

The costs of participating in business-to-business disputes at the Victorian Civil and Administration Tribunal (VCAT)

Background

In 2012 the Victorian Small Business Commissioner (VSBC), in conjunction with VCAT, commissioned research to quantify the costs incurred by businesses and other impacts of involvement in litigation of certain business-to-business disputes at VCAT.

Direct and Indirect Costs

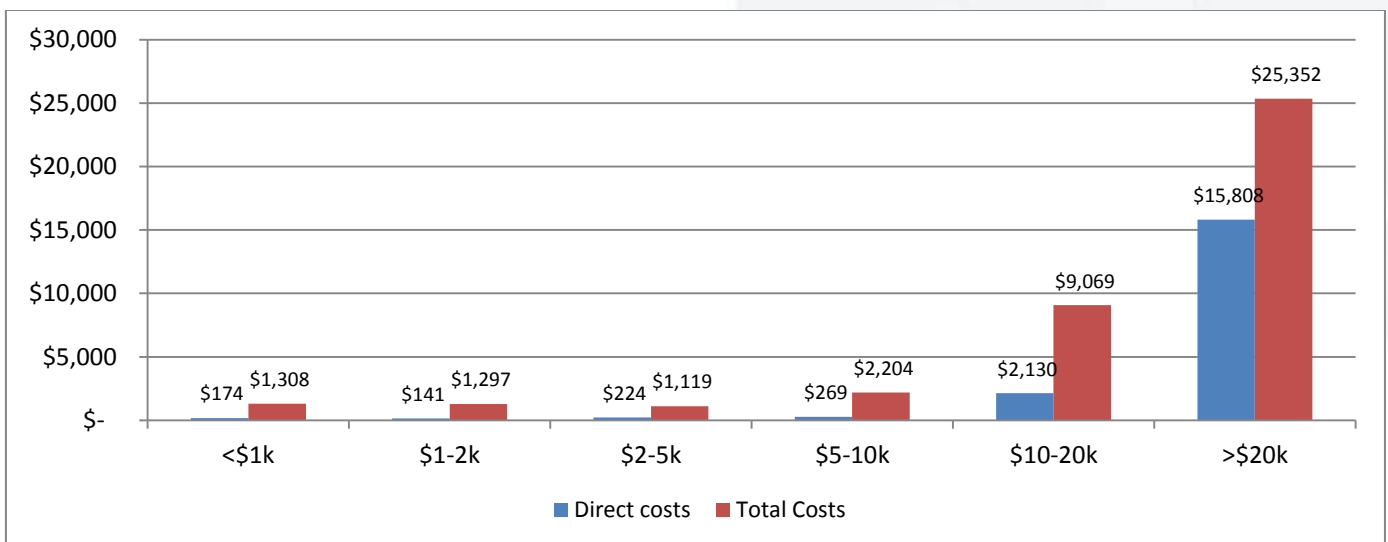
The survey sought data on:

- Direct costs incurred, including expert services (e.g. lawyers, accountants) and transport and related costs.
- The duration of the litigation, from initiation of the process to a final outcome.
- The amount of time spent by the businessperson, or their staff, on the dispute and litigation process. An ABS-based hourly rate, according to occupational category of the person/s spending time on the dispute, was applied to generate a cost incurred.
- Whether the dispute had an adverse impact on business performance, work related stress, or general health and wellbeing, and if so, how intensely (low, medium or high).

Costs exclude VCAT application, hearing or other fees.

Key Findings

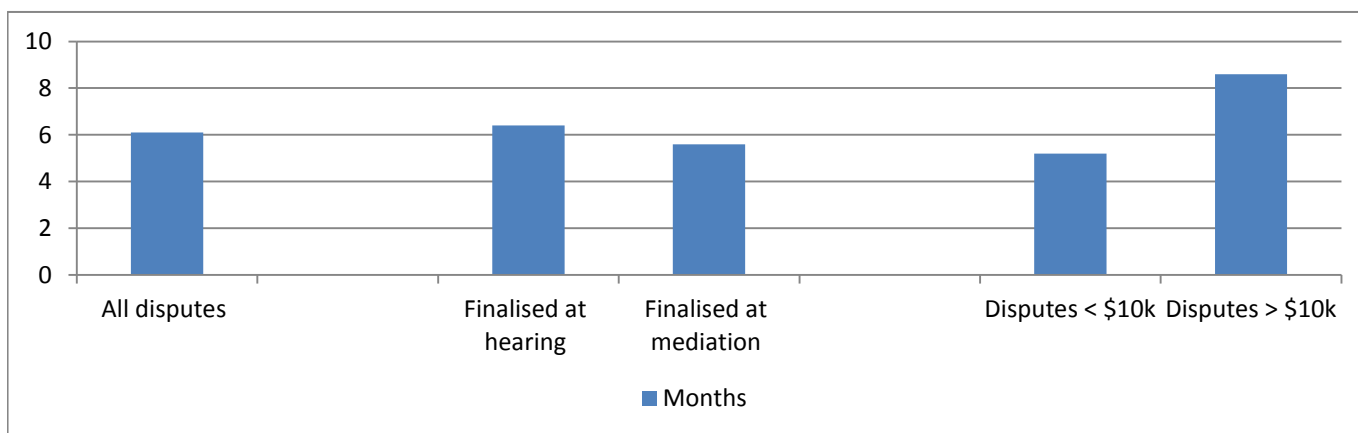
Costs:



Costs incurred (vertical axis) increase with amount in dispute (horizontal axis). Total costs include direct costs plus the cost of time spent on the dispute.

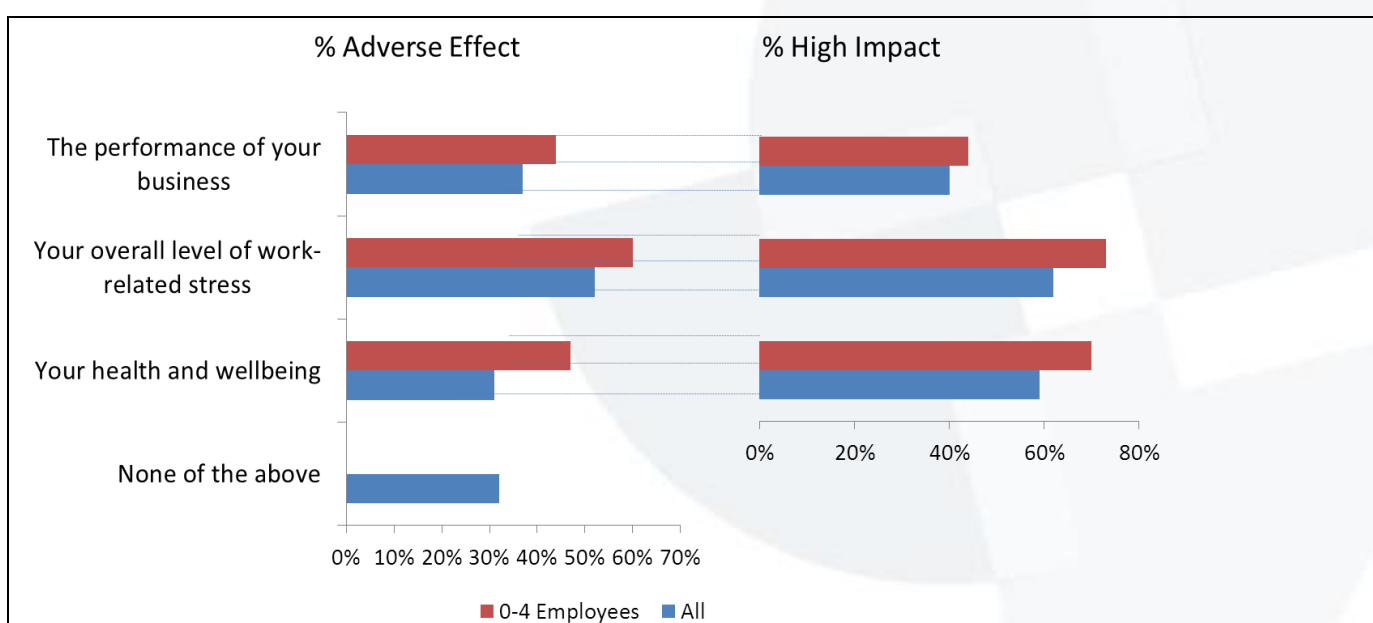
- The average cost incurred by a party across the sample was \$5,302, more than 70% of the average dispute amount (\$7,137).
- The average time spent on the dispute and litigation was 63 hours.
- For disputes less than \$1,000 the costs incurred by each party exceed the dispute amount.
- Where an external adviser (primarily a lawyer) was used, the average costs were significantly higher at \$9,397, increasing for larger dispute amounts, and for businesses with more than 20 employees.

Duration:



The average duration of the litigation was 6.1 months. Durations were slightly less if the matter settled at VCAT mediation or if the amount in dispute was less than \$10,000.

Other impacts of the litigation:



- 37% of all businesses said the dispute had an adverse effect on the performance of their business – forty per cent of these said the impact was high.
- 52% of all businesses said the dispute had an adverse effect on their level of work related stress – sixty two per cent of these said the impact was high.
- 31% of all businesses said the dispute had an adverse effect on their general health and well-being – fifty nine per cent of these said the impact was high.

The likelihood of an adverse effect and the impact of that effect being high was in all cases greater for businesses employing 0-4 employees.

Further information

The Victorian Small Business Commissioner provides a quick, no or low cost dispute resolution service for small and medium businesses, with settlement rates exceeding 80% and customer satisfaction ratings, of 94%.

For further information about the services provided by the Victorian Small Business Commissioner

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Resolving business disputes