



# **A new Framework of Equality and Diversity Standards**

**Advice and Information from the Equality and Diversity Committee of the Law Society of Scotland (v2)**

**July 2015**

## Advice and Information - a new Framework of Equality and Diversity Standards

### 1. Overview

The Law Society of Scotland aims to lead and support a successful and respected profession within both the business sector and as an important part of the justice system. It is also important that solicitors are highly regarded as employers and service providers. We must reflect the public we serve and lead the way in meeting contemporary expectations around equality and diversity. For our profession to be successful we must ensure we are best placed to benefit from the widest possible talent pool and that we are able to keep this talent within the profession. We must also make sure we offer our services to the widest possible pool of commercial and private clients. The new standards aim to support these aspirations.

### 2. Drivers for change

The Society has now undertaken a decade of research on equality, including three profession-wide surveys with a response of around 3,000 each time. Detailed focus groups, and the examination of other professions and jurisdictions, also form part of our evidence base. We have participated in joint research, including with the Judicial Appointments Board for Scotland, and with other justice bodies around access to legal services. The Society also considered various other factors, including the requirements placed on it by the Equality Act 2010 and the Legal Services (Scotland) Act 2010.

There have been improvements in many areas in the sector, including the growing number of women in the profession, but in certain areas there has been little progress over the last ten years, these include issues around:

- career progression
- partnership
- pay
- discrimination and bullying
- accessibility for clients with impairments

Much evidence suggests that a lack of clear allocated responsibility, data, clear equality goals, and training in firms are significant issues in holding back change.

### 3. Development and Consultation

In November 2011 the Council of the Society approved the Equality and Diversity Strategy 2011-2015. This included a proposal to explore the possibility of an Equality Standard for the profession. Our equality research showed strong support for this from members. We widely publicised our intention in our Corporate Plan commitment for 2013/14:

*2013/14 - 2.2 We will explore the opportunity for an 'equality standard' for firms drawing on best practice from other jurisdictions & examining how it could support firms tendering for work*

Detailed development work was carried out, and a model was prepared for a consultation. There was an extended consultation period over summer and autumn, prior to completion in October 2014. Questions were asked about both a simple set of core standards likely to drive

improvements in the key areas identified (published here), and a more detailed framework to assist firms that wanted to demonstrate their ongoing commitment..

We commissioned specific interviews with 13 legal employers/organisations and 12 equality bodies to gain detailed input to the proposals. We also publicised the consultation widely to the profession through the Journal and e-bulletin, and received a number of responses from firms and individuals. Overall, support was very positive for the proposals.

In November 2014, the Society's Council approved the new Equality Strategy (2014-17) which makes a commitment to issuing new guidance and a standards framework, and we again set an objective on this in our (2015) annual plan:

*2014/15 - 3.2 We will work to improve the employment conditions for solicitors as well as access to services for clients and the public by implementing the new equality standards framework*

Full details of the consultation, and all our background thinking, are available at:  
<http://www.lawscot.org.uk/about-us/equality-and-diversity/framework-for-success>

#### 4. Current legal responsibilities for firms and employers

The standards aim to support firms and employers with their existing legal responsibilities.

The Equality Act 2010 applies to all employers and service providers. Broadly speaking, employers must not discriminate against employees (or prospective employees) whether directly or indirectly, across all the **protected characteristics** (these being, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation) and in respect of promotion or training, termination of employment or in the application of any other detriment.

The Act also outlaws harassment and victimisation. Employers must also make reasonable adjustments if a practice or policy or a feature of any premises of the employer puts an employee at a substantial disadvantage. Employers must also ensure that staff receive equal pay for doing work which is the same or broadly similar or of equal value.

It is also unlawful to discriminate against those seeking to access services and service providers must also take due cognisance of the anticipatory duty to make reasonable adjustments for clients. It is also unlawful for a service user to be harassed or victimised

In addition, public bodies are subject to the Public Sector Equality Duty and some, also, to the Scottish Specific Duties. A significant number of solicitors in Scotland are employed as in-house lawyers in public bodies such as the Scottish Government and local Councils. These employers are already required to mainstream equality, to set equality outcomes and to monitor the make-up of their staff as well as providing information concerning any gender pay gap. They are also required to report on the progress they are making towards achieving the outcomes. The framework proposed in this consultation document has drawn on some of these good practices.

Driven by the public sector duty for public bodies to consider award criteria in their procurement exercises, firms involved in tendering exercises are increasingly being asked by public bodies (and other large corporations) about their equality and diversity practices.

The Society wants to support the legal profession in Scotland in responding to these challenges and reducing risks. We also want to ensure that Scottish solicitors are best placed to lead the way in promoting and protecting these rights whilst also recognising any shortcomings there may be in their own practices. The standards published here are designed to assist.

## 5. What will this mean in practice?

The 10 Equality Standards are currently published as **Advice and Information**. They are entirely voluntary at this stage and there is a final chance for feedback from members. However, employers are encouraged to consider implementing them.

The Society's Board and Regulatory Committee have indicated their intent to set the new standards as more formal **Guidance** in a year's time. Those who have implemented early will be well prepared for this. The status of guidance is that it is:

*"...non-mandatory but you may be required to justify any departure from Guidance in the event of any complaint being made."*

In three years' time the Board and Regulatory Committee will review if progress is being made in relation to factors such as equal pay, through our Profile of the Profession research. If not, then the passing of a formal **Rule** will be considered.

Guidance on equality and diversity, to assist in implementing these standards in any size of team, is provided in our three online publications:

- [Ensuring fairness, creating opportunity: a practical guide to equality and diversity for Scottish solicitors](#)
- [Ensuring fairness, creating more accessible services](#)
- [Ensuring fairness, closing the pay gap](#)

We plan to supplement these with a framework of 'stepping stones' to assist firms in meeting the new standards and allowing them to evidence this to their staff, clients, and prospective clients.

## 6. Driving change, whatever your size of team

Encouraging the publication of aims and data will focus attention on current performance and what the team may wish to improve over time. The available data will allow clients (commercial and individual) to make more informed choices, and in relation to tendering allow them to set clearer expectations. However, the approach also allows flexibility on the scale and nature of response, meaning it can be proportionate to any size of team or type of practice.

## 7. Pilots on 'stepping stones' towards compliance

The Society is interested in running pilots on a framework of 'stepping stones' to make achieving good practice in this area even easier. If interested, please contact [diversity@lawscot.org.uk](mailto:diversity@lawscot.org.uk) for a confidential conversation.

## 8. Feedback

We welcome feedback from individuals and organisations on these 10 standards, and on whether they should move to being formal guidance, or a rule and a matter of professional conduct.

[diversity@lawscot.org.uk](mailto:diversity@lawscot.org.uk)

## APPENDIX 1 - THE 10 EQUALITY STANDARDS

Every law firm, licensed provider or legal team within an employing organisation (“an organisation”) should, in a manner appropriate to its services and proportionate to its size, ensure that:

### Leadership

1. there is a named ‘equality lead’, who is responsible for ensuring these standards are met and, as appropriate, for reviewing the results of any equality monitoring

### Strategy

2. there is an Equality Strategy for staff and delivery of client services which is reviewed annually
3. measurable objectives are set in the Equality Strategy for both staff and delivery of clients services and these are reviewed annually
4. the Equality Strategy is informed by monitoring of the workforce, with reference to the Protected Characteristics, in a way that is appropriate and relevant to the size of the practice or organisation

### Staff development

5. there is a training plan for all staff on equality and diversity

### Reporting and Publication

6. the Equality Strategy and annual updates on the measurable objectives are available to staff, clients, prospective clients and the Society
7. a separate statement is made annually about the composition of organisational roles with reference to the Protected Characteristics, with reporting of sex as a minimum

### Equal Pay

8. there is a statement on equal pay which is available to staff, clients, prospective clients and the Society
9. if it is an organisation with more than 150 employees, its gender pay gap figures are published for full time and part time staff at each level of seniority

### Accessible services

10. it is responsive to the legal needs of a wide range of diverse communities and in particular, has a single document available to the public which contains information on accessibility options for disabled and other service users

## APPENDIX 2 – EVIDENCE OF ATTAINMENT

All employing organisations can interpret the standards set out in Appendix 1 in a way that is relevant to the nature of their business, its size (staff numbers, turnover), locations (single site, multiple site, international), and other factors.

The Society wanted to allow as much room for flexibility and innovation as possible. During the consultation we also received positive feedback on the idea of providing a framework or checklist for those organisations that wanted more assistance in what to do to be sure they met the standard, and wanted to be able to publicly declare, in advertising or within tender submissions, that they had met the standard.

In the following pages you will find further details on actions to take under each of the ten standards. There are two levels, the first to assist organisations starting off and wanting to ensure a strong base for further development, and a second higher level to aim for over time or for organisations which have already done considerable work in this area:

### **Strong foundations**

*The organisation has in place clear leadership and policy, and these structures are likely to improve equality and diversity for staff and clients.*

### **Emerging excellence**

*The organisation operates at a strategic level on equality and diversity, both in relation to its own business and the wider sector, and is able to show measurable equality outcomes.*

## SELF-ASSESSMENT | BADGING | FEEDING BACK

The Society is keen for organisations to start adopting the standard. At the moment, the focus is on self-assessment.

Before publicly stating the standard has been met you may want to ensure you have:

- **thoroughly read and understood the standards** (Appendix 1) and have considered the required actions (evidence of attainment – this Appendix)
- **documented what evidence you have of compliance** – this can be as simple as an explanatory sentence or reference to a document against each standard, but is important in focussing thought on how the business would explain it had met the requirements if asked, for example, by a client
- **intimated to the Society that you have reached the standards** – there is no set form for this, and a simple email to [diversity@lawscot.org.uk](mailto:diversity@lawscot.org.uk) will suffice. We are currently simply keen to monitor uptake of the standard

In the future it is the Society's current intention to introduce a more formal assessment system and badging for firms, however we want to do so informed by the experience of early adopters, and we continue to welcome feedback on this framework - [diversity@lawscot.org.uk](mailto:diversity@lawscot.org.uk).

LEADERSHIP	
<b>Objective 1</b>	<b>there is a named 'equality lead' who is responsible for ensuring these Guidance Objectives are met and, as appropriate, for reviewing the results of any equality monitoring</b>
Strong foundations	Emerging excellence
The equality lead has sufficient authority to deliver their responsibilities (partner, senior manager or equivalent) and attends Partnership, Board or Senior Management Team meetings to provide briefings on the organisation's Equality Strategy	The equality lead is a member of the Management Board or Senior Management Team and is responsible for achieving the objectives in the organisations Equality Strategy and for communication of the Strategy and annual updates on the measurable objectives to staff, clients, prospective clients and the Law Society of Scotland
The equality lead has been intimated to the Law Society of Scotland and is named on the organisation's website	In organisations with over 150 employees there are section/departmental equality leads and/or equality leads responsible for specific protected groups.
The equality lead has a clearly defined description of their duties and responsibilities and has time allocated in their annual hours specifically to their duties as equality lead	The equality lead works collaboratively with other law firms (especially smaller firms) or employing organisations to share best practice initiatives and resources and encourages involvement in external diversity support networks
The equality lead has had equality and diversity training in the last 3 years and undertakes regular updates	-
The equality lead can demonstrate an active role in encouraging equality and diversity and is assessed on their work as equality lead as part of their professional development review	All partners or equivalent are assessed in their professional development review on their performance in encouraging equality and diversity

<b>STRATEGY</b>	
<b>Objective 2</b>	<b>there is an Equality Strategy for staff and delivery of client services which is reviewed annually</b>
<b>Objective 3</b>	<b>measurable objectives are set in the Equality Strategy for both staff and delivery of clients services and these are reviewed annually</b>
<b>Objective 4</b>	<b>the Equality Strategy is informed by monitoring of the workforce with reference to the Protected Characteristics in a way that is appropriate and relevant to the size of the organisation</b>
<b>Strong foundations</b>	<b>Emerging excellence</b>
<b>Staff</b>	
There is an Equality Strategy covering all Protected Characteristics on which all staff were consulted and which contains clear, measurable objectives. Objectives are reviewed annually and a time specific action plan for further improvement is in place	The objectives contained in the Equality Strategy are being achieved and there are realistic plans for the achievement of continuous improvement
An equality audit has been conducted and used to inform the Equality Strategy	The equality audit takes account of the equality policies and practices of those providing goods and services to the organisation and consideration is given to them when placing business
The composition of the workforce is monitored (including information concerning the equality profile of unsuccessful candidates for jobs) with reference to all Protected Characteristics, in a way that is appropriate and relevant to the size of the organisation and is used on an on going basis to inform the objectives set in the Equality Strategy	Equality monitoring data is collected with reference to all roles and used, in particular, in the assessment of the promotion of staff in relation to all the Protected Characteristics

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<b>STRATEGY (continued...)</b>	
<b>Strong foundations</b>	<b>Emerging excellence</b>
<b>Staff</b>	<b>Staff</b>
<p>The Equality Strategy includes reference to:</p> <ul style="list-style-type: none"> <li>▪ Selection and Recruitment</li> <li>▪ Access to training and development</li> <li>▪ Career Progression to ensure selection criteria is transparent and to identify and remove any barriers to promotion to partnership/senior management and other roles</li> <li>▪ Bullying and Harassment</li> </ul>	<p>Consideration is given to wider issues of social inclusion to ensure that recruitment is done from a wide range of diverse backgrounds.</p>
<p>Staff surveys are conducted and gather anonymous feedback on performance in this area. The outcome of the staff survey is shared with all staff</p>	<p>The organisation benchmarks its Equality and Diversity Strategy and outcomes achieved against other comparable organisations and/or has had it accredited externally</p>
-	<p>New practices and policies and changes to existing ones are reviewed by trained staff prior to implementation to ensure consistency with the Equality Strategy</p>
<b>Clients</b>	<b>Clients</b>
<p>The Equality Strategy includes measurable objectives relating to the provision of services to clients on which clients and/or the public were consulted including people with a range of impairments or particular needs. Objectives are reviewed annually and a time specific action plan for further improvement is put in place</p>	<p>The obligation to make reasonable adjustments for clients and staff is being met on a continuing basis</p>
<p>An accessibility audit has been undertaken against a recognised accessibility standard and this has been used to inform the Equality Strategy</p>	<p>An accessibility audit has been undertaken by an independent assessor and involved people with a range of impairments or particular needs</p>
-	<p>Clients are surveyed and feedback on performance in this area is obtained and published externally along with any proposed actions.</p>

## STAFF DEVELOPMENT

**Objective 5**      **there is a training plan for all staff on equality and diversity**

### Strong foundations

There is a plan for all staff to receive equality and diversity training within a reasonable time scale and is provided for new starts as part of the induction process

The training includes recruitment, bullying and harassment, dealing with requests to work flexibly, tackling unconscious bias, promotion and the concept of making 'reasonable adjustments' for staff and clients/customers

The training is evaluated by staff through feedback forms as part of the Law Society of Scotland's Continuing Professional Development requirements and through follow-up assessments

A review of the training delivered and the uptake is reported to the Board or Senior Management Team

### Emerging excellence

All staff have received equality and diversity training and there is improved awareness and understanding of equality and diversity at all levels within the organisation including an enhanced understanding by staff of the requirement to make reasonable adjustments for staff and clients/customers

Staff receive practical equality and diversity training including workshops tailored to their role and seniority which is updated regularly and all personal development plans contain specific consideration of training or development needs around equality and diversity

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## REPORTING AND TRANSPARENCY

<b>Objective 6</b>	<b>the Equality Strategy and annual updates on the measurable objectives are available to staff, clients, prospective clients and the Society</b>
<b>Objective 7</b>	<b>a separate statement is made annually about the composition of organisational roles with reference to the Protected Characteristics with reporting of sex as a minimum</b>
<b>Strong foundations</b>	<b>Emerging excellence</b>
The Equality Strategy is publicly available on request in a variety of formats within a reasonable time frame	The Equality Strategy is published on the organisation's website or similarly made publicly available
A statement is made on the organisation's website or equivalent that a report on performance against the annual measurable objectives is available upon request in a variety of formats within a reasonable timeframe	The full annual report of performance against the annual measurable targets is published on the organisation's website or similarly publicly available and the performance report is referred to in other communications to staff and clients
The workforce monitoring data with reference to role and seniority is published internally on an annual basis with reporting of sex as a minimum	The workforce monitoring data with reference to role and seniority is published externally on an annual basis (excluding reference to Religion or Belief, Sexual Orientation and Transgender status)

<b>EQUAL PAY</b>	
<b>Objective 8</b>	<b>there is a statement on equal pay which is available to staff, clients, prospective clients and the Society</b>
<b>Objective 9</b>	<b>organisations with more than 150 employees publish their gender pay gap figures for full time and part time solicitors at each level of seniority</b>
<b>Strong foundations</b>	<b>Emerging excellence</b>
<p>The organisation has</p> <ul style="list-style-type: none"> <li>• a Reward and Recognition Policy</li> <li>• an Equal Pay Statement and Policy</li> </ul>	<p>Action has been taken to address any disparities in rates of pay with a view to eliminating any gender pay gap that may exist</p>
<p>The organisation has undertaken a basic equal pay audit and the results have been presented internally to staff along with an Action Plan for addressing any disparities in rates of pay</p>	<p>An external, independent person has been involved in the equal pay audit process and a summary statement on the outcome of the equal pay audit is publicly available</p>
-	<p>If the organisation has more than 150 employees, it has published its gender pay gap, if any, broken down or disaggregated according to role and seniority</p>

## ACCESSIBLE SERVICES

**Objective 10**      **organisations are responsive to the legal needs of a wide range of diverse communities and, in particular, have a single document available to the public which contains information on accessibility options for disabled and other service users**

Strong foundations	Emerging excellence
A document is readily available on the organisation's website (or equivalent) on accessibility options for disabled clients and other service users. It is reviewed annually and updated as part of the firm's Equality Strategy	Access options for disabled clients are actively promoted in communications and marketing
The organisation's website is WCAG2.0 compliant and meets legal obligations regarding minimum accessibility standards	The organisation has undertaken a web/digital product accessibility audit and its website/digital products have achieved an AA or AAA accessibility rating.
Clients are asked to provide feedback on the accessibility of the service and performance in this area which is used to develop the client services Equality Strategy	The organisation has engaged with the wider community to identify barriers to access to justice and is taking positive steps to promote its services to groups with unmet legal needs