

Diversity in the profession

23 November 2020

‘Building a robust diversity and inclusion strategy informed by data, and including it in your risk and wider business management will enable your organisation to actively shape perceptions and gain a competitive advantage.’ PWC, 2020¹ ^[#n1]

Why this risk matters

The profession should reflect society and the communities it serves. Law firms that are not diverse and fully inclusive are at risk of:

- not meeting consumers’ needs and discouraging some from getting legal help
- damaging the profession’s reputation and trust in the legal system
- not attracting a wide pool of talent and therefore lacking diversity of experiences and thought
- contributing to mental ill-health if individuals are not able to thrive.

The structural inequalities in our society have been highlighted by the Black Lives Matter (BLM) movement. There is mounting evidence that Covid-19 and its economic impact are widening inequalities.² ^[#n2] And, there are already signs that specific groups are affected by the pandemic in different ways. For example, globally, women have lost their jobs at a rate about 1.8 times higher than men.³ ^[#n3]

Microaggressions are common and continue to have a detrimental impact on people, even when working remotely. These can include insults, indignities or expressions, which are often subtle, that some people experience many times every day. Some firms are improving the culture of their firm as they work to address all forms of harassment and discrimination and to improve equality, diversity and inclusion (EDI). However, more needs to be done to increase the impact of these activities.

Senior staff lead firms’ workplace cultures, which affect staff’s experiences, productivity and likelihood to stay. Diverse firms attract more business, more talent and adopt new innovations.⁴ ^[#n4] This makes them more resilient to market changes.

Who is most at risk?

People who do not see others like themselves in law firms find it harder to enter the profession and to progress in their career.⁵ ^[#n5] This affects consumers too.

The increased remote working since Covid-19 has benefits for many people but can make it more difficult for those who are already disadvantaged. For example:

- Some staff are given fewer opportunities to stay connected and to be involved in decision making.⁶ [#n6]
- Some solicitors' wellbeing and mental health has suffered because of health conditions and isolation.
- Solicitors' wellbeing and performance will be negatively impacted without the right equipment and other reasonable adjustments.

The uncertainty and financial difficulties for many firms mean that law students and junior solicitors might have had reduced opportunities to get experience and jobs. They are typically more diverse than senior solicitors, so this has the potential for long-term EDI implications.

Spotlight on ethnic and socio-economic diversity in large and small law firms

The McGregor-Smith Review [<https://www.gov.uk/government/publications/race-in-the-workplace-the-mcgregor-smith-review>] noted that:

- most managers in many sectors, including legal, are white
- improving the inclusion of Black, Asian and minority ethnic talent could bring £24bn a year to the economy.⁷ [#n7]

Research by Rare Recruitment found an ethnicity 'stay gap', as Black, Asian and minority ethnic solicitors tend to stay in a law firm for fewer years than white solicitors.⁸ [#n8] If firms do not allocate their work fairly and without bias, this can lead to Black, Asian and minority ethnic solicitors moving to small firms, in-house work, or self-employment.

Other research found that in large law firms, on average:

- partners from higher socio-economic backgrounds progressed to partnership a year and a half quicker than partners from less advantaged backgrounds
- white partners progressed to partnership nearly two years quicker than Black, Asian and minority ethnic partners.⁹ [#n9]

About 14% of the UK population are Black, Asian and minority ethnic.¹⁰ [#n10] Data from law firms [<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool-2/>] shows that in firms with more than 50 partners, 8% of their partners are Black, Asian and minority ethnic. In small firms, we

see a different picture, where 36% of partners are Black, Asian and minority ethnic in firms with one partner, and 26% in firms with two to five partners.

Those educated at state schools are underrepresented at partnership level, particularly in very large law firms. For example, in firms with six to nine partners, 69% of partners are from state schools. This is compared with 52% in firms with more than 50 partners.

Firms with good diversity practices will help to close the stay and pay gaps.

We recommend

In difficult times, there is all the more reason to focus on EDI and to address inequalities – as well as working to comply with your legal and regulatory obligations.

Know your obligations

Discrimination is a breach of our Principles, can be unlawful, and you must report it to us. Our guidance [<https://www.sra.org.uk/solicitors/guidance/sra-approach-equality-diversity-inclusion/>] sets out your EDI obligations. For example:

- We expect your firm to investigate reports of discrimination and harassment appropriately, and report to us if necessary.
- You and your firm have an anticipatory duty to make reasonable adjustments for consumers and staff.
- Your firm must collect, report and publish data [<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/your-data/>] about the diversity of all staff. This is a good opportunity to engage with your workforce.

Checking your data will help you to:

- eliminate any discriminatory practices and biases in your recruitment and progression processes
- identify how underrepresented people could be better supported.

Have the right controls

Ask yourself	Actions to help you control the risk
Do you have an inclusive workplace culture that supports everyone's needs and promotes a good work-life balance?	Update your EDI policies and practices ¹¹ [#n11] and give leadership support to staff networking groups to help to build relationships and improve inclusion. ¹² [#n12]

	<p>Remove any stigma around topics such as mental health, menopause and race – and arrange for supervisors to regularly check staff wellbeing.</p>
<p>Is your firm diverse at all levels with proactive support for people from all backgrounds to enter and progress?</p>	<p>Get involved with initiatives such as PRIME [https://primecommitment.co.uk/] , Aspiring Solicitors [https://www.aspiringsolicitors.co.uk/] , the Social Mobility Business Partnership [http://www.smbp.org.uk/] and our EDI mentoring scheme.</p> <p>Higher unemployment makes the job market more competitive, so it is even more important that EDI is integral to firms' recruitment processes. And any programme of redundancies needs to be free from discrimination.</p>
<p>Does your firm treat everyone as an individual and recognise who might face additional barriers?</p>	<p>Make sure that everyone is given the opportunities, support and experience needed to level the playing field for all.</p> <p>Train staff so they understand the lived experiences of people who have different backgrounds and characteristics to them.</p>
<p>Is there a fair process for allocating work?</p>	<p>Use technology to allocate work but make sure that bias is not built into the technology. This will help everyone have the experience they need if they want to progress.</p> <p>Ask your staff if they see work allocation as fair and inclusive.</p>
<p>Do you measure the long-term impact of EDI initiatives and</p>	<p>Change your EDI approach if it is not having the desired impact.</p>



training on the representation of different groups across your business?

Look for good practice examples from other firms and other sectors and consider how you can make it work in your firm.

‘There is merit in firms looking at initiatives and measures that come from the top (to show leadership) and are owned by the middle, that address the persistent issue of a leaky pipeline at the early and mid-level phase of the career trajectory.’ Paulette Mastin, Chair, Black Solicitors Network

Case example: Making race equality a business priority

Several large law firms have signed the Race Fairness Commitment [<http://www.racefairnesscommitment.com/>] and pledged to improve the recruitment, and retaining, of Black, Asian and minority ethnic talent. It also includes a commitment to ending racial pay disparity and to making sure that lawyers of all races are equally likely to receive promotions.

We encourage firms to make EDI a business priority and show commitment by leading by example.

Get more information

Our EDI resources [<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/>] will help you meet your legal obligations and develop your EDI approaches. The Confederation of British Industry has guidance for businesses [https://www.cbi.org.uk/media/4931/12567_epg_guide.pdf] on how to address diversity pay gaps. And our research reports about diversity [<https://www.sra.org.uk/sra/equality-diversity/reports/>] in firms include information about the business benefits of diversity.

Our race equality pages [<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/race-equality-workplace/>] have case studies on good practice. There are supportive groups for solicitors such as Black Solicitors Network (BSN), Society of Asian Lawyers, British Nigeria Law Forum and the Society of British-Bangladeshi Solicitors. The Law Society has information about how firms and allies can better support ethnic minority lawyers [<https://www.lawsociety.org.uk/topics/ethnic-minority-lawyers>] . And BSN Connect [<https://www.bsnconnect.co.uk/>] is a directory of Black, Asian and minority ethnic solicitors and their practice areas.

Our toolkit on sexual harassment in the workplace

[<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/sexual-harassment/>] lists

resources to support you to eliminate bullying and harassment.

Our resources on disability in the workplace

[<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/disability-inclusion/>] give real life examples about how to support staff. Legally Disabled?'s research on disabled lawyer's experiences and Lord Shinkwin's report on the experiences of disabled graduates are also useful.¹³ [n13]

In October 2020, the government committed to making improvements to the legal recognition process for trans people. The Lloyds of London guide

[https://assets.lloyds.com/media/d14252a4-33f4-494a-8da4-e27267a68d3b/Lloyds_trans-and-non-binary_guide_Final_101219.pdf] to trans and non-binary inclusion highlights

that role models are helpful. And our good practice guide

[<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/lesbian-gay-bisexual-transgender-inclusion/good-practice-for-law-firms-on-creating-a-trans-inclusive-workplace/>] and the

Equalities Office guide [<https://www.gov.uk/government/publications/recruiting-and-retaining-transgender-staff-a-guide-for-employers>] will help you to create a trans inclusive workplace.

The Law Society has information and events to help your professional development. LawCare [<https://www.lawcare.org.uk/>] is a free and confidential advisory and support service to help lawyers and their families with mental health problems. And our wellbeing resources

[<https://www.sra.org.uk/solicitors/resources/your-health-your-career/>] have more information about the support available.

What we are doing

Supporting firms and solicitors

Our online EDI resources [<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/>] continue to expand to support firms and individuals. And we collect diversity data [<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool-2/>] so firms can benchmark their EDI progress. We have updated the diversity categories on mySRA and encourage you to update your details so we can share more accurate information about career progression.

We engage with a range of professional groups to support solicitors from different backgrounds. And our EDI mentoring scheme

[<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/edi-mentoring-scheme/>] helps small and medium-sized firms work together with larger firms to develop their EDI approaches.

Regulating based on evidence

The work we are doing to promote EDI is included throughout our Corporate Strategy [<https://www.sra.org.uk/sra/strategy.page>] and business plan for

2020/21 to help us mainstream EDI in all of our work.

Equalities issues in the current legal education system are clear.¹⁴ We will continue to work with training providers, employers and stakeholders to implement the Solicitors Qualifying Examination (SQE), which will support the opening up of diverse routes into the profession and remove unjustified barriers.

Taking appropriate action

Our way of working and our own values [<https://www.sra.org.uk/sra/jobs/values/>] are centred around making sure we are fair.

We take all allegations of victimisation, discrimination or harassment by someone we regulate very seriously, whether against colleagues or the public. And we deal with these reports, and all work involving vulnerable people, sensitively.

Some of the sexual harassment cases we took to the Solicitors Disciplinary Tribunal in the last year were high profile and have led to changes in workplace culture in the sector.

Helping consumers

We require firms to publish their diversity information [<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/your-data/>], which can help people to choose a firm suitable for them. We welcome the increasing use by firms of photographs, videos and short biographies of staff to show their diversity.

Our research [<https://www.sra.org.uk/sra/how-we-work/archive/reports/reasonable-adjustments/>] has good practice examples of how firms can support people who might need reasonable adjustments and who have mental health issues. And our report on providing services to vulnerable people [<https://www.sra.org.uk/archive/risk/risk-resources/vulnerable-people/>] has been updated with new resources from The Law Society and The Advocates Gateway toolkit.

On the horizon

Covid-19 and the recession will continue to affect many people's opportunities to enter and progress in the profession. Pay gaps, and the stay gap, might widen if firms do not take appropriate action.

We are monitoring individuals in our enforcement processes by ethnicity, gender, age and disability. The findings will be published in December 2020 in our Upholding Professional Standards report for 2018/19. We will also be commissioning research to understand why there is an overrepresentation

of Black, Asian and minority ethnic people in the concerns reported to many regulators of the professions in different sectors.

We are building on our race equality work

[<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/race-equality-workplace/>] and resources to support firms.

We are working to realise the potential EDI benefits of the SQE for candidates from protected groups.¹⁵ [15] We will check this, and whether the mitigations we have put in place have addressed any concerns through ongoing and transparent data publication and evaluation. We will continue to engage and involve stakeholders:

- as we implement the SQE
- to develop supporting resources, for example, to help candidates understand the range of options available to them
- to encourage them to play their part as we work to evaluate the longer-term impact on the diversity of the profession.

We know there is an attainment gap affecting Black, Asian and minority ethnic students in legal education. This issue is common across higher education and professional assessments. We are commissioning research to understand the reasons for this attainment gap, so that we can look at whether we and others can take steps to make a difference.

We are also looking into how firms support solicitors through pregnancy and maternity. Early findings show that many mothers feel unsupported by law firms and some lose or leave their job. We aim to publish the findings in 2021.

Notes

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