



Law Society survey of LGB solicitors 2009

**The Career experience of LGB Solicitors
Conducted by InterLaw Diversity Forum for the
Law Society and LGBT Network**

supporting
solicitors

We sincerely thank all those who participated in the survey and in particular Daniel Winterfeldt, Andrew Daum and Professor Moran for their invaluable contribution to both the research study and this report.

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Introduction

The 2009 Survey of LGB Solicitors was conducted by the Interlaw Diversity Forum for LGBT Networks and the Law Society. This report presents the findings of that online survey, the aim of which was to gather information about the career experiences of solicitors in order to inform the Law Society's equality and diversity work. In addition, the research will be used to help firms improve their recruitment, retention and career development of lesbian, gay and bisexual (LGB) solicitors.

Recent years have seen a proliferation of equality legislation. Organisations pay more attention than ever before to ensuring their employees receive equal treatment. The purpose of this survey is to determine the extent to which the goals of new equality legislation and those which organisations have, to much fanfare, set themselves, translate into individuals' experiences of life in the legal profession.

The ideal scenario would be one in which all LGB people can progress up the legal career ladder on equal terms with non-LGB people, being judged on the same basis. Many respondents to this survey would say that their experiences reflect this scenario. However, the survey has also shown respondents' experiences to be widely divergent; negative experiences are still not uncommon and equality does not appear to be a consistent expectation across the profession.

The most positive aspect of the results is the improvement seen in the confidence of young LGB people in the legal profession, and in general the results indicate positive progress has been made, both within the legal profession and in society more generally. However, with 40 per cent of under-25-year-old lawyers still choosing not to be 'out', there are also signs that the full extent of the progress seen in our wider society is not necessarily reflected within the legal profession. The first section of this report will demonstrate why this conclusion has been drawn.

This report then seeks to break down the survey's findings in an attempt to provide an explanation for the discrepancy referred to above. Several key drivers in respondents' attitudes can be identified, namely: (1) their age; (2) the existence of direct discrimination, or the perception that there is scope for such behaviour from co-workers; (3) perceptions that indirect forms of discrimination may persist, and that sexuality may therefore have an impact upon career progression; and (4) the extent of the support that is available or perceived to be available.

The report then examines the effect of these experiences on individuals and their careers, before suggesting possible ways forward derived from the data.

1. The current situation

The good news

More freedom for LGB people to be open in their private lives

The results suggest that the legal profession is showing signs of an increased liberality, reflective of that in society in general. A total of 96 per cent of gay male and 92 per cent of lesbian and gay female respondents stated that they were 'out' in their personal life.

Improvements within the legal profession

Improvements within the legal profession are demonstrated by the differences in respondents' willingness to be open about their sexuality at the start of their career, when grouped by age. 15 per cent of 51-55 year olds and 16 per cent of 46-50 year olds felt able to be out at their first firm; contrast this to 60 per cent of lawyers aged 25 and under who now feel able to come out at their first firm.

Furthermore, many respondents were able to state that their sexual orientation had limited impact on their careers. 45.4 per cent of gay males perceived their sexual orientation to have had no impact and 37.7 per cent found that it had had little impact. Yet for 16.9 per cent of gay males the impact had been perceptible.

Lesbian and gay female participants were more likely to report that their sexual orientation had affected their career progression; the impact was 'quite a lot' (21.5 per cent and 13.8 per cent, respectively) or 'a lot' (6.2 per cent and 17.2 per cent irrespectively). [NB – update with amalgamated results for gay female/lesbian]

A disparity

Taking the figures in general however, there remains a disparity between people's expectations of their treatment in the workplace, as opposed to their personal life. Overall, 9 per cent of gay male and 27 per cent of lesbian respondents described themselves as widely 'out' in the workplace. This indicates that, overall, there is a huge gulf between people's willingness to be open about their sexuality in their lives inside, and outside, their work in the legal profession.

Differing expectations

The survey produced many striking examples of LGB people's conception of what is permissible and what is impermissible behaviour. In general the constraints felt by some of the respondents would be unthinkable to a non-LGB person.

Recognition of same-sex partnerships

One of the last touchstones of inequality in terms of LGB equality in the eyes of the state was removed in 2004 with the Civil Partnership Act. Legally speaking, LGB people are now on an equal footing with non-LGB people. Whether this is the case for real people, of course, depends entirely on the attitudes encountered and perceived by individuals.

Do the attitudes found in law firms echo the spirit of the Civil Partnership Act?

The results below show both progressive acceptance of civil partnerships on the one hand, but treatment which is utterly at odds with the treatment of 'conventional' married couples, on the other hand.

When partners were invited to firm events, experiences were divided between those who felt a same-sex partner was genuinely made welcome by their firm/organisation and others for whom the invitation was there in principle, but a less welcoming prospect in reality.

Genuinely welcoming:

The majority of my colleagues, including partners and management are extremely welcoming to my partner.

[R67: Lesbian; 26-30yrs]

The senior partner has made a particular effort to ensure that all partners of the LGBT partners are invited and welcomed at partner social events.

[R311: Gay male; 41-45yrs]

My civil partner is known and liked and invited to functions in the same way as the husbands/wives of other partners and staff members.

[R140: Lesbian; 31-35yrs]

Less welcoming:

They are welcome, but still not easy for them to attend.

[R50: Gay male; 51-55yrs]

Officially, yes, but in practice this would cause quite a few ripples.

[R209: Gay male; 26-30yrs]

Not 'welcome' but tolerated because they have to be.

[R263: Gay female; 31-35yrs]

For several participants, perceptions of discrimination meant that they would not attend social events with their partner:

Probably most people would be fine and comfortable, but we do not go to such events because we fear that, with the best of intentions, some people will patronise us and the partners of other staff are an unknown quantity. Just one homophobe can ruin an evening.

[R219: Gay male; 56-60yrs]

On the rare occasion that we are allowed to bring our spouses/partners, it is only a team event and I do not trust the equity partner in charge of our team to handle my status with dignity.

[R271: Gay female; 46-50yrs]

I'm out at work, and probably could bring my partner to work events. I don't bring her along though, because... I feel like it would be this big distraction for all of my colleagues, something to gossip about and have to deal with.

[R340: Lesbian; 36-40yrs]

What the figures that were collected make clear, is that some LGB people scrutinise their behaviour, and adopt an almost tactical approach to revealing things which straight people are able to deal with completely casually.

Recognition of rights to have a family

The nature of the family unit headed by an LGB couple is necessarily different from a typical man and wife scenario. This produces another area of tension between what LGB people would like to consider their rights (on the basis that they should be treated equally with non-LGB people) and the treatment that they expect to receive in practice.

I intend to adopt children (and am relatively far along in the process of doing so). My partner, another man, and I intend to share the primary parenting role ... any real comprehension of which seems be lacking among my senior colleagues: that is, I think I face real difficulty really making them understand that choosing to devote some significant part of my life to childcare is a valid choice for a man. As a result, I do think that my career prospects are limited (particularly my ability to convince the firm that I am sufficiently devoted to making partner.

How much openness? – clients

The survey recorded that only 26 per cent of gay males and 22 per cent of lesbians were able to be open to clients about their sexuality.

When the survey asked respondents to rate their comfort around clients out of 10, the responses they gave were consistently one to two points lower on the scale of comfort than for management or colleagues.

Why?

Many respondents who addressed the issue suggested that their behaviour is tailored by a fear of a negative reaction from their clients...

I still fear the reaction from clients if they knew of my sexuality.

[R282: Lesbian; 31-35yrs]

The only reason I am not out to the majority of my clients is that many of them are elderly and possibly not as liberal in their views, which I respect.

[R141: Bisexual female; 26-30yrs]

And the corresponding reaction from their firm...

My only real concern about being out at work is interaction with clients and whether their opinions on my lifestyle would affect their decision to give the firm work. I don't have a problem with this in general, but I would imagine the firm would have an issue with me talking about my personal life in a client situation.

[R289: Gay male; 26-30yrs]

So clients were seen as a more difficult issue by some because interactions with them potentially affected the firm's business and fee income. It is easier to gauge the reaction of someone to whom one is in close day-to-day proximity. The more formal a relationship, the more it will engender uncertainty about how 'safe' it is to reveal a personal detail; when there is an opportunity to say something, or to 'put the record straight', it may well simply be easier just to 'play along' with people's ordinary expectations.

Others argue that being open about their sexuality is not a 'difficult' issue for them, that in fact they do not mention it because it is simply not relevant.

It's irrelevant to anything a client needs to know ... not something one discusses with clients, after all!

[R425: Lesbian; 51-55yrs]

Some participants felt their sexual orientation is personal and irrelevant to their working life. These were mostly older participants who were not out at their training firm and had entered the legal profession when it was perceived to be much more difficult to be out and successful, and when society-wide attitudes were less inclusive.

I am disappointed when there is negative or positive discrimination in relation to sexual orientation. It is an intrusion into a person's private life to ask about or comment on it.

[R360: Gay male; 61-65yrs]

I am employed as a solicitor and that is the job that I do. I don't hide the fact that I'm gay, but I separate my professional role from my sexual orientation (as do friends in other professions). I am a solicitor who just happens to be gay, not a gay man that happens to be a solicitor.

[R197: Gay male; 35-40yrs]

Given the increasing trend in law firms for social interaction between different levels of the organisation and with clients, it seems unlikely that it is a question that can be dodged for very long.

I do not discuss my sexuality with clients as I believe that this is something that is private to me and not something that I feel the need to shout about. Sometimes this can be difficult when clients ask about weekends; they discuss life with their children and wives and I simply refer to things that I have done and not with whom I have done it. In a way this is silly because I am in a committed civil partnership and fully out to all my family, friends and colleagues – I really should just refer to my husband as such and credit him with the respect he deserves in my professional life. If the firm was more open about sexuality I may feel more able to be more open about my private life to clients.

[R407: Gay male; 36-40yrs]

This situation represents a major deviation from the degree of openness that non-LGB people take as a given. A straight person, when casually asked about their weekend, will have no trouble answering without playing with pronouns or obscuring basic facts:

“my straight colleagues ... do not face the same concern of potential negative reaction costing the firm work.”

Variations within the profession

The survey found evidence that LGB solicitors' experiences were predicated on the widely divergent cultures of their respective firms. These differences in culture were sometimes stratified in respondent's answers along the lines of the organisation's size, geographical location, the type of organisation in which the respondent worked, and even the type of department.

The results have shown that different organisations and even different departments in particular organisations can offer varied prospects for LGB people.

I suspect that I would have had a more negative experience of being out in the workplace had I stayed at my training firm – my move was prompted partly by a growing awareness that I did not fit in. Although, as a trainee, I was afraid that being out would cause problems at work, my work actually benefits greatly by my being out (less distracted/anxious) and it has been very encouraging to have openly gay role models at senior levels in my current firm.

[R2]

In-house legal work is perceived by some as engendering a more liberal atmosphere. R159 said

I have always worked in-house or for government organisations save for a short period during my training contract. This is a deliberate choice because of my sexual orientation as such organisations appear (this may merely be my perception) more comfortable places for out gay people to work.

Some go slightly further and state that they perceive any form of private practice to be homophobic. R219 said

I chose a career in local government because at the time I qualified I saw private firms as very homophobic (especially in rural areas) with expectations that all staff should be heterosexual. At least the public sector was then, far in advance of the private sector ... a recognition of a need for fairness, diversity and equal treatment ... I would have preferred to work in private practice, but at the time the potential for discrimination and unpleasantness was too great to risk for me, my partner and (later) our son.

"My more recent experience is in the public sector which traditionally has a reputation of having greater tolerance compared with the private sector"

[R328]

Accepting a slightly more nuanced but nonetheless worrying view of the City's legal sector, R267 said, based on experiences at both law firms mentioned:

Some firms like X, were great. Others, like Y were absolutely atrocious. I was bullied out of my job at [Y] on the basis of my orientation. I didn't bring it up - I just wasn't able to chip in about boyfriends etc. I subsequently found a job with a local authority and have worked for central/local government since. Now that I am qualified, I would like to step up and move to a City or other highly regarded firm, but because of my utterly horrific treatment at Y, I won't risk it.

I was bullied out of my job at XXXX [City firm] on the basis of my orientation. ... Now that I am qualified, I would like to step up and move to a City or other highly regarded firm, but because of my utterly horrific treatment at XXXX, I won't risk it. I have the feeling gay men are more acceptable, but that lesbians are the last acceptable prejudice.

[R267: Lesbian; 46-50yrs]

Others identified particular areas of law as being more discriminatory. R227, who works in media law, said *"It wouldn't have been sensible to have gone into corporate law"*. R287 also criticised corporate departments in firms, saying *"My sense is that it is much easier to be LGB in litigation departments than it is in corporate or real estate where 'macho' antics can still reign supreme (although not always of course)."*

Some felt that large firms could be relied upon to do more than small firms; R369 said that *"The type of firm that I work in – ie major City firms – have made great strides in this area within the last few years – largely pressured by the large, mainly US headquartered financial institutions that are their major clients."* Contrast this with the view below:

I work for a very large international law firm that should be at the forefront of these types of issues but which, from my perspective as a junior associate, has not put any resources into tackling it. Having qualified at a medium-sized regional law firm, I appreciate the importance of larger firms (with deeper resources) leading the way and setting examples for medium/smaller firms to follow (in so far as they can with their more limited resources). The fact that a firm as large as mine does not prioritise it (or, at least, appear to prioritise it) along with other diversity issues causes me concern as a young gay lawyer - particularly from a perspective of ensuring that senior management at the firm may consider it unimportant and are failing to address negative perceptions of gay people from certain associates/partners. In addition, if firms of this size are not adequately addressing the issue, then there is less incentive for other firms to do the same.

[R35]

Another set of different experiences are determined by geography. This was more directly explored in the Law Society's 2006 survey, which found that LGB solicitors expected a greater degree of acceptance in large cities than in more rural practices.

It is disappointing that following the last widespread research into this issue in 2006, little progress has apparently been made in setting up any kind of Law Society-based network or group. This would be particularly helpful to those working in small regional forms, as city firms have their own internal networks or organisations and those outside of London (as in many matters!) often go unserved in comparison.

[R139]

Some effective work has been done in bridging the disparities in the approaches of different firms or firms in different locations and the inevitable cultural differences between organisations. For example, the 600 strong membership of Interlaw Diversity Forum, an organisation primarily based in London, formed in 2008 to encourage LGBT diversity and inclusion in the legal sector, has offered regional events both in the north of England (in Leeds) and in the southwest (in Bristol). The organisation also works to offer a centralised network for LGB solicitors in the City with regular London meetings. The meetings enable LGB solicitors who do not feel they have a good level of support in their firm, to obtain some support within the profession.

Luck

A large number of respondents made comments which initially sounded very positive. However, some of these comments contained caveats. Professional success was generally explained by these respondents not by hard work, personal ambition or drive, but by luck. Respondents considered themselves fortunate not to have been discriminated against because of their sexuality.

I know how lucky I am that my orientation hasn't ever been an issue in my professional life. I know others who haven't been so fortunate.

[R140]

I am lucky in my present firm but prejudice does still exist in private practice particularly amongst older partners and solicitors. I was ousted as an equity partner after 8 years at my previous firm because my fellow equity partners were not comfortable with my sexual orientation and as an equity partner, I had no recourse against the firm for discrimination.

[R295]

I have been very lucky throughout my career that I have not faced any substantial difficulties in being open about my sexuality. While I can account for this partly because of my own mindset, my generation and the mindset of society and the profession now compared to 20 years ago, I must attribute the rest to the firms I have worked for and colleagues I have worked with over the last five years. I know people in other firms (both junior and senior) who will not be open at work for fear of prejudicing their career prospects, although they are outside of work. I do not consider that I am being naive in assuming that it is no longer an issue at my firm and will in no way prejudice my career path.

[R422]

I believe that I have been lucky in the firms that I have worked for, in that my sexuality has rarely been a problem.

[R437]

I have been extremely fortunate in that the firm I work for has an extremely positive equal opportunity and diversity culture. I have excelled at work and the fact that I am a lesbian has not hindered me at all.

[R443]

In the next section we attempt to identify reasons behind the difference in how LGB people feel in their professional environment compared to their non-LGB counterparts, but experiences both good and bad seem to be dependent on an individual set of circumstances.

There is still a bit of homophobia about - it is at an individual rather than institutional level.

Whilst this points to positive developments at the institutional level, it also indicates that more needs to be done to ensure that nominal equality at the institutional level translates into actual equality at the individual level.

2. Explanatory factors

Age

Younger respondents were far more willing to be out at work than the older age groups. Possible influences on this trend are that older age groups' perceptions of how they will be treated may well originate in the times in which they were young, when discrimination was more open and commonplace.

I am sure that the reason I do not feel comfortable being open at work about my sexuality is low self-esteem as a result of attitudes when I was growing up and a feeling that I had to keep my sexuality to myself to avoid trouble. That does not go away just because other people's views towards the issue have changed over the last 30 years. There is still some discrimination around (even if a lot less than there used to be), but the issue is more complicated than that. The mindsets of LGB people are at least as relevant as whether they are actually being discriminated against.

[R172: Gay male; 45-50yrs]

Other respondents referred to a less sociable business culture in previous times, one which placed less of an onus on networking and team bonding, which therefore engendered a more private attitude to the workplace.

Starting out

Basically I have lived my life as a heterosexual male rather than being open and coming out to my family and work colleagues. I believe this is a generation thing and if I was 40 years younger I would have no qualms about being open to my family and colleagues.

[R433: Bisexual male; 61-65yrs]

Given the extremely rapid progress of liberal attitudes in recent years, it would be surprising if we did not see some disparity between the experiences of older and younger age groups in this survey. Homosexuality was not legalised in the United Kingdom until 1967. Societal attitudes have changed considerably in the last seven to eight years, in many instances helped by popular culture and media representations, to the extent that being out today may be much more possible and less of an issue for young solicitors starting out on their career than it was for those who qualified some decades ago.

When averaged across the age groups, 45.5 per cent of gay males and 43.8 per cent of lesbians were out at their first firm. More participants in the categories aged over 40 years were not out, than were out. Of all participants who were not out at their training firm, 48.0 per cent were aged 40 or above. In the lower age categories this was reversed – more respondents were out at their first firm, than not out. Indeed, individuals aged between 26 and 30 years old accounted for 34.8 per cent of all of the participants who were out at their training firm.

I am sure the reason I do not feel comfortable being open at work about my sexuality is low self-esteem as a result of attitudes when I was growing up and a feeling that I had to keep my sexuality to myself to avoid trouble. That does not go away just because other people's views towards the issue have changed over the last 30 years. There is still some discrimination around (even if a lot less than there used to be).

[R172: Gay male; 45-50yrs]

For older participants who qualified into law at a young age, the social attitudes at the time of their training may have precluded them from being open about their sexual orientation, or may have presented a potentially larger obstacle to their career progression than perceived by young solicitors today.

On the other hand, it could be argued that reticence by older age groups was a product of more traditional, business-oriented attitudes towards the workplace rather than discrimination. The argument that sexual orientation is not relevant to business interactions was made by many respondents. However, this survey and the Law Society's 2006 survey have indicated a distinct shift in recent years from a clinical business environment to workplaces which promote a more personally oriented social networking and team-building environment.

Young people today?

Our results should not come as a surprise: people are getting more comfortable with the idea of being out from early on in their employment; the majority do not perceive sexuality to be a serious impediment to their career progression. We are seeing this reflected in the increasing number of people who are out at their training firm from the start of their careers.

The figures still reveal a certain degree of nervousness on the part of solicitors entering the profession. The rate of people being out at their first firm is much improved: 15 per cent of 51-55 year olds and 16 per cent of 46-50 year olds were out at their training firm. Contrast this with figures for trainees who have joined the profession in recent years: 60 per cent of lawyers 25 and under and 66 per cent of 25-30 year olds chose to be out from the start of their careers.

This still represents a large proportion of people going into the profession who did not feel comfortable being out at first. This possibly has more to do with an outsider's perspective on the environment, and a degree of reticence borne of uncertainty which is completely natural, since the figures also reflected only 10 per cent of gay male respondents and 5 per cent of lesbian respondents were not out now. This could be said to reflect good things about the environment at law firms for LGB solicitors and indicate that the legal workforce does reflect society's increased tolerance. It could also be said to demonstrate an increased confidence amongst young gay people as a result of the tolerance they expect to receive in much of their lives nowadays; they carry this confidence with them into their workplaces.

We, however, only have to look to expectations of gender equality in the legal workplace as opposed to a female solicitor's realistic expectation of advancement relative to a male solicitor's, to be reminded of the importance of testing whether this increased exuberance and expectation of equality will be borne out.

Direct discrimination: negative experiences and the perception of scope for such experiences

I have experienced homophobic discrimination whilst working as a legal clerk at a national law firm.

[R282]

I found throughout my career that heterosexual lawyers and my bosses in particular have been either overtly homophobic or unintentionally homophobic. Even where they profess to be liberal on the issue...

[R336]

I feel that law firms are inherently homophobic.

[R400: Gay woman; 26-30yrs]

A total of 16.9 per cent of respondents stated that they had direct experience of homophobic discrimination. Whilst this figure appears relatively small, it represents a high number of individuals: 71 of the 443 people who responded to the survey had experienced such abuse.

Homophobia within the law industry is widespread. Attitudes among partners, directors and HR are simply pathetic. Please help!

[R81: Lesbian; 26-30yrs]

The legal profession is incredibly homophobic and I would never dream of coming out at my present firm.

[R149 ...]

The survey also drew on non-quantitative data about individual instances of abuse. Such instances of discrimination were of particular concern in the context of the legal profession and the values that it is charged with upholding.

The survey also suggested that such individual instances can have a compounded impact beyond their effect on the particular individual concerned. They fed into the perceptions of some respondents who may not have necessarily experienced direct abuse, but talked about instances of abuse of which they had heard. It helps to explain why the number of people who are 'out' in their professional lives is at odds with these same respondents' 'outness' in society in general.

Not all experiences were negative, and many participants were keen to point out that things had improved:

Attitudes have thawed somewhat since the first firm I worked in back in 1998.

[R359: Gay male; 31-35yrs]

Indirect discrimination: perceptions of sexuality and career progression

I have encountered no overt discrimination as a result of my sexual orientation. There is, however, a subtle form...

Whilst a total of 45 per cent of gay men and 36 per cent of lesbians who responded to the survey stated that they did not think their sexuality would affect their career progression at all, many respondents gave extensive descriptions of time when they felt inhibited or were treated differently because of their sexuality; as noted above, many respondents stated that they felt 'lucky' not to have experienced discrimination in their career.

I've always felt strongly that many lawyers are reluctant to be out in the workplace because of a FEAR of prejudice, rather than as a result of having experienced any actual prejudice first-hand.

[R203]

The expectation of discrimination can be insidiously inhibiting. Some respondents noted that they fear their inhibited behaviour can cause them to stand out, to seem withdrawn or disengaged.

The strain of living a lie is very heavy at times, although I try not to let it affect my work.

[R433: Bisexual male; 61-65yrs]

My work actually benefited greatly by my being out (less distracted/anxious).

[R2 ...]

Again, this is an unease which is simply not felt by those who 'fit in with the norm'.

In groups and out groups

Many respondents feared the effect of coming out on their career, that being LGB contributed to their face not 'fitting in'.

I am a partner so I have stated that being gay affected me a little, but the reality is that as an openly gay man, I think it really affected me a lot. ...I worked for a magic circle firm and my sexuality was also commented on. Whilst you are accepted on a social level and homophobia isn't overt, your career advancement can definitely be hindered by being openly gay. Further, it is okay to be gay as long as you fit in with a straight stereotype. Partners will also often question what clients will think of you (and this did happen to me). For all those gay lawyers who fit a straight stereotype then great. For those who don't, then law is still quite a bigoted profession.

[R138]

Some felt that this has adversely impacted their careers

I have been repeatedly passed over for promotion and despite turning in better than average performances have always felt that others thought I was somehow untrustworthy.

[R366: Gay male; 41-45yrs]

Coming out in any city organisation is still a very risky move career-wise.

[R175 ...]

Being gay definitely impacts my ability to progress to partnership.

[R81: Lesbian; 26-30yrs]

I have been privately told by a colleague that I do not fit in and that two of my direct colleagues including my line manager are homophobic and that I should watch my back and get out as soon as I can. The person said to me 'They (meaning my supervisor and colleague) are very negative about you, there is a level of homophobia and the views are entrenched. It does not matter how hard you work you will always be an outsider'.

[R338: Gay woman; 41-45yrs]

Some explained that this has caused them to tolerate the unacceptable behaviour of colleagues, that they would not tolerate in their personal lives.

Homophobia is not taken seriously and people "who cannot take a joke" do not fit in, even if the joke is highly offensive.

[R400: Gay woman; 26-30yrs]

Others suggested that covering up their sexuality had in itself caused themselves to exhibit traits which had adversely impacted their careers.

I think not being out means you spend time hiding a bit of yourself – which takes a lot of energy (playing the pronoun game, being vague about what you did at the weekend). People can tell when you are hiding something too – and it makes you seem aloof, difficult.

[R340: Lesbian; 36-40yrs]

Perception that equality policies are mere lip service

Despite policies on an organisational level, individuals perceive a more latent form of prejudice governing their interactions with co-workers, which, in turn has a negative impact on their careers: "... I am not saying he didn't promote me because I am gay but I feel it had more to do with his relationship with me because I am gay", said R325. Similarly R366 felt a disadvantage on the interpersonal level, which had its origins in sexuality: "I have been repeatedly passed over for promotion and despite turning in better than average performances have always felt that others thought I was somehow untrustworthy".

These types of experiences have led many respondents to query whether equality policies at the institutional level are working...

You can go so far and no further. People adhere to the letter of the law but when it comes to promotion, personal preferences still take over.

[R2]

We must do more to change the culture from lip-service to concrete action.

[R203]

I have heard my supervising partner say – "well I can't be told off for not having a diverse department, I have a gay and lesbian!"

[R407]

We have seen in the statistics that a vastly greater number now feel able to come out at an early stage in their career. There could be an argument that this will simply 'filter through' into the system and result in more-liberal working environments. However, the accounts above serve to emphasise that this should not serve as an argument for complacency. Female intakes at the trainee level exceed those of men and have done so for some time, but the proportion of women who attain a partnership in a law firm, according to statistics remain steadfastly low. Given this discrepancy it does not seem wise to congratulate everybody and announce that the problem is solved, or that it will be solved, effortlessly, by the passage of time.

Things are better than they were but not as good as the hype would like to suggest

[R188]

The firm's official policies do not always match up with what is practiced by the management.

[R209]

How much is down to discrimination on the basis sexuality per se?

It is difficult to analyse experiences of discrimination, because it is a nuanced behaviour; excluding an individual from the 'in crowd' will not necessarily be due to homophobia, or if it is, it will be hard to prove.

Respondents expressed different experiences in various ways:

I think it is very difficult in a survey to put across a true representation of how being LGBT has affected someone... the reality is that as an openly gay man, I think it really affected me a lot, particularly in my earlier years. ... Whilst you are accepted on a social level and homophobia isn't overt, your career advancement can definitely be hindered by being openly gay.... For all those gay lawyers who fit a straight stereotype then great. For those who don't, then law is still quite a bigoted profession.

[R138: Gay male; 35-40yrs]

There probably is not that much active discrimination but I wonder how many firms have not promoted a lawyer to partnership because they do not fall within the family + 2.4 children mould. Equally, I wonder to what extent LGB lawyers don't put themselves forward to more client-facing roles (and thus partnership in some circumstances) to avoid perceived discrimination.

[R156]

Very occasionally prejudice is manifested overtly, but more commonly it is subtle or unconscious. Discomfort with LGB people (or indeed discomfort with other minority groups who do not adhere to the norm) can make career progression harder for LGB people than it is for non-LGB people. Subtle and unconscious discrimination is harder to measure and harder to deal with, but its negative impact on individuals' lives should not be glossed over.

Support and networks

Firms have LGB networks, 37.6 per cent of all respondents reported that there was an LGB network at the firm/organisation where they worked. Of these respondents, 76 per cent were active participants in the network. Gay male participants were most likely to work at an organisation with an LGB network (43 per cent) followed by lesbian participants (30.4 per cent) and gay female participants (22.6 per cent).

Several grounds for complaint were raised regarding LGB networks within firms. Some participants indicated that the legal profession was not as advanced as other professions...

Law firms haven't done nearly as much as the banks have to advance and promote LGBT interests.

[R331: Gay male: 25yrs or under]

Others found there were institutional barriers to getting a successful LGB network up and running:

Whilst XXXX has an LGB Networking Group, it is in its infancy, and is struggling to get off the ground. The red tape... prevents any 'networking' socials, however the policy/discussion forum is not to many peoples tastes.

[R349: Gay male; 26-30yrs]

Some cited

"Difficulty with working with those with religious beliefs that conflict with homosexuality."

[R350: Gay male; 41-45yrs]

Others found that getting sufficient uptake for networks was impractical. The respondents who reported that they did not contribute to their firm's LGB network (21 per cent of gay men and lesbians), were asked why this was the case. For almost one half (46.2 per cent), non-participation was attributed to a lack of time. Some did not see the network as relevant or disagreed with networks in general: 28.2 per cent and 12.8 per cent respondents, respectively, thought this.

Others attributed the difficulties of setting up a viable LGB network to the size of their firms...

[The survey]... does not take account of smaller firms where a LGT network is not practicable.

[R80: Gay male: 46-50yrs]

Participants indicated that where smaller or medium-sized firms may not have the resources for setting up and supporting an LGB network, there were ways around this, for example encouraging an informal network for example, or taking a scaled down template from a successful model already in place at a larger firm:

My current firm doesn't have a formal LGB network, but there is certainly an informal network. Bar a few of the dinosaur partners nearing retirement, the firm is very gay friendly and consistently recruits obviously gay trainees.

[R151: Gay male; 25yrs or under]

We have an informal network where an associate has informally appointed himself as the one who actively informs other known LGB members of the firm about LGB events happening in the City. Without this associate, none of us would know anything about these LGB events.

[R183: Gay male; 26-30yrs]

Having qualified at a medium-sized regional law firm, I appreciate the importance of larger firms (with deeper resources) leading the way and setting examples for medium/smaller firms to follow (in so far as they can with their more limited resources). The fact that a firm as large as mine does not prioritise it (or, at least, appear to prioritise it) along with other diversity issues causes me concern as a young gay lawyer.

[R35: Gay male; 26-30yrs]

Role models

Of all participants working in private practice, 40.7 per cent indicated that there was at least one 'out' LGB role model at their firm. Just over one third of participants (34.9 per cent) working in an in-house corporate team also reported an 'out' LGB role model. Central government was most likely to have an 'out' LGB role model (53.4 per cent participants), but there were no such role models known to participants working for a trade union or the CPS.

A total of 41.0 per cent of respondents said that they had an 'out' LGB co-worker who they considered to be a 'role model'.

At my firm we don't have any out LGBT partners in the London office. With 180 partners in this office, that is not good enough. Have I felt any discrimination here? Not at all, but with a lack of role models, I can see that it's hard for younger lawyers to have the confidence to be out at work. Do they feel that they can be honest about who they are and still progress up the ladder towards partnership? I was not out at my previous firms for exactly those reasons – no role models and lack of confidence. I'm now older, wiser and less concerned about what others may think.

[R203: Gay male; unknown]

The value of having such role models was forcefully indicated by many participants.

It has been very encouraging to have openly gay role models at senior levels in my current firm.

[R2]

LGBT friendly cultures are developed from the top down. Senior management must show the lead.

[R30]

Having LGB role models appears to create an atmosphere in which people can be more comfortable, both with revealing this aspect of themselves and standing up for themselves if necessary.

Such role models can function to encourage others in an organisation, especially new employees. They provide some reassurance about the attitudes that persist in that organisation and they themselves can play a key part in shaping the atmosphere of the firm.

Although, as a trainee, I was afraid that being out would cause problems at work, my work actually benefited greatly by my being out (less distracted or anxious) and it has been very encouraging to have openly gay role models at senior levels in my current firm.

[R37: Lesbian; 30-35yrs]

Since visible diversity at senior levels is important both for a firm's external image and well as for the reassurance of minority groups internally, it is surprising that many firms have not actively sought to promote such role models.

Other participants looked to larger firms (with greater resources) to create models of good practice in terms of role models and LGB networks which smaller firms could follow. Some participants from larger firms pointed out that a firm's commitment to prioritising LGB issues did not necessarily correspond with its size. Some participants felt this was a role for the Law Society.

Participants protested against the expectation that a lesbian, gay or bisexual solicitor should be interested in and an active member of LGB or diversity networks, solely by virtue of their sexual orientation:

We are just establishing an equality and diversity group and there was surprise in some quarters that I was reluctant to become involved because some colleagues assumed that I would want to. There is thus a perception that this would be 'my' issue, rather than every person within the firm.

[R146: Lesbian; 36-40yrs]

This can be viewed as a result of the increasing confidence that LGB people feel about their sexuality and its likely impact on their prospects. It is quite natural that someone would seek to be identified as a multiplicity of things rather than be smeared with one all-encompassing attribute.

In a similar fashion, one respondent questioned the usefulness of the survey itself and alleged that surveys alienated LGB people. It was suggested that the survey exacerbates the problem of LGB people being singled out, the act of conducting a survey in itself is to treat LGB people differently. However, as we have found in this survey (and analogously, through similar studies focussed on women working in law firms), whilst society has progressed to a point where the overt and official treatment of LGB people is increasingly in line with the 'norm', we have also seen that the focus should widen beyond the letter of official policies and people's overt conduct towards LGB people.

It is important to conduct surveys that help to fully analyse the extent to which equality of treatment exists. The subtle ways that LGB people feel they are or could be treated at work are especially important, and these are what surveys such as this are designed to capture. By monitoring the issue in-depth we ensure that employers do more than pay 'lip service'. LGB employee networks also perform a vital role in ensuring that there is an implicit lobby in each organisation for the rights of LGB minority groups.

The presence of such network groups is extremely variable across organisations. It is hugely dependent on an organisation's size and therefore both the number of people who might wish to join and the budget that can be accorded to such a group (although firm size does not always correlate with the activity of the network). In the case of firms that do not have such networks, the role of a forum and support network is currently being filled by various inter-firm organisations, such as Interlaw Diversity Forum. One of the reasons R219 chose to practice law in local government was the "*potential for union support if needed (Nalco, in particular); such support was not available then in the private sector or from the Law Society.*" The results of the 2006 survey also found a degree of disconnectedness from the Law Society, both from LGB solicitors practising in London and elsewhere.

3. Conclusion

I am not certain what an LGB is, but I suspect that it has something to do with non-legal activities. In that case this survey has nothing to do with the practice of law or the Regulation of solicitors and is a scandalous waste of time and money. The Law Society should be ashamed of itself.

Recent years have seen a great deal of progress towards equal treatment of LGB people in society. This advancement could be viewed on three levels – the relationship of the individual with:

- the State;
- with organisations (such as their employer); and
- other individuals.

On the State level, provision has been made through the Employment Equality (Sexual Orientation) Regulations 2003 and the Civil Partnerships Act 2004. Similarly, the Law Society also has a strong commitment, as a regulatory body, to promoting equality and diversity, both amongst its members and in society more generally. The benefits of a diverse workplace and a liberal ethos are increasingly recognised by firms and their clients.

Our increasingly liberal society has brought people to expect a greater basic level of acceptance. They expect that (a) improvements in the way they are viewed by their families or in their personal lives, and (b) in legal provisions for their equal treatment, will translate into actual equal treatment in the workplace. This is arguably reflected in the large number of respondents who stated that a law firm's reputation for being LBG-friendly was not a major factor in their choice of firm; there is an expectation of a basic level of equality everywhere.

Two clear areas of the results of our survey (and other surveys) challenge this presumption and can help organisations to focus on making improvements. There are deficiencies in (a) the provision for equal treatment at the organisational level, and (b) where there is provision, it is not always most effectively translated into improvements in the relations between individuals.

a) Organisational-level improvements

The Law Society issued guidance to the Solicitor Anti-Discrimination rules of 2004 which stated that discrimination on the grounds of sexual orientation will be regarded as professional misconduct; correspondingly, all firms, according to the Stonewall research, have a policy barring such discrimination.

On the surface law firms have been very effective in adopting more liberal stances, and ensuring protections for minorities. Some responses to this survey are encouraging. Other research projects have also thrown up positive indicators of law firms' commitment to promoting equality; for example, research for Stonewall's Workplace Equality Index of 2009 found that 95 per cent of law firms have a team or person in place responsible for LGB equality.

The debate about corporate social responsibility in general has also been characterised by the perception that there is a gap between what organisations say and how they really work. The results of this survey have also pointed to a gap between the adoption of rules prohibiting discrimination or programmes exhibiting diversity, and the reality faced by individuals.

According to Stonewall research, only three in five firms have adopted a strategy in relation to the delivery of their equality policies; only three in five firms monitor sexual orientation at any point in the employment cycle; the same proportion do nothing at all to educate line managers to support LGB employees. The average score of law firms in the Workplace Equality Index was 35 per cent; whereas 56 per cent is considered an 'entry level' score.

There is evidently a disparity between the adoption of rules, and the situation on a practical level. By ensuring that this 'real life' aspect of the situation is monitored, surveys such as this can promote positive directions firms can take when concerned with more than mere 'lip service'.

b) Equality in individual interactions at work?

Advancement, career success and general well-being at work are not, immediately speaking, governed by policies and targets, but by the people with whom one interacts with on a day-to-day basis.

This survey has found that more and more LGB people in the legal sector feel able to come out about their sexuality at work. The figures show that older generations were far less likely to be out at their training firms than today's trainees and younger lawyers. However, we have also seen that fear of a negative reception remains commonplace.

We have unearthed a large number of unpleasant and disturbing experiences of discrimination. The results also brought out an even more widely felt and deepset expectation of prejudice amongst respondents. The way in which this affects LGB solicitors' careers is a complex issue. Some respondents felt that the bare fact of their sexuality was enough to mark them out in the minds of management (however subconsciously) as not fitting in.

Others felt that the effect of having to manage how they were perceived had hampered their careers.

There were also, it must be emphasised, some very positive experiences to report:

I have excelled at work and the fact that I am a lesbian has not hindered me at all.

[R443: Lesbian; 41-45yrs]

Recommendations

The conclusion to be drawn is that whilst things are improving for LGB people in the legal profession, organisations must do more to foster positive working environments in which personal attributes irrelevant to work do not inhibit or hinder their employees, and step up to the challenge of thinking realistically and creatively about how prejudice is manifested in their organisations, the damage it could do to their commercial success, and ways that it can be prevented.

LGB Solicitors' Career Survey – topics for further discussion

1. The Law Society and the InterLaw Diversity Forum should work with the legal sector (including other representative bodies) to review the findings of this survey and develop practical steps that can be taken to address the challenges it identifies.
2. The Law Society and the InterLaw Diversity Forum shall place an emphasis on engaging with gay women, bisexuals and transgender legal professionals who are currently under-represented.
3. Work with Stonewall to promote participation in the Work Equality Index by more law firms and legal employers.
4. Assist employers with the implementation of monitoring employees' sexual orientation, improve response rates and provide practical support to improve the use of the resulting data.
5. Promote LGBT-inclusive equality and diversity training, including that available from the Law Society.
6. The Law Society and the InterLaw Diversity Forum should explore ways of providing more support to LGB lawyers throughout the United Kingdom, especially outside London and the South East.
7. The Law Society and the InterLaw Diversity Forum should work together to ensure that LGBT equality and diversity is included in the wider legal sector debate on diversity and inclusion, including relevant publications, conferences, consultations and policy development.
8. The Law Society should ensure that the pastoral care helplines it funds, along with career advice and support it provides directly, and indirectly take proper account of the particular challenges faced by LGB lawyers.
9. The Law Society and the InterLaw Diversity Forum should produce additional research to explore more in-depth issues around promotion and advancement, including the 'pink plateau' and the 'double-glazed glass ceiling'.
10. Based on the survey and the recommendations above, the Law Society and the InterLaw Diversity Forum should develop a diversity and inclusion charter

protocol to set out best practice in the recruitment, retention and advancement of LGB solicitors.

Note on methodology

The survey which this report principally draws on follows on from a survey conducted by the Law Society in 2006 (*Career experiences of gay and lesbian solicitors*, Research study 53, Tara Chittenden). The approach of this survey and the breadth of the sample captured diverds widely from the 2006 survey. The earlier study adopted a qualitative methodology; interviews were conducted with the aim of allowing individuals to elucidate the complex understandings, approaches and motivations which characterise their working lives. The survey then drew parallels through these individual accounts to provide a broader commentary. This later study has the advantage of being able to draw on both qualitative and quantitative results and therefore was able to develop an even more rounded picture of the current situation.

The questions contained in the online survey were developed through the use of focus groups conducted by the Law Society and the Interlaw Diversity Forum. The survey was accessible via links from the Law Society's *Professional Update* newsletter or the Law Society's website; it was also publicised via emails to the Interlaw Diversity Forum's mailing list and Stonewall's legal mailing list. Answers were entered and submitted online. The survey was live for two weeks, during the period 23 April to 8 May 2009.

Participation in the survey was anonymous. Surveys were self-completed online; therefore the responses reported here are from a self-selecting rather than representative sample. Respondents were not restricted to solicitors only; thus we also received views from those working across the legal profession generally, therefore enabling us to report on the LGB experience of the legal 'environment' in general.