



GENDER EQUALITY SCHEME

Ensuring our Equality & Diversity Strategy for 2005 to 2008 meets the Gender Equality Duties

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This document is NOT intended to be a detailed guide to the relevant legislation or how it may affect individual firms or organisations. This is a fast developing area of law and whilst the contents are believed correct at the date of publication no guarantee is given in respect of accuracy, completeness, or the document being up-to-date. This Scheme is not intended to constitute specific legal advice and The Law Society of Scotland can accept no responsibility for any loss, claim or damage relating to the information provided or how it is interpreted. Independent legal advice should always be sought from a specialist in the field.

EUROPEAN YEAR OF EQUALITY

This Gender Equality Scheme is being launched by the Society during the 2007 European Year of Equality. Activities are planned by the Scottish Executive and the Commission for Equality and Human Rights across the year, these being organised around four key objectives: rights, representation, recognition and respect:

- **Rights** – Raising awareness on the right to equality and non-discrimination and on the problem of multiple discrimination
- **Representation** – Stimulating debate on ways to increase the participation of groups in society which are victims of discrimination and a balanced participation of men and women
- **Recognition** – facilitating and celebrating diversity and equality
- **Respect** – Promoting a more cohesive society

http://ec.europa.eu/employment_social/eyeq/index.cfm?cat_id=EY

Foreword

The Law Society of Scotland and Gender Equality

As the professional body for solicitors in Scotland, the Society has responsibilities to the profession, to the public as a whole, and as an employer. To provide, and be seen to provide, effective regulation the Society must take account of the Diversity of both profession and public and ensure that our services are 'accessible', 'user friendly' and equitable to all in experience and outcome. To carry out our regulatory functions effectively, we have to understand both the groups we regulate, and the public for whom we regulate.

The Society firmly commits to the principles of the new Gender Equality Duties, and sees them as integral to ensuring for everyone the quality and accessibility of all the services and functions we provide. Prior to the extension of the 'Race Equality Duties' to cover organisations such as the Society and the inception of the new 'Disability Duties' the Society had already identified Gender as perhaps the key challenge facing the Society and the solicitors' profession in Scotland.

On that basis we had carried out joint independent research with the Equal Opportunities Commission to ensure we have a valid and robust evidence base as to the issues facing **'Women in the Legal Profession'**, and we have publicly committed to carrying out this exercise again in future years to monitor progress. We undertook further work through the **'Profile of the Profession'** project to collect more data on areas identified in the first study and to be able to understand the more complex issues created by the interplay of all the 'strands' of equality.

We note that our elected Council has a level of female membership far higher than most public and private sector comparators and we have strong representation across all executive committees. We know that by 2011 there will be more female practising solicitors than male, demonstrating that the profession has risen to the challenge of gender equality in relation to education, accessing vocational training, accessing traineeships and for those seeking their first appointment – a significant success story. Yet we cannot be complacent. We need to encourage more female convenors to take on appointments within the Society. In practice, the number of female partners is rising, but not as fast as we might expect. We know some of our members face challenges in terms of parental and carer responsibilities, and questions of remuneration remain hard to answer.

Indeed, the Law Society of Scotland views a much wider role for itself in this field, be it in innovative national projects such as providing every Secondary School in Scotland with the Young Citizens' Passport advising young people on their legal rights (including in relation to employment, equal pay, maternity/paternity leave, the law covering sexual relations, and so on) or one-off collaborations, such as working with *The Big Issue* to promote careers in law to those who may not traditionally consider it.

Our commitment has always been to an integrated approach to equality and we believe the best way to achieve meaningful, substantive and sustainable change is through an integrated Equality and Diversity Strategy (2005 to 2008). Nevertheless the Society is keen to ensure that the **Gender Equality Duties**, as stated in the final legislation, are fully and clearly met and that the profile is raised of the particular issues around gender. **To achieve these aims we are launching this supporting Gender Equality Scheme**, which in large part refers to the Equality Strategy, flagging up elements relevant to the gender duties, but also covering additional elements relevant to the duty. This Scheme covers the period July 2007 to November 2008, at which time a major review will take place and a new three-year integrated equality and diversity strategy will be launched.

We welcome comments and observations, and note there is an annual opportunity to allow such feedback to be taken into account.



Richard Henderson
Vice-president



Douglas Mill
Chief Executive

INTRODUCTION

2.1 The Equality and Diversity Strategy

The 'Forward' sets out the role and purpose of this document. The following section details the statutory requirements of General and Specific Duties in relation to gender, and the subsequent sections use the structure established by those duties to address each key area in turn. However, before reading the detail of this document you may wish to familiarise yourself with our Equality and Diversity Strategy and in particular the following sections:

Relevant sections in the main Equality and Diversity Strategy

Section 3 Introduction

This sets out the definitions of equality and diversity which the society is using, identifies the key 'strands' of equality, outlines our commitment to mainstreaming and sets out details of how this original Strategy was developed. Perhaps most importantly, in the context of this **Gender Equality Scheme**, it sets out the reasons why the Society believes the 'strands' of equality can only be effectively tackled through an integrated Equality and Diversity Strategy - a position which has influenced our approach to the development of this Scheme, as indicated in the 'Forward'

Section 4 The Organisation

In order to understand our Equality and Diversity work you may wish to find out more details about the Society and its functions and powers. This section of the Strategy provides a brief outline of the organisation, the Council and the Committees of the Society. More information on current issues affecting the Society can be found on our website at <http://www.lawscot.org.uk>

Section 5 Equality, Diversity and The Law

This section of the main Strategy includes information on the range of legalisation and regulation which influences this area of the Society's work, whilst this current document contains a short section looking at the applicable law in relation to the Gender Equality Duties and the requirements for a Gender Equality Scheme.

You may also wish to view our Disability Equality Scheme. All documents and materials in relation to our equality work can be downloaded from <http://www.lawscot.org.uk/diversity>

2.2 The Structure of this Document

Section 2.37 for the Statutory Code on the Gender Equality Duty (see Section 3.3 for further details of this Code and its status) indicates that the steps that an organisation should go through in preparing to meet the Gender Equality Duties are:

- gathering and analysing information (sections 5, 6, 7 & 8)
- consulting stakeholders (section 9)
- carrying out impact assessments (section 10)
- prioritising and implementing gender equality objectives (section 11)
- reporting and reviewing (section 12)

This Scheme follows the same structure, for each heading discussing what has been done so far and what is planned for the future. The sections of this document relating to each of the headings are noted above.

2.3 Progress so far...

Before progressing to the specifics of this scheme it is also worth noting some of the work already undertaken by the Society in relation to gender resulting from the Equality and Diversity Strategy. The period has been one of successes and achievement: all the staff and management have been involved in some way through training and brainstorming sessions used to identify possible issues in the Society. Our Council has actively debated our position and approach, and has also engaged in awareness-raising training. We have had the support of a whole list of external organisations and agencies (see our Strategy for a full list – available on the Society's website) who have provided help, expertise, guidance and motivation. The Society knows there is much to be done in the coming years and is looking forward to the work ahead, but celebrating success is also important. We set out below some of our notable achievements in relation to equality, highlighting (in bold and italics) the particular link to issues around sex and gender, which are most relevant to this Gender Equality Scheme. Full details can be found in our Equality and Diversity Annual Report 2006 (available from our website).

1. The Society publicly advertised for members to join an Equality Forum, a group of solicitors (currently around 30) with personal and/or legal expertise in a range of

issues of equality and diversity (***including issues around sexual orientation, gender/transgender, and sex***) to become involved in policy and decision making.

2. The Council of the Society has convened a new formal committee in May 2007, The Equality and Diversity Committee, in recognition of the work of the current, more informal Diversity Advisory Group. The group is chaired by a Council member, Farah Adams, and ***contains members with a specific expertise in issues around sexual orientation, gender/transgender, and sex.***
3. The purchase of consultation and questionnaire software to promote engagement with the profession and public. This allows the rapid and accurate collection of information through the web – and has been used for a ***training needs analysis of staff in relation to equality, an assessment of current staff knowledge and attitudes, and with the public and profession to collect data on opportunities and barriers in relation to qualifying as a solicitor and careers progression.***
4. The Society has taken a seat on the Equality Committee of the Scottish Legal Aid Board and on the Committee of the Judicial Appointment Board to ensure that information is shared and opportunities for joint working explored to ensure maximum impact is achieved. ***Both groups have a particular focus on issues of equality around sex and gender and have shared information on, for example, good practice in relation to working with a member of staff going through gender transition.***
5. The Society has appointed a full-time member of staff to build links with school pupils and university students to encourage non-traditional applicants to the profession and develop specific careers support materials addressing the issues that various groups feel they need additional information, advice and/or support on. ***There is a focus on encouraging men into the profession, who now account for only around 25% of intake.***
6. ***Regular and frank dialogue with members and stakeholders*** has identified ‘ad hoc’ issues – such as the possible creation of a ‘specialty’ in ‘Discrimination Law’ to allow those seeking legal assistance in this field to access the highest quality advice.
7. ***Lay membership has been increased across all committees,*** with a positive presumption that there will be lay-membership – there is now open advertisement for appointments through the national press.
8. There is a three year phased plan to ensure that all committee appointments (for solicitors, see arrangements for lay members above) within the Society are advertised nationally through *The Journal* and that the full membership are encouraged to consider applying – the Profile of the Profession project will soon allow us to assess committee and Council membership to ascertain how representative it is of the

membership. ***We hope to encourage more women to consider taking on a convenorship, and believe this action challenges the outdated and factually incorrect perception that the Society has predominantly male involvement.***

9. Four lay observers have been appointed to Council through an open recruitment process, and the Society is lobbying the Scottish Parliament for an amendment to our constitution to allow these observers rights of membership of Council.
- 10. Implementation of a detailed equality impact assessment of all the functions, policies and procedures of the Society across all of the 'strands' of equality (including sex, gender/transgender, and sexual orientation).***
- 11. The Society has undergone a job evaluation process with Hay, with a focus on equal pay for equal work.*** Staff have been re-graded and remuneration altered accordingly. Feedback has been sought from all staff on the process.
- 12. The Society is launching a new recruitment and selection policy and recruitment paperwork – which meet all equality requirements. For example, the 'experience' section asks applicants only to list experience they feel is relevant – by no longer asking full career, breaks for maternity etc. are no longer identifiable. Of special importance will be collection of equality data, which will allow more effective monitoring and identification of issues in the future.***
13. A full package of reforms in Education and Training is being consulted on: for the first time all stakeholders will be requested to respond including groups such as the Equality Commissions, the Consumer Association, and individual members of the public and profession. ***This has already identified equality issues in relation to training (including the possibility of introducing discrimination and equality as mandatory elements of the route to qualification) and perceived barriers. We were delighted that groups such as Scottish Womens' Aid contributed to this process.***
- 14. The review of every 'Practice Rule' and 'Practice Guideline' and amendment, where appropriate, in light of the new Civil Partnership legislation.***
- 15. The practising certificate paperwork and Roll Management System have been adapted in light of the new Civil Partnership Legislation.***
- 16. Launch of the results of the 'Women in the Legal Profession' research. This was jointly run and funded with the Equal Opportunities Commission Scotland and over 2300 people responded to the study which was then launched to an invited audience of around 150.***

17. ***Distribution of an Equality and Diversity themed edition of the Journal in November 2005*** to help raise awareness across all of the Society's 10,000 members.
18. ***Launch of the 'Profiling the Profession' project to generate a full demographic profile of the profession covering all the 'strands' of equality*** – this has attracted over 3000 responses, and the results are currently being collated (due for publication in February). ***The Society is proud to become one of the first professions in the UK to monitor sexual orientation and transgender status.***
19. ***A new and tighter definition of 'discrimination' included in a review of the Codes of Conduct for solicitors – this goes beyond the current legal minimum, for example it prohibited discrimination in service provision on the grounds of sexual orientation prior to legislation having been passed in this field.***
20. The Society is continuing its financial and drafting support for the award winning Young Citizen's Passport, in partnership with the Citizenship Foundation, by working on the 2nd edition. ***This book makes young people aware of their legal rights in relation to a range of issues including the law relating to sexual relations, employment rights (including maternity, paternity, and equal pay), domestic violence, and human rights. The Society has made funding available to distribute this book to every secondary school in Scotland.***
21. All 10,000 members of the profession have been sent a basic information leaflet on Equality and Diversity containing key definitions, an outline of the work of the Society, and details of where to access further information.
22. The Society has organised a meeting of the Scottish Regulatory Forum themed on Equality and Diversity to ensure the sharing of best practice with other professions.
23. The Society has provided input into the parliamentary drafting of legislation on civil partnerships, immigration and asylum, the establishing of a ***Scottish Commission for Human Rights, the Family Law Scotland Bill, Mental Health legislation, the Adult Support and Protection Bill, and the Adoption of Children Bill.***
24. Staff can opt for remote access to the Society's IT system. Alongside flexible working policies ***this has increased the flexibility staffs have around the ways they work, especially for those with caring responsibilities.***

In the 2007/2008 year we need to drive ahead with implementation of the strategy and associated targets, and will also be adding to these the specific points raised in the supplementary Disability Equality Scheme and this supplementary Gender Equality Scheme.

However, the Society also believes this level of attainment (based on applying the broad principles of the General and Specific Race Duties to all the 'strands' of equality) shows the effectiveness of the integrated approach, and supports the contention that the most appropriate way to truly integrate, mainstream and promote issues of equality and diversity is through a single coordinated strategy.

GENDER EQUALITY AND THE LAW

3.1 Introduction

Section 5 of the Equality and Diversity Strategy sets out the various sources of legislation in this field, as well as details of the Society's own rules on equality and diversity (for example, the 'Discrimination' rule in our Codes of Conduct) that bind all our members. This section of the Strategy was updated in November 2006 as part of the annual review process.

This section of this report concentrates on the legislation of particular relevance in the context of Gender Equality.

The Society understands the introduction of the Gender Equality Duties in the context of 30 years of gender equality legislation that has seen improvements, but it has not been as effective in tackling discrimination as had been hoped.

3.2 The Equality Act 2006

The Equality Act 2006 amends the Sex Discrimination Act 1975 to place a statutory duty on all public authorities, including the Law Society of Scotland, to have due regard to certain 'General Duties'.

The Law Society of Scotland is considered, in respect of the functions established in the Solicitors (Scotland) Act 1980, to be carrying out public functions. The legislation deems that an organisation will be exercising a public function where it is in effect exercising a function which would otherwise be exercised by the state – and where individuals have to rely upon that person or body for the exercise of that function. These bodies are sometimes referred to as 'functional public bodies'. One of the categories defining such bodies is the carrying out of functions directly provided for in statute law. It is also worth noting that section 2.65 of the Statutory Code explicitly states that the duty applies in the exercising of regulatory functions, something the Society must have cognisance of. More details can be found in Appendix A of the Statutory Code (details below). The

Council of the Society has previously decided that we should not seek to differentiate our public and private functions, but should apply the same standards to all of our activities, going above and beyond the legal requirements set out in the Act.

The general duties came into force on 6th April 2007. Bodies with more than 150 staff must publish an Equal Pay Statement by 28th September 2007, and although in this latter respect the Society is not directly covered (having significantly fewer than 150 employees) the Council has decided to publish an equal pay statement as part of this document.

The Gender Equality Duty will require the public sector, and those carrying out public functions, to actively promote gender equality, and is similar to the duty to promote race equality under the Race Relations (Amendment) Act 2000.

3.3 Additional legal considerations

The ***Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) (Scotland) Order 2007*** formally requires the Society to comply with the 'Specific Duties' in addition to the 'General Duties'. This Scottish Order came into force on 9th April 2007, and makes it mandatory for a listed body to publish a Gender Equality Scheme no later than 29th June 2007.

The Gender Equality Duty, Draft Code of Practice, Scotland is a statutory code. This means two things: firstly, that it is intended to be a useful and constructive guide, assisting bodies in preparing for the duties. However, it also means it is admissible as evidence in various proceedings (court and tribunal) and that an adverse inference can be drawn from failure to comply with the code. Thus, whilst it is not a binding statement of the law, it must be given significant consideration in preparing to meet the requirements of the Equality Act 2006. The current code was laid before both Houses of Parliament under section 56A(4)(a) of the Sex Discrimination Act 1975 (as applied by section 76E(2) of that Act).

3.4 The General and Specific Duties

The Equal Opportunities Commission is keen to emphasise that the new duties are not a passive, but require public authorities to take action to meet the duty. When the Equal

Opportunities Commission (and from October 2007 the Commission for Equality and Human Rights) are monitoring and evaluating compliance with this duty, they will be looking for evidence of action and positive change. Without such evidence, it will be difficult to establish that the Society is paying due regard to the gender equality duty. The duty is also enforceable by Judicial Review.

The Society will be expected to provide evidence that due regard has been paid to the duty in relation to our core functions, which the EOC views to be “policy development, service design and delivery, and employment”. This includes services and functions which have been outsourced, such as the management of the Society’s magazine, ‘The Journal’.

The Act sets out what is known as the General Duty. This is applicable to all public bodies, and those carrying out public functions. Public authorities are expected to have ‘due regard’ to the general duty. ‘Due regard’ comprises two elements: **proportionality & relevance**. Two further elements should be considered in decision-making; **involvement & transparency**.

The General Duty

Under the general duty, organisations must have ‘due regard to the need to’:

- eliminate unlawful discrimination and harassment
- promote equality of opportunity between men and women

The Specific Duties

This general duty is supported by a series of Specific Duties. These are not ends in themselves but provide the steps, methods or arrangements organisations should follow to help them meet the General Duty. It is worth noting that the Specific Duties are different for Scottish public bodies, than for those in England and Wales.

To prepare and publish a Gender Equality Scheme showing how it intends to fulfil the general and specific duties and setting out its gender equality objectives:

- **in preparing a scheme:**
 - **consult staff, service users and others** (including trade unions)
 - **take into account any information it has gathered or considers relevant** as to how its policies and practices affect gender equality in the workplace and in the delivery of its services

- in formulating its overall gender equality objectives, **consider the need to have objectives to address the causes of any gender pay gap**
- **ensure that the scheme sets out the actions** the authority has taken or intends to take to –
 - gather information on the effect of its policies and practices on men and women, in employment, services and performance of its functions
 - use the information to review the implementation of the scheme objectives
 - assess the impact of its current and future policies and practices on gender equality, and have due regard to the results of impact assessments
 - consult relevant staff, service users and others (including trade unions)
 - ensure implementation of the scheme objectives
- **implement the scheme and their actions for gathering and using information** within three years of publication of the scheme, unless it is unreasonable or impracticable to do so
- **review and revise the scheme** at least every three years
- **report on progress annually.**

DEFINITION - UNLAWFUL DISCRIMINATION

4.1 Introduction

This section provides an extract from 'Appendix A: The meaning of unlawful discrimination - a brief overview of the Sex Discrimination Act 1975 and Equal Pay Act 1970' from the document:

The Gender Equality Duty, Draft Code of Practice, Scotland

Whilst the aim of this document is not to simply repeat large extracts of the full code, it was felt that this definition was of particular use in extending people's knowledge and understanding, and that its verbatim inclusion was therefore of benefit.

4.2 The Meaning of unlawful discrimination (extract from the statutory code)

The Sex Discrimination Act 1975 (SDA) prohibits discrimination against individuals in the areas of employment and vocational training, education, in the provision of goods, facilities or services, in the disposal or management of premises and in the exercise of public functions. It also prohibits discrimination in employment and vocational training against married people and civil partners, and people who have undergone, or who are undergoing or are intending to undergo, gender reassignment.

Victimisation because someone has tried to exercise their rights under the SDA or the Equal Pay Act 1970 (EqPA) is prohibited.

The SDA applies to women and men of any age, including children.

The SDA applies to England, Wales and Scotland.

WHAT IS DISCRIMINATION?

Direct discrimination

This is where a woman (or man) is treated less favourably than a person of the opposite sex in comparable circumstances is, or would have been treated, because of her (or his) sex.

Indirect discrimination

In the fields of employment and related fields¹, in relation to barristers/advocates and in relation to vocational training (as set out in Part III of the SDA), indirect discrimination will occur where a person applies a provision, criterion or practice to both sexes, but it puts or would put women at a particular disadvantage when compared with men (or vice versa); it puts the particular woman complainant at that disadvantage, and is such that the discriminator cannot show it to be a proportionate means of achieving a legitimate aim.

In all other sections of the SDA - relating to the fields of the exercise of public functions, education and goods, facilities or services (except those which relate to barristers/advocates or vocational training referred to above) - indirect discrimination occurs where a requirement or condition is applied to both women and men, but the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it (or vice versa), and it is not justifiable, irrespective of sex, to apply that requirement or condition, and it is to the particular woman's detriment because she cannot comply with it.

For example, an unnecessary requirement to be under 5' 10" would discriminate against men; a requirement to work full-time or refusal to allow flexible working might be unlawful indirect discrimination against women.

Discrimination on grounds of gender reassignment

There are special provisions prohibiting discrimination on the grounds that a person intends to undergo, is undergoing or has undergone gender reassignment. These

¹ The SDA sets out particular provisions relating to the employment field covering: employers, contract workers, office holders, partnerships, trade unions, qualifying bodies, vocational training providers, employment agencies, training commissions, police, midwives and ministers of religion.

prohibitions apply in relation to employment and related fields, discrimination by, or in relation to, advocates, and in vocational training (including further and higher education) as set out in Part III of the SDA. From December 2007, the SDA will be amended to implement the Goods and Services Directive 2004/113 and discrimination on the grounds of gender reassignment will then be expressly prohibited in goods and services.

Discrimination on the grounds of pregnancy or maternity

Less favourable treatment on the grounds of pregnancy, including pregnancy-related sickness, and maternity has been found by the courts to amount to direct discrimination. In the employment field, in vocational training and in relation to advocates, express provisions apply and these are set out in Part I of the SDA. From December 2007, the SDA will be amended to implement the Goods and Services Directive 2004/113 and discrimination on the grounds of pregnancy or maternity will then be expressly prohibited in goods and services.

Victimisation

Victimisation occurs when a person is treated less favourably because:

- They have brought proceedings against the discriminator or any other person under the SDA, EqPA, Part 1 of Schedule 5 to the Social Security Act 1989 or sections 62 – 65 Pensions Act 1995.
- They have given evidence or information in connection with the above proceedings.
- They have done anything by reference to these enactments in relation to the discriminator or any other person.
- They have alleged that the discriminator or any other person has breached the relevant provisions of the above enactments.
- If the discriminator knows that she (or he) intends to do any of those things or suspects that she has done or intends to do any of those things.

The above protection applies whether or not the original allegation of discrimination was true. The protection will not apply, however, if the allegation was false and not made in good faith. Victimisation is prohibited across all the activities covered by the SDA.

Harassment and sexual harassment in employment and related fields, and in vocational training (including further and higher education)

The SDA expressly prohibits harassment on grounds of sex, harassment on grounds of gender reassignment and sexual harassment in employment and related fields and in vocational training (including further and higher education). This includes, for example, harassment of employees, contract workers, office holders and students; harassment by qualifying bodies in relation to qualification or disqualification; and harassment by trade unions. This applies whether the harassment occurs before (in the case of applicants for work etc.), during or after the relationships between individuals and these bodies have come to an end.

'Harassment' is defined as unwanted conduct which takes place simply because someone is a woman or a man, and has the purpose or effect of violating that woman's (or that man's) dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her (or him). An example of this might be a man who objects to a woman undertaking a particular type of work that has traditionally been done by men and who continually belittles her ability to do the job. It is conduct on the ground of a person's sex which is not necessarily of a sexual nature. Harassment on the grounds that a person intends to undergo, is undergoing or has undergone gender reassignment is also expressly prohibited.

'Sexual harassment' occurs when a person engages in any form of unwanted verbal, non-verbal, or physical conduct of a sexual nature, which has the purpose or effect of violating that woman's (or that man's) dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her (or him). This would include a person making unwelcome sexually explicit comments or being verbally abusive in a sexually charged way, sending sexually explicit emails, displaying sexually explicit posters or inappropriate physical contact.

Unwanted conduct is only regarded as violating someone's dignity or as creating an intimidating, hostile, degrading, humiliating or offensive environment if, having regard to

all the circumstances, including in particular the perceptions of the woman or man claiming that they have been harassed, it should reasonably be considered as having that effect. It has been recognised that it is of particular importance to take account of the reasons why a person is claiming they have been harassed, and in the majority of circumstances, the complainant's view will be the key factor. The complainant's perception will not be the only factor, however, and a tribunal will consider all the facts in the case before deciding whether unlawful harassment has in fact taken place.

The SDA also makes it unlawful to treat someone less favourably because they have rejected or submitted to harassment as defined above - for instance, refusing someone a job or a housing benefit application because they would not submit to particular unwanted conduct, or refusing someone promotion or a visiting order while in custody because they did submit to it.

Harassment and sexual harassment in the exercise of public functions

The express harassment and sexual harassment definitions in the SDA (apart from those relating to gender reassignment) also apply in the prohibition on harassment in the exercise of public functions.

Harassment and sexual harassment in schools, the provision of goods, facilities or services, and in the disposal or management of premises

The express provisions described above, addressing harassment in the areas of employment and vocational training (including further and higher education), do not apply to harassment in schools, in the provision of goods, facilities or services, or in the disposal or management of premises. However, the courts have determined that harassment is a form of direct discrimination (where the offending conduct constitutes less favourable treatment on the ground of sex than that which has or would have been afforded to someone of the opposite sex) and therefore it is also prohibited in these areas.

A school, provider of goods, facilities or services or public authority landlord etc. will be liable for any acts of unlawful sex discrimination done by its employees in the course of their employment or by its agents, whether or not they were aware of such acts, unless they have taken such preventative measures as are reasonably practicable.

In addition, where harassment is carried out by a person who is not an employee or agent of such a body, in circumstances closely connected to their activities (for example, a student harassing a fellow student or tenant harassing his neighbour, where both are tenants of the same public authority landlord), such a body may in some circumstances be liable for the harassment, in failing to take steps to prevent the recurrence of known harassment, if they did or would have taken action in relation to harassment of a complainant of the opposite sex.

From December 2007, harassment, sexual harassment and gender reassignment harassment will be expressly prohibited in relation to the provision of goods and services when the Goods and Services Directive 2004/113 is implemented into domestic legislation. Public authorities will need to ensure that their policies and procedures take these new provisions into account.

DISCRIMINATION IN THE EMPLOYMENT FIELD AGAINST MARRIED PERSONS OR CIVIL PARTNERS

It is unlawful for an employer to discriminate against a married person or civil partner in relation to:

- recruitment (although in very limited circumstances discrimination will be lawful if one of the defined genuine occupational requirements applies, for example the job needs to be held by a man to preserve privacy or decency, or a role in a performance needs to be held by a woman for reasons of authenticity)
- treatment at work (but note that claims relating to discrimination in contractual pay and benefits are brought under the EqPA)
- dismissal.

DISCRIMINATION AGAINST NON-EMPLOYEES AND EX-EMPLOYEES

The SDA was amended in July 2003 to make it clear that discrimination against ex-employees is covered by the SDA, where the discrimination complained of is related to the previous employment. Employees (and potential employees) have rights under the SDA whatever their length of employment and whatever hours they work.

The SDA also protects people who are not 'employees' in the sense required for some other employment rights, such as the right not to be unfairly dismissed. It protects people engaged under a contract personally to execute work or labour. Contract workers whose labour is supplied by their employer to another person (the principal) are protected against discrimination by the principal. Special provisions apply the SDA to police officers, who are office holders rather than employees.

There are special provisions prohibiting discrimination:

- by firms against partners or potential partners
- by trade unions and employers' organisations against members or potential members
- by authorities or bodies in conferring authorisations or qualifications needed for, or facilitating engagement in, a particular profession or trade
- by people providing vocational training
- by employment agencies
- by or in relation to advocates.

Part II of the SDA contains the provisions relating to discrimination in the employment field, except for the provisions about advocates, which are in Part III.

DISCRIMINATION IN THE PROVISION OF GOODS, FACILITIES OR SERVICES AND PREMISES

With a few exceptions, it is unlawful to discriminate directly or indirectly on grounds of sex in the provision of goods, facilities or services to the public, or a section of the public and in the disposal or management of premises. The main exceptions include:

- discrimination by non-profit making voluntary bodies, in restricting their membership to one sex or providing benefits to one sex only, in accordance with their main object

- discrimination in the provision of facilities or services, to avoid serious embarrassment to users which would be caused by the presence of members of the opposite sex.
- Part III contains the provisions relating to discrimination in the provision of goods, facilities or services and premises.

POSITIVE ACTION

Positive discrimination to favour one sex is unlawful. There are limited exceptions, however, allowing positive action in training, or to encourage women (or men) to apply for work in which they are under-represented. These lawful exceptions are often referred to as positive action. The positive action provisions are contained in Part V of the SDA.

EQUAL PAY ACT 1970

The Equal Pay Act 1970 (EqPA) (read in the light of Article 141 of the Treaty establishing the European Community) gives an individual a right to the same contractual pay and benefits as a person of the opposite sex in the same employment, or where the source of the pay is the same, where the man and the woman are doing:

like work; or

- work rated as equivalent under an analytical job evaluation study; or
- work that is proved to be of equal value.

The employer will not be required to provide the same pay and benefits if it can prove that the difference in pay or benefits is genuinely due to a material factor other than one which is attributable to direct or indirect sex discrimination.

Indirect sex discrimination would occur where the difference in pay and benefits is due to a condition or practice which applies equally to men and women but which adversely affects a considerably larger proportion of one sex than the other, and it is not justifiable, irrespective of sex, to apply that condition or practice. So, for example, the fact that a woman is paid a lower hourly rate than a man because she works part-time and he works full-time is unlikely to be a good defence to an equal pay claim.

The EqPA applies to England, Wales and Scotland.

GATHERING INFORMATION: SOLICITORS IN SCOTLAND

5.1 Introduction

One of the key themes of the integrated Equality and Diversity Strategy was to collect better data in a variety of areas to let us identify the views of various key groups, statistics on the demographic make-up of our profession and to assess the experience of discrimination (and related issues) which may be affecting the people to whom the Society has a responsibility.

This Section examines two projects:

1. The ***'Women in the Legal Profession'***, which was a partnership project with the Equal Opportunities Commission to examine issues around career development, remuneration, networking, areas of work, and gender.
2. The ***'Profiling the Profession' project***, aimed at collecting data on the solicitors profession in Scotland, their perceptions of the profession and their experiences of discrimination in terms of nature, source, and the stage of career at which it happened.

5.2 Women in the Legal Profession – Introduction

The Law Society of Scotland and the Equal Opportunities Commission Scotland jointly commissioned this study into the position of women in the legal profession in Scotland, because of the perception that women appeared to be obtaining proportionately fewer senior positions in practice or the public sector. There was very little recent empirical research into the accuracy of such perceptions.

At the initial stages of the project a survey was undertaken of research which had been carried out in Scotland as well as in other jurisdictions, including Australia, Canada and the USA. This identified a range of universal key themes. Alongside this survey, a study was undertaken of the membership database of the Law Society of Scotland.

The key themes related to progression within the profession, the possibility of a gender pay gap, work-life balance issues and whether there existed a masculine ethos within the profession.

It was felt by the research team that the most effective research strategy would comprise a questionnaire covering the entire Law Society of Scotland membership. A project of this scale was unprecedented in Scotland insofar as the legal profession is concerned.

This questionnaire was drafted on the basis of the key themes which had been identified from previous research carried out within Scotland and other jurisdictions. Given the size of the population, this data was to be analysed quantitatively. In addition, respondents were to be given the opportunity to add comments which would provide additional, qualitative data.

An initial draft of the questionnaire was piloted within a cross sample of the solicitors' profession in Scotland. As a consequence, minor alterations were made to the instrument of research.

The Society's thanks go to Moira MacMillan, Dr Nick McKerrell, Angus McFadyen and their supporting teams for their work on this project and for the summary provided below.

5.3 Women in the Legal Profession – Results & Profile

2,300 questionnaires were returned during February/March 2005, a high response to a postal survey, generating an array of valuable data.

More women than men responded to the survey, 40.4% men and 59.6% women. This reverses the proportions within the entire population where the male:female ratio is approximately 60:40.

73.9% were employed in private practice while 26.1% were employed in other sectors. This generally reflects the proportions within the entire population where the ratio is approximately 73.0%:27.0%.

Among the female group almost half had been a solicitor for less than 10 years, whereas among the men half had been admitted for more than 21 years. This is also reflected in the profession as a whole, given the increased proportion of solicitors who are women. Most respondents of both genders attended state school, although more men than women had a fee-paying education.

5.4 Women in the Legal Profession – Work-life Balance

Over half (50.5%) of the respondents had dependants, yet there were differences between sectors and in relation to the position held within firms. For example, at equity partner level 74.4% of men had dependants compared to 52.7% of women. At all other levels a greater proportion of women than men had dependants.

Moreover, a far lower proportion of women in private practice had dependants compared to those women employed in other sectors.

A strong gender imbalance was apparent in relation to who is the primary caregiver, who takes time off work when a dependant is ill and who takes responsibility for household duties – such responsibilities most frequently falling on women's shoulders.

In the working environment an average of 42.5 hours per week was worked, although again there were differences according to gender and between sectors. Further, a higher proportion of men than women worked outwith 'standard office hours'. There was a significant difference between the proportions of male and female respondents engaged in part-time working (5.0%:23.2%).

Given the actual number of hours practitioners were found to be working, the perception of around half (49.7%) was that their organisation equated long hours with commitment. This changed significantly across sectors. This perception was also higher in private practice amongst the most recently qualified staff, who were more likely to be female.

A clear majority of all respondents in private practice (67.2%) believed they were striking a reasonable work-life balance and in this there was no gender division. However, differences in perception emerged when the responses were broken down according to the number of years respondents had been in practice. Perceptions about whether a

reasonable work-life balance was being achieved also varied according to the sector in which the solicitor was employed.

Generally there were higher levels of satisfaction among those employed in sectors other than private practice.

Respondents were also surveyed on which 'family friendly' policies were available, with paid maternity leave and part-time working the most readily available whereas initiatives like crèche facilities and childcare vouchers were fairly rare. 'Family friendly' policies were more commonplace in sectors other than private practice.

Perhaps surprisingly a number of respondents stated that statutory entitlements were not available in their organisations.

When the take-up of 'family friendly' policies was examined, there was a significant gender dimension with a high proportion of those utilising policies like flexi-time, part-time working and home working being women.

5.5 Women in the Legal Profession – Nature of Work

65.6% of female respondents believed that there was a perception within the profession that men or women are better suited to certain types of work. 36.0% of men shared that view.

However, when respondents were asked to state what perceptions, regarding gender suitability, applied to particular areas of legal work, there were very few areas where there was a strongly held perception that men or women would be better suited to that type of work – there were generally commonly held views about this.

It should be noted that the areas where men dominate tend to be those which are regarded within the profession as being well paid, whereas women form the majority in those areas regarded by respondents as being poorly paid.

5.6 Women in the Legal Profession – Networking

In terms of networking, a majority of respondents believed that there was a perception within the profession that networking to generate business is undertaken generally by men, although again this was sharply divided on the basis of gender.

Among that majority the main reason given was that networking focuses on male oriented activities but this was not endorsed when actual examples of networking carried out were examined. Those which could be defined as having a male slant, golf outings and other sporting events, were carried out by relatively few respondents compared to other types of networking activities.

There was a general feeling amongst all respondents that most networking took place outwith working hours.

While as many women as men appeared to network, male respondents were likely to participate in networking more frequently than females.

5.7 Women in the Legal Profession – Remuneration

The issue of earnings proved to be a significant one in this survey.

Across the entire profession, and with no distinction being made between full-time and part-time working, a steadily increasing gender pay gap began to emerge after the first five years in practice. This reached its highest level at between 21–25 years after admission with a gap of £36,000 in favour of men. However, even for those admitted between 6–10 years the gap stood at £9,000.

This became more stark when private practice was examined separately, with the gap increasing at all levels: for those admitted between 6–10 years it was £14,000; at between 21–25 years after admission the gap was £42,000.

Although it was less extreme than in private practice, after the first five years in practice a gender pay gap could be identified in other sectors as well.

Even when those engaged in part-time working – which is more likely to affect women and their level of earnings – were excluded and the earnings of solicitors working full-time were compared, there was still a gender pay gap within private practice.

There was a level of disquiet in private practice, which was not present in other sectors, at a perceived lack of transparency in pay structures. However, in both private practice and other sectors, there was a gender division over this question with a large number of women remaining unconvinced that pay structures were transparent.

Furthermore, when respondents were asked if they believed that colleagues of the opposite sex engaged in comparable work would be paid the same, there was a very significant perception gap on the basis of gender. In private practice 42.2% more men than women thought that people were paid the same, with a gap of 29.7% in other sectors.

An overall majority of all male respondents believed that women were generally paid the same as men throughout their careers, 63.5% of men in private practice and 49.1% in other sectors. This was hugely different from the female perception. Most females believed that women were paid less at some stages in their careers.

When asked to consider which areas of law are well paid or poorly paid – a question which is fairly gender ‘neutral’ – there was general unanimity among men and women.

5.8 Women in the Legal Profession – Career Progression

Among the respondents to the questionnaire, 60% of men in private practice but only 20% of women were equity partners. There was a 69:31 male to female split among the equity partners.

When those in private practice were asked how long they believed it should take to become an associate, a salaried partner and an equity partner, the perceptions of men and women were uniform.

However, when respondents were asked how long it had actually taken them to achieve these positions, the responses disclosed that women took longer than men to become partners.

On average men became equity partners 2 years earlier than women.

In other sectors, it appeared that although men achieved their first two promotions more quickly than women, women achieved their third promotion on average 2 years earlier than men.

There were large differences in perception based on gender when issues influencing promotion were examined. For example, motherhood was considered as being very likely to be a barrier to partnership by 52.4% of women but by only 10.8% of men in private practice.

A higher proportion of men than women continued to have partnership aspirations. When asked why they no longer had such aspirations, 52.9% of women but only 6.9% of men cited work-life balance issues. In other sectors, in contrast to those in private practice, similar proportions of men and women continued to aspire to promoted status (62.9%:63.8%).

The relationship between part-time working and a solicitor's position within the firm was also studied. Of those women in private practice who worked part-time (23.6%), only 9.4% were equity partners. 89.2% of female equity partners worked full-time and whereas slightly more than 1 in 5 women working full-time were equity partners, rather fewer than 1 in 10 women working part-time in private practice were equity partners.

The majority of those women working part-time in private practice were to be found at assistant or associate level.

5.9 Women in the Legal Profession – Conclusion

The research has disclosed major issues relating to gender within the solicitors' branch of the legal profession in Scotland. These centre around levels of remuneration, the high

incidence of gender perception gaps and the continuing under-representation of women at equity partner level.

In terms of attitudes within the profession, on gender neutral issues to which all respond primarily as solicitors there is general unanimity. However, when a question relates to gender and equality, either directly or indirectly, distinct perception gaps emerge which are based on gender and which in many instances are very significant.

This polarity of viewpoint across gender gives greater cause for concern given that employers within private practice remain predominately male.

Certain findings produced by this research suggest that there may be an issue surrounding the position of the proportion of female solicitors, especially in private practice, who work part-time. Further research is required into whether female solicitors engaged in part-time working find themselves paid less than others on a pro rata basis, limited in terms of the quality and variety of work they are offered, and not achieving career progression.

More information on this study is available in an executive summary and a copy of the full research report – both can be downloaded from the Society’s website,

5.10 Profiling the Profession – Introduction

One of the major initiatives of 2006 was the ‘Profiling the Profession’ project. This project was managed by an independent organisation (**The Grange Group – <http://www.thegrangegroup.com>**) and involved the distribution of a questionnaire to all our members, accompanied by a marketing campaign emphasising the importance of the project. Of around 10,000 members 3,017 responded, with a good demographic match to some of the data we can already definitively identify from our database of members (such as gender and age profiles). This means we believe we have a dataset we can be confident in.

As this was the Society’s first time in collecting much of this sensitive data the decision was made to make the questionnaire anonymous and use a third-party data processor so that individuals were not having to return the data to the Society itself.

The questionnaire was developed with the support of our Diversity Advisory Group, and a pilot was tested on 20 practising solicitors prior to release of the final questionnaire.

5.11 Profiling the Profession – Gender, Sexual Orientation and Transgender

The Profile of the Profession project provided more detail around issues of gender, sexual orientation, and transgender.

Gender	Number	Percentage
Male	1501	50%
Female	1492	49%
I would prefer not to answer this question/not stated	24	1%

This compares well to the actual membership of the society which is 57% male and 43% female (2006 Annual Report). It is also worth noting that a greater percentage of men responded to this study than to the previous one, providing greater reliability in the comparative data.

Would you consider yourself to be transgender?

The term *transgender* refers to someone who considers that they do not identify strictly to one gender or the other. The term ‘transgender’ includes a number of sub-categories, which, among others, include transsexual, cross-dresser, transvestite, consciously androgynous people and the term gender dysphoria, which is often used to explain these tendencies.

Response	Number	Percentage
Yes	7	<1%
No	2833	94%
I would prefer not to answer this question/not stated	24	6%

How would you describe your sexual orientation?

Response	Number	Percentage
Heterosexual	2862	95%
Gay Man	61	2%
Lesbian	13	<1%
Bisexual Man	12	<1%
Bisexual Woman	5	<1%
Other	4	<1%
I would prefer not to answer this question/not stated	60	2%

5.12 Profile of the Profession – gender related experiences of the profession

Of all those that responded 22% said they had suffered discrimination of some form at some stage in their career. The tables below examine the source of that discrimination, the form of the discrimination and the stages at their career in which people felt discrimination had taken place.

In the case of each table the percentage ONLY relates to those who responded that they had suffered discrimination – for example '2%' in the column means 2% of the 22% who felt they suffered some discrimination and NOT 2% of respondents. It is also important to note that respondents often indicated multiple issues within the same question. For example, they feel they have suffered discrimination from 'partners' and 'colleagues'. Respondents were also allowed to note multiple discrimination, for example, on the grounds of their sexual orientation and because they had a disability.

FORM of discrimination

Response	Age	Gender	Part-time working	Disability	Ethnic origin	Religion/ Belief	Sexual Orientation	Marital Status	Other
Left out of communication <i>n</i> =251	28%	53%	24%	2%	4%	5%	3%	5%	10%
Not considered for promotion <i>n</i> =310	22%	54%	29%	2%	4%	4%	2%	10%	11%
Not considered for training <i>n</i> =118	28%	31%	19%	3%	7%	16%	2%	9%	24%
Allocation of work <i>n</i> =235	24%	51%	22%	3%	5%	4%	1%	8%	11%
Allocation of flexi-time <i>n</i> =54	15%	39%	43%	4%	2%	4%	0%	13%	9%
Allocation of leave <i>n</i> =76	25%	33%	17%	3%	5%	5%	0%	28%	12%
Allocation of other benefits <i>n</i> =107	18%	55%	21%	5%	4%	2%	3%	13%	9%
Bullying <i>n</i> =171	29%	55%	9%	5%	5%	4%	5%	7%	18%
Harassment <i>n</i> =129	22%	55%	7%	5%	5%	9%	9%	7%	13%
In relation to social activities <i>n</i> =159	17%	65%	12%	3%	4%	8%	8%	9%	8%
In relation to networking <i>n</i> =203	21%	66%	16%	1%	5%	6%	3%	7%	6%

It is worth noting that there is a difference in the profile of those responding between the most common forms of discrimination for the profession as a whole, and the most common forms relating to gender.

Most common FORMS of discrimination				
Whole profession	Gender related	Part-time	Sexual Orientation	Marital Status
Not considered for promotion	In relation to networking	Allocation of flexi-time	Harassment	Allocation of Leave
Left out of communication	In relation to social activities	Not considered for promotion	In relation to social activities	Allocation of flexi-time
Allocation of work	Harassment	Left out of communication	Bullying	Allocation of other benefits
In relation to networking	Bullying	Allocation of work	3 criteria tie at 5% each	Not considered for promotion

It should be noted that these differences are may not be statistically significant, due to the small numbers of respondents in some fields. However, they are worth considering in planning future data collection, in particular the fact that bullying and harassment show within the lists.

SOURCE of discrimination

Response	Age	Gender	Part-time working	Disability	Ethnic origin	Religion/Belief	Sexual Orientation	Marital Status	Other
Partner <i>n=425</i>	19%	63%	27%	3%	4%	8%	4%	13%	16%
Line Manager/Supervisor <i>n=188</i>	19%	60%	28%	5%	6%	5%	3%	12%	18%
Colleagues/other staff <i>n=161</i>	25%	52%	27%	3%	7%	9%	8%	10%	7%
Clients <i>n=179</i>	44%	71%	9%	3%	8%	9%	3%	5%	4%
Entry process to profession <i>n=125</i>	28%	33%	3%	6%	10%	20%	2%	10%	36%
Organisational policies <i>n=98</i>	18%	44%	40%	7%	5%	3%	3%	13%	10%
Recruitment process in other firms <i>n=181</i>	28%	35%	15%	4%	8%	18%	3%	12%	25%

Again, it is worth noting that there is a difference in the profile of those responding between the most common sources of discrimination for the profession as a whole, and the most common forms relating to gender. It is worth noting that ‘partner’ is a common feature in each of the lists – law firms’ partners will be a key group to engage with in terms of any equality and diversity work.

Most common SOURCES of discrimination				
Whole profession	Gender related	Part-time	Sexual Orientation	Marital Status
Partner	Clients	Organisational policies	Colleagues/other staff	Organisational policies
Line Manager/Supervisor	Partner	Line Manager/Supervisor	Partner	Partner
Recruitment process in other firms	Line Manager/Supervisor	Partner	4 criteria tie on 3% each	Line Manager/Supervisor
Clients	Colleagues/other staff	Colleagues/other staff		Recruitment process in other firms

It should be noted that these differences may **NOT** be statistically significant, due to the small numbers of respondents in some categories.

It is worth noting that ‘organisational policies’ are top in relation to part-time workers and on the issue of marital status, indicating that there is perhaps potential for the profession to improve its employment policies.

STAGE at which discrimination took place

Response	Age	Gender	Part-time working	Disability	Ethnic origin	Religion/ Belief	Sexual Orientation	Marital Status	Other
University n=39	23%	15%	5%	8%	18%	18%	5%	8%	26%
Diploma n=15	33%	33%	13%	7%	33%	13%	7%	7%	20%
Obtaining a Traineeship n=172	22%	38%	2%	3%	10%	19%	2%	10%	34%
During a Traineeship n=191	35%	66%	2%	3%	5%	11%	4%	9%	14%
Securing a first job n=101	26%	43%	2%	8%	11%	12%	3%	18%	22%
In seeking promotion n=305	23%	59%	28%	2%	3%	5%	2%	12%	14%

Again, it is worth noting that there is a difference in the profile of those responding between the most common sources of discrimination for the profession as a whole, and the most common forms in relation to gender.

Most common STAGE for discrimination to take place				
Whole profession	Gender related	Part-time	Sexual Orientation	Marital Status
In seeking promotion	During a Traineeship	In seeking promotion	Diploma	Securing a first job
During a Traineeship	In seeking promotion	Diploma	University	In seeking promotion
Obtaining a Traineeship	Securing a first job	University	During a Traineeship	Obtaining a Traineeship
Securing a first job	Obtaining a traineeship	3 criteria tie on 2% each	Securing a first job	During a Traineeship

Again, it must be emphasised that these differences may **NOT** be statistically significant, due to the small numbers of some groups of respondents. There seems to be a firm focus on concerns about the early stages of entry to the profession. This comes from both genders (the average undergraduates law school is around 70% female). It should be noted that a good age profile of respondents was achieved – so this appears a genuine concern focussing on entry rather than promotion once within the profession. This needs to be explored further, as all admissions and traineeship data suggests women are performing better than men, yet there is a perception of discrimination – this may link with the ‘forms’ of discrimination noted in relation to gender. None of those in the ‘top four’ presented above relate to actual appointment, but to treatment within the post.

5.13 Profile of the Profession - perceptions relating to gender

We also asked a range of questions to gauge the perceptions of our members. The questions asked were deliberately wide – to start us in the initial exploration of these issues and to help direct future data collection, focus groups, etc. The ability to break down the responses between different demographic groups was then designed to add greater insight. The results are ranked not in the order questions were asked, but in order of the strength of agreement/disagreement with the statements (gauged by aggregating the ‘strongly agree’ and ‘agree’ categories). Only those statements relating to sex, sexual orientation, and gender status are explored here.

Response	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
Q.20.11 Taking maternity leave affects career progression	14%	47%	17%	1%	20%
Q.20.13 Women have to work harder to achieve the same	12%	34%	37%	6%	12%
Q.20.5 Law is a ‘macho’ profession	5%	28%	50%	12%	4%
Q.20.7 Women tend to be pushed towards certain areas of law	4%	26%	49%	8%	12%
Q.20.2 Part-time solicitors are treated the same as full-time solicitors	2%	25%	44%	14%	15%
Q.20.20 Male and female solicitors are always treated equally	2%	22%	50%	12%	14%
Q.20.1 Women don't want the ‘top jobs’ because they interfere with family life	3%	19%	46%	14%	19%
Q.20.15 Men work more hours than women	2%	18%	50%	13%	17%
Q.20.3 Being openly gay makes it harder to attract clients	2%	15%	23%	4%	57%
Q.20.17 If someone is openly gay they are treated differently at work	2%	13%	38%	6%	42%
Q.20.18 Clients prefer a male lawyer working on their case	1%	8%	61%	10%	21%
Q.20.19 Men don't want the ‘top jobs’ because they interfere with family life	1%	1%	59%	26%	13%

Perhaps as anticipated, this ‘headline’ data gives us some insight, but when we examine the data in the light of the various demographic groups of the respondents we see a more complex picture emerge of the perceptions of solicitors:

Taking maternity leave affects career progression

The majority of respondents (61%) agree with the statement. Females (71% agree) are more likely to agree with the statement than males (52% agree). Those aged under 35 (66% agree) and 36 to 45 (64% agree) are more likely to agree with the statement than those aged 46 and over (54% agree). Those who have experienced some form of discrimination (77% agree) are more likely to agree than those who have not suffered discrimination (57% agree). Respondents who work part-time (71% agree) are more likely to agree than full-time staff (60% agree). All other demographic groups are broadly in line with the overall position (60% agree).

Women have to work harder to achieve the same

Views on this are polarised with 46% agreeing and 43% disagreeing with the statement. Those of an ethnic origin other than White (68% agree) are more likely to agree than those of White ethnic origin (45% agree). Females (67% agree) are more likely to agree than males (24% agree). Those aged 36 to 45 (49% agree) and those aged under 35 (48% agree) are more likely to agree with the statement than those aged 46 and over (40% agree). Those who have suffered some form of discrimination (75% agree) are more likely to agree than those who have not suffered discrimination (37% agree). The views of heterosexuals (46% agree) and those with a sexual orientation other than heterosexual (43% agree) are broadly consistent with the overall view. Those whose parents were not in the legal profession when they started training (46% agree) are more likely to agree with the statement than those respondents whose parents were (40% agree). Those working in other sectors (50% agree) are more likely to agree than those in private practice (44% agree). Respondents who work part-time (65% agree) are more likely to agree than those who work full-time (43% agree).

Law is a 'macho' profession

The majority of respondents (62%) disagree with the statement. Those of a white ethnic origin (63% disagree) are more likely to disagree than those of an ethnic origin other than White (50% disagree). Males (73% disagree) are more likely to disagree than females (52% disagree). Generally the higher the age group of the respondent the more likely they are to disagree with the statement. Those who have not suffered some form of discrimination (69% disagree) are more likely to disagree than those who have suffered discrimination (40% disagree). Those who are heterosexual (63% disagree) are more likely to disagree with the statement than those with a sexual orientation other than

heterosexual (48% disagree). Those whose parents were in the legal profession when they started training (66% disagree) and those respondents whose parents were (62% disagree) are broadly consistent with the overall position. Those working in private practice (66% disagree) are more likely to disagree than those in other sectors (54% disagree). Respondents who work full-time (64% disagree) are more likely to disagree with the statement than those who work part-time (57% disagree).

Women tend to be pushed towards certain areas of law

The majority of respondents (57% disagree) disagree with the statement. Those of a white ethnic origin (56% disagree) are more likely to disagree than those of an ethnic origin other than White (34% disagree). Males (64% disagree) are more likely to disagree than females (52% disagree). Those who have not suffered some form of discrimination (63% disagree) are more likely to disagree than those who have suffered discrimination (52% disagree). Those with a sexual orientation other than heterosexual and those who are heterosexual are both in line with the overall position. Those whose parents were in the legal profession when they started training and those respondents whose parents were not are also consistent with the overall position. Those working in private practice (61% disagree) are more likely to disagree than those in other sectors (48% disagree). Respondents who work full-time (59% disagree) are more likely to disagree with the statement than those who work part-time (51% disagree). It also worth noting that 48% of those of an ethnic origin other than white agree with the statement compared to 31% of all respondents.

Part-time solicitors are treated the same as full-time solicitors

The majority of respondents (58%) disagree with the statement. Those of an ethnic origin other than White (64% disagree) are more likely to disagree than those of White ethnic origin (58% disagree). Females (66% disagree) are more likely to disagree than males (51% disagree). Those aged between 36 and 45 (66% disagree) are more likely to disagree than respondents in other age groups. Those who have suffered some form of discrimination (74% disagree) are more likely to disagree than those who have not suffered discrimination (54% disagree). Those whose parents were not in the legal profession when they started training (59% disagree) are more likely to disagree than those respondents whose parents were (50% disagree). Those working in other sectors and those in private practice are both consistent with the overall position. Respondents

who work part-time (71% disagree) are more likely to disagree with the statement than those who work full-time (57% disagree).

Male and female solicitors are always treated equally

The majority of respondents (62%) disagree with the statement. Those of an ethnic origin other than White (76% disagree) are more likely to disagree than those of White ethnic origin (62% disagree). Females (78% disagree) are more likely to disagree than males (46% disagree). Generally the higher the age group of the respondent the more likely they are to disagree with the statement. Those who have suffered some form of discrimination (85% disagree) are more likely to disagree than those who have not suffered discrimination (55% disagree). Those with a sexual orientation other than heterosexual (71% disagree) are more likely to disagree with the statement than those who are heterosexual (62% disagree). Those whose parents were not in the legal profession when they started training (63% disagree) are more likely to disagree with the statement than those respondents whose parents were (52% disagree). Those working in other sectors and those in private practice are broadly consistent with the overall position. Respondents who work part-time (74% disagree) are more likely to disagree with the statement than those who work full-time (60% disagree).

Women don't want the "top jobs" because they interfere with family life

The majority of respondents (60%) disagree with the statement. Those of White ethnic origin (60% disagree) are more likely to disagree than those of an ethnic origin other than White (54% disagree). Both male and female respondents are broadly in line with the overall position. Those who have suffered some form of discrimination and those who have not are both consistent with the overall position. Those with a sexual orientation other than heterosexual (65% disagree) are more likely to disagree with the statement than those who are heterosexual (59% disagree). Those whose parents were in the legal profession when they started training and those respondents whose parents were not are both broadly in line with the overall position. The same is true of those working in other sectors and those in private practice. Respondents who work full-time (61% disagree) are more likely to disagree with the statement than those who work part-time (55% disagree).

Being openly gay makes it harder to attract clients

The majority of respondents (57%) don't know, with only 16% agreeing and 27% disagreeing with the statement. Most of the demographic groups are consistent with the overall position. The exceptions are: Those of an ethnic origin other than White (28% agree); those with a sexual orientation other than heterosexual (42% agree and 39% disagree).

More information on this study is available in an executive summary and a copy of the full research report – both can be downloaded from the Society's website.

5.14 Profile of the Profession – What should the Society do?

WHAT SHOULD THE LAW SOCIETY DO IN CONNECTION WITH EQUALITY & DIVERSITY?	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
Promote best practice	39%	55%	1%	1%	5%
Issue guidelines to all solicitors	23%	57%	11%	2%	7%
Provide training	22%	51%	15%	2%	10%
Provide an advisory service	20%	60%	9%	1%	9%
Set minimum standards in relation to Equality and Diversity	19%	43%	22%	5%	11%
Take disciplinary action against members	18%	43%	18%	5%	16%
Ensure Equality and Diversity are taught on the Diploma	13%	42%	26%	7%	12%
Ensure Equality and Diversity are part of the traineeship	11%	35%	33%	7%	14%
Ensure Equality and Diversity are taught on the LL.B.	11%	28%	39%	8%	14%
Revise the discrimination rule in the Codes of Conduct	10%	31%	18%	3%	38%
Make CPD in Equality and Diversity mandatory every three years	9%	23%	40%	13%	15%

Promote best practice (94% agree)

There is broad consistency across all of the demographic groups.

Issue guidelines to all solicitors (80% agree)

There is broad consistency across almost all of the demographic groups. However, we note that those working in other sectors (86% agree) are more likely to agree than other respondents.

Provide training (73% agree)

Again there is broad consistency across almost all of the demographic groups. However, we note that those working in other sectors (86% agree) are more likely to agree than other respondents.

Provide an advisory service (80% agree)

Again there is broad consistency across all of the demographic groups.

Set minimum standards in relation to Equality and Diversity (62% agree)

Those with an ethnic origin other than White (76% agree), females (70% agree), those who have suffered some form of discrimination (70% agree), those with a sexual orientation other than heterosexual (75% agree) and those working in other sectors (72% agree) are more likely to agree with the suggestion. Males (55% agree) are less likely to agree.

Take disciplinary action against members (61% agree)

Those with an ethnic origin other than White (86% agree), females (69% agree), those under 35 (74% agree), those who have suffered some form of discrimination (69% agree), those with a sexual orientation other than heterosexual (77% agree) and those working in other sectors (69% agree) are more likely to agree with the suggestion. Males (54% agree), those aged 46 and over (45% agree), and those whose parents worked in the profession (49% agree) are less likely to agree.

Ensure Equality and Diversity are taught on the Diploma (55% agree)

There is broad agreement across most of the demographic groups. The main exceptions are: those with an ethnic origin other than White (72% agree), those with a sexual orientation other than heterosexual (72% agree), and those working in other sectors (63% agree) are more likely to agree with the suggestion.

Ensure Equality and Diversity are part of the traineeship (46% agree)

Those with an ethnic origin other than White (58% agree), females (51% agree), those who have suffered some form of discrimination (55% agree), those with a sexual orientation other than heterosexual (64% agree), those working in other sectors (60% agree) and those working part-time (52% agree) are more likely to agree with the suggestion. Males (40% agree) are less likely to agree.

Ensure Equality and Diversity are taught on the LL.B. (39% agree)

Views on this are mixed overall with a disagree figure of 47%. Those with an ethnic origin other than White (58% agree), females (44% agree), those who have suffered some form of discrimination (47% agree), those with a sexual orientation other than heterosexual (57% agree), those working in other sectors (47% agree) and those working part-time (45% agree) are more likely to agree with the suggestion.

Revise the discrimination rule in the Codes of Conduct (41% agree)

Those with an ethnic origin other than White (66% agree), females (49% agree), those who have suffered some form of discrimination (56% agree), those with a sexual orientation other than heterosexual (63% agree), and those working in other sectors (51% agree) are more likely to agree with the suggestion. Males (35% agree) are less likely to agree with the suggestion.

Make CPD in Equality and Diversity mandatory every three years (32% agree)

Views on this suggestion are mixed with 53% of respondents disagreeing with the suggestion. Those with an ethnic origin other than White (58% agree), females (42% agree), those under 35 (40% agree), those who have suffered some form of discrimination (50% agree), those with a sexual orientation other than heterosexual (54% agree), and those working in other sectors (40% agree) are more likely to agree with the suggestion. Males (66% disagree), those aged 46 and over (64% disagree), those who have not suffered discrimination (60% disagree), and those whose parents worked in the profession (62% disagree) are more likely to disagree with the suggestion.

5.15 The future of research into the profession

The Society believes both these studies provide valuable data in exploring issues of gender, sexual orientation, and transgender status (along with the other strands of equality). However, it also recognises that these studies provides a 'snapshot' whereas identifying trends over a period of time is required in order to understand what impact certain activities may be having on issues identified. The Society has already publicly committed to collecting a data set in the future that will let us monitor these trends (by repeating some of the basic 'demographic' questions, whilst at the same time allowing us

to ask for new information to further probe certain areas). This is likely to happen in 2009/2010, three years after the profile project. This timeframe has been decided based on a variety of factors, including not wishing to induce 'questionnaire fatigue' with the profession on this issue, the time estimated for some of the most significant policy changes to take effect, and, of course, the cost to a relatively small organisation in managing a national project of this scale.

GATHERING INFORMATION: STAFF AND COUNCIL

6.1 Introduction

As well as looking at issues in the profession the Society needs to look at itself for possible gender issues. This section examines two key areas: the permanent staff employed by the Society and the involvement of solicitors and non-solicitors in Council and Committees. The Society is a relatively small employer, with around 123 staff employed. Once again this means that as we start to disaggregate data, for example looking at the gender split in different grades, that the data is unlikely to be statistically meaningful. However, the process is helpful for internal monitoring and is shared here as part of the commitment to transparency.

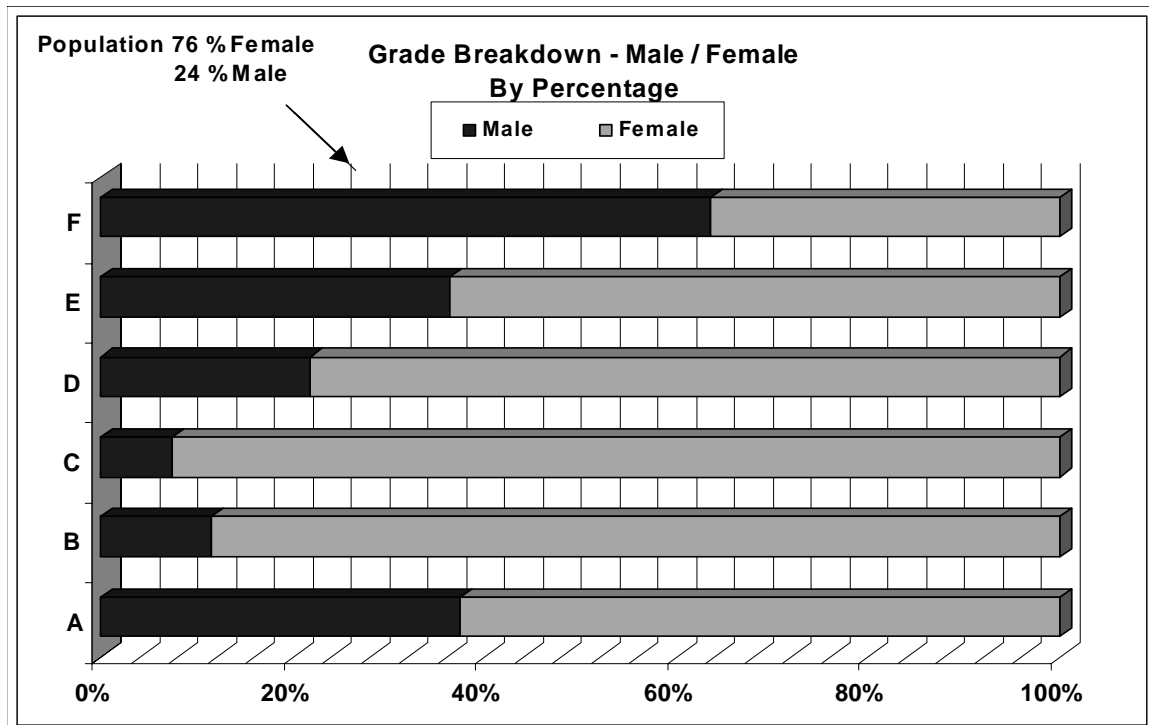
6.2 Law Society – Staffing and recruitment

Current Staffing

Based on our payroll listing at the end of December 2006 we produced the following data on the gender split at each of the grades within the Society, from the lowest (A) to highest (F):

Grade	Total	A	B	C	D	E	F
Male	29	6	3	2	7	4	7
Female	94	10	23	25	25	7	4

In percentage this translates to:



At all grades from A to E (E being the tier of ‘Deputy Directors’ and related titles) there are more women than men, which means we possibly need to explore ways of ensuring that these jobs are advertised and attractive to men.

At the top grade (F) we have just under 40% female with 60% male. This maps to the current make-up of the profession (as several of these are solicitor appointments) although it is somewhat out of line with the population as a whole. It should be noted that this is a far better number of women than the average in directorial positions within businesses and commerce. Almost all of these posts are long-serving members of staff. The number of women at the tier below should provide a strong pool of internal applicants when such posts are advertised and our newly refined recruitment system should ensure an equally strong pool of female external candidates.

A recent PricewaterhouseCoopers report also noted that internationally 38% of firms had no single woman in a senior management position and the UK had seen a 40% drop in the number of women in senior management roles in the FTSE 350 between 2002 and 2007.

Data supplied in 2006 by the Equal Opportunities Commission ('Sex and Power: who runs Scotland?') can be compared favourably to the Society gender make-up:

67% of Law Society of Scotland Grade D, E & F ('all management grades')

50% of Law Society of Scotland Grade E & F (top two grades)

38% of Law Society of Scotland Grade F staff (top grade)

34.7% of public appointments

34.1% of appointees to Scottish Executive sponsored Non-Departmental Public Bodies

27.3% of FE college principals

23.8% of health service chief executives

20.9% of secondary head teachers

18.8% of local authority council leaders

17% of chairs of Scottish Executive sponsored Non-Departmental Public Bodies

11.6% of senior police officers

10% of directors in FTSE 100 firms

The Society has not yet monitored sexual orientation or transgender status within its existing staff, and due to the small number of employees working for the organisation would be unlikely to be able to publish data when it does, because of the possibility of identifying individual employees.

Recruitment

A new recruitment process was introduced in the autumn of 2006. This included a variety of features to help ensure gender equality, for example:

- Name and gender information removed from the application form
- Only 'relevant work experience' asked for – making career breaks less obvious within a CV
- Removal of details of which universities qualifications have been gained from, and whether full-time or part-time

A new monitoring form was also launched, which included questions on gender, sexual orientation, and transgender status from all applicants. In time this will give us a data set to compare with current staff AND to compare with national norms once any patterns are established in a data set large enough to be statistically significant. Of the two posts advertised by the time of compiling this report, one was Grade D (Communication Manager) and the other Grade E (Head of Update). We don't want to identify anyone

through the small numbers of current returns, but we can provide the profile for each set of applicants without identifying which job is which:

Gender, Transgender and Sexual Orientation in Job Applicants		
Gender:	Job 'X'	Job 'Y'
Male	5	7
Female	3	7
I would prefer not to answer this question	0	0
Transgender:		
Yes	0	0
No	8	14
I would prefer not to answer this question	0	0
Sexual Orientation:		
Heterosexual	5	13
Gay Man	0	0
Lesbian	0	0
Bisexual Man	0	0
Bisexual Woman	0	0
Other (please tell us about this)	0	0
I would prefer not to answer this question	2	1

This data is not yet meaningful, but is reported as the first stage of building a profile over all jobs which go through the recruitment process. Within time we should have sufficient numbers to start identifying trends.

Training and Development

Due, once again, to the small number of staff, the Society’s monitoring of training and development opportunities, allocation of training funds, and career progression does not generate meaningful data in relation to gender. In response to an Investors in People review it is likely that the monitoring system will be further refined, and we will continue to strive for ways to ensure that discrimination does not occur in relation to these fields.

6.3 Law Society – Staff feedback study

In spring 2007 the Employee Relations Group (the staff representative group), the HR department and the Head of Diversity worked together to carry out an ‘employee health

check', seeking views on a range of issues from the employees' understanding of the Society's goals, to their views on senior and line management, training and development, and, most relevant in this context, on the equality and diversity work of the Society. The following response was achieved (the number related to the actual number of respondents selecting each category):

To what extent do you agree with the following statements about the equality work of the Society ?					
		Strongly Agree	Agree	Disagree	Strongly Disagree
5.1	The Society has a clear policy on equality and diversity	22	28	2	0
5.2	The Society's approach to recruitment selection helps ensure equality of opportunity	18	30	1	0
5.3	The Society's approach to staff development and promotion helps ensure equality of opportunity	7	26	12	2
5.4	The Society would not tolerate managers or staff who discriminated against another employee	20	27	3	1
5.5	The Society will make necessary adjustments to assist people to undertake their work	8	38	4	1
5.6	If I had any concerns about equality I would know who to go to.	19	29	4	1

It is worth noting that of all areas this study covered, this section had the highest level of 'strongly agree' and 'agrees', suggesting that the equality work of the Society is strongly embedded across its functions. The only area where we will consider investigating further is in relation to the 12 'disagrees' in relation to training and development, although it should be noted this may not be a gender related issue.

6.4 Law Society – Staff training impact assessment study

This was the impact assessment of a one-day course, mandatory for all staff, the objectives of the programme are indicated below.

- By the end of the session participants should be able to:**
1. Understand prejudice, discrimination, culture, and stigma
 2. List the areas of discrimination covered by the law
 3. Discuss the positive aspects of diversity
 4. Discuss how and when discrimination occurs
 5. Understand a little of what it might feel like to be discriminated against

6.Outline what the Society plans for the future in relation to Diversity

An evaluation was carried out pre and post training, with this impact assessment being carried out one year later.

Participant Reaction to the Course

The questionnaire was developed using SNAP online survey software, a web-based platform, and all staff currently working in the Society were encouraged to log on and respond. 76% of those responding had attended the training, and 24% had not (this latter group comprising new staff and those returning after maternity leave). Of the 75% who had attended **96% would recommend the course to colleagues and 100% believed it should be mandatory for those joining the Society. 93% of those attending rated the course 'good' or 'excellent'**. Directors and Deputy Directors were more likely to rate the course as 'excellent' than less senior staff, suggesting significant management 'buy-in'.

When asked what **key messages** they had taken from the training, respondents raised a variety of issues (almost all positive) and some examples are presented here:

"How easy it is to indirectly discriminate against someone without intending to."

"Think for yourself about how your actions and unchallenged thoughts affect the bigger picture."

"The subject touches all aspects of my work."

"That issues of diversity aren't always obvious and sometimes have to be approached more subtly."

"awareness of diversity issues and the strategy the Society are adopting in relation to various Acts. To think more about how we communicate with others, the way in which things are expressed or explained and the need to identify specific information for the purposes of assessing whether an individuals needs are being catered for."

"To be kind and considerate"

"That society has changed to a significant degree in recent years and that it may be desirable to have a progressively more acute awareness of different demographic and sociological factors which may impact on our work."

"Diversity is about differences between people and cultures -Organisations need to learn that it is actually makes good business sense to have a workforce comprised from differing backgrounds"

"Be aware of diversity. Don't be afraid to ask questions."

The designers and trainers of the programme felt that one of the strongest elements of the training session was the Jane Elliott 'Blue Eyes, Brown Eyes' video, and so a specific

question was added to collect data on what people recalled and now thought about that element.

The responses ranged from those for whom it had made little impact:

"I cannot remember what the video was about. It obviously made no lasting impression."

"I can't remember the Video - I'm sorry"

through to highly perceptive comments from some individuals who had obviously found this element of the training of interest:

"Discrimination can be a subtle and pervasive issue"

"What is right or wrong, the majority or minority depends on those who are in a position to make decisions and exert control"

"1. It is not acceptable to "go along to get along". 2. Prejudice is irrational. 3. Treat others as you would want to be treated."

"Prejudice can be unconscious and all-pervasive and only from seeing the position from others' points of view can we challenge what we consider to be normal behaviour. Also, the potential problems of demoralising people even in a potentially valid confrontation of the effect of their prejudices, so as to make a positive step forward in how they deal with these issues more difficult."

This perhaps indicates the need to remember that different people will engage with, and receive value from, different types of learning, and that the Society's approach to equality and diversity awareness raising and staff development should use and offer a variety of formats.

Almost all staff were able (unprompted) to list the key 'strands' of equality, although recall of the strands other than race, disability, and gender was 'patchier' than recall of those longstanding areas of discrimination legislation. Around 60% of those responding noted that we are all protected groups (in that we all have an age, gender, ethnicity, etc.). This was another core message of the training, and it was positive to see high levels of recall.

Asked if further training was required the majority of those who had been on the programme indicated 'no', although around seven indicated a 'refresher' would be useful. Those who had not previously attended the Society programme noted this in response to the question. Further training was undertaken in spring 2007 for those who had not received it in the initial sessions, and further events will be held as required for new-starts and those who may have missed training.

The Society's Work on Equality and Diversity

Respondents had a high awareness of who to contact for assistance in relation to equality and diversity (Head of Diversity for services and policy, Head of HR for HR related issues). Likewise almost all staff indicated further information could be found on the 'W drive' or the intranet site. However, there was a very low level of knowledge of specific equality projects underway (apart from the Women in the Legal Profession project, mentioned in 10 responses out of 58). When the responses of just Directors and Deputy Directors were analysed, the knowledge of specific projects still remained low. ***There therefore appears a need to better communicate the specific work being undertaken in this field.***

Defining Key Terms

Respondents were asked to choose the correct definition for each of the below terms from three options. In each case one definition was 'correct', one was very similar and one was slightly more obviously wrong. For example:

Harassment:

1. Where an individual has tried to enforce their rights in relation to discrimination, or helped someone else to do so (perhaps by offering to be a witness), and is as a result treated less favourably
2. Where an individual is the subject of a deliberate and ongoing campaign of intimidating and hostile behaviour on the basis of the 'protected group' they belong to
3. Where an individual has been subjected to unwanted conduct on the basis of being in a particular 'group' which has the purpose or effect of violating their dignity or of creating an intimidating, hostile or offensive environment [*correct response*]

Term	Correct – All Staff	Correct – Directors/Deputies
Equality	66%	77%
Diversity	93%	100%
Prejudice	79%	85%
Discrimination	88%	92%
Direct Discrimination	81%	77%
Indirect Discrimination	97%	100%
Harassment	69%	85%
Victimisation	47%	77%

Respondents were significantly more likely to respond correctly to these questions if they had been on the training course, than those who had not yet been on the training.

The questions with the lower correct responses include defining ‘Equality’, ‘Harassment’ and ‘Victimisation’. In the case of equality the confusion seems to be between equal treatment, and equality of outcome. In all categories but one senior management were more likely to identify the correct definition than the overall figures for staff. All these areas can be addressed in future communication to ensure better understanding.

Respondent’s views on equality and diversity within the society

This section examined how each respondent felt equality and diversity was integrated into their department’s work and their own work.

In relation to the six statements on equality and diversity in individual departments, between 64% and 81% ‘strongly agreed’ or ‘agreed’ with each of the six statements, which indicates a positive position with margin for improvement. When the data for Directors and Deputy Directors is disaggregated this range is 77% to 100% - suggesting a greater level of confidence at senior management level.

The department within which I work at the Society:	<i>Strongly Agree</i>	<i>Agree</i>	<i>Neither agree nor disagree</i>	<i>Disagree</i>	<i>Strongly disagree</i>	<i>Do not wish to answer</i>
Discusses equality and diversity issues in relation to its ongoing work	12.1%	51.7%	29.3%	1.7%	0.0%	5.2%
Takes equality and diversity issues into account when planning new projects or policies	15.5%	48.3%	29.3%	0.0%	0.0%	6.9%
Takes equality and diversity issues into account when making decisions	15.5%	48.3%	31.0%	0.0%	0.0%	5.2%
Views equality and diversity issues as important to delivering services	19.0%	60.3%	15.5%	0.0%	0.0%	5.2%
Views equality and diversity issues as important in relation to staff & teams	20.7%	60.3%	12.1%	1.7%	0.0%	5.2%
Promotes the equality and diversity work the Society undertakes when opportunities arise	19.0%	48.3%	27.6%	0.0%	0.0%	5.2%

In relation to the four statements on equality and diversity in relation to the respondent themselves, between 64% and 81% ‘strongly agreed’ or ‘agreed’ with each of the statements, which indicates a positive position with margin for improvement. When the data for Directors and Deputy Directors is disaggregated this range is 85% to 100% - again suggesting a greater level of confidence at senior management level.

I feel that I personally:	<i>Strongly Agree</i>	<i>Agree</i>	<i>Neither agree nor disagree</i>	<i>Disagree</i>	<i>Strongly disagree</i>	<i>Do not wish to answer</i>
Have sufficient understanding of equality & diversity issues as they apply to staffing and my team	3.4%	72.4%	8.6%	10.3%	1.7%	3.4%
Have sufficient understanding of equality & diversity issues as they apply to the work of the Society	5.2%	67.2%	10.3%	13.8%	1.7%	1.7%
Try to take account of equality issues in relation to my own work	15.5%	65.5%	17.2%	0.0%	0.0%	1.7%
Would rate equality and diversity as a high priority for the Society	22.4%	58.6%	15.5%	1.7%	0.0%	1.7%

Respondent's views on equality and diversity within the society

Generally respondents could accurately identify situations where discrimination could be taking place (despite the fact that two of the eleven questions were, in the light of feedback, poorly phrased).

Four key areas for development could be identified:

- The idea that specific job adverts could be placed (for example, an advert for tube train drivers could be placed in 'Cosmopolitan') alongside a main advertising campaign. 22% of respondents thought this could be discrimination, and 17% were unsure – this should be seen as positive action, and not as (positive) discrimination
- A situation where a member of staff is asked to carry out a discriminatory activity by a manager, and that this can be discrimination towards the person asked
- In a situation where there were three full-time, and one half-time member of staff, the majority of respondents felt that if management identified that only the equivalent of three full-time posts were now required, it would be acceptable to make the half-time person redundant – in fact case law shows this could be perceived as discrimination
- Perhaps most importantly 70% of respondents felt it was not discrimination to ask 'foreign' applicants entering a traineeship to undertake an English language test, whereas a UK student would not be asked. There is a danger, seen in other professions, that not all UK students admitted may not be able to pass such a test, and therefore discrimination could be present.

These are more complex issues around discrimination, and in all cases many respondents did identify the correct response. However, these cases provide ideas around areas to develop in future training.

True or False – Assessing knowledge of wider Diversity issues

This section asked a range of general equality and diversity themed questions to assess general knowledge across the strands of equality. Areas where fewer respondents were familiar with the correct information were:

- That by 2010 only 20% of the Scottish population will be white, male, fully able, and under the age of 40.
- That gay and bisexual students leave school with fewer and lower qualifications – something thought mainly to be due to the increased experience of bullying and lower self-confidence
- That individuals who have undergone sex-change operations are entitled to have a new birth certificate issued with their new sex recorded on it
- The pillars of Islam

The Society can consider how it might raise general awareness levels of cultural and equality issues through future training and awareness raising activity.

Conclusions

Overall the level and nature of response has been hugely positive. There is a clear (100% of respondents) indication that a similar course should continue to be offered to new staff on a rolling basis. There is a high level of knowledge retention and the data suggest the ideas from the training are being used within departments and individual workloads.

In terms of future development for staff who have received the basic training, a number of themes do come out of the data, with a particularly useful comment from one respondent to consider in future design:

"...Sound bytes type training is proving very popular in many big companies as people can access it in short chunks - more knowledge is retained that way. Perhaps some sort of interactive training could be developed on this subject that could be tracked as people did it within a certain time scale. Or at least make it shorter but delivered over two days instead of one - time away from desks is precious these days. I am rating the course as overall excellent because of the thought that had gone into the content and delivery but am not recommending it as the most effective way of imparting the message. Staff should go on it if it is the only medium available."

Having had the opportunity to discuss, share and explore ideas with colleagues, the next stage of implementation could validly consider such online technologies to deliver further information, detail on some of the areas identified above, and reinforcement of central messages.

6.5 Committees and Council

A review study was conducted into the membership of our governing Council and its supporting committees to identify if any gender issues arose. Data was collected from each committee secretary during the months of January and February 2007. ***Membership moves constantly, and this should be seen as a 'snap shot' of membership taken at a single point in time.***

Council

Category	Data			
Total number of members:	52			
President gender :	Male			
Vice-president gender:	Male			
Past-president gender:	Female			
Committee Secretary gender:	Male			
		% of subset	% of Council	
No. of male <u>non-solicitor</u> members*:	3	75%	5.8%	% Male
No. of female <u>non-solicitor</u> members*:	1	25%	1.9%	71.2%
No. of male <u>solicitor</u> members:	34	70.8%	65.4%	% Female
No. of female <u>solicitor</u> members:	14	29.2%	26.9%	28.8%

* **Note:** due to the constitution of the Society, non-solicitor members cannot have a formal voting role on Council. The current non-solicitor members are there as observers and to actively engage in debate, but do not take a role in final decision making.

In terms of the solicitor members the profession currently is around 57% male and 43% female, meaning that women remain slightly underrepresented. However, to put these figures in context, we can once again look to sources such as the Equal Opportunities Commission report 'Sex and Power: who runs Scotland?'. Here we see that we are outperforming most of our public sector comparators – despite being a smaller body than any of those others listed and being a privately funded body.

34.7% of public appointments

34.1% of appointees to Scottish Executive sponsored Non-Departmental Public Bodies

28.8% of Law Society of Scotland Council

27.3% of FE college principals

23.8% of health service chief executives

23.1% of university VCs

20.9% of secondary head teachers

18.8% of local authority council leaders

17% of chairs of Scottish Executive sponsored Non-Departmental Public Bodies

12.5% of local authority chief executives

11.8% of senior judges

11.6% of senior police officers

The Society's Council membership also ranks favourably compared to other comparators, such as the number of female directors that the average UK business has.

Whilst the Society will wish to consolidate and improve this position, this achievement in terms of ranking is illustrative of the commitment to changes in this area undertaken over the last few years.

Committees

During the same time frame (January and February 2007) the membership of the Society's regulatory and non-regulatory committees was also monitored:

Category	Male	Female	
Total number of members:	767		
Total members by gender:	541 (70.5%)	226 (29.5%)	
Convenor/chair by gender:	75 (82%)	17 (18%)	
Vice-convenor/chair by gender:	24 (86%)	4 (14%)	
Committee Secretary gender:	65 (69%)	29 (31%)	
	Total	% of subset (solicitor or non-solicitor)	% of Total Committee membership
No. of male <u>non-solicitor</u> members:	100	69.93%	13.07%
No. of female <u>non-solicitor</u> members:	43	30.07%	5.62%
No. of male <u>solicitor</u> members:	439	70.58%	57.39%
No. of female <u>solicitor</u> members:	183	29.42%	23.92%

Note – these figures do not relate to discreet individuals – for example, 75 committees or panels are chaired by men, but this does not relate to 75 different people as one man may be convenor of more than one group.

This does suggest that the Society has to consider what it can do to attract and retain a greater number of female conveners and committee members. However, a significant step has already been taken in this respect with the implementation of Strategic Objective 1 from the Society's Equality and Diversity Strategy. This committed the Society to developing a more robust 'recruitment' system for committee members, including role descriptions, structured interviews, and the national advertising of all appointments through The Journal (for Solicitor appointments) and the national press (for non-solicitor appointments). For the first time this means that every solicitor in Scotland will be contacted about opportunities, and encouraged to apply to become involved in the Society. This process has now been authorized by the Council and commenced operation. We look forward to publishing future data on committee membership to identify what impact this new policy has had.

GATHERING INFORMATION: OUR FUNCTIONS

7.1 Introduction

This section examines briefly the main functional areas of the Law Society of Scotland, what data relevant to the duties is available, and what is planned for the future. The discussion takes account of section 2.60 of the Code that states (emphasis added):

To meet the gender duty in service delivery and design, public authorities will need to check the available information on who is using their services. They may want to consider:

- *Is the information **disaggregated by sex**?*
- *Do women and men use the service in **different ways**?*
- *Do women and men have **different needs** from the service?*
- *Are there **particular groups of women or of men** (for example, disabled women, or men from particular ethnic groups) who do not use or under-use a service or who are less satisfied with it?*
- *Is there evidence that a **one-size-fits-all service is not appropriate**?*
- *Are there **big discrepancies in the service outcomes by sex**?*

It is worth noting that one of the pre-existing strategic targets in the Equality Strategy specifically seeks to ensure enhanced measurement and monitoring in relation to all the strands of equality, including sex, sexual orientation and gender status.

7.2 Information on our functions

Practising Certificates (registered solicitors)

Current Position

We do currently monitor, and report publicly on, the gender profile of the profession, including looking at the gender ratios in certain age groups and types of practice. This data is collected as part of the formal process of taking out a 'practising certificate' (required to be able to practise as a solicitor) each year and is managed centrally through the Roll Management System.

The future

We will continue to report on this data annually, and plan future one-off studies (such as the Profile of the Profession) to provide complementary data, including exploring areas such as sexual orientation and transgender status. Both sources of data are vital in then allowing us to map all our other functions and services against an accurate picture of the population of solicitors.

Attendance at 'Update' CPD events:

Current Position

We do not currently monitor the gender split of those attending our CPD events, which are offered to members on a commercial basis. Course organisers estimated that on an average Update seminar three quarters of delegates are male and one quarter female, although this ratio did noticeably alter for certain topics (such as employment law and family law).

The future

New IT systems are being bought in which will link the attendance at CPD events to the main Roll Management System (which contains the details of all practising solicitors in Scotland). Once implemented, this will allow course attendance to be monitored against age, gender, years of experience, and various other criteria. This information will be monitored periodically to identify any issues of concern, and action will be taken accordingly.

Education and Training / Admissions

Current Position

We currently collect data from all universities and training providers which have been through our accreditations scheme on their annual breakdown of students by gender. We do not currently collect data on sexual orientation or transgender status. At the moment a significant issue is that around 75% of students starting the LL.B. are female, with a main factor considered to be the higher performance of girls during school exams, giving them a competitive edge in terms of entry to the degree which is primarily based on academic performance. Disaggregated data (for gender) is collected in relation to those taking out an entrance certificate and for all those admitted as a solicitor. (NB. An 'entrance certificate' is necessary before the commencement of a traineeship – the two year period of in-office training which comes after the university based study)

The future

It is already a target for the Society that in the new accreditation arrangements to be put in place for providers of pre-qualification education and training, there will be a requirement to provide data annually, in standard template format, on the equality profile of their students, and that the Society will publish an annual report. This will allow much more accurate and comparable data to be assembled, and monitored against population norms and the profession, in the future.

Client Relations Office

The future

A new independent commission will take over the handling of certain types of complaint against Scottish solicitors (although the Society will continue to manage complaints that relate to *professional misconduct*). This will be the most significant change in how these issues are managed in well over fifty years. It also means that the responsibility for measurement and monitoring the significant majority of complaints will pass to the new organisation, although it should be noted that they are not currently subject to the public sector equality duties.

A project is proposed which would take a 'snap shot' of complaints to examine whether any issues emerge in relation to the strands of equality and either those who make complaints, or those who are complained against. Once new working arrangements are in place for both organisations (the Society and the new Commission), then further work can be considered.

Corporate Communications

Current Position

The functions of this department, around internal and external communication and press liaison, mean that little impact data is collected in relation to gender. For example, where messages are being carried consistently in mainstream press and media we do not have impact data as to the gender profile of readers/listeners, but we believe that sufficient sources carry coverage so that this should not be an issue. We also do target, from time to time, publications servicing specific audiences which are harder to reach (for example, publications aimed at particular ethnic groups or those of a particular sexual orientation).

The future

One project was identified as relevant as part of the impact assessment undertaken before putting out a new tender for companies to run the Society's monthly magazine, 'The Journal'. A responsibility to periodically review the readership of the paper edition and the use of the online version was incorporated, with a requirement to ensure the data could be disaggregated by gender. This can then be mapped to our data on the profession as a whole to assess how well one of our primary communication methods is reaching certain audiences, and what their views on its utility are.

Employment

Current Position

Other areas of this report detail much of the monitoring of data around employment (Section 6.2), employee feedback and employee attitudes (Section 6.3) and training (Section 6.4). We have also discussed the monitoring systems now in place as part of the recruitment and selection procedures, and the arrangements in place in relation to remuneration are discussed in (Section 13). We believe these activities bring us well within compliance with the duties.

The future

The monitoring specified above will continue, and it is hoped that in many areas more meaningful data will emerge from longitudinal monitoring (for example, the number and breakdown of applicants over a series of posts advertised), rather than from one-off exercises where the numbers are often too low to form a statistically significant conclusion.

Conclusion

For a professional body such as the Society we need to make sure that we are compliant in terms of our functions and employment, but also have a role in terms of promoting best practice in the wider profession and to those member firms and employing organisations where solicitors work. It is perhaps in this field (which is addressed in Section 7, and in our Action Plan Section 11) where the most positive impact from structured monitoring and use of data may be achieved.

GATHERING INFORMATION: NATIONAL DATA

8.1 Introduction

This section provides some key data, and identifies key issues, facing the population as a whole in relation to gender and equality. It is important for an organisation like The Law Society of Scotland to examine such data to identify if the same issues are present within those populations with which the organisation works and to look for where trends are different, and the possible underlying reasons causing that difference.

This evidence is in no way meant to provide a comprehensive review of the data available on gender and gender issues within Scotland, but both to give an idea of the evidence taken into account in undertaking work in this area, and to provide some specific examples of the type of data available.

8.2 A Gender Audit of Statistics

This section provides various relevant extracts from:

A Gender Audit of Statistics: Comparing the Position of Women and Men in Scotland
Scottish Executive, research unit

Overview of the Labour Market in Scotland

This table looks at some key facts and figures about the labour market in Scotland, and compares data to what we know about practising solicitors.

DATA	Society Comment
The gender balance in the labour force in Scotland is around 50% women and 50% men, and has been so for some time.	The legal profession is currently 60:40, but should make 50:50 by 2011
Men are more likely to be economically active than are women, 83% compared to 76% in 2006, but the gender gap has been decreasing.	We do not have comparative data, as our information all comes from solicitors in employment.
Women are far more likely to work part-time than are men, with 41% of all women workers working part-time in 2005, compared to 10% of male workers.	23.2% of female solicitors work part-time, and only 5.0% of men – suggesting a lower level of part-time working in the profession than in the population as a whole (Women in the Legal Profession study)
Women with dependent children of pre-school age are less likely to be in full-time employment, 24% in 2004, compared to 38% of women with dependent children aged 11-14, and 52% of women with dependent children aged 15 or over.	50.5% of solicitors had dependants; 17.6% of pre-school age, 21.9% primary school age, and 18.5% secondary school age. More males had dependants than females (59.3%:43.8%), although the divide is less significant outwith private practice. (Women in the Legal Profession study)
Women are more likely than men to use flexible working arrangements, 55% of women workers compared to 22% of male workers in 2005. Part-time work was the common form of flexible working arrangement.	Detailed information on flexible working arrangements is available in the Women in the Legal Profession Report.
Men are more likely to be self-employed than women, with 13% of all male employees being self-employed compared to 6% of female employees in 2006.	We know that 69.3% of equity partners are male, compared to 30.7% who are females – a similar ratio in terms of self employment. However, this relates to around 52.1% of all male solicitors being partners, compared to only 20% of all female solicitors being partners.
In general both minority ethnic women and men are less likely to be in employment and are more likely to be unemployed than the White population, although there are differences between minority ethnic groups in patterns of labour market participation.	We do not have comparative data, as our information all comes from solicitors in employment.
In 2005, women full-time worker in Scotland earned 88% of male full-time workers' average hourly pay. The gender earnings ratio varies by occupation. For example, in 2005 women full-time workers in professional occupations earned 86% of their male counterparts' earnings.	In 2005 female full-time solicitors in private practice earned 72% of male full-time solicitors' pay. The Society believes the equal pay issue may need to be explored further by some firms operating within the legal sector, although the position is complicated as earnings related directly to areas of law in which people practice (for example, criminal compared to corporate work).
The gender earnings ratio is more equal in the public than in the private sector. In 2005 women's hourly pay in the public sector was 97% of men's hourly pay compared to 80% in the private sector.	In 2005 female solicitors working in the in-house sector (which still includes public and private sectors) earned 83% of the salaries of their male counterparts.

Weekly working hours: actual and usual, 2006 (Table 4.9 of original document))

The figures in brackets have been added to the data extracted from the report to provide comparative (mean) number of hours worked by men and women as detailed in the Women in the Legal Profession stuffy. We can see people working longer hours in legal

practice than in the population as a whole, and the same trend of full-time women working fewer hours than men, whereas part-time women work longer hours than men.

	Women	Men
All workers	26.9	35.7
Full-time	33.5 (4.2)	37.7 (48.2)
Part-time	16.2 (24.3)	14.8 (22.8)

Flexible working 2004: employees 16-64 (Table 4.14)

This table provides additional detail on the link between flexible working and having dependent children, as well as disaggregating types of flexible working. In the legal profession we know that 'part-time' is still the most common form of non-full time work. However, some firms are starting to use job share, annualised hours, and term time working (and in some cases combinations using more than one of these approaches) and monitoring trends in the wider population will be important in providing comparative data for the profession.

	Any dependent children		Without dependent children	
	Thousands	%	Thousands	%
Women				
Part-time	218	56	221	33
Flexitime	45	12	80	12
Annualised hours	20	5	35	5
Term time working	35	9	30	4
Job Share	18	4	-	-
Any flexible arrangement	266	68	334	50
Men				
Part-time	14	4	94	14
Flexitime	25	7	48	7
Annualised hours	24	7	34	5
Term time working	-	-	12	2
Job Share	-	-	-	-
Any flexible arrangement	66	18	183	26

Participation in political and public life (Chapter 2)

Statistical evidence of the position of women and men in political and public life underlines the continuing gender imbalance in political institutions and in decision-making bodies in public life, with, for example, women making up 14% of Scottish MPs,

39% of MSPs, 22% of local authority councillors, and 34% of Scottish Executive sponsored public appointments. Though women continue to be under-represented changes are slowly taking place, and the numbers of women holding office or prominent positions in public life in Scotland is increasing. While there do not appear to be any significant differences between men and women in their propensity to vote, there are some differences in their degree of engagement with and trust in political institutions, with, for example, women being less likely than men to think that the government is good at listening to people, whether the UK government or the Scottish Executive. Levels of involvement in their community and in volunteering are similar for men and women, though there are some differences in the types of organisations that men and women volunteer for. This suggests that as citizens men and women are equally active, but that their patterns of activity differ in some respects.

Education and Training (Chapter 3)

Statistical evidence of gender differences in educational participation and performance indicates that girls perform better than boys at school, tend to stay on longer at school, leave school with better qualifications and that women now make up a majority of entrants to further and higher education. Boys are more likely than girls to be excluded from schools, and to have particular support needs for educational or behavioural reasons. While girls' performance has been better than boys' for some time, subject choices at secondary school, and in further and higher education, remain noticeably gendered, and tend to follow patterns of 'traditional' male and female career choices in certain areas, such as nursing for women and engineering for men. Women are more likely than men to benefit from work-related training, though there is little difference between women and men in the likelihood of undertaking some sort of learning as an adult, with the most significant factor differentiating people being the level of qualifications held. The gender balance of those taking part in government training programmes varies across programmes, with men being in the majority in most programmes. Women make up the majority of teachers at primary and secondary school level (75% of these taken together), but remain under-represented in senior positions. Women are a slight majority of academic staff in further education, but are under-represented in senior management positions. Men are the majority of academic staff in higher education overall (61%), and make up higher proportions the more senior the level, with men making up 86% of all professors.

The labour market (Chapter 4)

Statistical evidence of patterns of men's and women's participation in the labour market indicates that over time the gap between men's and women's rates of participation has narrowed considerably and that women now make up half of the labour force in Scotland. Despite such convergence in participation rates, there remain significant differences between women and men in patterns of labour market participation, in particular in the following respects: average working hours, and in particular mothers' and fathers' working hours; use of flexible forms of working; industrial distribution; occupational distribution; and patterns of self-employment. It has also been noted that minority ethnic groups and disabled people have lower rates of employment generally, and that this is true for women in particular. As elsewhere in the UK, there has been a period of significant change in the labour market in recent decades with women being particularly affected by this as opportunities have opened up to them. There remain barriers to gender equality, however, such as women's concentration in low paid part-time jobs, and occupational segregation.

Income and wealth (Chapter 5)

Statistical evidence of gender differences in access to incomes from earnings, and from assets, savings and benefits, indicates that women's levels of incomes from earnings and other sources are persistently lower than men's, that women are more vulnerable to poverty and that specific groups of women are particularly vulnerable to poverty. While the gender pay gap has been decreasing, in 2005 there was a gender pay gap of 12% in the average hourly earnings of men and women and a gender pay gap of 19% in the average weekly earnings of men and women. Low pay remains a significant problem in Scotland and particularly for women, with 23% of all workers being low paid in 2005, and 31% of women workers being low paid. The gender gap in individual incomes is greater than the gender gap for earnings, with the gap between men's and women's average individual incomes in 2004/05 being 40%. Women make up the majority of those on benefits, with lone parents and lone pensioners being particularly vulnerable to poverty.

The report contains a wide variety of data on remuneration and pay-gap, which the Society is aware of as an issue as a result of the 'Women in the Legal Profession' work. However, the data is hard to disaggregate in a way which would allow meaningful comparison with the legal profession. For example, comparators such as 'professional jobs' are not useful

in that many professions are largely state funded (teachers, doctors, nurses, dentists) whereas the legal profession gains a very small component of its funding from the state. Other categories were even wider, and none available took account of the fact that by partnership stage earnings are not just a salary but also return on capital. For example, where the partners own the premises a component of their income relates effectively to 'rent' of that premises which could be derived from the property whether the law firm was using it or whether the partners choose to lease it to a different tenant. For that reason we chose not to provide any specific extracts above and beyond this overview.

8.3 An agenda for the CEHR – promoting gender equality in Scotland

This section provides various relevant extracts from:

An agenda for the CEHR – promoting gender equality in Scotland

EOC Scotland's contribution to the early planning for the CEHR

March 2007

This document was prepared as part of the 'legacy' work of the Equal Opportunities Commission in preparation for the CEHR effectively taking over its functions. The extracts relate to sections where the EOC indicates what issues it thinks the CEHR should prioritise in relation to gender equality, providing ideas which the Society might relate to its own work. It should be noted that only bullet points relating to areas of relevance to the Society are included, and that those wishing a complete version of the report can download it from the EOC website.

Sex discrimination at work

Vision for the future

- Pregnancy discrimination is eliminated
- Sexual harassment is no longer acceptable within organisations
- All large and medium-sized employers have carried out equality checks and taken action as a result
- There are effective systems of redress open to women or men who have suffered sex discrimination, and these are accessible to all including those on low incomes
- Employers recognise the value of flexible working and it is accessible to all employees
- New ways of working improve work-life balance for all.

Reducing barriers for disadvantaged women workers

Vision for the future

- Employment data in Scotland can be disaggregated to track the pay and progression of women from different ethnic groups, disabled women and lesbian women
- Gaps in workforce participation and pay, progression between women from different ethnic groups, and between disabled and non-disabled women are substantially narrowed, with rising averages
- Undervaluing of caring work and low pay for traditionally female occupations are tackled, with the pay gap between the 5 'c's (cleaning, catering, caring, cashiering and clerical jobs) and other occupations dropping.

Tackling stereotypes and occupational segregation

Vision for the future

- Increase in entrants to skilled trades from the sex that is currently under-represented
- More men working in the childcare workforce and in caring roles
- Women and men with disabilities and BME women and men are working in a wide range of occupations at all levels.

Enforcing the public sector duties, to ensure all public services and policies reflect different gender needs

Vision for the future

- Policymakers automatically consider gender and transgender equality as a mainstream part of their work
- There is no gender stereotyping in public services, including education, training and work placement services and family support services
- When take up of a service varies by gender, this is for a good reason and does not create inequality
- Public services are provided by a workforce that mirrors the make up of the local population and women are as well represented as men at senior levels
- Services are accessible in places and at times that meet the needs of the diversity of potential users
- Only organisations with good equality records get public sector contracts

- The criminal justice system prioritises women's safety
- There is a decrease in the educational attainment gap for disadvantaged boys
- Increased non-traditional work experience placements and vocational tasters are available for young people and appropriately promoted to them
- Reproductive rights are a reality for all women in Scotland, with appropriate services available locally
- Public services, including health and education, meet the needs of transgender people.

Working to ensure that private sector services are equally accessible to women and men

Vision for the future

- Insurance and financial services products are fully accessible to women, including women who work part time.

Ensuring transgender people are respected, with equal access to public services

Vision for the future

- Transgender people have equal protection under the law to other men and women, including extension of the definition of transgender to include anybody who self-identifies under that broad banner
- Transgender people are able to access timely, appropriate and adequate free healthcare provision, both for transition and non transition-related healthcare needs
- Increased visibility and respect, with increased awareness of transgender issues and gender dysphoria, enabling young transgender people to negotiate issues and make decisions more easily
- A demonstrated decrease in stereotyping and derogatory behaviour towards transgender people, especially with regards to the media portrayal of transgender people, and the elimination of transphobic bullying and crime.

INVOLVING STAKEHOLDERS

9.1 Introduction

The Race Equality Duty used the term ‘consultation’ whilst the Gender Equality Duty used the term ‘involvement’, seen by many as a higher standard which goes beyond gaining feedback through consultations to actual participation in processes.

Although pre-dating the Society being brought under any of the statutory equality duties, the Equality and Diversity Strategy took account of the debate and best-practice in this field and set the ‘Involvement’ standard as the one that we would apply to all our equality work. Section 6.2 of the Strategy deals with our approach in this field, and should be referred to in order to add context to this supporting Gender Equality Scheme. The Society firmly believes that this standard is higher than the consultation requirement in the Gender Equality Duties at that work past and future will, consequently, be fully compliant. In summary, the Society recognised that some of the leading work in this field has been carried out within healthcare and would see relevant standards and guidance in this field being provided by the following documents:

Involving People In The NHS - Building Strong Foundations

The Scottish Executive

Involving People In The NHS - Building Strong Foundations: Opening Up

The Scottish Executive

User And Public Involvement In Health Services: A Literature Review

Dr Julie Ridley And Lyn Jones, Partners In Change

SHS Trust

Assessment of Innovative Approaches To Testing Community Opinion

Andra Laird, Jo Fawcett, Fiona Rait and Sharon Reid

George Street Research Ltd

DRC Guidance

This will become available shortly on the DRC website – <http://www.drc-gb.org>

In designing each element of our involvement work the Society committed to the following five principles:

Proportionate	- to the nature of the issue(s) involved
Transparent	- aims, objectives, possible outcomes, and the (possible) results of involvement are all clear and publicised
Appropriate	- to the aims and objectives of the involvement
Inclusive	- ensuring a range of groups are involved and that deliberate effort is made to involve hard-to-reach groups
Accessible	- in the way those involved are 'recruited', in method, and in implementation

It was also felt important to have a range of short and long term involvement strategies. Whilst long-term involvement allows knowledge and skills to grow in those involved, it can equally bring implicit acceptance of some barriers/ways of working, lack of innovation, and the potential that a group of individuals—rather than a group of representatives with experiences of wider groups—will sway policy. A blended approach allows the benefits of a variety of involvement methods to contribute to policy.

There have been a variety of different involvement methods used in the preparation of this strategy and in other work. This section introduces our approach to involvement before moving to look at each of these methods in turn:

- Working with individuals
- Our elected Council and our membership
- Diversity Advisory Group
- Equality Forum
- Working with other organisations
- Major involvement projects – equality specific
- Major involvement projects – mainstreaming the equality dimension

9.2 Working with individuals

Working with groups and on specific projects is vital if a strategic approach to Gender or any other strand of equality is to be achieved. It is common for organisations to work with individuals to find out about their personal issues and experiences and deal with specific issues. However, this information often fails to be passed across the organisation to, where appropriate, inform future practice and policy.

The Society, therefore, attempted to ensure through the Equality and Diversity Strategy that information of this nature was shared and could lead to future policy change.

An example would include a recently appointed female partner, the first to reach that position within the firm. The agenda for an upcoming partnership meeting indicated that the partners were considering reducing the standard of maternity benefits available to partners (not to their employees). As the only person likely to be affected by the policy in the foreseeable future she felt a duty to speak, despite not currently planning a family. She contacted the Society to discuss the issue. The Society was able to contact a network of other firms to find out about their arrangements, and assist in the development of a negotiation position by providing this data and complimentary information about the currently competitive recruitment/retention market in that speciality of law. The Society was able to provide further supporting information and refer the individual on to other advice services, such as the EOC legal advice line. The whole process raised the Society knowledge and awareness of these issues, allowing us to plan future working in this field. We now hope to issue specific guidance on the issue of partners and maternity leave entitlement.

Another example would include working with a bisexual solicitor who felt the definition of 'bisexual' in the Society's Equality and Diversity Strategy was not appropriate. This led to a better understanding of the experiences of bisexuals in the profession and meant that we could improve the wording we used as part of the annual review and reporting process on the strategy.

Our Annual Report details the protocol for Special Issue Reporting from departments and individuals, and how this information is shared across the organisation.

The key benefits of this method of involvement include raising awareness within the organisation of a variety of issues facing people in relation to gender. It is also important in 'humanising' the issues and developing confidence among staff in working with people from a range of backgrounds with a range of issues.

Feedback from these sources has influenced the development of the Gender Equality Scheme, and will continue to be used to inform projects and work set out in the Scheme.

9.3 Our elected Council and our membership

An elected Council governs the organisation, and major policy needs to progress through the Society's Annual General Meeting. Every solicitor on the 'roll' of the Society has voting rights and can participate in elections. Section 5 of this report provides details of the gender, sexual orientation and transgender breakdown of the profession. All of these individuals have the power to vote in elections, and on issues debated at the AGM. Voting at the AGM can even be done by proxy without attending in person, opening up real authority to anyone who wishes.

In an organisation governed and directed by its members, it is appropriate to consider liaison with the profession as a whole as also including the involvement of those with specific interests and issues, including gender, within the profession.

9.4 Diversity Advisory Group / Equality and Diversity Committee

This group was established prior to the launch of the Equality and Diversity Strategy and helped inform its development. The group comprises experts in Equality and Diversity issues – trying to represent both the major strands (including a representative for gender) and maintain involvement from solicitor and non-solicitor members.

The group has also been involved in the development of specific projects, for example, guiding the 'Women in the Legal Profession' and 'Profile of the Profession' projects – which have helped us collect vital baseline data in relation to equality issues (examples of the data relevant to gender are included in Section 5 of this Scheme).

In recognition of the work and achievements of this Group it has, from May 2007, taken on a more formal role in the work of the Society, becoming a convened sub-committee of our statutory elected Council alongside other core functions such as 'Admissions' (dealing with entry to the profession) and the 'Professional Conduct Committee'. The current convenor is Farah Adams.

The key benefits of this form of involvement are a committed and knowledgeable group to guide complex policy and process issues and share their experiences from a range of

other organisations working in the equality field and implementing their own equality work. This allows the Society to learn from other organisations where possible, saving duplicating resources if it is not necessary, and to equally share its own work. It also provides a focussed and flexible group which can help ‘trouble shoot’ and identify issues – which may in turn lead the use of other consultation and involvement methods to then collect a more detailed set of feedback and data.

The newly formalised role of the group means it will continue to influence and inform opinion.

9.5 Equality Forum

The Society wished to involve a wider group of its own members than could be incorporated in a manageable leadership committee, such as the Diversity Advisory Group. Early in 2006, as part of a commitment in the Equality and Diversity Strategy, a letter was sent to all members of the profession inviting them to join an Equality Forum. This was supplemented by adverts on the Society’s website and in ‘The Journal’, the professional magazine distributed to all our members.

More members are still welcome and the registration pack and registration form can be found at:

http://www.lawscot.org.uk/diversity/equality_further_info.aspx

The aim of the group was to provide a wider consultation and involvement base within our own membership. The registration pack stated:

The Society wishes to establish a dynamic and forward-looking group to assist with equality and diversity work within the organisation and the profession as a whole. This is an exciting opportunity to become involved in a field of work that is vital to the future of the profession but through a forum that allows great flexibility over the way, and amount of time, that you contribute.

...

The ‘Equality Forum’ will essentially be a database of members willing to become involved in these activities and share their knowledge and experience. It is likely that the Forum will start with a launch event to discuss what more the Society should be doing in this field (with the option of contributing via other methods for those unable to attend) and will be involved in offering advice and feedback on a variety of projects. We know

everyone has different interests and preferred ways of contributing – so we will make sure that your views can count through a variety of methods including one-to-one meetings or phone contact, focus groups, e-mail/web/paper questionnaires and consultations, and members raising particular issues of concern.

*You may be someone who feels that there have been additional barriers or hurdles for them in the profession; or you may be someone who has excelled and believes you can share your experience to help others – all experiences are of value. The areas of **Race, Disability and Gender** are of particular importance (because these are currently covered by legislation) but the Society’s policy is that we should be tackling all ‘strands’ of equality in a consistent manner.*

We believe the key benefits of this group are its flexibility and the possibility of allowing a large range of people over a significant geographic area to become involved in a way that fits in with their other commitments. It is particularly suited to initial ‘testing’ of ideas developed by other means. Examples might include: piloting and refining a questionnaire designed by the Diversity Advisory Group for distribution to the whole profession before the final questions and format are agreed; or prioritising issues for action identified through impact assessment or information gathering.

9.6 Working with other organisations

Many of the areas in which the Society works are complex, and our organisation alone cannot always stimulate change, nor does it always have an authority to act. For example, in relation to accessing legal services the Society has a role to play, as do individual law firms in areas we do not have authority to regulate, as does the Scottish Executive, the Scottish Legal Aid Board, and others.

Whilst some might not see working with other organisations as ‘involvement’ it can indeed fulfil what we see as the accepted definition. For example, if we chose to do a joint study on career progression for female solicitors within the solicitors’ profession, but are also looking at transfer to the bar, judiciary, and various tribunals, that could clearly be an involvement project, as could working in partnership with another organisation, as could funding another organisation to carry out the study. This extends to allowing another organisation to run and fund that study while you tackle another area – with both organisations sharing the outcomes for mutual benefit.

It is not being suggested that the duty to 'involve' and 'consult' could be dispensed purely by being party to, or having access to, other organisations' involvement work. Nevertheless, the Society feels it is important to emphasise that this is a valid part of an involvement package and that the sharing of resources and information is likely to lead to better results for all concerned.

Society staff have, therefore, taken positions on equality related committees in a number of other organisations, and are seeking to ensure the effective flow of information.

9.7 Major involvement projects – equality specific

In preparation of this Gender Equality Duty two key contact groups were involved in prioritising what areas the Society should tackle in finalising what targets should be set. The Equality Forum is a small group of solicitors who have personal and/or professional experience of the specific strands of equality (including issues around gender, and sexual orientation, although not, at this time, transgender issues). The second group was of those solicitors and interested members of the public who chose to register an interest in the launch of the Women in the Legal Profession research findings (two hundred who attended the event, and a further fifty who requested copies of the findings). Both groups were e-mailed a similar short questionnaire, asking them to consider what type of work the Society should undertake in order to challenge issues around gender and to prioritise areas that the Society should tackle. This data was then used to construct the Action Plan contained within this Gender Equality Scheme.

A further example of a major involvement project would be the '**Profiling of the Profession**' project (results discussed at Section 5) which gathered demographic data, details on discrimination solicitors felt they had incurred in their working lives, and data on what the profession thought the Society should be doing in relation to equality and diversity. Over 3016 people responded, giving us an invaluable data set including views from all the equality 'strands', including from people with disabilities. Allowing people the opportunity to share their views about how the issues raised should be tackled, publishing these, and letting respondents see how they have gone on to influence policy is an effective form of involvement.

9.8 Major involvement projects – mainstreaming the equality dimension

This process is very different in nature to the one described above. Again, an extract from materials supporting the project (in this case, the home page of the consultation website) probably best explains the process:

Welcome to the consultation home page of the largest ever research and evidence gathering exercise undertaken by the Law Society of Scotland. This is an exciting opportunity for everyone with an interest (from students to partners, clients to legal academics) to be able to contribute to and shape the future plans of the Society in relation to how solicitors are trained.

This is an ambitious and complex task, covering a range of routes to qualification (from full-time and part-time LLBs to the Society's exams) that can take from five to seven years as well as examining the full practising life of a solicitor. Despite this, we have designed a system that should allow everyone the chance to easily register their views on some key 'overview' topics in as little as twenty minutes, and then choose whether or not to get involved in more detail in relation to stages which might be of particular interest to them.

We need as many people as possible to register their views to make the exercise meaningful. If you want, you can simply select options on 'tick box' type questions, or there is also the opportunity to offer detailed responses in 'free text' questions. The overall feedback will be published on this website (without identifying individual respondents) so you will be able to come back and find out what your colleagues thought.

...

We'd also be grateful for your more detailed feedback on three of the key stages of training. Detailed questionnaires can be accessed from the option on the navigation menu - why not set a reminder in your diary to come back and fill out a stage each week.

Finally, other sections of this site, again accessible from the menu at the right of your screen, allow you to look at the current training arrangements, the background work underpinning this project, and the detail of some of the projects which have currently been completed.

Every member of our profession received a mailed invitation to participate in the consultation. We have also sent an additional 5000 invitations to groups ranging from the Scottish Consumer Association to small, independent charities representing a range of people with disabilities or other particular circumstances: for example, Women's Aid, the three Equality Commissions, the Scottish Discrimination Lawyers Association, and so on. A marketing strategy including posters, press coverage, TV and radio coverage

(BBC), e-mail reminders, coverage in our 'Journal', flyers, etc. ensured the profile of the project was maintained.

This project represents real involvement. The whole process, the two years of development work underpinning it, were completely transparent, with all information available through the consultation website. The consultation was taking place prior to any of the issues being discussed by the relevant Committee (the Education and Training Committee) or by our Council, meaning that members of the profession and public were getting a chance to register their views and make their suggestions before any policy discussion even took place. We specifically asked certain groups to look at the work from the position of identifying potential barriers, where systems may currently (or might in the future) cause unequal treatment and how the system could be improved to concentrate on standards ('competencies') and how they were assessed rather than the processes (such the requirement to have an LL.B. law degree).

The consultation itself also includes aspects originating from the Society's commitment to equality and diversity, and the General and Specific Duties for Race, Disability and Gender. For example:

- There is a recommendation that every individual training to be a solicitor should in the future cover discrimination law (including gender) and human rights law as core topics
- That issues around equality and accessibility form a mandatory part of the Diploma in Legal Practice
- The consultation examines introducing a wider range of assessment methods, giving those in training different ways to demonstrate competence – this is based on current theory in relation to 'gender bias' in the assessment of certain skills such as 'negotiation'
- A more flexible overall framework should allow those seeking to enter later in life, especially where they have caring responsibilities, a greater range of options as to how to study which will better fit with other commitments.

As policy is developed after the close of the consultation it is likely that further, more specific and focussed, involvement projects will be undertaken in key areas. For example, an extremely helpful response from Scottish Womens' Aid will be followed up to see how we might better integrate teaching around issues such as domestic violence.

The Society believes that this is a good example of 'mainstreaming involvement', with the involvement of all equality groups being an integral part of a much wider project to consult with the profession and the public.

9.9 The future of involvement

It is hoped that this section has given a flavour of the Society's work in 'involvement' and consultation, and that it can be seen that the Society views these as integral to carrying out its functions of representing the profession's interests, and the interests of the public in relation to the profession. As well as carrying out specific equality related projects, the organisation has also mainstreamed equality issues throughout major projects such as the Education review. The Society plans to continue to operate in this way. Rather than set out a plan in this document for future projects, the Society hopes that its demonstrable commitment to high quality involvement projects (as evidenced here, in the Gender Equality Scheme, and the Equality and Diversity Strategy) will show its willing adoption of these standards, and that further projects will emerge where involvement is required through business planning and impact assessment. Ongoing performance in this area can be monitored through the Society's annual report on Equality and Diversity.

In order to give some idea of what may be coming in the future it is possible to comment on some projects in the planning stage:

1. ***Women in the Legal Profession focus groups*** – to follow up on the work of the Women in the Legal Profession study and the Profile of the Profession study by commissioning focus groups to explore in greater detail personal experiences within the profession
2. ***Engaging Tomorrow's Lawyers Conference*** – a conference to help the Society plan a new strategy in relation to engaging with young people, from schools careers advice, through to assisting LL.B. students, Diploma students and those seeking and progressing through traineeships, and finally guiding individuals through their first post-traineeship job and early practising career. A series of supporting consultation events had already taken place with the presidents of

student law associations, the Scottish Young Lawyers Association, and other stakeholders. This event specifically addressed gender issues, for example, the low level of men now entering the law degree (around 25% of applicants) and gained the views of all those present on such issues.

3. **Staff focus groups** – as a result of the ‘staff health check’ questionnaire discussed at section 6.3, the Society now wishes to carry out focus groups with staff to explore some of the issues further, and this presents an opportunity to review the issues behind a small number of people feeling that there was unequal access to staff development and promotion (although noting this may not be a gender issue).

ASSESSING IMPACT

10.1 Introduction

Impact assessment is vital in identifying where equality issues may occur. It needs to be a meaningful process; designed, run, and involving appropriate expertise to ensure that a real assessment is made, rather than a paper process followed.

Whilst it is not the purpose of this document to quote the EOC Code of Practice verbatim it is important to continually refer back to the guidance they provide:

The purpose of an impact assessment is twofold:

- *to ensure that neither sex is disadvantaged by an authority's decisions and activities*
- *to identify where public authorities can promote equality of opportunity between men and women (para. 3.69)*

The Code also clearly anticipates a two-stage process, an initial screening to identify areas where there are possible implications, and then a more detailed process, noting that the more detailed process is likely to involve disabled people if it is to be as effective as possible:

- ***identifying the aims*** of the policy or practice – for most policies or practices this should be straightforward
- ***considering the evidence*** – based on existing knowledge and data, will the policy or practice have a differential impact on women and men? Absence of data should not be a justification for assuming there is no differential impact
- ***deciding whether to take remedial action based on available evidence, or to proceed to a full impact assessment*** (para 3.77)

10.2 What has been achieved so far?

Section 6 of our Equality and Diversity Strategy sets out, as suggested, our two-stage approach to assessing impact. This was carried out across all our functions, processes, and policies as part of preparation of the Equality and Diversity Strategy.

This impact assessment was based on an adapted version of the Race Equality Duties – which was then applied to all the strands of Diversity. At the time this represented a commitment significantly in excess of the standard, as the Society was not at that point covered by any of the public sector/function equality duties.

The ‘general duties’ in relation to gender are:

- to eliminate unlawful discrimination and harassment
- to promote equality of opportunity between men and women

Questions in the impact assessment covered the following areas:

- Eliminating unlawful discrimination
- Promoting equality of opportunity
- Promoting good relations

Those completing process were asked to focus on each strand of equality (including gender, sexual orientation, and transgender status) in turn to consider the implications.

This process proved extremely effective at identifying issues, and those organisations and groups which have reviewed our Strategy have not made comments on these arrangements – despite providing extensive feedback on some other elements. The outcomes of these assessments lead directly to many of the objectives set in the Strategy – a high number of which related to gender or part-time working.

10.3 What is planned for the future?

Section 7 of the Equality and Diversity Strategy sets out the strategic objectives for the organisation. Objective 3 is to design, develop and implement an even more rigorous Impact Assessment system, in conjunction with stakeholders and our 'involvement' groups', for the next phase of our work. An examination of best practice in the field of impact assessment has now been undertaken, and draft paperwork has been completed by the Society. It is anticipated that this will be approved for use before the end of 2007.

New policies, processes, procedures and projects will all be impact assessed by using the new template, which will build on the success of the previous approach but ensure the current developments in best practice are taken into account.

In relation to existing policies, processes, procedures and projects, the current Strategy commits to a major review leading up to the publication of a new three-year plan in November 2008. Having ensured our current arrangements meet the basic requirements, we believe the best outcome will be achieved through examining all 'strands' at this stage. In particular this view is taken because:

- We believe that our original process benefited greatly from involving almost every member of staff in its development. The advantage of the levels of knowledge, enthusiasm and momentum generated by such a fundamental review outweigh the immediacy of an earlier intervention
- Many of our processes are complex and interrelated, whilst one-off reviews are the only way forward for new projects and initiatives or changes, and review of the complete operation of the organisation is more likely to ensure no 'gaps' are left
- This review is already planned to start in just over a year – well within the three year period the legislation indicates the Gender Equality Scheme should work to
- The financial efficiency of this pre-planned approach allows resources to be concentrated on other areas – whilst at the same time better meeting the objectives of such impact assessment work.

OUR ACTION PLAN

11.1 Introduction

This Action Plan should be seen as a supplement to the existing Action Plans (both Organisational and Departmental) set out in the Equality and Diversity Strategy. Many of the areas covered in these are already focussed on gender issues, but in light of the new **gender duties**, additional data and feedback received since the time of publication of the original Strategy, and the recommendations from our major 'involvement' projects, we believed it was appropriate to commit to additional work.

The Statutory Code reminds us that the overarching aim is to ensure the organisation meets the **general duty**, and the targets or objectives set in the action plan assist the organisation in doing this. Under the **general duty**, organisations must have '**due regard** to the need to':

- eliminate unlawful discrimination and harassment
- promote equality of opportunity between men and women

'Due regard' means that the more relevant the function is to gender equality (because of the scale of the impact, or because of a highly significant impact even if in a smaller number of cases), the greater the emphasis it should be given and the greater the action that should be taken. This was the prioritisation approach used for the original objectives in the Equality and Diversity Strategy.

The Code also makes clear that 'process' objectives (to improve information gathering, to train staff) alone will not be sufficient to meet the duty and that 'outcome objectives' will also be required (the examples they give include 'to increase representation of women on decision-making bodies', and to 'increase numbers of girls and boys opting for non-traditional work placements'). Due to the limited nature of the statutory functions of the Society, many areas do not lend themselves to 'outcome' objectives because we do not have direct responsibility over the systems. For example, we can do much to promote

equal pay in the profession, and we can take disciplinary action where a complaint of discrimination is made, but we cannot directly control the employment policies of individual law firms, or the other places where lawyers work (for example, local and central government). Indeed interference would be likely to fall foul of various other legal regimes (such as competition law).

This challenge of setting meaningful process outcomes is further evidenced by the fact that in neither of the major national research projects (one of which the EOC was a partner in) did solicitors raise issues with the Society's functions and services, but rather focussed on areas in relation to their employment and experiences in work. As a consequence, whilst that Society has, and will continue to where required by the results of impact assessment, set some 'outcome objectives', many relate to process and the promotion of equality.

This action plan covers the period July 2007 to November 2008 (a period of just over a year and a half). Leading up to November 2008 a major review of all our equality work will take place, and a new three-year integrated equality and diversity strategy will be established for the period November 2008 to November 2011. In setting the next integrated strategy we will take account of what guidance the CEHR may issue on joint schemes, and the currently available guidance, including:

Bringing Equality to Scotland: The Three Public Sector Duties

A joint publication by the Commission for Racial Equality, Disability Rights Commission and Equal Opportunities Commission in Scotland

We wished to balance the need to have a clear Action Plan with a commitment made to those people participating in the various 'involvement' work that we would take into account their recommendations – this has led us to split the plan into sections:

1. **Action Plan** - *Implementing recommendations from involvement work, and noting which project the recommendation came from*
2. **The Strategic Objectives in the Equality and Diversity Strategy** – *we feel it is important to emphasise where we are already tackling gender issues and will continue to do so, and where these objectives have been amended in light of the new Gender Equality Duty*

11.2 Action Plan 1 – implementing recommendations from involvement work

A. Outcomes from the Profile of the Profession Project		Action	Responsibility	Timescale
A1	The Profile of the Profession study ('forms', see section 5.12) identified an issue around networking and social events relating to sex, orientation, and gender status.	To develop guidance and examples of best practice to encourage firms and individuals to establish networking (internal and external) appropriate to all of their staff.	JB/MR	Q1 2008
A2	The Profile of the Profession study ('forms', see section 5.12) identified an issue around bullying and harassment relating to sex, orientation, and gender status. The study also indicated the need for an advisory service.	The Society will put in place a communications plan for Lawcare, the <u>independent</u> service it all ready funds which provides help and support for people facing a range of health and welfare issues, specifically including bullying and harassment. This will include using 'The Journal', E-zine, digital signatures and providing discussion points for key Society spokespeople so they can promote the service.	NS/JN	Q4 2007
A3	The Profile of the Profession study ('forms', see section 5.12) identified an issue around working arrangements (part-time, flexi) relating to sex, orientation, and gender status.	The Society will publicly advertise in 'The Journal' for examples of good practice from law firms around these areas, and seek to publish and widely disseminate good practice and the actual experiences of specific law firms to encourage the raising of standards in the profession generally.	NS	Q4 2007
A4	The Profile of the Profession study ('sources', see section 5.12) identified that discrimination could come from a range of sources (trainees, associates, partners, solicitor on other side of transaction), and in relation to all but one the main role of the Society may be better education of members (Discrimination coming from clients was viewed as outwith what the Society can reasonably seek to influence.)	The Society will: <ul style="list-style-type: none"> ▪ Issue the research to the profession to raise awareness of the issues ▪ Issue guidance to the profession on issues of gender equality ▪ Create and promote free CPD available to the profession over the web on issues in the profession in relation to discrimination and key issues for firms to consider 	NS	Q3 2007 Q4 2007 Q1 2008
A5	The Profile of the Profession study ('sources', see section 5.12) indicated the profession felt that the rules on discrimination, contained in the Codes of Conduct, should be reviewed and tightened.	The Society will: <ul style="list-style-type: none"> ▪ Review the current discrimination rule, seeking expert advice from discrimination lawyers, the Equality Forum, and groups representing particular interest in this area ▪ The Society will seek recommendations and, where appropriate, implement these recommendations 	NS	Achieved <i>(in period between publication of research and publication of this scheme)</i>

A. Outcomes from the Profile of the Profession Project (cont.)		Action	Responsibility	Timescale
A6	The study raised the suggestion that the Society establish an advisory service on equality. This is already available in relation to bullying and harassment (see A2 above) but the Society also wished to set new targets in this area	The Society will: <ul style="list-style-type: none"> Carry out further research into what nature of advisory service people feel would be of use (on equality law? pastoral? peer support network?) Consider the recommendations and whether there is consensus on a viable service which could be planned for in the 2008-2011 Equality Strategy 	NS	Q3 2008
-	Outcomes in relation to education, training, and ways to qualify as a solicitor raised in this study are dealt with separately at 'C' below	N/A	N/A	N/A
B. Outcomes from the Women in the Profession Project		Action	Responsibility	Timescale
B1	The Women in the Legal Profession study raised the remuneration issue as its central recommendation for further work.	The Society will: <ul style="list-style-type: none"> Source guidance on the equal pay issue (where possible, trying to use official guidance from the EOC) Distribute the guidance to member firms Encourage firms that have implemented reviews to contact the Society with feedback, to be used to encourage other firms 	NS	Q3 2008
B2	The main supplementary issue in the this study was the issues facing part-time solicitors, who are predominantly women, across a range of areas (allocation of work, promotion, networking)	See objective 'A3' above	-	-
B3	It was suggested the Society could do more to promote firms offering government childcare vouchers	The Society will share its own experience of implementing childcare vouchers for staff with the profession, and promote the scheme to employing firms and organisations.	FS	Q2 2008
B4	A recommendation coming from this report was that discrimination be monitored on an ongoing basis. There is already a commitment to monitoring.	The Society has already publicly committed to collecting a data set in the future that will let us monitor equality trends. This is likely to happen in 2009/2010, three years after the profile project. This timeframe has been decided based on a variety of factors – detailed in section 5.15 of this report.	NS	2009/2010 (objective to be carried forward to 2008-2011 strategy)
B5	The study suggested the Society should consider issuing guidance on selecting individuals for partnership.	To issue guidance on the legal and ethical obligations of law firms in making partnership decisions and offer practical assistance in developing criteria and methodology for the assessment of associates.	NS	Q3 2008

C. Education, Training, and routes to qualification targets (cont)		Action	Responsibility	Timescale
C2	Obtaining a traineeship entrance certificate	<p>As part of the education and training consultation the Society will seek to put in place minimum standards for:</p> <ul style="list-style-type: none"> ▪ recruitment and selection procedures for those seeking to appoint trainees ▪ Review and promote the training register to those having difficulty in obtaining a traineeship ▪ monitoring the equality profile of those on the training register 	LC	Q2 2008
C3	Working in a traineeship	<p>As part of the education and training consultation the Society will seek to put in place minimum standards for:</p> <ul style="list-style-type: none"> ▪ terms and conditions of employment ▪ allocation of work ▪ remuneration and benefits ▪ the training of those supervising trainees (with specific respect to equality) 	LC	Q2 2008
		<p>The Society will also:</p> <ul style="list-style-type: none"> ▪ inform trainees as to the independent and confidential helpline service (see A2 above) ▪ inform trainees and trainers that the Codes of Conduct prohibit all forms of discrimination, and that disciplinary action can be taken against those who do not meet the required standard 	LC / CP	Q2 2008
C4	Continuing Professional Development	<p>As part of the education and training consultation the Society will seek to put in place minimum standards for CPD for solicitors which ensures they are guided to periodically undertake CPD in equality and diversity, in particular where they have management and/or employment responsibilities.</p>	LC	Q2 2008

D. The Society's 'functions'...		Action	Responsibility	Timescale
D1	The Society notes that at the moment there is only a single structure and fee system for practising certificates.	To review the current structure, make recommendations, and where appropriate implement those recommendations.	HR	Q1 2008
D2	It was identified that fewer women achieved their CPD through Society provided programmes (section 7): although this service is provided on a commercial basis, it was considered worth investigating more.	To identify, through the new IT system, whether a male/female differential in the uptake of CPD is present. If an issue is identified, to explore what the issues underlying it are, and form recommendations. To implement recommendations as appropriate.	JP	Q2 2008
D3	The Society notes the requirements around Impact assessment, and plans this work as part of the preparation for the new integrated equality and diversity strategy that will be launched in November 2008.	To finalise the development of a best-practice impact assessment tool. To impact assess ALL of the Society's policies, processes, procedures, and functions, and involvement in independent representation in the impact assessment process. To publicly report on the outcomes of impact assessment.	NS	Q3 2008
D4	The Society wishes to gather more data on the profile of those who make complaints against Scottish solicitors.	To monitor, for a six month period starting Nov 2007, the equality profile of those making complaints against Scottish solicitors. To assess whether any equality issues are indicated by the data.	MM	Q3 2008

E. The Society as an employer...		Action	Responsibility	Timescale
E1	A possible issue is in relation to whether the Society's approach to staff development and promotion helps ensure equality of opportunity (see Section 6.2) – it was not clear from the responses whether this related to gender issues, or other strands of equality.	The Society will: <ul style="list-style-type: none"> Further explore the issues through focus groups with staff, lead by the Employee Representative Group Ensure any issues identified are addressed through the learning and development strategy and other appropriate means 	KC	Q1 2008
E2	Impact assessment, following up staff training, indicate a high level of awareness of key issues in relation to gender equality.	To ensure that ongoing training in relation to gender equality is available to all staff, and that the impact of that training is monitored.	Q4	
E3	The Society implemented a HAY job evaluation scheme, with a particular view to ensuring equal pay, but recognises that these schemes need to be regularly reviewed.	To review the equal pay work undertaken as part of the HAY job evaluation process one-year-on from implementation, and assess if it still continues to ensure the Society is following best practice.	KC	Q4 2007
E4	The Childcare voucher scheme will have been in operation for over a year.	The Society will: <ul style="list-style-type: none"> Review the effectiveness of the scheme Re-promote the scheme to all staff 	KC/FS	Q1 2008
F. The Society – Council and Committees		Action	Responsibility	Timescale
F1	A less than expected percentage of female solicitors and lay members were members of committees and panels.	To improve the representativeness of committees by: <ul style="list-style-type: none"> Raising the issue of numbers with those involved in the appointments process, and providing mandatory training Adverts for posts to contain an equality statement Monitoring the outcomes of the new application and selection process Continuing to report publicly on figures 	DC	Q3 2008
F2	A less than expected percentage of females were convenors of Law Society Committees.	To improve the representativeness of convenors appointments: <ul style="list-style-type: none"> Raising the issue of numbers with those involved in the appointments process, and providing mandatory training Continuing to report publicly on figures 	DC	Q3 2008

11.3 Strategic Objectives from the Equality and Diversity Strategy

Finally, whilst it was considered important to publish a distinct **Gender Equality Scheme** it is equally appropriate to link it to pre-existing objectives in relation to gender and equality and to continue to work on these. We have also noted below how the focus or details of these objectives might be altered by the new **gender duties**. The Annual Report on Equality and Diversity for 2006 provides details of our progress with these so far, and we are committed to continuing implementation throughout the next two years of the Strategy and this Scheme. Here we provide additional narrative to explain the relevance of these objectives to this scheme.

OBJECTIVE 1

RECRUITMENT AND APPOINTMENT

- A. To improve the criteria, selection methods and appointments process in relation to the committees, panels, and working parties, and non-solicitor representation of the Society with particular consideration of the overall representativeness of the Council and committee structure.
- B. To increase lay representation within the Society and specifically encourage a cross section of applicants.
- C. To improve the criteria, selection methods and appointments process in relation to Society staff.

We have already identified that the number of female convenors and committee members is lower than it could be, despite comparing favourably with many external comparators. We hope the new system, with public adverts for all positions, will encourage more people to come forward. In terms of the Society's permanent staff the recruitment paperwork launched as an outcome of this project will also have an impact. For example, we have removed the requirement to give a complete career history, replacing this with a request for 'relevant experience'. This change makes maternity and disability related employment 'gaps' far less visible. Monitoring (including gender, sexual orientation, and transgender status) has also been introduced.

OBJECTIVE 2**GUIDANCE FOR THE PROFESSION**

To provide basic guidance on Diversity, in partnership with a variety of organisations and representative groups, to all members of the profession.

This project aims to ensure that solicitors, and especially smaller employers, have access to advice and best practice on ensuring equality and diversity as employers and as service providers. It is likely that there will be particular attention paid to issues such as flexible and part-time working, equal pay, and allocation of work.

OBJECTIVE 3**IMPACT ASSESSMENT**

To ensure all new policies and procedures proposed to/by Heads of Department meetings, President's Committee, Society Committees, or Council have been impact assessed using an impact assessment template and carry out appropriate recommendations.

More details of our work in this area are contained in Chapter 10.

OBJECTIVE 4**INVOLVEMENT**

Develop innovative methods of consultation and involvement to ensure that we appropriately represent the groups to which we have statutory obligations and do so in a way that is fair to all.

In all the involvement work gender is a key issue, from working with those who registered an interest in the field with the Society as a result of the Women in the Legal Profession work, to liaising with Scottish Women's Aid when examining the future education and training strategy for those wishing to qualify as solicitors.

OBJECTIVE 5**MEASUREMENT AND MONITORING**

To improve measurement of outcomes across all the functions of the Society and monitor these in relation to Diversity.

Many of the projects supporting this objective take a specific focus on gender, especially as in many areas of our operations it is the easiest 'strand' of equality to identify statistically reliable data on due to the numbers involved in the profession. Examples include new systems being put in place for our CPD function, allowing disaggregated (by gender) data to be examined on course attendance and the participation in different training options and formats.

OBJECTIVE 6

ACCREDITATION - LL.B., DIPLOMA & PCC

To include Diversity in the accreditation standards for the providers of the LL.B. degree in Scots Law, the Diploma in Legal Practice, and the Professional Competence Course both in relation to access to those courses and in how these issues are taught pervasively throughout the curriculum.

This objective has already been met through the new accreditation guidelines issued as a result of the strategy. However, a major review of the Education and Training of Solicitors has been undertaken and it is likely that the next iteration of the accreditation regime will develop these areas even further in light of feedback during the consultation, including from groups such as Scottish Women's Aid.

Relevant areas of the General Duty | A, B, C, D, F

OBJECTIVE 7

PROCUREMENT AND PARTNERSHIP

Promoting equality in procurement and partnerships

The new approach to procurement that has been developed in the light of this objective is ensuring the delivery of all of the public duties when aspects of work are outsourced or projects are tendered for. For example, the new tender to provide the monthly 'Journal' (the members magazine for the profession) provides that monitoring of readership must be undertaken by the company periodically (including collecting data on gender) in relation to both print and online formats. This means that in the future the Society will be able to compare this data to the numbers in the profession, and assess if any issues are arising.

Continued overleaf...

OBJECTIVE 8**DIVERSITY AWARENESS RAISING AND TRAINING**

- A. To raise and maintain the profile of Diversity throughout the profession and with our partner and stakeholder organisations. To take all possible opportunities to increase understanding about the importance of Diversity issues.
- B. To train all staff and our Council in Diversity, to provide bespoke training for those with particularly high impact responsibilities, and maintain a high profile for Diversity throughout the organisation.

All the training carried out so far has contained elements relating specifically to sex, sexual orientation, and gender identity. As well as examining definitions of key legal issues (such as harassment and victimisation) the sessions have explored the complex social and personal issues linked to direct and indirect discrimination.

OBJECTIVE 9**ACCESSIBLE INFORMATION & EVENTS**

- A. Monitoring system for requests for materials in other formats noting what is requested and in what format, allowing the Society to better plan services in the future.
- B. To redesign the website to the AA standard of accessibility and accessible design of a new Regulatory Management System, to ensure that it is a useful portal to information for all who may be using it, and to ensure all content is appropriate.
- C. To ensure that Society events promote themselves as inclusive and take account of a range of contributing factors (accessibility, catering, time, date, venue) which may affect the ability of individuals to attend.

The first two elements of this objective relate primarily to disability, but the third element also related to gender. For example, as noted in Section 7.2 there is a lower attendance of women at 'Update' CPD events than men, and exploring the reasons for this will assist in identifying any particular issue underlying this difference.

OBJECTIVE 10**DEPARTMENTAL ACTION PLANS**

Ensuring the departmental action plans are implemented and progress reported on.

Appendix 1 of the Strategy contains the detailed action plans for each department, which covers all aspects of the general duty.

11.4 Monitoring targets

At section 2.39 of the Statutory Code the EOC indicate four factors they believe will influence the successful development and implementation of the scheme:

- accountability and leadership
- mainstreaming the duty into core functions
- ensuring implementation through clear staff roles
- staff expertise and training.

It is hoped that there is evidence of these throughout the strategy and this scheme, but the reporting protocol (below) illustrates both how we monitor progress, that responsibilities truly are mainstreamed into departmental responsibilities, that clear staff roles exist as to responsibility, and the accountability and leadership coming from the Chief Executive, the Office Bearers, and the formally convened sub-committee of the Council the Society.

The protocol stipulates that:

- Each responsible person (departmental director) would report quarterly on progress (in February, May, August, November)
- The report would be based on the action plan, with the following codes being inserted in the 'progress' column
 - C** Completed in full
 - W1** Work underway, due to be complete on schedule
 - W2** Work underway, likely that timescale will need extending
 - D** Delayed (*with a requirement to provide details as to why*)
- Narrative would be added to explain any delays, if objectives needed amending or if they were no longer relevant (Section 3.8 of the Strategy sets out the limited circumstances in which an objective would be changed or deemed no longer relevant)
- The Head of Diversity would collate all the responses
- Reports submitted to the Chief Executive, Office Bearers, and The Equality and Diversity Convenor/Committee.

Reports on progress are to be fed through the normal governance framework of the Society, part of the commitment to ensuring that equality and diversity are effectively mainstreamed throughout the organisation and are integrated into management processes.

Our arrangements for producing subsequent schemes will, to some extent, depend on issues arriving from further involvement and data collection activities. The Annual Report on the Equality and Diversity Strategy for 2007 will now also include details of the progress achieved with implementing this Scheme. There will then be a fundamental review of all our equality work in 2008. The main elements of this review are likely to include:

- Starting around January 2008 – briefings to senior staff and timescale laid out
- March 2008 – start of new impact assessment of all policies, processes and procedures using new enhanced template
- May 2008 – review of ‘scoring’ by independent panels
- June 2008 – detailed investigation of areas with significant impact (drawing on evidence and involvement from the course of the year)
- August – final involvement and consultation on Strategy
- September 2008 – proposals laid before Council of the Society for approval
- October 2008 – final details confirmed, opportunity for second reading at Council if required
- November 2008 – new three-year Strategy announced

REPORTING ON PROGRESS

The Society commits to publishing annual updates, with a major review taking place in October 2008. This will bring into line our Race Equality, Disability Equality and Gender Equality Scheme alongside our Strategy of other equality and diversity work. It is noted that section 3.90 of the Code on gender indicates that this is an appropriate reporting format.

An annual report for the period November 2005 to October 2006 is available from our website. This covers the gender targets set in our original integrated Strategy, and will give an example of how the Society may report in 2007 on progress with both the Strategy and this Gender Equality Scheme.

A summary of progress will also be included in our overall organisational annual report, and press releases will be passed to various media to promote the availability of the documents. Various relevant organisations working in associated fields will be identified, contacted and encouraged to provide any feedback they feel is appropriate. We also welcome enquiries into our work from members of the general public, and will try to provide additional information where possible.

Information on various projects (including data collection and specific initiatives) will also be fed back as appropriate through the Society's 'Journal' (available to the public free of charge online), through press-releases, through the website, and other means as is appropriate.

MAIN FORMS OF REPORTING:

<i>Our website</i>	http://www.lawscot.org.uk
<i>The Journal</i>	http://www.journalonline.co.uk
<i>Press releases (as appropriate)</i>	available on our website
<i>Annual Report on Diversity</i>	available on our website

The Society recognises that different people will prefer to access our service and information in different ways:

The Society has committed to providing flexible access to information through a variety of media:

- Phone enquiries and our helpline
- Fax
- Text phone/Minicom enquiries
- Information and promotional events
- Press releases to a variety of print and other media
- Our website – <http://www.lawscot.org.uk>
- The website of 'The Journal', the official magazine of the Society – <http://www.journalonline.co.uk>
- Information leaflets and packs – including a variety of formats
- Training DVDs including subtitles, text of audio tracks, etc.

EQUAL PAY

13.1 The Society and Equal Pay

The Society is cognisant that The Equal Pay Act 1970 (read in the light of article 141 of the Treaty establishing the European Community) gives an individual a right to the same contractual pay and benefits as a person of the opposite sex in the same employment, or where the source of the pay is the same, where the man and the woman are doing:

- the same or broadly similar work
- work which has been rated as equivalent under an analytical job evaluation study
- work that is of equal value (work of equal value is where the work done is different but considered to be of equal value or worth in terms of demands such as effort, skill and decision-making).

In 2005/06 the Society undertook a fundamental review of remuneration within the Society, contracting Hay to carry out the necessary work and instructing them to pay particular attention to equal pay and equal value.

This resulted in briefing sessions conducted by a HAY consultant provided to all managers and staff covering how to write job descriptions using the HAY methodology. Additionally, staff were invited from across the Society to volunteer to be trained in the job evaluation process and to become panel members. Once all job descriptions were written, checked, and agreed these were then forwarded to two panels, comprising a range (across functions and grades) of staff trained in the process. All evaluations were then checked and a rank order produced by the HAY consultant. At the same time a decision was made to benchmark salaries against the UK public sector market which is continually monitored by HAY.

As part of the commitment in the equal pay statement (see below) we have currently appointed an independent consultant to review the process and current position one-

year-on from the original project and ensure we continue to be meet best-practice in relation to equal pay. This process should be complete by around the end of July, and will be reported in the Equality and Diversity Annual Report.

We produced articles on our experience of this process to promote the positive value of such reviews to the profession and our member firms.

In section 6.2 of this report you can access data on the grading structure (and gender breakdown) generated by this review. Sections 3.61 to 3.67 and 3.7 of the Statutory Codes offer guidance in the field of equal pay.

Although the Society is not formally covered by the requirement to publish an equal pay statement (having less than 150 employees) the general policy of Council is to exceed statutory minimums wherever possible, and the Society is happy to commit to the equal pay statement below, which itself is based on best practice issued by the Equal Opportunities Commission (*EOC's Code of Practice on Equal Pay, December 2003*). It should be noted this relates only to those employed by the Society, and that remuneration within the profession is the responsibility of employing organisations.

13.2 Equal Pay Statement

We are committed to the principle of equal pay for all our employees. We aim to eliminate any sex bias in our pay systems.

We understand that equal pay between men and women is a legal right under both domestic and European law. We further acknowledge that compliance with all equality legislation, with particular reference to terms of employment, is part of the Society's Codes of Conduct which set out standards for all solicitors in Scotland.

It is in the interest of the organisation to ensure that we have a fair and just pay system. It is important that employees have confidence in the process of eliminating sex bias. As good business practice we are committed to working with employee representatives to take action to ensure that we provide equal pay.

We believe that in eliminating sex bias in our pay system we are sending a positive message to our staff, to the profession we regulate and lead, to the clients of solicitors, to civic Scotland, and to the public. We firmly believe it makes good business sense to have a fair, transparent reward system and that helps us to control costs. We recognise that avoiding unfair discrimination will improve morale and enhance efficiency.

Our objectives are to:

- Eliminate any unfair, unjust or unlawful practices that impact on pay
- Take appropriate remedial action.

We have already:

- Implemented an equal pay review in line with EOC guidance for all current staff and starting pay for new staff (including those on maternity leave, career breaks, or non-standard contracts)
- Planned and implemented actions in partnership with employee representatives
- Provided training and guidance for those involved in determining pay
- Informed employees of how these practices work and how their own pay is determined
- Responded to grievances on equal pay as a priority.

We further commit to:

- Monitoring statistics annually to ensure the system continues to operate effectively
- Periodically gather staff feedback on their perception and experiences of the system
- At an appropriate point carry out a further fundamental review, to ensure that ongoing change has not caused issues to arise post-implementation

And to

- Lead the debate on pay and remuneration within the profession, whilst recognising we do not have authority or powers to directly act in this area.