COUNCIL OF AUSTRALASIAN TRIBUNALS
TRAINING NEEDS ANALYSIS

JAN 2020

TRAINING NEEDS ANALYSIS REPORT
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INTRODUCTION
ABOUT THE PROJECT

The Council of Australasian Tribunals (COAT) Training Needs Analysis (TNA) project aims to identify the training needs of new Tribunal Members and the continuing professional development needs for all Members. COAT engaged Ripple Effect Group to assist with extensive research and data analysis. This Report presents findings from that research.

The project, commenced in April 2019, was conducted over a six month period and included:

- A Member survey;

- A Heads of Tribunal survey;

- Interviews; and

- Focus group discussions.

This report presents the research findings of the TNA project and an overview of the implications for COAT and recommendations to implement in 2020-21.

Project team

The project team included members from both COAT and Ripple Effect Group:

COAT

- Anne Britton
  Chair COAT (National)
- Jenny Green
  Educational Consultant, COAT
- Athena Harris Ingall
  Educational Consultant and former Manager, Professional
  Development, Administrative Appeals Tribunal

Ripple Effect Group

- Anne Bartlett-Bragg
  Managing Director
- Jakkii Musgrave
  Senior Consultant

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RESEARCH ACTIVITIES AND PARTICIPANTS

Research participants

Extensive research was conducted with 505 participants representing:

- A mix of Commonwealth, State/Territory and New Zealand Tribunals;
- A mix of full-time, part-time and sessional Members, and full-time and part-time Heads of Tribunal;
- A mix of legal and non-legal Members; and
- A range of experience levels, from new Members to long-serving Members.

Member type

- Legal Member
- Non-legal Member

Employment type

- Full-time
- Part-time
- Sessional

Tribunal type

- Commonwealth
- State/Territory
- New Zealand

Experience

- New Member
- Relatively experienced
- Experienced

Research activities

A variety of research activities provided different opportunities for discussion and input.

Surveys:

Two surveys were conducted to identify needs from the perspective of both Tribunal Members and Heads of Tribunal, while offering as many people as possible the opportunity to have their say.

The first, a survey of Tribunal Members, was distributed to all Tribunals, who were requested to forward it to their Members. This survey contained 24 questions and was completed by 445 participants.

The second, a survey of Heads of Tribunal, was also distributed to all Tribunals. This survey contained 17 questions and was completed by 22 participants.

Interviews:

Interviews were conducted on a one-on-one basis allowing for in-depth discussion. Seven Heads of Tribunal in Australia and New Zealand were interviewed by telephone.

Focus groups:

Focus groups were conducted to provide the opportunity for discussion and debate in a small group format to identify similarities and differences in viewpoints on professional development needs.

Three focus groups were conducted in Australia and New Zealand, using a mix of in-person and telephone sessions, with additional information subsequently provided by email from some focus group participants. A total of 31 Members and Heads of Tribunal participated in these focus groups.
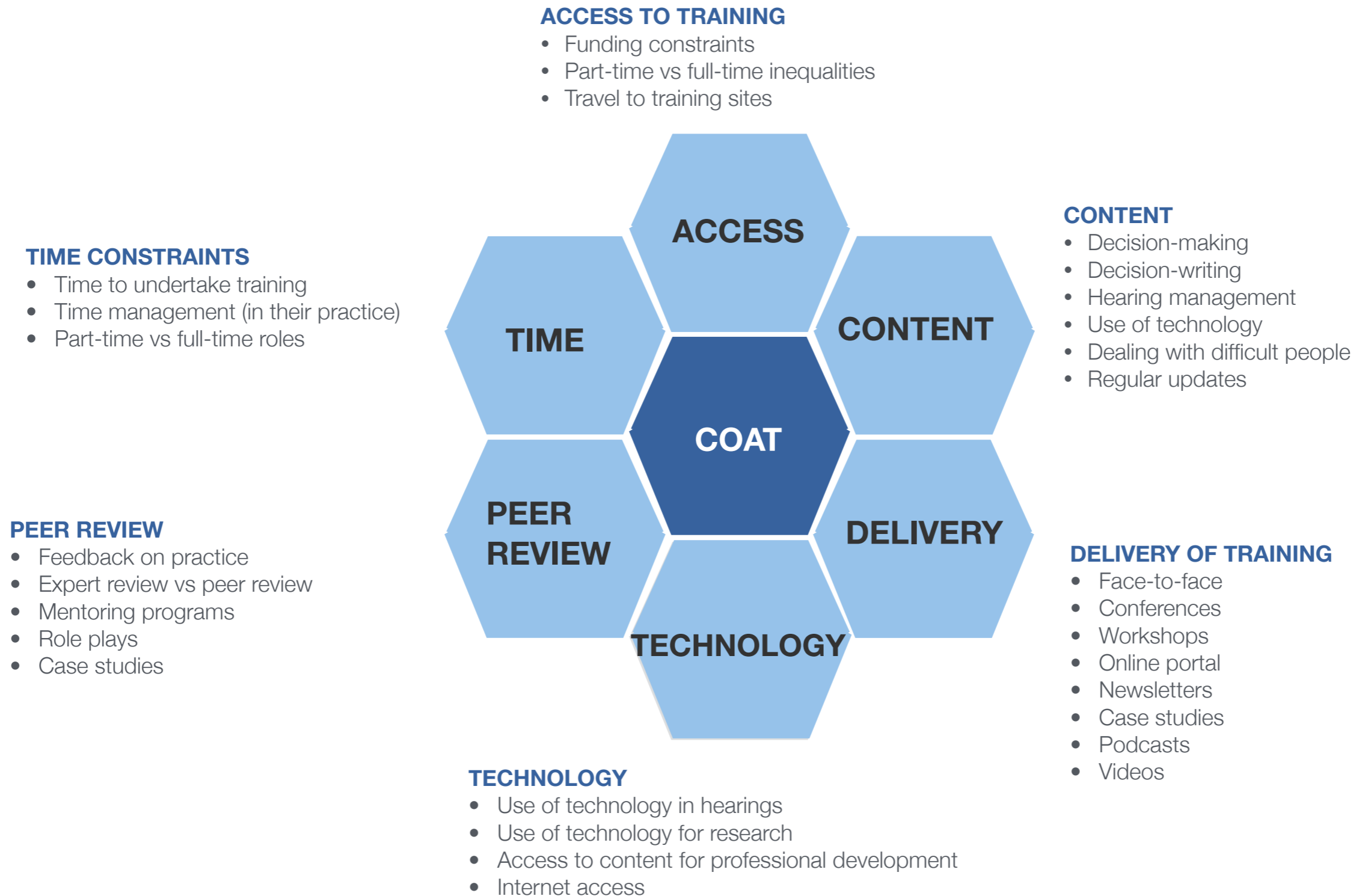
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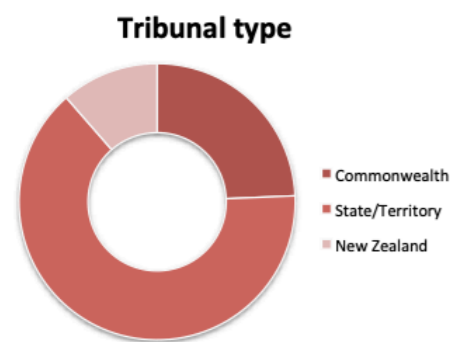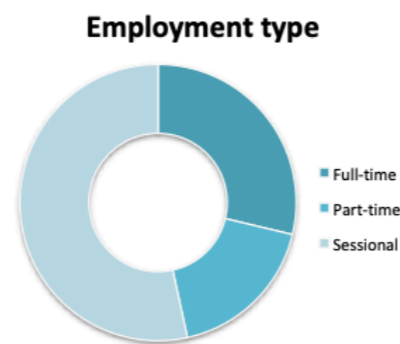
RESEARCH FINDINGS

THEMES

RESEARCH FINDINGS
OVERARCHING THEMES

ACCESS TO TRAINING
- Funding constraints
- Part-time vs full-time inequalities
- Travel to training sites

CONTENT
- Decision-making
- Decision-writing
- Hearing management
- Use of technology
- Dealing with difficult people
- Regular updates

TIME CONSTRAINTS
- Time to undertake training
- Time management (in their practice)
- Part-time vs full-time roles

DELIVERY OF TRAINING
- Face-to-face
- Conferences
- Workshops
- Online portal
- Newsletters
- Case studies
- Podcasts
- Videos

PEER REVIEW
- Feedback on practice
- Expert review vs peer review
- Mentoring programs
- Role plays
- Case studies

TECHNOLOGY
- Use of technology in hearings
- Use of technology for research
- Access to content for professional development
- Internet access

ACCESS
CONTENT
TIME
COAT
DELIVERY
PEER REVIEW
TECHNOLOGY

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RESEARCH FINDINGS
OVERARCHING THEMES

Access to training

- **Funding constraints**
  Limited access to training because of funding constraints was identified as the second highest barrier to attendance or participation in training (refer to results from Q21).

- **Part-time vs full-time inequalities**
  This issue was raised across a number of questions and responses. Some sessional/part-time Members face the challenge of attending training in their own time in the absence of funding. Some responses referred to an apparent preference for attendance being offered to full-time or more senior Members over sessional Members, who were keen to access training.

- **Travel to training sites**
  Highlighted in the results from Q21, isolation for Members in regional areas and distances or travel time to training sites was the third barrier for non-attendance at face-to-face training sessions or events. This issue also overlaps with managing time away from work and workloads. Sessional Members referred to juggling other commitments, including family, that affected their ability to attend evening sessions.

Time constraints

As the highest-ranking barrier to attendance or participation in training, time was also mentioned throughout the survey results and focus groups. Two themes arose:

- **Time to do training**
  This issue was raised not only for sessional Members. Reference was also made to differing policies applying to time off for training across the Tribunal network.

- **Time management in their practice**
  Workload was repeatedly raised as a challenge, not only as a barrier to attending training, but also as a challenge for effectively preparing for and managing hearings.

Peer review

A consistently recurring theme was the need for feedback on practice. This was reflected in the following topics:

- **Expert review versus peer review**
  A distinction between expert and peer feedback was raised. For example, expert feedback on decision-making or reasons for decision that are the subject of appeal was identified as highly valuable. In other examples, exchanging opinions with peers, either from their own Tribunal or from different Tribunals, was referred to regularly.

- **Mentoring programs**
  The value of a mentor program was raised as a feedback mechanism for improvement. It was noted that some of the larger Tribunals have mentoring programs.

- **Role plays**
  Generally, role plays are a method used within a training program. However, role plays were identified also as a method for gaining feedback before putting new knowledge or skills into practice. In the context of the survey, this was not directly associated with a structured training session.

- **Case studies**
  As an alternative to direct feedback on practice, the use of case studies was raised across the eight competencies within the Australia and New Zealand Tribunal Excellence Framework June 2017 (The Excellence Framework) as a basis for highlighting best practice or alternative ways to handle specific situations.

RESEARCH FINDINGS
OVERARCHING THEMES

Content

Consistently recurring topics throughout the Members survey responses and focus groups are outlined below. These are also aligned to topics raised in the Heads of Tribunal survey and interviews.

- **Decision-writing**
  The topic considered the most important was decision-writing. The highest number of responses requesting professional development was in Q10 Conduct a Hearing, where more effective writing would also be associated with better results and time management. In addition to the high-quality, existing COAT programs, some respondents identified a need for further short review programs.

- **Decision-making**
  Respondents frequently linked decision-making with decision-writing. It was also raised in relation to different types of materials being presented as evidence for different types of decisions - for example, oral reasons/ ex tempore and "on the papers".

- **Hearing management**
  This is a broad topic with many sub-topics such as decision-writing and decision-making implied. Many respondents wanted peer or expert feedback on their performance, updates on policies or procedures, examples or case studies of best practice and tips on managing people more effectively. It would be fair to assign this topic as an essential element to improve Members' professional practice.

- **Dealing with people with diverse needs**
  This topic can be divided into two areas but always related to the objective of dealing fairly with all parties. First, managing the needs of people with disability and/or cognitive impairment was mentioned in this topic.

- Second, the management of the needs of self-represented parties, interpreters, and other participants in hearings was raised. In particular, there was concern about managing expectations while remaining fair and ensuring all parties had opportunities to have their say.

- **Use of technology**
  The need for more effective use of technology as a communication tool during hearings and as a research tool dominated the responses. See below for detail.

- **Regular updates**
  Across all sources of data, regular updates were considered to be an important aspect of continued professional development. The preferred format for updates was less specific and ranged from newsletters to an online portal containing current, relevant resources.

Technology

Technology was mentioned in many Member survey responses and in focus groups. Technology was referred to as a tool for communication during hearings, a tool for research during preparation of decision-making and to provide access to professional development.

- **Use of technology in hearings**
  In the Members survey, there were frequent references to how to manage video-conferencing during hearings. In Q9 Communications, it was raised as having potential to provide assistance to those with disability or cognitive impairment. The key concern was how to more effectively use the communication aspects of technology to provide a fairer method of hearing management.

- **Use of technology for research**
  A number of respondents wanted to improve their knowledge of how to search databases including with advice from an expert librarian. Directly connected to the time theme raised by respondents, there was a strong correlation with the use of technology to improve their effectiveness and save time in practice.

- **Access to content for professional development**
  Technology was also mentioned as a resource for accessing online content related to updates, articles and podcasts or videos. Some respondents commented positively about the COAT online Induction program as a valuable method for accessing online training.

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RESEARCH FINDINGS
OVERARCHING THEMES

Delivery of training

The preferred method for delivery of training was face-to-face programs with the strongest preferences being for conferences and workshops. The COAT conference was referred to as a main event to attend, if funding and travel allowed it.

However, the responses in Q21 (barriers to participating in training) and Q22 (how the barriers might be addressed), noted that time, funding and travel currently present barriers to attending face-to-face training. This points to the need to provide multiple, flexible options for providing professional development opportunities to reach the broader membership.

The alternative methods that were specifically mentioned to provide Members with access to content that funding, time and travel (the key barriers) would not otherwise permit included:
- Online portal
- Newsletters
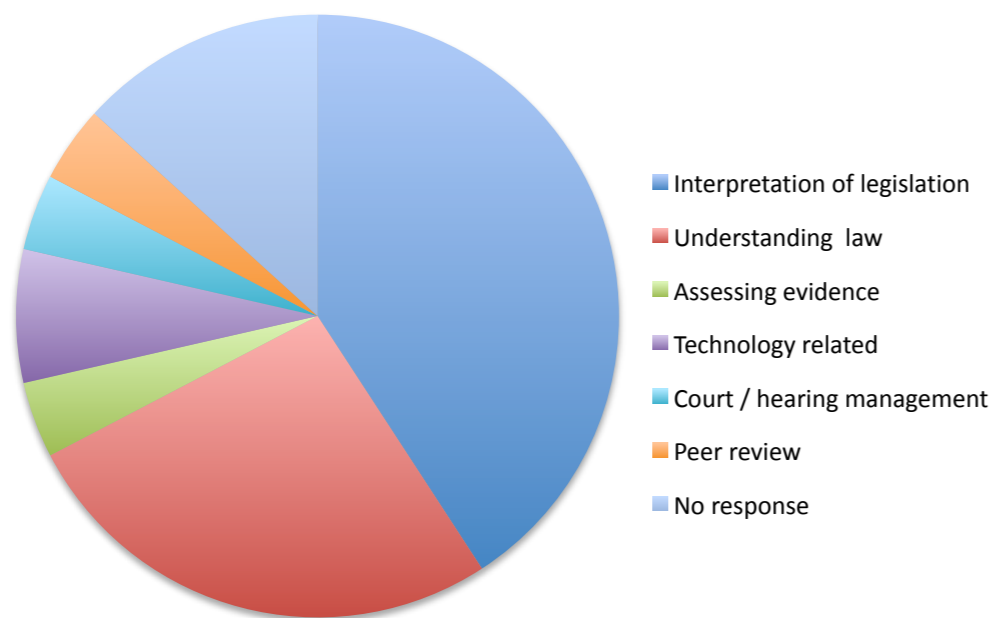- Case studies
- Podcasts
- Videos

RESEARCH FINDINGS

MEMBER SURVEY

MEMBER SURVEY - Q7: KNOWLEDGE AND TECHNICAL SKILLS

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Knowledge and technical skills' (e.g. demonstrate knowledge of substantive law, able to interpret legislation, apply model litigant guidelines, demonstrate commitment to high standards)?

Legend:
- Interpretation of legislation
- Understanding law
- Assessing evidence
- Technology related
- Court / hearing management
- Peer review
- No response

As illustrated in the chart, well over 50% of responses indicated interest in further training on the interpretation of legislation and understanding the law.

Other categories represented include some topics that are referred to throughout the survey responses, for example peer review and the use of technology.

Other responses not reflected on the chart relate to specific content and regular seminars or updates. Some respondents mentioned decision-making specifically, but these could also be represented in the interpretation of legislation or understanding of the law categories.

The "No response" category reflects responses such as "nil", "n/a" or "nothing".
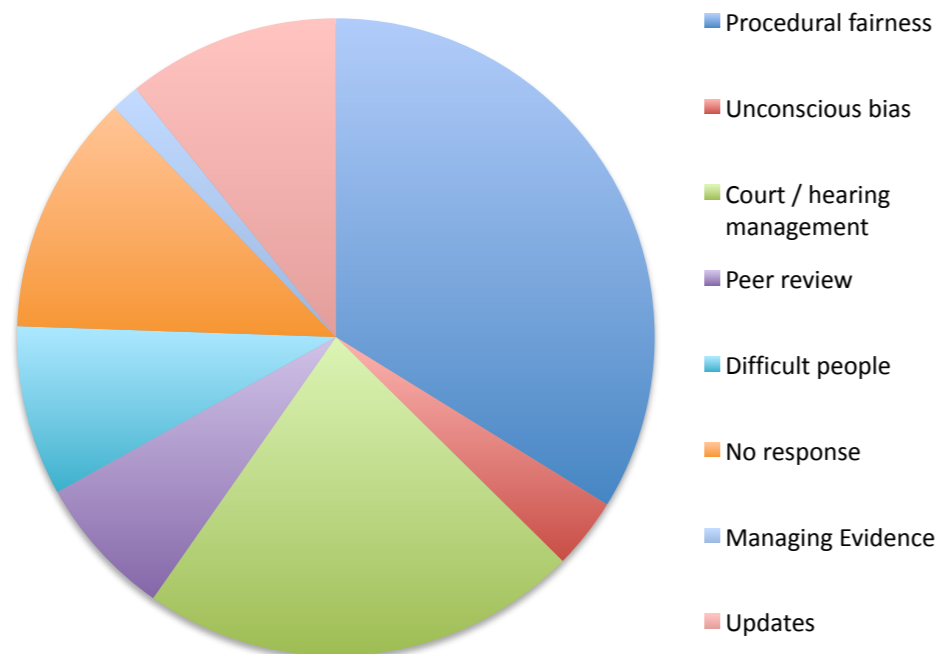
Answered: 177 Skipped: 268

Quotes:

"*As a medical professional in a legal setting, I feel sometimes naive in terms of understanding protocol and procedure in a legal setting. Some coaching prior to sitting on a panel would be useful.*"

MEMBER SURVEY - Q8: FAIR TREATMENT

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Fair treatment' (e.g. apply the rules of procedural fairness, demonstrate fairness, courtesy, tolerance and compassion)?

- Procedural fairness
- Unconscious bias
- Court / hearing management
- Peer review
- Difficult people
- No response
- Managing Evidence
- Updates

Procedural fairness was the standout response with nearly 50% of respondents indicating their aspiration to ensuring fair treatment in their practice.

This desire for professional development to ensure parties are afforded fair treatment was also reflected in the other response categories, such as managing people with diverse needs and unrepresented parties, and court or hearing management. Receiving feedback was mentioned as highly valued to achieve improved fairness in their practice.

Answered: 155 Skipped: 290

Quotes:

"Peer and Chief review, training on recognising and addressing unconscious bias"

"Dealing with unrepresented parties and providing assistance with process without any partisan involvement"

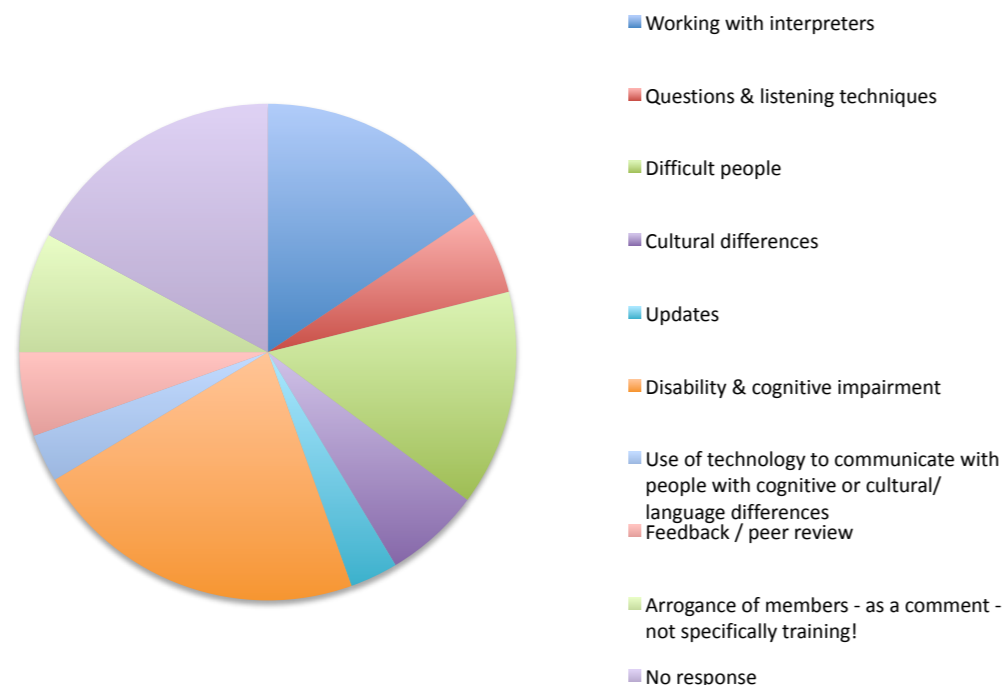*"What are the "rules" of procedural fairness - using real life case studies."*

"Online scenarios that we could complete online in a forum where all legal members get to see what each other would do in a given situation, to foster discussion and reflection."

"A senior, respected member observing me conducting a hearing and offering coaching on communication techniques."

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MEMBER SURVEY - Q9: COMMUNICATION

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Communication' (e.g. demonstrate patience and self-discipline, apply firmness without arrogance, able to elicit information from people with cognitive impairment/communication difficulties and work with interpreters)?

Legend:
- Working with interpreters
- Questions & listening techniques
- Difficult people
- Cultural differences
- Updates
- Disability & cognitive impairment
- Use of technology to communicate with people with cognitive or cultural/language differences
- Feedback / peer review
- Arrogance of members - as a comment - not specifically training!
- No response

Although there was a high level of "No responses", this question also contained a strong response from Members who wanted to ensure they were communicating effectively. In particular, there was mention of people with disability or cognitive impairment.

Working with interpreters, difficult people and cultural differences appeared regularly as areas requiring professional development. The use of technology as a method for communicating more effectively was raised.

In addition, there were a significant number of responses that referred to the arrogance of colleagues or how to present hearing processes without sounding arrogant.

The No response category reflects responses such as "nil", "n/a" or "nothing".

Answered: 159 Skipped: 286

Quotes:

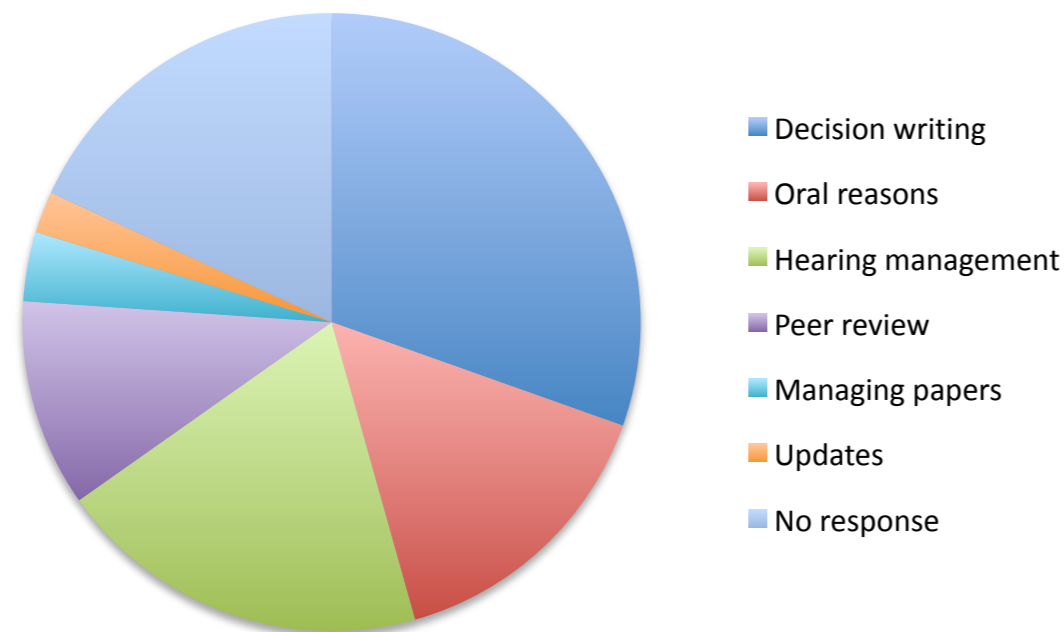*"how to word and ask questions to be direct and clear, especially when different cultures are involved."*

"This starts with self awareness of your personality type. Some members need to work on pulling back from firmness/arrogance while others need to work on being more assertive in hearings. A general session with a psychologist can encourage members to self reflect and work from that base on improvement. Practical sessions on questioning those with cognitive impairment using egs from cases is helpful."

"Avoidance of negative reaction to incompetence by legal practitioners."

MEMBER SURVEY - Q10: CONDUCT OF HEARINGS

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Conduct of hearings' (e.g. conduct face to face and "on the papers" hearings in a manner that establishes and maintains the independence and authority of the Tribunal and enables proper participation by all involved. Able to provide oral reasons for decisions, formulate orders, write and edit reasons for decisions)?

Legend:
- Decision writing
- Oral reasons
- Hearing management
- Peer review
- Managing papers
- Updates
- No response

Decision-writing was identified as the largest development need.

Following that, survey respondents regularly cited delivering oral reasons and overall hearing management as training needs.

Peer review was popular in a range of contexts. This included: Members receiving feedback on their performance in hearings, having opportunities to sit in on other Members' sessions, provision of case studies or debrief sessions where aspects of best practice hearing management are highlighted and discussed with colleagues.

Answered: 159 Skipped: 286

Quotes:

"*Advanced decision writing courses for complex proceedings (eg. multiple issues, multiple parties, conflicting authorities, etc).*"

"*Observation of hearing process by an experienced member, nominated member to assist more inexperienced members, formal mentoring but with support and training for mentors.*"

"*Dealing with difficult people (including difficult solicitors and barristers!)*"

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MEMBER SURVEY - Q11: DISPUTE RESOLUTION

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Dispute resolution' (e.g. able to make decisions and apply alternative dispute resolution)?

- Mediation
- ADR
- Facilitation
- Updates
- No response
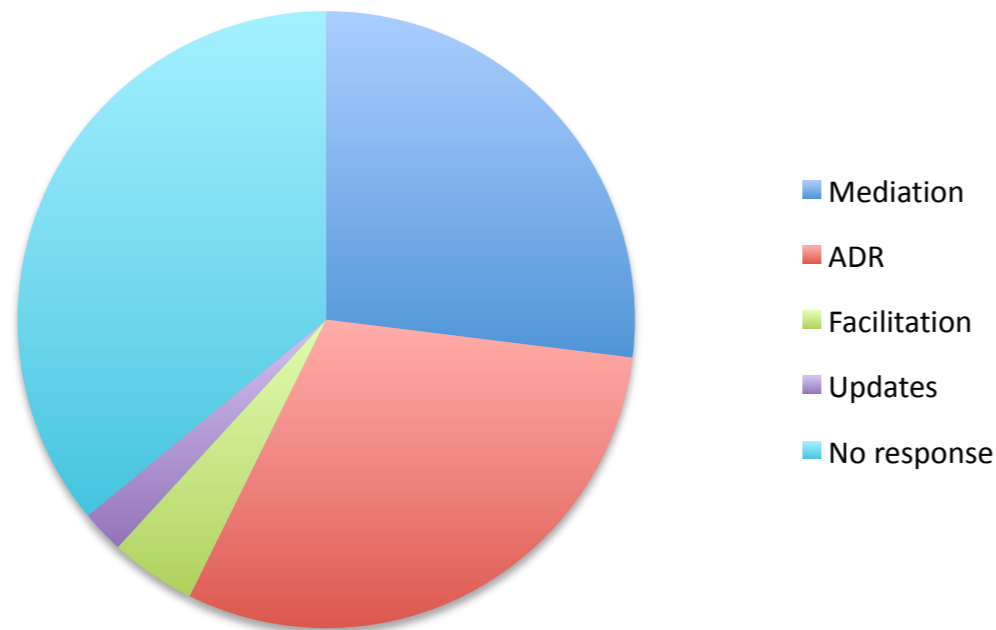
The responses in this question indicated a keenness for training and review of practice in dispute resolution. In some responses the terms mediation, ADR, and dispute resolution were all mentioned.

However, there was also a high percentage of "No response", making it difficult to determine if these people felt they had the training they needed or otherwise.

Answered: 132 Skipped: 313

Quotes:

"*Attend a more formal course dealing with ADR. But registration in arbitration or mediation would be inconvenient because of the CPD requirements.*"

"*Most tribunal members have already got formal qualifications in dispute resolution and are required to complete specific professional development in the area of dispute resolution in order to maintain their accreditation.*"

"*How to use ADR skills more broadly. Narrowing the issues in dispute and reaching consensus.*"

"*Alternative to what? All dispute resolution should be flexible and client centred.*"

MEMBER SURVEY - Q12: EFFICIENCY

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Efficiency' (e.g. demonstrate case management skills, commitment to serving the public and to efficient administration)?

- Case management
- Time management
- Peer review
- Technology
- Planning & preparation
- No response
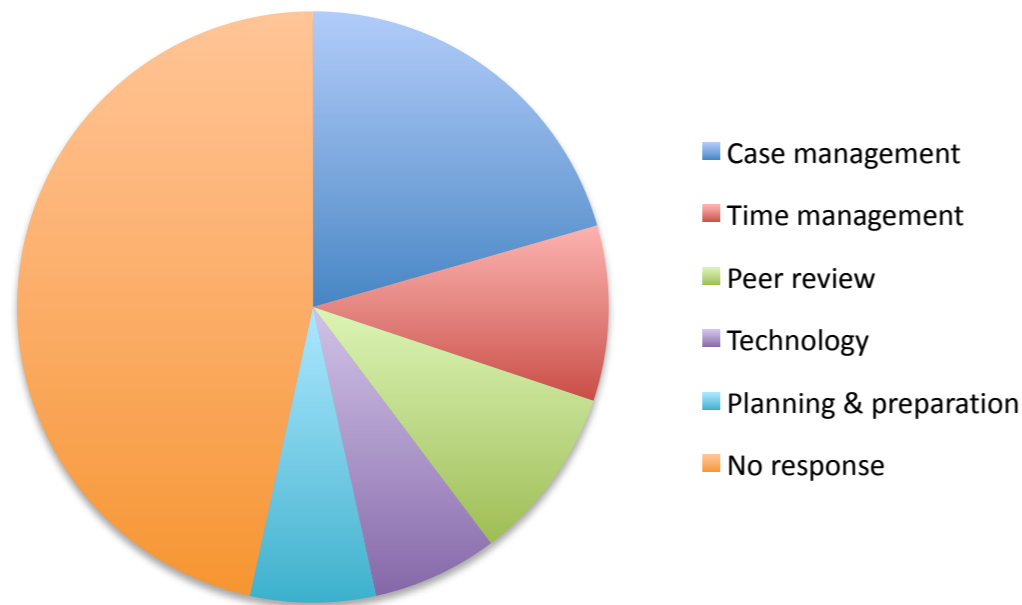
There was a large "No response" to this question. A number of respondents commented that examples of efficiency and how to work more effectively would be useful.

Those who responded with more detail cited case management and time management as a high priority. Planning and preparation also included time management in some instances, and advanced reading skills.

Answered: 110 Skipped: 335

Quotes:

"My career prior to retirement has - I believe - established these skills."

"Managing the tension between efficiency and fairness."

"Discussion of balancing right to a "fair" hearing with time constraints."

"How to elicit evidence more broadly."

"Provision of examples where efficiencies can be made and how case management can reduce the volume and complexity of what lies ahead."

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MEMBER SURVEY - Q13: PROFESSIONALISM AND INTEGRITY

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Professionalism and integrity' (e.g. capacity to handle stress and the isolation of the role in making decisions, manage health and well being. Demonstrate ethics, patience, honesty, tolerance, consideration for others and personal responsibility)?

- ■ Stress
- ■ Health & well being
- ■ Ethics
- ■ Peer support
- ■ Mental health
- ■ No response
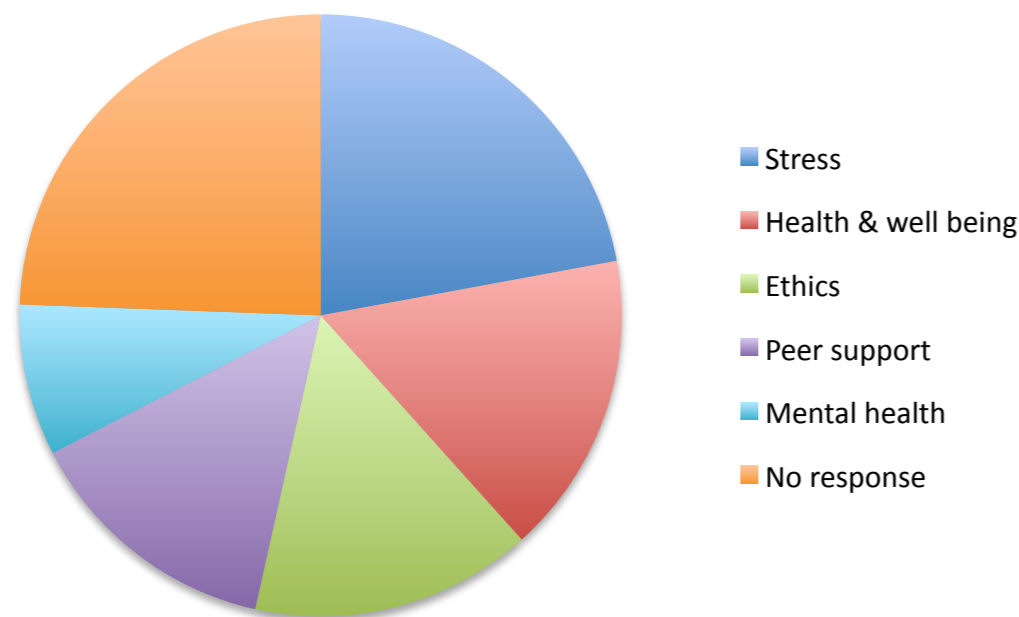
Most responses to this question focused on stress management and health and wellbeing.

Ethics was raised in terms of peer discussions and application of contextual factors that may inform decisions.

In most cases, respondents noted that external courses conducted by professional institutes or experts would be the most appropriate.

Answered: 123 Skipped: 322

Quotes:

"Assistance in capacity to handle stress and the isolation of the role in making decisions, manage health and well being."

"Evidence based research on health diet and breathing techniques."

"Building support networks within the Tribunal - particularly for sessional members who site alone."

"Any training needs to be very focused on our profession. I attended a Black Dog or Beyond Blue session and it was a complete waste of time. I'd rather spend time writing reserved decisions."

MEMBER SURVEY - Q14: LEADERSHIP AND MANAGEMENT

With reference to The Excellence Framework, do you have any professional development suggestions regarding the competency 'Leadership and management' (e.g. demonstrate responsibility, imagination and commitment to efficient administration)?

- Leadership
- Peer review
- Administration
- Technology
- No response
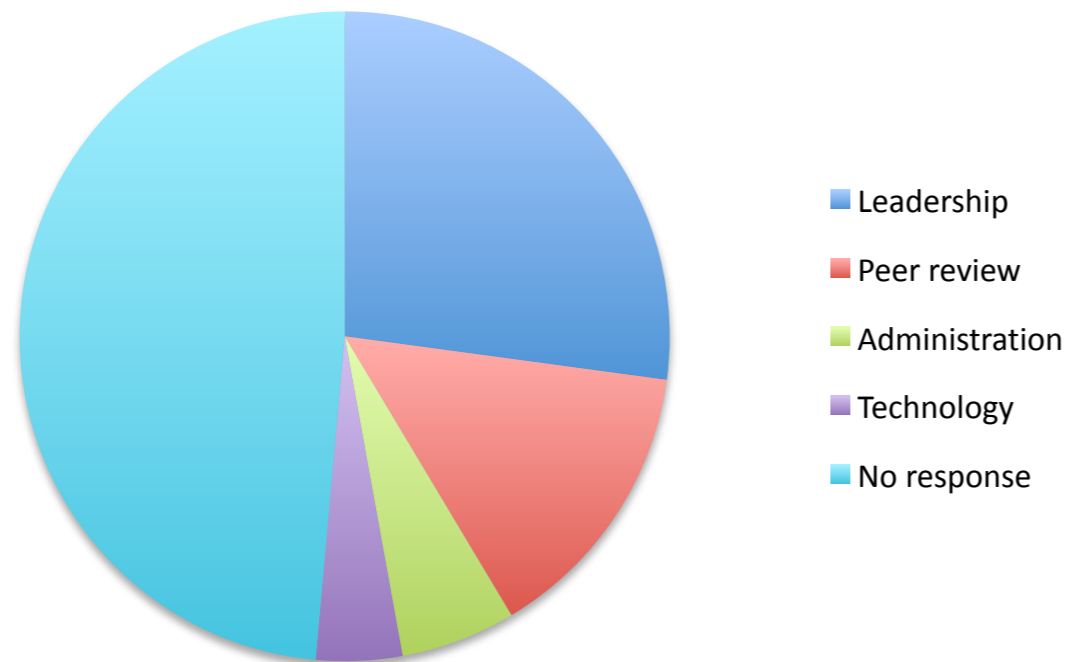
The high proportion of "No response" to this question included people who highlighted that they were not in leadership roles and were not aspiring to be.

Leadership, as a topic, was highly valued and practical application in the Tribunal context was referred to regularly.

Answered: 110 Skipped: 335

Quotes:

"A course of leadership and management for tribunal members aspiring to such positions (eg. covering list management etc)."

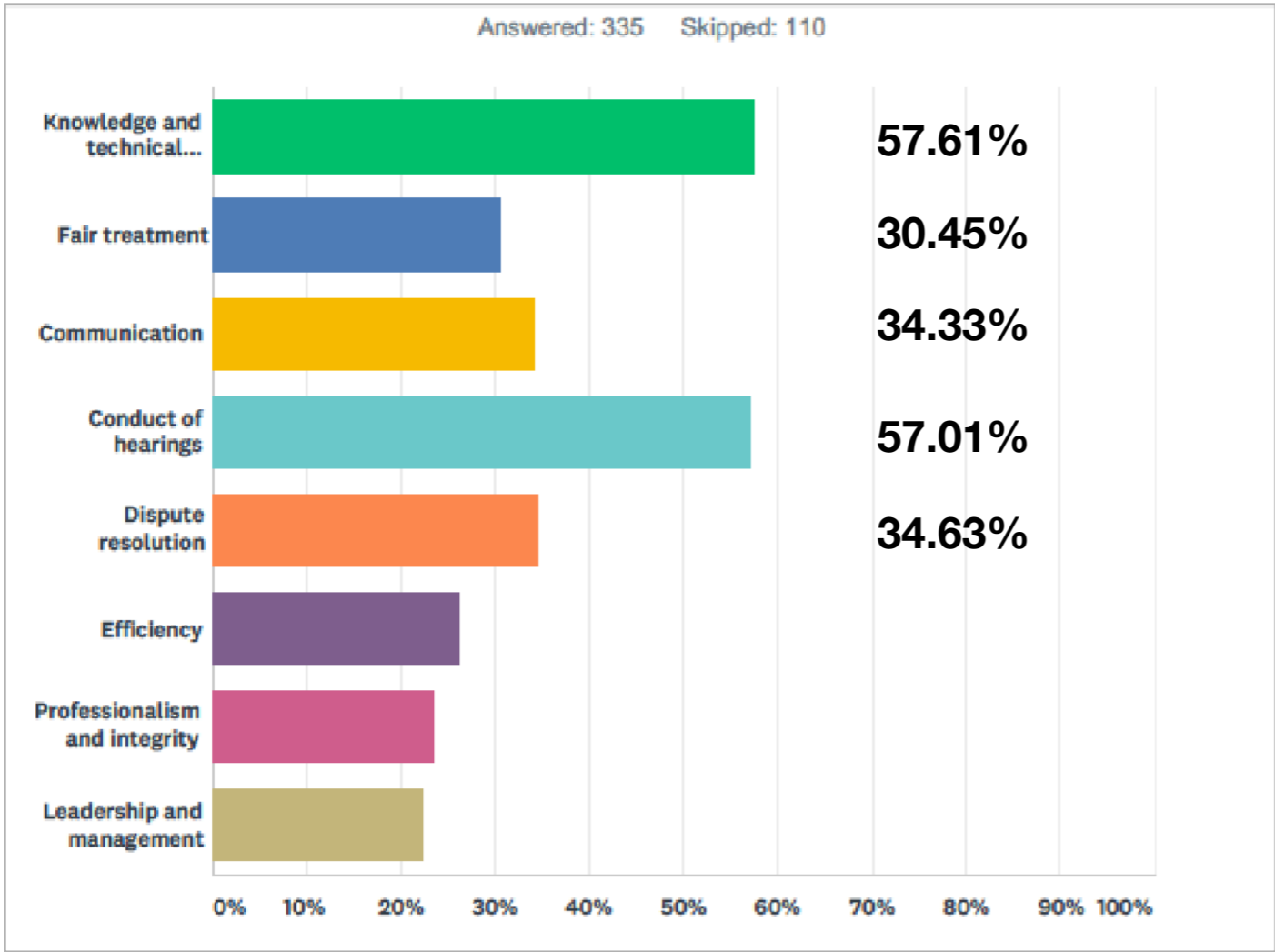"More leadership development for decision makers."

"Anti-bullying training!"

"Leadership is not something that can be learned - people either have it or not. Management techniques can be learned, but practical experience is essential. Again these are things that should be checked with referees at the point of selection".

"How to herd feral cats (or everything you need to know about managing professional tribunal members.)"

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MEMBER SURVEY - Q15: PRIORITY COMPETENCIES

Participants were asked: After reviewing the eight headline competencies of The Excellence Framework, please select the three priority competencies for which you would like to receive professional development support.

Answered: 335   Skipped: 110

| Competency	%
Knowledge and technical...	**57.61%**
Fair treatment	**30.45%**
Communication	**34.33%**
Conduct of hearings	**57.01%**
Dispute resolution	**34.63%**
Efficiency	
Professionalism and integrity	
Leadership and management	

The first five of the competencies are the most popular areas for professional development.

In many cases, as highlighted in the Research Findings, there are common topics within these competencies that overlap.

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MEMBER SURVEY - Q16: MODES OF DELIVERY

Participants were asked to select their top three modes of delivery for professional development.
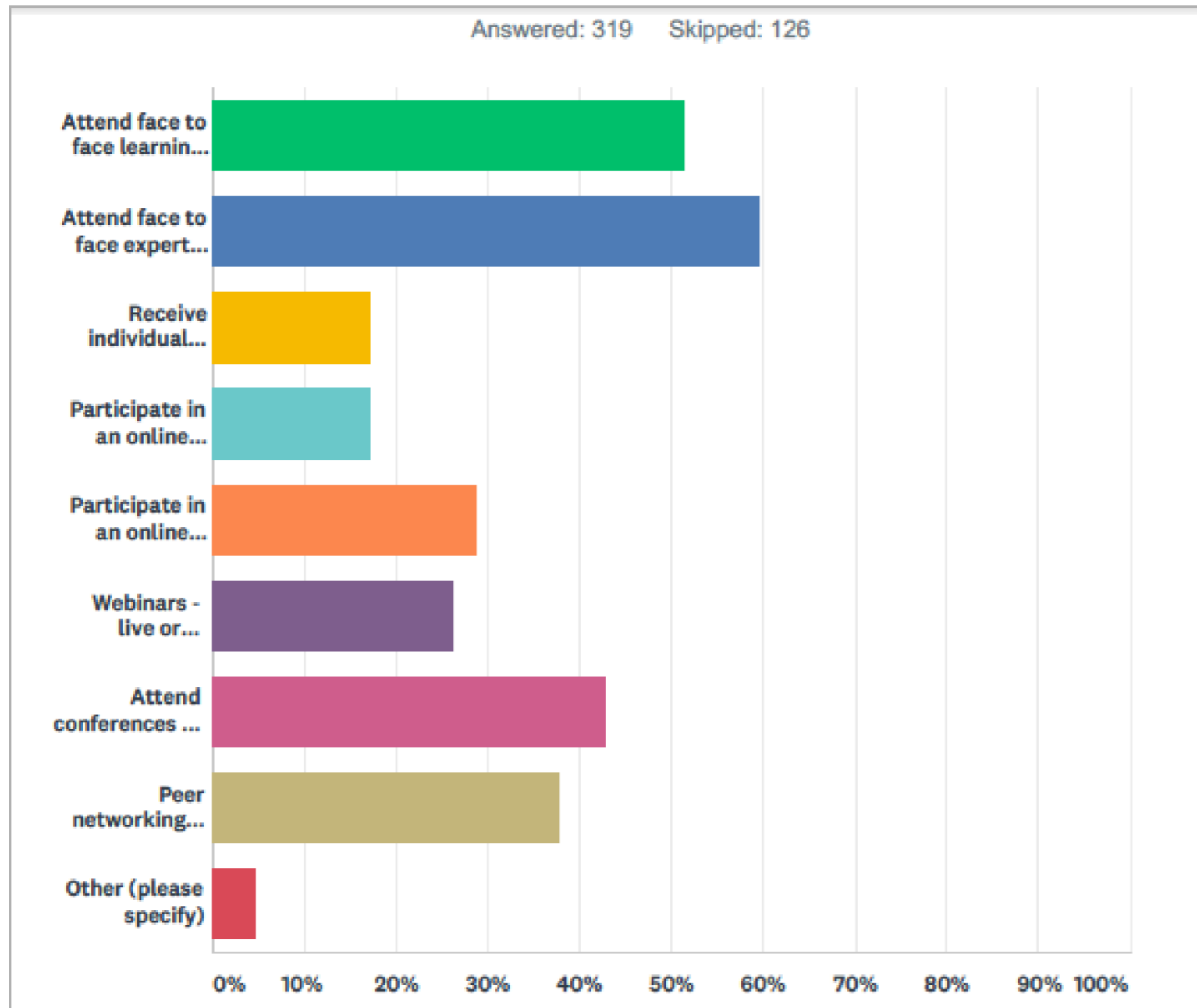
The top four preferred modes of delivery are:

1. Attend face-to-face expert presentations only, usually half day or full day.

2. Attend face-to-face learning that includes expert presentations and the opportunity to work on case studies in small groups, usually 1-2 days in length.

3. Attend conferences - mainly involving expert presentations and interactive workshops, usually 2 days in length.

4. Peer networking opportunities.

It is noted that the first three modes of professional development could include an informal opportunity to network with peers, usually for 1.5-2 hours. This aligns with the recurring theme in the Research Findings.

MEMBER SURVEY - Q17: DAY OF THE WEEK PREFERENCES

Participants were asked to select their two preferred days of the week for face-to-face professional development.
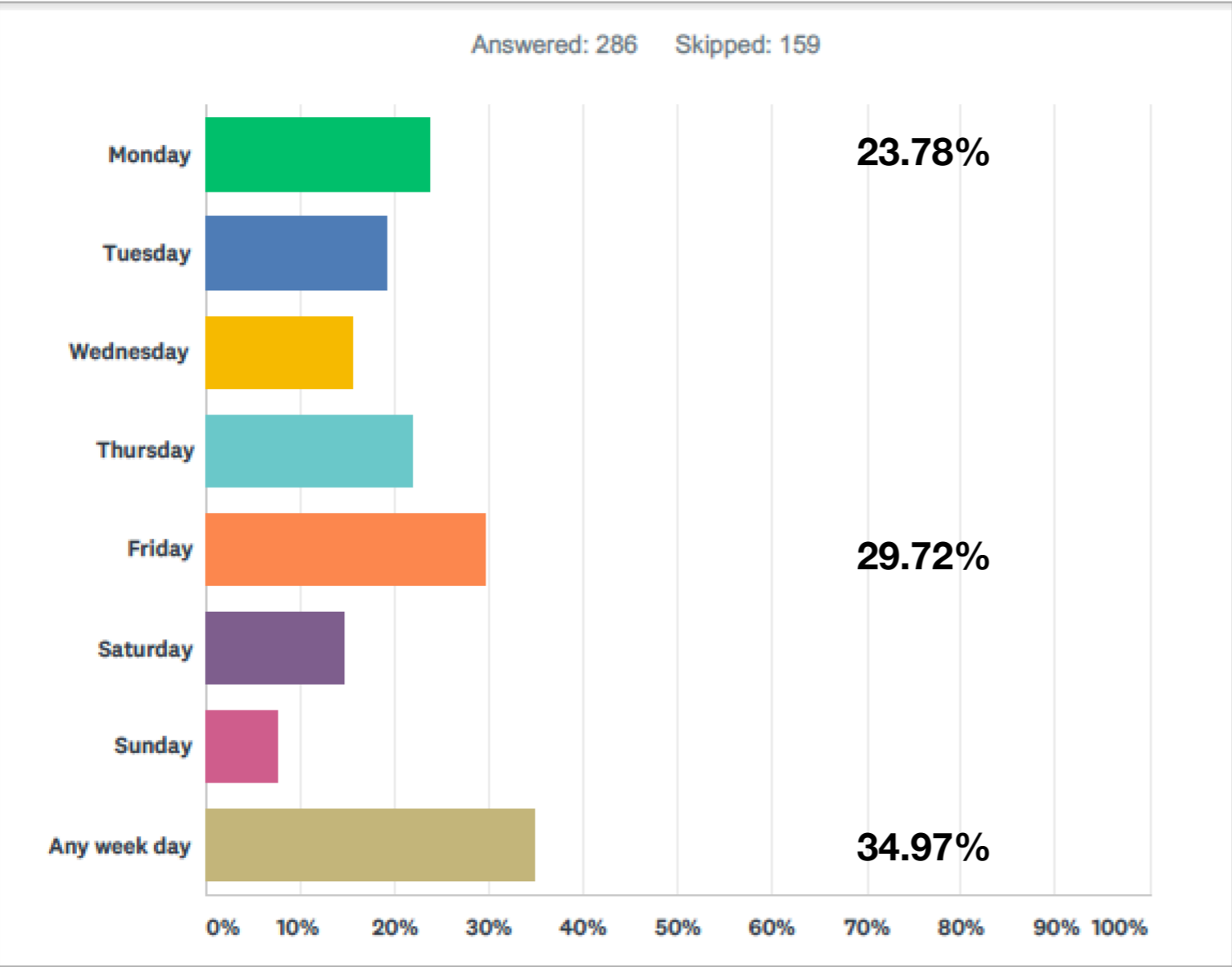
Thirty-five percent of respondents selected "Any weekday" as an option for professional development.
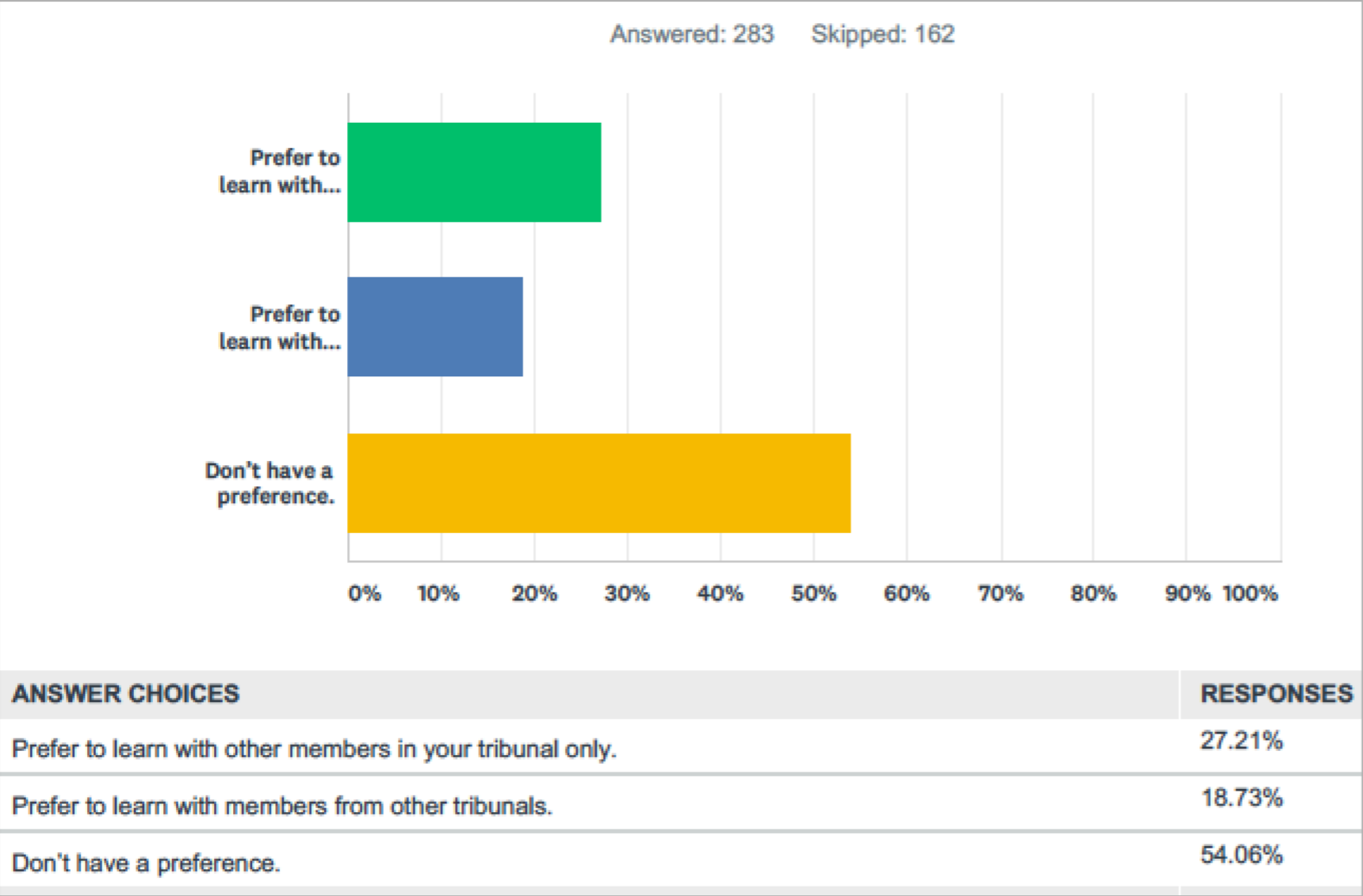
Friday and Monday were the next two preferred options.

The least favourite days were Wednesday, Saturday and Sunday.

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MEMBER SURVEY - Q18: LEARNING WITH OTHERS

Participants were asked: If face-to-face professional development is in your top three modes of delivery, please indicate if you:


This result was reflected in survey responses and focus groups.

Where the content or context is specific to a particular Tribunal, the preference would be to participate with colleagues from that Tribunal.

ANSWER CHOICES	RESPONSES
Prefer to learn with other members in your tribunal only.	27.21%
Prefer to learn with members from other tribunals.	18.73%
Don't have a preference.	54.06%

MEMBER SURVEY - Q19 and Q20: PARTICIPATION IN PROGRAMS

Q19: In the last five years have you participated in any COAT professional development (including a national or state COAT conference) that you found helpful?


Answered: 319   Skipped: 126
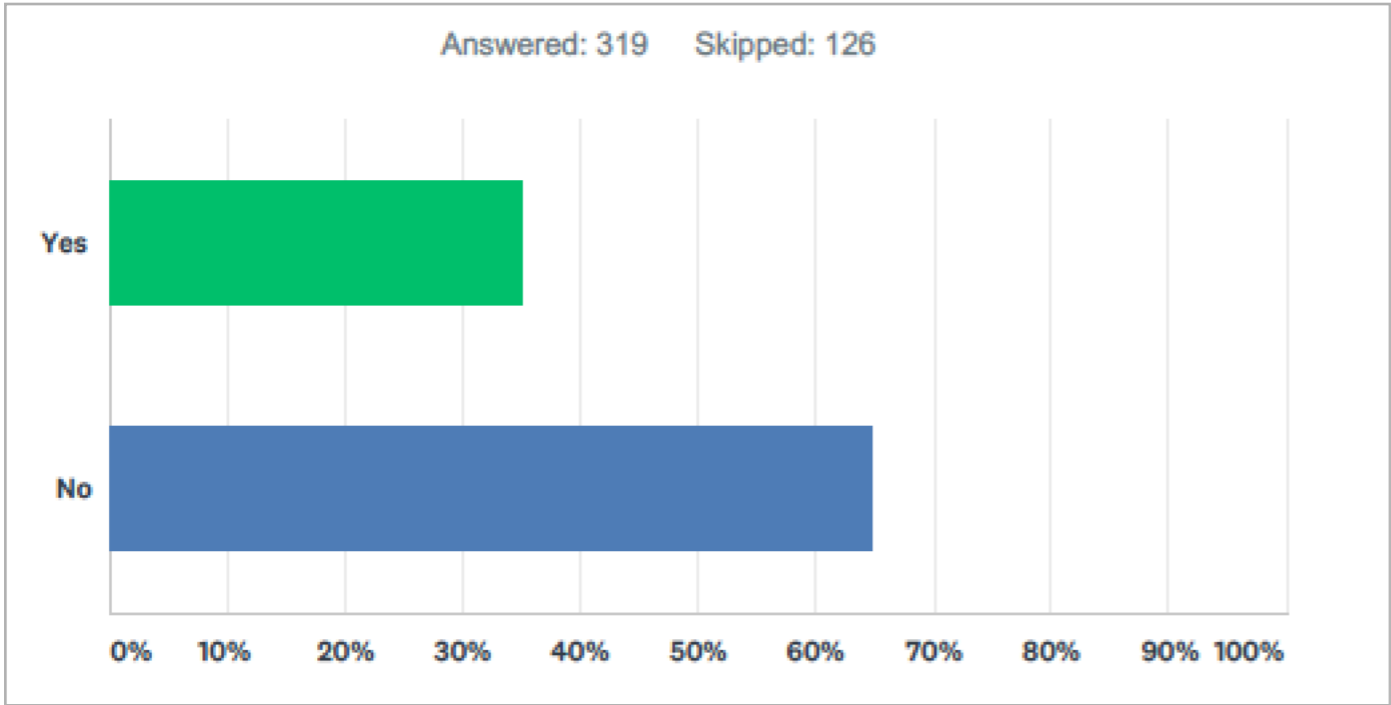
Of the Members who responded, almost 65% have not participated in any COAT professional development over the past 5 years.

Of those who responded Yes, over 30% have attended the National or State conferences, and have participated in the Online Induction program.

Others cited a range of specific workshops.

Q20: In the last five years have you participated in any professional development offered by a tribunal to which you are appointed that was helpful?

Answered: 319   Skipped: 126
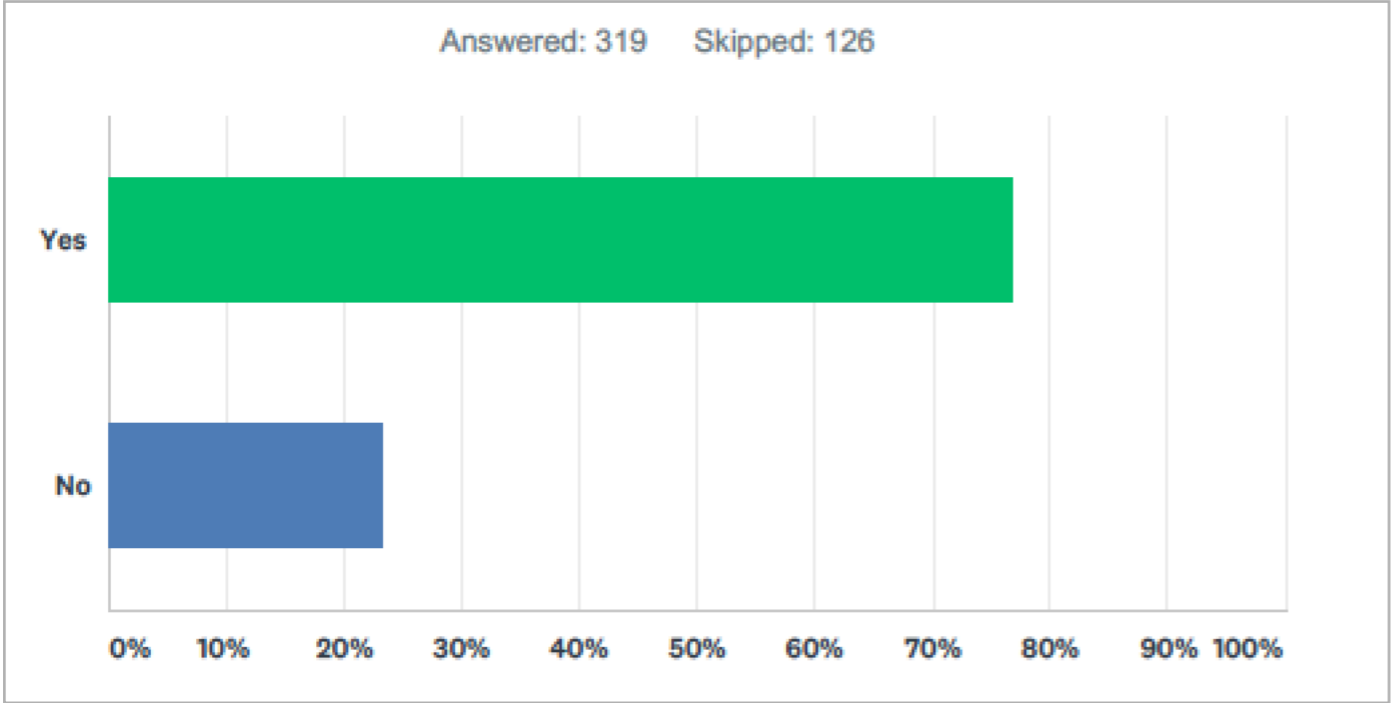
Almost 77% of respondents have participated in COAT professional development, including a COAT conference, over the past five years that they found helpful.

An extensive list of courses was cited by respondents that is too detailed to include in this report.

The full survey responses are available for review.

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MEMBER SURVEY - Q21: BARRIERS TO LEARNING

Participants were asked if there are any barriers that prevent or hinder them from undertaking professional development.

Answered: 316   Skipped: 129
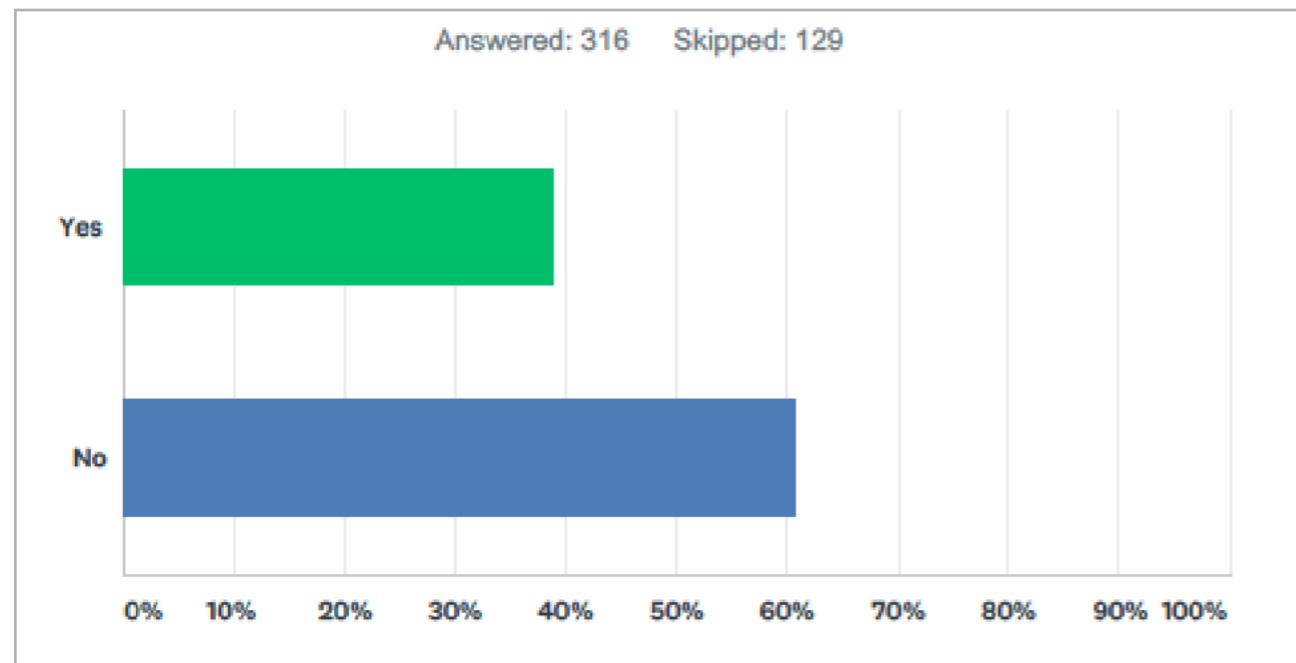
Nearly 61% of respondents said there were no barriers to participating in professional development activities.
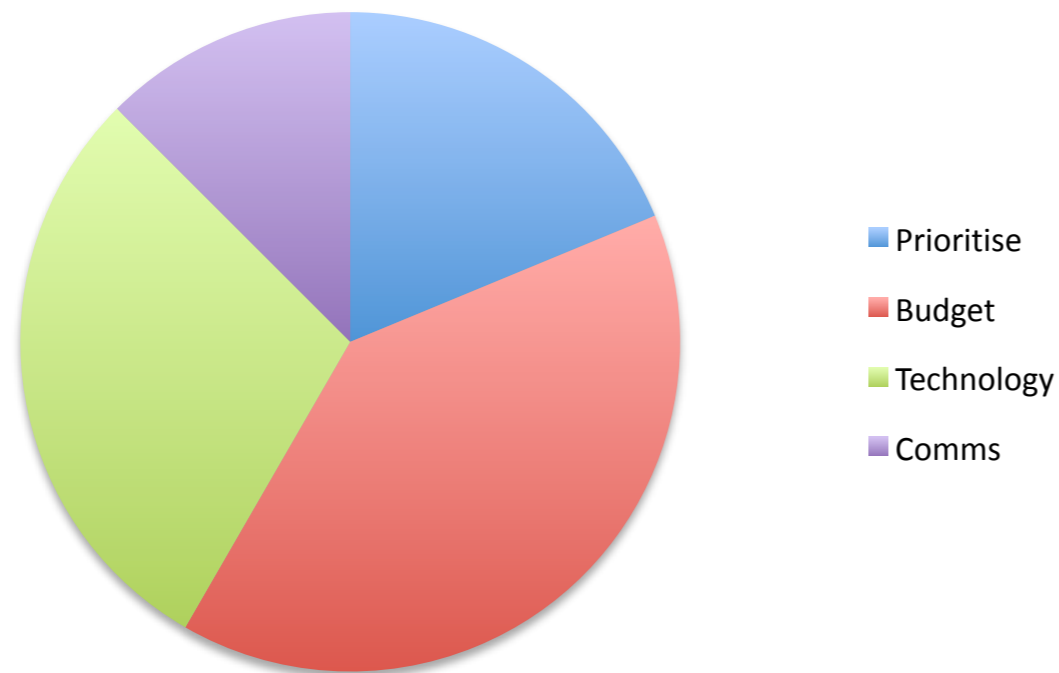

Time
Funding
Travel
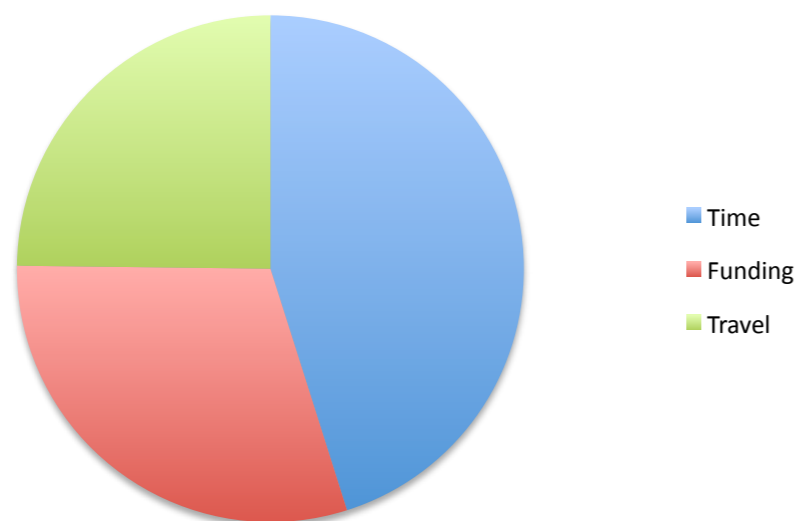
The barriers cited by those who replied Yes can be summarised into three categories:

- **Time** - including time away from work, expectations upon sessional Members to participate outside of their work hours, and time to travel.

- **Funding** - differing policies regarding funding to attend courses, and sessional Members who are frequently required to self-fund to attend programs.

- **Travel** - for Members in regional or isolated areas, short sessions conducted in the main metropolitan areas are inaccessible. Again, funding policies for travel vary and were cited as a barrier.

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MEMBER SURVEY - Q22: ADDRESSING BARRIERS TO LEARNING

For those participants who answered 'yes' to question 21 regarding barriers to learning, they were asked how these barriers might be addressed.

Legend:
- Prioritise
- Budget
- Technology
- Comms

Answered: 106 Skipped: 339

There was a relatively low response rate for this question. Members responding commonly referred to Tribunals budgeting for training and reimbursing Members for their participation.

To manage time constraints most respondents referred to a process of prioritising professional development. It was not clear if this was at a Tribunal or personal level.

For those unable to attend face-to-face sessions, flexible delivery was preferred using technology and methods such as webinars, video-conferences or online resources and courses.

More regular communications that provided updates on available programs and resources were also mentioned.

MEMBER SURVEY - Q23 & Q24: ROLE OF COAT

Participants were asked how COAT might provide further assistance towards the professional development of tribunal members generally.

- Comms
- Conference
- Technology
- Resources
- Peer networking
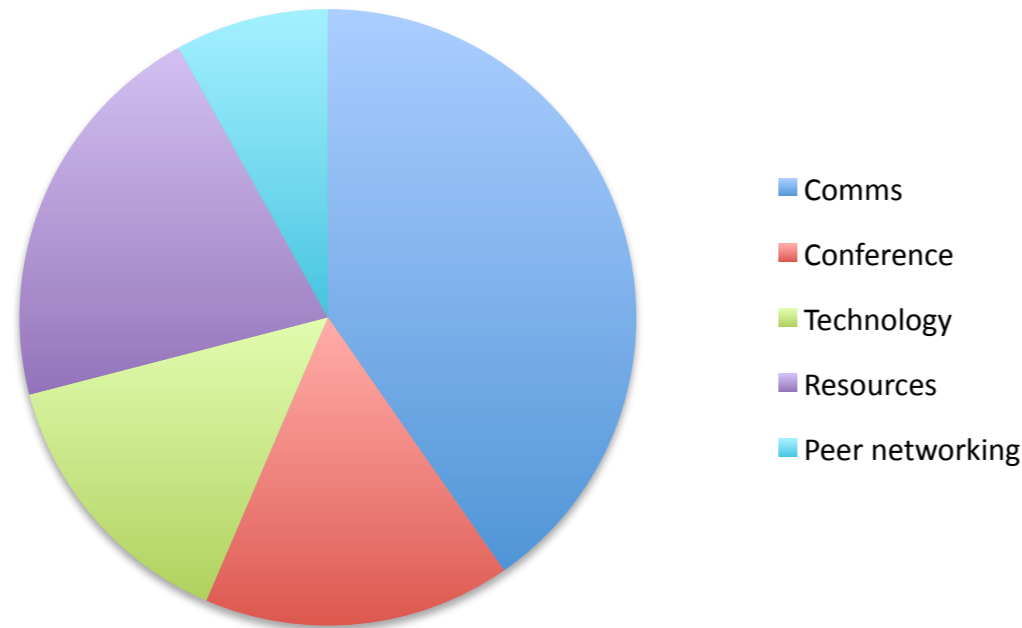
Answered: 133 Skipped: 312

The most common response to this question was more regular communications. Respondents were looking for updates on available programs, new resources and opportunities to participate in professional development.

There was a strong request for more publications or a list of previous conference and workshop papers.

Technology, when mentioned, again referred to flexible delivery of programs.

Finally, participants were asked how COAT might further assist tribunal members. More than 80% of responses to this question referred back to the answer provided for Q23. No new activities were identified.

Quotes:

" Keep on providing conferences with excellent speakers/presentations."

"Greater communication on a more regular basis."

RESEARCH FINDINGS

HEADS OF TRIBUNAL SURVEY

# HEADS OF TRIBUNAL SURVEY - INDUCTION AND REGULAR TRAINING

The Heads of Tribunal (HoT) survey was completed by 22 participants.

Survey participants were asked several questions regarding induction training currently provided to new Members at their own Tribunal. Almost all indicated induction is always provided or sometimes provided with only 2 participants saying it is not provided to Members of their Tribunal. Over the past 3 years, 79% of respondents said that induction training has mostly been provided before a new Member conducts hearings,16% indicated it was provided within 3 months of a new Member commencing to conduct hearings and 5% indicated that practice varies.

Length of induction

More than one day (please specify length)

Half a day or less

One day

Method of induction

Other (please specify)

Face-to-face

A combination of the above

Online

The length of induction training varies between a half-day (42%), one day (32%), and up to 3 days (26%). It is generally provided either face-to-face (42%) or through a combination of methods (53%) that includes face-to-face, online, and provision of documentary material, with 5% providing induction training solely online.

Participants were also asked whether Members had participated in the COAT induction program. Seventy-three percent had not, while 27% said yes and indicated between 1 and 6 Members from their Tribunal had participated.

Method of regular training

Other (please specify)

Face-to-face

A combination of the above
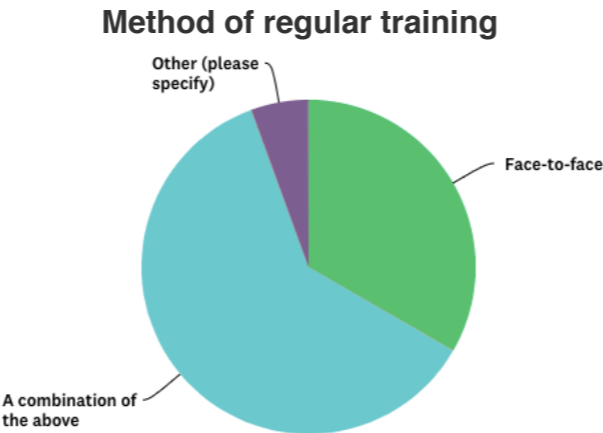
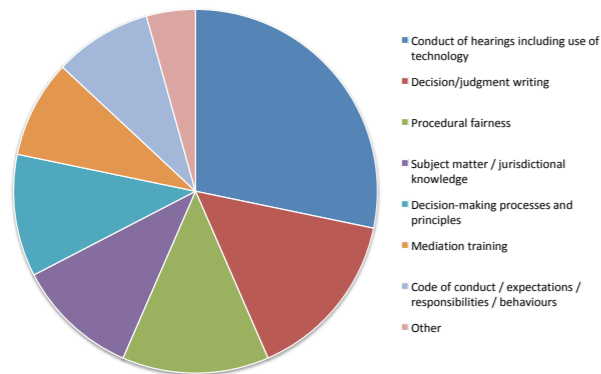When asked whether their Tribunal provided regular training to Members, 100% indicated they do. The method used to deliver this regular training is generally a combination of methods (61%) that includes face-to-face, online, and provision of documentary material. Thirty-three percent provided face-to-face training only, while 6% use other methods that including newsletters, subject-matter briefings and workshops.

HEADS OF TRIBUNAL SURVEY - TOP PROFESSIONAL DEVELOPMENT NEEDS

New Members

- Conduct of hearings including use of technology
- Decision/judgment writing
- Procedural fairness
- Subject matter / jurisdictional knowledge
- Decision-making processes and principles
- Mediation training
- Code of conduct / expectations / responsibilities / behaviours
- Other

Relatively Experienced Members

- Hearing 'craft' including communication and technology
- Legislative / subject matter updates
- Decision writing
- Conduct, performance feedback and mentoring
- Wellness and workload management
- Other

Experienced Members

- Leadership and mentoring
- As for relatively experienced members
- Advanced hearing techniques
- Management
- Excellence in decision writing
- Legislative and subject matter updates
- Alternate delivery of decisions
- Time management
- Other

Participants were asked for their views on the top 3 professional development needs of new Members (less than 18 months), relatively experienced Members (18 months to less than 4 years), and experienced Members (4 years or more). There were some clear differences, with a stronger preference for leadership and management skills for more experienced Members; and some clear similarities, with conduct of hearings appearing in all three lists in various forms.
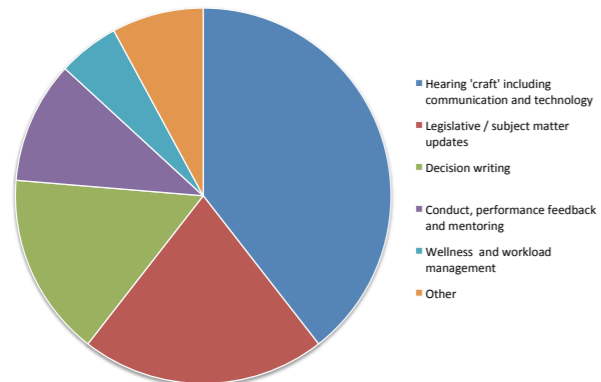
For **new Members**, the top 3 priorities identified were:

1. Conduct of hearings, including the use of technology (e.g. Tribunal electronic file management systems).
2. Decision / judgment writing.
3. Procedural fairness.

For **relatively experienced Members**, the top 3 priorities identified were:

1. Hearing 'craft', including:
   - Dealing with unrepresented parties
   - Managing challenging parties
   - Using interpreters effectively
   - Fact-finding
   - Effective communication and questioning
   - Assessment of witnesses and the fallibility of memory
   - Dealing with interlocutory matters
   - Updates on Tribunal registry practices and expectations
   - Electronic case management systems
2. Legislative and subject matter updates.
3. Decision-writing.
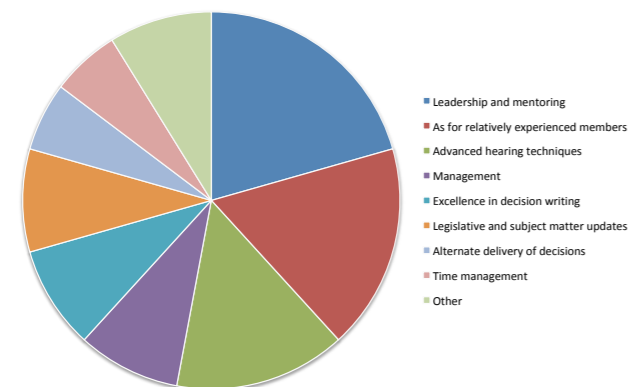
For **experienced Members**, one of the top answers was 'as for relatively experienced Members'. When this is excluded, there were 5 top priorities identified with three tying for third place:

1. Leadership and mentoring.
2. Advanced hearing techniques, including:
   - Skills for multi-member panels
   - Managing challenging litigants
   - Advanced mediation.
3. Management skills (e.g. managing performance).
   Excellence in decision writing.
   Legislative and subject matter updates.

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HEADS OF TRIBUNAL SURVEY - BARRIERS TO PROFESSIONAL DEVELOPMENT

When asked whether any barriers exist that prevent or hinder Members from undertaking professional development, 33% of respondents said no.

Of the 67% who said yes, there were three dominant themes in their responses as to what those barriers are:
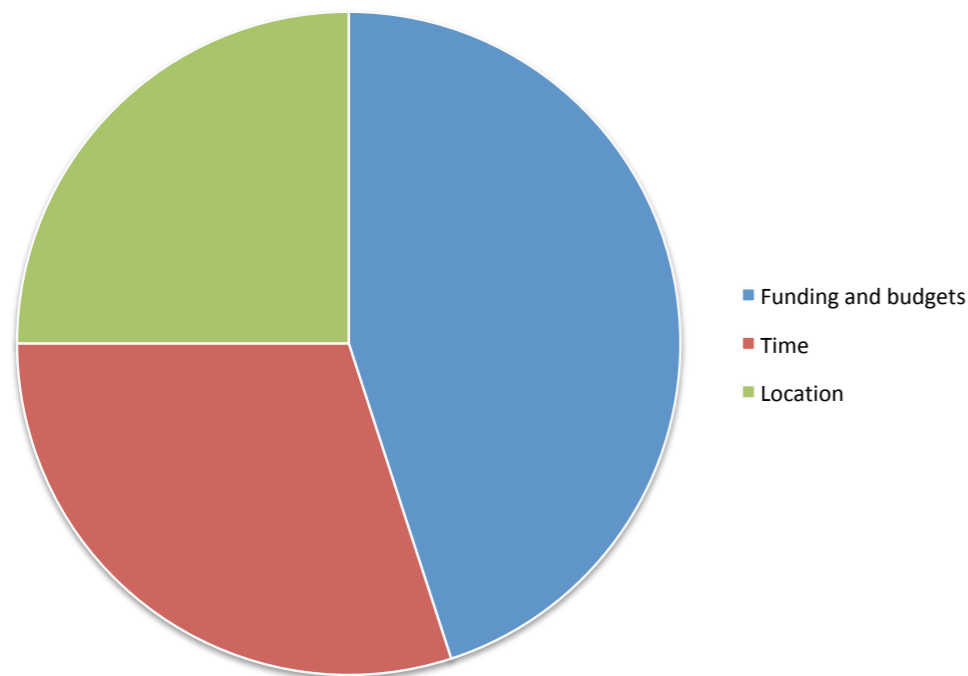
- **Funding and budgets**
  This was expressed as a lack of available funding for Members, including sessional Members, to undertake professional development activities, as well as in some cases being seen as cost prohibitive as a function either of Tribunal size, or location of Members (and the cost to send them to face-to-face training).

- **Time**
  This was expressed as a combination of Tribunal workload pressures, the inability to send multiple Members thus not achieving 'critical mass', and sessional Members needing to balance their work outside the Tribunal (including at other Tribunals).

- **Location**
  This was expressed as an issue of location of the Member (for instance, some Members are 'isolated' or in 'remote' locations), as an issue of location of the training (i.e. having to travel to it), and as an issue of being unattractive to speakers or presenters (i.e. speakers travelling to the location of Members or the Tribunal).

Barriers to professional development

- Funding and budgets
- Time
- Location

Responses included that professional development is not recognised as important, that training is not recognised for CPD points in a Member's discipline, and that New Zealand is poorly served when it comes to professional development.
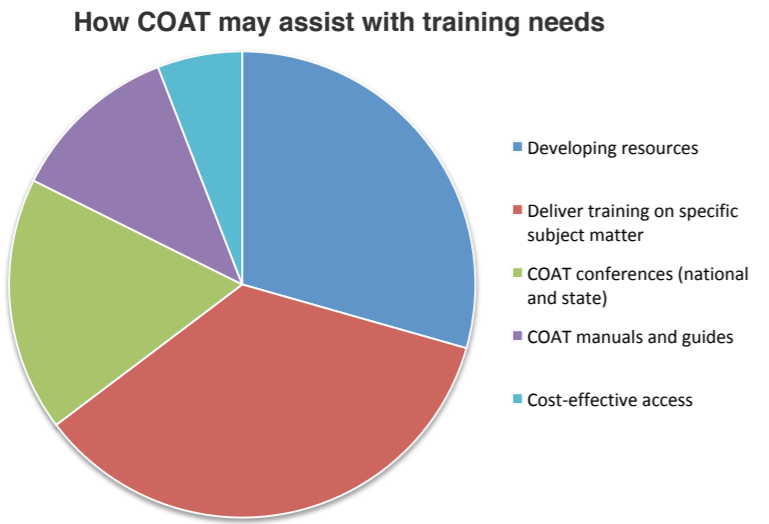
"*Our large, predominantly sessional membership means members are often balancing a diverse range of competing demands on their time. It also means that bringing members together for PD activities involves a very significant cost.*"

"*Small number of members - affects capacity to get a critical mass of people to make exchange of experiences and ideas broader and more meaningful; availability for all to participate together; cost effectiveness and ability to attract speakers/expertise Location and isolation (in Perth) - affects travel time, costs and inconvenience; costs for speakers to come to Perth.*"

"*1. Cost 2. Geography constraints (eg proper online training would make it much easier to train needs of regional Members).*"

HEADS OF TRIBUNAL SURVEY - ROLE OF COAT

How COAT may assist with training needs

- ■ Developing resources
- ■ Deliver training on specific subject matter
- ■ COAT conferences (national and state)
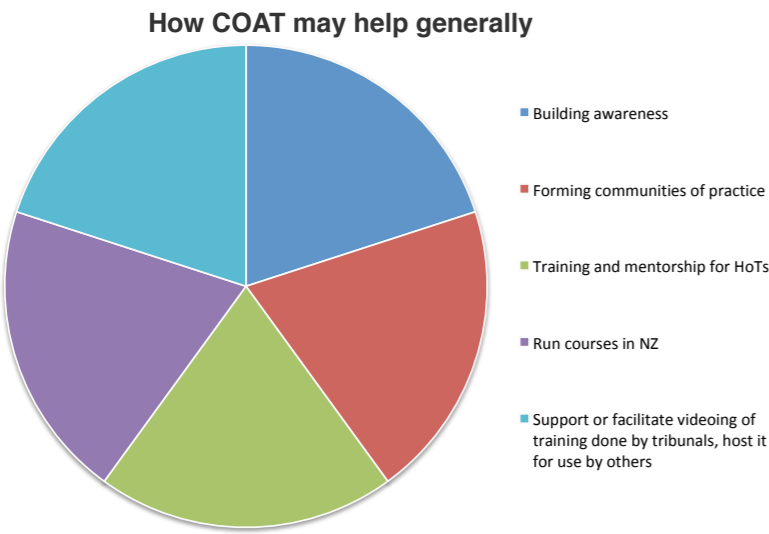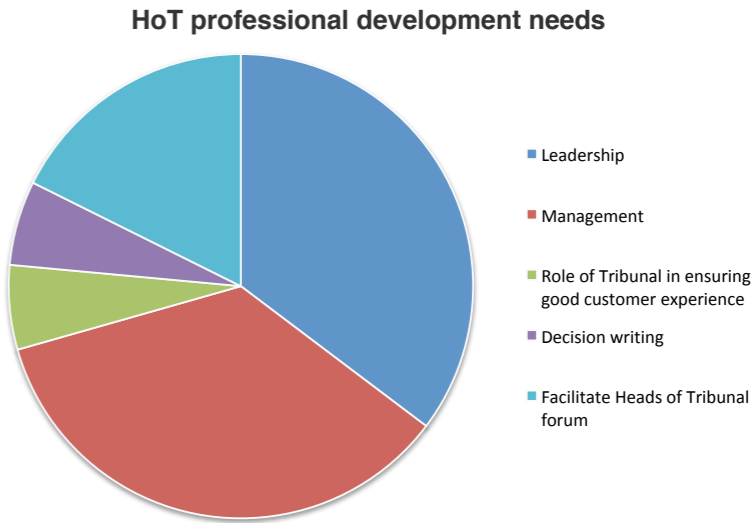- ■ COAT manuals and guides
- ■ Cost-effective access

Participants were asked how COAT may play a role in assisting in meeting the training needs of Members, with particular reference to The Excellence Framework.

The dominant themes were for COAT to develop training resources, including making comprehensive programs such as the COAT induction program available in self-contained, discrete modules; to deliver training on specific subjects such as decision-making and conduct of hearings, as well as tailored training delivered to individual Tribunals; to continue with COAT National and State conferences including targeted sessions, with a desire for videoed sessions to be made available online for those who can't attend; continue to maintain and periodically update COAT Member manuals and guides; and to provide cost-effective access to professional development.

When asked whether participants had professional development needs within their role as a Head of Tribunal that COAT may assist with, 27% said no.

Of the 73% that said yes, the dominant needs expressed were around leadership including mentoring and developing less experienced Tribunal Members; management including dealing with underperformance, challenging behaviours, Members, Executive Government, and remuneration; and facilitating a forum or community of practice for Heads of Tribunal both at and separately to the existing COAT conference HoT meeting. In addition, professional development needs around understanding the role of the Tribunal in ensuring a good customer experience, and around decision-writing were expressed by participants.

HoT professional development needs

- ■ Leadership
- ■ Management
- ■ Role of Tribunal in ensuring good customer experience
- ■ Decision writing
- ■ Facilitate Heads of Tribunal forum

How COAT may help generally

- ■ Building awareness
- ■ Forming communities of practice
- ■ Training and mentorship for HoTs
- ■ Run courses in NZ
- ■ Support or facilitate videoing of training done by tribunals, host it for use by others

The final question of the survey asked participants if they had any further suggestions on how COAT might provide assistance towards the professional development of Tribunal Members in general. Combining those who answered with those who skipped this question, the dominant answer was no (73%).
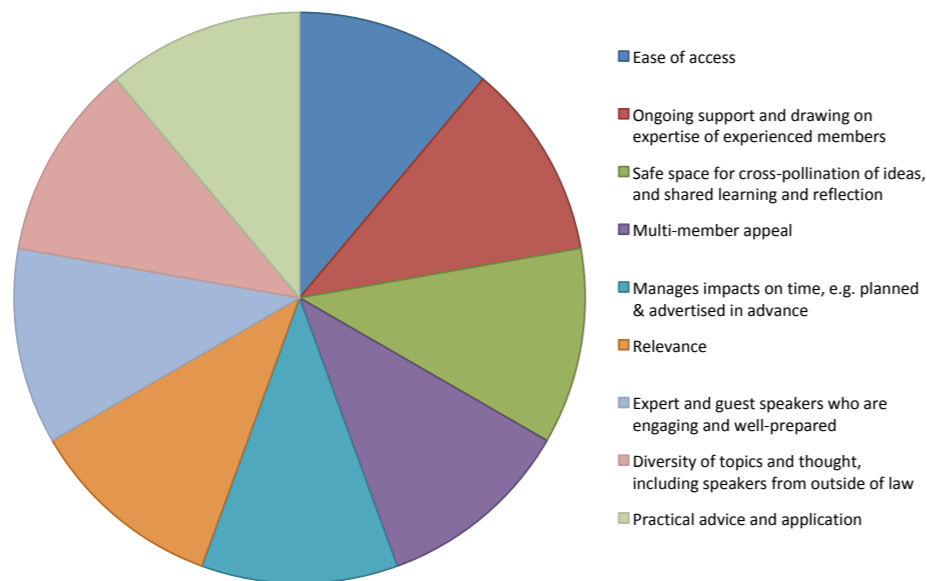
Suggestions from other respondents included:

- Building awareness of existing professional development material.
- Forming communities of practice.
- Training and mentoring for Heads of Tribunal.
- Running courses in New Zealand.
- Support or facilitate videoing training done by Tribunals and host it for use by others.
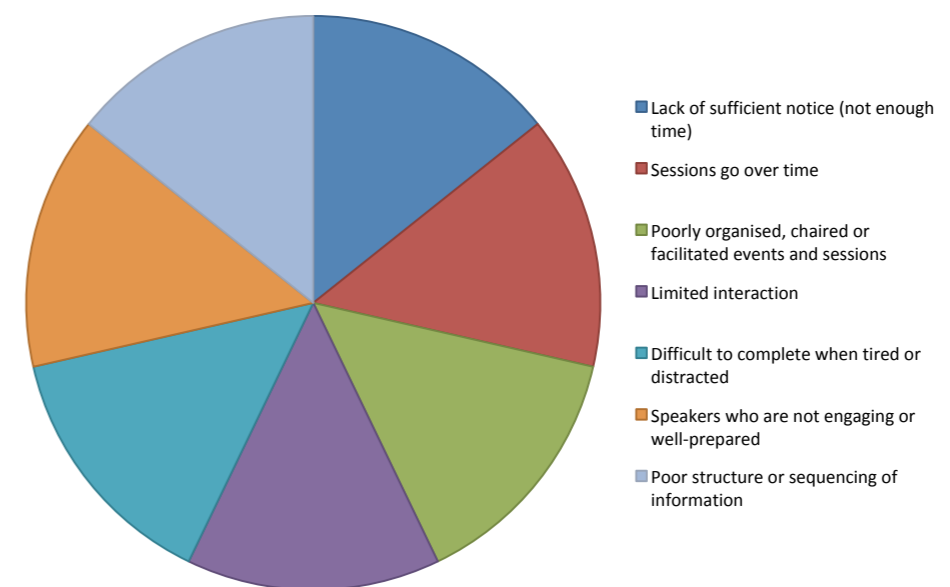
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INTERVIEWS AND FOCUS GROUPS - USEFULNESS OF TRAINING

Reasons for usefulness

- Ease of access
- Ongoing support and drawing on expertise of experienced members
- Safe space for cross-pollination of ideas, and shared learning and reflection
- Multi-member appeal
- Manages impacts on time, e.g. planned & advertised in advance
- Relevance
- Expert and guest speakers who are engaging and well-prepared
- Diversity of topics and thought, including speakers from outside of law
- Practical advice and application

Reasons for lack of usefulness

- Lack of sufficient notice (not enough time)
- Sessions go over time
- Poorly organised, chaired or facilitated events and sessions
- Limited interaction
- Difficult to complete when tired or distracted
- Speakers who are not engaging or well-prepared
- Poor structure or sequencing of information

The common themes across the interviews and focus groups largely reflect those seen across the Member Survey and the Heads of Tribunal Survey. One significant aspect in which the interviews and focus groups provided different insights was around the topic of usefulness of training. The reasons identified appear in the pie charts above.

Inductions offered either in-house within a Tribunal or offered by COAT were generally seen to be very useful, as were in-house conferences and professional development days, and COAT conferences. Sessions on specific topics were also mentioned as being useful, including decision writing and reasons for decision, decision-making, dealing with difficult people, vicarious trauma and dealing with emotions in hearings, motivational interview techniques, cultural competency training, unconscious bias, giving oral decisions, communicating with an audience, and alternative dispute resolution.

No particular topic or training offering was suggested as 'not useful'; rather, the focus from participants was on the reasons they had found the delivery of training in general not to be useful.

Training was found most useful when it was relevant, well-prepared, facilitated interaction and shared learning, and they were notified well in advance.

By contrast, training was found to be least useful when it was poorly organised and structured, offered limited opportunity for interaction, or was poorly timed (for example, held on a Friday afternoon, or made available at short notice).

RECOMMENDATIONS

RECOMMENDATIONS

The research activities have provided results that consistently indicate recurring priority training topics, common barriers to participation, and opportunities for COAT to provide ongoing professional development activities.

Some of the implications are beyond the remit of COAT. However, this report could be useful as an instrument to elevate issues and facilitate further discussions at the individual Tribunal level.

- **Develop a professional development program for 2020**
  Based on the findings from the research, there are a clear set of topics that Members consider important. A variety of programs can be offered in major cities in Australia and New Zealand to reflect the priority training needs identified. The program should be promoted as early as possible to provide adequate time for Members to request travel and funding relief and for Tribunals to plan their attendance.

- **Audit current programs and resources**
  A number of programs are being delivered by some of the larger Tribunals. Conducting an audit will determine what content is available, what can be re-used, and what programs COAT has (e.g. modules or videos from the Induction program) that could be repurposed and made available through the website. Once this has been determined a strategy can be developed to update or re-use existing content, or identify areas for new content development.

- **Improve communications**
  A recurring theme, particularly in response to Q23, identified Members' need to know more about COAT offerings and regular updates via newsletters. A campaign to raise awareness of COAT could be achieved with a regular newsletter and perhaps a roadshow by the Executive. This survey and findings also provide an opportunity to demonstrate the engagement and commitment of COAT to Members' professional development.
  In order to create an effective communications channel with all Tribunal Members, a database needs to be developed to ensure the information is readily available to those who want to access professional development opportunities.

- **Develop new content**
  Tribunal craft (hearing skills) was identified as a priority training need. It is recommended that at least 2 new videos, similar to those created for the COAT Induction program, be developed.
  A two-day train the trainer program for Members is recommended to develop internal capabilities such as program development and facilitation skills.

- **Deliver training in a range of formats**
  Delivering training in a range of formats would address some of the barriers highlighted and the preferred formats identified by respondents. While face-to-face training was preferred, many respondents also identified it as being inaccessible. Flexible delivery was a recurring theme in responses. Members wanted greater access to programs and resources, with technology used to provide online courses, updates and other resources via short videos, podcasts and webinars.

- **Identify measurable outcomes**
  As an additional strategy to raise awareness of COAT programs, an annual report on training activities could be distributed to Members. The report could include the number of programs offered and number of participants who attended, through to more detailed feedback including increased confidence in their practical knowledge, reduced number of decisions that are the subject of appeal (if that is possible to relate to specific types of training).
  These measurements should be determined before the commencement of the 12-month program to provide an ongoing method of reporting value to participating Tribunals and COAT executive.

- **Engage an education specialist**
  Further development of programs and resources is hampered by the fact that there is not a dedicated position within COAT to undertake this role. Professional development has to date been undertaken by a few committee members who have endeavoured to manage this on top of their full work loads which is not sustainable.

APPENDIX

RESEARCH DATA

All research data has been shared with the COAT project team members and is available upon request in PDF format. This includes:

- Member survey - responses by question

- Member survey - responses by participant

- Heads of Tribunal survey - responses by question

- Heads of Tribunal survey - responses by participant

- Interview report

- Focus group reports

APPENDIX
PARTICIPATING TRIBUNALS

This page sets out a list of all known participating Tribunals, based on participant responses to the survey and information provided during interviews and focus groups. Providing this information was optional, and as such this list may not be exhaustive or complete.

- Administrative Appeals Tribunal
- Defence Honours and Awards Appeals Tribunal
- Immigration Advisers Complaints and Disciplinary Tribunal
- Fair Work Commission
- Resources and Energy
- ACT Civil and Administrative Tribunal
- ACT Greens Arbitration and Conciliation Committee
- ACT Professional Services Review
- ACT Sentence Administration Board
- NSW Civil and Administrative Tribunal
- NSW State Insurance Regulatory Authority
- NSW Workers Compensation Commission
- NSW Mental Health Review Tribunal
- NSW Architects Registration Board
- NSW Housing Appeals Committee
- NSW Motor Accidents Claims Assessment and Resolution Services (MCARS)
- NSW Motor Accidents Dispute Resolution Services (MDARS)
- NT Civil and Administrative Tribunal
- NT Liquor Commission
- NT Legal Aid
- Public Sector Appeals Board (NT Public Service)
- New Zealand Electrical Workers Registration Board

- New Zealand Immigration Advisers Complaints and Disciplinary Tribunal
- New Zealand Lawyers and Conveyancers Disciplinary Tribunal
- New Zealand Licensed Building Practitioners Board
- New Zealand Employment Relations Authority
- New Zealand Health Practitioners Disciplinary Tribunal
- New Zealand Immigration and Protection Tribunal
- New Zealand Legal Aid Tribunal
- New Zealand Motor Vehicle Disputes
- Disputes Tribunal of New Zealand
- Christchurch Earthquake Insurance Tribunal (New Zealand)
- NZCDT
- QLD Civil and Administrative Tribunal
- QLD Land Court
- QLD Mental Health Review Tribunal
- QLD RSL Tribunal
- Regional Conduct
- SA Warden's Court
- SA Civil and Administrative Tribunal
- TAS Motor Accidents Compensation Tribunal
- TAS Workers Rehabilitation and Compensation Tribunal
- TAS Anti-Discrimination Tribunal

- TAS Asbestos Compensation Tribunal
- TAS Mental Health Tribunal
- TAS Industrial Commission
- TAS Guardianship and Administration Board
- TAS Mental Health Review Tribunal
- VIC Suitability Panel
- VIC Civil and Administrative Tribunal
- VIC Veterinary Practitioners Registration Board
- VIC County Court
- VIC Mental Health Tribunal
- WA Gender Reassignment Board
- WA Racing Penalties Appeal Tribunal
- WA State Administrative Tribunal
- WA Mental Health Tribunal
- Superannuation Complaints Tribunal
- Arbitration
- TCAB
- Veterans' Review Board
- Weathertight Homes

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THE EXCELLENCE FRAMEWORK

This page provides a brief overview of the Australia and New Zealand Tribunal Excellence Framework June 2017 (The Excellence Framework) as provided to participants during the research process. The complete Framework document can be found on the COAT website.

https://coat.asn.au/wp-content/uploads/2018/11/Tribunals_Excellence_Framework_Document_2017_V4.pdf.

The Excellence Framework

The Australian and New Zealand Tribunal Excellence Framework 2017 (the Excellence Framework) provides a guide to the abilities and qualities required by tribunal members.

The Excellence Framework is divided into eight headline competencies, associated qualities and examples of performance indicators.

1.   Knowledge and technical skills: (e.g. demonstrate knowledge of substantive law, able to interpret legislation, apply model litigant guidelines, demonstrate commitment to high standards.)

2.   Fair treatment: (e.g. apply the rules of procedural fairness, demonstrate fairness, courtesy, tolerance and compassion)

3.   Communication: (e.g. demonstrate patience and self-discipline, apply firmness without arrogance, able to elicit information from people with cognitive impairment /communication difficulties and work with interpreters.)

4   Conduct of hearings: (e.g. Conduct face to face and "on the papers" hearings in a manner that establishes and maintains the independence and authority of the Tribunal and enables proper participation by all involved. Able to provide oral reasons for decisions, formulate orders, write and edit reasons for decisions.)

5.   Dispute resolution: (e.g. able to make decisions and apply alternative dispute resolution.)

6.   Efficiency: (e.g. demonstrate case management skills, commitment to serving the public and to efficient administration.)

7.   Professionalism and integrity: (e.g. Capacity to handle stress and the isolation of the role in making decisions, manage health and wellbeing. Demonstrate ethics, patience, honesty, tolerance, consideration for others and personal responsibility.)

8.   Leadership and management: (e.g. demonstrate responsibility, imagination and commitment to efficient administration.)

ABOUT RIPPLE EFFECT GROUP
OUR CONSULTING TEAM

MANAGING DIRECTOR
ANNE BARTLETT-BRAGG

PhD, MEd (Adult Ed), BEd (Adult Ed), Dip HRM, Dip e-Learning, Cert IV TAA

Anne specialises in the creation of innovative communication networks with social media. Her designs are award winners: MentorNet, the first national mentoring program for young women entrepreneurs in 2007 was a finalist in the Forrester Groundswell awards in 2008 and won the LearnX Asia Pacific 2010 Best Mentoring Program. Her design for the Institute of Executive Coaching's learning communities won the LearnX Asia Pacific 2010 award for Best use of Social Learning Tools.

Anne is also a sessional academic at UTS in the Faculty of Arts & Social Sciences where she researches, develops and lectures in organisational learning. She is a recognised keynote speaker at academic conferences, both nationally and internationally. Her papers are published in several textbooks and international journals. In addition, she is a sought after reviewer of academic journals that specialise in social software and communication technologies.

She uses her research and studies into the communication aspects of social media to provide an informed backdrop to understanding how people are using new tools and changing traditional models of communication. She constantly challenges organisations to reframe their models of communication, service design, and workforce engagement.

Anne has recently completed her PhD which explored the adult learners experiences of developing learning networks through self-publishing technologies such as weblogs.

SENIOR CONSULTANT
JAKKII MUSGRAVE

A human-centred designer, Jakkii has extensive experience in the digital workplace, with particular focus on user experience research and design, community management, customer engagement, and technology solutions. Skilled in design thinking, she has a particular interest in collaboration and engagement, and on ensuring a user-focus in the digital workplace and online communities more broadly.

Jakkii's professional experience includes organisations such as nbn, Cochlear, Foxtel, RACP, RACGP, Scentre Group and DIBP, alongside other organisations across a broad variety of industries in the public and private sectors, from blue chip multinationals to SMBs. Much of her work focuses on providing strategic direction and advice on the digital workplace, community management, and engagement, conducting user research and landscape assessments to underpin recommendations and developing user experience artefacts such as authentic personas and user journeys. She is also experienced in social learning, and has worked with clients such as IECL and Suncorp on social learning projects.

Prior to joining Ripple Effect Group, Jakkii worked as a community manager in both internal and external communities, providing strategic direction for community growth and engagement in employee, fan, and customer communities at government, blue chip and startup organisations in both Australia and Canada.

An experienced speaker and facilitator, Jakkii has presented at a number of conferences including Swarm, Enterprise Collaboration TechFest, and Future of Work, as well as at universities and at organisations' staff development days on topics such as community management, Yammer, and personal branding. She writes on a range of topics for the Ripple Effect Group blog, and has been published on Working Out Loud in the Australian Institute of Training and Development's magazine.

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