

**Discussion of the Legal Services Board (LSB) consultation  
‘Increasing diversity and social mobility in the legal workforce:  
transparency and evidence’ with Diversity Interest Groups**

<b>Date</b>	Wednesday 25 May 2011
<b>Time</b>	14.00 to 16.00
<b>Location</b>	LSB Offices, Victoria House, Southampton Row, London WC1B 4AD

<b>Attendees</b>	<b>Name</b>	<b>Interest Group</b>
	Pranita Bhargava	Association of Asian Women Lawyers (AAWL)
	Christl Hughes	Association of Women Solicitors (AWS)
	Bernard Reed OBE	Gender Identity Research and Education Society (GIRES)
	Terry Reed OBE	GIRES
	Michael Stacey	Legal Services Board (LSB)
	Sonya Gedson	LSB
	Sundeep Bhatia	Society of Asian Lawyers (SBL)
	Rosemary Emodi	SBL

<b>Apologies</b>	<b>Name</b>	<b>Interest Group</b>
	Gemma Mars	AWS

## **1. Introductions**

- 1.1. The discussion began with roundtable introductions from the attendees.
- 1.2. Michael Stacey (LSB) and Sonya Gedson (LSB) gave a presentation on the background to the consultation paper and outlined the LSB’s main proposals. The attendees were updated on the consultation process indicating that the formal three month consultation closed 9 March 2011. The LSB’s next steps will include a final response and decision document to the consultation. The final proposals will be considered by the LSB Board in July and published thereafter.
- 1.3. The attendees were asked to provide general comments on the LSB’s proposals. The focus would move into a more detailed discussion on the protected characteristics (age, gender, ethnic group, disability, religion or belief, sexual identity, transgender status and, caring responsibilities, including pregnancy and maternity) and the model questionnaire set out in Annex C, page 52 of the consultation document.

## **2. Discussion**

### **2.1. General comments on the LSB's proposals**

- 2.1.1. The LSB in their proposals do not assess the ethos of firms. This may be measured through attitude monitoring which could be included as additional questions in the model questionnaire.
- 2.1.2. The LSB's final thinking must clearly set out a justification for why some of the diversity strands will be excluded from the publication requirement.
- 2.1.3. The LSB were queried about their long-term strategy for their proposals. It was suggested that the LSB sets out their intentions for further steps after the collection and transparency of evidence exercise has been completed and monitoring has continued over a number of years. The introduction of diversity targets could form part of the LSB's long term diversity strategy.
- 2.1.4. The LSB were commended for taking forward the transparency and evidence proposals as it was considered that an evidence base is the key first step to achieving a more diverse legal profession.

### **2.2. Specific comments on the protected characteristics and the model questionnaire**

#### **2.2.1. Job status and role**

- 2.2.1.1. It is important to identify if the questionnaire will include consultants working for a firm who may be working on a temporary contract. Guidance will need to be provided to firms clarifying this issue. The model questionnaire could include an option for contracted paralegals to capture this group i.e. 'Any other fee earner e.g. temporary contractor'.
- 2.2.1.2. The collection and transparency exercise should include in-house lawyers. The LSB advised that there will be parallel discussions with government bodies, non-departmental public bodies (NDPB<sup>1</sup>) and engagement with the Crown Prosecution Service (CPS) to discuss aligning our proposals with their diversity monitoring.
- 2.2.1.3. The introduction of a set of attitude monitoring questions was discussed in greater detail. This may identify the cultural ethos of a work place with questions developed across the strands. It was

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<sup>1</sup> A post-meeting note from Pranita Bhargava (AAWL) indicates that: 'Although not all regulatory bodies are NDPBs as some may report to parliament rather than a minister, I have been informed by our legal team that it is a minor distinction. If you are willing to engage a wider group of legal professionals within the public sector, the term NDPB will at least capture the range of public lawyers practising in house but outside of central and local government'.

highlighted that although this work is commendable it may face resistance from firms and representative bodies and may need to be developed as a separate exercise from the LSB's current proposals.

## **2.2.2. Age / sex**

2.2.2.1. No specific comments.

## **2.2.3. Gender reassignment**

2.2.3.1. The LSB's current thinking on gender reassignment which includes removing the question from the model questionnaire and therefore the publication requirement seems sensible. However, the LSB need to make it clear that gender reassignment monitoring will be introduced in the future with a deadline attached to when this requirement will be enforced. This will ensure the communications strategy with firms may be developed. This strategy should highlight the importance of forming a gender reassignment policy, ensuring the adequate training of staff and the monitoring of staff attitudes. Firms must also develop adequate safeguards to guarantee anonymity and confidentiality of all gender reassignment information stored.

2.2.3.2. Gender variance within a workforce is a good indicator of a healthy work environment as those of transgender status are comfortable working within an organisation free of prejudice. An example of best practice to encourage a diverse range of candidates to apply for positions within a workforce is to include a statement advertising the post which states that applications are welcome from all groups including those of transgender status and a range of sexual identities etc. Firms and chambers should be encouraged to adopt this process.

2.2.3.3. The LSB agreed to consult further with GIRES on transgender issues and to organise a meeting with the two largest regulators - the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB).

## **2.2.4. Disability**

2.2.4.1. No specific comments.

## **2.2.5. Ethnic group**

2.2.5.1. No specific comments.

## **2.2.6. Religion**

2.2.6.1. There was some support to adopting the British Humanist Association (BHA) sample question as it was more clearly written than the Census version.

## **2.2.7. Sexual identity**

2.2.7.1. No specific comments.

### **2.2.8. Socio-economic background**

- 2.2.8.1. A question identifying the type of university attended was considered an important indicator of social mobility and could possibly identify any bias towards recruitment from Oxbridge universities. A measure of the first and second degree achieved was also considered useful as it would indicate if people were entering the profession through non-legal routes.
- 2.2.8.2. The attendees were informed that the LSB was picking up education and training in greater detail in a different project.
- 2.2.8.3. The proliferation of paralegals was seen as an important indicator of people who enter the legal profession with a desire to become a qualified lawyer but cannot secure a training contract or pupillage. This was also considered a good indicator of barriers to progression experienced by some groups.

### **2.2.9. Caring responsibilities**

- 2.2.9.1. The Association of Women Solicitors (AWS) could advise on model questions and standard categories for caring responsibilities (including pregnancy and maternity). Sample questions have been submitted as a part of the AWS response to the LSB's consultation and will be reviewed for possible inclusion in the model questionnaire.
- 2.2.9.2. To further investigate the issue of retention of women in the legal profession it was suggested that more work needs to be done around the reasons why women who take a break from their careers to have children often do not return. It was suggested that this may be due to the cultural attitudes within a firm in that working long hours may not be possible due to family commitments impacting on the ability to progress within a traditional firm's seniority structure. Part-time or flexible working may also not be widely available within some organisations.
- 2.2.9.3. It was agreed that the issue of retention requires further investigation but the LSB's current proposals were not the appropriate way to achieve this objective.

### **2.2.10. Structure of the Model Questionnaire**

- 2.2.10.1. In terms of the structure of the model questionnaire it may be helpful to sign-post questions e.g. if you answered yes to question 1 go to question 1b, or if you answered yes go to the next question. This will allow more detail to be asked on particular sections of the questionnaire, whilst still ensuring the questionnaire flows if a section is irrelevant to the individual filling out the form.
- 2.2.10.2. It was suggested that all questions (for example status and job role) not related to the protected characteristics should be

mandatory to answer and should therefore exclude the 'prefer not to say' option.

## **2.3. Other issues**

### **2.3.1. Equality Impact Assessment (EIA)**

2.3.1.1. It was recommended that the LSB conduct an EIA or set out the equality implications for their proposals.

2.3.1.2. Part of the EIA could include a review of the possible negative impacts associated with the LSB's proposals. For example, a concern raised by a few of the respondents to the consultation is that consumers could use the information to prejudice their decisions against organisations that were made up of particular groups such as, BME lawyers or perhaps those of particular religions. The LSB highlighted that the benefits from transparency in terms of encouraging a change in culture of a firm or chambers are expected to outweigh any negative effects associated with the potential for consumers to make discriminatory judgements based on the diversity make up of a firm or chambers. This will be further explored in the EIA.

### **2.3.2. Glass ceiling phenomenon**

2.3.2.1. More investigation into the 'glass ceiling phenomenon' is needed; this could be further investigated by collecting information through exit surveys. It was suggested that many BME, women and other minority groups leave firms to set up their own businesses as they are unable to progress within a traditional firm structure. This will become more important as the future of small firms seems bleak in the wake of the introduction of ABS and cuts to legal aid. The LSB agreed to discuss with the SRA the possibility of them sending exit questionnaires to any solicitors not renewing their practising certificates. The Bar already conducts exit surveys. Equal pay remains an issue.

### **2.3.3. Access to the aggregated evidence base by pressure groups**

2.3.3.1. It would be useful for pressure groups to have access to the aggregated evidence base through a central website once collated by the LSB. Pressure groups and the general public may then be able to use this information for campaigning and further research. Pressure groups can be a key ally in helping the LSB progress towards a diverse legal profession.

## **2.4. Final comments**

2.4.1. The LSB will prepare a meeting note and circulate to the attendees to agree before publishing on the LSB website. The attendees will also receive a copy of the presentation which may be shared within their organisation but must not be published on their websites.

2.4.2. There were no further comments and the meeting came to a close.