



The Law Society

**Diversity and inclusion
in small law firms**
The business case



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Part 1: Why diversity matters

With the demographics of the UK changing rapidly, diversity is essential for law firms who want to attract clients and meet their needs and to recruit and retain the best people.

1.1 The client base is changing	1.2 The profile of the profession is changing ¹²
<ul style="list-style-type: none"> ■ The ethnic minority population of England and Wales has almost doubled in a decade, from 8.7% in 2001 to 14% in 2011³. ■ More women than ever are in work – a net increase of 1.5 million since the last recession in the 1990s⁴. ■ More than 1 in 20 people in the workforce today are Lesbian, Gay or Bisexual (LGB)⁵. ■ There are 11.5 million disabled people in the UK and 5.4 million are adults of working age⁶. ■ Britain is estimated to have more than 5,000 Muslim millionaires, with liquid assets of more than £3.6 billion⁷. ■ Consumer spending power of Britain's ethnic minorities is more than £300 billion a year⁸. ■ LGB consumer power is worth an estimated £70-81 billion⁹. ■ Women own 48% of the nation's personal wealth – expected to rise to 60% by 2026 – make 83% of all high street purchasing decisions – and make up 47% of the labour market¹⁰. ■ £80 billion is the spending power of the UK disabled¹¹. 	<ul style="list-style-type: none"> ■ 47.4% of the profession is female – 60% at trainee level. ■ Black, Asian and Minority Ethnic (BAME) solicitors are estimated to account for 12.6% of solicitors with practising certificates. ■ Almost two-thirds (64.9%) of PC holders are between 26 and 45 years of age and 7.1% are of state pension age. ■ 2.7% of PC holders are Lesbian Gay or Bisexual (LGB) ■ 3% of PC holders report having had a long-term illness, health problem or disability. Of these, 63% reported that they were 'limited a little' and 16% said they were 'limited a lot'. ■ 54.8% of PC holders were Christian, 31.4% had no religion, 1.7% were Hindu, 2.3% were Muslim, 2.6% were Jewish, 0.8% were Sikh and 0.4% were Buddhist. <p>The diversity of legal talent in firms is increasing, but there is little diversity at partnership level:</p> <ul style="list-style-type: none"> ■ While women make up almost half of all solicitors across the profession, they represent less than one third of partners. ■ Nearly 12% of solicitors in the profession are from a BAME background, they make up only 6% of partners.

¹ Law Society Annual Statistical Review 2012. For more detailed information on the diversity profile of the profession read our report: www.lawsociety.org.uk/advice/articles/diversity-in-the-profession

³ 2011 Census: KS201UK Ethnic group, local authorities in the United Kingdom ONS,

⁴ www.ons.gov.uk/ons/rel/lmac/women-in-the-labour-market/2013/rpt---women-in-the-labour-market.html

⁵ Estimating the size and composition of the lesbian, gay and bisexual population in Britain, Peter J Aspinall, Equality and Human Rights Commission, 2009

⁶ <http://odi.dwp.gov.uk/docs/fulfilling-potential/building-understanding-main-report.pdf>

⁷ Multi-Cultural Communications, Weber Shandwick, 2010

⁸ The Guardian, Feb 1, 2002 - based on a report published by Datamonitor

⁹ Stonewall workplace guide Marketing: Consumers (2010) How to Market to Gay Consumers (2010)

¹⁰ www.theguardian.com/business/2005/apr/22/money.genderissues and Carter, Women's Financial Advisory Group, 2006

¹¹ <http://businessdisabilityforum.org.uk/customer-experience/the-evidence>

Part 2: How diversity can benefit you

2.1 Meeting legal and regulatory equality requirements

The legal framework

If you meet your statutory equality duties you can avoid costly and unnecessary claims of discrimination – both formal and informal.

The legal framework around diversity has grown immensely over recent years. Law firms have duties as service providers and employers under the Equality Act 2010 to ensure equality in employment and prohibit discrimination, harassment and victimisation of employees and others on grounds of age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation.

Our practice note on the Equality Act 2010 sets out your duties as a service provider and employer under the Equality Act 2010: www.lawsociety.org.uk/advice/practice-notes/equality-act-2010

Acas provides some good advice for businesses on how to deal with employment issues: <http://www.acas.org.uk/index.aspx?articleid=1363>

The courts are taking an increasingly bold approach to breaches of equality legislation and there's no limit on the compensation an Employment Tribunal can award victims of discrimination.

Annual statistics published by the Ministry of Justice on Employment Tribunals 2011/12 show:¹²

- A total of 186,300 claims made were made in this period.
- Sex discrimination continues to be the most frequent type of discrimination claim with 10,800 claims being lodged.
- 3,700 claims were lodged against employers relating to age discrimination¹³
- 4,800 race discrimination complaints were lodged
- The number of disability discrimination claims rose from 7,200 to 7,700.
- The number of claims in relation to sexual orientation or religious discrimination remained relatively low – at 610 and 940 claims respectively.
- There have been a number of large compensation payouts awarded including £4,445,023 for a race discrimination claim.

¹² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/163466/ts-annual-stats-2011-12.pdf.pdf

¹³ Although the number of complaints made in respect of age discrimination dropped significantly, down from 6,800 to just 3,700 last year.

Although the total number of Employment Tribunal claims made in 2011/2012 has fallen by approximately a quarter compared to the previous year, the compensation awarded can still be significant especially for a small firm.

The costs involved in such claims extend beyond the award itself. There are also the costs of defending a claim, adverse costs award and the considerable management and other staff time required in dealing with the claims.

If the discrimination claim leads to the Employment Tribunal making recommendations there can be further costs¹⁴.

Even if a claim is determined in a firm's favour, dealing with a discrimination case is time consuming and uses up valuable resources. Even if an employer successfully defends a claim, it is unlikely that the claimant will be required to meet the successful employer's costs.

Of course any publicity about the case itself will almost certainly damage the firm's reputation among existing and prospective staff as well as its clients.

The regulatory framework

Encouraging 'an independent, strong, diverse and effective legal profession' is a key regulatory objective in the Legal Service Act 2007¹⁵ and is shared by the Legal Services Board¹⁶ and the Solicitors Regulation Authority (SRA)¹⁷.

The SRA's requirements for firms and individual solicitors on equality and diversity are set out in Principle Nine of the SRA Handbook and its related mandatory outcomes are contained in chapter two of the SRA code of conduct 2011.

- Principle Nine of the SRA Handbook requires solicitors to "run [their] business or carry out [their] role in the business in a way that encourages equality of opportunity and respect for diversity" and chapter two of the Handbook sets out the expected outcomes for equality and diversity in the profession.

These requirements are in addition to firms' and individual solicitors' obligations to comply with the Equality Act.

Practices regulated by the SRA, including sole practitioners, recognised bodies and alternative business structures, are required to annually collect, report and publish data on the diversity of their workforce.

¹⁴ Where the Royal Bank of Scotland did not allow for disability when dealing with customers (and staff), it led to Court-imposed costs of £200,000 to change building layout, compensation of £6,500 to a single individual and an award for his associated legal costs.

¹⁵ <http://www.legislation.gov.uk/ukpga/2007/29/part/1>

¹⁶ http://www.legalservicesboard.org.uk/about_us/index.htm

¹⁷ <http://www.sra.org.uk/sra/equality-diversity/equality-framework.page>

Our practice note on 'collecting, reporting and publishing diversity data' sets out the rationale for these requirements and highlights the key points for practices and individuals:

www.lawsociety.org.uk/advice/practice-notes/sra-equality-monitoring

2.2 Access to a wider recruitment pool

A law firm's biggest asset is its staff. Attracting, retaining and progressing the very best talent is essential.

If you have a reputation for equality and fairness, you are more likely to be able to attract good calibre candidates from diverse backgrounds when you need to recruit.

By being an employer who can attract a diverse range of applicants, a law firm has the widest pool of candidates to select from and can therefore improve its ability to recruit the best and most able people first time, every time.

Having a diverse workforce means staff bring different talents, perspectives, styles and approaches to problem solving, different viewpoints, skills and varied knowledge to the business. These enhance the ability of a business to deliver first class services to an increasingly diverse client basis.

There is a range of research about the barriers to greater diversity in leadership in many different studies. What the different studies have in common – whether they are looking at race, gender, disability, sexual orientation, age or socio-economic background – is that barriers to recruiting and developing diverse talent are often rooted in behaviours within the workplace.

It is often our natural tendency to recruit in our own image, to make assumptions about others' career aspirations, to put a team together based on who we know rather than looking more widely for talent and to talk over someone who is less gregarious or outspoken. These are all often unconscious biases and actions, but they significantly contribute to building barriers to women and people from minority backgrounds gaining entry or progressing their careers in the legal sector.

In order for an organisation to become an 'employer of choice' in the current competitive market, it needs, amongst other things, to demonstrate that it has an inclusive workplace and has robust diversity and equality policies and practices to demonstrate this.

A firm's recruitment and promotion policies and processes play a vital role in achieving this. This is why it is important to have fair and transparent recruitment processes (both those used internally by the firm and those that are outsourced to recruitment agencies) which use inclusive language, supported by a formal and transparent process on promotion and progression within the firm.

2.3 Retention of staff

If staff feel valued, they are more likely to stay in a firm which will benefit from their experience and investment in training.

Employees resign for many different reasons. The Chartered Institute of Personnel and Development (CIPD) state that sometimes it is the attraction of a new job or the prospect of a period outside the workforce which 'pulls' them. On other occasions they are 'pushed' (due to dissatisfaction in their present jobs) to seek alternative employment.

Research shows:

- Almost two in five of lesbian and gay staff facing discrimination will change careers if the discrimination continues¹⁸.
- Women often leave employment because employers are not making available, or not making obvious, a way to combine work with the rest of their lives¹⁹.

For disabled staff, the 'push' factor is likely to be greater. Only around 2-3% of disabled people are born with an impairment, most acquire impairments later in life, particularly when they reach the age of 50 or over.²⁰ This means employers need to be skilled at making reasonable adjustments in order to retain staff who are disabled. According to the Department for Work and Pensions (DWP) 3.7 million disabled people are currently unemployed or outside the labour market²¹.

However, if an organisation is proficient in making reasonable adjustments, the talents of disabled staff do not need to be lost. The most commonly cited measures used by employers in the last 12 months included reduced or different hours (29%), meetings to discuss extra help (28%) and reducing employee workload (25%) and different duties (25%)²².

As well as the opportunity cost of losing talented staff, there are the recruitment expenses of replacing them. The costs associated with replacing a member of staff include:

- Leaving process, covering exit interviews and administration.
- Temporary staff cover/overtime, to cover any vacancy in the post.
- Recruitment of new staff, advertising, administration, interviewing and, for certain posts, occupational testing.
- Training of new staff.
- Potential loss of clients.

There are various estimates used by organisations to quantify these costs:

- the CIPD estimates the average cost of labour turnover at £6,125 per employee²³.
- Deloitte estimates the cost of turnover for knowledge workers (including lawyers)

¹⁸ Jude Irwin, Australian Centre for Lesbian and Gay Research, University of Sydney, "The Pink Ceiling is Too Low", 1999

¹⁹ Women's Budget Group (<http://www.wbg.org.uk/>)

²⁰ <http://odi.dwp.gov.uk/docs/fulfilling-potential/building-understanding-main-report.pdf>

²¹ <http://odi.dwp.gov.uk/docs/fulfilling-potential/building-understanding-main-report.pdf>

²² Young and Bhaumik 2011

²³ CIPD 2009 Recruitment, Retention and Turnover survey - average cost of labour turnover (vacancy cover, redundancy costs, recruitment/selection, training and induction costs)

ranges from 200 to 500 percent of salary²⁴.

The indirect or 'soft' costs of replacing a member of staff are harder to quantify, but add to the overall cost. These include:

- Lower levels of productivity, both of new staff who may have less knowledge and experience and require training to achieve desired levels of productivity, and existing staff affected by staff turnover, e.g. by lower morale.
- The cost involved in possible poorer client service by a new member of staff.

2.4 Reduce absenteeism

Absenteeism is a significant problem for employers²⁵. If discrimination and unfair treatment can be reduced, that can have a knock on effect on grievances and relations in general within the firm. This can in turn reduce absenteeism and staff turnover by enhancing employee attachment to, or engagement with, the firm and have a positive effect on productivity.

Presenteeism is classed as 'the loss in productivity that occurs when employees come to work but function at less than full capacity because of ill health. Costs due to presenteeism can be several times higher than costs due to absenteeism.

The Law Society's 2012 Practising Certificate (PC) Holders Survey found that 41% of PC holders reported going into work when really they were too sick to do so²⁶.

2.5 A flexible and responsive workforce

A lack of flexible working has been cited as the number one reason for people considering exiting the legal profession between 3- 5 years PQE²⁷. Our research on the career barriers experienced by women solicitors highlighted the resistance to flexible working within legal firms as **'the single most significant obstacle to women reaching senior roles'**²⁸.

Benefits from flexible working include:

- Retention of well-trained and experienced staff with good networks and client knowledge.
- Improved return on investment on recruitment and training.
- An ability to acknowledge caring or physical constraints upon individuals and the observance of religious practices.

²⁴ Deloitte, 'The gender dividend: Making the business case for investing in women (2011)

²⁵ In June 2012 2,267 practising certificate (PC) holders were interviewed about different aspects of their working lives, around one-third of these had taken time off from work over the previous twelve months due to ill health and almost all (95 per cent) reported having negative stress in their working lives.

²⁶ Excluding law firm owners (equity partners and sole practitioners), the proportion of PC holders reporting going to work when sick (44%) was the same proportion as employees generally (44%) (DWP, 2011)

²⁷ Law Society omnibus survey 2010

²⁸ Law Society, 'Barriers and Obstacles to Career Development for Women Solicitors' research 2010

- Higher rates of efficiency and performance driven by clearer boundaries and increased commitment .
- Environmental benefits from reducing or eliminating commuting time.
- Reduction in overheads such as office space for home workers.

There is a strong body of evidence that relates positive work-life balance with wellbeing and engagement.

- Fathers who have real choice over where and when they can work have significantly higher wellbeing, engagement, and performance than those who do not²⁹.
- Stress experienced at work transfers to home and visa versa. The result is reduced relationship quality at home and disengagement and reduced performance at work³⁰.
- A culture of trust that enables flexibility and choice drives wellbeing and engagement and therefore performance³¹.

²⁹ Fathers and Flexibility, Working Families and Lancaster University Management School 2011

³⁰ Happy Homes and Productive Workplaces, Lottery funded research by Working Families and One Plus One 2012

³¹ Trust: the key to building wellbeing and performance in the workplace, Working Families and Susanne Jacobs 2013

Part 3: Why size doesn't matter

The 2013 Law Society Diversity & Inclusion Charter report clearly shows that size doesn't matter when it comes to creating a more diverse and inclusive law firm: both small and large firms are achieving levels of success in different areas of the charter.

3.1 Practical examples of good practice in small firms

There are some examples of diversity and inclusion successfully supporting small firms (less than 25 staff).

Langridge Employment Law

This firm has built a strong team which is responsive to clients' needs by creating a culture of trust and collaboration so that people can manage work with outside work responsibilities.

The firm has a strong ethos of collaborative working, with a 'flat' structure rather than a hierarchy for the five staff. This ethos encourages openness and flexibility that goes beyond statutory rights. A pregnant solicitor's request to return after the birth of her child two days a week to support the other solicitors has been agreed, with an arrangement to build up her hours in the coming months. This suggestion was instigated by the principal of the firm. A new solicitor works flexible hours with a great deal of home working and control over where he works. Support staff have been able to enhance their roles by developing more independence and crafting the jobs to fit their strengths.

ABM Solicitors and Advocates

This firm implemented an equality and diversity policy which forms part of the firm's manual and is made available to all staff at the beginning of their tenure. The firm's senior partner reviews the policy on an annual basis in conjunction with the equality and diversity policy holder. The firm's last review of its policy revealed that there were many prospective clients from various socio-economic backgrounds who didn't have easy access to justice. So the firm acted on this by working with local citizens advice bureaux, courts and tribunals.

Morgan Denton Jones

This firm provides training materials in font sizes suitable for those with visual impairments and have met disabled clients at locations to suit them rather than expecting them to come to the firm's offices if they prefer. They have also made special arrangements with the Employment Tribunals to accommodate the needs of disabled witnesses, including the need to adjourn more frequently than normal for rest breaks. They provide refreshments for those with special dietary requirements.

Virgo Solicitors

This firm offers its client care letters and other correspondence to visually impaired clients in Braille format and it offers to translate its correspondences into Turkish for its predominant Turkish client base.

Housing Law Services

This firm monitors and reports on the firm's equality data on a quarterly basis. Results from this audit are discussed with the local job centre plus to see what alterations can be made to

the recruitment process to attract a wider applicant base. Acting in the field of social housing, the firm uses its monitoring information and performance in the field of equality and diversity as part of its tender process when applying to be retained on a social landlord's framework assessment. Feedback on the firm's performance on equality and diversity is actively sought from successful and unsuccessful tender submissions allowing the firm to score the results and set targets for improvements.

Part 4: What you can do

Joining the [Law Society Diversity and Inclusion Charter](#) will provide you with all the tools you need to manage and champion diversity in your firm. The Charter is a high profile commitment by law firms to pursue best practice on all aspects of diversity and inclusion across all areas of their business.

Since it was launched in July 2009, the Charter has become the flagship diversity initiative of the profession and its signatories already represent more than a third of all solicitors working in private practice.

There is no charge to sign up to the Charter and we offer a range of support to help signatories meet their commitments under the charter, achieve compliance with Principle Nine and chapter two of the SRA Handbook and meet the equality and diversity requirements in Lexcel - our practice management standard.

The Law Society's Small Firms Division is dedicated to meeting the needs of all smaller legal businesses, including sole practitioners.

You will find information and services relevant to you and your business, including industry news, business and finance analysis, as well as the latest regulatory and management information, including on diversity and inclusion. You can find out more about the Small Firms Division online at: <http://www.lawsociety.org.uk/communities/small-firms-division/>

4.1 Inclusive leadership

Overcoming barriers to achieving greater diversity in the legal sector and developing inclusive capabilities will require many law firms to introduce change – to do things differently. This may affect how firms recruit, develop and promote staff, as well as how they bid for and undertake client work. The changes needed not only affect processes and procedures, but also have an impact on behaviours at work. And all of this needs to be and championed from the very top of the firm, by its partners and other leaders.

Research has shown that leaders with inclusive capabilities are defined by three common characteristics³²:

1. **They are adaptable.** Inclusive leaders are highly aware of diversity among the people they work with and manage. They are comfortable with using different and flexible approaches to work organisation to get the best results and the most from their team. They are skilled at adapting their style to complement others, shifting cultural perspective in authentic ways.
2. **They are skilled in building a diverse talent pipeline.** Inclusive leaders understand their own role and responsibilities in seeking out and supporting the development of the best talent from a range of backgrounds and play an active part in this process. They are key to ensuring that the business has the range of diverse talent it needs.

³² 'Inclusive Leadership – from Pioneer to Mainstream', Dr. Gillian Shapiro, Helen Wells and Rachael Saunders, Opportunity Now in partnership with Shapiro Consulting Ltd., September 2011

3. **They are innovative.** Inclusive leaders are skilled at creating a working environment that fosters innovation – where employees feel safe, valued and empowered to innovate.

One area where we have found that firms still struggle to achieve is building of diversity and inclusion into employment and staff development practices. Changes in the diversity of client and talent profiles means that the legal sector must address this weakness in order to sustain competitiveness and growth in the future.

Below are four actions Dr Gillian Shapiro recommends every manager or leader in every law firm can personally do to help develop a diverse and inclusive work environment. There are also five actions every law firm, large or small, can take to ensure it gets on track with the changes needed to respond to the challenge and opportunity of diversity.

4.2 Your next steps

1. Take time to build relationships with your staff, colleagues and clients, and to understand those who may be different from yourself.
2. Consider the extent to which your team reflects diverse backgrounds and how you leverage this to avoid 'group think'.
3. Build awareness of any unconscious bias you have and what you can do to minimise its impact.
4. Mentor or sponsor someone with high potential from a group under-represented in your firm's leadership.

4.3 Your firm's next steps

1. Make sure that, as a management team, you are clear how diversity and inclusion can help your business, and that you communicate its role and importance to everyone in your firm. Don't make this a 'nice to have' issue but a 'must have' one, that underpins business success.
2. Be clear about the diversity and inclusion improvements you want to achieve as a firm, and create an action plan to achieve them and a set of performance indicators to help you track progress. Make this part of your core business planning and reviewing process.
3. Identify and develop the capabilities you need in your firm to create a diverse and inclusive work environment.
4. Make diversity and inclusion everyone's responsibility, not just those who are involved with HR work. Only recruit and promote people who demonstrate the values and behaviours you need to achieve the diversity and inclusion improvements you are seeking.
5. Have fair and transparent recruitment processes (both those used internally by the firm and those that are outsourced to recruitment agencies) which use inclusive language. Support these processes with a formal and transparent process on promotion and progression within the firm.