



Law Society Scotland

Consultation findings and recommendations on the Society's work in promoting Equality and Diversity

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1 Introduction and methodology

The Law Society of Scotland wants to ensure that it continues to learn from solicitors, clients and the public in order to promote best practice in relation to equality and diversity.

The Society commissioned Equality Works to undertake research and consultation between August and October 2008 to inform the production of forthcoming guidance for solicitors on equality and diversity. This consultation offered a useful opportunity to gather views about the Society's work in this area and any ideas as to how this could be further developed.

To date, we have spoken to 16 people as part of this exercise. The Society has previously collected statistical data on a number of issues, but this project was intended to add qualitative depth. We do not claim that this group is in any sense statistically significant or representative; however, it does contain a number of specialist organisations and practitioners working with and representing the interests of different equalities groups. It also contains a mixture of practising solicitors, in both private and non-for-profit sectors, and employees of the Law Society. It contains some contacts that were recommended by the Society, and others who have been identified through the 'snowballing' of these or through other Equality Works contacts.

Organisations and individuals consulted

We list here the details of organisations consulted, but have taken care not to identify the names or firms of individuals who have spoken to us.

Capability Scotland

Ethnic Minority Law Centre

Law Care

SAMH (Scottish Association for Mental Health)

Scottish Refugee Council

Scottish Women's Aid

Scottish Young Lawyers Association

Stonewall Scotland

HR Director for a private law firm

Law Society Scotland: 3 staff; 2 Equality Committee members

A total of 5 Scottish solicitors in private practice

2 Findings

Good practice

✓ Leadership

There was praise for strong leadership around equalities, both internally within the Society and externally, in terms of its role in influencing, educating and regulating the profession.

A number of respondents praised Neil Stevenson and his leadership on equality and diversity and felt that having responsibility for this agenda at a senior level allowed issues to be surfaced, profiled and taken seriously. Some welcomed specific examples of the Society's work that should help to influence change within the profession, such as the production of guidance. One interviewee also felt that the Society was modelling good practice and conveying positive messages to and about the legal profession by deciding to adopt the Public Duties.

✓ Partnerships and procurement

Several of the organisations we spoke to are already working in close partnership with the Law Society, such as Capability Scotland, and others felt it was good that the Society was developing new partners all the time in the relation to equality and diversity. Another interviewee praised the Society's work in promoting equality and diversity through procurement.

✓ Mainstreaming

One respondent commented that they felt it was positive that the Society's approach incorporated all six of the equality strands. Those familiar with the Society's structures for promoting equality and diversity felt that the decision to rest responsibility for this area of work with the Head of Strategic Change was helping the Society to mainstream equality into its corporate planning processes.

✓ Success – the rate of change

There was a sense from many of the people we spoke to that the Society had succeeded in making a significant cultural change with respect to equality and diversity in recent years; given the traditional and non-diverse organisation it had been in the not too distant past. One respondent described the Society as "steaming ahead" in terms of the equality and diversity agenda; whilst another commented:

'I recognise and welcome the massive changes LSS has undergone both in terms of its own structure and approach over the past 15 years'

Challenges

- Relatively **low baseline** in terms of equality and diversity:

"The Law Society Scotland have had a lot of catching up to do in this area – it's only in the last few years that they have woken up to what is expected of them in terms of Equality and Diversity"

- **Lack of time and/ or interest** by many in the profession:

Some people expressed the view that a lot of solicitors do not pay much attention to the Law Society's activities and resources and that, around equality and diversity in particular, people "do not want to stop and listen" unless it is directly relevant to them personally or to their work. One solicitor, who had formed quite a negative view of the Society's approach to equality and diversity a number of years ago said that he now tried to have 'as little to do with the Society as possible'. Time is, of course, a significant constraint for solicitors and this was a constraint, even for those who were essentially positive about the Society and its work in this area.

"I do look up articles in the LSS journal and I get their e-bulletins but I just don't get the opportunity to read these things in any detail. Time is such an issue."

- Inherent tensions in the **Society's role**

One senior partner (who has worked closely with the Law Society) felt that the inherent tension between being a regulator and a union made it difficult for the Society to lead the profession. The current changes which involve losing some regulatory functions, for example, with respect to complaints against solicitors, may, where the Society continues to develop its educative and supportive roles, ultimately help to clarify this role.

- **Dispersed** profession, some with limited access to ICT

Respondents felt that the nature of the Scottish legal profession poses a challenge to the Society's communication work on any topic. A significant number of Scottish firms are very small, geographically isolated and it has been estimated that about 10% do not have access to e-mail and/ or Internet. The huge variation in terms of geography, demographics and culture also makes it difficult to give consistent messages or recommendations to the sector as a whole. As one respondent pointed out, whilst it might make excellent business sense, in Edinburgh, to advertise your firm as being gay-friendly; the advice might be tailored differently in remote rural areas. For example, the focus there may be on age or disability.

Awareness of the Society's E & D work

"I wasn't really aware of what the Society did in this area. I mean I suppose if I stopped and thought about it I'd have realised they have an E&D policy and it's certainly a good idea that they do"

"I don't feel I know much about what the Law Society is doing around equality – part of this is down to me but I wonder whether the work they have done hasn't been particularly well-promoted?"

Of the people we spoke to, only those closely involved in partnership work with the Society were able to talk with any confidence about its current work around Equality and Diversity. Despite the small size of our sample, this finding seems to be significant. We spoke to several practising solicitors with strong personal and professional interests in different strands of equality who, as the above quotes demonstrate, knew very little about the Society's work in this area.

A common theme throughout the consultation was that the Society needs to build its profile and image more proactively and boldly around equality and diversity. Some, who are more familiar with the workings of the Society, felt that the lack of funding for the Media department was a key barrier, though it was emphasised that this department works hard within its budget.

Given these findings, we have structured the remainder of this report around considering ways in which the Society might improve communication about its good practice and effectively develop a 'brand' around equality and diversity.

Those consulted mentioned a number of practical ways in which this might be achieved, including:

- Well-publicised launch events, e.g. for the forthcoming guidance
- Chief Executive attending/ speaking at key equality events
- Using partner organisations to disseminate good practice
- Using media, including television to communicate positive messages about equality in the profession to the public

Most foresightedly, given the subsequent appointment of Lorna Jack, one respondent suggested that:

'If the new Chief Exec of the LSS were to be a woman, this would send out a really powerful and visible message'.

Internal performance around E & D

There were only a few interviewees who felt they were in a position to comment on the Society's own performance in relation to equality.

In relation to employment, the following were mentioned as positives:

- ✓ Good flexi-time and flexible working policies
- ✓ Diversity in senior management
- ✓ An organisational culture which seems to be increasingly positive in terms of attitudes to diversity and commitment to best practice
- ✓ Investors in People
- ✓ Strong leadership from the Equality Committee

Other comments as to how this performance might be improved included:

- The Society should model good practice by adopting a generous maternity policy, as some of the more progressive firms have, rather than sticking to the statutory minimum
- The Society should apply to join Stonewall's Diversity Champions Scheme, as the Scottish Court Service, Scottish Crown Office and Procurator Fiscal Service, and City of Edinburgh Council have

"The Law Society should be leading rather than following in terms of their own employment policies"

Themes for further development

Influencing firms and promoting best practice

Respondents felt that the main objective of the Society's Equality and Diversity work is to improve the performance of private law firms in this area. A couple of interviewees questioned whether the Society could make greater use of its regulatory powers to influence firms to promote equality. However, most of those we spoke to within the profession emphasised the fiercely commercial environment of many firms. They argued that, in order for them to take on board messages about equality, firms need to be convinced about the *business* benefits of doing so.

Firms need, for example, to see evidence that good flexible working can help them to retain experienced lawyers; that attracting a diverse pool of applicants increases the likelihood of attracting the best candidates; that a diverse team can draw in and provide high quality services to diverse clients; and that internal diversity policies and activities improve firms' chances of winning tenders, especially with public sector clients.

"Most law firms are very commercially focused – it's all about fee earning and profitability. Many see equality and diversity as an issue on the periphery; as a bit academic or as 'political correctness'; or they know it's what they should be doing but it just gets lost in a pile of other priorities. The Law Society needs to provide a hook to draw firms in and help them to understand that equality and diversity is part of running a successful business. They also need to get influential people on board in this: if the message comes from the Society alone, a lot of lawyers will think 'well they would say that'."

Head of HR at a large commercial firm

Ideas for how the Society might successfully influence firms included:

- ✓ Getting senior people on board from top firms (both law firms and client firms) to give clear messages about how seriously they take diversity and why it is critical to them
- ✓ Taking a stronger lead in identifying examples and developing indicators of good practice in the profession
- ✓ Sharing examples of good practice from other (especially commercial) sectors
- ✓ Running an awareness-raising event/ campaign with private sector firms on the benefits of increasing diversity amongst trainees/ teams and how traineeship schemes can be made more accessible

- ✓ Around service provision, encouraging more lawyers/ firms to develop a specialism in immigration and discrimination law, where there is currently a lack of provision
- ✓ Work in partnership to develop quality marks for providers of legal advice in Scotland – these might be around topics, such as immigration; or for particular client groups, such as disabled people

Continuing Professional Development (CPD)

The Society's role as an educator was seen as crucial in promoting equality and diversity within the profession.

"It would help lawyers to use the law more effectively to support diverse clients if they understood diversity and discrimination better."

The session on Legal Advice for the Older Client was felt to represent good practice in this and some felt this model could be applied to other equalities groups, for example, to explore different cultural needs and issues. This session was aimed at practitioners who act for older clients and who are keen to keep up to date with developments in the law for this client group. It drew together speakers both from legal firms and from Third Sector organisations working with older people.

One interviewee suggested that the Society could enrich its CPD programme if it was to work more with training providers from equality and grass roots organisations. Input would need to be quality assured yet using a range of training providers could bring different and experiential perspectives to lawyer training and development.

CPD was also felt to be an important vehicle for conveying messages about the business benefits of equality and diversity. These could be woven into a range of topics, not just those focusing on a specific equalities group or issue. Respondents also suggested CPD events that hooked onto the business drivers for equality and diversity, such as a session on evidencing equality and diversity in the tendering process.

We had discussions with some interviewees about the feasibility and potential benefits of the Society working to facilitate networks within the legal profession relating to equality and diversity. The development of electronic networks was felt to be particularly attractive, since those who are most at risk of isolation tend to be in smaller firms outside of the larger cities. Such networks might provide support to minorities working within the profession, such as black and minority ethnic lawyers, and/or help solicitors and advice agencies to identify firms offering equality-friendly services in other areas of law to whom they can refer clients.

Positive action

A necessary step in planning positive action and monitoring its subsequent success is to demonstrate that certain groups are under-represented within the workforce. Those familiar with the profile study commissioned by the Law Society Scotland (Equality in the Profession 2006) were impressed by the scale and detail of the research. One respondent explained that he had gone to the Society's web site specifically to find the report and found it useful when he did but was not convinced that he would have found it had he not been looking for it.

Others felt that the Society should put aside resources to undertake further research and ongoing data collection within the profession. One pointed out that the issuing of practising certificates offers an opportunity to build up a robust picture of the profession by equalities monitoring across all strands. Although the Society seems to have started this exercise; when we looked for the findings from it on the web site, it was not clear whether or not these were available yet.

A number of those we spoke to felt that the Society could and should do more work with schools, universities and law firms to remove barriers and encourage a more diverse group of people to enter the profession.

Recommendations included:

- Myth-busting and role model promotion at school level to challenge perceptions of the legal profession as being the preserve of white, middle class people
- Research and consultation of law students as they make decisions about whether and how to practice law. BME students and other disadvantaged groups seem to be more likely to decide not to pursue a legal career at this point – it would be helpful to find out what they perceive the barriers to be
- Depending on the outcome of the above consultation, more work to promote the profession to students at this point in their degrees and to promote the support available from the Law Society
- More work with universities to integrate equalities into professional training and communicate the Society's equality and diversity work to students
- Support for students, raising awareness of how firms can and should take their needs into account
- Work with law firms to remove barriers to traineeships for minority students and encourage them to take positive action to encourage diverse applicants.

"You need to have the profession on board or it all counts for nothing when people can't get traineeships".

3. Our recommendations

The key message from this consultation is that there is good practice in terms of the *quality* of Equality and Diversity work undertaken by the Society to date but that there is still considerable work to do to raise the *profile* of this work. At present, only those working very closely with the Society know much about its work in this area and a number of those who have a particular interest in diversity issues within the profession said that they know very little about the Society's work around Equality and Diversity.

Consultees suggested a number of excellent ideas as to how the Society might move forward in this work. Our overall recommendation is that the Society should avoid the temptation to try and tackle too many actions at once, if it is to avoid spreading itself too thinly.

We would advise it, in the first instance, to select an action from each of the three areas – Influencing firms, CPD and Positive Action – and focus its resources on promoting these and effectively developing a 'brand' around them. For example, an initial action plan might contain three of the following six actions:

Influencing firms: Equality Awards Ceremony

Establishing a series of good practice awards for equality and diversity within the profession would enable the Society to identify, share and promote good practice; create an incentive for firms to develop their work in this area and promote its own equality and diversity 'brand' through an awards ceremony.

Fire and Rescue Service Equality & Diversity Awards

This award scheme was established in 2007 with the aim of encouraging the development and sharing of good practice, celebrating achievement and raising awareness of Equality and Diversity issues. The Scheme is jointly sponsored by the Department for Communities and Local Government, the Chief Fire Officers' Association and the Local Government Association. The awards recognise three categories of achievement:

- Leadership
- Partnership working
- Service Delivery

An awards ceremony is held as part of the annual FIRE conference.

See <http://www.communities.gov.uk/documents/fire/pdf/324617.pdf>

As in the Fire and Rescue example above, it would be a good idea to incorporate the ceremony within an existing, mainstream and high-profile event in the profession's calendar. This would provide an ideal setting in which to invite a speaker from a large firm which provides or commissions legal services to talk about the business case for equality and why it is important to them.

Influencing firms: Promoting or developing equality charter marks

Equality charter marks can offer a way for firms and organisations to demonstrate both to potential customers, employees and referrers that they are committed to promoting equality and diversity. There is a significant business case for doing this, both in terms of attracting increased clients and applicants, and boosting a firm's reputation.

Consultees suggested that firms may be reluctant to associate themselves with one strand of equality (such as sexual orientation, through signing up to the Stonewall Scotland Diversity Champions scheme). Our consultation also highlighted the importance of referrals from advice agencies to firms and between firms specialising in different areas of law. These referrals were generally based on personal networks – a scheme for identifying accessible and diversity-positive firms coordinated by the Society could help to improve this practice.

Such a scheme could also act as a starting point for the future development of local clusters of law firms who might wish to share good practice and resources around promoting equality in employment. Small firms could, within this model, act as mentors for each other's new staff, trainees, or people returning after career breaks; could sit on each other's interview panels; could organise joint training sessions or buy in HR consultancy services together.

Cartwright and Lewis is the first law firm in the English Midlands to receive the 'Louder than Words' charter mark from the Royal National Institute for Deaf People (RNID). This enables the firm to offer its full range of services, taking into account the different needs of deaf and hearing impaired people. They have invested in special equipment and staff have been through intensive training, including sign language for some, to ensure deaf clients receive the same welcome and service as any other client. They also work with The Birmingham Institute for the Deaf (BID) and Deaf Direct organisations in the Midlands.

From: *Deaf Lawyers UK website*

The Scottish Crown Office and Procurator Fiscal Service and the Scottish Court Service are members of both the Stonewall Diversity Champions Scheme and the 'Two ticks' Disability Scheme, awarded by Job Centre Plus. <http://www.copfs.gov.uk/Working/recruitment/careers-info/2Ticks#top> and http://www.stonewallscotland.org.uk/scotland/workplace/diversity_champions_scotland/default.asp

Using CPD as a launch pad for diversity networks

Several of our consultees discussed the idea of the Society setting up diversity networks amongst the profession, both to provide support for under-represented and often isolated minorities within the profession and to share good practice and set up referral networks around service provision. One of our interviews, however, described the small numbers of lawyers who attended such a network which was piloted some years ago.

Many organisations, such as the Chartered Society of Physiotherapists, are now using electronic communication to promote communication between equality groups. Although there is still a minority (approximately 10%) of Scottish law firms that do not have access to the Internet, this might provide a way of involving many of those in more remote parts of the country, who are unlikely to attend regular events in Edinburgh.

If the Society decides to develop networks, we would advise it to use CPD events (especially those specifically exploring equality and related issues) as a launch pad to gauge interest and build an initial contact group. It may be that the best approach is to set up a cross-strand equalities network, especially where service provision is the key focus. In terms of support on employment issues, it may be that particular groups, such as carers, would benefit from a network. Transport for London has recently established a network for carers – both those with child care responsibilities and those caring for others with dependency needs.

Chartered Society of Physiotherapists: Diversity Networks

As part of its commitment to equality, the CSP organises and supports separate networks for minority groups. These are:

- Black Minority Ethnic (BME) network
- Disabled Members network
- Lesbian, Gay, Bisexual and Transgender (LGBT) network

The networks are currently expanding in numbers and although most contact is electronically through the [interactive CSP site](http://www.csp.org.uk/director/workplaceissues/diversity/diversitynetworkgroups.cfm) there are, in addition, normally two meetings a year. These provide opportunity to meet as a network group and to hear speakers about workplace and clinical issues that have particular relevance to equalities. A confidential telephone support scheme is also available, made up of volunteer network members willing to assist others facing problems in their professional life.

<http://www.csp.org.uk/director/workplaceissues/diversity/diversitynetworkgroups.cfm>

CPD: Mainstreaming Equality & Diversity into CPD Programme

Whilst we would encourage the Society to roll-out the model of the 'Legal Advice for the Older Client' session to explore issues for other equalities groups, it is also important that the Society ensures that equality issues are mainstreamed throughout the CPD programme, since those attending specialist sessions are perhaps those who are already aware of equality and diversity issues.

For example, where the Society is running sessions on skills such as 'Personal Effectiveness' or 'Negotiation Skills', it would be useful to consider scenarios involving people of different social identities; to look at the impact of behaviour and to develop skills in identifying and challenging discrimination. Where a session focuses on 'Pitching for New Business', reference should be made to how and why you need to demonstrate that your firm takes equality and diversity seriously.

Positive action: targeting schools with DVD

In order to challenge perceptions about the profession, positive action needs to focus on schools and sixth forms, especially those in the state system and those where there may be a greater proportion of pupils from diverse or non-privileged backgrounds.

Producing a DVD, which is clearly branded by the Law Society Scotland might be one, relatively cost-effective way of getting the message out

widely. This could include 'talking heads' of successful lawyers from a range of backgrounds talking about their careers; and give information about work experience and legal training; financial and other forms of support available; and the types of work different lawyers might do.

Women's Transportation Seminar and Growing Ambitions

WTS and Growing Ambition have developed an action plan to try and make transport a 'job for the girls'. They have identified the need to challenge misconceptions around the industry, to better coordinate available information and existing initiatives and to market the industry in a more exciting and positive light.

They are working in partnership with the not-for-profit organisation 'Growing Ambitions' to encourage and coordinate women already working in transport to go into schools and talk about their careers to young people. Equality Works is currently working with this partnership to develop a DVD to serve as an additional resource for schools.

For further information, see <http://www.wtslondon.org/schools/> and <http://www.growingambitions.org/>

Positive action: small bursaries scheme

Another, relatively low-cost option for the Society might be to set up a small bursaries scheme for law students who have a particular interest in equalities or who come from under-represented groups. This may involve a modest amount of money, such as say £500, but could make a significant difference to students and would help to increase awareness of the Society with students, especially those coming from under-represented groups and/or with a particular interest in equalities.