

Factsheet 24: Fees Survey 1997

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In 1995 we invited experts listed in the *UK Register of Expert Witnesses* to complete a questionnaire about their experiences of expert witness work. An analysis of their replies was subsequently published in *Your Witness* and is available as Factsheet 5 in this series. In a follow-up exercise 2 years later we asked readers of *Your Witness* for details of the rates they charged for writing reports and giving evidence in court, and also whether they expected a fee in the event of the hearing being cancelled at short notice. This factsheet sets out the main results of this later survey. A total of 547 experts responded to our request for information, and we are most grateful to them for doing so.

The questions we asked

Although the form printed in *Your Witness* Issue 9 was headed 'Fees Survey', it also asked respondents to state their broad field of expertise, the number of reports they had written in the past 12 months and the number of court appearances they had made as an expert witness. The answers to these additional questions were particularly crucial to our analysis of the questions on fees.

Given the diversity of the expert witness community there is little point in computing totals and averages for the whole of it. What experts are mostly interested in are the fees charged by others in their own discipline or speciality. Some consolidation of data is necessary, though, if any meaning is to be derived from the information their colleagues provide. What we have attempted is an analysis by professional group and subgroup, with an indication of the range of fees charged within each. We believe that experts seeking up-to-date guidance on the 'going rate for the job' will find this approach more useful than a straight listing of the charges made by individual experts.

The answers we received

As a first step we have grouped our 547 respondents into eight categories, seven of which can be broadly defined by profession, while the eighth, inevitably, is for 'others'. This enables us to summarise the answers we received from them in either graphical or tabular form. While most of these groupings will be self-explanatory, we should perhaps explain that 'Medicine' encompasses all those experts with medical or dental qualifications, be they surgeons, physicians or psychiatrists, and regardless of whether they are consultants or in general practice. 'Nursing', on the other hand, refers to all members of professions ancillary to medicine, such as occupational therapy and physiotherapy, as well as to nurses.

The first column in Table 1 gives the number of experts who replied in each category. From this it can be seen that 166 (or 30%) of them were doctors and 116 (21%) were engineers, with relatively speaking much smaller totals for each of the

other categories. In contrast, the next column, which gives the average percentage workload represented by expert witness work, shows a remarkable similarity right through the table. This suggests that for each of these professional categories the answers we received to the other questions asked were representative of experts with a substantial involvement in expert witness work. It was therefore valid to attempt comparisons between them.

Perhaps the most striking difference to emerge from such comparisons is that illustrated by Figure 1. This contrasts the average annual total numbers of court appearances made, and reports written for litigation purposes, by members of the seven professional groups. It shows that, on average, experts with medical or dental qualifications write almost twice as many reports per year as those in professions ancillary to medicine, and four times as many as experts in any other profession. On the other hand, the incidence of court appearances was low for all the professional groupings.

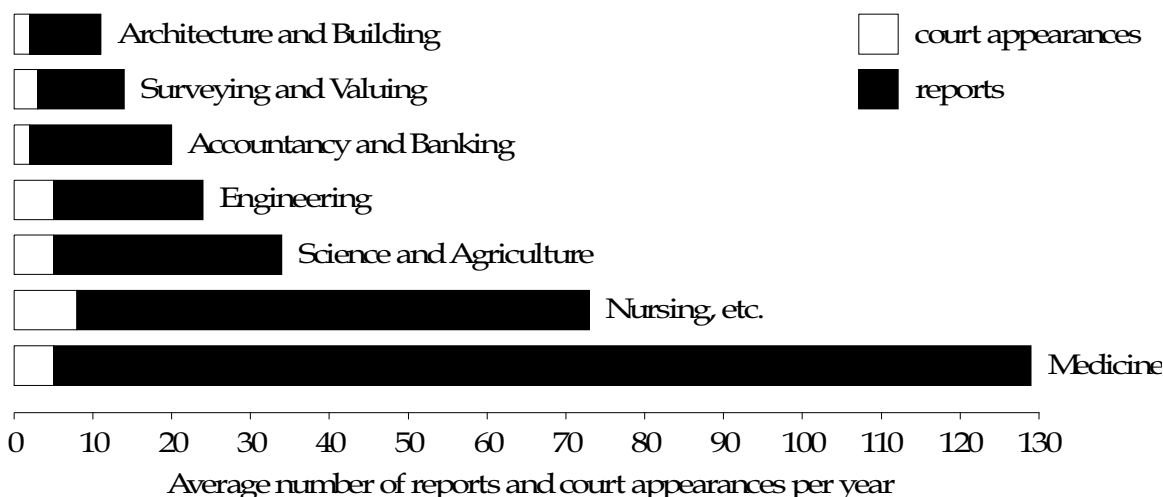
The remaining three columns of Table 1 set out the hourly rates charged by respondents in the seven groups for writing reports, and their half- and full-day rates for giving expert evidence in court. It can be seen that once again doctors and dentists top the averages, although they are followed quite closely by accountants and bankers!

Table 1 also demonstrates the extent to which the official allowances paid for expert evidence in criminal trials fall short of the going rates quoted in the final two columns. The current guidance given to determining officers is that consultant medical practitioners, psychiatrists and pathologists may be paid between £54 and £78 per hour for preparation of their evidence (covering examinations and reports) and between £267 and £384 for a full day in court. For other medical practitioners, and pretty well everyone else who took part in our survey, the official range is £36–£77 per hour for preparation and £174–£379 per day for court appearances. Here is yet another instance of the means by which we in Britain get justice on the cheap!

Table 1. Summary of the results.

Professional category	No. of replies	Workload (mean %)	Mean hourly rate for reports (£)	Mean rate for court appearances (£)	
				Half day	Full day
Medicine	166	34	124	489	870
Nursing, etc.	42	39	76	268	535
Engineering	116	34	73	285	560
Accountancy and Banking	34	37	116	375	821
Science and Agriculture	68	33	89	305	543
Surveying and Valuing	35	31	77	321	629
Architecture and Building	28	37	75	338	612
Others	58	32	76	300	525

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Cancellation fees

Of course, all experts charge for giving evidence in court, but by no means all of them look for payment if the hearing for which they have been warned is cancelled at short notice. In criminal cases, indeed, they have no right to make such a charge, and it is entirely up to the court’s determining officer whether they receive any recompense for time they have lost or the inconvenience they have suffered as a result of the cancellation. In civil cases, though, they do have the option of stipulating in advance the fees they would charge in that event.

The question then arises, How short does the notice have to be to justify charging a cancellation fee? Again, practice varies, and the test likely to be applied in any taxation of costs would be whether the notice given was insufficient to

enable the expert to undertake other remunerative work. For any given period of notice some practitioners are bound to find that more difficult than others might.

Lastly, there is the question of the amount to be charged for different periods of notice, whether in cash terms or, more usually, as a percentage of the fee that would have been charged for the court appearance had it taken place.

Table 2 shows that a higher proportion of doctors (and, to a lesser extent, other medical professionals) charge cancellation fees than is generally the case. In some professional categories, indeed, fewer than half of the experts who contributed to the survey make a charge even when the hearings they are due to appear in are cancelled at the last minute.

Table 2. Experts charging for cancelled hearings.

Professional category	Notice of <24 hours	Notice of 1–7 days	Notice of 7–14 days	Notice of 14–28 days
Medicine	78%	63%	33%	12%
Nursing, etc.	71%	57%	17%	7%
Engineering	53%	36%	23%	10%
Accountancy and Banking	51%	26%	18%	3%
Science and Agriculture	47%	37%	16%	9%
Surveying and Valuing	46%	20%	17%	14%
Architecture and Building	43%	25%	14%	4%
Others	62%	45%	28%	14%
Overall	61%	45%	24%	10%

Table 3. Percentage of normal fee charged for cancelled hearings.

Professional category	Notice of <24 hours	Notice of 1–7 days	Notice of 7–14 days	Notice of 14–28 days
Medicine	75%	55%	41%	27%
Nursing, etc.	76%	58%	46%	30%
Engineering	67%	48%	31%	30%
Accountancy and Banking	66%	44%	28%	30%
Science and Agriculture	71%	55%	39%	46%
Surveying and Valuing	66%	60%	50%	48%
Architecture and Building	69%	41%	40%	50%
Others	83%	52%	40%	30%
Overall	73%	53%	39%	33%

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However, among those experts who do make a charge for cancelled hearings, there is a quite striking similarity as to the amount they levy. As Table 3 demonstrates, whatever their profession, they charge on average between two-thirds and three-quarters of their normal fee should the hearing be cancelled less than 24 hours beforehand, and around half that

fee if the notice they are given is between 1 and 7 days. If you should be wanting to add a clause about cancellation fees to your standard Terms of Engagement, these two tables ought to be of some help to you in devising an appropriate sliding scale.

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**J S Publications can be contacted at:
PO Box 505, Newmarket, Suffolk CB8 7TF
Tel: 01638 561590 • Fax: 01638 560924 • e-mail: ukrew@jspubs.com**