

technology but this is unsurprising considering the slow nature of major changes in the profession. It is expected however, that the next few years will see more and more barristers taking up the opportunities that an online presence provides, particularly where the New South Wales Bar Association is beginning to utilise this medium.

## Electronic briefs – briefing by email

By Kylie Day and Caroline Dobraszczyk

It is increasingly common for solicitors to brief barristers by email, without providing documents in hard copy. That has its advantages and disadvantages. On the positive side, barristers can obtain instructions and relevant materials more quickly, often enabling whatever is sought (whether it be advice, advocacy or other work), to be provided quickly in response. This is particularly useful in urgent matters. Providing briefs by email also allows us to read the material wherever we are, so long as we have access to the internet (on an iPad, iPhone, laptop, home computer or the like). The use of clouds for the storage and sharing of electronic documents is a more recent development. It has the potential to house briefs, or parts of them, electronically (and independently of email) so that they can be accessed wherever we have access to the internet. We have dealt with clouds in more detail in a separate article in this edition of *Bar News*. If barristers are accommodating about the receipt of briefs electronically, that should make the lives of our solicitors easier, and hopefully that will result in further briefs for barristers. Importantly, the use of electronic briefs should also help to keep expenses down for the client, given that solicitors would otherwise charge for printing and delivering the brief to chambers.

However, there are disadvantages and risks associated with electronic briefs. They are less likely to come with helpful and considered observations, and most of us will eventually need some hard copy documents for work in chambers or in court. One of the downsides of the trend towards providing material to us electronically is that we can find

### Endnotes

1. NSW Law Reform Commission Report, Report 33 (1982), *Third Report on the Legal Profession: Advertising and Specialisation*.

ourselves preparing more of the hard copy material ourselves, in circumstances where we often have less administrative support than solicitors. Barristers often just absorb this cost and inconvenience. However, disadvantages arise when the volume of material, or its timing, makes that an unreasonable burden. Often it is possible to request a hard copy or other assistance from the solicitor, but that is not always practicable. The instantaneous nature of email can also lead to unreasonable expectations as to how quickly a barrister is able to attend to the matter. And sometimes the piecemeal nature in which briefs are provided by email can lead to a lack of clarity about the precise content of the barrister's brief and his or her instructions. There can also be an unreasonable assumption that a barrister will be able to read everything that is sent by email or stored electronically. Sometimes, that is simply not possible. Similarly, sending an email (or copying a barrister in on an email) can seem to imply that there is some ongoing involvement or oversight by the barrister, when this may not be the case. In other words, the practice of providing briefs electronically does have some particular risks for barristers. Those are best managed by clear communication in response, regarding what you understand your instructions to be, the material which you have been asked to consider, what you have and haven't been able to read for the purpose of your work, and so forth.

Technology has changed, and will continue to change, the way in which we receive briefs and undertake the work required by them. Like most things, that is likely to bring us both risks and opportunities. The trick will be always to identify them.