

# Sexuality at the Bar

*An Empirical Exploration into  
the Experiences of LGBT+  
Barristers in England & Wales*

Marc Mason, University of Westminster  
Dr Steven Vaughan, University College London

#lgbtbarristers 

## Introductory Address:

- Rt Hon. Maria Miller MP (Chair of the Women and Equalities Select Committee)

## The Research:

- Marc Mason (University of Westminster)
- Dr Steven Vaughan (UCL Laws, Centre for Ethics and Law)

## Panellists:

- Claire Fox (Barrister, Pump Court Chambers; Co-Chair of the Barristers Lesbian and Gay Group)
- Ewen Macleod (Director of Strategy and Policy, Bar Standards Board)
- Nicholas Allen (Barrister, 29 Bedford Row; Recorder)
- Susanna Rickard (Barrister, Serjeants' Inn Chambers; Representative of FreeBar)

## Drinks Reception

- with thanks to 29 Bedford Row and UCL Centre for Ethics and Law

# Bar of England and Wales

- Around 16,000 barristers
  - 3,000 at the employed Bar. Vast majority self-employed
- Language of the Bar: Queen's Counsel ('silk'); Senior, Junior, Senior Junior, Pupil, Pupil Master/Mistress, Clerk
- 'Elite' and historic profession
  - Source of the Judiciary
  - At the Bar: 38% women; 13% of QCs women
  - Average income in 2012 - £108,000

# Our Research

## What we did

- 2016 survey with 126 LGBT+ barristers, QCs, pupils and BTPC students
- 38 associated interviews

## Why we did it

- Increasing interest in sexuality and the Bar
- Increasing interest in professional identity formation and LGBT+ identities
- Not been done before



**Joshua Rozenberg** ✓

@JoshuaRozenberg

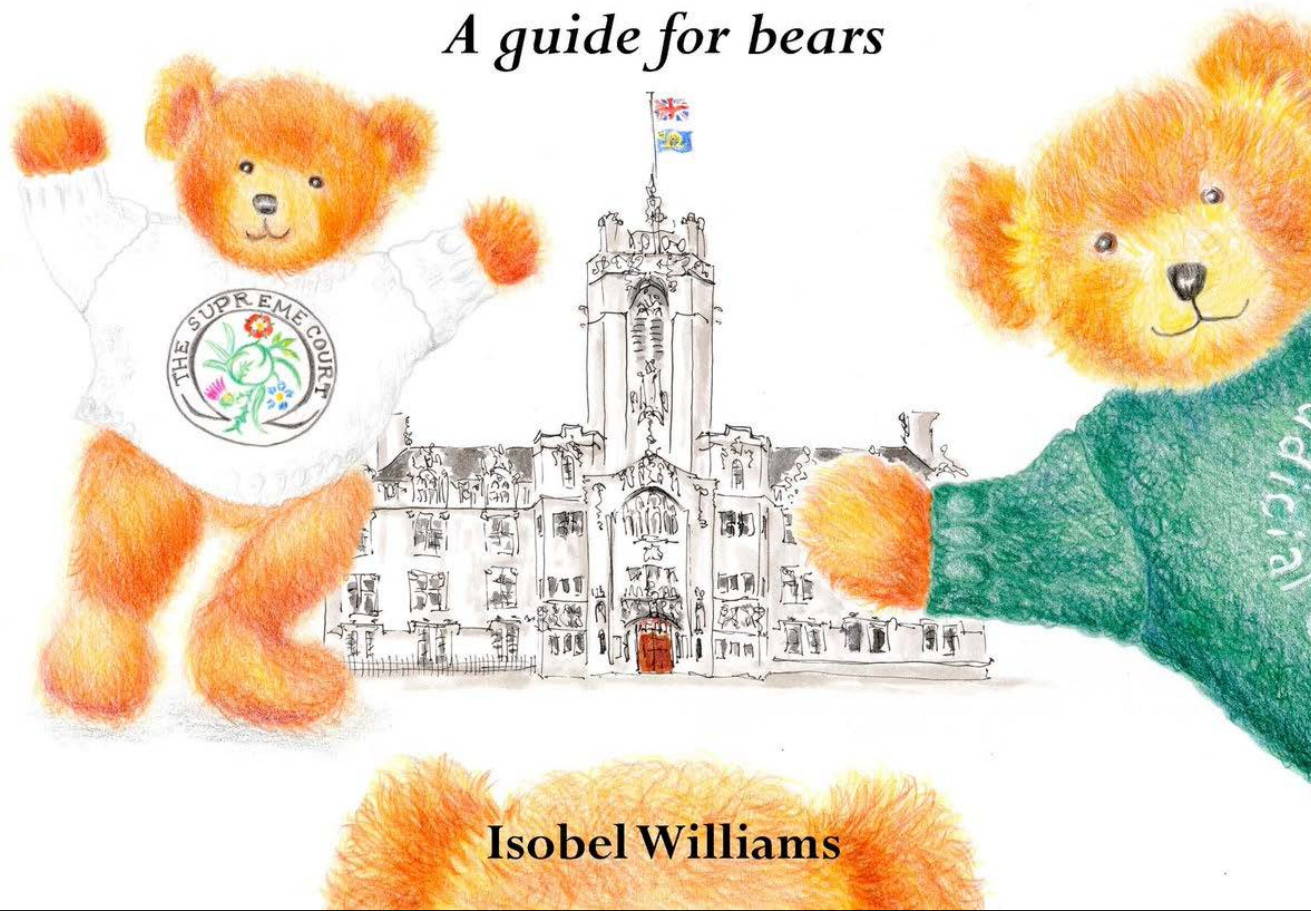
Following



Out today, a charming guide for children and adults alike. Who knew there were so many bears at the [@UKSupremeCourt?](#)  
[isobelwilliams.org.uk](https://isobelwilliams.org.uk)

# THE SUPREME COURT

*A guide for bears*



Isobel Williams

# What we will cover

```
graph LR; A[What we will cover] --> B[Demographics]; A --> C[Homophobia in the workplace]; A --> D[The performance of 'out']; A --> E[Sexuality and Practice]; A --> F[Extrinsic Support Mechanisms];
```

Demographics

Homophobia in the workplace

The performance of 'out'

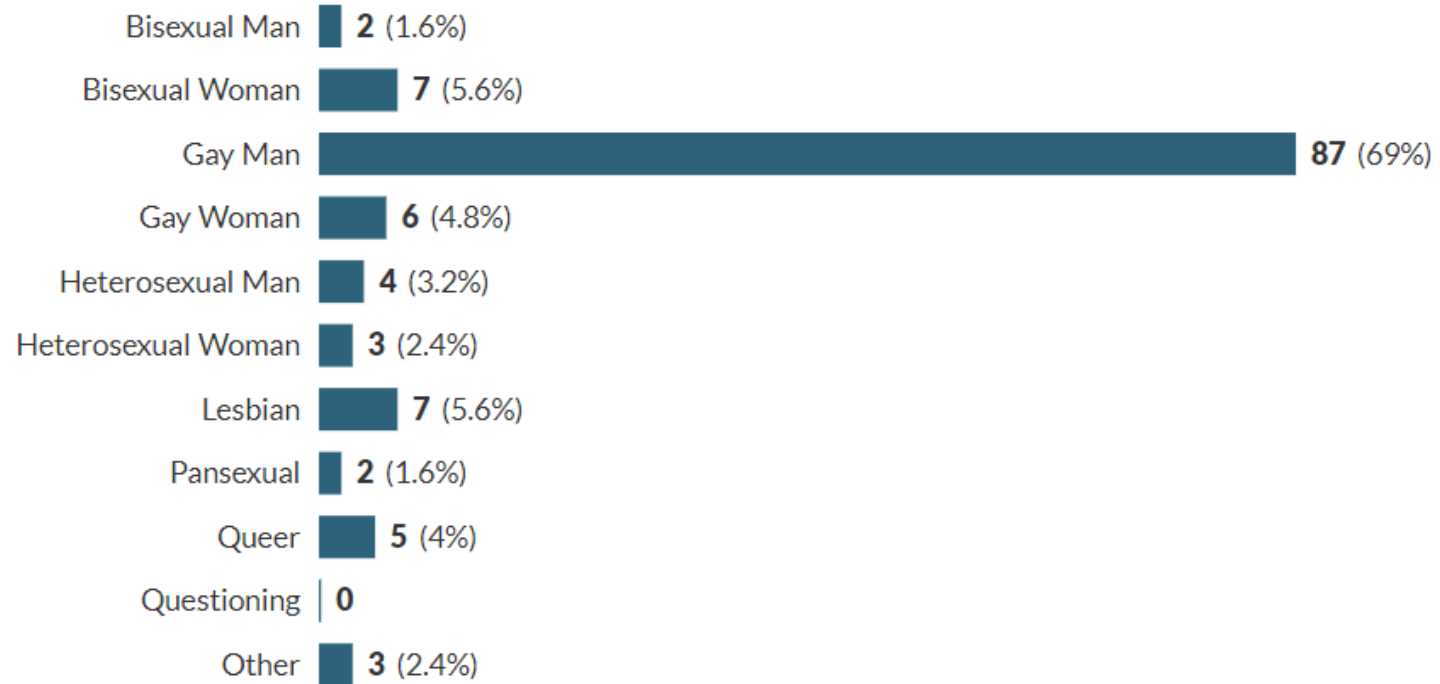
Sexuality and Practice

Extrinsic Support Mechanisms

# Part I - Demographics



# The Survey



28 women and 98 men

Aged between 21 and 71

# Is our sample representative?

Table 8: Sexual Orientation of the Bar (numbers)

	Practising Bar	QC	Pupils	Totals	% of Total Bar
Bisexual	62	2	9	73	0.4%
Gay Man	167	7	9	183	1.1%
Gay Woman / Lesbian	36	0	2	38	0.2%
Heterosexual / Straight	4,041	303	262	4,606	27.9%
Other	17	2	1	20	0.1%
Prefer not to say	304	23	13	340	2.1%
Unknown	9,808	1,337	119	11,264	68.2%

294 LGB members of the Bar?

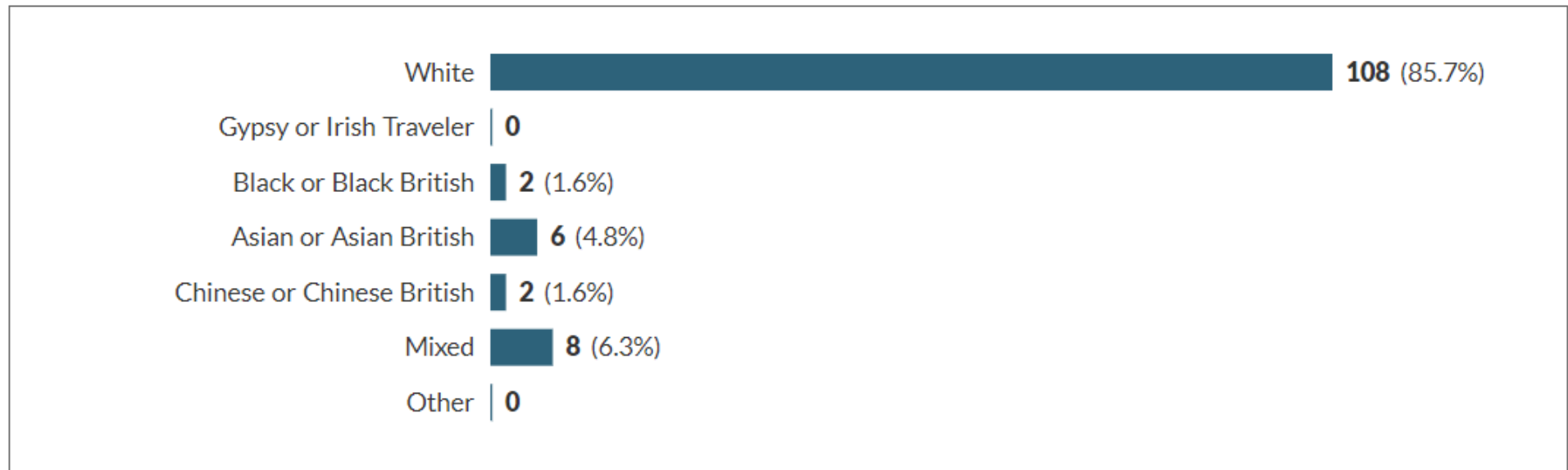
Bar Standards Board, *Report on Diversity at the Bar* (December 2016)

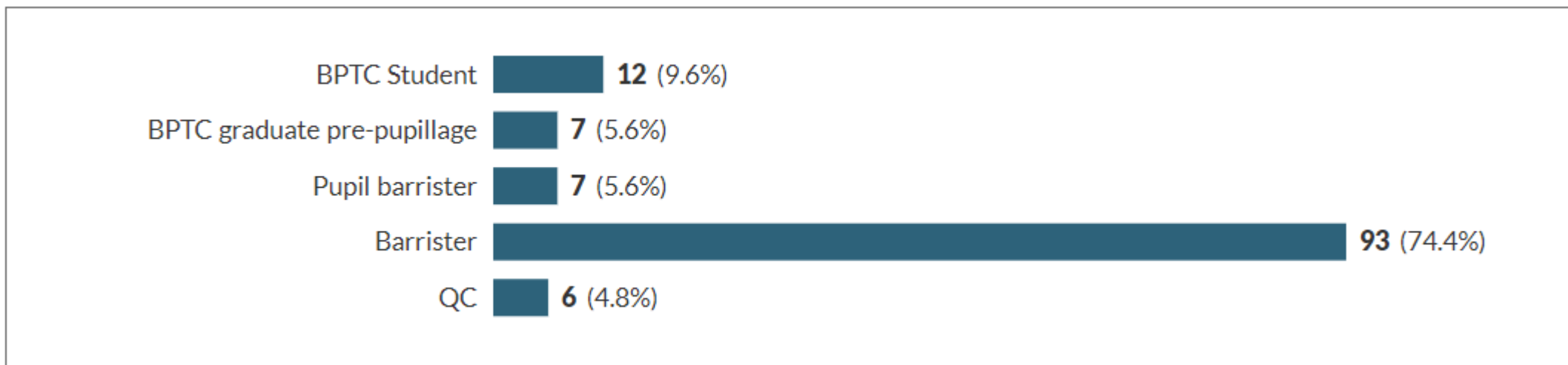
Half in first generation to attend university

One third attended Oxbridge as an undergraduate

30% attended a fee-paying school

10% with a disability





13 also sit part time as a judge/recorder/deputy

26 based outside of London

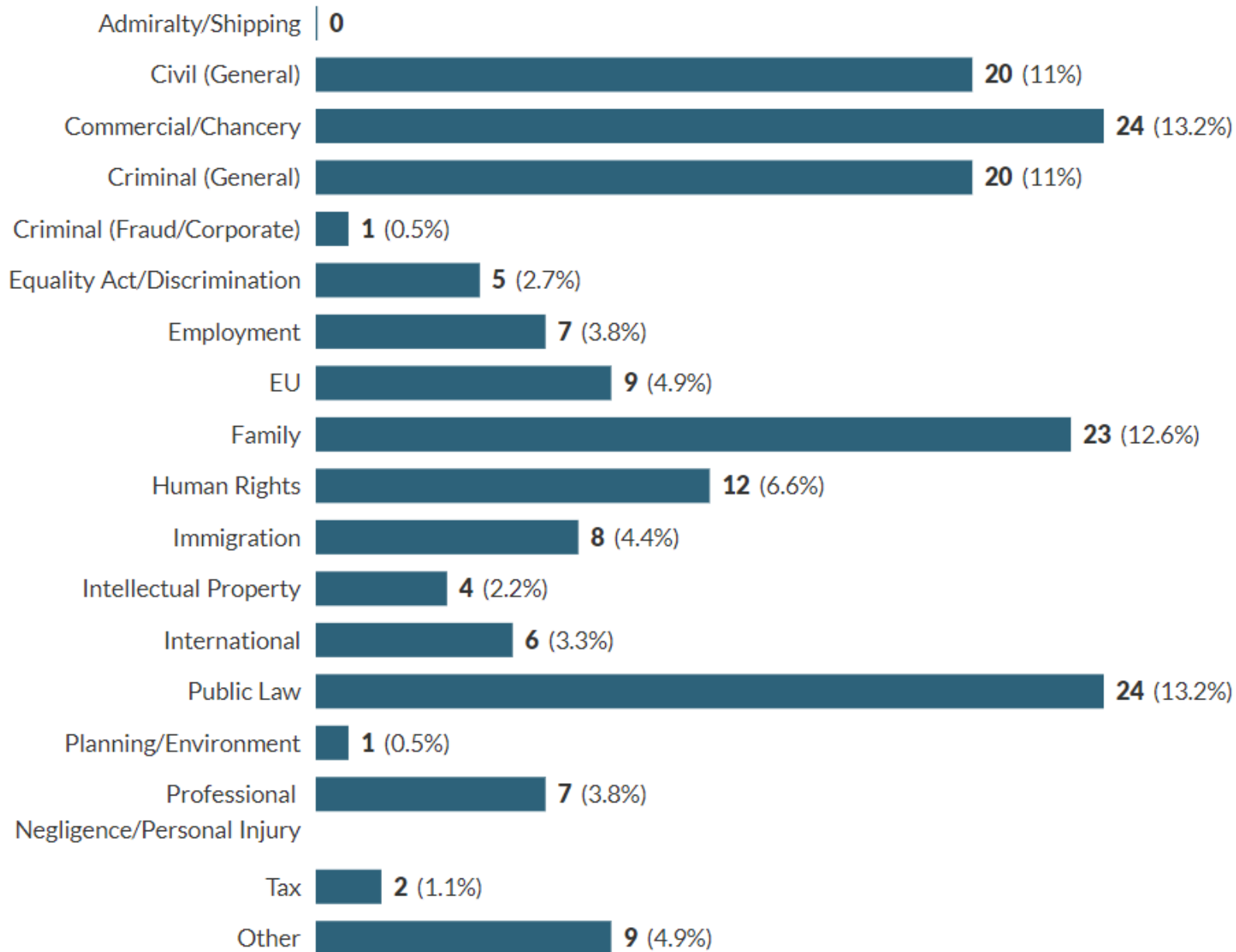
83% self employed; 13% employed; 3% dual capacity

Called between 1968 and 2015

Where do LGBT+ barristers work?

“The Family Bar is notable for the relatively high proportion of women and LGBT+ members.” [Survey5900]

...and yet they're not all at  
the Family Bar...

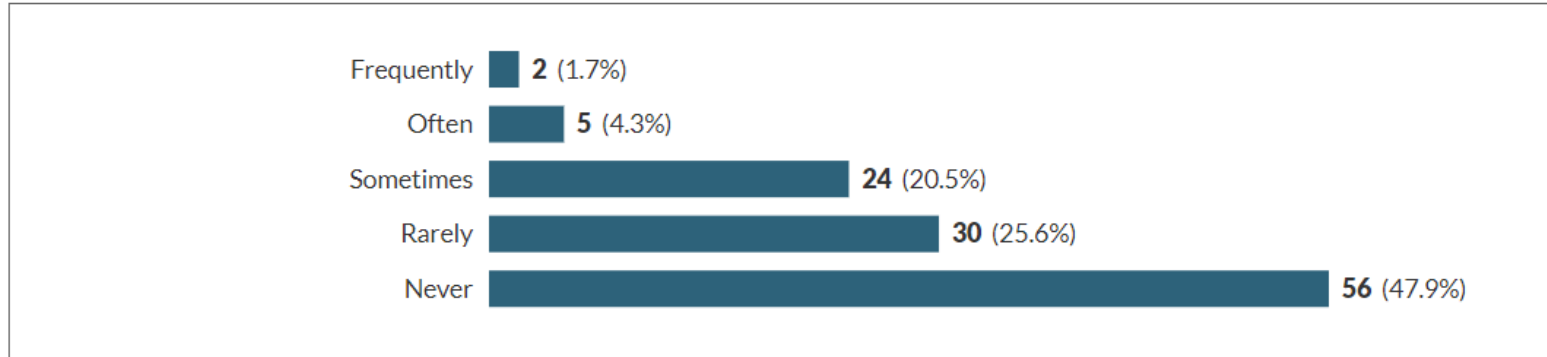


# Part II - Homophobia at the Bar

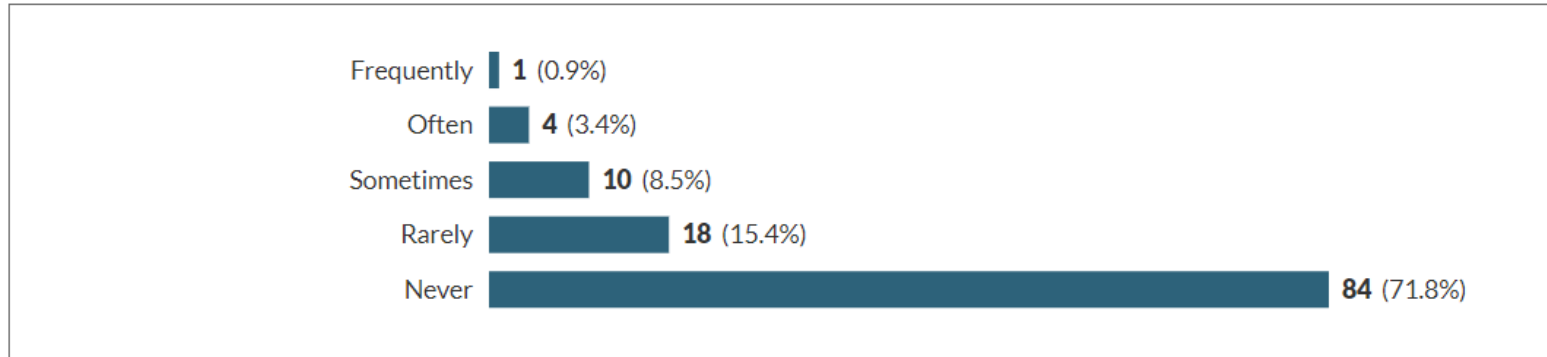


**26** During your working or study life, have you ever experienced any of the following?

**26.1** Discrimination on account of your sexuality



**26.2** Bullying or harrassment relating to your sexuality



In the general population, one in five (19 per cent) lesbian, gay and bi employees have experienced verbal bullying from colleagues, customers or service users because of their sexual orientation in the last five years. (Stonewall)

Half of survey respondents had experienced some form of discrimination during their work or study life on account of their sexuality

28% had experienced some form of bullying or harassment in their work or study lives

...and yet homophobia was downplayed in the interviews

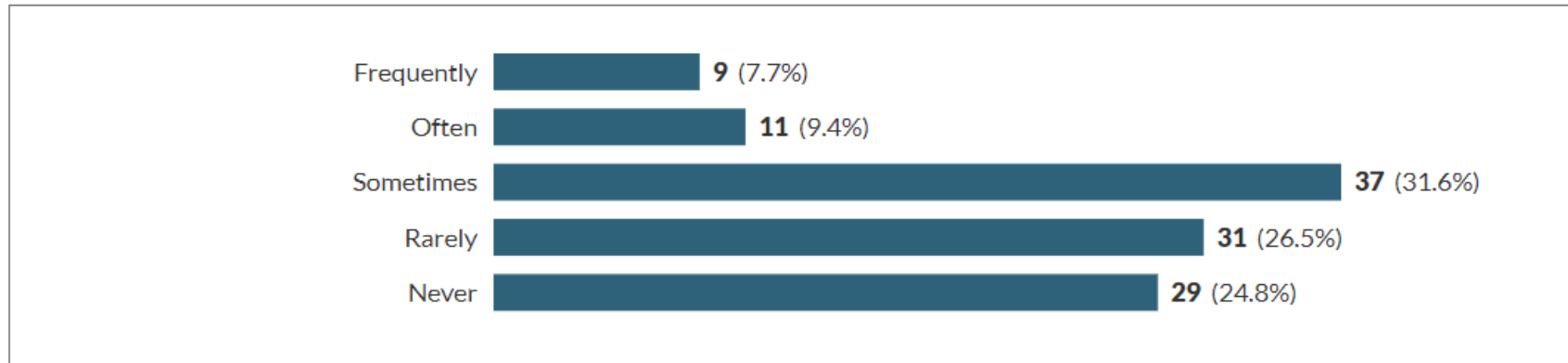
Concepts of “luck” and gratitude

When are advocates unable to advocate for themselves?

“The first chambers Christmas party that [my partner] came to... I introduced [XXX] [another member of chambers] to [my partner] and [XXX] said words to the effect of ‘Have we already met... when he stuck his dick through the glory hole.’ Or something pretty unpleasant like that... If you... he would say it was drunk humour. He would say he wasn’t seeking to be homophobic. He would say he was just trying to make a joke. Now you and I would immediately agree it wasn’t a joke and it was homophobic, but that’s not how he would have seen it.” [B19]

“I’ve got one colleague here who I think is an unpleasant homophobe... And I’m told that he was making some fairly unpleasant homophobic comments which was making the pupil feel uncomfortable... [I: And then what happened?] Well nothing! Rightly or wrongly. It would feel a little bit like if I went to the head of chambers, telling tales out of school. Rightly or wrongly.... Although I think the head of chambers would at that point have actually actioned it and spoke to the person... I almost ask myself the question, why I didn’t do anything about it. All I’m telling you is that I didn’t” [B19]

26.3 'Banter' relating to your sexuality, or homophobic remarks or jokes?



“The Bar is a place where strongly expressed 'banter' is the norm. The banter related to sexuality has never seemed to me to be beyond that which is expressed generally.” [Survey9820]

“I was still subject to quite a lot of what the blokes in chambers thought was hilarious humour. And every time somebody got drunk at a party or a dinner I got some bloke coming up to me asking why I was a lesbian and I hadn't I ever considered having sex with men – really quite inappropriate comments.” [QC56]

# Homophobia and the Inns of Court

“I walked past some of ... [Inn’s] staff recently... who said kind of ‘Oh if you’re gay there must be something wrong with you in the head’. And it really took me aback because it was the first time in ages that I’d had a kind of really strongly overt negative comment about gay people.” [S41]

“One of my fellow students was at an Inns' qualifying session and was talking to a bencher who sort of jokingly or flamboyantly said, "I don't trust fags like you". This BPTC student didn't really know how to respond to that. It was a bencher, what are you going to do basically? Didn't say anything, felt a bit rubbish about it.” [S27]

# Intersectionality and different forms of difference

52 Do you think different members of the LGBT+ community are treated similarly at the Bar?



“I think gay man have it better.” [Survey7893]

“Seems to be a bit of an old gay men network unsurprisingly.” [Survey8753]

## Transphobia

“I’ve a couple of times witnessed negative comments about... specific transgender people. One was a senior colleague who, when we were out at lunch, was talking about a judge who apparently had transitioned... in quite a horrible, disparaging way like referring to her as ‘it’ and saying that she was sort of trying to play a trick on people by changing her name and stuff.” [B16]

## Biphobia

“Very few people identify as that [bisexual] and if I say to people, ‘I’m bisexual,’ they say, ‘What does that mean?’ ‘How can you be bisexual when you’re married to a woman?’ is a very common response. Now I’m confident in myself and it doesn’t bother me but if you were less confident in yourself, having to explain...”

“ I think it’s a combined effect: bloody hell she’s a woman and she’s a dyke –that kind of thing. It’s all very subtle, very, very subtle. At my level you’re not going to get anybody openly saying, “Fuck off, you’re a dyke” or anything like that. It’s very, very subtle... And I think because as a lesbian, as I say because you don’t really give a shit about the male dynamic, I think that’s quite a threat to people... a lot of straight men at the bar they don’t really understand it. It’s like they know something’s not quite right; they can’t engage with you on the normal rules of engagement.” [QC56]

“Being a woman is more. It has been historically, and I think, probably, for me, I've sort of got beyond any of it being challenging. Because I'm in the place where if it's going to be challenging, fuck it, I'll kick it, if that makes sense. That sounds very aggressive, and I don't mean in an aggressive sense, but, you know, I'm having no truck with being challenged by either.” [QC39]



## Ethnicity ... and concealable stigma

“ And then I’m thinking do I want to confuse the picture anymore being a black person, being somebody of 30, by adding to the fact that you’re gay.” [P15]

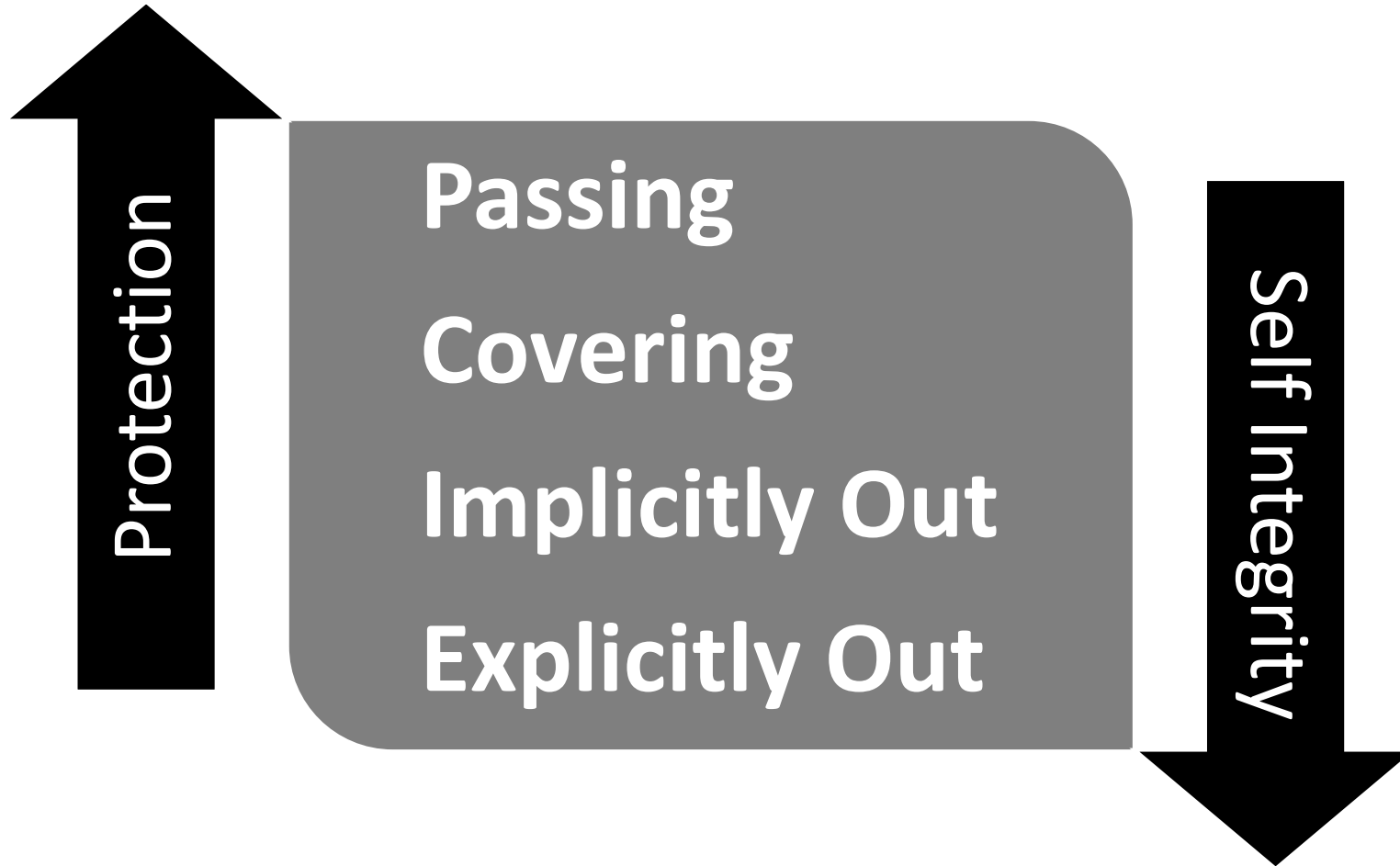
“I think sometimes it's impossible really to separate that from the fact that I'm an ethnic minority and a woman because sometimes there's so many things, **so many factors that make me 'other' that that one is the only one that isn't immediately obvious. So sometimes I think selfishly I make my life a little bit easier by slightly avoiding any questions [on sexuality]** or anything that could bring it up in context where I just don't want to deal with it, I just don't want to deal with the reaction or with the awkwardness that the other person then feels because they've made a heteronormative assumption and then feel flustered about it. Sometimes I just don't really want to deal with it. And I don't like that, it's not something I'm happy about in myself, but I must admit that does happen.” [S27]

“I actually received more comment on being from a working class background than my sexual orientation.” [Survey0960]

“Now, just going back to what I said before, my sceptical eyes would say the British establishment has **always tolerated gay white upper-class men in the private school system as a sort of idiosyncratic feature of our colonial system**. So it’s great that one gets to be Court of Appeal judge, but **much more interesting when we get a working-class black lesbian as Masters of the Rolls**, or whatever the expression would be, and much more important in a way that we get a swathe of pansexual Asian trainees or whatever it might be. So I don’t see that as demonstrating success; I see that as something to celebrate but only as part of a much bigger picture.” [QC54]

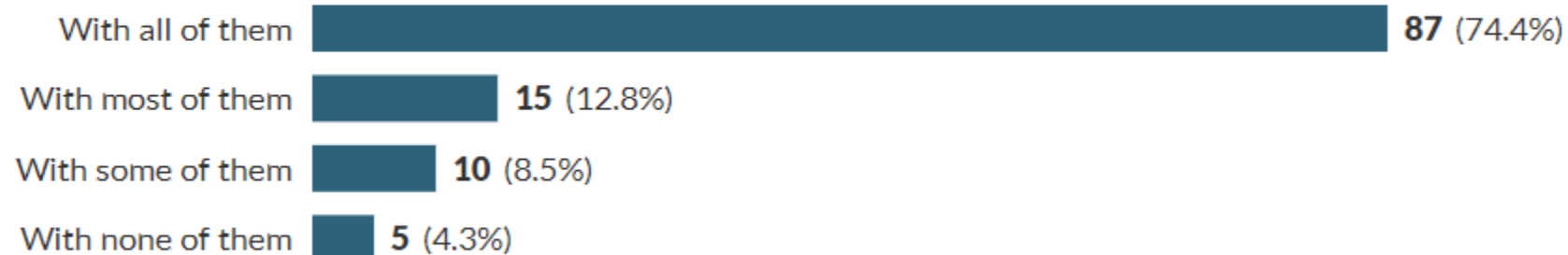
# Part III - The performance of being 'out' at the Bar

# Sexual Identity Management Strategies



Griffin, P. 'From hiding out to coming out: Empowering lesbian and gay educators' in K.M. Harbeck (Ed.) *Coming out of the classroom closet* (Routledge, 1992)

## 21.1 Your family



## 21.2 Your friends



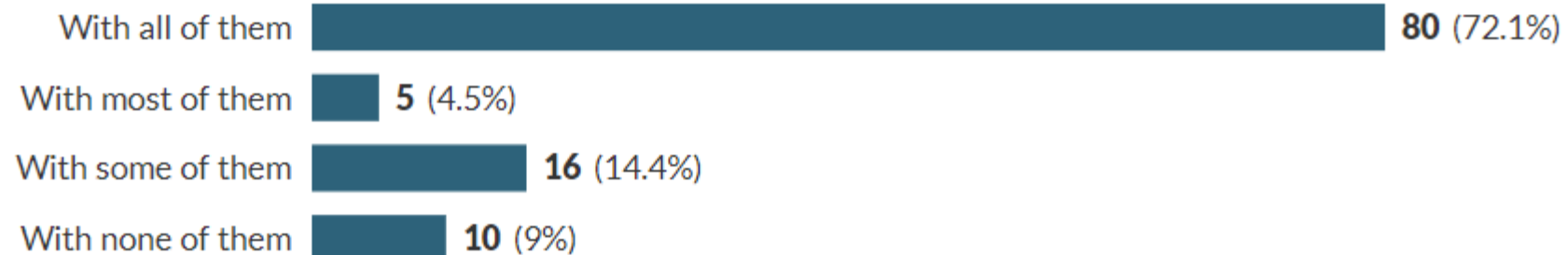
### 21.3 Barristers in your chambers/place of employment



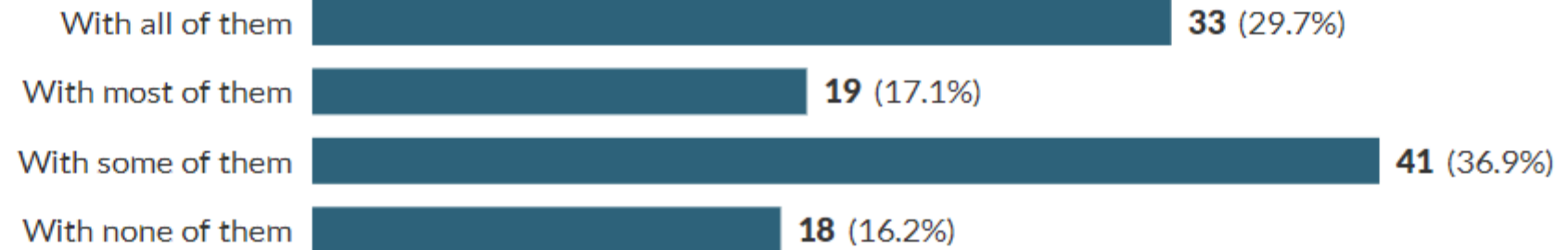
## 21.5 Pupils in your chambers



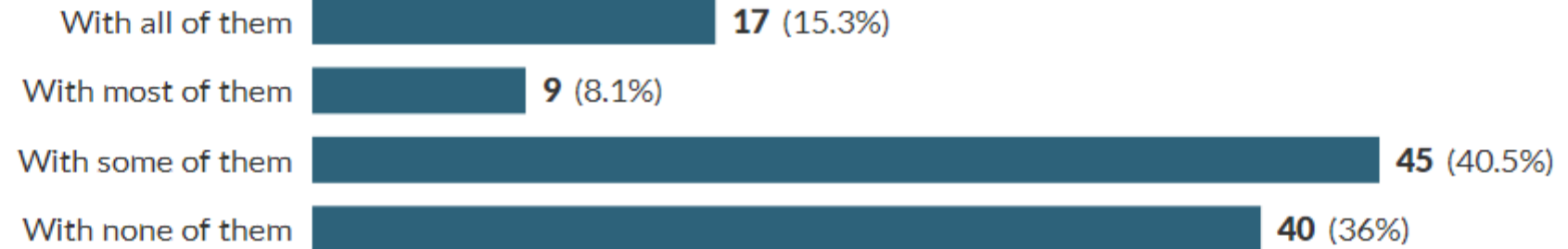
## 21.6 Chambers staff



## 21.7 Instructing solicitors



## 21.8 Lay clients





## 'Bleached Out' Professionalism

"I think there's generally a view that you keep your private life out of it and as long as you have the right professional skills you'll be a good barrister." [B16]

"Keep private life fairly private." [Survey5543]

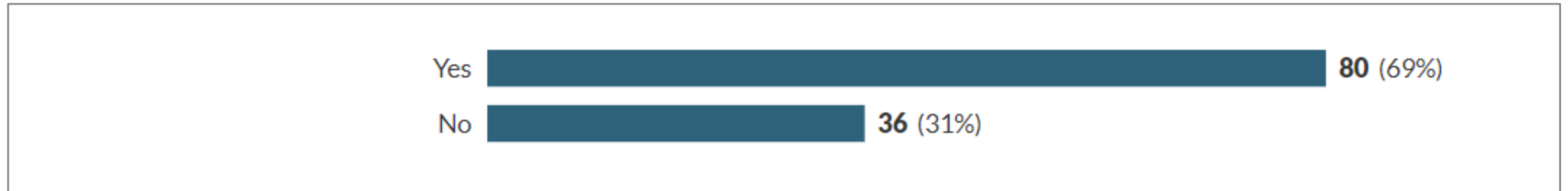
"[I: Do you think [clients] make assumptions then about your sexuality?] I try to create an impression that it wouldn't ever occur to them I had one. I don't want them to think of me in that way at all." [B24]

“I think as a profession the whole nature of the profession is that your individual characteristics and traits are irrelevant, it's about representing your client, even down to the wig and the gown, and that the barrister is a tool for the client and a medium through which that client is heard or represented in court. So I think the nature of the profession is such that it feels like it doesn't really want to think about that sort of thing and that that should be irrelevant. But of course in the absence of acknowledging or thinking about that sort of thing, what will end up happening is that you just have a blanket majority heteronormative assumption that isn't very helpful.” [S27]

Does the bleached out professional create a canvas onto which heteronormative presumptions get painted?

# Being 'Out' during Bar School and Pupillage

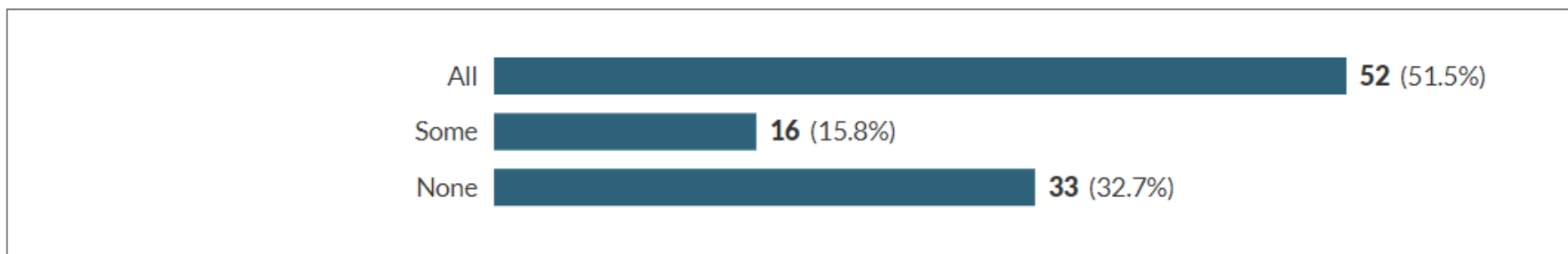
22 Were you out during the BVC/BPTC/Bar School?



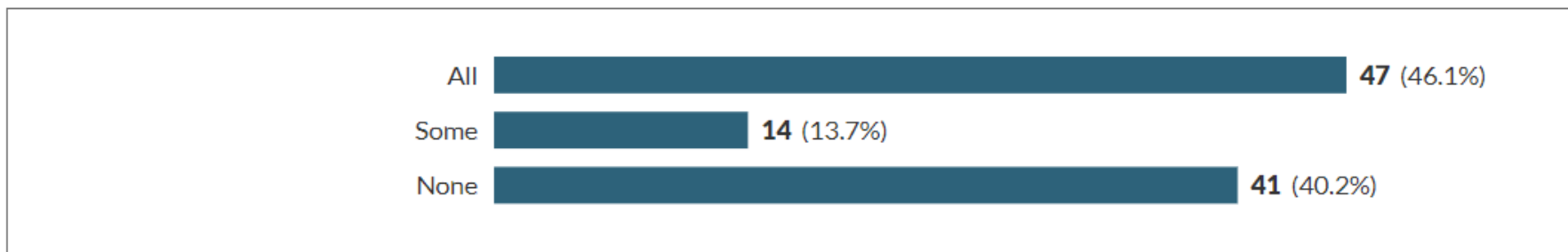
**23** If you are a barrister, were you out during pupillage?

---

**23.1** With your fellow pupils?



**23.2** With your pupil supervisors?



**23.3** With other barristers in chambers?



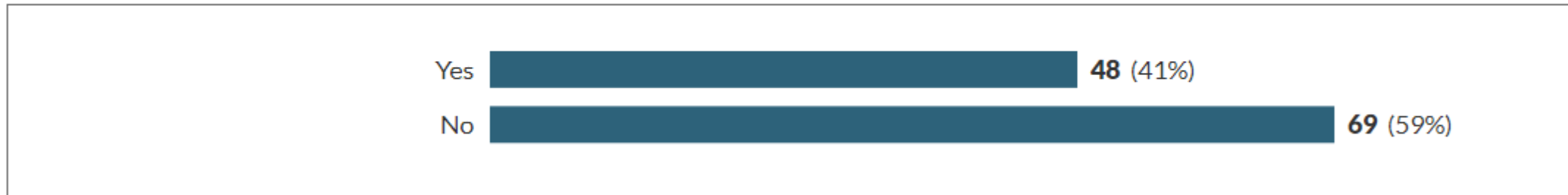
“There were no other pupils the year I did my pupillage. I did not mention my sexuality in pupillage, but I also didn't pretend to be straight. I just remained neutral on the topic and people were too polite to ask. The reason I did that is that I did not know what peoples' attitude would be and I wasn't prepared to potentially risk my career for no reason (because for me, being gay had no relevance to my abilities as a lawyer). In fact it took about a year (and a lot of booze) for someone to ask me outright. I said 'yeah, of course I'm gay. It's not a secret'. They responded with 'I KNEW IT. TOLD YOU!' to our mutual colleague who was with us. And it's that kind of reaction that should explain to anyone why LGBT people keep a low profile regarding their sexuality. Since that time it has become common knowledge and no one cares, although several people had said that it was 'a good job' I was discreet during pupillage as 'some people' in chambers would not have been OK with it. The irony of this is that I can conclusively say that absolutely everyone in chambers is fine with me being gay - but some of my straight colleagues clearly think that some of our other colleagues are homophobic. It's those kind of misconceptions that make LGBT people live 'discreetly'. Which is a polite euphemism for editing a very important part of who you are in order to avoid potential backlash.” [Survey6008]

“My immediate question and it always is in any circumstance, is what reaction is this going to garner, you know, from the other person. Especially in the position I’m in. And Pupillage, the consideration is, you need allies in Chambers because at the end of it there’s going to be a vote on whether you stay. Now regardless of what I feel about people’s personal prejudices, good better or otherwise, I’m not jeopardising my tenancy prospects because of that. **One of my key aims for Pupillage ... kind of something that would be good for me to work on, is being more...vanilla my supervisor calls it, being more beige**, you know, because you don’t want to kind of express opinions about anything during Pupillage in case they’re contrary to your supervisor’s.” [S41]

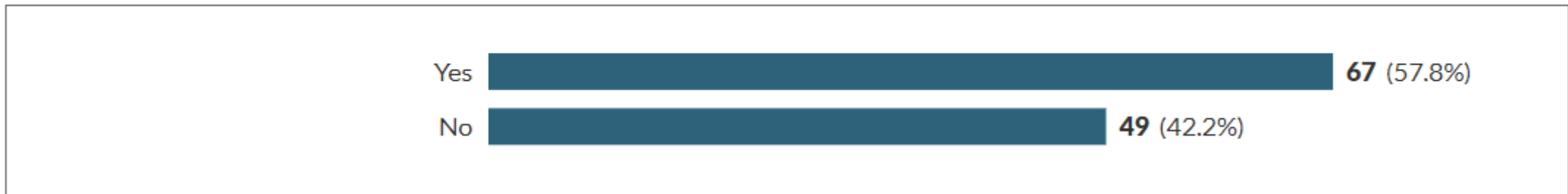
Does everybody want  
‘beige’ pupils?

# What it means to be 'out'

**24** In a work or study context, have you ever lied about your sexuality?



**25** In a work or study context, have you ever actively concealed your sexuality?



“I have answered ‘No’ [to lying] but by omission, yes, and through **not correcting people's assumptions.**” [Survey5621]

“I have on occasion deliberately avoided conversations about my relationships/sexuality, so that is perhaps a lie by omission/avoidance.” [Survey8642]

“I have not lied, but I have on occasion deliberately not corrected a mistaken impression.” [Survey9430]

“I have certainly **avoided the issue quite aggressively.**” [Survey8821]

“I have not actively lied, but I have lied by omission, particularly if asked "do you have a girlfriend?" **The answer "No" confirms the assumption of heterosexuality inherent in the question.**” [Survey9768]

“I have certainly **played the pronoun game.**” [Survey9820]



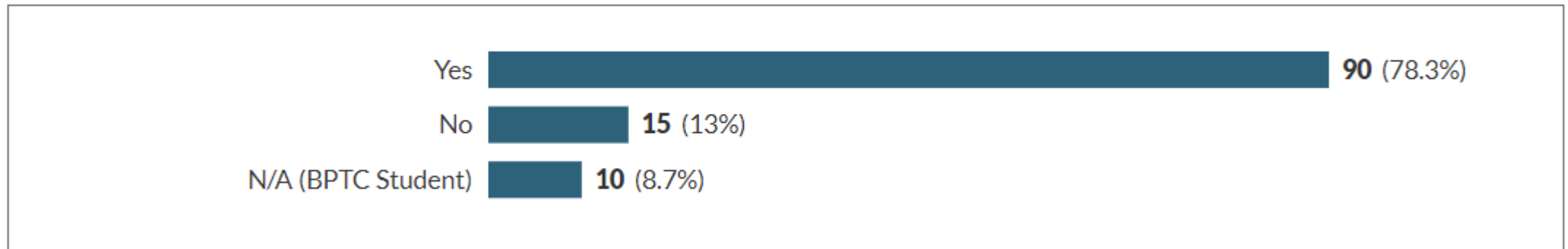
# The 'Good' Gays and the Acceptable Face of Homosexuality

Narratives from the interview data of when and how people come out

Survey data shows those in a relationship/married/civil partnership more likely to be out with work colleagues than those who are single

# Data collection and being out

29 Do you disclose your sexuality to your chambers as part of its diversity data collection exercise?



“I was asked not to by a former head of chambers as some senior people in chambers were gay and did not want to say. The head of chambers decided everyone should say I prefer not to say in the forms with which I disagreed.” [Survey1882]

**30** Do you disclose your sexuality to the BSB as part of its diversity data collection exercise?

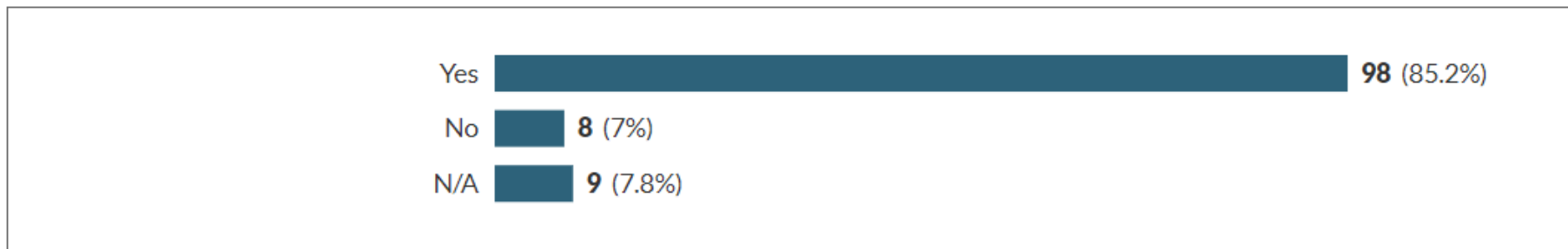


Table 2: Response Rates in 2015 and 2016 (as a percentage of total barristers)

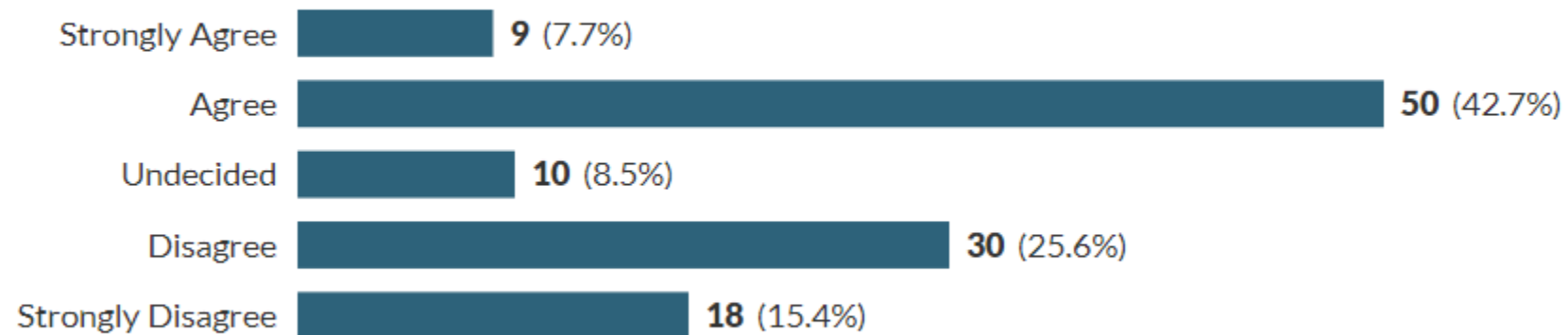
Category	2015	2016	% difference
Gender	99.5%	99.99%	+ 0.49pp
Ethnicity	91.4%	91.8%	+0.4pp
Age	86.4%	87.6%	+1.2pp
Disability	31%	35%	+4pp
Religion or belief	27.8%	32.1%	+4.3pp
Sexual orientation	27.6%	31.8%	+4.2pp
Type of school attended	26.9%	31.3%	+4.4pp
First generation to attend university	26.7%	31.2%	+4.5pp
Care of children	27.5%	31.9%	+4.4pp
Care for others	26.3%	30.8%	+4.5pp

Are LGB members of the Bar more likely to disclose their sexuality to the BSB?

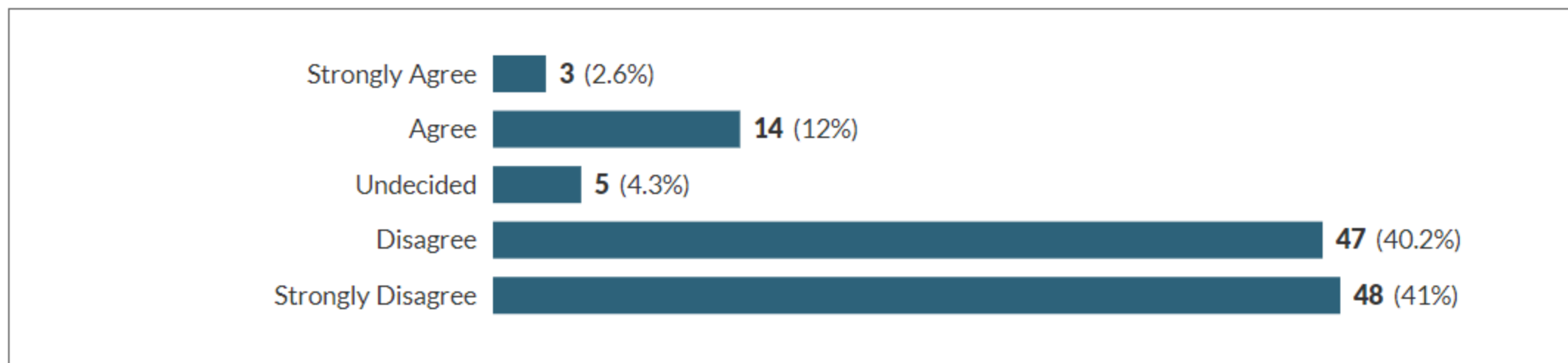
# Part IV - The connection between sexuality and practice

Is it unprofessional to be  
open about one's sexuality?

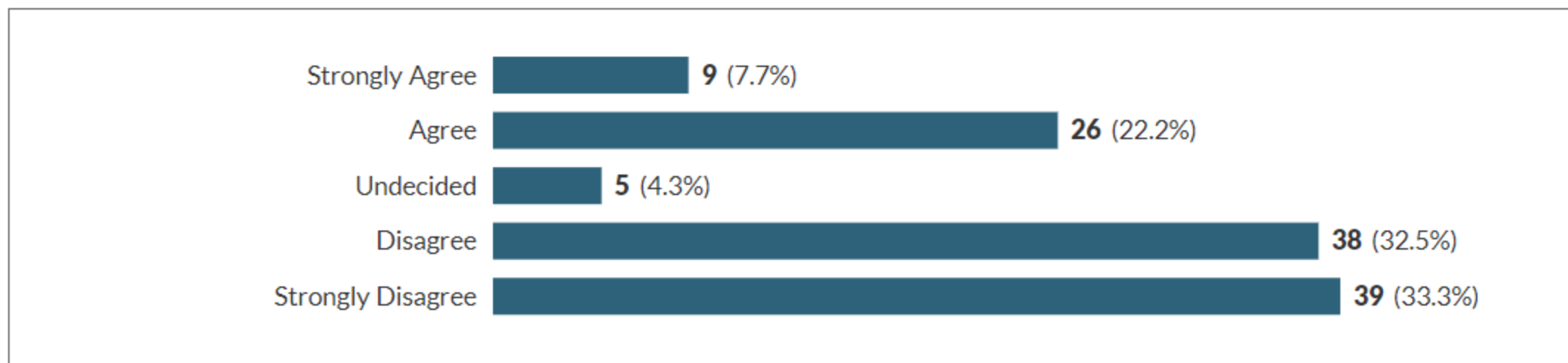
20.1 My sexuality has some connection with my professional life



20.2 My choice of practice area was influenced by my sexuality



20.3 My choice of chambers/employer was influenced by my sexuality



The arguments against  
being 'out'

1. Bleached out  
professionalism

2. Risk to career

## The arguments in favour of being 'out'

1. Comfort and Wellbeing
2. The Politics of 'Outness'
3. The personal is the professional
4. Business development
5. Recruitment



## The arguments in favour of being 'out': Comfort and Wellbeing

“...that I think I've spent such a long time hating myself, a long time being shut away, a long time not being as productive as I can be because I wasn't being the person I'm supposed to be” [P15]

“And also I think it's really important to your sense of psychological well-being and mental health to be completely open about all aspects of your life.” [QC 56]

“I think it's really important because I remember how unhappy I really was in university when I wasn't out and the efforts I made to lie about it... People are human beings, they're going to ask you about your life, you know, where you go, what you do and there's only so far you can continue to avoid it.” [B23]

## *The cognitive load of coming out*

“When I started going to [LGBT network] events, which was the first time I had been professionally networking in a context where **I just didn't need the 30 second conversation with myself, 'Am I editing or not?'** I could not believe what a difference it made to me.... actually I now know, because I sometimes do it without having to edit, without having to even think about editing, that the degree to which I'm relaxed and engaged and able to just get on with doing what I'm there to do, it makes such a difference... Then, the moment when you say something and the penny will drop for someone, **and you're conscious of that penny dropping, all of that is a distraction.** And it just means you're not quite so relaxed. You're not quite so focused.” [QC39]

## The arguments in favour of being 'out': Politics of 'Outness'

### *Being out for those who can't be in*

"I think you might choose to keep it private, but it depends on how you present. So, some people can pass as straight and others can't because of their personality or their appearance or their physical characteristics. Some people can choose and some people can't. It's all very well saying, "Yes, it's private" but some people it can't be private." [QC56]

### *Pushing back against the establishment*

"You're going into the establishment. So, for me personally, making sure the Bar didn't change me, and wanting to be a part of changing who can be comfortable and survive and thrive in it, is very fundamental." [QC39]

## The arguments in favour of being 'out': The personal is the professional

“And so actually, a big part of working with someone to get them to the place where they will give of their best as a witness and in terms of giving instructions... Then, for me, that extra bit beyond the sort of pure intellectual evaluation and advice is about actually relating to them as a real person and trying to get the best out of them, or get them to the best place for something. And I don't know how I would do that if I didn't use 'me', and an honesty and an authenticity with them.” [QC39]

## The arguments in favour of being 'out': Business development

“I think if you were developing a strong professional relationship with a solicitor, they regularly instruct you, you would invariably take them out for a drink after a difficult hearing, you would talk to them. And I think the other benefit would be that they look at you as a three-dimensional human being more than just as a professional that they engage services from.” [B23]

**45** Do you feel you have ever been instructed because of your sexuality or gender identity?

Yes  **30** (26.5%)

No  **83** (73.5%)

## The arguments in favour of being 'out': Recruitment

“Applying to sets of chambers that were actively involved in promoting equality and diversity was a big factor in my choices for pupillage. It was incredibly important for me to feel comfortable at work as pupillage is an immensely difficult year without having to hide your sexuality.” [Survey5295]

“I would have chosen a different chambers for pupillage (I received more than one offer) if I had known about their attitudes to homosexuality before making my decision.” [Survey5196]

Additional strengths of the  
LGBT+ Barrister?

1. Empathy

2. Performance



# Empathy

“I’m known as being someone with good client care skills, I’m a good listener, I’m told that I’m sympathetic and empathic... is it the sexuality side of my personality coming through?... I think I do feel a more rounded barrister in that sense because of my sexuality.... **I think that when you are a member of a minority, you have a better understanding of how majorities and minorities interrelate...**” [B19]

“I guess it gives me an appreciation of being the other. A lot of the people we’ll be working with will be outsiders of some point of view in some way, whether it’s because of some disability or come from another culture or psychological, psychiatric isolation. **So being able to look at things from a non-mainstream point of view and try and find, you know, what’s positive and what needs work from as neutral and non-judgemental way, I think that’s probably assisted by personal experience...**” [B14]

# Performance

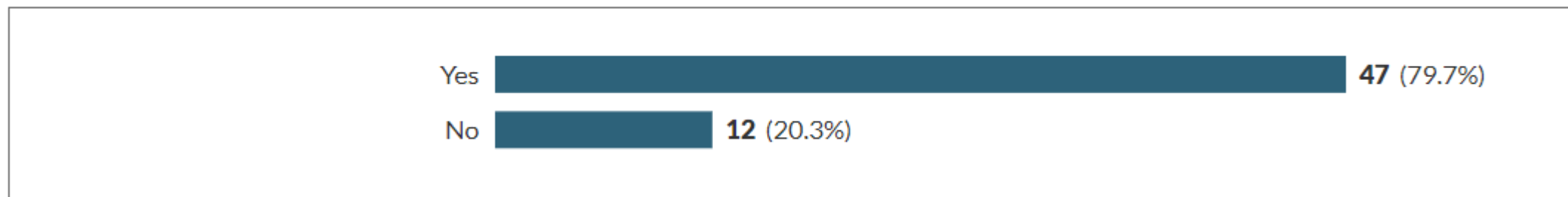
"The ones that I find actually quite intimidating in chambers when I'm against are the ones that are out as gay... I don't think gay makes you cuddly and friendly that's for sure. It could make you somewhat hilarious I have to say... The way they talk is quite camp and they don't tone it down in Court because why should they to be honest, it's how they are, it's how they speak... I have seen occasional sarcastic wisecracks and coming from an element of camp performance that can be quite funny, but I've never seen it go down badly, I'll put it that way." [B23]

" Aggressive and cutting and quite forthright." [QC65]

# Part V – Extrinsic Mechanisms

## 32% considering applying for silk

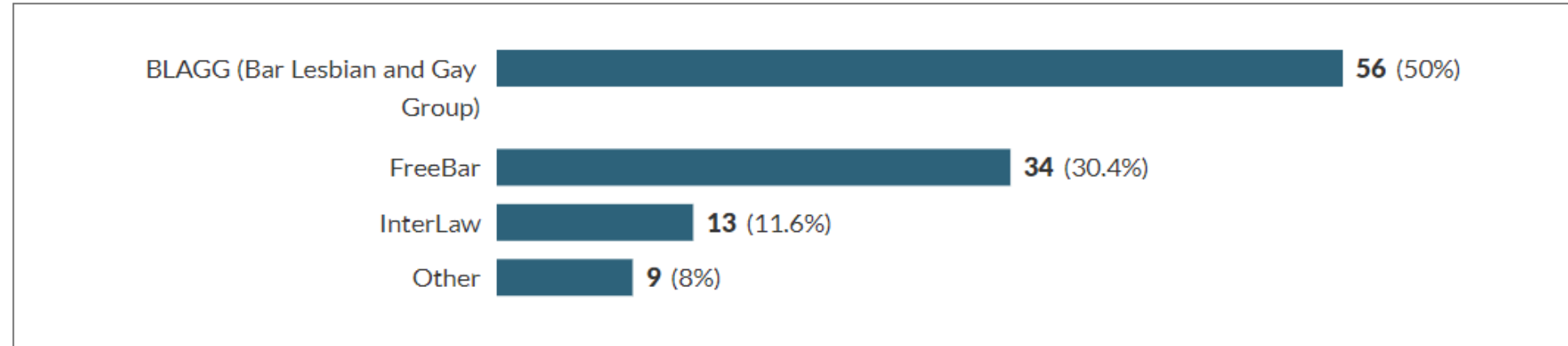
50.c Would you disclose your sexuality as part of your application?



“And speaking frankly and anonymously, I am a white, middle class male. I had to demonstrate why, you know... ‘One of the reasons why you would appoint me is because I am not the white, middle class sort of male stereotype Judge that you might be considering’...” QC65

# The Role of Networks

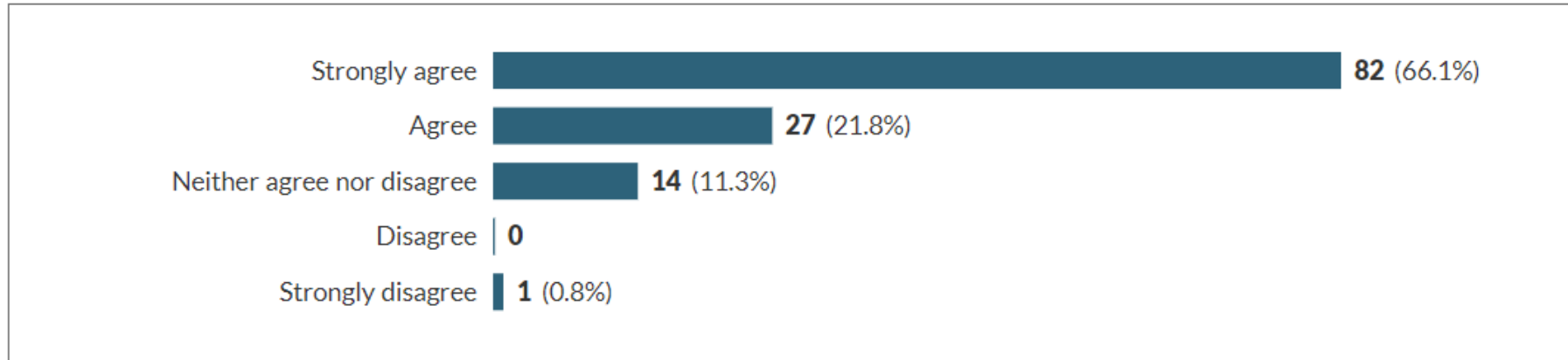
43 Are you a member of any of the following?



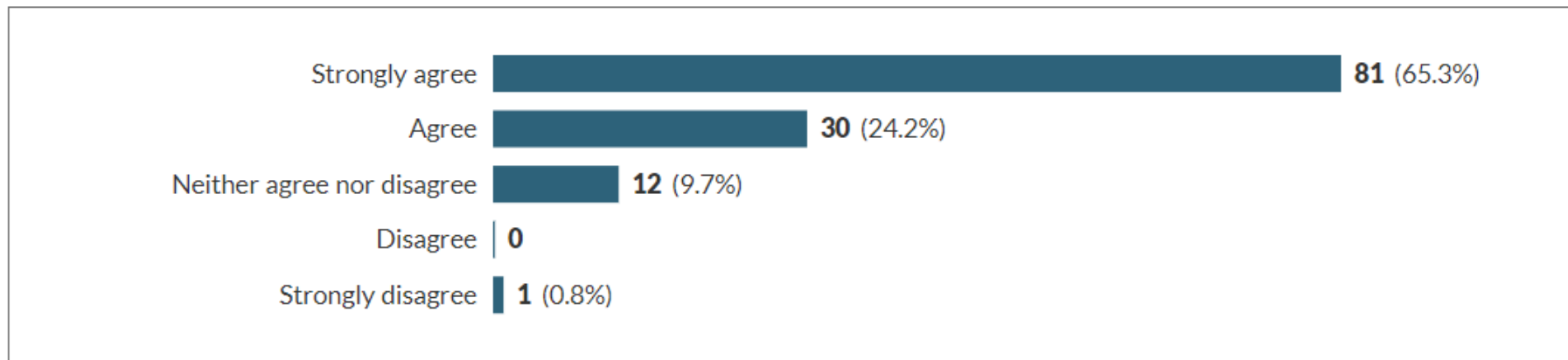
Various positives to membership

“Unfortunately I feel that these groups have a tendency to become drinking societies rather than doing much to support LGBT+ members of the Bar.” [Survey9878]

## 51.1 LGBT+ role models are important at the Bar



## 51.2 LGBT+ role models are important in the judiciary



“Not having role models is difficult and it is not possible to prise apart the ways in which it is detrimental both personally and professionally, as one affects the other. I am sad we have no queer (out) women on the High Court bench and above.” [Survey5621]

“The issue is more vexed with the judiciary, given the need for (at least perceived) neutrality on political and social issues. Though the identity of individuals as LGBT+ should not be perceived as either a political or a social 'issue', it sadly is, and this makes it less straightforward for a member of the judiciary to act as a role model or spokesperson.” [Survey8865]

Some final (deliberatively  
provocative) questions



If half of our survey respondents have experienced some form of discrimination, and a third some form of bullying or harassment, on account of their sexuality at work or during their professional studies, does this then mean the Bar is homophobic?

Why have the BSB, Bar Council and (especially) the Inns failed to pro-actively signal that the Bar is welcoming to its LGBT+ members?

Is denying a connection between sexuality and practice in part (at least) about not being proud of who you are?

If around half of survey respondents had lied or concealed their sexuality, what does this say about the extent to which it's ok to be LGBT+ at the Bar?

Is it only ok to be open about your sexuality at the Bar if you're a posh, white, non-camp guy in a relationship?

Why don't barristers commodify their sexuality and make more money for themselves through LGBT+ business development networks?

## Introductory Address:

- Rt Hon. Maria Miller MP (Chair of the Women and Equalities Select Committee)

## The Research:

- Marc Mason (University of Westminster)
- Dr Steven Vaughan (UCL Laws, Centre for Ethics and Law)

## Panellists:

- Claire Fox (Barrister, Pump Court Chambers; Co-Chair of the Barristers Lesbian and Gay Group)
- Ewen Macleod (Director of Strategy and Policy, Bar Standards Board)
- Nicholas Allen (Barrister, 29 Bedford Row; Recorder)
- Susanna Rickard (Barrister, Serjeants' Inn Chambers; Representative of FreeBar)