

Chris Wheeler

Überblick: Dieser Beitrag ist ein Auszug aus einem umfangreicheren Konzeptpapier. Der Auszug ist fokussiert auf die Verknüpfung des Modells zur Konflikteskalation von Friedrich Glasl mit der Behandlung von Beschwerden.

Keywords: Complaints, escalation, querulance.

Conflict Escalation By Complainants

Focusing On Prevention Is The Most Practical Strategy

What are the changes in attitudes and behaviour of complainants that can occur as a conflict escalates?

Evidence suggests that where the activities of a complainant take on the characteristics of a 'campaign' which becomes more and more central to their very sense of identity, they will increasingly perceive that they are in conflict with the subject of their complaints and/or relevant complaint handlers. In the late 1970s an Austrian political scientist and social psychologist, Dr Friedrich Glasl¹, developed a model that explores the internal logic of conflict relationships. Glasl identifies nine levels of conflict escalation, divided into three main stages based on the parties general approach to the conflict: Win-Win; Win-Lose; and Lose-Lose. Each descending level is marked by an increase in the intensity of the conflict. The relevant conflicts in the complaint handling context might be between complainants and the persons or organisations the subject of their complaints, and/or other parties drawn into the conflict as it escalates (for example particular case officers handling a complaint or the complaint handling organisation itself).

The Glasl model contains many useful insights that can assist complaint handlers to analyse what is occurring when confronted by an ongoing and escalating dispute,

and assist them to pre-empt or appropriately respond to the forces underpinning and shaping the development and escalation of a conflict by a complainant. These insights include assisting complaint handlers in relation to:

- 1 *Understanding what is going on* – to analyse what is occurring when confronted by an ongoing and escalating dispute,
- 2 *Communicating appropriately* – to appropriately respond to the forces underpinning and shaping the development and escalation of a conflict by a complainant, e.g. by recognising the importance of ongoing meaningful and respectful communication with a complainant who is escalating a dispute.
- 3 *Recognising reality* – to assess whether a conflict has escalated to a level where the complaint handling mechanism is not able to effectively deal with the dispute and it can only be resolved through a

1) Glasl F., *Konfliktmanagement. Ein Handbuch für Führungskräfte, Beraterinnen und Berater*, Bern/Stuttgart: Paul Haupt Verlag, 1997; and Glasl, F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp (originally published in German by Freies Geistesleben as *Selbsthilfe in Konflikten*), 1997.

mechanism that can impose a decision on the parties (such as a court or tribunal)

- 1 *Responding pragmatically* – to assess whether it is in the best interests of all concerned to terminate or restrict access to the complaint mechanism by complainants whose conduct has escalated to the point that the substantive issue of complaint cannot be appropriately dealt with/resolved by that mechanism.

There is considerable congruence between Glasl's thoughts on conflict escalation, the findings of the research conducted by Dr Lester and Professor Mullen (and others)² into querulance ('unreasonable persistent complainants'), anecdotal evidence from numerous experienced complaint handlers, and my own 30 years of experience in complaint handling. In my opinion, Glasl's levels of conflict escalation could well be describing stages in the development of querulance. In this regard, Mullen & Lester and Glasl³ both refer to the intensification of conflicts/behaviour in a largely similar fashion: 1 that the behaviours involved develop over time, and 1 that the developing behaviours can best be described as a 'descent' (Mullen and Lester referring to the impact of querulance on the querulant as a "downward spiral", and Glasl referring to the intensification of a conflict as a "downward movement").

While Glasl's writings seem to suggest that both parties to a conflict are at each conflict level concurrently, he also recognises that "...it is enough if at least one of the [parties] perceives the differences and consequences of actions in this way"⁴. Practical complaint handling experience confirms:

» It is only necessary that one party even be aware there is a conflict for a conflict situation to exist.

Experience also indicates that, depending on their anger threshold/frustration tolerance, some complainants do not pass through each of the levels, maintain a consistent rate of escalation and/or proceed in a linear fashion. The particular value of the Glasl model for complaint handlers is that his descriptions of the changes that occur as a conflict escalates work just as well in circumstances where a complainant alone is escalating the intensity of his or her interactions with the subject of complaint or the complaint handler (in effect the complainant could be seen as an 'aggressor' and the complaint handler as a 'defender' in this relationship). When considering the Glasl model, it is important that com-

plaint handlers keep firmly in mind a competent complaint handler should not get to Glasl's first level, and in no circumstances should he or she ever go beyond that first level (as described below).

The Mullen and Lester (et al) research, the Glasl model and practical complaint handling experience suggest that complainants may well engage in the following behaviours as they escalate a conflict (according to Glasl's model):

Win-Win approach

Level 1 – Rational arguments ('Hardening')

At this level in a conflict situation the focus is likely to be on finding a fair solution, but in the context of fixed and mutually inconsistent views.

Starting from a difference of opinion about the facts and circumstances underlying the dispute (Glasl refers to this as "factual differences"), the relationship between the party's starts to break down (Glasl refers to this as "personal differences").

Glasl argues that symptoms of a conflict at this level include a party:

- 1 beginning to perceive and give greater weight to negative information about the other party to the dispute, while either not registering or discounting positive information (i.e. they "only see what they want to see, and what corresponds to their own opinion..."⁵, which is an example of 'confirmation bias' in the context of 'attitude polarization'⁶),
- 1 the development of fixed positions on how the issue should be handled,
- 1 perceiving the other party to be unreasonably stubborn and lacking the will to resolve the problem,

2) Lester G., Wilson B, Griffin L, Mullen P.E., above at p. 184; and Mullen, P. E. & Lester, G., above at p.345.

3) The references to the Glasl model are largely based on a summary prepared by Thomas Jordan that can be found at <http://www.perspectus.se/tjordan/Escalationmodel.html>.

4) Glasl F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp, 1997, at p.19.

5) Above at p.20.

6) See for example: http://en.wikipedia.org/wiki/Attitude_polarization.

- 1 increasingly applying a selective filter affecting his/her perception of the reasons for and background to the dispute (*"attention becomes more selective, i.e. some things are seen more clearly, others not at all"*⁷), leading to the parties describing or interpreting the reasons and background to the dispute differently (Glasl refers to this as *"conflict about the conflict"*⁸).

As a conflict response develops in the complaint handling context, such differences in and polarisation of views are very common. In such circumstances experience indicates an increasing likelihood that the words and actions of the subject of complaint and/or the complaint handler will be misunderstood.

Level 2 – Emotional arguments (*'Debates and polemics'*)

While the focus at this level would still be on finding a solution, it is likely this would now be in circumstances of decreasing trust, black and white thinking.

Glasl argues that symptoms of a conflict at this level include:

- 1 increasing resistance to rational argument,
- 1 increasingly fixed and inflexible standpoints,
- 1 verbal and written interactions/communications becoming more and more confrontational.
- 1 adoption of tactical and emotional/manipulative arguments, with verbal and written communications shifting from rational arguments to a focus on emotions and relative power issues. One or both parties may adopt what Glasl refers to as *"tactical and manipulative argumentative tricks"* such as quasi-rational arguments to advance his/her cause. This may include, for example, strongly exaggerating the implications and consequences of the other party's position in an attempt to present it as absurd and/or referring to recognised authorities or tradition. A party may also state the alternatives as extreme in order to get the other party and/or any mediator, conciliator, reviewer or adjudicator to accept what that party believes is a reasonable compromise.

In the complaint handling context such verbal and written communications are not uncommon (and references to recognised authorities can include references to the Magna Carta and UN Universal Declaration of Human Rights, etc).

Level 3 – Unilateral actions (*'Actions not words'*)

The focus at this level is likely to have moved from trying to resolve the issue to actions intended to block the other party from achieving its goals.

Glasl argues that symptoms of a conflict at this level may include:

- 1 increasingly perceiving the other party to be a competitor,
- 1 attempts to force the other party to concede through unilateral actions
- 1 one or both parties disagreeing about the most fair and appropriate ways to attempt to resolve the dispute, and may seek to do so in conflicting ways⁹. (Glasl refers to this as *"conflict about the conflict resolution"*¹⁰). To paraphrase the thoughts Dr Glasl attributes to parties at this level in a recent article: *"How you're proposing we deal with this is exactly the opposite of how I would do it."*¹¹

In the complaint handling context an equivalent characteristic phenomenon is where complainants have a different understanding to complaint handlers about what counts as relevant evidence or a compelling argument.

» At this stage it is not uncommon that complainants disagree with the way the complaint is being or will be dealt with.

This refers to who is or will be responsible for handling the complaint or conducting any investigation, the pri-

7) Glasl F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp, 1997, at p.19.

8) Above at pp. 23–24.

9) For a related discussion see: Pearce B. & Littlejohn S. W., at pp. 68–69; Kimmel P. R., *Culture and Conflict*, published in *The Handbook of Conflict Resolution: Theory and Practice*, Deutsch M. & Coleman P., eds, Jossey-Bass Publishers, San Francisco, 2000, at 459.

10) Glasl F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp, 1997, at pp. 23–24.

11) Glasl F., *Eskalationsdynamik – zur Logik von Affektsteigerungen* (roughly translated as *The dynamics of escalation – finding logic in emotions*), in the quarterly *KonfliktDynamik (Dynamics of Conflict)*, 3/2014, published by Klett-Cotta Verlag, Stuttgart.

ority given to the complaint, the methodology used to investigate the complaint, what the complainant will accept as a satisfactory outcome of the complaint, etc.

Win-Lose approach

Level 4 – Negative perceptions about judgement/competence (*‘Images and coalitions’*)

The focus at this level is likely to be on winning and no longer on the substantive issues in dispute.

Glasl argues that symptoms of a conflict at this level include a party:

- 1 increasingly attributing negative motives and intentions to the other party,
- 1 having difficulty mentioning any positive qualities of the other party (over time negative images of the other party may dominate in any interaction with him/her/ them),
- 1 increasingly losing the ability to empathize with the other party¹²,
- 1 having great difficulty in imagining what a win-win resolution to the dispute might look like, and
- 1 actively trying to enlist the support of others.

In the complaint handling context, as a complainant becomes more and more identified with or obsessive about his/her complaint and the associated conflict escalates the complainant may well have decided that the complaint handler (and/or the subject of their original complaint) has questionable judgement or competence generally, or is wrong in principle not just in relation to the particular issue in question.

» Such a perception significantly reduces the chances that the conflict can be resolved to the mutual satisfaction of the complainant and the complaint handler¹³.

The complainant may engage in what Glasl refers to as “deniable punishment behaviour” involving veiled slurs and/or personal attacks on the character of or what is wrong with the other party (be that the subject of the original complaint and/or particular staff of the organisation handling the complaint). Such activities are intended to gain the upper hand in what the complainant believes is a power struggle.

Complainants are increasingly likely to actively try to enlist the support of others, for example relevant interest

groups, the media, MPs, other watchdog bodies, etc. Increasingly it can be expected that this will include the use of social media to bring pressure to bear.

Level 5 – Negative perceptions about morality (*‘Loss of face’*)

A conflict that escalates to this level is likely to cross a significant demarcation line in the confrontation, with behaviour becoming more radical. Negative perceptions about the judgement/competence of the opposing party change to negative perceptions about their morality.

In the Glasl analysis, where a party has escalated a conflict to this level:

- 1 the perceived distinction between the party’s may change from who is right/ wrong or superior/inferior, to who is good/bad or virtuous/evil – a party at this level may experience the ‘revelation’ that the opposing party is not just wrong but untrustworthy, unethical, immoral, malicious, dangerous, corrupt, criminal, or even insane or ‘evil’¹⁴. The development of such negative stereotypes perpetuates, if not escalates, a conflict
- 1 this revelation may lead to a reinterpretation of the prior relationship and all interactions that have preceded the realisation¹⁵.

12) Glasl F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp, 1997, at p. 21.

13) Referred to by Thorson, S. J. “Introduction: Conceptual issue”, in Kriesberg, L., Northrup, T.A. & Thorson, S.J. (Eds), *Intractable conflicts and their transformation*, Syracuse, NY: Syracuse University Press, 1989, at pp. 1–10, as “intractable” conflicts which are unmanageable because there may be no mutually acceptable solution (which he distinguished from “inefficient” conflicts which do, at least in theory, have a mutually satisfactory solution but the participants haven’t found it).

14) See also Pruitt D. G. & Rubin J. Z., *Social conflict escalation, stalemate, and settlement*, Random House, 1986; Opatow S., *Aggression and Violence*, published in *The Handbook of Conflict Resolution: Theory and Practice*, Deutsch M. & Coleman P., eds, Jossey-Bass Publishers, San Francisco, 2000, at 417.

15) To paraphrase the thoughts Dr Glasl attributes to parties at this level in his recent article: “My opponent is manipulating me. They lie, cheat and deceive. There is clearly something wrong with them. They are either sick, or they are a criminal. I have no confidence in this process anymore!”

- 1 the converse may also be true – the party that has experienced such a revelation is likely to claim the moral high ground and view him or herself as honourable and virtuous¹⁶.
- 1 the focus tends to move from the substantive issues originally in dispute to defeating the perceived opposing party, i.e. to succeed through the failure of the other,
- 1 he or she is likely to believe his or her cause is just and not want to appear weak, so the chances of changing the persons mind, or getting the person to compromise or apologise, are minimal.,
- 1 there is likely to be a “snowballing of contentious issues: more and more issues are thrown into the disagreement...” and a “widening of the arena”¹⁷, i.e. the number of issues increases, the conflict shifts to different questions and more and more people or parties are drawn in – adding fuel to the conflict.

In describing some of the changes that can occur in an escalating conflict, Glasl notes that over time the “medium- and long-term consequences of [a parties] actions increasingly fade from consciousness” (a phenomenon referred to as ‘cognitive short-sightedness’)¹⁸.

There is also the risk that any apology or offer of compromise or compensation offered by the other party to the dispute may well be seen as a sign of weakness on their part and the first parties expectations of success raised higher. This may well be even more likely to be the case where a party is represented by a lawyer. In a paper discussing the results of certain research, Jennifer Robbenolt, Professor of Law and Psychology, University of Illinois College of Law noted that her research “... demonstrated that attorneys react differently to apologies than do claimants”. She noted that while “... apologies tend to lower claimants’ aspirations and estimates of a case’s fair settlement value ...”, on the other hand “... apologies pushed attorneys’ aspirations and estimates of fair settlement values in a different direction”. She noted that “[m]any commentators are concerned about the risk that attorneys’ focus on the relevant legal rules will dominate the negotiation process and the ultimate settlement of the dispute, to the exclusion of the non-legal interests of the parties.”¹⁹

A complainant's loss of focus on the original grievance is a not uncommon phenomenon experienced by complaint handlers.



Over time the number of grievances (i.e. causes of conflict) can escalate and multiply, with an associated increase in the number of involved parties (a phenomenon commonly associated with querulance)²⁰. Where this occurs, the chances are the complainant has imputed improper motives/ethics to any person who makes a decision that runs counter to the complainant’s views.

Where it becomes clear that a complainants’ perception of a conflict with the complaint handler have escalated to this level, it may be appropriate for the complaint handler to carefully consider such issues as:

- 1 whether there is any utility in taking the matter further (most complaint handling mechanisms are not designed to impose a binding outcome on the parties to a complaint),
- 1 whether it is appropriate to impose limitations on the complainants access to the complaint handler, or alternative service arrangements.

Level 6 – Threats of sanctions (*‘Strategies of threat’*) The

focus of a person at this level may well be on making strategic threats of sanctions that could be applied to the other party. To paraphrase the thoughts Dr Glasl attributes to parties at this level in his recent article: “Eye for an eye, tooth for a tooth!”²¹

Glasl argues that:

- 1 the perception of the situation held by one or more parties to the dispute becomes increasingly out of touch with reality (“perception is increasingly im-

16) Referred to by social psychologists as ‘fundamental attribution error’, also known as the correspondence bias or attribution effect, which is referred to in Wikipedia as “... people’s tendency to place an undue emphasis on internal characteristics to explain someone else’s behavior in a given situation, rather than considering external factors”: http://en.wikipedia.org/wiki/Fundamental_attribution_error .

17) Glasl F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp, 1997, at p. 74.

18) Above at p. 20.

19) Robbenolt J. K, *Attorneys, Apologies and Settlement Negotiation*, Social Science Research Network: <http://ssrn.com/abstract=1275419>.

20) See Barnett Pearce W. & Littlejohn S.W., at p. 69.

21) Lester, G., et al, above.

*paired, so that the people involved in the conflict arrive at different views of reality*²²),

- 1 in this phase the conflict becomes increasingly complex and difficult to grasp, and increasingly one or both parties lose control over it, effectively going from a situation where they have control over a conflict to the conflict having control over them²³,
- 1 this loss of control can result in feelings of powerlessness, which can in turn lead to fear and possibly uncontrollable rage.

In the complaint handling context, complainants who feel they have been treated unfairly or are victims of injustice may grow increasingly angry and start seeking revenge. In such circumstances complainants may threaten to escalate the dispute to the media, any CEO and/or Board, any relevant professional bodies, regulatory agency or oversight/watchdog body, any relevant Minister or Parliamentary Committee, etc.

» It happens that a small percentage of complainants make veiled threats to harm persons or damage premises if their demands are not met.

This may well be rationalised on the basis that the actions of the other party left them no choice.²⁴ In the context of unreasonably persistent complainants, Dr Lester has written that: *“It is important to recognise that these individuals make threats of self harm and violence to others. About 50% will make threats of violence to others”*²⁵. In the paper outlining the results of their research into *‘unusually persistent complainants’*²⁶ the authors noted that: *“Over half of the persistent complainants made some form of threat of violence directed at the complaint professionals”* and that the *“study indicates ... that threats are very much a part of the behaviour of the querulant”*.

Lose-Lose approach

Level 7 – Application of sanctions (‘Limited destructive blows’)

At this level the person is bitter and furious, and his/her focus is likely to have moved to damaging or destroying the opposing party.

Glasl argues that symptoms of a conflict at this level include:

- 1 the objective of a party at this level may have moved to neutralising the perceived power/authority of the

other party as the party may have formed the view that he/she/they have little possibility of winning,,

- 1 malice may well have become a driving force
- 1 a party at this level is likely to have effectively lost the ability to emphasise with the other party, and
- 1 the party’s calculations of the consequences of his/her actions may become increasingly skewed – he or she perceives to be ‘losses’ experienced by the other party may be counted as ‘gains’, even though these outcomes do not give any benefits to the person in terms of the substantive issues originally in dispute.

In the complaint handling context this approach to a dispute is characteristic of (but not limited to) the approach adopted by complainants exhibiting behaviours associated with querulousness. Complainants at this level are likely to either be unable or unwilling to acknowledge the negative impact of their actions on the other party (possibly because they cannot acknowledge that the other party has feelings or emotion).

» Then complainants believe any negative impact is justifiable and reasonable in the circumstances.

Level 8 – Targeting members and supporters (‘Fragmentation of the enemy’)

The focus of a person at this level is likely to be on revenge.

Signs that a conflict has escalated to this level may include:

- 1 a party targeting other members and supporters of the opposing party (possibly even including their legal representatives) through complaints, verbal attacks, defamatory comments, and/or confronting behaviour and possibly violence,
- 1 a party at this level may engage in confronting or aggressive behaviour and there is the possibility of self-harm or violence.

22) Glasl F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp, 1997, at p.19.

23) Above at p. 22.

24) See Barnett Pearce W. & Littlejohn S.W., at pp. 68 & 73.

25) In the article in the *Judicial Officers’ Bulletin* (April 2005, Vol. 17, No. 3) entitled *The Vexatious Litigant*.

26) Lester, G., et al, above.

In the complaint handling context this may involve complaints about the CEO of the complaint handling organisation to the media, any relevant professional body, regulatory agency or oversight/watchdog body, MPs, or any relevant Minister or Parliamentary Committee.

Complainants who escalate a conflict to this level may well demonstrate behaviours characteristic of querulance. In this regard, in a 2006 paper Professor Mullen and Dr Lester noted that:

» **“Attacks by the querulous on court officials, claims officials and politicians are by no means uncommon.”**

In such cases there has often been a course of conduct characterised by increasingly threatening and intrusive activities, usually over many months ... In a number of cases of serious or fatal violence, of which we have knowledge, clear and specific threats had been used”²⁷. Dr Lester has also written that: “It is unknown how many actually carry out ... threats [of harm] but it is not rare for secure forensic psychiatric hospitals to treat querulants who have threatened and harmed others”²⁸.

Level 9 – Self-preservation instinct overridden
(‘Together into the abyss’)

At this level the focus is on destroying the other party at any cost. Self-destruction is seen as an acceptable price to pay and the ‘crusade’ will be pursued no matter the personal cost, be that unemployment, bankruptcy, divorce, imprisonment, etc.

Particularly where a complainant has gone down the ‘querulant’ path, it can be expected that the self-preservation instinct will be overridden by the overwhelming desire to harm the perceived enemy. Alternatively, feelings of intense frustration may lead a complainant to self-harm, including suicide (thought to be a not uncommon occurrence at the bottom of the downward spiral of querulance²⁹).

Implications for the likely effectiveness of dispute resolution mechanism

Glasl notes³⁰ that the parties to a conflict are only likely to be able to solve problems themselves (i.e. without outside intervention) while a conflict is at one of the Win-Win levels, possibly including level 4. In his view, once a conflict goes beyond level 4 external forms of help

are the only ones with a chance of success. Based on Glasl’s insights into the characteristics of the conflict at each of his levels, it appears to me that in the Australian context the possible options that are likely to be effective (including cost-effective) are:

- 1 Levels 1–3 – self-help,
- 1 Levels 1–4 – internal dispute resolution mechanisms (including mediation),
- 1 Levels 1–5 – ombudsman or other external complaint or review mechanisms (bodies that can make only non-enforceable recommendations or suggestions),
- 1 Levels 5–9 – courts and tribunals (bodies that can make enforceable determinations).

Most complaint handlers do not have powers to make enforceable determinations³¹. Where this is the case, when it becomes clear that at least one party to an escalating conflict associated with a complaint has reached the ‘lose-lose’ levels of conflict escalation, particularly level 5, it may be best to either refer them to:

- 1 expert counsellors who may be able to assist the parties to take a more constructive approach to managing their conflict so as to achieve a resolution of their dispute,
- 1 any external oversight body with powers of compulsion that has jurisdiction, or
- 1 any court or tribunal that has jurisdiction.



Kontakt

Chris Wheeler is Deputy Ombudsman for New South Wales, Australia.
cwheeler@ombo.nsw.gov.au
<http://www.ombo.nsw.gov.au>

27) Mullen, P.E. & Lester, G., above at 349.

28) In the article in the Judicial Officers’ Bulletin (April 2005, Vol. 17, No.3) entitled The Vexatious Litigant.

29) In their writings on querulance, Dr Lester and other researchers have commented on the significant risk of physical and sexual violence, as well as death through suicide.

30) Glasl F., *Confronting Conflict – A first-aid kit for handling conflict*, Hawthorn Press: Translated by Petra Kopp, 1997, at p. 119.

31) Exceptions would include industry ombudsman or other complaint schemes which have the power to direct member organisations to make payments up to certain amounts.