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Article Title: "It is not my intention to be a killjoy...": Objecting to a Licence Application—The Complainers

Year of publication: 2011

Link to published article:

<http://dx.doi.org/10.1007/s11196-011-9234-9>

Publisher statement: The original publication is available at www.springerlink.com

“It is not my intention to be a killjoy...”:

Objecting to a Licence Application – The Complainers

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International Journal for the Semiotics of Law, 2011, online first

1 Introduction

Doctrinal legal analysis traditionally assumes that the facts of a case are simply presented to lawyers by the parties fully formed; fact production processes are considered to be largely unproblematic. We do not, though, simply discover facts as lawyers nor do clients simply present narratives that require legal interpretation. Rather, fact production is a co-authored and creative process whereby the facts of a dispute are socially constructed by the parties. This paper shows any interaction in a legal setting that establishes facts is a complex phenomenon and is influenced by various factors such as the setting, role expectations of the parties, and the course of the interaction. This is shown through an examination of one aspect of the fact production process, the act of complaining.

The data we explore on complaining originates from a study on the Licensing Act 2003. Early data collection indicated that those who objected to licence applications did so in a specific manner, often by denying that they were objecting. Intrigued by

this, we examined socio-linguistic literature on complaining to discover if this provided any insights into how individuals frame complaints. The literature showed that complaining is often effected through adoption of specific strategies, the uptake of which could be influenced by factors such as those mentioned in the preceding paragraph (setting etc), and, armed with this framework, we analysed the data collected from those who objected to licence applications. We found that many of the strategies highlighted in the literature were adopted by objectors. So, while making an effective complaint appears to be the main focus of objectors, we see how politeness may mitigate, in certain circumstances, the effectiveness of a complaint. Furthermore, in different settings objectors frame their complaints in subtly different ways. Complaints in letters, for instance, appear to be different from complaints generated in interviews and these were different again from those expressed in hearings before licensing sub-committees. This has implications for how we understand the fact production process and what it means to gather ‘evidence’ from those engaged in a legal dispute.

In setting out our findings, we will initially describe the wider project from which this paper originates, the methods adopted and our approach to data analysis. From here we will examine the relevant literature explored to better understand the data. Rather than providing an overly broad account of the literature, we have restricted our exposition to sources that offered fruitful lines of enquiry in the data. This is considered in section 4 below and takes in the work of Yaeger-Dror on the “Cognitive Prominence Principle” and the “Social Agreement Principle”,¹ Brown and Levinson’s

¹ Yaeger-Dror, M. (2002) ‘Introduction’, *Journal of Pragmatics* 34 (10) 1333-1343.

seminal work on “face,”² Edwards’ work on the “subjective side of complaining”³ and Boxer’s work on “indirect complaints”.⁴ After this literature review we present the data from our study. We have organised our findings into four main categories: performing the act of complaining; the adoption of politeness strategies; interaction and complaints; and the importance of context and setting. We show how the act of complaining is the main focus of objectors, yet politeness strategies are still adopted by them. Furthermore, we show how complaints are framed within an interaction, with the consequences that interactional dynamics may result in objectors weakening their cases, and how complaints are framed differently when expressed in different settings. We conclude by exploring a number of implications from the study e.g. consistency in testimony if complaints shift subtly in different contexts. Finally we consider reasons why the data appears to show that the priority for objectors is the framing of effective complaints rather than the adoption of politeness strategies. At first glance, this may appear to be an obvious finding, but the literature suggested that politeness strategies would be far more prevalent than we found.

2 Methodology

The data for this paper was taken from a wider study on the operation of the Licensing Act 2003. The purpose of this study was to explore how the Act regulates three forms of “licensable activities”: retail sale and supply of alcohol, provision of various forms of entertainment and provision of late night refreshment (i.e. hot food or hot drinks

² Brown, P. and Levinson, S. C. (1978/1987) *Politeness: Some Universals in Language Usage*, Cambridge: CUP. All page references refer to the 1987 edition.

³ Edwards, D. (2005) ‘Moaning, Whinging and Laughing: The Subjective Side of Complaints’, *Discourse Studies* 7(1) 5-29.

⁴ Boxer, D. (1993) ‘Social Distance and Speech Behaviour: The Case of Indirect Complaints’, *Journal of Pragmatics*, 19: 103-125.

from 11.00 p.m. to 5.00 a.m.). The Act introduced a number of changes, implementing a modernised and integrated scheme for the licensing of these activities, and, in the case of alcohol, moving responsibility for licensing from magistrates to local authorities. Applicants for premises licences (the main form of authorisation) draw up an operating schedule indicating how they propose to carry out the licensable activities and responsible authorities (e.g. police, trading standards and environmental health) and interested parties (e.g. members of the public living in the vicinity) can make representations (objections) to the licensing authority. If any objections are received, the licensing authority must arrange for a hearing before a licensing sub-committee to determine the application but if no objections are received, the application must be granted (see s 18(2)(3)).

The fieldwork for the project was undertaken in one licensing authority area, a semi-rural authority with a handful of towns. It was envisaged that data would be collected on 30 applications from the year December 2005 to November 2006, with 10 from each of three 'classes' of case: where there were no objections; where objections were lodged, but no hearing took place;⁵ and where there was a hearing. Each class would be randomly sampled from the year's applications but, in the event, data was collected only for 27 applications, as only seven hearings took place in the year in question. A file analysis was conducted on these cases and, utilising this data, semi-structured interviews were conducted (both face to face and by telephone) with a range of persons involved in the decision-making process.⁶ For present purposes, telephone interviews were conducted with local residents who objected to applications, both in

⁵ This was largely because the objections were subject to negotiation and mediation.

⁶ These included licensing officers, responsible authorities, sub-committee members, applicants, their legal advisors and residents. An opportunity subsequently arose at a second authority, a medium-sized suburban one, to conduct similar interviews with licensing officers, responsible authorities and sub-committee members but no other interviews or files analysis were undertaken here.

cases where there was a hearing and where mediation removed the necessity for a hearing.

As the initial focus of the study was on the Act's operation rather than on how objectors complained, the interviews were transcribed utilising orthographic conventions which did not capture phonological and other features of the utterances. Thus the data is not presented in an ideal form for socio-linguistic analysis⁷ but the themes in the analysis below nevertheless offer insights into the act of complaining.

3. Data Analysis

The data analysis undertaken was both inductive and deductive. The initial interest in complaining as a speech act emerged from the data, theoretical explanations for these findings were then sought and then the relevant literature was subsequently re-examined to check the results of this analysis. Data on complaining by objectors was obtained from three different sources: letters of objection; complaints by residents in hearings; and interviews with the researchers.⁸ Analysis was conducted on each source in turn, as the literature review suggested that different contexts would influence the framing of objections. However, as the same complaint could be made in three different settings, analysis was also conducted to compare how each complaint was constructed in the differing contexts.

⁷ Both researchers are additionally unversed in appropriate transcription conventions, being lawyers rather than linguists.

⁸ There were 37 letters of objection, although five were 'resubmissions' by residents who had previously objected and wished to expand on the reasons for their objection, seven complaints in hearings and 10 residents interviewed. We were unable to interview all objectors due largely to residents being non-contactable e.g. change of address.

The transcripts were subjected to a close reading, with emerging themes identified in the data.⁹ The transcripts were then re-examined to build upon and check the insights that were emerging. When necessary, the original audio recordings were accessed to check the impression given by the transcript. Once relevant themes were identified, examples were compared with others to gain a picture of how residents objected.

4. Performing the act of complaining: how to pitch a complaint

(a) Cognitive Prominence and Social Agreement Principles

When speakers wish to express disagreement, Yaeger-Dror, identifies a tension between what she describes as the “Cognitive Prominence Principle” (CPP) and the “Social Agreement Principle” (SAP).¹⁰ The CPP suggests that important information contained in any utterance should be clear and unambiguous; we should state what we mean and make our complaints clear.¹¹ The SAP, drawing on the work of Schegloff et al.,¹² is based on a preference for agreement in informal conversations.¹³ Within social interaction there is a preference to deliver expected responses in turn; for instance, when asked a question we usually answer, when faced with a greeting we reciprocate. Similarly, when subject to an invite, the preference is to accept, so that refusals are usually prefaced with apologies, delays and hedges (i.e. caveats or qualifications). Thus, conversations are shaped by the expectations around how we make appropriate

⁹ These themes were sometimes theoretically informed, and others emerged from reading the transcripts.

¹⁰ n1 at 1333.

¹¹ See also Grice, H.P. (1975) ‘Logic and Conversation’, in Cole, P. and Morgan, J. L. (eds) *Syntax and Semantics, Volume 3: Speech Arts*, New York: Academic Press.

¹² Schegloff, E., Jefferson, G. and Sacks, H. (1977) ‘Preference for Self-Correction in the Organisation of Repair in Conversation’, *Language* 53: 361-382.

¹³ Also see Pomerantz, A. (1984) ‘Agreeing and Disagreeing with Assessments: Some Features of Preferred/Dispreferred Turn Shapes’, in Atkinson, J. M. and Heritage, J. *Structures of Social Action*, Cambridge: CUP.

statements and how we respond to the utterances of others. A complainer has, therefore, when complaining, to consider the appropriate balance between making oneself clear (CPP) and complying with expectations that we engage in ‘socially agreeable’ conversations (SAP). What is appropriate here depends upon a number of factors, such as role, setting and social distance between speakers; response of the other party; and social and conversational conventions.¹⁴

(b) *Preserving ‘face’*

In understanding how we may pitch a complaint, and how this is influenced by the SAP, it is instructive to consider the work of Brown and Levinson on “face”.¹⁵ They posit that speakers have face needs, both positive and negative, in any interaction and these influence any interaction. Positive face concerns “the positive consistent self-image or ‘personality’”,¹⁶ while negative face consists of “freedom of action and freedom from imposition”.¹⁷ So, when making a face threatening act (FTA), such as a complaint, face needs concern the projected self-image of the complainer (positive face) who also needs to take account of the face needs (negative face) of the recipient i.e. the desire not to be imposed upon. The recipient also has positive face needs and complainers need to be aware of how utterances may portray the recipient. Finally, speakers also have negative face needs and should be aware that certain speech acts, such as making offers, can impact upon their negative face. Given the nature of complaining as a specific FTA, with a particular impact upon the positive face of the

¹⁴ See, for instance, Laforest, M. (2002) ‘Scenes of Family Life: Complaining in Everyday Conversation’, *Journal of Pragmatics* 34: 1595-1620 and Muntigl, P. and Turnbull, W. (1998) ‘Conversational Structure and Facework in Arguing’, *Journal of Pragmatics* 29:225-256.

¹⁵ n2. See also Goffman, E. (1967) *Interaction Ritual*, New York: Anchor Books and Goffman, E. (1959) *The Presentation of Self In Everyday Life*, New York: Anchor Books.

¹⁶ n2, at 61.

¹⁷ Ibid.

complainer, Edwards emphasises the importance of “the subjective side of complaining”¹⁸ i.e. that complainants will make an effort to appear reasonable and objective to avoid the label ‘whinger’.

Brown and Levinson address in detail the different “strategies”¹⁹ that speakers employ when making FTAs. These include going ‘on record’, going ‘off record’, and utilising ‘positive politeness’ or ‘negative politeness’. Going ‘on record’ is the making of an unambiguous statement and is an example of Yaeger-Dror’s CPP; ‘on record’ FTAs are unambiguous acts where the intentions of the speaker are clear. Going ‘off record’ is the making of an ambiguous statement, thereby allowing the recipient to avoid the FTA by interpreting it in a non-threatening manner. An example given by Brown and Levinson is “[d]amn, I’m out of cash, I forgot to go to the bank today”.²⁰ This can be interpreted as a FTA, a request for a loan, but the recipient could interpret this as a pure statement of fact and ignore the request. Brown and Levinson posit that the more a FTA is regarded as threatening, the more likely the ambiguous nature of the FTA. ‘Off record’ strategies are concerned with the face needs of the speakers and are an example of the SAP overriding the CPP. Positive politeness is “orientated towards the positive face of [the hearer], the positive self-image that he claims for himself”²¹ and, in utilising positive politeness, speakers emphasise shared needs, interests and values. Speakers minimise FTAs by manufacturing solidarity; FTAs are less threatening when performed between equals. Negative politeness, on the other hand, “is

¹⁸ n3 at 5.

¹⁹ Brown and Levinson describe these as “strategies” whilst acknowledging that they may not necessarily be conscious choices.

²⁰ n2, at 69.

²¹ Ibid, at 70.

orientated mainly toward partially satisfying (redressing) [the hearer's] negative face"²² through strategies such as formality, restraint, hedges and apologies.

Brown and Levinson claim that there exists a hierarchy of strategies that may be adopted and uptake is influenced by a number of variables i.e. "social distance", "relative power", "the absolute ranking of impositions in a particular culture", "liking" and "formality".²³ As intimates perform FTAs differently from strangers, so students, for example, will adopt FTA strategies depending upon whether they are interacting with lecturers or fellow students and different FTAs are regarded as more burdensome than others in particular cultures.²⁴

These insights provide useful tools for thinking about how legal complaints can be made and the strategies that may be adopted. Strategies are influenced by factors such as social distance and relative power. Although complainers may or may not possess a high degree of social capital, there is inevitably an asymmetry of power because professionals in the legal process have specialised knowledge. Similarly, FTAs that clients take to legal processes are onerous as legal complaints impact upon the negative face of the recipient because they are a request for action. These factors suggest that complainers coming to the law, if Brown and Levinson's analysis is correct, are more likely to perform FTAs in manner that minimises their threat through use of politeness strategies.

²² Ibid.

²³ Ibid, at 16 and 74.

²⁴ House and Kasper similarly describe techniques that speakers can adopt as 'politeness markers', such as hedging, understating, down-toning, hesitating or forewarning; House, J and Kasper, G (1981) 'Politeness Markers in English and German', in Coulmas, F (eds.) *Conversational Routine; Explorations in Standardized Communication Situations and Prepatterned Speech*. The Hague: Mouton.

(c) *Legal complaints as ‘indirect complaints’*

Complainers coming to legal processes may well not be making a direct complaint i.e. a complaint to a person whose conduct forms the basis for the complaint. Rather they may be making an indirect complaint i.e. a complaint to a third person about another’s conduct. It is instructive therefore to consider the work of Boxer on indirect complaints and its inter-relationship with social distance.²⁵ Boxer considers indirect complaints not to be FTAs in the same mould as direct complaints in that “they are often employed in an attempt to establish rapport or solidarity”.²⁶ Thus, for example, complaints by neighbours about other neighbours, when engaging in neighbourly gossip, may be undertaken to reinforce social bonds. Boxer posits that the greater the social distance, the more hesitant we are with indirect complaints; we are hesitant with strangers to maximise positive face, less hesitant with friends and more direct with intimates.²⁷ In short, we do not want to appear as ‘whingers’ – a concern with positive face – and we are therefore more likely to be guarded, all things being equal, as social distance increases.

(d) *Institutional expectations*

An important aspect of the interaction we are examining is the institutional setting in which interaction takes place. Edwards, commenting on neighbourhood mediation, suggests that complaints have “to be made severe enough to be worth resorting to that

²⁵ n4.

²⁶ Ibid, at 106.

²⁷ Boxer regards indirect complaints as an exception to Wolfson’s theory of social distance known as ‘The Bulge’ (Wolfson, N. (1988) ‘The Bulge: A Theory of Speech Behaviour and Social Distance’ in Fine, J. (eds) *Second Language Discourse: A Textbook of Current Research*, Norwood: Ablex). Under this theory, solidarity building talk is considered more prevalent between friends and acquaintances when compared to either intimates or strangers.

kind of setting, requiring those kinds of resources”.²⁸ So, for legal settings, complaints have to satisfy an institutional threshold; they have to be sufficiently serious to justify the intervention of legal machinery. Complainants are therefore faced with a tension; face needs suggest that complaints will be made tentatively while institutional requirements place a threshold on what is regarded as sufficiently serious. This takes us back to Yaeger-Dror and her conflict between the CPP and the SAP (see (a) above). Does one engage in politeness at the expense of furthering one’s claim?

(e) *Complaints as interaction*

So far, we have considered strategies that a complainer may adopt when presenting a complaint, having regard to face needs and institutional expectations, but social interaction is an on-going and dynamic process. Thus, in the course of a particular interaction, as speakers become aware of the reaction of the recipient and how the recipient responds (both verbally and non-verbally), parties may adjust their position accordingly e.g. where a complaint is received less than enthusiastically, a complainer may downgrade the complaint.²⁹ We could also expect, conversely, that a receptive recipient may well lead a complainer to emphasise the nature and impact of the complaint. In short, facework is a dynamic and ongoing process to which speakers have regard throughout the course of an interaction. All this suggests that the nature of complaining is not a straightforward process of simply presenting the facts, but is rather an elaborate interactional process between parties with different face needs.

²⁸ n3, at 25.

²⁹See Edwards’ example of a schoolteacher’s complaint about lack of books, *ibid*, at 10. See also Jefferson, G. (1988) ‘On the Sequential Organisation of Troubles Talk in Ordinary Conversation’, *Social Problems* 35(4): 418-441, Emerson, R. M. and Messinger, S. L. (1977) ‘The Micro-Politics of Trouble’, *Social Problems* 25(2): 121-34 and Drew, P. and Walker, T. (2009) ‘Going too far: Complaining, Escalating and Disaffiliation’, *Journal of Pragmatics* 41(12): 2400-2414.

(f) *Working up complaints*

A final factor that may affect the presentation of complaints is choice of tactics used by complainants to work up their complaints. This, as Edwards points out, can be done through “objectification”,³⁰ the presentation of the complaint as objective fact as opposed to subjective experience. This is achieved through a variety of means including:

- “script formulation”,³¹ where “events are offered as instances of generalised recurrent patterns”³²
- “extreme case formulations” (ECFs)³³
- the offering of corroboration by others, such as expressing concern about how others have been affected
- utilisation of “verbatim quotes”³⁴
- employment of “graphic narrative descriptions”³⁵ and
- engagement of the recipient in a “joint production”³⁶ of the complaint.

Similarly, Potter describes a number of means by which descriptions are worked up to make general claims.³⁷ These include:

- stake inoculations (denying that the speaker has a stake in the description)

³⁰ n3, at 6.

³¹ Ibid.

³² Ibid.

³³ Pomerantz, A. (1986) ‘Extreme Case Formulations: A Way of Legitimizing Claims’, *Human Studies* 9: 219-29.

³⁴ n3 at 6.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Potter, J. (1996) *Representing Reality: Discourse, Rhetoric and Social Construction*, London: Sage at 108.

- category entitlements (the claim that a speaker is well placed to make the comment)
- consensus and corroboration (what we later describe as co-opting others), particularly through ‘active voicing’ (using the quotes of others) and
- “extrematisation”³⁸ (e.g. ECFs).

5. Performing the act of complaining in licensing cases

The data from the letters, hearings and interviews displays a distinct pattern of how objectors go about the act of complaining. In many respects, the data we are about to examine shares a number of features that were identified in the earlier literature review. When complaining, actors adopt a number of strategies³⁹ in formulating complaints. First, particularly in the letters, but also elsewhere in the data, residents will make a claim to standing. Secondly, we also see a number of examples of politeness being used in the furtherance of complaints. Thirdly, to objectify complaints, residents may utilise various approaches, including co-opting others; adopting script formulations; expressing opinion as fact; and using verbatim quotes. Fourthly, complainants seek to make out their case as special and deserving of attention. Fifthly, they adopt ECFs and intensifiers. Each of these strategies will be analysed in turn.

(a) *Standing*

³⁸ Ibid, at 187.

³⁹ Following Brown and Levinson (see n 19 above) we adopt the term “strategy” while recognising that this may not necessarily be a conscious choice of actors.

A number of objectors begin complaints, whether in letters, hearings or interviews, with a claim to standing. This to some extent reflects the licensing regime's requirement that, for 'interested parties' to make representations under s 13(4)(a) of the 2003 Act, they have to live 'in the vicinity' of the applicant's premises. Objections, therefore, frequently address this point. To quote from one of the letters:

Although our address is [...] our cottage is situated in [a road] and, along with [two other properties], is the closest proximity to [the premises]. We have no back garden and are approximately 50 yards from the performance area...

We can see here, however, that claims to standing are not only limited to establishing that the resident lives in the vicinity but also an intensifier is used (the resident lives in "closest proximity to [the premises]"). The intensifier alerts the recipient of the letter to the fact that this is more than merely a claim to be heard; being immediately behind the venue gives the complainer special cause to complain due to the 'extreme' proximity and the lack of a back garden further reinforces the closeness of their residence to the venue. There is, therefore, a claim of category entitlement.⁴⁰

(b) Politeness in the furtherance of complaints

The use of one politeness strategy, attending to positive face through denial of a complaint, is a consistent feature of the data. In the extracts below, taken from an interview with a local resident, we can see how the resident aims to create a positive self image; one does not object or complain, rather one makes reasonable requests and

⁴⁰ See n37 and associated text.

comments. Such claims were made throughout the interview, from the first statement onwards. Rather than produce the whole text, a number of illustrative extracts are provided where the resident attends to positive face through the claim of ‘common sense’ and reasonable standards of behaviour:

It wasn’t an outright objection but we wanted some common sense with the hours for the licence...

... So what we wanted to do was say we don’t mind, we just want a reasonable limit on amplified events and for people to be sensible when it comes to noise levels.

A similar technique was adopted by others who denied that they were complaining and being unreasonable. What follows is an extract from a letter of objection:

It is not my intention to be a killjoy. However, I do believe that my family has a right to live peacefully in our home without an unreasonable level of disturbance.

We can see here the claim that the resident does not want to stop others having fun; indeed, the implication is that a reasonable level of disturbance is acceptable. However, the activities proposed are seen as going beyond this, as unreasonable proposals, and therefore needing to be challenged.

While the residents above attend to positive face through the adoption of strategies that are concerned with self, we can see that this strategy also questions the

reasonableness or sincerity of applicants. Given that such attacks on applicants are serious FTAs, especially in hearings when applicants are present, this is done ‘off record’. In the extracts above we can see how the resident attempts to question whether the applicant is reasonable or sensible e.g. the resident comments that “we just want ... for people to be sensible when it comes to noise levels”. This is ‘off record’ as the resident does not point directly to the applicant, and it could be read as asking for the licensing authority to be “sensible”. However, given the reference to earlier problems and the manner in which these were presented, we can reasonably assume that this is a reference addressed to the applicant. In going ‘off record’, the resident is adopting a politeness strategy. Rather than aggressively questioning the applicant the complaint is modified so it is purely about what is reasonable. The adoption of a politeness strategy that emphasises the positive face of the complainer works on two levels; it paints a picture of the complainer as reasonable and operates as an ‘off record’ criticism of the applicant. We can see, therefore, that adoption of politeness strategies can also reinforce a complaint.

However, when politeness fails, complainers may choose to be more direct. In the following extract, we can see how an ‘off record’ criticism of the applicant is reinforced when the criticism is not accepted by the applicant. This took place within a hearing when the applicant was questioned by the resident on the failure of an earlier mediation process:

Resident: Is it true though that the onus is always on us to complain, therefore the noise has happened before we can get anybody out?

Applicant: It is not in my interest to receive any complaints. I don't want anybody to have to complain. I don't ever want it to get to that stage and in four years there's been one concert that there was a problem with noise. It was a local [...] band who we all know called [...] and they are quite a noisy band and on that particular day they [had] a very lively active audience and they were responding to their audience. I wasn't there on that day but one of my officers was.

Resident: The fact is that other bands, are they going to be controlled or not, including [the band named above]?

Applicant: I believe other bands have always been controlled and the future would be no different. Some bands use amplification, some don't; we try to have a varied programme.

Resident: But why are we here if that is the case?

Applicant: I don't know the answer to that.

The resident is implying that noise is a feature of the events organised and the onus is on him to complain. While the applicant portrays the problem as being minor and restricted to one band, with the possible implication that the residents are unreasonable ("they [had] a very lively active audience and they were responding to their audience"), the resident goes 'off record' to criticise this proposition by asking whether other bands are "going to be controlled or not". When the implicit criticism is rejected ("other bands have always been controlled") the resident sarcastically asks why there is a need for a hearing. The criticism that the applicant does not control the activities of the bands is therefore made explicit. The applicant's final statement is, in some senses, a withdrawal from the interaction in the face of the FTA from the

resident, but it could also be thought of as an ‘off record’ criticism of the residents along the lines of ‘I don’t know why you’re here when there doesn’t appear to be a problem and others seem to enjoy the programme of events’. In any event, the applicant clearly responds to the criticism that is directed at her.

(c) *Objectifying complaints*

(i) Co-opting others

A first method by which residents attempt to objectify their complaints is through the co-opting of others. In doing so, the resident is either making the claim that others agree or, in some cases, that the application will impact disproportionately on vulnerable persons. This can be done with varying degrees of sophistication. The simplest method is to either name specific persons or classes of persons affected:

Music was the worst of all. [It] was that bad it vibrated the floor boards and shook the houses. This had made my two children cry and scared, especially my son. He thought it was an earthquake...

My children have definitely put up with enough loud noise to last them a lifetime.

A very common method of co-opting others, and more implicit, is to refer to residents in the plural:

Detail[ed] consideration has not been given to *effects upon residents immediately adjacent to the site and to a lesser degree to surrounding areas...*⁴¹

This tactic co-opts unknown others into the complaint and, in so doing, objectors are claiming to speak for others who share their concerns. Perhaps the most implicit method of co-opting others is through the use of the plural pronoun; rather than the complainer referring to “I”, “me” and “my”, we see instead references to “we”, “us” and “our”. The text below is a good example of this strategy, of which there are a large number of examples in the data:

What I recall of it [mediation], *we* all sat, *we* had to go to the council office...
and *we* all sat around a table and she [the applicant] wouldn't budge basically,
she wouldn't alter her application at all...

She didn't listen to *our* concerns in any way...

...*our* concern was she may move from her job and someone else may have a
different opinion...

Yes, *we* had to go to the council [for the hearing process], like a courtroom *I*
suppose...

...*we* were treated very courteously. *We* didn't have to wait very long.

And *we* were all given *our* time, five minutes to speak and got *our* points
over...

⁴¹ Emphasis in original letter. Throughout the presentation of the data, any emphasis in the text can be presumed to be added for the purposes of illustration, unless, as here, otherwise indicated.

And *we* had a fair hearing *we* thought. And then *I* think ... *we* had the opportunity to ask the [licensing] officer... why she [the applicant] wasn't prepared to talk to *us*...

It was pretty well what *I* was expecting, but *I* am a magistrate so *I'm* used to, *I* knew what to expect...

It might have been a little bit daunting, *I* guess, for anybody that was not used to that kind of scenario ... but not for *us* at the time.

We can see throughout the extracts above a constant reference to a shared experience: “we all sat”; “She didn’t listen to our concerns”; “our concern”; “we had to go to the council”; “we were treated very courteously”; “we had a fair hearing”. In the interview above (and in others) we do see times when the respondent switches from “we” to “I”, but this is largely done when using hedges (“I think”, “I suppose”) or when referring to experiences that are necessarily singular, such as the comment that “I am a magistrate”. Even this last claim to experience was switched in the next sentence to claim that the experience was not daunting “for *us* at the time”. Adoption of the plural pronoun can be seen as a subtle strategy utilised to co-opt others in the complaint to speak on behalf of others and objectify the complaint. If a complainer is not the only one complaining, they implicitly claim that they cannot be unreasonable as others share their views. Furthermore, the numbers relied upon and the extent to which others actually support the complainer’s view remains unstated.⁴²

(ii) Script formulations

⁴² See n37 at 161-162.

A second method by which residents attempt to objectify their complaints is through script formulation and we see instances of this in the data, with residents making reference to well known examples of social problems and comparing the complaint to them. So, residents could call on imagery of large scale entertainment events with which disorder might be associated:

There will be allowed, unless the application is modified, the type of performances that actively encourages public disorder. One only has to recall some of the rock concerts around the country to visualise what could occur...

We see a similar, although more implicit, claim in one of our interviews: “Well, I think we all thought we were going to have a Glastonbury type thing”. These are images with which many are familiar and their adoption gives the audience a schema into which the grounds of the complaint can be ‘slotted’. In making use of pre-existing scripts the complaint is reinforced through juxtaposition of the application and the problems associated with large scale events. As a result, many may empathise with the position of the residents and understand their objections.

(iii) Expressing opinion as fact

A third method by which residents attempt to objectify their complaints is to upgrade opinion to fact, as in the following two instances from the data:

... the noise on one event was so tremendous, it came through my double glazing and everybody else's. *It must have done.*

... I know there *will* be issues of noise ... I know there *will* be problems.

Reference here to “must” and “will” indicate established fact rather than assertion of opinion, thereby reinforcing the complaint.

(iv) Using verbatim quotes

A fourth method by which residents attempt to objectify their complaints is the use of verbatim quotes of others, described by Potter as “active voicing”.⁴³ In the interview extract below the respondent calls on the support of environmental health to substantiate the complaint:

I complained about it and they give me information about environmental health ... the man ... taped it, and he couldn't believe it himself, why I was living there. Because he said, *“I can't believe how you put up with it.”*

All these four methods above, using a variety of techniques, are aimed at objectifying the complaint and asking us to see it as a real problem for residents.

(d) *Making out a special case*

As indicated (see 5 (a) above), when residents claim standing they will refer to the proximity of their residence to the applicant's premises and thereby seek to establish

⁴³ See n37 at 160-161.

that their case was special. Additionally, residents utilised other strategies to claim that their case was worthy of extra consideration e.g. that, due to personal circumstances, noise had particular impact on the household:

My two children had enough of it when we lived in the former matrimonial home. Their dad used to come back drunk and smash everything. We had to leave our home there, to escape domestic violence from my ex-husband ... My children have definitely put up with enough loud noise to last them a lifetime without any more.

In this claim, we see how objectors are attempting to create a difference between their case and others. As a strategy, it reinforces their position as valid complainers and it is a means thereby to attend to positive face. Implicit in these claims is a call that their complaint is justified due to their status, in this case the vulnerability of the objector's children, and they are not to be seen as 'whingers'.

(e) *ECFs and intensifiers*

The adoption of ECFs can be seen throughout the data sample. Their use reinforces the impact of the proposed application upon the objector. ECFs portray the complaint in an extreme manner and are thereby employed as strategies to emphasize the impact on the objector. For instance, one respondent in interview commented on the failure of mediation being due to the applicant's intransigence: "she wouldn't alter her application *at all*"; "she didn't listen to our concerns *in any way*"; "she wasn't *prepared* to talk". Of course, as a mediation meeting did take place, the applicant was

prepared to (and did) talk, listened, but did not agree with the residents' concerns and thought them unreasonable. A further example was that a neighbour "couldn't hear the television... the neighbour went out because *he couldn't do anything*".

The utilisation of intensifiers performs a similar role to ECFs. In the words of residents from the sample, odours are "*foul*", music is "*very loud*" and is "*blasted over the area*". Again, the objective here is to reinforce the impact of the complaint.

(f) *Constructing an effective complaint*

All the strategies considered in (a)-(e) above are concerned with effectively persuading some other person of the authenticity and strength of the complaint. This analysis can also be extended to the work on attending to positive face explored above (see 5 (b)); while there are many politeness strategies at play here, as described by Brown and Levinson, we can see how in many respects the face work performed also serves the ulterior goal of complaining. If the resident is reasonable, not really complaining, and understands that people must have their fun, then the complaint is also reasonable, it attends to the interests of others and is concerned with balance and 'sensible' solutions. In this context, only an 'unreasonable' audience could reject the complaint as groundless or a simple act of 'whinging'. We can see, therefore, in this part of the data how the institutional expectations of the setting establish the boundaries for framing the complaint. Nevertheless, in contrast to this aspect of the data, we also see the adoption of a number of politeness strategies and it is to these that we now turn.

6. The adoption of politeness strategies

Our analysis above of the data suggests that effective communication and the construction of a persuasive case is the prime consideration of most objectors. Nevertheless, we do see in the data, although to a lesser extent, examples of the adoption of politeness strategies when complaining. We see objectors attending to positive face; making complaints ‘off record’; utilising hedges and other politeness markers; expressing facts as opinions; engaging in joint production of (sections of) talk; and directly attending to the face needs of applicants. The outcome of such strategies, each of which is considered below, is that effectiveness is reduced when attending to the positive and negative face needs of all participants.

(a) *Attending to positive face*

We explored above how objectors would in all three settings attend to positive face through portrayal of themselves as reasonable and sensible citizens with limited complaints. As we claim in the conclusion to the previous section on constructing complaints (see 5 (f) above), such strategies can be seen as an effective means of making a complaint; in characterising their actions as reasonable, especially if in so doing the complainer makes an ‘off record’ criticism of the applicant. Nevertheless, this strategy is also a means by which the objector attends to positive face to divert the potential criticism of being a whinger or a serial complainer who is not to be taken seriously.

(b) *Going ‘off record’*

Similarly, when exploring how objectors attend to positive face (see 5 (b) above), we presented data above that demonstrates how objectors may create a juxtaposition of themselves as reasonable and the applicant as unreasonable and/or obstructive. This can be combined with going ‘off record’, as in the example below:

Two or three years ago, when the [venue] was first envisaged, the [applicant] discussed it at their well-attended open meeting. There were a number of... residents in attendance, all concerned at what this would mean. At that time, I raised the point that so long as organisers were sensible over the number of events and controlled the noise level, there should not be an issue. *This point of view seemed to be accepted at the time.*

We can see in this extract how the objector attends to his positive face needs. He points out that *he* raised an issue and he was merely asking for others to be *sensible*. In the last sentence the applicant co-opts others, including the applicant, in his assessment of this request as being reasonable as it was “accepted at the time”. However, this is more than simply the co-option of others; it is an ‘off record’ criticism of the applicant in that he has reneged on the ‘sensible agreement’ previously made. The claim here is a strong one; the objector is questioning the sincerity and honesty of the applicant and, given the nature of this as a FTA, an ‘off record’ strategy is adopted. Here effectiveness is compromised to attend to face needs.

(c) *Hedges and other politeness markers*

Hedges and other politeness markers perform an important task in the preservation of face; they can be adopted to ‘distance’ the complainer from the substance of the complaint and suggest hesitation in making the complaint. As a socio-linguistic analysis was not envisaged when undertaking the study, interviews and hearings were naturally transcribed utilising a conventional orthographic technique and ‘ums’, delays and other hedges were therefore not included in the transcriptions. Despite this, we can make a tentative claim that there is limited uptake of hedges and other politeness markers. In the interviews, for example, objectors utilise hedges largely when commenting on the process of objecting, rather than on the grounds of the complaint. So, in the text below the respondent is asked if he attended a mediation meeting and, if so, his experiences of it:

I think the informal meeting we had, *I think* the [applicant], didn’t think it was a problem at all. *I think* the other people, the licensing officers, did.

On process, the objector is very tentative, hedging his views with the marker “*I think*”. However, when expressing the substance of his complaint there were few politeness markers.⁴⁴

(d) *Expressing facts as opinions*

In the extract on hedges above, we see the respondent hedging comments on the process with “*I think*”. As well as being a hedge, this is a method whereby the respondent downgrades a factual claim to one of opinion or experience. While this

⁴⁴ Shortage of space prevents inclusion of details but in the case, as in most of the extracts reproduced in this article, there were few politeness markers.

was a feature of the data in the study, it was one that was not adopted as much as might have been expected when the data analysis was begun. This paucity in the data suggests overall that effectiveness takes priority over politeness.

(e) *Joint productions*

Within the hearings there are examples of joint production of talk, whereby the parties collectively interact, e.g. through overlaps⁴⁵ and the completion of others' statements. Such interactions, which build solidarity, include others in the production of talk and so we can regard them as being concerned with the positive face of the other in the encounter. The extract below is an example of joint production, where the applicant and an objector are establishing how the applicant controls those who provide entertainment events in the public space and are exploring whether the applicant has a system in place to ensure that those who fail to clean the space after the event will lose a booking deposit:

Objector: And the [applicant or] someone from [your organisation] will go down there and check before they get their deposit back?

Applicant: That's correct.

Objector: So, what has happened in the past that there has been a problem then?

Applicant: But then if that had been the case, we'll have kept the deposit and then the [organisation] would have cleaned the site up...

Objector: *And stop them from doing this again.*

⁴⁵ These can be competitive or supportive depending upon whether the overlap reiterates the previous statement or is an attempt to gain control of the interaction.

We can see here how the objector finishes the statement for the applicant; not only will leaving the venue in an unsatisfactory state result in a loss of the deposit, but the organisers will not be allowed to use the space in future. This is damaging to the objector's case as it creates an image of an applicant with systems in place to uncover problems and employ effective sanctions in the event that these are found. The objector jointly constructs this case by finishing the sentence of the applicant in a collaborative manner. We see here positive politeness and the inclusion of the applicant in a joint endeavour trumping the effective making of a claim.

(f) Attending to the face needs of applicants

Within hearings we see another feature of politeness strategies rarely seen elsewhere due to the context, which is direct complaining, when objectors can put questions to the applicant, rather than indirect complaining, where objectors complain to the licensing authority. This can increase the likelihood of the uptake of politeness strategies as objectors have to aim their FTA direct to the applicant. Earlier, when exploring 'off record' strategies of complainants, we provided an example of how the resident switched from an 'off record' to an 'on record' complaint when the implicit complaint was rejected (see 5 (b) above). Elsewhere we see objectors also attending to the face needs of the applicant, as when one resident asks a question in a polite manner:

One thing does worry me, Mary,⁴⁶ may I ask you? Will you please make sure or can you make sure as a performance is going on, would you give a guarantee that your staff will walk round and listen to the volume?

The resident addresses the applicant by her first name, and requests an audience (“may I ask you?”). There is a concern with the negative face needs of the applicant here; asking a question is a burden imposed, so is performed politely and inclusively by the utilisation of a forename rather than a more formal address. Similarly, “[w]ill you please”, a direct request, is repaired and ‘softened’ to “can you make sure”, intimating that this (perhaps) should only take place if within the applicant’s power. However, this is upgraded to a request to give a guarantee that effective procedures will be implemented. Later, the objector states that “I’m afraid I insist that something is done”. While a forceful request is eventually made, this is qualified with the use of numerous politeness markers. In short, when faced with the applicant in the hearing, we see the objector attending to the face needs of the applicant in a manner that is rarely repeated elsewhere.

(g) *Conclusion*

Overall, it appears that effectiveness takes priority over the adoption of politeness. Although objectors attend to the face needs of others and themselves, this is a limited feature of the data. Indeed, when attending to their own positive face needs, this could be explained as a strategy adopted by objectors to enhance the complaint. While we saw the use of hedges, politeness markers, attending to the face needs of applicants

⁴⁶ To preserve anonymity, the applicant’s real name has not been used.

and some joint production of talk, these features in the data were less marked than the strategies adopted to make an effective complaint and, in the case of attending to the face needs of applicants, could be explained as a result of the applicant being present at the hearing with the objector.

7. Interaction and complaints

In this section we want to explore a feature of the data that was anticipated in the literature review; the importance of the dynamics of the interaction for the development of the complaint (see 4 (e) above). It was posited there that complaints could be effectively ‘upgraded’ or ‘downgraded’ depending on how the recipient responds. There are features in the data that support the importance of recipient response in the framing of complaints. We have already explored how objectors may engage in co-operative behaviour in constructing the interaction to render less effective the claims that they are making e.g. by effectively endorsing an applicant’s claim that procedures were in place to deal with problems as they arise (see 6 (e) above). The setting of the hearing, therefore, where applicants and objectors may engage in an interaction, can result in politeness being prioritised over effectiveness. Of course, as we also saw in the switching of an ‘off record’ complaint to one ‘on record’, objectors can equally engage in competitive ‘points scoring’ to build a case (see 5 (b) above).

Within the interviews we can see a different dynamic at work. The primary purpose of the interviews was to elicit opinions on the licensing process, with questions focused on how the procedure operated in practice and on how applicants, residents and others

perceive the process. As a result, the two interviewers aimed at establishing rapport and allowing respondents the space to elaborate on their answers. Nevertheless, objectors would still manage to express the substance of their complaints, frequently even when not prompted to do so. The effect of this focus was that interviewers rarely challenged objectors on the substance of their complaints. We can see in the interview data, therefore, a number of examples of supportive utterances from the interviewer being followed by a restatement of the problem from the objector. In the extract below the interviewer makes a number of supportive statements throughout the text and these co-operative utterances were taken as opportunities to repeat or upgrade the complaint.

Objector: I weren't [sic] happy with it because they was [sic] doing it on days when the kids had to go to school the day after, you see, and it's affecting them. So I had to get like a child psychologist involved and everybody.

Interviewer: Oh, goodness.

Objector: Yeah it was that bad, it was affecting especially my lad. It was affecting his sleep, he couldn't go to bed early to get up to go to school. He was always going to school tired. I had a letter from the school saying he's always tired at school, so I had that as well. Yeah, it was affecting him a lot so in the end I just gave up and just moved out myself because they weren't helping...

Objector: ...Well I couldn't really speak to the pub owners because they had the attitude of they didn't want to know what I thought and, since they had a fire there, that was it. That put my kid's lives in danger.

Interviewer: They had a fire there?

Objector: That really put it to you for six that did, because we had to get out quick because [of] the smoke, the fumes of the fire.

Interviewer: So in essence, to put it bluntly you were really unhappy with what happened and so unhappy you actually moved out.

Objector: I was very unhappy ... I don't think anybody sensible would put up with it.

Interviewer: That sounds really bad.

Objector: It was very bad. It drove me to depression basically, so I had to get out.

After initially describing the problem as serious, the respondent elaborates further when supported by the exclamation of the interviewer (“goodness”); further details of the problems at the school and with the children sleeping are provided with the use of intensifiers and ECFs (“he’s *always* tired”). Similarly, the restatement of the fire problem by the interviewer elicited further comment on the details and the danger created. In the final exchange we see the interviewer drawing the interview to a close by summarising how the resident felt about the process. Being supportive, this gave the resident further opportunity to describe the impact of the problems. Her final comment concerned the impact upon her health: “it drove me to depression basically, so I had to get out”. Importantly, in her letter to the licensing authority the resident made no reference to her position or to the fire at the premises, framing her objections on how problems impacted on her children. Since these further details were revealed

only during an interview where the interviewer was supportive, this perhaps indicates that it was the support that led to further disclosure.

8. The importance of context and setting

So far, we have suggested that, when making complaints on applications, residents largely adopt strategies that prioritise effectiveness over politeness. However, we have suggested at appropriate points in the analysis that the framing of complaints is influenced by context. Subtle differences can be found in the data that suggest claims are moderated depending upon the context and setting in which they are made. First, oral complaints (e.g. objections in interviews and hearings) appear to be constructed differently from written complaints (e.g. letters), with a greater emphasis on politeness. Secondly, there is tentative evidence to suggest that women complain differently from men, again with greater emphasis on politeness. Each of these is examined below.

(a) *Oral and written complaints*

(i) Oral complaints

As interaction within the interview was a (largely) supportive environment leading objectors to reinforce and upgrade their complaints (see 7 above), we can see the importance of the recipient of a complaint to how it will be developed. The ‘complaint’ does not arrive ‘fully formed’, but is instead constructed by the actors within the particular setting in which they find themselves and this setting influences

the shape and content of the interaction. Similarly, politeness needs within hearings can lead to joint construction of utterances alongside attending to the face needs of applicants by objectors (see 6 (e) and (f) above). What is important here is the presence of the applicant and the direct confrontation through questioning him. Again, the setting influences the production of the complaint with greater use of politeness markers, although their use was still somewhat rare and objectors in hearings largely focused on the effectiveness of the complaint. The presence of the applicant, perhaps not surprisingly, leads to a greater emphasis upon politeness notwithstanding that the objector needs to emphasise the complaint at the hearing since this is the setting in which a final decision will be made.

(ii) Written complaints

In written complaints (primarily letters), there was an absence of politeness markers, such as joint production of talk and the use of hedges, that could be seen within interviews and hearings. However, different politeness strategies were adopted e.g. use formal language to emphasise the recipient's social standing. Letters are addressed to the licensing authority and are a FTA as they ask the authority to take action by refusing the licence application or granting it with limitations or conditions. The adoption of a formal style is therefore a method by which the complainer attends to the negative face needs of the authority. We can see this strategy largely at the beginning and end of letters. So, at the beginning we see adoption of a number of formulations, of which the following two are examples:

Please accept this letter as my objection to the application for any kind of licence for alcohol and/or entertainment to be allowed in [the particular premises].

On behalf of the residents of [a place], we wish to formally record our objection to the application on the grounds of public nuisance.

Both are formal, the second expressly acknowledged as such, and each attends to the face needs of the recipient e.g. “*please accept* this letter as my objection” (first example) and “we *wish* to formally record our objection” (second example). Similarly, at the end of letters we see a number of formal requests and other politeness markers:

Thank you for listening to my worries. I hope you will take these on board when doing your planning.

Thanking you in anticipation for your careful consideration of our objections.

By thanking the licensing authority, the objector thereby recognises the face needs of the recipient and, by asking that objections are taken into ‘consideration’, there is merely a request and not a demand that these are taken into account. These extracts therefore utilise negative politeness; there is recognition that a FTA is being

performed and appropriate strategies are adopted. This is a pattern we see throughout the letters, albeit with a wide degree of variation.⁴⁷

In contrast to these politeness strategies, the data suggests that the written form allows for the most effective method of complaining. Politeness strategies are largely formal usages, understood as such by the participants, and once they have been completed, the real business of complaining can begin. Within the letters we see some strong complaints combined with firm demands for action by the licensing authority. In the following short letter, we see a concise and ‘to the point’ complaint where the objector uses minimal politeness strategies:

Dear [licensing officer]

Regarding the application for an entertainment licence on [the relevant premises].

I strongly urge you to reject the above application. We do not want or wish to have extra noise pollution, traffic etc; in this quiet neighbourhood.

Or any devaluation of our property because of this. I shall also be taking this matter up with my local councillors.

Yours truly.

[objector]

Unlike the polite openings above, the objector does not simply ask for the application to be rejected, but is more forthright: “I strongly urge you to reject the above application”. Although the objector could have demanded action, “strongly urge”

⁴⁷ We could theorise that this variation is due, *inter alia*, to infrequent use of formal letters in an age of instant communication technology. In short, formal letter writing is a dying art.

comes close and is a serious FTA. Effective communication is paramount here at the expense of negative politeness and respecting the negative face needs of the recipient.

(b) *Gender differences on complaining*

Gender appears to be of importance in the framing of complaints, although our findings are tentative, largely on account of the low sample size and the ambiguous nature of some of the evidence. That gender may be of significance accords with the findings of some previous studies e.g. in O'Donnell's study women were more likely to utilise negative politeness strategies, after accounting for context, role and social difference.⁴⁸ Holmes similarly notes that when women engage in conversation they do so in a manner that emphasises agreement and collaboration.⁴⁹ The extract in joint productions above (see 6 (e)), where an objector completed the sentence of the applicant in a supportive manner, provides a good example of co-operation and solidarity in the performance of talk in interaction. In this instance the objector was female and the applicant male and this could be seen as an example of a female speaker adopting a more polite style within the interaction.

We see similar polite statements from other women in interviews e.g. where a female objector responds to a question on the concerns raised in the objection:

It was [concern about] noise and ... I think it was a little bit ambiguous [on] the details that they point out about the hours that would be involved. It was

⁴⁸ O'Donnell, K. (1990) 'Difference and Domination: How Labor and Management Talk Conflict', in Grimshaw, A. D (eds) *Conflict Talk: Sociolinguistic Investigations of Arguments in Conversation*, Cambridge: CUP.

⁴⁹ Holmes, J. (1995) *Women, Men and Politeness*, London: Longman.

going on until quite late at night; when in fact we had a meeting about it, they clarified the fact that they were just the latest hours that they could possibly be but they weren't planning on having any events that would run as late as they said. I can't quite remember how long, I think it was probably 10 or 11 o'clock at night, but it didn't materialise actually.

We can see in the extract a number of hedges; "I think", "a little bit", "quite late". Similarly, there is no 'off record' criticism of the applicant; an assurance was made and the last sentence confirms that events were in accordance with this assurance. However, although there is evidence in the data of politeness in complaints from women, we also see within both letters and interviews forceful and strong complaints from women.

9. Implications of the study

Inconsistencies in testimony and incoherence in narratives delivered by witnesses are usually regarded as evidence of unreliability.⁵⁰ The shifting story is viewed as a false story. We have seen, however, that the shifting story is not uncommon in making complaints. In the data analysis, there is evidence throughout of nuanced differences in the presentation of complaints depending upon the context, the method of production and the course that an interaction may take. For instance, the literature review suggests that how a recipient reacts may well cause a different re-telling of the complaint to that initially offered and we saw evidence of this effect (see 4 (e), 5 (b) and 7 above). Similarly, as the researchers in telephone interviews with residents

⁵⁰ Scheppele, K. L. (1994) 'Practices of Truth Finding in a Court of Law: The Case of Revised Stories' in Sarbin, T. & Kitsuse, J. (eds.) *Constructing the Social*, London: Sage.

attempted to create rapport, the data set suggests that a supportive approach may well lead to more assertive (and sometimes new) complaints being made (see 7 above). Further, although politeness strategies were utilised in letters through adoption of formal language, there was increased adoption of politeness strategies in hearings when the applicant was present in the room (see 8 above). This is notwithstanding that at this time complainants need to make the strongest case possible, since the decision would be made following the hearing. This seems to run counter to the prevailing view that, when a witness changes a story, this is evidence of unreliability and it is apparent that shifting stories are not necessarily indicative of a witnesses' credibility (or, rather, lack of it).⁵¹

As accounts differed subtly in response to recipient reaction, this has implications for legal professionals and how they elicit complaints. This is not to say that professionals need training in how to uncover more 'authentic' stories, but rather it requires an appreciation of the socially constructed nature of accounts. So, if professionals are too agreeable and approachable, witnesses may well provide accounts that will be downgraded in formal contexts so that they will either be regarded as unreliable or they may not come up to proof. Conversely, if professionals eliciting a story are too confrontational, the events may be downgraded and witnesses may not provide important details that evidence a complaint.

We need also to consider the appropriateness of hearsay restrictions, which may well impact upon a common tactic utilised by complainers, that of complainers routinely co-opting others into their complaint to objectify it and demonstrate that the problem

⁵¹ See further Scheppele, *ibid.*

is real because of its effect on others (see 5 (c) (i) above). Hearsay restrictions therefore appear to inhibit an everyday method of complaining, thereby resulting in confusion for witnesses.⁵² However, the impact of hearsay restrictions may be confined in scope, since hearsay restrictions do not apply in licensing hearings⁵³ and are limited in civil cases more generally under the Civil Evidence Act 1995.⁵⁴

Contextual differences noted in the data were subtle so should not be overplayed. The majority of the data pointed towards effectiveness of communication as being paramount, with most objectors adopting strategies that reinforced complaints rather than attending to face needs. This, as explained in the literature review, could simply be a result of the institutional context of the complaints studied; making legal claims necessitates clearing an institutional hurdle (see 4 (d) above). Alternatively, this could be viewed as an area of ‘conflict talk’ when the usual politeness conventions do not apply.⁵⁵ Given that complaints here are indirect, and do not necessarily concern the recipient, this would be an extension of ‘conflict talk’ into an area where there is not direct conflict between the parties.

Finally, we want to express some thoughts that may well explain the emphasis on producing effective complaints. It is regarded as a truism that we no longer live in a

⁵² See Spencer, J. R. (ed.) (1989) *Jackson's Machinery of Justice (8th Ed.)* Cambridge: CUP, at 265-6.

⁵³ See *Westminster City Council v Zetfair Ltd* (1989) 153 JP 613 and *Kavanagh v Chief Constable of Devon and Cornwall* [1974] QB 624.

⁵⁴ Although s 1 of the 1995 Act abolishes the rule making hearsay evidence inadmissible in civil proceedings, this applies only in respect of hearsay as defined in the Act. The definition, in s 1(2), provides that “hearsay” means “a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated”. This may exclude hearsay which does not consist of statements made, but which comprises conduct about which a person gives evidence, e.g. as in *R v Kearley* [1992] 2 AC 228, where police evidence of calls by telephone and calls at the door of a person’s flat inquiring about the purchase of drugs was tendered as evidence of that person being a supplier of drugs. Such evidence was held, by the House of Lords, to be inadmissible hearsay in that case and, as it would fall outside s 1(2), it would continue to be inadmissible after the 1995 Act.

⁵⁵ See Handford, M. and Koester, A. (2010). “‘It’s not Rocket Science’: Metaphors and Idioms in Conflictual Business Meetings”, *Text and Talk* 30(1): 27-51.

deferential society; this closing of social distance, if we follow Brown and Levinson's theory, could be expected to result in changes to the politeness strategies that speakers adopt. However, it could be said that we are now experiencing something different from the decline of deference and instead a movement towards a more emotive society. We need only think of the use of crime victims and their families in press conferences and appeals for information; emotional displays are fundamental to these events. Similarly, Lorenzo-Dus outlines the centrality of emotional displays in US courtroom television programmes and notes that "[t]ogether with conflict talk shows, courtroom shows offer one of the clearest examples of the ritual celebration of 'negative' emotions in contemporary broadcasting".⁵⁶ We can also see this at play within the UK, as in celebrities eating various animal parts in *I'm a Celebrity* or the contestants of *Big Brother* being subjected to degrading tasks. In short, we routinely engage in the ritual humiliation of others in the name of entertainment. Brown and Levinson would regard this increase in emotional displays as a change in "ethos".⁵⁷ We could hypothesise that our society is changing to one that is more direct with comments increasingly made 'on record' with a premium placed on effectiveness rather than politeness. Indeed, Brown and Levinson suggest that social distance and solidarity are loosened by "mobility and ambition".⁵⁸ A more competitive and individualistic society is more likely to perform FTAs directly and 'on record'. So, perhaps the predominance in the data of attending to effectiveness rather than politeness is the result of an overall shift in ethos, rather than something inherent in the setting. If this is correct, what are the implications for positive and negative face generally? Are we less likely to attend to the positive and negative face needs of

⁵⁶ Lorenzo-Dus, N. (2008) 'Real disorder in the court: An investigation of conflict talk in US television courtroom shows', *Media, Culture & Society* 30(1) 81-107 at 85.

⁵⁷ n 2, at p 243.

⁵⁸ *Ibid*, at 246.

speakers in an emotionally charged society where assertiveness is valued and therefore more likely to adhere to Yaeger-Dror's CPP principle (see 4 (a) above)? Or are the examples provided in this conclusion simply mere entertainment, an escape from the shackles of informal and formal expectations embedded within social interaction?