MAKING COMPLEX DECISIONS – TOOLS FOR TRIBUNAL MEMBERS

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COMPLEX

Made up of parts connected with each other; compound; composite.

From Latin, *complexus*, entwined, encircled.

VUCA –

**VOLATILITY
UNCERTAINTY
COMPLEXITY
AMBIGUITY**

WHAT IS COMPLEXITY?

 "…perhaps for the first time in history, humankind has the capacity to create far more information than anyone can absorb, to foster far greater interdependency than anyone can manage, and to accelerate change far faster than anyone's ability to keep pace."

(Peter M. Senge, *The Fifth Discipline*)

THE SYSTEM CREATES ITS OWN BEHAVIOUR
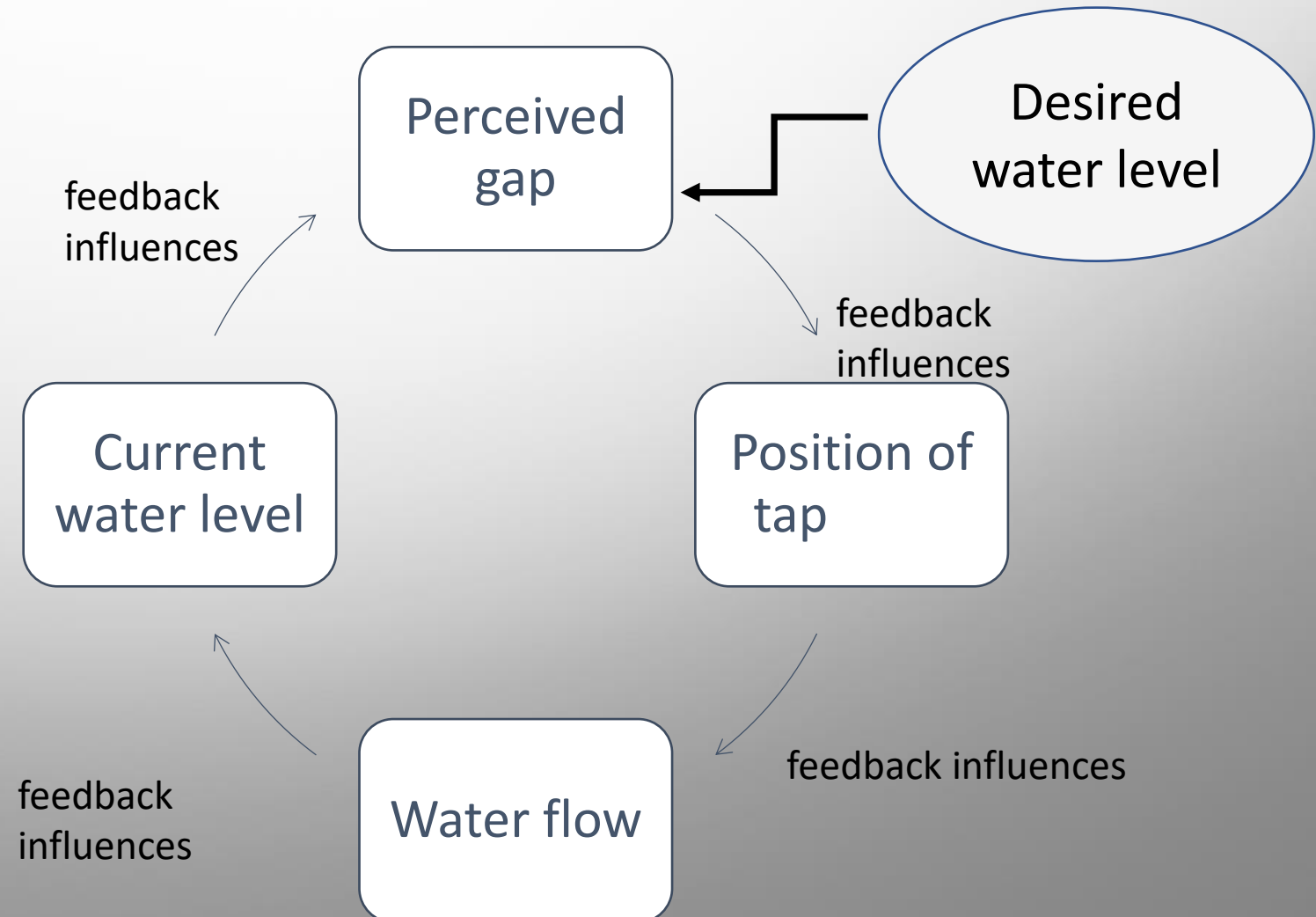
SYSTEMS EXIST WITHIN, AND INTERACT WITH, OTHER SYSTEMS

WHAT ARE COMPLEX ADAPTIVE SYSTEMS?

- A large population of agents which interact with each other locally, according to their own individual principles.
- The interactions are non-linear – no "cause and effect".
- "Attractors" in the system attract or repulse the agents.
- The agents' behaviour obeys certain norms or rules.
- Interactions lead to the unpredictable emergence of patterns of behaviour across the population of the system. Behaviour cannot be imposed from above.

# EXAMPLES OF COMPLEX ADAPTIVE SYSTEMS

EXAMPLES OF COMPLEX ADAPTIVE SYSTEMS IN SOCIETY AND SOME OF THEIR AGENTS

- Child protection system – CPS workers, families, courts, policies, social conditions, institutions, beliefs, fears, stories

- The legal system and the law – Constitution, courts, legislation, beliefs, common law, judicial officers, parties, the public, rules, ethics

- Conflicts – zone of conflict, participants, supporters, beliefs, norms, policies, social conditions, myths

HOW DO WE DEAL WITH COMPLEXITY?

"One of the characteristics of a
complex event…is that you can't
tell which inputs caused which outputs
until afterwards and, perhaps more
frustratingly, you can't repeat the
pattern predictably next time."
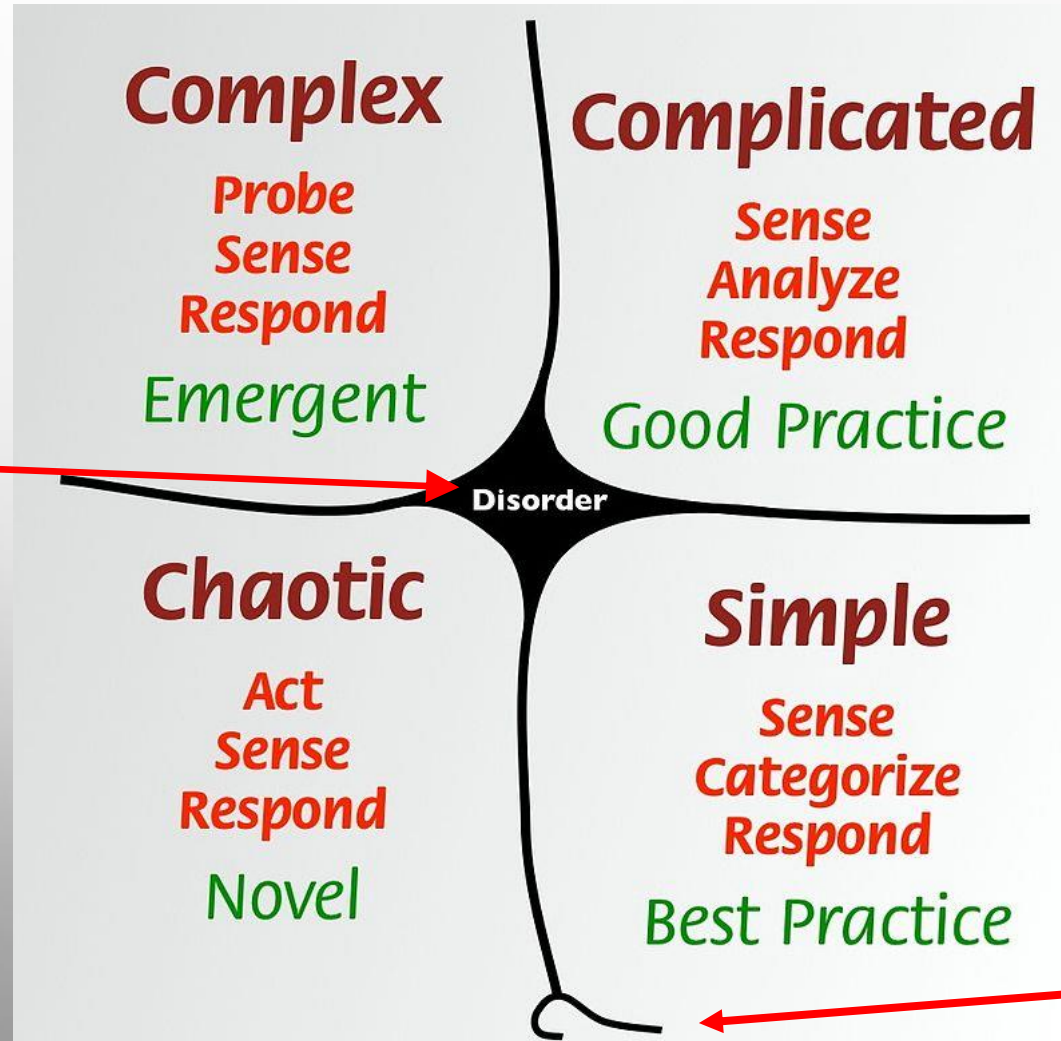
Jennifer Garvey-Berger
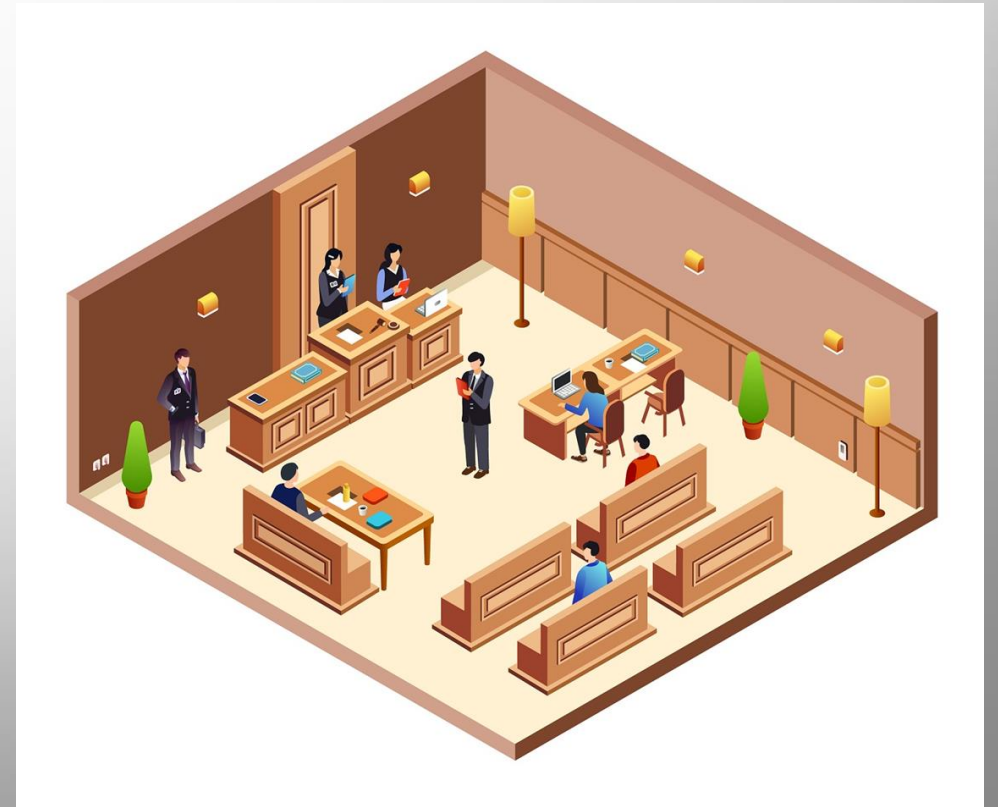
THE CYNEFIN SENSE-MAKING FRAMEWORK

Cause and effect only obvious in hindsight – unpredictable order emerges, no right answers

Don't know where you are

Turbulent, no point looking for right answer
Many decisions to make in short timeframe

Complex
Probe
Sense
Respond
Emergent

Complicated
Sense
Analyze
Respond
Good Practice

Disorder

Chaotic
Act
Sense
Respond
Novel

Simple
Sense
Categorize
Respond
Best Practice

There is a relationship between cause and effect but the right answer is not self-evident- requires expertise

Relationship between cause and effect is self – evident to any reasonable person

Zone of complacency

MATCHING COMPLEXITY WITH COMPLEXITY

"Generally, higher complexity is associated with reaching mutually beneficial compromise agreements, successful diplomatic communications, employing cooperative tactics during negotiations, and increased managerial effectiveness. Additionally, leaders with high levels of complexity are more likely to be open minded, more effective in highly turbulent environments, and less likely to jump to conclusions too quickly when facing ambiguous situations."

Peter Coleman, *The Five Percent: Finding Solutions to Seemingly Impossible Conflicts*

THE IMPORTANCE OF CONNECTIONS

"Why not instead think of yourself as an atom, bumping up against other atoms, maybe transferring energy with them, bonding with them a little and maybe creating something new on your travels through the social universe."

Tanya Menon

COMPLEX, NOT COMPLICATED

"In the face of new challenges, we all default to how we think we should act and to what seems to have worked before. Managing the probable is reassuring but leaves us more open to being blindsided. Some problems do not lend themselves to rote methods, simple models, or sophisticated algorithms. When we treat them as different, complex, and uncertain, we can unlock solutions of immense creativity and power."

Jennifer Garvey Berger

SOME TOOLS FOR COMPLEX SITUATIONS

- Observing the system and looking for patterns

- Introduce complexity into your response

- Avoid the simple answer

- Ask questions, probe and experiment (in a safe-to-fail way)

- Develop skills for managing uncertainty

- Use order where the system can sustain it (eg procedural fairness)

- Develop positive connections and practice quality interactions

References

Ronald J Allen, "Taming Complexity: rationality, the law of evidence and the nature of the legal system" *Law, Probability and Risk* (2013) 12, 99–113.

Peter Coleman, *The Five Percent: Finding Solutions to Seemingly Impossible Conflicts*, Public Affairs: New York, 2011

Roy J. Eidelson, "Complex Adaptive Systems in the Behavioural and Social Sciences", *Review of General Psychology,* 1997, Vol. 1, No. 1,42-71

Jennifer Garvey Berger and Keith Johnston, *Simple Habits for Complex Times*, Stanford University Press, 2015

(Jennifer Garvey Berger also posts articles about complexity on LinkedIn)

Donald T Hornstein, "Complexity, Adaptation and Administrative Law", *Duke Law Journal*, Vol. 54, No. 4, (Feb., 2005) 913-960

Tanya Menon, "The secret to great opportunities? The person you haven't met yet" www.ted.com

References

Sean O'Connor and Michael Cavanagh, "The Coaching Ripple Effect: The effects of developmental coaching on wellbeing across organisational networks", *Psychology of Well-Being: Theory, Research and Practice* 2013, 3:2 https://doi.org/10.1186/2211-1522-3-2

J.B. Ruhl, Daniel M. Katz, Michael J. Bommarito, "Harnessing Legal Complexity", *Science*, 355 (6332) 31 March 2017, 1377-78.

Peter M. Senge., *The Fifth Discipline: The Art and Practice of the Learning Organisation*, Doubleday, 2006

David Snowden and Mary Boone, "A Leader's Framework for Decision Making", *Harvard Business Review*, November 2007

Dave Snowden explains the Cynefin framework, www.cognitive-edge.com/videos/cynefin-framework-introduction/

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