

ACC AUSTRALIA

2021 IN-HOUSE COUNSEL TRENDS REPORT

ACKNOWLEDGEMENTS

The Association of Corporate Counsel (ACC) Australia would like to acknowledge and thank the people who made this report possible.

To the 212 ACC Australia members who completed the In-house Trends Survey, we thank you for your time and willingness to share your experiences, practices and insights for the benefit of the wider profession.

We also wish to acknowledge and thank our Corporate Alliance Program Partners; whose generosity enables us to provide quality services to our members.

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KEY FINDINGS AT A GLANCE

Don't have time to read this entire report? Here is a snapshot of all you need to know to be at the forefront of what's trending in the Australian in-house legal profession in 2021.

Data protection, privacy rules and **digital transformation** remain high on the challenges facing organisations. **Almost half** of our respondents' organisations **experienced a data breach in the last year**, increasing in both malicious hacking and accidental disclosures by staff.

Direct briefing remains a popular option amongst in-house counsel. Barrister expertise was predominantly relied upon for major litigation and major specialist advice.

The **COVID-19 pandemic** provided substantial **impetus for Australian courts to implement virtual proceedings**. One in two survey respondents believe virtual hearing proceedings will continue.

There is **limited knowledge** and understanding amongst in-house counsel **of the Equitable Briefing Policy**, intended to drive cultural change and support the progression and retention of women barristers.

Technology and innovative service delivery continue to trend in the legal profession; however, **uptake remains conservative** due to a lack of time and/or budget.

The **most common types of legal technology** used by survey participants are **electronic document repositories, document management software and contract management software.**

For the **fourth year in a row**, **lack of time continues to impact decisions** regarding the **uptake of NewLaw business models.**

Work-life balance is a concern for in-house counsel, with **two-thirds of respondents** spending **more than 40 hours a week at work** and **one third** spend more than 50 hours.

While working remotely due to the **COVID-19 pandemic**, many organisations offered **work-life balance initiatives** to support their employees. These included **online fitness and wellness programs, additional leave days, supportive childcare arrangements, and reduced hours.**

Australian legal teams **hiring outlook is positive despite global economic uncertainty**, with **26%** believing they will hire additional in-house counsel in 2021.

Organisational attitudes towards **flexible working** have also improved significantly, with **62%** of respondents sharing that **flex work has become standard practice.**

OVERVIEW

ACC Australia is committed to keeping the Australian legal community abreast of trends within the in-house profession. Each year, the association surveys members to gain insight into the consistent and emerging challenges, working conditions and practices within in-house legal teams throughout Australia.

Historically, the Trends Survey was completed annually; however, in 2020 when many of our members received multiple requests each week to complete pandemic-related surveys, ACC Australia decided to postpone the Trends Survey until 2021.

The results of this year's survey show the role of in-house counsel becoming more complex as the function continues to shift from a traditional subject matter expert, in the direction of a trusted advisor and influencer to the broader business. To add to the complexity of the role, the COVID-19 pandemic saw organisations entrust their legal departments with managing increased cybersecurity concerns, staff safety and well-being while working from home, and anticipating future pandemic risks.

In-house counsel are also working across more organisational business units, thus increasing the breadth and complexity of the role. These additional requirements do not come with increased resourcing capacities in many organisations, leading

to a vastly arduous role, requiring the legal team to do more with less.

Even though technology and innovative delivery can support resource-poor legal teams, uptake remains cautious and conservative. Lack of time to investigate options, lack of budget and satisfaction with existing models and service providers are key factors in the low rate of technology uptake.

Although the level of understanding of NewLaw business models continues to increase each year, this remains a relatively underdeveloped practice area. Many respondents are unclear as to the benefits of NewLaw models. This, coupled with additional workloads due to the pandemic, legal teams continue to have not had the time to investigate options thoroughly.

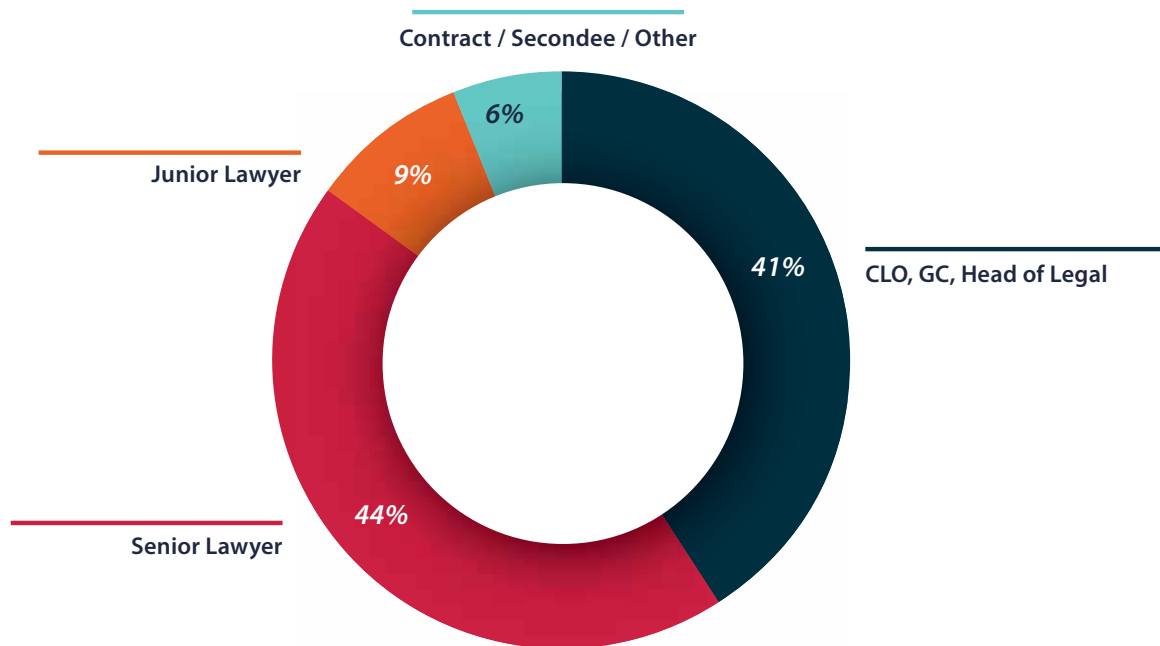
Each section of this report looks at a sub-theme of the 2021 In-house Counsel Trends Survey. It begins with a macro-overview, examining the broader themes in the external environment that impact the nature, quality, and quantity of output by legal teams required in the current market. From there, we explore services including direct briefing and legal technology that increase legal teams' efficiency. We also assess how legal teams manage expanding workload and the work-life policies and programs offered by organisations, specifically looking at how organisations managed staff well-being during the pandemic.

PROFILE OF RESPONDENTS

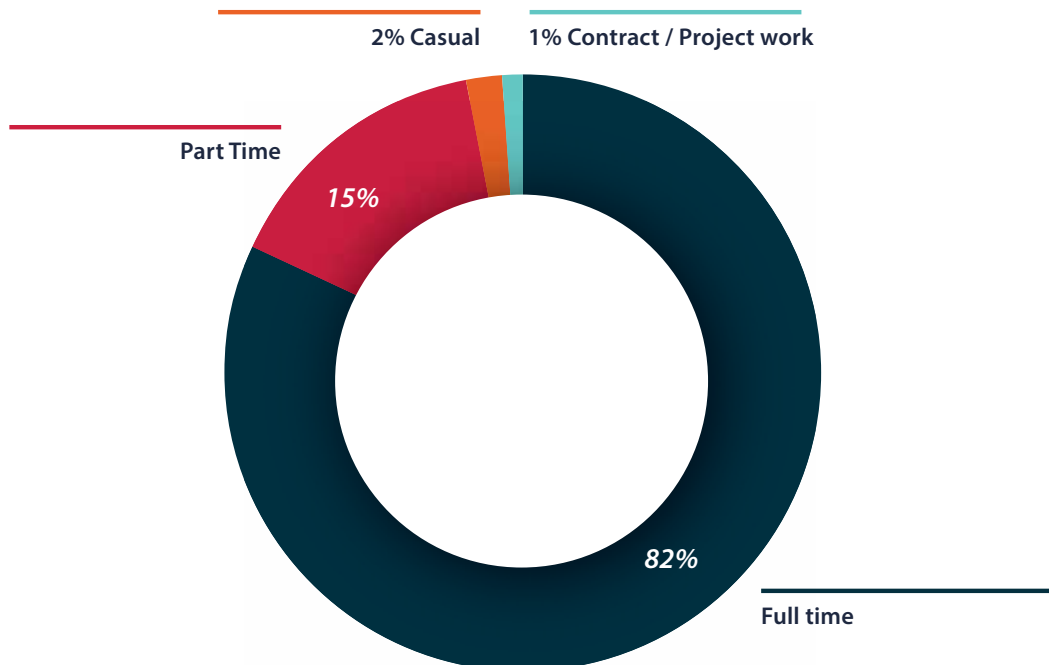
Employment Status

This year's survey was completed in March and April 2021 by 212 respondents from various industries, government departments and not-for-profit organisations. Eighty-two per cent of respondents listed themselves as full-time employees, 17% part-time, and the remainder in contract/project work employment arrangements. Eighty-five per cent of respondents held senior roles, with 40 % of respondents having between one to five years post qualification experience before moving to an in-house position. Survey respondents came from a variety of legal team sizes; 23% were sole legal officers, 48% were from small legal teams between two and nine staff and 29% were from 10+ staff teams.

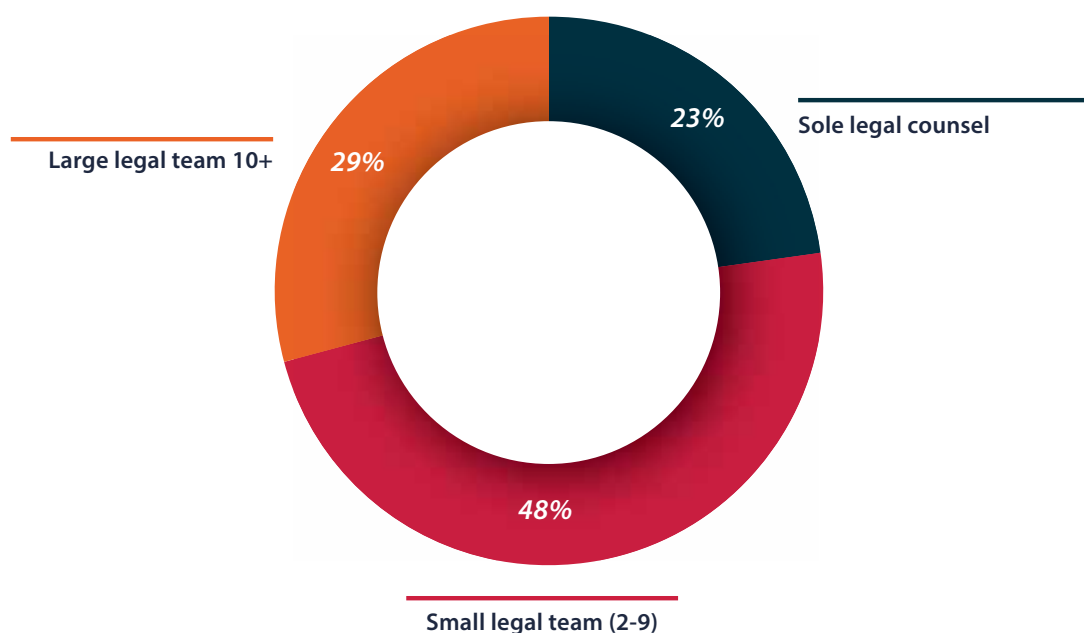
Job Description



Employment Status



Team classification



Forty-one per cent of respondents reported they were the highest-ranking legal officer within their organisation. Of those:

- **Approximately three quarters** sit on the executive leadership team and report into the CEO.

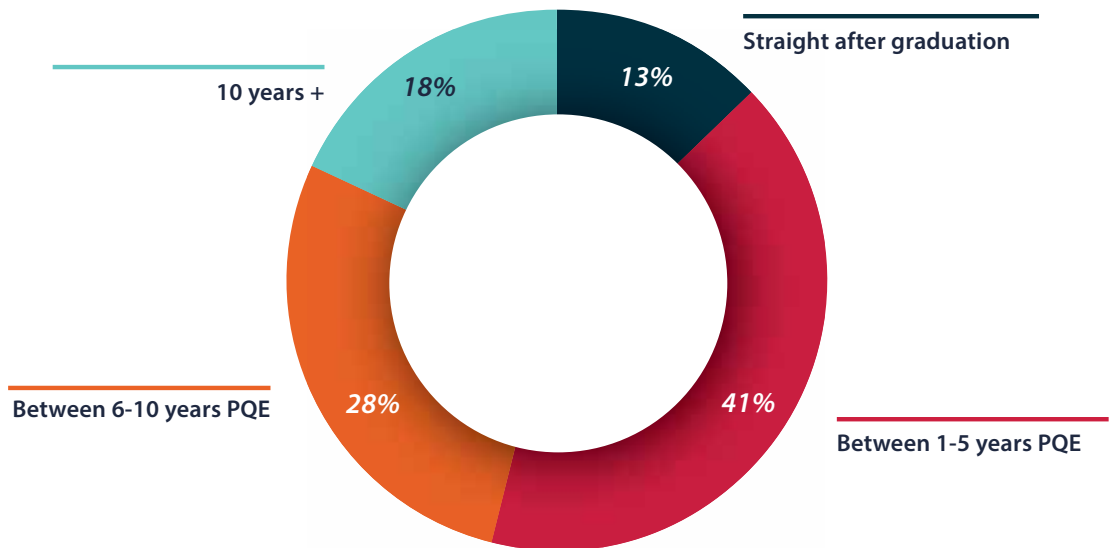
More than two thirds have a direct reporting line to the board. These reporting line statistics were different to the findings in the 2021 Global ACC CLO survey. In this report¹, where Chief Legal Officers from 44 countries were surveyed, one in two CLO's indicated they had a direct reporting line to the board, whereas here in Australia four out of five CLO's share the same reporting line.

Law Firm vs In-house Training

While traditionally the path of an in-house lawyer was to first practice at a law firm, service providers and organisations have developed training programs that enable law students to move directly in-house over the past few years. While most survey respondents practised at a law firm for 1-10 years before moving in-house, 35% believe you no longer need to spend time in a law firm before making a move to in-house. We asked respondents to share their thoughts:

1. ACC Chief Legal Officers Survey 2021.

Number of years PQE before going in-house



Those in favour of spending time in a law firm

"It's important for a lawyer to develop skills and technical expertise, which only tends to come when doing a large number of the same type of matter for different clients."

"Working at a law firm enables lawyers to develop their skills that cannot be learned in an in-house legal team."

"To receive the necessary technical training not available in most in-house environments."

"An in-house environment where the team is required to work independently is not appropriate for new lawyers."

"I have moved between working for a firm and in-house several times. Firm experience gives good grounding in the principles of legal practice and can provide training that is often not available in-house."

"Training, drafting, legal analysis, expert lawyers versus in-house generalists who in my experience don't do as much legal lifting."

"Gives an understanding of professional services and able to better instruct external advisors."

Those who don't support the need to spend time in a law firm

"I think lawyers should have good quality training / skills development before commencing an in-house career. This has traditionally been provided through working for a law firm, but other avenues for training / skills development beyond the traditional law firm path are available."

"If appropriate supervision, development can occur in-house."

"I prefer that someone has worked in-house as a paralegal when graduated over someone who has worked in a firm for 4-5 years. They are totally different environments. I have seen many law firm lawyers struggle with the transition. It takes them at least 2+ years to really find their feet."

"Working in private practice can instil habits that are not conducive to an in-house environment and can be difficult to get rid of."

"A law firm might provide good training, but there is no reason an in-house lawyer can't get equivalent level and quality of training immediately in-house."

"Practice in a law firm is not a good fit for all lawyers, it wasn't for me, however in-house practice suited me perfectly and I am extremely glad and lucky to have found an in-house role early in my career."

"Private practice doesn't appear to provide a great grounding in commercial acumen and the practical nature needed in-house."

THE EXTERNAL ENVIRONMENT

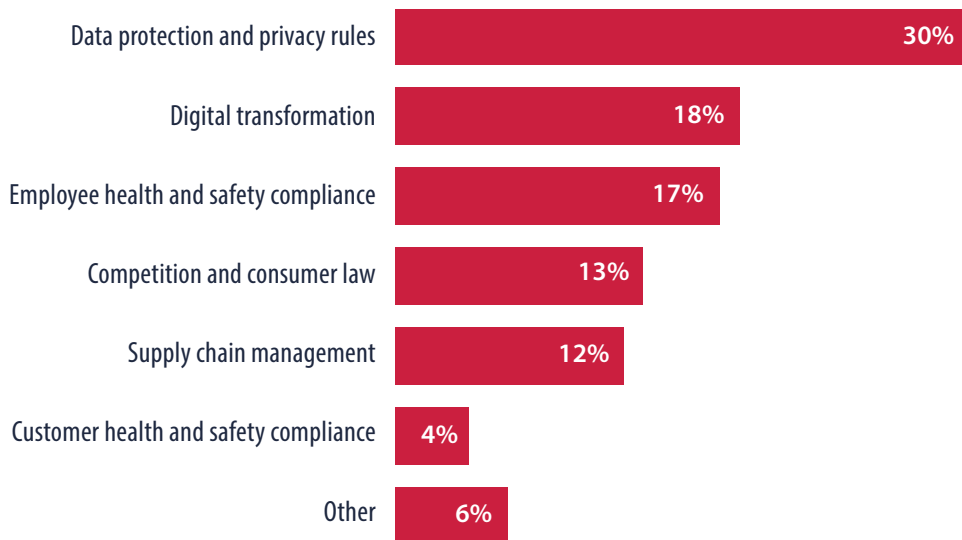
As globalisation, regulatory compliance and risk management continue to have unprecedented levels of impact on how organisations conduct themselves, the role of the in-house legal team has never been more critical and challenging.

Regulatory Challenges

Like previous years, data protection and privacy rules (30%) remain high on the list of challenges facing organisations. In fact, it was found to be a significant challenge for legal departments around the global. Almost one in three Australian respondents shared they experienced this challenge within their organisation and more than one in two global respondents shared the same concern.²

Another challenge which has increased over the past year is employee health and safety compliance (17%). With more than a third of Australia's workforce working remotely last year³, it's not surprising that this challenge has become a predominant theme also.

Challenges facing Australian legal departments



2. ACC Chief Legal Officers Survey 2021.

3. Roy Morgan, Working from Home Report 2020.

THE INTERNAL ENVIRONMENT

Cybersecurity

When the COVID-19 pandemic hit Australian shores in early 2020, developing digital processes for remote working and other business practices were established over days or weeks, much faster than many organisations had previously anticipated. In this survey, it was found that more than two-thirds of organisations (72%) put additional measures in place to ensure data privacy and security.

A survey released by BDO Australia⁴ found data breaches doubled in 2020 compared to 2019. This mirrors our survey, where almost half of the respondents (42%) advised their organisations experienced a cybersecurity breach. This 7% increase from the previous survey shows cybersecurity is not a set-and-forget issue but one that requires constant oversight and risk management.

Positively, the pandemic may have also been seen as a cybersecurity reality check. Of the organisations that experienced a data breach, only 7% of organisations were not prepared to deal with such a breach. Organisations who did not experience a cybersecurity breach are highly confident in being ready to manage a breach (more than nine out of ten).

The following table provides the predominant measures and unique measures worth noting.

Predominant measures (more than 15 respondents)
<ul style="list-style-type: none"> • Additional cybersecurity protections • Two-factor authentication and SSO • Education and awareness training • Full external review of IT • Increased cybersecurity protocols • Updating of policy and processes • Robust privacy and VPN software
Unique measures (less than 5 respondents)
<ul style="list-style-type: none"> • No printing • Additional security for mobile devices • Restriction on use of certain technology for meetings

This shows that cybersecurity preparation remains a high priority, and many organisations have evaluated their risk profile. Each year legal teams must build the capability to ensure their business can respond to such a threat.

4. BDO, How COVID-19 has shaped the cyber security landscape, March 2021.

Direct Briefing

In this increasingly complex and ever-changing legal environment, barristers are often briefed for their expertise in advocacy, the litigation process, as well as their strength in dispute resolution, both judicial (and non-judicial)⁵. With the ability to quickly and economically identify the crucial points of a matter, in-house counsel often seek a barrister's advice directly to manage risk more appropriately and respond to issues.

While there was no real change to the 2019 results, we found that briefing barristers directly remains an opportunity that approximately one third (32%) of respondents have taken up at least once over the past 12 months. Of those, 25% briefed barristers up to five times, while 7% briefed more than six times.

Reasons for directly briefing a barrister have remained relatively consistent over the past four years, with getting representation from a specialist whose business it is to understand how to resolve a concern, and explain available options being the most popular response (30%). Others included to be more cost-effective (20%), to enhance the organisation's decision-making (11%) and time efficiencies (11%).

Reasons for direct briefing

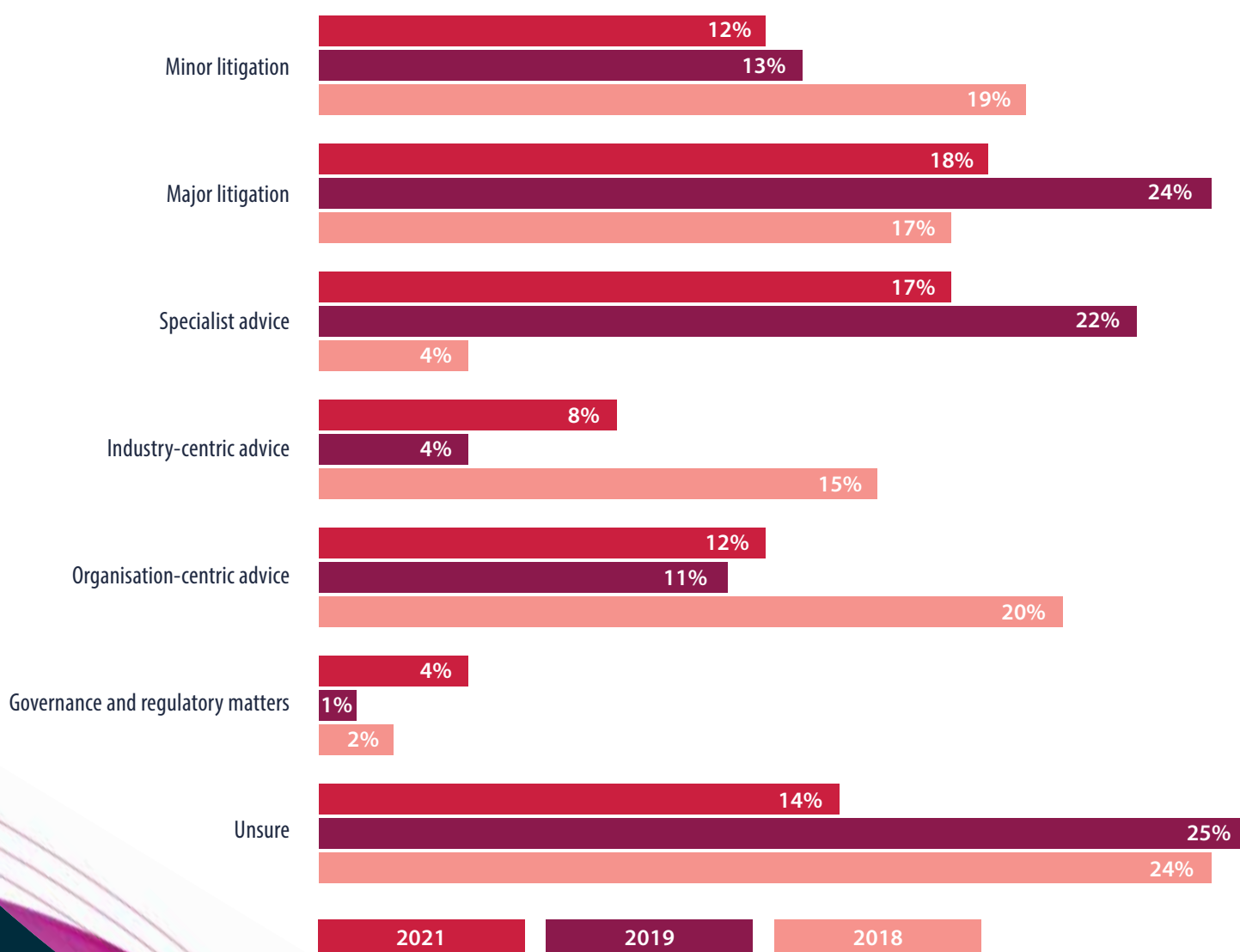


5. Australian Bar Association – What is a Barrister. <https://austbar.asn.au//for-the-community/what-is-a-barrister>.

Barrister expertise was predominantly relied upon for:

- major litigation – supreme and federal court (18%);
- major specialist advice such as taxation, human resources and intellectual property (17%);
- and organisation-centric advice (12%).

Matters brought to barristers



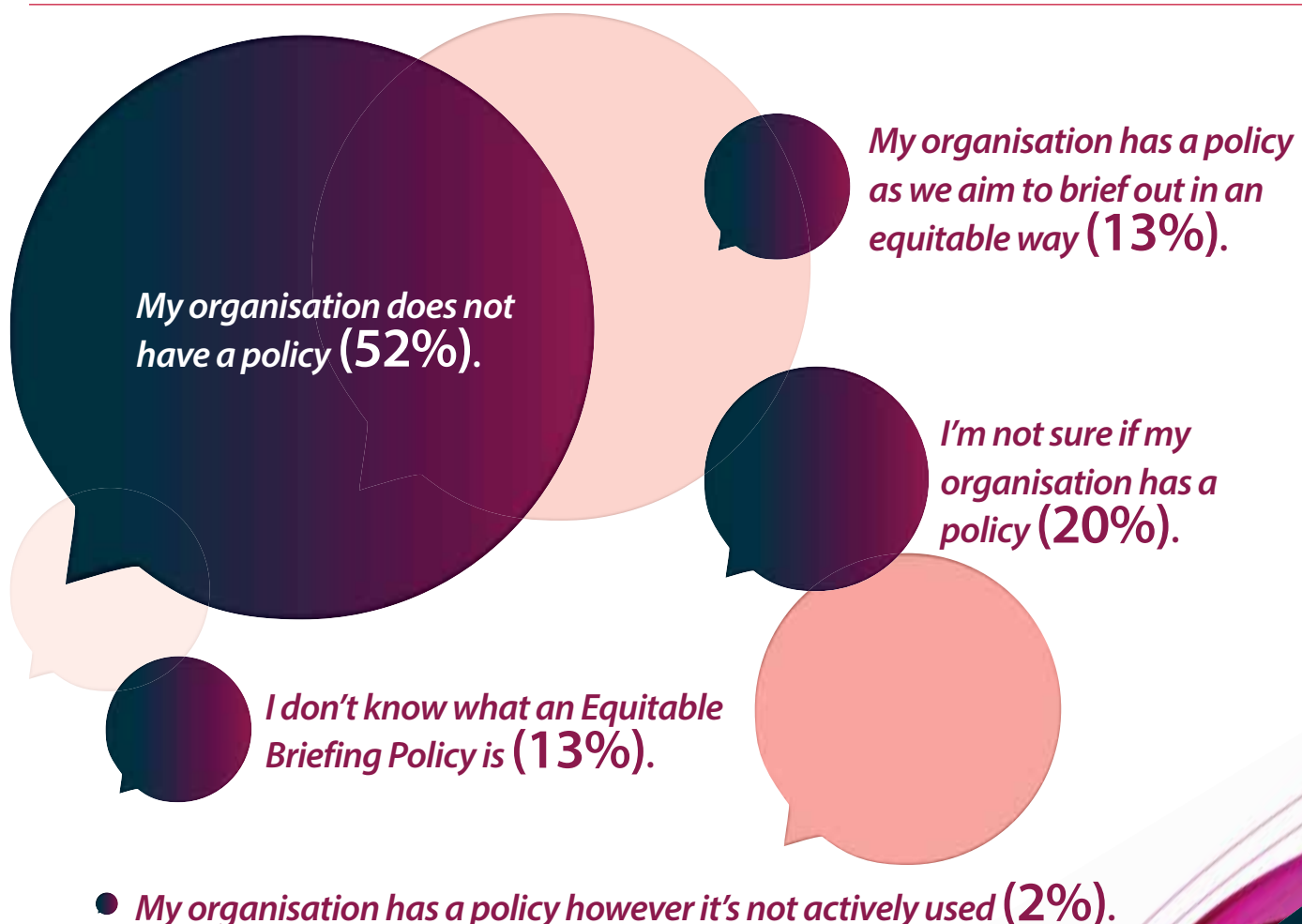
While not a top-ranking matter in the survey results, it is interesting to note that the amount of governance and regulatory matters brought to barristers in just two years has quadrupled. This indicates a tightening regulatory environment and increased global and technological disruption where expert advice is required. A spike in industry-centric advice (8%, compared to 4% in 2019) also supports this theory.

Over the next year, the number of organisations directly briefing barristers looks to decline by around 10%, with one in five (21%) of respondents believing they will brief directly. Of the respondents who believe they will brief, 85% believe they will do this between one to five times in the next 12 months.

Equitable Briefing

In 2016, the Law Council of Australia launched an Equitable Briefing Policy, intended to drive “cultural change within the legal profession, support the progression and retention of women barristers, and address the significant pay gap and underrepresentation of women in the superior courts.”⁶ The Law Council’s Equitable Briefing Policy Annual Report 2018-19 found that women received 27% of all briefs. Interestingly, in the ACC Australia Trends Survey, we found limited knowledge and understanding of this policy; thirteen per cent of respondents said their organisation has an equitable briefing policy and consciously aim to brief out in this way. More than half knew of the Law Council’s policy but were not aware of their organisation’s policy. Awareness of the Equitable Briefing Policy was consistent across the levels of respondent seniority.

Awareness and usage of equitable briefing policies



6. Australia Law Council, A shifting culture towards equal opportunity for women, September 2020.

Virtual Proceedings

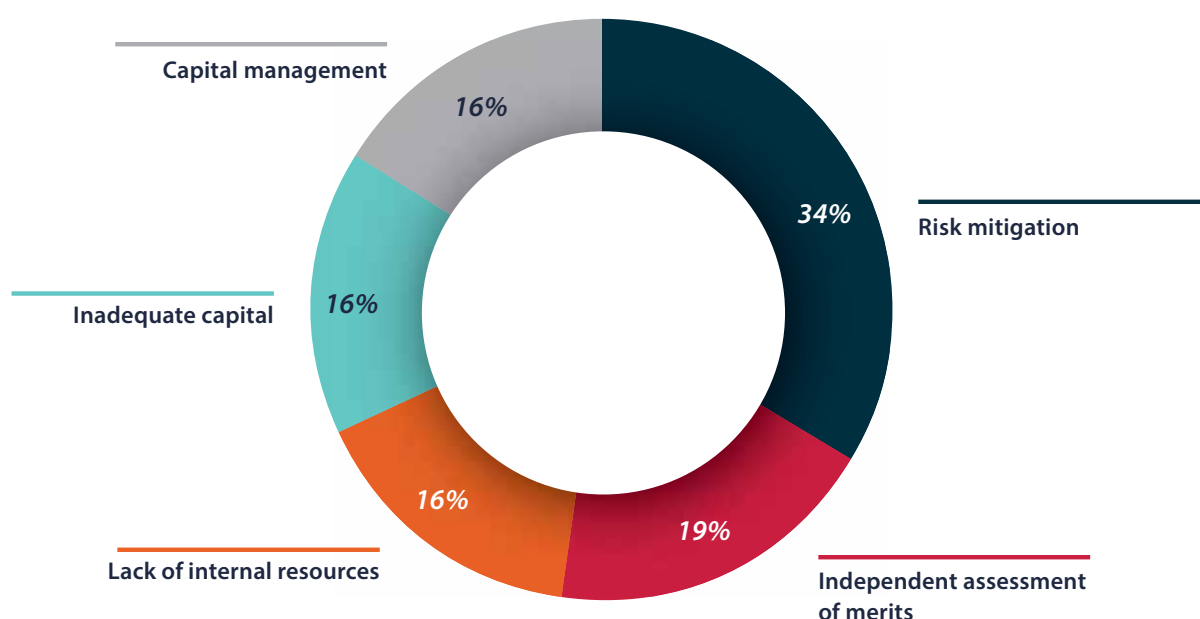
While no data is available on the number of virtual proceedings which have taken place over the past year, the COVID-19 pandemic created substantial impetus for Australian courts to implement a greater number of virtual proceedings, with in-person attendances in courts, inquiries and hearings being substituted with technology.

When respondents were asked if they saw an increase in virtual hearing proceedings likely, almost one in two (41%) believe it will. Of those who predict an increase, one in three (36%) reported that they are likely to use virtual hearings and presentations to present evidence.

Third Party Dispute Finance

A similar trend to the post 2008 global financial crisis, is that the economic impact of the COVID-19 pandemic will lead to an increase in the number of disputes requiring litigation and arbitration proceedings. This year's survey respondents were asked to outline which factors would increase the likelihood of their organisation seeking third party dispute finance. More than one in three (34%) said they have the desire to transfer downside risk to a third-party financier to mitigate risk, while one in five (19%) said they saw benefit in having an independent assessment of the dispute's merits.

Factors increasing likelihood of seeking third party dispute finance





In the past year, of those who have enforced a favourable judgement or arbitral award against an unwilling debtor outside a respondent's jurisdiction:

- **47% said they have never had any difficulty recovering monies owed.**
- **37% said they had financed and managed the recovery themselves, along with a law firm.**
- **15% said they engaged a third-party dispute financier with asset tracing and enforcement expertise.**

To date, it doesn't appear that the recent world events have increased insurance claims by or against respondents' organisations:

- **81% said no new claims had been made by or against their company.**
- **13% said there had been new claims by their company, where the respondent believed it was a result of world events.**
- **12% said there had been new claims against their company.**

MANAGING WORKFLOW

As the need for in-house counsel to be trusted advisors to the broader business increases, so does the complexity of demands placed on legal teams. The function of the legal team is often stretched to manage the increased responsibilities with the same resource structure. The following section of the report looks at the various functions and tools legal teams use to improve efficiencies.

Alignment with Organisational Objectives

In recent years, we have seen an increased focus on the legal function's capacity to add value and influence in the broader business. In some organisations, the legal department has become a business unit with the most extensive organisational reach. In acknowledging how in-house legal teams can add value and be seen to have a crucial role in reaching corporate objectives, respondents were asked to describe the alignment of the legal team's priorities to those of their organisation.

Most survey participants responded positively to their legal team's alignment. The majority (69%) advised their legal priorities were well aligned with organisational priorities and an additional 29% felt their priorities were moderately aligned. Only 2%, believed their team's priorities were set independently of their organisations.

Outsourcing

Choosing Legal Service Providers

Like in previous surveys, we were interested to understand how in-house lawyers choose external service providers. The strongest response by far was driven by the relationship respondents had with the firm / company. Overall responses ranked as follow:



*Note: participants were asked to select up to two responses in this survey question.

Panel Arrangements

Panel arrangements continue to be used to a relative degree, with 51% of respondents' legal departments employing a range of law firms through a panel arrangement. This remains consistent with findings from the previous four years.

Of respondents who do use a panel, 61% believe there will be no change to the make-up and use of their law firm panel over the next 12 months.

- "We have only recently appointed our panel for several years."
- "Setting up the panel was so time-consuming, and now we have it completed and we happy with the panel."

An additional 15% believe there will be change to their organisation's law firm panel.

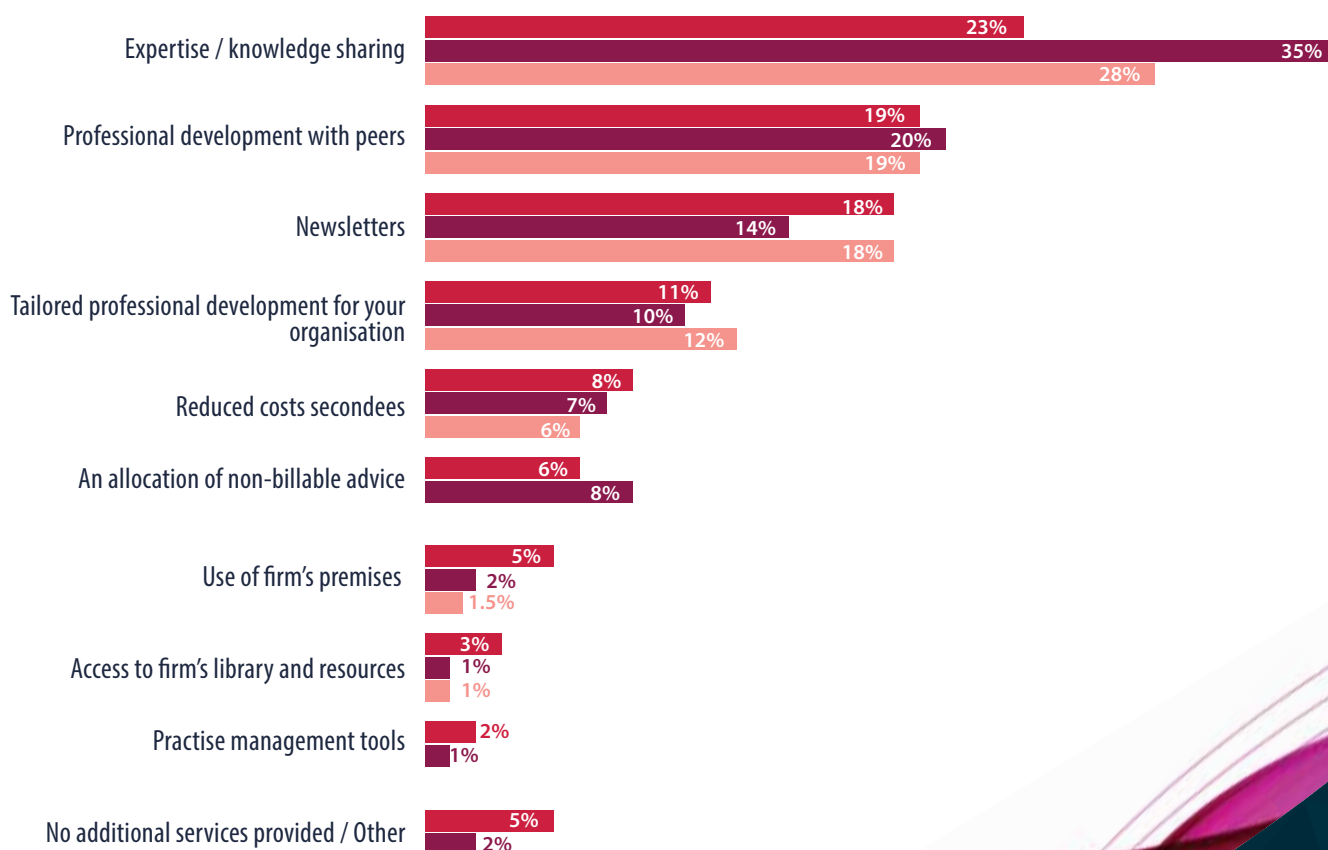
- "Due to the quality and cost of the existing panel."
- "Not happy with the service level of our current panel."
- "Cost measures require it."
- "We review the panel arrangements every year."

Value-add by Legal Service Providers

The market for legal services is highly competitive, and the results below show in-house counsel are looking for diversification in value-add offerings from their legal service providers.

This year, respondents emphasised on a greater spread of the value-add services. Twenty-three percent (a drop of more than twelve per cent from the last survey), saw respondents wanting their legal service provider to knowledge share. Professional development (19%) and newsletters (18%) were also seen as important add-ons.

Legal service provider value-adds



2021

2019

2018

NewLaw Business Models

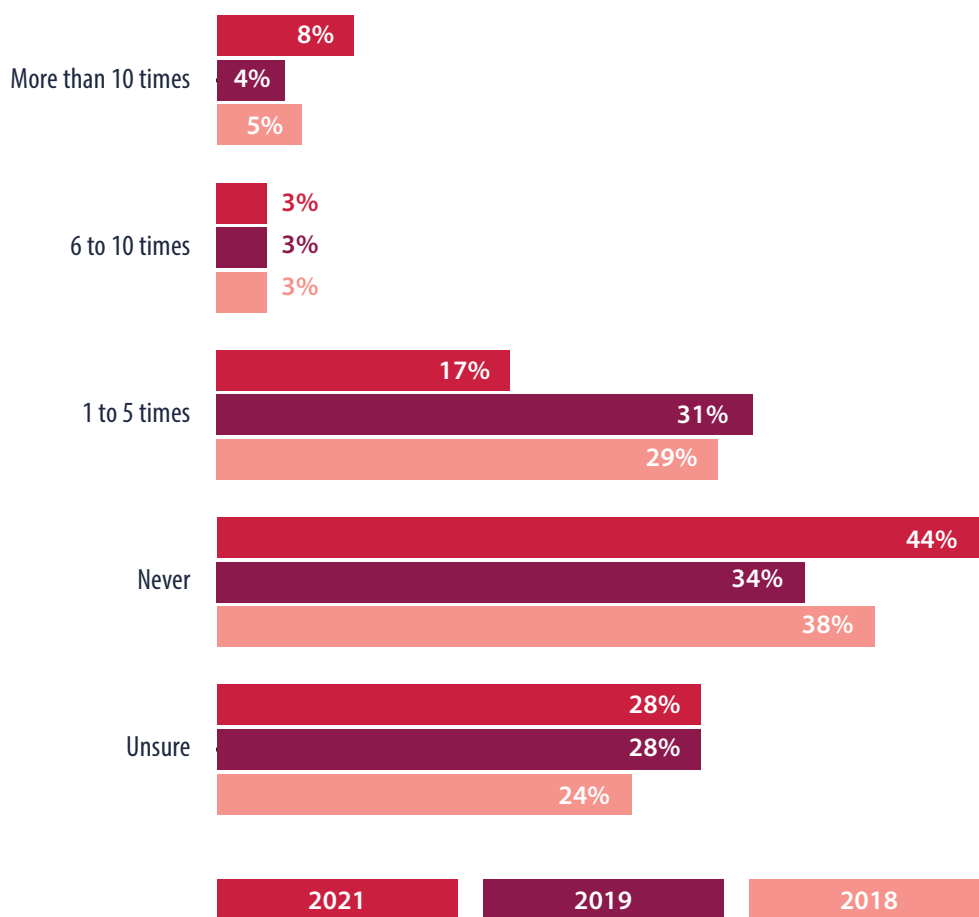
The topic of NewLaw business models was introduced to the Trends Survey in 2016, at a time when ACC Australia recognised more member's organisations were using such models.

In 2021, the most popular models adopted are:

- **Fixed fee firms (14%)**
- **Lawyer replacement agencies (12%)**
- **Legal process outsourcing (3%)**

Respondents were asked to list the two most significant reasons for choosing NewLaw firms. The rationale for selecting NewLaw firms remains consistent over the past few years. In 2021, legal departments appear to be interested in multiple benefits rather than just one or two gains. These include the ability to be responsive at various times, lower cost base, improved value, and greater service choice.

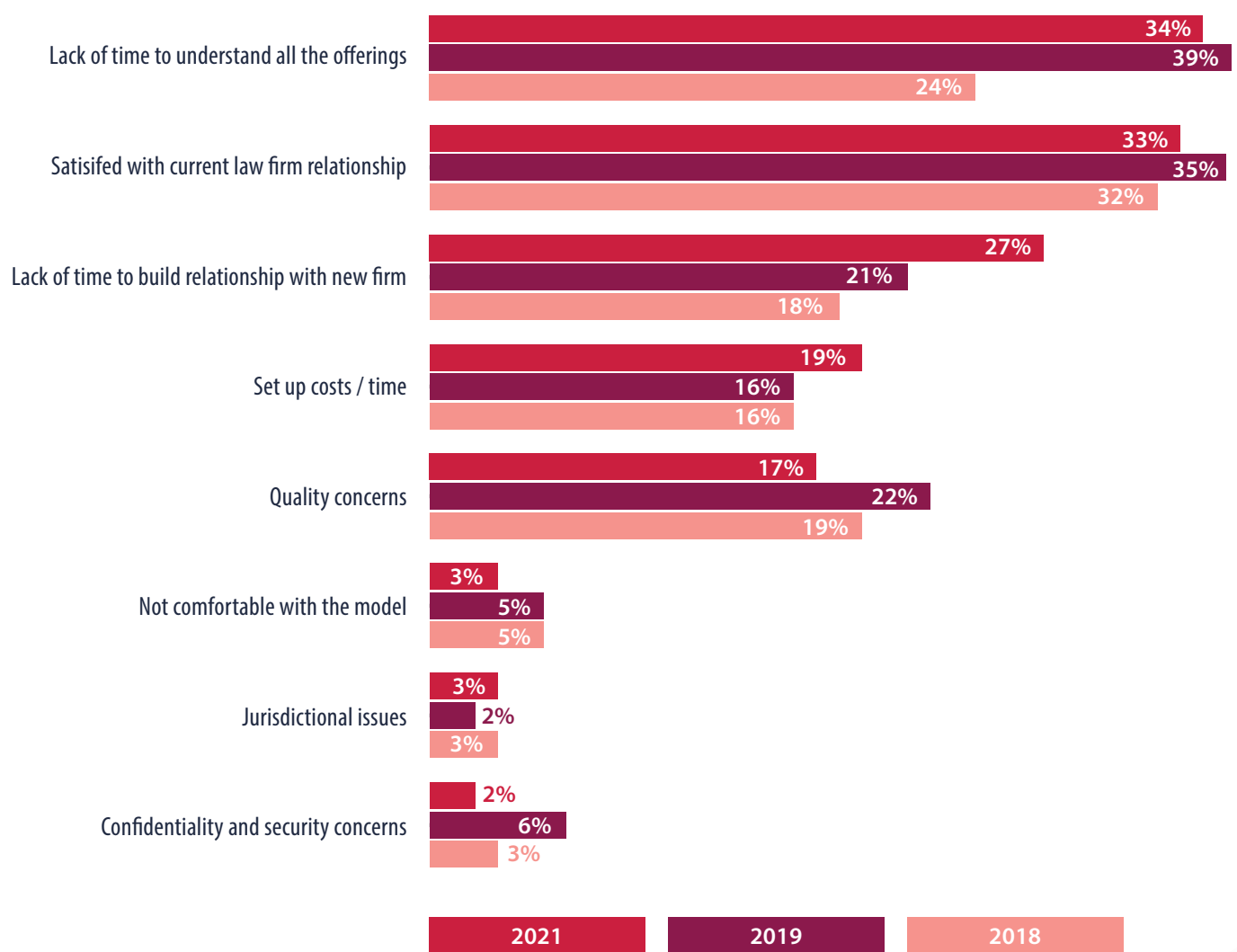
Use of NewLaw models



Compared to the survey results from the last two surveys, it is apparent that fewer legal departments are using NewLaw models (down ten percent from 2019 to 28% in 2021). It's been widely reported that many organisations experienced significant budget cuts and along with more than a third of respondents not understanding the options available with NewLaw models, these models may have been seen as non-essential spending as organisations grappled with the financial impacts of the coronavirus pandemic.

The lower levels of usage of NewLaw was not unique to New Law, but rather indicative of the broader in-house legal job market. During the covid period the in-house legal job market went into a period of hibernation. While there were high levels of employment, there were low levels of job movement/lawyers moving jobs. This was seen across all levels of the in-house job market, permanent, interim and secondment. Since March 2021, we have seen a significant increase in activity and demand for lawyers rising by the week. I expect to see the figures for NewLaw and the broader legal in-house job market, return to/or exceed pre-covid levels.⁷

Barriers to choose NewLaw firms



**Note: participants were asked to select up to two barriers in this survey question.*

7. Interview with Andrew Murdoch, managing Director, Dovetail Legal Solutions.



A recurring theme in this survey is lack of time. This has played a significant role in the NewLaw firm uptake up. Consistent with the last survey results, more than a third (34%) of the respondents indicated they did not have the time to research and understand all the offerings available to their organisation. In addition, another quarter (27%) said they did not have the time to build a relationship with NewLaw firms. A similar level of respondents (33%) are satisfied with their current law firm relationships.

The marked increases in the volume and complexity of work for in-house lawyers means NewLaw firms have a greater need to ensure their offerings are practical and accessible. The magnification of poor or outdated ways of working that existed pre-pandemic provide a great opportunity for NewLaw firms to highlight new ways of working and support organisations through any transition period.

LEGAL TECHNOLOGY

Changes to the Commonly Used Legal Technology

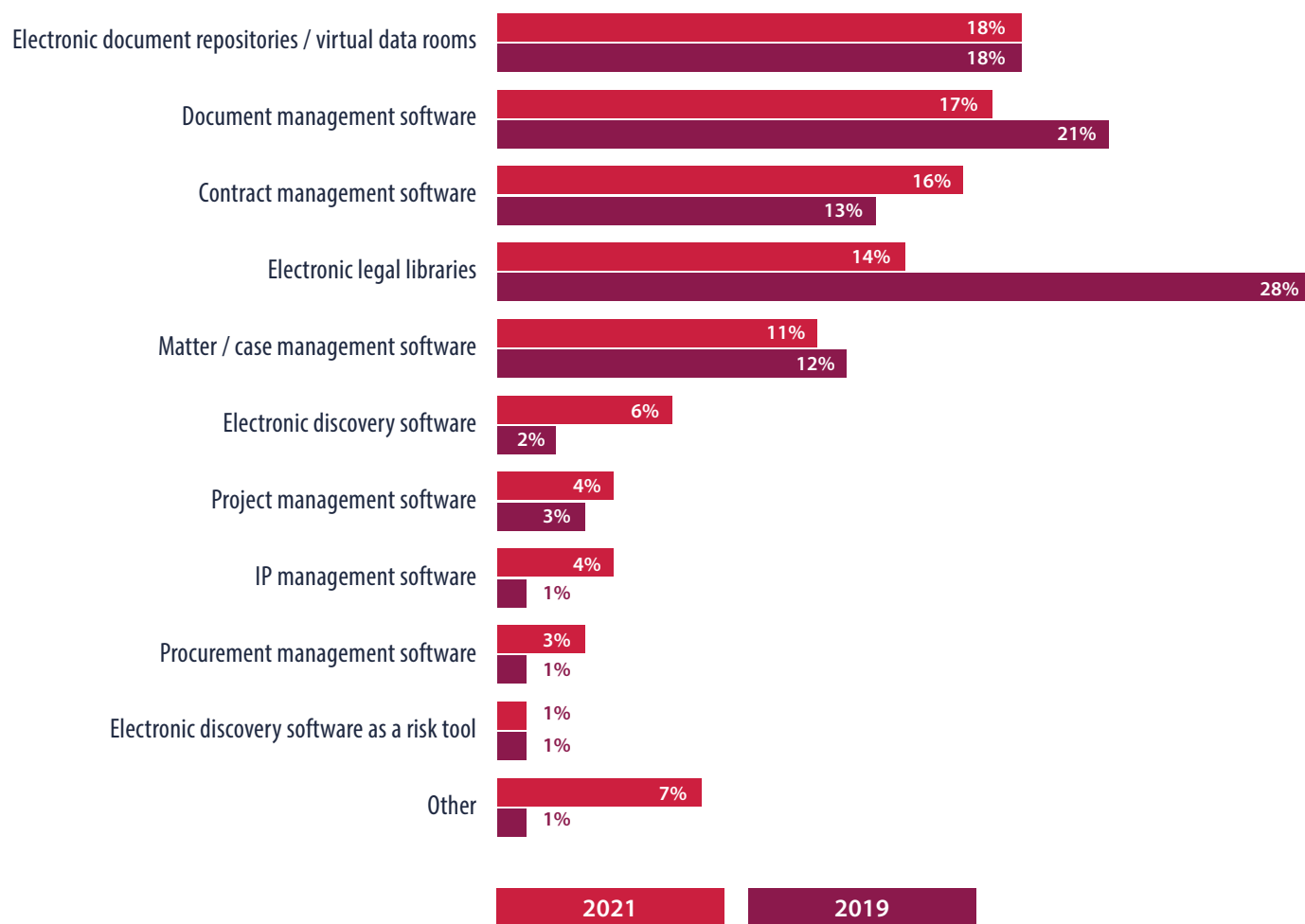
The introduction of technology in both legal departments and law firms has changed the way in-house lawyers perform their role. Many organisations are now harnessing the available technology to empower their legal team so greater focus can be placed on high-value tasks.

The most common type of technology used by survey participants were:

- **Electronic document repositories / virtual data rooms (18%)**
- **Document management software (17%)**
- **Contract management software (16%).**
- **Matter / case management software (11%)**

Of interest, there has been a considerable change in the number of organisations using various technologies. While almost one in three (28%) respondents used electronic legal libraries in 2019, there were only one in six (14%) using this year. Other technologies such as electronic discovery, project management, IP management and procurement management software have all increased. This indicates that legal teams are using broader types of legal technology to improve efficiencies and keep up with the increasing demands on their time.

Common types of technology used



Of the 7% who advised of 'other' technology, these included:

- Online external counsel billing management system
- Trello
- In-house specific management software
- Online support from firms
- Access to precedent documents online
- Contract signing software

Introduction of new legal technology

Respondents were asked if their team had introduced new legal software tools in the past 12 months. Twenty-nine percent of respondents reported there had been new tools introduced, which is slightly down from results in 2019 and 2018 (33%). The main types of legal software introduced included:

- **Matter management solutions (24%)**
- **Contract management solutions (15%)**
- **Document automation systems (15%)**
- **Electronic Signing (13%)**

The ACC Australia Trends Survey did not ask respondents for which legal technology solution they intended to adopt over the next 12 months, however in the ACC CLO Survey, 41% of respondents said they were putting plans in place to adopt new technology in the next 12 months. Three of their top four reasons were consistent with the reasons legal technology has previously been adopted here in Australia: contract management, document management and electronic signing.⁸

Budget for Legal Technology

The main barriers for not bringing in new legal software remain consistent over the past four years:

- **Cost / budget restraints (35%)**
- **Too time consuming (17%)**
- **Lack of knowledge about legal technology products (14%)**

More than a third (36%) of respondents advised their legal team had no allocated budget for legal technology software. An additional 22% allocated between one and ten percent of their total legal budget.

Interestingly, whilst 92% of respondents felt their organisation was prepared for a cybersecurity incident (see page 12 for further details), 12% also advised their organisation's concern about increased cyber risk was a barrier to introducing new legal software tools.

Legal Operations and Processing

In-house legal teams are using legal operations to improve efficiencies in business activities and processes, with almost one in five respondents (18%) reporting at least one staff member in the team dedicated solely to the legal operations of the function.⁹ Over the next 12 months, it is expected that an additional 9% of organisations will introduce a dedicated legal operations role.

8. 2021 ACC CLO Survey.

9. Examples of legal operations provided in the 2021 Trends Survey included managing finance, IT systems, project management, outside counsel management, administration and human resources.

Legal Process Outsourcing

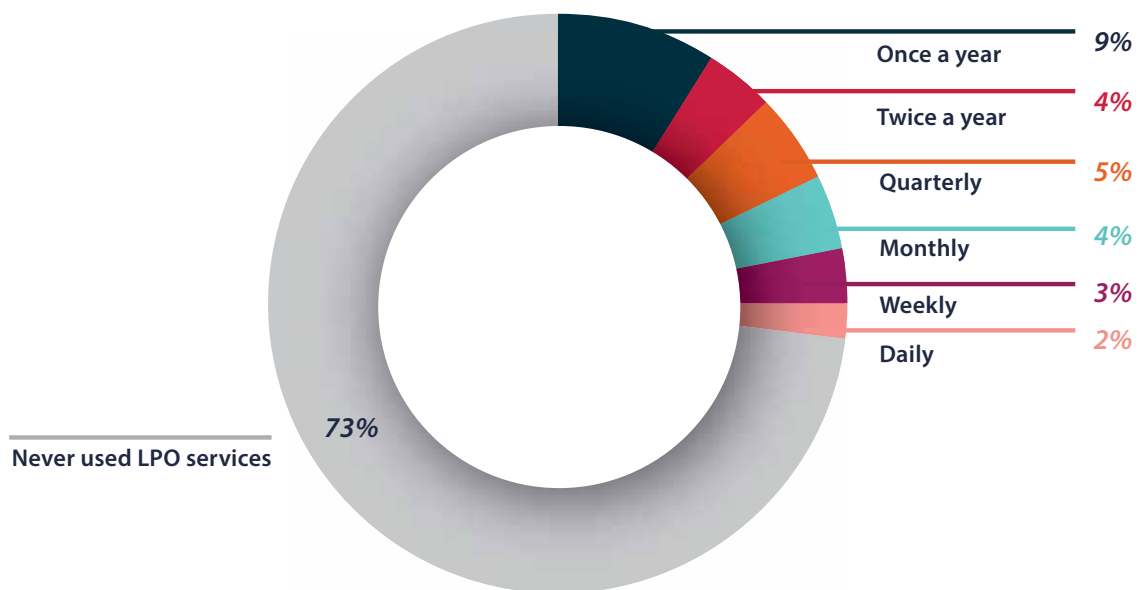
The need for alternative legal service solutions continues to grow, but there are still hurdles to the widespread adoption of legal process outsourcing (LPO) services. Consistent with the previous two Trends Survey findings, the majority (73%) of respondents have not utilised LPO services.

One of these hurdles is the perceived associated risk. Thomas Kaldor, Head of Product, at LegalVision, believes there can be a longer lead time when onboarding an LPO to support the legal function and some organisations feel they don't have this time. *"We've heard from businesses that have had success using LPOs, but invariably that success flowed from a consistent investment from the business in training the outsourced team for a sustained period of time. Some businesses may feel they don't have the time or resources to invest in this process."*

Of those who utilise LPO services, there was a large spread across the frequency of use; from daily through to once a year (the highest rating was 9% once a year).

Reasons provided for adopting LPO services were evenly split between resource limitations (21%), cost efficiencies (19%) and time efficiencies (17%). Three percent of respondents confirmed their organisations always applied technology-assisted review (TAR) in their matters, and another 28% confirmed they sometimes do, depending upon the individual case.

LPO services, frequency of use



There remains a large portion of the survey sample whose organisations either don't have a budget allocation for legal technology software (36%) or the participant didn't know if there is an allocation (35%).

Despite there being budget pressures, legal departments recognise the need to update and review their processes to ensure they stay at the top of their game. Over the next 12 months, 50% stated their legal department would be looking to implement some process change or a new workflow technology.

WORK-LIFE BALANCE

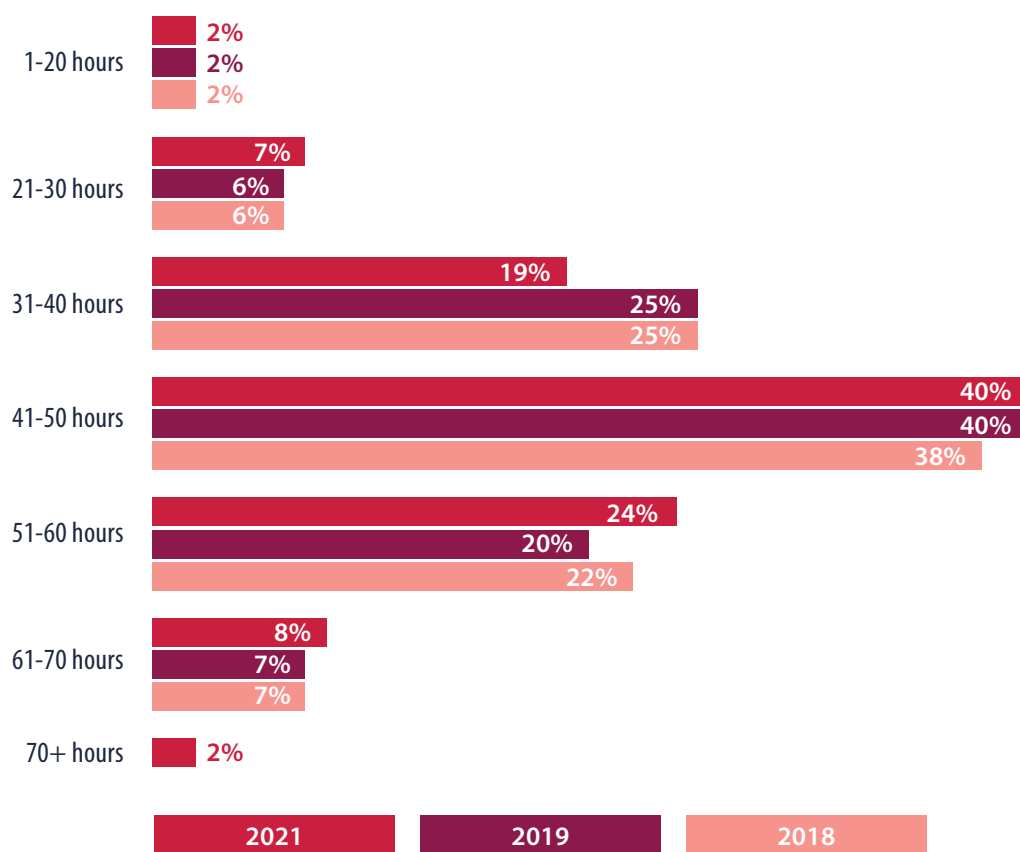
The legal profession is notoriously known for long hours, and a demanding workload. Work-life balance continues to be problematic for both individuals and organisations, with the impact of this on mental health has been widely discussed. In the past four years, ACC Australia has included survey questions on work-life balance and this year we asked new questions relating to how respondents felt the pandemic affected this on-going concern.

Typical Hours

Despite the economic slowdown across many sectors, in-house counsel are working longer hours each week. The concept of the standard eight-hour day appears to be disappearing for many Australian in-house counsels.

Three-quarters of the sample reported spending more than 40-hours per week at work; 40% reported working more than 40 hours each week; 25% reported they worked more than 50 hours per week; 5% of respondents more than 60-hours per week, and 2% reported working more than 70 hours each week.

Average Weekly Hours

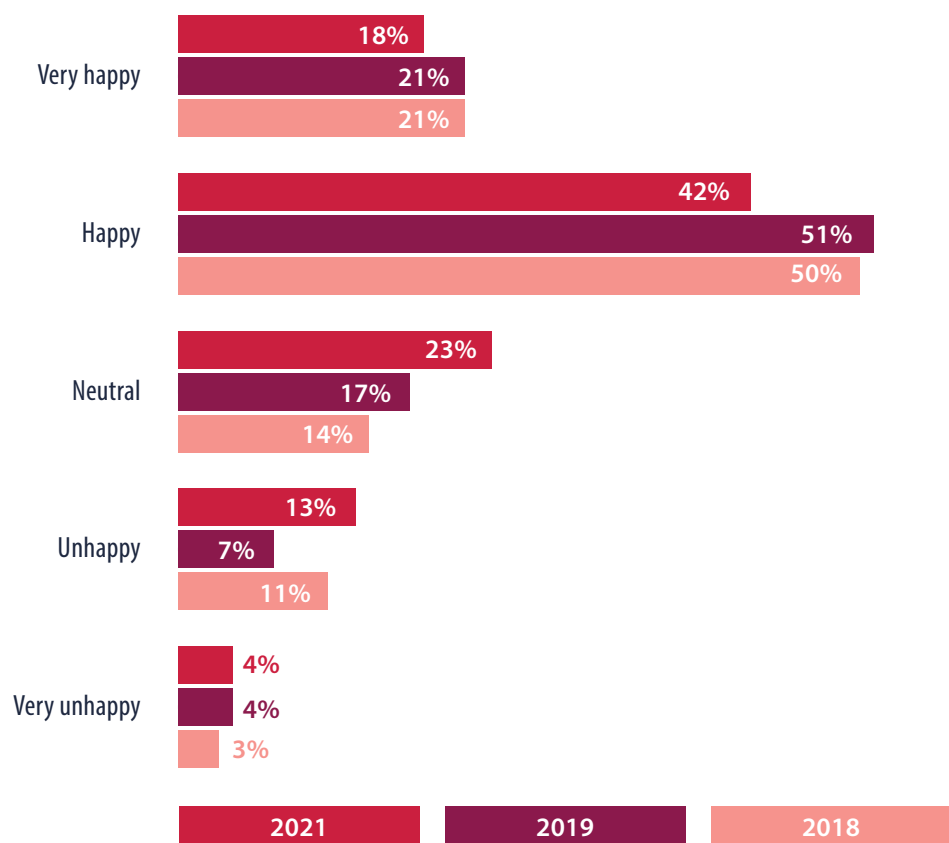


While the number of respondents who work under 30 hours per week has remained consistent over the past four years, six percent of those who previously worked between 31-40 hours have now moved to work more hours than the standard full-time workload. Of interest, while 78% of respondents who work part-time complete between 21-40 hours per week, there is another 16% who work more than 41 hours.

Despite significant attention about the importance of life balance in the media, we see a seven percent increase in those working more than 51 hours a week. While a large proportion of respondents (72%) believed this increase in workload was a direct result of COVID-19 related fallout, the numbers are concerning given the ongoing impact of the pandemic. Working long hours on complex matters is not a sustainable practice, leading to burnout and poor health.

Survey results also showed that workload increased over the past year, with 72% of respondents believing it was a direct result of COVID-19 related issues. Less than 10% of legal teams increased their headcount during this time, with another 10% required to reduce legal headcount. Seven percent of respondents also experienced a restructure of their legal team.

Work-life Satisfaction



Correlating with the general increase of hours worked in 2020-2021 there has been a 12% drop in in-house counsel who answered they are either very happy or happy with work-life balance and a 6% increase in the number of in-house counsel that are unhappy with their work-life balance.

When looking at work-life satisfaction through the various levels of respondent seniority, we find:

- **One in two Chief Legal Officers are happy with the balance their work provides (54%)**
- **Two in three senior legal counsel satisfied (66%)**
- **One in two junior lawyers are happy (55%)**

Interestingly, survey results reveal that in-house counsel who work part-time (35%) are only half as happy as those who work full time (59%). With Australian's working more hours than many other developed countries¹⁰ work-life balance appears to be becoming increasingly difficult to achieve.

	CLO	Senior Lawyer	Junior Lawyer	Casual / Secondee
Very happy	10%	23%	20%	40%
Happy	44%	43%	35%	30%
Neutral	25%	19%	35%	10%
Unhappy	16%	13%	5%	10%
Very Unhappy	4%	2%	5%	10%

Workplace Policies

Many previously established workplace policies were not purpose-built to weather a pandemic. During 2020, more than sixty-five percent of respondents worked remotely for more than 25 weeks. During this time, many organisations (75%) offered new or updated work-life balance initiatives to support their employees.

Some initiatives included:

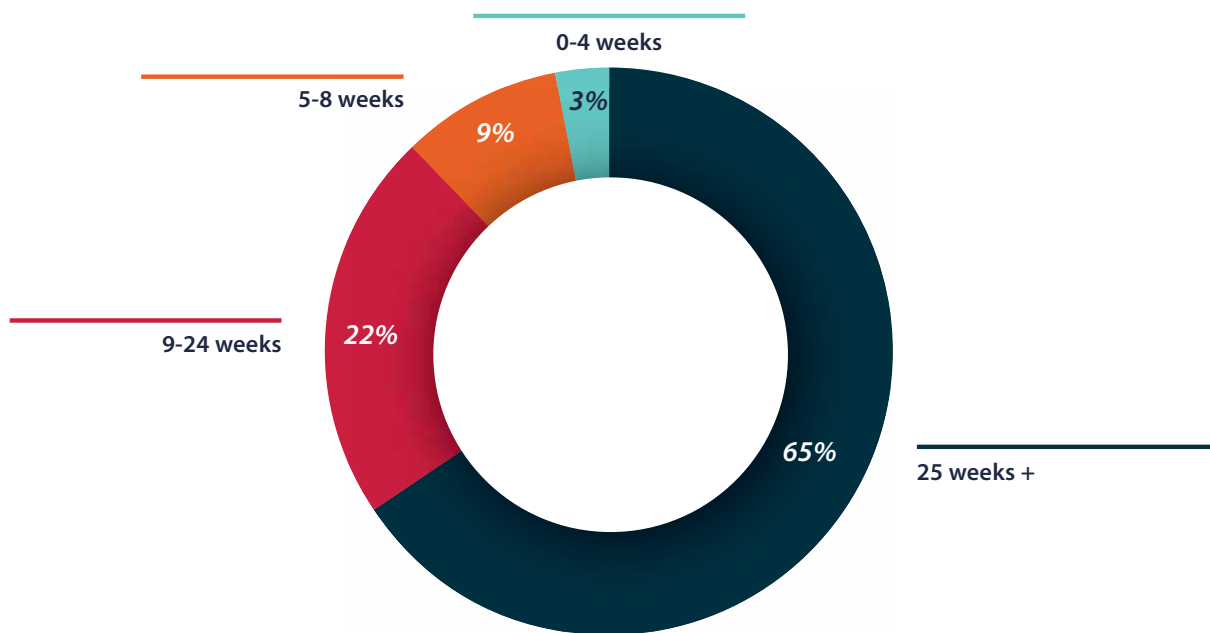
- **Online fitness and wellness programs (33%)**
- **Additional leave days (19%)**
- **Supportive childcare arrangements (15%)**
- **Reduced hours (6%)**

Pleasingly, with an increased focus on health and wellness in Australia, the survey saw 50% of organisations conducting regular wellness check-ins with their staff.

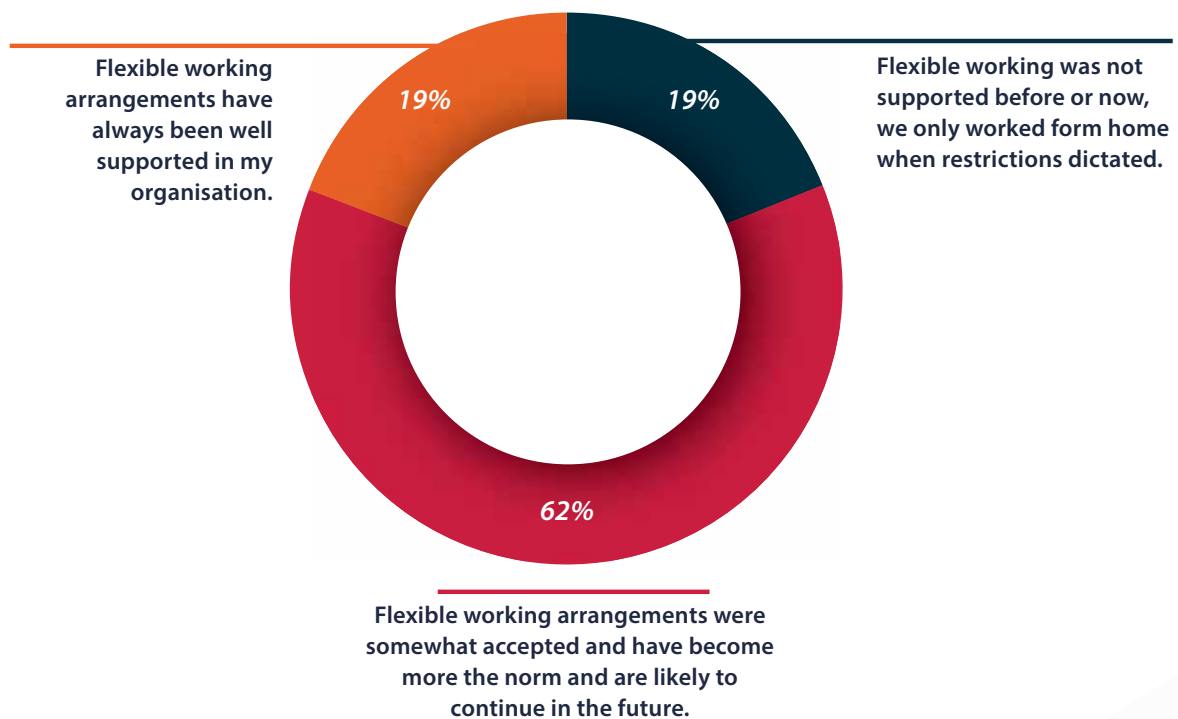
Other initiatives respondents reported were financial allowances for working from home expenses, paid psychologist sessions, gift hampers, online social gatherings and unlimited personal leave as required.

10. Health Direct, What is Work-Life Balance.

Weeks working remotely in 2020



Organisation's attitude toward flexible working



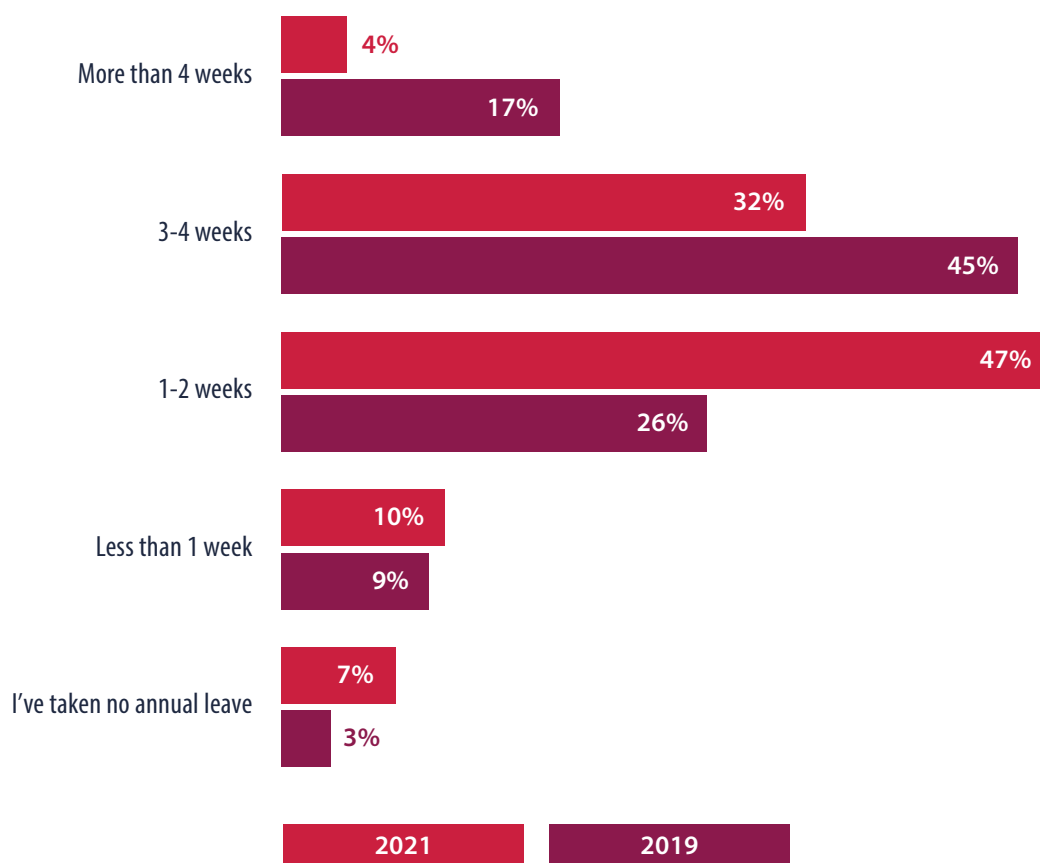
Beyond legal requirements under the Australian National Employment Standards (NES), three out of four organisations (81%) will continue with flexible working arrangements in the future. Many organisations understand that embracing flexibility and work-life balance initiatives are not just a 'nice to have' but a strategic imperative that improves engagement, retention, productivity, and may unlock employee potential. For the nineteen percent of organisations who don't support flexible working, there may be a need to retrain managers to manage a remote workforce and create a larger cultural shift toward flexibility.¹¹

Personal and Annual Leave

Australia has some of the most generous leave provisions globally. The standard employment contract provides employees with four weeks annual leave and ten days personal leave (sick and carers leave).

In this survey, we were curious to test the hypothesis that world events in 2020 meant little uptake on personal leave. When comparing this year's responses to that of the 2019 survey, there has been a significant drop in the number of days taken as personal / annual leave. While in 2019, almost two thirds (62%) of in-house lawyers took more than three weeks annual leave, in 2021 this dropped to just a third (36%). The number of respondents who took no leave in the past 12 months more than doubled from the previous survey, with seven percent taking no leave at all.

Leave taken



11. HRI, Flexibility in the workplace.

With many recent studies¹² revealing the health benefits of taking annual leave, including reduced stress and anxiety and an improved mood, Australian organisations need to develop workplace structures that allow in-house counsel to take their annual leave, have adequate rest from their job and recharge.

Job Security

The COVID-19 pandemic has affected employment globally. Here in Australia, we wanted to test the hypothesis that in-house counsel feel less secure in their jobs due to the pandemic. The survey found that factors such as level of seniority influenced people's sense of job security:

- **More than one in two (53%) Chief Legal Officers, General Counsel / Head of Legal and Senior Counsel were highly confident that their job was secure.**
- **Only one in three (32%) junior in-house lawyers held the same level of confidence.**
- **For those who classified themselves as secondees and contractors, only one in four (27%) felt high job security.**

Confidence in job security	CLO	Senior Lawyer	Junior Lawyer	Other
High	53%	47%	32%	27%
Medium	37%	46%	63%	64%
Low	10%	7%	5%	9%

Searching for New Employment

Level of seniority also played a role in how in-house counsel feel about searching for new employment over the next six months. Chief Legal Officers / General Counsel / Head of Legal were the roles where fewer respondents (20%) said they were interested in moving jobs, compared to senior positions (32%) and junior in-house lawyers (30%). Interestingly, 55% of those working as contractors or secondees said they are interested in shifting roles.

Shifting Jobs	CLO	Senior Lawyer	Junior Lawyer	Other
Yes	20%	32%	30%	55%
Unsure	26%	23%	15%	-
No	54%	44%	55%	45%

12. 2XM Technology, Not Taking Annual Leave Could be Hurting Your Health and Your Career.

Legal Recruitment

In 2020, the underemployment rate in Australia hit a historic high of 13.8 percent, with 1.8 million people working reduced or no hours.¹³ Our in-house legal teams also saw a change in the level of recruitment within their own organisations. One in four respondents (27%) had a complete freeze hire on legal resources as a direct response to the pandemic, while another seven percent saw the decrease in hiring both permanent and contracted lawyers.

Looking towards the future, even with the global economic uncertainty, the Australian employment market shows strong signs of recovery.¹⁴ Australian legal teams' hiring outlook is positive, with 26% believing they will hire additional in-house counsel in 2021. Opportunities are returning, and the ability to retain top talent will be critical as the year goes on. The survey suggests that readily available flexible working arrangements will be key to retaining staff.

Pro-bono Work

Nineteen percent of respondents reported participating in pro bono work; this is a decline of 14% from 2019. Of those who did participate in pro bono, 14% were involved in altruistic activities through their own channels. Just 5% performed pro bono work through internal work programs, even though 18% reported their organisation encouraged their legal team to engage in pro-bono work.

Most organisation-supported pro bono opportunities are accessed as part of a broader organisational volunteer program, and not generally one where in-house lawyers use their technical skills:

"If lawyers are interested, they are encouraged to take up opportunities with external committees."

"I get time off during work hours to volunteer."

"Staff contribute time to support local community-based organisations."

"Our leaders do it and encourage staff to do the same."

"We have an organised program, and have leave provided."

"Opportunities are publicised for volunteers to pick up."

Thirty-six per cent of respondents who were not involved in pro bono work referred to being interested in altruistic participation. For a fourth year in a row, time constraints (75%) were noted as the most significant hurdle to undertaking pro bono service, followed by lack of opportunity (21%). Lack of skill/knowledge required (11%) also saw respondents not further investigating opportunities to contribute through pro-bono work.

13. Australian Bureau of Statistics, One Year of COVID, March 2021.

14. Taylor Root, Australian In-house Salary Guide and Market Report 2020-2021.



FUTURE DIRECTION

As the world moves into a post-pandemic era where unpredictability will remain for some years, and so the in-house counsel role will continue to grow in value and influence.

The pandemic has reinforced that the in-house function extends beyond traditional legal guidance, with legal teams now crucial business advisors with an influential and strategic role in proactive organisational risk management.

Workloads are increasing and budgets are reducing; however, regardless of the increasing array of outsourcing and technology solutions to assist with legal department management and process optimisation, time constraints appear to be a reoccurring theme throughout the survey and the lack of available time to research these options by legal teams remains prevalent.

Within the digital age, the threat of data and security breaches is significant and the need for in-house lawyers to stay abreast of ever-changing data protection and privacy laws is increasing. This is coupled with an acute recognition of the need to stay ahead

of developments (and threats) in technical, digital, and disruptive developments as the pace of change, artificial intelligence, and automation continues to increase each year.

The pandemic is not only a health crisis but has also led to a large shift in workplace expectations. These shifts include flexibility in where to work, when to work and organisation-led work-life balance initiatives. In-house leaders are encouraged to support their teams to utilise these workplace initiatives and holiday entitlements to ensure life-balance is adequate to sustain the required highly effective in-house teams.

As ACC Australia looks toward a post-pandemic world, in-house counsel's inextricable influence over organisations' operations is set to accelerate. Legal leaders must continue to keep up with the rapid changes to the legal environment while using legal technology and outsourcing to drive efficiencies and meet ever-growing and increasingly complex demands on the in-house legal function.



Your feedback on this report is welcome.

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