

ANNUAL EXPERT WITNESS SURVEY REPORT 2016

19 December 2016

First Joint Annual Expert Witness Survey in
collaboration with *The Times*



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Number of respondents
OVER
700

Number of areas of
expertise represented
OVER
40

Start
Time:
30
09
16

End
Time:
28
10
16



“ This first joint Annual Expert Witness Survey 2016 in association with *The Times* newspaper was conducted online from 30th September to 28th October 2016. Over 700 experts completed the survey making it one of the largest expert witness surveys ever conducted in the UK. The survey was conducted to gain a better understanding of the current state of the expert witness industry.

Your answers enabled us to compile a detailed report and insight on several aspects of the expert witness industry in 2016.

I hope you find this report of interest.

Mark Solon

A handwritten signature in black ink that reads "Mark Solon". The signature is written in a cursive style.

Results:

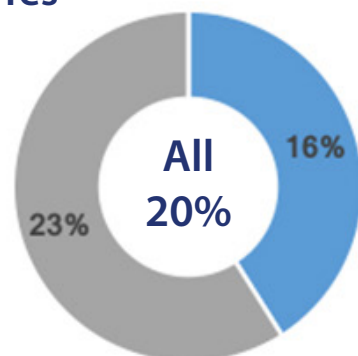
Medical vs Non-Medical

Question 1: Do you think juries are equipped to understand technical evidence?

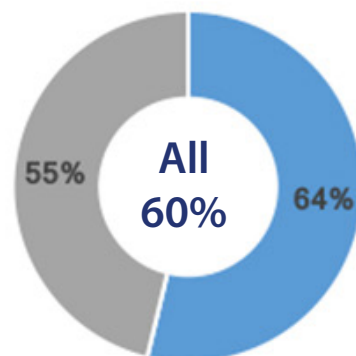
Expert witness evidence had become increasingly important in recent years with many developments in forensic science and computing for example. By definition, an expert witness is only needed if the issues in contention need explanation from someone who really knows the subject area. Some 60% of experts thought that juries were not equipped to understand technical expert evidence. This could either be due to experts not explaining things properly or clearly enough or because the issue is so complex ordinary citizens can't be expected to understand. If the former, then experts may need further training and perhaps judges should allow different types of evidence to help juries understand e.g. videos or demonstration aids.

■ Non-Medical (153) ■ Medical (591)

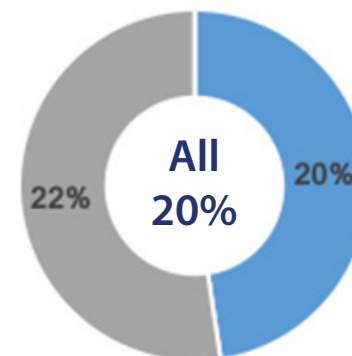
Yes



No



Don't know

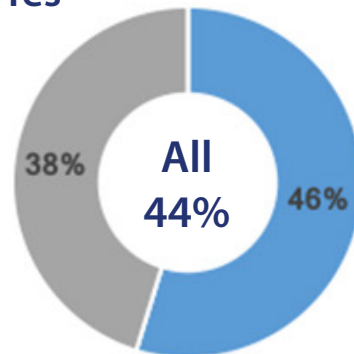


Question 2: Do you think such trials should be heard by a judge alone?

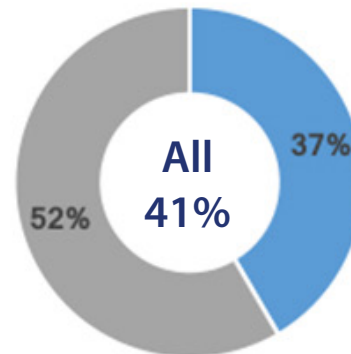
41% of the experts surveyed indicated that they did not think trials should be heard by a judge alone. Although 44% thought technical trials should have a judge only. This could be a dangerous course as in some cases a defendant could be found guilty purely on the opinion of an expert witness.

■ Non-Medical (153) ■ Medical (591)

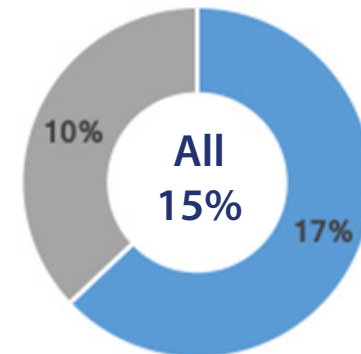
Yes



No



Don't know

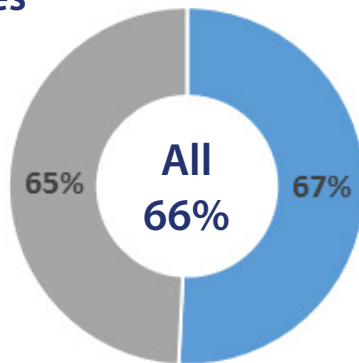


Question 3: Do you think judges themselves are able to understand technical evidence?

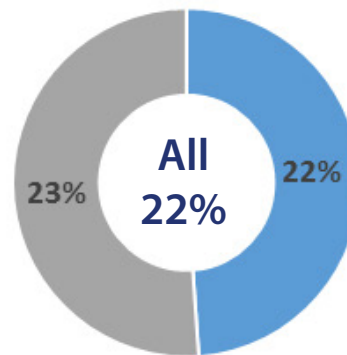
Some 66% of respondents thought that judges are able to understand technical evidence. Judges must be knowledgeable in a wide range of information in order to make informed decisions about the acceptability of the evidence.

■ Non-Medical (153) ■ Medical (591)

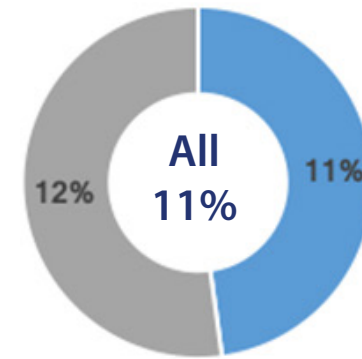
Yes



No



Don't know



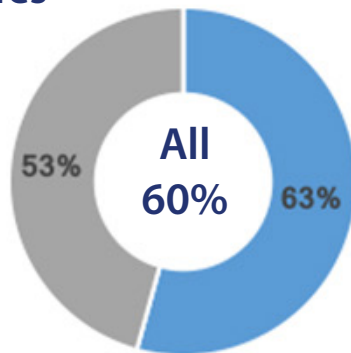
Question 4: In recent years, expert witnesses in emerging areas of science (e.g. shaken baby syndrome) have been criticised and in some cases have been struck off by their professional body. Do you think this will deter experts from giving evidence?

There have been several instances recently where experts have been criticised for their opinions. The case of Dr Wayne Squier is the most recent. She disputed the existence of shaken baby syndrome and has said she was struck off from her professional body because her views challenged the establishment. She has appealed. A General Medical Council panel called her evidence “dishonest” and “deliberately misleading”.

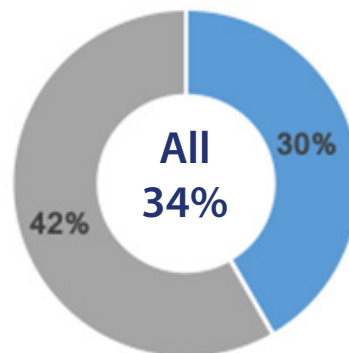
Two other pathologists, Dr Irene Scheimberg and Dr Marta Cohen, who are also critical of shaken baby syndrome, no longer give evidence in court because they say they are afraid of the possible consequences. 60% of respondents thought these concerns would deter experts from giving evidence in the future.

■ Non-Medical (153) ■ Medical (591)

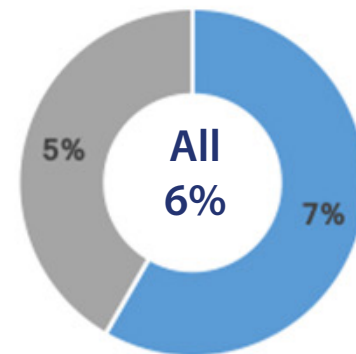
Yes



No



Don't know

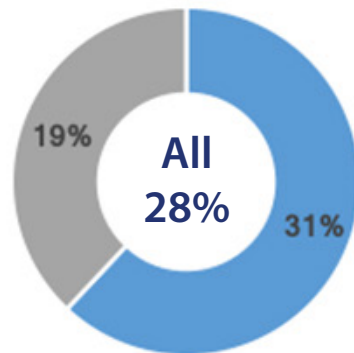


Question 5: In the last 12 months, have you considered stopping work as an expert witness?

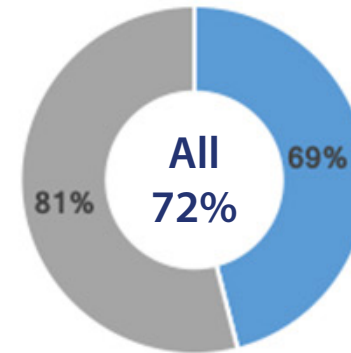
28% said they had considered stopping work as an expert witness over the past 12 months. Reasons for stopping included the risk of being sued in contract or negligence since the case of Jones v Kaney (19%). A quarter gave the risk of disciplinary proceedings. Significantly 33% said the pay they received was not enough to justify doing expert work. There have been many cuts to legal aid over the past few years and since the Jackson reforms have introduced proportionality for costs, expert's fees have been reduced. One must remember that expert work is for most experts a secondary source of income as they have the day job working in their professional field. If fees are too low, the best experts will not bother to get out of bed and will refuse to take on the work. Only those who are willing to work for the lower rates will take it on. Jackson also introduced much tighter court controlled time limits that can be difficult for professionals to comply with.

■ Non-Medical (153) ■ Medical (591)

Yes

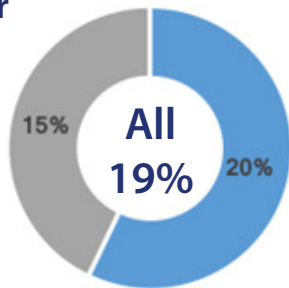


No

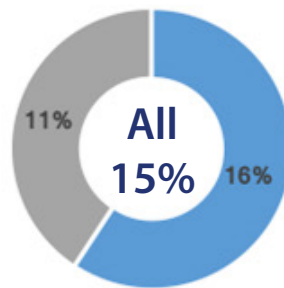


Question 6: Why did you consider stopping work as an expert witness?

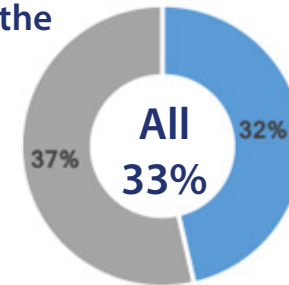
Risk of being sued in contract or negligence



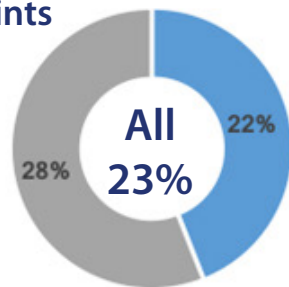
Risk of disciplinary proceedings by professional body



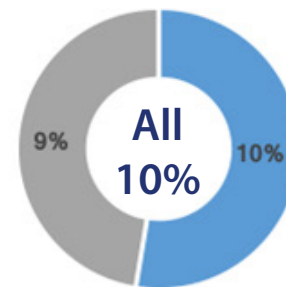
Pay not enough to justify the work



Time Constraints



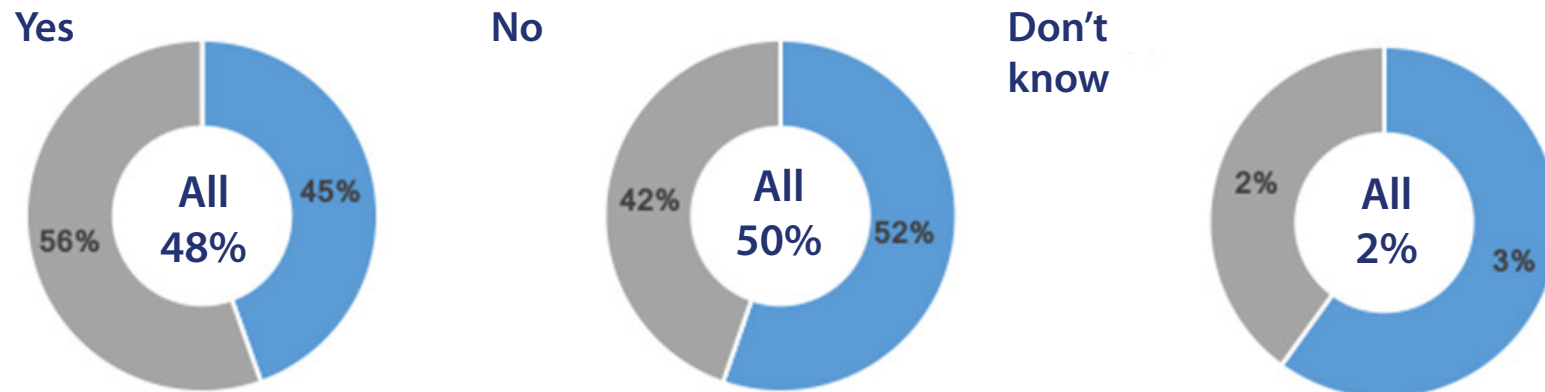
Retirement



Question 7: Since the introduction of the Civil Procedure Rules in 1999, many experts are still being criticised for being advocates rather than independent experts - acting as a “hired gun”. In the last 12 months, have you come across an expert that you consider to be a “hired gun”?

Perhaps more concerning is that even though Lord Woolf made express in the Civil Procedure Rules 1999 that an expert's duty is to the court and not the side paying him, some 48% of experts said they had come across experts who they considered “hired guns”, willing to give an opinion for a fee that helps the side paying them.

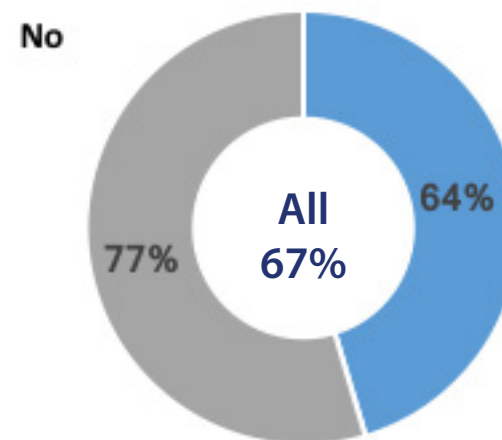
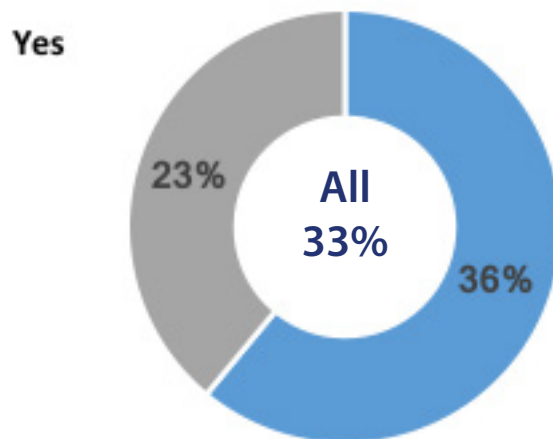
■ Non-Medical (153) ■ Medical (591)



Question 8: In the last 12 months, have you been asked or felt pressurised to change your report, by an instructing party, in a way that damages your impartiality?

Some 33% said they had felt pressured by the lawyers to change their report in a way that damages impartiality. They gave examples some of which overt but others that suggested they would not get further work or would not be paid. Clearly lawyers need reminding of the rules and judges need to keep a careful eye out for bias.

■ Non-Medical (153) ■ Medical (591)

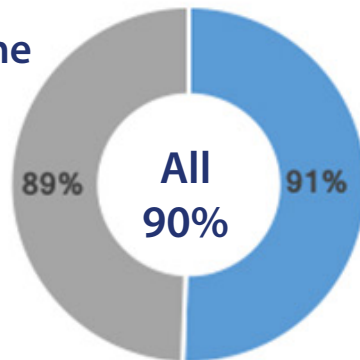


Question 9: What impact do you think Brexit will have on your expert witness workload?

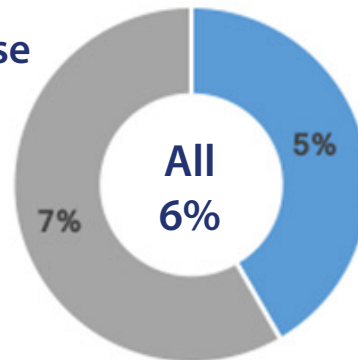
Some 90% of respondents believe that Brexit won't impact their expert witness workload. Although at the moment it is business as usual for experts, there are many changes on the horizon and much uncertainty. Lawyers may need to do a little hand holding as things develop to make sure their experts are on track.

■ Non-Medical (153) ■ Medical (591)

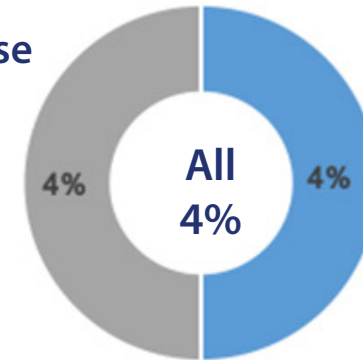
Stay the same



Increase

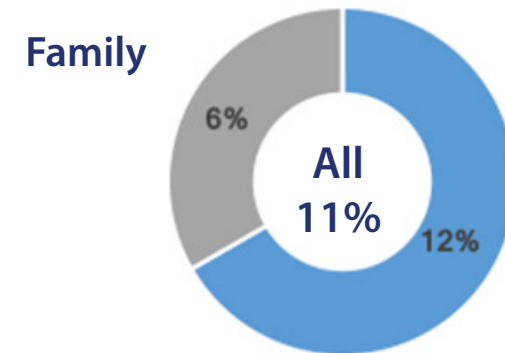
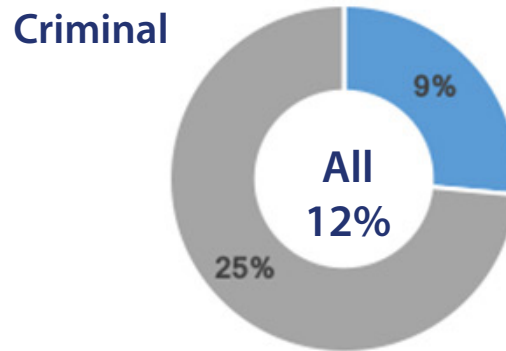
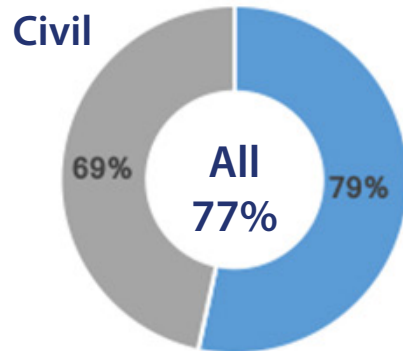


Decrease



Question 10: Which type of cases are you instructed in the most?

■ Non-Medical (153) ■ Medical (591)

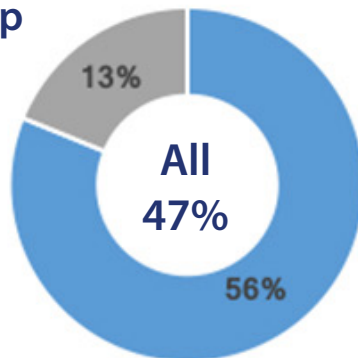


Question 11: Over the last 12 months, have the number of your instructions:

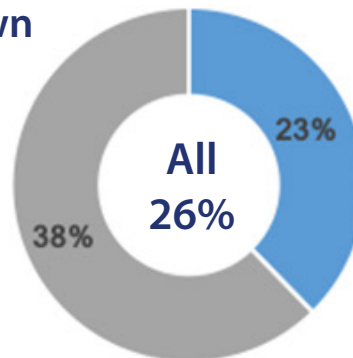
Nearly half the experts reported an increase in the number of instructions received which echoes the results of last year's survey. However, this year, more experts (26%) reported a decrease in the number of instructions received. In 2015 only 13% experts felt that the number of their instructions went down.

■ Non-Medical (153) ■ Medical (591)

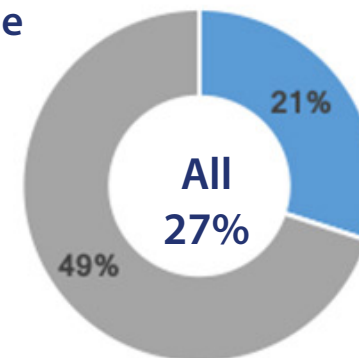
Gone up



Gone down



Stayed the same



Question 12: What is your average hourly rate (£) for report writing?

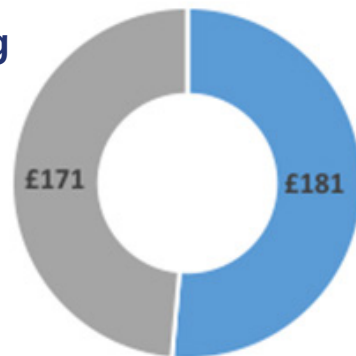
Question 13: What is your average hourly rate (£) for court?

Rates for court are 10% higher on average than rates for report writing. Medical expert witnesses earn 5% more than non-medical expert witnesses on their average hourly rate for report writing. We notice a similar trend for the court rates. Medical expert witnesses earn 7% more than non-medical expert witnesses on their average hourly rate for court.

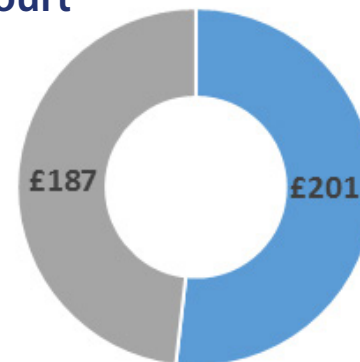
Report writing and court rates for both groups (medical and non-medical) are similar to than the rates reported by experts in 2015.

■ Non-Medical (153) ■ Medical (591)

Report Writing



Court



Average hourly rates (£) for report writing

MEDICAL



Top 3 earners

1. Neurology
2. Cardiology, Respiratory, Vascular Surgery
3. Ophthalmology



Bottom 3 earners

1. Occupational Health
2. Radiography and Imagery
3. Nursing

NON-MEDICAL

Top 3 earners

1. Accounting
2. Financial
3. Surveying /Building

Bottom 3 earners

1. Social Care
2. Science and Forensics
3. Health, Safety and Use of Force

Please see Appendix 1 and 2 for a full list of hourly rates for report writing.

Average hourly rates (£) for court

MEDICAL



Top 3 earners

1. Neurology
2. Trauma and Orthopaedics
3. Gastrointestinal and Urinary



Bottom 3 earners

1. Occupational Health
2. Pathology
3. Radiography and Imagery

NON-MEDICAL

Top 3 earners

1. Accounting
2. Financial
3. Surveying / Building

Bottom 3 earners

1. Health, Safety and Use of Force
2. Science and Forensics
3. Social Care

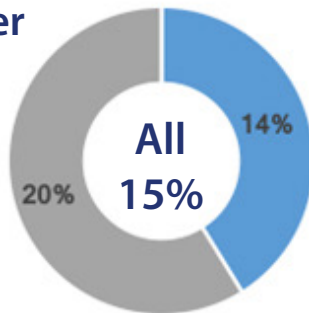
Please see Appendix 3 and 4 for a full list of hourly rates for court.

Question 14: How does this relate to your average hourly rate in 2015?

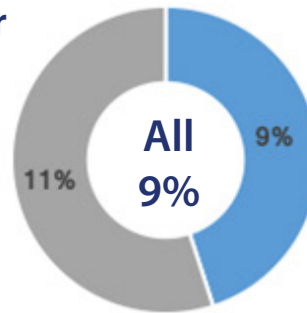
68% of respondents reported that their rates remained about the same than last year. This is the same result as last year's survey.

■ Non-Medical (153) ■ Medical (591)

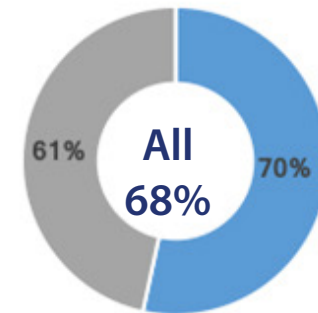
Higher



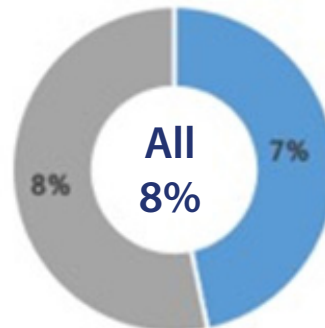
Lower



The same



Not applicable. I did not work as an expert witness in 2015.



Acknowledgements

We would like to thank *The Times* newspaper for their collaboration with us.

Thank you also to the expert witnesses who completed this survey. Over 700 experts completed this survey making it one of the largest Expert Witness surveys ever done in the UK.

Finally we would like to acknowledge the contribution of several Expert Witness organisations that shared the survey to their members. Thanks to:



Appendix 1:

Medical – Average

hourly rates (£) for report writing

Neurology	302
Cardiology, Respiratory, Vascular Surgery	274
Ophthalmology	248
Surgery	243
Trauma and Orthopaedics	239
Anaesthesia and Chronic Pain	238
Gastrointestinal and Urinary	220
Musculoskeletal and Prosthetics	214
Emergency Medicine	212
Paediatric	195
Other - Medical	179
Gynaecology and Obstetrics	172
ENT	171
Accident and Emergency	169
Psychiatry	159
Aesthetic	158
Dentistry including oral and maxillofacial surgery	157
General Practitioner	143
Pathology	136
Midwifery	129
Speech and Language Therapy	123
Physiotherapist	123
Psychology	118
Nursing	107
Radiography and Imagery	97
Occupational Health	95

Appendix 2:

Non-Medical – Average hourly rates (£) for report writing

Accounting	281
Financial	230
Surveying / Building	192
Computing Technology	186
Engineering	161
Other - Non-Medical	141
Maritime	136
Fire	133
Animals	128
Accident / Incident Investigation	126
Agriculture and Environment	120
Health, Safety and Use of Force	110
Science and Forensics	100
Social Care	55

Appendix 3:

Medical – Average hourly rates (£) for court

Neurology	309
Trauma and Orthopaedics	308
Gastrointestinal and Urinary	303
Other - Medical	285
Heart and Lungs	270
Ophthalmology	267
Anaesthesia and Chronic Pain	250
Surgery	244
Musculoskeletal and Prosthetics	230
Emergency Medicine	217
Dentistry including oral and maxillofacial surgery	211
Gyneacology and Obstetrics	193
Paediatrics	191
ENT	184
General Practitioner	172
Aesthetic	168
Speech and Language Therapy	158
Accident and Emergency	155
Physiotherapist	154
Psychiatry	148
Midwifery	133
Psychology	130
Nursing	124
Occupational Health	124
Pathology	122
Radiography and Imagery	118

Appendix 4:

Non-Medical – Average hourly rates (£) for court

Accounting	284
Financial	256
Surveying / Building	215
Computing Technology	177
Engineering	175
Other - Non-Medical	173
Maritime	143
Fire	143
Animals	140
Accident/Incident Investigation	134
Agriculture and Environment	131
Health, Safety and Use of Force	122
Science and Forensics	108
Social Care	59

Medical: List of areas of expertise

Accident and Emergency
Aesthetic
Anaesthesia and Chronic Pain
Cardiology, Respiratory, Vascular Surgery
Dentistry including oral and maxillofacial surgery
Emergency Medicine
ENT
Gastrointestinal and Urinary
General Practitioner
Gynaecology and Obstetrics
Midwifery
Musculoskeletal and Prosthetics
Neurology
Nursing
Occupational Health
Ophthalmology
Other - Medical
Paediatric
Pathology
Physiotherapist
Psychiatry
Psychology
Radiography and Imagery
Speech and Language Therapy
Surgery
Trauma and Orthopaedics

Non-Medical: List of areas of expertise

Accident / Incident Investigation

Accounting

Agriculture and Environment

Animals

Computing Technology

Engineering

Financial

Fire

Health, Safety and Use of Force

Maritime

Other - Non-Medical

Science and Forensics

Social Care

Surveying / Building

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Expert Witness Training Consultant Contact

Nataly Tedone

📧 nataly.tedone@bondsolon.com

☎ 020 7549 2549

PR Contact

Mark Solon

📧 mark.solon@bondsolon.com

☎ 020 7549 2549

Bond Solon

📍 6-14 Underwood Street, London, N1 7JQ

☎ 020 7549 2549

🌐 www.bondsolon.com

📧 info@bondsolon.com

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