

## Results of Survey by ACLA & CommBar

Top Requirements in Order of Importance to ACLA Members - by William Lye



In February 2009, the Australian Corporate Lawyers Association (ACLA) and CommBar jointly prepared an online survey for the purpose of determining from ACLA's Victorian Chapter members what they thought about engaging with barristers directly.

139 started the survey and 134 completed it – a **96.4%** response rate, which was a pretty decent response.

Approximately **88%** said that they were aware they could engage a barrister directly without first having to go through a law firm. Approximately 12% said they didn't know this.

Approximately **55%** said that they had briefed a barrister directly without going through a law firm. **45%** said that they had not done so but this does not mean that ACLA members had not previously engaged a barrister through an external law firm. It does suggest, however, that a large number of ACLA members still go through an external law firm.

The types of matters which ACLA members have briefed barristers directly, taking those with responses of more than 10%:

- Written Advice – **73.8%**
- Oral Advice – **45.2%**
- Magistrates' Court proceeding – 23.8%
- Tribunal – 19%
- Supreme Court proceeding – 15.5%
- Federal Court proceeding – 11.9%
- County Court proceeding – 10.7%
- Mediation – 10.7%

It would appear that a larger number of ACLA members would engage a barrister directly for Advice work (whether oral or written). Litigation work in lower courts and tribunals also featured well. The survey did not, however, seek to break down whether or not the work came from the corporate sector or from government. It does indicate, however, that there is scope for CommBar to develop strategies to encourage lower court/tribunal work directly from corporate counsel.

A surprisingly untapped area is mediation. Contrast this to arbitration, which received only 7.1%.

The key question – whether ACLA members were willing to brief a barrister directly ? – **95.6%** said **YES** and 4.4% said No ! This was a terrific confirmation from ACLA members that they want to engage with barristers differently from the traditional approach. The next big question for ACLA/CommBar/VicBar to brainstorm creatively is: HOW do we make it happen with ease and simplicity ?

Below is a summary of how ACLA members rated what was important to them when briefing a barrister directly:

- **Confidence in the ability of the barrister to communicate effectively with ACLA members** – 60.9% said it was VERY IMPORTANT and 36.7% said it was IMPORTANT.

Therefore, **97.6%** believed that this was a significant requirement.

- **Getting some experience in direct briefing** - 41.1% said it was NOT IMPORTANT and 20.9% said it was NOT RELEVANT. Therefore, 62% did not believe that it was significant. However, 30.2% did say it was IMPORTANT. So, with a ratio of approximately 60/40 slanting towards the not so important, I think it would be difficult to assess whether or not there is a need to do something further.
- **Getting more understanding through education** – 61.3% said it was NOT IMPORTANT or NOT RELEVANT, with 34.1% saying it was IMPORTANT. This rating is similar to b. above, ie approximately 60/40 slanting towards the not so important. Again, ACLA members are likely to take the view that it was not important or relevant to get experience of the process or have education/seminars about the process.
- **Ready availability of barrister to provide advice “on the go”** – 53.9% said it was IMPORTANT. 35.9% said it was VERY IMPORTANT. Therefore, **89.8%** believed that this was a significant requirement.
- **Speed** – 53.5% said it was IMPORTANT. 41.9% said it was VERY IMPORTANT. Therefore, **95.4%** believed that this was a significant requirement.
- **Quality of Advice** – 78.9% said it was VERY IMPORTANT. 20.3% said it was IMPORTANT. Therefore, **99.2%** believed that this was a significant requirement.

- **Cost** – 54.3% said it was IMPORTANT. 42.6% said it was VERY IMPORTANT. Therefore, **96.9%** believed that this was a significant requirement.
- **Access to a database of recommended barristers in areas of practice** – 54.3% said it was IMPORTANT. 27.1% said it was NOT IMPORTANT. Only 15.5% said it was VERY IMPORTANT. Therefore, **69.8%** believed that it was significant. The ratio of approximately 70/30 slanting towards some kind of access to barristers' list and areas of practice are still high but not a TOP OF MIND requirement.
- **Opportunity to meet with groups of suitable barristers from time to time** – 52.3% said it was NOT IMPORTANT. 33.6% said it was IMPORTANT and only 7.85% said it was VERY IMPORTANT. Therefore, **59.1%** believed that this was not significant. The ratio of approximately 60/40 slanting towards “not a requirement to meet with barristers” was a terrific insight !
- **Practicality of Advice** – 74.4% said it was VERY IMPORTANT and 25.6% said it was important. Therefore, **100%** believed this was a very significant requirement.

The top **4-5 key requirements** in the order of importance to ACLA members from the above results are:

- Quality of Advice and Practicality of Advice.
- Effective Communication skills.
- Cost of engaging the barrister.
- Speed to which the barrister responds.

On a single rating, **Quality of Advice** rated as the highest requirement followed by **Practicality of Advice**. These requirements were clearly the TOP OF MIND requirements for ACLA members when considering briefing barristers – which is really not just about the INTELLECTUAL ability but having JUDGEMENT (which is often derived from deep experience/expertise).

A very important requirement related to the “soft skills” required of barristers to be able to communicate effectively and that requirement featured ahead of both cost and time considerations.

These are very interesting insights, and will give CommBar an opportunity to consider how to develop programs to address those requirements.