

Equal Representation for Expert Witnesses (ERE) Survey 2024

About ERE – and this survey

It has been two years since we launched the Equal Representation for Expert Witnesses (ERE) Pledge to increase the number of women appointed as expert witnesses. We founded the ERE initiative after a survey we conducted in 2020 revealed that more than half of respondents had not seen even one female expert witness testify in the previous three years.

We are delighted that support for ERE continues to grow. To date, 1,580 individuals and over 130 organisations across more than 50 countries have signed the pledge – a 30% increase from a year ago.

In 2023, we conducted an expanded survey to provide a benchmark to monitor progress, and to help us to better understand the challenges facing female experts and identify potential solutions. Our 2024 survey has once more obtained a terrific response. We received 363 replies from legal and expert witness professionals from 23 countries, spanning a wide range of genders, ages, and job roles.

Compared to a year ago, the findings in this survey reveal a growing desire among legal professionals to effect change, notwithstanding a lack of tangible progress in the number of women taking the witness stand. The respondents reported that women were appointed or testified as the sole expert witness in just 9% of their cases in 2023 (10% in 2022).

The lack of a rise in women testifying does not surprise us at this stage. As the responses we received indicate, female expert witnesses continue to face several challenges, including unconscious bias and the tendency to appoint experts based on prior experience.

The aim of the ERE initiative is to achieve a lasting cultural transformation, which takes time. However, this year's survey shows signs that change is slowly starting to happen. The survey findings indicate a promising pipeline of female expert witnesses, a willingness among lawyers to consider more female experts, and a recognition from experts of the ways in which we can help to develop the pipeline.

Expert witnesses are one of the cornerstones of a robust legal system. To bolster the public's trust in our courts we must achieve a bigger, stronger, and truly diverse pool of experts.

Thank you for your interest in this study, and to all those who contributed to it. We look forward to your ongoing support as we work towards a brighter future for female experts.



Kathryn Britten
Co-Founder ERE



Isabel Santos Kunsman
Co-Founder ERE

Discover more about ERE and take the ERE Pledge at expertwitnesspledge.com

CHAPTER 1: A pipeline primed for development

An increasing proportion of women want to take the stand

At first glance, there has been little change in the proportion of women appointed as expert witnesses in the past year. Our survey respondents said that women were appointed or testified as the sole expert witness in just 9% of their cases in 2023, vs 10% in 2022 (figure 1).

This apparent lack of progress is not unexpected. Our findings confirm that lawyers and clients tend to opt for expert witnesses who already have experience of giving testimony (figure 5), making it incredibly difficult for any newcomer to establish themselves. Survey respondents also suggest networks, attitudes, and unconscious biases, some deeply entrenched, are further working against women breaking into the field.

Yet the positive signs are there. There is a rise in the number of female experts appointed more than 20 times – from 32% to 36% (figure 2) – showing that, once women are given the initial opportunity to take the expert witness role, they are being called on to do so again.

Meanwhile, 97% of female respondents said they regularly draft expert witness reports or play a major role in drafting them, compared with 93% of men (figure 3).

Women also show a strong aspiration to move into the leading expert role. Of the female respondents who have yet to provide written or oral expert evidence, 88% said they hope to do so in the future, up from 79% in 2023 (figure 4). With greater awareness of the challenges facing female expert witnesses, and growing support for initiatives like ERE, fulfilling that aspiration becomes ever more likely for this promising pipeline.

"The tendency in expert witness selection to give a high value to previous testimony experience creates a system where change is inevitably slow."

– Male expert witness

"At the moment, there is little visibility about the female experts who aspire to be appointed."

– Female expert witness

Appointment and experience

FIGURE 1: HOW MANY OF THE EXPERT WITNESSES YOU OBSERVED APPOINTED OR TESTIFYING (APPOINTED BY EITHER PARTY) IN THE CALENDAR YEAR 2023 WERE FEMALE?

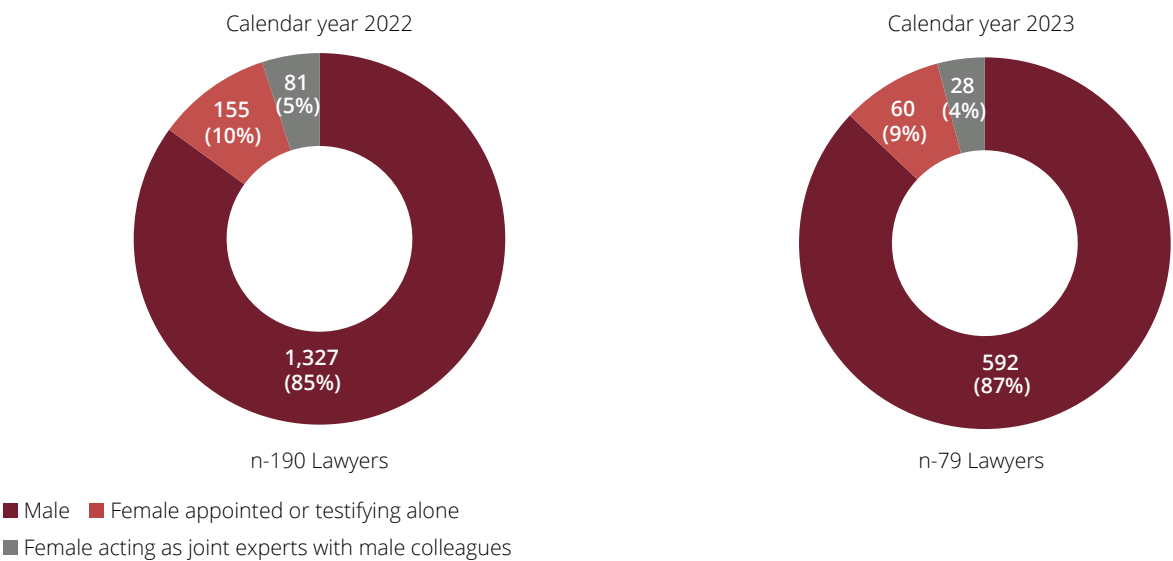


FIGURE 2: HOW MANY TIMES HAVE YOU BEEN APPOINTED AS AN EXPERT WITNESS IN ANY DISPUTE RESOLUTION FORUM?

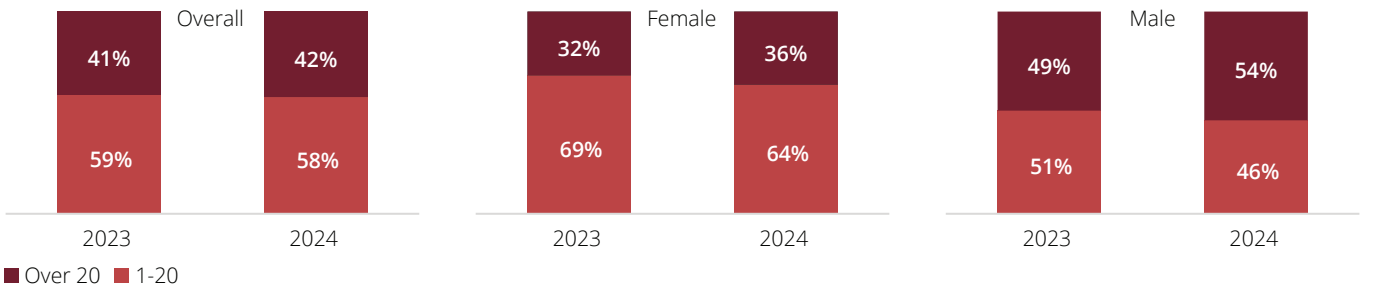


FIGURE 3: DO YOU REGULARLY DRAFT EXPERT WITNESS REPORTS OR PLAY A MAJOR ROLE IN DRAFTING SUCH REPORTS?

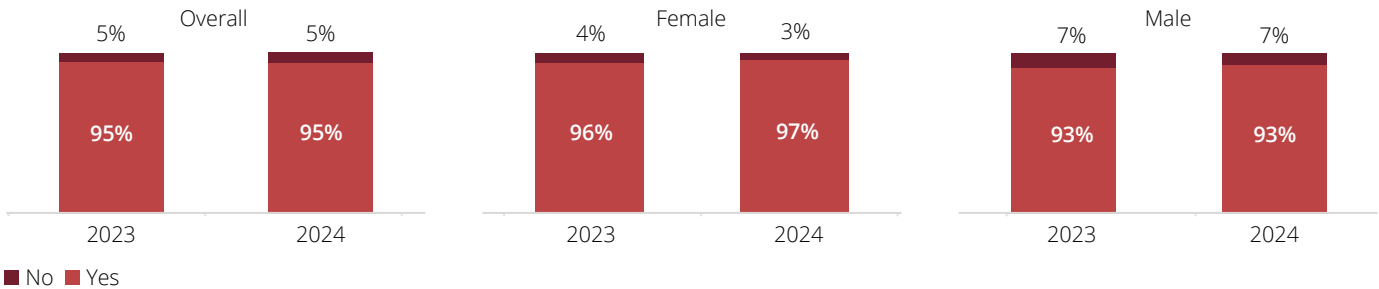


FIGURE 4: SINCE YOU HAVEN'T PROVIDED WRITTEN OR ORAL EXPERT EVIDENCE, DO YOU ASPIRE TO DO SO IN THE FUTURE?

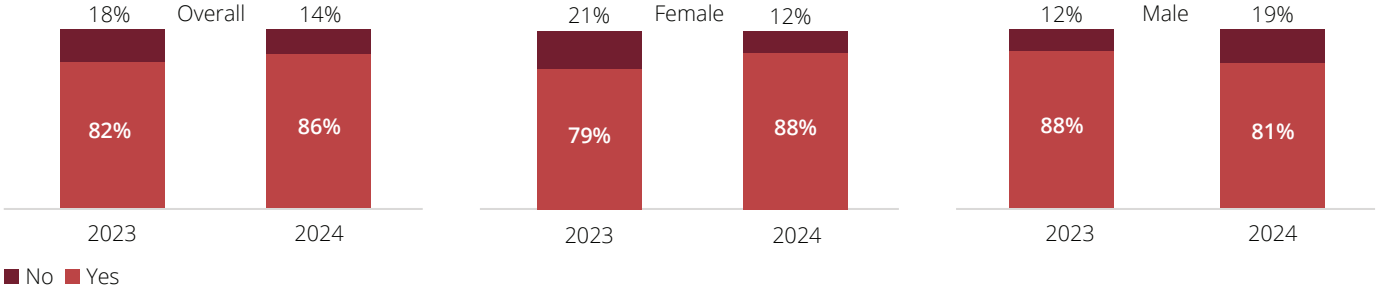


FIGURE 5: WHICH OF THE FOLLOWING DO YOU BELIEVE ARE THE MAIN REASONS FOR FEWER FEMALE THAN MALE EXPERT WITNESSES BEING APPOINTED?

	Overall ranking		Female ranking		Male ranking	
	2023	2024	2023	2024	2023	2024
Lawyers' preference to use experts they know/ have used previously	1	1	1	1	1	1
Lack of women reaching sufficiently senior levels in own professions	2	2	2	2	2	3
Lack of experience in an expert witness role	3	3	3	3	3	2
Lack of encouragement or promotion by own colleagues	4	4	4	4	4	4
Lack of awareness of the issue, of those involved in appointing expert witnesses	5	5	5	6	5	5
Actual or perceived lack of gravitas	6	6	6	5	7	6
Actual or perceived lack of confidence	7	7	7	7	6	9
Preference of some women to remain in a support role	8	8	8	8	8	8
Lack of gender data collected	9	9	9	9	9	7
Lack of competence	10	10	10	10	10	10

CHAPTER 2: Overcoming the barriers to first appointment

Insights from lawyers and experts

Achieving that critical first appointment remains a challenge for all experts, but the scarcity of female experts suggests the challenges are greater for women.

It is clear that the onus isn't only upon women to break down these barriers, but women can assume agency in increasing their likelihood of appointments. According to our respondents, aspiring female experts should prioritise becoming more visible to instructing lawyers (through networking, taking up speaking opportunities and using social media, for example), while ensuring they make their aspirations clear within their own organisations (figure 6).

However, lawyer respondents placed less emphasis on sharing aspirations, and instead stressed the importance of putting oneself forward to attend case meetings and hearings at every opportunity. Aspiring female expert witnesses expressed an appetite for this. Lawyers also strongly supported the idea of experts becoming a member of an expert witness organisation or gaining a formal expert witness qualification, whereas expert witnesses did not prioritise this.

Of the various cohorts that responded to the survey, it was male expert witnesses who emphasised the importance of mentorship, suggesting women join a formal mentoring scheme or ask an expert they admire to mentor them.

Men can use their dominant position in the field, and their wealth of experience as both witnesses and instructing lawyers, to support women. Allyship, an active effort to support and advocate for people with less privilege, is critical for improving representation – and a potentially powerful way for experienced colleagues to make a real difference.

"Be present everywhere, have your names out there all the time, ask your bosses to take women experts into every client meeting, and in presentations have the senior women listed first."

– Female lawyer

"We all need to keep raising the issue, and promoting experts for their competencies."

– Male expert witness

"Securing the first expert witness appointment is difficult, irrespective of gender. I think it is important to work with instructing lawyers and women in your own organisation, to allow the lawyers to gain confidence in their capabilities."

– Male expert witness

Lawyers' and experts' perspectives on navigating the barriers

FIGURE 6: WHAT SHOULD FEMALE EXPERTS DO TO NAVIGATE THE BARRIERS AND INCREASE THEIR CHANCES OF BEING APPOINTED?

	Overall ranking	Female lawyers (N-57)	Male lawyers (N-39)	Female expert witness (N-137)	Male expert witness (N-71)
Be more visible to instructing lawyers (e.g. network, take up speaking opportunities, use social media)	1	1	1	1	1
Make sure your aspirations are known with instructing lawyers	2	8	2	2	4
Ask an expert you admire to mentor you, or join a formal mentoring scheme	3	7	8	5	2
Ask to attend case meetings and hearings wherever possible	4	2	4	3	8
Make sure your aspirations are known within your organisation/s	5	5	5	4	3
Become a member of an expert witness organisation or gain a formal expert witness qualification	6	3	2	7	6
Find a sponsor within your organisation	7	6	7	6	5
List your name and biography in expert witness directories	8	4	6	8	9
Undertake some expert witness training	9	9	9	8	7
Undertake some coaching for presence and confidence	10	10	10	10	10

CHAPTER 3: Critical steps lie ahead

Insights on actions to prioritise

When asked which steps would help to increase the number of female expert witnesses most effectively, gender-diverse shortlists proved the most popular among our respondents – just like last year’s survey.

This requires a more genuinely representative pool of expert witnesses for parties and external counsel to pick from. As we have already seen, the pipeline is burgeoning – there are hundreds of aspiring female experts with a wealth of report drafting experience who are eager and ready to step up to the testifying expert role.

Another high priority for respondents was for organisations to offer greater internal support for female expert witnesses or those aspiring to the role. The rich commentary we received included ideas of how that could take shape.

Lawyers ranked “Meet the expert” events as their third priority – an encouraging sign that they have found it useful to meet more experts face to face – whereas, surprisingly, experts gave this lower priority. Few respondents saw skills and impact training as a high priority, or any benefit in offering reduced fee structures with senior oversight.

"Sponsor a serious mock trial training event to allow female experts (either new or up-and-coming) to practice their skills and receive feedback in a low-risk environment."

– Female expert witness

"More commitment is needed from the lawyers and appointing organisations if we are to see any improvement in the diversity. Support from [one's] own organisation is, of course, a must."

– Female expert witness

"One idea which can work wonders is to have both (all) sides' experts testify in "teams". That is, the main expert and the main expert's #2 testify together. The senior person can defer to the more junior person, who everyone in the real world knows did the leg work or supervised it. Great experience for the junior person. Better evidence for the tribunal."

– Male arbitrator and mediator

Actions to prioritise

FIGURE 7: WHICH OF THE FOLLOWING WOULD HELP TO INCREASE THE NUMBER OF FEMALE EXPERT WITNESSES MOST RAPIDLY/EFFECTIVELY?

	1st ranking	2nd ranking	3rd ranking
Female experts	Parties and external counsel requiring gender-diverse shortlists when selecting expert witnesses	Increased internal support in organisations employing female expert witnesses or aspiring expert witnesses	Mentoring scheme for aspiring experts/ young or new practitioners
Male experts	Increased internal support in organisations employing female expert witnesses or aspiring expert witnesses	Parties and external counsel requiring gender-diverse shortlists when selecting expert witnesses	Mentoring scheme for aspiring experts/ young or new practitioners
Female lawyers	Parties and external counsel requiring gender-diverse shortlists when selecting expert witnesses	Increased internal support in organisations employing female expert witnesses or aspiring expert witnesses	“Meet the expert” events to showcase female experts to users
Male lawyers	Parties and external counsel requiring gender-diverse shortlists when selecting expert witnesses	Increased internal support in organisations employing female expert witnesses or aspiring expert witnesses	“Meet the expert” events to showcase female experts to users

Lawyers' experiences

Among lawyers, there is a significant drop in the proportion who say none of their cases considered a female expert witness, from 20% in 2022 to 13% in 2023 (figure 9), suggesting that consideration of female experts is on their agenda, and that shortlists are becoming more gender-diverse. The proportion of lawyers who said that more than 10% of their cases considered a female expert has also increased, from 65% in 2022 to 70% in 2023 (although only 21% said a female expert was considered in more than half of their cases).

FIGURE 8: WERE YOU PART OF THE PROCESS FOR APPOINTING EXPERT WITNESSES IN THE CALENDAR YEAR 2023?

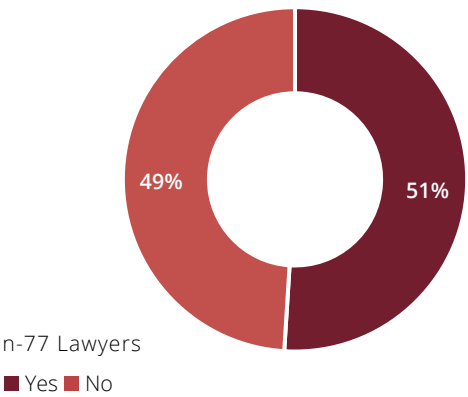


FIGURE 9: FOR THOSE OF YOUR CASES WHICH REQUIRED AN EXPERT WITNESS IN THE LAST 12 MONTHS, ROUGHLY WHAT PROPORTION INCLUDED CONSIDERATION OF A FEMALE EXPERT WITNESS?

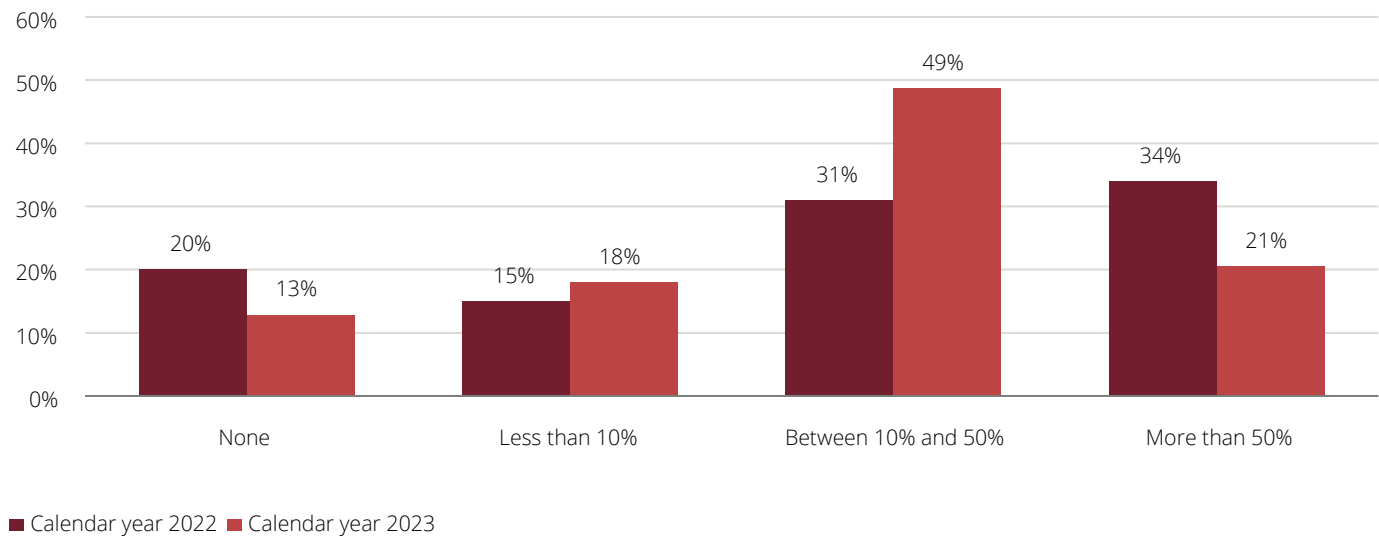
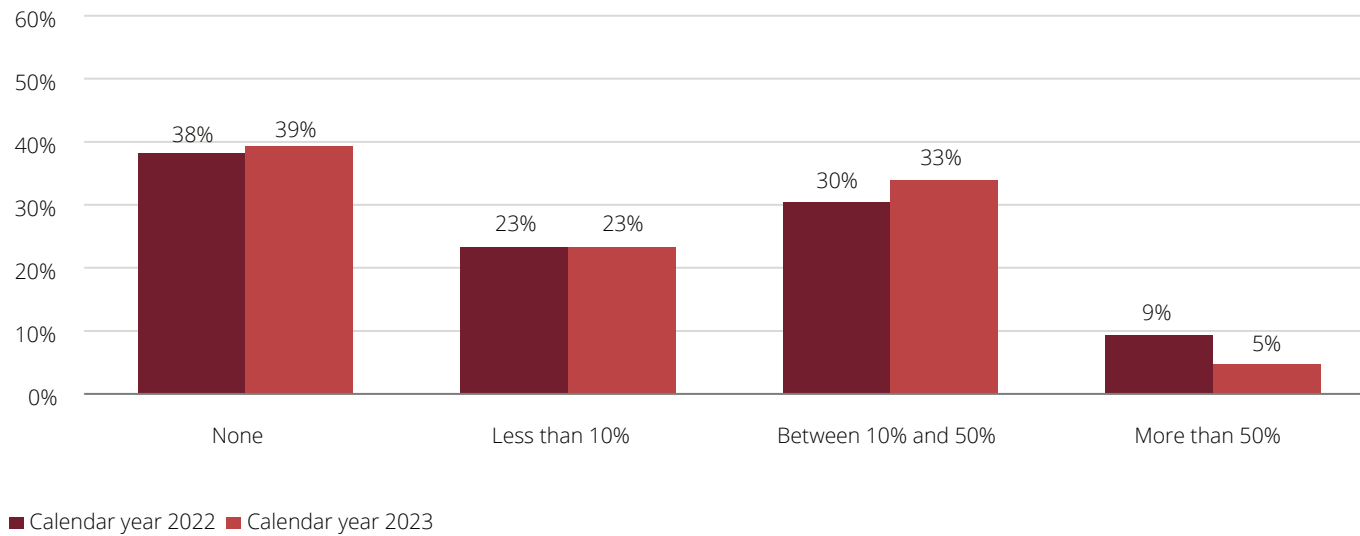


FIGURE 10: IN THE LAST 12 MONTHS, ROUGHLY WHAT PROPORTION OF THE EXPERT WITNESSES APPOINTED IN YOUR CASES HAVE BEEN FEMALE?



CHAPTER 4: The time is right to advance female experts

Unveiling the opportunities for growth

Our data shows that the dial has yet to move significantly for women, with 39% of lawyers saying they had not seen any female expert witnesses in their cases in 2023 compared to 38% in 2022 (figure 10). Meanwhile, the increasing proportion of women who have testified more than 20 times is testament to their ability to fulfil the role successfully. All of this, coupled with the flourishing pipeline, highlights the tremendous opportunity for transformation.

Transforming any culture takes time. Respondents suggested women face an uphill struggle to get a foot in the door, let alone to reach senior positions, in many professions – an issue only exacerbated by the biases, conscious or unconscious, that are still present in the business world and in the social and family expectations of women. Add the fact that women may lack the depth of existing networks and referrals enjoyed by their male peers, plus the lack of any true mentorship culture, and it is easy to see why progress won't be more immediate.

However, there are positive signs that change is coming, with the proportion of women who have provided expert evidence increasing to 63% in the 2024 survey from 58% in the 2023 survey (figure 11).

“One of the biggest influences is someone who is successful in the team recommending someone else to act as the expert. It often only takes the recommendation to encourage the client to give someone new a try, especially if they come highly recommended.”

– Female expert witness

“The barrier is not competency or seniority. It is the risk aversion of instructing lawyers to stick with the same old experts as ever.”

– Male expert witness

“I find that many lawyers (including myself) actively promote the appointment of women as experts. In my experience, the reluctance to do so comes from partners and older male lawyers, and their biases, rather than from clients.”

– Female lawyer

“Extremely tight timetables, increased costs and hence fees, and unrealistic pressure to excel both in the work, family and social environments play an equally (if not more) significant role in women not getting appointed as experts.”

– Female expert witness

“Progression may be harder for those who need more flexibility for family responsibilities, which, in most (all?) cultures, women take on more than men.”

– Male expert witness

FIGURE 11: HAVE YOU EVER PROVIDED WRITTEN OR ORAL EXPERT EVIDENCE?

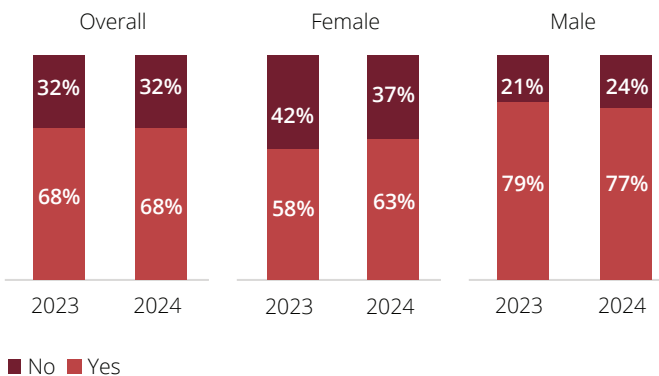
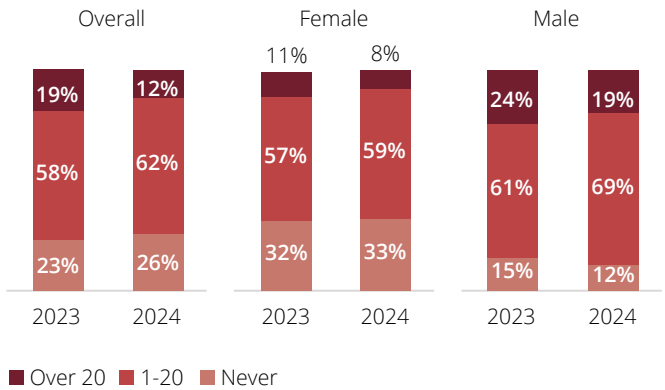


FIGURE 12: HOW MANY TIMES HAVE YOU GIVEN ORAL EVIDENCE/ TESTIFIED AS AN EXPERT WITNESS?



CHAPTER 5: Working together for the benefit of all

The ultimate goal of ERE is to help serve the courts and tribunals, in all forms of dispute resolution, with the highest standard of evidence possible – and that means dramatically improving female representation in the expert witness profession.

That requires working together as a community.

This research shows that 88% of women who are members of expert witness teams aspire to be appointed as expert witnesses in their own name. It also shows that almost all of those women have already gained extensive experience in drafting expert reports.

It is a promising start. These women should put themselves forward for expert witness roles, raise their visibility before lawyers, and promote the value of the experience they have gained.

Yet they cannot do it alone. Their more senior colleagues must support those women, turning their aspiration into intention and actionable steps. Mentorship from experienced expert witnesses, female and male – offering guidance and fostering confidence – is key. They can also recommend to lawyers their team members who are equipped to take the expert witness role. Male peers can step up to the role as allies, sharing the benefit of their experience in the knowledge that increasing the representation of women in the field ultimately is not only the right thing to do, but increases the options for the highest quality evidence to be brought before courts worldwide.

Those who appoint expert witnesses can also help, by recognising the talent they see within expert witness teams, and being prepared to consider an expert who has all the relevant expertise but may not yet have taken the stand. Clients can expand their requests for diverse legal teams to include diversity in the experts shortlisted by those lawyers.

ERE and its signatories also have much to do: continuing to raise awareness; sharing best practices; challenging unconscious biases; improving visibility of women in

these roles; while driving and monitoring progress within our own organisations. We can all encourage connection between experienced witnesses and those with aspirations, while focused networking events with lawyers can help them to build relationships in a comfortable and welcoming environment.

By working together, the dispute resolution community can break down the barriers and create a more inclusive environment for female experts – not just enhancing their careers and lives, but enriching our law courts with greater representation, and ultimately offering the highest quality of evidence that all parties deserve.

"If we are to move the dial, aspiring female experts must be more visible both within their own organisations and to the lawyers who appoint experts. They need to ensure that their extensive drafting experience, and their ambitions, are very well-known."

– Female expert witness

"If I can do it for tribunal members, I can do it for experts. I promise to!"

– Male lawyer

"I recommend that female expert witnesses target female lawyers who are also often overlooked and know the importance of promoting women."

– Female lawyer

"A key issue in terms of getting instructed personally is primarily a matter of being able to project confidence as well as having appropriate qualifications and experience."

– Male expert witness

"I think one of the best routes in for women must be to be paired up with one of these [experienced experts], to demonstrate their ability to be responsive, and to become indispensable to the legal team. I see this is frequently happening with young male experts – who make themselves so useful and user-friendly that they then become the new 'go-to' person. I have only once seen a woman be offered such an opportunity."

– Female lawyer

APPENDIX: Survey demographics

The Equal Representation for Expert Witnesses (ERE) 2024 Survey was completed online by 363 respondents in North America, EMEA and Asia, between 16 April and 15 May 2024. It captures the views of lawyers, expert witnesses, expert witness team members, and consultants. A breakdown of respondent demographics is illustrated below. The survey was developed and delivered with the support of global management consultancy AlixPartners.

FIGURE 13: WHERE IS YOUR PRIMARY WORK BASE LOCATED?

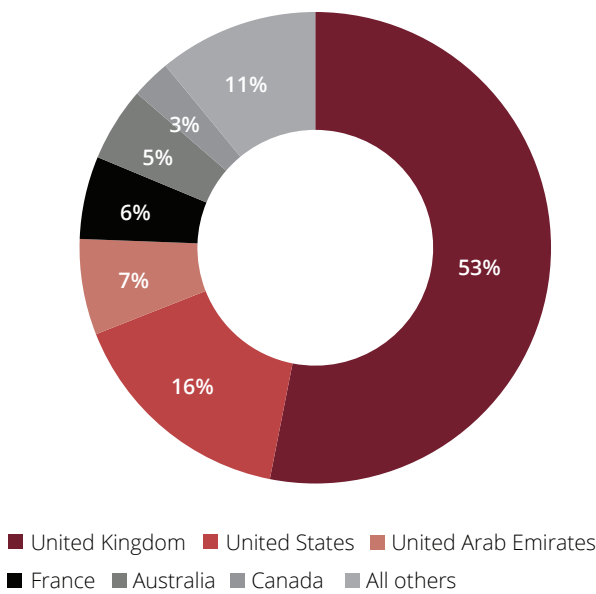


FIGURE 14: PLEASE SELECT YOUR GENDER

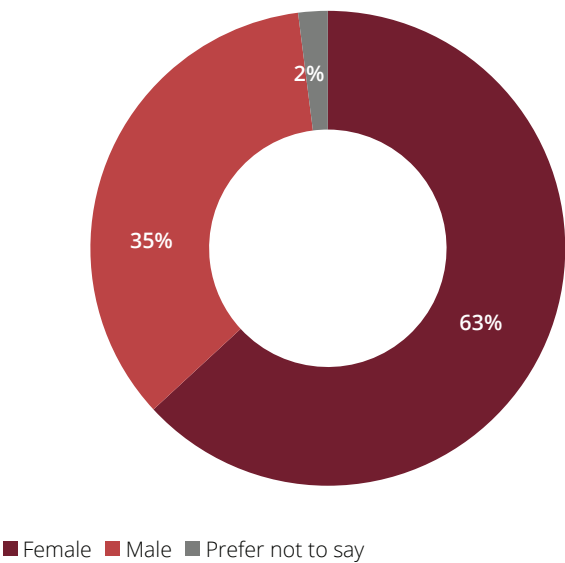


FIGURE 15: PLEASE SELECT YOUR AGE

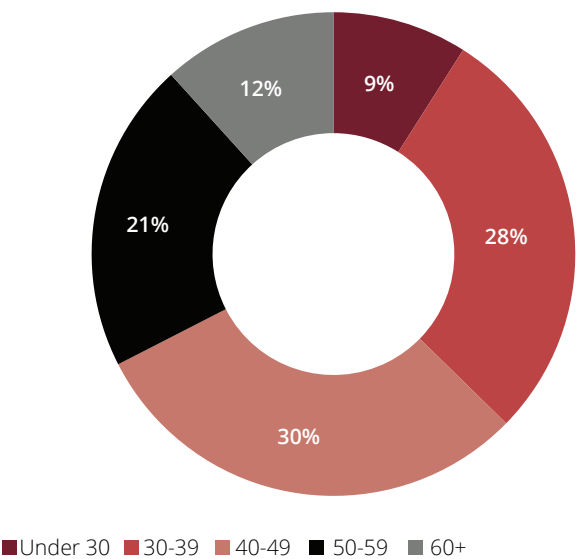


FIGURE 16: WHAT IS YOUR PROFESSION?

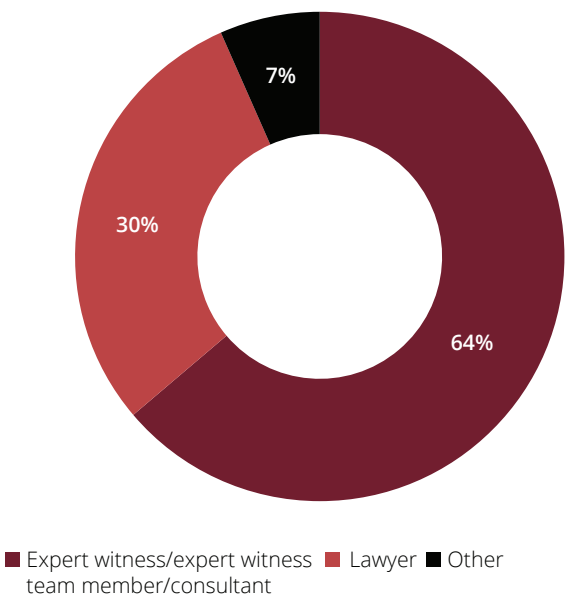


FIGURE 17: LAWYERS: PLEASE SELECT YOUR PRIMARY PRACTICE

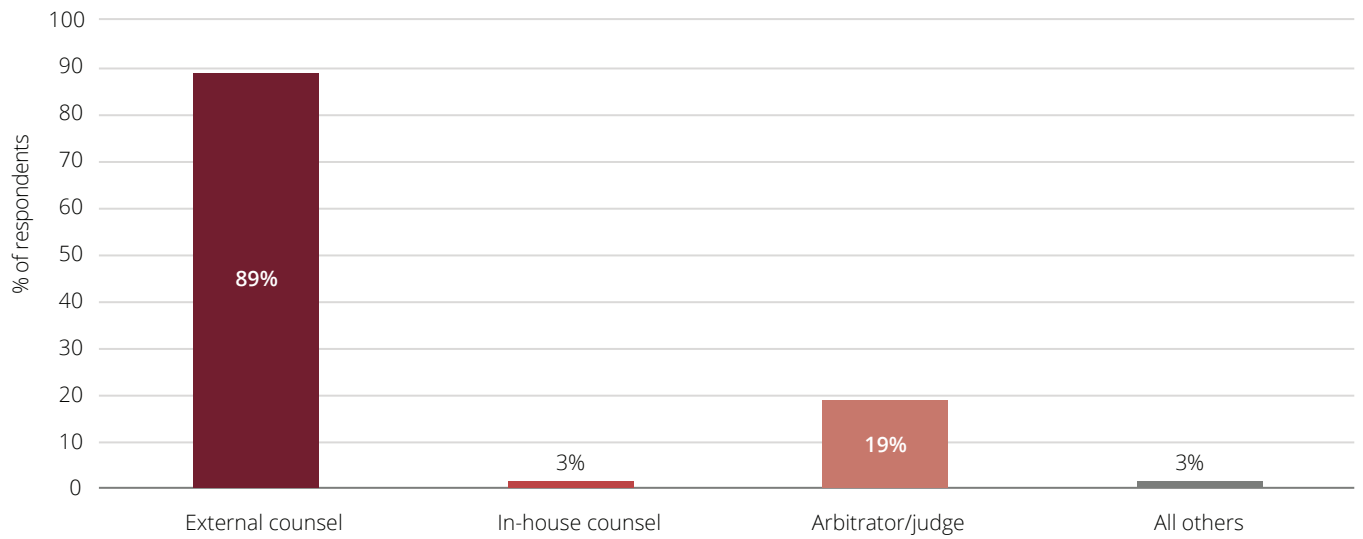
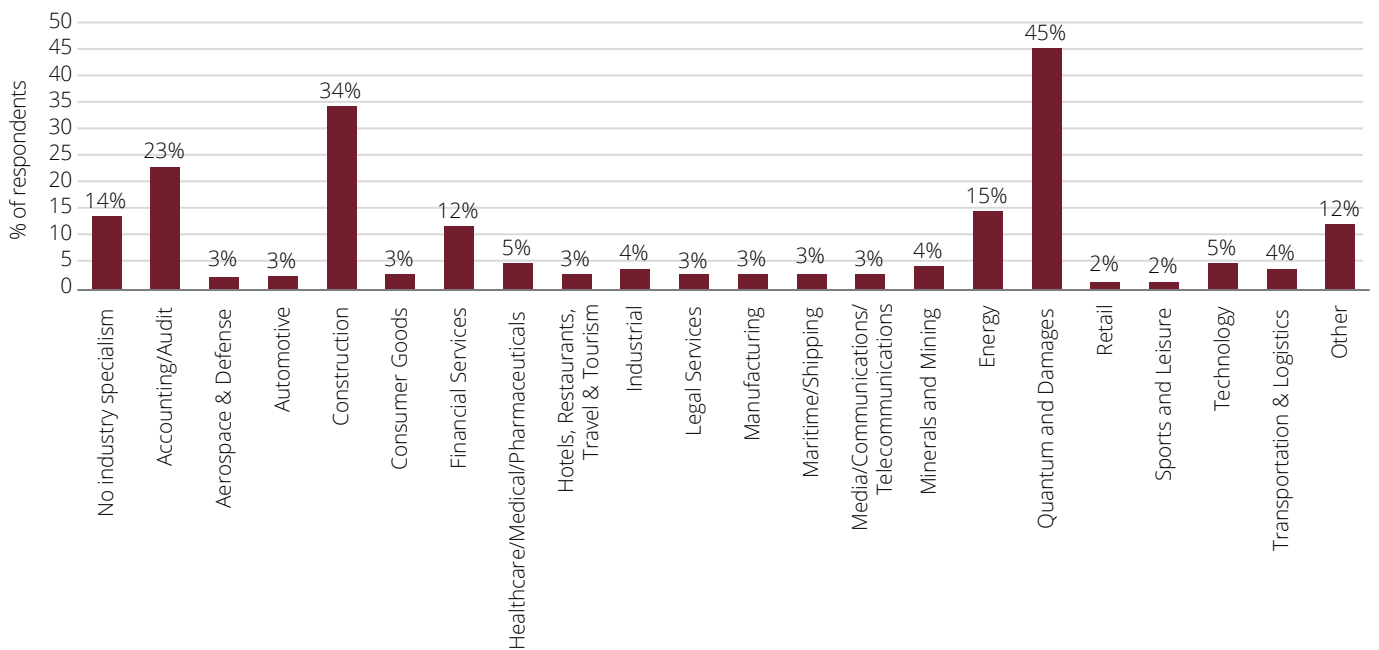


FIGURE 18: EXPERT WITNESSES: WHAT IS/ARE YOUR INDUSTRY SPECIALISMS?



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Our approach enables us to help our clients confront and overcome truly future-defining challenges. We partner with you to make the right decisions and take the right actions. And we are right by your side. When it really matters.

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