

**Encouraging a diverse profession  
Legal Services Board's consultation on revised guidance for regulators  
on encouraging a diverse profession**

**Solicitors Regulation Authority response**

**Introduction**

- 1 The SRA is the regulator of solicitors and law firms in England and Wales. We work to protect consumers and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards. Further information is available at [www.sra.org.uk](http://www.sra.org.uk).
- 2 We welcome the Legal Services Board's (LSB) proposals to move to outcomes rather than a prescriptive approach in the section 162 guidance to legal regulators about diversity in the profession. We see this as an opportunity to further develop our work in this area and it will fit well into our future plans for equality, diversity and inclusion (EDI) at the SRA.
- 3 Promoting diversity in the profession is just one of the objectives set out in our current [EDI strategy 2014/15 to 2016/17](#). The other two objectives cover diversity and culture within the organisation, and how we deliver our regulatory functions and take forward our regulatory reforms. We have made good progress with our current EDI strategy in all three areas and as we enter our final year, we have been thinking about our future direction. We are developing an assessment framework and a roadmap to mainstream EDI into our work across the organisation which will be taken forward as part of our next corporate strategy. The objectives set by the LSB in the proposed section 162 guidance will be incorporated into this work.
- 4 This submission provides our response to the LSB's proposals and outlines some of the work we are doing to encourage a diverse profession.

**Our response to the consultation questions**

**1. Is the proposal to switch the focus of the guidance to outcomes beneficial to encouraging the diversity of the profession?**

- 5 We believe that the move away from a narrow and prescriptive approach will provide legal regulators with space to think more broadly about promoting diversity in the profession and meeting their public sector equality duties. Regulators will be able to respond in the most appropriate way depending on the legal market and the particular features of its regulated community.
- 6 The benefits for diversity in the profession will only be realised if regulators are committed to meeting the objectives and are supported and held to account by the LSB and the professions they regulate. The proposed approach will allow the LSB to take a tailored approach to each of the legal regulators.

- 7 Whilst we support the move to outcomes, these outcomes must be clear, achievable and measurable. We can see some scope for making the outcomes more focused, which in turn will help the LSB to drive progress through effective monitoring.
- 8 There are parts of the 2011 guidance which have limited us in the way that we have been able to use the firm diversity data, but we have not allowed this to constrain our wider work to promote diversity in the profession as set out in our response to question three below.

**2. Will the proposed guidance allow regulators the opportunity to develop their own approaches to addressing diversity issues in the legal services profession?**

- 9 We see no reason why the guidance would prevent regulators from developing their own approach to addressing diversity issues in the profession.
- 10 However, we believe it is important to take a holistic approach. For us, addressing diversity issues in the profession is linked closely to our work to embed diversity and inclusion into our culture and values as an organisation, and how we carry out our regulatory functions.

**3. To what extent are regulators already demonstrating achievement of the outcomes? If they are not, why do you think this is?**

- 11 We are developing an assessment framework to help us demonstrate the progress we have made in achieving our equality objectives. This will involve a range of indicators for measuring our work to promote diversity in the profession, for example:
  - the diversity profile of the profession and how it changes over time,
  - the findings from quantitative research that we are undertaking to understand the barriers to diversity, supplemented by further qualitative evidence from a thematic review of diversity in the profession,
  - the amount of engagement we have with firms and others about diversity issues through meetings, social media, our virtual reference group and attendance at our events,
  - evidence of firms leading or participating in diversity initiatives and how they are publishing their own diversity data, and
  - the incidence and outcomes of complaints made to us about discrimination in the profession.
- 12 These indicators, and others, will be brought together into a scorecard that we can use to help assess our progress, although many of the indicators will be used to measure trends in the longer term.
- 13 We have set out some of the work that we have been doing to meet the proposed outcomes.

**Outcome 1 - The regulator continues to build a clear and thorough understanding of the diversity profile of its regulated community (beginning at entry), how this changes over time and where greater diversity in the profession needs to be encouraged**

- 14 We are continuing to improve and update our approach to collecting diversity data from firms. Our latest data collection exercise in October 2015 saw an increase in its coverage:
- the firm response rate in 2015 was 88% (9,033 firms) up two percent from 2014,
  - 171,255 people responded to the survey across the whole firm population in 2015 compared to 166,980 in 2014 (this includes regulated and non regulated individuals in firms).
- 15 We have taken a proportionate approach to the collection exercise and moved to biennial reporting which we hope will ease the burden on firms without impacting on accuracy of the data and response rates.
- 16 The data provides a good picture of diversity in the profession. It is accessible to the profession and others on our website and can be broken down by firm size, work type, geographical location and the number of branches that a firm has. We are doing more to understand what our quantitative data is telling us about some of the barriers to diversity in the profession, particularly in relation to career progression. We have commissioned research on this from the Centre for Employment Relations and Innovation and Change, Leeds University Business School, University of Leeds.
- 17 We are also planning a thematic review of EDI in law firms to gather qualitative evidence which will help us understand the challenges firms are facing in relation to recruitment and career progression. This will help us build a bank of good examples and resources to support firms in this area.
- 18 We are providing diverse pathways into the profession through our Training for Tomorrow programme. For example, we can now admit applicants who demonstrate they have the required skills and experience gained through non traditional routes - our equivalent means process. We have also been working with firms and the government in both England and Wales to encourage legal apprenticeships. We updated our regulations in November 2015 to enable admission as a solicitor through an apprenticeship route.

**Outcome 2: The regulator uses data, evidence and intelligence about the diversity of the profession to inform development of, and evaluate the effectiveness of, its regulatory arrangements, operational processes and other activities**

- 19 Our regulatory reform is informed by our diversity data and equality impact assessment of our reform proposals. An example is the current work we are doing on our proposals to introduce a new approach to qualification through the Solicitors Qualification Examination (SQE). We believe the proposals will promote fairer access to the profession for people from all backgrounds by making sure there are consistent

standards, costs are kept down, and there are a variety of routes to qualification. An equality impact assessment was published with our first consultation and we will publish the further research we are undertaking to support the proposals in our second consultation and the final impact assessment at the end of the consultation process.

- 20 We use the data to inform our Risk Outlook (most recently in our [2016/17](#) publication) which highlights the risks of not having a diverse and representative profession. We provide information and case studies to help firms encourage diversity at all levels.
- 21 We are also using our diversity data to help us target the right support and resources to small firms, which we know have a disproportionate number of people from a black, Asian and minority ethnic (BAME) background. We held a series of very popular regulatory workshops for members of the Black Solicitors Network, to provide best practice tips on running a small practice. We also offer a dedicated helpline and a call back service for small firms, our small firms' website provides focused information and resources and we involve small firms through the activities and discussions of our small firms virtual reference group.

**Outcome 3: The regulator collaborates with others to encourage a diverse profession, including sharing good practice, data collection, and other relevant activities**

- 22 We liaise regularly with the LSB and other legal regulators to discuss our approach to data collection and analysis. For example, we provide CILEx Regulation with our data about Legal Executives working in law firms and have shared our data collection tool with the Institute of Chartered Accountants in England and Wales (ICAEW).
- 23 We have been holding events with firms to raise awareness and share good practice. For example, we held events in London and Birmingham during April 2016 where firms came together to hear tips for a trans friendly work place. We are developing our work on transgender issues through a programme of workshops with firms to identify examples of good practice that we can share through case studies. Similar events to talk about disability and wellbeing are being planned for December and early 2017.
- 24 We met with law firms and students through our support for the Legal Social Mobility Partnership which provides opportunities and support for students coming from a less privileged background.
- 25 We have participated in the Birmingham and London Pride events with other organisations to support LGBTQ colleagues in the law, including the Bar Standards Board, BPP students and the Legal Services Consumer Panel. We are working with other organisations, including other legal regulators and local employer alliances on the Pride 2017 events.
- 26 We sponsored the Black Solicitors Network's UK Diversity Legal Awards in 2016 to celebrate good practice in the legal profession.
- 27 We are growing our EDI virtual reference group, Diversity Matters and have launched a LinkedIn discussion group to involve as many people as we can in our thinking and discussions about diversity in the profession.

**Outcome 4: The regulator accounts to its stakeholders for its understanding, its achievements and plans to encourage a diverse profession**

- 28 We have made the firm diversity data accessible to the profession through our [diversity data tool](#) to encourage firms to benchmark themselves against similar firms. We have provided [analysis of the data](#) to highlight the gaps which was publicised through a [press release](#) taken up by the legal and mainstream press. We provide [resources for firms](#) to tackle any barriers they might identify.
- 29 The firm diversity data survey initiated following the LSB's 2011 guidance did not cover the in-house sector which represents 22 percent of our regulated population. We have supplemented the firm diversity data with published information about the [diversity of the in-house sector](#) from the data that we hold.
- 30 We have a published EDI strategy and report progress in meeting these actions through our [EDI update reports](#) and [annual progress reports](#).
- 31 Our regulatory reform programme is supported by extensive engagement work with the profession and others, both during and outside our formal consultations.

**4. How can the LSB ensure that the data the regulators collect continues to be comparable?**

- 32 We support the proposal not to include the current version of the model questionnaire as part of the prescriptive guidance. Certain aspects of the questionnaire have restricted the SRA in its approach to the collection of firm diversity data, in particular the role categories. For example, it would be useful to be able to breakdown the 'other fee earning role' so we can identify legal executives who are not chartered or a fellow, paralegals and trainees.
- 33 We think it would be helpful for regulators to work together to maintain consistent diversity categories over time, and to line those categories up with the ONS diversity categories.

**5. Given the LSB's proposal to assess regulator performance in this area, what would be the most effective way to carry this out? How long should we allow regulators to implement changes before any potential future performance assessment?**

- 34 We are developing an assessment framework to help us identify the right indicators and how we can use them to measure the effectiveness of our work in the short and longer term. We are happy to share that work with the LSB and other regulators at the right time.
- 35 We understand that the approach proposed will involve a standalone assessment by the LSB of regulator performance against the outcomes. Although we can see the benefits of this approach in the short term, we would ultimately like to see the assessment more integrated into the main evaluation framework for regulators. This may encourage regulators to mainstream their EDI work.

36 We do not anticipate any difficulty in implementing the new approach to the timetable suggested and demonstrating how we have met the outcomes by August 2018.

**6. Will the proposed guidance**

- a) **Deliver better services for consumers?**
- b) **Support innovations in legal services?**
- c) **Allow regulators to encourage business led diversity initiatives?**
- d) **Encourage a more diverse profession?**

37 If the guidance encourages legal regulators to work more broadly to promote diversity in the profession, we would agree that there are likely to be improvements in the areas set out in this question.

**Better services for consumers**

38 We agree that improved diversity in the profession is likely to improve access to justice and potentially the quality of legal services available to consumers. We have made the case for this in our risk outlook publications.

**Greater innovations in legal services**

39 There is some evidence that [diversity can drive innovation](#) and we would agree that a more diverse legal profession is likely to be in a better position to produce different ideas, creativity and an entrepreneurial approach to providing legal services. We are supporting innovation in the sector through SRA Innovate, which supports law firms to develop new services.

**Encouraging business led diversity**

40 Proposed outcome three will encourage regulators to take a collaborative approach to promoting diversity which we agree will increase the impact of the work in the legal sector. Regulators, other agencies, law firms and representative bodies all have a role to play in promoting diversity through using good practice examples and case studies and working with other firms on business led diversity initiatives.

41 For example, we have been involved in some excellent initiatives where firms are working together on joint initiatives, such as the Legal Social Mobility Partnership. Our experience of holding diversity events with firms, indicates that firms are willing to come together and exchange ideas and good practice on diversity.

**Further observations**

42 The proposed guidance does not make any reference to the diversity requirements which the relevant regulators apply to the entities they regulate. We have included the requirement to collect, report and publish diversity data into the outcomes set out in [chapter 2 of our Code of Conduct](#). The outcomes in chapter 2 are expected of individuals and firms to meet Principle 9, to “run your business or carry out your role in the business in a way that encourages equality of opportunity and respect for

diversity.” We have just consulted on our proposed new approach to our Codes and our expectations of firms will not change.

- 43 We think that these requirements are important to help us promote diversity and to ensure that firms are thinking about the diversity of their staff and how they provide services to diverse consumers. Whilst we would agree that it is not for the LSB to determine the precise requirements that each regulator expects of its regulated population, we think that some reference to this in the section 162 guidance would be beneficial.
- 44 We think it might be useful for the LSB to think about how the outcomes might prompt regulators to think more about access to justice and how firms are delivering legal services to a diverse range of consumers. This is an issue which might usefully be considered in the context of making regulatory information on legal services available to consumers.
- 45 The consultation and proposed guidance does not make reference to the diversity of non authorised people working in legal services. It would be useful for the LSB to make it clear if there are any changes in the LSB’s expectations from 2011 that the entire workforce of a legal service provider should be brought within the diversity survey.

#### **Closing comments**

- 46 We welcome the LSB’s proposed approach and would be happy to share our work to develop an assessment framework with other legal regulators and the LSB.