



# The experiences of ethnic minority background solicitors in Scotland

## Law Society for Scotland

Blake Stevenson's final report

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April 2011

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## Executive Summary

Evidence suggests the proportion of solicitors who come from an ethnic minority background is steadily increasing however, Law Society research in 2006 suggested minority ethnic lawyers were significantly less likely to be equity partners than their white colleagues; a follow up study<sup>1</sup> reflected little change in the representation of different ethnic groups within the profession in Scotland between 2006 and 2009<sup>2</sup>. The Society holds little data on the experiences of ethnic minority solicitors and is unclear whether the low incidence of issues relating to ethnicity and cultural background reported in the 2006 Profile of the Profession study<sup>3</sup> is due to under-reporting or because there are no significant issues present.

Recognising these issues, the Society commissioned Blake Stevenson Ltd. to undertake qualitative research to enable the Society to better understand the experiences of ethnic minority solicitors and to continue to learn from its members to ensure all elements of equality and diversity are meaningfully considered in all aspects of its work.

The findings of this report are based on in depth, qualitative interviews and focus groups with respondents from ethnic minority backgrounds, including solicitors, trainees and law students from private and public sector legal services, as well as a small sample of white solicitors from the public and private sector. The report explores respondents' experiences of: studying law, entering the legal profession, working as a trainee or solicitor, advancing within the profession, and their experiences of work-related socialising. Respondents' experiences of bullying, harassment and discrimination at all stages of their career are also explored, as well as how these incidents were handled by employees.

Although the research identifies minimal incidences of overt racism within the profession, a third of ethnic minority respondents felt their ethnicity had affected their professional progress to date, and many felt it was possible their ethnicity may affect future progress because of prevailing attitudes in the profession towards diversity. The research highlights that while the profession appears to have better embraced diversity in the past decade or so, there is still some way to go before equality and diversity principles are fully mainstreamed across all sectors of the profession.

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<sup>1</sup> Changes in the Law Society Membership Profile, MVA Consultancy, 2010.

<sup>2</sup> In both surveys approximately 97% of respondents described themselves as 'white' and approximately 3% either described themselves as being from a non-white ethnic group or did not disclose their ethnicity.

<sup>3</sup> Equality and Diversity in the Legal Profession, The Grange Group, 2006.



Respondents believe the Society has a vital role to play in promoting and monitoring equality and diversity in the legal profession, although anticipates a number of challenges to progress in this respect. The report makes a series of recommendations to support the Society in continuing its work to develop and promote best practice in meeting the needs of a diverse workforce.

## 1 Context and methodology

### Context for the research

- 1.1 The Law Society for Scotland's Equality and Diversity Strategy (2008-2011) highlights progress to date across the equalities agenda, but recognises work is still required to ensure standards in the Race Equality Duty and Single Equality Scheme are continuously met.
- 1.2 The Society currently holds little data on the experiences of solicitors from minority ethnic groups and is unclear whether the low incidence of issues relating to ethnicity and cultural background reported in the 2006 Profile of the Profession study<sup>4</sup> is due to under-reporting or because there are no significant issues present.
- 1.3 Evidence suggests that the proportion of solicitors who come from an ethnic minority background is steadily increasing – 6% of Scottish law students starting their degrees in 2002 were identified as being from minority ethnic backgrounds<sup>5</sup>. However, the 2006 Law Society study suggested that minority ethnic lawyers were significantly less likely to be equity partners than their white colleagues, and a follow up study<sup>6</sup> reflected very little change in the representation of different ethnic groups within the profession between 2006 and 2009<sup>7</sup>.
- 1.4 In recognition of these issues, the Society commissioned Blake Stevenson Ltd. to undertake qualitative research into the experiences of solicitors from ethnic minority backgrounds. This research aims to enable the Society to better understand the experiences of solicitors from ethnic minority groups, and to continue to learn from its members to ensure all elements of equality and diversity are meaningfully considered in all aspects of its work.

### *The role of the Law Society in promoting Equality and Diversity*

- 1.5 As the regulatory and membership body for solicitors in Scotland, the Law Society promotes the interests of the legal profession in Scotland as well as the interests of the public in relation to the profession.
- 1.6 While the Society is not a government-funded public body, many of its regulatory functions are deemed 'public functions' and therefore fairness and equity, including a firm commitment to Equality and Diversity, are integral to all aspects of its work.

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<sup>4</sup> Equality and Diversity in the Legal Profession, The Grange Group, 2006.

<sup>5</sup> Minority and Social Diversity in Legal Education in Scotland, Scottish Executive, 2003.

<sup>6</sup> Changes in the Law Society Membership Profile, MVA Consultancy, 2010.

<sup>7</sup> In both surveys approximately 97% of respondents described themselves as 'white' and approximately 3% either described themselves as being from a non-white ethnic group or did not disclose their ethnicity.

- 1.7 The Society's Diversity Statement recognises that in order to carry out its role effectively, it must:
- value the contribution from all who make up the population of Scotland;
  - take strength from the widest experience, knowledge and understanding it can access – both within and outwith Society membership;
  - go beyond legal compliance by integrating diversity into all that it does; and
  - promote the core values of diversity to the profession as a whole<sup>8</sup>.

### **Methodology**

- 1.8 The methodology for this research involved:
- 19 in depth face to face and telephone interviews<sup>9</sup> with ethnic minority solicitors and trainee solicitors working across Scotland;
  - 2 focus groups with ethnic minority law students in Edinburgh and Glasgow; and
  - in-depth telephone interviews and a small focus group with white solicitors in Scotland to provide a control group.
- 1.9 The rationale for consulting a small sample of white solicitors was to try and explore the extent to which identified instances of discrimination, bullying or harassment relate to race and/or cultural background rather than being symptomatic, for example, of a general treatment of a particular grade of lawyer.

### ***Methodological issues***

- 1.10 We initially intended to conduct focus groups as well as in-depth interviews with solicitors and trainees from ethnic minority backgrounds, however due to a lower response rate than anticipated, we felt more detailed qualitative information would be gathered from respondents through one-to-one interviews.

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<sup>8</sup> Equality and Diversity Strategy 2008-2011

<sup>9</sup> All interviews conducted in the course of this research were qualitative in nature, lasting between 30-60 minutes and using an agreed schedule of questions in a flexible manner.

1.11 The lower than anticipated response rate may be due to a number of factors: the low number of ethnic minority solicitors and trainees in Scotland (commented on by the majority of respondents); competing time commitments for respondents; given the low number of ethnic minority solicitors in Scotland, potential respondents may have been concerned about being identifiable within the research. To raise awareness of the research and recruit respondents we used the following recruitment strategy:

- regular announcements in Law Society e-bulletin and Journal, and on the Society's Facebook page and website;
- email to the HR departments/contacts of Scotland's 30 biggest private firms to raise awareness of the research;
- targeted email approach to individual staff in big law firms and a number of small/medium sized firms;
- approach to the Society of Local Authority Lawyers and Administrators (SOLAR), the Scottish Young Lawyers Association (SYLA), the Trainee and Newly Qualified Society (TANQ), Scottish Paralegals Association, and the Institute of Asian Professionals asking them to notify their members;
- emails to Law Centres in Scotland including Ethnic Minority Law Centre;
- email to Human Resources (HR) and Equality and Diversity (E&D) contacts at the Crown Office and Procurator Fiscal Service (COPFS) and Scottish Government;
- word of mouth/personal contacts and snowball sampling (asking participants to refer other potential respondents);
- advertising research in the newsletter circular produced by the Black and Ethnic Minority Infrastructure in Scotland (BEMIS); and
- promotion of research by Law Society to In-house Lawyers and at trainee events.

### Overview of respondents

1.12 We consulted 27 respondents from ethnic minority backgrounds, comprising six males and 21 females between the ages of 18 and early 40s. Our sample included 15 solicitors (from junior positions through to partner level); four trainees and eight law students from Edinburgh and Glasgow. The sample included solicitors and trainees from private practice, including representation from small, medium and large firms; Law Centres; and in-house and public sector legal services at national and

local level<sup>10</sup>. The majority of respondents described their ethnicity as Asian or Scottish/British Asian. Other respondents described their ethnicity as Black Scottish, Chinese, Caribbean, and Mixed.

- 1.13 Our control group involved 10 solicitors describing their ethnicity as White Scottish/White British, three males and seven females, aged between aged 20-40 years, representing private practice, public sector and in-house legal services.

### Definitions

- 1.14 Please note that throughout the report, unless otherwise specified, 'respondents' refers to solicitors, trainees and students, from both the control group of white solicitors as well as participants from ethnic minority backgrounds.
- 1.15 The following chapter reports on the findings of the research. Where possible we reflect on how experiences have been shaped by other factors such as age, gender, stage of career, as well as ethnicity and cultural background.

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<sup>10</sup> We have given minimal detail about participants' employers to ensure experiences are anonymous and non-attributable.

## 2 Findings

### The experiences of ethnic minority background solicitors

#### Choosing a legal career

- 2.1 The majority of respondents expressed a combination of reasons for pursuing a career in the legal profession, including: expectations of high financial gain; intellectual stimulation; perceived respect associated with profession; achieving good grades at school; the diversity of the work; suggestion by a teacher/family member; desire to follow a profession; and influence of American legal dramas. Other reasons for an interest in law stemmed from a desire to fight for social justice and defend human rights. A couple of respondents from ethnic minority backgrounds said being on the receiving end of social injustice had inspired them.
- 2.2 Some respondents had chosen law as a second degree; often this was following on from having studied elements of law in other degrees (such as business and management) which sparked interest to focus on law.
- 2.3 Most respondents reported that their family and friends had been very supportive, emotionally and/or financially of their career choice, pleased they were achieving something they wanted to do, and that they had chosen a vocational profession.
- 2.4 Respondents describing themselves as 'Asian' or 'British/Scottish Asian' often commented that despite being supportive, their family would have preferred them to study medicine, perceiving it to be a more well-respected profession than law, with greater job certainty. Some commented that this type of family pressure may deter some people from ethnic minority backgrounds from studying law.
- 2.5 A couple of ethnic minority respondents were actively discouraged from pursuing law by their families based on a perception that prejudices within the profession would make it difficult for ethnic minority solicitors, particularly if Muslim and/or female, to succeed and progress. One law student echoed these concerns, saying that before firmly deciding to enter the legal profession she needed convincing that gender/race/culture-related prejudices would not hinder her success.
- 2.6 Family and friends of a few other respondents had tried to dissuade them from a legal career because of the anticipated time-demands of the job and the perceived attitudes of some firms towards female and/or non-privately educated solicitors.
- 2.7 None of our respondents felt their ethnicity or cultural background had been a particular factor in any way when studying law, although many had observed very low numbers of ethnic minority students on law courses. Other observations were that there tended to be higher numbers of ethnic minority students studying business, management or science-related

degrees and that the majority of law students tended to be privately educated.

### Recruitment to the legal profession

- 2.8 Respondents found it difficult to objectively assess if ethnicity and cultural background play a factor during recruitment to the legal profession. Approximately two thirds of ethnic minority background solicitors and trainees we spoke to had suspicions that their ethnicity and/or cultural background *had* influenced their own, or colleagues', recruitment to current and/or previous posts. Those who *did not* feel their ethnicity had been a factor during recruitment to current or previous posts were primarily, although not exclusively, employed in the public sector, and felt confident recruitment was based on experience, merit and competence.
- 2.9 Ethnic minority solicitors/trainees cited examples from their own experiences to explain their perception that ethnicity does influence recruitment:
- feeling that their white contemporaries received more invitations to interview, even when less qualified on paper in terms of attainment and/or work experience;
  - perception that similarly qualified and experienced white contemporaries were finding traineeships and newly qualified posts, or progressing to senior posts with greater ease and speed;
  - a few examples were given where respondents felt Partners had made inappropriate comments referencing their ethnicity and/or cultural/religious beliefs at interview, e.g. being asked about their views on the Iraq war; and
  - perception of being recruited through 'positive discrimination' when firms either wishing to increase the diversity of their workforce, or attempting to develop their ethnic minority client base.
- 2.10 Some respondents felt that private firms were often intolerant of difference generally, and that it was important to these firms that employees 'fit in' with the ethos, aesthetic and culture of the firm, through looking 'right', acting 'right' and having the 'right' social and educational background – to this end a person's gender, race, religion, cultural beliefs, dress sense, social and educational background could all factor in recruitment.
- 2.11 In contrast, a small number of respondents felt that in the private sector, firms were purely interested in the 'bottom line' and on this basis would recruit whoever they felt would generate the most money for the firm, and that ethnicity and cultural background did not feature as a factor at all.

- 2.12 Some ethnic minority respondents expressed concern about putting their name, photograph, or other identifiable details on job applications fearing this may increase the risk of discrimination based on race/religious beliefs at the interview selection stage. Other ethnic minority respondents were not concerned by this fact and one respondent felt having a photograph on her application had increased the invitations to interview she received.
- 2.13 The majority of respondents felt that social class, being privately educated, having family legal connections and having access to extra-curricular opportunities and legal work experience still heavily influence recruitment to private legal practice, and that the latter two also influence recruitment to public sector practice. Respondents expected most of these issues would affect ethnic minority and white solicitors in exactly the same way, however respondents felt people from ethnic minority backgrounds may be less likely to have family connections within the legal profession.
- 2.14 While many respondents noted what they felt was an increase in the past decade or so in the number of ethnic minority lawyers in Scotland and a more general openness to diversity within the profession, some expressed concern that the current jobs shortage and economic crisis may disproportionately affect people from ethnic minority backgrounds in terms of recruitment and redundancy. One respondent said: *“Recession has led to greater discrimination – people can now hide behind it as an excuse for things being competitive or choosing not to recruit someone.”*

### In the workplace

- 2.15 The following section explores the experiences of ethnic minority background solicitors within the workplace.

#### ***Experiences of discrimination, bullying or harassment***

- 2.16 Around a third of solicitors we spoke to from an ethnic minority background felt they had been treated differently in the workplace because of their ethnicity and/or cultural background. The other two thirds felt their ethnicity and cultural background were not of particular significance in the workplace. Examples of perceived discrimination or unfair treatment as a result of ethnicity and/or cultural/religious beliefs included:
- *being allocated heavier workloads than white colleagues* – for example, a couple of ethnic minority respondents said they felt they had to work harder than white colleagues to ‘prove themselves’, another respondent said he felt it was made clear, but not explicitly stated, by his employer that he was to work longer hours than his white colleagues;
  - *being given fewer development opportunities than white colleagues* – for example, being given secretarial and administrative tasks to

do when white contemporaries were given more interesting and challenging work to do. Some of the white female solicitors we spoke to recounted similar experiences;

- *being given less administrative support time than white colleagues* – again a couple of white female solicitors also commented they received less administrative support than their male colleagues;
- *being left out of communications or client meetings;*
- *being paid less than white colleagues* – although a number of respondents suspected this was the case, they could not be sure.

2.17 A number of the female ethnic minority solicitors we spoke to, particularly in private practice, felt gender compounded these incidences of unfair treatment, particularly if they were a mother or perceived by their employers to be of child-bearing age. A number of respondents stated *“life is tough in the legal profession if you’re female, Asian and Muslim.”* Many of the white female solicitors we spoke to also felt they had been unfairly discriminated against as a result of their gender and/or having children. This was less of an issue for in-house and public sector solicitors.

2.18 The following incidents were reported to us where ethnic minority respondents felt their colleagues had made inappropriate racial/cultural references and illustrated cultural ignorance and intolerance in the workplace: an Asian solicitor being frequently asked by colleagues for curry tips and recipes despite never expressing an interest in curry; solicitors being repeatedly teased for being vegetarian as part of their cultural beliefs; someone describing themselves as Scottish Asian being asked ‘are you mostly Pakistani, or mostly British?’; Muslim solicitors being asked about their views on Al Qaeda and the Iraq war. One respondent commented that:

*“Post 9/11 there is more about religion. It’s perhaps seen as a safer target, the new racism. When there are cases of terrorism in the news, colleagues clearly feel safer going way beyond what they perhaps might normally say.”*

2.19 There was only one example where an ethnic minority respondent reported an overtly racist comment that had been made about her within earshot by an administrative colleague.

2.20 Most respondents commented that within the legal profession, trainees are often subject to bullying, usually by partners. None of the ethnic minority trainees we spoke to felt that they had been significantly bullied during their traineeships. Where any bullying-type behavior had taken place, they felt the bullying was ‘indiscriminate’ and that all trainees experienced the same treatment. This finding was also reflected in other

research recently commissioned by the Law Society around bullying and harassment in the legal profession<sup>11</sup>.

- 2.21 The majority of solicitors we spoke to, both white and ethnic minority, also felt bullying of trainees tended to be fairly indiscriminate, although most of them had not personally been bullied as trainees. The general consensus seemed to be that being bullied as a trainee was an *“unpleasant and unfortunately inevitable”* part of becoming a solicitor. Only a couple of ethnic minority solicitors felt that they had been bullied more than their white colleagues because of their ethnicity.
- 2.22 Most of the ethnic minority solicitors we spoke to *had not* felt under pressure to change their appearance to fit-in in their place of work, other than to dress in the same manner expected of all employees. There were a few examples where ethnic minority respondents perceived a need to conform in a certain way within the workplace, although some of these may relate to perceptions about wider societal as well as professional pressures:
- one respondent said during a period of his life where he was feeling particularly religious, he had grown his beard long, but this received lots of comments at work which made him feel uncomfortable therefore he trimmed his beard short again because *“outward changes affect the way people think about you”*;
  - one respondent said although she usually wore her hair in braids, she did not feel it was appropriate at work so removed them; and
  - a number of respondents said they felt the need to fit into the workplace environment through wearing western dress, even though they would ordinarily wear traditional dress at home and felt their traditional dress was suitably smart for the workplace.
- 2.23 A later section of this report reflects pressure felt by some respondents to change their behaviour towards alcohol. There were no further examples given where respondents felt under pressure to change their behaviours to fit in with their employer. In terms of good practice, we were given anecdotal evidence of an employer accommodating individual employer need through ensuring a Muslim solicitor had time and privacy for daily prayer.

### ***Employee responses to discrimination, bullying and harassment***

- 2.24 Most respondents within both public and private legal practice would feel comfortable broaching an issue informally with a line manager or other members of their immediate team if necessary. However the majority of respondents would not be comfortable or confident formally reporting

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<sup>11</sup> Preventing Bullying and Harassment in the Profession, due to be published in spring 2011

incidences of discrimination, bullying or harassment they experienced in the workplace, whether race/culture-related or otherwise. This was generally for fear of victimisation, fear of being labelled a 'trouble maker', and concerns that reporting any form of grievance may jeopardise their future career.

- 2.25 Part of this concern stems from a recognition by respondents that the legal profession in Scotland is a small community and that a person's reputation can spread throughout the sector quickly. Other explanations for this reluctance to report grievances were a lack of faith in the HR mechanisms in private practice – many respondents were concerned about confidentiality and impartiality, others believed that nothing would happen if they reported a grievance so there was no point.
- 2.26 Respondents in public sector and in-house legal services were more likely to formally report discrimination, bullying or harassment because they felt there was more of a culture of equality within the organisation and that there were clear organisational policies and procedures in place to follow.
- 2.27 Where respondents said they 'had' or 'would' respond formally to incidences of discrimination, this included: raising a formal grievance with HR, or with line manager or a partner as appropriate; and contacting the Legal Defence Union.

### ***Employer responses to discrimination, bullying and harassment***

- 2.28 Most solicitors from private practice were unable to say for sure whether their employer had any E & D policies or practices in place. Responses suggest that small and medium private practices tend not to have E & D policies and practices in place and that across the private sector as a whole, equalities have a pretty low profile. Where policies were in place, this tended to be in public sector/in-house settings or in larger private practices – in these instances, respondents were generally aware a policy existed and would know where to go to find out more detail, but were often unable to name the policy and had little familiarity with it.
- 2.29 Most public and in-house sector solicitors commented that they did feel policies were well-implemented and that equality had a relatively high profile in their organisation. Others felt unable to comment on the extent to which policies were implemented and suspected the policies may be more of a tick box exercise.
- 2.30 There were some examples in both private and public sector legal settings where respondents felt their employers responded well to discrimination, bullying and harassment, including:
- partners briefing trainees to feel confident reporting any form of bullying and discrimination;

- wide dissemination of E&D policies and practice amongst employees;
- disciplining a member of staff who had made inappropriate references to someone's culture; and
- employers taking actions to mitigate the effects on employees of discriminatory comments made by clients.

### ***Networking and socialising***

- 2.31 During the course of our research, few examples were given of ethnicity being a factor in work-related networking and socialising activities, although some ethnic minority respondents said that they were selected to attend networking events with greater regularity than their white colleagues - they believed this was an attempt by their employer to promote the diversity of their firm and to attract more clients from ethnic minority backgrounds. Some felt uncomfortable about this; others saw it as an opportunity to progress.
- 2.32 Religious and cultural beliefs appear to be a more significant factor, particularly for ethnic minority respondents who do not consume alcohol for religious or cultural reasons. Respondents reflected that alcohol consumption is a key feature of most legal networking and social events in Scotland, including those facilitated by the Law Society. Respondents made the following points:
- not drinking alcohol can make it harder for solicitors from some ethnic minority groups to 'fit in' and make networking and social events an isolating experience: one respondent said *"the networks can work against you if you're not a drinker, and don't share the same cultural or social background"*;
  - some ethnic minority respondents felt under significant and uncomfortable pressure to 'go out drinking' in order to bond with colleagues, win clients and develop contacts to aid career progression; and
  - not fully engaging in alcohol-orientated socialising and networking events was seen as a barrier by some ethnic minority solicitors to developing relationships with colleagues and progressing within the profession.
- 2.33 Many of the respondents affected by these issues felt their employers and colleagues lacked awareness and understanding of cultural diversity. The ethnic minority solicitors we spoke to from the Public sector, who do not drink alcohol for cultural/religious reasons, tended to be less affected by the above issues and felt less excluded – partly because they felt their colleagues demonstrated understanding of their beliefs and made efforts

to ensure not all social activities were alcohol-focused, and partly because socialising for work purposes (entertaining and winning clients etc.) is less of a feature in public sector legal practice.

### ***Progress, promotion and practice***

- 2.34 About a third of ethnic minority background solicitors felt their ethnicity had influenced their professional progress to date in some way. The majority felt this influence to be negative, giving examples where they felt discriminated against when white colleagues had been promoted ahead of them, or received more perks and privileges for reasons not evident to them. As mentioned above, a number of ethnic minority respondents felt they were expected to work significantly harder than white colleagues to progress, and others felt they did not receive the same development opportunities as white colleagues which makes promotion less likely; others felt not fully participating in socialising and networking within the profession, for cultural reasons, impeded professional progress.
- 2.35 A number of ethnic minority respondents commented on the low presence of ethnic minority solicitors presenting at legal conferences/seminars or having articles published in the Law Society's Journal. An experienced ethnic minority lawyer said *"it seems strange that after 20 years working in this area, I've never been asked to contribute or to participate by the Law Society for Scotland, no article in the Journal, no contribution at conferences or seminars, no use made of my achievements to provide an insight, to inspire."*
- 2.36 Some law students said the fact ethnic minority solicitors did not have an obvious presence within the profession in Scotland sometimes made them question whether the profession would allow them to succeed. A couple of law students suspected it may be easier for them to obtain positions in public sector legal services, and others said when applying for positions they would seek to identify legal practices which appear to openly promote diversity.
- 2.37 Some ethnic minority solicitors felt that because of their ethnicity, they had been *"pigeon-holed"* into immigration/asylum legal work or working with clients from minority ethnic groups. They felt employers were more likely to recruit them to roles in these areas and expressed concern that their ethnicity may restrict their ability to gain broader legal experience and move into other legal areas, such as commercial law.
- 2.38 Other ethnic minority solicitors felt their ethnicity and cultural background had been a facilitator to their professional progress – they felt they were able to offer benefits to employers which had enabled them to progress well, sometimes ahead of peers. The benefits identified were: cultural understanding of ethnic minority groups, supporting employers to recruit and cater for a diverse client base, and offering different viewpoint and perspective on the world.

- 2.39 A number of female ethnic minority solicitors, working in private practice in particular, felt that their gender and motherhood were more likely to restrict their professional progress, but that their ethnicity would compound the situation. The white female solicitors we spoke to also reported that gender and motherhood were likely to impede professional progress in private sector legal practices.
- 2.40 Around two thirds of ethnic minority solicitors, including representatives from public, private and in-house legal services, felt that to date their ethnicity had played no part at all in their professional progress and felt they were at a stage in their career that they expected to be, in line with their peers. However, many did not rule out the fact they may be discriminated against in future because of attitudes in the wider profession towards diversity.

## Improving the experiences of ethnic minority background solicitors

### Thoughts on the role of the Law Society

- 2.41 Despite the work the Society has undertaken in recent years around equality and diversity, most respondents had a limited awareness of what equalities activity the Law Society has delivered and the role it currently plays. Some respondents knew of the Society's Equality and Diversity Committee, but were not clear about what it did. Respondents were not aware of any previous activity around promoting race equality and cultural diversity within the profession and welcomed the commissioning of this research as a step in the right direction.
- 2.42 The majority of respondents feel very strongly that the Law Society has a key role to play in promoting equality and diversity within the legal sector in Scotland, eliminating all forms of discrimination within the profession, and improving the experiences of solicitors and trainees from ethnic minority backgrounds. Most respondents agreed that an overarching approach is required and that the Law Society is the only suitable body to oversee and take a lead on equality and diversity within the profession.
- 2.43 Respondents reflected on a number of challenges for the Society in taking forward activity to promote race equality and cultural diversity, and mainstream equality and diversity within the profession. These were:
- concerns about the Society's ability to influence change in private practice because of the focus on the 'bottom line' and potential resistance to further regulation;
  - concerns that legal practices and individual solicitors are not aware of and do not pay attention to the Law Society's activities and that equality and diversity might be a 'hard agenda to sell'; and

- a recognition of some of the tensions presented by the Society's role as both a regulator for the profession and as a body which represents and protects the interests of the profession.

2.44 Those consulted suggested a range of activities to improve the experiences of ethnic minority background solicitors, promote race equality and cultural diversity within the profession, and encourage more people from ethnic minority backgrounds to pursue legal careers. These are presented below as 'actions for the Law Society' and 'actions for Legal Practices.'

### **Actions for the Law Society**

2.45 Respondents suggested the Law Society could consider the following activity:

- provide equality and diversity training to Partners in legal practices, focusing in particular on cultural diversity and the needs of individuals;
- monitor the implementation of equality and diversity policies in legal practices;
- encourage and support the development of a Committee/Group/Association for ethnic minority background solicitors and trainees, citing examples of similar groups in England (although some respondents felt this would create unhelpful segregation);
- regulate recruitment processes in legal practices across the profession to eliminate discrimination (one respondent suggested the Society should take on the role of vetting and allocating trainees to firms, although we recognise that this is unlikely to be possible for a variety of reasons);
- advertise more widely the specific support the Society can offer ethnic minority background solicitors;
- recruit a recognised specialist to assist in the mainstreaming of equality and diversity within the profession;
- greater presence in schools (particularly state schools, with significant numbers of ethnic minority pupils) and universities to promote the profession as a potential career path; and
- demonstrate their own commitment to diversity through appointing an ethnic minority Board member and publishing articles by high profile ethnic minority lawyers in the Society's Journal.

### Actions for Legal Practices

- 2.46 Respondents suggested the following activities could be taken by legal practices to encourage more people from ethnic minority backgrounds to enter the profession and to improve the experiences of ethnic minority solicitors currently practising:
- law firms to openly demonstrate their commitment to a diverse workforce through:
    - having clear equal opportunities policies in place, displayed clearly on websites and disseminated to employees;
    - openly state during recruitment drives “we welcome applicants from all backgrounds”; and
    - images of reflecting a diverse workforce on websites and publications;
    -
  - firms to consider removing names and photographs from application processes.
- 2.47 A couple of ethnic minority solicitors suggested there may be times where recruiting ethnic minority solicitors through ‘positive discrimination’ should be considered, however this was generally an unpopular way forward with the majority of respondents.
- 2.48 The following chapter summarises the key issues, and presents conclusions and recommendations for the Law Society based on the research findings.

### 3 Conclusions and recommendations

#### Summary of key issues

3.1 The following section summarises the key issues coming out of our research into the experiences of ethnic minority background solicitors in Scotland to inform the Law Society in taking forward future work to mainstream equality and diversity in the legal profession.

- Pressure from families to pursue alternative professions, or family perceptions about racial prejudices within the legal profession may act as a barrier to the legal profession for some people from ethnic minority backgrounds.
- Ethnicity and cultural background do not appear to be significant factors when studying law in Scotland.
- There appear to be incidences where people from ethnic minority backgrounds are discriminated against during recruitment to/within the legal profession because of their ethnicity and cultural background, although other factors might also be at play such as: general intolerance to 'difference' by firms; discrimination based on gender and/or socio-economic status and/or educational background.
- Although the profession appears to have increasingly embraced diversity in the past decade or so, there are concerns that future redundancy and job shortages may disproportionately affect solicitors and trainees from ethnic minority backgrounds.
- Around a third of ethnic minority solicitors felt they had been treated differently in the workplace because of their ethnicity and cultural background, more commonly in private practice.
- Overtly racist behaviour does not appear to be a significant issue in the profession but there is a clear need for greater understanding of cultural diversity.
- Public sector legal employers appear to be significantly better at promoting and supporting diversity, implementing equality and diversity policies and practices, and responding to discrimination, bullying and harassment.
- Most ethnic minority and white solicitors would not formally report incidences of discrimination, bullying and harassment (unless very severe) for fear of victimisation and jeopardising future career prospects, and due to lack of faith in the impartiality and confidentiality maintained by HR systems in private practice.

- Cultural beliefs and behaviours around alcohol consumption may indirectly exclude solicitors from some ethnic minority backgrounds from participating fully in professional networking and social events which some believe impedes opportunities for progression and promotion.
- While only a third of ethnic minority respondents felt their ethnicity had affected their professional progress to date, many felt it was possible their ethnicity may affect future progress because of prevailing attitudes in the profession towards diversity.
- Members believe the Society has a vital role to play in promoting and monitoring equality and diversity in the legal profession, although anticipates a number of challenges to progress in this respect. Members also feel the Society could do more to demonstrate its own commitment to diversity.

## Conclusions

- 3.2 While our research reported very minimal incidences of overt racism; a third of the ethnic minority background solicitors we spoke to feel they have been treated differently, or discriminated against within the profession on the grounds of race and/or cultural background, and it is clear from the experiences of the ethnic minority solicitors we consulted that many feel that at some stage, in some way, their ethnicity and or cultural background may influence their, or their colleague's career in the legal profession. The research also highlights that while the profession appears to have better embraced diversity in the past decade or so, there is a perception that sex discrimination and discrimination on the grounds of social and educational background still exists.
- 3.3 This suggests that as a whole, the legal profession still has some way to go to mainstream equality and diversity principles and ensure that:
- the culture and practices of the whole sector always recognise, respect and value difference; and
  - the profession operates in a way that allows everyone to fully participate and have the same opportunities to fulfill their potential.
- 3.4 The Law Society is committed to an approach of mainstreaming equalities, and we recognise that this approach will take time to embed across the sector. We suggest that the Society continues to build on the good work it is doing in line with its equality and diversity strategy (2008-2011) and continues to develop and promote best practice in meeting the needs of a diverse workforce through considering the recommendations below.

## Recommendations

### Improving approaches to equality and diversity across the Legal Profession

- 1. *Continue to develop guidelines and awareness raising events for legal practices around understanding cultural diversity*** – in light of this research, we recommend the Society produce guidance for employers around understanding different cultures and beliefs and the individual needs of employees – ideally this should be covered by all solicitors at partner level as part of their induction. It may also be useful to offer workshops/events to raise the profile of cultural diversity within the profession and encourage employers to understand the benefits of a diverse workforce.
- 2. *Seek feedback on the extent to which existing E&D guidance is useful and implemented in practice*** - we are aware that the Society has already issued guidance around aspects of equality and diversity and ensuring fairness in the profession. It may be useful to undertake an exercise to assess the extent to which this guidance is being used by employers, the extent to which it is implemented and the impact of this.
- 3. *Promote guidance already available to employers around application and recruitment processes to include the removal of names, photographs and personal details*** – the Society may wish to consider the merits of advocating this approach to private firms in line with practices adopted by the public sector to eliminate discrimination at the application stage.
- 4. *Develop guidelines for professional development within the legal profession to ensure equity of opportunity***
- 5. *Continue to develop the aims and activity outlined in the Society's E & D Strategy to monitor the profile of the profession*** – the Society should aim to build on the work it has done to date to ensure that equalities monitoring data for the profession is monitored rigorously and consistently, seeking the engagement, where possible of all legal practices. This should include gathering equalities data from the profession about applicants (through use of an equality and diversity form as part of application processes), data about staff in post, and equalities data for staff made redundant.
- 6. *Consider how to monitor whether redundancy over the next five years disproportionately affects ethnic minority background solicitors***

7. ***Seek to explore the potential for regulating and auditing employment practice throughout the profession*** – including monitoring the development and implementation of equality and diversity policies, and policies to eliminate indirect discrimination during recruitment and redundancy processes.

### Demonstrating the Society's commitment to diversity

1. ***Provide a confidential and impartial advisory/advocacy service to support and advise members experiencing discrimination, bullying and harassment*** – in light of the findings in the research around the reluctance to report discrimination, bullying and harassment, the Society should consider how it might further support members who have employment grievances that they feel unable to raise with their employer or do not know where to go to report grievances.
2. ***Consider the value of supporting the development of a committee/group for ethnic minority solicitors*** – this was suggested by quite a number of respondents although no clear purpose for the group was identified. The Society may wish to explore and consult on what the purpose of such a group would be, perhaps through looking at similar groups in England, and agree if it fits in with the Society's wider vision to mainstream equality and diversity.
3. ***Consider a programme of social and networking events that cater for the Society's diverse membership*** – in light of comments gathered through the research which suggest that alcohol consumption is a dominant theme in legal social and networking events.
4. ***Continue to raise awareness of the Society's activity around equality and diversity*** – despite the Society's attempts to date, our research suggests there is still work to be done by the Society to emphasise the importance and benefits of diversity to the profession and to raise awareness of the role and activities of the Society in promoting equality and diversity in the profession.
5. ***Encourage the submission of more Journal articles by high profile ethnic minority solicitors and more articles about issues affecting ethnic minority solicitors*** – the Society may wish to consider a series of articles designed to raise the profile of diversity within the profession.
6. ***Share the findings of this research through a workshop where a range of legal stakeholders are invited to discuss the way forward.***

7. *The Society should continue to encourage candidates from an ethnic minority background to stand for Council and to apply for positions within Law Society Committees.*