



The Singapore Report

Executive Summary

GPC Series Singapore
March 17-18, 2016

PURPOSE

The purpose of this report is to present the initial findings and recommendations drawn from an analysis of the data collected during the Global Pound Conference in Singapore (GPC Singapore).

KEY FINDINGS AND RECOMMENDATIONS

Scope for application:

There was little significant difference between the voting patterns of the local Singaporeans and the voting patterns of the entire delegation which also included participants from Europe, Asia, Oceania, the Americas and Africa. Therefore, the findings may be used to inform both the local and broader commercial dispute resolution communities.

Current practice in commercial dispute resolution (Sessions 1&2)

All stakeholder groups¹ had slightly different perceptions about what parties want, need or expect in commercial dispute resolution. Importantly, no one sees things in the same way as parties. The biggest gap was often found between parties and advisors.

Differences between parties and other stakeholder groups were identified in the following areas:

1. The factors that influence party decision making and the importance that parties place on non-financial outcomes
2. The way that parties perceive the other stakeholder groups, including the roles parties currently want other stakeholders to take in the commercial dispute resolution process

Findings suggest that parties perceive that commercial dispute resolution currently operates within a legalistic framework. Like the other stakeholder groups, they see lawyers, whether external or in-house, as primarily responsible for advising them about their dispute resolution process options.

All stakeholder groups agree that the most successful disputes are resolved using a combination of processes. More than any other stakeholder group, adjudicative providers recognise the potential for non-adjudicative processes to restore or improve relationships. This

¹ Delegates belonged to the following stakeholder groups: parties, advisors, adjudicative providers, non-adjudicative providers and influencers. For more information see [Delegate Information](#).

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is where the Singaporeans differ. They seem to value outcomes that were more judicial in nature.

Parties were also found to have different wants, needs or expectations depending on their level of experience in commercial dispute resolution. For example, less experienced parties often have unrealistic expectations and a fixed mindset, whereas, dispute-savvy users are often pragmatic and are keen to take an active role in the process.

Consequently, the extent to which the market meets the needs, want and expectations of parties differs depending on how dispute-savvy the party is. For example, it was found that less experienced parties need advisors and providers to help them understand all of the options available and to guide them through the dispute resolution process. This is unlikely to be sufficient for the dispute-savvy user. They are more likely to expect advisors and providers to work with them to design bespoke processes and/or outcomes that are flexible enough to accommodate both their financial and non-financial interests.

Recommendation: As lawyers are unanimously recognised as having the primary advisory role in commercial dispute resolution, it is recommended that their role be prioritised as the focus for moving forward. In particular, it is suggested that an emphasis be placed on helping lawyers to assist parties to access dispute processes tailored to the specific requirements of the dispute, and which draw on a combination of adjudicative and non-adjudicative process.

Challenges facing the industry and the vision for the future (Sessions 3&4)

The stakeholder groups were more closely aligned in Sessions 3 and 4. Themes identified in Sessions 1 and 2 continued into Sessions 3 and 4, specifically:

1. The importance of combining non-adjudicative and adjudicative processes and particularly the use of non-adjudicative processes before adjudicative processes wherever possible
2. The influential role that external lawyers play in commercial dispute resolution and particularly the extent to which they may affect any change process

In Sessions 3 & 4 government/ministries of justice and adjudicative providers were highlighted as playing a major role in shaping the future of dispute resolution.

Similarities between parties' and other stakeholder groups' perceptions were identified in relation to the challenges created by financial and time constraints on parties, the demand for increased efficiency, and the desire for certainty of outcomes and enforceability of settlements.

Interestingly, parties were found to perceive uncertainty resulting from unpredictable behaviour or lack of confidence in providers as a greater challenge than all other stakeholder groups.

The importance of pre-dispute mechanisms, attitudes towards conflict prevention, and the greater emphasis on collaborative over adversarial processes were also identified by all stakeholders as being central to the future of commercial dispute resolution.

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Stakeholders acknowledged that some challenges would be more difficult to address than others. For example, delegates identified that overcoming the perceived lack of awareness about commercial dispute resolution processes would be easier than implementing legislative reform or changing an existing adversarial culture.

Despite these challenges, delegates remained optimistic about the future of dispute resolution. Collectively, they described a long-term vision where dispute resolution skills are culturally embedded. In the short and medium term delegates saw creating awareness and capacity building as the key. Irrespective of the innovation or reform, education is perceived as a driving force behind the evolution of commercial dispute resolution.

Recommendation: Investigate the ways in which government/ministries, adjudicative providers and external lawyers might collaborate to develop and implement a plan for the future of commercial dispute resolution that is informed by the findings from GPC Singapore 2016.

Characteristics of the delegates at GPC Singapore:

The delegate characteristics were as follows:

- There were 367 delegates representing Europe, Asia, Oceania, The Americas and Africa.
- Parties were underrepresented. This group was approximately half the size of the other stakeholder groups.
- Only 47% of participants completed delegate questions which identified jurisdiction, gender, business size, experience and typical practice. This had an impact on the analysis that used characteristics other than stakeholder group. (See [Table 1](#)).
- Despite the reduced sample size, initial testing indicates that characteristics other than stakeholder group may have a significant influence on how delegates voted. In particular, the kinds of dispute processes with which delegates were typically involved had a small but significant impact on the overall patterns of response. To a lesser extent, the number of disputes in which the delegates were involved and the size of their organisation appear to have a small but significant impact on voting patterns for particular questions. For more information refer to the [Delegate Information](#) section of this report.

Recommendation: Investigate ways to maximise delegate information data collection.

Recommendation: Investigate the extent to which delegate characteristics impact on both overall voting patterns voting patterns and voting patterns for each question.

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METHODOLOGY AND DATA ANALYSIS

Data was collected using six Delegate Questions (DQs), 20 Multiple Choice Questions (MCQs) and four Open Text Questions (OTQs), and analysed as follows:

- MCQs were analysed using a quantitative approach to identify the areas of greatest similarity and difference. A particular emphasis was placed on:
 1. All respondents compared to local Singaporean respondents
 2. The different stakeholder groups (parties, advisors, adjudicative providers, non-adjudicative providers and influencers)
- OTQs were analysed using informed grounded theory in which responses were synthesised to form overarching principles that can be used to understand the concepts.
- The DQs were analysed using a quantitative approach to identify:
 1. The characteristics of the delegation
 2. The extent to which characteristics other than stakeholder group influenced how delegates voted

Limitations

There are several limitations to this research design, many of which are the result of an attempt to balance the competing interests of the GPC Series 2016-17. The purpose of the GPC is twofold: To 'create a conversation about what can be done to improve access to justice and the quality of justice around the world in commercial conflicts' and to collect 'actionable data'. As such, the GPC series is not a pure data collection environment and it is anticipated that 'noise' will be an inevitable consequence of the series design. Any use of the GPC data must be undertaken with these limitations in mind. For more information about specific limitations refer to the [Limitations of this methodology](#) section of this report.

CONCLUSION

The findings in this report suggest that parties often have a unique perception of what they need, want and expect from commercial dispute resolution. Further, the way that the market meets these needs wants and expectations is closely linked to the extent to which advisors and providers can tailor their practice and/or processes to accommodate the level of 'dispute-savviness' of the given party.

In contrast, there is a shared understanding about the challenges facing commercial dispute resolution and the extent of the change required. Achievable strategies that have the potential to raise awareness of dispute resolution (DR) and promote change have been identified. These strategies include the development of education programs targeted at legal and business professionals and embedding high quality non-adjudicative processes into DR practice, together with and separate to existing adjudicative frameworks.

In the longer term, there appears to be an appetite for a shift away from the traditional adversarial approach and a move towards community or grass roots initiatives that are more

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party-centric and focused on improving access to justice. It is understood that this will not be without its challenges.

In conclusion, the findings from the inaugural GPC in Singapore provide an important contribution to on-going attempts to collect better data on both the processes and the players within the justice system so that 'trouble spots' and optimal states can be identified and progress monitored over time.² To this extent, it is hoped that this report can stimulate further discussion among the international dispute resolution community and go some small way to help shaping the future of dispute resolution & improving access to justice.

[For the Full GPC Series Singapore Report Click Here](#)

AUTHORS



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RESOLUTION RESOURCES

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² Gossett, Segal & Smith, Foreword to *The Pound Conference: Perspectives on Justice in the Future: Proceedings of the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice / Sponsored by the American Bar Association, the Conference of Chief Justices, the Judicial Conference of the United States*; Edited by A. Leo Levin and Russell R. Wheeler (St. Paul, Minn. : West Pub. Co., 1979, 1979) at 86.

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