

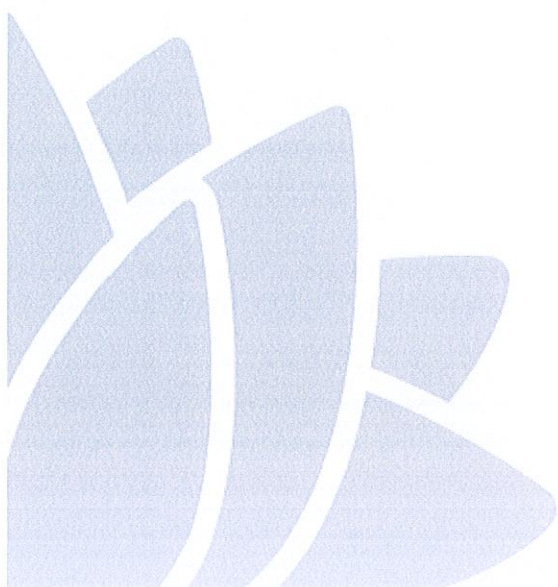


NSW Government Legal Services Panel

Annual Report

1 July 2018 – 30 June 2019

Cluster General Counsels' Group



December 2019

Contents

1	EXECUTIVE SUMMARY	3
2	TOTAL LEGAL PANEL BILLINGS	6
3	LEGAL PANEL BILLINGS BY SUB PANEL.....	6
4	LEGAL PANEL BILLINGS BY CLUSTER.....	7
5	LEGAL PANEL BILLINGS BY FIRM SIZE.....	7
6	TOP TEN FIRMS BY SUB PANEL – LEGAL BILLINGS	8
6.1	MAJOR TRANSACTIONS	8
6.2	COMMERCIAL	8
6.3	PLANNING, PROPERTY AND ENVIRONMENTAL	9
6.4	EMPLOYMENT, WORK HEALTH AND SAFETY	9
6.5	GOVERNMENT, REGULATORY AND ADMINISTRATIVE	10
6.6	LITIGATION AND INQUIRIES	10
7	PRO BONO.....	11
8	COUNSEL BRIEFED IN FY18/19.....	12
9	SATISFACTION SURVEY.....	13
10	LEGAL PANEL BILLINGS BY AGENCY	14

1 Executive Summary

The Cluster General Counsels' Group is pleased to report on the performance of the NSW Government Legal Services Panel for the third year of its operation.

The panel, which commenced on 1 July 2016 and is made up of 41 small, medium and large law firms across 35 distinct areas of law, continues to demonstrate benefits to the 96 agencies¹ that used it during the FY 18/19 year:

- Improved legal panel rates
- Volume discounts
- Value added services
- Streamlining of legal procurement
- Reporting on the provision by panel law firms of pro bono services to enhance access to justice for people in our community who would not otherwise have access to legal assistance and
- A sustained focus on equitable briefing practices.

Billings

Total legal panel billings for the year were \$158.8m.²

The majority of billings were from the Transport and Infrastructure cluster (\$86.2m), followed by the Premier and Cabinet (\$11.7m) and Health (\$10.8m) clusters.

The sub panels with the highest proportion of billings were Major Transactions (\$69.3m), followed by Planning, Property and Environmental Law (\$32.7m) and Commercial (\$23.2m).

The top three legal firms in each sub panel based on proportion of panel billings were:

- **Major Transactions:** Ashurst, Clayton Utz and King & Wood Mallesons
- **Commercial:** Clayton Utz, Hicksons and Norton Rose Fulbright
- **Planning, Property and Environmental:** Clayton Utz, Norton Rose Fulbright and Corrs Chambers Westgarth
- **Employment, Work Health and Safety:** Lander & Rogers, Bartier Perry and Norton Rose Fulbright
- **Government, Regulatory and Administrative:** Crown Solicitor's Office, Sparke Helmore and Smythe Wozniak Lawyers
- **Litigation and Inquiries:** Norton Rose Fulbright, Clayton Utz and HWL Ebsworth Lawyers

The NSW Government has committed to reducing operational legal expenditure by 10% over the four years from 1 July 2019. To support this policy, Transport for NSW's Group General Counsel, as the panel manager, has introduced changes so that instructions to law firms now distinguish between operational and capital expenditure and panel law firms in turn report on this in the regular reports back to Government.

¹ The Panel has been established on a non-exclusive basis, that is, each Agency remains responsible for procuring its own legal services.

² This does not include off panel matters briefed outside the panel. A copy of the Panel Rules and Off Panel Guidelines can be found [here](#)

Pro bono services

"Pro Bono", which translates to "for the public good", means the provision of legal services on a free or significantly reduced fee basis to members of our community who would not otherwise be able to access justice. Panel law firms are required to report each year on how they are performing against the National Pro Bono Target of at least 35 hours per lawyer.

The provision of pro bono services by panel members is an important focus for the Cluster General Counsels Group and this focus will increase in FY 19/20.

During the year panel firms provided an average of 30 hours of pro bono services per lawyer, equating to 361,272 hours of pro bono services. This compares favourably to last year's average of 29 hours of pro bono services per lawyer.

Equitable briefings for women barristers

NSW is committed to supporting the progression and retention of women barristers who are engaged with NSW agencies and across the legal profession more broadly. All Government sector agencies that brief counsel are required to comply with the Equitable Briefing Policy for Women Barristers³.

Briefings to counsel by panel law firms during the year generated \$8.3m in fees, comprising \$6.1m (73%) of briefings to male counsel and \$2.2m (27%) of briefings to female counsel.

Based on billings, the percentage splits for briefings to men and women barristers over the life of the panel to date are shown in Table 1 below, with a significant improvement in the amount of billings to women barristers during FY 18/19:

Table 1: Percentage of counsel billings between male and female counsel from FY16/17 to FY18/19

% of Counsel Billings	FY16/17	FY17/18	FY18/19
Female SC	17%	13%	27%
Male SC	83%	87%	73%
Female JC	21%	20%	27%
Male JC	79%	80%	73%

When comparing the current number of barristers practising within NSW⁴ to the number of indirect briefs engaged by panel firms,⁵ female senior counsel represented 11% of all senior counsel and 30%

³ <https://www.justice.nsw.gov.au/legal-services-coordination/Documents/nsw-equitable-briefing-policy.pdf>

⁴ NSW Bar Association (<https://www.nswbar.asn.au/the-bar-association/statistics>) as at 19 September 2019.

⁵ Prior annual reports compared the percentage of current barristers to the percentage of counsel billings \$, however during FY2018/2019 additional information was captured in order to enable comparison between the percentage of current barristers to the percentage of counsel briefs. This figure includes both panel and off panel briefs engaged by panel firms.

of all senior counsel briefings. Female junior counsel represented 25% of all junior counsel and 28% of all junior counsel briefings.⁶

The Cluster General Counsel Group will be working more closely with panel law firms during FY 19/20 on initiatives to promote equitable briefing.

Satisfaction survey results

Two satisfaction surveys on panel performance were conducted during the year across Government, and the results again track closely to previous years' results – an average satisfaction score of 81.

⁶ Briefing information is based on the information provided by panel firms for indirect briefings and does not include the direct briefing practices of NSW Government Agencies.