

DIVERGENT VIEWS ON THE ROLE OF LAWYERS IN 21ST CENTURY DISPUTE RESOLUTION?

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Legal Briefings

One of the most interesting features of the Global Pound Conference (GPC) Series data collected from the first seven events is an apparent disconnect between the views of Users (in-house lawyers and business executives at organisations who are parties to commercial disputes) and the Advisor stakeholder group (primarily private practice lawyers) concerning the role that Advisors should play in dispute resolution processes.

When asked about the role they wanted Advisors to play in a dispute resolution process, the first choice for 46% of the Users was that Advisors should be collaborative in the process. Conversely for the Advisor stakeholder group, the first choice of 59% for them was that Users wanted them to be advocates in the dispute resolution process.

Here is an interesting divergence of voting patterns. Does this indicate that lawyers are out of touch with their clients or are not listening to them? Does it indicate that the Users attending the GPC series so far have different priorities in the resolution of disputes to a sole focus on asserting their legal rights vigorously?

Of course with just seven of 40 GPC series events completed and a huge body of data still to be collected through the first half of 2017, it is too early to say definitively. But here are some possible explanations for this apparent divergence:

- All of the attendees at GPC series events who register and vote are a self-selecting sample of the population that might offer views on the subject under discussion - the future of commercial dispute resolution.

- For the Users, it may be that those who are prepared to spend their time and share their views in this way are by their nature an influential sub-set of Users who are already interested in this topic. One of the features of in-house counsel with a developed understanding of ADR processes as part of a menu of dispute resolution tools is their willingness to try using mediation or other consensual processes when counterparties are reluctant to do so.
- That calls for a relationship with external lawyers (who are usually retained in a formal dispute resolution process) to understand their clients' objectives - seeking out opportunities for consensual dialogue first or at least in parallel with formal, adjudicative, dispute resolution processes. So perhaps the GPC User group as constituted so far is itself a sophisticated community with a particular view of their relationship with outside lawyers.
- So are the Advisors who have attended GPC events so far out of step with their clients? It is possible, of course. But one of the challenges experienced by most private practice lawyers advising clients on the menu of dispute resolution processes is that clients display a range of experience across organisations and jurisdictions. For every sophisticated client who embeds the use of ADR in their organisation's approach to resolving conflict, there are many more who are less familiar with the whole menu by training or experience; equally there are different cultural expectations of what the lawyer-client relationship entails.
- As a result it is suggested that many lawyers in describing their role in the round will take account of the advice given to less sophisticated clients who "want their day in court" and expect nothing less than "zealous advocacy", as well as the consultative, collaborative relationship with clients who are more sophisticated dispute resolution choosers and users.

To help the GPC series understand whether this divergence in early voting preferences reflects different stakeholder experience, different cultural or regional perspectives or truly a disconnect between lawyers and clients, make sure you attend a GPC series event near you in 2017, vote on the core questions and make your voice heard. To see the schedule of upcoming GPC events click [here](#).

Source: PwC data analysis of top priority responses from 2016 GPC aggregate results

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