



The Law Society

## **Obstacles and Barriers to the career development of woman solicitors**

The Law Society supported by the AWS

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solicitors

We would like to sincerely thank all the women who contributed to this research study, both at the round table discussions and through interviews.

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# **1. Executive Summary**

The data in this report was provided by experienced and successful women who have been in the legal profession for between ten and thirty years. The participants clearly highlighted five key themes that created or represented significant and ongoing barriers to the progress of women within the profession. Of these identified barriers to career development, three related to the organisation and they were culture, infrastructure and the measurement criteria employed. In addition the failure to truly embrace flexible working practices and the perceptions and views of women were also identified obstacles to progress.

# **2. Background**

The Law Society held events to mark International Women's Day on 8th March 2010, this was a major day of global celebration of the economic, social, cultural and political achievements of women. The Law Society took this opportunity, via round table discussions, to explore the career experiences of women in the profession by hosting roundtable discussions during the day. In the evening, the achievements of women in the profession were celebrated at a reception with keynote speakers.

# **3. Objectives**

The Law Society wished to bring together experienced women lawyers to explore the routes to a successful legal career and identify some of the remaining barriers and obstacles to career progression within Legal Practices. As part of the Law Society's long term gender diversity Initiatives, the roundtable discussions would inform the Law Society's publication of a Protocol for firms on career progression for women in the profession. The Law Society also wished to understand how these barriers might be removed or how female lawyers might successfully negotiate the obstacles. The research provides an evidence-based starting point from which to write a Protocol for employers. This will be put on the Law Society Website. To summarise, the objectives were;

- To understand the barriers and obstacles to progress for women within the legal profession
- To understand how these barriers could be negotiated or eliminated
- To produce key action points and best practice strategies for employers to ensure that they both support and retain women throughout their careers

## 4. Methodology

### 4.1 Survey Design

In order to achieve the required breadth and depth of understanding of women in this sector, a qualitative research methodology was appropriate. This ensured that the views and experiences of the participants drove the debate allowing key themes to emerge as naturally and spontaneously as possible.

The research was conducted in two stages. Firstly, four round-table discussions were facilitated in the style of focus groups. The sample of participants was self-selected via an invitation published on the Law Society's website giving individuals the opportunity to sign up to one of four sessions run throughout the afternoon of 8th March 2010, International Women's Day. The groups varied in size between 5 and 17 women.

Secondly, a series of in depth interviews were conducted, primarily by telephone. Interviewees were recruited via the round table discussions and from other industry contacts with the aim of involving a cross section of women from the legal sector.

A topic guide for the round table discussions was developed in partnership with the Law Society. It was based around three key questions:

- What barriers to career progress have women experienced or identified within the legal profession?
- How could these barriers be overcome or negotiated?
- What could the profession look like in 2020?

The topic guide for the in depth interviews used a similar starting point but placed emphasis on deepening understanding of individual experiences as opposed to collective consensus. This helped to further validate and enrich the themes emerging from the discussions. The use of independent researchers ensured a high level of objectivity throughout the research process.

### 4.2 Sample

The sample consisted of professional women within the legal profession, mostly qualified lawyers, largely with between ten and thirty years of Post Qualified Experience (PQE).

Round table discussions: Those that took part in the discussions were from all areas of the legal profession, including public sector, city and national firms of all sizes. The age of the participants was from an estimated 28 up to 60 plus.

In depth Interviews: There were seven in-depth interviews conducted with women from both the private and public sector. Of those interviewed from legal firms, participants ranged from partners within magic & silver circle and mid-size city firms through to smaller high street legal firms, and one smaller specialist practice. In addition two in-house lawyers were interviewed. The age of the interview participants ranged from 30 to 53.

### 4.3 Data Collection

The discussions were recorded using portable digital recorders. Comprehensive notes were also taken. None of the in-depth interviews were recorded and all but one was conducted by telephone. All data was managed, stored and destroyed in line with the MRS Code of Conduct, preserving complete anonymity of respondents and employers accordingly.

### 4.4 Data Analysis

The data generated from the round table discussions was analysed using content analysis techniques. This facilitated the grouping together of commonly occurring themes. The interviews were used to test and validate the emergent themes providing anecdotal and experienced-based observations of the participants.

## 5. Findings

The overall tone of the discussions was animated and positive; participants were enthusiastic that the Law Society was seeking the views of its members in order to develop protocols for employers. Five key themes emerged from research.

- Flexible Working Practices
- Organisational Culture
- Infrastructure
- Measurements of Professional Achievement
- The Perceptions of Women

These key themes appeared consistently within the four discussion groups and the in-depth interviews and represent core views and concerns of the participants. Within the body of data, the five themes were interwoven with each theme linking to each other. Within the five headings, the individual themes are discussed.

### 5.1 Flexible Work Practices

The lack of opportunities to implement flexible working practices was seen as a significant obstacle to women being able to progress up the career ladder. The term 'flexible working' was a recurring theme, embedded in and throughout the other four themes. Participants defined flexible working using a number of descriptions, including working away from the office, leaving the office at 17:00 but logging back on at 20:00, checking emails on the move (eg via one's Blackberry on the weekend), job sharing and working one day a week away from the office. The issue of flexible working comprised several component parts, including:

**Management reluctance:** Linking to issues around limited time allocation for people management, discussed later, there was a consensus that flexible working put a greater burden on the line manager to manage their team members effectively. This was identified as an unacknowledged reason for requests for flexible working to be refused.

**Long hours culture:** The 'long hours culture' is seen as one of the main obstacles to flexible working, including the emphasis on presenteeism, frequently expressed as "*The jacket on the back of the chair*" syndrome. These cultural factors are revisited in more detail later in the report.

**Public versus private sector:** There were marked differences in attitudes to flexible working within the public sector; one participant in a local authority welcomed the adoption of flexitime for all staff. Staff at this local authority can work any hours between 07:00 and 19:00, with the requirement to work the equivalent of 37.5 hours per week, across a month. This is in stark contrast to the typical base hours for a city lawyer, which appears to be between 12 and 14 hours a day. This highlights one reason for the exodus of women to the public sectors and in-house positions. Lack of flexible working practices was cited as a key factor in women's decisions to opt out of city legal firms.

**Life stage:** Women perceived that in their late thirties and early forties there were significant difficulties in accommodating their family pressures in the context of a demanding career. Women in large city firms all viewed asking to work flexibly as tantamount to stepping off the career ladder.

**Client expectations:** Although 'the client' was frequently cited by company managers as the reason that flexible working was not possible, several participants provided contrasting views of the client opinions on flexible working. One such participant used a legal firm with the key partner who worked flexibly three days a week. This was not seen as an obstacle to the provision of an excellent service: "*I use her because she is a very good lawyer, she manages the relationship well and the service is not compromised*".

**Recruitment:** The role of recruitment consultants was highlighted as a barrier to flexible working practices, as they are generally not willing to put people forward who want flexible working roles. One participant, who was approached for an in-house role, described how the recruiter would not countenance putting her forward as anything other than full time. She successfully circumvented this by asking the employer directly, at interview, whether they would consider flexible work practices and they agreed.

**Dilemma of doing a full time role part-time:** Participants who worked flexibly typically worked four days a week, the reality is that "*you have to fit a full-time job into the flexible working, whilst getting paid for 80 per cent*" and "*I always do stuff on a Friday. I am happy with the job.*" The impact on remuneration appears to be offset by the work/life balance gains. Many participants cited the recession as forcing lawyers onto a four day week and there was hope expressed that this practice would encourage both men and women to aspire to flexible working in the longer term.

**Generational factors:** There was a very marked difference in the views, perceptions and expectations of younger participants from Generation Y (births post 1980); they do not want or expect to work "*all the hours*". These views demonstrated very early decisions to opt out to private practice. Participants from Generation X proposed that the following was a typical scenario for their peers:

*"my entire generation went in-house, I was totally burnt out after four years, it was the early 90s and we were manically busy, we were there until 22:00 or 23:00 there was a constant deal flow".*

The Law Society's Quality of Life report (2007) found that for lawyers in their twenties and thirties (Generation X and Y), the traditional incentives of money and prestige do not exercise the same power. In addition, participants confirmed the high exit rate from city firms of talented men and women who believe find the profession at that level incompatible with their expectations of work/life balance. It is likely that more men will start to exit the profession, as well as women. A lack of high profile successful lawyers who work flexibly will impact the next generation's ability to see a desirable and feasible route to senior roles.

*Role models who work flexibly:* Many participants highlighted that the lack of flexible working role models was not helping to improve the situation. They observed that those women who had reached associate or partner level had done so

*"at the expense of having any work/life balance". As a consequence, "none of us wanted their lives".*

**Flexible working practices – the business perspective:** Feedback suggested that there was considerable concern about talent loss or the capping of individuals potential due to inflexible working practices. One participant commented,

*"The magic circle firms select us and provide great training but their inflexibility means that we go off and join their competitors the next tier down. They are training us up to go out and compete with them".*

This linked in with the theme of perceived poor management practices. On the same topic a participant, who trained at a magic circle firm, commented

*"....of our intake of 16, no women remain; three of the intake (all men) are now partners."*

A partner in a smaller firm identified that *"we recruit from what is left; there is a noticeably higher calibre of women than men amongst those who remain unselected after the first rounds"*. This represents a significant loss of legal talent due to inflexible work practices prior to the senior levels due to the incompatibility of being on the partner track with what is perceived to be a reasonable work/life balance. This loss of talent can benefit competitors who offer greater flexibility at all levels.

**New and developing technologies:** These offer many ways of working flexibly. Law firms, according to participants, are failing to harness this technology effectively, although technology was also described as a double edged sword, enabling lawyers to work anywhere. *"Blackberries make people too available"* and facilitate *"a blurring of the boundaries"*.

**The recession:** Participants believed that the recession had made it more difficult to ask for flexible working. *"It is even more difficult now"*, as women contort in order to keep their jobs. With large scale redundancies and less money available, this has engendering a sense of *"you are lucky to have a job"*. This has translated into an increased reluctance for any lawyers to risk asking for any form of alternative working practices. It seems that fewer women are requesting flexible work arrangements in the context of believing *"it is much less safe to make these requests in a dodgy market"*.



**Current status:** Interestingly participants, particularly senior ones, reported that flexible working does take place but only at senior levels. It was noted that often

*“They don’t realise that they are working flexibly. My male colleagues are very good at presenting it differently, as ‘I will be at a meeting’ which translates into ‘I am watching my child’s concert’”.*

There was concern that existing flexible working practices were not recognised by the individual as flexible working;

*“One of our partners works from their other home on a Friday – he doesn’t consider this flexible working”.*

This builds a negative, uninformed and confusing view of flexible working: that it is both acceptable and ‘not done’. One participant described how several members of her team worked flexibly, she acknowledged

**“The magic circle firms select us and provide great training but their inflexibility means that we go off and join their competitors the next tier down. They are training us up to go out and compete with them”.**

Implications of a lack of flexible working practices:

- There is a ‘disconnect’ between expressed policies around flexible working and what is culturally acceptable.
- Losing female talent to competitors provides no real impetus for change from male colleagues and managers.
- Flexible working becomes a necessity for many women around the middle phase of their career, typically coinciding with children. By not offering true flexibility legal firms remove a significant proportion of the legal talent available to them for key areas of law.
- *“For women to succeed (in this environment) requires an adaptation that men don’t have to make”.* However, core competencies are not affected by flexible work practices and many participants gave examples of how flexible working did not affect the level of service delivered to clients.
- As well as gender-based factors there is increasingly a generational factor which will compound the existing problems. Amongst the younger generation of lawyers it is likely that more men will start to exit the profession, as well as women. A lack of high profile successful lawyers who work flexibly will impact the next generation’s ability to see a desirable and feasible route to senior roles.
- Legal firms are failing to capitalise on the technology available to work flexibly.

## 5.2 Organisational Culture

Participants described the legal profession as “*traditional*”, “*conservative*” and “*not influenced by external management practices*”. This set the tone for the following sub-themes all relating to organisational culture.

**Cultural masculinity:** There was an emphasis placed on categorising the culture of legal firms using gender specific references. Throughout the four sessions, key words that appeared consistently when describing or defining the legal profession were those such as “male-shaped” and “masculine”. Each discussion group strongly communicated their view that the profession is dominated by male views and preferences. The opening response at one of the early sessions was

*“the male mindset and culture of the profession is very entrenched and very obstructive. It does not help women, only men”.*

Recognising that they would like to see a move away from such a male-dominated culture, participants suggested that change was not forthcoming because their male colleagues, especially those in senior positions, were happy with the status quo. “From their perspective, the model is not broken, it works fine”. Not all women agreed with this view, and many asserted that men would like to work differently too but believed that it is even less culturally acceptable for men to articulate a desire for alternative work practices. This was illustrated by the tendency for men not to take the paternity leave to which they are entitled. It was suggested that this would put their dedication and “macho” career standing into question.

**Positive role models:** Many participants highlighted a scarcity of positive female role models. That is, successful senior women who demonstrate any degree of work/life balance. In contrast they identified that most women who had achieved senior or partner status had done so at significant cost to their personal lives. Therefore they did not aspire to emulate these role models; “*I looked at their lives and saw what they were giving up*”. These women were often viewed as perpetuating the current culture and few successful women modelled any form of flexible work practices as already discussed. This limits the ability of young female lawyers to visualise a clear and inspirational career path, increasing the likelihood of an early exit from the profession. In contrast one participant, a female partner in a small firm, said that;

*“My role modelling consists of having a family life: switching off my computer at a reasonable time, going home and not working weekends”.*

Whilst she acknowledged that, with a full time house husband, it was not a typical situation, her concern lay in younger women not believing that they could achieve the same.

**Culture Gaps:** Participants identified cultural gaps between the words and policies expressed by senior and managing partners and the behaviours of the partners who actually run the teams and make management decisions. Participants identified little accountability for management decisions made regarding flexible work practices and promotional decisions. “*Senior people in law firms have sacrificed a lot to get there and therefore not willing to change.*”

**Out-dated attitudes and perceptions:** Participants generally described the attitudes of older senior male partners as patronising and, at times, sexist. This was expressed with sadness rather than surprise. Given the significant cultural move towards

gender equality in wider society over the past 50 years, a combination of surprise and resignation was expressed that

*“...whilst girls generally don’t have to fight as hard for equality as their predecessors, this is not the case in the legal world.”*

As well as identifying, outdated attitudes, participants described the unspoken expectations of dress code and behaviours, and reflected that wearing feminine clothes, other than sober business suits was not acceptable and compromised their ability to succeed professionally. Participants also believed that news of marriage, even engagement, along with making any generic reference to children or anyone else’s babies would be interpreted by colleagues as being broody and therefore indicating a lack of commitment.

Participants identified that the legal profession tends to attract traditional thinkers. One very senior participant stated that

*“The biggest barrier is the mindset and values of the senior partners.”*

Whilst the senior female lawyers expressed resignation and hope that they were waiting for the next generation to come through, there was concern that junior male partners and partners-in-waiting were acquiring the attitudes modelled by their senior colleagues.

**Work all hours:** A further characteristic of the organisation culture and the expressed behaviours linked to a “*Work all hours*” model. The current model of the successful lawyer was defined as someone who was completely available to the client, working any hours required to provide an excellent legal service. Many participants described 12-14 hour days both as junior associates and also as senior lawyers and partners. Working weekends, as required, was also part of the expressed working culture. Many participants strongly emphasised a view that the cultural issues, especially the long hours culture,

*“This should not be a gender issue. Men should be encouraged to talk – as many men are very unhappy with the long hours culture in the profession”*

**Business Development:** The “*male-shaped*” organisational culture appears to heavily influence the way in which legal firms develop new business. Participants reported male colleagues being much more comfortable with socialising and winning new business “*on the golf course*” or “*going out with clients in the evening*”. Socialising and drinking was reported as an integral part of the legal networking culture and it was perceived that this was predominantly an activity for men, not women. One participant asserted that “I don’t class drinking as a sport” and others confirmed that they “don’t play golf”.

Interestingly, participants from the client side did not view the socialising (particularly in the evenings) as important to the selection of their legal service provider. Other participants perceived that such activities had limited relevance to persuading potential clients of their professional abilities. They were keen to explore alternative approaches to business development that would rely less on gender-specific interests and more on building professional relationships by focusing on a client's business objectives. Participants observed that women in the profession were particularly effective at nurturing and growing existing client relationships and could demonstrate equally effective but different approaches to business development than men. Business development will be discussed further within the next theme of 'infrastructure'.

**“The biggest barrier is the mindset and values of the senior partners.”**

#### **Implications of cultural barriers:**

- Participants identified **no real impetus for change from male colleagues**, that *“the culture is ingrained of old, it is not going to change”*. The discussions reflected a view that the current culture “has passed its sell-by-date” and that there were strong business arguments for having a stronger more diverse profession, which will bring competitive as well as economic benefits.
- The management structure has cultural and change implications – as there was a frequently expressed gap between the culture expressed by the most senior management level (ie management board) and the partners directly managing teams. It appears that this gap identified between senior and middle management inhibited or halted the rate of cultural change within a firm.
- A research report undertaken by KPMG in 2008 into global gender diversity practices amongst CEOs of FTSE 100 succinctly describes the problem outlined above,

*“One business leader said that ‘business is like a house built by elephants for elephants that is now trying to house both elephants and giraffes’; the fundamental nature of the house may need to change.”*

- **“For women to succeed (in this environment) requires an adaptation that men don’t have to make.”** With the incoming generation, both men and women, *“voting with their feet”* and finding the current culture unacceptable, long term changes are inevitable. Delaying these changes leaves legal firms in the near future making their partnership selections from a small percentage of the original talent that they recruit and train.

### **5.3 Infrastructure**

The term infrastructure, for the purpose of this report, refers to the structure of a typical legal firm, including the business model, career development, management style and working practices.

When considering the infrastructure, it is important to do so in the context of the legal services that it has to deliver. It is relevant to define what makes a good service provider, or lawyer. Participants identified three core competencies: Excellent legal skills, particularly within their specialism, good project management skills and an ability to manage both clients and colleagues well. The current legal business model identified by participants is based on fee-earning lawyers achieving their billable hours quota and winning and sustaining business clients. The infrastructure will be considered in the context of both the business model and these competencies.

**Management Practices:** Several senior participants said that the profession manifested closed management practices, with few opportunities for cross-fertilisation with other sectors. The profession is perceived to have resisted adopting more contemporary management practices, including flexible working discussed earlier.

Generally, it was felt that the legal sector does not view management as a critical activity. In fact, it is potentially seen as directly conflicting with the core business driver of achieving maximum billable hours; that is, time spent on management is time lost on billable hours. The data suggested that *“Lawyers get very little management training”* which would be consistent with the lack of emphasis on this as a core activity. The outcome, as described by participants, was a poor standard of management practices across the sector. Particular aspects of management practice highlighted were:

Project management: This was raised in relation to the allocation of work to team members. This was described by many as *“random”* and *“poorly thought out”* as partners fielding new work typically handed out matters to those with whom they worked regularly or *“whoever is around”*. There was widespread belief that little thought or planning was ascribed to the relative workloads of individual team members. These poor project management skills lead to unwieldy and unworkable deadlines, as well as a failure to manage the expectations of the client.

*“Lawyers are poor at managing deadlines and even poorer at managing the client’s expectations”.*

Client management: Lawyers’ perceptions of their clients’ expectations perpetuate current working practices in legal firms. Participants identified that “the client” was frequently cited as the reason that lawyers could not work flexibly within certain practice areas, for example transactional legal roles such as corporate law, mergers and acquisitions and banking. Both providers and buyers of legal services articulated a perception that lawyers did not fully understand the needs and expectations of their clients and frequently *“over-delivered”*. Participants who were in-house lawyers provided a useful perspective on this from the client side. As a result there emerged a marked inconsistency between perceived and actual needs of the client. This was illustrated by feedback that suggested that clients often did not require a 24/7 service as long as their expectations were discussed and managed satisfactorily. Given that the long hours work culture is based on the belief that a 24/7 service is required, these findings identify the opportunity for some further, potentially very valuable, research to help law firms understand the needs of their clients better.

People management: The flexible working debate, discussed earlier, links to issues around people management. Participants identified great variability in people management skills within firms and within different practice areas. Indeed, an underlying argument identified against flexible work practices was the perceived increased management effort and time required to implement and manage it. However, the consensus was that, if a small amount of additional effort and time were spent on facilitating this, the benefits to the business would be considerable. A senior lawyer who allowed her team to work flexibly commented

*“it takes a bit more investment of time initially but once it is set up ... if you are good at your job, people don’t care how you do it”.*

Participants identified that the standards of management practice were not high,

*“Previously, people were promoted much faster and so you now have people in senior positions, the requirements of which are beyond their capabilities/skill sets. Therefore, the management structure is weak. This older senior layer is set in their ways and resistant to change and act as a block to the younger, more junior people who could otherwise move up the ladder. This block also links to the problem of moving towards more home working and flexibility”.*

Achieving a reasonable work/life balance was seen as something that was only possible if management practices supported it and this was often not the case. The ‘long hours’ culture was identified as a major obstacle to maintaining a healthy work/life balance; this was further exacerbated by poor time management practices. Several participants identified poor time management and practice as contributing to the long hours culture which, in turn, affected the way people are managed by seniors:

*“they (senior associates & partners) don’t rock up until 22:00 or 23:00, chat and drink coffee and start working at about 4, making the junior associates work until 22:00 or 23:00.”*

**Career Development:** Women identified that the middle phase of career development, when lawyers are building their career, is typically the point at which women seek and value flexible work practices. Identified as a particular issue in current career paths is the “up or out” choices described by participants, when associates typically at three to five years PQE have to make critical decisions. Women view this as being compounded by an absence of late re-entry points to the legal profession. This links not only to the question of management practice but also to the themes of infrastructure and culture.

Mentoring was mentioned as an important conduit of career development. The provision of a senior lawyer to champion, guide and encourage someone in a more junior position was seen as positive and helpful in supporting women (and men) through important stages of their careers. Mentoring is discussed further in section 5.6.

**“Lawyers are poor at managing deadlines and even poorer at managing the client’s expectations”.**

### Implications of the Infrastructure:

- Participants questioned **the conflict between the hours billed and the other two identified core competencies**, good project and people management skills. The billable hours structure could be a barrier to lawyers developing good management skills, especially where good people management is not accorded significant enough importance within particular practice areas.
- The continuing traditional long hours culture of the profession is proving increasingly unacceptable to younger lawyers, both male and female and it was widely thought that *“people will vote with their feet”*. Cultural change is difficult and slow to implement. Positive role models of both sexes can foster a more positive culture, as well as providing insight into the senior roles for younger lawyers.
- ***“The legal profession is man-shaped; this is why it is so difficult for men to grasp the issues”***. The core competencies (legal, project and people management skills) are not gender biased and yet the profession seems to remain so. It can, therefore, be assumed that changing or removing the gender bias would not affect core competencies and so would not affect the service level or clients. Indeed this increased level of diversity could serve to strengthen and improve the delivery of all three competencies.

## 5.4 Measurements of Professional Achievement

Billable hours were cited as both the core driver and the principal measure of current management practices in the legal profession, including all decisions around quality of work and assessment for promotion. It was noted in discussions that this is “one of the few professions where inefficiency is still rewarded”.

**Measures of success are very male-oriented.** For example, in generating new business, many perceived that this “plays to the habits/strengths of men but not to those of women”. It was widely acknowledged that men tend to be better at winning new business but women are better at keeping and growing existing business. Yet it appears that this important business activity is not valued in the same way. Current cultural practices (e.g. playing golf and going to the pub) mean women don’t easily get the same opportunities that men do in business development.

**Measuring quantity not quality.** Participants suggested that measuring outputs (success) rather than inputs (hours) is fairer and more business-focussed, although more difficult to achieve. All were clear that this moves beyond the gender issue. “The legal system should move wholesale to a value billing system”. Many participants articulated three key points;

*“Quantity does NOT equate to quality”,*

*“Women have to be better than, not equal to, men to succeed in this sector”.*

*“You need to work harder and longer to prove one self, compared to a man”.*

**Criteria for being made up to partner** were strongly criticised for being inconsistent, unclear and not transparent. The view persisted that partnership was “an old boys club” dominated by male views.

*“The idea that the legal profession is a meritocracy is ludicrous”.*

The key concern was a lack of consistency about the measurement criteria; where women had not achieved partnership, failing at either the first or second stage, there was no clarity or information about why. Certain senior participants had observed a specific use of language in the partner selection process. Whilst names were avoided, descriptions were highly indicative of the gender of the candidate. Participants described women who had experienced the “*behind closed doors*” syndrome in relation to partner selection.

‘**Presenteeism**’ is highly valued in this system. Many examples were given of tactics employed to perpetuate the ‘*hard working*’ image including “*leaving your jacket on your chair*” to suggest they were still in the office, saying they were attending a “meeting” when actually attending a child’s nativity play or playing golf, and so on. Participants with family responsibilities identified that they could not compete on the same basis, “*They have all got wives at home who do not work and support their 24/7 work practices.*”

**“The idea that the legal profession is a meritocracy is ludicrous”.**

#### **Implications of measurements of success:**

- **Participants identified and questioned the conflict between the hours billed, achieving a good work/life balance and the other two identified core competencies:** good project management skills and an ability to manage both clients and colleagues well. The billable hours structure appears a barrier to lawyers developing good management skills, especially if this is not accorded great importance.
- Measurements were identified as **measuring quantity rather than quality**. Participants believed that based on this measurement, flexible working would always be considered untenable and incompatible with progressing up the career ladder.
- It was identified that having an **unclear and inconsistent partner track and promotion criteria** was confusing, frustrating and off-putting to participants. They cited the need for good mentoring by senior lawyers to support women to negotiate the career pathways. Whilst mentoring was used in some law firms, questions were raised about the appropriateness of the matching of mentor with mentee, “*I had a mentor but I felt I couldn’t talk about my decision to leave as he was a man*”. This would be an area for further research and one in which the Law Society may lead the way by providing protocols for legal firms around setting up effective internal mentoring schemes.



## 5.5 Women

Women themselves were frequently cited as an obstacle to their own progress. The reasons were listed as:

**Women are not challenging their own perceptions:** Participants identified that women were making earlier and earlier judgements about the untenable nature of a career within a legal firm. One participant decided just three years post-qualified that “there were neither senior associates nor partners that had an enviable work life balance; there would be no hope of having children in that environment”. She opted for a legal career in-house and she reflected that, six years on, her status and professional challenge “are as good as if I remained but with a much more manageable work/life balance.”

**Women are not pushing themselves forward:** *“The people who are getting all the good work and being promoted are men and women are failing to push themselves forward.”* This is because women are less likely to promote themselves as they appear to feel uncomfortable doing so.

*“We are limited by own perception of our self, we need more support to stand out” and “We don’t promote ourselves”.*

**Women are not prepared to question the status quo.** Participants reflected clear fatigue at “pushing a boulder uphill”, “wading through water” and reticence to be “the flag waver” in an already demanding profession. *“Women at the top are not flag waving, just doing the job”.* Women acknowledged their own role in not having the time or mental energy to question the accepted ‘norms’.

*“Women don’t help themselves because they are less inclined to speak out for themselves or challenge things. They are happy to fight for causes, except for their own!”*

No longer wishing to work 12-14 hour days to prove her worth, one participant left a silver circle firm just before the partner track, *“I thought no one would listen so I left”.* Another participant described that *“after four years as a trainee and then qualified, I was burnt out” and made a decision to go in-house.*

**Mass exodus of younger female lawyers:** In general, it was felt that there was a poor level of support from management for women’s career development and that this, coupled with the billable hours target, was responsible for much of the large scale exit of female qualified lawyers.

*“Women are exiting earlier and earlier, they are more conscious of the people ahead of them, senior women also making that choice. The combined effect of not seeing any inspirational women at partner level but seeing female partners who had ‘given up’ so much creates a lot of doubt.”*

This is compounded by a growing consciousness of high-achieving senior associates deciding to leave rather than challenge the status quo; *“This creates a domino effect”.* For women the decision to leave a law firm brought a sense of compromise and frustration, but clarity that *“I do not need to work like that to be good at my job.”*

**Different generational expectations:** Younger lawyers reflected differing expectations of work/life balance than their older colleagues. There was a reduced tolerance of unacceptable work practices. Generations X and Y have entered the profession with very different expectations and goals to the generation now in their late forties. They expressed a clear view that *“working ridiculous hours is not acceptable”*.

**Women achieving by imitating the male behaviours** of their colleagues were mentioned. They were characterised as *“ball breakers”*, as judging their own sex even more harshly than men and were perceived as off-putting and *‘anti-role models’*. These women were also happy to actively *“kick others off the ladder”*.

**Greater domestic burden:** With the exception of a few younger lawyers and two lawyers with husbands based at home, all participants believed that women carried the greater domestic burden. Much frustration was expressed at male counterparts having full domestic support; *“they all have wives full time at home”*. It was suggested that men usually have someone doing most of the domestic work for them, which many argued further drives or facilitates the maleness of the profession. Juggling is a heavy burden and participants described some men as *“sleepwalking their way through life”*. Maternal guilt also drives a lot of decisions. Women seem to experience high levels of guilt around not performing to a high standard in all areas of their life, both at work and at home. They can perpetuate this problem by creating impossible role models and some participants pointed the finger at themselves, by *“making fairy cakes for school or fancy dress costumes at two in the morning”*.

The lack of domestic parity affects career choices as *“women have two jobs”*. In summing up one discussion group, a senior female lawyer reflected on the rate of very unequal change:

***“In the last 50 years women have been brought into the public sphere. Men have not been brought into the private sphere. This has created true inequality.”***

#### **Implications:**

- More structured career support from entry through to the third phase of career development. Participants identified the need for mentoring and coaching programmes, *“to support women and to enable and empower them to push themselves forward and achieve what they want to achieve”*. It appears particularly important to challenge women’s perceptions as early as one to five years PQE if the current exodus of young talented women is to be reversed.
- Clear career pathways and career development support. It was identified that having an unclear and inconsistent partner track and criteria was off putting for women. Participants cited the need for mentoring by senior lawyers to support them to negotiate the career pathways but with attention paid to appropriate mentor/mentee pairing to promote trust and rapport building.

## 6. Conclusions

This research highlights some very clear and consistent barriers identified by the fifty lawyers that took part in the discussions and interviews. As a result there is sufficient evidence to draw up a set of relevant Protocols for employers to reference throughout the legal sector.

As the conclusions inform the recommendations, which for the purpose of this report, will be presented as Protocols, it is logical to present the conclusions together with the resulting Protocols. This provides a clear and evidence-based route from the findings to the suggested actions. The conclusions have been grouped according to the five key themes emerging from the data.

### 6.1 Flexible working practices

This theme was highlighted by participants as the single most significant obstacle to women reaching senior roles. Flexible working becomes a necessity for many around the middle phase of their career, typically but not always coinciding with children. The juxtaposition of the partner track colliding with the middle career phase for women, when balance is a core need, prevents the majority of women continuing to climb within legal firms. Rather they “vote with their feet” and leave for in-house roles, to competitors with more flexible work practices or they leave the profession completely. Women identified that within the legal profession “for women to succeed, it requires an adaptation that men don’t have to make”.

This research suggests that core competencies would not be affected by flexible work practice, as many participants could provide examples of how flexible working did not affect the level of service delivered to clients. However, there remains a ‘disconnect’ between expressed policies around flexible working and what is culturally acceptable. The implications of not embracing flexible work practices will be the continued exodus of talented and well-trained lawyers from firms that do not adapt to shifting expectations and priorities. Flexible working needs to become a genuinely acceptable choice, not one that currently equates to stepping off the career ladder.

For Law firms to make flexible working acceptable, a greater understanding is required by line managers throughout the firm as to how it can work within the current business model. In the current billable hours model and its associated culture, the short term impact will be that lawyers will need to spend more time managing their team. The longer term benefit will be more motivated and more engaged lawyers.

Generational factors, typically from younger lawyers, will compound the existing problems. It is likely that more men will start to leave the profession, as well as women. A lack of high profile successful lawyers who work flexibly will impact the next generation’s ability to see a desirable and feasible route to senior roles, particularly as legal firms fail to capitalise on the technology available to work flexibly.

Not only did participants describe poor provision of flexible work practices but also a lack of understanding of what was meant by flexible working. “It means any form of work not done at your desk within your office, this includes at the airport, working from home and whilst commuting to work”. Law firms need to re-think and re-brand their understanding of flexible working practices; “many of our senior partners work flexibly but either do not realise that working from home constitutes working flexibly or do it under the radar”. It is important for young lawyers to be able to see successful individuals who work flexibly. Providing positive role models of flexible working (of both sexes) is key to overcoming this barrier and enabling younger lawyers to visualise a long term career within the profession.

The rationale for providing flexible working practices is embedded in the ability to compete for the top talent. Statistically, senior lawyers are not currently being selected from the full breadth of talent that is recruited. Legal firms all aim to recruit the top talent, 65 per cent of graduate trainees at entry level are women, yet many will have left before the partner track. This implies that law firms are selecting their partners from less than 50 per cent of their carefully selected intake. Retention is expensive but the cost of replacing an associate is conservatively placed at £125,000, and this does not include the impacts of lost client knowledge, disrupted relationships and loss of organisational knowledge and legal expertise.

Finally, it is also worth noting that clients are becoming more sensitive to the profile of their suppliers, including more stringent diversity demands, and this can provide a competitive differentiator. One in-house lawyer who works closely with a firm and partner who works a three day week commented “I don’t care how or where the work is done, she does an excellent job, that is what counts”.

## **6.2 Cultural barriers:**

The ingrained masculine culture described by the participants, the absence of desirable role models and no late re-entry points, mean that many women cannot envisage a long-term career in the profession. The current culture makes it difficult for women to visualise a successful career offering any reasonable form of work/life balance.

All participants expressed strong views that the arguments for significant changes to the culture should be based on both gender and on strengthening their business by working in a more diverse and contemporary way, creating working practices that are open to all. The continuation of the present culture, in contrast to the changes in wider society, will mean that the issues of retention will increase, including loss of both female and male talent from the legal profession. The gap identified between the policies expressed at the most senior levels and the behaviours observed at middle management levels create barriers to change. The perceived vacuum within the management structure, between the two layers of partners, prevents the communication and percolation of change through the organisation.

### **6.3 The Infrastructure:**

Participants questioned the conflict between the hours billed and the other two identified core competencies, good project and people management skills. The billable hours structure can create a barrier to lawyers developing good management skills, especially where good people management is not accorded significant enough importance within particular practice areas.

The continuing traditional long hours culture of the profession is proving increasingly unacceptable to younger lawyers, both male and female, "people will vote with their feet". Cultural change is difficult and slow to implement. Positive role models of both sexes can foster a more positive culture, as well as providing insight into the senior roles for younger lawyers.

"The legal profession is man-shaped; this is why it is so difficult for men to grasp the issues". The core competencies (legal, project and people management skills) are not gender biased and yet the profession remains so. Changing or removing the gender bias will not affect core competencies and therefore will not affect the service level or clients. Indeed increased diversity will serve to strengthen and improve the delivery of all three competencies.

Another barrier emerging from the research that directly affected the ability of female lawyers to achieve senior roles was the business model that the profession is based on. The billable hours culture appears to conflict with empowering lawyers to exercise or develop good management skills. The pressure to reach or exceed billable hours targets is used as a key driver for business activity. Participants identified and questioned the conflict between the hours billed and the other two identified core competencies: good project management skills and an ability to manage both clients and colleagues well. The billable hours structure could be a barrier to lawyers developing good management skills, especially if this was not accorded great importance. Participants identified that it adversely affected the way in which lawyers project manage caseloads, their clients and, most importantly, their teams. Several participants were critical of perceived poor levels of management skills within the profession. Lawyers commented on the lack of performance management or indeed active management of their individual career development.

Equipping partners with better management skills would lead to improved performance; this would be achieved through better management of their resources and teams that would extend to their clients and their deadlines. Recent research highlighted that the single biggest factor influencing women in their decision to remain in a role was their relationship with their line manager. Good management can significantly improve retention, as well as build better teams, resource efficiencies, as well as building business development through organic growth.

## 6.4 Measurements of Success:

It was identified that having an **unclear and inconsistent partner track and criteria** was confusing, frustrating and off-putting to participants. Many participants described the partner selection process as one shrouded in mystery and with “*rules we don’t quite understand*”. This left female lawyers confused and with no clear development path. This promoted a widespread belief that the criteria for promotion were neither consistent nor transparent. It did not recognise talent, rather the ability “*to play the game because they understand the rules*”.

Finally, measurements were identified as measuring quantity rather than quality. Participants believed that based on this measurement, flexible working would always be considered untenable and incompatible with progressing up the career ladder.

## 6.5 Women:

It was widely acknowledged that women struggle to overcome the issues raised in discussions and presented in this report. There is a strong tendency to not push themselves forward and not to try to break down the barriers with which they are faced. Ways of tackling the particular issues have already been discussed but it will also be important to provide support to women throughout their legal career to help them in overcoming the various obstacles.

One proven method is through mentoring and coaching programmes “*to support women and to enable and empower them to push themselves forward and achieve what they want to achieve*”. Mentoring programmes in particular can help to overcome an unclear and inconsistent partner track and partner criteria, although care must be taken in matching the mentor with the person being mentored.

## 7. Recommendations and outline Protocols

Having outlined the conclusions from the research data, this section of the report aims to identify how the identified barriers could be negotiated or eliminated through best practice. These actions are presented as recommendations that will form the basis for the intended Protocol. Once the content of this report has been discussed, then the recommendations below will be translated into the Protocol to be agreed and then published on the Law Society website.

These recommendations highlight key action points and best practice strategies for employers to ensure they support and retain women throughout their careers.

## 7.1 Flexible Working

**Given that a lack of accepted flexible working practice emerged as the single biggest deterrent for women remaining in the profession long-term, and on the basis of the above analysis the following key features need to be included in the Protocol:**

- Flexible working needs to become a genuinely acceptable choice, not one that currently equates to stepping off the career ladder.
- There must be increased transparency about existing working practices.
- Flexible working must be rebranded to arrive at a common understanding of what it is and how it benefits the business.
- The connections between flexible work policies and acceptable practice must be established:
  - by educating line managers to the business case and the economic implications of not adopting flexible work practices;
  - ensuring the policies and the business case are communicated effectively and fully engaged with and made acceptable throughout the firm;
  - Men and women must model flexible working throughout the organisation; and
  - routine use of technology must be adopted to facilitate effective remote working.

## 7.2 Culture

**The existing culture needs to adapt to reflect the diversity of the workforce and altered expectations of work/life balance. To assist this process, the Protocol must:**

- Create more consistency around the values expressed by organisations, departments and individuals at all different levels and practice areas, to overcome the disconnect between policy and culture.
- Provide positive role models of both sexes.
- Promote greater transparency and openness about management decisions.
- Recognise that increased diversity at all levels can contribute to the intellectual robustness and performance of a business.
- Lead to true meritocracy, removing any practices that involve subjective views or unconscious bias.

### 7.3 Infrastructure

**The challenge to legal firms is: how can good management practice be improved in the context of a billable hours structure? The Protocol must allow for improving business and management practice to improve business performance and profitability. It must provide:**

- More consistency around the values expressed by individuals at different levels and within different practice areas in an organisation.
- A more sophisticated model of business development.
- More recognition of the economic value of good client management skills and winning repeat business.
- Better understanding of clients' needs, better management of their expectations and delivering an excellent service.
- Better project management and allocation of caseloads.
- Better and more informed management practices including positive and proactive support of a team's career development.

### 7.4 Measures of success

**The current infrastructure and measures of success appear entrenched but outdated and should be examined in more detail. Participants communicated a big appetite for change and a perceived need to change how people are measured as lawyers. The issues raised were not solely related to gender but the Protocol should provide:**

- Criteria for partnership that are:
  - robust and not gender specific;
  - transparent, consistent and stand up to objective scrutiny; and
  - recognise talents across the full range of competencies.
- Clear perspectives of career paths with goals, a broader set of options and flexible working arrangements

The issues surrounding the use of billable hours as the primary measure of success warrants closer analysis. This research project was not designed to analyse this issue but it was clear that many participants considered it, when used as the primary judgement of success, to be a barrier to the progress of women in the legal profession.



## 7.5 Women

**Better support structures are needed to ensure women remain engaged and make progress within the legal sector. It follows that the Protocol should facilitate:**

- Better support structures for women, including:
  - mentoring programmes with senior and influential mentors. Careful review of mentoring programmes to ensure successful matching; and
  - career development or performance coaching programmes from entry level and throughout their career.
- Clear career paths that are open to all.
- Viable alternative career paths (leading ultimately to senior roles) with greater flexibility.
- Better management and support in career development.
- Creation of multiple entry points, ie to enable lawyers to rejoin the partner track at a later point.

The particular issue of mentoring and coaching programmes is a potential area for further research and one in which the Law Society may lead the way. Consideration could be given to specific Protocols for legal firms setting up effective internal mentoring schemes. (See below).

## 8. Implications for Further Research

- Participants commented that law firms framed their business practices and work policies based on a poor understanding the client needs. This therefore affected their ability to effectively manage their expectations and therefore the workloads (and working practices) of their teams. Accordingly, this suggests the case for further research into the expectations of clients, with particular regard to the working practices of their legal service providers.
- How can lawyers be effective managers in the context of the billable hours culture? Here the legal profession may well have much in common with other management and engineering consultancies suggesting that cross-sector comparisons could provide increased understanding and opportunities to identify new ways of working.
- The role of mentoring (matching/gender) the Law Society could write a Protocol on how law firms set up effective mentoring schemes. This could facilitate an objective review of existing schemes to help develop and improve them. The particular issue of mentoring and coaching programmes is a potential area for further research and one in which the Law Society may lead the way. Consideration could be given to specific protocols for legal firms setting up effective internal mentoring schemes.