

WHAT DO USERS WANT, NEED AND EXPECT? - EFFICIENCY IS KEY

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Legal Briefings

With the first seven GPC events complete and more than 650 delegates sharing their views so far, it is high time to start looking at what the Users have said so far.

Make no mistake, the GPC series is about the Users — in house-counsel and business executives whose companies and organisations find themselves embroiled in commercial disputes. Only by listening to this constituency can those whose livelihood depends a greater or lesser extent on the existence of such conflicts – lawyers, neutrals of all varieties, academics and even judges (and national courts) – provide a service that matches the demands of the customer in the 21st century.

One of the key themes to emerge from the Users at GPC events so far is that their highest priority in selecting which dispute resolution process to use is efficiency. They rate efficiency higher than they do the advice given by their Advisors, which is revealing. It reflects the fact that commercial conflicts are a distraction from the day to day activity of users, namely commerce.

So if it is efficiency in resolving conflicts that Users prize, what might that mean. Efficiency is not the same as pure speed – although it certainly suggests that the conflict resolution method(s) should proceed as quickly as is practicable. Efficiency is not the same as cheap (although no one will object to getting value for their money) – because efficient conflict resolution may be best achieved by use of appropriate specialist assistance, which may come at a price. Efficiency is not just treading a known path with a smoother step – because many disputes, like most journeys, have more than one possible route. Opportunities exist to reach a resolution via different processes or combinations of processes, just as the destination may be reached via different modes of transport.

This choice by Users creates opportunities for all stakeholders to learn. Efficiency, it is suggested, is a commitment to each stakeholder engaged in the GPC series (and beyond) to take up a series of challenges:

- To each User, to speak up and communicate what matters to them in a conflict situation, particularly where underlying interests are not obvious to Advisors or Providers (neutrals), or cultural imperatives may not be appreciated.
- To each Advisor, to look always to the client's interests, asking whether the status quo in the choice of dispute resolution process is the best way or whether another process, or combination of processes, would provide a more efficient journey. Be prepared to have your advice questioned constructively and put yourself in the client's shoes.
- To each Provider (neutral), whether serving in an adjudicative capacity (arbitrator) or non-adjudicative capacity (mediator), to remind themselves that the rules or process template are not an end in themselves but a tool to assist the parties in reaching resolution. Be flexible where possible; be pragmatic when the opportunity arises.
- To the Influencers including academics, policy makers and judges, to remember that the resolution of commercial disputes is itself a commercial endeavour in which each stakeholder seeks legitimately to prosper and exercise (where permissible) choice about forum and process to further the Users' ends and support sustainable professional activities.

Of course these thoughts are interim in nature and reflect the views of only those Users who have participated in the GPC series so far. Whatever type of stakeholder you are, get to a GPC event near you and add your voice to the conversation.

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

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