

Diversity and the legal services regulators

May 2016

INTRODUCTION

1. The LSB and legal services regulators share an objective under the 2007 Legal Services Act (the 2007 Act) to encourage an “independent, strong, diverse and effective legal profession”. The LSB has stated publically that “delivery of [this] regulatory objective... requires a diverse workforce (not just a diverse profession) which reflects the society that it serves - a workforce that understands and can respond to the diverse needs of a diverse range of clients”.¹
2. In addition to its obligations under the 2007 Act, the LSB and approved regulators must adhere to the public sector equality duty set out in the Equality Act 2010 which requires all bodies exercising public functions to have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
3. Appendix A outlines the major project work, research and publications which the LSB has completed in the field of equality and diversity in the legal service sector since 2010. In July 2011 the LSB issued guidance to approved regulators on diversity data collection, publication and transparency under Section 162 of the 2007 Act.²
4. In March 2015, the LSB reviewed the regulators’ progress against the 2011 guidance. This review found that a more robust evidence base on diversity had been developed since the initial guidance had been issued. However, it added that the regulators’ analysis and use of the data collected “lacked the statistical sophistication necessary for it to have the level of impact hoped for on the issues identified in [the] consultation response document”.
5. Responding to the findings of the LSB’s 2015 review and the wider evidence of issues in the sector, the LSB considered that regulators should be accountable for their progress in this area through a process of assessment against expected and agreed outcomes. It proposed the development of a strategy for embedding diversity into the regulatory standards used to judge the performance of the approved regulators.
6. This report lays the foundations for this work; the first stage of which is to review the guidance on diversity data collection we issued in 2011.³ It provides an

¹ http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/decision_document_diversity_and_social_mobility_final.pdf, “Foreword by the Chairman”

² http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/decision_document_diversity_and_social_mobility_final.pdf

³ Note: the focus of this report is regulators’ activity with respect to the issue of diversity. It does not report on the diversity of the legal services sector. This information is being compiled and analysed as part of the ongoing market evaluation project, due to report in May/June 2016.

update on what regulators have done with the diversity data they have collected, and their future plans. It also considers some practical examples of use of diversity data from other sectors, and concludes with some points to consider in the future development of regulatory performance assessment in relation to diversity.

7. This report has been informed by a series of one-to-one meetings with regulators in late 2015. Regulators were invited to share what, if anything, they had been able to do with the diversity data they held in terms of:
 - Policy development.
 - Whether it had informed the day-to-day processes of the organisation.
 - What the challenges were in collecting and using the data.
 - What plans for the future had been considered.

We held discussions with all but one of the frontline regulators that holds at least one dataset in this phase of the project.⁴

8. All regulators subsequently attended a Forum organised by the LSB in February 2016. The topics discussed included data collection, good practice in data use, strategy and policy development, and options for performance assessment. The Forum also reflected on the currency of the LSB's 2011 guidance.

WHAT HAVE REGULATORS BEEN DOING WITH THEIR DATA?

Bar Standards Board

9. The BSB has taken a number of steps to improve disclosure rates. These have included sending specific and targeted communications to the regulated community to highlight why the collection is important. Additionally, senior leaders in the BSB have issued reminders about the importance of making sure that diversity information is up-to-date. Disclosure rates are lower than the BSB would wish. The BSB's Equality and Access to Justice Team is actively working on the development of different ways of obtaining diversity information from the profession.
10. The BSB reported that it sees its diversity data as one of the key foundations for all policy development, and its specialist Equality and Access to Justice Team continues to encourage the use of diversity data as part of the organisation's wider policy development framework. Data is particularly used for highlighting those areas where there is under-representation of certain groups. In addition, the data is used to inform equality impact assessments. All departments are encouraged to draw on the diversity data available to pick out where policy changes may have a negative or positive impact as part of risk assessment more generally.
11. The BSB is also reviewing its own commitment as an organisation to diversity and inclusion. The BSB is still exploring how it can get maximum value that can add to its role. The BSB also sees itself as being in an exploratory phase with other organisations, seeking to be collaborative with consumer organisations, the profession and its own workforce. To that end, departments within the BSB have

⁴ IPReg declined a one-to-one meeting. ICAEW had yet to complete its initial data collection exercise but confirmed that it will take part alongside regulators and become more involved as the data it holds becomes more complete.

already started to contribute diversity intelligence to support the future development of the next equality and diversity strategy. .

12. The BSB acknowledged that wider intelligence from other organisations, together with information on good practice from outside the sector, is critical in the journey from compliance to transformational change. It has considered how to incorporate the voice of diverse consumers into its work on diversity. It intends to use the data to think about how the demographic of the profession can impact upon the consumer journey. The organisation has also considered outside research, For example, it has considered the experience within the NHS about whether its staff have a clear cultural sense of inclusion, and if not, what negative impacts this can have on patient experience. The BSB continues to emphasise the tangible benefits and positive outcomes diversity data collection can have on the profession.
13. The BSB reported on plans for a number of projects and initiatives relating to diversity across regulatory functions and organisational activities, including analysis of diversity within the complaints-handling system, guidance on reporting of discrimination, updates to the data collection system, and using qualitative research to help assess the impact of regulatory interventions.

CILEx Regulation

14. “CILEx Regulation reported that it collects data from a small section of its regulated community. It explained that this is because the LSB 2011 guidance required collection of data at entity level, and CILEx Regulation only began authorising entities in January 2015. Data for other sections of the community regulated by CILEx Regulation are collected by other regulators, such as the SRA.
15. CILEx Regulation has obtained some data from the SRA, but this is not in a format which the organisation is able to fully use. In the SRA’s data collection exercise, there is a category for Chartered Legal Executives. However, individuals in other grades of CILEx membership are included in the “other fee-earning role” category together with other unauthorised individuals such as trainee solicitors and paralegals. This poses a challenge in disaggregating regulated members from others in this category.
16. Two years ago, the organisation moved to online collection in order to make it easier for people to use, and is focusing on raising awareness and better response rates.

CLC

17. The last diversity data collection exercise took place in 2013. CLC reported it was in the early stages of developing its strategic approach to using the data, which has so far been used to understand risks in the regulated community arising from its demographic profile (particularly in relation to succession planning) and to highlight potential barriers to career progression for women to managerial positions.
18. CLC collects data through a number of routes. Some data is obtained through specific surveys, and some data is obtained through mainstream data collection.

The next diversity audit is under way, with a major survey in the field at time of writing. CLC is currently considering whether demographic data can be incorporated into the licence application and renewal process in an appropriate and sensitive manner.

19. Disclosure rates have improved as CLC has raised awareness among its regulated community that it is a regulatory requirement for practices to provide the regulator with reasonably requested data. Practices have been encouraged to ensure that their staff respond. Good communications are necessary to reach those licensed individuals work in organisations which CLC does not regulate.

CLSB

20. The CLSB reported that it has used the LSB's guidance extensively for the content of its diversity questionnaire. It has not yet, however, asked about salary brackets, as in its view this is an inaccurate reflection of progress in the diversity of their profession. Furthermore the CLSB indicated that:

- 10 costs lawyers (1.6%) work in-house (e.g. bank or insurance company)
- 115 costs lawyers (18.3%) are sole practitioners, for whom progress within a firm is not relevant or applicable
- 240 costs lawyers (38%) are working in SRA-regulated firms, and only a very small number become partners in these firms. Salary data in relation to those costs lawyers is already captured by the SRA.

21. In November 2015 the CLSB commissioned a review on Equality & Diversity within its profession and is currently working through the report recommendations.

22. The CLSB will continue to consider diversity data gathered and trends, the CLSB Board will consider findings to establish if any targeted actions are necessary to further the diversity of the profession.

23. In February 2016, the CLSB issued stamped addressed envelopes with its 2016 diversity survey to establish whether this would facilitate an increased response rate.

24. In January 2016 the CLSB issued a guidance note on equality & diversity. Its 2016 diversity survey includes a form asking costs lawyers and trainee costs lawyers to state, in their own words, whether they have ever been subject to discrimination.

Master of Faculties

25. The Master of Faculties (acting through the Faculty Office) regulates a relatively small profession with a lower turnover rate. There are around 25 new notaries per year on average. Any perceptible changes are therefore thought likely to take a very long time to manifest. The Faculty Office holds its data collection exercises on a three year cycle as the profession is relatively static. The 2011 exercise achieved a return of just under 50%, but the next iteration saw a much better return. The exercise is conducted in hard copy, which can be burdensome and time-consuming in terms of data entry and analysis.

26. Historically, the profession has not seen many young entrants, and most notaries were already fairly established legal practitioners (the majority as solicitors) when they were appointed. Similarly, many may have looked to continue the notarial profession into retirement. There is, therefore, an older demographic and, as the MoF states, a relatively finite amount of work. The regulator reports that the situation is beginning to change with a number of younger applicants showing an interest in becoming notaries and applying for places on the Notarial Practice Course at University College London.
27. The Notaries Society and the Society of Scrivener Notaries, the professional bodies, have looked at the data and are attempting to actively address the issue of an aging workforce by visiting law faculties in universities with a view to encouraging younger entrants. Although the pace of change is very slow, there is some anecdotal evidence that the search for younger people may be yielding some results. Other than this initiative, there has been little use of the data, either strategically or to inform day-to-day regulatory processes. No future work is planned in this area other than in data collection. Once the regulator has more data sets, such that trends can be identified, it will consider what further work is required to address any findings.

SRA

28. The SRA has reported that its most recent data collection exercise in autumn 2015 secured an improvement in the quality and quantity of the data collected from firms. The collection, reporting and publication of diversity data has expressly been included in SRA Code of Conduct and is part of the firm's regular reporting requirements. Given that changes in the diversity of the profession are likely to happen in the longer term, the SRA has been thinking further about the frequency of the collection exercise, and balancing this against the burden it imposes on the profession.
29. The SRA makes the firm diversity data available through an interactive diversity tool, so a firm can see how its diversity compares to similar firms. It also provides resources and guidance to firms through its Risk Outlook, which highlight the risks of not having a diverse profession.
30. The SRA is looking at how to improve its understanding of the barriers to diversity in the profession by sharing its diversity data about firms and individuals with academics and other research organisations. It will invite proposals for further research which could include linking that data with additional longitudinal and labour market datasets, to reveal a much richer picture of diversity and career development.
31. In addition, the SRA reports that it is using other levers to push the agenda more widely. For example, the SRA is demonstrating leadership in this area, exploring different ways of communicating and driving a better knowledge of diversity in the sector, and using its influence to drive good practice. It has a full programme of engagement with the profession, the public and other stakeholders, at which diversity is one of the key messages. The SRA is planning events to promote some of the successful initiatives that have been introduced by firms to encourage others. The SRA has also highlighted some of the initiatives it is taking forward with its staff to demonstrate its commitment and support for

diversity in the legal workforce, such encouraging staff diversity networks, having a presence at Pride and developing its approach to inclusive leadership.

32. The SRA reports that diversity is an important consideration in its regulatory reform agenda and its 'Training for Tomorrow' programme. It uses diversity data to understand the impact of its proposals on the profession and commissions additional research where required. The SRA also uses its diversity data to help target its engagement with firms for example, holding focused events and developing the SRA's small firm reference community, which in turn has enabled focused usability testing of SRA resources and supporting guidance material.

Summary

33. These discussions confirmed earlier findings reported in March 2015. Regulators' approaches vary considerably, both as to the broad issue of diversity and the narrower point of the extent to which they analyse and work with the data collected under the LSB's 2011 guidance. To the extent that the current LSB guidance may be acting as a brake on regulators' performance in this area it should be reviewed and updated. This would allow some of the challenges experienced by regulators with respect to data collection and data sharing to be addressed. It would also allow an opportunity to broaden the scope of the LSB's guidance, and move towards an outcomes-focused approach.

DEVELOPING GOOD PRACTICE ON DIVERSITY

34. In the five years since the LSB published guidance for the regulators on the collection of diversity data, legal services regulators have obtained useful and fairly wide-ranging datasets on the regulated workforce. However, as the LSB noted in its review of data collection exercises in 2015, this has not yet generally translated into more sophisticated analysis of the data itself.
35. We undertook a desk-based review of comparable organisations in other sectors. It is clear that the collection and publication of data on workforce diversity is becoming increasingly important. Often this helps to describe where a workforce is misaligned with the population more generally.
36. In paragraphs 39 to 41, we highlight two examples of health professional regulators' use of diversity data and their wider approach to this issue.

Legal services regulators

37. The BSB have undertaken initiatives to increase response rates from barristers during its data collection exercises. Historically, data had been collected on paper. The BSB moved to a digital process which automated some of the extraction. Its first dataset, produced in 2012, demonstrated a very low disclosure rate in some areas. To address this challenge, the BSB drew up a communications plan which included:
- Emails to heads of chambers from the Chair of the BSB Equality & Diversity committee asking for their support.
 - Emails to the profession from the then Chair of the BSB, highlighting the impact of low levels of data and requesting good news stories to share.
 - Articles in Counsel Magazine, on social media, the BSB website, and its regulatory update newsletter.

This was supported by changes to the Barrister Connect web service to make the diversity data collection section easier to find. The BSB saw a substantial rise in the disclosure rate for subsequent data collection. In particular, there had been improvements in disclosure relating to disability, the type of school someone attended, and information on caring responsibilities.

38. For the SRA, diversity data is considered to be one element of many which helps to inform planning, and using the data to understand different elements of the regulated community is a significant part of this. For example, small firms and sole practices represent a large proportion of the regulated community for the SRA, and diversity data have been used to inform activities to support this part of the market. The focus on small firms was prompted in part by data indicating that they were likely to be more subject to supervision and enforcement activity. In response to this finding, the SRA has devoted specific regulatory resource and information provision to small firms, getting small firms more directly involved in dialogue and providing specific support and resources. A small firm's reference group has been established to encourage engagement. A detailed understanding of the diversity of this part of the regulated community is helping with this work. The SRA also analysed data to inform its impact assessment in relation to proposals to introduce a single qualifying exam. In particular, the data were used to establish baseline figures and the likely impact on diversity at entry of the exam. The SRA used the data to determine what barriers to entry it could influence, and which it was unlikely to be able to do anything about.

General Medical Council

39. There has been an increase in the proportion of women in the medical profession in recent years. However, the medical profession still faces significant challenges in terms of recruitment, retention and progression for people with different characteristics. The General Medical Council (GMC) has conducted research into, amongst other areas, perceptions of fairness, disciplinary procedures, initial education, and ongoing professional development.⁵ This has taken the form of both quantitative and qualitative research, and included:
- Research into perceptions of fairness, including registration processes and regulatory competence.
 - Reports on complaints handling and concerns about doctors.
 - Research into education and training, including research into organisation attitudes to workplace discrimination, prejudice and diversity.⁶
 - An independent review of the Membership of the Royal College of General Practitioner's Exam, which explored the difference in pass rates between international medical graduates, British BME graduates from UK graduates and white candidates, with a series of recommendations including better monitoring of outcomes, ensuring the diversity of examiners, and ensuring that information on reasons for leaving training programmes is retained and used as part of the GMC's regulatory functions.
 - Using the latest available evidence to ensure that language testing standards were appropriate.

⁵ GMC Website: what do we know about diverse groups? <http://www.gmc-uk.org/about/24094.asp>

⁶ http://www.gmc-uk.org/Esmail_Measuring_organisational_attitudes.pdf 30867963.pdf

Nursing and Midwifery Council

40. The Nursing and Midwifery Council (NMC) has developed a comprehensive overview of its equality and diversity commitments, including its longer-term action plan, and it has published this on its website. This type of layout and method of presentation may be of interest to some regulators who are at an earlier stage in terms of public communication on diversity data.⁷
41. The NMC's specific action plan for diversity contains a high-level summary of what the regulator intends to do, including some information on how it will use data.⁸ The NMC states that it will, for example, "use the E&D data collected from [the] registration process to analyse trends and to help us understand how our policies and decision may impact on different groups of people from the EU and how we may need to modify these". The action plan also includes information on the following data use and initiatives, which may be of particular interest:
- For revalidation – "The information and data gathered will help us to:
 - Refine our revalidation policy to make sure that we mitigate any differential impacts (for example, the way that we operate our extension policy, transitional arrangements and flexibility in the confirmation model).
 - Consider alternative approaches for people who cannot use the online system, such as Welsh translations and who may require reasonable adjustments.
 - Understand where to focus certain communications or provide additional guidance.
 - Identify particular groups of nurses and midwives that we might need to engage with more effectively and.
 - Identify information that we might need to collect to monitor any potential impacts of revalidation".
 - The NMC's E&D steering group has an objective to "... ensure staff members in each directorate are informed of E&D initiatives, policies and examples of best practice".
 - Research into the regulator's relationship with employers and practitioners: "We will gain insight into the E&D implications of our fitness to practise processes from an employer's perspective".

Working with third parties

42. The statutory duties on legal services regulators does not mean that problems with a lack of diversity in the legal sector can be addressed solely by regulatory action. It will require involvement and effort by a range of different organisations and agencies. The summaries of work undergone by the regulators' in the

⁷ <http://www.nmc.org.uk/about-us/our-equality-and-diversity-commitments/>

⁸ <http://www.nmc.org.uk/globalassets/sitedocuments/eandd/equality-objectives-action-plan-2015-2016.pdf>

previous section showed how some regulators have worked with other organisations, including representative bodies, to address specific diversity issues. CIPA and ITMA, for example, have diversity initiatives in place which particularly related to women in science, technology, engineering and mathematics (STEM) subjects.⁹

43. This is also seen in the engineering sector, where a number of high-profile initiatives have been introduced by trade organisations and government to attempt to address this issue (noting that there does not appear to be any indication of how data was used to support their development, implementation and assessment).¹⁰ Elsewhere, the British Medical Association, which is a representative body, has provided a range of materials specifically targeted at under-represented groups or groups of people with protected characteristics.¹¹

Summary

44. Good practice by regulators with respect to diversity issues should not be restricted solely to data collection exercises. There is a broad range of activity that regulators can undertake individually, collectively and in collaboration with non-regulators in the interests of meeting the specific and general diversity obligations they should fulfil. Such activities may be focused on leveraging additional value from the data regulators' collect, but could go much further to consider the overall policy and approach adopted by regulators to diversity in their operations and governance.
45. Therefore, after five years' use and experience, now is an appropriate point to review the LSB's 2011 guidance, with a view to updating it where necessary. In due course, such guidance could form the basis of future assessments of regulatory performance. We discuss this in more detail in the next section.

FUTURE PERFORMANCE ASSESSMENT – ISSUES TO CONSIDER

46. The third aim of this paper is to explore issues relevant to the future development of regulatory performance assessment in the area of diversity. The discussion below builds on the previous sections and seeks to inform the long-term strategy for embedding diversity into LSB's assessment of regulators' performance. We know there is potentially a wide range of performance to consider, and also that success cannot solely be demonstrated by data collection in the absence of further analysis and application to core regulatory functions and activities. Future assessment of regulators' performance ought to consider how diversity issues were reflected throughout a regulator's work, in operations and governance, policy and strategy. Assessment should also be proportionate, recognising the

⁹ [source – Diversity Forum]

¹⁰ Examples of guidance issued on developing work experience opportunities:

http://www.engineeringuk.com/View/?con_id=521

Examples of initiatives to widen access <http://www.tomorrowengineers.org.uk/>

<https://www.wisecampaign.org.uk/> - Offers consultancy services and general guidance as part of its outreach e.g.

<https://www.wisecampaign.org.uk/consultancy/industry-led-ten-steps> and organisational culture analysis tool

<https://www.wisecampaign.org.uk/consultancy/culture-analysis-tool> (fee-charging)

<http://www.wes.org.uk/statistics> - Women's Engineering Society

<https://www.gov.uk/government/publications/report-on-women-in-stem-workshop> - government interest in women in STEM has resulted in a report on good practice in this area

¹¹ <http://www.bma.org.uk/about-the-bma/equality-and-inclusion>

different challenges faced by regulators, both in terms of their regulated communities and their resources.

47. The starting point for any discussion about assessing regulatory performance in this area is the LSB's 2011 guidance for regulators. It was clear through the one-to-one meetings and in the Diversity Forum that for a subset of regulators the LSB guidance remains the sole focus for their work in this area, and their efforts are dedicated to meeting the specific expectations outlined in 2011. However, others have demonstrated a broader view of their role with respect to diversity. This is reflected in the more extensive programmes of data collection, and analysis of relevant issues in development of regulatory policies and activities.
48. Despite the variation in current activity, there was a collective view expressed at the Diversity Forum that the LSB guidance would benefit from a full review. The 2011 guidance is input focused and process based. While this was appropriate when originally issued, today it shows less alignment with the LSB's approach to setting guidance and regulatory standards, where the emphasis is squarely on outcomes-focused approaches. Some of the details of the 2011 guidance could be considered to be dated and require refreshing, and the scope is narrow.
49. An aim for the review would be to encourage regulators to adopt a more holistic approach to the issue of diversity, working with other organisations and agencies as appropriate, rather than strict and minimal compliance with a specified process, as is currently seen in some instances. A further aim would be to align the outcomes with best regulatory practice. Regulators could be involved in the development of outcomes, to explore how they may be achieved, and how they may evidence their performance. In addition external advice and expertise could be sought, both on the scope of the outcomes and on appropriate evidence of good performance.
50. The review would need to retain and build on the progress that has been made, and the data that have been collected, to allow comparisons over time. Quantitative data remains essential evidence to support regulators' actions, but there are other sources of information and intelligence. Any review should also identify outcomes in this area, allowing regulators some flexibility in how these are achieved. The review of the 2011 guidance would be an essential stepping stone in the design of a means of assessing regulatory performance on diversity issues.
51. The emphasis on data collection should not be lost, but this represents just one example of how a regulator understands the risks to achievement of the regulatory objectives in its specific area of the legal sector. In practice, this would mean that, at the very least, regulators would have a clear understanding of the demographic of the population which they directly regulate, and a strong understanding of the demographic of the people who work for those they regulate. In addition, regulators should also understand and be able to demonstrate the value of qualitative data – the experiences of people they regulate (and those they do not regulate, for example when considering barriers to entry).
52. The long term aim of this work is to integrate assessment of regulatory performance in relation to diversity into wider activity, currently delivered by the regulatory standards programme.

53. A review of guidance should help to inform development of up to date and relevant outcomes. Once identified we would anticipate a phase of work with the regulators to establish an evidence framework that would support both the LSB and regulators in future regulatory standards performance assessments. Depending on the outcomes identified and a regulator's approach to diversity issues, evidence could be presented from a range of sources.
54. In assessing performance, there is a balance to be struck between being too prescriptive about the kind of evidence regulators might provide - which could lead to minimum compliance - and not providing enough guidance or examples, which could lead to confusion and stasis. Regulators will need to demonstrate their understanding of the importance of this work, and build on basic data collection.
55. Any process designed to capture and evaluate regulatory performance should focus on successful outcomes – what kind of state of affairs regulators should be working to achieve – rather than being prescriptive about how they might get there. There are substantial differences in sizes between the regulators - both in terms of the resources available to them, and the numbers of people that they regulate. Adopting an outcomes-focused approach to performance on diversity issues allows us to view this variation as an opportunity for the sector to explore different ways of working depending on the risk profile and resources of the regulator being assessed.

SUMMARY AND RECOMMENDATIONS

56. The LSB and the regulators have a unique set of obligations with respect to diversity. In addition to the public sector equality duty imposed on them by the Equality Act 2010, they are also subject to a specific regulatory objective in the Legal Services Act 2007 with respect to diversity. The LSB issued guidance in 2011 to support regulators' actions in this area.
57. In April 2015 the LSB agreed to the development of a strategy for embedding diversity into the regulatory standards used to assess the performance of the approved regulators. This followed a review indicating that although a more robust evidence base on diversity had been developed since the initial guidance had been issued, the regulators' analysis and use of the data collected "lacked the statistical sophistication necessary for it to have the level of impact hoped for on the issues identified in [the] consultation response document".
58. Recent discussions indicate that regulators' performance in this area continues to vary. Ahead of developing a means of assessing performance on diversity issues, and exploring how this may be aligned and integrated with wider LSB assessments, it is essential that the 2011 LSB guidance is reviewed and updated where necessary. In the absence of fit-for-purpose guidance, any LSB assessment of performance at this point could prove to be extremely difficult. Alongside supporting future performance assessments, revised LSB outcome-focused guidance on diversity issues, developed in collaboration with the regulators and other interested parties, will help to emphasise the leadership role the LSB has identified for itself in this area.

APPENDIX A – LSB work on diversity and equality issues since 2010

This Annex outlines the major project work, research and publications which the LSB has completed in the field of equality and diversity in the legal service sector to date.

Year	Activity / Publication	Overview	Details / outcomes
2010	Barriers to the Legal Profession	Literature review commissioned by the LSB to explore some of the factors behind the socio-economic characteristics of lawyers in England and Wales.	Review found evidence that the demographic of the legal services workforce did not reflect the population it served, particularly at the more senior levels of the profession.
2011	Diversity initiatives of approved regulators	LSB published a report on diversity initiatives undertaken by approved regulators.	Report summarised the initiatives which were then in place at those stages of entry or progression which had been identified, in the literature review, as points where potential barriers existed. It also offered a brief assessment of these initiatives.
2011	Increasing diversity and social mobility in the legal workforce: transparency and evidence	LSB response to a consultation on how best to meet its obligations under the Legal Services Act 2007 and the Equality Act 2010.	<p>Acknowledged work which had previously been undertaken by professional bodies and others to increase diversity while noting that there was “still a regulatory contribution to be made to achieving further progress”.</p> <p>The document set out a number of expectations. Approved regulators were expected to:</p> <p>gather a more comprehensive evidence base about the diversity</p>

			<p>characteristics of the legal workforce</p> <p>ensure the transparency of diversity data about some characteristics at the level of individual regulated entities</p> <p>collate diversity data to give an aggregate view of the diversity make-up of each branch of the profession</p> <p>evaluate the effectiveness and impact of existing diversity initiatives.</p> <p>The LSB provided statutory guidance on this data collection and publication, under s.162 of the 2007 Act, which aimed to give both clarity about the outcomes to be achieved and scope for flexibility in achieving them. Ongoing dialogue and engagement with the approved regulators took place while delivery of these expectations was addressed.</p>
2012	Diversity in the Legal Profession in England and Wales: A qualitative study of barriers and individual choices	LSB funded a qualitative academic study on diversity in legal services, exploring some of the experiences of people working in legal services who identified as women and / or as black or minority ethnic.	Although the report noted a sharp increase in the proportion of solicitors and barristers who were women, together with a similar increase in the proportion of lawyers who identified as black or minority ethnic, it concluded that the profession “[was] segmented and stratified on gendered, raced and classed lines...an extensive body of

			academic and policy-based literature underlines the statistical picture of persistent structural inequalities within the profession across a range of indicators, from pay to status". The data obtained by the authors of the report also suggested that "the major obstacle to diversity [was] the profession's informal culture", and that racial stereotyping remained pervasive in some geographical areas.
2013	Published evidence on the equality of pay in legal services	Report found that the information available suggested equal pay gaps were potentially more substantial in the legal services sector than in some other areas of the economy.	Data which the report had used to inform its findings was historic, and the substantive research which would be required to fully explore pay issues across all branches of the profession was simply not available.
2013	Diversity data collection and transparency	LSB's first review of regulators' progress against the expectations set out in its 2011 guidance document.	Data on diversity and social mobility had been collected by regulators, in many areas for the first time. The report also noted that the concept of collecting and publishing data to stimulate action had been more widely accepted.
2015	Diversity data collection and transparency	Comprehensive report on progress against the data collection expectations which had been set in 2011.	Report acknowledged that regulators had begun to develop an evidence base on diversity, but noted that analysis and use of the data was still insufficiently

			<p>sophisticated. Built on previous guidance by setting out further expectations that regulators would:</p> <p>display greater statistical sophistication in their collection, analysis and presentation of data to ensure it had a real impact on the long-term issues in the sector</p> <p>consider the burden imposed by their data collection exercises</p> <p>identify where the sharing of data could provide additional value</p> <p>ensure that they were able to publish raw anonymised diversity data for others to use</p> <p>identify how the diversity data being collected could be used to create benchmarks for legal services providers.</p> <p>Regulators were also encouraged to promote transparency about workforce diversity at entity level, and to clearly set out the rationale for diversity. The report also commits the LSB to hosting a further joint diversity forum to identify and agree further actions for regulators.</p>
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