

Equality Report and Proposed Equality Objectives

*Equality Report for 2010/11 and
consultation on Equality Duty Objectives
for 2012/13*

December 2011

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Chairman's Foreword

Creating a step change in the approach to the promotion of proper standards for diversity in the legal sector is a priority for the LSB. As this report shows, we have already taken significant steps, working with the approved regulators and others, to promote the regulatory objective of encouraging an independent, strong, diverse and effective legal profession. This is imperative if the profession is going to serve the diverse population of England and Wales effectively. Diversity of the profession and access to justice are linked.

Improving transparency and tracking change through data collection, is at the core of the actions highlighted in this report. There is such a disappointing lack of progress in certain parts of the profession that work on transparency and data collection is essential. We must know what is happening. However, it is only a start. We begun to contend with the tough challenge of widening access and opportunity for those with the talent and will to succeed in the legal profession.

In our own work, we will continue to consider diversity and equality implications when we address wider legal service issues, especially as we consider the interests of consumers. We will continue to ensure our research considers the needs of diverse groups, to continue to build good working relationships with diversity organisations and to strengthening our knowledge and understanding of the wide range of issues faced by individual consumers. Our approach is proactive.

As an organisation, in our internal mechanisms, we operate in a way that respects and promotes diversity. We do this through colleague and Board member monitoring, encouraging applications in recruitment and appointment from people diverse backgrounds, through training and through our procedures, such as exploring suppliers' commitment to diversity and equality when procuring services.

I want to emphasise that we must start to see better levels of progression and retention as practitioners from diverse backgrounds become more senior. It is increasingly an issue of public confidence. We intend to keep the pressure on approved regulators to implement monitoring of diversity and will work with them to find ways of tackling the issues.



David Edmonds

Chairman

December 2011

1. Introduction

- 1.1 Respecting and promoting equality and diversity is at the heart of what we do. In all of our work as the independent body responsible for overseeing the regulation of legal services in England and Wales, we make sure that we embed equality and diversity across all our initiatives and projects. This is underpinned by our regulatory objectives – not least our need to encourage a diverse legal profession.
- 1.2 We strongly support the concept that respecting equality and diversity means not putting artificial obstacles in the way of individuals and helping individuals overcome barriers to make full use of their potential and talents. We oppose and seek to eliminate all forms of discrimination. As an employer, we aim to recruit, motivate, develop and retain outstanding people from diverse backgrounds to deliver our priorities. Even as a relatively small organisation, we strive to support and promote equality both within our organisation and in delivering our external responsibilities. The diversity agenda is deeply established in the LSB's values and is taken account of across all projects.
- 1.3 In addition to our organisational commitment to integrate diversity and equality into our work and organisational culture, we have statutory obligations under The Equality Act 2010. The 2010 Act consolidated and harmonised all previous equalities legislation in England, Scotland and Wales. It places an Equality Duty on public bodies and others carrying out public functions and covers the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Under supporting regulations that came into force on 10 September 2011 - the Specific Duties Regulations¹ - the LSB is amongst the list of public authorities that must publish information by 31 January 2012 to demonstrate compliance with the Equality Duty.
- 1.4 The Equality Duty has three aims. It requires public bodies, including the LSB, to have due regard to the need to:
- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010.
 - Advance equality of opportunity between people who share a protected characteristic and people who do not share it.

¹ <http://www.legislation.gov.uk/ukxi/2011/2260/contents/made> The specific duties aim to help public bodies perform the Equality Duty better. They do this by requiring public bodies to be transparent about how they are responding to the Equality Duty - requiring them to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives.

- Foster good relations between people who share a protected characteristic and people who do not share it.
- 1.5 In addition, the LSB must prepare and publish no later than 6 April 2012 one or more specific, measurable equality objectives.
- 1.6 Section 2 of this document represents our formal compliance report. It describes our progress in complying with the Equality Duty and does so by reporting against the specific objectives contained in our Equality Scheme for 2010/11.
- 1.7 Section 3 contains our proposed equality objectives for the year 2012/13. These are published for consultation alongside our draft Strategy and Business Plan for 2012/13 and should be considered in that context.

2. Review of compliance

The LSB's Single Equality Scheme for 2010/11

2.1 The LSB's Single Equality Scheme 2010/11 was published in May 2010 and identified four objectives for the LSB. We have assessed our progress against these as a way reporting on our compliance with the Equality Duty. The four objectives were:

- To encourage a more diverse workforce across the legal sector at all levels.
- To promote and encourage the approved regulators to promote equality and diversity among the legal sector we regulate.
- To make decisions based on information that takes equality into account including input from relevant consumer and interest groups where possible.
- To ensure that the LSB's own practices and policies, in relation to staff and stakeholder communication and ensuring a consistent focus on equalities through our entire work programme, and are an example of the practice we promote to others.

2.2 These objectives were supported by an Action Plan that set out specific commitments for 2010/11. In this section, we formally report progress on the four overarching objectives to demonstrate our compliance with the Equality Duty.

Objective 1: To encourage a more diverse workforce across the legal sector at all levels

2.3 Through our role as the oversight regulator for legal service providers we have worked to promote a more diverse workforce by evidence gathering, identifying key issues, establishing priorities and consulting on them, issuing guidance to approved regulators. We have also utilised, and encouraged approved regulators to utilise, wider government and non-governmental diversity initiatives where appropriate.

Gathering evidence

2.4 In 2010 the LSB considered how best to work with approved regulators to achieve the shared regulatory objective on diversity. We reviewed academic research, commissioned and published new research and engaged with a number of academics and interest groups working on diversity issues. We also established a Diversity Forum bringing together approved regulators and the professional/representative bodies in order to gain a deeper understanding of the diversity and equality issues in the legal services sector.

Identifying key issues

2.5 The evidence gathering highlighted a range of matters that needed attention if we were to make progress on diversity and equality in legal services:

- A lack of comprehensive data on the diversity make-up of the legal workforce.
- No systematic evaluation of, or systematic follow up to, specific diversity initiatives.
- Statistics showing that while at entry level the legal profession is relatively diverse, at more senior levels it remains male and white dominated. The implication is that retention and progression for women and black and minority ethnic groups is a problem and that similar problems remain in relation to social mobility.
- Corporate consumers increasingly want information from legal service providers on their performance in relation to equality and diversity.

Establishing priorities and consulting

2.6 In considering the implications of these issues for the legal profession, the LSB set about establishing immediate priorities for the approved regulators to address in 2011. These proposals on evidence gathering, transparency and social mobility went through a formal consultation process in early 2011. The proposals addressed the role of legal service providers and approved regulators in increasing social mobility at all levels of the legal services workforce.

Guidance to approved regulators on data collection and publication

2.7 As result of the LSB's consultation, research and engagement with approved regulators, in July 2011 we published a Decision Document² setting out the LSB's conclusions resulting from the consultation and the LSB's expectations of approved regulators in taking forward the regulatory objective of encouraging a diverse legal profession. The document included statutory guidance issued under Section 162 of the Legal Services Act. This means that, when exercising its functions, the LSB may have regard to the extent to which the approved regulators have complied with the guidance.

2.8 Our guidance included the following expectations of approved regulators relating to the collection and publication of diversity data at the level of individual firms and chambers:

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http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/decision_document_diversity_and_social_mobility_final.pdf

- Gather a comprehensive evidence base about the diversity characteristics of the legal workforce by ensuring that every individual is given an opportunity to self-classify against a broader range of characteristics. These include the protected characteristics in the 2010 Equality Act in addition to others, such as socio-economic background, age and those with caring responsibilities.
- Ensure the transparency of diversity data at the firm/entity level, including publishing summary data about diversity characteristics (age, gender, disability, ethnic group, socio-economic background and caring responsibilities).
- Collate diversity data to give an aggregate view of the diversity make-up of each branch of the profession.
- Ensure the data identifies seniority where appropriate, so that it can be used to track steps forward in retention and progression.
- Evaluate the effectiveness and impact of existing diversity initiatives.

2.9 We are ensuring that approved regulators deliver implementation plans and intend to monitor follow through. This will include scrutinising implementation plans to identify gaps where the plans fall short of our statutory guidance and working with approved regulators to agree final plans by February 2012. The LSB will publish the assessments on our website. We will monitor progress in 2012, including whether the approved regulators have implemented their plans and have instructed entities to collect and publish the first cycle of diversity data by the end of 2012.

Utilising wider initiatives

- 2.10 The LSB encouraged approved regulators to sign up to the Law Society's Diversity and Inclusion Charter and protocol on procurement of legal services. The Charter is a diversity initiative of the legal profession initiated by the Society of Asian Lawyers and British Telecom and taken forward by the Law Society. It is a public commitment by providers of legal services, regardless of practice size, to develop and implement best practice in equality, diversity and inclusion. The procurement protocol is a commitment by purchasers of legal services to collect and consider standard diversity information from any law firm tendering legal work.
- 2.11 The LSB wrote to approved regulators in July 2011 encouraging them to sign up to the Common Best Practice Code for High Quality Internships. The aim of the Code is to help overcome the barriers often associated with internships around a 'who you know' culture and the inability of many individuals to access this route due to their limited financial resources. It was launched by the Gateways to the Professions Collaborative Forum, of which the LSB is a member. We suggested that the approved regulators

promote the use of the Best Practice Code across the wider regulated community through their regular communication bulletins. In addition, as part of the Government's Social Mobility Strategy published in April 2011 the LSB signed up to the Business Compact, which encourages businesses to play their part in removing the barriers to social mobility. We will continue to engage closely with the Compact.

Objective 2: To promote and encourage the approved regulators to promote equality and diversity among the legal sector we regulate

- 2.12 We implemented a programme of encouraging the approved regulators to promote equality and diversity by utilising collaborative networks and encouraging use of existing diversity promoting mechanisms.

Gateways to the Profession and Social Mobility Toolkit

- 2.13 A sub-group of the Gateways to the Profession Collaborative Forum³ chaired by our Chief Executive looked at what regulators and professional bodies can do to address the challenges and share best practice in relation to social mobility.
- 2.14 We carried out a survey of Diversity Forum members to identify what is already being done in different sectors, and developed a proposal for a social mobility tool-kit for regulators and professional associations. The social mobility tool-kit proposal was developed and handed over to 'Professions for Good' for completion as it was a good fit within their current social mobility work programme and will ensure a permanent home for the project. 'Professions for Good' is an organisation that represents more than a million chartered professionals worldwide.
- 2.15 In terms of our current involvement, our Chief Executive remains a member of the Gateway Forum's Executive Group, chaired by Rt Hon David Willets, the Universities Minister, to ensure there is continued close LSB engagement at the most senior level.

Route Map of Entry into the Legal Profession

- 2.16 The LSB worked with Skills for Justice and the approved regulators to develop profiles for each type of lawyer, including a single route map of entry into the legal profession. This information was also added to the Career Pathways portal⁴. This is designed to raise awareness about the

³ The Gateways to the Profession Collaborative Forum is a forum set up by the Department for Business Innovation and Skills to enable more talented people, from less advantaged backgrounds, access to and progression within professions of their choice.

⁴ The Career Pathways Portal, launched by Skills for Justice, the Sector Skills Council for Justice, Community Safety and Legal Services is an interactive web-based tool which allows the user to access a wide range of careers information for roles across the justice sector. The portal includes a specific section on the legal services sector which sets out key information on becoming a lawyer

variety of job roles within the justice sector, what they involve and the requirements needed for the different positions. In addition, a link to the Careers Pathways Portal has been placed in the 'How do I become a lawyer?' in the FAQ section of our website. We have encouraged the approved regulators to add the link to their respective websites.

Objective 3: To make decisions based on information that takes equality into account including input from relevant consumer and interest groups where possible

2.17 We believe equality and diversity to be essential considerations to be woven into the development of our work programme and priorities. To support this we made committed and concerted endeavours to include and take account of consumer and interest groups in several ways. We also encouraged the Legal Services Consumer Panel to think about diversity and equality issues when developing and delivering their own work programme. A summary of the Consumer Panel's work on equality and diversity is included in this report.

Factoring equalities and diversity into research

2.18 The consumer research we undertake takes into account diversity issues, including collating information on various factors such as age, gender, income and ethnicity. An example is our qualitative and quantitative research into consumers' experience of complaints handling by lawyers carried out in early 2011. We asked the contracted research company to undertake an analysis of any diversity patterns to emerge from the results so that the LSB and approved regulators could take these into account when developing policy on complaints handling. A report of the findings of the research was published on our website⁵.

2.19 In collecting information for the Regulatory Information Review to map the legal services market, we collated and interpreted data on ethnicity and gender profession workforce data. We also have a substantial 'Knowledge Bank' for use by LSB colleagues which includes summaries of published sources of information on diversity.

2.20 The LSB commissioned a consumer benchmarking survey, assessing where consumers seek help for legal services and their experience of services according to providers (and costs). We will collate information from this on the diversity of consumers, and the sample will be weighted to represent those who have a legal problem according to factors such as ethnicity, gender and disability.

including a map showing the entry routes into each branch of the legal profession to which the Legal Services Board (LSB) has oversight regulation. <http://www.skillsforjustice-cp.com/>

⁵

http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/final_report_for_ls_b_ftch09_06_11.pdf

- 2.21 As part of the tender evaluation criteria for research work, the LSB requests information on bidding organisations' diversity policies and how diversity issues would be addressed in the research being tendered. This ensures that we only work with organisations that have a positive diversity policy.

Equality Impact Assessments

- 2.22 The LSB conducted Equality Impact Assessment (EIA) Screenings for our Statutory Instrument changes related to Alternative Business Structures (ABS). In addition, in the research we undertook on the potential impact of ABS on the legal services market⁶, we highlighted the differing ways in which changes to market structure might have on the diversity of the legal workforce. Our broad conclusion was that the impact on market structure might be more keenly felt at junior parts of the profession and lower value parts of the market. Any negative effect will need to be evaluated both against the fact that smaller firms may be consolidated into larger firms which may have a greater ability to implement effective diversity policies. This is an area the LSB will continue to consider in its evaluation of ABS.
- 2.23 We also conducted an EIA Screening for the LSB's proposal for approved regulators to introduce a regulatory requirement on law firms and barristers' chambers to gather and publish diversity data.

Consumer toolkit

- 2.24 The LSB developed an internal consumer toolkit for our team, which has been designed to help us make consumers central to the work we undertake. It includes consumer profiles of diverse groups to provide the LSB with a starting point for understanding the needs and expectations of consumers from different backgrounds. The consumer profiles were drawn from a variety of research sources.

Engaged with diversity groups and organisations

- 2.25 The LSB developed links with statutory bodies and consumer and citizen organisations which represent a range of diversity interests. In particular, we identified organisations representing vulnerable consumers and engaged with them – either through written contact or face-to-face meetings – to discuss the legal services needs of their members. This initial contact has formed the basis for continued engagement when areas of mutual concern emerge. We also pro-actively examined the breadth of our

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http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/research_note_on_the_legal_services_market.pdf

work to identify any additional platforms for engagement, including with diversity groups.

The Consumer Panel and Equality and Diversity

The Legal Services Consumer Panel was established by the LSB under the Legal Services Act to represent the interests of consumers. The Panel provides independent advice on issues relating to the regulation of legal services.

In 2010/11, the Consumer Panel developed a wide range of contacts and incorporated diversity and equality into its consideration of consumer issues. In relation to each of our external facing equality objectives we can report the following key Consumer Panel actions:

To encourage a more diverse workforce across the legal sector at all levels

- The Panel's Consumer Impact Report, published for the first time in June 2011, assessed the diversity of the legal workforce and the extent to which providers understand the diverse needs of consumers. This report will be repeated on an annual basis.

To promote, and encourage the approved regulators to promote, equality and diversity among the legal sector we regulate

- A key part of the Panel's 2011 work programme was helping to build the legal profession's understanding about the diversity of consumers and their different needs, particularly those who may lack buying power or are at risk of disadvantage. To this end, the Panel began two projects on the needs of specific consumer groups: it has commissioned new research on the legal needs of small charities; and it has partnered with the Solicitors Regulation Authority and Action on Hearing Loss to explore the experiences of deaf and hard of hearing people when obtaining legal services. The Panel hopes to look at other consumer groups in 2012. In addition, it has been successful in persuading approved regulators to strengthen codes of practice so that providers must take proper account of the needs of vulnerable consumers.

To make decisions based on information that takes equality into account including input from relevant consumer and interest groups where possible

- Much of the Panel's work is informed by consumer research and the Panel has explicitly sought to identify diverse samples in all its projects. For example, its annual Tracker Survey includes a sample that covers age, religion, ethnicity, disability, and social grade, as well as an additional Welsh sample.

Objective 4: To ensure that the LSB's own practices and policies on equality exemplify the best practice we promote to others

2.26 The LSB takes very seriously the need for us, as an outward facing and forward looking oversight organisation, to be proactive in embedding diversity and equality practices into the way we operate as an organisation. It is right that we should do this when we are expecting and encouraging approved regulators and the legal profession to take seriously and address diversity and equality issues.

Publications

2.27 The LSB is committed to providing published documents in alternative formats when requested, where through reason of disability, standard electronic or hard copy documents may have been inaccessible. The LSB website has been reviewed against accessibility standards.

Internal diversity monitoring, communication and training

2.28 The LSB has a commitment to understanding the make-up of its own organisation and uses diversity monitoring. In early 2010, we asked all colleagues and Board members to complete a diversity questionnaire on a voluntary basis and produced reports on LSB performance, including statistics on the diversity make-up of our organisation. Results were published on our website in October 2010. Given that we are a small organisation with less than 40 colleagues, the results are not statistically significant. However, we consider it important to monitor and report on our staff diversity profile. We intend to repeat and publish the survey periodically and the next survey will take place in early 2012.

2.29 We briefed colleagues on our Single Equality Scheme and monitored its implementation, as well as giving a detailed presentation on the new requirements of the Equality Act 2010 at a team meeting.

2.30 In 2011, the LSB organised equality and diversity training for all colleagues and Board members. The training covered:

- Benefits of equality and diversity and why they should be promoted at work and in delivery of an organisation's role.
- The importance of the LSB's role in driving equality and diversity in the legal sector.
- An exploration of different attitudes towards equality and diversity.
- The implications of the Equality Act 2010 and how it applies in the context of our roles at the LSB.
- How to identify discrimination and develop strategies to deal with it effectively.

2.31 The LSB adopted a similar protocol to the diversity procurement protocol so that we only work with firms who have made a commitment to diversity and equality.

Recruitment

2.32 All the LSB's recruitment processes were undertaken in line with our equality duty. We requested that the agency commissioned to recruit staff for the LSB collect diversity data from applicants (on a voluntary basis).

3. Proposed equality objectives for 2012/13

- 3.1 Our Equality Objectives for 2012/13 reflect those for 2010/11 and 11/12 as featured in our Single Equality Scheme. Our reason for not changing radically our broad objectives is that they remain highly relevant and central to our proposed work programme. We think it is important to demonstrate that the role and aims of the LSB in the context of the Legal Services Act and the Regulatory Objectives is entirely consistent with our additional obligations under the Equality Act.
- 3.2 In order to ensure that our objectives are more specific and measurable, we have incorporated key actions that will help us deliver the overarching objectives. We will deliver this through an Action Plan to help us monitor how well we are achieving the objectives.

Proposed objectives

- 3.3 Encourage the approved regulators to promote equality and diversity including developing a diverse workforce across the legal sector at all levels by:**
- **Assessing approved regulators' implementation plans to gather and evaluate diversity data.**
 - **Reviewing the progress made by approved regulators in delivering their implementation plans.**
 - **Continuing to engage with approved regulators on how best to enhance a more diverse workforce across the legal sector.**
- 3.4 Make decisions based on information that takes equality into account including input from relevant consumer and interest groups where possible by:**
- **Factoring equalities and diversity into our research.**
 - **Undertaking Equality Impact Assessment Screening (now called Equality Analysis) where appropriate when developing our programme and policies for consultation.**
 - **Reviewing and developing the consumer toolkit that helps LSB staff identify and analyse consumer groups and their needs.**
 - **Engaging with diversity groups and organisations.**
 - **Continuing to encourage the Consumer Panel to develop a wide range of contacts and to incorporate diversity and equality into its consideration of consumer issues.**
- 3.5 To ensure that the LSB's own practices and policies, in relation to staff/stakeholder communication and focus on equalities through our**

entire work programme, are examples of the approach we promote to others. We will do this by:

- **Ensuring that our publications are available in all formats on request.**
- **Monitoring and publishing the diversity of our staff.**
- **When tendering for services, we will work with firms who can demonstrate that they have a commitment to equality and diversity.**
- **Applying recruitment processes that are in line with our Equality Duty.**

4. Your views

- 4.1 We would welcome views on the proposed objectives. We are particularly interested in whether the scope of the objectives as expressed, adequately reflect the LSB's role and forthcoming work programme. Please submit views by 9 March 2012.
- 4.2 Any format is acceptable, but we would prefer electronic written submissions (in Microsoft word format) where possible.

Submissions and other comments should be sent to:

Email: consultations@legalservicesboard.org.uk

Post: Paul Greening
Legal Services Board
7th Floor, Victoria House
Southampton Row
London WC1B 4AD

Phone: 020 7271 0075

The Board intends to publish responses on our website. Please state if you prefer your responses to remain confidential, although bear in mind that the Board may be required to publish any response in full or part following a request under the Freedom of Information Act.

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