulate
- Good under pressure
- Think on your feet
- **Practice**

- **There is no perfect answer**
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Agree Roles for the negotiation

- What type of team do I need?
- What skills do I need in my team?
- Who should lead the negotiation?
- What are the rest of the team going to do?
- Who makes the decisions?
- Allow for escalation if the negotiation is not resolved



Negotiation exercise

Buying a car

- Imagine you are a customer buying a car from a car dealership which is for sale at £25,000
- You want to negotiate on the price to see if you can get a better deal
- **What price will your opening offer be?**
 - Please write it down in the chat but do not press enter yet!



Learning

- Don't be afraid to start low
 - What is the worst than can happen?
- Test their position
- Consider your response times to an offer
- Put the onus on them to make their case
- Challenge them on their opinion / views
- Ask for evidence

- **How is negotiating on care placements different to buying a car?**



Know your organisation

- What does my organisation do?
- How much does my organisation do?
- How much does it spend?
- What is my future forecast?
- Why is this my forecast?
- What is my organisations reputation like?
- What difference will that make to the negotiation?
- What relevance is this to the people I am negotiating with today?



Know their organisation

- Do you believe what you hear and read?



The Guardian
News provider of the year

'Profiteering off children': care firms in England accused of squeezing cash from councils

A local authority leader claims private equity groups are exploiting vulnerable youngsters in care homes in the pursuit of profit



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Children's social care generates excessive profits - report

© 10 March 2022



Children & Young People Now

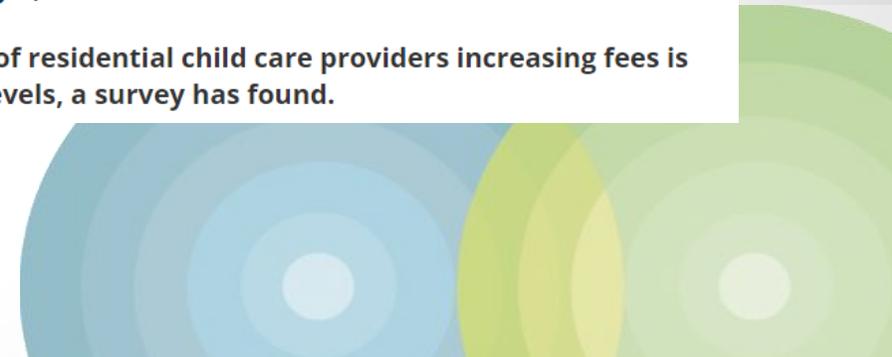
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News / Record proportion of children's home providers increasing fees, survey reveals

Record proportion of children's home providers increasing fees, survey reveals

Joe Lepper
Wednesday, May 3, 2023

The proportion of residential child care providers increasing fees is now at record levels, a survey has found.



Know their organisation

- Are independent providers 'profiteering'?
 - Average of 1 empty bed per home
- What are your views on Private Equity?
- Is the not for profit & charity sector any better?
- What would providers say?
 - Reasons for vacancies
 - Increased complexity
 - Matching challenges
 - Recruitment difficulties



Know their organisation

- How good is their business – reputation?
- Are they operating efficiently?
- How important are you to each other?
- Check their pricing structure
- Check their accounts
- Check their performance – Quality & Outcomes
- Check their regulator rating (Ofsted)
- Get information / feedback / evidence on their performance
- Understand volumes and cost of service / products
- Know their competitors and how they compare
- **Information sharing across the region – Cost & Quality**
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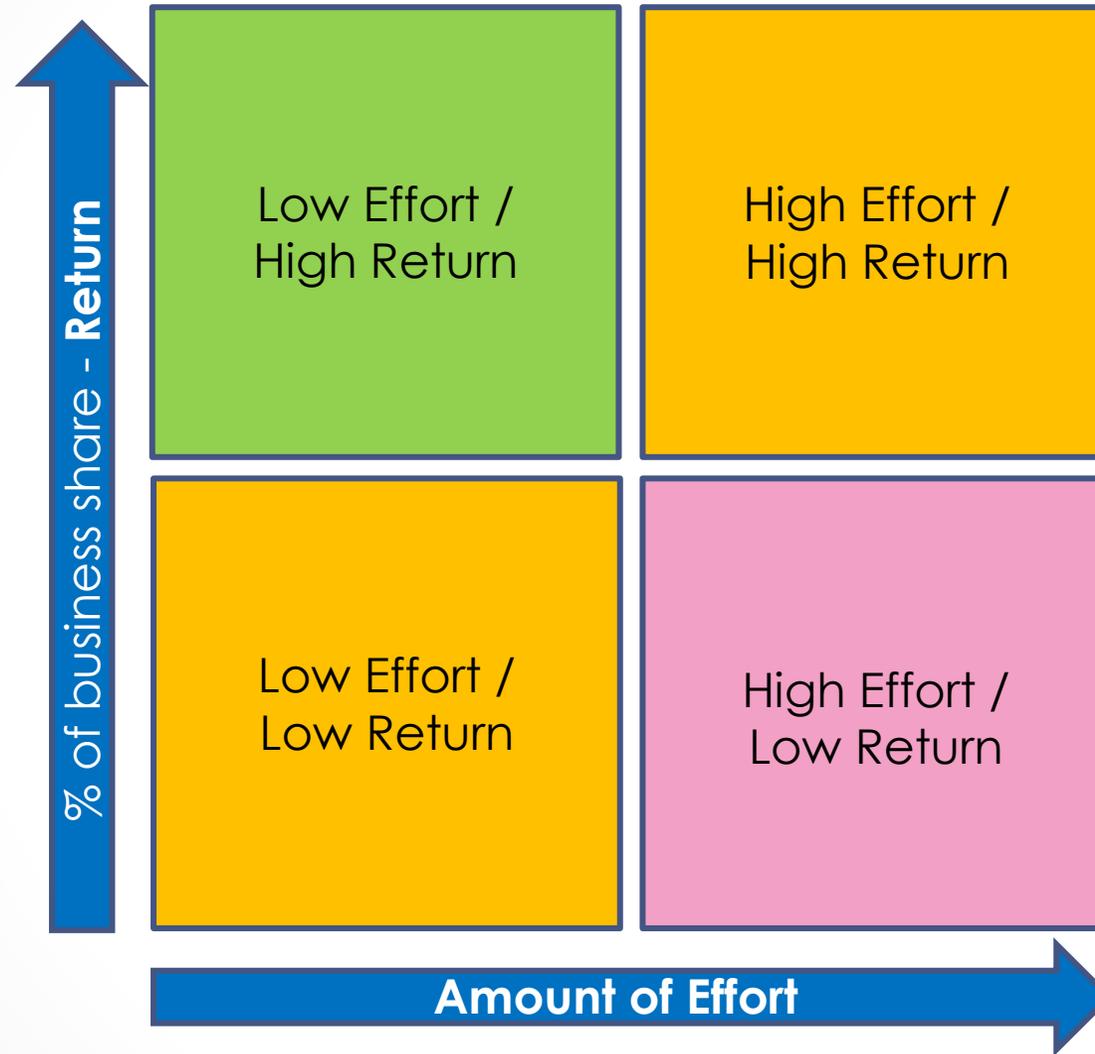


Know their people

- Which people in the organisation are you negotiating with – what are their roles?
- Do they have the authority to make decisions?
- What is their motivation?
- What is their communication style?
- Find out about them before you meet
- Have you met before? – remind them
- Make them feel important
- Show them you have done your homework
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How do you see each other?



Who has the power?

- Remember each sector is different
 - **Fostering**
Low supply / high demand
 - **Residential**
Low supply / high demand
 - **Supported accommodation**
High supply / moderate demand (changing needs)
 - **Independent special schools**
High supply / high demand (changing demand)
- Charity or not for profit vs Private Equity or profit making
- Adapt your style to each sector
- When is too much power unhealthy?
 - Councils & Providers
-



Who has the power?

- National Association of Supported Accommodation Providers (NASAP)
 - Too much pressure on cost by Councils may cause Providers to go bust or move provision (response to a Council offer of 2% fee increase)
 - Unintended consequences
- What can Councils offer instead of money?
 - Recruitment / guaranteed business or funding / shared resources / shared risk / central services support (legal, HR, etc) / payment terms and speed of payment / communication and information sharing
- Kings speech 2024
 - Education was a priority, but little on children's social care
 - Children's wellbeing bill
 - Children's commissioner wrote - 'local leaders need the resources to deliver this'
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Market factors to consider

From 2022/3 to 2023/4...

- The number of children in care rose 3.2%
 - EHCs rose 11.6%
 - Spending on children's social care rose 10.8% in real terms
 - Increase in the national living wage / pensions / etc
 - Wider context of recruitment and retention difficulties especially in residential care.
 - Social worker caseloads dropped from 16.6 to 16.0.
Registration renewals highest in last 5 years and overall increase of 4.5% more social workers
 - 1 in 5 Councils fairly likely to issue s114 notice, half do not feel confident they can fulfil statutory duties next year
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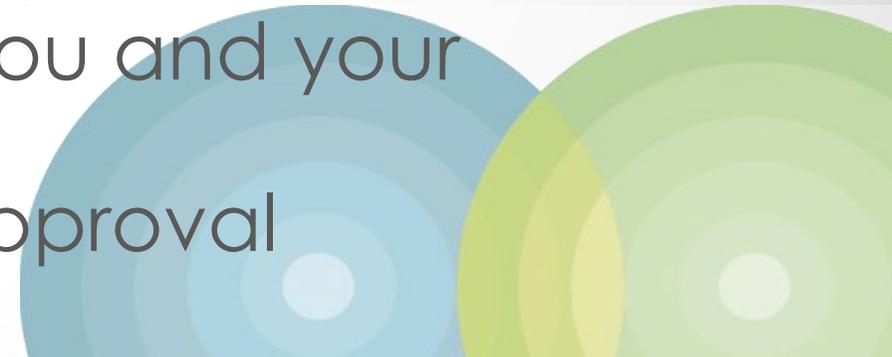
Market factors to consider

- Competition, Mergers & Acquisitions (CMA) report
- Changes by Welsh government to move away from profit making Providers
- Regulatory changes – Supported Accommodation
- Recruitment challenges in the sector
- Cost of living challenges
- Continued growth in demand
- Increasing complexity of children & young people
 - 30% of young people in care now have Mental Health diagnosis
- Providers lack of interest with framework agreements
 - Residential / Independent Special Schools particularly



Preparation (Negotiation Plan)

- List short-term and long-term goals
- What is your ideal outcome (dream big)
- What are you willing to accept
- Best outcome
- Worst acceptable outcome
- Not always finance related
- Have a range of options and ideas (angles)
 - Payment in advance / volume discount / Performance related Pay / Investment / Shared resources / Guarantee or certainty / new vs existing placements / split your placements to reduce impact / etc
- Think creatively and what is best for you and your organisation
- Meet before the negotiation & get approval
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Preparation Summary

- Understanding the stages of negotiation
- Choose your team and roles wisely
- Agree your position and your Limits
- Know yourself and the other party
- Understand how important you are to each other
- External market factors and their impact
- Importance of a negotiation plan



Break



Hints & tips (toolkit)

- Know your stuff & what you are paying for - confidence
 - Manage the expectations of Providers from the start
 - Ensure you maintain timely & effective communication throughout
 - Never give away your negotiating position
 - Get them to offer first
 - Thank and bank
 - Quid pro quo – What do I get if.....
 - Build trust and understanding – maintain a cordial environment
 - Focus on the children and young people
 - It is ok to have a break from the negotiation to re-group
 - Remember that you are paying
 - Know when to walk away
 - Confirm your understanding of what is agreed in writing
 - **Be confident**
- There is no such thing as a **'perfect negotiator'**



Favourite techniques (toolkit)

- **Listen**

- Active listening and engagement

- **Patience**

- Better to wait and get your preferred outcome

- **Silence**

- Can be really effective (& uncomfortable)

- **Columbo Effect**

- Use it to gain more information

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Listen

- Listen, listen and listen more!!!
- Actively engage in the conversation and be interested – reflect their comments
- They will be more likely to keep talking if you are actively listening
- Make notes of important facts or claims to explore later, or to help your negotiation
- Be agile & cordial in your conversation



Patience

- Take your time and do not rush to a conclusion. Stages 2 & 3 can be critical (small talk & scene setting)
- The longer they are talking the more information they will give you and the more relaxed they will be
- Make notes of their claims and shared information
- Continue to lead and steer the conversation asking relevant questions to explore issues
- This will allow you time to question them about their facts and evidence and find out more
- You can always reconvene another time
- Remember your goals - This is not a race!



Silence

- Silence can be really powerful
- Don't be afraid to leave a silence even if it makes you feel uncomfortable – It will do the same to them
- A silence will often lead to them offering something and restarting the conversation
- Remain relaxed and calm while keeping eye contact with all of the other people
- Silence also allows you to assess the other people and look for opportunities to target further questions or discussions
- **Brief your team to support this approach**



The Columbo effect

- Remember (or Google) Detective Columbo
 - There was always '**Just one more thing!**'
- Don't be afraid to ask naïve questions
- It is good to act as if you do not know everything, especially when asking about their data or claims (even if you do know)
- You are trying to get them to offer something and be relaxed, and possibly overconfident
- Sometimes by reflecting their answers back to them in a questioning way helps them to see they have made an error or helped you
- Remind them about their earlier comments and contradictions



What if you cant agree?

- Stop this meeting and arrange a follow up meeting
- Suggest that you need to consider the conversation and information so far
- Explain that you need to see if additional funding is available
- Decide if a new lead negotiator is required
- Reconsider your position and review if necessary

- Always be polite
- It is better to stop than continue a stressful and difficult negotiation
- Never be afraid to compromise –

That is negotiation!



The importance of review & learning

- Always hold a debrief after the negotiation
 - What went well?
 - What could have been better?
 - What would you do next time?
 - Share your learning and information with colleagues
- Use the result and learning to inform other negotiations
- Share results between Councils if you are not negotiating collectively
- Did the negotiation affect the relationship?
 - In what way (improved or worsened)
 - How can you build on that?



Working together

- There is strength in having one voice for all Councils
- Shares the workload across Councils
- More opportunity to identify the best team
- Identify key team / contacts / decision makers
- Increased scale can apply more pressure on Providers
- Data sharing is really useful and powerful in negotiations – evidence and information is key
- Working together can change the balance of relationships (especially for smaller Councils)

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Dealing with provider requests for fee increases

- Significant issue recent years
- Power dynamic has shifted
- Levels are starting to reduce
- Moving back towards normality
- Linked to sufficiency
- Linked to complexity
- Provider & market confidence
- Very time consuming
- Importance of relationships
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Negotiation exercise

- Your provider has decided to increase the price of their service by 10% due to increasing costs and market pressures
- They have written to you in December stating that prices will increase from 1st April
- They are one of your most important providers accounting for 25% of your spend
- Your expenditure with them is expected to increase next year by at least 10%
- You account for 50% of their income

- **How will you negotiate?**
- **Who has more power or influence?**
- 4 Groups -10 minutes



Learning

- Manage expectations early with Providers
- Know how you see them & how they see you
 - Who has the power and influence?
- Know your market & your Providers
 - What is changing & How?
- Remember you pay the bill
- Use your regulators
- Remember your toolkit
- What is in it for you & them
- Agree & know your parameters
- Maintain communication throughout negotiation



Discussing contract clauses

- Never really want to be having this discussion
- Will always get someone who wants to exploit contracts
- Lots of historic arrangements in place
 - Or no arrangements
 - Or expired agreements



Contracts Exercise

- A Provider decides to challenge your process for terminating a contract as they want to leave early
- They have interpreted the contract that they can leave early under 'financial hardship' as you will not award a fee increase
- You interpret that you do not need to give an increase based on the terms, and the Provider should have prepared and mitigated for no fee increases
- They have threatened legal action and to close their provision
- This is a block contract for 16 children's homes placements, and is significantly cheaper than current market prices
 - (£3,000 vs £5,000 now)
- There is a risk the Provider will become unsustainable without an increase

- **What do you do?**
- **How will you negotiate?**
- 4 Groups -10 minutes



Learning

- Base decisions on evidence
 - Get sound legal advice
 - See their accounts – open book
- Be prepared for difficult decisions
- Hold your nerve
- Get political and organisational support for your position
- Explore and consider all options
 - Is there another Provider
 - Could the Council operate the homes
 - Is there any budget
- Is their request reasonable
- Manage Provider expectations
- **Get contracts right (& flexible) first time!**
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Resolving disputes

- Market dynamics are changing
- Council finances continue to be stretched
- Commissioner report that providers are becoming more bold & demanding
- Increased work load is leading to more pressure and stress for colleagues and Providers alike
- Raised (and un-challenged) expectations



Dispute Exercise

- A Provider has informed you that they are adding late payment charges to their invoice as the fees of £250,000 have been outstanding for 3 months, and they have not had any contact from the Council
- These additional fees will be charged at 5% of the outstanding balance per month which equates to £12,500, and will increase over time
- **What is the first thing you will do?**
- **How will you resolve the issue?**
- 4 Groups -10 minutes
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Learning

- Communication is key
- Be honest and open
- Empathy and understanding
- Take them seriously
- Apologise and take action
- Put yourself in the other persons shoes
- Tell them what you will do
- And then **DO IT**

• **Keep communicating!**



Summary

- Plan well & gain approval for your position
- Know yourself, your team, and your Providers
- Look at the evidence
- Find your negotiation parameters (plan)
- Be prepared to compromise
- Communication is key
- Be honest & open
- Be confident & be brave
- Be prepared to reconvene or walk away
- Remember your toolkit & be patient

Negotiation is a balance & you will not always win

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Any Questions & Feedback

