

The background of the slide is a gradient of orange and red. A large, abstract, white particle trail or smoke-like effect originates from the top right and moves towards the center, creating a sense of motion and energy.

The State of the Victorian Bar

Performance, challenges, and opportunities

March 2018

Executive Summary

This report presents an analysis of the State of the Victorian Bar (the Bar). It is intended to provide an account of members' work practices, incomes, and demographic information to identify opportunities and challenges for the Bar.

The survey provides both *point-in-time* and *trend* analyses of the composition of the Bar, including demographic information, work-types, and members' incomes. It is based on two main data sources:

- the results of the 2016-17 *Case for Change* survey, which was filled out by more than 600 members in September and October 2017
- the Bar Roll, which collects income and demographic data on all members.

The report is organised into three sections:

- 1 Demographic information and diversity at the Bar.
- 2 Members' incomes, with a focus on gender.
- 3 Members' work practices.

Key insights

- Over time, the Bar has undergone significant demographic shifts; it has become older and women are better represented.
- There has been steady growth in members' incomes over the past four years and, overall, positive signs for gender pay equity.
- Members' changing work practices reflect more competition with law firms for work.

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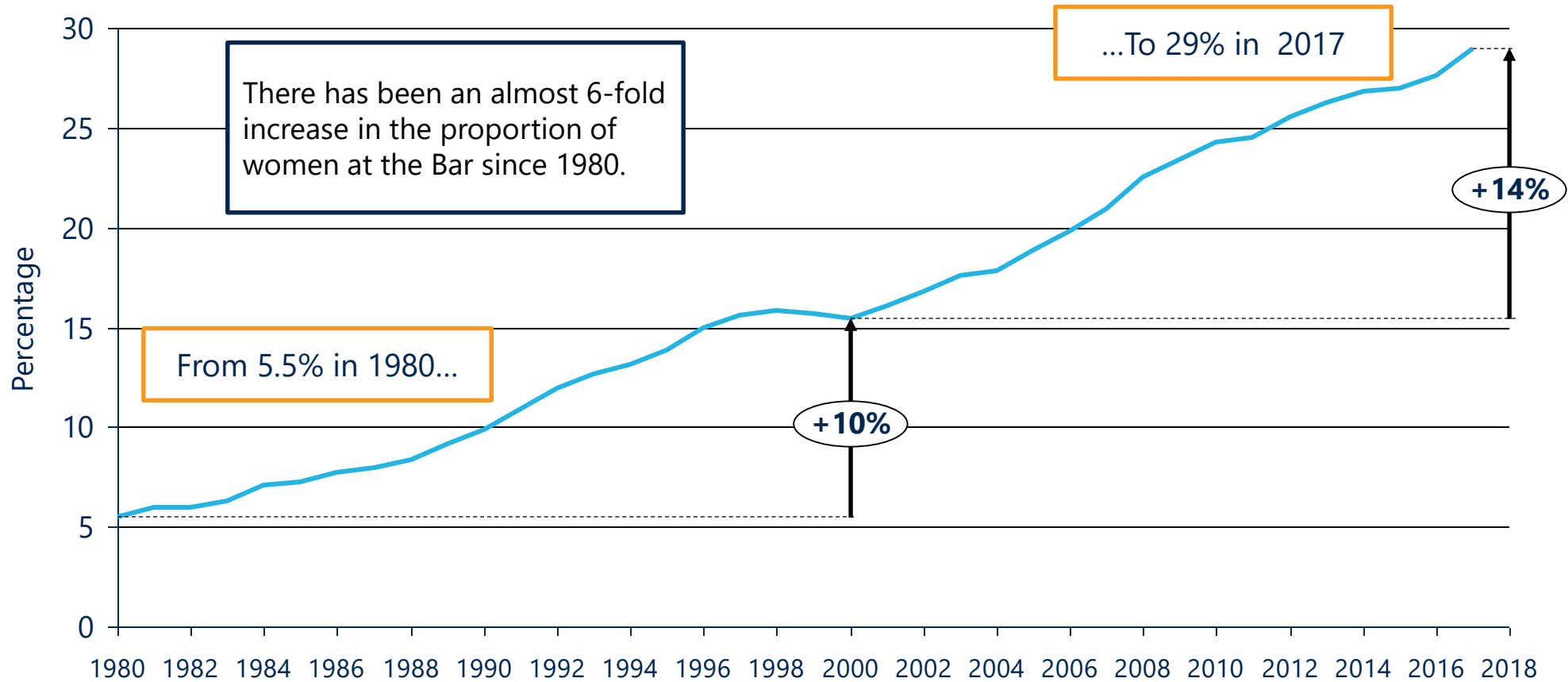
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The Bar has become more gender diverse over time

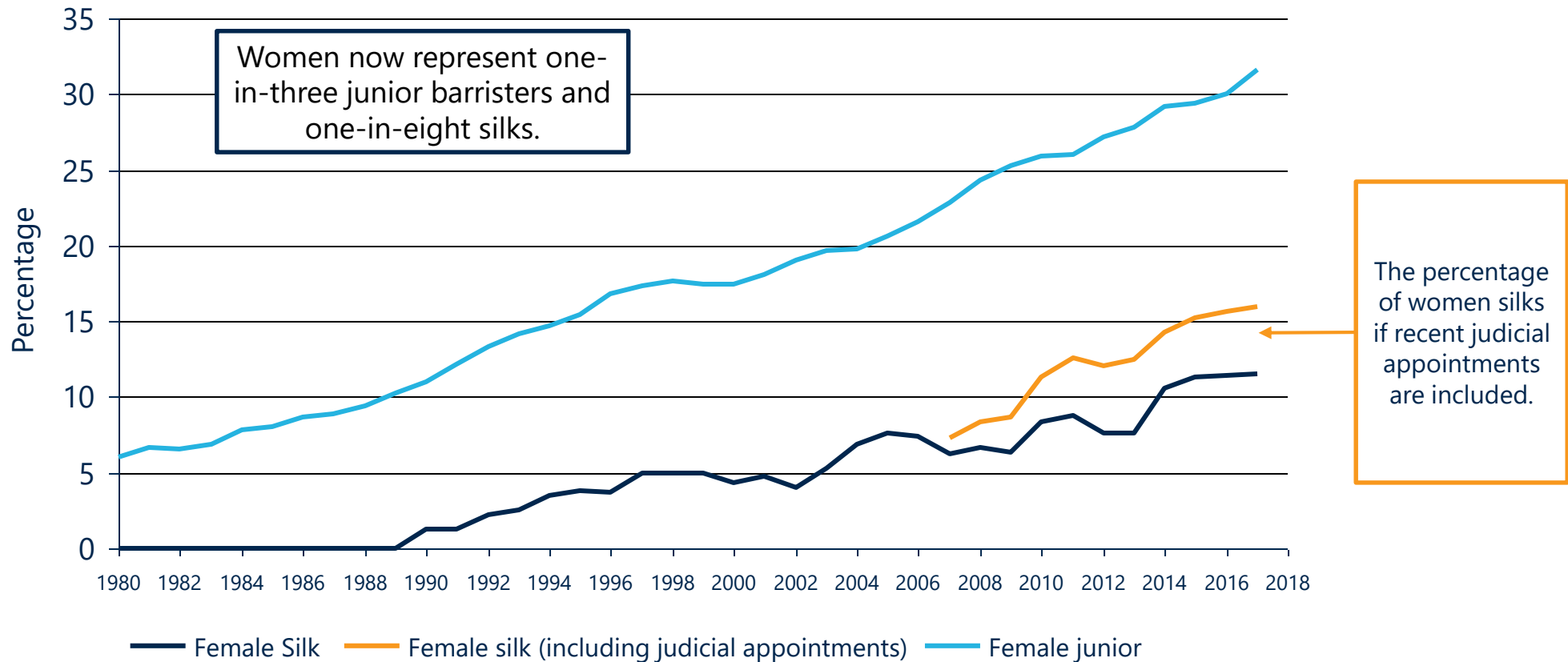
Women barristers, as a percentage of total practising counsel over time.



Source: Bar Roll data

Women barristers are better represented at all levels

Women juniors/silks, as a percentage of total juniors/silks over time.

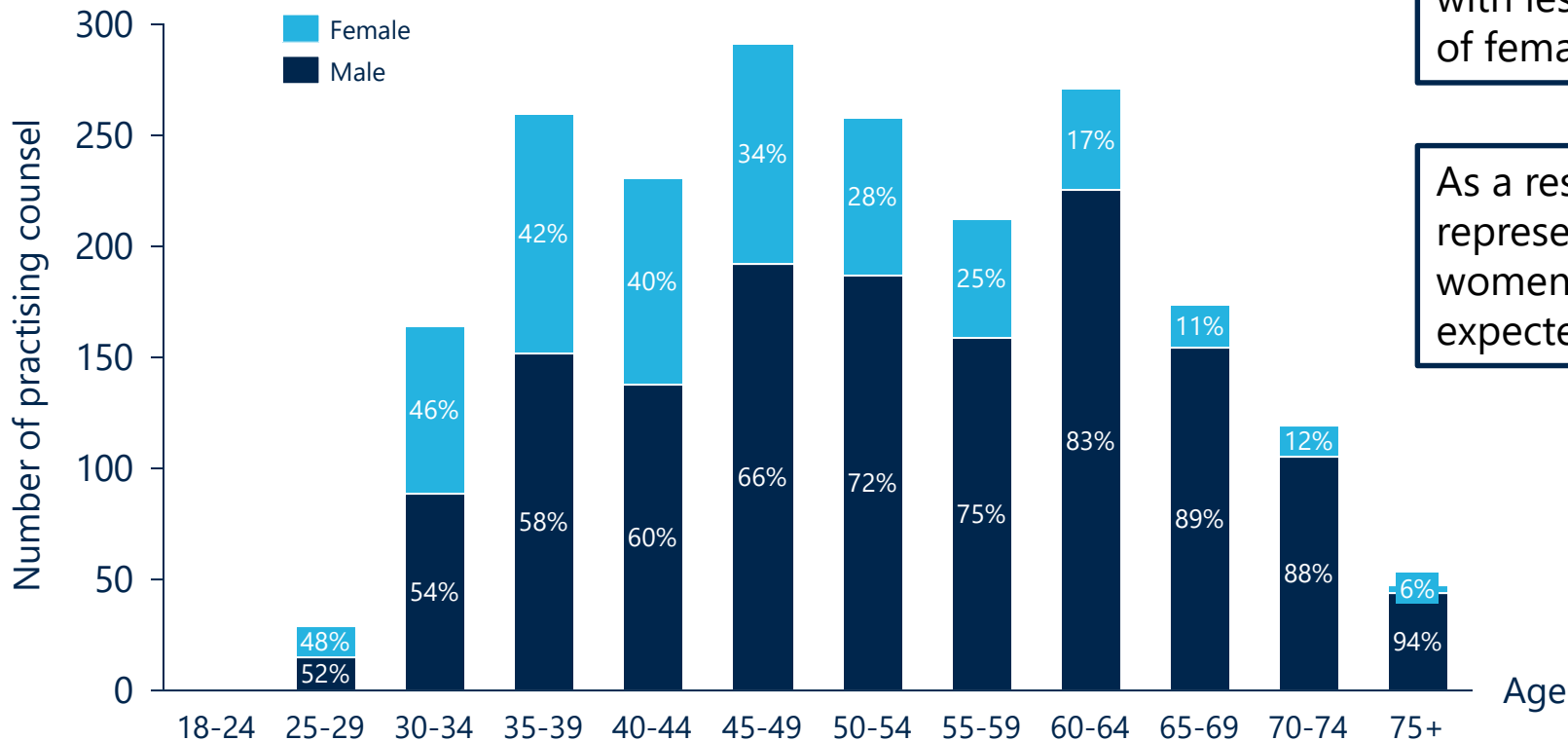


Source: Bar Roll data

Note: There was at least one female silk prior to this time period. The first female silk in this data set was appointed in November 1989 and appears in the data set from 1990.

Women barristers are younger than their male colleagues

Number of practising barristers, by age and gender.

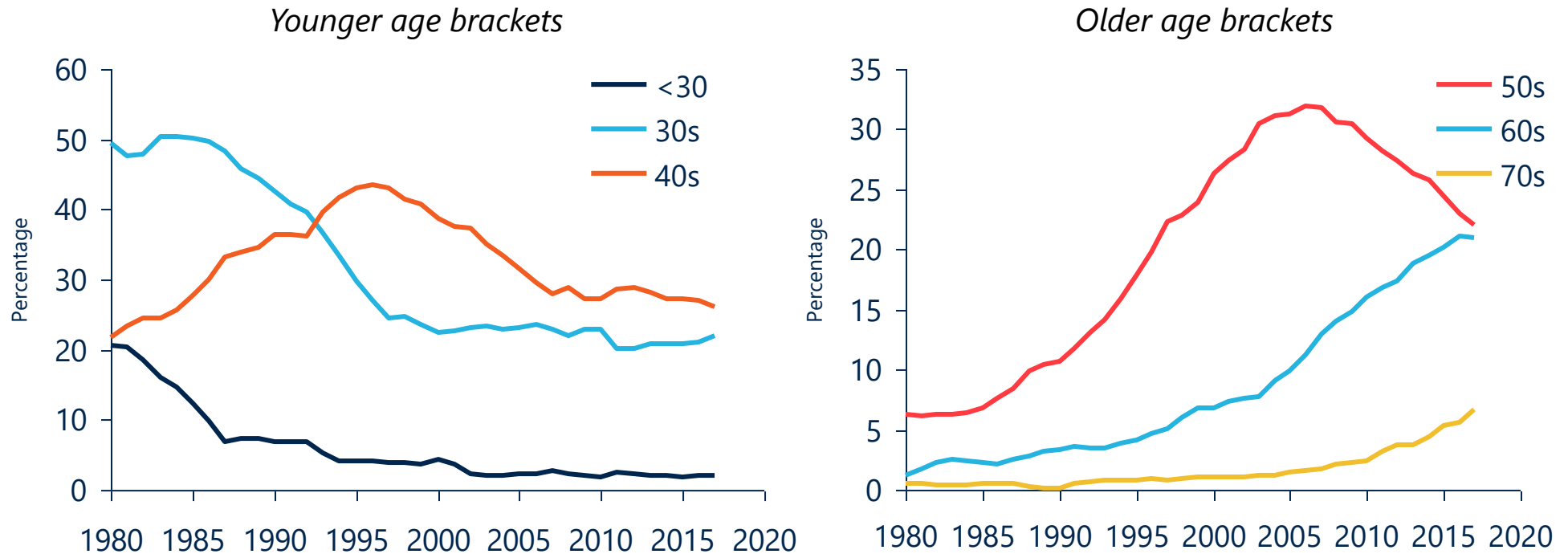


Half of male barristers are over 55, compared with less than a quarter of female barristers.

As a result, trends in representation of women at the Bar are expected to continue.

The Bar has become older over time

Percentage of barristers, by age bracket over time.

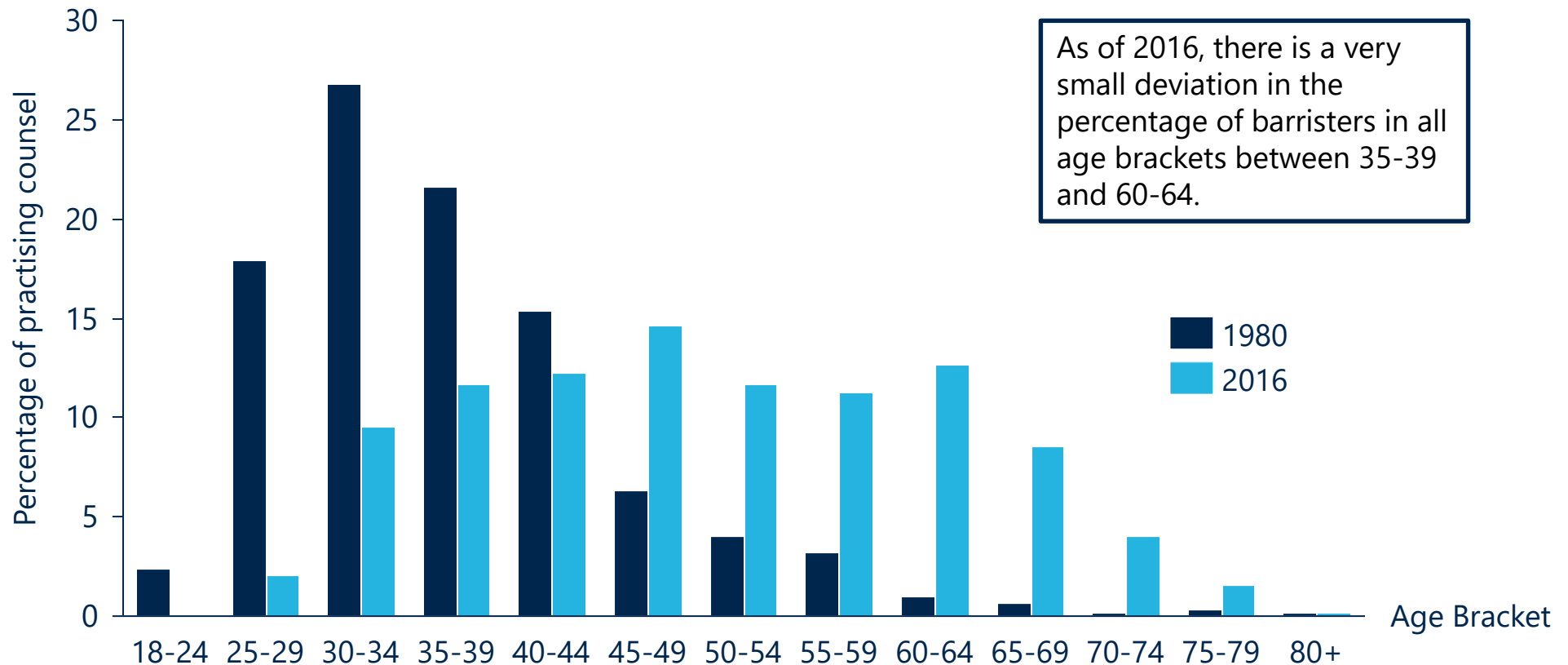


In 1980, over 90% of barristers were under 50, compared with half in 2017.

In general, there has been a shift towards a more equal distribution of barristers across age brackets.

The Bar has become more equally distributed across age brackets

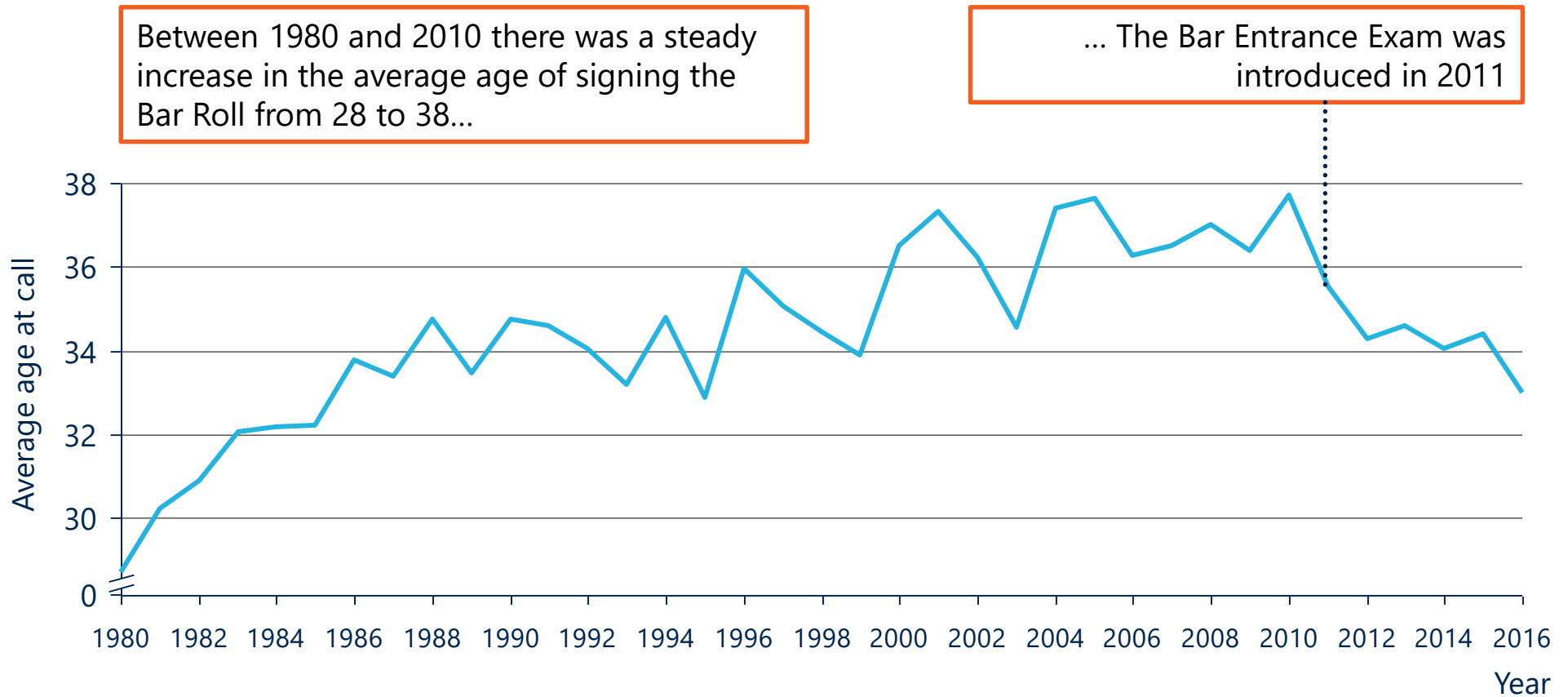
Percentage of barristers by age bracket, 1980 and 2016.



Source: Bar Roll data

The trend in rising ages at call has been arrested...

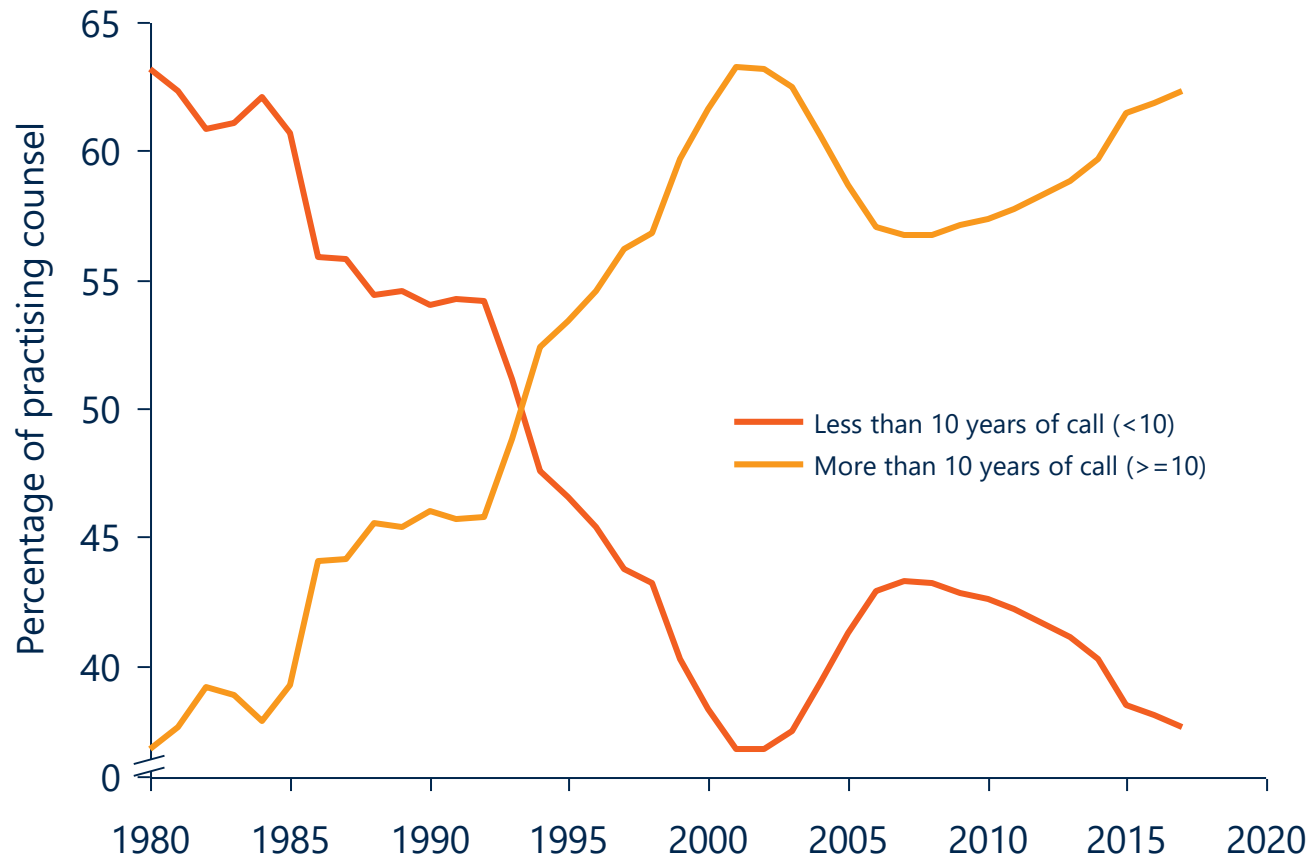
Average age at time of signing the Bar Roll, over time



Source: Bar Roll data

Length of tenure is the main driver of age trends

Percentage of barristers by years of call, over time.



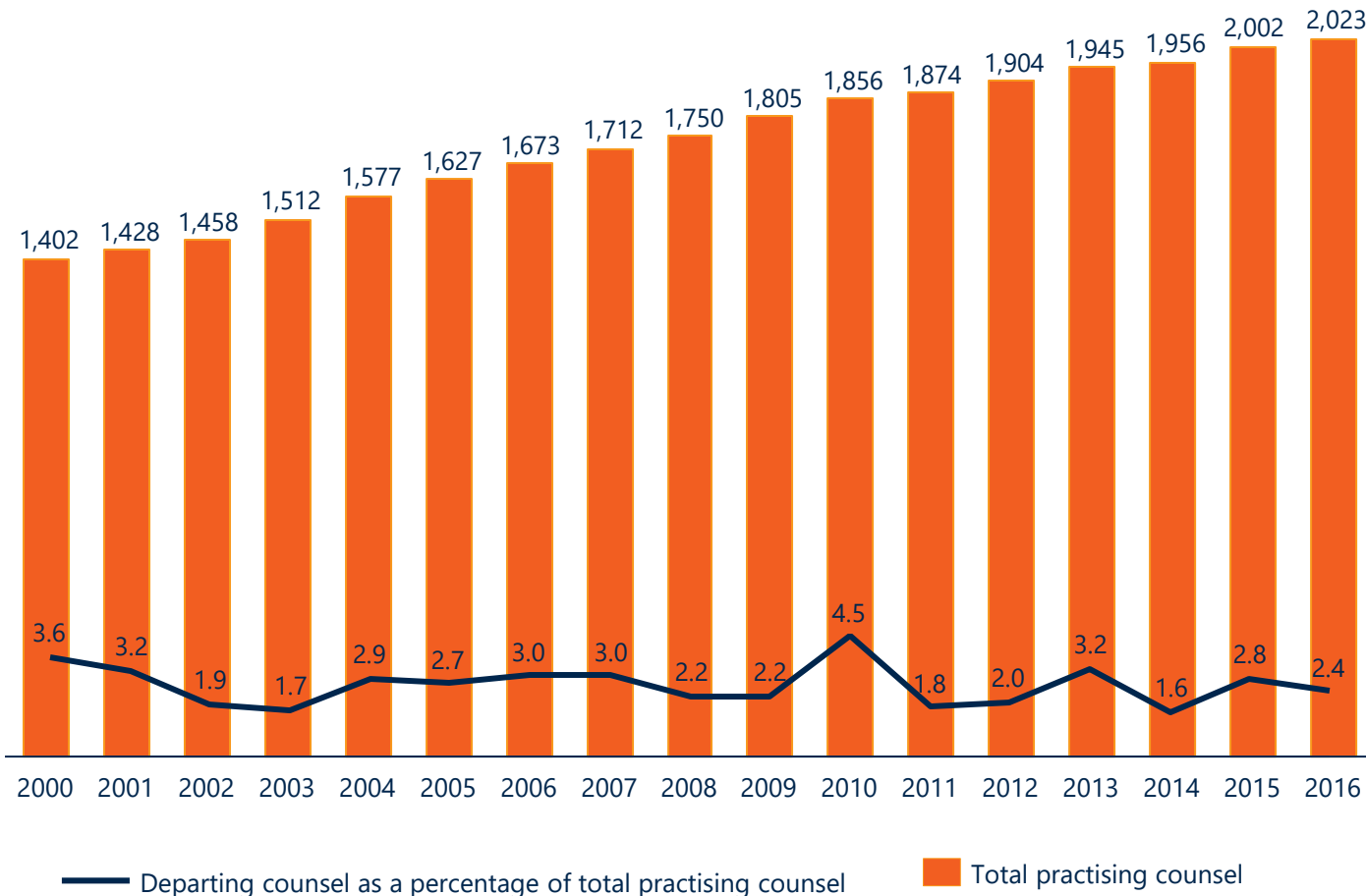
In 1980, only one third of barristers had been at the Bar for 10 years or more, compared with nearly two-thirds in 2017.

Over this time period, the proportion of barristers with more than 20 years of call increased from 1-in-10 to 1-in-3.

This indicates that longer tenure at the Bar is driving the age increase.

Attrition from the Bar is low due to high tenure

Departures from the Bar over time, as a percentage of total practising counsel



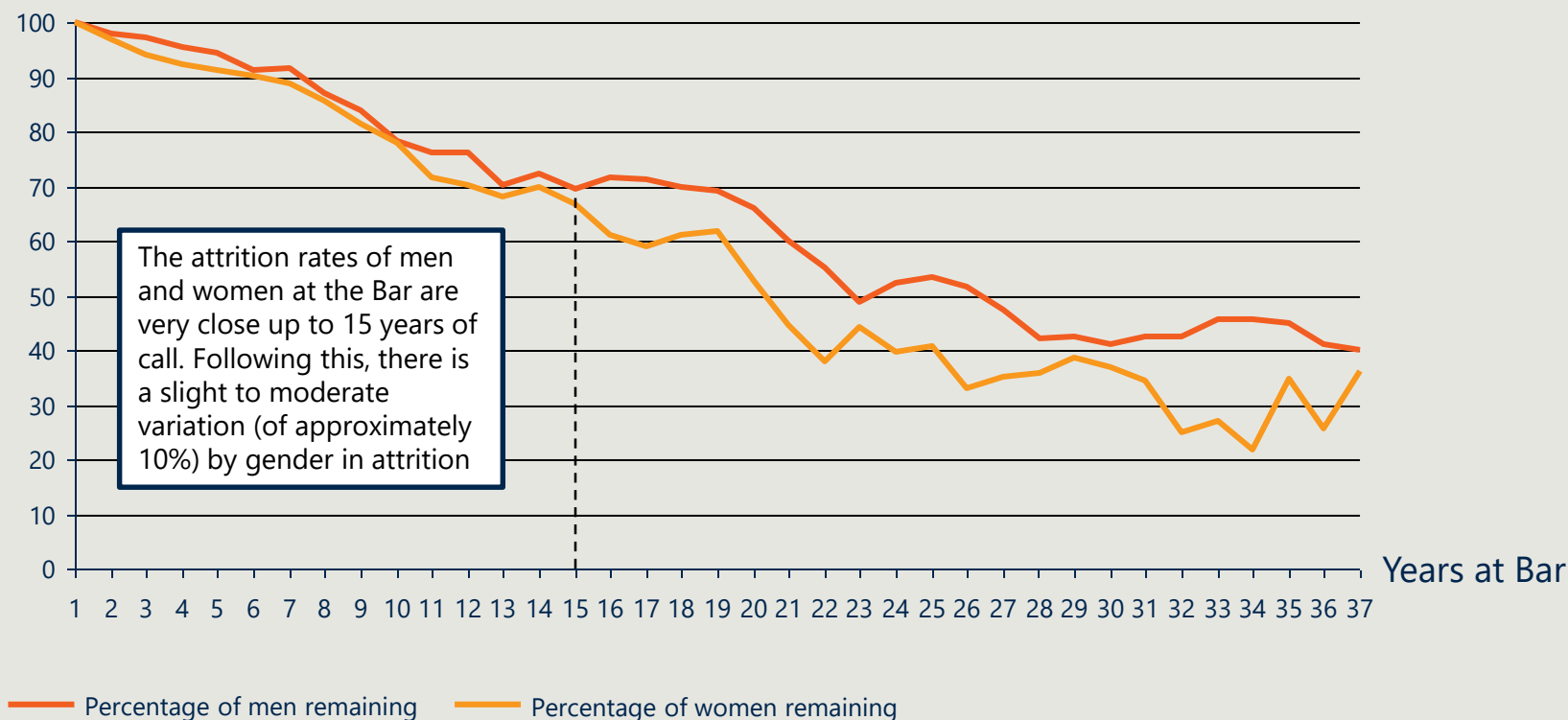
Since 2000, the **average annual attrition rate is 2.6%** of total practising counsel.

Over this period, **new barristers signed the Bar Roll at nearly twice the rate that practising counsel left the Bar.**

A likely contributing factor is the high (and increasing) average length of tenure at the Bar.

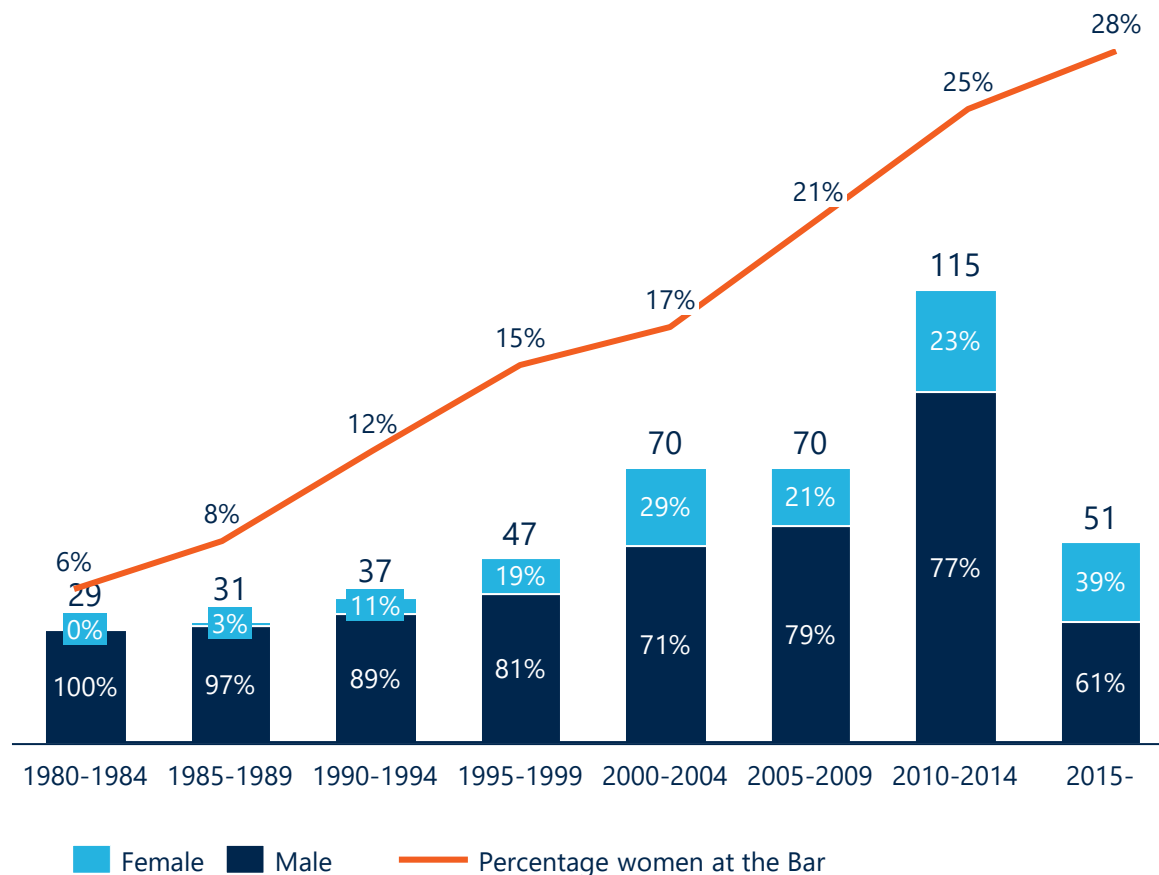
Attrition rates for men and women at the Bar are consistent up to fifteen years of call

Percentage of barristers still practising counsel, by gender and time of call (moving averages)



Judicial appointments contribute significantly to attrition

Number of appointments to bench over time, by gender



Since 1980, **450 practising counsel** have been appointed to the bench, of which around three-quarters were male.

This amounts to **over 15% of (approx. 2900) total members who have signed the Bar Roll** since 1980.

Since 2015, women have been appointed to the bench at a significantly higher rate than their representation at the Bar.

N.B.: This includes all appointments of practising counsel to the bench (i.e. division AI to division BII) up to 6 February 2018

The Bar is culturally diverse

Surveyed members' demographic information.



9%

*Speak a language
other than English
at home*

Compared with



21%

*Of the
Australian
population*



37%

*Had at least one
parent born
overseas*

Compared with



49%

*Of the
Australian
population*



15%

*Were born
overseas*

Compared with



26%

*Of the
Australian
population*



1.2%

*Are of Aboriginal or
Torres Strait Islander
heritage*

Compared with



0.8%

*Of the
Victorian
population*

Many nationalities are represented at the Bar

Surveyed members, demographic information.



Most common countries of birth (other than Australia)

- Survey respondents listed **33 countries** other than Australia as their country of birth.
- The most common of these were Commonwealth countries, namely: the UK, New Zealand, and Canada.
- A large number of European and Asian countries were represented in the survey results, as well as some African countries.



Most common languages spoken at home (other than English)

- Survey respondents listed **18 languages** other than English that were spoken at home.
- The most common of these were: Greek, Italian, French, German, and Hebrew.

The Bar should consider collecting more data from members around cultural diversity to learn more and monitor trends over time.

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Over time, the Bar has undergone significant demographic shifts; it has become older and women are better represented.

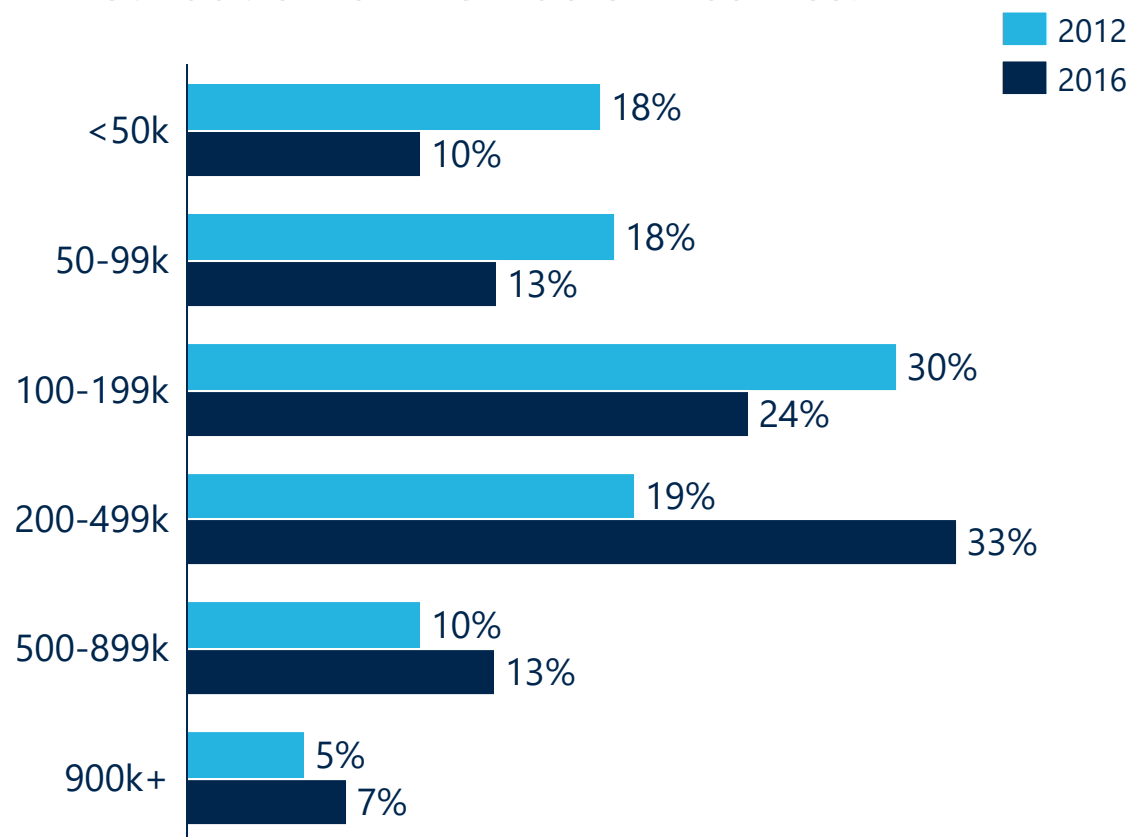
2

There has been steady growth in members' incomes over the past four years and, overall, positive signs for gender pay equity.

Members' changing work practices reflect more competition with law firms for work.

Most Bar members are well remunerated; a small percentage receive very high incomes

Distribution of members' incomes.



Source: Bar Roll data

Note: Income figures in the Bar Roll are gross fee incomes, inclusive of clerking commission and exclusive of GST.

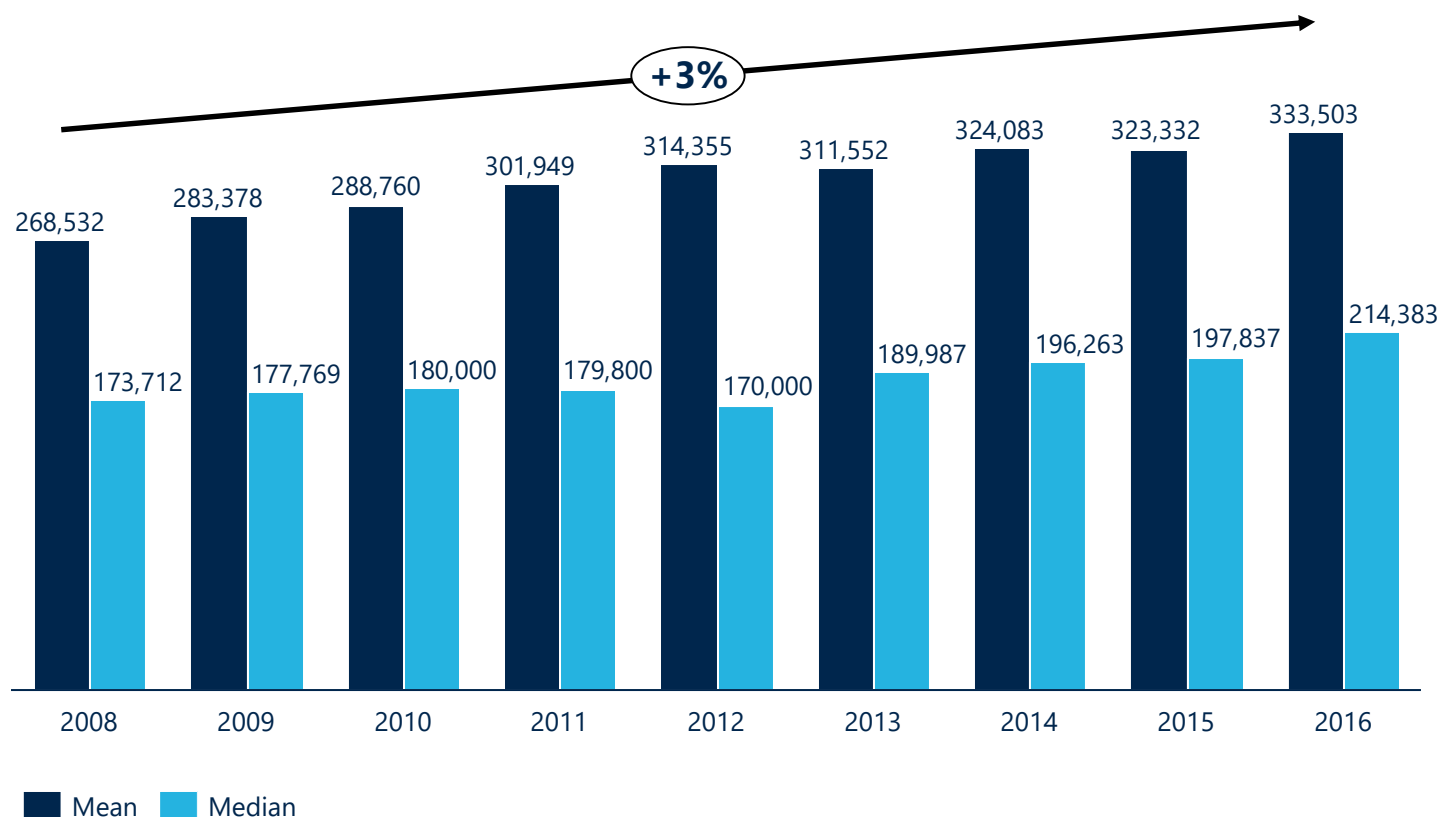
Mean income:
• \$333,000
Median income:
• \$214,000

The large discrepancy between mean and median incomes shows how the 'average' income is skewed by a small group of high earners.

Relative to 2011-12 (the data available at the time of the last survey), more members are in the top three income brackets, and less members are in the bottom three brackets.

Income growth has been steady since the GFC

Average income growth, over time.

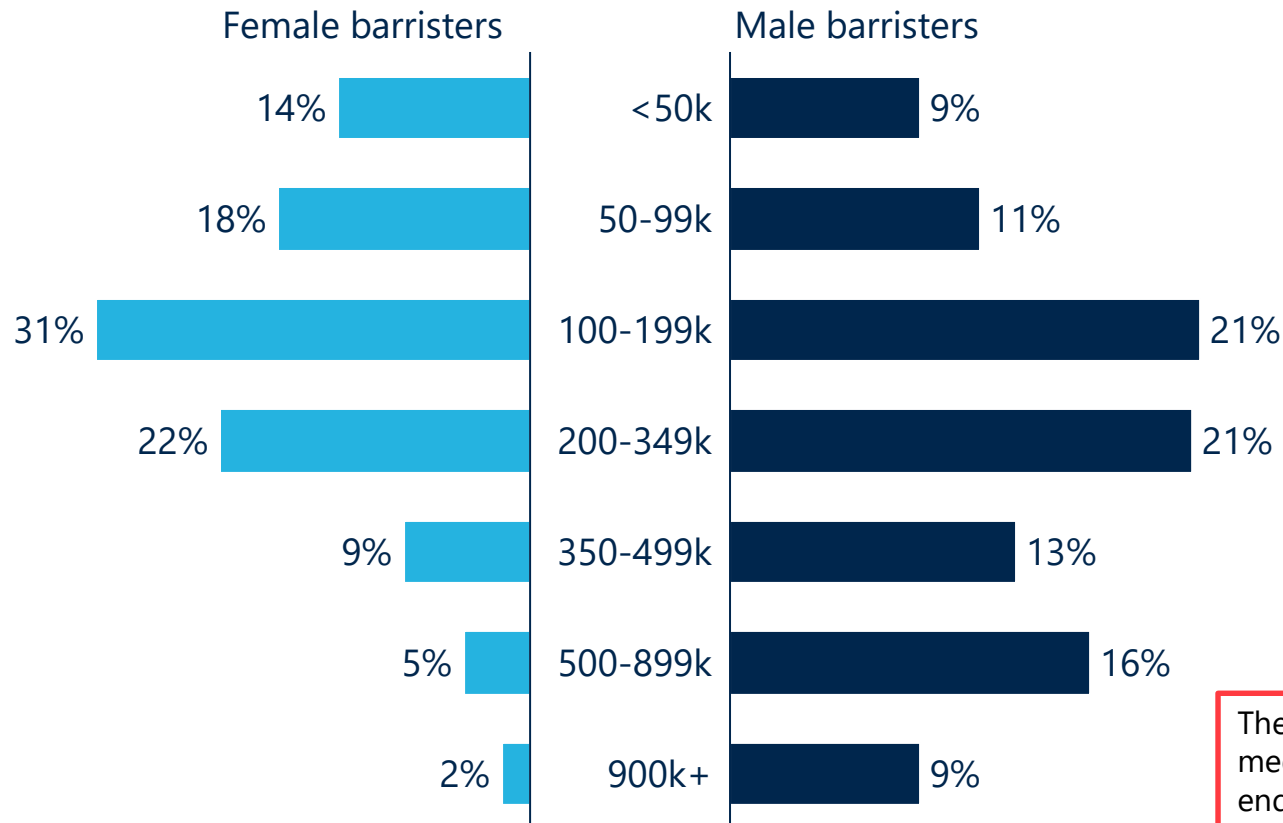


Mean and median incomes have increased at very similar rates since the GFC.
(median = 2.9% p.a. growth
mean = 3.0% p.a. growth)

This implies that the distribution of incomes at the Bar has remained similar over the last 8 years.

Annual incomes by gender

Percentage of barristers in each annual income bracket, by gender.



In 2015-16, mean annual income was:

- **\$333,000 for all barristers**
- **\$388,000 for male barristers**
- **\$214,000 for female barristers**

In 2015-16, median annual income was:

- **\$214,000 for all barristers**
- **\$256,000 for male barristers**
- **\$166,000 for female barristers**

Income figures are not normalised for part-time work or areas of practice.

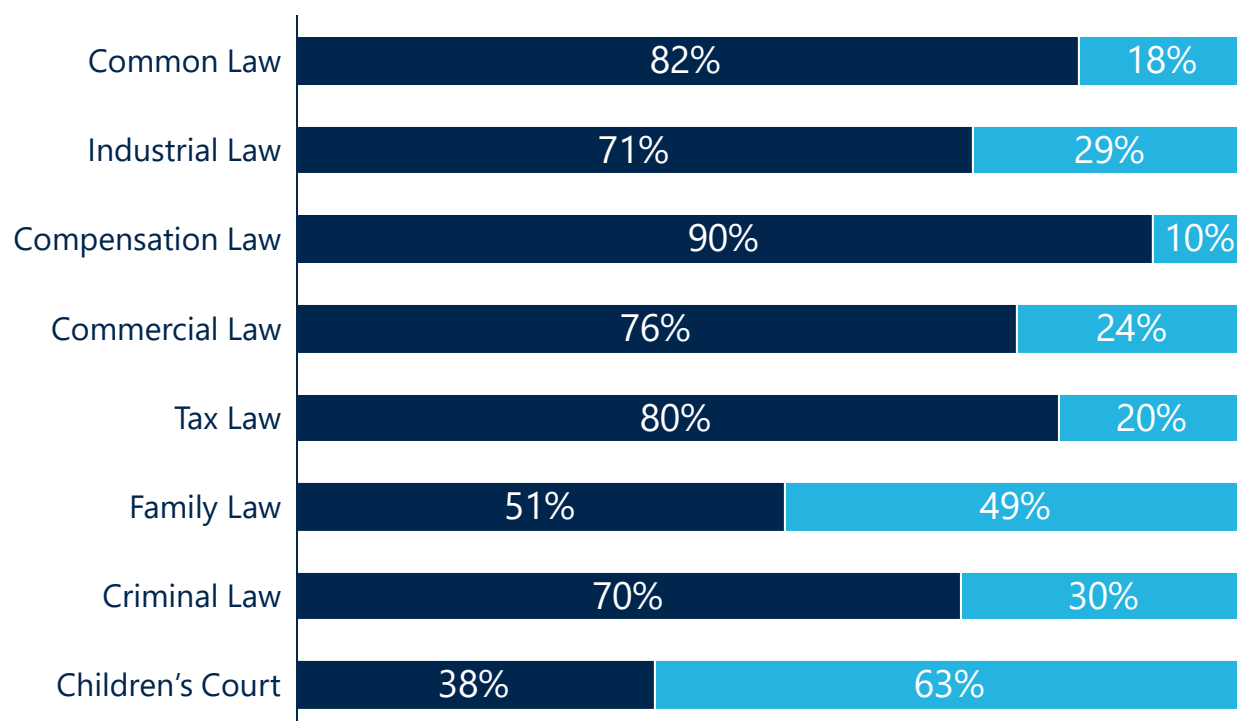
There is a significantly lower difference between median incomes. This suggests that the upper end of the income distribution is driving gender pay disparities.

Source: Bar Roll data

*Reported incomes are exclusive of GST, inclusive of clerking commissions

A major cause of gender disparity is that male and female barristers undertake different work

Areas of practice by gender.



If work was distributed evenly, we would expect that each practice area would have **29% female barristers**.

The three practice areas with the lowest average incomes (Criminal Law, Family Law, Children's Court) are those in which female barristers are most strongly represented.

■ Male ■ Female

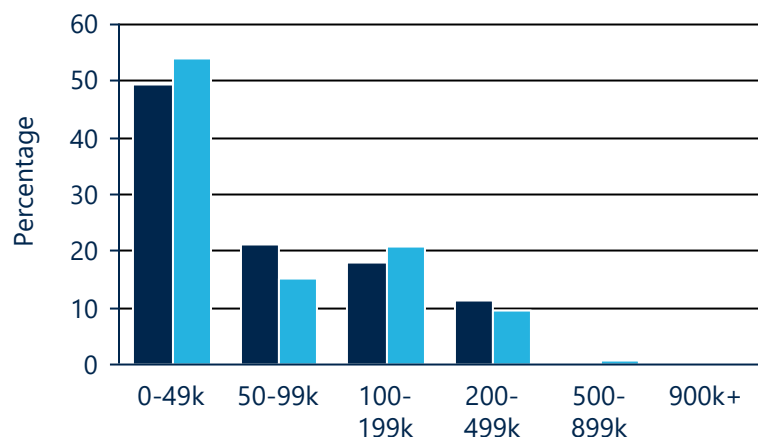
Source: Bar Roll data; only includes members with one Bar association membership.

Note that this significantly reduces the sample size.

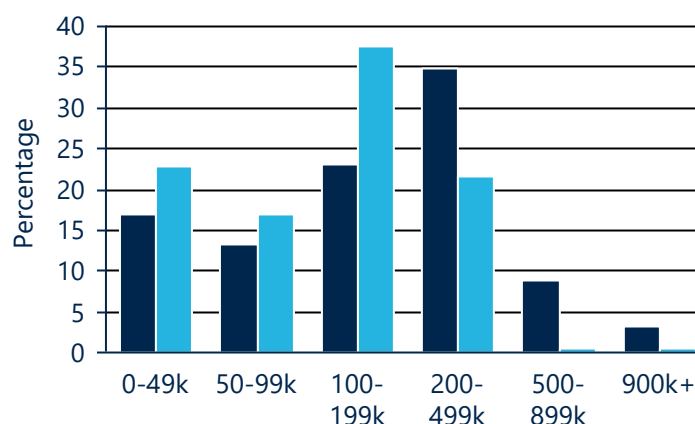
Incomes differ by gender normalised to years of call

Percentage of barristers in income brackets, by gender and years of call.

0-5 years of call

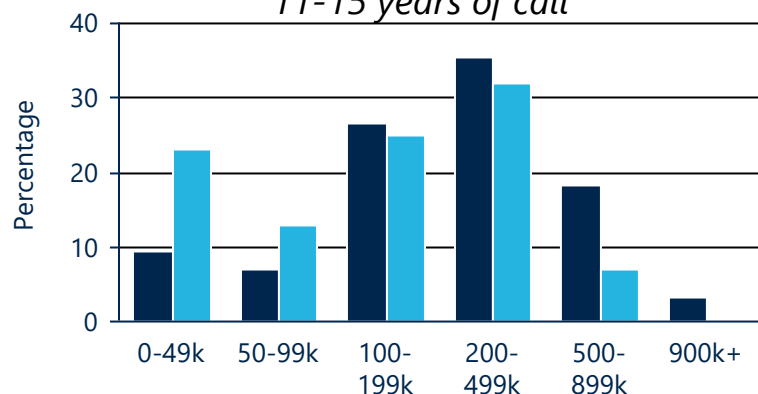


6-10 years of call

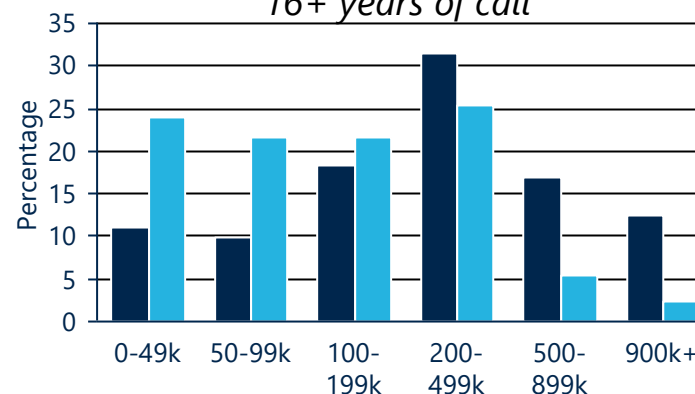


Male
Female

11-15 years of call



16+ years of call

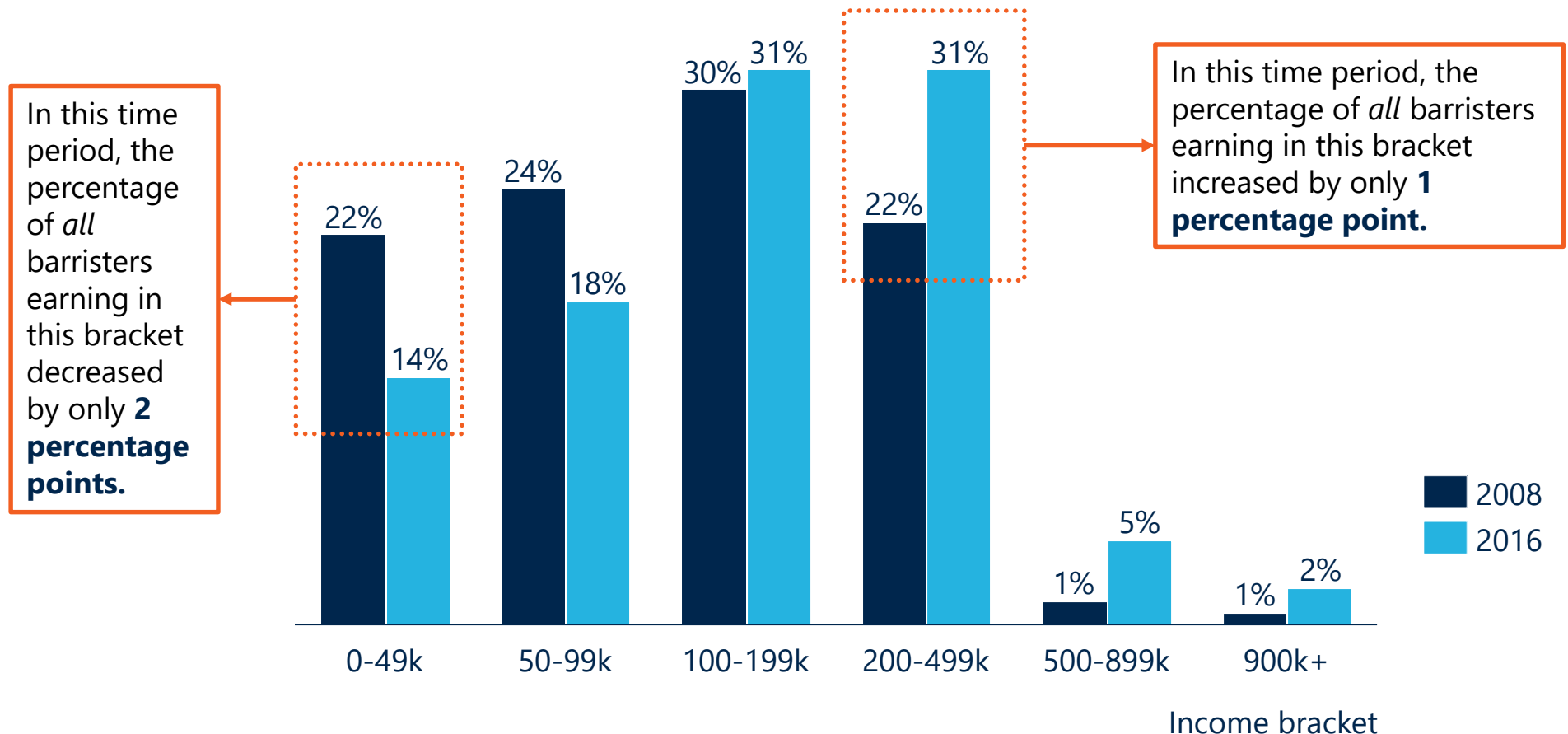


Over time, by years of call, **a greater percentage of women earn less than \$200k** (lower three income brackets) and **a greater percentage of men men earn over \$200k** (the top three income brackets)

Source: Bar Roll data

More women barristers are earning high incomes and fewer earn low incomes

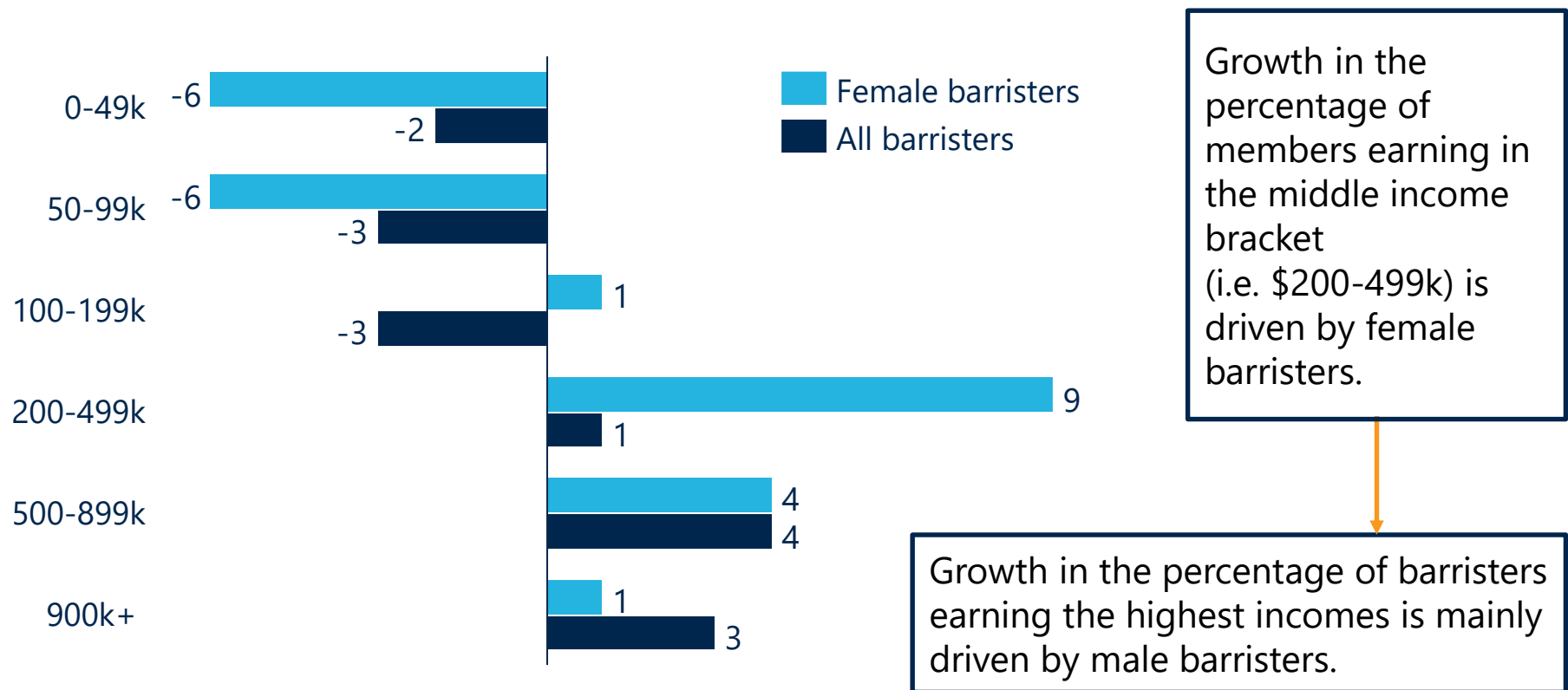
Percentage of women barristers in each income category over time.



Source: Bar Roll data

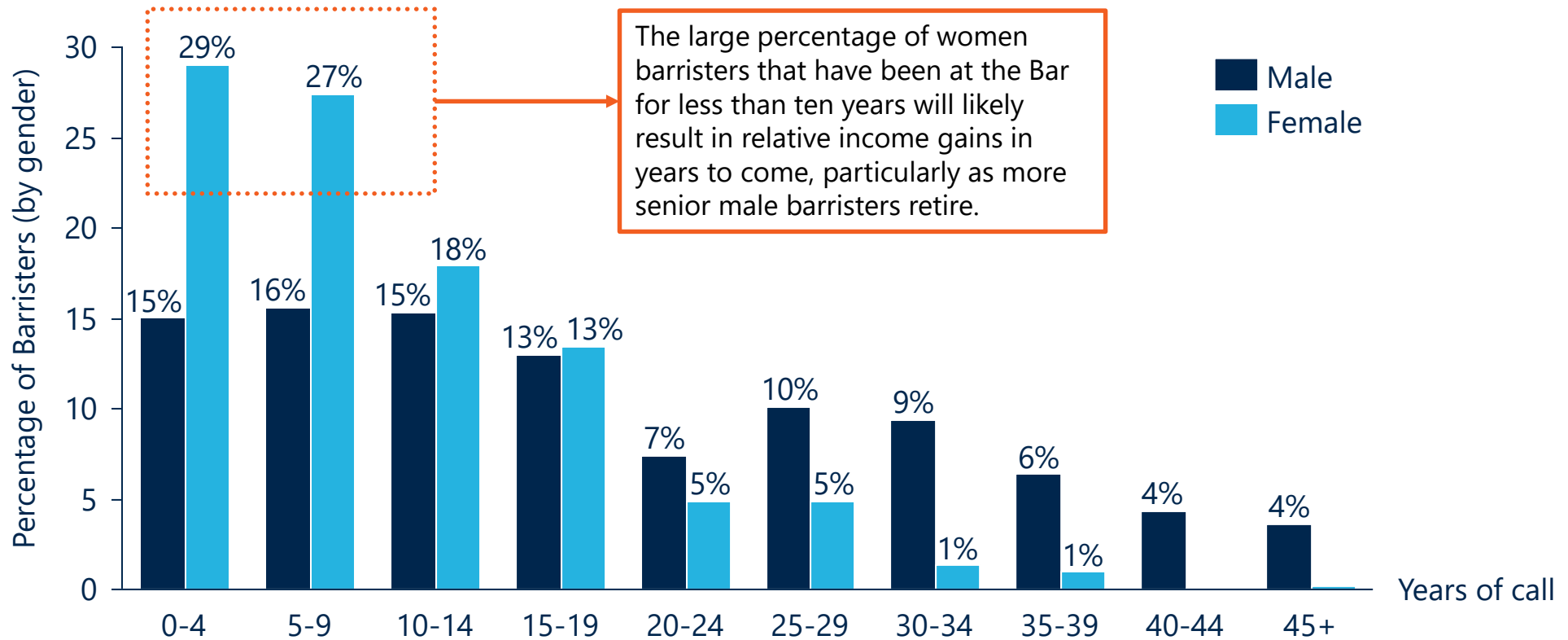
To date, growth in women barristers' incomes has mostly been in the middle income brackets

Percentage change in barristers (female/all) in each income category, 2008-16.



Relative growth in women barristers' incomes will likely continue in line with demographic trends

Percentage of male and female barristers, by years of call.

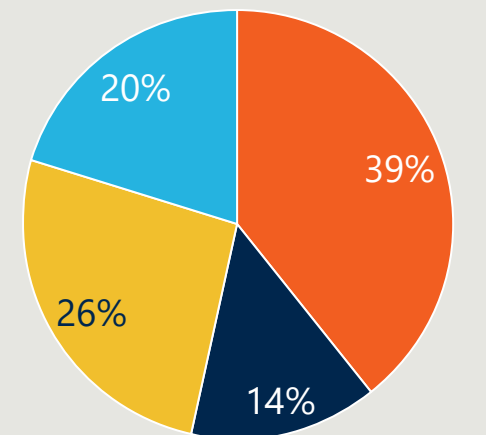


Source: Bar Roll data

Survey data on barristers' recommended briefing practices by gender is also encouraging

Briefing practices, by seniority and gender (whole group).

Percentage of barristers recommended to be briefed, last 6 months



- Female junior (less than 10 years' call)
- Female senior (silk or more than 10 years' call)
- Male junior (less than 10 years' call)
- Male senior (silk or more than 10 years' call)

Of the survey respondents

- **21%** were female junior barristers
- **17%** were female senior barristers
- **22%** were male junior barristers
- **39%** were male senior barristers

If recommendations for only junior barristers are taken into account, women are recommended to be briefed around **60% of the time**; while their male counterparts are recommended approximately **40% of the time**.

Note: This does not take into account the value of the briefs. This represents the reported recommended briefing practices of surveyed members only.

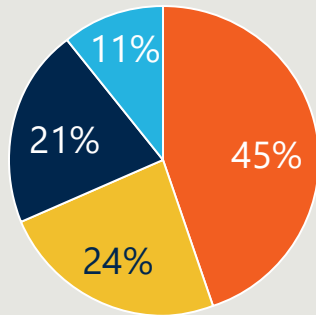
Source: *Case for change* data 2016-17

Respondents were asked: In the last six months, by seniority and gender, what percentage of barristers did you recommend be briefed? (a) Female junior (less than 10 years' call); (b) Male junior (less than 10 years' call); (c) Female senior (silk or more than 10 years' call); (d) Male senior (silk or more than 10 years' call)

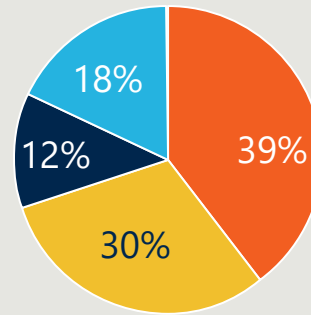
For both men and women surveyed, recommended briefing practices exceed equitable briefing targets

Recommended briefing practices, by seniority and gender (segmented).

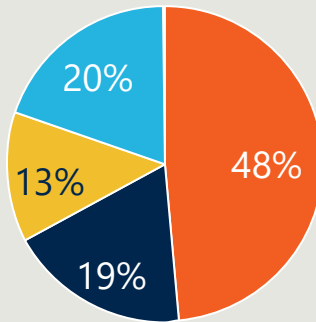
Female senior barristers' briefing recommendations



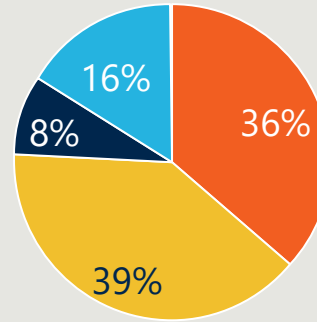
Male senior barristers' briefing recommendations



Female junior barristers' briefing recommendations



Male junior barristers' briefing recommendations



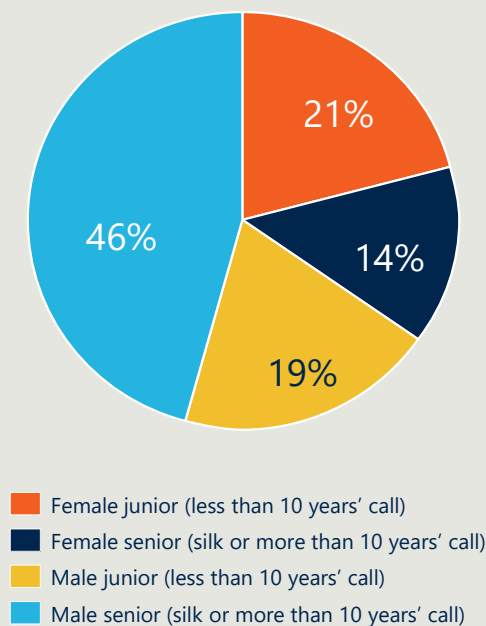
Female junior barristers are recommended to be briefed significantly more than 30% of the time by all cohorts.

- Female junior (less than 10 years' call)
- Female senior (silk or more than 10 years' call)
- Male junior (less than 10 years' call)
- Male senior (silk or more than 10 years' call)

More work can be done with firms that ultimately brief to change their practices

Briefing practices, by seniority and gender (whole group and juniors only).

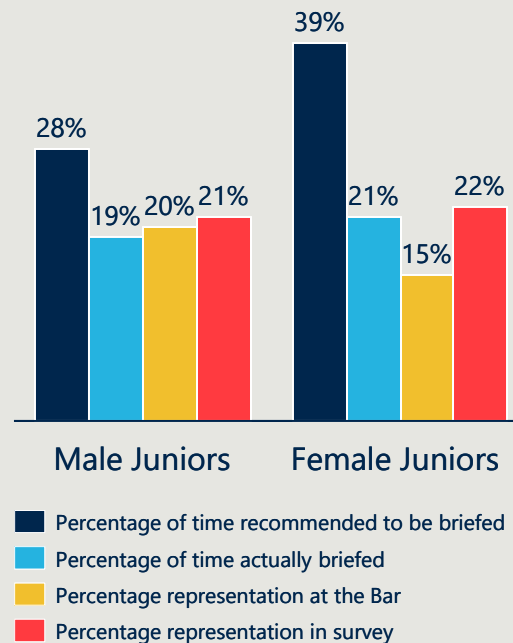
Percentage of barristers briefed to appear, last 6 months



According to survey data, actual briefing practices are much closer to the profile of survey respondents.

However, survey data indicates that equitable briefing target of 30% is met, at least among survey respondents.

Recommended and actual briefing practices, last 6 months (junior barristers only)



According to survey data, women barristers are recommended to be briefed significantly more of the time than they are actually briefed.

Source: *Case for change* data 2016-17

Respondents were asked: In the last six months, by seniority and gender, approximately what percentage of barristers were briefed to appear with you? (a) Female junior (less than 10 years' call); (b) Male junior (less than 10 years' call); (c) Female senior (silk or more than 10 years' call); (d) Male senior (silk or more than 10 years' call)

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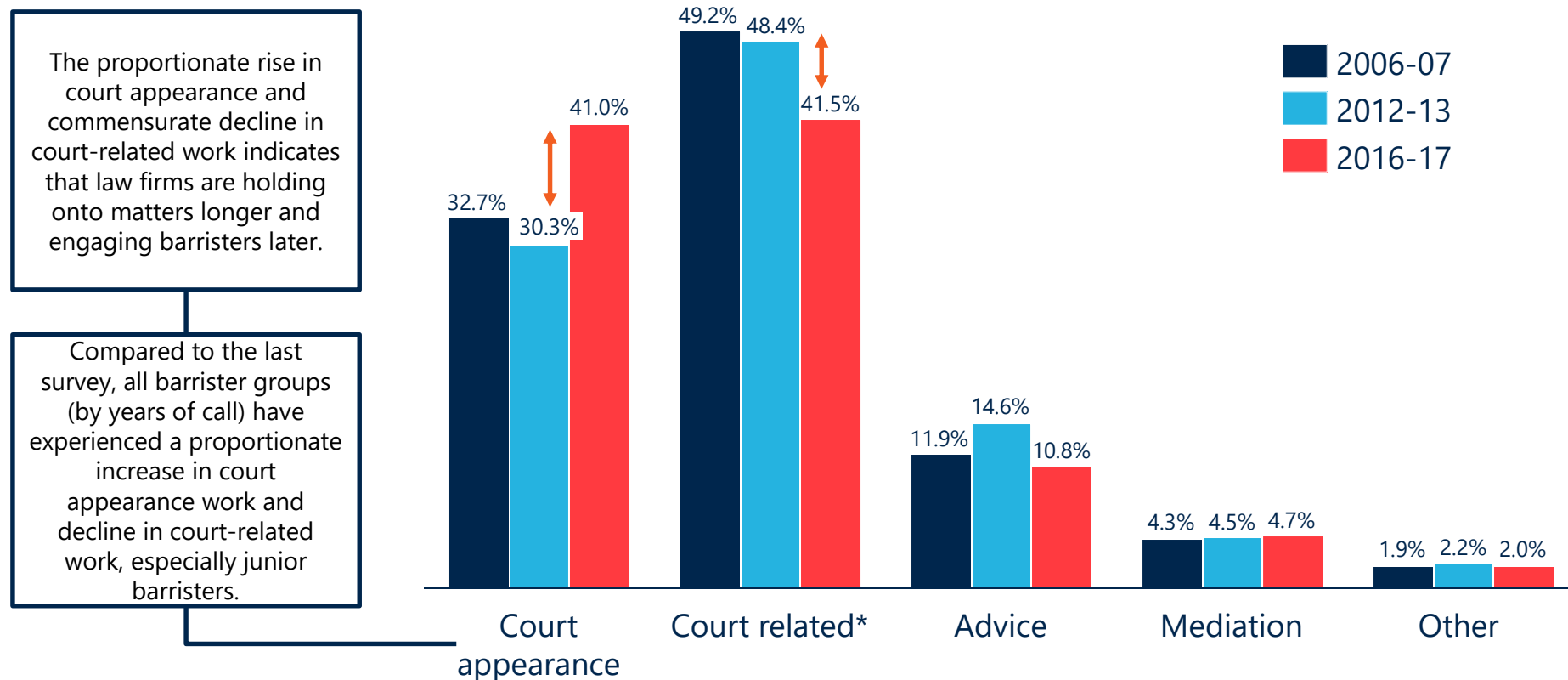
There has been steady growth in members' incomes over the past four years and, overall, positive signs for gender pay equity.

3

Members' changing work practices reflect more competition with law firms for work.

Barristers are spending more time in Court and less time on Court-related matters

Percentage allocation of time on different areas of practice

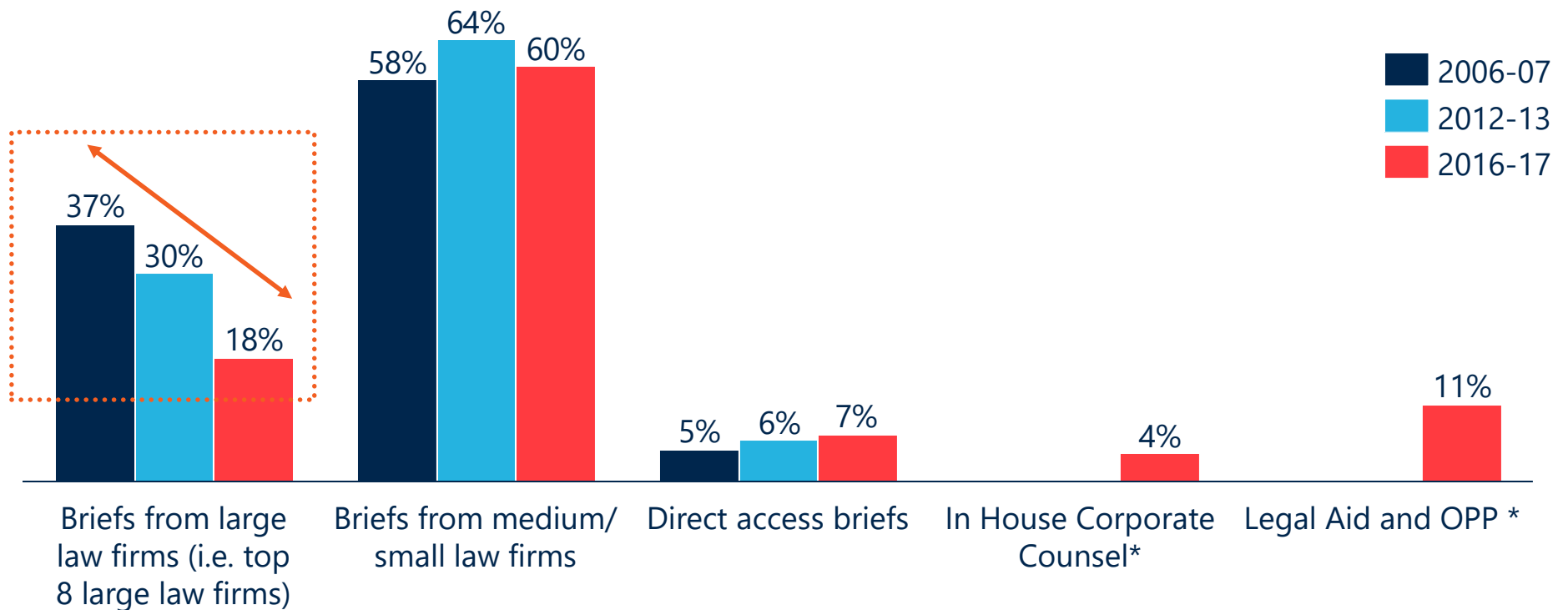


Source: *Case for Change* data 2006-07, 2012-13, 2016-17

*Includes witness conferences, drawing/settling pleadings/particulars, drawing/settling submissions, preparation

Significantly less of members' billable time is spent on briefs from top tier law firms

Percentage allocation of billable time, by brief type.

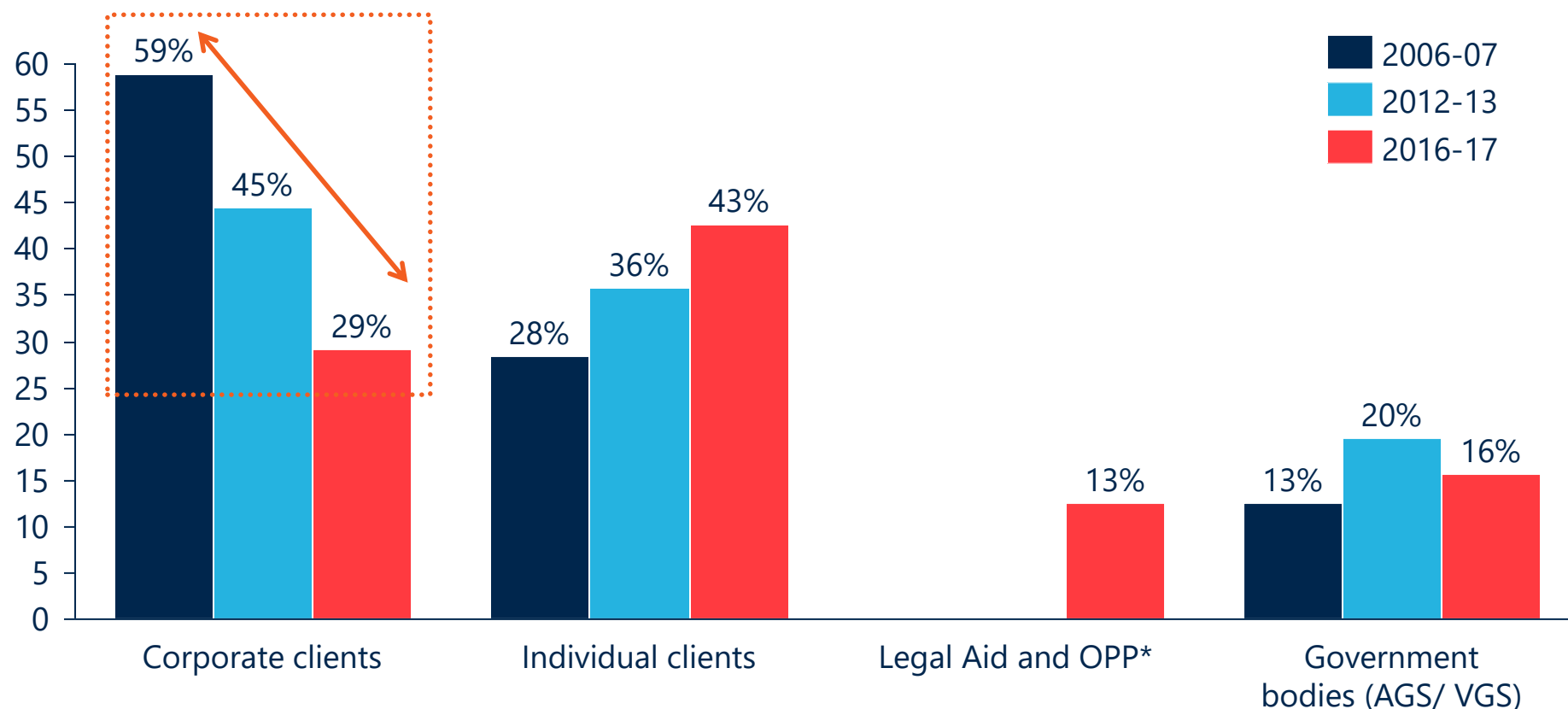


Source: *Case for Change* data 2006-07, 2012-13, 2016-17

*Note: In the last two *Case for change* surveys, respondents were not able to list 'Legal Aid and OPP' or 'In House and Corporate Counsel' as answers to this question.

Members surveyed spend less billable time with corporate clients

Percentage allocation of billable time by client type.

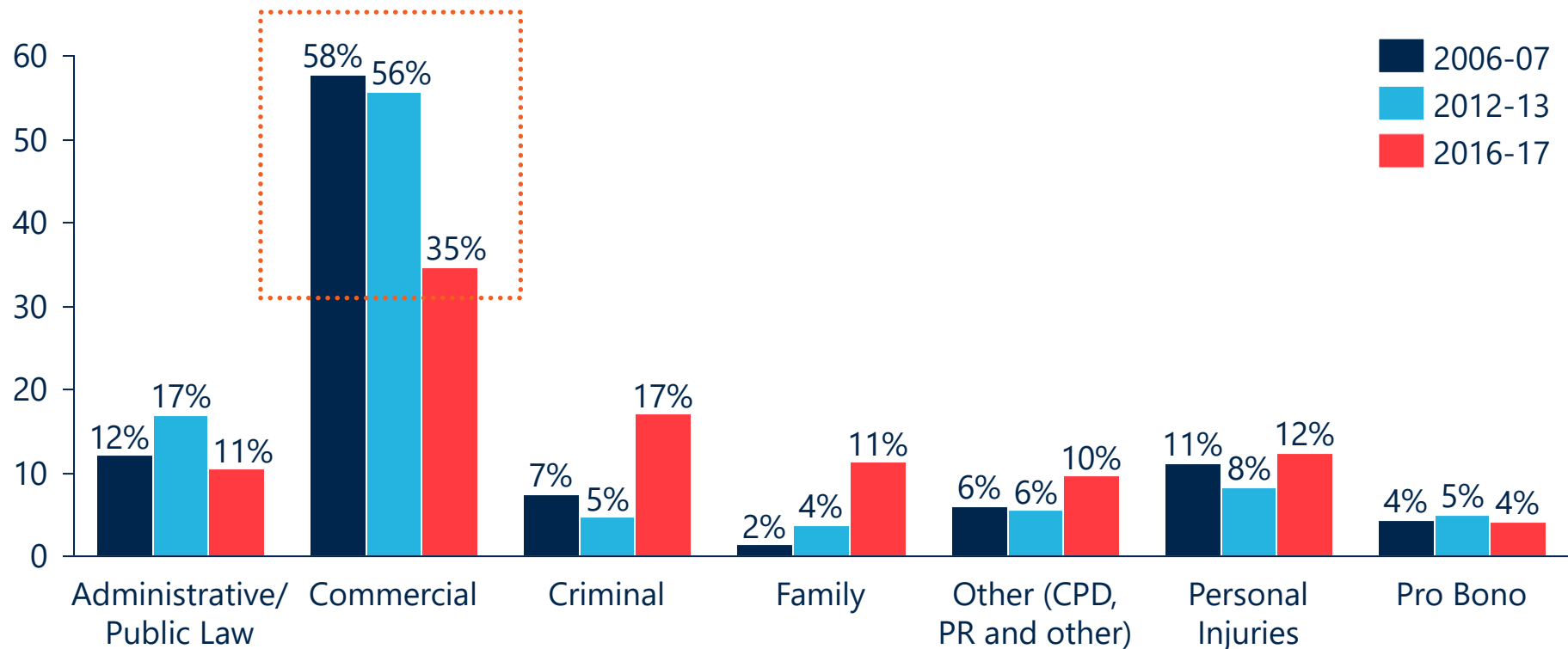


Source: *Case for Change* data 2006-07, 2012-13, 2016-17

*Note: In the last two *Case for change* surveys, respondents were not able to list 'Legal Aid and OPP' as an answer to this question.

There has been a decline in the amount of time spent on commercial matters among surveyed members

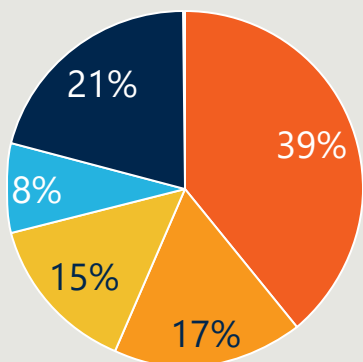
Percentage allocation of time by practice area.



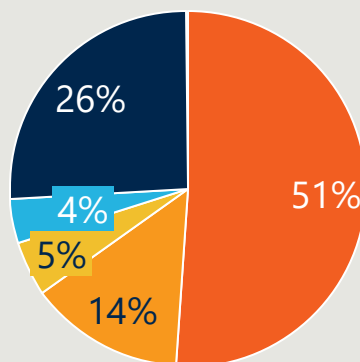
Source: Case for Change data 2006-07, 2012-13, 2016-17

There is a strong culture of undertaking pro bono and volunteer work at the Bar.

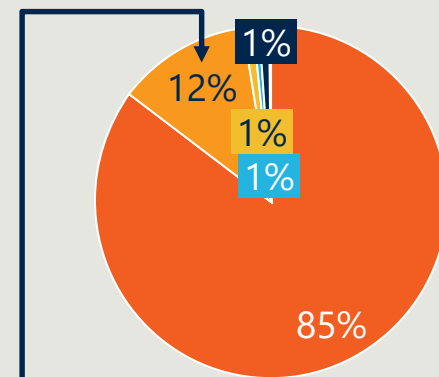
Hours of pro bono work for clients, last 6 months



Hours of volunteer work for Bar or CSOs, last 12 months*

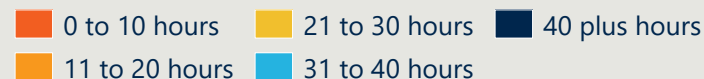


Hours of pro bono advice in relation to sections 18 and 128 of Evidence Act, last 12 months



Most Barristers do some pro bono and/or volunteer work. A sizeable minority of survey respondents devote a significant amount of time to this kind of work.

62% of respondents who gave pro bono advice spent at least half their time in the criminal practice



Appendices

Appendix A: Summary of survey response

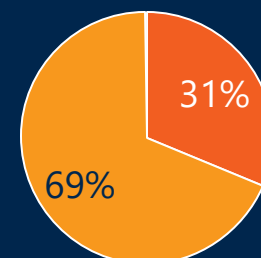
The 2016-17 *Case for Change* survey was completed by **627 members**, which represents **31% of total Victorian practising Counsel**.

Who filled this out:

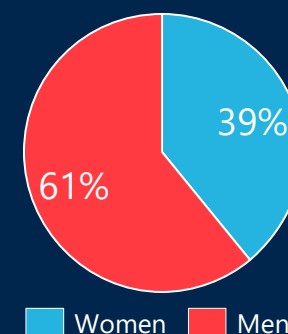
- **61%** of respondents were men, **39%** were women.
- **45%** of respondents were at the bar for less than 10 years call, **55%** were 10 or more years call.

Relative to the two previous surveys – which received 94 and 98 complete responses respectively – the response rate to this survey was excellent and provides a much more comprehensive overview of the composition of the Bar.

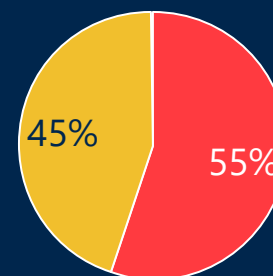
Survey summary



- Members who filled out survey
- Members who did not fill out survey



- Women
- Men



- 10+ years' call
- <10 years' call