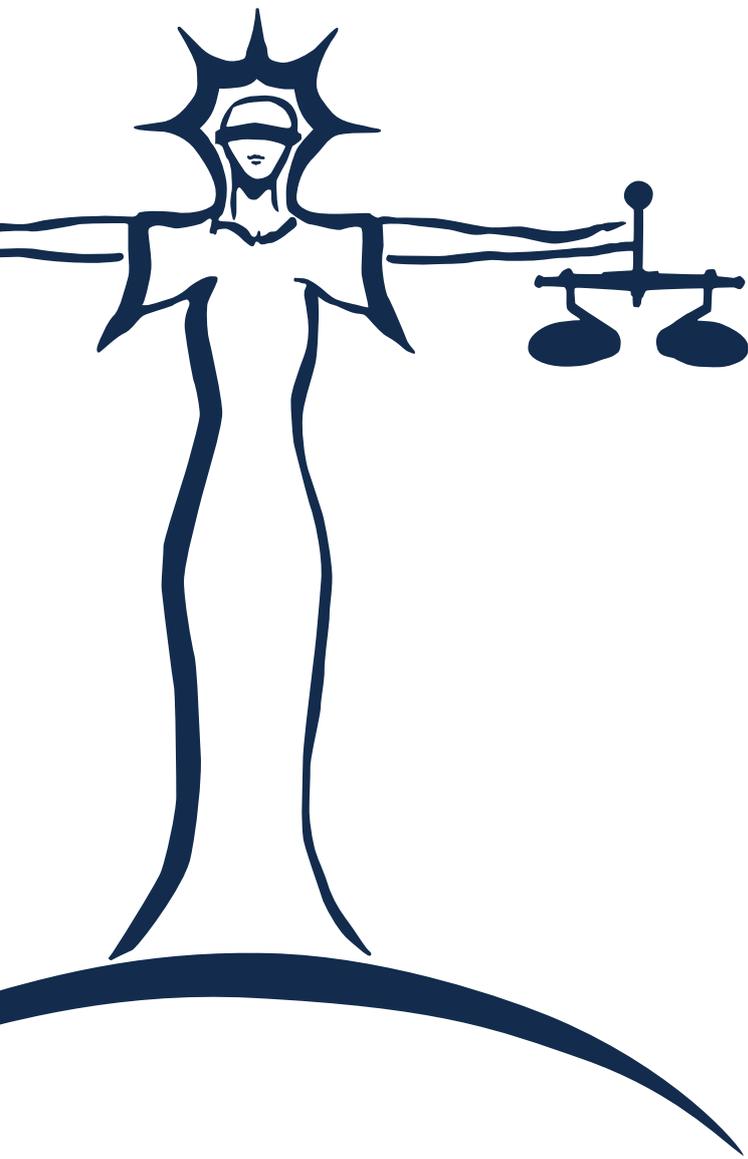


ANNUAL EXPERT WITNESS SURVEY REPORT 2017

10 November 2017

Annual Expert Witness Survey in
collaboration with *The Times*



THE  TIMES

BOND
SOLON 
Wilmington Legal

Table of contents

Executive Summary	03
Results	04 - 20
Appendix 1: Medical - Average hourly rates (£) for report writing	21
Appendix 2: Non-Medical - Average hourly rates (£) for report writing	22
Appendix 3: Medical - Average hourly (£) rates for court	23
Appendix 4: Non-Medical - Average hourly rates (£) for court	24
Appendix 5: Full list of the answers given to question 10	25
Appendix 6: Full list of the answers given to question 13	42
Appendix 7: Medical - List of areas of expertise	61
Appendix 8: Non-Medical - List of areas of expertise	62
Acknowledgements	63

Number of respondents

801



Number of areas of
expertise represented
OVER

40

“The Times and Bond Solon Annual Expert Witness Survey 2017 was conducted online from 15th September to 27th October 2017. 801 experts completed the survey making it one of the largest expert witness surveys conducted in the UK.

The report provides the analysis of the results from the survey. I hope you will find it interesting and useful.”

Mark Solon

Mark Solon

Start
Date:

15

09

17

End
Date:

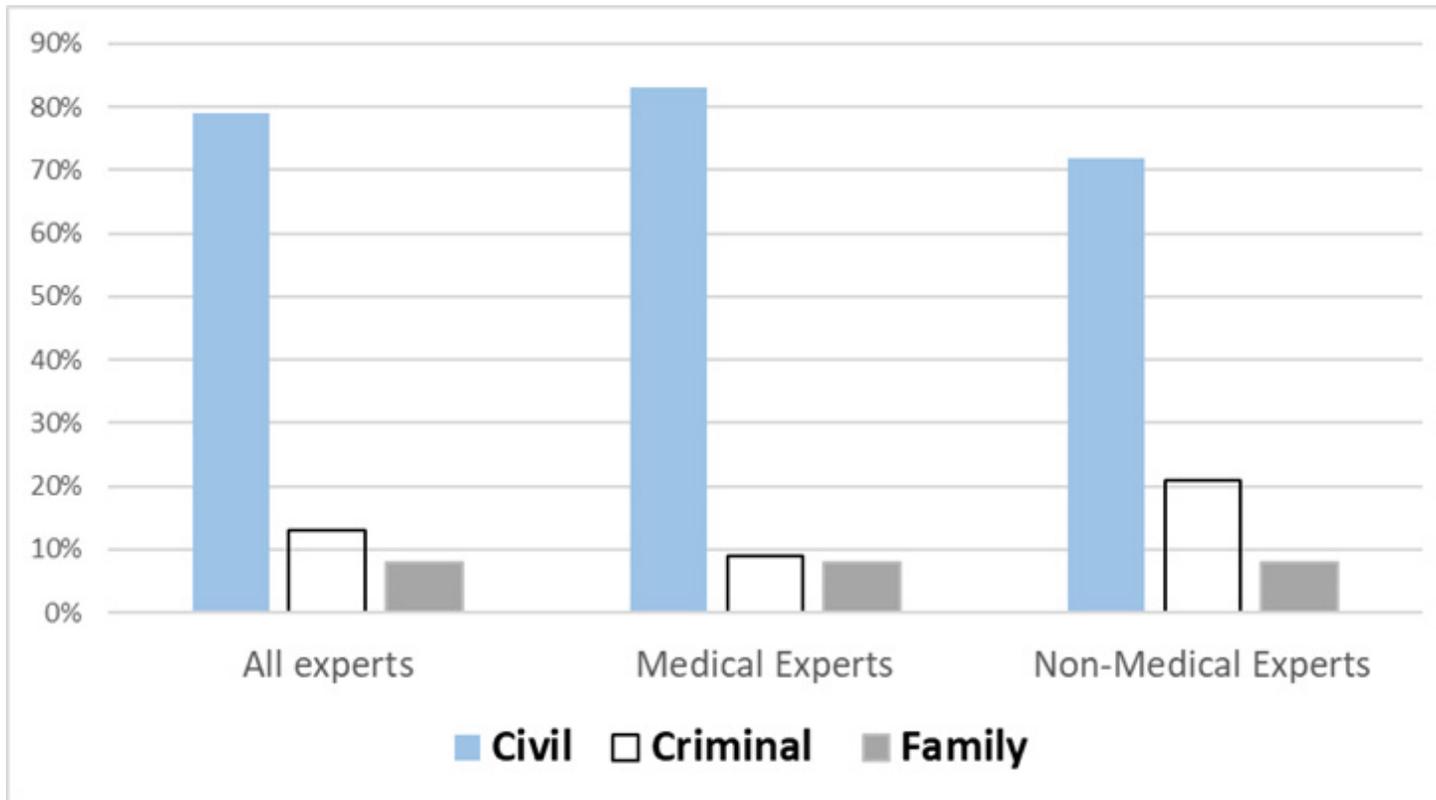
27

10

17

Question 1: Which type of cases are you instructed in the most?

79% of the experts surveyed are mainly instructed in civil cases. 13% of the experts surveyed indicated that they are mainly instructed in family cases. These results may reflect the sharp decline in the use of experts in family court cases since the introduction of the new Family Procedure Rules in January 2013. 8% of the experts surveyed are mainly instructed in criminal matters, perhaps indicating the reduced use of experts in criminal matters.

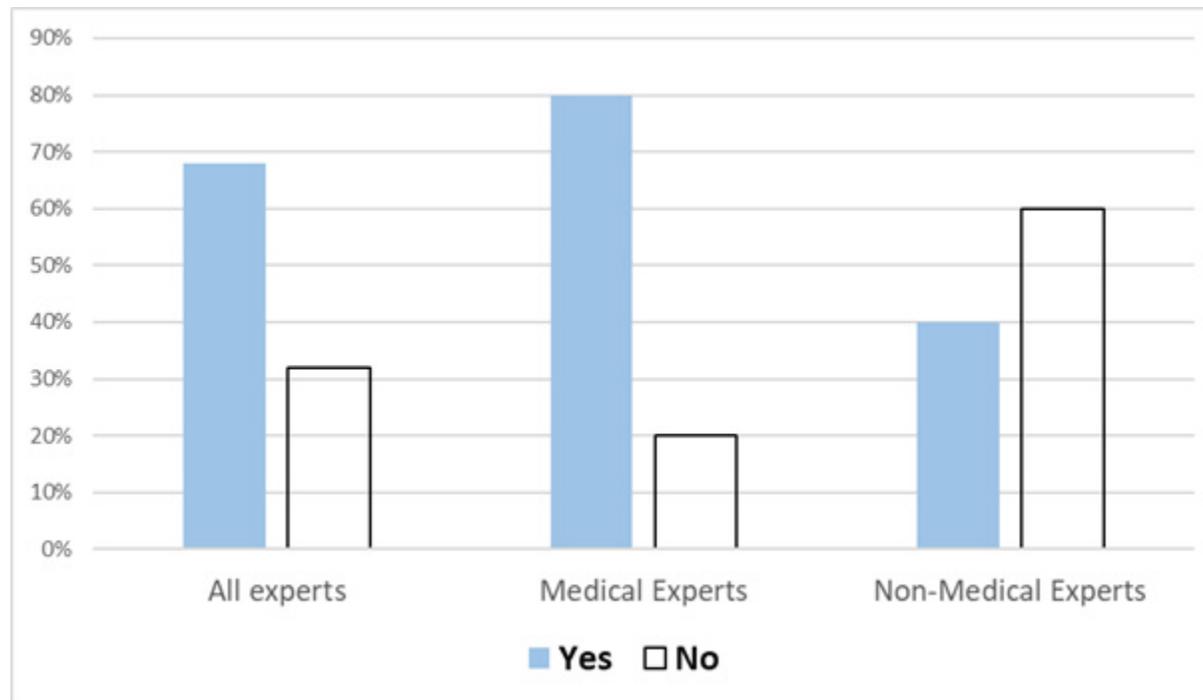


Total number of respondents: 801

Question 2: Do you act as an expert in personal injury cases?

Weightmans' latest analysis of the UK personal injury market mentions that "claims volumes are falling across the board which goes against assumptions that claimant firms are exiting the RTA claims sphere for the more lucrative claims generated in the Employers' Liability, Public Liability and Disease arena". (Source: Weightmans,(2017). [online] Available at: <https://www.thompsons.law/media/2344/weightmans-llp-an-analysis-of-the-uk-personal-injury-market.pdf>)

However, our survey shows that 68% of the experts surveyed acting in civil matters act as an expert in personal injury cases. Personal Injury cases are still a major area of work for expert witnesses. 80% of the medical experts surveyed act as an expert in personal injury cases whereas 60% of the non-medical experts surveyed act in personal injury cases.

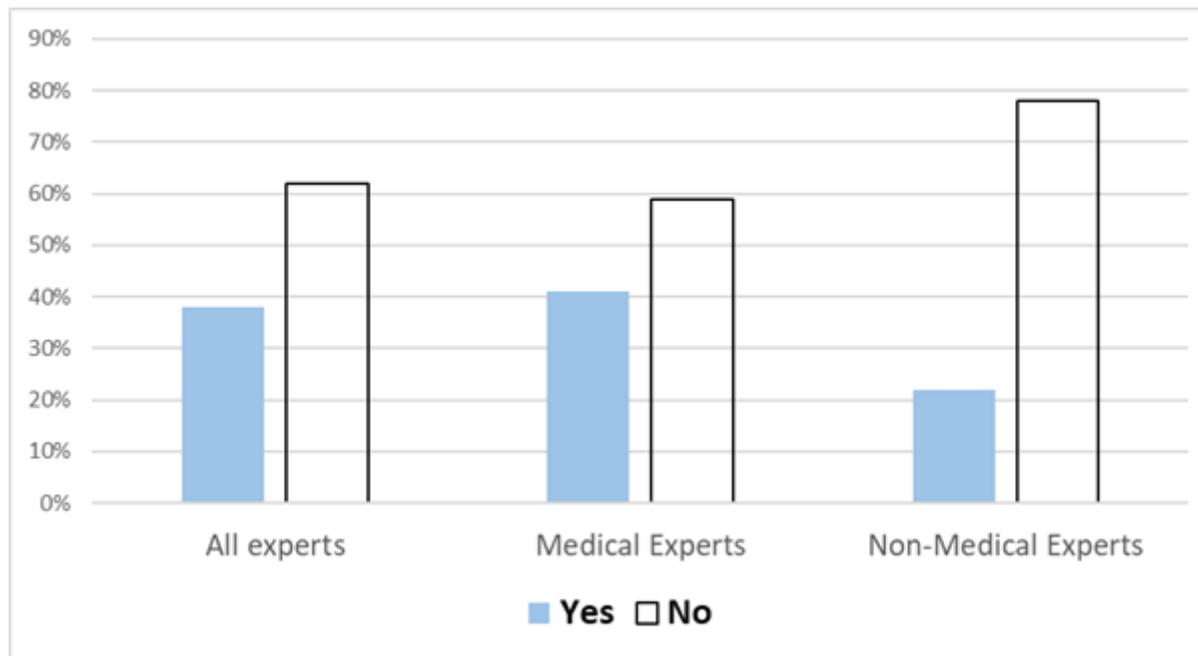


Total number of respondents (of those experts who act in civil cases): 624

Question 3: Have you been affected by a law firm or other instructing party going into administration?

Of those experts who act in personal injury claims, 38% of experts indicated that they have been affected by a law firm or other instructing party going into administration. It's a challenging time for the legal market. Competition between law firms is high. Law firm mergers are now commonplace placing great pressure on smaller firms with some of them going into administration. Clients are also demanding greater value for less money. In addition to this, alternative business structures have impacted the legal market allowing non-lawyers to own and invest in law firms. "Law tech" start-ups using technology to streamline routine aspects of legal work are also threatening the business models of established law firms. Finally, cuts to legal aid and other funding changes have led lawyers to squeeze their fees.

These pressures are not likely to reduce. More law firms, currently struggling with debts and unbilled work, may go into administration, so before accepting work, experts should conduct some due diligence.



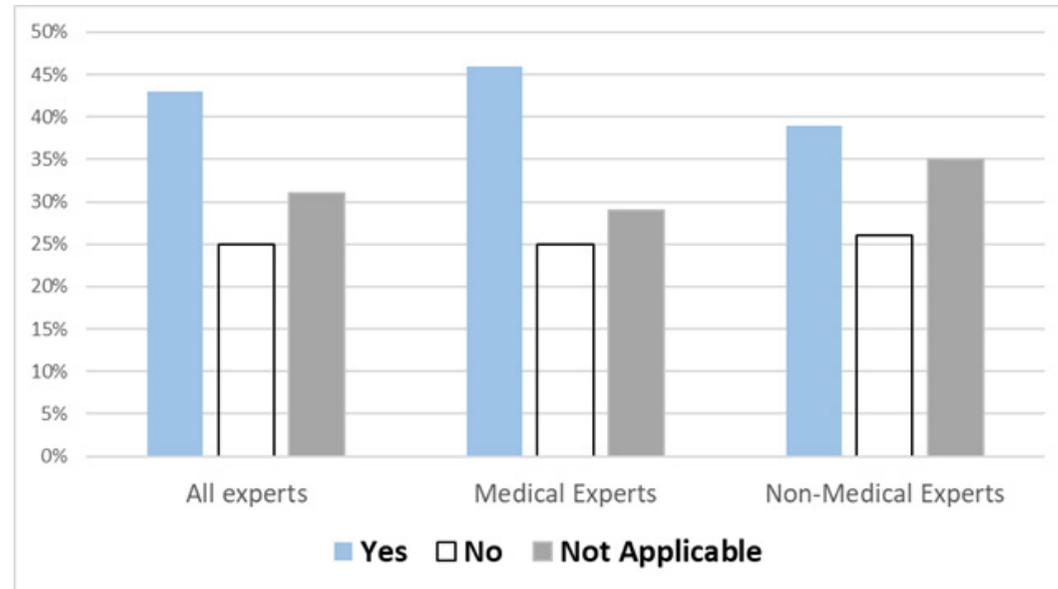
Total number of respondents (of those experts who act as an expert in personal injury cases): 426

Question 4: Do you accept legal aid cases?

Over a third of experts who can work in legal aid cases would refuse to do so.

In 2013, under the Legal Aid, Sentencing and Punishment of Offenders (Lapso) the government removed more than £350 million from the civil legal aid budget. (Source: Legal Aid Cuts Have “Shaming” Impact Suggest Senior Judge. KJSmith Solicitors (2017), [online]. Available at: <http://www.kjsmith.co.uk/media/our-blog/legal-aid-cuts-have-shaming-impact-suggests-senior-judge>)

Experts are not obliged to accept legal aid cases. One must remember that expert work is for most experts a secondary source of income. If the expert's fees are too low, experts have to decide whether or not the case is worth their time and worth coping with the stress of respecting the tight deadlines set by the Court. Also, since the judgment in *Jones v Kaney*, experts are now facing the risks of being sued in contract or negligence. In facing such risks experts would not work for low rates. However, for those funded by legal aid cases, the lack of willing expert witnesses means a restricted choice of experts to support those cases, which ultimately affects fair access to justice.

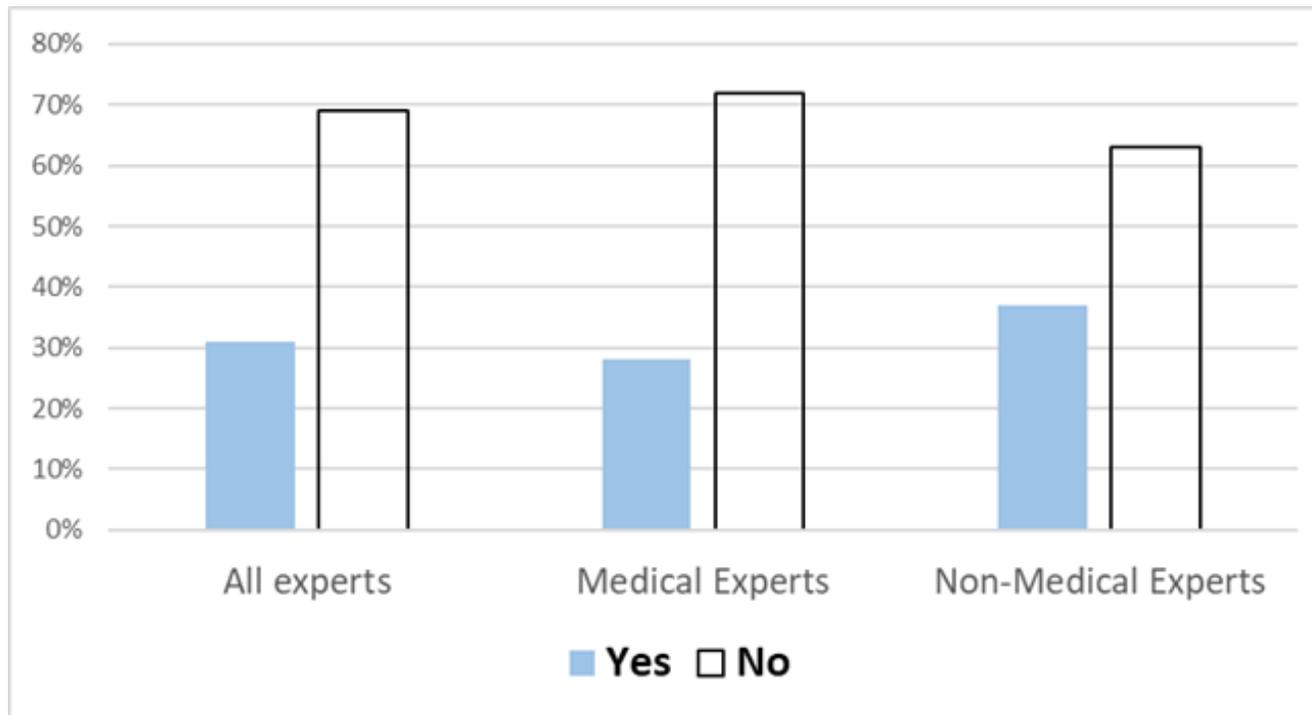


Total number of respondents: 778

Question 5: Would you continue to work in legal aid cases if expert witness fees were further reduced?

69% of the experts surveyed indicated that they would not continue working in legal aid cases if expert witness fees were further reduced. The new President of the Supreme Court, Lady Justice Hale, described Lapso as probably a “false economy” and added that early legal advice would help resolve many legal problems. (Source: Hale backs public funding for early legal advice while outlining concern over LSB reform plan. Legal Futures (2017), [online]. Available at: <https://www.legalfutures.co.uk/latest-news/hale-backs-public-funding-early-legal-advice-outlining-concern-legal-services-board-reform-plan>)

The Ministry of Justice is due to review the impact of Lapso but would not report before spring 2018.



Total number of respondents (of those experts who would accept legal aid cases): 338

Question 6: Would you accept instructions from a litigant in person?

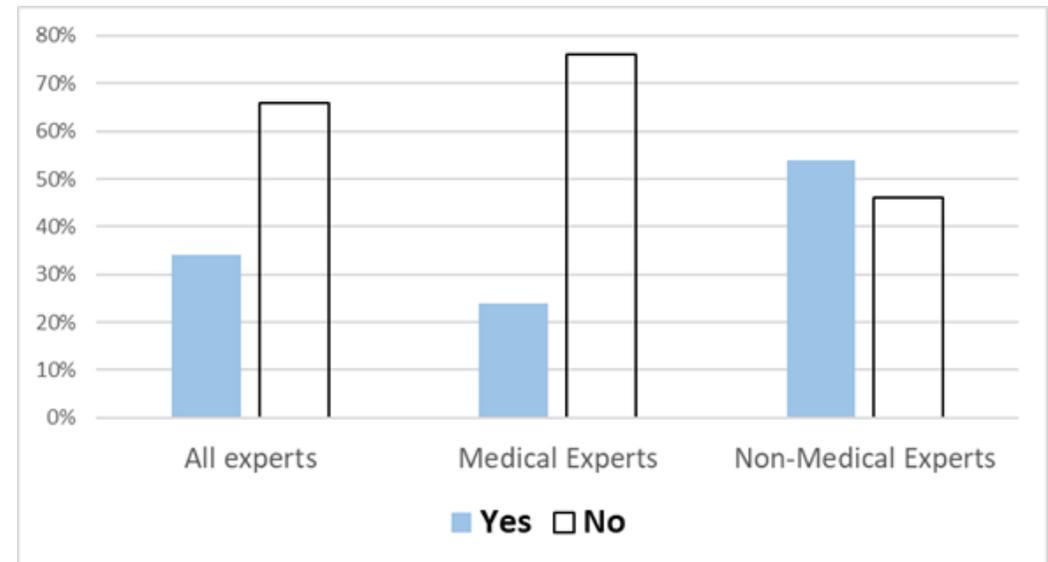
66% of the experts surveyed said that they wouldn't accept instructions from a litigant in person. In recent years there has been a steady increase of litigants in person in civil and family cases.

The Ministry of Justice's latest family court statistics illustrated that the number of private law applications increased by 3% (13,029 new private law applications in April to June 2017). The removal of legal aid in the majority of divorce-related disputes has led to a 20 per cent rise in litigants in person. (Source: Ministry of Justice stats and the worrying rise in the number of Litigants in Person. Hunter & Uro Family Law Solicitors (2017), [online]. Available at: <https://www.hunteranduro.co.uk/2017/09/29/ministry-of-justice-stats/>)

The rise in litigants of person have put enormous pressure on the courts as resources continue to be restricted leading to delays for a case to reach a final decision. Expert witnesses are more and more reluctant to accept cases from litigants in person partly due to poor instructions from litigants in person and low fees. However litigants in person are becoming the norm in family courts.

It is also worth highlighting the difference in results between medical experts and non-medical experts. 76% of medical experts would not accept instructions from a litigant in person whereas 54% of non-medical experts would do so. In 2017, the government announced that they will increase the small claims limit to £5,000 for "RTA-related personal injury claims". (Source: Victims to miss out on fair compensation after crackdown on whiplash claims. The Times (2017), [online]. Available at: <https://www.thetimes.co.uk/article/road-victims-will-be-left-out-of-pocket-by-law-to-cut-fraud-s25f5vl96>)

These reforms are expected to be implemented in full on 1 October 2018. The small claims track regularly sees claims by litigants in person where the case might need to be supported by an expert's report. However, our report shows that most of the experts surveyed who work in personal injury claims are medical experts and, of these experts surveyed, 76% would not accept instructions from a litigant in person.



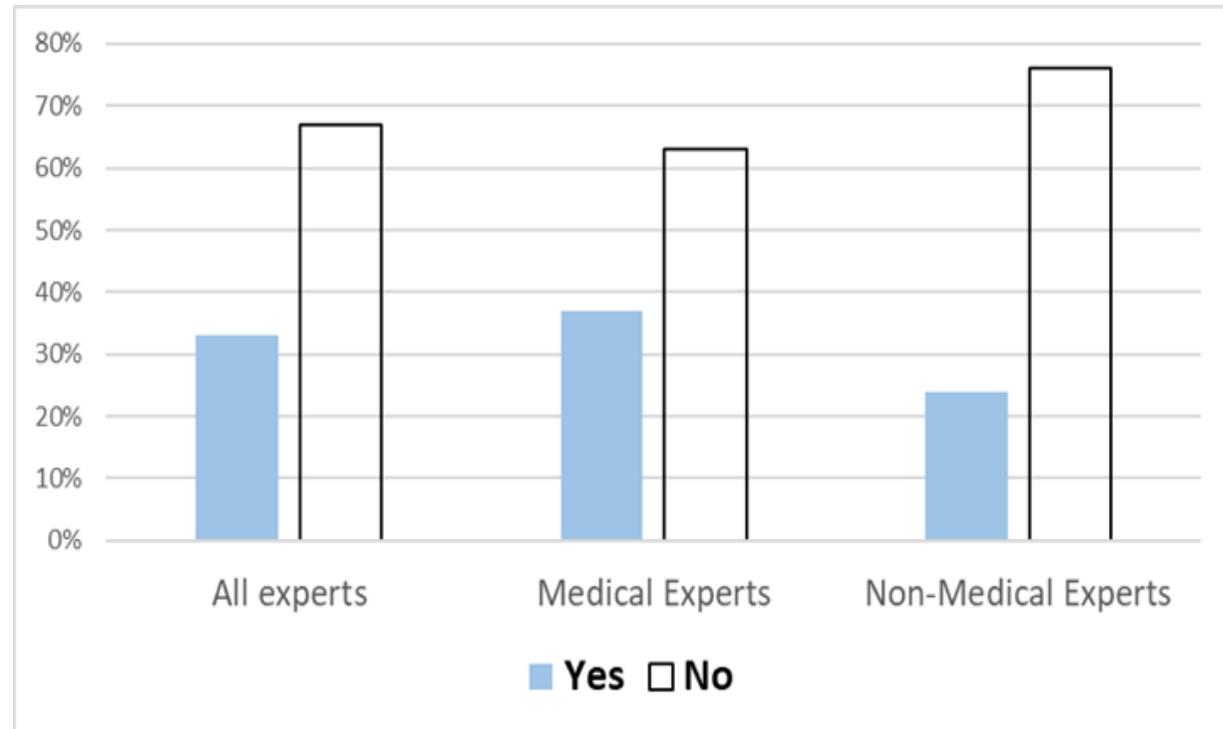
Total number of respondents: 769

Question 7: Do you think the increased use of IT in courts will lead to the decline, or the end, of expert witnesses giving live evidence in court?

Over 65% of the experts surveyed do not believe that the increased use of IT in courts will lead to the decline, or the end, of expert witnesses giving live evidence in court.

Recent changes to court proceedings in an attempt to modernise the UK legal system has resulted in a significant shift from paper to digital. The MoJ is investing £700m to modernise the courts and tribunal system, in addition to £270m being made available to develop a fully connected criminal courtroom by 2020. (Source: Courts and Tribunal Judiciary, (2016). [online] Available at: <https://www.judiciary.gov.uk/wp-content/uploads/2016/09/narrative.pdf>)

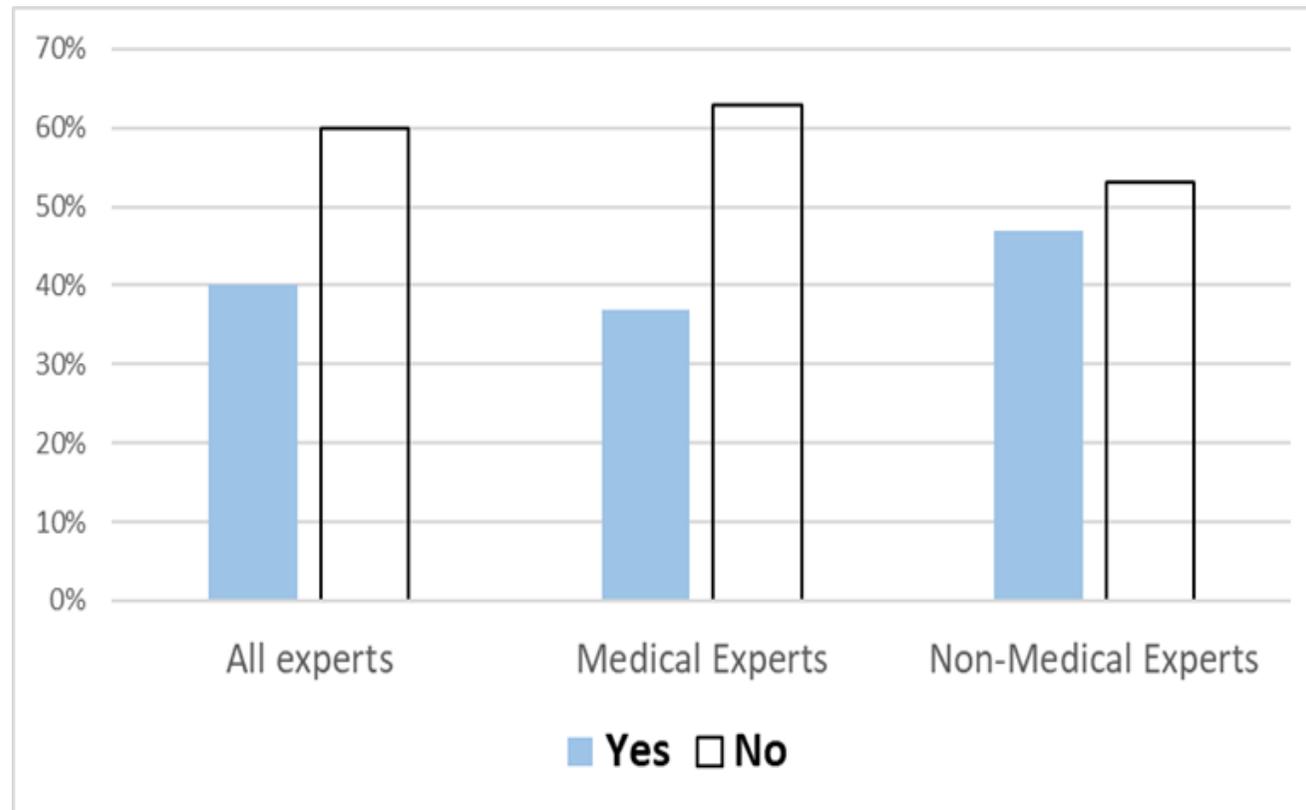
It seems that expert witnesses do not believe that this digital transformation will impact their expert witness work and will replace the need for experts to stand in court and give evidence.



Total number of respondents: 762

Question 8: Will this reduce the quality of decision making in court?

Of those who did think that the increased use of IT in courts will lead to the decline, or the end, of expert witnesses giving live evidence in court, 60% of the experts surveyed said that this won't reduce the quality of decision making in court. So the indication as far as expert witnesses are concerned is that IT in courts will continue to be successfully implemented.



Total number of respondents (of those experts who believe that the increased use of IT in courts will lead to the decline or the end of expert witnesses giving live evidence in court): 250

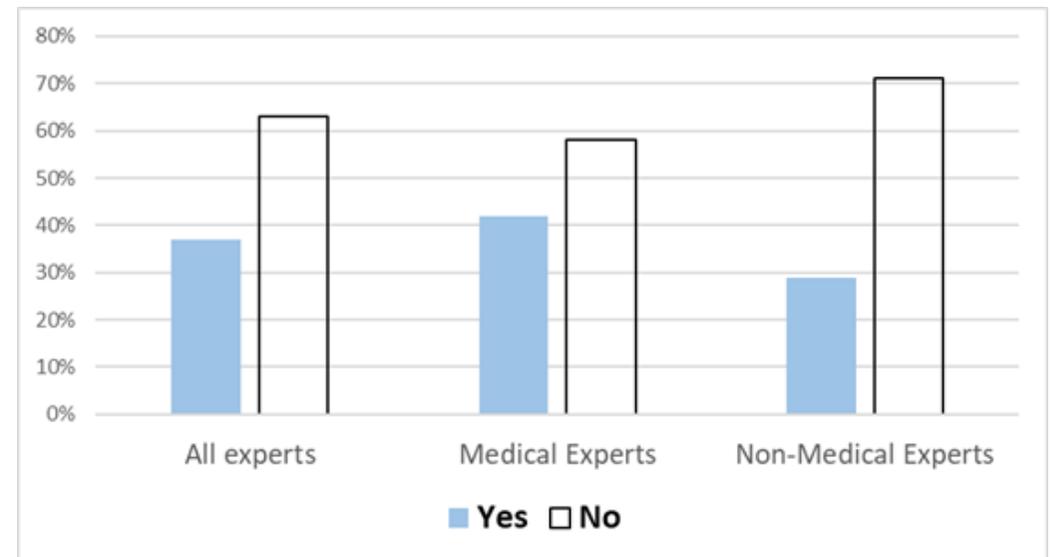
Question 9: Do you think that expert witnesses giving evidence via video-link is as effective as experts giving evidence in court?

Question 10: Please tell us why.

Over 60% of the experts surveyed don't believe that giving evidence via video-link is as effective as experts giving evidence in court. One of the key reasons mentioned by the respondents was that body language and other elements of non-verbal communication would be missed in video links. Some experts commented on the artificial aspect of video links comparing them to "computer games".

Other comments from experts include: "Video links fail to convey the full attitude of the witness which involves body language, and immediate reactions to questions. It is not as easy to question the witness repeatedly on video link."; "If each side is convinced that they are right, then one of them either does not truly understand the case or they are a hired gun. Much better face to face in court to work out which is the genuine opinion."; "The direct human contact is a part of how we communicate and a video link inevitably means a loss of information on a nonverbal level."

37% of the experts surveyed believe that giving evidence via video-link is as effective as experts giving evidence in court.

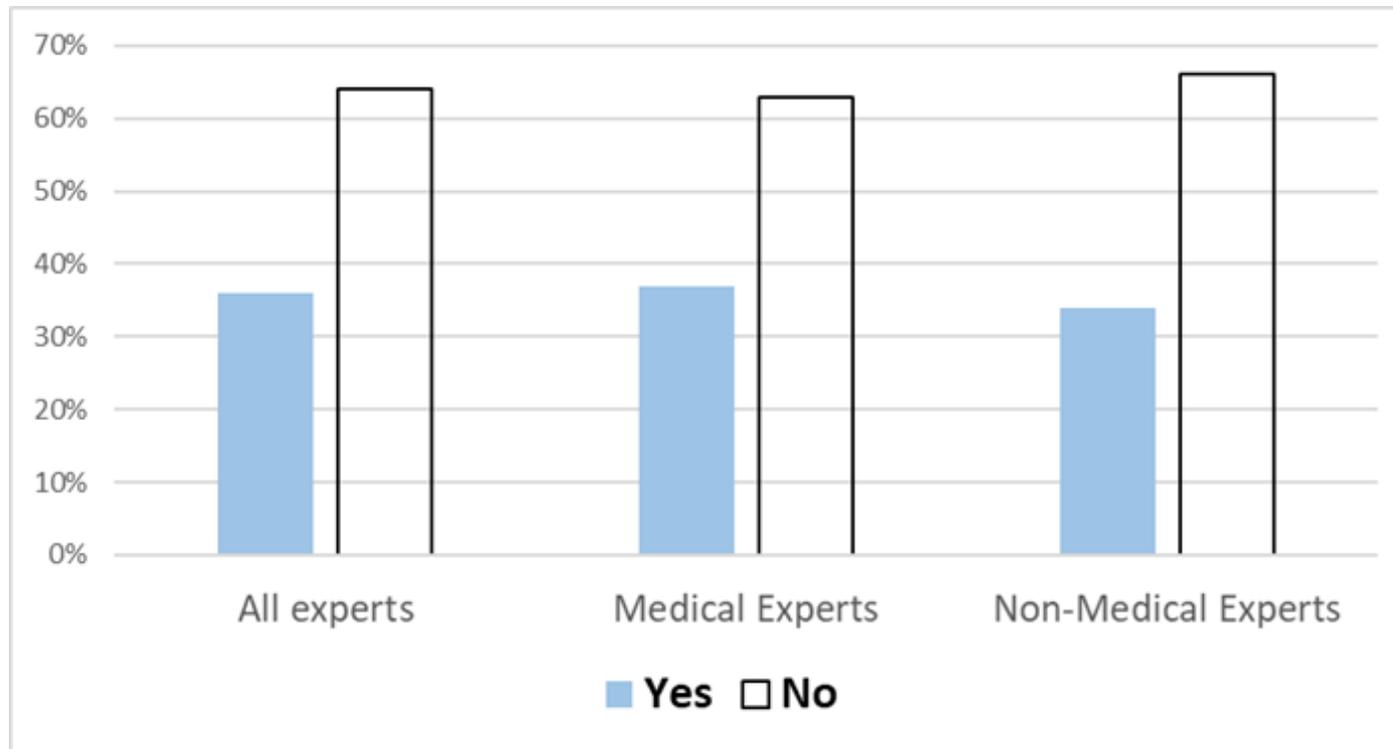


Total number of respondents: 757

Please see Appendix 5 for a full list of the answers given to question 10.

Question 11: Do you think that examination in chief should be pre-recorded to save time and money?

65% of the experts surveyed don't think that examination in chief should be pre-recorded to save time and money. For the majority of experts, examination in chief, where it is allowed, is seen as an essential warm up before being cross-examined.



Total number of respondents: 744

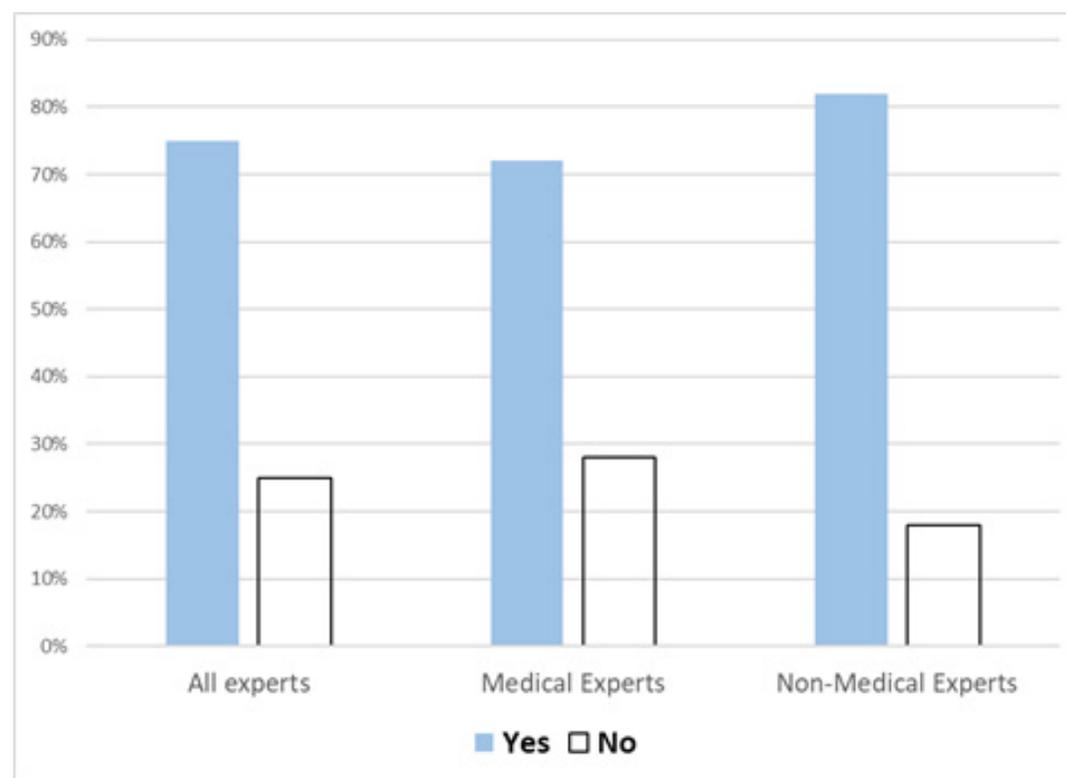
Question 12: Have you come across poor quality or unqualified expert witnesses?

Question 13: Please give us an example.

75% of the experts surveyed have come across poor quality or unqualified expert witnesses.

Despite the introduction of the Civil Procedure Rules in 1999, it seems that some experts don't fully understand their role or have not been properly trained in the skills needed to act as an expert witness.

Some comments from the experts surveyed include:
"Experts in other disciplines overstepping their expertise (but accepted by Judge that they are an overview expert - when they are not!) Experts in other disciplines simply giving inaccurate information related to one's own discipline."
"Experts who carry out expert witness work as a side line to their main career are often unaware of their duties to the court."
"Poorly briefed experts attempting to determine the case rather than provide their expert opinion. Experts unsure of their roles and responsibilities to the court and being advocates for their client's position."

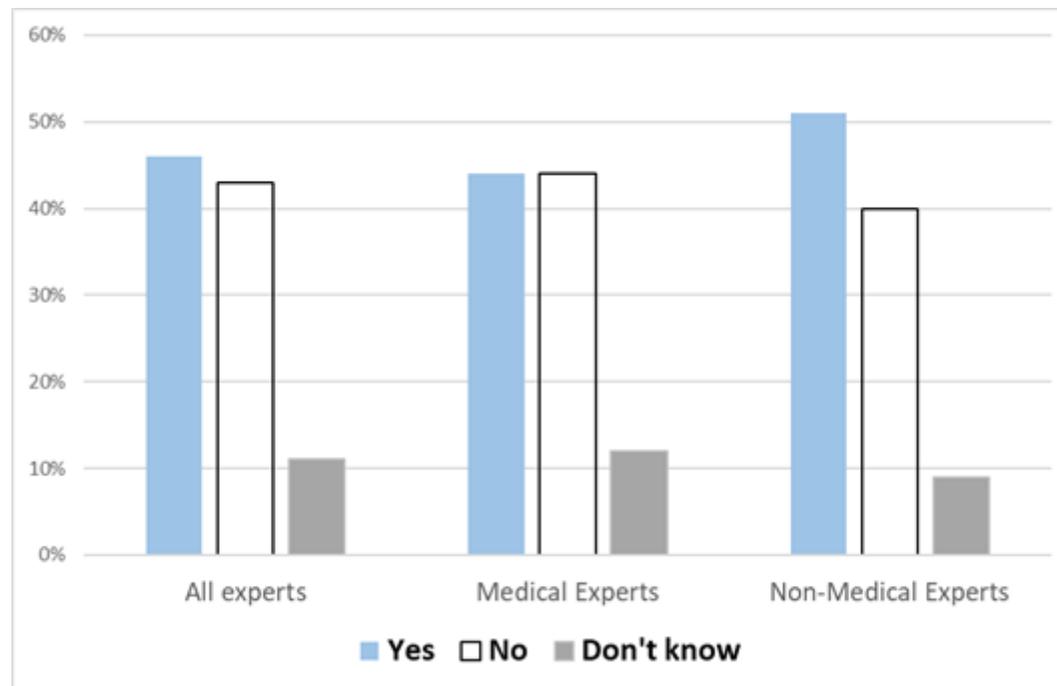


Total number of respondents: 744

Please see Appendix 6 for a full list of the answers given to question 13.

Question 14: 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”?

As in last year’s survey, 46% of the experts surveyed indicated that they have come across an expert that they consider to be a “hired gun” even though Lord Woolf made clear in the Civil Procedure Rules 1999 that an expert’s duty is to the court and not the side paying.

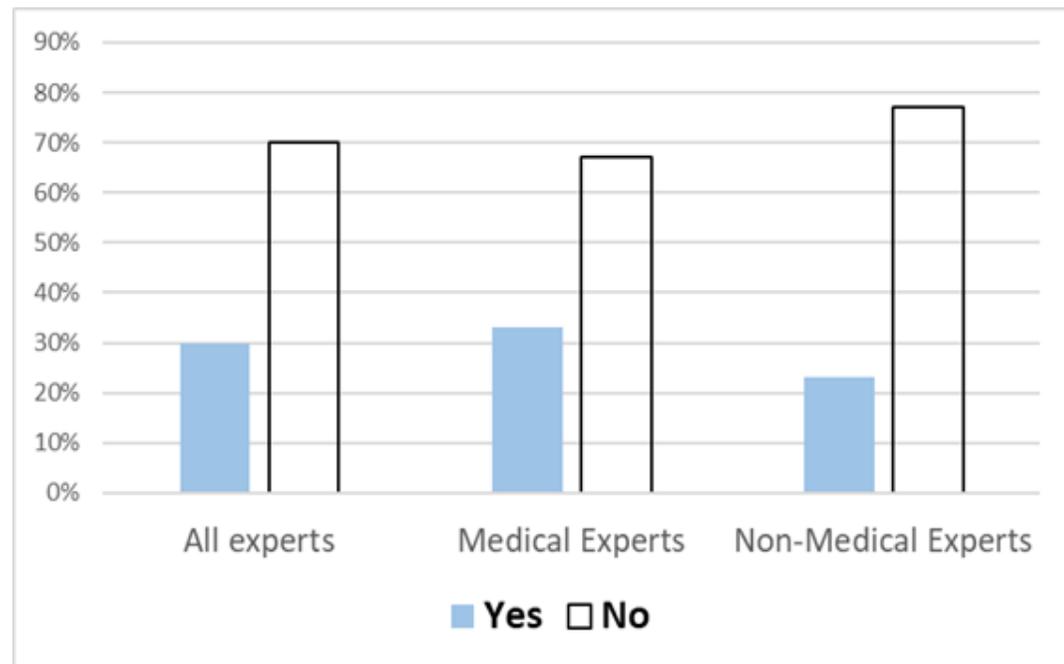


Total number of respondents: 725

Question 15: 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?

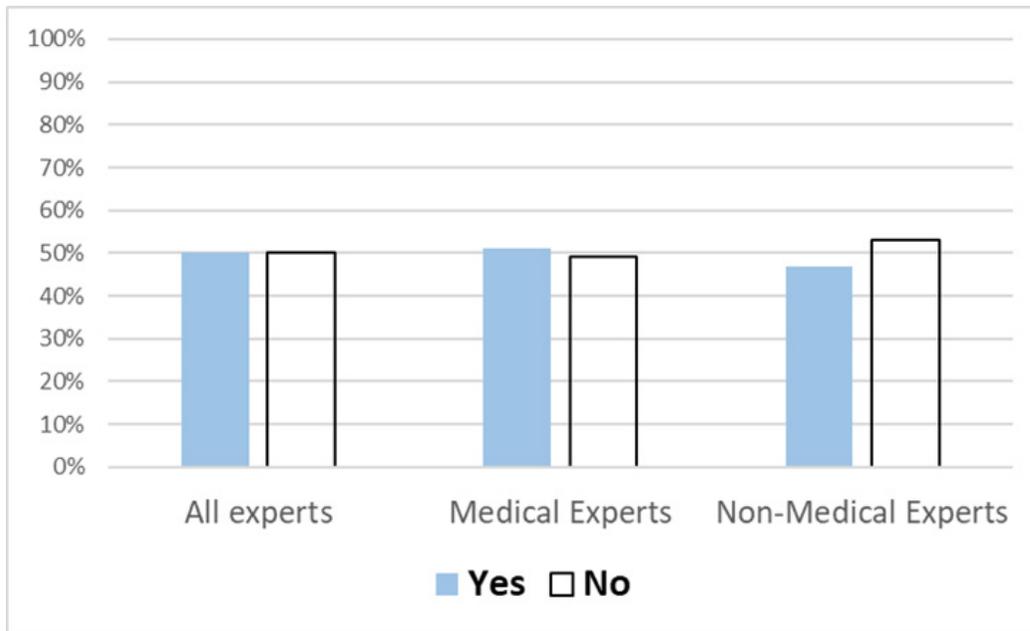
30% of the experts surveyed have been asked or felt pressurised to change their report, by an instructing party, in a way that damages their impartiality, in the last 12 months. Solicitors need to understand the role of experts and should not consider them as an adversarial tool. Judges need also to keep a careful eye out for bias.

Experts should also seek guidance if they feel they are being asked to do something inappropriate, because their first duty is to the court, not their instructing solicitor. It may jeopardise future work with that particular solicitor, but it is better to check or say “no” as it is the expert’s professional reputation on the line.



Total number of respondents: 725

Question 16: More than a third of the UK workforce is experiencing anxiety, depression, or stress, according to a survey of employees in junior and senior roles. Have you ever felt stressed due to your activity as an expert witness?



Total number of respondents: 725

A high number of experts surveyed (50%) indicated that they have felt stressed due to their activity as an expert witness. Expert witnesses play a vital role in the justice system but expert witness work can be as rewarding as demanding. Since the Jackson reforms to the Civil Procedure Rules in April 2013, experts have had to comply with court timetables and tighter deadlines for reports. Changes in costs budgeting, proportionality and funding have also put a strain on expert witness work.

The respondents have mentioned the difficulty of balancing expert witness work with other work/family commitments as the main reason for experiencing stress. Another key reason is respecting the short deadlines.

Question 17: What made you feel stressed?

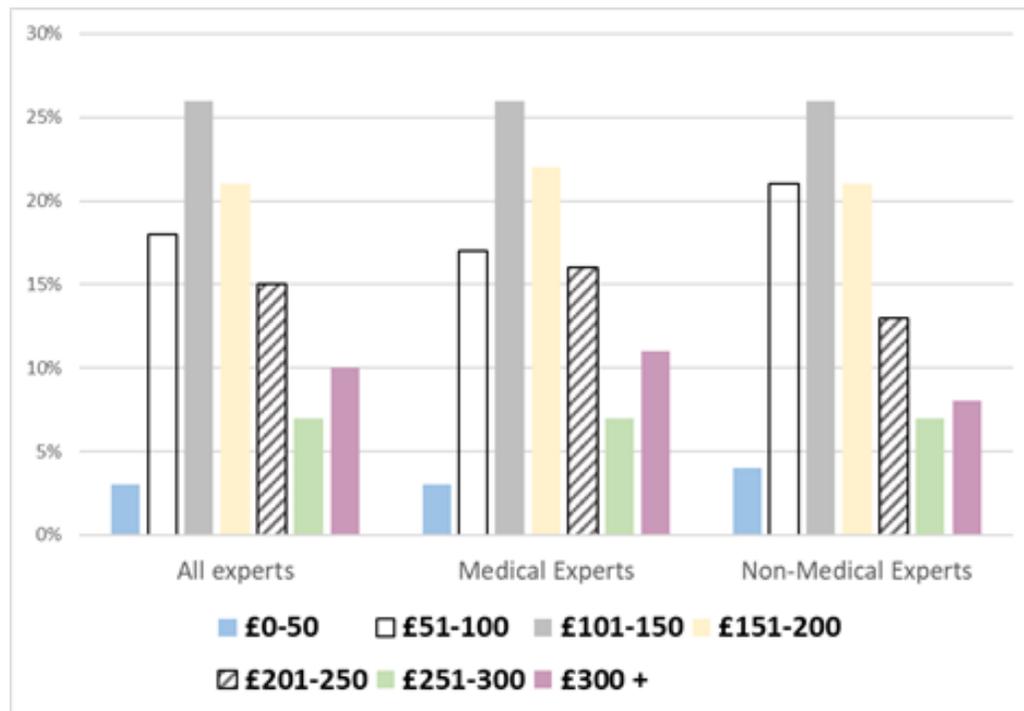


Total number of respondents (of those experts who have ever felt stressed during their activity as an expert witness: 359)

Question 18: What is your average hourly rate for report writing?

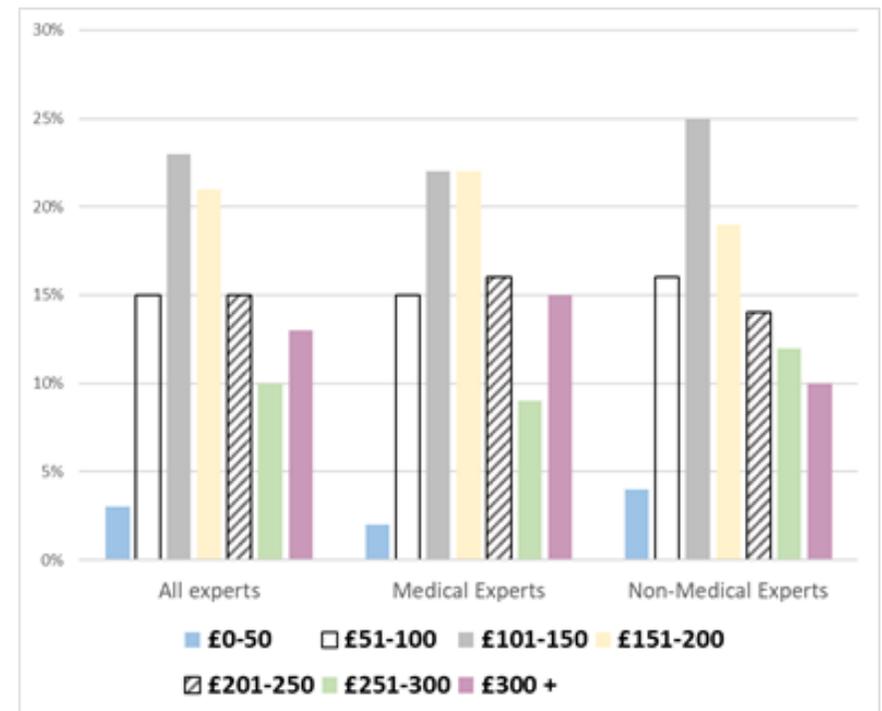
Question 19: What is your average hourly rate for court?

Q18



These results show a significant variation in rates between different areas of expertise which echoes the difficulty in considering expert witnesses as a single group when referring to experts' fees.

Q19

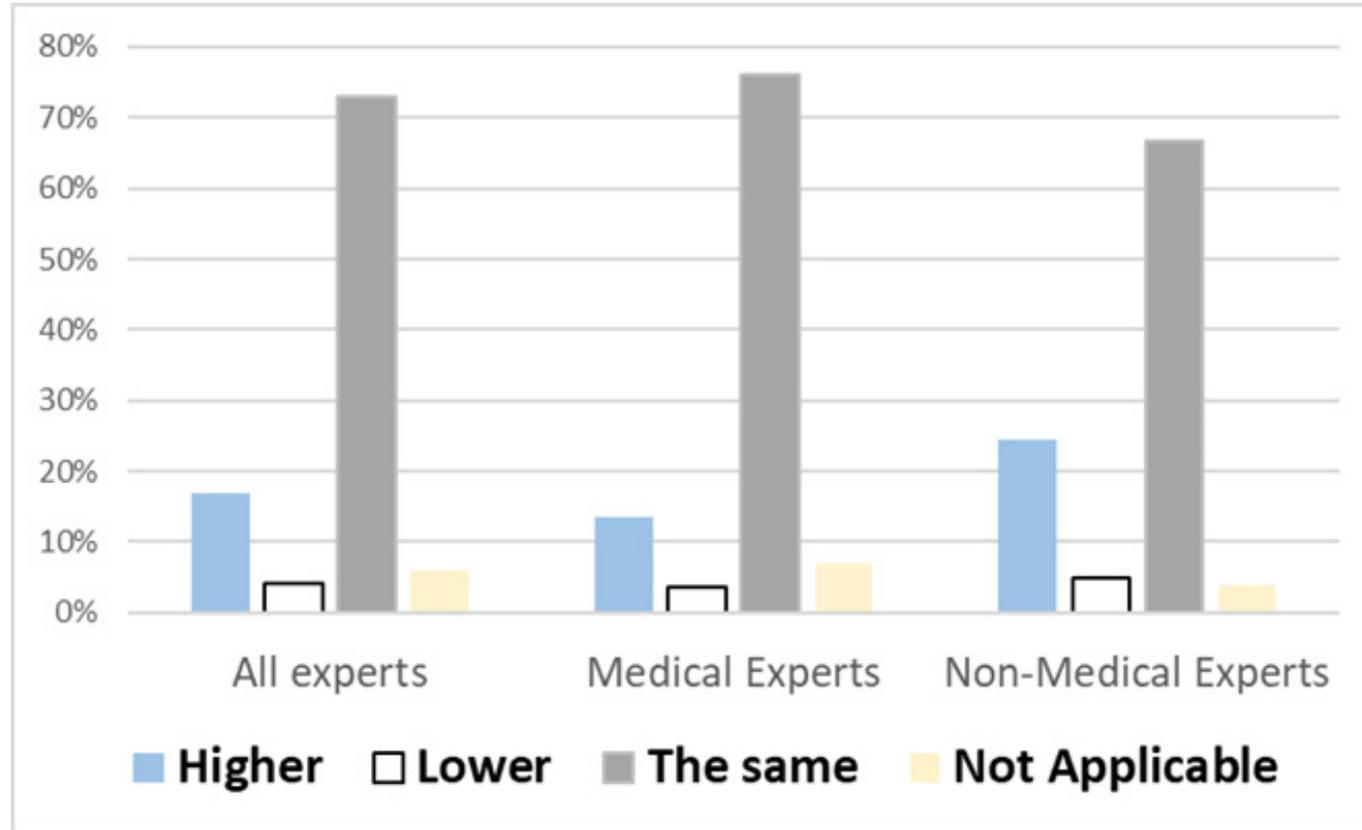


Total number of respondents for both questions: 700

Please see Appendix 1,2,3 and 4 for a full list of hourly rates by area of expertise.

Question 20: How does this relate to your average hourly rate in 2016?

As in last year's survey, 73% of the experts surveyed indicated that their rates remain the same as last year.



Total number of respondents: 700

Appendix 1: Medical – Average hourly rate (£) for report writing

Areas of Expertise - Medical	Total number of respondents	£0-50	£51-100	£101-150	£151-200	£201-250	£251-300	£300+
Chiroprody and Podiatry	4	0%	0%	25%	0%	75%	0%	0%
Cosmetic, Dermatology, Hair	9	0%	11%	0%	22%	33%	11%	22%
Ear, Nose, Throat	5	0%	0%	20%	60%	20%	0%	0%
Emergency Medicine and Anaesthesia	24	0%	4%	17%	38%	29%	4%	8%
Eyes	7	0%	0%	14%	57%	0%	0%	29%
Forensic Medical Examiner / Police Surgeon	7	0%	14%	57%	0%	29%	0%	0%
Gastrointestinal and Urinary	2	0%	0%	0%	0%	50%	0%	50%
General Medicine / Surgery	20	0%	0%	15%	20%	40%	5%	20%
GP	29	3%	14%	38%	31%	7%	0%	7%
Heart and Lungs (cardiothoracic)	9	0%	0%	11%	22%	22%	22%	11%
Immunology, Diabetes, Hormones	2	50%	0%	0%	0%	50%	0%	0%
Musculoskeletal and Prosthetics	14	0%	0%	29%	29%	36%	0%	7%
Neurology	14	0%	0%	29%	43%	14%	14%	0%
Nursing / Midwifery	32	9%	41%	31%	19%	0%	0%	0%
Obstetrics, Gynaecology and Fertility	9	0%	11%	56%	22%	11%	0%	0%
Occupational Health / Therapy	6	17%	33%	17%	33%	0%	0%	0%
Oncology and Treatment	2	0%	0%	50%	0%	50%	0%	0%
Oral / Dental	22	9%	0%	27%	32%	23%	0%	9%
Orthopaedics / Trauma	43	2%	12%	19%	16%	19%	16%	16%
Other	87	5%	16%	21%	15%	14%	13%	17%
Paediatrics	10	0%	30%	30%	30%	10%	0%	0%
Pathology and Scanning	1	0%	0%	100%	0%	0%	0%	0%
Psychiatry	36	0%	14%	31%	8%	17%	14%	17%
Psychology	74	0%	38%	24%	22%	8%	1%	7%
Speech and Language Therapy	6	0%	17%	83%	0%	0%	0%	0%

Appendix 2: Non-Medical – Average hourly rate (£) for report writing

Areas of Expertise - Non Medical	Total number of respondents	£0-50	£51-100	£101-150	£151-200	£201-250	£251-300	£300+
Accident / Incident Investigation	5	0%	20%	20%	40%	20%	0%	0%
Accountancy	27	0%	7%	22%	15%	15%	11%	30%
Agricultural / Environmental / Animals	5	0%	40%	20%	20%	20%	0%	0%
Architectural	9	0%	0%	0%	67%	22%	11%	0%
Computing / Technology	12	0%	33%	25%	17%	0%	25%	0%
Engineering	26	0%	12%	42%	15%	23%	8%	0%
Financial	11	9%	0%	0%	9%	36%	9%	36%
Fire	1	0%	100%	0%	0%	0%	0%	0%
Fraud / Theft	1	0%	100%	0%	0%	0%	0%	0%
Health / Safety / Occupational / Use of Force	10	0%	30%	30%	40%	0%	0%	0%
Marine	12	0%	0%	25%	17%	25%	17%	17%
Other	39	8%	33%	33%	13%	5%	3%	5%
Science / Forensics	21	5%	62%	19%	10%	0%	5%	0%
Social Care	7	57%	29%	0%	14%	0%	0%	0%
Sport	4	0%	25%	75%	0%	0%	0%	0%
Surveying / Building	36	0%	6%	31%	36%	19%	3%	6%

Appendix 3: Medical – Average hourly rate (£) for court

Areas of Expertise - Medical	Total number of respondents	£0-50	£51-100	£101-150	£151-200	£201-250	£251-300	£300+
Chiroprody and Podiatry	4	0%	0%	25%	0%	75%	0%	0%
Cosmetic, Dermatology, Hair	9	0%	11%	0%	44%	0%	22%	22%
Ear, Nose, Throat	5	0%	0%	0%	60%	40%	0%	0%
Emergency Medicine and Anaesthesia	24	4%	4%	8%	25%	38%	8%	13%
Eyes	7	0%	14%	0%	29%	14%	0%	43%
Forensic Medical Examiner / Police Surgeon	7	14%	14%	71%	0%	0%	0%	0%
Gastrointestinal and Urinary	2	0%	0%	0%	0%	50%	0%	50%
General Medicine / Surgery	20	0%	0%	10%	20%	30%	15%	25%
GP	29	0%	10%	31%	34%	7%	7%	10%
Heart and Lungs (cardiothoracic)	9	0%	0%	0%	100%	100%	100%	150%
Immunology, Diabetes, Hormones	2	50%	0%	0%	0%	50%	0%	0%
Musculoskeletal and Prosthetics	14	0%	7%	21%	21%	21%	7%	21%
Neurology	14	0%	0%	29%	36%	14%	14%	7%
Nursing / Midwifery	32	6%	41%	22%	25%	0%	6%	0%
Obstetrics, Gynaecology and Fertility	9	0%	11%	22%	44%	11%	0%	11%
Occupational Health / Therapy	6	17%	17%	33%	33%	0%	0%	0%
Oncology and Treatment	2	0%	0%	0%	50%	0%	0%	50%
Oral / Dental	22	0%	5%	36%	23%	23%	5%	9%
Orthopaedics / Trauma	43	0%	0%	16%	19%	19%	19%	28%
Other	87	5%	13%	22%	18%	13%	9%	21%
Paediatrics	10	0%	60%	10%	20%	0%	0%	10%
Pathology and Scanning	1	0%	0%	100%	0%	0%	0%	0%
Psychiatry	36	0%	8%	31%	11%	22%	17%	11%
Psychology	74	1%	34%	19%	23%	12%	3%	8%
Speech and Language Therapy	6	0%	17%	83%	0%	0%	0%	0%

Appendix 4: Non-Medical – Average hourly rate (£) for court

Areas of Expertise - Non Medical	Total number of respondents	£0-50	£51-100	£101-150	£151-200	£201-250	£251-300	£300+
Accident / Incident Investigation	5	0%	20%	20%	40%	20%	0%	0%
Accountancy	27	0%	4%	22%	11%	19%	15%	30%
Agricultural / Environmental / Animals	5	0%	40%	20%	20%	20%	0%	0%
Architectural	9	0%	0%	0%	56%	11%	33%	0%
Computing / Technology	12	0%	25%	25%	17%	8%	25%	0%
Engineering	26	0%	4%	42%	15%	23%	12%	4%
Financial	11	0%	4%	42%	15%	23%	12%	4%
Fire	1	0%	100%	0%	0%	0%	0%	0%
Fraud / Theft	1	0%	100%	0%	0%	0%	0%	0%
Health / Safety / Occupational / Use of Force	10	0%	20%	20%	30%	0%	20%	10%
Marine	12	0%	0%	8%	25%	8%	33%	25%
Other	39	8%	26%	38%	10%	5%	5%	8%
Science / Forensics	21	0%	57%	24%	10%	5%	5%	0%
Social Care	7	57%	14%	14%	14%	0%	0%	0%
Sport	4	0%	0%	75%	25%	0%	0%	0%
Surveying / Building	36	0%	6%	22%	33%	22%	8%	8%

Appendix 5

Question 9: Do you think that expert witnesses giving evidence via video-link is as effective as experts giving evidence in court?

Question 10: Please tell us why

There are nuances that can be difficult to convey if not in person. It can also be difficult to read non-verbal communication when on-line.

Body language and interaction in person are valuable forms of communication. Skilled questioning can pick up reactions and leads from witnesses.

It is difficult to effectively note the reaction of people over a video link to what you are saying.

The value of evidence is often in the interaction and response to questions: needs full communication visible, body language, eye contact etc.

Less 'real', unaware of court dynamics, technology imperfect.

I have always found this more difficult. When I have used this method, there have always been technical hitches and a delay on the line for speaking.

Lack of emotional context.

'Contact' with the jury, counsel and judge when giving evidence is difficult. Difficult to refer to an exhibit present in court/describe it to the jury (or indeed answer questions about it if they arise in court).

The subtleties of body language in communication.

I truly believe that face to face interaction cannot be fully replicated by technology.

As discussions in and out of court clarifies the truth.

Video links fail to convey the full attitude of the witness which involves body language, and immediate reactions to questions. It is not as easy to question the witness repeatedly on video link.

Nothing can fully replace face to face.

In my opinion it is important for the court to see and feel what it is they are hearing and do so by having the expert present in person.

Because it is difficult to convey the same 'atmosphere' in a remote link compared to being in person.

There is no substitute for personal presentation.

I believe that attendance at Court tends to save time and costs.

Harder to convey complex issues and exchanges with counsel, opposing experts and judges/tribunals can become disjointed. Often feels like there's an inclination on all sides to get video-link evidence over with as soon as possible.

Body language and other points often impact on the weight that can be given to the experts' evidence not apparent via Visio link.

The subtleties of body language and the interaction are lost. However, I so rarely need to give evidence in court. For me it wouldn't be a major issue.

From experience where I have been live and prosecution by video link, jury almost ignored them- inattentive to the video link - whereas eye to eye contact from me (and successful!) personal interaction and body language is important. Hot tubbing largely depends on live presence.

Less "feel" from both sides.

Lack of cross examination.

Key aspects of body language and use of the environment are missed.

In Court the expert can more easily communicate with the judge and be aware of what is happening in the court as a whole. In court the bundles are accessible and it is easier to ensure that all are looking at the right document.

Any interaction which is not person to person in a direct manner is not able to demonstrate the full response of the person being cross-examined as it is not possible to see the whole of the bodily response to the question unless the person being examined is being filmed in a specifically designed studio with high quality cameras and voice recorders, and if that is to be done you might just as well put the witness into Court.

Very different environment.

The body language and other elements of non-verbal communication is lost with video link.

You lose the personal interaction.

Because it is impossible to convey honesty via a video link.

You can't "read" the situation as well on a video link.

Being actually present is always more immediate and influential.

More flexibility in court and a better opportunity for people study i.e. to see reactions.

Expert may be less focused and possibly distracted outside court.

Communication and personal interaction is more effective/convincing.

I believe it creates a better impression and there is less time pressure created.

If each side is convinced that they are right, then one of them either does not truly understand the case or they are a hired gun. Much better face to face in court to work out which is the genuine opinion.

Facial expressions are important.

Facial expressions most important.

The assessment of people and their behaviour and responses is extremely complex and video link allows only limited exposure to these factors. Its use is more appropriate when the people concerned already know each other.

Physical presence of an individual in court adds 'substance' to their evidence.

I have no experience in court, but use video conferencing, nationally and internationally, for architectural business. While undoubtedly of use, it is NOT the same as a face-to face meeting; body language, nuance and fine detail is lost. When within the UK, our important meetings are always face to face.

Nuances - as much as the difference between a typed typescript and an audio recording.

Visual impressions and body language seem often to be as influential to the judgment as the quality of the actual evidence.

Experts are better placed to get their opinion across in person.

An important part of giving evidence is body language/ reaction to questions/ feeling the "atmosphere" of the court. I do not think this would come over as clearly in a video link.

Nuances in body language are more important than usually recognised and are reduced in video link.

Giving evidence via video link would limit direct interactions with the jury eg. referring to visual aids, body diagrams, images etc.

There is a danger of distraction and I think it will be difficult to read body language.

Body language is more difficult to read.

The direct human contact is a part of how we communicate and a video link inevitably means a loss of information on a nonverbal level.

If it is a criminal trial the jury need to view the expert as well as his evidence. In a relatively simple civil PI claim then perhaps the evidence could be supplied by video - especially if the distance from the expert to court is significant and if the evidence is likely to be short. It would be inappropriate to have a long period of cross examination by video for example.

The effect of the expert will be much reduced by not being present in my view.

The physical court environment is the arena that is so crucial to the delivery of justice.

The personality of the experts is less likely to come across to help the judge decide which expert to believe. It will be much cheaper however, and will become the norm.

A less confident expert witness will not always be noted via the video link.

The non-verbal communication with members of the court is less evident and depends on the quality of the video link and camera positions.

As the expert will often hear other evidence in Court as well as meet with all parties prior to the hearing (at Court) to narrow the issues (where jointly instructed).

Televisions are flat. People are 3 dimensional. Different signals to the court.

With video link it is difficult to assess the impact of answers on, eg, the judge.

Research indicates that you only get part of the body language on screen and this is reckoned to be 70% of the total communication.

No good sense of attitude or opinion.

Part of my role as an expert witness is to listen to others evidence and assist counsel. This cannot be done by video link.

Less focused when giving evidence externally.

I think it depends on the quality of the link. Potentially it will support greater access to experts and will be more time effective. However, there are personal or personalities which play out at times in court especially in criminal court. This will be more difficult to discern. Also there will be less opportunities for those pre court discussions or a sense of the 'vibe' at the time in court which can help or hinder expert performance.

True face to face questioning is required for the tribunal properly to gauge the value of the evidence.

Personal reaction is crucial.

It is a three at dialogue, the counsel, the judge, the expert. Video conferencing does not provide the necessary opportunity to pick up on body language that the judge needs. The 'tricks' that barristers use to get to the truth with dissembling experts would become ineffective, and that is a vital part of our justice system.

Impersonal.

The mix of potential technical issues (which I've seen cause lengthy delays) and also the difficulty that giving evidence over video link presents in terms of bundles tends to make evidence stilted. It also tends to be a lot harder for the person giving evidence, which can lead to less effective evidence.

It is more important to have the intimate association that would be present with individuals in person.

It would be too artificial. Physical presence and body language are important.

It is difficult to say as I have not come across this, but there is always the issue of being handed documents and so on so there is an advantage in being on the spot.

Absence of body language, voice intonations. Better, live, face to face.

So much of giving evidence in court requires personal skills in persuasiveness, and reading non-verbal cues from the jury and judge to be assured they follow your technical explanations. Presenting via video link works as well as teleconferencing - i.e. Usually an unmitigated disaster!

Live evidence often reveals strengths or weaknesses in a case and the presence of an expert throughout enables cross examination to formulate appropriate questions.

Standing in front of the Queen's coat of arms with a Judge tests the integrity. A video cannot expose body language.

Impact on the jury and best to see person to communicate.

Because although people are moving with the times with technology I think jurors may trust you more in person, however would it change if you are streaming with maybe company logos in the background, many schools of thought.

It feels artificial and I do not believe that I am as fluent over a video or phone link and I feel disadvantaged by not being able to properly see and hear.

In a face-to-face setting I think you are more likely to detect and automatically respond to more non-verbal clues from individuals in the court room.

An expert's role is to assist the court. Much of that help and assistance is required throughout the trial and not just when the expert is on the stand or giving evidence.

It's easier to make a connection with a jury if you are there in person.

Reaction to cross examination.

In my opinion it is beneficial for the people in the court to see me in person giving evidence as I believe they will gain a deeper understanding of what it is I am saying.

More natural, understand someone better if they are in the room. The benefits of a face to face appearance are modest, so not always worthwhile.

Difficult to judge demeanour on video link.

Less persuasive. Less connection. Being at court allows for dynamic discussion and exploration of issues throughout.

A great deal of additional information is conveyed by seeing a witness in person in the box
The personal presence/interaction can be of great help.

Visual tell signs better viewed in person.

Completely changes the atmosphere.

I am a psychologist! I know that the non-verbal aspects of communication are as important as the verbal aspects. Video is OK but more limited in those respects.

Body language is important.

The judge will create an opinion of the expert, from which they are likely to create an opinion on the case.

It is difficult to "converse" over video link as it is an unnatural environment and impossible to notice the reactions of other parties and their interpretation of what one says.

It favours the expert in that it is potentially more forgiving of factors such as robust cross examination and body language.

The human impact is relevant.

'I want to tell you a story' and I need to be able to see the jury, the judge and the barrister to determine how well the story is going.

The presence in a court and face-to-face questioning imparts a far greater sense of importance and authority of the court than being at the end of a video link.

Video link is not an issue.

It is important for the witness to be able to read the facial expressions and body language of those in court to ensure that they are being understood.

Video links are not realistic.

Not the same. More like a computer game. Important questions missed and important points ignored.

It's crucial that the expert is seen in person, with his or her entire surrounding environment.

Harder to tell emotions etc on video link and may not access to court productions on the day.

A face-to-face dialogue between experts and barristers and judges, especially in "hot tubbing" will always be more compelling than any link by video. Also the opportunity for experts to comment to the instructing solicitor/barrister during other evidence in the course of the proceedings is not available.

Difficult to portray a number of nuances over a video link.

The transfer and crossflow of information is limited in video and the opportunity for the Court to visually assess the demeanour and approach of the Expert is diminished.

Body language, response to others.

A video link is often more difficult due to losing view of body language, sound delays and quality issues and less 'flow' to discussions.

I haven't given evidence via video link although am considering it for one case currently. I have interviewed individuals via video link and find it can be difficult because of delays and poor quality. It is important to communicate as clearly as possible for court and that is likely to be harder by video link.

Much reduced opportunity for briefing legal team on the on-going proceedings.

Easier in person.

Much detail lost.

The lack of a view of the whole court will diminish the power of the opinion. We need to see the judge and the jury to assess their attention.

Think it makes it a more serious undertaking giving live evidence in court.

It is more difficult to assess the quality of the witness.

Less non-verbal feedback - in both directions.

it's harder to explain at times if you are not there in person.

People like the face to face in person. Conversation flows easier and more questions are asked.

I believe you can be more responsive to a situation in person than over video.

Body language, response to body language stunted by VT.

Being live at Court gives the opportunity for pre-evidence conference with Counsel and informed negotiation between the parties.

Can't see the whole body language.

Because in my experience I am often asked to see the opposing parties giving evidence and to assist Counsel. When there is opposing expert evidence and hot-tubbing is required, the dynamic and atmosphere of the Court is an important factor when the evidence is being tested. I do not feel that it would be so helpful if it was done by video link.

The difficulties of referring to various documents used as exhibits is, in my experience, very complicated when using a video link. It might work if, and probably only if, the expert appearing on video had a full court bundle duly paginated in front of him. The expert will still have to prepare to give evidence and will raise a charge for that and the appearance at court. A video link would save only the travelling time to court - so unless the expert is on the other side of the world I cannot see any advantage in a video link other than a small saving in cost. The expert will also not then see any other of the evidence presented in court which

may be an important part of his or her attendance.

I believe that its actually very difficult to judge the mood and feel of the court at the point wherein you enter via video, whereas in person you are able to look at each and every person and read what they fell about what you are saying, interaction allows one to pitch the factual information that you are delivering at a level and in a manner which makes the jury believe in both you and what you are saying.

Presence in the same room is never the same as video link. I believe the best debate happens in the same room.

When an expert gives evidence in court the Court can see the body language and the expertise of the witness as well as being able to cross examine better than if it was televised.

Less opportunity to observe non-verbal cues in interactions with barristers and the Judge.

No live feedback available. As with a conference far better to attend in person to appreciate the nuances and body language.

Difficult to gauge the atmosphere in Court; to pick up body language and other cues.
It is not possible to adequately assess a witness in terms of body language and other non-verbal aspects of communication and language.

Less ability to make a connection with the Arbitrators/Judges, ability for opponent barristers to control/ interrupt answers is greater, video links can make the speech less clear and therefore can cause potential issues, might not be able to participate in as much as the arbitration/court hearing as when physically present, or pick on nuances/answers from other experts, harder to feed advice to instructing solicitors/ barristers when other experts are being questioned.

Non-verbal communication and gravitas cannot be measured on video links.

Current video link technology as used in courts is not good enough. There are too many distractions from the technology. However it would be entirely feasible to use platforms that give good video (in both directions) without transmission delays. In the future it should also be reasonable for live projection of documents both ways at the same time (especially as courts could move to scanned versions of documents). This would get rid of the additional problem of delays while all parties try to find the same page in the bundle... whatever advanced technology will never replace real life human interaction
why have you not included "don't know" as options for past 2 questions? that's what I would have checked.

Cannot imagine, as an expert witness, one can obtain the same feedback and reactions as the case progresses.

The Judge needs to weigh up the opposing experts and this is best achieved by cross examination. Hot-tubbing may be an option on video links - this could assist the Court but I'm not sure this would compensate for face to face with the Judge.

The atmosphere of a courtroom is something to consider.

Court may not obtain an appropriate view of the expert's views.

As with all video conferencing, niceties of emphasis are lost.

It is more difficult to assess a complete person via a video link than when interviewed in person. A TV interview is no more than an attempt to save costs, at the risk of reducing the quality of the evidence.

Lack of personal interaction between the expert and the jury.

Harder to convey key issues of fact and opinion.

Face to face has to be better.

Less impact than if present.

I consider the eye to eye with the jury / judge or person making the decisions is very important.

There are many more dimensions to live evidence in Court that will be excluded from video medium, but I am prepared to be convinced.

Degree of interaction different; possibly could be taken slightly less seriously

Body language, expression and presence is everything. Video link kills that element.

It's difficult to see what the judge and jury are doing over a video link, so difficult to assess how the evidence is being understood.

Juries will relate better to live evidence. IT problems will cause a fair number of links to be poor quality/fail.

It is preferable for the expert to 'sense' the judge's approach and the culture of the court room and it is always preferable to direct one's comments to the judge and be aware of how he/she is receiving and understanding your evidence.

Not same experience.

Lack of non-verbal interaction. Reduced attention to statement I with VR (this is the experience with VR conference at the work place).

The courtroom develops its own space and awe, not obtained sitting in front of a screen.

Because a witness's credibility is partly established through interaction with counsel, which is to some extent 'sanitised' by a video link.

As in the case (and evidenced through research) communication is simply not as effective.

Reduced ability for the expert to gauge the pace at which the evidence needs to be given for the judge's note taking and difficulty with reading body language etc.

I suspect in person may have more impact. However, it should be down to the facts.

Body language is very important in deciding if someone is being entirely truthful, and this is somewhat

masked when evidence is given by video link.

It is essential to communicate with the judge. In person you can see if the judge understands what you are saying and can modify your approach depending on the response. By video link you may not have any contact with the judge in person.

Suboptimal communication and limited controlled view of surroundings.

Body language.

The personal reactions are veiled.

Having experienced it the other expert was not as 'visible'.

I think it affects the connection between people involved - there is a sense of direction you pick up from being in a court room- a feel for how the case is unfolding.

Loss of personal interaction meaning less opportunity to discuss issues arising.

I think it is better to be able to see the person being cross examined in the flesh.

It is harder when not in person to ensure communication is properly received and understood. When delivering in person you pick up non-verbal messages from the recipient much more effectively.

You can't get across the full impact of what you are saying by video link.

Actually seeing a witness and the subtleties of body language is often very useful.

You lose the subtleties of face to face interaction.

I think the judge/sheriff prefers to see the person.

Physical Presentation in court is as important for a judge and/or jury for a witness as it is for defendant .

The way a question is put, and the body language helps interpret the question, often revealing what is understood and what is not clear.

An expert witness has a responsibility to the court, and, in some case it is necessary to go to court so that the opinion you have given can be scrutinized by the claimant / defendant's legal team. In my opinion this is best done face to face.

The jury cannot 'read' the witness and evaluate them in person.

Think it is easier to be able to see whole of person and be able to conduct examination, cross examination in person plus in my area the need for using IT at times to demonstrate particular aspects of the report/case.

Something is lost - the greatest opportunity for counsel to interrogate and expert is face to face.

Evidence in person has a greater impact.

Communications are compromised by video-link though not impossible. Parties may argue that the nuances and meaning of evidence has been contaminated by an inadequate medium - video-link.

Not yet mainstream. May come.

It is important to communicate with the court as fully as possible and the technology is likely to impede that.

More in-depth descriptions can be explained in more detail.

Possibility of impact upon effectiveness of communication and personal interactions.

There is nuance that can be missed with distance. Looking at Skype/FaceTime one is aware of the limitations this can have.

The IT doesn't work properly in my experience and keeps cutting out at crucial points in the evidence.

I still believe both sides would wish experts to be present in court for cross questioning.

Face to face interaction is always more communicative.

A court environment sharpens the mind and a face-to-face cross examination will assist the judge in reading body language better than a video link.

The protocol of looking at Counsel for question then turning to judge to answer works well. Counsels can try to use "intimidating" looks/nonverbal language sometimes. I like the chance to "address the court" properly. I presume this will not occur in video link.

Like all dialogue it is most effective face to face. Some nuancing is always lost in other media
You need the face-to-face interaction.

There are often IT problems, and even when it works you do not pick up subtle signs and expressions, unless you know the speaker very well.

I believe there is a qualitative difference to how people come across.

Giving evidence in person provides the Court the opportunity to better assess the oral evidence put before it. Oral evidence in person at Court may not be necessary in all cases, but for others cases it could well be. Also, given that 'greater value' is placed on oral evidence than that of a written report by the Courts, then the Courts would need to decide whether a video link versus evidence in person, in any way disadvantages one side or the other. That is one for the Courts to consider.

It just isn't the same. By the way in case there is no further opportunity for free text, I have recently given up medicolegal work as i felt bullied by solicitors.

The complexity of some cases and the consequent complexity of questioning in my view would be more difficult by video link. I reserve video and phone conference facilities for court proceedings preparation.

I never find video conferences are as effective as sitting near the person.

Body language is all important in court, and that includes the judges and the barrister posing the questions. I think it will lead to misunderstandings. Also, video conferencing I have used is crude and interferes with normal communication.

From experience in a criminal case this year, other expert on video link did not impress the jury (I could see their attention & body language), barristers less comfortable and expert less comfortable - seemed unable to discern when failing to make point & adapt style/ explanation.

Much of the role of an expert witness is to interpret complex technical issues such that they can be readily digested by those in the courtroom. To do this most effectively, the expert needs to recognise and respond to subtle cues from counsel, the bench and, perhaps most importantly, jurors. Such subtle non-verbal communication is rarely carried through a video link effectively.

Giving evidence in person allows for you to get a better feel of what's happening in court.

Being able to see and hear all participants is important. It will not change the facts.

Appearance in person can be more effective/personal - body language, etc.

It is frequently asserted that two-thirds of communication is non-verbal, and while some non-verbal communications do come across on video links by no means all will do so. Additionally and as a separate issue there are frequently matters of procedure, nuance, interpretation et al that require discussion with the legal team, as one goes along.

90% of communication is non-verbal. Hence effective communication requires face to face physical presence in the same room. The stakes are too high to compromise on this.

There is almost always some sort of delay, either in initial connection or in conversation.

Too impersonal.

There are nuances not evident via video link which can inform the process and enable the expert to better appreciate the situation. I had a case where the judge had a private conversation with the other expert and I ensured that some elements were fully explained.

Personal appearance and behaviour under cross examination counts for a great deal.

The judge is deprived of the assessing the body language of the expert which forms a part of their credibility.

Face to face reactions give another dimension.

The personality and behaviour of the witness can be seen in court.

Lack of body language.

IT can be very 2-dimensional it can also be of variable quality e.g. in transmission which undermines its purpose.

Personal appearances can give body language signs.

My experience has been that IT has been somewhat unreliable. I have taken part in arbitration hearings where witnesses of fact have provided evidence by means of video conferencing. Whilst the results were not be as satisfactory as witnessing a face to face cross examination, it did work. My experience to date is that the technology is still evolving, with somewhat variable video and sound quality available, especially when it involves witnesses overseas. With suitable safeguards however (e.g. to prevent anyone else in the remote location coaching the witness) and better quality video, I foresee the time will come when remote expert evidence supersedes the need for the expert to be physically present. Even if the expert were in the same country as the court/tribunal, the potential cost savings cannot be ignored.

The adrenaline produced by being there in person cannot be replicated over video link.

I need to see the reaction of the judge and the jury to know whether or not they are grasping what I am saying so that I know if I need to explain matters in more detail or from a different perspective.

Being present in person adds depth and context to evidence.

The use of a video link puts a filter on communication. However it is cheaper.

I have never had to present evidence in court throughout my 20 years old career but believe that personal evidence is likely to be clearer in person.

Not as effective.

Not always clear.

Have seen this done. Less personal interaction between barrister and expert.

Meeting someone in person is completely different to a video link.

TV screens aren't as good at conveying the whole of a person's demeanour. I used to be a litigator and I know I'd rather see a witness in the flesh.

They are unlikely to have heard the full evidence or be able to follow the papers in such detail, discuss with the instructing party as the case proceeds.

I think it might be as effective as long as the expert witness has the opportunity to view the proceedings via link as well.

Perhaps there is less appetite to challenge the witness from afar.

Sometimes it is important to be there - depends on Case type.

Personal appearance much more important.

It is not possible to XX effectively via video link because the direct contact between the decision maker, witness and advocate is lost.

The direct interaction between barrister(s), witness, and judge is important.

Because the expert is only called for the time they are being cross examined and they are not privy to the evidence that has already been presented.

There is nothing like seeing the witness in person, it also lends more credibility to the process.

Jury don't get to effectively assess the evidence of the experts...

There is the matter of body language and general demeanour to consider that often indicates to the courts the legitimacy of the answers given.

The process of giving evidence is multifaceted and an interaction between all parties present - the IT element reduces the channels of communication available to respond to and develop - in the same way that a telephone call or text are not as 'rich' with data as a face to face meeting.

In person a response can be seen in total. Interaction is important.

It is harder to cross-examine someone on video link; it is harder for the expert to get his/her opinion across effectively; the jury does not focus and concentrate so well when the witness is giving evidence by video link.

It is really important as an expert witness to be party to the overall case and to have the ability to have conference with counsel - video link will fragment input.

Body language. Engagement. Delayed or interference using telecommunications.

Immediacy and body language diminished via video.

Live performance more impressive.

In my experience the expert needs to be present to hear all the evidence.

Changes the whole dynamic of the interaction.

Massive difference between face-to-face and video link.

The nuances will be missed.

There is nothing like live evidence to allow an expert to get the point over whilst helping the judge and court. A live hearing makes it easier to give hostile counsel a good kicking.

Video link misses the subtleties of communication.

I have experienced both but the video link seems to discourage questioning.

I believe that the Expert needs to be in Court to full appreciate all the evidence presented and also get a feel for how the people giving evidence react to questions from Barristers.

Because it is difficult to judge the reaction of the expert under cross examination.

Personal interface is diminished.

Because it is difficult to gauge the reaction of the expert under cross examination.

The external cues, responses and some body language may be missed.

It is a different medium to live and nuances of behaviour and any incongruent features are more apparent live in my opinion.

The atmosphere of the courtroom, the demeanour of the witnesses, the subtle changes of evidence... all has to match up to the history as given to you. If it doesn't then your evidence might have to be changed and reported to the judge.

It is helpful, if not essential, to hear evidence of fact in Court before giving expert evidence.

Credibility includes assessment of body language besides listening to speech. The witness can better assess a cross-examining barrister in physical proximity.

It would be difficult to express how convincingly you present your evidence.

Limited opportunity to discuss developments in case with other expert witness. Most importantly not able to listen to or comment on the evidence it develops in the trial, unable to advise advocate on cross-examination. Evidence given by expert during live evidence can differ from content of their report. New issues can arise during trial which were not anticipated.

The jury need to see your body language and demeanour.

I am an Expert Witness in Cultural, Religious & Ethnic Issues in Litigation. It is best to be face to face evidence in a Court.

This is a tricky issue. Video link would save on costs which is important. But there is certainly something to be gained from giving evidence in person and this would also be of benefit to a jury. There are also known issues with video link to date, with technical problems causing unacceptable problems. Appearance in person avoids this.

Too detached.

Judge and expert needs to understand one another properly, which can only be assessed by each in person.

Because the jury might wake up with a real life expert witness who knows how to give evidence.

More difficult to follow body language which is a major part of evidence

Face to face is more personable and creates a different atmosphere making it easier to speak, answer questions, read the expressions of barristers etc.

It is difficult for Counsel to "read" a witness unless the witness is present.

I think many things get lost in meeting using technology. It is useful if there is no other choice but presence is preferred so there can be actual live discussion without the need for repeating questions or missing things due to technical issues.

Cannot see body language.

Lacks drama and emotion.

There is more to understanding a witness than a visual link and sound link. Body language, gestures, slight facial expressions can all be lost in a poor quality link.

The person-to-person interaction cannot be replicated by video link.

Unless you are in court you are restricted by the limitations of the Video Link in terms of visual prompts of others in the court.

Face to face gives overall body language which isn't always able to be seen by video link.

Miss some non-verbal clues plus the "drama" of the court room.

Communication styles change across technological media. They become more linear and the quality of the information is affected.

I think meeting someone face-to-face is not the same as meeting them in any other way.

There is more of a relationship with the court process when there in person but for the expert and the court and I believe that makes for greater credibility.

Because it is vital that the expert witness is in the court in person - using technology is different and it doesn't feel so real ... that's my view.

In Court easy to follow Judge or ask questions and also to follow what other party is doing.

If the equipment works it's good enough, but often problematic.

A lot depends on in the court venue interaction. Also ability to communicate with counsel when not on oath.

3D; Body Language.

There is a lack of empathy with the court structure and system and a lack of continuity and depth. It is difficult to explain but the impersonal nature of the video link leads to a general loss of feeling and sense of reality.

Court can more easily assess the expert eg appearance, gestures, discomfort.

More personal in person and the expert can see the whole courtroom.

The video link expert is under less stress in cross examination.

Currently the technology still distances the user compared to being there in person.

Important to see the evidence.

I think it will be easier to be focused if there in person. Being in Court is part of the process and if witnesses are not required to be present it diminishes the seriousness of it particularly in the eyes of the Claimant.

There's nothing like seeing a person in the flesh to properly gauge their responses/reactions to questions.

You don't allow the court to see body language and detailed expression.

The expert needs to be able to liaise with Counsel in person.

I don't think that a jury can assess a witness' demeanour and veracity as well on screen as in person.

Appendix 6

Question 12: Have you come across poor quality or unqualified expert witnesses?

Question 13: Please give us an example

Non-qualified (i.e. as expert witness), lack of knowledge of court process, poor report preparation.

Lack of experience in field.

A well-known former Professor of Medical Microbiology and expert on food poisoning who is often used by the media giving expert evidence in litigation in areas for which he has only text book knowledge and little personal experience.

One solicitor suing another for missing deadlines and the expert was blatantly wrong (in my opinion) and made assumptions about the case.

GP reports.

Wrong assessments being used, or no objective assessment of client at all, relying on client interview material alone.

Forensic learning disability psychiatrist commenting in chronic pain case and a second case where the same person hadn't reviewed GP notes showing extensive relevant history in another medical somatisation case outside his expertise.

Hired guns!

People who are clearly not trained to give evidence.

Experts straying well outside their area of expertise.

Medical reports written by people not trained in writing evidential reports.

Police 'expert' attempting to give (forensic) evidence outside area of expertise/work.

Hired guns.

I have seen poorly written reports in my field.

You often pick up on this in their reports or comments made during experts' meetings.

Not understanding the legal test; biased.

On a cosmetic surgery case the expert's report was full of redactions and missing words, it was very short and badly written.

Several examples of total lack of consideration for one parties evidence - in SJE instruction.

Lack of understanding of protocol and their primary duty to the Court.

Accountant who had not undertaken business valuations before gave evidence on the value of a small business which was technically flawed and resulted in an entirely unrealistic conclusion.

Such lies told to a judge or included on a report which are unfounded and illogical but are done to try and sway a case for their instructing solicitor.

Poor and not compliant.

Neonatologist in a coroner's court (by video) who really hadn't considered the additional evidence and who seemed incapable of actually answering most of the questions. I wasn't sure whether this was due to ignorance or obtuseness.

Experts in other disciplines overstepping their expertise (but accepted by Judge that they are an overview expert - when they are not!).

Experts in other disciplines simply giving inaccurate information related to one's own discipline.

Just not knowing the subject matter.

1. Adduced irrelevant research papers on traumatic brain injury in a hypoxic brain injury case 2. Had not requested full case notes & missed very important facts 3. Several 'nurse experts' out of area of expertise and even where apparently so did into understand some basic principles of their field 4. Anaesthetist reported on geriatric medicine - clearly out of his area of expertise, likely because part of pressure group and did not declare his interest.

Opposing expert admitted that he had not read all the case note files.

A struck-off psychologist who is regularly instructed.

I have come across experts with very limited knowledge and understanding of the broader issues in construction, with a very narrow area of expertise who are not competent to deal with all aspects of the case.

No idea of classifications.

Poor understanding of patients' issues and acting outside area of expertise.

Current case in the Scottish court were 2 of the expert witnesses are unaware of or acting regardless of their duty to the court.

Inexperienced new consultants pontificating in support of their solicitor's client without dealing with the range of opinion.

More experienced experts trying to hijack a joint discussion and report by drafting their response prior to discussion and asking me to amend as appropriate. This immediately introduces bias in favour of their client.

My expertise is in arboriculture and I am aware of several judgements where arboriculturists were criticised for being biased towards their client or otherwise unhelpful to the court.

Unsubstantiated opinions.

Clearly not knowing the legal aspects of what constitutes legal definition of negligence.

Psychologists using out of date tests; misusing scores; making allegations against school staff (view not fact!); missing out background information to support case.

When Crown witnesses are termed expert and give opinions, yet are only analysts etc.

Maritime arbitration witnesses purporting knowledge in subjects in which they have limited involvement.

Clearly a hired gun. Even though the EW was supposedly well qualified.

Malpractice defence: expert instructed with inappropriate specialist background.

Telephone 'examinations' have been seen!

A clinical psychologist who chose to comment in his report on the placement of the flue of a gas fire!

Not acting impartially, adopting position as advocate.

Employment expert who knew nothing about a professional pilot's career giving evidence on loss of future career opportunities.

Most of the experts I come across are professional and unbiased but I can name two who simply ignore anything about a case which does not favour their side. One has tried to introduce new "facts" that are blatantly wrong during the meeting of experts.

First time expert flying in the face of the facts. "Hired gun" does no-one any favours.

Expert reports outside expertise and/or non-evidence based.

People who think their job is to be an advocate for their instructing client resulting in a biased report.

Consultant has no practical experience (floorcoverings). Claims to be qualified in too many areas, but is only known to have been working in one as an internet supplier.

Have twice come across 'hired guns' just trying to muddy the water without expertise.

In a banking dispute case some years ago, the expert for the other side was an ex-banker who also tried to give evidence on accountancy and tax matters, and was severely criticised by the judge for his partisan approach, as well as his lack of knowledge in those areas.

One of my colleagues is an expert in everything afloat which is actually not true.

Experts who carry out expert witness work as a side line to their main career are often unaware of their duties to the court.

Poorly informed and biased to clients' legal team. Not adhering to CPR 35 etc.

Many professors believe that anything other than best practice is negligent. Other experts forget that there has to be an objective logical basis for what they are recommending.

Use of a generalist accountant in a valuation case.

I have seen expert witnesses who have given evidence as if they are undertaking a personal crusade rather than acting impartially.

Experts from other countries in international cases not familiar with the UK legal system and Part 35 requirements.

Advising on matters outside their expertise without clear instructions.

Expert changed mind 180 degrees at joint meeting.

There are still some experts who insist on supporting the side which is funding them rather than realising that they are supposed to be impartial.

Experts providing advice which is outside their qualification/experience.

Mainly an issue with the long retired expert witness.

Usually GPs.

I have liased with them at Meetings of Experts.

Inadequate time for consultation with claimants.

Experts instructed by agencies in PI case.

Former Police officers with no accountancy experience giving evidence as financial investigators.

Partisan-ism.

GPS giving a psychological opinion without any supporting evidence or rationale.

Not knowing the case they are talking about.

Generic medical reports, usually commissioned by an agency, and carried out by e.g a Gp...

Surveyor not a Chartered Surveyor.

Poor performance rather than lack of qualification. Question is about experience and how far they are able to answer the question in a way that will be helpful to the court (Some have either been hedging bets or stating simply an opinion which is unqualified or without due reason).

Engineers who were brought into a defective building, who cannot understand on a fundamental level why a building is performing and have tried and failed to remedy it, become 'experts' presumably to save the money involved in instructing a proper expert.

They cannot be impartial about the costs involved in implementing their failed remedial schemes.

Exceptionally poor quality reports and people acting at the very edge of or beyond their expertise and outside their qualifications

Newly qualified physiotherapists accepting medicolegal cases.

Evident conflict of interest, inflexibility in producing joint statement.

Examination by physiotherapist.

Biased report using terminology that I would regard as inappropriate.

An expert witness who, at the "Telephone Meeting of Experts" ordered by the Court had not read one of the crucial case files (although he said he had received it) and was therefore at a major disadvantage. His side promptly settled.

Psychologists and nurses implying that they are psychiatrists

Giving biased opinion for prosecution in rape cases where there is no real medical evidence.

Either the Expert on the other side did not understand the case properly or the Expert was simply acting as a hired gun. I never figured out which but the other side caved in when they saw my report. I was itching to battle it out in the High Court but the case was then settled out of court.

Examples of individuals claiming expertise, usually citing previous cases as evidence of their expertise, rather than ongoing competence. An expert utterly unqualified and unable to demonstrate any competence, but continually instructed on the basis of previous cases and a certain courtroom confidence.

Car claims Engineer claiming to be collision investigator.

Defence brought in cottage industry expert who did not agree to a meeting of experts.

Lack of training, and therefore knowledge around subject area is low and becoming increasingly common due to automation.

I have come up against several 'defence' experts whose clear aim is to get their client off. This has been clear by the biased content within their report. That said, I have challenged prosecution colleagues who have clearly not remained impartial.

I have encountered expert witnesses who are not qualified in the areas they claim to be experts.

In a case where the "expert" had little experience specific to the questions raised.

Those with limited forensic experience completing risk assessments. Also experts using adult tools for adolescent population without adaptation or clarity.

A report from a surgeon that was not fit for purpose.

Experts who are partial to their client when instructed other than as single joint expert.

Not reading instructions. Not actually expert. Not being able to defend position. Being too inflexible. Partisan.

One 'expert' whose qualifications are questionable, who claims to have expertise in a wide range of forensic evidence types (too wide) and who is shambolic when giving oral evidence.

I witnessed this individual giving oral evidence, and was confused myself about what he was saying so the jury must have had no idea what he was on about.

Witnesses instructed by regulators.

A witness in a valuation case who did not have a single piece of comparable evidence proved in accordance with the directions.

Police officers who have taken the computer imaging course are frequently incapable to being independent witnesses and have very narrow technical knowledge.

A particular GP gives the optimal action as the standard of care (a lot) and misses an obvious blunder(once).

Still take the side of the instructing solicitor.

Van Oord UK Ltd and another v Allseas UK Ltd [2015] EWHC 3074 (TCC).

Most of the defence experts I meet are 'rent-a-gob' and just there to create a smoke screen.

The prosecution barristers should challenge their true credentials much more frequently.

Ill informed 'experts', especially outside their area of expertise, and/or using a highly selected interpretation of the evidence. Also, telling the instructing party what they want to hear (and may be possible/feasible), rather than what is most likely on balance of probabilities.

Therapists who have given evidence in areas that they have little expertise in not understanding the protocols for cases.

Can't. But seen fracture missed.

I've actually had much more problems with poor quality solicitors, especially in the field of Personal injury.

An estate agent who was instructed as an expert surveyor in a boundary dispute who did not realise the significance of Land Registry depicting only “general” boundaries. He also falsified his evidence to support his client’s case, and insisted that a string line that bent around a post was, in his words, “as straight as I can get it”. When asked repeatedly whether the string line was straight or not he was unable to give a meaningful answer. At the actual hearing some months later his client told the judge that he would not be called to give verbal evidence. This was the worst example of an expert witness not respecting his need to be independent, but not the only one.

Poor reports with lack of details.

Engineers with limited knowledge of Law and Regulation, of the legal process and often on basic ethics and honesty.

I’ve often come across experts who give opinions on areas where they lack expertise or have a limited/poor knowledge.

I have read some reports by other experts that are below what I would consider to be court standard and I have been made aware through supervision groups of other examples. One example I read was a report that didn’t fully answer their instructions so it had an impact on what I could comment upon in my report.

Expert with no relevant qualifications or appropriate background advising on both civil and criminal cases.

Particularly, laziness in subsequent reports, eg not considering new evidence, just saying words to effect of ‘I agree with Dr X’ but not providing reasons why, explanation of which evidence the most persuasive. Also I have seen reports from experts which seem very ‘cut and paste’ and I don’t recognise the claimant from their description it is so poor.

Poor quality advice and reports x 3 from same ‘expert’ leading to unnecessary court case where ‘expert’ report demolished.

A chemist giving an incorrect assessment of the clinical effect of a drug in a case of shoplifting.

Several occasions with experts acting well outside their area of expertise.

R v Puddick

Reports sub-standard, do not know duties or procedures.

Psychologists who act for the Defendant / claimant and are NOT independent; use out of date tests or use a single subscale score to suggest a full scale IQ!!!! Who do not follow protocols!!

A psychologist portraying themselves as holding expertise in psychiatry and immunology.

An expert acting for the other party on a case on which I had been instructed produced a report that basically only consider his client’s witness statement and did not consider any other documentary evidence. After the issue of our respective reports we had a joint meeting, the outcome of which was that he totally accepted the findings in my report and we signed the joint statement as such. However, a month later he attempted to withdraw the joint statement, even though he had previously signed it. I reminded him that this would reflect badly on him and more importantly his client’s case but he pressed on with this and made

an application to the Court, which was naturally turned down and the case went against his client.

Not trained and could not articulate advice on behalf of the client so we lost the case.

I have been sent a report from another EW in a case. The report was written in the form of a bullet pointed list with a conclusion. There was no evidence of critical evaluation of the case in relation to national guidelines and the evidence base relevant to the case.

An expert who completely failed to consider his client's very poor performance and glossed over it, because he could not give his client an adverse view. This added considerably to the costs in the cause which had to deal with liability, when the real issues were causation and loss.

Poorly briefed experts attempting to determine the case rather than provide their expert opinion. Experts unsure of their roles and responsibilities to the court and being advocates for their client's position.

I recently attended a case where the expert for the main defendant (I was present for a co-defendant) presented their evidence in a manner which was both confusing, difficult to follow and with far too many technical terms presented without explanation which made it extremely difficult for the jury to follow.

I have found alleged expert witnesses who have had no training in how to act in court and believed that what they saw in Perry Mason the night before was how they were supposed to act. Had they attended a proper course such as the Bond Solon course they would have been better prepared to give evidence correctly.

Not recently but in the past there were well known and usually uninformed hired guns.

A psychologist who was struck off by her professional body.

Witnesses who are unqualified and not competent can cause delays and lengthy cross - examination exacerbating court time and procedures.

An expert who used the standard of practice of medical students in a case relating to a senior specialist in an area remote from the medical problem of the claimant. He had also did not understand the scope of the NICE Guideline he relied on, as it was aimed specifically at the clinicians working in the field of medicine distant from that of the defendant.

Previously while sitting on a tribunal - various highly partisan experts, who didn't seem to realise that this made their influence weaker. It also caused lengthy delays in proceedings as every issue had to be argued out. They very rarely helped.

Untrained in their obligations to the court. Partisan, hired guns, refusal to consider alternative reasonable expert viewpoints, refusal to opine on alternative expert views.

Sometimes the company employing the 'expert' operates on a 'team' basis when dealing with P35Q or Joint statements.

Vague opinions, not derived from the evidence.

An obstetrician testifying in a childbirth case who had not delivered a baby in 25 years.

Not impartial, poor reports, straying out of expert area.

Valuation or industry experts who are not used to working in dispute contexts, so their reports are unclear and their testimony too.

I have witnessed so called expert witnesses which were contacted by attorneys two days before giving evidence and wasn't fully prepared.

Expert was 'obviously' unfamiliar with the appropriate modification of the (exploratory) technique in minimally invasive ('Key-hole' surgery) - Laparoscopic approach - in a case of 'congenital absence of the gall bladder'. The expert insisted that the dissection was 'below standard' since the safe display of the 'field of dissection' was not effected/enhanced by the placement of an instrument to laterally displace the gall bladder's fundus! (absent!)

London market (re)insurance experts with no apparent knowledge of the CPR35 duties and/or poor instructions.

Expert in rubber tubing in a gas explosion case gave inconsistent evidence and acted outside his sphere of knowledge.

Unqualified landscape witness (not a Chartered Landscape Architect), lack of understanding of current guidelines/methodology.

Recent court case. Expert instructed for the defence took a clearly defence view point without evidence to back it up. They lost.

Medics giving evidence on technical computing matters.

Hayden vs Maidstone & Tunbridge Wells NHS Trust (judgment of Mr Justice Jay of December 2016)

One expert claimed to be a psychologist, counsellor and psychotherapist. The expert appeared on none of the three regulatory bodies' lists and was therefore not entitled to use any of the titles and was unable to provide a CV of qualifications.

Half way through the court case, the EW for the defending construction company spoke to the Judge and withdrew all there EW reports saying that my interpretation of facts was correct and their idea was totally wrong!

I have encountered so-called experts who lacked the specific experience required, e.g. of IT system implementation.

A RICS qualified surveyor with no specific expertise in damp. Despite this he took the case and had a very poor understanding of the technical issues.

The Courts/LAA do not appear to understand the differences between forensic/counselling/clinical psychologists and the competencies required to provide good quality advice.

People who have been retired from clinical work for several years and are giving expert testimony when

practice has moved on.

Expert unfamiliar with duty and process, eg refusal to sign off experts' joint statement until draft approved by instructing solicitor.

Not understanding the scope and limitations of their remit, leading to wasted time.

I am aware that some Experts undertake this work without the benefit of any training at all, this concerns me.

Where instructing solicitors have asked me to assess and report as the original expert has not fulfilled their original instructions.

Testifying on areas outside of their expertise and relying on the work of others without directing it or understanding it.

I have been involved in too many cases where the other side's expert has been a hired gun - paid to give evidence favourable to their instructing party, and not entirely truthful. On some occasions it has been clearly untruthful.

Expert witnesses who have retired for a number of years still serving reports in areas they have not dealt with for years

There are many around giving totally wrong views under the guise of being expert.

Some medical individuals (fully qualified in the medical sector), think automatically that they are qualified for forensics as well.

Psychologists using out of date tests; using tests for wrong age group; using one subtest result to generalise to an IQ!

Had to exchange reports with another GP expert who seemed completely unprepared and had not put a sensible case despite many professional qualifications in their CV.

Psychologists that have not specialised in child work or clinical work doing expert witness reports for family courts.

Have experienced general orthopaedic surgeons in spinal cases who have not performed spinal surgery.

Poor quality report - content and presentation.

Very inexperienced nurse commenting on care issues without the appropriate knowledge or experience.

Experts engaged by the other side have not had the specific expertise in the core issue of the dispute.

Failed to understand his duty to the court.

Evidence on effects of drugs from an unqualified "drugs worker".

Out of date opinion based on a clinical career that has long gone.

Poor CPR compliant reports.

I work in highway status, a lot of which is determine din inquiries rather than court, we have a lot of self-appointed "experts".

Child Welfare Reports/Bar Reports in Scotland are often poor, most of my work comes after unclear reports. I know they aren't "expert" witnesses but they have an impact and there is no quality control.

Where a medical expert is drawn into a subject that they are not 100% sure of - in an effort to help the court, good intentions.

Ill-informed experts who repeat dogma and ignore the peer-reviewed evidence or blindly agree with the claimants' verbal evidence.

I have come across experts who profess to have a working knowledge of today's build costs when their reports and the sums they allow do not reflect this.

A "traumatologist" (self-styled) who created an enormous scaffold of opinion evidence. A much simpler explanation seemed far more likely.

Defence expert drafted in against me once was a waste of time.

Expert on the other side wholly biased.

A number of people in gait analysis are unregulated whilst those in podiatry are regulated by the Health and Care Professions Council. Some are not even bothering to ensure their reports accord with the Criminal Procedure Rules. Directives for Experts e.g. Declaration and statements of truth missing.

Lots! ill informed, inconsistent, belligerent, unable to substantiate their opinion with evidence.

GPs often give evidence beyond their competence level.

An expert who is a marine engineer giving evidence in respect of ship valuation which involved him extrapolating data from a single report and which considered ships of radically different specification/ age than the vessel in question. It was an area in which the expert had no experience and was completely unqualified to give evidence.

Many if not all of tier 1 GP reports are useless.

I have read some dreadful reports.

Orthopaedic surgeons trying to be experts in bits of orthopaedics they do not know enough about or have not done for years.

Individuals who do not have relevant expertise!

Expert witnesses in Physiotherapy acting as experts in many different specialities across the board rather

than being an expert in one specific field.

Hired gun experts who demolish other expert evidence on flimsy basis.

Someone who has been retired for many years and is not up-to-date with everyday medicine. In their day what was said would be right but not now.

The only case I know is a surgical registrar without a substantive post who was providing reports for claimant in a negligence case. I reviewed this case for the GMC after the opposing expert raised his concerns.

So-called 'experts' with only a superficial knowledge of their subject, usually employed because the field in which I specialise has relatively few genuine experts.

GPs writing reports on fractures and soft tissue injuries. Reports requested by agencies without records.

Not addressing instructions, commenting on areas outside their expertise (usually mine!).

Reports not in right format, mixing fact and opinion, colleagues who think discussion of experts is a chance to argue/bully/be patronising. I have reported one psychologist to HCPC over non-professional attitude.

Vague opinions.

Alleged expert lacked the confidence properly to articulate their report or respond to questioning on it.

A world-leading professor did a medical report: it was almost incomprehensible.

A surgeon with no training in my specialty, working only in private practice and no relevant previous NHS experience, out-of-date and patronising to patients (for whom they were acting!)

Expert claiming expertise in the area of child abuse when they clearly do not. Similarly with Judges who are poorly trained in the area.

The example of an academic in their field who had not received or participated in Expert Witness training, including report writing and giving evidence in Court and Cross examination, who did their first ever case along with the giving of oral evidence in a murder trial at the Old Bailey, they having been instructed by the defence. Needless to say the cross examination in Court was somewhat brief. What this illustrates is that 'Experts' benefit from a stepped approach with all that is involved in their duties and responsibilities. Writing reports and giving evidence for the civil or family courts is advantageous, but not crucial, before being exposed to the greater tests that the environment of the adversarial criminal justice system, particularly when the legal system.

Low level of qualification or insufficiently experienced.

Expert for relatives at inquest testifying drug effects on deceased that were not credible.

Poor standard of report writing.

In my own field, I have often had to re-analyse cases and present opinion when previous 'experts' have not in

fact used valid evidence in giving opinion.

Expert witnesses with an academic qualification not directly related to their claimed area of expertise giving shallow or misleading evidence.

An OT who couldn't defend their report when challenged in con by their own Counsel. A surveyor whose evidence changes depending on which side they are acting for.

One appeared to have examined the same item twice by mistake, rather than the other item.

In my field there are the 'usual suspects': hired guns for the defence that everybody knows about and only a critical written judgment stops this.

Several hired gun reports going far beyond the 'expert's' knowledge and experience, and contrary to scientific principles, to support their client's case.

Criminal: 'lack of thorough preparation, possibly related to poor pay rate. Nursing in PI / clinical negligence: out of area of expertise, 'past sell by date', unable to produce a clear & incisive argument.t

It is rare but I have come across at least one expert who showed little interest in conducting a thorough analysis of the evidence and, essentially, would have been better declining the instruction.

Surveyor associations who do not verify & confirm the credentials, qualifications and accreditations of members who pose and represent themselves as experts in the areas of expertise and who are qualified under the requirements of CPR35 in the UK or the US Federal Rules of Evidence.

In several cases orthopaedic experts and in a couple of cases neurological experts who are not qualified as consultants and who simply miss the point in cases. I can think of three or four in the last year and a dozen or more over time. Also the complex issue of chronic pain too often has inexpert opinions from specialists who appear to know little of the mechanisms and are certainly not up to date.

Pharma experts giving regulatory expert advice on EU regulations when they work primarily outside the EU e.g. Australia

An obstetrician who was commenting on use of ultrasound when they themselves did not perform ultrasound scans nor had they ever received any training in this area.

People with only Academic credentials (university professor types) with very limited practical experience doing the job in "real life" in industry.

Ill-informed and out of date with current evidence.

Expert provided a leading and biased report, including presenting assumed facts as known facts (they were not in fact facts). Was adversarial.

Psychologists from Local Authorities who have never received training and lack experience.

Poorly remunerated defence experts can be very poor.

Someone producing formulaic and cut/paste report without properly reflecting the individual.

Opining on areas outside their area of expertise.

Some reports which provide more information about the EW than addressing the central issues to assist the court.

Poor quality construction expert with bias to his instructing party.

About 80% of the work I am sent has been seen by individuals who produce a report but when shove comes to push they bale out and say it needs an expert spinal surgeon to give an opinion. Why not just come to the "expert" in the first instance?

Many times. Commonly it occurs when a dispute concerns a specific ship type (e.g. a chemical tanker) and the expert has experience limited to a completely different and inappropriate ship type.

Technical misconceptions.

An ex-police officer gave evidence for the prosecution in a case of retail theft but they did not understand the level of trust that nearly always exists between members of staff in small retail outlets, which meant that it had been very easy for the manager or deputy manager to compromise the security code of the sales assistant who was the defendant. A forensic accountant gave evidence for the prosecution in a case of debit card fraud through a local convenience store but did not understand that when small retailers buy stock from a cash-n-carry they normally pay in cash (because it avoids the bank charges for banking the cash). A partner in a major firm of forensic accountants gave evidence for the claimant in a case of retail theft but did not understand the relationship between an item being sold and the loss of profits that resulted from the theft.

Van Oord case in the TCC in 2015.

I have occasionally seen other expert witness reports which were deficient in methodology and quality.

People who are aggressive, arrogant and refuses to engage in a discussion.

Inadequate assessment with limited range of enquiry and poor evidence base. Over reliance on professional status versus evidence based assessment.

Witnesses who give information which is irrelevant, poorly written, wrong (according to national guidance).

An Expert report giving Opinion but without substantiation.

An expert giving an opinion and offering to treat the same claimant for a consideration.

Lack of knowledge about the medical equipment used in a particular case.

Many so called GP experts are not practicing GPs at all. I have seen some who had been struck off for dishonesty working as experts. I have seen psychiatrists acting as GP experts. MEDCO has no quality control on GP experts. Experts should have to declare if they have been disciplined by the GMC in the past and should also be registered with the GMC and on the GP specialist register which many are not.

Pathologist giving an opinion about a clinical matter but shouldn't have been instructed.

I have personally encountered numerous examples of reports that appear 'slick' and professional but are not worth the paper they are written on! This issue predominantly arises when the expert produces a formulaic, 'cut and paste' report to meet the demands of medico-legal agencies for experts to reduce their costs (and to protect their own huge profit margins). The assessments that are conducted to fit in with these demands are often brief and cursory and place too much reliance on information obtained prior to the assessment from self-report questionnaires. This, together with a lack of focus/critical thinking on the part of the expert, results in poor quality reports that are often based on unreliable or invalid data. Another problem arises when experts who have little clinical experience (especially experience of working at 'the coal face' in the NHS) undertake medico-legal work for purely financial reasons.

Experts who seem to be biased there view to support the Claimant or Defendant.

Most common examples are clearly partisan evidence.

Not knowing court procedures and not having the depth of knowledge they hold out.

Experts who are set in opposition to each other seem intent on winning rather than giving an informed impartial opinion. Also experts who give an unrealistic opinion based upon an academic standpoint rather than a more realistic view.

I have recently prepared a report and given evidence in a medico legal case in which a mother acted as Mackenzie Friend on behalf of her child who had suffered from Erb's Palsy at birth. Mother was making a claim against the NHS in which the prosecution's psychology expert failed to include any form of numbering system in her report, and with no evidence to support her claim suggested that the claimant would require ongoing therapeutic intervention due to her visible difference. I was able to prove my knowledge and skills in the area of diagnosing and treating paediatric psychological disorders in sick and disabled children, including children with the child's condition, as well as the risk factors associated with the psychiatric disorder the prosecutor's psychologist said the claimant was at risk of developing. The judge told me that he was very interested listening to my explanation, felt they had a far greater understanding of the child's condition, and said in his judgement that they preferred my evidence to that of the other expert. The result was that the NHS were saved £34,000; a child was prevented from being put through years of unnecessary therapy, and I was made to feel as though the many hours I had spent researching, writing and trying to agree on a joint report with the other expert had been worth all the effort.

Biased, lacking objectivity.

The main problem is the hired gun: those who do not understand their duty is to the tribunal. Also poorly prepared and inexperienced experts in international arbitration.

Academic experts who do not know how to present evidence to the jury and who basically brick it when their expertise is challenged by counsel. Young trainees who are put in the position of giving evidence when they really are not experienced or qualified to do so especially prison service.

Experts not understanding their duty and also not understanding their role.

Psychologists with limited experience with adults with learning disabilities giving a diagnosis based

on only one of the three criteria required. A trainee psychologist (involved in studying for doctorate) being instructed as a psychologist within proceedings without any recognition that they are essentially unqualified and have no professional accountability.

My field of expertise is very specialised - "experts" without similar experience are often instructed due to a lack of available experts.

SLTs requested to attend by NHS Managers and demonstrate little knowledge/experience.

My best example of an unsuitable expert was a learned professor who thought that anyone who did not use best practice, as defined by themselves, was negligent.

Multiple.

The expert witness focussing on professional rather than legal issues.

Retired specialist who was out of touch with latest developments.

They are invariably police personnel in firearms cases. They are low quality, partial individuals who are non peritus. They are used because they cost nothing. Hearing generally exposes them.

Academic psychologist writing neuropsychology medico legal reports when expert had no qualification in clinical psychology or specialist neuropsychology training/experience.

Very brief and poor quality reports.

A Veterinary expert who thought that Phenobarbitone is used for canine euthanasia.

I have observed experts being made to look incompetent because they fought the claimants case and ignored the facts.

On paper, the expert was exceptionally well qualified but their courtroom skills were appalling; they looked like they had never been in a court before-they was embarrassingly bad-I did feel quite sorry for them as they were completely out of their comfort zone.

Colleague, now deceased, was apparently willing to be persuaded by lawyers rather too easily to moderate a view and make non-controversial statements.

Poor report writing; opinions not adequately substantiated; biased opinions; insufficient expertise in area they have reported on.

Poorly written reports and making claims which appear difficult to substantiate given 5-10 minutes examination.

An expert changed their evidence on the day of court and was admonished by the judge in their written judgement.

Most reports from GPs.

Witnesses who offer opinion outside their expert perimeter, for example a GP offering opinion about the complications of head (brain) injury.

Predominantly long retired experts.

High percentage of so called GP Expert reports based on 10 minutes of 'examination'.

Police officers giving expert evidence who have far limited experience.

Biased witnesses who fail to understand their duty is to the court not the side who engaged them.

Very poor quality medical reports.

Many experts practice outside of their areas of expertise. The courts are often unaware; this is the case. This is very troubling.

Some appear to be prepared to opine on matters that look to be on the very fringe or most likely outside their expertise.

Some very distinguished people provide a series of biased views to instructing law firms.

Just because you have revalidated and have medicolegal training means nothing!

Reports in child care cases where junior psychologists 'supervised' by named person prepare standardised reports using the same advice in each case.

Forensic psychologists with no clinical psychology training offering clinical opinion and courts not understanding the difference between a clinical psychologist and a forensic psychologist

Gynaecologist giving evidence on physical signs in child sexual abuse when they don't examine children who are sexually abused.

In Court, expert witness instructed by claimant maintained the treatment was negligent although it was clearly supported by mainstream scientific papers. After this evidence, the claimant abandoned the claim.

Unsupported trainees. Psychiatrists working beyond their area of expertise.

They provide personal transportation reports, however they also have recently been renting vehicles to clients as a stop gap to them getting their own vehicle. In one case they charged 98k, other cases I have been involved with attract vehicle rental charges of about 25k. I believe that they take advantage of clients and uses their cover as an expert to earn money with car rentals. The whole thing is a con.

An expert taking instructions directly from their solicitor.

Cant' remember.

Railway engineering experts lacking in relevant technical knowledge.

I was offered help by an 'unqualified' advisor who wanted to offer what I felt was biased opinion.

Couldn't answer basic practical questions, had a 100% academic background.

I have come across psychologists who offer poor quality/incorrect diagnosis based on the fact they have had post-qualifying minor qualifications and experience but regardless of the fact that diagnosis does not comprise the purpose of their main, statutorily recognised professional training. I have also encountered experts that offer an opinion that works in favour of the instructing side but that appears to be based on very little psychological/psychiatric fact. Solicitors do not always know what they need in order to end up with a defensible expert report and the legal aid rates and limits make it very difficult to offer good quality work.

An example was when another expert witness was called in to criticise my report. Instead of confining themselves to an analysis of the report itself, they made their comments into a personal attack on both my expertise and integrity.

With no instruction.

Not being legally trained in court procedures and not having enough in-depth knowledge of their professional, and being unable to look outside the box.

An expert witness giving evidence in family court who has insufficient experience of family law.

Experts reporting on clinical areas that do not reflect their clinical expertise.

Failure to address opinion to different versions of the facts.

Very biased and inaccurate opinion.

Quality of some reports and the opinions derived from the evidence included are very suspect. Still too much partisan reporting.

Experts accepting instructions who have no specific expertise in the specialist area.

Forensic psychologist doing a parenting assessment. Not appropriate.

In my area of finance, I have encountered Excel illiterate experts.

Speech therapist doing care report!

Failure of expert to properly examine claimant, missing vital signs and leading to incorrect opinion.

Any new example will be libellous. But I could give two examples. I was involved in the trial of Gene Morrison in Manchester.

No understanding of CPR, my solicitor says I cannot deal with that.

'Hired guns' are still commonplace. The solicitors can still instruct 'their' experts by choosing a tier one agency and then asking the agency to instruct the expert. Most experts change reports in ways that mislead

the court because they have no one who will listen if they want to complain. Medco writes back with 'we have decided no further action' so the expert just does as they are told.

Ill prepared evidence and unaware of the rules for expert evidence under Part 35.

Ex-army doctor claiming they knew about bra strap injury as they had seen parachutists! They also opined that a carpet burn may be a manifestation of AIDS!! It was quite a few years ago now.

Use of improved test procedures; the results of which were later retracted.

Surveyors not familiar with court procedure and CPR rules.

Obvious "hired guns" whose reports are biased and not evidence based.

When I was in training as a Forensic Physician, I watched one of my so-called elders and betters give evidence. He said that abrasions on a victim's shoulder were due to his rucksack, which was rubbish.

R vs Cornish.

Appendix 7: Medical - List of areas of expertise

Chiropody and podiatry
Cosmetic, dermatology, hair
Emergency medicine and anaesthesia
Ear, nose, throat
Eyes
Forensic medical examiner / police surgeon
Gastrointestinal and urinary
General medicine / surgery
GP
Heart and lungs (cardiothoracic)
Immunology, diabetes, hormones
Musculoskeletal and prosthetics
Neurology
Nursing / Midwifery
Obstetrics, gynaecology and fertility
Occupational health / therapy
Oncology and treatment
Oral / dental
Orthopaedics / Trauma
Paediatrics
Pathology and scanning
Psychiatry
Psychology
Speech and language therapy
Other

Appendix 8: Non-Medical: List of areas of expertise

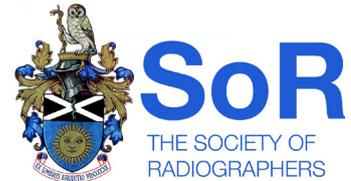
Accident / Incident Investigation
Accountancy
Agricultural / Environmental / Animals
Architectural
Computing / Technology
Engineering
Financial
Fire
Fraud / Theft
Health / Safety / Occupational / Use of Force
Marine
Other
Science / Forensics
Social Care
Sport
Surveying / Building
Translation/Interpretation
Other

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. 801 expert witnesses 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 in sharing the survey with their members. Thanks to:



About Bond Solon

Bond Solon is the UK's leading Expert Witness Training Company and since 1992 have trained tens of thousands of expert witnesses. In this time we have been at the forefront of improving the standards of expert witnesses in the UK through the provision of knowledge and skills based learning and qualifications.

Expert Witness Training Consultant Contact Details

Nataly Tedone

@ nataly.tedone@bondsolon.com

020 7549 2549

PR Contact Details

Mark Solon

@ mark.solon@wilmington.plc

020 7549 2549

Bond Solon

6-14 Underwood Street, London, N1 7JQ

020 7549 2549

www.bondsolon.com

info@bondsolon.com

@bondsolon

/company/bond-solon-training/

**BOND
SOLON** 
Wilmington Legal