

# The Bond Solon Annual Expert Witness Survey

## November 2011

Conducted at the Bond Solon Annual Expert Witness Conference on 11 November 2011.

Sample: 157 experts.

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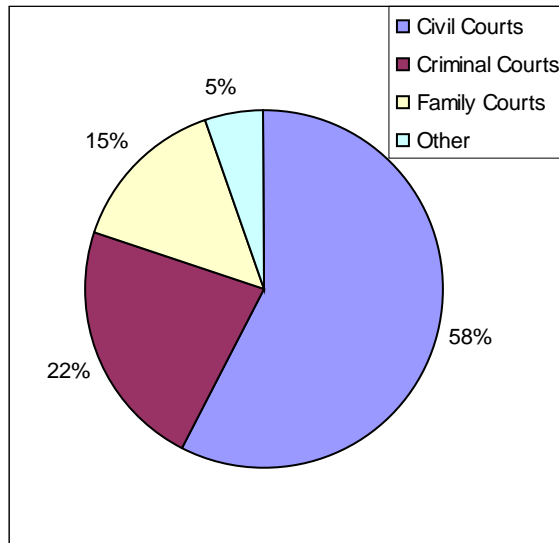
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**1 Is the majority of your work as an expert witness carried out in the:**

Civil Courts	100
Criminal Courts	39
Family Courts	26
Other	9

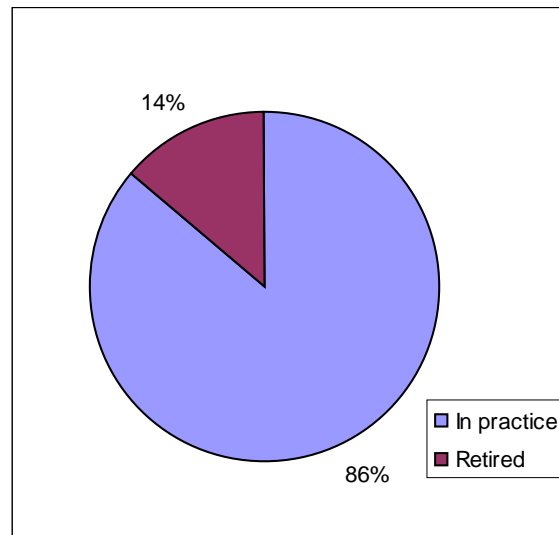


**Comments**

It is very difficult to ascertain the overall proportions of expert witnesses, as experts are a disparate group. However, the Ministry of Justice found that approximately 10-15% of experts engaged in legally-aided litigation work in the Criminal Courts.

**2 Are you:**

In practice	136
Retired	22

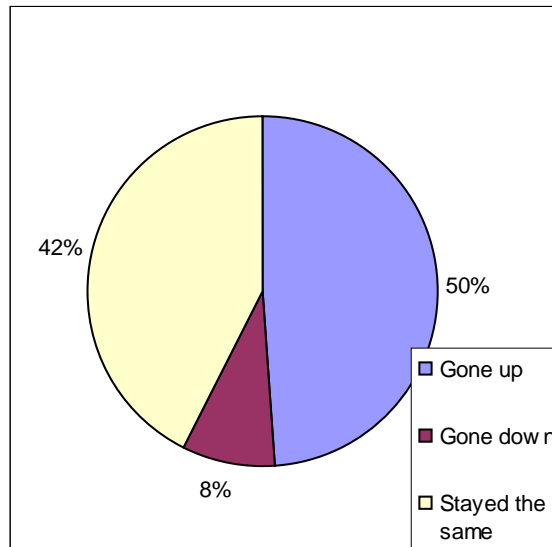


**Comments**

This proportion fluctuates from year to year. Whilst Lord Justice Moses has expressed the view that experts in practice could provide a more reliable source of evidence than those who have retired, the fact that so many of the experts surveyed have retired is a testament to their knowledge and experience and popularity with instructing solicitors.

**3 In 2011, have the number of your instructions:**

Gone up	75
Gone down	13
Stayed the same	65

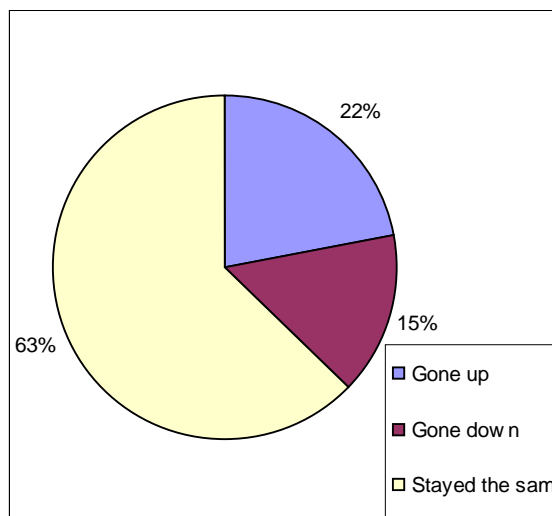


**Comments**

This tends to support the theory that litigation increases during recessionary periods.

**4 In 2011, have your instructions to act as a single joint expert:**

Gone up	32
Gone down	22
Stayed the same	91

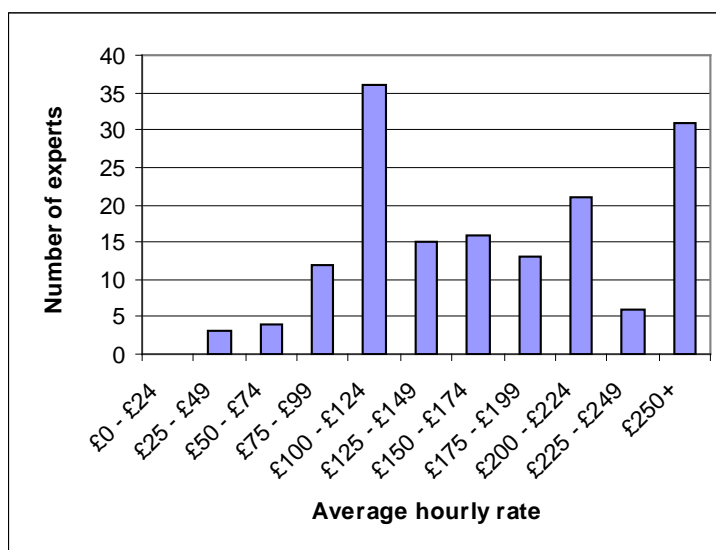


**Comments**

This result appears to show that one of the key objectives of the amendments to the Civil Procedure Rules 2009, namely to encourage the courts and the parties to make more use of the Single Joint Expert, is taking a long time to achieve. There seems to be a lingering reluctance, in our adversarial system, to move away from each party having their own expert.

## 5 What is your average hourly rate?

£0 - £24	0
£25 - £49	3
£50 - £74	4
£75 - £99	12
£100 - £124	36
£125 - £149	15
£150 - £174	16
£175 - £199	13
£200 - £224	21
£225 - £249	6
£250+	31

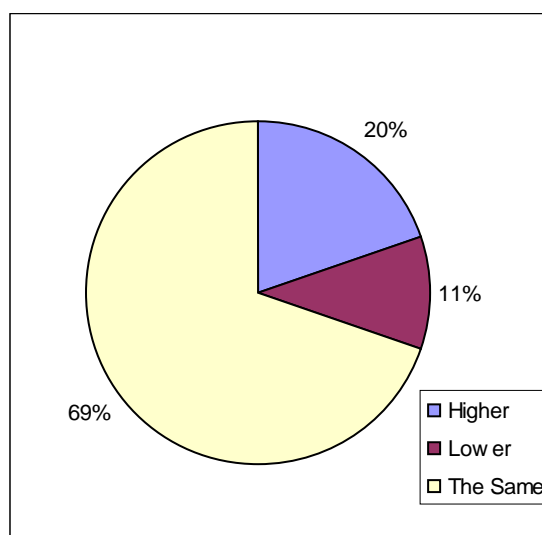


### Comments

This result mirrors the results of last year's survey in that the most common average hourly rate remains between £100-£124 per hour. However, last year 70% of experts surveyed earned more than £124 per hour, whereas this year that figure has fallen to 65%.

## 6 How does this relate to your average hourly rate in 2010?

Higher	29
Lower	16
The Same	103

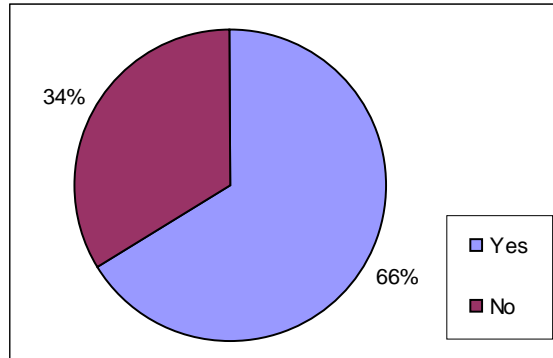


### Comments

These figures tend to support the general trend that average hourly rates have remained broadly the same over the past 12 months.

**7 Have you taken any additional training to ensure you can comply with the requirement in the Civil Procedure Rules?**

Yes	100
No	52

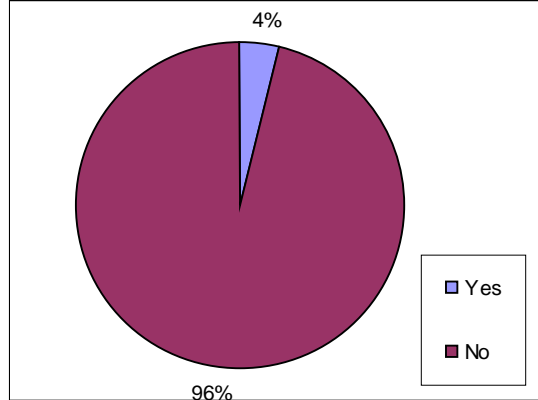


**Comments**

This result reveals a 15% increase in the last year in those who have undergone additional training in order to comply with the CPR. It may be that the decision in Jones v Kaney has influenced this increase.

**8 Since the decision in Jones v Kaney, have you changed your Terms and Conditions to restrict or exclude liability for negligence?**

Yes	6
No	145

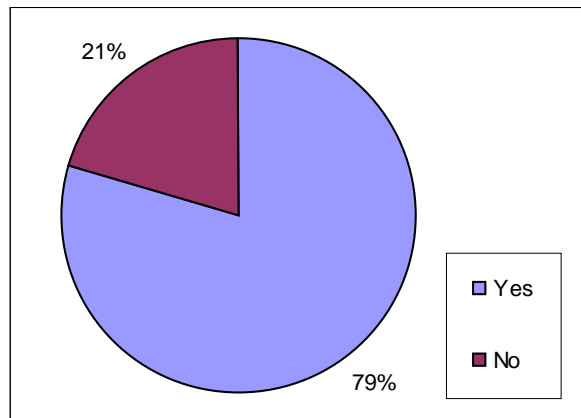


**Comments**

This is a surprisingly low percentage. It may be that, having heard Roger ter Haar QC and Peter Jones discuss the importance of having an appropriate level of Professional Indemnity Insurance and watertight Term and Conditions, some of those experts who attended the conference may now choose to review their P.I.I. and T&C's.

**9 Do you currently have Expert Witness Professional Indemnity Insurance?**

Yes	120
No	31

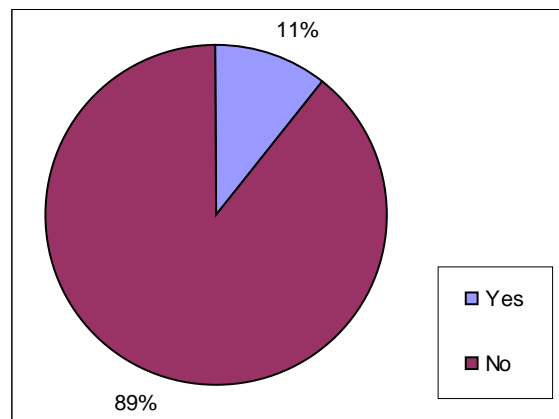


**Comments**

Bond Solon have discussed the decision in Jones v Kaney with a number of instructing solicitors. The feedback has been that solicitors will look carefully at the expert's P.I.I., and the level of that P.I.I.

**10 Have your insurance premiums increased following the decision in Jones v Kaney?**

Yes	6
No	49

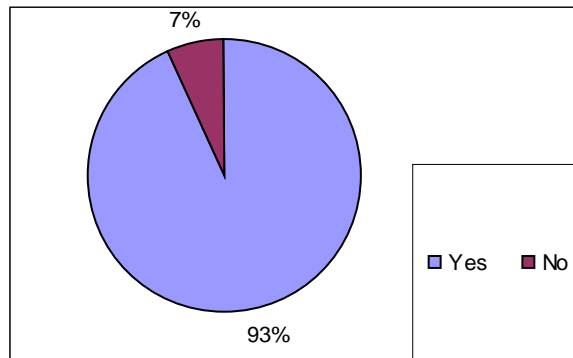


**Comments**

Comments from Insurers have been to the effect that they will monitor cases against expert witnesses where negligence is alleged, which may result in an increase in premiums in the future.

**11 Do you agree that an admissibility test for expert evidence in criminal trials is necessary?**

Yes	113
No	8

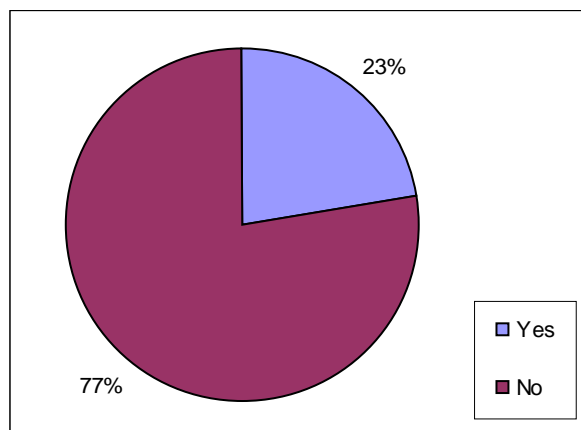


**Comments**

This is an interesting result, as many experts have expressed the view that judges already have the power to exclude expert evidence that they consider to be unreliable, without the need for a statutory power. Clearly, those surveyed are confident that their evidence would pass any such statutory test.

**12 Having heard Lord Justice Jackson, do you consider that if the report is implemented in its entirety, there will be a reduction in the need for your expert services?**

Yes	32
No	110



**Comments**

This is an encouraging response. There is no doubt that if the report is fully implemented, case management will play a much more prominent role in civil litigation, but this relates to how the judge progresses the case, rather than to the need to have expert evidence to assist him in reaching his decision.