



Costs 2026

Consultation on a New Commercial Band
and Counsel's Guideline Rates

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1. Executive Summary

- 1.1 In May 2023 the Civil Justice Council (CJC) published its Costs Review Final Report. Among other recommendations, it concluded that Guideline Hourly Rates (GHRs) should be retained, subject to annual index-linked increases and minor structural adjustments, with a fuller “Detailed Review” after five years.
- 1.2 The May 2023 report also identified four short-term improvements to the existing structure of GHRs prior to the first Detailed Review. Two of those recommendations are the focus of this interim report and consultation: (i) introducing a new higher band to reflect rates in extremely complex, high-value commercial work, and (ii) enabling counsel’s fees to be assessed by reference to guideline rates, so that counsel are not treated differently in principle from solicitors for the purposes of costs assessment.¹
- 1.3 The CJC therefore established this working group with terms of reference directed at those two issues. This paper sets out the working group’s initial conclusions and invites evidence and views on the approach proposed. The group will consider responses and publish a final report in due course.
- 1.4 In relation to costs in extremely complex high-value commercial work, a majority of the working group considers that there are sufficient grounds to invite consultees to provide evidence about the number of cases which would qualify as falling within this category and the rates charged for such work. A minority of the group considers that the existing regime allows sufficiently for departures in exceptional cases and that there is no sufficient evidential basis for the introduction of a new higher band. The working group considers that, if introduced, the new higher band would sit above, and not redraw, the

¹ CJC Costs Report 2023, Civil Justice Council report on costs - Final Report May 2023

existing bands; redefining the existing bands would require a broader review outside this group's remit.

1.5 The working group has undertaken an initial evidence-gathering exercise from the judiciary. The group recognises the limitations of the data gathered to date and invites further evidence from consultees.

1.6 GHRs for counsel's fees are, in the working group's view, both possible and desirable. The group intends to collect as much contemporary evidence as it can as to the level of counsel's fees charged across the civil litigation landscape reflecting seniority and work type. This material will inform the working group as to what an appropriate level of guideline hourly rate (GHR) may be. The working group also intends to draw on the results of the Bar Council's annual Working Lives Survey (including information on hourly-rate bands, practice area and seniority), while consulting on whether the survey's practice groupings and seniority brackets are appropriate for GHR purposes (and whether any refinements—such as subdivision of KCs—are required). Through the consultation the group would welcome any input from Specialist Bar Associations and any other sources (including solicitors' firms and associations) as to any further evidence-based statistics held in relation to the level of counsel's fees charged.

1.7 Any framework for counsel's GHRs should recognise that brief fees and refreshers are commonly negotiated as lump sums/day rates which reflect features not captured by a simple "hours × rate" model. Guideline rates may assist but will not necessarily dictate what is reasonable in the context of trial preparation and refreshers; views are invited on how this should be expressed and applied.

1.8 The consultation seeks views and evidence on: (a) the wording and practical scope of the proposed higher band, (b) the scale of the work falling within the proposed higher band, and

(c) the level of charging rates for such work; and, in relation to counsel's fees: (d) whether the proposed evidence base and groupings are appropriate, and (e) how guideline rates should sensibly inform (without oversimplifying) the assessment of counsel's fees, including brief fees and refreshers; and (f) the levels of charging rates for the proposed groupings.

- 1.9 A schedule of consultation questions is set out at Appendix A. Responses supported by evidence - particularly evidence of rates charged and agreed in practice - will be of particular assistance.

2. Background: Civil Justice Council Costs Report 2023

2.1 In May 2023, the Civil Justice Council (CJC) published its Costs Review Final Report following a consultation process. One of the areas covered was Guideline Hourly Rates (GHRs). The report included the following recommendations.

- First, that the system of GHRs should be retained (para 2.20).
- Second, that the rates identified in 2021 should be retained, subject to annual index-linked increases, together with minor adjustments to address (i) the view that the highest band is too low and unrepresentative of fees charged for top-tier commercial work (both in London and elsewhere); (ii) the anomaly arising from counsel's fees being excluded from the existing system; and (iii) the applicable test for departing from the GHRs. The system would continue on this basis for the next five years, with a Detailed Review at the end of that period (para 2.22).
- Third, that a working group should be established to consider the methodology for the Detailed Review and the resources required (para 2.24).
- Fourth, that thereafter Detailed Reviews should take place every five years (para 2.25).
- Fifth, that index linking should take place annually using the general SPPI (paras 2.16–2.17).

2.2 The report then listed four short-term recommendations in para 2.28:

2.3 “In the short term (i.e., before the first Detailed Review), we recommend four changes to the existing structure of GHRs:

- 1: that measures are taken to create a new band for complex, high-value commercial work, whether in London or elsewhere. A substantial number of respondents to the consultation considered this necessary, and we agree. An appropriate rate will need to be identified above the existing rates. We anticipate that this is something the proposed Working Group could consider as a priority. In the first instance, it will need to decide what, if any, evidence it needs to collect in order to arrive at appropriate figures for the new band.
- 2: that a retrospective uplift to the 2021 figures is applied having regard to the SPPI.
- 3: that counsel’s fees should also be capable of being assessed by reference to a guideline hourly rate.
- 4: that the test for departure from a GHR should be stated clearly. Several respondents felt that the circumstances in which the court will depart from GHRs lacked clarity, and we agree. However, views differed significantly as to what the appropriate test should be. Some suggested that departure should occur only where there is “a clear and compelling justification and it is in the interests of justice to do so”. Others proposed that departure should be considered where a case falls outside the notionally average case (average complexity), i.e., in cases of above-average complexity or length, and where departure is “just and proportionate”. At the other end of the spectrum, some suggested that departure should be accepted whenever it is reasonable.

- 2.4 Whilst we recognise the challenges, there remains a perception that counsel's fees are not being adequately addressed and that there is no justification for treating them differently from solicitors' fees. We believe this change is consistent with the aim of providing certainty for parties over their liability for opponents' costs. We acknowledge the difficulties involved in this exercise (and the importance of ensuring any solution does not increase the risk of inflated or disproportionate sums), but we do not think those difficulties justify failing to address this issue as soon as possible. The proposed Working Group will need to consider this in detail, potentially by reference to evidence, but we are firmly of the view that counsel's fees should be included within GHRs as soon as possible.
- 2.5 The current working group was established to address two of these short-term recommendations (the terms of reference can be found here: [Costs - Courts and Tribunals Judiciary](#)) those in paras 2.28.1 (the new higher band) and 2.28.3 (counsel's fees). Section 2 of this report concerns the new band for complex, high-value commercial work. Section 3 concerns counsel's fees.
- 2.6 The membership of the present working group is set out in Appendix B.

3. The Higher Band for Complex, Commercial Work

- 3.1 As noted above, many respondents to the CJC’s 2023 consultation considered the identification of rates for a new higher band to be necessary, and the CJC agreed.
- 3.2 It is not part of this group’s remit to redefine the existing bands for GHRs or revisit the level of those rates. That would require a more fundamental review. We therefore developed a definition for the proposed higher band that sits above the existing London 1 Band (“very heavy commercial and corporate work by centrally based London firms”). Our working definition for the new higher band is:
- “Band 1A: extremely complex, high-value commercial and corporate litigation.”
- 3.3 We turn to the issue of evidence about the rates being charged for such work. There is a preliminary observation. As explained above, it is not within the working group’s remit to revisit the level of the existing GHRs. (This approach would strictly be made valid on the assumption that the samples used to determine those rates did not include cases that would have fallen within the proposed new higher rate.)
- 3.4 We have undertaken a preliminary evidence gathering exercise from judges. Questionnaires in the form attached at Appendix C were sent to various Judges of the Business and Property Courts, Chancery Masters, Insolvency and Companies Court Judges and Costs Judges. The questionnaires sought information about cases the judges considered would fall within Band 1A. Judges were asked to provide any information available about hourly rates claimed and rates awarded.

Do you agree that the proposed definition of Band 1A as "extremely complex, high value commercial and corporate litigation" adequately identifies the cases that should fall within the new higher band? If not, what alternative wording or amendments would you suggest?

- 3.5 We recognised the limitations of this exercise, as rates awarded in summary assessments are influenced by existing GHRs. Moreover, the questionnaires addressed a hypothetical question: whether the judge considered the case to fall within Band 1A, an issue not addressed by the parties' evidence. In the event the exercise has failed to provide adequate evidence to enable us to reach any provisional views about the rates at which the new higher band might be set. This highlights the importance of gathering further evidence through the consultation process to inform the group's work.
- 3.6 As already explained, after consultation, the CJC concluded in its May 2023 report that a higher band was needed. A majority of the working group considers that if there is sufficient evidence that higher rates are in fact being charged and agreed for extremely complex work it should be reflected in a higher band and evidence about the level of cases which would qualify as falling within the proposed new category and the rates charged for such work. The group would therefore welcome evidence about charging rates for the relevant category of work. To this end, please see 3.7 for details of how to submit your evidence.
- 3.7 A minority of the group considers that the existing regime allows sufficiently for departures in exceptional cases and that there is no sufficient evidential basis for the introduction of a new higher band. The minority is also concerned that the introduction of a new higher rate would adversely affect access to justice.

If you are able to provide evidence about completed inter partes cases in England and Wales where rates above London 1 have been agreed or awarded, please refer to the call for evidence form outlined in the consultation cover sheet.

Are there any other matters on which you would like to give evidence concerning the proposed new higher band?

3.8 Appendix A sets out the consultation questions.

4. Guideline Rates for Counsel Fees

4.1 The group considers that introducing GHRs for counsel's fees is both possible and desirable, consistent with the recommendations of the May 2023 CJC report.

4.2 The group initially had concerns about the limited data available, as costs budgeting information provided to courts rarely includes counsel's hourly rates. In some cases, however, an hourly rate can be inferred. Counsel's fees for certain stages, particularly trial preparation, are often not calculated solely by multiplying an hourly rate by hours spent.

4.3 The group intends to collect as much contemporary evidence as it can as to the level of counsel's fees charged across the civil litigation landscape reflecting seniority and work type. This includes not just evidence of what barristers charge but how they charge and where possible evidence of what has been claimed and allowed by way of counsel's fees at assessment hearings (summary and detailed assessment) including applications for payments on account of costs and where possible at costs budgeting hearings.

If you are able to provide any evidence of the extent to which hourly rates dictate the level of counsel's fees charged for (a) written work (b) hearings (other than trials) and (c) trial fees (brief fees and refreshers), please refer to the consultation form outlined on the cover sheet.

4.4 The working group intends to draw on the results of the Bar Council's annual earnings survey (including information on hourly-rate bands, practice area and seniority), whilst consulting on whether the survey's practice groupings and seniority brackets are appropriate for GHR purposes (and whether any refinements—such as subdivision of KCs—are required). The

committee is grateful to the Bar Council for providing the data associated with counsel's earnings as derived from the 2025 Working Lives Survey (WLS).

4.5 The 2025 survey covered earnings by practice area, experience and region. The survey focused on hourly rates in two key areas of practice:

- Commercial/chancery and general civil.
- Respondents selected one of nine £100-wide bands up to £1000, plus a band for £1000+.
- There were 3,951 self-employed respondents.

4.6 The report summarising the data provided by the Bar Council to the group can be found at The Bar Counsel's Working Lives Survey 2025². All data provide by the Bar Counsel to the Working Group can be found at Appendix D. Table 3 summarises the results by seniority and region.

4.7 Table 1 shows that:

- "General Civil" includes defamation, employment, immigration, residential landlord and tenant, licensing, personal injury, planning, professional discipline, professional negligence, public law and other common law.
- "Commercial/Chancery" includes admiralty, chancery, competition, construction, European, insolvency, IP, international, non residential landlord and tenant and revenue.

Is the grouping into "commercial/chancery" and "general civil" appropriate? If not, what changes would you suggest?

² Bar Counsel Working Lives Survey 2025: [Bar-Councils-Wellbeing-at-the-Bar-Report-2025.pdf](#)

- 4.8 The data is derived from a large number of respondents and, in the group's view, represents a more comprehensive evidence-base than cost-management materials provided to the courts.

Is the allocation of practice areas used in the Bar Survey appropriate for determining GHRs? If not, what changes would you suggest?

- 4.9 The group would be grateful for any further evidence arising from the 2026 survey if this becomes available during the consultation period. The working group would be particularly interested to hear from Specialist Bar Associations as to any survey results they have or statistics they have gathered in relation to the level of counsel's fees charged in their respective specialist disciplines.

If you are able to provide any current evidence of what barristers charge for separate areas of work and the level of call of the barrister(s) concerned, please refer to the consultation form outlined on the cover sheet.

- 4.10 The group acknowledged that barristers' brief fees and refreshers are usually, albeit not universally, a negotiated lump sum and day rate that reflects more than a simple aggregate of the number of anticipated hours to be worked in preparation for, or during, a hearing multiplied by an hourly rate. It may well include a premium, for example, to reflect the booking out of time in counsel's diary, and the potential that settlement may leave a period of unremunerated time; it also reflects what is for many counsel an all-consuming period as the trial demands. The group considers that any accompanying text to the GHRs should make clear that the rates may help inform, but would not necessarily dictate, what a reasonable brief fee or refresher rate may be.

How should GHRs apply to trial preparation and refreshers?

- 4.11 The group acknowledges that the WLS was not designed specifically for GHR purposes, and neither the seniority brackets nor the practice groupings were tailored for that purpose. The consultation therefore invites views on the appropriateness of using the survey's conclusions and groupings when setting GHRs.

Do you have any concerns about the use of the WLS data in setting GHRs for barristers? If so, why?

Are there any other matters on which you would like to give evidence concerning counsel's GHRs?

5. Annexes and Appendices

Appendix A: Consultation Questions

The higher band for complex, high-value commercial work

- Do you agree that the proposed definition of Band 1A as "extremely complex, high value commercial and corporate litigation" adequately identifies the cases that should fall within the new higher band?
If not, what alternative wording or amendments would you suggest?
- If you are able to provide evidence about completed inter partes cases in England and Wales where rates above London 1 have been agreed or awarded, please refer to the call for evidence form outlined in the consultation cover sheet.
 1. Are there any other matters on which you would like to give evidence concerning the proposed new higher band?

Guideline Rates for Counsel's Fees

2. Are you able to provide any evidence of the extent to which hourly rates dictate the level of counsel's fees charged for (a) written work (b) hearings (other than trials) and (c) trial fees (brief fees and refreshers)?
3. Is the grouping into "commercial/chancery" and "general civil" appropriate? If not, what changes would you suggest?
4. Is the allocation of practice areas used in the Bar Survey appropriate for determining GHRs? If not, what changes would you suggest?

5. If you are able to provide any current evidence of what barristers charge for separate areas of work and the level of call of the barrister(s) concerned, please refer to the consultation form outlined on the cover sheet.
6. How should GHRs apply to trial preparation and refreshers?
7. Do you have any concerns about the use of the WLS data in setting GHRs for barristers? If so, why?
8. Are there any other matters concerning counsel's GHRs not covered above?

Appendix B: Working Group Membership

Member	Role
Lord Justice Miles	Chair
Mr Justice Constable	Member
Alexander Hutton	Member
John McQuater	Member
Master Simon Brown	Member
Neil Rickman	Member
Nick Bacon KC	Member
Nicola Critchley	Member
Paul Fenn	Member

Appendix C: Judicial Questionnaires

FEEDBACK FORM FOR MASTERS, COSTS AND BPC JUDGES

Name of judge	
Court in which assessment took place	
Type of claim	
Value of the claim	£
Location of receiving party's solicitors - town/city and postcode	
Receiving party	Claimant ☐ Defendant ☐
Total of the costs statement (N260) as claimed to nearest £1000 (including VAT and disbursements)	£
Hourly rates (excluding VAT) <u>claimed</u> by grade of Fee Earner:	Grade A £ Grade B £ Grade C £ Grade D £
Amount allowed	£
Would the case fall into the proposed higher Band 1A of "extremely complex, high value commercial and corporate litigation"? If so, what features justified this view?	Yes ☐ No ☐ If Yes, features:

SURVEY COUNSEL'S HOURLY RATES

This Form is to be provided to:

All Judges undertaking civil court work

This Form does not apply to the Business and Property Courts or to Costs Judges sitting in the SCCO¹

1. This Form has 4 Parts.
2. Please follow the steps below:

Step 1: Does your hearing involve any of the following? Please indicate.

- Summary Assessment ☐
- Application for a Payment on Account of Costs ☐
- Costs Budgeting Hearing ☐
- Detailed Assessment Hearing ☐

If **"Yes"** to any of the above please proceed to Step 2:

If **"No"** you will not need to complete this survey.

Step 2:

Summary Assessment	Please complete Part 1
Payment on Account of Costs Application: CPR 44.2(8)	Please complete Part 2
Costs Management hearing (Costs Budgeting)	Please complete Part 3
Detailed Assessment hearings	Please complete Part 4

Step 3:

Please tick to confirm your completion of the survey ☐

PART 1**SUMMARY ASSESSMENT**

Judicial seniority	☐ District Judge/ Deputy District Judge ☐ Master ☐ Circuit Judge ☐ High Court Judge
Date of Summary Assessment	
Type of claim (if more than one tick accordingly)	☐ Property ☐ Commercial financial business ☐ Technology and construction ☐ Insurance ☐ Professional liability ☐ Fraud ☐ Breach of Trust ☐ Insolvency ☐ Judicial Review ☐ Other please specify:

Value of the claim (approximate)	£	
Location of receiving party's solicitors	Town	
	City	
	Post Code	
Receiving party	Claimant ☐ Defendant ☐	
Counsel's Hourly Rates		
Counsel's hourly rates <u>claimed</u> ² or <u>indicated</u> to the Court	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£
Counsel's hourly rates <u>allowed</u> ³ if determined or agreed	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£

PART 2

APPLICATION FOR A PAYMENT ON ACCOUNT OF COSTS

Judicial seniority	☐ District Judge/ Deputy District Judge ☐ Master ☐ Circuit Judge ☐ High Court Judge	
Date of hearing		
Type of claim (if more than one tick accordingly)	☐ Property ☐ Commercial financial business ☐ Technology and construction ☐ Insurance ☐ Professional liability ☐ Fraud ☐ Breach of Trust ☐ Insolvency ☐ Judicial Review ☐ Other please specify:	
Value of the claim (approximate)	£	
Location of receiving party's solicitors	Town	
	City	

	Post Code	
Receiving party	Claimant ☐ Defendant ☐	
Counsel's Hourly Rates		
Counsel's hourly rates <u>claimed</u> ⁴ or <u>indicated</u> to the Court	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£
Counsel's hourly rates <u>allowed</u> ⁵ if determined or agreed	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£

PART 3**COSTS MANAGEMENT HEARING**

Judicial seniority	☐ District Judge/ Deputy District Judge
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	☐ Master ☐ Circuit Judge ☐ High Court Judge		
Date of hearing			
Type of claim (if more than one tick accordingly)	☐ Property ☐ Commercial financial business ☐ Technology and construction ☐ Insurance ☐ Professional liability ☐ Fraud ☐ Breach of Trust ☐ Insolvency ☐ Judicial Review ☐ Other please specify:		
Value of the claim (approximate)	£		
Location of receiving party's solicitors	Town		
	City		
	Post Code		
Receiving party	Claimant ☐		

Claimant's Counsel's Hourly Rates		
Counsel's hourly rates <u>claimed</u> for incurred or future costs or otherwise <u>indicated</u> to the Court.	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£
To the extent that any Counsel's hourly rates are conceded as being reasonable or undisputed please indicate Counsel's hourly rates. ⁶	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£

Receiving party	Defendant ☐	
Defendant's Counsel's Hourly Rates		
Counsel's hourly rates <u>claimed</u> for incurred or future costs or otherwise <u>indicated</u> to the Court.	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£

To the extent that any Counsel's hourly rates are conceded as being reasonable or undisputed please indicate Counsel's hourly rates. ⁷	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£

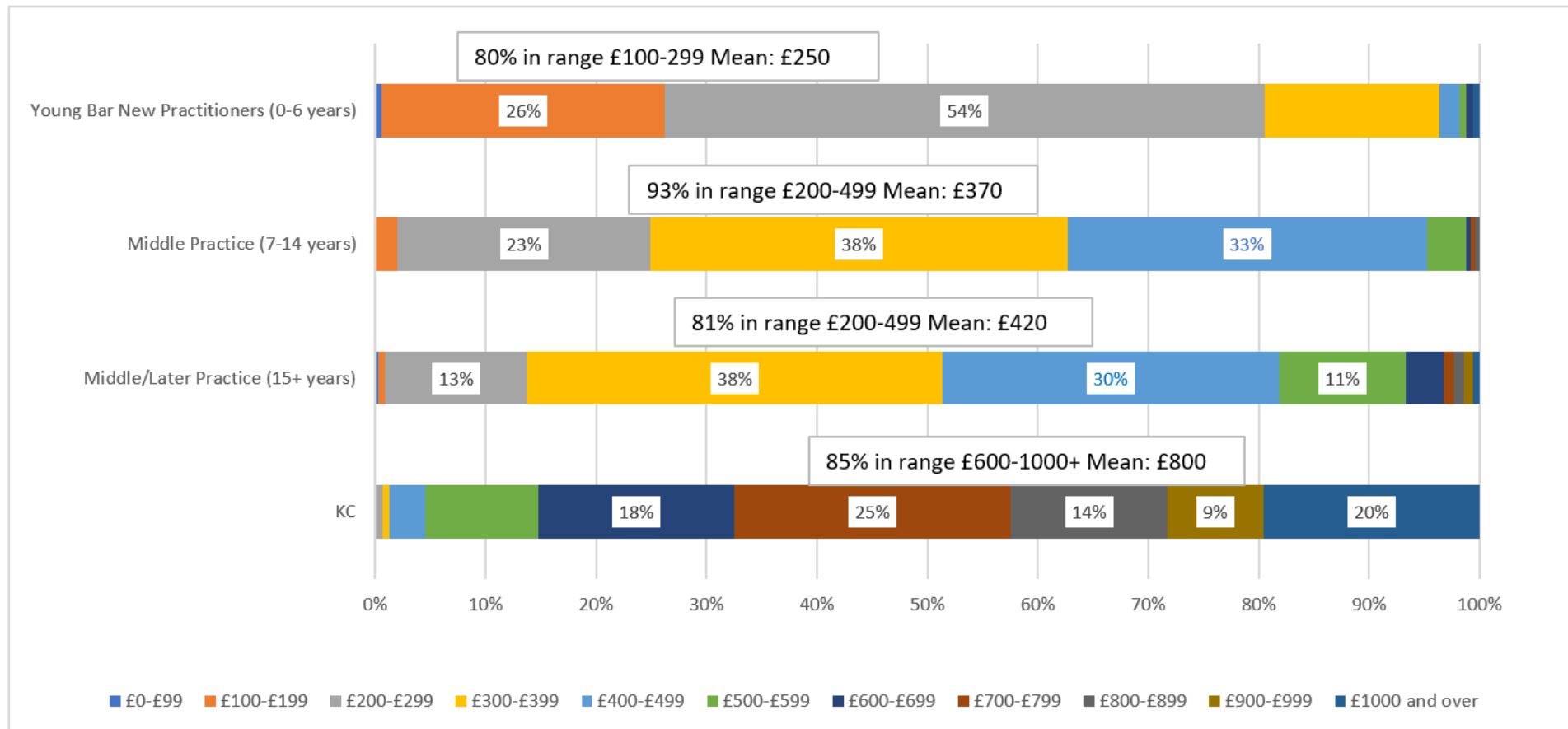
PART 4**DETAILED ASSESSMENT**

Judicial seniority	☐ District Judge/ DDJ
Date of Detailed Assessment	
Type of claim (if more than one tick accordingly)	☐ Property ☐ Commercial financial business ☐ Technology and construction ☐ Insurance ☐ Professional liability ☐ Fraud ☐ Breach of Trust ☐ Insolvency ☐ Judicial Review ☐ Other please specify:

Value of the claim (approximate)	£	
Location of receiving party's solicitors	Town	
	City	
	Post Code	
Receiving party	Claimant ☐ Defendant ☐	
Counsel's Hourly Rates		
Counsel's hourly rates <u>claimed</u> ⁸ or <u>indicated</u> to the Court	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£
Counsel's hourly rates <u>allowed</u> ⁹ if determined or agreed	Seniority	Hourly Rate
	< 7 yrs	£
	7-14 yrs	£
	14 + yrs	£
	KC	£

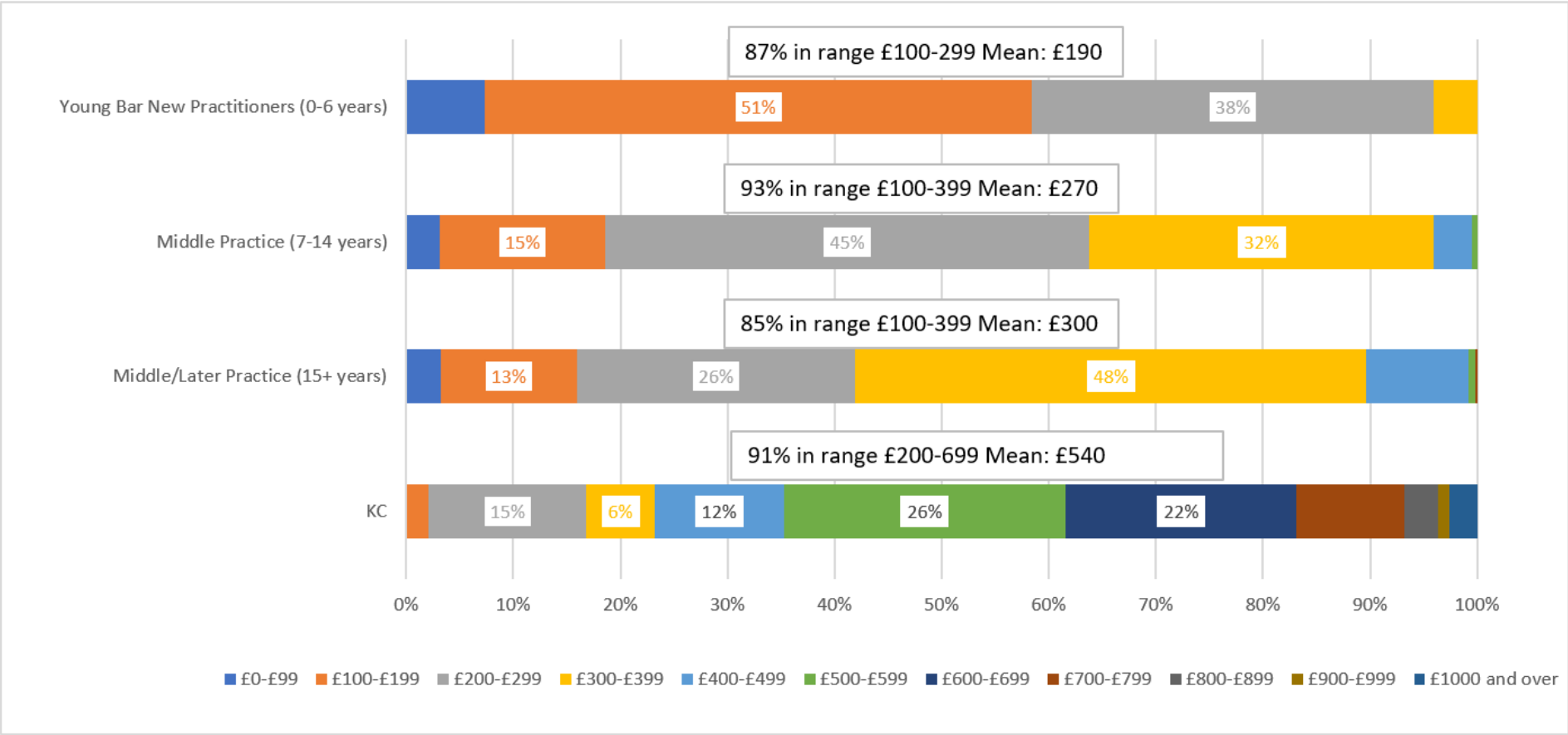
Appendix D: Bar Counsel Data, Working Lives Survey 2025

Figure 1: Hourly rates charged by COMMERCIAL/CHANCERY barristers 2025 by experience level (percentages)



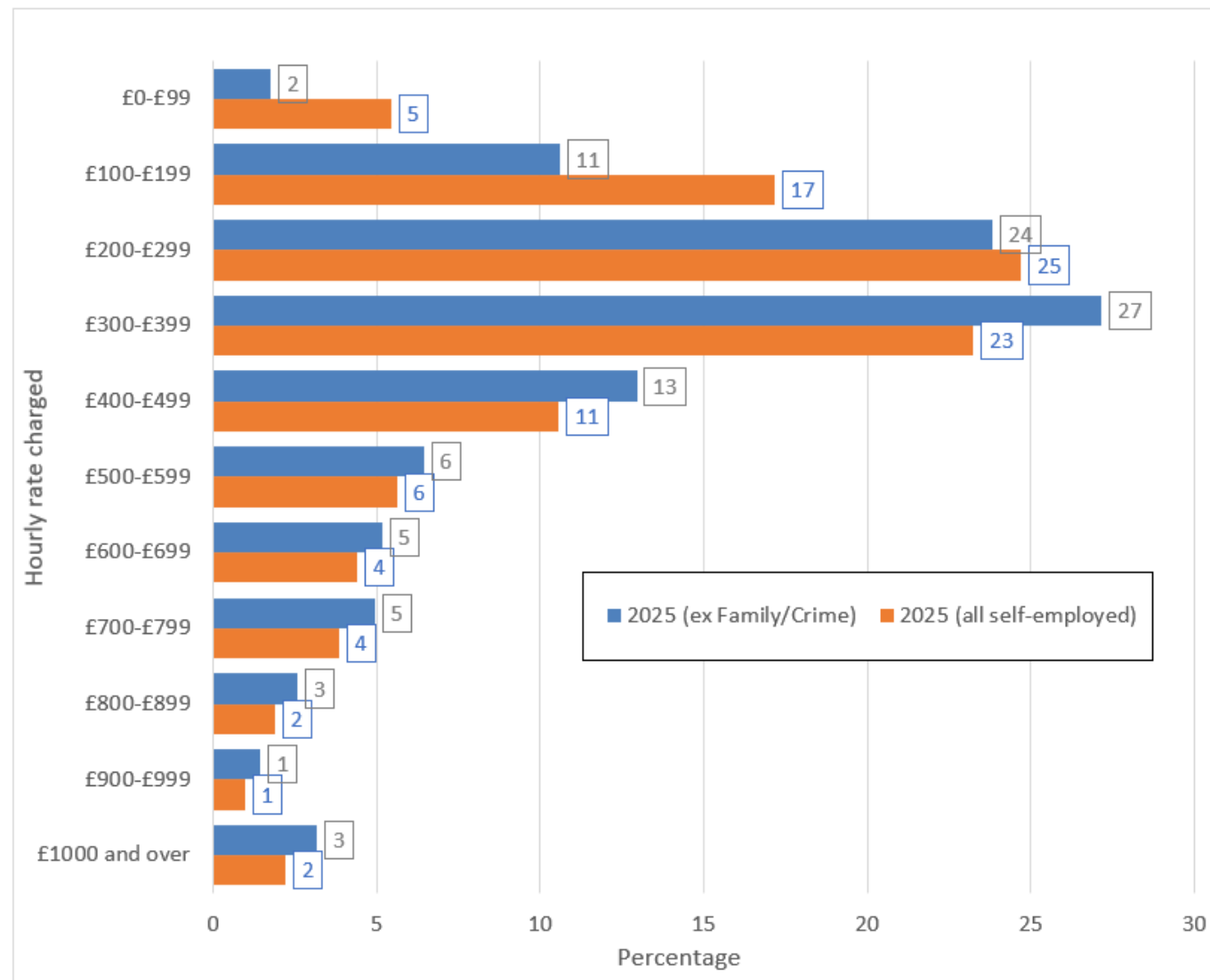
Source: IES/Bar Council: Barristers' Working Lives Survey, 2025

Figure 2: Hourly rates charged by GENERAL CIVIL barristers 2025 by experience level (percentages)



Source: IES/Bar Council: Barristers' Working Lives Survey, 2025

Figure 3: Hourly rates charged by ALL self-employed barristers 2025 (percentages)



Source: IES/Bar Council: Barristers' Working Lives Survey, 2025

Table 1: Numbers of self-employed respondents by area of practice and KC status¹

Area of practice	KC	Not KC	All respondents
Admiralty	2	4	6
Chancery (Contentious)	39	220	259
Chancery (<u>Non-contentious</u>)	0	7	7
Commercial and Financial Services	175	315	490
Competition	18	28	46
Construction	24	49	73
Defamation	6	12	18
Employment	30	142	172
European	2	4	6
Immigration	4	66	70
Insolvency	15	39	54
Intellectual Property	20	25	45
International	14	39	53
Landlord & Tenant (Non-residential)	5	19	24
Landlord & Tenant (Residential)	3	72	75
Licensing	0	2	2
Other Common Law	5	71	76
Personal Injury	56	309	365
Planning	24	38	62
Professional Discipline	8	47	55
Professional Negligence	9	28	37
Public Law	56	147	203
Revenue	11	26	37
All self-employed	758	3193	3951
All General Civil	201	934	1135
All Commercial/Chancery	325	775	1100
All Civil/Commercial (self-employed)	526	1709	2235

Source: IES/Bar Council: Barristers' Working Lives Survey, 2025

The data and commentary here present all key findings for 2025. The data presented below includes only self-employed (chambers and sole practitioners) barristers as the hourly rates of employed barristers are not relevant and are predetermined. For the mean values presented in the charts and tables we have used mid points for the bands as a proxy for continuous data.

6. Table of abbreviations and acronyms

Abbreviation or acronym	Meaning
CJC	Civil Justice Council
HMCTS	His Majesty's Courts and Tribunals Service
MOJ	Ministry of Justice
GHRs	Guideline Hourly Rates
KC	King's Counsel
WLS	Working Lives Survey
IP	Intellectual Property
SPPI	Services Producer Price Index

7. References

- CJC 2023 Costs Report: [Civil Justice Council report on costs - Final Report May 2023](#)
- Terms of Reference: [Costs - Courts and Tribunals Judiciary](#)
- Bar Counsel WLS Survey 2025: [Bar-Councils-Wellbeing-at-the-Bar-Report-2025.pdf](#)