

# Increasing diversity and social mobility in the legal workforce: transparency and evidence

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**LSB response document & accompanying statutory guidance issued under Section 162 of the Legal Services Act 2007**

July 2011

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## Foreword by the Chairman

We share with the approved regulators a regulatory objective to encourage an independent, strong, diverse and effective legal profession. More broadly, to deliver the regulatory objectives in the Legal Services Act 2007 requires a diverse workforce (not just a diverse profession) which reflects the society that it serves – a workforce that understands and can respond to the diverse needs of a diverse range of clients.

We recognise and applaud the strong commitment demonstrated by professional bodies and others in the profession over a number of years to increase diversity. However, progress at the more senior levels has been disappointing and much of the focus has been on gender and ethnicity rather than social background and the protected characteristics in the Equality Act 2010. More needs to be done by us as regulators, in a systematic and targeted way.

The starting point has to be gathering the evidence to make a proper assessment of the issues, and ensuring that the actions we take are properly targeted on priority areas. Such approaches are widespread in the commercial and public sectors.

Individual businesses also have to play their part. The research (including the original qualitative study that we funded last year) shows clearly that some of the most important barriers are cultural, and therefore not easily eliminated. Firms and chambers need to be transparent in and, through that, accountable for their decisions on recruitment, promotion and cultural values; we will not achieve this by collecting aggregated data alone.

Transparency can act as a powerful incentive on businesses to consider what action they can take to improve their recruitment and promotion processes and encourage applicants from all backgrounds.

This is not about regulating who businesses may or may not appoint or promote, or imposing quotas. It is about challenging businesses to go further and faster to open up legal careers to the widest possible pool of talent.

There is a long way to go before we can be confident that careers in law at all levels are open to all, regardless of background. We are determined, alongside the professional bodies and others, to play our part. We will review regularly the progress that is being made and identify what further regulatory measures are necessary and proportionate to make real progress.

**David Edmonds**

## Executive Summary

1. The Legal Services Board (the Board or LSB) and approved regulators have an objective under the Legal Services Act 2007 (the 2007 Act) to encourage an independent, strong, diverse and effective legal profession.<sup>1</sup>
2. In addition, the Equality Act 2010 (the 2010 Act) introduces a new public sector equality duty which came into force in April 2011 - it requires all bodies exercising public functions (including the LSB and approved regulators) to have regard to:
  - eliminating unlawful discrimination, harassment and victimisation
  - advancing equality of opportunity between different groups
  - fostering good relations between different groups.
3. This document sets out the LSB's conclusions following its consultation on how best to meet these obligations.
4. We recognise the strong commitment demonstrated by professional bodies and others in the profession over a number of years to increase diversity. We also recognise the operation of commercial incentives that are increasingly helping to drive progress. For example:
  - corporate or individual consumer demand for a diverse workforce
  - management-led change in culture enabling firms to attract the best talent.
5. However, progress at the more senior levels of the profession in particular has been disappointing and much of the focus has been on gender and ethnicity rather than social background or the protected characteristics in the 2010 Act. The Board therefore continues to believe that there is a distinct regulatory contribution to be made to achieving further progress.
6. The Board therefore expects approved regulators to:
  - gather a more comprehensive evidence base about the diversity characteristics of the legal workforce by ensuring that every individual is given an opportunity to self-classify against a broader range of characteristics (including age, gender, disability, ethnic group, religion or

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<sup>1</sup> Section 1(1) (f) of the Legal Services Act 2007. A diverse workforce is also a key enabler to delivering some of the other regulatory objectives, in particular protecting and promoting the interests of consumers, improving access to justice, promoting competition and protecting and promoting the public interest.

belief, sexual orientation, socio-economic background and caring responsibilities)

- ensure the transparency of diversity data, including published summary data about some characteristics (age, gender, disability, ethnic group socio-economic background and caring responsibilities) at the level of individual regulated entities (where approved regulators regulate entities)
- collate diversity data to give an aggregate view of the diversity make-up of each branch of the profession
- ensure the data identifies seniority where appropriate, so that it can be used to track progress in relation to retention and progression
- evaluate the effectiveness and impact of existing diversity initiatives.

7. We acknowledge that there is not necessarily a one-size-fits-all approach to meeting these objectives, and therefore approved regulators will need flexibility in implementing data collection and transparency requirements as part of their broader regulatory framework. The Board has concluded that giving statutory guidance under s.162 of the 2007 Act is the right way to give clarity about the outcomes to be achieved and scope for them to be achieved in a flexible way. The guidance is at **Annex B** of this document.

8. The proposal to publish data at entity level was controversial in consultation. However, after careful consideration, the Board believes that it is right to proceed. The benefits of transparency at entity level include:

- the ability for consumers (including end users, bulk purchasers and referrers) to identify where the diversity profile of a particular firm varies from what might be expected when compared with competitors
- the ability for regulators to identify where the variation from what might be expected is so great that regulatory questions may need to be asked (for example if there were no women solicitors at all in a medium sized firm)
- raising awareness of the impact of barriers to particular groups at a firm/entity level and therefore encouraging firms and chambers to take action
- highlighting and stimulating challenges to the more intractable cultural barriers that seem to lie behind areas of limited progress
- focusing on the whole legal workforce rather than just the profession
- recognising the variety or make up of the workforce at different firms and ensuring that data is available at the level at which recruitment, retention and promotion decisions are made.

9. The Board therefore considers that this makes publication and collation at both entity and profession wide level considerably more effective in driving early progress than at an aggregated level alone, and considers that this benefit outweighs any negative effect in terms of a marginally lower response rate than

may otherwise have been the case. We believe that the removal of mandatory publication of data on sexual orientation and religion or belief at entity level will not lessen the participation rate.

10. We are clear that transparency is not the whole answer to the diversity challenge, and so regard evaluating the impact of existing initiatives as a priority. The results of this exercise, together with better data, will provide an evidence base for testing profession wide initiatives by approved regulators and also those at particular firms and chambers. We will work with approved regulators and others to explore a standardised approach to evaluation to enable the relative effectiveness of different initiatives to be compared.
11. We will also assess the extent to which the objectives set out here have been achieved by the end of 2012. We therefore expect approved regulators to submit final detailed plans by January 2012 setting out how they intend to deliver our expectations, and to begin implementing those plans no later than March 2012. The expectations should be achieved (i.e. the first cycle of data collection should be complete and published data should be available) by the end of 2012.

## Consultation Process

12. These proposals were set out in a consultation paper published on 15 December 2010 and consulted on for a 12 week period which ended on 9 March 2011. We received 26 written consultation responses. All responses have been published on our website unless respondents requested that they be kept confidential.
13. This paper provides a summary of the range of responses we received to the consultation. It also includes feedback received from focussed meetings with firms and approved regulators, and a workshop held to discuss the proposals in more detail with relevant interest groups. A full list of respondents is at **Annex A** (including a glossary of acronyms for each group).
14. Over the last two years we have engaged with approved regulators, interest groups and academics working in the field to achieve a shared vision of how to improve diversity within the workforce and to meet our obligations under the 2010 Act. We have also:
  - reviewed academic literature
  - commissioned new research
  - run a Diversity Forum bringing together approved regulators and professional/representative bodies
  - conducted a workshop with interest groups
  - held a separate consultation meeting with Diversity Managers of some City firms who are already conducting a monitoring process within their organisations and publishing summary diversity data
  - met the largest two regulators the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB), to gain feedback on the practicalities of implementing our proposals.

## Background

### Existing data, research and initiatives

***Question 1: What are your views on our assessment of what diversity data is currently collected? Are there any other sources of data that we should be aware of?***

15. Most respondents agreed that our assessment of what diversity data is currently collected was accurate and reasonably comprehensive. The SRA and Bar Council (BC) both highlighted improvements to data collection which are already planned, including through the online processes for student enrolment and practising certificate renewal. A number of approved regulators included their own summaries of the diversity data held about their regulated community. Some additional data sources were highlighted by consultees, including:

- Data collected by the Inner Temple from its members about a range of characteristics including socio-economic background and religion or belief
- Data collected by the BC/BSB at various stages of barristers' careers (including about Bar Professional Training Course (BPTC) applicants, BPTC graduates and pupils) and surveys undertaken including the Exit Survey and Employed Bar attitudinal survey
- Empirical data collected as part of research studies.

#### ***LSB response***

We are grateful to respondents for highlighting these additional data sources. The responses highlight a lack of consistency in data collection across the branches of the profession – both in relation to the range of characteristics covered, and the coverage and frequency of data collection requests. We expect approved regulators to work together to develop a more consistent approach.

***Question 2: What are your views on with our assessment of what the available diversity data tells us?***

16. Most respondents agreed with our assessment and thought it was a fair representation of the position based on available data. The Association of Women Solicitors (AWS) found our assessment “depressingly accurate”. A number of respondents commented that more sophisticated analysis would be beneficial. For example, the Society of Black Lawyers (SBL) highlighted the disparities between ethnic groups within the broad category of Black and minority Ethnic (BME) practitioners. It cited the Law Society (TLS) statistics which show that there is a relative over-representation of lawyers from Asian and Chinese backgrounds in city law firms, and an under-representation of black lawyers.



17. Some respondents also highlighted the potential complexity of the analysis required where individuals have multiple intersecting protected characteristics in the 2010 Act (for example BME women).
18. The BC highlighted that the data on those Called to the Bar includes overseas students who represent 20% – 30% of the total. This means that the Call to the Bar figures do not equate with the applicant pool for pupillage. The BSB disagreed that there is insufficient data to make an assessment in relation to some protected characteristics such as disability and socio-economic background. It also highlighted plans for a biennial survey to allow attitudinal data to be analysed alongside data on key demographics. The Commercial Bar Association (COMBAR) raised concerns about the lack of available data on senior practising barristers, which it considers makes it difficult to give a complete picture of retention and progression at the Bar.
19. A number of respondents highlighted the lack of data on sexual orientation, and agreed that a more comprehensive evidence base is required.
20. The Tunbridge Wells, Tonbridge and District Law Society (TTDLS) felt our assessment of the data suggested that the profession was racist. In its view the data also suggests that “the legal profession does very well in comparison with other professions.”

### ***LSB response***

Most respondents felt our assessment was reasonable, based on the available data. We agree that the data set is incomplete and the assessment is therefore limited. It would be beneficial to carry out more detailed analysis of a more comprehensive data set to help identify the barriers faced by practitioners with particular protected characteristics.

The available data does not support the assertion that individual members of the profession, or the profession as a whole, is overtly racist. We have never suggested that it does. However, the data suggests that there may be barriers to retention and progression for particular groups, and this is supported by extensive qualitative research highlighting structural and cultural barriers. It is these barriers which need to be broken down. The Board does not seek to regulate who individuals firms and chambers may or may not appoint or promote. We want regulated entities to think hard about what they can do to remove unnecessary and potentially discriminatory barriers (some of which may not be imposed consciously) that affect individuals with some protected characteristics in the 2010 Act, or from some socio-economic backgrounds, more than others.

**Question 3: Is there other diversity research we should be aware of, that we did not take account of in our review of existing literature?**

21. Many respondents had nothing to further add. However, a number of respondents highlighted additional research that was not covered in our literature review. This included:

- “Obstacles and barriers to the short and long term career development of female lawyers” *The Law Society (2010)*
- “Ethnic diversity in law firms – understanding the barriers” *The Law Society (2010)*
- “The career experience of LGB solicitors” *The Law Society (2010)*
- “Women Solicitors Careers, Work Life Balance and Use of Flexible Working Arrangements” *Association of Women Solicitors and Kings College London (2010)*
- “Some observations of Meritocracy and the Law: the profile of pupil barristers at the Bar of England and Wales, 2004-2008” by Anna Zimdars and Jennifer Sauboorah
- “Entry to the Bar” by Lord Neuberger *Bar Council*
- “Old Boys’ Networks, Family Connections and the English Legal Profession” Working Paper by Michael Blackwell, London School of Economics
- “Mobility in Pupils’ Cognitive Attainment During School Life” by Leon Feinstein, *Oxford Review of Economic Policy*
- “Accounting for Intergenerational Income Persistence: Non-cognitive Skills, Ability and Education” by Jo Blanden, Paul Gregg and Lindsey Macmillan, *Economic Journal*, 117, C43-C60.

22. The Intellectual Property Regulation Board (IPReg) highlighted the lack of diversity of those students who choose to study the scientific disciplines and the link to diversity in the Patent profession, which requires scientific qualifications. It suggested further investigation of available research about the reasons for this lack of diversity in the science disciplines is needed.

**LSB response**

We are grateful to respondents for highlighting additional research on diversity issues, which provides additional evidence for LSB and approved regulators to consider when we are formulating policies to increase diversity and social mobility in the legal workforce.

***Question 4: Are there any other diversity initiatives run by approved regulators which are not reflected in our outline of current initiatives?***

23. The SRA described various internal and external diversity initiatives, including its annual Diversity Week, and regular engagement with its regulated community to discuss equality and diversity issues (including interest groups such as the Black Solicitors Network (BSN), Solicitors Sole Practitioners' Group and Lawyers with Disabilities Division).
24. The BSB highlighted additional activities it undertakes, including equality and diversity training for members of disciplinary panels, proposed changes to the strengthen the equality and diversity provisions of its Code of Conduct, the Recruitment Toolkit for chambers and the work done through the chambers monitoring scheme to monitor compliance with the equality and diversity provisions of the Code of Conduct.
25. The Council of Licensed Conveyancers (CLC) set out the steps it takes to increase access to the parts of the legal profession it regulates (for example by seeking to regulate litigation and rights of audience, reviewing its qualification framework and showcasing the diverse profiles of the legal profession).
26. The BC highlighted some errors in the Annex summarising the key diversity initiatives and suggested that the term "diversity initiative" ought to be defined. It highlighted that there is not a common understanding of the term – for example some approved regulators had included benevolent funds which the BC disagreed is a "diversity initiative".
27. Some consultees highlighted that focusing on the work done by approved regulators meant that we had not reflected the extent of work being undertaken across the sector. COMBAR described the range of activity undertaken by its equality and diversity committee, including representation at law fairs, a parental leave/career break advice scheme and a menu of options of suggested positive action by chambers to address unjustifiable under-representation of women and BME groups. Matrix Law (ML) also set out the diversity initiatives it runs.

### ***LSB response***

We are grateful to respondents for highlighting this additional activity. We agree that there is not a shared understanding of what is meant by “diversity initiative” and a wide range of activity has been given this label. We support and welcome initiatives to increase workforce diversity, which should be targeted, based on evidence and evaluated for their impact. We recognise that there is a great deal of positive work being done by professional bodies, interest groups and individual providers backed by a significant commitment of resources. Our primary focus is to identify where regulators can add value to this activity, and drive action through regulatory interventions. We encourage all those involved in running diversity initiatives to evaluate their impact regularly, to ensure that resources are targeted on those activities which have the greatest impact.

## Our proposals

### Our priorities – evidence based policy & transparency

***Question 5: What are your views on the immediate priorities for 2011 we have identified? If you disagree with our priorities in relation to equality and diversity, what should they be (bearing in mind the regulatory objectives, the Equality Act obligations and the Better Regulation principles)?***

28. There was a range of views on our priorities. A number of respondents (including the Crown Prosecution Service (CPS), SBL, COMBAR and AWS) agreed with the immediate priorities we have identified.
29. Some respondents (including the CLC, TLS, BC, Honourable Society of the Inner Temple (HSIT) and Master of Faculties (FO)) broadly supported the priorities, but not the proposal to require transparency at entity level. The TTDLS considered that the action proposed is disproportionate to the perceived lack of diversity.
30. A number of respondents raised concerns about the practicalities of implementation, particularly in relation to the proposal to require transparency at entity level. Several respondents (including City of Westminster and Holborn Law Society (CWHLS) and the Forum of Insurance Lawyers (FOIL)) highlighted that workforce monitoring data would not necessarily enable approved regulators to understand the problems which exist, and suggested that attitudinal surveys or other qualitative research would be required. Two respondents (including SRA) emphasised that action should not be delayed on tackling issues about which data is available.
31. IPReg highlighted its reservations about the application of the priorities to the workforce as a whole, rather than applying them more narrowly to the profession – i.e. regulated individuals. The SBL suggested that an additional priority should be “ensuring compliance with existing law”.
32. There was also a strong message from a number of consultees (including those who supported our approach) that we should articulate a broader strategy, and set out our expectations about what should happen once the more comprehensive evidence base is assembled – for example, when we intend to review the impact of the proposals and consider more stringent requirements if insufficient progress has been made. Some suggested we set out the further work we might expect approved regulators to do to address equality and diversity issues.

### *LSB response*

We are encouraged that many respondents supported our priorities to a greater or lesser extent. We agree that monitoring data alone will not necessarily reveal all the barriers faced by individuals with one or more protected characteristics. Additional attitudinal surveys and qualitative research may be required and we encourage approved regulators to pursue these options. We also agree that approved regulators should consider the extent to which their regulated entities comply with existing equality and anti-discrimination law and ensure that appropriate action is taken where this is not the case.

We consider that our priorities should apply to the whole workforce and not just regulated individuals. Our remit and that of the approved regulators extends to the legal services market as a whole. In our view, the legal workforce should reflect the society it serves. The role of non-lawyers within regulated entities is becoming increasingly important, and hence a diverse legal workforce (and not just a diverse profession) is a key enabler to delivering some of the other regulatory objectives, in particular:

- supporting the constitutional principle of the rule of law
- protecting and promoting the interests of consumers
- improving access to justice
- promoting competition
- protecting and promoting the public interest.

We are clear that transparency is not the whole answer to the diversity challenge. However, the research (including the original qualitative study we funded last year) seems clear that some of the most important barriers are cultural, and therefore not easily eliminated. We believe that, by shining more light on the issue and hence encouraging debate, our proposals represent a realistic, necessary and achievable first step.

The benefits of transparency at entity level include:

- the ability for consumers (including end users, bulk purchasers and referrers) to identify where the diversity profile of a particular firm varies from what might be expected when compared with competitors
- the ability for regulators to identify where the variation from what might be expected is so great that regulatory questions may need to be asked (for example if there were no women solicitors at all in a medium sized firm)
- raising awareness of the impact of barriers to particular groups at a firm/entity level and therefore encouraging firms and chambers to take action
- highlighting and stimulating challenges to the more intractable cultural barriers that seem to lie behind areas of limited progress
- focusing on the whole legal workforce rather than just the profession
- recognising the variety or make up of the workforce at different firms and

ensuring that data is available at the level at which recruitment, retention and promotion decisions are made.

The BSN has submitted a summary of its work on its annual Diversity League Table, and this is attached at **Annex C**. This gives an example of both the implementation and the impact of transparency about diversity at firm and chambers level.

Based on the points raised by stakeholders during the consultation process, we will discuss the following issues with approved regulators by the end of 2011 to help identify and prioritise further work (and the optimum split of responsibility between what is done by the LSB and by individual approved regulators):

- research on equal pay
- encouraging more flexible working and better childcare provision
- promoting access to work experience and internships for disadvantaged groups
- purchaser-focused initiatives (e.g. work with General Counsel) which have been used in the United States of America.

***Question 6: Do you agree that a more comprehensive evidence base is needed about the diversity make-up of the legal workforce?***

33. The majority of respondents agreed that it was desirable to gather a more comprehensive evidence base about the make-up of the legal workforce to underpin targeted and proportionate policy interventions to increase diversity. The CPS highlighted the need for education on “why we monitor, how we monitor and what information is used for”. Many (including TLS and BSB) agreed that there should be a regulatory requirement on firms and chambers to conduct diversity monitoring, although BSB suggested that it would be preferable to focus initially on ensuring that Chambers gather accurate and reliable data about fewer diversity strands.

34. Some consultees highlighted that data collection should only be carried out to the extent that this is proportionate, and raised concerns about the additional burdens that such requirements might impose on small firms. The Institute of Legal Executives (ILEX) considered that data collection should not be mandatory. Several respondents also highlighted that data collection alone will not improve the diversity profile of the profession and will only tell part of the story.



### ***LSB response***

There is strong support from a wide range of respondents to the principle that a better evidence base is required about the diversity make-up of the legal services workforce.

A number of approved regulators already have plans in place to increase the range of data they collect and improve its reliability. We recognise that there are different ways in which this could be achieved – for example a regulatory requirement on firms to conduct surveys about the diversity of their workforce, or collection through the practising certificate renewal process and surveys. However, we do not consider that conducting a single short survey on an annual basis (using the draft model questionnaire included in our consultation paper) could be construed as disproportionate.

In our view, it is important to ensure that regulated individuals, and all those working in regulated entities, are given an opportunity to self-classify periodically in relation to their diversity characteristics. Businesses and regulators should then use this data as a basis for investigating potentially discriminatory effects, and identify and address barriers that exist in relation individuals with one or more of the relevant characteristics. However, we do not seek to be prescriptive about the approach approved regulators take to gathering a more comprehensive evidence base. What is important is that the evidence is gathered and acted upon.

### ***Question 7: What are your views on our proposal that in principle that approved regulators should impose regulatory requirements on the entities that they regulate requiring them to publish data about the diversity make-up of their workforce?***

35. There was less consensus about our proposal that diversity data should be published at entity level. A number of respondents (including the SBL, AWS and COMBAR) agreed in principle with a requirement on entities to publish diversity data. CPS agreed in principle but highlighted that guidance would be needed on small numbers not being published if there is a potential to identify individuals.
36. The BC agreed that transparency at entity level should be encouraged, but disagreed that it should be mandated. Some respondents (including IPReg, ILEX Professional Standards (ILEX PS) and 2-3 Grey's Inn Square (GIS)) supported the principle subject to the requirements being proportionate, particularly in relation to small entities. The SRA supported our commitment to promote transparency, although it highlighted that the transition for larger law firms in publishing is likely to be relatively straightforward, whereas smaller firms may require support. The FO agreed that publication might be sensible for firms with a



workforce of 100 or more, but suggested that “it would seem a nonsense” to apply this to small high street practices.

37. CLC considered that transparency across the protected characteristics in the 2010 Act at aggregate (approved regulator) level would be proportionate in the first instance. BSB felt that too much emphasis was being placed on the diversity characteristics of the chambers workforce rather than the level of commitment to equality and diversity in chambers, suggesting that the latter is more important. It suggested that the proposed requirements would pose data protection risks for small chambers, and risk a backlash against us and the BSB from the profession (including the potential for widespread non-compliance). HSIT similarly thought that commitment to equality and diversity is more accurately demonstrated by policies, procedures and initiatives rather than characteristic make-up alone, and felt our proposal would be considered a tick-box exercise.
38. TLS was “strongly opposed” to the principle of publication at entity level. CWHLS felt it would lead to pressure for entities to have “token” representatives of minority groups, which could lead to bad feeling, bullying and ostracism if there was a perception that promotion is not merit based. It also considered that serious issues surrounding the disclosure of mental health problems and sexual identity had not been addressed. ILEX thought that publication may expose smaller rural firms to unnecessary damaging scrutiny. Several respondents expressed concerns about the potential for low response rates if the individuals completing the questionnaire knew it might be published in a way that made them identifiable, leading to incomplete and potentially misleading data.
39. There was significant concern about data protection and privacy issues if anonymity could not be guaranteed (see question 32 below). A particular concern was that individuals might be discriminated against on the basis of this published data, either by their employer, colleagues or consumers. Much of the concern seemed to focus on what respondents regarded as less visible characteristics such as sexual orientation and religion or belief, with a number of respondents highlighting that monitoring in relation to some characteristics such as gender and ethnicity were already well established.
40. Stonewall considered that publishing data about sexual orientation at entity level would risk ‘outing’ individual lesbian, gay and bisexual employees working in smaller entities to colleagues and managers, and urged us to identify alternative methodologies that allow the collation of the data without it being accessible by colleagues and managers. The Bar Lesbian and Gay Group (BLAGG) considered that chambers are generally too small for people to feel comfortable giving this information. However, the Lesbian and Gay Foundation (LGF) supported publication at entity level.

### *LSB response*

We acknowledge the strong opposition expressed by some consultees to the proposed publication requirement. We have always been clear that the provision of diversity monitoring data by individuals must remain voluntary. In our view, if individuals are given full information about the way in which the data will be used and the form in which it will be published, then the data can be published lawfully with consent to use it in the way described. The key safeguard protecting privacy is therefore the requirement for informed consent by the individuals at the point of disclosure.

We also recognise that the voluntary nature of the data collection exercise, coupled with the publication requirement, may have the effect of limiting the data disclosed. This may mean that the evidence base gathered is incomplete and/or skewed by the reluctance of some individuals to disclose some or all of the data sought. While this is clearly a risk, our view is that data collection on such a basis would still represent a major improvement on the status quo.

The principle of transparency should be our initial priority, and in our judgement the benefits of transparency as a means of spurring action within individual firms and chambers, and increasing the ability of ARs to pursue targeted investigation where justified, outweigh the potential disadvantage of a small decline in coverage overall. If we can achieve transparency at entity level, it is likely that over time individuals will become more accepting of the value of diversity monitoring (transparency will mean entities are likely to take action, which will emphasise that monitoring is effective). As attitudes change over time, it is likely that more individuals will be willing to disclose the data and its reliability will increase.

However, we recognise the strength of feeling expressed by respondents and do not wish controversy about this issue to delay implementation and progress. Whilst we continue to encourage publication in relation to all characteristics where firms wish to do so, we have therefore decided to require a more limited entity-level publication requirement initially, which excludes sexual orientation, religion or belief and gender reassignment.

We are very clear that these three characteristics are no less important than any other protected characteristics, and it remains our view that in principle entity-level data should be published about all eight protected characteristics (plus socio-economic background). We will review the position by the end of 2013, with a view to expanding the range of published data available by the end of 2014.

## **Evaluation of existing initiatives & specific regulatory requirements and targets**

### ***Question 8: What form should the evaluation of existing initiatives take? Should there be a standard evaluation framework to enable comparison between initiatives?***

41. Many respondents agreed that the evaluation of existing initiatives is important to ensure limited resources are focused and best practice is shared. TLS suggested that initiatives could be evaluated using the Equality Impact Assessment framework, supplemented by consultation interviews with managers of the initiatives and participants.
42. A number of respondents expressed doubts about the feasibility of developing a framework which could be applied to the wide range of initiatives undertaken by approved regulators, professional bodies and others.

#### ***LSB response***

There appears to be a consensus that a more systematic approach should be taken, and that best practice should be shared more effectively. The detailed approach requires further discussion between approved regulators and others.

### ***Question 9: What are your views on our proposal that regulatory requirements on entities to take specific action to improve performance (including targets) are not appropriate at this stage?***

43. Several respondents disagreed and want us to go further. The BSB suggested that “in theory, the requirement on chambers to gather data in order to identify disparities should carry with it an attendant requirement to take action to remedy inequality where possible”.
44. The AWS felt there should be regulatory powers to force entities to comply with the law concerning equal pay. The SBL did not feel that transparency would provide a sufficient incentive for regulated entities to “embrace, promote and practice diversity”, and suggested that there should be rewards for good practice and performance backed with clear sanctions for failing to publish or failing to change. COMBAR was “highly sceptical that any real change or progress will be made without regulatory enforcement” and suggested that we should set out a timetable for reviewing our current position and be clear as to what will constitute sufficient change. CPS suggested that we set a timescale for considering targets.
45. Many respondents agreed that specific regulatory requirements to take action (including targets) were not appropriate at this stage. The FO considered that

such an exercise would “cause unfairness and absurd results which would outweigh any positive benefits”. TLS considered that “client led demand will quicken the pace of culture change” and suggested that entities should be encouraged to understand and make full use of the new positive action legislation.

46. Some consultees appeared to see the proposal to impose a requirement to monitor diversity and publish the results as the first step on a ‘slippery slope’ towards more directive measures, or feared that it would result in a system of ‘informal targets’. For example, the TTDLS consider it “foolish to regulate who firms may and may not employ”, highlighting that “the Communists who tried this sort of thing caused an economic nightmare for those in Eastern Europe for years”.

### ***LSB response***

The impact of our data collection and transparency proposals is not yet known. We remain of the view that the most proportionate approach initially is to test the effectiveness of transparency in driving action. If this does not result in significant progress by the end of 2014, we will consider at that stage whether to impose more specific requirements for action on a universal basis across all approved regulators. However, we would certainly not discourage individual approved regulators from placing more specific obligations on some or all entities within their jurisdiction where they believe that the evidence justifies it.

It is our expectation that regulated entities will analyse and act on the data they collect and publish. We will also expect approved regulators to impose appropriate sanctions if entities refuse to comply with a regulatory requirement to monitor and publish diversity data in accordance with the applicable regulatory rules.

We recognise that some approved regulators already impose (or have plans to impose) a range of requirements on entities in relation to equality and diversity (for example requirements to have an equality and diversity policy or for training for interviewers). We do not consider it appropriate for us to prescribe additional requirements at this stage.

## What we intend to do next - guidance & standard categories

### *Question 10: Do you think we should issue statutory guidance to approved regulators about diversity data collection and transparency?*

47. Many respondents (including IPReg, CLC and SRA) supported the issuing of statutory guidance, or stated that they had no objections. The BSB asked that we set out our proposed requirements more clearly and specifically.
48. The BC considered that since approved regulators already have the same independently accountable, public equality duties as the LSB it is not proportionate for LSB to prescribe the method by which diversity objectives are reached. TLS disagreed that we should issue statutory guidance unless voluntary measures had been tried and had failed, and we could demonstrate that issuing the guidance is a proportionate use of our statutory powers.

#### ***LSB response***

We agree that it would be beneficial for us to issue statutory guidance about diversity monitoring. This is an area where we consider further and faster action should be taken, and we have clear expectations of the approved regulators that we oversee. While we do not preclude approved regulators working with their partner professional arm, we consider that there is a clear obligation on each of the bodies we oversee to take action. Gathering a better evidence base is fundamental to developing a more systematic and targeted approach to addressing specific issues. Transparency is a relatively simple and potentially powerful tool to make individual business accountable for identifying and breaking down barriers to retention and progression for diverse groups.

However, we agree that approved regulators are best placed to determine how these expectations can best be met in the context of their regulated community, and we do not seek to be prescriptive about the manner in which they are achieved.

We have therefore issued guidance setting out one way in which our expectations might be achieved, and we will assess the extent to which it has been taken into account by approved regulators by the end of 2012. We will also be willing to discuss alternative proposals from approved regulators about how they propose to achieve a more comprehensive evidence base and promote transparency at entity level.

***Question 11: What are your views on our proposal to agree standard data categories with approved regulators, to ensure comparability of diversity data within the legal workforce and with other external datasets?***

49. The majority of respondents supported the proposal to agree standard data categories. A small number thought it unnecessary, and one respondent highlighted that changing existing categorisations may cause problems with comparability against historical data.

***LSB response***

The model questionnaire has been revised in the light of feedback from consultees (see questions 19 – 30 below) and included in the statutory guidance attached at **Annex B**.

## Implementation issues

### Coverage

#### ***Question 12: Do you have any comments about our proposals in relation to the people the data collection and transparency requirements should cover?***

50. Half of the respondents (13/26) agreed with the collection of data from the entire workforce including lawyers and non-lawyers. In particular, groups representing barristers indicated that it would be useful to include barristers' clerks as they play a pivotal role in the development of a barrister's career.
51. Several consultees (4/26) indicated that there should be some exemptions from the collection and transparency requirements, including sole practitioners and those approved regulators who do not conduct entity regulation such as the Cost Lawyer Standards Board (CLSB).
52. An important issue raised was that the exercise should avoid the duplication of information in regard to authorised persons who are regulated by two approved regulators - particularly where non-solicitors work within a solicitors firm. For example, the FO indicated that the majority of notaries are already in solicitors firms and that they should be included in the SRA monitoring exercise, similarly a number of Legal Executives also work within solicitors' firms.
53. Three groups disagreed with the proposals in their entirety and seven consultees did not comment on the question.

#### ***Question 13: Should the framework include the collection of information on in-house lawyers?***

54. The majority of consultees (16/26) indicated that information should be collected on in-house lawyers, with CLC highlighting that the data may reveal a correlation between the diversity profile of in-house lawyers and the difficulties of progressing in private practice. The CPS also commented that it may indicate an organisation's culture.
55. Four groups were in favour of exempting in-house lawyers with one group recommending their inclusion only if practicable.

### ***LSB response***

We remain of the view that the data collection and transparency requirements should extend to the entire legal workforce. The LSB's remit and that of the approved regulators extends to the legal services market as a whole and the role of non-lawyers within the profession is becoming increasingly important, particularly in the face of significant regulatory changes to the legal landscape, including the introduction of ABS.

We agree with the consultees that sole practitioners should be exempt from this exercise. However, we would expect approved regulators to still collect and publish information on sole practitioners at an aggregate level. We also expect that if an authorised person is regulated by two approved regulators, such as notaries or Legal Executives who work within solicitors' firms, it is the responsibility of the approved regulator who regulates the entity to impose the regulatory requirement to collect data about the whole workforce.

We agree that those approved regulators which do not currently regulate entities should not be expected to impose a requirement for publication at entity level, although they should still take steps to gather and publish data about their regulated community.

We support the collection of data on in-house lawyers in principle. However, we do not think it is practicable to seek to require entities that are not regulated to collect the data. However, we would expect approved regulators to collect this information through their existing processes such as practising certificate renewals and publish at an aggregate level if they do not already do so.

### **Impact on firms**

#### ***Question 14: What impact do you consider these new regulatory requirements will have on regulated entities?***

56. Consultees felt that there would be varying degrees of impact on regulated entities. Nine groups envisaged the overall impact to be small and not onerous; the FO stated that it would not be disproportionate to request their members to complete a short questionnaire but publishing may be disproportionate to small firms and sole practitioners. Three groups thought that the impact would be greater for smaller entities due to the resources needed to collect and collate the data and keep sensitive information safe. An additional three groups indicated that the regulatory arrangements would have a major impact on entities, with TTDLS commenting that it was an inappropriate and unnecessary regulatory requirement.

57. Several consultees gave suggestions as how best to relieve some of the impact on entities which included:



- offering additional guidance and support to small firms
- clear communications from the approved regulator to the entity about what is required
- support from approved regulators to publish entity data on approved regulators websites and
- the approved regulator to provide the entity with a spreadsheet based tool to help support the collation of data.

58. Seven groups did not comment on this question.

***Question 15: What are your views on our proposal that in general firms and chambers should be required to collect data from their workforce annually, while smaller firms and chambers (fewer than 20 people) should only be required to collect the data every three years?***

59. Just over half of respondents (14/26) disagreed with the LSB's proposal to impose different collection and reporting requirements for smaller firms and chambers. Of the 14 groups, seven indicated that there should be no concessions for smaller firms and chambers and that all firms should be required to collect and report data on their workforce at the same time. The most common time period suggested was annually.

60. Other groups who disagreed with the LSB's proposals asked for exemptions from the exercise for sole practitioners and smaller firms and chambers. A total of 10 groups did not comment on this question.

### **LSB response**

The LSB maintains that the proposed regulatory requirements are likely to have a small impact for entities, but we acknowledge that small firms may need extra guidance and support from approved regulators. We support the suggestions made by consultees to minimise the impact on entities which is likely to include but may not be limited to the approved regulators providing spreadsheet based tools to help support the collation of data and to standardise the reporting arrangements across firms and chambers.

The LSB agrees with the majority of respondents that the collection and reporting period should be the same for all firms and chambers, regardless of size. This will ensure consistency across the profession so there are no gaps in the aggregated data set. The LSB recommends that the data is collected annually in the first five years of this regulatory requirement to ensure a full data set. We will continue to discuss the practicalities of achieving this with any approved regulators which consider that concessions should be made, in order to explore why an alternative collection and reporting period is considered appropriate for their regulated community (see Guidance at **Annex B**).

### **Range of indicators**

***Question 16: What are your views on our proposal that data should be collected about all the protected characteristics listed above, plus socio-economic background? If not, on what basis can the exclusion of one or more these characteristics be justified?***

61. There was general agreement (14/26) that data should be collected on all of the protected characteristics in the 2010 Act plus socio-economic background. TLS indicated that collecting data on all the protected characteristics would enable proposals to be effectively targeted so meaningful and effective action can take place. The LGF commented that they do not believe the exclusion of any protected characteristic can be justified.
62. In terms of socio-economic background, one consultee highlighted that there was no statutory basis for its collection. Other consultees supported the view that the inclusion of socio-economic factors was essential as it presented a major barrier to the legal profession and would enable more sophisticated analysis of social mobility.
63. Of those who disagreed (9/26) with the inclusion of all the protected characteristics, there were some comments that the monitoring exercise was onerous and intrusive and too many questions would lead to a small response rate. Other consultees including the BSB were in favour of a phased approach

starting with the collection of data on gender, disability, race and social class before introducing the other protected characteristics.

64. Due to the sensitive nature of monitoring trans-gender, and the lack of understanding about gender identity in many workplaces, a number of consultees felt that it should be excluded from this exercise initially as including it was unlikely to yield any meaningful data. However, it was suggested that separate, targeted work should be done to better understand gender identity issues in the legal workforce, and that monitoring should be introduced in due course. While not opposed in principle to the collation of sexual orientation monitoring data, Stonewall was concerned that the publication of such data may lead to the risk of 'outing' individuals, particularly in small firms and chambers.
65. There was also some concern that safeguards and anonymity around the collection of information on religion or belief need to be ensured to prevent discrimination.

### ***LSB response***

The LSB agrees with the majority of the respondents that in principle all eight protected characteristics plus socio-economic status should be monitored.

However, there are concerns over the sensitivity of collecting information on trans-gender status through this monitoring exercise as it was deemed more appropriate to monitor trans-gender issues in a separate, qualitative survey. The LSB held a consultation workshop with diversity interest groups in May 2011 to discuss our proposals and received advice from the Gender Identity Research Education Society (GIREs) that a separate, qualitative monitoring approach to trans-gender issues seems sensible at this stage.

In terms of the concerns around other sensitive characteristics including sexual orientation, we have taken the advice provided by Stonewall that the publication of this data may lead to an individual being inadvertently outed at work. We therefore propose to remove the publication requirement for sexual orientation, but remain in favour of keeping the monitoring requirement. Sexual orientation will therefore remain as a standalone question in the model questionnaire.

We recognise the concerns expressed about the publication of information on religion or belief and have therefore adopted a similar stance to the publication requirements set out for the sexual orientation category. We will not expect approved regulators to require the publication of the data at entity level initially.

## **Anonymity**

***Question 17: Do you think that data should be collected anonymously or enable individuals to be identified (please explain the reason for your answer)?***

66. The majority of consultees were strongly in favour of conducting an anonymous monitoring exercise (16/26). It was felt that this would encourage higher response rates from individuals willing to fill out the questionnaire without being identified. Many highlighted that it was essential that confidentiality is ensured and this may be an issue of concern with smaller firms, due to low numbers of employees in a data category who may be easily identifiable.
67. Other consultees were not concerned either way, but emphasised that regardless of the size of a firm, anonymity would be difficult to ensure due to the potential for small numbers of respondents in particular categories. One suggestion was that, for small entities, the data could be collated by the approved regulator and returned anonymously to the entity, rather than collected by an identifiable individual within the entity.

***Question 18: Is there a way of integrating data collection with the practising certificate (PC) renewal process that still achieves our objective of transparency at entity level?***

68. Some consultees (9/26) felt that the PC renewal process was not a viable option to include the diversity monitoring exercise, the main reasons being that the individual would be identifiable and the lack of anonymity would lead to a lower response rate. A slightly smaller proportion of consultees (7/26) believed that PC renewals was an ideal process in which to include the diversity monitoring exercise as some diversity monitoring was already taking place. The BSB indicated that the new data collection requirements could be monitored through the BSB's Chambers Monitoring Scheme. Other comments indicated that the PC renewal process would reduce the administration burden and duplication by avoiding the set up of a completely new exercise.

### ***LSB response***

The LSB considers that both options explored in this section are viable i.e. either an anonymous survey or a diversity monitoring exercise included within the PC renewals process. We believe that it should be up to the approved regulator to decide how best they will manage and implement this exercise which should be tailored to the approved regulators individual resource capabilities and needs. The limitation of a PC renewal approach is that it may be more difficult to capture data about the wider workforce, as only regulated individuals are required to have practising certificates.

The LSB is issuing Guidance to the approved regulator under section.162 of the 2007 Act, which will outline some of the key elements of the proposals as set out in this consultation paper (appropriately modified to take account of feedback from consultees), and include the final model questionnaire (see **Annex B**).

### **Model questionnaire**

#### ***Question 19: Do you have any suggestions on how to improve the model questionnaire?***

69. The suggested changes and improvements to the model questionnaire have been included in the following paragraphs under the appropriate section of each diversity strand.

### **The job profiles of respondents**

#### ***Question 20: What are your views on the proposed categorisation of status in the model questionnaire?***

***Question 21: What are your views on the proposed levels of seniority as set out in the model questionnaire? Do you have suggestions about additional/better measures of seniority? Do you have suggestions on a category of measure to encompass a non-partner senior member of staff i.e. CEO who holds an influential or key role in decision-making of an organisation.***

#### ***Question 22: Do you have any suggestions about how to measure seniority in the context of an ABS?***

70. There were several comments made by consultees on how to improve the categories of status and seniority in the model questionnaire, most of which requested the ambiguous terms to be more clearly defined and the language used to be easily understood by employees within a firm or chambers who are

non-lawyers. Most of these changes have been adopted and are included in the amended model questionnaire found at **Annex B**.

71. In terms of changes to the category of barrister, some respondents requested the inclusion of Queens Counsel (QC) as a measure of seniority. Other respondents indicated that the questionnaire must clarify if pupils in chambers and trainees in solicitors firms were included in this monitoring exercise.

72. There were few comments made by respondents on how to measure roles within an ABS. The SRA suggested including the roles of Compliance Officer for Legal Practice (COLP) and a Compliance Officer for Finance and Administration (COFA). TLS and the Diversity Managers of City Firms (DMCF) suggested using the seniority categories of solicitors as set out in TLS's Monitoring Protocol.

### ***LSB response***

The LSB agrees with the majority of the suggested changes to the categories of status and seniority highlighted by consultees. In particular, the LSB has reworded the ambiguous terms to provide clarity for non-lawyers, and included the category of QC for barristers (see Annex B).

The LSB has reviewed the TLS Monitoring Protocol and agrees the inclusion of the categories for solicitors. The categories do not exactly mirror those set out in the Protocol but are included amongst the amendments to the section, of note is the inclusion of trainees and pupils.

The categories of Head of Legal Practice (HoLP) or Head of Finance and Administration (HoFA) or equivalent (which includes CoLP and CoFA) have also been included in the questionnaire.

### ***Question 23: Should we collect any additional information, such as that suggested in paragraph 128 of the consultation paper?***

73. Some consultees (10/26) were of the opinion that no additional categories were needed while a smaller proportion (4/26) of consultees thought that additional categories of the size or type of firm and practice area would be useful information to collect. ILEX PS indicated that this additional category would allow approved regulators to understand the experiences and perceptions of those in and who aspire to the legal workforce.

74. Other additional information suggested was flexible working, country of qualification and nationality.

### ***LSB response***

The LSB is of the opinion that as an initial first step towards building a comprehensive evidence base of diversity across the legal workforce, approved regulators should, as a minimum, collect information on the protected characteristics and socioeconomic background. If data is collected and published at entity level, the size of the firm or chambers an individual works in will be apparent, as will the main areas of practice.

The approved regulators could include additional categories if they regard it as appropriate and proportionate to do so.

### **Measuring each characteristic**

75. We have sought advice from the Equality and Human Rights Commission (EHRC) on the best approach to measuring each characteristic. We have sought to follow an approach that complies with best practice and is aligned as far as possible with external datasets such as the national census.

### ***Gender & Age***

76. There was little comment over the age question except that many firms tend to use date of birth. Another comment received was that sex could be used as a category as this is consistent with the Census wording, but gender may be used as an alternative.

### ***Ethnicity***

77. A number of respondents (including the DMCF) recommended reordering the answer categories to this question so 'prefer not to say' is listed at the bottom of the list and not the top – this may encourage people to answer the question rather than ticking the first option of prefer not to say in the first instance.

### ***LSB response***

The category of age will remain unchanged from the version set out in the original consultation paper which requires an individual to choose the most appropriate age bracket which fits their age in years.

The 'sex' category will be changed to 'gender' as this is a term more widely used than 'sex'.

The LSB will adopt the suggestion from the DMCF and reorder the response categories to the ethnicity questions so prefer not to say appear at the bottom (see **Annex B**).

## ***Disability***

### ***Question 24: Do you have any views on our proposed approach to collecting data on disability?***

78. The majority of consultees had no view on the structure of the proposed disability question (14/26), with six groups indicating that they would adopt the approach set out in the consultation paper. The DMCF suggested the shortening of the question to exclude the detail on the description of the 2010 Act as it was not needed to answer the question. The HSIT suggested the exclusion of the request for additional information on type of disability as this information was too intrusive. The DMCF agreed with this point, indicating that from their experience of diversity monitoring within their firms, this type of question received a low response rate.

#### ***LSB response***

The LSB will adopt the suggestions made by the DMCF and the HSIT. The LSB will replace the self-certified section of 'type of disability' with a more generic question on disability from the Census, asking about the extent of the impact their disability has on their day to day activities. This is less intrusive than the original question set out in the consultation paper (asking individuals to self-certify their disability type), and might therefore lead to a higher response rate. By using the Census example we may also have a useful comparison to the general population.

## ***Sexual orientation***

### ***Question 25: What are your views on our proposed approach to collecting data on sexual identity?***

79. About half of consultees (13/26) agreed with the inclusion of sexual orientation in the model questionnaire, a significant proportion of respondents also had no view on the subject (9/26). Several respondents requested changes to the response categories to align them to the best practice model question set out by Stonewall. TLS suggested that the term 'sexual orientation' be used instead of 'sexual identity' as this is what is set out in the 2010 Act as a protected characteristic and is a term which is familiar with most groups. There was a concern that using both terms interchangeably may cause confusion.

80. Stonewall and the LGF both emphasised that it is important to have a good communications strategy around the monitoring of sexual orientation in the workplace which ensures lesbian, gay and bisexual employees have the confidence to complete monitoring exercises. Stonewall agree with a flexible



approach allowing individual entities to take their own action to complete diversity monitoring exercises.

81. Stonewall were also concerned that the publication requirement for sexual orientation monitoring information may run the risk of inadvertently outing individuals working within smaller firms. They recommend that monitoring should be anonymous and not allow individuals to be identified by colleagues or managers. Stonewall were clear in their response however, that they do not oppose the collection of sexual orientation monitoring from smaller entities in principle, but welcome methodologies that allow collation of this data whilst maintaining the anonymity of individuals working in smaller entities.

### ***LSB response***

The LSB agrees with respondents that sexual orientation should be included in the monitoring exercise and that the model question should also be aligned to best practice based on Stonewall research. This uses the term 'sexual orientation' rather than 'sexual identity' which alleviates concern about the confusion of the two terms.

The LSB agrees that it is important to have a communication strategy around the monitoring of sexual orientation within a workplace and notes that Stonewall provides on their website a suite of information and guidance on how to monitor sexual orientation in the workplace. We recommend that in the approved regulators guidance to firms and chambers on conducting diversity monitoring, they should encourage the use of best practice guidance set out by Stonewall to ensure lesbian, gay and bisexual employees have the confidence to complete monitoring exercises.

As noted in the LSB's response to question 7, we recognise the consultees concerns expressed about requiring the publication of data on sexual orientation. We will therefore not expect approved regulators to require the publication of the data initially. The LSB and approved regulators need to take positive steps to work with interest groups such as Stonewall, the LGF, the BLAGG and the Interlaw Diversity Forum to promote greater acceptance and openness in relation to LGB individuals in the legal workforce. Cultural change is needed to ensure we work towards an environment where the publication of workforce data about sexual orientation can be introduced. We invite the approved regulators to include in their plans to implement our proposals, details on how they intend to implement the collection and publication of sexual orientation data in line with accepted best practice.

## ***Religion or belief***

***Question 26: Do you think we should follow the census approach to collecting data on religion and belief? If not, what alternative approach do you suggest?***

82. In general, the respondents preferred the use of the Census version of the question on religion or belief (10/26) as opposed to the British Humanist Association (BHA) approach. The main reason for the preference to the Census version is to keep the question aligned to comparable statistics at a national level for the total population.
83. Several respondents stated that the question should include 'religion or belief' to reflect the protected characteristic under the 2010 Act. The Census version does not include the term belief.
84. There was also some concern that safeguards and anonymity around the collection of information on religion or belief needs to be ensured to prevent discrimination.

### ***LSB response***

The LSB agrees that it is sensible to adopt the Census version of the question as it would help with comparisons made with data collected from the national population. However, we will amend the question to refer to 'religion or belief'.

In relation to publication, we recognise the concerns expressed and have therefore adopted a similar stance to the publication requirements set out for the sexual orientation category. We will not expect approved regulators to require the publication of the data at entity level initially.

## ***Gender reassignment***

***Question 27: Do you think a question should be included in the model questionnaire about gender reassignment? If not, what other means should be used to build an evidence base in relation to transgender issues in the legal workforce?***

***Question 28: If a question is included on gender reassignment, do you agree with our proposed question?***

85. A significant proportion (11/26) of respondents agreed that a question on gender reassignment should be included in the monitoring exercise. The respondents also generally agreed with the model question proposed in the consultation document.

86. However, some respondents (8/26) felt that this monitoring exercise was not appropriate medium in which to collect information on transgender issues. This was due to the sensitivity of the information and as one of the newer protected characteristics set out in the 2010 Act. It was felt by some respondents that those undertaking the monitoring exercise would not have the benefit of past best practice experience to draw on from those who have collected this information over a number of years. One consultee suggested that transgender issues should be monitored through a qualitative targeted survey, which could be advertised in the Law Society Gazette asking for input from trans-lawyers to respond through a confidential email address or telephone number.
87. In a consultation workshop for interest groups the LSB sought independent advice from the GIRES who agreed that the question on gender reassignment should be removed from the model questionnaire and also the publication requirement. They argued that successful implementation would depend on the development of a communications strategy highlighting the importance of transgender policies and including the adequate training of staff and monitoring of staff attitudes. To ensure this requirement is kept on the agenda of firms and chambers, GIRES recommended the approved regulators and LSB set a timeframe in which transgender monitoring should be introduced.

***LSB response***

We agree that transgender monitoring should not be imposed as a requirement on entities at this time. We agree that more work is needed to understand gender identity issues within the legal workforce, including the development of communications strategies to ensure the issues are better understood by firms and chambers. Transgender policies should be developed, including the adequate training of staff and the monitoring of staff attitudes.

Approved regulators should consider what additional targeted work they can do to better understand the barriers faced by transgender individuals in the legal workforce, and how these could be broken down.

As highlighted in question 7 above, it remains our view that in principle entity-level data should be published about all eight protected characteristics (plus socio-economic background). We will review the position by the end of 2013, with a view to expanding the range of published data available by the end of 2014.

## ***Pregnancy and maternity***

### ***Question 29: What are your views on our proposed approach to include a question on caring responsibilities?***

88. Some consultees felt that the LSB's proposed approach to caring responsibilities could be extended to include a more focused measure of whether an individual was a primary carer of a child or children. This is because someone who is a parent may not necessarily have full time caring responsibilities as their child or children could live at a different address with shared or limited custody arrangements.
89. Feedback from consultees also suggests that pregnancy and maternity should be the focus of this section rather than generalised questions around caring responsibilities. However, there was little response to our call for suitable questions to encompass pregnancy and maternity. One respondent suggested the inclusion of a set of questions on pregnancy and maternity such as – Are you pregnant? Are you on maternity leave? Do you intend to return to the same firm after your maternity leave? How were you treated when you announced your pregnancy?

### ***LSB response***

The LSB agrees with consultees that the proposed questions set out in the model questionnaire should be amended to ask if an individual is a primary carer for a child or children under 18 years.

The LSB recognises that the focus of caring responsibilities section does not include specific questions on pregnancy and maternity which is a protected characteristic set out in the 2010 Act. There is a concern about the value of monitoring whether an individual is pregnant, as this is a transitional state. It may also be hard to collate this data within this exercise as someone on maternity or paternity leave for example, may not be present at the firm or chambers at the time the monitoring is taking place. However, firms and chambers will obviously be aware when individual members of staff take maternity leave, and should consider what can be done to facilitate a return to work after the period of leave where the individual wishes to do so.

We consider that for the purposes of this exercise the amended question on primary carers of a child or children and the addition of a question from the Census on caring responsibilities seems reasonable.

We recommend that approved regulators consider further investigation of the impact of pregnancy and maternity, and in particular the impact on the retention and progression of women in the legal workforce, perhaps through a separate qualitative exercise. If they are not already doing so, they should work with relevant interest groups to identify suitable interventions to remove the barriers to individuals returning to practice after maternity leave.

### ***Socio-economic background***

#### ***Question 30: What are your views on our proposed approach to measuring socio-economic background?***

90. Consultees generally agreed (11/26) with the LSB's proposed approach to measuring socio-economic background, with the most common recommendation for improvement to include additional questions to explore the issue of socio-economic background in further detail. Consultees suggested the following questions for inclusion in the model questionnaire:

- a. parental occupation, in particular if a parent was either a barrister or solicitor which may give an insight into informal networks,
- b. the type of university attended to indicate if an individual was from an Oxbridge university,
- c. the postcode of an individual to investigate if a person lives within London which may prove a bias towards those who have an increased chance of

access to City firms and chambers that offer training contracts and pupillages compared to those who live outside of London.

91. Feedback from the meeting with DMCF suggested that a rough measure of social mobility could include a question that requires an individual to classify if they are the first generation in their family to attend a university. We were already proposing a similar question which asked respondents if their parents attended university; however, the suggestion made by the DMCF encompasses whether the respondent went to university as well as their parents. The DMCF also recommended the exclusion of the question relating to an individual's attendance to a fee paying school and if they received a financial award to cover part of the cost of school fees. This question was considered not relevant to include in the questionnaire as the awards may not be a strong indicator of socio-economic background. Bursaries or assisted places are awarded to an individual that fits a specific set of criteria (not necessarily related to financial means) and could perhaps be awarded to individual who comes from a more privileged background depending on whether they know the bursary exists or they fit the set criteria.
92. We received advice from TLS on a set of model questions which measure socio-economic background that have also been developed in consultation with the Sutton Trust. The TLS recommended three questions:
- What type of school did you mainly attend between the ages of 11 and 16?
  - Did either or both of your parents obtain a degree from a higher education institution?
  - Have you ever been eligible for free school meals?

### ***LSB response***

The LSB recognises that there is no recommended standard approach to measuring socio-economic background and that the proposed view set out in the consultation paper (developed with the advice received from the Sutton Trust) was a useful starting point.

The LSB acknowledges the inclusion of additional questions suggested by consultees would be useful; however, we are concerned that lengthening of this category with additional questions has the potential to lose the respondents in the detail which could lead to a lower response rate. We are of the opinion that a more focussed set of simple questions would be the best way forward to measure this category and therefore agree with the advice given by the DMCF. It is also noted that the DMCF have the benefit of experience from measuring socio-economic background within their internal diversity monitoring processes and therefore are able to give advice on best practice when measuring socio-economic status.

We note the advice and sample questions on socio-economic background supplied by TLS. In our view the original questions developed in consultation with the Sutton Trust and the additional amendments provided by DMCF have produced a set of questions which are appropriate for our purposes. Asking a question solely about whether someone's parents attended University does not recognise whether individuals attended university themselves. In our view, while a question on free school meals is likely to be a good indicator of socio-economic circumstances for those who attended school relatively recently, it is less helpful in relation to those who attended school perhaps 30 or 40 years ago since the arrangements for free school meal provision have not been consistent over time (for example the extent to which they are means tested/linked to receipt of state benefits).

### **Publication requirements**

#### ***Question 31: Do you have any comments about our proposed approach to publication requirements?***

93. As highlighted above, opinion was divided on the proposal that entities should be required to publish diversity data. Of those in support of the transparency proposals, six groups agreed with the LSB's approach to publish all diversity information collected through the model questionnaire. Other groups also showed a degree of support for the transparency requirement but this was only if specific safeguards around anonymity of an individual were ensured. Other safeguards were highlighted as essential to the publication requirement – for

example that through informed consent, an individual must be made clearly aware of how the data will be used and in what form the data will be published i.e. if publication includes percentages and the breakdown of diversity categories by seniority.

94. Of the consultees who did not support the publication requirement (5/26) there were important privacy concerns highlighted with regard to the publication of information around sensitive diversity categories - particularly sexual orientation, gender reassignment and religion or belief. Another concern raised from the publication of workforce data is that it could potentially leave firms and chambers open to discrimination. For example, a consumer may have prejudices against a particular ethnic group and if a proportion of lawyers among an firm or chambers are made up of that group, the consumer may not chose to use their services based solely on that reason.

***Question 32: Do you have any views on special arrangements that should be considered for firms and chambers of all sizes when publicising sensitive information at different levels of seniority?***

95. There were several suggestions made by consultees regarding the setting out of the special arrangements for publication of data by smaller chambers and firms, the most popular being that small firms and chambers should not be required to publish data at entity level, but the data should instead be collected and collated by the approved regulator and published at an aggregated level. Other suggestions were to introduce an exemption from publication of any firm or entity of 10 or less employees.

***LSB response***

We consider the requirement for transparency of diversity data at entity level as a priority, as transparency has the potential to act as an incentive on owners/managers to take action (both in terms of 'peer pressure' and better information for corporate and individual consumers and potential employees, which they can use to inform their choice of law firm).

We note the issues of the potential for firms and chambers to be discriminated against by consumers who may use the published workforce data to base their decision existing prejudices such as not choosing a firm or chambers made up of those from a particular ethnic group. It is our view that the positive implications of transparency of workforce data at entity level in that it better informs consumer choice in terms of having a workforce that more closely reflects the national population outweighs the potential negative impacts from consumers making discriminatory judgements.



The LSB acknowledges the concerns set out by consultees which could potentially arise as a direct result of the transparency exercise. In particular, many respondents were concerned that the publication of workforce data could lead to an individual being identified through small numbers within separate diversity categories or through the breakdown of data by seniority. To alleviate some of the concerns of consultees, the LSB have taken the decision to remove the publication requirement for firms and chambers to publish any data on sensitive diversity categories including sexual orientation and religion or belief. In terms of gender reassignment, we will not expect approved regulators to require that collection and publication of data by entities at this stage.

As we have set out in our response to question 7, we consider that a requirement for informed consent by the individuals at the point of disclosure will act as a powerful safeguard to protect the privacy of individuals who are not willing for information about their characteristics to be disclosed.

The LSB has sought further advice from the Information Commissioner's Office (ICO) on potential data protection issues arising from the publication of diversity data. The ICO have provided advice that any data collection and publication requirement needs to be lawful, fair and carried out in accordance with the relevant processing conditions set out in the Data Protection Act 1998 (DPA). In our view, the principles that we are advocating (data collection and transparency at entity level) can be implemented in a way which is compliant with the DPA. In determining the requirement imposed on their regulated communities, approved regulators will need to ensure that compliance with the requirements would not involve regulated individuals or entities acting contrary to the DPA. Firms and chambers will also need to comply with their obligations as data controllers and ensure that the data is collected and stored in a way which is compliant with the DPA.

## **Impact on Approved Regulators**

### ***Question 33: What are the main impacts likely to be on approved regulators when implementing this framework?***

96. Consultees highlighted a number of likely impacts on approved regulators when implementing the evidence and transparency framework proposed by the LSB. The most common were impacts around additional resources and administrative burdens associated with meeting the LSB's priorities set out in the beginning of the consultation paper. These impacts are considered to be particularly burdensome for the smaller regulators, although this latter concern was counterbalanced by the argument that some smaller approved regulators will be exempt from these requirements as they do not regulate entities.

97. Several approved regulators also highlighted that they encourage the LSB to give flexibility to the approach adopted to achieve the LSB's priorities, which could involve combining the monitoring process within an existing process such as PC renewals or as a separate exercise. Another concern was that the LSB needs to set out clear timeframes of when it expects the approved regulators to achieve the priorities bearing in mind that the true results of this process, in particular the impact of the transparency requirement will have on the overall objective of increasing diversity within the legal profession, may not be realised for several years to come.

### **LSB response**

We acknowledge that in achieving the statutory obligations placed on both approved regulators and the LSB, there will be an increased burden on approved regulators in terms of resourcing and administration – albeit a relatively small one. We also do not doubt that communications between approved regulators and entities will need to be well thought through and tailored to the specific needs of each regulated community.

We will be flexible about the approach that individual approved regulators decide to take towards achieving our Board's priorities. The LSB welcomes an open dialogue between the LSB and approved regulators on their proposed approach towards achieving our priorities, we also recommend approved regulators seek a joined up approach to ensure consistency of data collection and transparency across the legal workforce.

## **Piloting**

98. Approved regulators may wish to pilot these arrangements to inform how best to implement the new regulatory requirements to meet our expectations. The results from the pilot should provide valuable feedback on the model questionnaire, the type of process that may best achieve transparency at firm and chambers level and identifying barriers which will require further thinking on how best to overcome them.

## **Final proposals**

99. The LSB in its meeting held on 13 July 2011 agreed the final proposals set out in this paper. The Board also agreed to the issuing of statutory guidance under Section 162 of the 2007 Act (see **Annex B**).

## Annex A: List of respondents to the consultation process

### Respondents to the public consultation

2 – 3 Grays Inn Square	GIS
Association of Women Solicitors	AWS
Association of Costs Lawyers	ACL
The Bar Council's Equality & Diversity Committee	BC
Bar Lesbian and Gay Group	BLAGG
Bar Standards Board	BSB
Council for Licensed Conveyancers	CLC
Costs Lawyers Standards Board	CLSB
COMBAR	COMBAR
Crown Prosecution Services	CPS
Forum of Insurance Lawyers	FOIL
The Honourable Society of the Inner Temple	HSIT
Institute of Legal Executives	ILEX
Institute of Legal Executives Professional Standards	ILEX IPS
Intellectual Property Regulation Board	IPReg
Lesbian and Gay Foundation	LGF
Michael Blackwell	
Master of Faculties	FO
Matrix Law	
Society of Black Lawyers	SBL
Solicitors Regulation Authority	SRA
Stonewall	
The Law Society	TLS
Tunbridge Wells, Tonbridge & District Law Society Regulatory Committee	TTDLS
The City of Westminster & Holborn Law Society	CWHLs
WomenLawyers.biz	

### Participants in the Diversity Mangers of City Firms meeting

Mary Gallagher	Addleshaw Goddard
Jane Masey	Allen & Overy
Jennifer Barrow	Baker & McKenzie
Clare Rowe	Eversheds
Deborah Dalglish	Freshfields Bruckhaus Deringer
Alison Unsted	Hogan Lovells
Felix Hebblethwaite	Linklaters
Katherine Hallam	Mayer Brown
Sarah Twite	Clifford Chance (comments sent separately from meeting)

### **Participants in workshop for interest groups**

Pranita Bhargava	Association of Asian Women Lawyers
Christl Hughes	Association of Women Solicitors
Bernard Reed OBE	Gender Identity Research and Education Society (GIREs)
Terry Reed OBE	Gender Identity Research and Education Society
SundeeP Bhatia	Society of Asian Lawyers
Rosemary Emodi	Society of Black Lawyers

## **Annex B: Guidance & model questionnaire**

### **GUIDANCE ISSUED BY THE LEGAL SERVICES BOARD TO APPROVED REGULATORS ON GATHERING AN EVIDENCE BASE ABOUT DIVERSITY ACROSS THE LEGAL WORKFORCE AND PROMOTING TRANSPARENCY AT ENTITY LEVEL**

#### **INTRODUCTION**

##### **The provision of Guidance**

1. Section 162 of the Legal Services Act 2007 (the 2007 Act) allows the Board to give Guidance:
  - a. about the operation of the 2007 Act and any order made under it
  - b. about the operation of any rules made by the Board under the 2007 Act
  - c. about any matter relating to the Board's functions
  - d. for the purpose of meeting the Regulatory Objectives
  - e. about the content of licensing rules
  - f. about any other matters about which it appears to the Board to be desirable to give Guidance.
2. Guidance under s.162 may consist of such information and advice as the Board considers is appropriate. The Board will have regard to the extent to which an approved regulator has complied with this Guidance when exercising its functions.

#### **BACKGROUND**

3. The LSB published a consultation document entitled 'Increasing diversity and social mobility in the legal workforce: transparency and evidence' on 15 December 2010. In July 2011 it published its decision document. This Guidance forms part of that decision document.

#### **Application of the Guidance**

4. The Board considers that the information provided here gives sufficient clarity as to the delivery of the expectations that the LSB has set out, whilst allowing an appropriate degree of discretion for approved regulators to decide how best they can be achieved.
5. Section 162(5) of the 2007 Act says "when exercising its functions, the Board may have regard to the extent to which an approved regulator has complied with any Guidance issued under this section which is applicable to the approved regulator".
6. The LSB will examine the extent to which, in delivering the LSB's expectations, an approved regulator has followed the approach set out in this Guidance. Approved regulators will be asked to report back to the LSB with evidence as to how they have delivered the expectations.
7. The Guidance sets out the issues that approved regulators may wish to take into account in assessing how they will deliver the expectations. There are a number of alternative ways in which these expectations could be delivered and the Board expects each approved regulator to have available evidence to support its choice of approach. This evidence would need to be persuasive, reasonable and present the regulatory rationale. Section 28 of the Act imposes a duty on each approved

regulator, so far as is reasonably practical, to act in a way which it considers is most appropriate for the purpose of meeting the regulatory objectives.

## **GUIDANCE ON DATA COLLECTION AND PUBLICATION**

8. This document provides Guidance for the delivery of the expectations which have been identified by the LSB for approved regulators, for the purpose of meeting the regulatory objectives, and, in particular, encouraging an independent, strong, diverse and effective legal profession. These expectations relate to the collection and publication of diversity data at the level of individual firms and chambers.
9. By January 2012 approved regulators should submit to the LSB their finalised detailed plans setting out how they intend to deliver our expectations, and begin implementing them no later than March 2012. The expectations should be achieved by approved regulators by the end of 2012.
10. The Board recognises that there is flexibility in the method or approach that each approved regulator chooses to adopt when meeting the expectations, which may result in a departure from this guidance.

## **DELIVERING THE EXPECTATIONS**

11. Approved regulators should demonstrate how the expectations will be delivered. This is because the Board considers that the expectations are necessary to meet the Regulatory Objective about encouraging diversity (and the regulatory objectives more broadly) through:
  - a. gathering an evidence base about the composition of the workforce to inform targeted policy responses and to be used as a benchmark to evaluate the effectiveness and impact of existing diversity initiatives
  - b. promoting transparency about workforce diversity at entity level as an incentive on owners/managers to take action (both in terms of 'peer pressure' and better information for corporate and individual consumers and potential employees, which they can use to inform their choice of law firm).
12. The suggested approach is likely to include, but need not be limited to:
  - a. The approved regulators requiring firms and chambers to conduct a diversity monitoring exercise which will give every individual in their workforce (both lawyer and non-lawyer), an opportunity to self-classify against the following characteristics: age, gender, disability, ethnic group, religion or belief, sexual orientation, socio-economic background and caring responsibilities.
  - b. To ensure consistent data categories across the different branches of the legal profession, it is suggested that approved regulators recommend that regulated entities adopt the model questionnaire set out in this Guidance. This will allow the data to be aggregated and used to build a picture of the diversity profile of the legal workforce as a whole.
  - c. Where approved regulators regulate entities, the approved regulators should require firms and chambers to publish summary data about their workforce in relation to all the characteristics listed at 12 a. above, except sexual orientation and religion/belief:
    - i. to ensure consistent data categories for the publication requirement it is suggested that the approved regulators provide firms/chambers

with a template for publication which includes a breakdown of the data by levels of seniority

- ii. we recommend the approved regulators make provision about arrangements or conventions on the reporting and publication of summary data which should, where practicable, be consistent across approved regulators.
- d. The approved regulators to collate firm and chambers level diversity data and publish to give an aggregate view of the diversity make-up of each branch of the profession.
- e. The approved regulators to include a description of their approach to the periodic timing of collection and publication of firms and chambers information, for example if this should be repeated annually, bi-annually, or every three years. This should take into account the regulatory and administrative burden of the exercise and change within the profession.

### **JUSTIFYING A DEPARTURE FROM THE GUIDANCE**

13. Each approved regulator that departs from this Guidance should be able to justify its approach. To justify an approach, the Board would expect an approved regulator to establish evidentially the extent to which it has concluded that the departed approach is the most appropriate way of acting compatibly with the Regulatory Objectives and is in accordance with the Better Regulation Principles and regulatory best practice. This assessment is likely to include, but need not be limited to, consideration of:

- a. an outline of the alternative approach and how it differs from the guidance
- b. a description of how the alternative approach meets the expectations
- c. a description of the risks associated with the alternative approach in that the expectations may not be met and how are these risks are being mitigated
- d. a justification of why the alternative approach has been adopted in favour of the approach set out in the guidance
- e. a summary of the potential benefits to the approved regulator in terms of resource and administration burden due to adopting the alternative approach
- f. a summary of the potential impacts both positive and negative on the entity from adopting the alternative approach
- g. any evidence through pilots that supports the adoption of the alternative approach.

14. The Board considers that such justification needs to set out clearly how the expectations will be delivered.

# Model Questionnaire

## What is the purpose of collecting this data?

The main purpose of collecting this data is to:

- gather evidence about the composition of the legal sector workforce across a wide range of diversity indicators, to enable firm/chambers and regulators to make informed decisions about the action needed to encourage greater diversity in the legal workforce
- achieve transparency about the workforce diversity of individual firms or chambers.

## Why is this important? Am I required to complete it?

The legal profession and wider legal services workforce should reflect the society it serves. To achieve a profession which is truly representative at all levels requires regulators and the profession itself to identify barriers to entry and progression and begin to break them down. By doing this, we will ensure that the legal workforce is open to the widest possible pool of talent.

The Legal Services Act 2007 includes a specific regulatory objective to “encourage a strong, independent, diverse and effective legal profession”. The Legal Services Board has given approved regulators Guidance as to how that regulatory objective should be met. To comply with its duty of acting in a way that it considers is most appropriate for the meeting of that objective; your approved regulator has decided to ask the organisations it regulates to survey the individuals working for them. Completion of the questionnaire is voluntary. The Equality Act 2010 also puts approved regulators under a duty to advance equality of opportunity between different groups.

## How is this questionnaire structured and do I need to answer each question?

This questionnaire is structured by asking a series of questions based on the list of indicators below. The collection of data on these indicators is intended to fill the gaps in the existing information available about the diversity of the legal workforce and provide an overview of the whole workforce (lawyers and non-lawyers) in individual firms and chambers. The questions cover:

- your job role
- age
- gender



- disability
- ethnic group
- religion or belief
- sexual orientation
- socio-economic background
- caring responsibilities

While we encourage all participants to answer each question, this survey is voluntary. Each question includes the option of indicating 'Prefer not to say' if you do not feel comfortable answering any question.

### **How will data protection and anonymity be ensured?**

You are asked to provide this data anonymously. By completing the questionnaire, you consent to the use of this data for the purposes of providing published summary data about the characteristics of the workforce in your organisation (firm, chambers etc). Your anonymous responses will also be reported to professional regulators to enable analysis be carried out on trends in the legal services workforce.

The information gathered through this survey will be aggregated to ensure further anonymity of the results. It is intended that a summary of the workforce data for your organisation (firm, chambers etc) may include a breakdown of each diversity indicator by job status and role, but will not include any analysis that links responses against different diversity characteristics or individuals. For example, the analysis may indicate that there are 10 female partners and 10 Christian associates, but will not say that there are five female partners who are Christian, three of whom are gay or lesbian and two of whom consider themselves disabled.

Where data is aggregated from relatively small data sets (for example where there are a small number of employees in an organisation, or there are few individuals in a particular category), there is a risk that anonymity cannot be ensured and individual respondents could be identifiable.

Provision of data in response to this questionnaire is voluntary. It is up to you to decide whether you wish to disclose it. By doing so, you consent to the data being used for the purposes outlined here.

### **How will the data be interpreted & what baseline will be used for comparison?**

The data collected from you and your colleagues through this survey will be published in summary by your organisation (e.g. on its website). This will encourage

your organisation to think about what action is appropriate to try to encourage greater diversity within your workforce. It will enable corporate and individual consumers to take into account your organisation's performance in relation to diversity when deciding whether to select you as a service provider. The information will also be aggregated by the approved regulator of your organisation (e.g. Solicitors Regulation Authority, Bar Standards Board) to form a baseline of the whole workforce in the legal services sector.

### **What changes to my organisation's or approved regulator's equality work could happen as a result of collecting this information?**

This information will help your organisation and professional regulators to understand the profile of the existing workforce and identify particular areas that require further exploration and action (for example, barriers to progression for individuals with particular characteristics, or deficiencies in existing processes). The aggregate data will also enable professional regulators to measure the impact of changes to the regulatory structure (such as the impact of Alternative Business Structures), as the baseline will enable changes in the diversity profile of the workforce to be identified.

**The questionnaire starts on the following page**

# Questionnaire

Please answer each question in turn by choosing one option only, unless otherwise indicated. If you do not wish to answer the question please choose the option 'Prefer not to say' rather than leaving the question blank.

## 1. About you

- (a) If you are an authorised person<sup>2</sup> for the purposes of the Legal Services Act 2007 (i.e. you hold a practising certificate issued by one of the approved regulators), please indicate your professional qualification(s) and role (tick all that apply if you are dual qualified and have a current practising certificate from more than one approved regulator):

Barrister	QC	
	Tenant/Member	
	Other (incl Pupil)	
Solicitor	Partner (or equivalent)	
	Assistant/Associate	
	Other (incl Consultant)	
Legal Executive (Fellow)	Partner (or equivalent)	
	Other	
Licensed Conveyancer	Partner (or equivalent)	
	Other	
Patent Attorney	Partner (or equivalent)	
	Other	
Trade Mark Attorney	Partner (or equivalent)	
	Other	
Cost Lawyer	Partner (or equivalent)	
	Other	
Notary	Partner (or equivalent)	
	Other	
Prefer not to say		

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<sup>2</sup> The definition of an 'authorised person' is set out in the [Legal Services Act 2007](#), Section 18(1) For the purposes of this Act "authorised person", in relation to an activity ("the relevant activity") which is a reserved legal activity, means - (a) a person who is authorised to carry on the relevant activity by a relevant approved regulator in relation to the relevant activity (other than by virtue of a licence under Part 5), or (b) a licensable body which, by virtue of such a licence, is authorised to carry on the relevant activity by a licensing authority in relation to the reserved legal activity.

- (b) If you do not fall into any of the categories listed above, please indicate which of the following categories best fits your role:

Any other fee earning role (e.g. trainee solicitor, legal executive (not Fellow), paralegal)	
Any role directly supporting a fee earner (e.g. legal secretary, administrator, barristers clerk, practice manager, legal assistant, paralegal)	
A managerial role (e.g. Director/non-lawyer Partner/Chief Executive/Practice Director or similar, Head of Legal Practice (HoLP)/Head of Finance & Administration (HoFA) or similar)	
An IT/HR/other corporate services role	
Prefer not to say	

## 2. Your role in your organisation

Please note that this question applies to self-employed as well as employed persons.

- (a) Do you have a share in the ownership of your organisation (e.g. equity partner, shareholder)?

Yes	
No	
Prefer not to say	

- (b) Do you have responsibility for supervising or managing the work of lawyers or other employees?

Yes	
No	
Prefer not to say	

## 3. Age

From the list of age bands below, please indicate the category that includes your current age in years:

16 - 24	
25 - 34	
35 - 44	
45 - 54	
55 - 64	
65+	
Prefer not to say	

#### 4. Gender

What is your gender?

Male	
Female	
Prefer not to say	

#### 5. Disability

The Equality Act 2010 generally defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

- (a) Do you consider yourself to have a disability according to the definition in the Equality Act?

Yes	
No	
Prefer not to say	

- (b) Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?

Yes, limited a lot	
Yes, limited a little	
No	
Prefer not to say	

## 6. Ethnic group

What is your ethnic group?

Asian / Asian British

Bangladeshi	
Chinese	
Indian	
Pakistani	
Any other Asian background (write in)	

Black / African / Caribbean / Black British

African	
Caribbean	
Any other Black / Caribbean / Black British (write in)	

Mixed / multiple ethnic groups

White and Asian	
White and Black African	
White and Black Caribbean	
White and Chinese	
Any other Mixed / multiple ethnic background (write in)	

White

British / English / Welsh / Northern Irish / Scottish	
Irish	
Gypsy or Irish Traveller	
Any other White background (write in)	

Other ethnic group

Arab	
Any other ethnic group (write in)	

Prefer not to say

Prefer not to say	
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## 7. Religion or belief

What is your religion or belief?

No religion or belief	
Buddhist	
Christian (all denominations)	
Hindu	
Jewish	
Muslim	
Sikh	
Any other religion (write in)	
Prefer not to say	

## 8. Sexual orientation

What is your sexual orientation?

Bisexual	
Gay man	
Gay woman/lesbian	
Heterosexual/straight	
Other	
Prefer not to say	

## 9. Socio-economic background

- (a) If you went to University (to study a BA, BSc course or higher), were you part of the first generation of your family to do so?

Yes	
No	
Did not attend University	
Prefer not to say	

- (b) Did you mainly attend a state or fee paying school between the ages 11 – 18?

UK State School	
UK Independent/Fee-paying School	
Attended school outside the UK	
Prefer not to say	

## 10. Caring responsibilities

(a) Are you a primary carer for a child or children under 18?

Yes	
No	
Prefer not to say	

(b) Do you look after, or give any help or support to family members, friends, neighbours or others because of either:

- Long-term physical or mental ill-health / disability
- Problems related to old age?

(Do not count anything you do as part of your paid employment)

No	
Yes, 1 - 19 hours a week	
Yes, 20 - 49 hours a week	
Yes, 50 or more hours a week	
Prefer not to say	

**Thank you for completing this questionnaire**



## Annex C: Submission by the Black Solicitors Network

### The Diversity League Table: Transparency and the DLT

1. From a leadership and management perspective it is always better to have a clear picture of a situation; irrespective of whether or not that picture is favourable or less than favourable.
2. Participants in the DLT are able to openly benchmark against their own initial position and also see how they compare against their peers. Being able to do this makes it much easier to see what they need to do to improve a situation. Transparency of diversity data helps to facilitate this and league tables make it easier for managers to be able to quickly compare and therefore respond.
3. Feedback has indicated that the reporting on “actions” i.e. Policy & Practices has also provided an excellent opportunity for managers within participating firms and chambers to use the report to lobby for additional resources to support the development and introduction of diversity and inclusion initiatives.
4. For example; a firm scoring lower than a similar size and/or type firm, might be able to argue that a lack of resources could be partially to blame for this. The wider benefit is that additional resources are made available; with equality and diversity being the overall winner.
5. Also, it is noted that many firms that have regularly taken part in the Diversity League Table are (coincidentally?) very proactive in the development of diversity and inclusion initiatives. We receive a significant number of examples of good practice each year, with a number being written up as case studies within the publication.
6. In terms of increases in the make-up of firms, this is not overtly apparent as yet, but the last trend analysis was conducted in the 2009 report. The 2011 report is due out in the autumn which will provide up-to-date data.
7. The Diversity League Table does not conduct interviews directly with SMPs or HoCs to assess how they might be actively encouraging diversity within their organisations. But it should be noted that by virtue of taking part the firm or chambers is by default committed to diversity and inclusion. Also, from the 2010 report we note that the majority of participants score above 300 (out of 500) within the Policy & Practice rankings, which could indicate a strong commitment to on-going change. Again, the 2011 report should provide better information as it will give us something to compare with.
8. Transparency is a significantly more progressive position than simply knowing (internally) the make-up of an organisation. We would also argue that how that data is presented in public is important too.
9. Transparency, as it relates to the Diversity League Table, requires a more fearless approach to equality and diversity. The public, consumers and importantly, procurers of legal services can all see what one is doing and how

one is performing. Those who take part show a fearless and admirable commitment to bringing about change.

**“Transparency is vital for tackling inequality, unfairness and for promoting diversity. We cannot tackle discrimination and inequality if it is hidden.”**

Source: 2009 Diversity League Table. The Rt. Hon. Harriet Harman QC MP, (then) Minister for Women and Equality

## About the Diversity League Table

10. The Diversity League Table is a Black Solicitors Network initiative which began in 2006. The 2011 edition is being produced this year in consultation with the Bar Council and the Law Society.
11. Black Solicitors Network is a Law Society Group and a not-for-profit organisation. Formally recognised by the Law Society in 2003, the BSN has been supporting and promoting the development of minority lawyers in the UK since 1995.
12. The Diversity League Table is an independent report. Analysis of the findings is undertaken by researchers at the University of Westminster.
13. Chambers and firms are invited to participate on a voluntary basis and are under no formal instruction to take part.