

## ***Legal Services Board - Increasing Diversity in the Workforce Consultation***

### ***Response – CPS HQ Equality & Diversity Unit***

#### ***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?*

The assessment seems comprehensive. CPS undertakes equality monitoring of all staff, including caseworkers, associate prosecutors and prosecutors.

#### ***Question 2***

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

We agree with the assessment and the need identified to establish a more comprehensive evidence base for diversity work. CPS monitoring of chambers' progress on meeting our Equality & Diversity Expectations Statement found that in 2010/11 84% of larger Chambers (45 members and above), 12% of medium chambers, and 20% of small chambers undertook equalities monitoring. Our observations were that:

- Chambers must improve the collection of equalities monitoring data; this will mean improving their knowledge for the reasons behind the collection of the data, what categories should be used, how it should be stored and how it should be used to identify equalities issues and take appropriate action as a result of analysis.
- Those who stated they were undertaking monitoring were mostly confined to race and gender, and the categories used were often inconsistent.
- More action needs to be taken to address under-representation. For those who could provide equalities monitoring data, few went on to describe what actions were being taken to address any under-representation evidenced.
- Poor quality monitoring data means that Chambers cannot possibly accurately monitor fair and equal access to work – this leaves vulnerability for people to feel that they have been discriminated against.

**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?*

Lord Neuberger Working party Report 'Entry to The Bar' does not appear to have been considered.

**Question 4**

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

None known.

**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)?*

Agree with the priorities.

**Question 6**

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

Yes, and these should be standardised categories. However, there is a need for education on why we monitor, how we monitor and what information is used for.

**Question 7**

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

Agree. However, guidance would be needed on small numbers not being published if there is potential to identify individuals. Consideration should also be given to the Equality Act (EA) specific duties requirement for organisations to only have to publish if they employ 150 or more employees.

**Question 8**

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

Diversity initiatives should always be evidence based, and base-lined against specific data sets e.g. labour force survey/census etc.

**Question 9**

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

Agree if it is for a time limited period i.e. targets will be considered in year X.

**Question 10**

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

Yes.

CPS experience referred to earlier, illustrates that Chambers do not use standard categories and this would create a major challenge in aggregation of data and measurement against e.g. Census data.

**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?*

Agree.

**Question 12**

*Do you have any comments about our proposals in relation to the individuals the data collection and transparency requirements should cover?*

No

**Question 13**

*Should the framework include the collection of information on in-house lawyers?*

Yes. This would indicate diversity trends or organisational culture.

**Question 14**

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

Minimal.

**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?*

In principle no major disagreement, however, as the resource required to collect data is minimal the concession to smaller chambers and firms seems unnecessary.

**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?*

Agree, evidence suggests that socio-economic factors present a major barrier in the legal profession.

**Question 17**

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

There are advantages to both approaches.  
Is there potential for the Approved Regulator to collect identifiable data, anonymise it and return anonymous data to entities?

**Question 18**

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

Not known.

**Question 19**

*Do you have any suggestions on how to improve the model questionnaire?*

The use of the option of 'prefer not to say' has advantages and disadvantages – an advantage may be that it provides an indicator of culture (especially with regard to religion and sexuality), however a disadvantage is that it may be seen to validate the position of those who resist equalities monitoring.

**Question 20**

*What are your views on the proposed categorisation of status in the model questionnaire?*

Comprehensive.

**Question 21**

*What are your views on the proposed questions about job role 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?*

None

**Question 22**

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

None

**Question 23**

*Should we collect any additional information, such as that suggested in paragraph 129?*

Nationality and country of qualification may be of interest for monitoring trends – these should be asked separately though as they do not sit correctly with status or job role.

**Question 24**

*Do you have any views on our proposed approach to collecting data on disability?*

Agree.

However, with restrictions on pre-employment questions on disability guidance would be necessary.

**Question 25**

*What are your views on our proposed approach to collecting data on sexual identity?*

Agree.

**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?*

The question is only on religion - legislation covers non-belief and it is possibly not inclusive enough of this.

**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 gender reassignment issues in the legal workforce?*

Yes, assists in complying with legal obligations.

**Question 28**

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

Yes, however 'gender identity' may need to be defined to clarify the difference between the previous question on sex.

**Question 29**

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

In respect of maternity, the question on children could be broken down into age group e.g. under 2, 3 – 5, 6 – 18 as this may give an indication of any trends for retention of new parents in the legal workforce.

**Question 30**

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

Agree.

**Question 31**

*Do you have any comments about our proposed approach to publication requirements?*

Agree with need for transparency, may need to reflect the EA specific duty requirements.

**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?*

Care would be necessary to avoid the publication of small figures which can make individuals identifiable.

**Question 33**

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

From the CPS perspective this should be minimal as the approved regulators we work with are moving towards the proposed approach already. With approved regulators such as Bar Council being subject to specific duties under the EA, this reflects their legal requirements.

**CPS HQ Equality & Diversity Unit**