

Equality of Opportunity Model Briefing Policy

Legal Profession Conduct Rules 2010 rule 17(5):

A practitioner must not engage in conduct which constitutes —

- (a) unlawful discrimination; or
- (b) unlawful harassment; or
- (c) workplace bullying.

It is the policy of the Law Society of Western Australia that a lawyer in Western Australia should not discriminate against any practitioner by reason of arbitrary or prejudicial factors such as colour, race, ethnic or national origins, sexual orientation, marital status, physical impairment or religious beliefs.

Discriminatory briefing practices limit choices for lawyers and their clients, preclude lawyers from using the full resources of the Bar, and may cause lawyers to miss opportunities for engaging the most suitable barrister in a particular manner.

Discriminatory briefing practices limit opportunities for barristers, particularly for women in the legal profession, and unfairly impede the progress of women and other barristers in the law, the judiciary, and the wider community.

1. All barristers should be selected for their skills and competence independently of their gender or other arbitrary or prejudicial factors.
2. If there are two equally meritorious barristers available for a brief, the person responsible for selecting the barrister should ensure that arbitrary and prejudicial factors do not operate to exclude the engagement of the barrister; for example, that a female barrister is not briefed solely because of her gender.
3. Lawyers are encouraged to become familiar with the Directory at the Western Australian Bar, which is available on the Internet at www.wabar.asn.au. The Directory contains information about barristers, including an indication of those areas of practice in which they would wish to work. The directory provides a reliable resource for those wishing to brief barristers.
4. Lawyers should avoid stereotypical assumptions about the capacities and aptitude of barristers by reference to gender or any other arbitrary or prejudicial factor.

5. Lawyers are encouraged to identify the particular skills required of counsel, regardless of gender or any other arbitrary or prejudicial factor.
6. If a briefing firm relies upon a list of preferred barristers circulated throughout the firm, the firm is encouraged to regularly review the list. In reviewing the list and in briefing barristers, firms are encouraged to recognise that discriminatory briefing practices limit opportunities for barristers.
7. If there are areas of practice or jurisdictions in which, for example, there are no women's names, or a very small percentage of women's names, then those responsible for circulating the list within the firm should attempt to supplement the list with additional names of female barristers. Monitoring of the list should occur so that female barristers are regularly afforded opportunities to be included in the list. The list should also be reviewed from time to time to ensure that barristers are not being discriminated against on any other arbitrary or prejudicial ground.
8. The Law Society encourages all persons or entities who brief or select barristers to adopt the Law Council of Australia's [National Model Gender Equitable Briefing Policy](#) (Law Council Briefing Policy). The Law Council Briefing Policy sets out targets for briefing women barristers and notes that there is a need to adjust the targets to reflect local conditions. The Law Society considers that, in Western Australia, briefing targets should not be adjusted to targets less than those set out in the Law Council Briefing Policy.