

# NSW Government Equitable Briefing Report

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2022-2023 Financial Year



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## Acknowledgement of Country

The Department of Communities and Justice acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

### **NSW Government Equitable Briefing Report**

Published by the Department of Communities and Justice

<https://dcj.nsw.gov.au/legal-and-justice/strategies-and-plans/information-for-government-lawyers/equitable-briefing-policy.html>

### **Acknowledgements**

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# 1

## NSW Government Equitable Briefing Policy for Women Barristers

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## Background

NSW Government is committed to supporting the progression and retention of women barristers who are engaged with NSW agencies and across the legal profession more broadly. The NSW Government Equitable Briefing Policy for Women Barristers (Policy) applies to all NSW Government sector agencies. Premier and Cabinet Circular *C2018-06 – Briefing Senior Counsel* also sets out the requirements under the Policy.

The Government's Policy was modelled on the Law Council of Australia's Equitable Briefing Policy. In selecting barristers, NSW Government agencies are required to make all reasonable and genuine endeavours to:

- Brief or select women senior barristers accounting for at least 20% of all briefs and/or 20% of the value of all brief fees paid to senior barristers;
- Brief or select women junior barristers accounting for at least 30% of all briefs and/or 30% of the value of all brief fees paid to junior barristers.

The Policy is designed to promote opportunities for women at the Bar and is founded on principles of equity. Under the Policy, when government agencies engage barristers or advocates, they are to take reasonable endeavours to:

- Identify female barristers in the relevant practice area
- Genuinely consider engaging female counsel
- Monitor and review the engagement of female counsel; and
- Report annually on the number of female counsel briefed and value of briefs paid.

Each agency is responsible for ensuring that its staff, and any external legal providers engaged, are aware of and comply with the Policy.

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## Reporting Requirements and Methodology

The NSW Attorney General is responsible for monitoring compliance with the Policy. The Attorney General is also responsible for approving the briefing of Senior Counsel in a particular matter and approving the applicable rate of remuneration.

At the end of each financial year each NSW Government briefing agency prepares a report covering that financial year, for submission to Transport for NSW. Transport for NSW also collects briefing data from law firms engaged on the NSW Government Legal Services Panel.

The data reported by agencies and law firms records the number of briefs received by a barrister by:

- a. Gender
- b. Seniority
- c. Total value of brief fees paid to a barrister; and
- d. Area of law.

Reporting on the Policy is dependent upon the quality of the data provided by the respective agencies and law firms. Work continues to be undertaken to improve the quality of this data and resulting reporting.

Monitoring and reviewing the proportional rate of engagement occurs to ensure that female barristers are briefed at or above the prevailing percentage of female barristers in practice in NSW.

Statistics from the NSW Bar Association Annual Report for the 2022-2023 financial year were used in the preparation of this Report. For the purpose of this Report, the number of all barristers in NSW as at 30 June 2023 who have a NSW Practising certificate are considered. It is noted that barristers may or may not be members of the NSW Bar Association (which is a voluntary association).

A brief given to a barrister means the engagement of legal services to be provided by the barrister and includes barrister's work in judicial (before Courts), non-judicial (before a tribunal, through commissions of inquiry, investigations, negotiation, mediation or arbitration) and advisory work.

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# 2

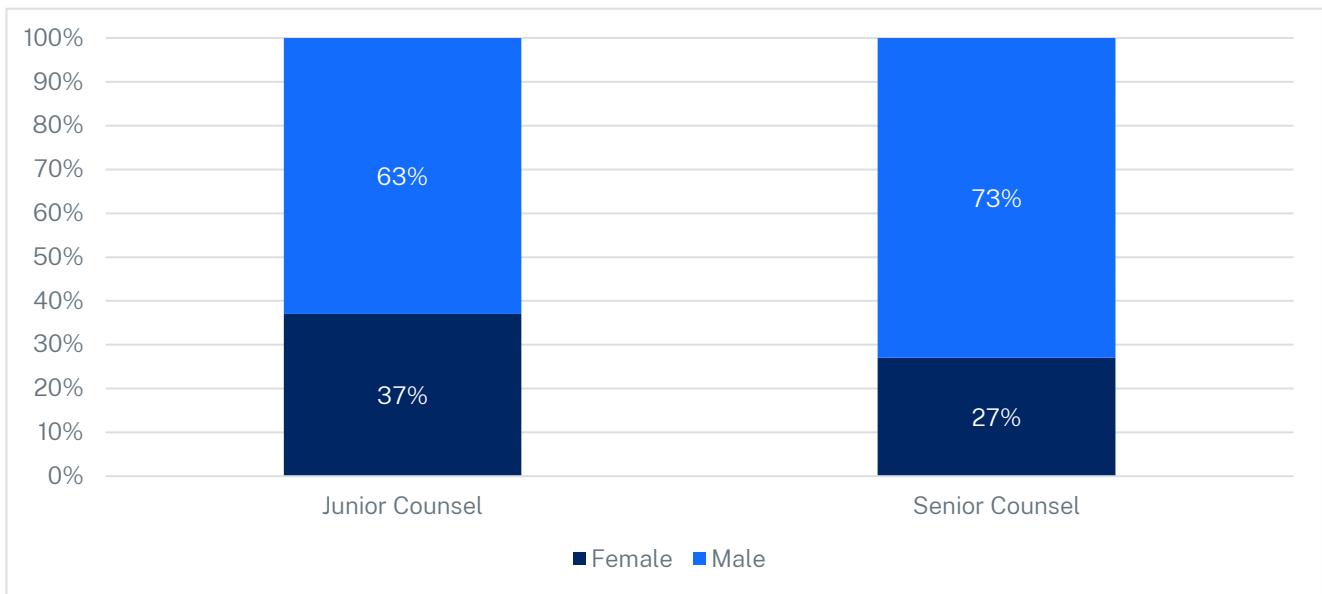
## Equitable Briefing Report 2022-23 Financial Year

# Overview of Government Briefings

During the 2022-2023 financial year NSW Government Agencies briefed counsel on 4,348 occasions. As at 30 June 2023 there were 2,002 junior barristers in NSW (27% being women) and 384 senior barristers (14% being women).

Briefs to female junior counsel made up 37% of total junior counsel briefings, whilst briefs to senior counsel made up 27% of total senior counsel briefings.

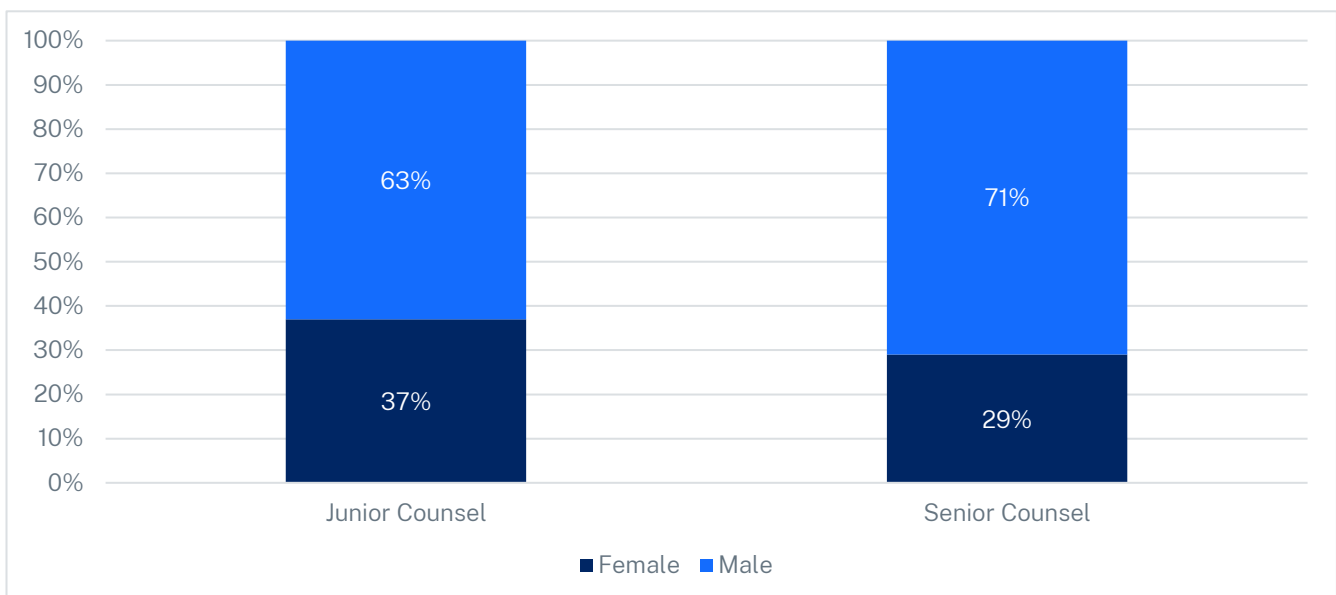
**Graph 1: Percentage of all briefs to female and male counsel in 2022-2023 FY**



# Value of Briefs to Counsel

Total Counsel fees for the 2022-2023 financial year were \$47.8m with 37% (\$13m) going to female Junior Counsel and 29% (\$3.8m) to female Senior Counsel.

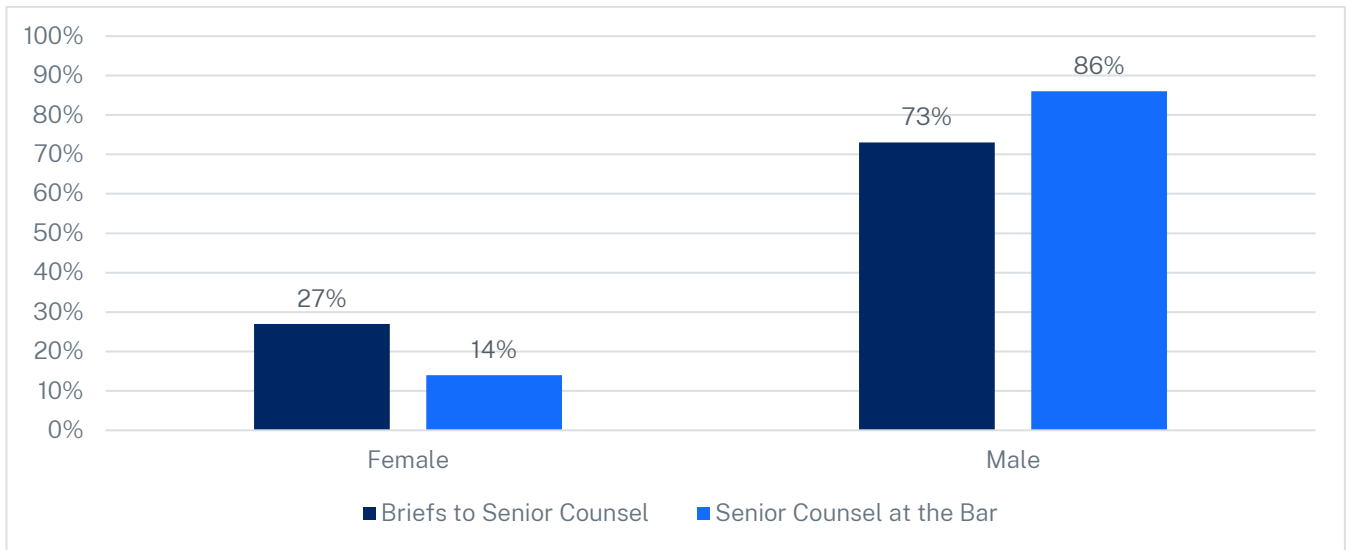
**Graph 2: Value of briefs to female and male Counsel in 2022-2023 FY**





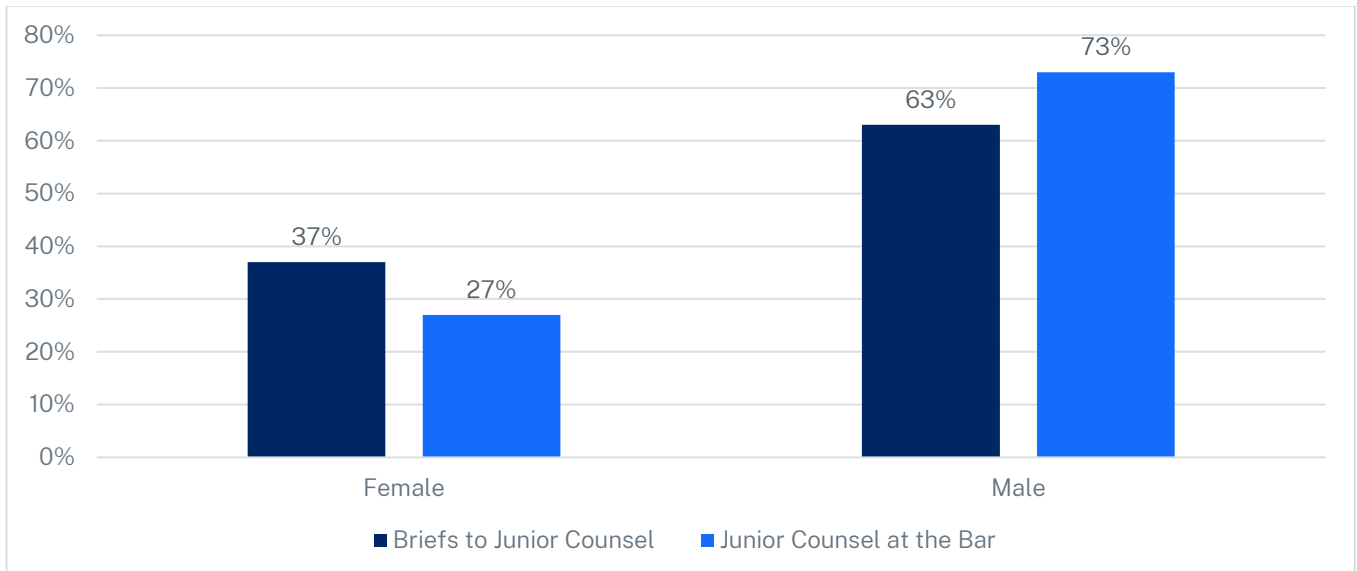
## Senior Counsel Briefing Data

Graph 3: Comparison between the percentage of female Senior Counsel briefed by NSW Government and the percentage of female Senior Counsel at the Bar



## Junior Counsel Briefing Data

Graph 4: Comparison between the percentage of female junior counsel briefed by NSW Government and the percentage of female junior counsel at the Bar



## Conclusion

The 2022-23 Annual Report demonstrates that NSW Government agencies continue to exceed the aspirational targets set by the Policy resulting in counsel being briefed above the proportional rate of female counsel available at the Bar. The NSW Government continues to work with agencies and external legal services providers to achieve its Policy targets and to genuinely provide equal opportunities to female and male counsel in all areas of government work.

