


From: David Wetherow <wetherow@me.com> 
Subject: Managing potential facilitator conflicts of interest in PATH and other forms of person-centered planning
Date: 27 June, 2011 6:17:50 AM PDT
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1 Attachment, 48 KB

Deb, this is a DRAFT

I'm hoping to bring a little clarity to the discussion about managing potential facilitator conflicts of interest when using any of the person-centered planning and community-building tools.)This will be a bit long, and if you want to cut to the chase, you can jump down to the 'numbered list towards the bottom of this letter; however, I hope you take the time and have the patience to read the whole thing.

When we teach PATH, Creative Facilitation and Community-Building, (and more recently Star Raft and Microboard development) we *always* emphasize that these tools are meant to be used within a four-fold framework of Values, Ethics and Responsibilities, Facilitator 'Stance', and an Adaptive Pattern Language. We introduce this framework early in the training, and frequently revisit to elements of the framework as the training progresses. Because everyone on this email is well-grounded in each major aspect of this framework, I won't go into detail about 'what's inside' each of the major elements; however, I will describe in some detail how we talk about some of the elements of the aspect, Ethics and Responsibilities.

Almost as soon as a training session begins, we establish that PATH is not an I.E.P., I.S.P, I.P.P. etc. Instead, it presents an opportunity for the person at the center, and, at his or her invitation, a number of people who s/he trusts, to give voice to the broadest, deepest, most complete and most heartfelt vision that they have for their own life and their life with others. We are very specific about how important it is that this expression not be limited to (or by) what a 'program' is prepared to provide or to consider.

We emphasize that PATH is not merely a 'planning' tool, but rather that it is a vehicle (an opportunity and a pattern of inquiry) for deep listening, creativity, collaboration, commitment-building and community-building.

We explain that an I.E.P., I.P.P. etc. can later be *derived* from the PATH in a way that honors and supports the broad expression and that clarifies the fact that the school or the service may play an important but necessarily limited role in bringing elements of the PATH to fruition. It becomes clear that to bring *all* of the elements to fruition will involve cooperation, collaboration and contribution of many parties, including the person himself, family, friends, community allies, service managers and service workers. But it is now clear that the service is just one contributor to this story.

We acknowledge that trusted people who provide direct support services can indeed make authentic, creative and respectful contributions to the process. In many cases, these people have authentic caring relationships with the person and the family. They may have valuable perspectives on history, on challenges and opportunities, and on specialized tools and skills that can further the person's journey. But the PATH process brings also something to *them* - they may see for the first time how much community commitment and capacity is available to and directed towards the person at the center.

They may hear about and see aspects of the person's identity, capacity and role that only shows up in the context of other relationships. They may realize that there are more tools and skills that they can offer in a context that is richer in opportunity, commitment and support than they had originally envisioned. It has been our experience when this happens the 'service' person can feel emotionally more free to offer supports because they no longer see themselves as being the sole source of support. They can let go of some of the

fear that opening a thread of possibility will somehow create an explicit or implicit obligation that they cannot fill due to the limitations of their formal role or the context in which they work.

As we speak about this, we begin to speak about the potential of the 'service' person as a valued and honored member of the circle of thinkers, creators and allies. There are at least two safeguards for this: first, the 'service' person is there at the invitation of the person at the center and her most trusted allies; second, the person at the center (sometimes with the support of trusted allies, including family) has the ability to declare what s/he wants to appear on her PATH and what s/he might receive with appreciation but wants *left off* of her PATH.

This brings us to the question of facilitation, the role of the facilitator, and the ethics and responsibilities that accrue to the facilitator's role.

Two people fulfil this role - the 'process' facilitator who is responsible for leading and pacing the inquiry, and the 'graphic' facilitator, who is responsible for capturing the flow of expression, ideas, discoveries, challenges and solutions in words and images. Both are active roles, although the person who is leading the inquiry at any given moment *tends* to be more active, while the graphic facilitator tends to be more receptive; however, the graphic facilitator can, from time to time, play quite an active role in the inquiry. The two facilitators may change roles over the course of a PATH depending on any number of considerations, but there is no requirement that they do so.

Both facilitators are chosen by the person at the center, and, if that person relies on trusted allies to make and express this kind of decision, in concert with their trusted allies. *Trust* is a critical element, and as all of us know in the context of other relationships, the degree of trust can change in the course of a single conversation. In the same way, the person at the center selects, invites and engages the members of the expanded circle who are there as collaborators and co-creators. Skilled facilitators are always sensitive to the ebb and flow of trust in the room, and move quickly and openly to resolve issues of trust, even to the point of recusing themselves and bringing a PATH to an early close.

PATH facilitators agree in principle and in practice to abide by a set of ethics and responsibilities, and the facilitators may speak to these ethics and responsibilities as they introduce themselves, introduce the PATH process, or address moments of challenge as the PATH moves forward. Our current discussion touches on three major elements related to this set of ethical agreements:

1. Identify, disclose and avoid conflicts of interest
2. Respect confidentiality
3. Keep the person's interests, *as expressed by the person*, foremost

Again, seasoned facilitators will almost always say something about each of these elements as the process is being introduced. Establishing an early agreement among all participants to respect confidentiality strengthens the level of trust and invites full expression (what's said in the room stays in the room).

Establishing an open agreement that all participants will keep the person's expressed interests foremost reminds *everyone* that they are there at the person's invitation, that they have been invited as creative and supportive collaborators, and that they are 'creating-*with*' and not 'planning-upon' the person at the center.

Finally, establishing an open agreement that *all* participants will (at the outset and from time-to-time) identify, disclose and avoid conflicts of interest allows people who are 'interested' and who might have direct personal interests that may be affected by the person's decisions, to participate and make potentially valuable contributions. This consideration not only applies to 'service people' - it has the potential to apply to anyone in the room, including parents, siblings, extended family members, community members, potential employers or business partners, and so on.

This being said, it is helpful to remember that 'managing real or potential conflicts of interest' does not translate to *excluding* (or exiling or devaluing) people who may have interests that may be affected. Let me take an example from another context and see how this might be handled:

I happen to be the Treasurer of the Strata Corporation (like a condominium corporation) that manages and cares for the property in which we live. As Treasurer, I have a common interest, but also a direct personal interest in good stewardship and the appropriate management of Strata funds, and I am directly affected by decisions made with respect to planning, budgeting, establishing Strata fees, investing reserve funds, and so on. Almost all of these decisions affect me in *exactly the same way* as they affect other owners, so the commonality serves as a safeguard that allows us to manage resources without conflict-of-interest even though we are strongly 'interested'. In fact we're doing the work *because* we're 'interested'.

As Treasurer, I serve on a Council of five elected member-owners, and I submit detailed financial reports to Council on a regular basis. This safeguard is combined with a number of other 'process' and 'transparency' safeguards (I won't bore you with the details).

Each of us on the Strata Council are bound by common agreements, Strata Bylaws, Provincial Regulations and Provincial Law to identify, declare and avoid conflicts of interest. The way that we, as 'interested' parties, do this is through a process known as 'disclosure'. Here is the relevant section of the Act:

Disclosure of conflict of interest

32 A council member who has a direct or indirect interest in

- (a) a contract or transaction with the strata corporation, or
- (b) a matter that is or is to be the subject of consideration by the council, if that interest could result in the creation of a duty or interest that materially conflicts with that council member's duty or interest as a council member,

must

- (c) disclose fully and promptly to the council the nature and extent of the interest,
- (d) abstain from voting on the contract, transaction or matter, and
- (e) leave the council meeting
 - (i) while the contract, transaction or matter is discussed, unless asked by council to be present to provide information, and
 - (ii) while the council votes on the contract, transaction or matter.

What I want to suggest here is that many (if not most) of the actual or potential conflicts-of-interest involved in staging and conducting a PATH can be managed by a similar process of disclosure (hence the language 'identify, disclose and avoid conflicts of interest').

Now this brings us to the specific subject at hand - the potential conflicts that might arise when someone who is employed by an agency that manages financial and 'program' resources that directly affect the life of the person at the center serves as a member of a PATH facilitation team.

In the Strata, the role of Treasurer is safeguarded in a *number* of ways: through democratic election, financial reporting, Council oversight, distribution of Minutes to owners, open Council meetings, specific operating procedures, the process of disclosure and recusal with respect to *specific* decisions, and finally, the Law. Similarly, the exercise of the role of PATH Facilitator is (or should be) safeguarded by invitation, selection, disclosure and attentiveness to the process while underway.

Invitation comes back to trust, which in turn, may hinge on reputation, training, experience, and relationship.

Selection implies that the person at the center and his trusted allies have at their disposal a *slate* of possible candidates for the facilitator role, and that they have the equivalent of 'purchasing power' that allows them to make an even-handed selection. We note that if some selections are costly, and others are 'free', I may not find myself free to make an even-handed selection.

Disclosure and recusal are important safeguards in the selection of facilitators, but need not always result in exclusion, as is evident in the disclosure procedure for members of a Strata Council. I may carry interests that have the potential to come into conflict (or strain) with certain emerging themes, ideas or concrete plans, but as long as I am aware of these as they arise, disclose them, and ask my collaborators to mediate my input on those items we are all safe.

A more subtle aspect in PATH facilitation relates to the facilitator's role in *raising* (or not-raising) certain topics for exploration. This is where the framework elements of Values and an Adaptive Pattern Language come into play. We train prospective PATH facilitators to think in terms of a life that is rich in relationships, of identifying and mobilizing gifts and contributions, of balancing autonomy and interdependence, and so on. One safeguard that helps keep the whole pattern language in play is the realization that 'services' are just one element in who is available to help make progress. My sense is that the biggest danger is not one of trying to *avoid* certain topics, but rather being 'blind' to certain topics, a prospect that we try to ameliorate in the core training.

It may be helpful to remember that the graphic facilitator is less vulnerable to being consciously or unconsciously influenced by conflict because she is primarily in a receptive, reflective role - her main job is to *represent* what she is hearing, and that's a pretty easy and transparent process to view, comment on and safeguard.

So here is what we tell participants in PATH training, what we told the IRIS participants in the training that occurred last winter, and that frames what I believe I told Ruth about this training (I can't imagine that I said we would tell IRIS people they couldn't facilitate PATHS):

1. The object of this training is to give you a solid working knowledge of the PATH process and the values that underlie the process. It is intended to give you tools that you can put to use with competence and confidence. This training will also give you an understanding that will increase your overall skills as a resource person, circle member, and community connector;
2. Once you have completed this training, you will have a set of skills that will allow you to facilitate early PATHs - but we need you to understand that you are at the *beginning* of your journey as a facilitator; therefore we encourage you to:
 1. practice PATHS with friends and family members
 2. practice facilitation with colleagues from this training event and other people who have completed similar events (people in the Wisconsin Person-Centered Network)
 3. practice with facilitators who are more experienced (seasoned) than you are
 4. practice both roles - as the process facilitator and as the graphic facilitator
 5. at first, practice in situations that are not deeply conflicted, complex or challenging ('start with the easy ones')
3. If you are called to facilitate a PATH with someone with whom you have an existing work relationship (especially if you are managing resources that are used by that person), recognize that your best service may be to attend as an invited member of the 'circle' rather than as a facilitator;
 1. Recognize that you share a history with this person, and that you may have valuable insight, perspective and knowledge that you can best bring to light as a member of the 'circle'
 2. Recognize that a shared history may contain elements of past conflicts, misunderstandings, and

- disappointments, and this may make it difficult for the person to speak freely
3. Recognize that you have responsibility for managing public resources, and have potential control over some elements of the person's future, and that this may make it difficult for the person to express themselves fully, and it may make it difficult for you to lead the inquiry in directions that could come into conflict with your formal role
 4. We strongly recommend that you not serve as the process facilitator for someone over whom you have program or resource authority; serving as a graphic facilitator or, better, a circle member, may serve the occasion better
 4. If you are called (invited by the person) to facilitate a PATH for someone who is served by the program that employs you, but you do not have responsibility for managing the resources to be made available to the person, recognize that you may be in a lesser (but potentially still significant) conflict of interest;
 1. Because this may involve a lesser degree of conflict, it may be possible for you to serve primarily in the role of graphic facilitator
 2. We *strongly* advise that the 'process' facilitator be someone from outside the agency
 3. in the course of conducting this PATH, you may switch roles with the process facilitator from time to time, but always with an awareness of potential conflict; some of the elements towards the end of a PATH are less vulnerable to undue influence by a facilitator who is involved with the person in other ways
 5. In both of these cases (point 3 and 4 above) another way of meeting the request for facilitation support would be to invite two facilitators from outside the agency and make a 'time-banking' agreement that you will provide facilitation for them in exchange for their support in this instance
 6. In both of these cases (points 3 and 4 above), it is essential that you declare your direct or potential conflicts of interest, and openly establish agreements with the person at the center and his trusted allies about how you will all manage and safeguard these conflicts.

In our view, it would be most helpful (actually essential) that there be no financial incentive (or even a strong 'process' incentive) for a person or family to make their facilitator selection in one specific direction or another. A level playing field would allow the person and his trusted allies to make a decision and an invitation based on their experience, the degree of trust they have in individual candidates for the facilitation role, and the reputation and skills of individual facilitators - but always in view of declared actual or potential conflicts of interest. Indeed, I may want to ask my IRIS consultant to facilitate (or co-facilitate) my PATH because I have a relationship with that person that is strong on trust and experience. Again, it would be important to surface the topic and the implications of potential conflict of interest, but I would still want the freedom to make that choice as an informed agent.

I hope this helps.

Sincerely,
David