

EQUITABLE BRIEFING POLICY

Objectives of the Policy

Equitable briefing practices maximise choices for legal practitioners and their clients, promote the full use of the Independent Bar and optimise opportunities for practice development of all counsel.

The adoption of equitable briefing practices can play an important role in the progression of women in the law, the judiciary and the wider community.

Application of the Policy

This policy is formulated for voluntary adoption by both clients and legal practitioners (including in-house counsel) throughout New Zealand.

Whilst acknowledging that the selection of counsel is ultimately the decision of the client, legal practitioners and in-house counsel exercise significant influence in making that selection.

Consistent with that acknowledgement, this policy is also formulated to take into account the role relevantly played by other counsel in its effective operation. When they are consulted by clients, briefing firms and briefing agencies with a view to engaging counsel are encouraged to include female counsel among the names of counsel they identify in the relevant practice area under inquiry.

Equitable Briefing Policy

In selecting counsel, all reasonable endeavours should be made to:

- (a) identify female counsel in the relevant practice area; (1) and
- (b) genuinely consider engaging such counsel; (2) and
- (c) regularly monitor and review the engagement of female counsel; (3) and
- (d) periodically report on the nature and rate of engagement of female counsel. (4)

NOTES TO ASSIST IN IMPLEMENTING THE POLICY

1. Counsel may be identified through searches of the New Zealand Bar Association website.
2. A genuine consideration would have regard to the skills and competency of counsel, regardless of gender and should avoid inappropriate assumptions about the capacities and aptitude of female and male counsel. Where there are equally capable male and female counsel available, arbitrary and prejudicial factors should not operate to exclude the engagement of female counsel.
3. Briefing firms, companies and agencies and, where applicable, other counsel, should develop the capacity to collect data and report upon that data so as to identify the nature of such engagement. The data should show :
 - (a) The type of brief (i.e. whether to advise or appear or both);
 - (b) The jurisdiction or forum in which counsel is briefed;
 - (c) Whether counsel is briefed to argue an interlocutory matter, a contested hearing or an appeal;
 - (d) The role counsel is briefed to perform (i.e. as a junior with or without a leader or as leading counsel); and
 - (e) The pay rates.
4. In-house counsel should consider requiring firms engaged by their organisation to ensure capacity exists to collect such data. Firms, agencies and companies should take care to ensure that the data collected or retained is not used for any other purpose than that referred to in this policy. In particular, they should take care the data is not used improperly, or released or published in a way which identifies clients, matters or counsel or particulars relating to any of them which would reasonably be regarded as confidential information.
5. The objective of reviewing, monitoring and then reporting to clients and to the New Zealand Bar Association on the nature and rate of engagement is that female counsel be briefed at no less than the prevailing percentage of female counsel in the relevant practice area. Applicable statistics are available from the New Zealand Bar Association. The review and periodic report should have regard to the success or otherwise of the implementation of an equitable briefing policy and should initiate steps to redress inequity where it is identified.