

Law Council of Australia

Equitable Briefing Policy - Reporting Template and Guidelines

Updated 1 July 2022



Law Council
OF AUSTRALIA

National Model Gender Equitable Briefing Policy – Reporting Template and Guidelines

Background

In June 2016, the Law Council of Australia (**Law Council**) launched a landmark new [National Model Gender Equitable Briefing Policy](#) (Policy) aimed at promoting the briefing of women barristers in Australia.

The Policy included interim and long-term targets to brief women barristers in at least 30 per cent of all matters and to pay women barristers at least 30 per cent of the value of all brief fees by 2020.

The Policy is intended to drive cultural change within the legal profession, support the progression and retention of women barristers and address the significant pay gap and under-representation of women in the superior courts. It is available for adoption by any Briefing Entity (as defined in the Policy, and including clients) or barrister operating in Australia.

The Policy can be adopted through the Law Council's [website](#), where the outcomes of the Policy for the 2016–17 and 2019-20 reporting years can also be found.

In 2022, the Law Council finalised a Review of the Equitable Briefing Policy, based on the data collected over the first four years of its operation. The Review considered matters including the reporting obligations and whether the Policy should address additional areas of diversity. The Review can be found at the website link in the previous paragraph.

How to submit a report

Policy adoptees commit to providing a confidential annual report on their briefing practices and/or measures taken to implement the Policy (as applicable) to the Law Council by 30 September of the relevant year.

Reports should be made by following the links on the online portal, which will be accessible via the Equitable Briefing Policy [webpage](#) from 1 July each financial year.

Use of reported information

The Law Council will collate the data it receives from adoptees and produce an Annual Report for each annual year period for publication on the Law Council's website. Data will be aggregated and no identifying information will be published without consent.

Adoptees of the Policy agree to its [terms and conditions](#), so should become familiar with them before signing up for the Policy. Amongst other things, the terms and conditions outline

the circumstances in which the Law Council may collect and store the personal information that adoptees provide through their participation. The terms and conditions also address the confidentiality of information provided by adoptees, and what use may be made of reported information.

If they wish, adoptees are now invited to provide their express consent to the publication of their name by the Law Council in a list of adoptees who have met identified Policy targets, both on the Law Council website and/or in Law Council media and communications materials. Adoptees can contact the Law Council on the details below should they wish to do so.

Non-compliance with the Policy

The Law Council wishes to sincerely thank the numerous adoptees who have, to date, implemented and reported on the Policy with care, dedication and commitment to its underlying purpose.

Given that the targets outlined in the Policy have not yet been met coming into the year marking the date set for their achievement, it is crucial that adoptees comply with their commitments to implement the Policy and to report on that implementation. The value of full participation and thoughtful reporting, leading to a well-rounded and balanced data set, cannot be understated.

Contact

Please contact Law Council of Australia on +61 2 6246 3788 or mail@lawcouncil.asn.au should you have any queries about the Policy or Guidelines.

Reporting Requirements

All adoptees

Adoptees must report on the below information through the online portal, which will be made available on the Equitable Briefing Policy [webpage](#) from 1 July 2020. The following guidance has been provided in response to feedback received on the reporting requirements in previous reporting years:

Clarification on reporting requirements

- **Barrister seniority:** For the purposes of the Policy, a senior barrister is one who has been at the Bar for 10 or more years or has been appointed Senior Counsel. This information is typically available through a barrister's Chambers or clerk webpage. If a barrister's seniority cannot be established, an adoptee should make its own assessment and report on that basis, noting this in the Comments section.
- **Applicable briefs:** Many briefs given in a particular financial year are not completed, invoiced and paid for in the same financial year. Adoptees should report on the basis of briefs (or, in the case of long-standing briefs, invoices raised for a particular brief) which were finalised and paid for within the financial year being reported upon.
- **Value of brief:** If a brief was undertaken on a pro bono basis, an adoptee should record the relevant related data as for a paid brief, but should also include the estimated value of the brief in the 'Comments' section, so that pro bono brief(s) may be distinguished from paid briefs. If a brief was paid but the adoptee does not know the fees charged, this figure should be recorded as '0' and an explanation should be provided in the 'Comments' section.
- **Late adoptees:** If the Policy is adopted after the start of the reporting period and the adoptee has not collected data from the start of the reporting period, they are requested to enter the value of '0' in answer to the numerical questions for the current financial year, and to explain this in the 'Comments' section. They may comply with the reporting process in full for the next financial year.
- **Changed status of adoptee:** The Law Council recognises that a number of Briefing Entities and barristers who adopted the Policy may no longer fit neatly into either of these categories. For example, an adoptee may have newly taken up a judicial or statutory office, or have left practice. An adoptee may also simply not have briefed barristers during the financial year in question, but still have qualitative comments on their work to promote the Policy. In these cases, adoptees are requested to report to the extent they are able, using the 'Comments' section to clarify or explain their new status and how it has affected their responses. It is important that this occurs so that the relevant data for part of the reporting year, or qualitative comments, is not disregarded.
- **Barristers as mediators:** If a barrister is briefed as a mediator, this should be noted in the 'Comments' section, and the briefing recorded in the same way an appearance in Court would be recorded.

Comments and feedback on the Policy and reporting requirements are welcome. They can be made in the 'Comments' section and may relate to:

- how it was determined that a barrister was 'led' or 'unled';
- the determination of a barrister's seniority;
- any local conditions affecting the data;
- whether the brief(s) in question involved appearance work and/or written advice; and/or
- any additional information entities may wish to provide about measures taken to implement the Policy.

Briefing Entities

A Briefing Entity's confidential report should address the following information, by reference to gender:

- number of barristers briefed during the year;
- number of those barristers who were senior barristers;
- number of those barristers who were junior barristers;
- number of those junior barristers who were briefed without a leader; and
- monetary value of the briefs.

Briefing Entities which operate across multiple jurisdictions are to provide a single, joint report to the Law Council, which combines the briefing data for each jurisdiction. This is to ensure that no data has been reported twice, and to protect the integrity of the collation of national data.

Barristers

The confidential report should address the following information, by reference to gender:

- the number of barristers briefed as the adoptee's junior or leader, as the case may be, during the year; and
- the number of barristers recommended by the adoptee in current and new matters¹ (whether or not they were ultimately briefed), and, in the case of current matters, whether they were senior or junior.²

Reporting Templates

Briefing Entities

A Briefing Entity should report information regarding the total numbers of female and male barristers briefed during the preceding financial year to the Law Council by 30 September

¹ A new matter is one for which a barrister is asked to make a recommendation for the first time in that reporting year.

² The Law Council recognises that some barristers are not able to make recommendations – for example, junior barristers may not be in a position to do so. If applicable, this should be noted in the 'Comments' section.

each year, as well as the various other details set out in the form below. Note that numbers should be entered using numerical symbols, rather than words.

		Female	Male
1	Senior (10+ years, Queen's Counsel or Senior Counsel) ³	[SF]	[SM]
2	Junior:		
	i) Led ⁴	[JLF]	[JLM]
	ii) Unled	[JUF]	[JUM]
3	Total	[SF + JLF + JUF]	[SM + JLM + JUM]
4	Fees charged (exclusive of GST)	[\$Y]	[\$Y]
5	Comments		

In order to streamline its process for gathering the above information, a Briefing Entity may wish to send an email based upon the following template to the clerk of each barrister it briefs, following its adoption of the Policy:

Dear [Clerk Name]

*We are pleased to inform you that as of [date], [Briefing Entity name] is now an adoptee of the Law Council of Australia's [Equitable Briefing Policy](#) (**the Policy**). The Policy is intended to drive cultural change within the legal profession, support the progression and retention of women barristers and address the significant pay gap and under-representation of women in the superior courts.*

As part of our reporting obligations under the Policy, we are required to record certain details about the barrister/s whom we brief in each of our matters, over the course of each financial year. The required details are set out in the box below.

In order to facilitate our ability to report to the Law Council, we kindly ask that you provide copies of the below box to those of the barristers on your list who we have briefed in one or more matters.

[These are, namely:

- List barrister names]*

Please ask these barristers to complete the box and attach it to the next set of narrations they provide to you in relation to each existing and new matter in

³ This information is typically available on the Chambers or clerk webpage for a barrister.

⁴ If a junior barrister goes from being 'unled' to 'led' on a particular matter partway through the reporting year – for example, in circumstances where the matter becomes particularly complex and a decision is made to also brief a senior barrister – they should be counted as 'led' for the purposes of reporting. A Briefing Entity should note how many barristers this situation applies to in the 'Comments' section.

which they are briefed by us. Kindly request that, thereafter, they provide updates if any of the details change – again, by attaching the box containing the updated information to their narrations.

Information required for reporting in respect of the Law Council of Australia's National Model Gender Equitable Briefing Policy

Years at the bar

Gender

Led or Unled

Please then provide us with the necessary information alongside the next invoice you send us for each relevant matter (for example, by attaching the box that the barrister has completed to the invoice).

I would be pleased to discuss the above should you have any questions.

Kind regards

[Insert name]

Barristers

Barristers should report information regarding the total numbers of female and male barristers briefed during the preceding financial year to the Law Council by 30 September each year. Note that numbers should be entered using numerical symbols, rather than words. A worksheet that can be used to collect this information throughout the year is contained at the **Appendix** below.

Name:	Senior barrister (or Silk)⁵: Yes No									
Date:	Reporting period: [1 July 2020 to 30 June 2021]									
	Briefed with you				Recommendations in a current matter				Recommendations in a new matter	
	<i>Female</i>		<i>Male</i>		<i>Female</i>		<i>Male</i>		<i>Female</i>	<i>Male</i>
	Snr	Jnr	Snr	Jnr	Snr	Jnr	Snr	Jnr		
SUB TOTALS									N/A	N/A

⁵ Note a senior barrister has been at the Bar for 10+ years, or is Queen's Counsel or Senior Counsel.

TOTALS						
COMMENTS						

Appendix: Barrister Worksheet and Reporting Template Tool

The following worksheet and reporting template was provided by the Victorian Bar and has since undergone some minor revisions by the Law Council. Barristers may find it useful when recording the statistical briefing information over the course of each reporting year (1 July to 30 June). At the conclusion of the reporting year, the totals from the worksheet can be tallied and inserted into the online report.

Definitions:

- **Senior barrister (“Snr”)** is a barrister of 10 or more years standing at the independent bar or who is Queen’s Counsel or Senior Counsel, and **junior barrister (“Jnr”)** means all other barristers.
- **New matter** is a matter for which a barrister is asked to make a recommendation for the first time in the reporting year.

Examples

Example 1: You are briefed to appear with a female junior on a matter. You would note the date and the name of the matter for your reference, then under 'Briefed with you', mark the box under 'Female' 'Jnr' with a '1' (not the word 'one').

Date	Matter	Briefed with you				Recommendations in a current matter				Recommendations in a new matter	
		Female		Male		Female		Male		Female	Male
		Snr	Jnr	Snr	Jnr	Snr	Jnr	Snr	Jnr		
12 Aug 2017	Davidson		1								

Example 2: You are unable to take a brief on a new matter from one of the entities that regularly briefs you. You are asked by the Briefing Entity to recommend alternate counsel and you nominate a female silk, a female junior and a male junior who you think might be interested. You would note the date and the name of the matter for your reference, then under 'Recommendations in a new matter', mark the box under 'Female' with a '2' and under 'Male' with a '1'.

Date	Matter	Briefed with you				Recommendations in a current matter				Recommendations in a new matter	
		Female		Male		Female		Male		Female	Male
		Snr	Jnr	Snr	Jnr	Snr	Jnr	Snr	Jnr		
27 Nov 2017	Wilson									2	1

	Snr	Jnr	Snr	Jnr	Snr	Jnr	Snr	Jnr		
SUB TOTALS									N/A	N/A
TOTALS										