

31 May 2024

I Brown  
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Tēnā koe I Brown

### ***Request for information***

Thank you for your Official Information Act 1982 (OIA) request of 5 May 2024. You made the following request:

*Recently the NZ Police Prosecution Service conducted a survey of defence counsel's opinions in relation to the disclosure practices of the New Zealand Police. I would be grateful if you would provide me as follows:*

- 1. A copy of all responses to the survey. Identifying material may be removed.*
- 2. A copy of all reports, analyses, discussion papers, responses, minutes from meetings, or any other written documentation arising from the survey.*
- 3. A copy of all emails or letters discussing or addressing the survey results.*
- 4. A copy of any proposals arising from analysis of the survey results.*

Police's response to each part of your request is set out below.

- 1. A copy of all responses to the survey. Identifying material may be removed.*

By way of background, Police recently surveyed a sample of Defence Counsel on their experiences when dealing with Police on prosecution cases, which included questions in specific relation to disclosure.

The results of this survey are intended to be used by Police to help shape improvements.

When the survey was issued, Police advised potential respondents that all responses would be anonymous and aggregated with other responses. Police also advised that reporting would be used for Police internal purposes only.

Police believes that the online publication of all responses to the survey is likely to impinge on the privacy of the people who responded to the survey.

For this reason, the request for a copy of all responses to the survey is refused under section 9(2)(ba)(i) of the OIA to protect privacy of respondents.

However, under section 16(e), we attach the responses in an aggregated format, which provides a summary of the results and removes any data that could identify individuals.

- 2. A copy of all reports, analyses, discussion papers, responses, minutes from meetings, or any other written documentation arising from the survey.*

The table below outlines the documents that are considered to be within the scope of your request, and Police's decision on their release.

#	Date	Document type	Title	Decisions on release
1	15/04/2024	Powerpoint	VoC for Defence Council PUP	Document withheld under section 9(2)(g)(i) of the OIA to protect free and frank expression of opinions
2	01/05/2024	Word	Defence Counsel analysis notes	Document withheld under section 9(2)(g)(i) of the OIA to protect free and frank expression of opinions
3	07/05/2024	Powerpoint	Defence Counsel VOC results presentation CBPCC	Released subject to identifying material withheld under s9(2)(ba)(i)

Police considers the interests requiring protection by withholding the information are not outweighed by any public interest in release of the information.

3. *A copy of all emails or letters discussing or addressing the survey results.*
4. *A copy of any proposals arising from analysis of the survey results*

Police is refusing these parts of your request under section 18(e) of the OIA, as the information requested does not exist.

You have the right to seek an investigation and review by the Ombudsman of these decisions. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Nāku noa, nā



**Rachael Bambery**  
Executive Director, Service and Resolutions  
New Zealand Police

# *Voice of the Customer*

## *Defence Counsel survey findings summary*

7 May 2024



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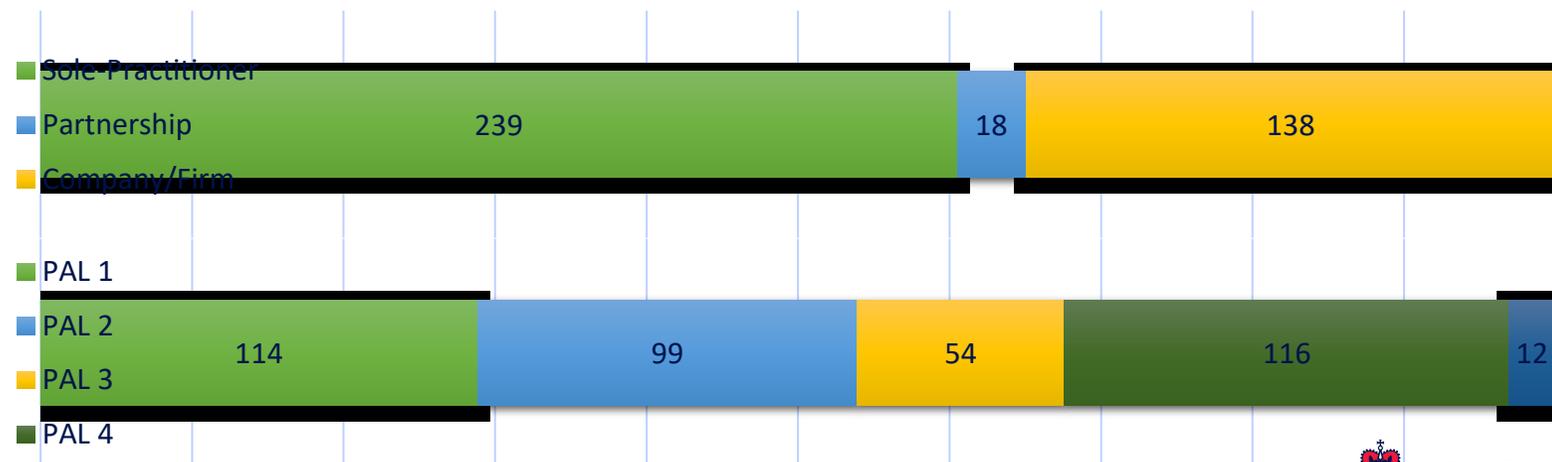
# Results at a glance

1104 Defence Counsel who had an (prosecutions) interaction with Police in last six months were sent the survey in March 2024

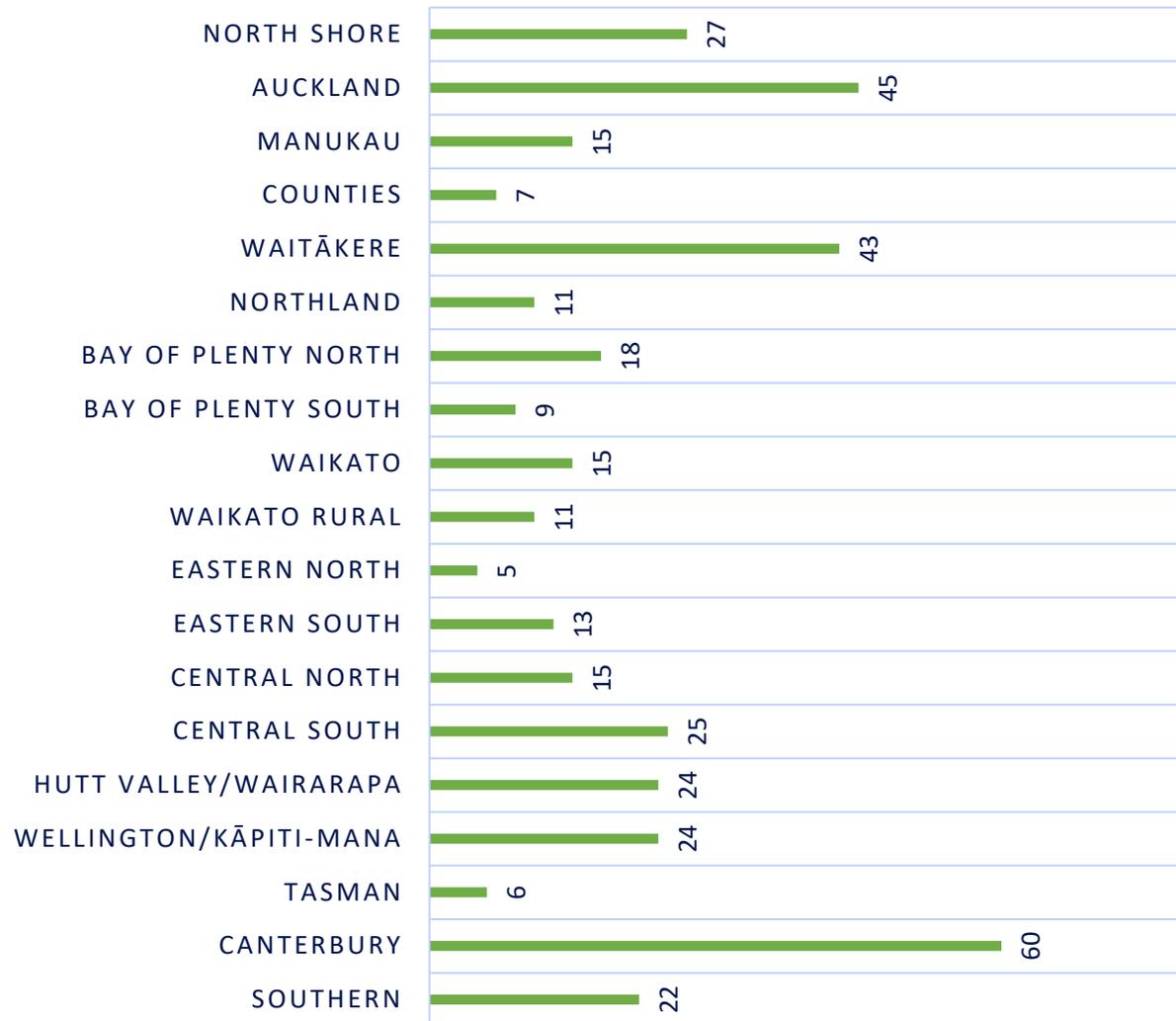
395 completed the survey

35.8% response rate

500+ comments (verbatim) related to overall experience and the core questions



# Results at a glance



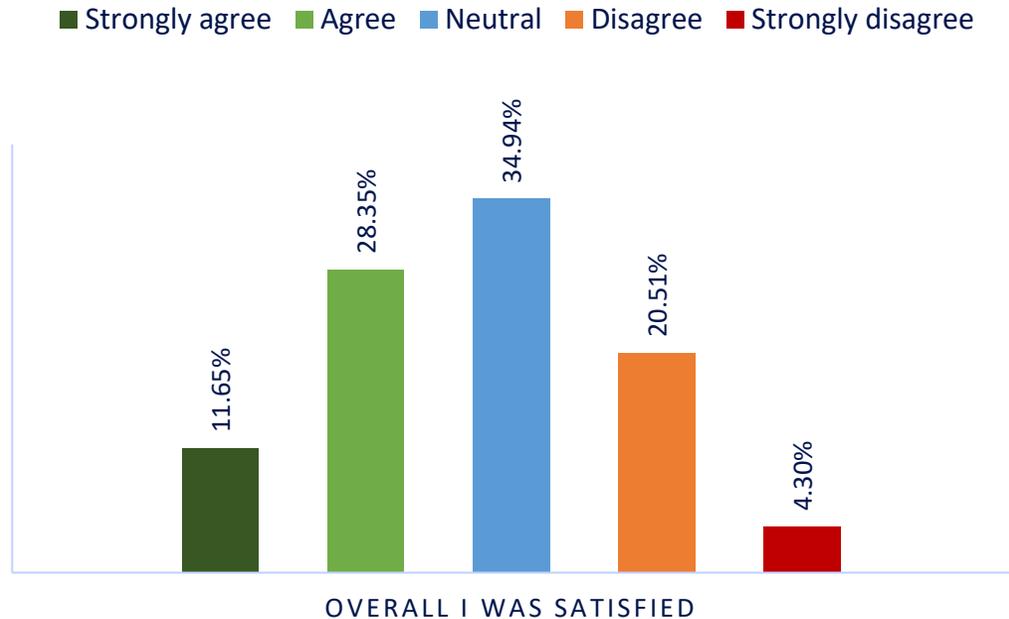
 **37.5%** of respondents' most recent interaction was in the Auckland Metro area (North Shore, Auckland, Manukau, Counties, Waitākere)

 **15.2%** of respondents' most recent interaction was in Canterbury

 **12.2%** of respondents' most recent interaction was in the Wellington area (Hutt Valley/Wairarapa, Wellington/Kāpiti-Mana)

# Interacting with Police

Respondents were asked to rank their overall satisfaction with their interactions with prosecutions leading to Case Review



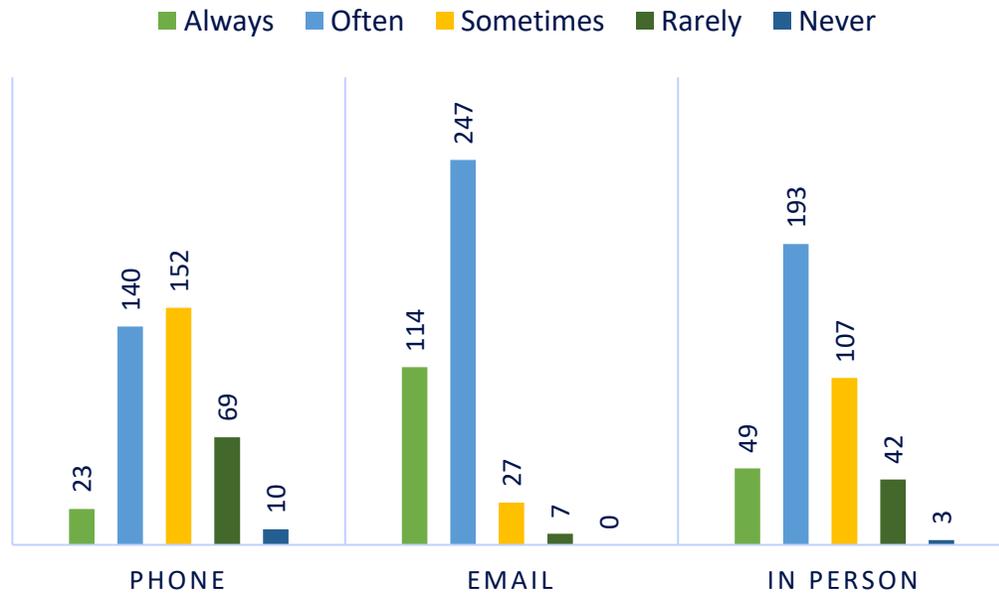
40.0% of Defence Counsel were satisfied or very satisfied with their interactions with prosecutions leading to Case Review

24.8% were dissatisfied or very dissatisfied

34.9% were neither satisfied or dissatisfied (neutral)

# Interacting with Police

Respondents were asked to rank how they typically interact with prosecutions



65.2% of the people who always interact by phone find overall interactions easy or very easy

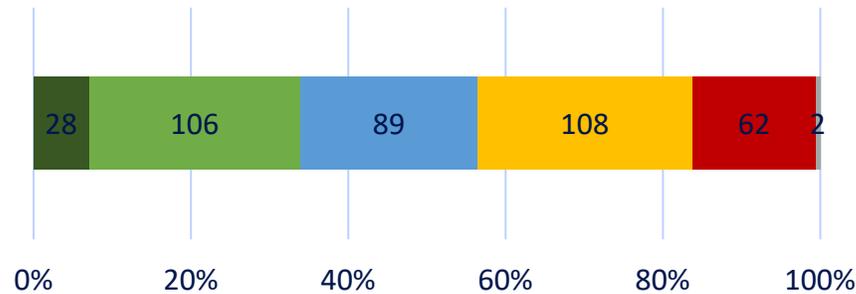
40.5% of the people who always interact by email find overall interactions easy or very easy

40.8% of the people who always or often interact in person find overall interactions easy or very easy

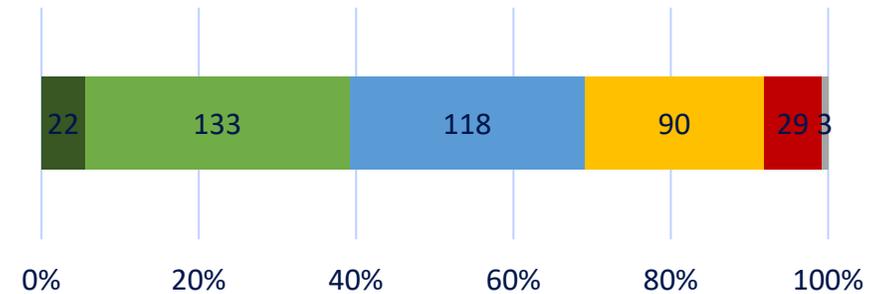
# Interacting with Police

Respondents were asked to rank the extent to which they agreed with four core question from strongly agree (5) to strongly disagree (1)

I was satisfied with the amount of time it took to receive the disclosure information I needed for my case

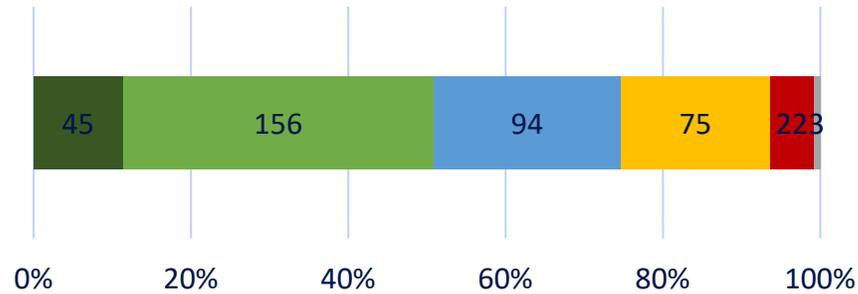


I was satisfied with the quality of the evidence I received

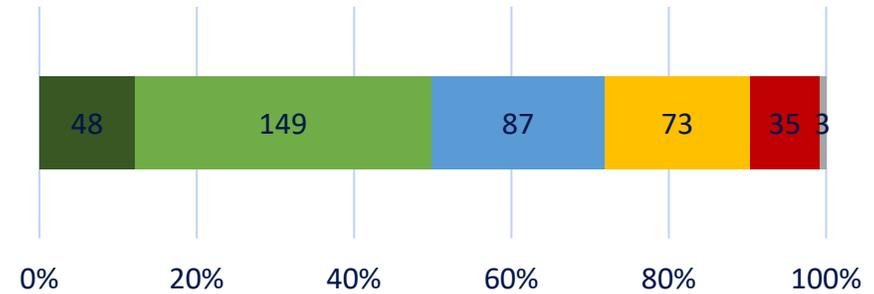


Strongly agree Agree Neutral Disagree Strongly disagree N/A

I am confident the information I received enabled me to provide meaningful advice to my client



I was satisfied that the interactions I had with the Police Prosecution Service while proceeding to a Case Review hearing



Strongly agree Agree Neutral Disagree Strongly disagree N/A

# Frequently mentioned topics

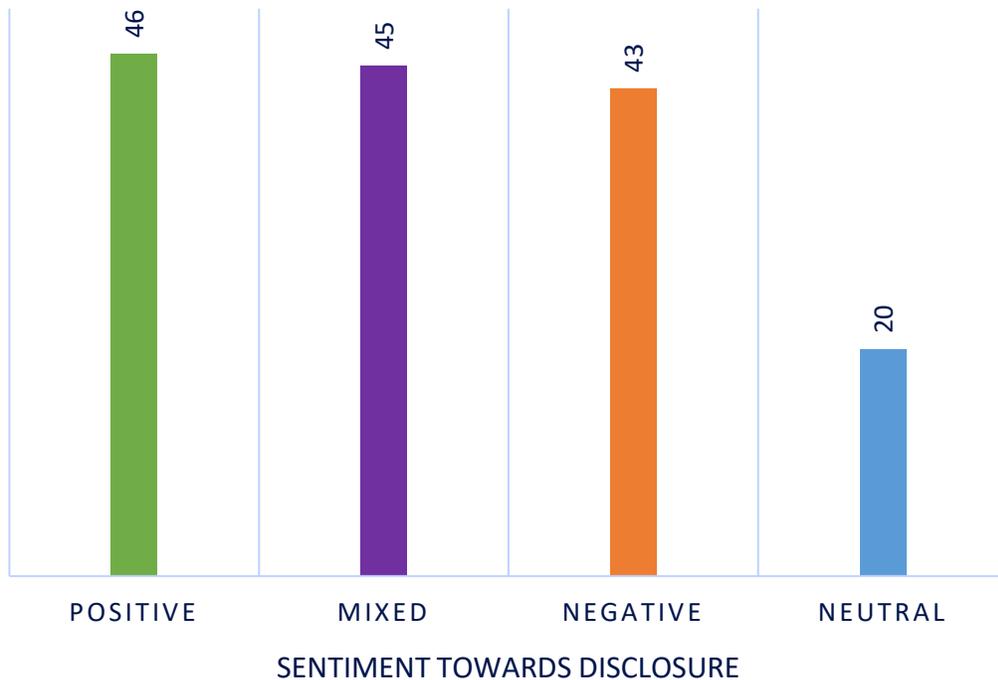
## High-level topics frequently commented on

- ▶ Ability to proactively deal with a case [13]
- ▶ Approach to prosecuting cases [15]
- ▶ Attitude and manner [47]
- ▶ Case Management [41]
- ▶ Communication [192]
- ▶ Consistency [56]
- ▶ Disclosure [200]
- ▶ Decision making (charging, disclosure, prosecutions) [39]
- ▶ Process [48]
- ▶ Professionalism [101]
- ▶ Quality of files [33]
- ▶ Resourcing [60]
- ▶ Skills and experience [58]
- ▶ Timeliness [267]
- ▶ Transparency [22]

\*Numbers in brackets are times mentioned. A topic may be tagged to the same person no more than two times.

# Disclosure

45.8% of respondents commented on the topic of disclosure



- ▶ Initial disclosure is generally prompt
- ▶ Ongoing and full disclosure is generally an issue, examples provided of it being slow and/or incomplete
- ▶ Unclear lines of communication for disclosure, with the onus often sitting with Defence Counsel to facilitate disclosure
- ▶ Further to the above, some discussed being unable to confirm with Police what disclosure had already been provided
- ▶ A collective desire from respondents for a consistent and trackable approach to disclosure.

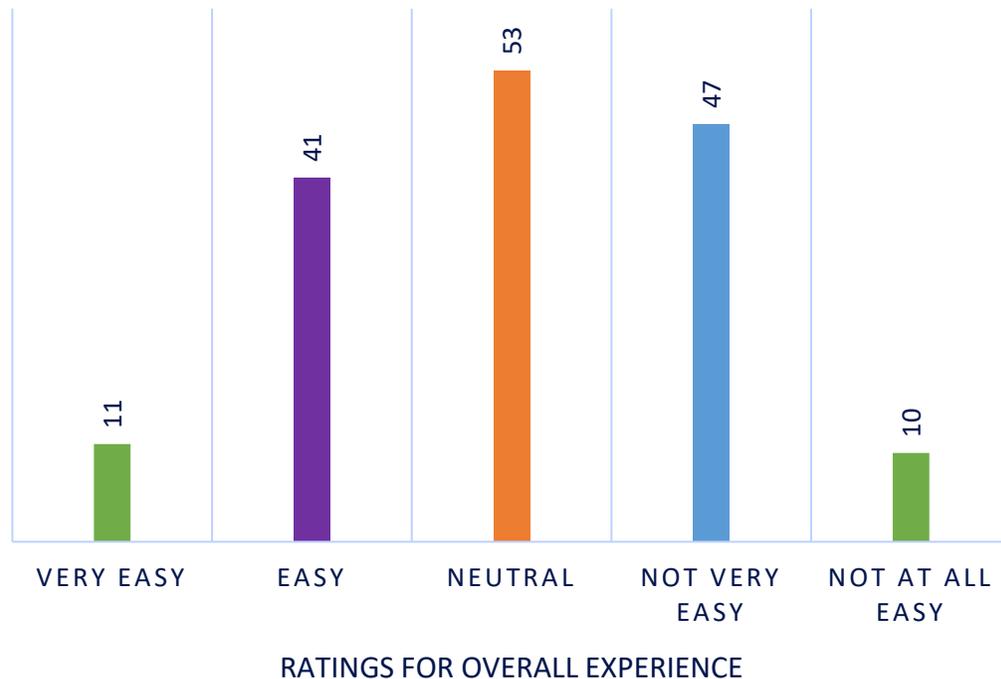
*“The biggest issue I have is there is no nationwide portal for prosecutors.*

*If I get an assignment out of my region, I don’t know who to contact for disclosure or to begin CMM discussions. It would be great to just have 1 nationwide monitored email for disclosure requests and CMM discussions. This way my communication can be passed on to the right person who can then reach out to me and discuss the matter”.*

s.9(2)(ba)(i) OIA

# Communication

42.8% of respondents commented on the topic of communication



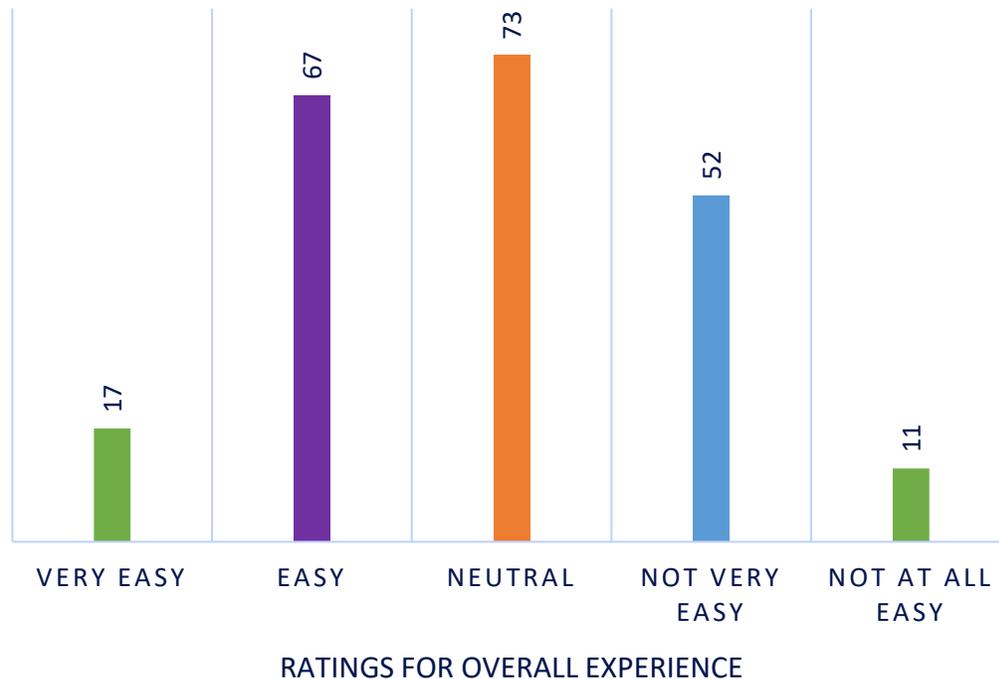
- ▶ Many respondents commented on response times and difficulty contacting someone in prosecutions
- ▶ Overall sentiment of those who commented on communication, including response times, was negative (68, 40.2%), followed by very positive or positive (41, 24.2%), mixed (37, 22.0%) and neutral (23, 13.6%)
- ▶ Some respondents commented on how busy prosecutions staff often were

*“It is sometimes difficult to get a reply to emails, for example regarding limited licences, bail variations, proposed resolutions in case management discussions, etc. Sometimes the replies are very quick, sometimes there is no reply at all. It varies depending on the PPS office”.*

s.9(2)(ba)(i) OIA

# Timeliness

55.7% respondents commented on the topic of timeliness



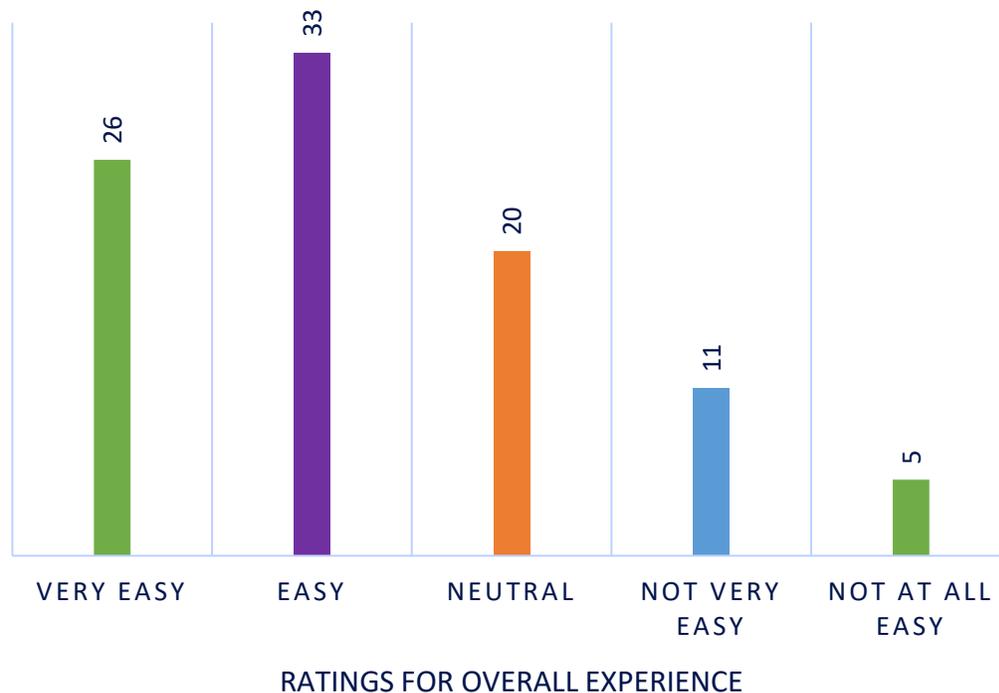
- ▶ Issues with timeliness are often tied up with disclosure and communication/responsiveness
- ▶ Most common issue raised was getting responses to emails
- ▶ Overall sentiment of those who commented on timeliness was negative (79, 35.9%), followed by positive (62, 28.2%), mixed (53, 24.1%) and neutral (24, 10.9%)

*“Emails for case management / charge discussions could be more promptly replied too. Often emails of this nature either receive no response, or a response a few days before the hearing. As we have obligations to file a memorandum a week before the appearance, and emails are often sent well in advance of this deadline, we do not receive responses until very late. Submissions opposing applications, such as variations or s106 applications are often filed very late. This either means adjournments of appearances so defendants can obtain information to placate Police concerns, or because the Judge has not had sufficient time to review the information.”*

s.9(2)(ba)(i) OIA

# Professionalism

24.0% respondents commented on the topic of professionalism



- Respondents who commented positively on the topic of professionalism talked about prompt replies to emails, polite and respectful attitude and manner, and reasonable and constructive interactions
- Respondents who commented negatively on the topic of professionalism talked about slow replies to emails/phone calls and challenges with approaches of individual prosecutors

*“Prosecutors are approachable and are open to resolution. They try to look into resolving matters rather quickly which I appreciate. I have also found prosecutions helpful during communications (eg providing a spreadsheet with list of charges and what pleas have been entered already – particularly helpful when I have been reassigned to a client with a number of charges that have occurred over a period of time)”.*

s.9(2)(ba)(i) OIA

# Suggestions

## Some respondents provided suggestions for improvement



- ▶ Single point of contact with prosecutions [most common suggestion, multiple ideas on what would work]
- ▶ Contact list of people who are on call to answer questions/queries
- ▶ Roster of which prosecutors will service court for the month ahead
- ▶ Prosecutions willing to have discussions over the phone
- ▶ Ability to directly contact the officer in charge

- ▶ Ongoing disclosure without continued requests
- ▶ Initial disclosure emailed to counsel before first appearance
- ▶ Receive a draft witness and exhibit list in disclosure
- ▶ A system that flags when disclosure has not been made
- ▶ More proactive approach to disclosure
- ▶ Proforma online form for requesting initial and full disclosure

# Suggestions

## *Some respondents provided suggestions for improvement*



- ▶ Prosecution offices to have similar processes and procedures
- ▶ Information on who a case has been assigned to
- ▶ Allocate files alphabetically rather than by priority
- ▶ Standardised email subject lines to enable easy sorting, eg CRN
- ▶ CMM returned before filing date
- ▶ CMM meetings occurring on 'neutral territory' sometimes with defendants present

- ▶ Centralised/national approach to bail variation applications
- ▶ Prosecutors available in court 30 minutes before court starts
- ▶ Retain Liaison Prosecutors

# Insights into the Defence Counsel journey

Insights to illustrate what is coming through in the verbatim as being important to respondents as they interact with Police to progress to Case Review

Defence counsel want a consistent and reliable mode for interacting with prosecutions

Defence Counsel want a consistent way to receive disclosure that is trackable

Some respondents indicated a preference for face-to-face interactions

A reliance on paper-based files and in person interactions can hold up or delay processes

None of the respondents indicated a preference for paper-based or physical files over electronic

Preference for face-to-face was driven in part by a general inability to reliably contact prosecutions

Where respondents were able to get timely responses from prosecutions, the mode was less important

*Thank you!*



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