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INTERNATIONAL INSTITUTE FOR
RESTORATIVE PRACTICES

'Developing Restorative Communities'
Seventh International Conference on
Conferencing, Circles and other Restorative
Practices.
9-11 November 2005

'*Restorative Practices in Complaint-resolution Processes***"**

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Terry O'Connell

Overview of Presentation

- Discuss the limitations of existing ways of dealing with workplace conflict & tensions.

- Contrast adversarial V restorative.

- Understand why restorative practices do well at building workplace relationships.

- How restorative practices can be integrated into existing complaint systems.

REASONS WHY COMPLAINTS ARE MADE

- Someone's behaviour was unacceptable, and harm has resulted.

- Others have behaved appropriately, however the complainant used the system to reduce/avoid responsibility.

- Same incident, however, person complained of and the complainant, had different perceptions or experiences.

Why is it important that we understand the reasons behind complaints?

Difficult Issues

- Which workplace conflicts are most difficult to resolve?

- What makes them difficult?

- What are the limitations of existing informal and formal processes in resolving difficult issues?

What Is Likely To Satisfy Complainants?

- Complaint taken seriously
- Chance to be heard
- Chance to be understood
- Feedback on outcome
- Hope that something was learnt
- Faith renewed in system

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SYSTEM FAILURE?

Discuss the following:

"The answer to resolving difficult workplace conflicts is not to be found in changing systems, but in changing the experiences individuals have within these systems"

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AIM OF RESTORATIVE PRACTICES IN COMPLAINT-RESOLUTION

To encourage the use of restorative approaches to manage conflict and tensions by focusing upon repairing harm and strengthening relationships.

"Harm and Relationships"

Adversarial (Blame) approach:

"**what happened, who is to blame,what punishment or sanction is needed?**"

Restorative approach:
"**what happened, what harm has resulted and what needs to happen to make things right?**"

Building An Explicit Practice Framework
Suited to Complaint-resolution

The Importance of Being Explicit

What does explicit mean?

What characteristics would explicit Restorative Practice have?

Suggestions:

- Rigorous practice framework supported by a sound theoretical underpinning.

- A clear practice rationale.

- Easily understood.

- Evidence to show that it works.

How explicit is your complaint or grievance system?

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Think of a manager/supervisor you respected?

What allowed you to feel that way?

In a word, what was special about this person?

Those We Respect

They had the following qualities:

- Listened
- Empathised
- Honest/integrity
- Open
- Respectful
- Showed interest
- Made time
- Firm and Fair
- Encouraging

- Challenging
- Set clear boundaries
- Non judgemental
- Accepting
- Believed in you
- Used humour & were fun
- Created learning environment
- Affirming
- Apologised - vulnerable

- Were real
- Shared their story
- Compassionate
- Consistent
- Explained their actions
- Realistic
- Predictable

Balancing Firmness & Fairness

What was it like when you were challenged by this person?

If you said this person always treated you in a firm and fair way, what would you mean?
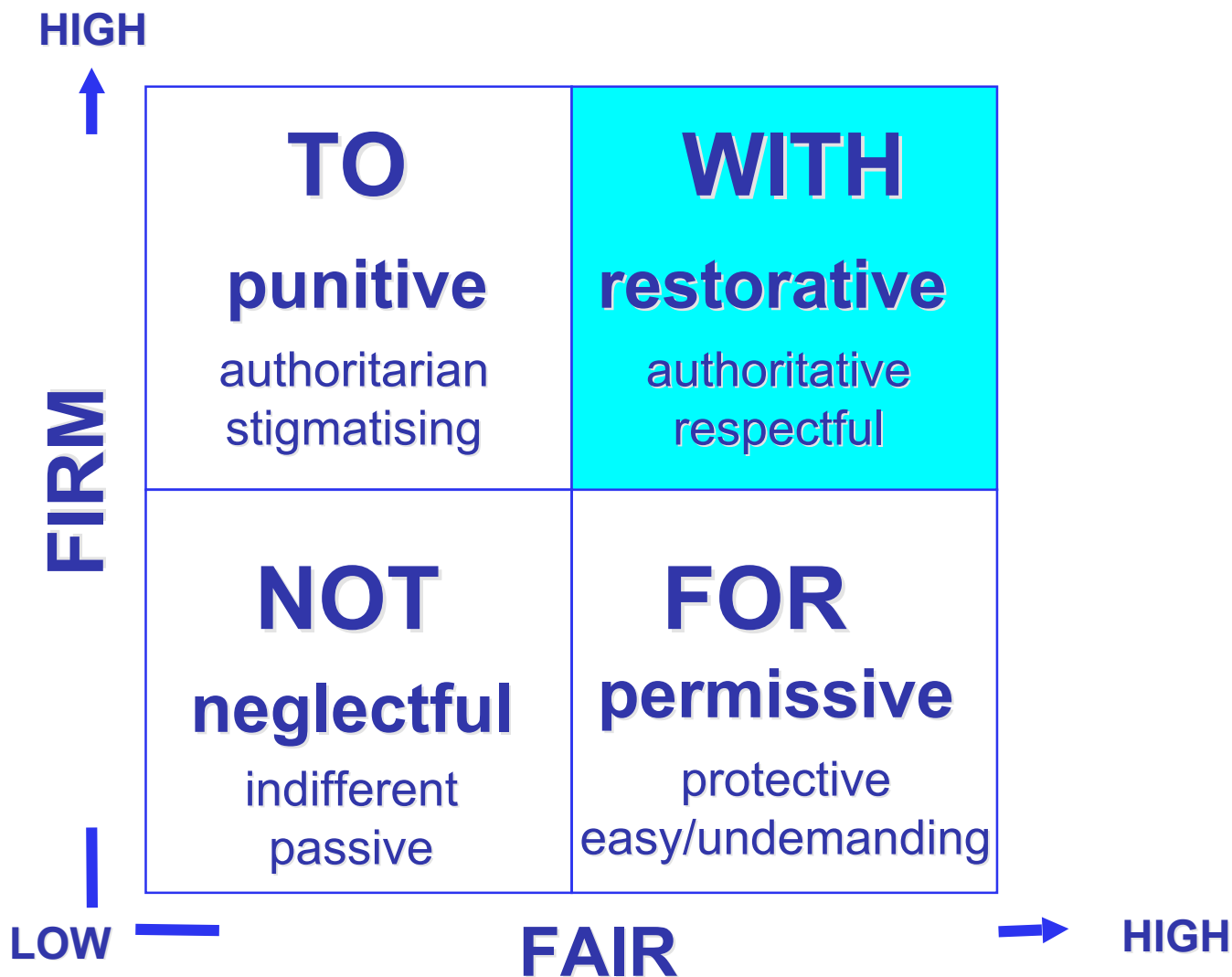
What was this person being 'firm'about?

What was this person being 'fair' about?

Balancing Firmness & Fairness

What would your experience be of a person who treated you:

- Firmly but not fairly?

- Fairly but not firmly?

- Neither firmly nor fairly?

- Consistently firmly and fairly?

Adapted from Social Discipline Window - Paul McCold and Ted Wachtel - 2000

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I always expect to be treated
" "
………………
by those I respect.
Insert the word which best
describes your expectation.

If you said "fairly", what did you
mean?

Discuss why due process without fair process is unsatisfactory?

What is more important, process or outcomes?

When is someone likely to accept an outcome that he or she does not like?

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Fair Process -The Central Idea

'….individuals are most likely to trust and co-operate freely with systems - whether they themselves win or lose by those systems - when fair process is observed.'

Kim & Mauborgne, Harvard Business Review, July – August 1997

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Principles of Fair Process

- **Engagement:** opportunity to be heard.

- **Explanation:** an understanding for why the decision was made.

- **Expectation clarity:** clear understanding of expectations, rules and sanctions.

Kim & Mauborgne, Harvard Business Review, July – August 1997

What Fair Process Achieves

Fair process helps develop trust and commitment, stronger workplace relationships and increased productivity.

Kim & Mauborgne, Harvard Business Review, July – August 1997
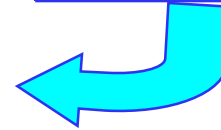
Restorative Questions 1
# When challenging behaviour, why would the following questions consistently achieve 'fair process'?:

- What happened?

- What were you thinking at the time?

- What have you thought about since?

- Who has been affected by what you did?

- In what way?

- What do you think you need to do to make things right?

Restorative Questions 2

Why would these questions assist, those _harmed_ by other's actions, experience 'fair process?':

- What did you think when you realized what had happened?

- What impact has this incident had on you and others?

- What has been the hardest thing for you?

- What do you think needs to happen to make things right?
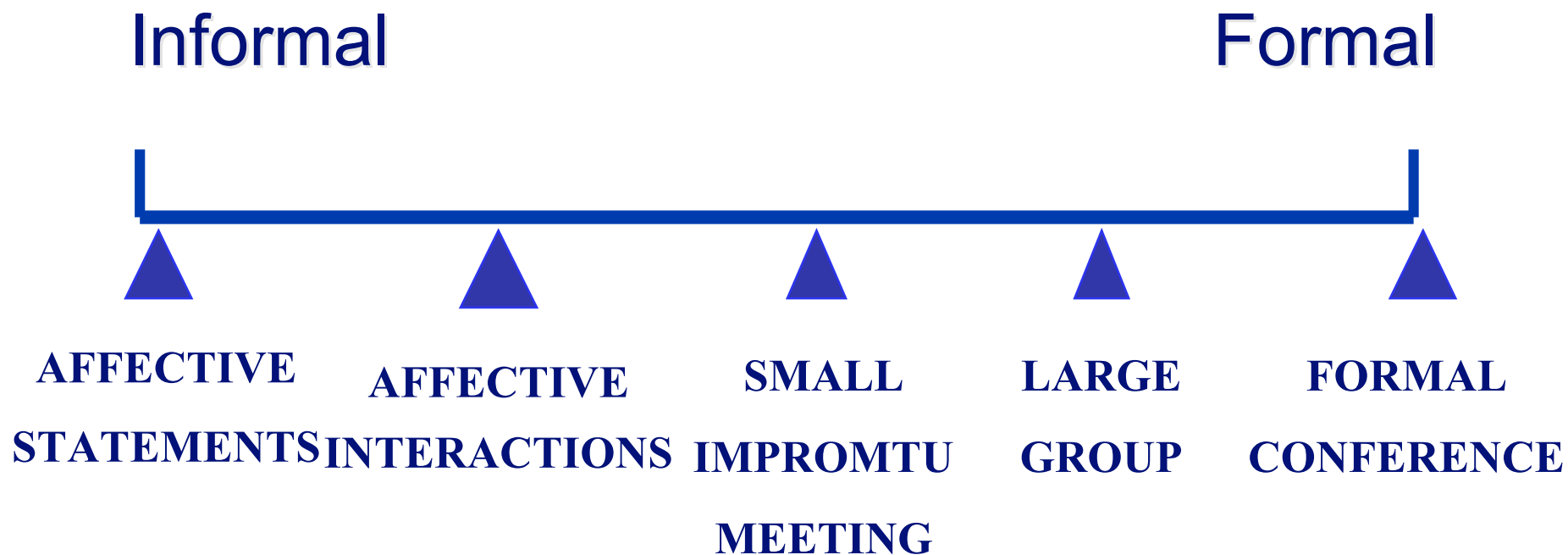
AFFECTIVE STATEMENT

"As your supervisor, I have always found you to be very professional, but when I just observed your manner in dealing with that customer, I felt somewhat disappointed and let down"
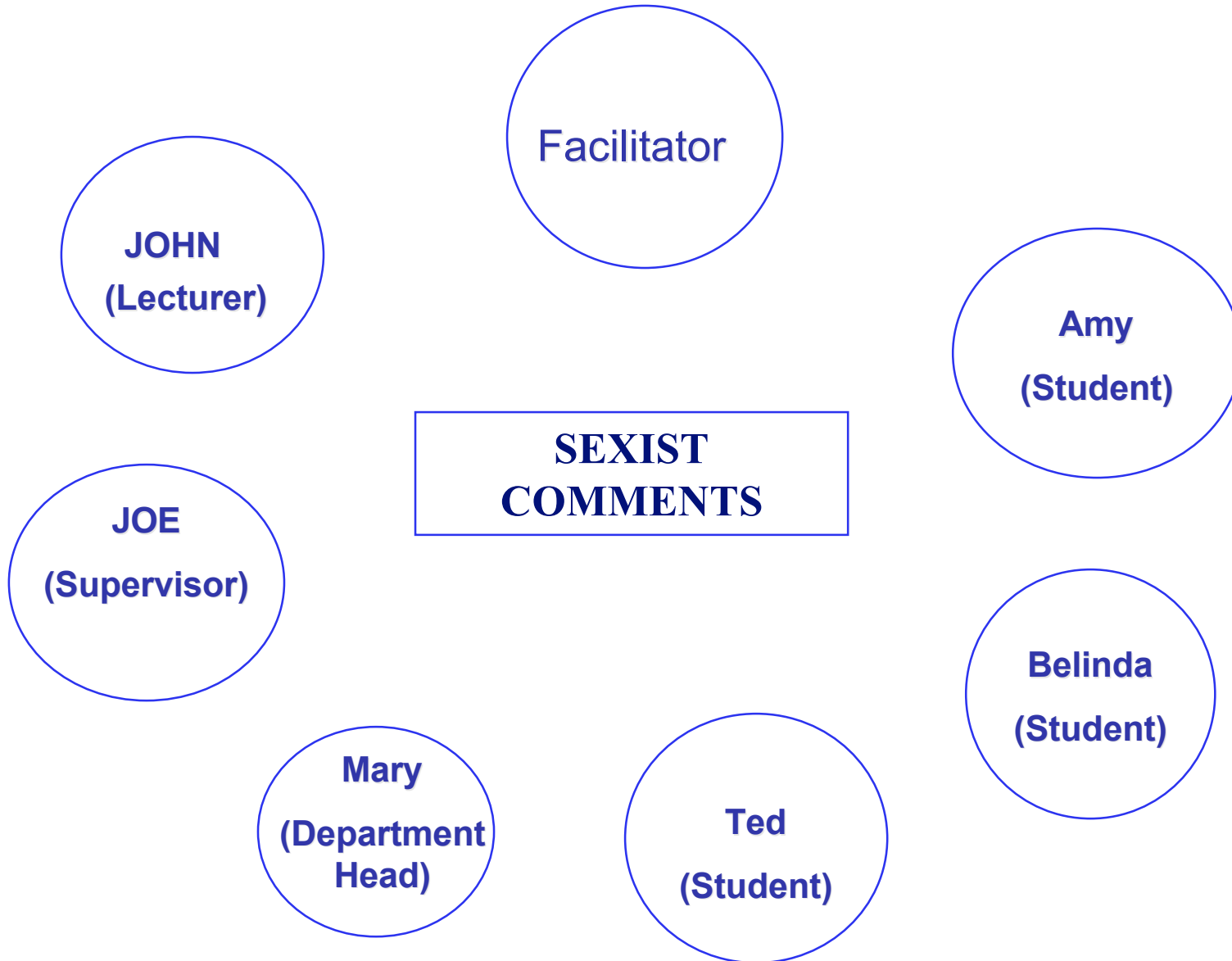
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AFFECTIVE INTERACTION

INCIDENT : Worker fails to attend to an important task.

SUPERVISOR TO WORKER:

• Please explain what happened?

• At the time, what were you thinking about?

• What have you thought about since?

• Who has been effected by your negligence?

• In what way?

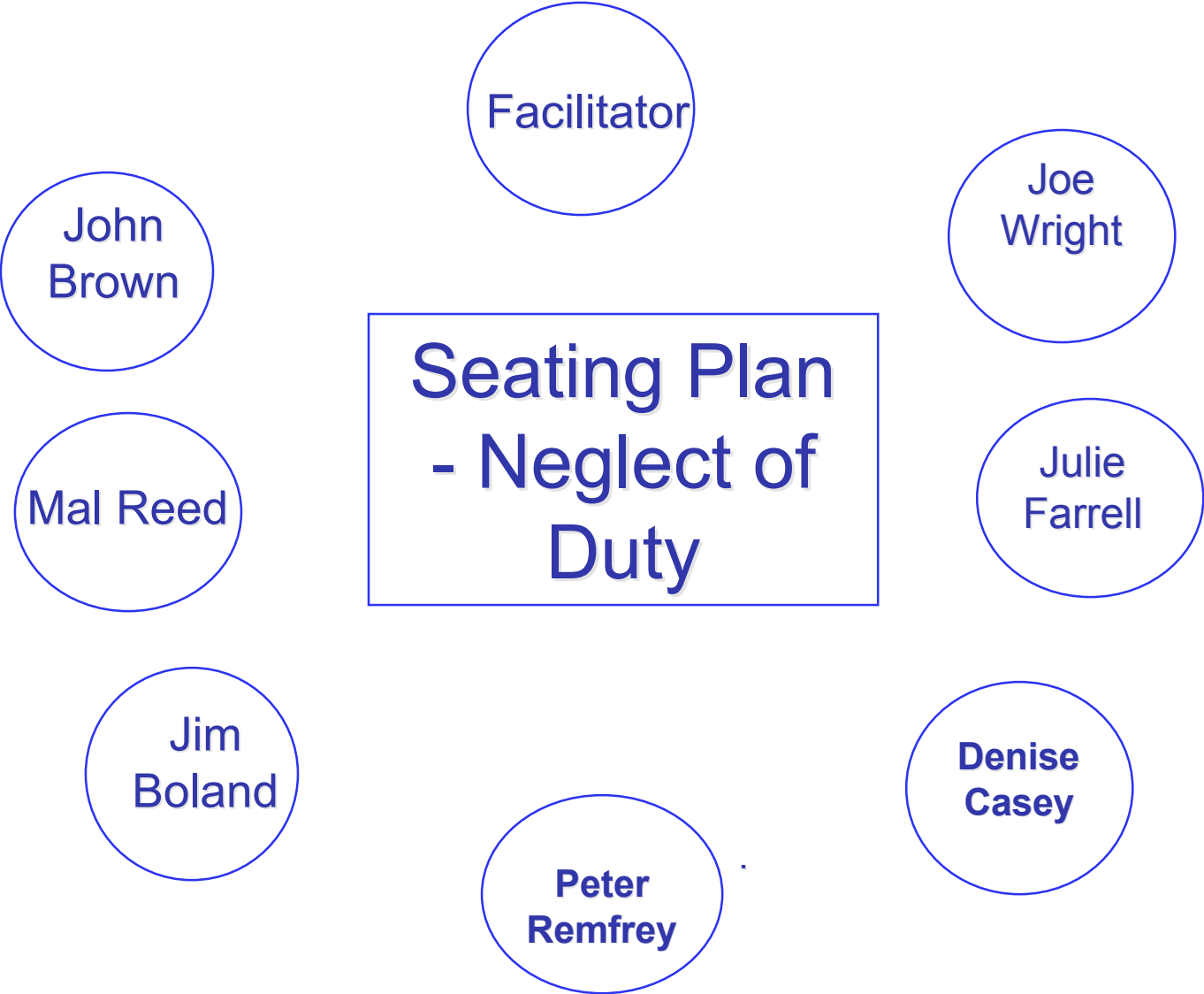• What do you need to do to make things right?

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SMALL IMPROMTU GROUP

Facilitator

JOHN
(Lecturer)

Amy
(Student)

SEXIST
COMMENTS

JOE
(Supervisor)

Belinda
(Student)

Mary
(Department
Head)

Ted
(Student)

LARGE GROUP

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WORKPLACE MEETING

DEALING WITH TENSIONS

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Behavioural Influences

Why do you do the right thing most of the time?

What and who are the influences?

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Braithwaite's Hypothesis

'Where individual wrong doers are confronted (SHAMED) within a continuum of respect and support, then a process of REINTEGRATION can begin'.

Braithwaite's Hypothesis

ALLOWS:

The act (unacceptable behaviors) to be rejected because they failed to reach expectations or standards -
FIRMNESS (PRESSURE)

WHILE:

Acknowledging the intrinsic worth of the person and their potential contribution -
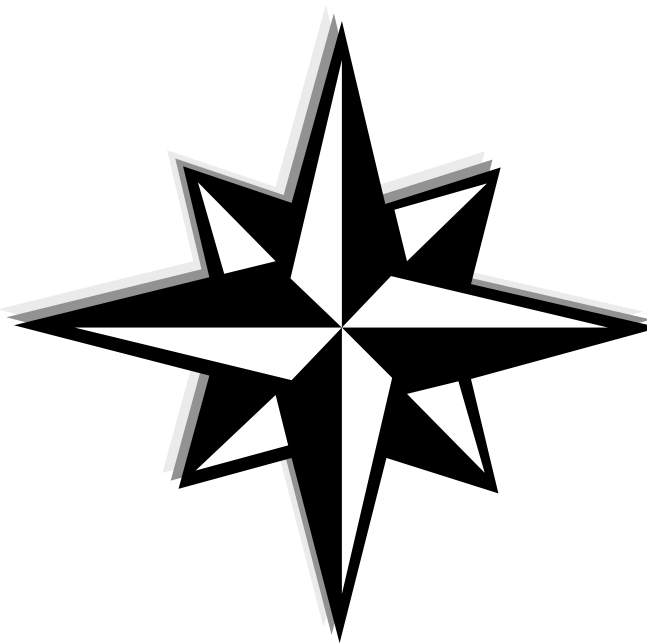**FAIRNESS (SUPPORT)**

Shame Experiences

- Describe what experiencing shame is like. What happens to you?

- Describe how you would respond in a positive way?

- Describe negative ways of dealing with shame?

Nathanson's Compass Of Shame

WITHDRAWAL

ATTACK OTHERS

ATTACK SELF

AVOIDANCE

NATHANSON 1992
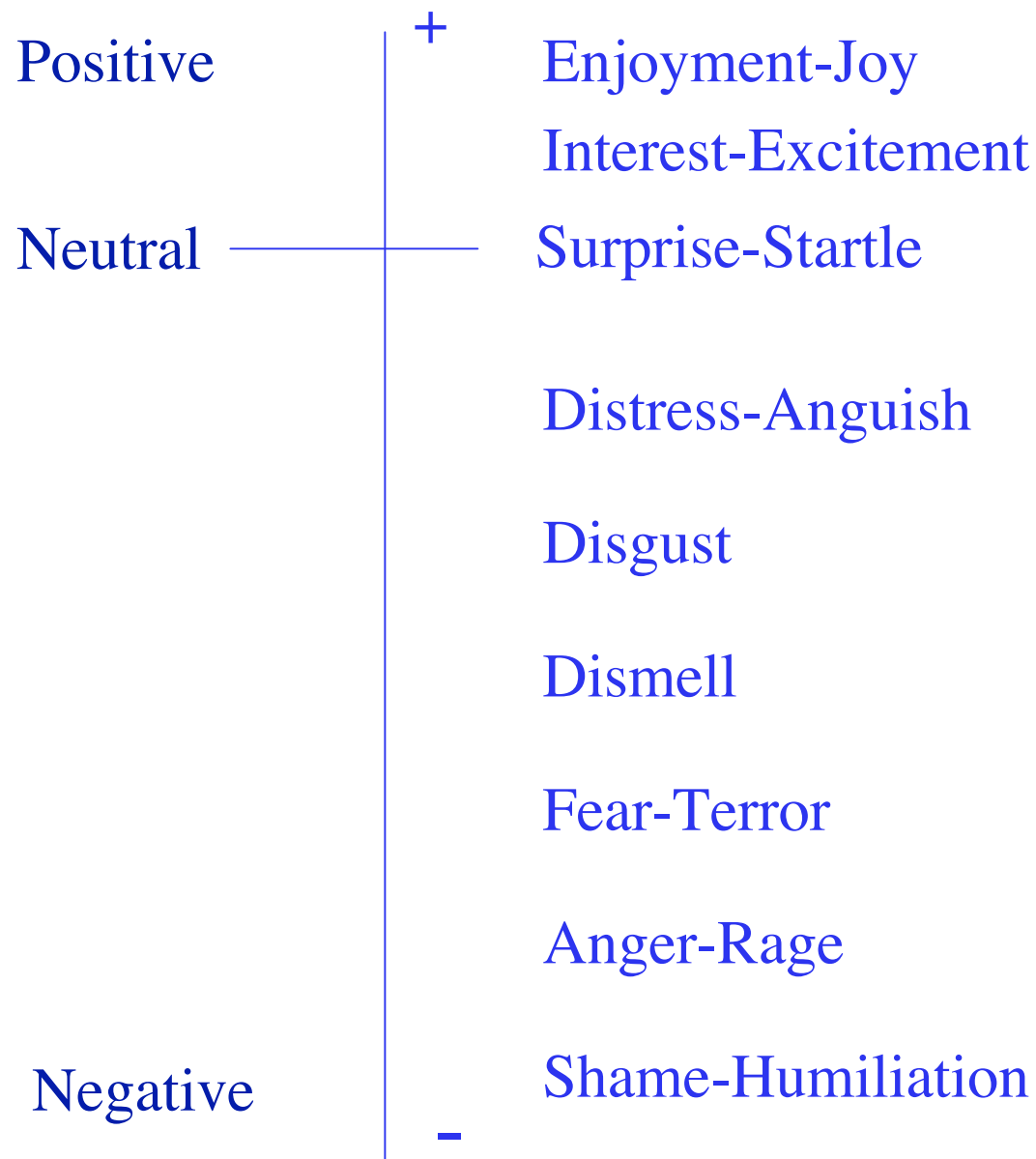
POLAR RESPONSES TO SHAME

WITHDRAWAL :   isolating oneself; running and hiding.

AVOIDANCE   :   denial; drugs and alcohol; work alcoholism.

ATTACK OTHERS: lashing out verbally or physically; blaming others.

ATTACK SELF: self put-down; masochism.

Silvan Tomkins' Nine Affects

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Positive   Enjoyment-Joy

Interest-Excitement

Neutral ————— Surprise-Startle

Distress-Anguish

Disgust

Dismell

Fear-Terror

Anger-Rage

Negative   Shame-Humiliation

–

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Community happens when members agree to:

* Maximise positive affect

* Minimise negative affect

* Freely express emotion

* Do as much of the above three as possible

ARE EXPERIENCED WHEN WE:

1. Share and reduce negative emotions (*best achieved by listening and acknowledging*)

2. Share and promote positive emotions (*achieved by affirming*)

3. Encouraging the venting of emotions as a way of experiencing 1 & 2.

4. Doing more of 1, 2 and 3 (*essential for building and maintaining good relationships*).

Nathanson 1992   39

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University of Oxford
Centre for Criminological Research

Resolution of Police Complaints
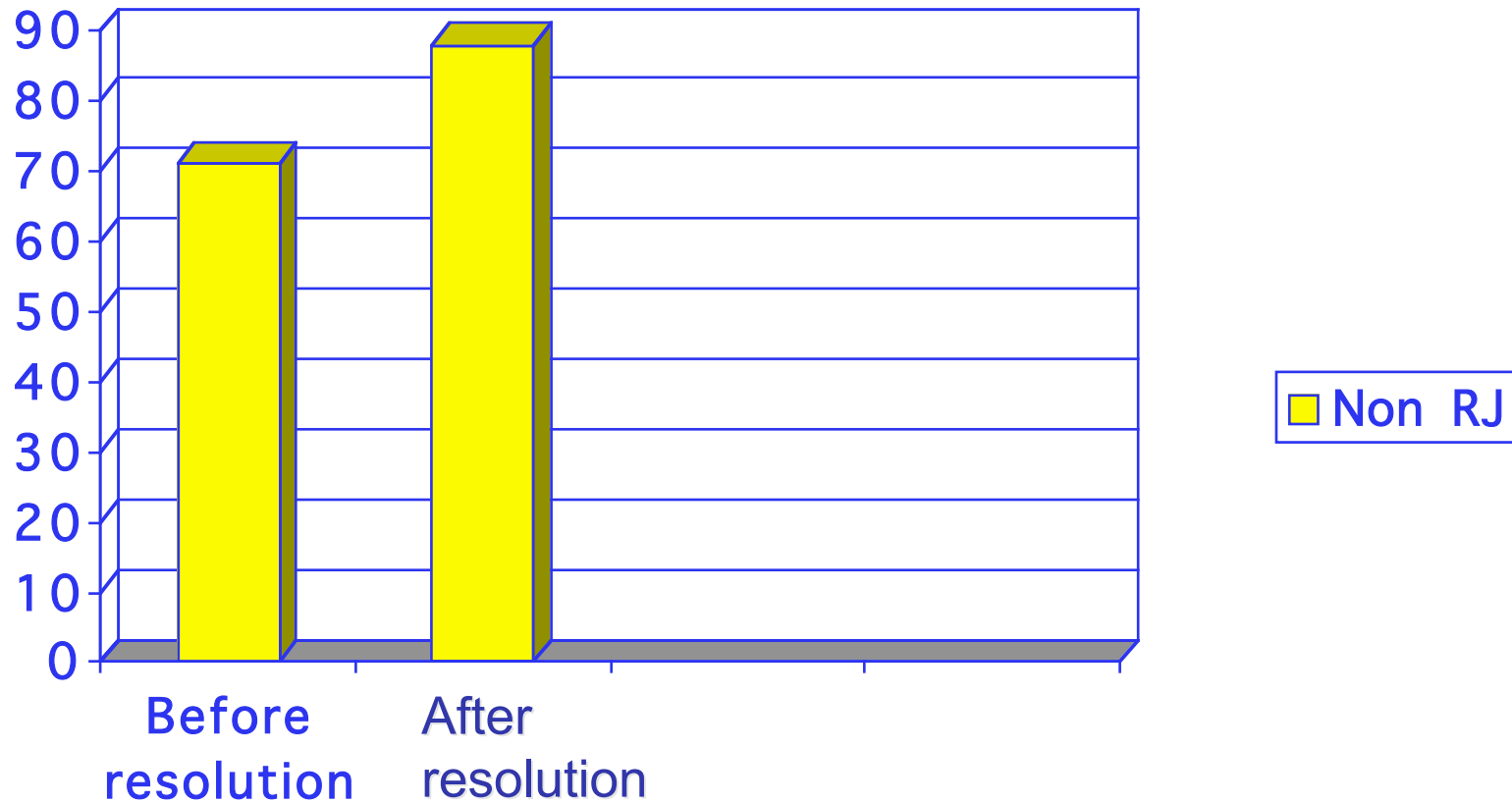
Contrasting

Hampshire Police Service

(Using a Non Restorative Justice Informal Resolution model - Control Group)

with
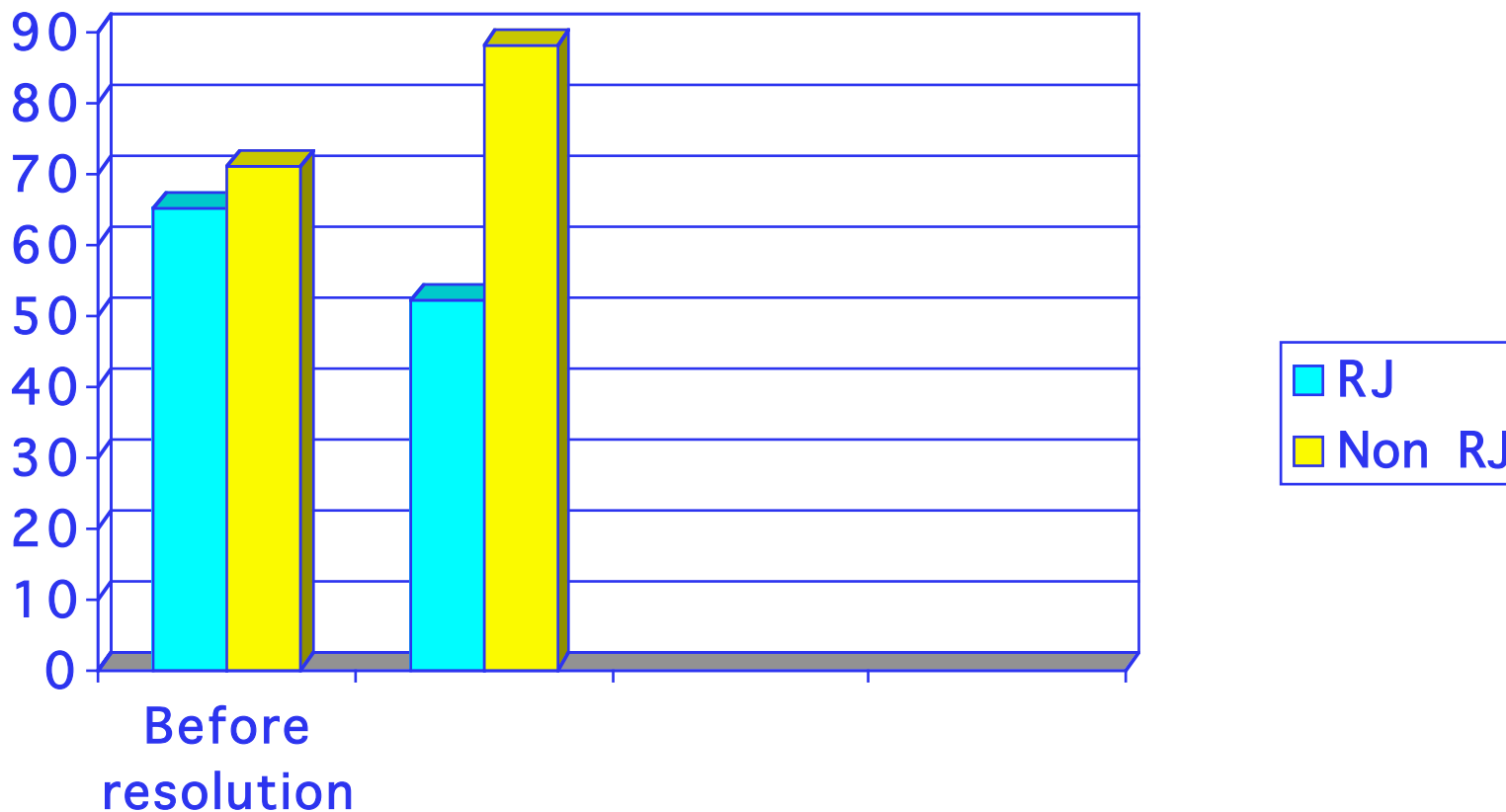**Thames Valley Police Service - Restorative Justice Informal Resolution model**

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OCCR findings
Complainants holding negative view of officer

Legend: Non RJ (yellow)

X-axis: Before resolution, After resolution
Y-axis: 0, 10, 20, 30, 40, 50, 60, 70, 80, 90

Thames Valley - RJ Model
OCCR findings
Complainants holding negative view of officer

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OCCR findings
Participants' views after the meeting

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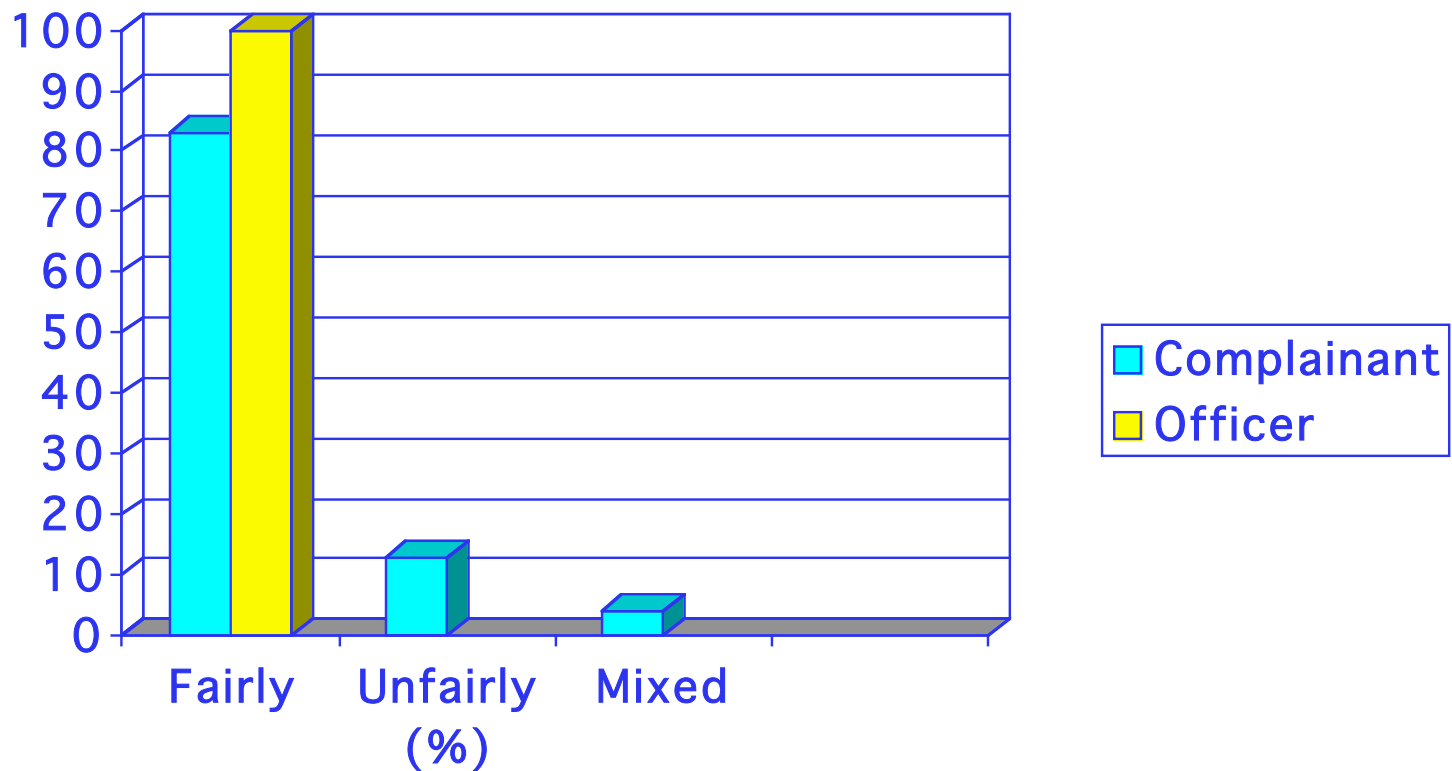
OCCR findings
Overall assessment of meeting

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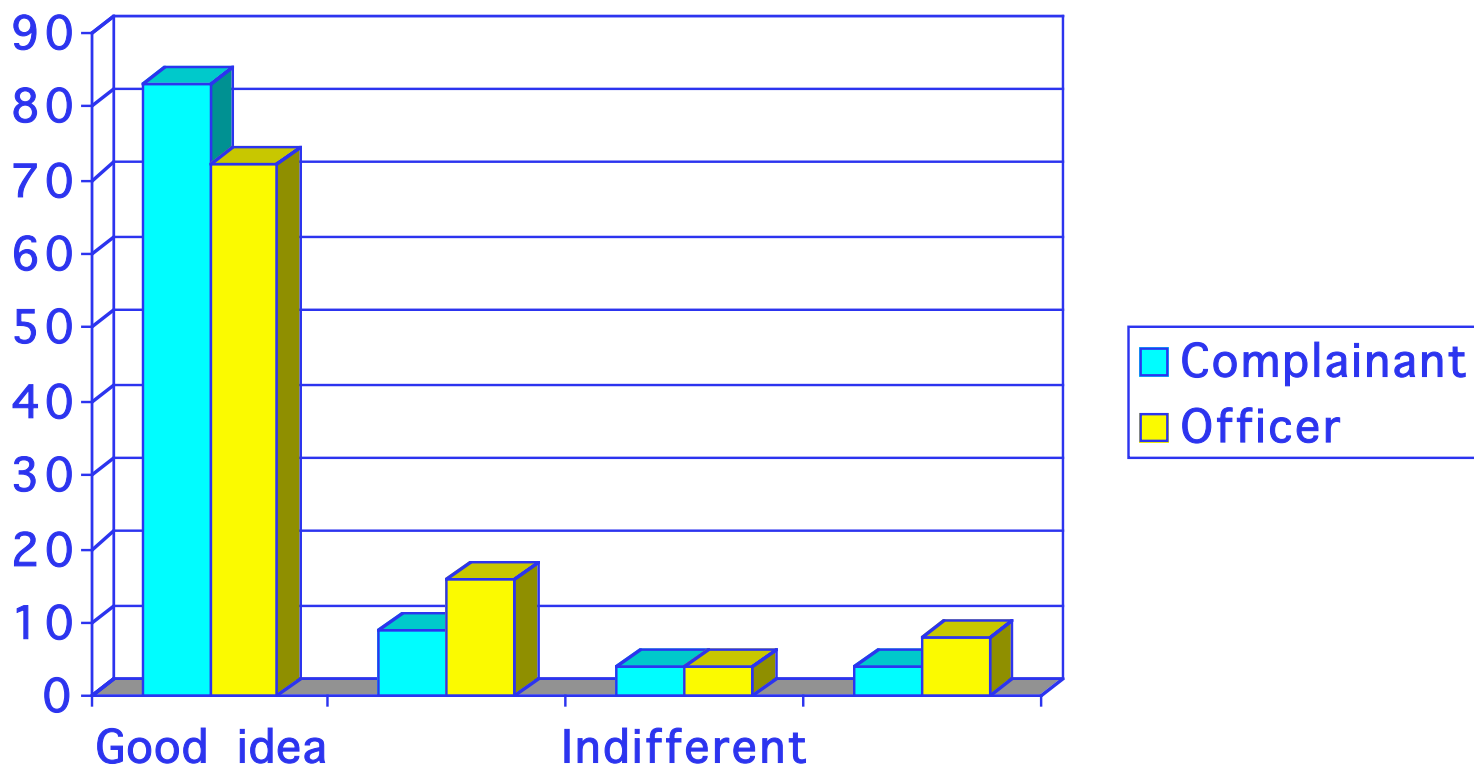
OCCR Findings
Incentive to participate - Complainants

- Receive a direct apology

- Opportunity for dialogue leading to a greater understanding for complainant

- Discuss future behaviour

- Officer to be aware of impact and learn

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OCCR Findings
Incentive to participate - Officers

- Opportunity to explain their actions
- Answer questions and clarify, leading to greater understanding for all
- To end the complaint process
- Minimise risk of formal investigation
- Hear grievance and apologise where necessary
- Learn and reflect
- Challenge complainant's version of events

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We Know That:

- It is important to balance pressure with support.

- Those we respect are good at finding this balance - firmness and fairness.

- Fair process is not about happiness but how we treat one another with respect and dignity.

- Fair process encourages individual (and collegiate) responsibility and accountability

- Working in an inclusive way 'with' others will enhance professional relationships.

Developing Restorative Approaches

How could you begin to integrate restorative practices in your own complaints management?

What have you found helpful in today's presentation?