

Go Big

When it comes to the Bar, size matters.
But what about experience?

As part of our assessment of the future of dispute resolution, we scrutinised English High Court data from analytics provider Solomonik, covering more than 25,000 claims and 4,500 judgments over the past six years.

Combing through the data reveals patterns, confirms some suspicions and challenges a few received wisdoms about the realities of litigating in London. It also offers clues to the future trajectory of litigation as we enter 2021.

Queen's Counsel are rightly renowned the world over for their command of the law and their formidable advocacy skills. This expertise and excellence comes at a price, however, with rates for leading QCs topping £1,000 per hour – and in some cases considerably more.

But is this good value? Analysis of English High Court judgments between 2015 and 2020 reveals that the presence of a QC makes almost no difference to average success rates, with QC teams winning against non-QC teams 50.6% of the time.

The endless variables of individual cases makes drawing a firm conclusion unwise, and the data makes no reference to the cost of each team, or of each individual's years' PQE. There will inevitably be cases where junior QCs are going up against a very senior junior, meaning the two are in reality relatively evenly matched in experience, despite the presence or lack of honorific.

And even if the difference in win rate truly is just 0.6%, as Solomonik co-founder Gideon Cohen – himself a barrister at One Essex Court – says: "If there's enough money at stake and the data shows I am just nudging up my chances a bit by using a QC, one can immediately think of many cases where you'd absolutely do that."

It is clear, however, that the plaudits often given to the London commercial Bar's ranks of senior juniors are justified. Further underlining this point, the data shows that of the five advocates with the most references within published High Court judgments between 2015 and 2020, two are non-QCs.

The female barristers with the most reference in High Court judgments over that period were 11KBW's Amy Rogers, who covers commercial, employment and public law disputes, and One Essex Court silk Sonia Tolaney – both are referenced in 18 cases.

But while the presence of a QC may have almost no impact on average success rates, size of advocacy team is an entirely different matter.

Larger advocacy teams win against smaller teams almost 70% of the time – a significant uplift on the average High Court success rate of 44%. strongly correlate with higher win rates.

It seems that money and resources do go a long way in building a winning case.

Name Checked:

Barristers with most references within
English High Court Judgments, 2015-2020

Source: *Solomonic*

25	Alain Choo Choy QC , One Essex Court
25	Andrew Scott , Blackstone Chambers
23	David Foxtton QC* , Essex Court Chambers
22	Ali Malek QC , 3VB
20	Tim Akkouh , Essex Court Chambers

* Foxtton became a High Court judge in January 2020

This is an excerpt from an HFW report on the future of dispute resolution. To read the rest of the report, which includes a series of 30 interviews with senior in-house counsel and other leading figures from across the global disputes industry, as well as insights from our expert litigators, visit: www.hfw.com/litigation

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