

**Discussion of the Legal Services Board (LSB) consultation
‘Increasing diversity and social mobility in the legal workforce:
transparency and evidence’ with Diversity Managers from Firms**

Date	Tuesday 5 April 2011
Time	16.00 to 18.00
Location	Addleshaw & Goddard Milton Gate, 60 Chiswell Street, London EC1Y 4AG

Attendees	Name	Firm
	Mary Gallagher	Addleshaw Goddard
	Jane Masey	Allen & Overy
	Jennifer Barrow	Baker & McKenzie
	Clare Rowe	Eversheds
	Deborah Dagleish	Freshfields Bruckhaus Deringer
	Alison Unsted	Hogan Lovells
	Felix Hebblethwaite	Linklaters
	Michael Stacey	LSB
	Sonya Gedson	LSB
	Katherine Hallam	Mayer Brown

Apologies	Name	Firm
	Sarah Twite	Clifford Chance
	Paula Waite	Herbert Smith
	Zainab Kemsley	Simmons & Simmons

1. Introductions

1.1. The discussion began with roundtable introductions from the attendees.

1.2. Michael Stacey (LSB) explained the background to the consultation paper and outlined the LSB’s main proposals. Sonya Gedson (LSB) updated the attendees on the consultation process indicating that the formal 3 month consultation closed 9 March 2011. The LSB will continue with informal discussions with Approved Regulators (ARs), relevant interest groups and firms over the coming months. The LSB’s next steps will include producing a response and decision document on the consultation to be published once agreed by the LSB’s Board meeting in July 2011.

1.3. It was agreed that a meeting note would be produced summarising the main issues raised in the discussion and once agreed by all attendees, this would be published on the LSB’s website alongside the other consultation responses received.

2. Discussion

2.1. The attendees were asked to provide general comments on the LSB's proposals. The focus would move into a more detailed discussion on the model questionnaire set out in Annex C, page 52 of the consultation document.

2.2. General comments on the LSB's proposals

2.2.1. It is important to highlight that diversity is a pro-active business tool and not simply another compliance measure. Significant investment has been made by firms to encourage diversity as something that the firm wants to do, rather than something they are forced to do. The communications strategy around the LSB's proposals of why this data is being collected is important. Regulators will need to make the reasons and business case clear to ensure sign up from individuals and firms.

2.2.2. Firms who are already collecting this information should not be required to conduct an additional exercise. While some firms may not ask all of the questions covering the protected characteristics, it should be up to the firm to manage the process of including the relevant additional questions in their monitoring processes.

2.2.3. There was concern over potential duplication in terms of the separate processes involved in collecting diversity information by the Solicitors Regulation Authority (SRA) and a firm's internal monitoring system. It could be counter-productive to firm's internal diversity monitoring systems if the SRA were to collect diversity information through the practising certificate (PCF) process as an individual will be asked to provide the information twice, once as part of the PCF process and again when they update details with their firm. This could lower the response rate to a firm's internal diversity information monitoring programme and jeopardise the good work already achieved by firms in collecting this information. Additional bureaucracy should therefore be avoided.

2.2.4. It was suggested that the SRA could implement the monitoring process in partnership with Diversity Managers/Diversity Departments of firms. The LSB agreed to speak with the Director of Inclusion for the SRA, Mehrunnisa Lalani, to arrange a further meeting between the attendees and SRA to discuss these issues.

2.2.5. A query was raised around the publication of information collected by the firm. It was confirmed that it is envisaged that it will be the responsibility of the individual firm to publish the firm's workforce make-up on their website.

2.3. Specific comments on the Model Questionnaire

2.3.1. Status and role

- 2.3.1.1. The attendees advised that categories of status and job role have been agreed with the Law Society (TLS) through the Diversity Charter work and it was suggested the LSB contact liaise with Pat Corcoran for those definitions.
- 2.3.1.2. The questions 2b, 2c and 2d under Job Role were difficult to answer and contained ambiguous terms, for example, 'significant responsibility' and 'work independently with only occasional reference to a supervisor'. It was suggested that an easier category to measure would be partner vs. non-partner, but this would not give adequate information on the wider progression from trainee to associate to partner. Firms incidentally already hold more detailed information on progression which could be provided to the SRA if requested. Therefore, the partner vs. non-partner data may be adequate to collect for the purpose of this work.
- 2.3.1.3. As an alternative or additional category, a question relating to who sits on a Management Board could be introduced. This however would also be difficult to define considering the different management and board structures across firms.
- 2.3.1.4. In terms of collecting information on the workforce who were non-lawyers i.e. administrators, managers etc, the firms indicated that the data was collected in the same way as that for lawyers.
- 2.3.1.5. It was agreed that PQE was not a relevant category to use as it does not necessarily reflect seniority.
- 2.3.1.6. The LSB highlighted that this section was drafted with the view in mind that the categories would need to be relevant for the wider legal profession and not just solicitors. It was agreed that in reviewing these categories a good starting point is the definitions and categories of solicitor from the TLS Charter. A follow on session could also follow with the Bar Council (BC) or Bar Standards Board (BSB) to determine the appropriate categories showing progression for barristers.

2.3.2. Age / sex

- 2.3.2.1. There was little comment over the age question except that the first category (16-24yrs) started at a young age. The group were reminded that that the categories were derived from the Equality and Human Rights Commission (EHRC) workforce monitoring questionnaire. Firms tended to use date of birth, but this option was out ruled in the development of the LSB's proposals as it would require extra administrative burden to aggregate the information. The age categories as opposed to date of birth also provided an extra layer of anonymity to the individual.

2.3.2.2. There was general agreement that the 'sex' category was fine, although gender may also be used as an alternative there was no preference for either.

2.3.3. Gender reassignment

2.3.3.1. The inclusion of gender reassignment in the model questionnaire was generally seen as conveying a positive message, and it would be valuable to collect this information as a baseline measure for future surveys. It was highlighted that several years ago a similar debate involved the inclusion of sexual orientation in diversity monitoring which has now resulted in measuring sexual orientation as an indicator being widely accepted. The inclusion of gender reassignment in the model question was also seen as an opportunity for small firms to introduce this question as part of a baseline of diversity monitoring at the outset so the process of asking this question becomes accepted from the beginning.

2.3.3.2. However, it was recognised that the number of individuals likely to identify as transgender is likely to be low and there is a possibility this question would yield little or no useful data. A concern was raised that if the information was collected and then not used or published, firms, regulators and the LSB could possibly be in contention with Data Protection Act (DPA) legislation. The LSB suggested that firms might be encouraged rather than required to collect data on gender reassignment.

2.3.3.3. It was suggested that question 5b was excluded from the survey as the answers would not be useful.

2.3.4. Disability

2.3.4.1. The introduction paragraph could be shortened to include only the definition of a disabled person as termed by the Equality Act 2010 (EA), taking out the detail on the EA as people would not need that information to answer the question.

2.3.4.2. The second part of the question 6b which defines the disability may be perceived as intrusive. General experience among firms was that this type of question has a low response rate.

2.3.4.3. The LSB will consider using the question on disability set out in the Census 2011 questionnaire.

2.3.4.4. It was suggested that the question on disability could be phrased to include "long term health condition" to cover those who would not consider themselves disabled, even though they might fall within the legal definition of the term.

2.3.5. Ethnic group

2.3.5.1. The group agreed with the use of the Census version of the ethnicity question in the model questionnaire. A suggestion was to

change the order of the answer categories to have 'Prefer not to say' at the bottom of the list rather than the top as this may encourage people to answer the question rather than opting out with ticking 'prefer not to say' in the first instance.

2.3.6. Religion

2.3.6.1. The group agreed with the use of the Census version of the religion question in the model questionnaire. A suggestion was to change the wording of the question to 'Do you have a religion?'

2.3.7. Sexual identity

2.3.7.1. The group indicated that as best practice, the Stonewall version of this question was used in their internal diversity monitoring.

2.3.7.2. Some concerns were also raised that by not publishing data on sexual identity as it may send a signal that this issue is regarded as less important. A possible option for publication could include publishing the information as a percentage of the population.

2.3.7.3. The LSB will seek further advice from Stonewall in their views on publicising information on sexual orientation and also possible gender reassignment.

2.3.8. Socio-economic background

2.3.8.1. The socio-economic background questions were viewed as generational as a parent's level of educational attainment was relevant for those in the profession now, but this could change. For example, new entrants are now more likely to have parents who went to University because of the increase in availability of higher education in the 1970s, but this may change again with the introduction of higher fees and less people attending university in the generations to come.

2.3.8.2. Question 10a could be expanded to cover an individual's educational attainment in order to roughly measure social mobility which would compare an individual's highest level of educational achievement to that of their parents or caregivers. For example, 'Are you the first generation of your family to attend University?' Answered by either 'Yes/No/Did not attend University'.

2.3.8.3. Question 10b could add an option for 'International School' to encompass those who are educated in countries outside of Britain (in particular with those firms who have international offices). It was also suggested that the answer categories could split selective and non-selective state schools. It was acknowledged that this may be difficult to define.

2.3.8.4. Question 10c was considered not relevant to include in the questionnaire as the awarding 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 categories 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.

2.3.9. Caring responsibilities

2.3.9.1. There was general agreement that it may not be helpful to measure pregnancy and maternity as these are essentially temporary categories.

2.3.9.2. There was a concern that the questions in this category are generally viewed as personal issues and a 'Yes' answer to question 11a may not mean that an individual has caring responsibilities for their child/children.

2.3.9.3. There was the possibility of changing this category to include flexible working. For example questions could include: do you work five days per week? (Yes or No), do you work standard peak hour days? (Yes or No) or Do you contractually work an 8 hour day?

2.4. Final comments

2.4.1. It would be helpful for small firms to have a set of guidance to set up processes to gather and monitor this information.

2.4.2. The LSB agreed to draft the meeting note and forward to Mary Gallagher to circulate to the attendees to agree before it is published on the LSB website alongside the other consultation responses.

2.4.3. There were no further comments and the meeting came to a close.