

CLIENTS CALL FOR MORE COLLABORATION WITH ADVISORS OVER DISPUTES

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Firm news

Users of dispute resolution are calling for more collaboration with their advisers when it comes to resolving a matter, according to data just released from the Global Pound Conference (GPC) series.

Recent findings reveal that 46% of regular users of dispute resolution want their legal teams to work collaboratively with parties to navigate the resolution of disputes. Conversely, when lawyers were asked the same question as to what role they think parties want them to take in the dispute resolution process, 59% said that clients wanted them to be primarily advocates in the matter.

The GPC series, which was launched in March 2016, has gathered data from more than 650 delegates so far across seven GPC conferences including: Geneva, Lagos, Madrid, Mexico City, New York, Singapore and Toronto. At each event, participants are being asked 20 core questions and told to rank their preferences by order of priority. All figures are based on participants who self-selected at the event.

From those surveyed so far, users (in-house counsel and business executives whose companies and organisations find themselves embroiled in commercial disputes) have said that their highest priority in selecting which dispute resolution process to use is efficiency. Significantly, they rate efficiency higher than they do the advice given by their advisers on choice of process.

Other interesting themes starting to emerge from the GPC series so far include:

- Of those lawyers surveyed so far, 49% say that when they are advising a client, the choice of process they take is primarily driven by wanting to attain the desired outcome requested by the client and only 15% say that any recommendations they make are based on cost.
- 59% of users say that the primary responsibility for parties to understand their dispute resolution process options rests with in-house counsel; a similar percentage of external lawyers see this as their role, apparently reflecting different perspectives on whose advice matters.
- 46% of users surveyed so far want dispute resolution providers to provide guidance on the process options for resolving the matter, with only 17% saying they want providers to make the decisions as to the process used.
- Both users and lawyers believe that changes in legislation that improve the enforcement of settlements will assist the future of commercial dispute resolution, with 48% and 38% placing this as their highest priority respectively.
- Both users (48%) and lawyers (59%) think that to promote better access to justice, Governments have the primary responsibility to act (and not the users themselves or other stakeholders in the dispute resolution community including providers)
- 46% of users believe that technology to enable faster and cheaper procedures should be prioritised to improve dispute resolution with all other stakeholders sharing that view.
- 55% of lawyers think that the outcome of a dispute is driven by the rule of law, whereas 53% of non-adjudicative providers (mediators, conciliators etc) say that it should be all about consensus. Users seem to weight both factors approximately equally.

Chief Global Litigation Counsel at GE Oil & Gas Michael McIlwrath, who is chairman of the Central Organising Group for the GPC Series, said:

"One of the most interesting findings generated by the GPC Series so far is the 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 Advisers should play in dispute resolution processes. This of course is the kind of data we want to reveal as we can then start working on bridging the gaps where we see any areas of disconnect to ensure we have the right dispute resolution tools for users going forward."

Alexander Oddy, Partner and Head of Alternative Dispute Resolution (ADR) at Herbert Smith Freehills, added:

"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."

John Fisher, who leads PwC's Disputes Practice, commented:

"Some really interesting data is starting to emerge, which flag areas of the dispute resolution process that could be improved. Of course these thoughts are interim in nature and reflect the views of only those attendees who have participated in the GPC series so far. We're excited to see how the global series progresses."

The GPC was launched in Singapore on 17 March 2016 and will play host to more than 5,000 people, in 40 cities, across 31 countries worldwide – culminating in London on 6 July 2017.

As well as gathering valuable data from each conference, the GPC will create the opportunity for all stakeholders involved in commercial dispute resolution – judges, commercial parties/corporate counsel, arbitrators, mediators, dispute resolution institutions, government officials, and academics – to meet and identify trends and cultural preferences in a way that has not been possible through any previous studies.

The GPC Series, which is inspired by the International Mediation Institute (IMI), is being sponsored by Herbert Smith Freehills, the Singapore International Dispute Resolution Academy, PwC, JAMS, Shell; AkzoNobel; the Beijing Arbitration Commission (BAC); the International Centre for Dispute Resolution (ICDR); the China International Economic and Trade Arbitration Commission (CIETAC) and the American Arbitration Association (AAA).

There has also been a GPC event, hosted in Austin, Texas, on 26 January 2017 and the data has not been included in these findings. The next upcoming GPC event will be hosted in Hong Kong on 23 February 2017. To see more upcoming events or to view the data generated so far, please visit the website: <http://www.globalpoundconference.org/>

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



ALEXANDER ODDY
PARTNER, LONDON

+44 20 7466 2407
Alexander.Oddy@hsf.com



**DR MATHIAS
WITTINGHOFER**
PARTNER, GERMANY

+49 69 2222 82400
Mathias.Wittinghofer@hsf.com



**EDUARDO SOLER-
TAPPA**
PARTNER, MADRID

+34 91 423 4000
Eduardo.SolerTappa@hsf.com



ANDREW CANNON
PARTNER, LONDON

+44 20 7466 2852
Andrew.Cannon@hsf.com



**ELIZABETH
MACKNAY**
MANAGING PARTNER,
PERTH OFFICE, PERTH
+61 8 9211 7806
Elizabeth.Macknay@hsf.com



CRAIG SHEPHERD
PARTNER, TOKYO
+81 35412 5456
Craig.Shepherd@hsf.com

MEDIA CONTACT

For further information on this news article, please contact:

**CORINNE MCPARTLAND,
COMMUNICATIONS LEAD**

LONDON

Tel: +44 20 7466 2057

Mob: +44 7912 394 304

Email: corinne.mcpartland@hsf.com