



**GROUPS**

**Minutes of Spinal Injuries Special Interest Group**

29 February 2016

Stewarts Law, 5 New Street Square, London EC4A 3BF

***Causation in Spinal Injuries Cases and Spinal Imaging***

<b>Chair</b>	Jonathan Fogerty Hugh Johnson	APIL SIG Coordinator APIL SIG Secretary
<b>Speakers</b>	Sharam Sharghy Gerard McDermott QC Dr Philip Yoong	9 Gough Square (on behalf of APIL Exec. Committee) Outer Temple Chambers Consultant Radiologist, Royal Berkshire Hospital
<b>Attendees</b>	Alison Appelboam Meadows Robert Aylott Joanna Bailey Isabel Bathurst Ania Bean Patricia Begley Helen Clifford Sam Collard Aleksandra Dabek-Breza Rhiannon Daniel Amy Fielding Mark Fowler Alison Goldney Amy Heath Nick Hind Richard Kayser Arthur Keitch Paul Kitson Jodee Mayer Michael Hartley Catherine Michel Ben Posford Jonathan Rees Philip Scarles Matthew Stockwell Laura Swaine Stephanie Tracey Riffat S Yaqub Stewart Young	PENNINGTON MANCHES LLP MINSTER LAW McMILLAN WILLIAMS PIERRE THOMAS & PARTNERS IRWIN MITCHELL LLP OSBOURNES SOLICITORS LLP McMILLAN WILLIAMS OSBOURNES SOLICITORS LLP BOLT BURDON KEMP TRETOWANS LLP STEWARTS LAW LLP BROADGATE LEGAL BRETHERTONS LLP STEWARTS LAW LLP McMILLAN WILLIAMS IRWIN MITCHELL LLP SLATER & GORDON (UK) LLP SLATER & GORDON (UK) LLP BOLT BURDON KEMP McMILLAN WILLIAMS IRWIN MITCHELL LLP OSBOURNES SOLICITORS LLP BRETHERTONS LLP McMILLAN WILLIAMS OUTER TEMPLE CHAMBERS OSBOURNES SOLICITORS LLP SHOOSMITHS EDWARDS DUTHIE STEWARTS LAW LLP

**Preliminary**

Jonathan Fogerty (JF) introduced himself to the SIG as the new co-ordinator – this being the first SIG since being elected in the role towards the end of 2015. JF thanked the previous co-ordinator, Warren Collins, for his longstanding service as co-ordinator of the group. JF introduced the Secretary, Hugh Johnson (HJ).

*The presentations of the speakers are kindly reproduced and kept with the minutes with permission of the authors.  
©Gerard McDermott QC and Dr Philip Yoong (respectively).*

JF thanked Stewarts Law for hosting the SIG at their offices and for providing refreshments and welcomed the members to stay for a drink/informal discussions after the meeting.

JF explained that any member wanting to review the previous minutes could do so as he had them available. Those minutes are also available on the APIL website as, indeed, will be the minutes prepared by HJ after this meeting. JF explained that in discussions with HJ it had been agreed provisionally that the dates for further meetings would be held in July 2016 and November 2016. Following a brief 'straw poll' it was agreed that members would be keen to participate in a SIG members' survey to ensure that members get as much as possible from the group.

JF thereafter outlined the programme for the evening and introduced the first speaker, Sharam Sharghy to address the SIG as to the actions being taken by APIL at a time of substantial change for the profession and injured Claimants alike. Thereafter, JF thanked SS and then introduced the first of the guest speakers, Gerard McDermott QC

## **Causation in Spinal Injury Cases**

**Gerard McDermott QC**

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Gerard McDermott (GM) thanked JF and remarked that he was assisted in the preparation of his presentation by his legal assistant, Jasmine Chan.

With a theme of "keeping it simple" GM addressed complexities in a range of spinal injuries cases to include:

- Contributory negligence and seatbelt use in road traffic accidents,
- The progressive nature of injury in Cauda Equina Syndrome and the importance of clear evidence as to the timings in those cases where there was progressive deterioration;
- The Court of Appeal Judgment in Reaney which addressed damages arising from pressure sores and the causation of care which was qualitatively as supposed to quantitatively different; and
- The case of Young v AIG in which he had been Counsel. Whilst the circumstances in that case were undoubtedly rare, with the Claimant having developed numerous complications following a road traffic accident, the presentation of the evidence was that all of the complications could be linked to the original RTA. The Defendant had argued that the final complication (a stroke) had an unrelated cause. There was conflicting medical evidence, but it was successfully argued that all of the complications had the RTA as the cause.

GM remarked that causation in spinal claims can vary dramatically. In some cases it may not be an issue at all, but liability may be the key. In others, there can be numerous issues. In that sense there was importance in not getting bogged down in complexities where it was possible to present to the Court a clearer argument of perhaps 3-4 core submissions. This was the approach taken in Young, where amongst a number of clever arguments posed by the Defendant, it had been necessary to take a step back and simply present a clear cut basis for the injury and the Claimant's claim.

In Cauda Equina cases the approach needs to be the same. GM proposed that a timeline of what may sometimes be critical hour by hour developments will likely be the starting point. Success of the claim will generally lie with establishing an incomplete condition when assessed by a medical professional i.e. when there was still the possibility of avoiding serious and permanent injury. GM touched upon the experts likely to be required, whilst remarking that he was keen to leave the medicine to Dr Yoong who would follow.

GM concluded his presentation – further details of which are set out in the attached slides. JF then thanked GM, before introducing Dr Philip Yoong.

## ***Spinal Imaging***

**Dr Philip Yoong**

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Dr Philip Yoong (PY) discussed the modalities of spinal imaging and the strengths and weaknesses of each, taking the group through a series of images to explain his analysis and in review of coronal, sagittal and axial planes (views).

In particular, PY was able to talk the audience through MR and CT imaging through each 'slice' of the sequential imaging to demonstrate in cutaway spinal pathology. The limitations of x-ray imaging were demonstrated in bony injury by demonstrating the same traumatic injury (an RTA) on both CT and xray to identify an unstable spinal injury.

In practical terms, PY discussed how certain types of imaging (xray and CT) were freely available, often 24 hours a day and cheap, whereas MRI was not and outlined that the former imaging could often be completed within 5 or 10 minutes as compared with 60-90 minutes for MRI.

The relevant guidelines from the Royal College of Radiologists were discussed with reference to the reporting of imaging and to assist in the interpretation of / understanding when radiology reports may be substandard. In discussing errors of reporting, PY noted that it was his understanding that there was, on average, a 3-4% error rate in reporting. He emphasised the importance of context to the radiologist – the patient history and request form all assist to ensure images are checked fully for an appropriate pathology.

PY discussed four case studies, which he was able to review with the imaging undertaken in each – a fall (trauma), prolapsed disc, infection (spinal abscess) and tumour. From the imaging it was possible to plan appropriate and treatment – in some cases, as a matter of urgency.

In his concluding remarks, PY noted that x-rays often provided false reassurance without being sensitive to a number of conditions. Often x-rays simply have to be repeated with another methodology to gain an appropriate image. His preference was for CT imaging to be undertaken (bony imaging) and MRI (soft tissues, to include the spinal cord) as appropriate.

Questions followed the presentation to include detailed discussion of what imaging was appropriate to certain cases/scenarios to the more curious '*why are MRI scans so noisy?*' and '*Do the magnets in an MRI scanner rotate?*'

## **Closing Remarks**

JF then thanked PY and GM for their presentations, inviting members to raise further questions over an informal drink. He reminded members of the forthcoming APIL events:

- 03-05 May 2016      APIL Annual Conference at the Hilton Metropole, Birmingham
- 30 June 2016      APIL Advanced Brain & Spinal Injuries Conference, Leicester
- July 2016 (TBC)      Next APIL Spinal SIG meeting

HJ



## Association of Personal Injury Lawyers

### GROUPS

#### SPINAL INJURIES GROUP MEMBERS SURVEY

##### Introduction

Further to the SIG held on 29 February 2016 it was agreed that a survey of the SIG members would be undertaken to ensure that the SIG best met the needs of the members. A *Survey Monkey* electronic survey was therefore designed and has been available for completion between 03 March 2016 and 03 May 2016. This document sets out the results of that survey. A total of 64 responses were received during the period.

##### Preliminary Conclusions

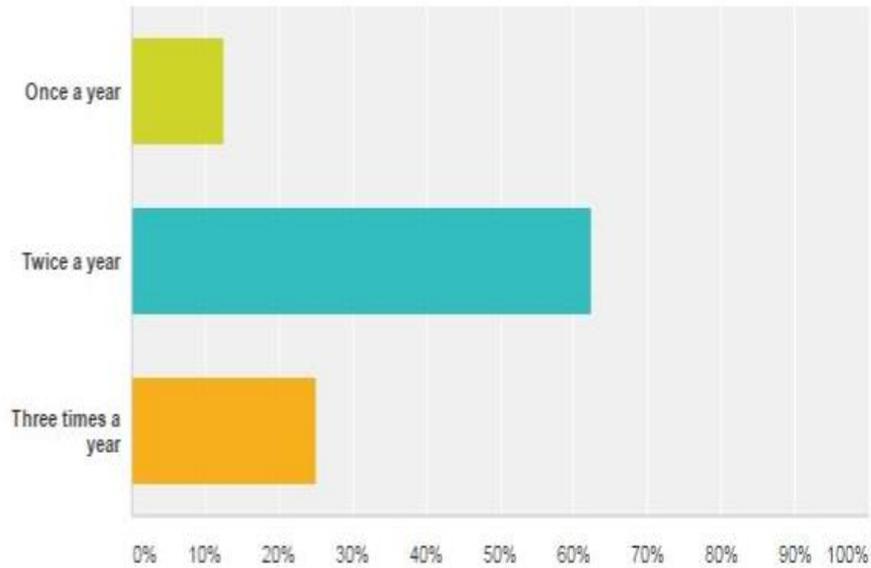
We note that amongst the membership the majority have not attended a SIG meeting for up to 2 years. We would like to promote an active membership with regular meetings. The preferred number of meetings being twice per year.

Whereas the membership of the SIG is geographically diverse, there is a preference for London based meetings over and above other regions. It is likely that meetings will alternate between London and regional centres. In organising future SIGs we will endeavour to reflect the preferences as set out below for topics and speakers.

HJ  
03 May 2016

## How often would you like to see Spinal SIG meetings

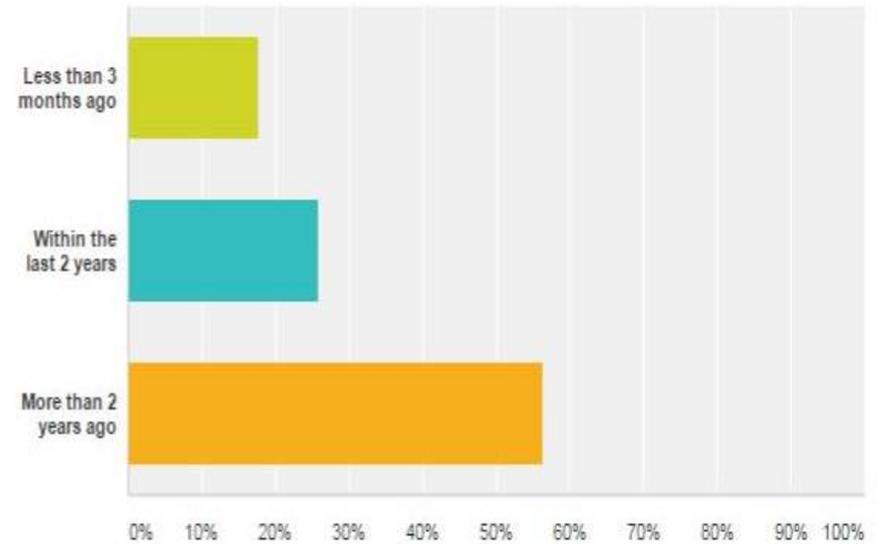
Answered: 64 Skipped: 0



Answer Choices	Responses
Once a year	12.50% 8
Twice a year	62.50% 40
Three times a year	25.00% 16
Total	64

## When did you last attend a Spinal SIG meeting

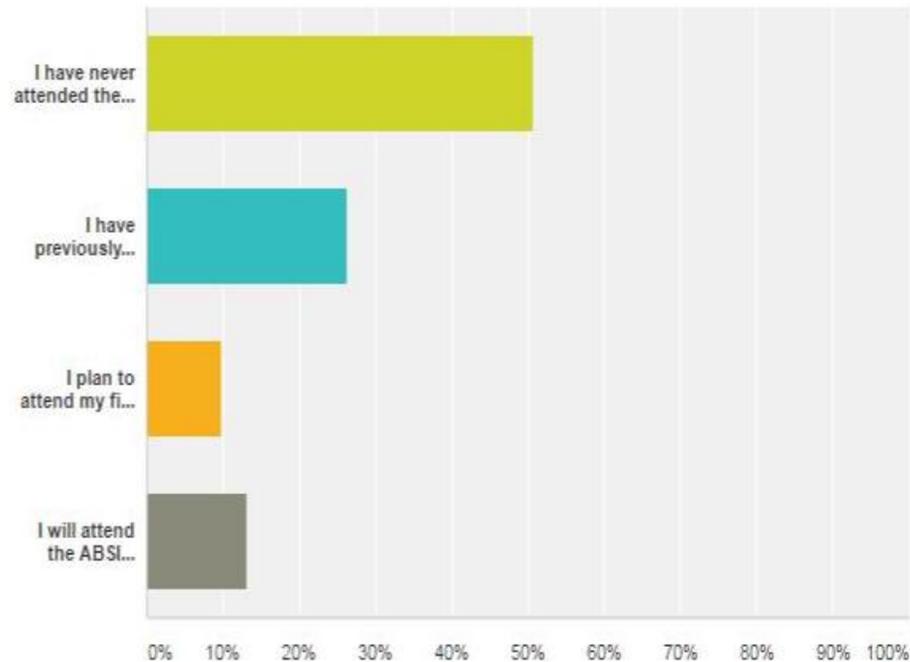
Answered: 62 Skipped: 2



Answer Choices	Responses
Less than 3 months ago	17.74% 11
Within the last 2 years	25.81% 16
More than 2 years ago	56.45% 35
Total	62

## Advanced Brain/Spinal Injury Conference (co-ordinated with the support of the Spinal SIG)

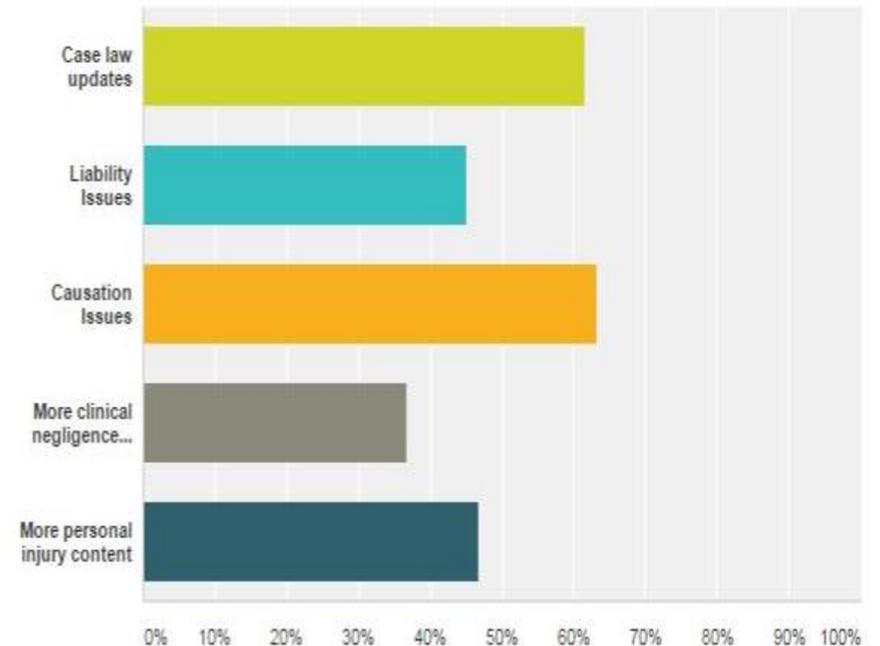
Answered: 61 Skipped: 3



Answer Choices	Responses
I have never attended the ABSI conference	50.82% 31
I have previously attended the ABSI conference	26.23% 16
I plan to attend my first ABSI conference, this year	9.84% 6
I will attend the ABSI conference again, this year	13.11% 8
<b>Total</b>	<b>61</b>

## What LEGAL issues/speakers would you like to hear from?

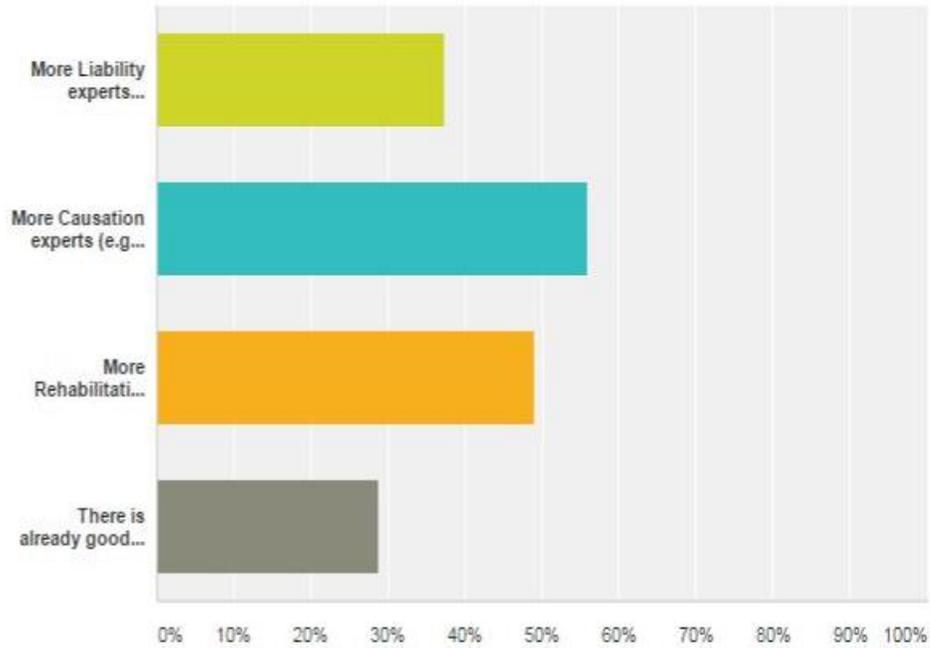
Answered: 60 Skipped: 4



Answer Choices	Responses
Case law updates	61.67% 37
Liability Issues	45.00% 27
Causation Issues	63.33% 38
More clinical negligence content	36.67% 22
More personal injury content	46.67% 28
<b>Total Respondents: 60</b>	

## What MEDICAL experts would you like to hear from

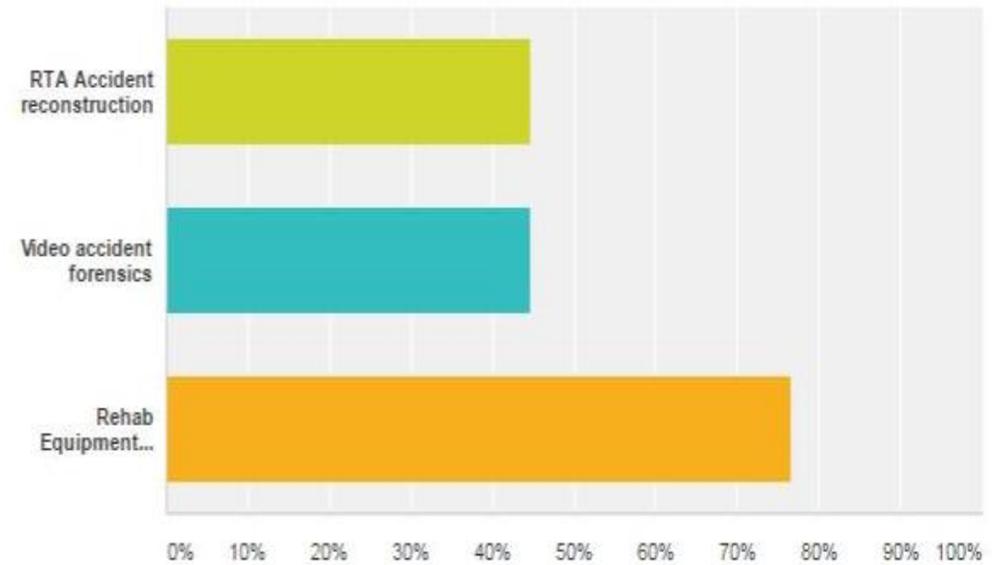
Answered: 59 Skipped: 5



Answer Choices	Responses
More Liability experts (Clinical claims - eg. A&E, radiology)	37.29% 22
More Causation experts (e.g. Neurosurgeons)	55.93% 33
More Rehabilitation experts (e.g. Spinal Injuries, Urology, Physiotherapy)	49.15% 29
There is already good variation of speakers	28.81% 17
Total Respondents: 59	

## Would you like to hear from other specialists eg:

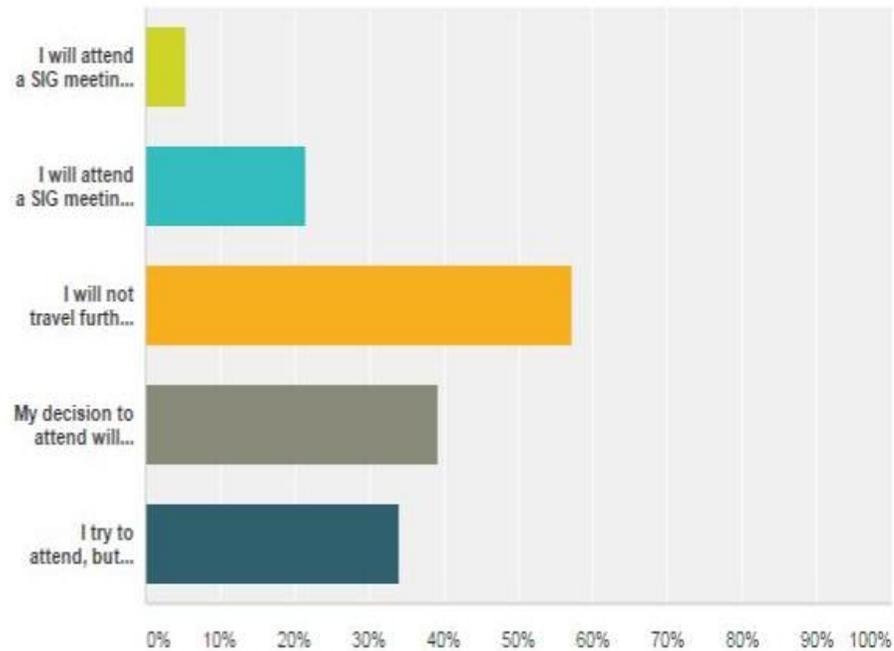
Answered: 47 Skipped: 17



Answer Choices	Responses
RTA Accident reconstruction	44.68% 21
Video accident forensics	44.68% 21
Rehab Equipment Providers/Specialists	76.60% 36
Total Respondents: 47	

## How far are you prepared to travel for a SIG meeting?

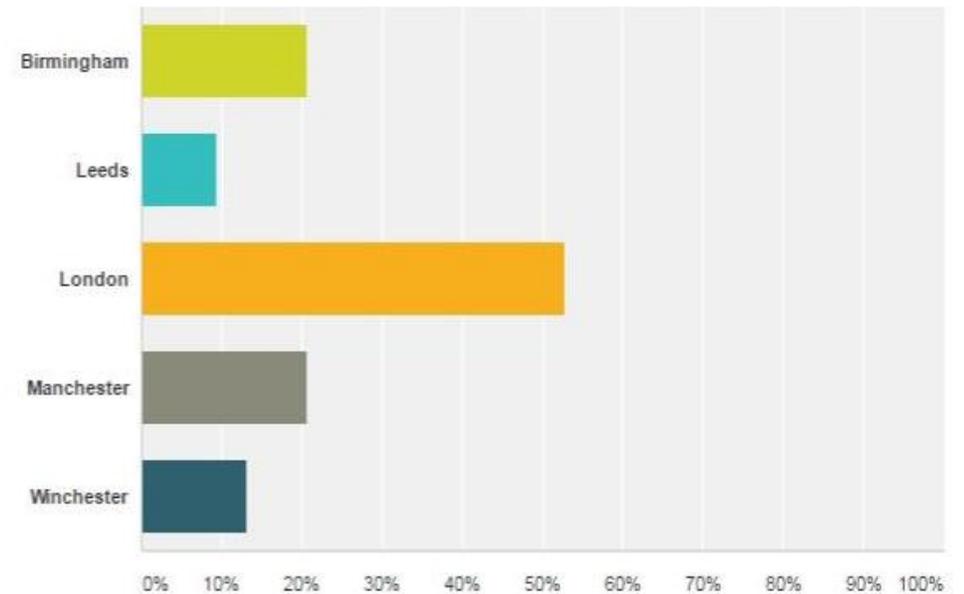
Answered: 56 Skipped: 8



Answer Choices	Responses
I will attend a SIG meeting wherever it is	5.36% 3
I will attend a SIG meeting only in the same town/city	21.43% 12
I will not travel further than 45 minutes - 1 hour to get to a SIG meeting	57.14% 32
My decision to attend will always depend on who is speaking	39.29% 22
I try to attend, but work will often "get in the way"	33.93% 19
Total Respondents: 56	

## Regional Meetings. Where would you like the group to meet next or more regularly?

Answered: 53 Skipped: 11



Answer Choices	Responses
Birmingham	20.75% 11
Leeds	9.43% 5
London	52.83% 28
Manchester	20.75% 11
Winchester	13.21% 7
Respondents: 53	